

CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 43. EXECUTION OF JUDGMENT

Art. 43.01. DISCHARGING JUDGMENT FOR FINE. (a) When the sentence against an individual defendant is for fine and costs, he shall be discharged from the same:

- (1) when the amount thereof has been fully paid;
- (2) when remitted by the proper authority;
- (3) when he has remained in custody for the time required by law to satisfy the amount thereof; or
- (4) when the defendant has discharged the amount of fines and costs in any other manner permitted by this code.

(b) When the sentence against a defendant corporation or association is for fine and costs, it shall be discharged from same:

- (1) when the amount thereof has been fully paid;
- (2) when the execution against the corporation or association has been fully satisfied; or
- (3) when the judgment has been fully satisfied in any other manner.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 974, ch. 399, Sec. 2(A), eff. Jan. 1, 1974.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993.

Art. 43.015. DEFINITIONS. In this chapter:

- (1) "Capias" means a writ that is:
 - (A) issued by a court having jurisdiction of a case after judgment and sentence; and
 - (B) directed "To any peace officer of the State of Texas" and commanding the officer to arrest a person convicted of an offense and bring the arrested person before that court immediately or on a day or at a term stated in the writ.
- (2) "Capias pro fine" means a writ that is:
 - (A) issued by a court having jurisdiction of a case after judgment and sentence for unpaid fines and costs; and
 - (B) directed "To any peace officer of the State

of Texas" and commanding the officer to arrest a person convicted of an offense and bring the arrested person before that court immediately.

Added by Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 7, eff. September 1, 2007.

Art. 43.02. PAYABLE IN MONEY. All recognizances, bail bonds, and undertakings of any kind, whereby a party becomes bound to pay money to the State, and all fines and forfeitures of a pecuniary character, shall be collected in the lawful money of the United States only.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.021. CAPIAS OR CAPIAS PRO FINE IN ELECTRONIC FORM. A capias or capias pro fine may be issued in electronic form.

Added by Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 8, eff. September 1, 2007.

Art. 43.03. PAYMENT OF FINE. (a) If a defendant is sentenced to pay a fine or costs or both and the defendant defaults in payment, the court after a hearing under Subsection (d) of this article may order the defendant confined in jail until discharged as provided by law, may order the defendant to discharge the fines and costs in any other manner provided by Article 43.09 of this code, or may waive payment of the fines and costs as provided by Article 43.091. A certified copy of the judgment, sentence, and order is sufficient to authorize confinement under this subsection.

(b) A term of confinement for default in payment of fine or costs or both may not exceed the maximum term of confinement authorized for the offense for which the defendant was sentenced to pay the fine or costs or both. If a court orders a term of confinement for default in payment of fines or costs under this article at a time during which a defendant is serving another term of confinement for default or is serving a term of confinement for conviction of an offense, the term of confinement for default runs concurrently with the other term of confinement, unless the court orders the terms to run consecutively under Article 42.08 of this

code.

(c) If a defendant is sentenced both to confinement and to pay a fine or costs or both, and he defaults in payment of either, a term of confinement for the default, when combined with the term of confinement already assessed, may not exceed the maximum term of confinement authorized for the offense for which the defendant was sentenced.

(d) A court may not order a defendant confined under Subsection (a) of this article unless the court at a hearing makes a written determination that:

(1) the defendant is not indigent and has failed to make a good faith effort to discharge the fines and costs; or

(2) the defendant is indigent and:

(A) has failed to make a good faith effort to discharge the fines and costs under Article 43.09(f); and

(B) could have discharged the fines and costs under Article 43.09 without experiencing any undue hardship.

(e) This article does not apply to a court governed by Chapter 45.

(f) For purposes of a hearing described by Subsection (d), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2990, ch. 987, Sec. 2, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 974, ch. 399, Sec. 2(A), eff. Jan. 1, 1974.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993; Subsec. (a) amended by Acts 2001, 77th Leg., ch. 1111, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 9, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [474](#), Sec. 1, eff. September 1, 2009.

Art. 43.04. IF DEFENDANT IS ABSENT. When a judgment and sentence have been rendered against a defendant in the defendant's absence, the court may order a capias issued for the defendant's arrest. The sheriff shall execute the capias by bringing the defendant before the court or by placing the defendant in jail until the defendant can be brought before the court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2990, ch. 987, Sec. 3, eff. June 15, 1971.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 10, eff. September 1, 2007.

Art. 43.05. CAPIAS PRO FINE SHALL RECITE. (a) A capias pro fine issued for the arrest and commitment of a defendant convicted of a misdemeanor or felony, or found in contempt, the penalty for which includes a fine, shall recite the judgment and sentence and command a peace officer to immediately bring the defendant before the court.

(b) A capias pro fine authorizes a peace officer to place the defendant in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2990, ch. 987, Sec. 4, eff. June 15, 1971.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 11, eff. September 1, 2007.

Art. 43.06. CAPIAS OR CAPIAS PRO FINE MAY ISSUE TO ANY COUNTY. A capias or capias pro fine may be issued to any county in the State, and shall be executed and returned as in other cases, but no bail shall be taken in such cases.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 12, eff. September 1, 2007.

Art. 43.07. EXECUTION FOR FINE AND COSTS. In each case of pecuniary fine, an execution may issue for the fine and costs, though a *capias pro fine* was issued for the defendant; and a *capias pro fine* may issue for the defendant though an execution was issued against the defendant's property. The execution shall be collected and returned as in civil actions. When the execution has been collected, the defendant shall be at once discharged; and whenever the fine and costs have been legally discharged in any way, the execution shall be returned satisfied.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 13, eff. September 1, 2007.

Art. 43.08. FURTHER ENFORCEMENT OF JUDGMENT. When a defendant has been committed to jail in default of the fine and costs adjudged against him, the further enforcement of such judgment and sentence shall be in accordance with the provisions of this Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.09. FINE DISCHARGED. (a) When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine or is confined in a jail after conviction of a felony for which a fine is imposed, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the county jail industries program, in the workhouse, or on the county farm, or public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, as provided in the succeeding article; or if there be no such county jail industries program, workhouse, farm, or improvements and maintenance projects, he shall be confined in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such confinement at \$50 for each day and rating such labor at \$50 for each day; provided, however, that the defendant

may pay the pecuniary fine assessed against him at any time while he is serving at work in the county jail industries program, in the workhouse, or on the county farm, or on the public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, or while he is serving his jail sentence, and in such instances he shall be entitled to the credit he has earned under this subsection during the time that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him. A defendant who performs labor under this article during a day in which he is confined is entitled to both the credit for confinement and the credit for labor provided by this article.

(b) In its discretion, the court may order that for each day's confinement served by a defendant under this article, the defendant receive credit toward payment of the pecuniary fine and credit toward payment of costs adjudged against the defendant. Additionally, the court may order that the defendant receive credit under this article for each day's confinement served by the defendant as punishment for the offense.

(c) In its discretion, the court may order that a defendant serving concurrent, but not consecutive, sentences for two or more misdemeanors may, for each day served, receive credit toward the satisfaction of costs and fines imposed for each separate offense.

(d) Notwithstanding any other provision of this article, in its discretion, the court or the sheriff of the county may grant an additional two days credit for each day served to any inmate participating in an approved work program under this article or a rehabilitation, restitution, or education program.

(e) A court in a county that operates an electronic monitoring program or contracts with a private vendor to operate an electronic monitoring program under Section 351.904, Local Government Code, or that is served by a community supervision and corrections department that operates an electronic monitoring program approved by the community justice assistance division of the Texas Department of Criminal Justice, may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by participating in the program. A defendant who

participates in an electronic monitoring program under this subsection discharges fines and costs in the same manner as if the defendant were confined in county jail.

(f) A court may require a defendant who is unable to pay a fine or costs to discharge all or part of the fine or costs by performing community service.

(g) In its order requiring a defendant to participate in community service work under Subsection (f) of this article, the court must specify:

(1) the number of hours the defendant is required to work; and

(2) whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program.

(h) The court may order the defendant to perform community service work under Subsection (f) of this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under Subsection (f) of this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the district probation department or court-related services office.

(i) The court may require bail of a defendant to ensure the defendant's faithful performance of community service under Subsection (f) of this article and may attach conditions to the bail as it determines are proper.

(j) A court may not order a defendant to perform more than 16 hours per week of community service under Subsection (f) of this article unless the court determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

(k) A defendant is considered to have discharged \$100 of fines or costs for each eight hours of community service performed under Subsection (f) of this article.

(1) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, an employee of a community corrections and supervision department, restitution center, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with manual labor performed by an inmate pursuant to this article if the act or failure to act:

(1) was performed pursuant to confinement or other court order; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(m) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1263, Sec. 22, eff. September 1, 2007.

(n) This article does not apply to a court governed by Chapter 45.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1981, 67th Leg., p. 360, ch. 143, Sec. 1, eff. May 14, 1981; Acts 1987, 70th Leg., ch. 347, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 785, Sec. 4.13, eff. Sept. 1, 1989; Subsecs. (a), (d) amended by Acts 1989, 71st Leg., ch. 753, Sec. 1, eff. Sept. 1, 1989; Subsec. (e) added by Acts 1989, 71st Leg., ch. 1040, Sec. 3, eff. Aug. 28, 1989; Subsecs. (f) to (j) added by Acts 1989, 71st Leg., ch. 1040, Sec. 4, eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 4.06, eff. Aug. 26, 1991. Subsec. (l) added by Acts 1991, 72nd Leg., ch. 900, Sec. 1, eff. Aug. 26, 1991. Subsec. (a) amended by Acts 1993, 73rd Leg., ch. 578, Sec. 2, eff. June 11, 1993; Subsec. (l) amended by Acts 1993, 73rd Leg., ch. 578, Sec. 2, eff. June 11, 1993; Subsec. (m) added by Acts 1993, 73rd Leg., ch. 414, Sec. 1, eff. June 6, 1993. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993; Subsec. (k) amended by Acts 1999, 76th Leg., ch. 1545, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 14, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 22, eff. September

1, 2007.

Acts 2009, 81st Leg., R.S., Ch. [854](#), Sec. 2, eff. June 19, 2009.

Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR INDIGENT DEFENDANTS. A court may waive payment of a fine or cost imposed on a defendant who defaults in payment if the court determines that:

(1) the defendant is indigent; and

(2) each alternative method of discharging the fine or cost under Article 43.09 would impose an undue hardship on the defendant.

Added by Acts 2001, 77th Leg., ch. 1111, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1263](#), Sec. 15, eff. September 1, 2007.

Art. 43.10. MANUAL LABOR. Where the punishment assessed in a conviction for a misdemeanor is confinement in jail for more than one day or is only a pecuniary fine and the defendant is unable to pay the fine and costs adjudged against the defendant, or where the defendant is sentenced to jail for a felony or is confined in jail after conviction of a felony, the defendant shall be required to work in the county jail industries program or shall be required to do manual labor in accordance with the following rules and regulations:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of defendants under this article;

2. Such farms and workhouses shall be under the control and management of the sheriff, and the sheriff may adopt such rules and regulations not inconsistent with the rules and regulations of the Commission on Jail Standards and with the laws as the sheriff deems necessary;

3. Such overseers and guards may be employed by the sheriff under the authority of the commissioners court as may be

necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as the commissioners court may prescribe;

4. They shall be put to labor upon public works and maintenance projects, including public works and maintenance projects for a political subdivision located in whole or in part in the county. They may be put to labor upon maintenance projects for a cemetery that the commissioners court uses public funds, county employees, or county equipment to maintain under Section 713.028, Health and Safety Code. They may also be put to labor providing maintenance and related services to a nonprofit organization that qualifies for a tax exemption under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, and is organized as a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), provided that, at the sheriff's request, the commissioners court determines that the nonprofit organization provides a public service to the county or to a political subdivision located in whole or in part in the county;

5. A defendant who from age, disease, or other physical or mental disability is unable to do manual labor shall not be required to work. The defendant's inability to do manual labor may be determined by a physician appointed for that purpose by the county judge or the commissioners court, who shall be paid for such service such compensation as said court may allow; and

6. For each day of manual labor, in addition to any other credits allowed by law, a defendant is entitled to have one day deducted from each sentence the defendant is serving.

Amended by Acts 1981, 67th Leg., p. 2647, ch. 708, Sec. 1, eff. Aug. 31, 1981; Acts 1989, 71st Leg., ch. 753, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 785, Sec. 4.14, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 900, Sec. 2, eff. Aug. 26, 1991; Subsec. (a) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.09, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 578, Sec. 3, eff. June 11, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 3.19, eff. Sept. 1,

1995; Acts 1995, 74th Leg., ch. 321, Sec. 3.015, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. [853](#), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [1187](#), Sec. 1, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. [854](#), Sec. 3, eff. June 19, 2009.

Art. 43.101. VOLUNTARY WORK. (a) A defendant who is confined in county jail before trial, after conviction of a misdemeanor, or after conviction of a felony or revocation of community supervision, parole, or mandatory supervision and awaiting transfer to the Texas Department of Criminal Justice may volunteer to participate in any work program operated by the sheriff that uses the labor of convicted defendants.

(b) The sheriff may accept a defendant as a volunteer under Subsection (a) if the defendant is not awaiting trial for an offense involving violence or is not awaiting transfer to the Texas Department of Criminal Justice after conviction of a felony involving violence, and if the sheriff determines that the inmate has not engaged previously in violent conduct and does not pose a security risk to the general public if allowed to participate in the work program.

(c) A defendant participating in a work program under this section is not an employee for the purposes of Chapter 501 or 504, Labor Code.

(d) For each day of volunteer work, in addition to any other credits allowed by law, the court or sheriff may deduct one day from each sentence imposed on the defendant in relation to the offense or violation of the terms of release for which the defendant was confined in county jail.

Added by Acts 1989, 71st Leg., ch. 753, Sec. 3, eff. Sept. 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 86, Sec. 1, eff. Aug. 30, 1993;

Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 3.20, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 25.032, eff.

September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [854](#), Sec. 4, eff. June 19, 2009.

Art. 43.11. AUTHORITY FOR CONFINEMENT. When, by the judgment and sentence of the court, a defendant is to be confined in jail, a certified copy of such judgment and sentence shall be sufficient authority for the sheriff to place such defendant in jail.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993.

Art. 43.13. DISCHARGE OF DEFENDANT. (a) A defendant who has remained in jail the length of time required by the judgment and sentence shall be discharged. The sheriff shall return the copy of the judgment and sentence, or the capias under which the defendant was imprisoned, to the proper court, stating how it was executed.

(b) A defendant convicted of a misdemeanor and sentenced to a term of confinement of more than 30 days discharges the defendant's sentence at any time between the hours of 6 a.m. and 7 p.m. on the day of discharge.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1997, 75th Leg., ch. 714, Sec. 1, eff. Sept. 1, 1997.

Art. 43.131. IMMUNITIES. (a) An individual listed in Subsection (c) of this article and the governmental entity that the individual serves as an officer or employee are not liable for damages arising from an act or failure to act by the individual or governmental entity in connection with a community service program or work program established under this chapter if the act or failure to act:

(1) was performed pursuant to a court order or was otherwise performed in an official capacity; and

(2) was not performed with conscious indifference for the safety of others.

(b) Chapter 101, Civil Practice and Remedies Code, does not

apply to a claim based on an act or a failure to act of an individual listed in Subsection (c) of this article or a governmental entity the officer serves as an officer or employee if the act or failure to act is in connection with a program described by Subsection (a) of this article.

(c) This article applies to:

(1) a director or employee of a community supervision and corrections department or a community corrections facility;

(2) a sheriff or employee of a sheriff's department;

(3) a county judge, county commissioner, or county employee;

(4) an officer or employee of a state agency; or

(5) an officer or employee of a political subdivision other than a county.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 5.04, eff. Sept. 1, 1993.

Art. 43.14. EXECUTION OF CONVICT. Whenever the sentence of death is pronounced against a convict, the sentence shall be executed at any time after the hour of 6 p.m. on the day set for the execution, by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until such convict is dead, such execution procedure to be determined and supervised by the director of the correctional institutions division of the Texas Department of Criminal Justice.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1977, 65th Leg., p. 287, ch. 138, Sec. 1, eff. Aug. 29, 1977.

Amended by Acts 1981, 67th Leg., p. 812, ch. 291, Sec. 120, eff. Sept. 1, 1981; Acts 1991, 72nd Leg., ch. 652, Sec. 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 319, Sec. 3, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 25.033, eff. September 1, 2009.

Art. 43.141. SCHEDULING OF EXECUTION DATE; WITHDRAWAL; MODIFICATION. (a) If an initial application under Article 11.071 is timely filed, the convicting court may not set an execution date before:

(1) the court of criminal appeals denies relief; or

(2) if the case is filed and set for submission, the court of criminal appeals issues a mandate.

(b) If an original application is not timely filed under Article 11.071 or good cause is not shown for an untimely application under Article 11.071, the convicting court may set an execution date.

(c) The first execution date may not be earlier than the 91st day after the date the convicting court enters the order setting the execution date. A subsequent execution date may not be earlier than the 31st day after the date the convicting court enters the order setting the execution date.

(d) The convicting court may modify or withdraw the order of the court setting a date for execution in a death penalty case if the court determines that additional proceedings are necessary on:

(1) a subsequent or untimely application for a writ of habeas corpus filed under Article 11.071; or

(2) a motion for forensic testing of DNA evidence submitted under Chapter 64.

(e) If the convicting court withdraws the order of the court setting the execution date, the court shall recall the warrant of execution. If the court modifies the order of the court setting the execution date, the court shall recall the previous warrant of execution, and the clerk of the court shall issue a new warrant.

Added by Acts 1995, 74th Leg., ch. 319, Sec. 4, eff. Sept. 1, 1995.
Subsec. (d) amended by Acts 2003, 78th Leg., ch. 13, Sec. 6, eff. Sept. 1, 2003.

Art. 43.15. WARRANT OF EXECUTION. Whenever any person is sentenced to death, the clerk of the court in which the sentence is pronounced, shall within ten days after the court enters its order setting the date for execution, issue a warrant under the seal of the court for the execution of the sentence of death, which shall recite the fact of conviction, setting forth specifically the offense, the judgment of the court, the time fixed for his execution, and directed to the Director of the Department of Corrections at Huntsville, Texas, commanding him to proceed, at the

time and place named in the order of execution, to carry the same into execution, as provided in the preceding Article, and shall deliver such warrant to the sheriff of the county in which such judgment of conviction was had, to be by him delivered to the said Director of the Department of Corrections, together with the condemned person if he has not previously been so delivered.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1981, 67th Leg., p. 812, ch. 291, Sec. 121, eff. Sept. 1, 1981.

Art. 43.16. TAKEN TO DEPARTMENT OF CORRECTIONS. Immediately upon the receipt of such warrant, the sheriff shall transport such condemned person to the Director of the Department of Corrections, if he has not already been so delivered, and shall deliver him and the warrant aforesaid into the hands of the Director of the Department of Corrections and shall take from the Director of the Department of Corrections his receipt for such person and such warrant, which receipt the sheriff shall return to the office of the clerk of the court where the judgment of death was rendered. For his services, the sheriff shall be entitled to the same compensation as is now allowed by law to sheriffs for removing or conveying prisoners under the provisions of Section 4 of Article 1029 or 1030 of the Code of Criminal Procedure of 1925, as amended.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1981, 67th Leg., p. 812, ch. 291, Sec. 122, eff. Sept. 1, 1981.

Art. 43.17. VISITORS. Upon the receipt of such condemned person by the Director of the Department of Corrections, the condemned person shall be confined therein until the time for his or her execution arrives, and while so confined, all persons outside of said prison shall be denied access to him or her, except his or her physician, lawyer, and clergyperson, who shall be admitted to see him or her when necessary for his or her health or for the transaction of business, and the relatives and friends of the condemned person, who shall be admitted to see and converse with him or her at all proper times, under such reasonable rules and

regulations as may be made by the Board of Directors of the Department of Corrections.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1979, 66th Leg., p. 1181; ch. 572, Sec. 1, eff. Aug. 27, 1979.

Art. 43.18. EXECUTIONER. The director of the Texas Department of Criminal Justice shall designate an executioner to carry out the death penalty provided by law.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1975, 64th Leg., p. 911, ch. 341, Sec. 6, eff. June 19, 1975; Acts 1977, 65th Leg., p. 288, ch. 138, Sec. 2, eff. Aug. 29, 1977.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 25.034, eff. September 1, 2009.

Art. 43.19. PLACE OF EXECUTION. The execution shall take place at a location designated by the Texas Department of Criminal Justice in a room arranged for that purpose.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1985, 69th Leg., ch. 250, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 25.035, eff. September 1, 2009.

Art. 43.20. PRESENT AT EXECUTION. The following persons may be present at the execution: the executioner, and such persons as may be necessary to assist him in conducting the execution; the Board of Directors of the Department of Corrections, two physicians, including the prison physician, the spiritual advisor of the condemned, the chaplains of the Department of Corrections, the county judge and sheriff of the county in which the Department of Corrections is situated, and any of the relatives or friends of the condemned person that he may request, not exceeding five in number, shall be admitted. No convict shall be permitted by the prison authorities to witness the execution.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.21. ESCAPE AFTER SENTENCE. If the condemned escape after sentence and before his delivery to the Director of the Department of Corrections, and be not rearrested until after the time fixed for execution, any person may arrest and commit him to the jail of the county in which he was sentenced; and thereupon the court by whom the condemned was sentenced; either in term-time or vacation, on notice of such arrest being given by the sheriff, shall again appoint a time for the execution, not less than thirty days from such appointment, which appointment shall be by the clerk of said court immediately certified to the Director of the Department of Corrections and such clerk shall place such certificate in the hands of the sheriff, who shall deliver the same, together with the warrant aforesaid and the condemned person to the Director of the Department of Corrections, who shall receipt to the sheriff for the same and proceed at the appointed time to carry the sentence of death into execution as hereinabove provided.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.22. ESCAPE FROM DEPARTMENT OF CORRECTIONS. If the condemned person escapes after his delivery to the Director of the Department of Corrections, and is not retaken before the time appointed for his execution, any person may arrest and commit him to the Director of the Department of Corrections whereupon the Director of the Department of Corrections shall certify the fact of his escape and recapture to the court in which sentence was passed; and the court, either in term-time or vacation, shall again appoint a time for the execution which shall not be less than thirty days from the date of such appointment; and thereupon the clerk of such court shall certify such appointment to the Director of the Department of Corrections, who shall proceed at the time so appointed to execute the condemned, as hereinabove provided. The sheriff or other officer or other person performing any service under this and the preceding Article shall receive the same compensation as is provided for similar services under the provisions of Articles 1029 or 1030 of the Code of Criminal

Procedure of 1925, as amended. If for any reason execution is delayed beyond the date set, then the court which originally sentenced the defendant may set a later date for execution.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.23. RETURN OF DIRECTOR. When the execution of sentence is suspended or respited to another date, same shall be noted on the warrant and on the arrival of such date, the Director of the Department of Corrections shall proceed with such execution; and in case of death of any condemned person before the time for his execution arrives, or if he should be pardoned or his sentence commuted by the Governor, no execution shall be had; but in such cases, as well as when the sentence is executed, the Director of the Department of Corrections shall return the warrant and certificate with a statement of any such act and his proceedings endorsed thereon, together with a statement showing what disposition was made of the dead body of the convict, to the clerk of the court in which the sentence was passed, who shall record the warrant and return in the minutes of the court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.24. TREATMENT OF CONDEMNED. No torture, or ill treatment, or unnecessary pain, shall be inflicted upon a prisoner to be executed under the sentence of the law.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.25. BODY OF CONVICT. The body of a convict who has been legally executed shall be embalmed immediately and so directed by the Director of the Department of Corrections. If the body is not demanded or requested by a relative or bona fide friend within forty-eight hours after execution then it shall be delivered to the Anatomical Board of the State of Texas, if requested by the Board. If the body is requested by a relative, bona fide friend, or the Anatomical Board of the State of Texas, such recipient shall pay a fee of not to exceed twenty-five dollars to the mortician for his services in embalming the body for which the mortician shall issue to the recipient a written receipt. When such receipt is delivered

to the Director of the Department of Corrections, the body of the deceased shall be delivered to the party named in the receipt or his authorized agent. If the body is not delivered to a relative, bona fide friend, or the Anatomical Board of the State of Texas, the Director of the Department of Corrections shall cause the body to be decently buried, and the fee for embalming shall be paid by the county in which the indictment which resulted in conviction was found.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 43.26. PREVENTING RESCUE. The sheriff may, when he supposes there will be a necessity, order such number of citizens of his county, or request any military or militia company, to aid in preventing the rescue of a prisoner.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.