

SUBJECT: Management of inmates' trust-fund accounts

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Haggerty, Staples, Allen, Ellis, Gray, Lengefeld, Longoria
0 nays
2 absent — Culberson, Farrar

WITNESSES: For — None
Against — None
On — Jeff Baldwin and Wayne Scott, Texas Department of Criminal Justice

BACKGROUND: The Texas Department of Criminal Justice (TDCJ) places into a trust-fund account all money inmates have on their person at the time of incarceration and all money they receive while incarcerated. Inmates typically use funds in these accounts to buy personal items at the prison commissary and to make copayments for non-emergency health visits.

When an inmate's account is created, the inmate identifies beneficiaries to whom the account will be paid if the inmate dies. When an inmate dies, TDCJ attempts to contact the first beneficiary listed and then successive beneficiaries if the first cannot be located. If the account has a balance of \$100 or less, the beneficiary may receive that balance from TDCJ by presenting a notarized claim. If the account balance exceeds \$100, the claimant must follow the procedures established in the Probate Code for collection of small estates by affidavit.

DIGEST: HB 1318 would amend Government Code, sec. 501.014 to increase to \$2,500 from \$100 the maximum amount that TDCJ could pay to a claimant upon the death of an inmate. Claims in excess of \$2,500 would remain subject to Probate Code procedures.

HB 1318 would establish that inmates who escape or attempt to escape from a

TDCJ facility would forfeit all money in their accounts at the time of the attempt. The bill also would clarify that TDCJ could hold or withdraw money from an inmate's account to pay for indigent supplies, medical copayments, destruction of state property, and other indebtedness.

The bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

The family of a deceased inmate should not have to go to probate court to receive a small sum of money due to them from the inmate's account. The family deposits most of the money in an inmate's account and may use the balance to defray burial costs and other expenses. Currently about 10 percent of Texas inmates' accounts have balances exceeding \$100, while fewer than 1 percent have a balance in excess of \$2,500.

TDCJ has few disciplinary actions available to deter inmates from attempting to escape. HB 1318 would provide another potential deterrent by requiring that inmates who escape or try to escape forfeit any balance in their trust-fund account. For those who do escape, forfeiture of their account balance would help defray the state's cost of capturing them.

**OPPONENTS
SAY:**

Although recapturing escaped inmates costs the state money, the money that these inmates would forfeit under HB 1318 ultimately should go to their families. These funds are small compared to TDCJ's budget, but in some cases they can lower the family's burial expenses substantially. Since the families deposited these funds for the inmates' use, they should be able to claim the funds when the inmates die.

**OTHER
OPPONENTS
SAY:**

While beneficiaries should not have to go through probate to claim inmates' accounts when a relatively small amount is involved, raising the limit to \$2,500 could increase the opportunities for fraudulent claims. HB 1318 should require that a claim not only must be notarized but also must be sworn by two disinterested witnesses. This would accomplish the intent of the bill while using the same standard of proof used in the Probate Code for collection of small estates by affidavit.