

By: Cyrier, Sherman, Sr.

H.B. No. 1545

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Commission on Jail Standards.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 511.003, Government Code, is amended to read as follows:

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished ~~[and this chapter expires]~~ September 1, 2033 ~~[2021]~~.

SECTION 2. Sections 511.004(h), (i), and (j), Government Code, are redesignated as Section 511.00405, Government Code, and amended to read as follows:

Sec. 511.00405. TRAINING. (a) ~~[(h)]~~ A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section ~~[Subsection (i)]~~.

(b) ~~[(i)]~~ The training program ~~[required by Subsection (h)]~~ must provide the person with information ~~[to the person]~~ regarding:

(1) the law governing commission operations ~~[this chapter]~~;

(2) the programs, functions, rules, and budget of the commission;

1 (3) the scope of and limitations on the rulemaking
2 authority of the commission;

3 (4) the results of the most recent formal audit of the
4 commission;

5 (5) [~~(4)~~] the requirements of:

6 (A) laws relating to open meetings, public
7 information, administrative procedure, and disclosing conflicts of
8 interest; and

9 (B) other laws applicable to members of a state
10 policy-making body in performing their duties; and

11 (6) [~~(5)~~] any applicable ethics policies adopted by
12 the commission or the Texas Ethics Commission.

13 (c) [~~(j)~~] A person appointed to the commission is entitled
14 to reimbursement, as provided by the General Appropriations Act,
15 for the travel expenses incurred in attending the training program
16 [~~required by Subsection (h)~~] regardless of whether attendance at
17 the program occurs before or after the person qualifies for office.

18 (d) The executive director of the commission shall create a
19 training manual that includes the information required by
20 Subsection (b). The executive director shall distribute a copy of
21 the training manual annually to each member of the commission. Each
22 member of the commission shall sign and submit to the executive
23 director a statement acknowledging that the member received and has
24 reviewed the training manual.

25 SECTION 3. Section 511.0071, Government Code, is amended by
26 amending Subsections (a) and (a-1) and adding Subsections (g) and
27 (h) to read as follows:

1 (a) The commission shall prepare information of public
2 interest describing the functions of the commission [~~and the~~
3 ~~commission's procedures by which complaints regarding the~~
4 ~~commission and complaints regarding jails under the commission's~~
5 ~~jurisdiction are filed with and resolved by the commission]. The
6 commission shall make the information available:~~

7 (1) to the public, inmates, county officials, and
8 appropriate state agencies; and

9 (2) on any publicly accessible Internet website
10 maintained by the commission.

11 (a-1) The commission shall adopt rules and procedures
12 regarding the receipt, investigation, resolution, and disclosure
13 to the public of complaints regarding the commission and complaints
14 regarding jails under the commission's jurisdiction that are filed
15 with the commission. The commission shall:

16 (1) prescribe a form or forms on which written
17 complaints regarding the commission and complaints regarding jails
18 under the commission's jurisdiction may be filed with the
19 commission;

20 (2) keep an information file in accordance with
21 Section 511.0072 [~~Subsection (f)~~] regarding each complaint filed
22 with the commission regarding the commission or a jail under the
23 commission's jurisdiction;

24 (3) develop procedures for prioritizing complaints
25 filed with the commission and a reasonable time frame for
26 responding to those complaints and appeals of those complaints;

27 (4) [~~maintain a system for promptly and efficiently~~

1 ~~acting on complaints filed with the commission,~~

2 ~~[(5)]~~ develop a procedure for tracking and analyzing
3 all complaints filed with the commission, according to criteria
4 that must include:

5 (A) the reason for or origin of complaints;

6 (B) the average number of days that elapse
7 between the date on which complaints are filed, the date on which
8 the commission first investigates or otherwise responds to
9 complaints, and the date on which complaints are resolved;

10 (C) the outcome of investigations or the
11 resolution of complaints, including dismissals and commission
12 actions resulting from complaints;

13 (D) the number of pending complaints at the close
14 of each fiscal year; ~~and~~

15 (E) a list of complaint topics that the
16 commission does not have jurisdiction to investigate or resolve;
17 ~~and~~

18 (F) the detailed categorization of each
19 violation alleged in a complaint;

20 (G) the comprehensive documentation of each
21 violation alleged in a complaint; and

22 (H) for a complaint for which the commission took
23 no action, the documentation of the reason the complaint was closed
24 without action;

25 (5) regularly analyze complaints to identify trends,
26 including trends with respect to jails with a higher than average
27 number of complaints, to determine jails requiring additional

1 inspections; and

2 (6) regularly prepare and distribute to members of the
3 commission and make available to the public a report containing a
4 summary of the information compiled under Subdivisions (4) and
5 ~~[Subdivision]~~ (5).

6 (g) The commission shall adopt rules requiring jail
7 administrators to include in any inmate handbook and prominently
8 display throughout the jail information regarding the procedure for
9 complaint investigation and resolution.

10 (h) The commission shall ensure that a jail complies with
11 Subsection (g) during any inspection of the jail.

12 SECTION 4. Chapter 511, Government Code, is amended by
13 adding Section 511.0072 to read as follows:

14 Sec. 511.0072. COMPLAINT INFORMATION. (a) The commission
15 shall maintain a system to promptly and efficiently act on
16 complaints filed with the commission. The commission shall
17 maintain information about parties to the complaint, the subject
18 matter of the complaint, a summary of the results of the review or
19 investigation of the complaint, and its disposition.

20 (b) The commission shall make information available
21 describing its procedures for complaint investigation and
22 resolution.

23 (c) The commission shall periodically notify the complaint
24 parties of the status of the complaint until final disposition
25 unless the notice would jeopardize an investigation.

26 SECTION 5. Chapter 511, Government Code, is amended by
27 adding Section 511.0081 to read as follows:

1 Sec. 511.0081. ADVISORY COMMITTEES. (a) The commission by
2 rule may establish advisory committees to make recommendations to
3 the commission on programs, rules, and policies administered by the
4 commission.

5 (b) In establishing an advisory committee under this
6 section, the commission shall adopt rules, including rules
7 regarding:

8 (1) the purpose, role, responsibility, goals, and
9 duration of the committee;

10 (2) the size of and quorum requirement for the
11 committee;

12 (3) qualifications for committee membership;

13 (4) appointment procedures for members;

14 (5) terms of service for members;

15 (6) training requirements for members;

16 (7) policies to avoid conflicts of interest by
17 members;

18 (8) a periodic review process to evaluate the
19 continuing need for the committee; and

20 (9) policies to ensure the committee does not violate
21 any provision of Chapter 551 applicable to the commission or the
22 committee.

23 SECTION 6. Section 511.0085, Government Code, is amended by
24 amending Subsection (b) and adding Subsection (c) to read as
25 follows:

26 (b) The set of risk factors developed under this section may
27 include the number of months since the commission's last inspection

1 of the jail.

2 (c) The commission shall use the set of risk factors
3 developed under this section [~~Subsection (a)~~] to guide the
4 inspections process for all jails under the commission's
5 jurisdiction by:

6 (1) establishing a risk assessment plan to use in
7 assessing the overall risk level of each jail; and

8 (2) regularly monitoring the overall risk level of
9 each jail.

10 SECTION 7. Chapter [511](#), Government Code, is amended by
11 adding Section 511.0086 to read as follows:

12 Sec. 511.0086. RISK-BASED INSPECTIONS. (a) The commission
13 shall adopt a policy prioritizing the inspection of jails under the
14 commission's jurisdiction based on the relative risk level of a
15 jail. The policy must require the commission to use the risk
16 assessment plan established under Section [511.0085](#) to:

17 (1) schedule announced and unannounced inspections of
18 jails under the commission's jurisdiction; and

19 (2) determine how frequently and intensively the
20 commission conducts risk-based inspections.

21 (b) The policy may provide for the commission to use
22 alternative inspection methods for jails determined to be low-risk,
23 including using abbreviated inspection procedures or other methods
24 instead of conducting an in-person inspection.

25 SECTION 8. Section [511.009](#), Government Code, is amended by
26 amending Subsections (a), (a-1), and (a-2) and adding Subsection
27 (f) to read as follows:

1 (a) The commission shall:

2 (1) adopt reasonable rules and procedures
3 establishing minimum standards for the construction, equipment,
4 maintenance, and operation of county jails;

5 (2) adopt reasonable rules and procedures
6 establishing minimum standards for the custody, care, and treatment
7 of prisoners;

8 (3) adopt reasonable rules establishing minimum
9 standards for the number of jail supervisory personnel and for
10 programs and services to meet the needs of prisoners;

11 (4) adopt reasonable rules and procedures
12 establishing minimum requirements for programs of rehabilitation,
13 education, and recreation in county jails;

14 (5) regularly review the commission's rules and
15 procedures and revise, amend, or change the rules and procedures if
16 necessary;

17 (6) provide to local government officials
18 consultation on and technical assistance for county jails;

19 (7) review and comment on plans for the construction
20 and major modification or renovation of county jails;

21 (8) require that the sheriff and commissioners of each
22 county submit to the commission, on a form prescribed by the
23 commission, an annual report on the conditions in each county jail
24 within their jurisdiction, including all information necessary to
25 determine compliance with state law, commission orders, and the
26 rules adopted under this chapter;

27 (9) review the reports submitted under Subdivision (8)

1 and require commission employees to inspect county jails regularly
2 to ensure compliance with state law, commission orders, and rules
3 and procedures adopted under this chapter;

4 (10) adopt a classification system to assist sheriffs
5 and judges in determining which defendants are low-risk and
6 consequently suitable participants in a county jail work release
7 program under Article 42.034, Code of Criminal Procedure;

8 (11) adopt rules relating to requirements for
9 segregation of classes of inmates and to capacities for county
10 jails;

11 ~~(12) [require that the chief jailer of each municipal~~
12 ~~lockup submit to the commission, on a form prescribed by the~~
13 ~~commission, an annual report of persons under 17 years of age~~
14 ~~securely detained in the lockup, including all information~~
15 ~~necessary to determine compliance with state law concerning secure~~
16 ~~confinement of children in municipal lockups,~~

17 ~~[(13) at least annually determine whether each county~~
18 ~~jail is in compliance with the rules and procedures adopted under~~
19 ~~this chapter,~~

20 ~~[(14) require that the sheriff and commissioners court~~
21 ~~of each county submit to the commission, on a form prescribed by the~~
22 ~~commission, an annual report of persons under 17 years of age~~
23 ~~securely detained in the county jail, including all information~~
24 ~~necessary to determine compliance with state law concerning secure~~
25 ~~confinement of children in county jails,~~

26 ~~[(15) schedule announced and unannounced inspections~~
27 ~~of jails under the commission's jurisdiction using the risk~~

1 ~~assessment plan established under Section 511.0085 to guide the~~
2 ~~inspections process,~~

3 ~~(16)~~ adopt a policy for gathering and distributing
4 to jails under the commission's jurisdiction information
5 regarding:

6 (A) common issues concerning jail
7 administration;

8 (B) examples of successful strategies for
9 maintaining compliance with state law and the rules, standards, and
10 procedures of the commission; and

11 (C) solutions to operational challenges for
12 jails;

13 (13) ~~(17)~~ report to the Texas Correctional Office on
14 Offenders with Medical or Mental Impairments on a jail's compliance
15 with Article 16.22, Code of Criminal Procedure;

16 (14) ~~(18)~~ adopt reasonable rules and procedures
17 establishing minimum requirements for a county jail to:

18 (A) determine if a prisoner is pregnant;

19 (B) ensure that the jail's health services plan
20 addresses medical care, including obstetrical and gynecological
21 care, mental health care, nutritional requirements, and any special
22 housing or work assignment needs for prisoners who are known or
23 determined to be pregnant; and

24 (C) identify when a pregnant prisoner is in labor
25 and provide appropriate care to the prisoner, including promptly
26 transporting the prisoner to a local hospital;

27 (15) ~~(19)~~ provide guidelines to sheriffs regarding

1 contracts between a sheriff and another entity for the provision of
2 food services to or the operation of a commissary in a jail under
3 the commission's jurisdiction, including specific provisions
4 regarding conflicts of interest and avoiding the appearance of
5 impropriety;

6 (16) [~~(20)~~] adopt reasonable rules and procedures
7 establishing minimum standards for prisoner visitation that
8 provide each prisoner at a county jail with a minimum of two
9 in-person, noncontact visitation periods per week of at least 20
10 minutes duration each;

11 (17) [~~(21)~~] require the sheriff of each county to:

12 (A) investigate and verify the veteran status of
13 each prisoner by using data made available from the Veterans
14 Reentry Search Service (VRSS) operated by the United States
15 Department of Veterans Affairs or a similar service; and

16 (B) use the data described by Paragraph (A) to
17 assist prisoners who are veterans in applying for federal benefits
18 or compensation for which the prisoners may be eligible under a
19 program administered by the United States Department of Veterans
20 Affairs;

21 (18) [~~(22)~~] adopt reasonable rules and procedures
22 regarding visitation of a prisoner at a county jail by a guardian,
23 as defined by Section [1002.012](#), Estates Code, that:

24 (A) allow visitation by a guardian to the same
25 extent as the prisoner's next of kin, including placing the
26 guardian on the prisoner's approved visitors list on the guardian's
27 request and providing the guardian access to the prisoner during a

1 facility's standard visitation hours if the prisoner is otherwise
2 eligible to receive visitors; and

3 (B) require the guardian to provide the sheriff
4 with letters of guardianship issued as provided by Section
5 [1106.001](#), Estates Code, before being allowed to visit the prisoner;

6 (19) [~~(23)~~] adopt reasonable rules and procedures to
7 ensure the safety of prisoners, including rules and procedures that
8 require a county jail to:

9 (A) give prisoners the ability to access a mental
10 health professional at the jail or through a telemental health
11 service 24 hours a day or, if a mental health professional is not at
12 the county jail at the time, then require the jail to use all
13 reasonable efforts to arrange for the inmate to have access to a
14 mental health professional within a reasonable time;

15 (B) give prisoners the ability to access a health
16 professional at the jail or through a telehealth service 24 hours a
17 day or, if a health professional is unavailable at the jail or
18 through a telehealth service, provide for a prisoner to be
19 transported to access a health professional; and

20 (C) if funding is available under Section
21 [511.019](#), install automated electronic sensors or cameras to ensure
22 accurate and timely in-person checks of cells or groups of cells
23 confining at-risk individuals; and

24 (20) [~~(24)~~] adopt reasonable rules and procedures
25 establishing minimum standards for the quantity and quality of
26 feminine hygiene products, including tampons in regular and large
27 sizes and menstrual pads with wings in regular and large sizes,

1 provided to a female prisoner.

2 (a-1) A county jail that as of September 1, 2015, has
3 incurred significant design, engineering, or construction costs to
4 provide prisoner visitation that does not comply with a rule or
5 procedure adopted under Subsection (a)(16) [~~(a)(20)~~], or does not
6 have the physical plant capability to provide the in-person
7 prisoner visitation required by a rule or procedure adopted under
8 Subsection (a)(16) [~~(a)(20)~~], is not required to comply with any
9 commission rule or procedure adopted under Subsection (a)(16)
10 [~~(a)(20)~~].

11 (a-2) A commission rule or procedure adopted under
12 Subsection (a)(16) [~~(a)(20)~~] may not restrict the authority of a
13 county jail under the commission's rules in effect on September 1,
14 2015, to limit prisoner visitation for disciplinary reasons.

15 (f) The commission's compliance with the requirements of
16 this section, particularly the requirements regarding the adoption
17 of rules and procedures, is not contingent on the enactment and
18 becoming law of any additional legislation.

19 SECTION 9. Chapter 511, Government Code, is amended by
20 adding Sections 511.00901, 511.00902, and 511.00903 to read as
21 follows:

22 Sec. 511.00901. DUTY REGARDING MINIMUM STANDARDS. (a) The
23 commission shall ensure that the minimum standards established
24 under Section 511.009 take into consideration the needs and risks
25 of the different types and sizes of jails under the commission's
26 jurisdiction.

27 (b) The commission shall, on an ongoing basis, review the

1 minimum standards to identify any standards that do not account for
2 the needs and risks of the different types and sizes of jails. In
3 conducting the review, the commission shall solicit feedback from a
4 diverse collection of jails, including those of different types and
5 sizes.

6 (c) The commission shall revise any standards identified
7 under Subsection (b) as the commission considers necessary. In
8 revising a standard, the commission shall consider:

9 (1) establishing tiered or separate standards
10 depending on the size, resources, or type of jail;

11 (2) clarifying or amending existing standards; and

12 (3) publishing guidance on the commission's rule
13 interpretations.

14 (d) The commission may not lower any standard in effect on
15 September 1, 2021, as a result of a review conducted under this
16 section.

17 Sec. 511.00902. REINSPECTION. The commission shall adopt
18 rules and procedures for reinspecting a jail following a
19 determination by the commission that the jail is not in compliance
20 with minimum standards. The rules and procedures must require the
21 commission to:

22 (1) reinspect all jails not in compliance;

23 (2) establish a percentage of reinspections for which
24 the commission shall assess the jail's compliance with all minimum
25 standards, regardless of whether the jail was in compliance with a
26 particular standard during the previous inspection; and

27 (3) randomly select the jails subject to a

1 reinspection described by Subdivision (2).

2 Sec. 511.00903. INSPECTION TREND ANALYSIS. The commission
3 shall regularly analyze data collected during inspections or
4 reported to the commission under this chapter to identify trends in
5 noncompliance, inspection outcomes, serious incidents, and any
6 other related area of jail operations.

7 SECTION 10. Chapter 511, Government Code, is amended by
8 adding Section 511.0145 to read as follows:

9 Sec. 511.0145. ENFORCEMENT ACTIONS. (a) The commission
10 shall adopt rules establishing a system of graduated, escalating
11 enforcement actions the commission is authorized under this chapter
12 to take against jails under the commission's jurisdiction that:

13 (1) have not made timely progress correcting
14 noncompliance issues; or

15 (2) have failed multiple inspections within a certain
16 number of years as determined by the commission.

17 (b) The rules must establish time frames for the commission
18 to take certain graduated, escalating enforcement actions against
19 jails.

20 (c) The commission shall develop a schedule of actions to
21 guide the enforcement actions the commission may take under rules
22 adopted under Subsection (a). The commission shall make the
23 schedule available on any publicly accessible Internet website
24 maintained by the commission. The schedule must:

25 (1) recommend the appropriate enforcement action
26 based on the severity of the noncompliance; and

27 (2) include consideration of any:

1 (A) aggravating factors, including repeat
2 violations and failing consecutive inspections; and

3 (B) mitigating factors.

4 SECTION 11. Section 511.019(c), Government Code, is amended
5 to read as follows:

6 (c) Money in the fund may be appropriated only to the
7 commission to pay for capital improvements that are required under
8 Section 511.009(a)(19) [~~511.009(a)(23)~~].

9 SECTION 12. Section 511.021, Government Code, is amended by
10 amending Subsections (a) and (b) and adding Subsection (c) to read
11 as follows:

12 (a) On the death of a prisoner in a county jail, the
13 commission shall appoint a law enforcement agency, other than the
14 local law enforcement agency that operates the county jail, to
15 investigate the death as soon as possible. Except as otherwise
16 provided by Subsection (b), the appointed law enforcement agency
17 shall conduct the investigation.

18 (b) A law enforcement agency appointed by the commission
19 under Subsection (a) may present evidence to the commission that
20 investigating the death would create a conflict of interest that
21 cannot be mitigated by the law enforcement agency. If the
22 commission determines that the conflict of interest cannot be
23 mitigated, the commission shall appoint another law enforcement
24 agency under Subsection (a) to investigate the death.

25 (c) The commission shall adopt any rules necessary relating
26 to the appointment of a law enforcement agency under Subsection
27 (a), including rules relating to cooperation between law

1 enforcement agencies and to procedures for handling evidence.

2 SECTION 13. Sections 511.0071(e) and (f), Government Code,
3 are repealed.

4 SECTION 14. Not later than March 1, 2022, the Commission on
5 Jail Standards shall develop the rules required by Section
6 511.0071(g), Government Code, as added by this Act. Not later than
7 April 1, 2022, each jail under the jurisdiction of the Commission on
8 Jail Standards shall post the information and update the inmate
9 handbooks as necessary to comply with the commission's rules
10 adopted under that section.

11 SECTION 15. (a) Except as provided by Subsection (b) of this
12 section, Section 511.00405, Government Code, as redesignated and
13 amended by this Act, applies to a member of the Commission on Jail
14 Standards appointed before, on, or after the effective date of this
15 Act.

16 (b) A member of the Commission on Jail Standards who, before
17 the effective date of this Act, completed the training program
18 required by Section 511.004, Government Code, as that law existed
19 before the effective date of this Act, is only required to complete
20 additional training on the subjects added by this Act to the
21 training program required by Section 511.00405, Government Code, as
22 redesignated and amended by this Act. A member described by this
23 subsection may not vote, deliberate, or be counted as a member in
24 attendance at a meeting of the commission held on or after December
25 1, 2021, until the member completes the additional training.

26 SECTION 16. This Act takes effect September 1, 2021.