

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, 2021 [~~2009~~].

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

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a an [~~an occupational~~] regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity, county jail, or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible

1 goods, services, or funds from the commission, other than
2 compensation or reimbursement authorized by law for commission
3 membership, attendance, or expenses.

4 (h) A person who is appointed to and qualifies for ~~[To be~~
5 ~~eligible to take]~~ office as a member of the commission may not vote,
6 deliberate, or be counted as a member in attendance at a meeting of
7 the commission until the ~~[, a]~~ person completes ~~[appointed to the~~
8 ~~commission must complete at least one course of]~~ a training program
9 that complies with Subsection (i).

10 (i) The training program required by Subsection (h) must
11 provide information to the person regarding:

12 (1) this chapter ~~[the enabling legislation that~~
13 ~~created the commission];~~

14 (2) the programs, functions, rules, and budget of
15 ~~[operated by]~~ the commission;

16 (3) the results of the most recent formal audit ~~[role~~
17 ~~and functions]~~ of the commission;

18 (4) the requirements of laws relating to open
19 meetings, public information, administrative procedure, and
20 conflicts of interest ~~[rules of the commission with an emphasis on~~
21 ~~the rules that relate to disciplinary and investigatory authority];~~
22 and

23 (5) ~~[the current budget for the commission,~~

24 ~~[(6) the results of the most recent formal audit of the~~
25 ~~commission,~~

26 ~~[(7) the requirements of the:~~

27 ~~[(A) open meetings law, Chapter 551,~~

1 ~~[(B) open records law, Chapter 552; and~~
2 ~~[(C) administrative procedure law, Chapter 2001;~~
3 ~~[(8) the requirements of the conflict of interests~~
4 ~~laws and other laws relating to public officials; and~~
5 ~~[(9)]~~ any applicable ethics policies adopted by the
6 commission or the Texas Ethics Commission.

7 (j) A person appointed to the commission is entitled to
8 reimbursement, ~~[for travel expenses incurred in attending the~~
9 ~~training program required by Subsection (h)]~~ as provided by the
10 General Appropriations Act, for the travel expenses incurred in
11 attending the training program required by Subsection (h)
12 regardless of whether attendance at the program occurs before or
13 after [and as if] the person qualifies for office [were a member of
14 ~~the commission].~~

15 SECTION 3. Subsection (a), Section 511.0041, Government
16 Code, is amended to read as follows:

17 (a) It is a ground for removal from the commission if a
18 member:

19 (1) does not have at the time of taking office
20 ~~[appointment]~~ the qualifications required by Section 511.004;

21 (2) does not maintain during service on the commission
22 the qualifications required by Section 511.004;

23 (3) is ineligible for membership under ~~[violates a~~
24 ~~prohibition established by]~~ Section 511.004(g) or 511.0042;

25 (4) cannot discharge the member's duties for a
26 substantial part of the term for which the member is appointed
27 because of illness or disability; or

1 (5) is absent from more than half of the regularly
2 scheduled commission meetings that the member is eligible to attend
3 during a calendar year without an excuse approved [~~unless the~~
4 ~~absence is excused~~] by a majority vote of the commission.

5 SECTION 4. Section 511.0042, Government Code, is amended to
6 read as follows:

7 Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not
8 be a member of the commission and may not be a commission employee
9 employed in a "bona fide executive, administrative, or professional
10 capacity," as that phrase is used for purposes of establishing an
11 exemption to the overtime provisions of the federal Fair Labor
12 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

13 (1) the person is an [~~An~~] officer, employee, or paid
14 consultant of a Texas trade association in the field of county
15 corrections; or

16 (2) the person's [~~may not be a member of the commission~~
17 ~~or an employee of the commission who is exempt from the state's~~
18 ~~position classification plan or is compensated at or above the~~
19 ~~amount prescribed by the General Appropriations Act for step 1,~~
20 ~~salary group 17, of the position classification salary schedule.~~

21 [~~(b) A person who is the~~] spouse is [~~of~~] an officer,
22 manager, or paid consultant of a Texas trade association in the
23 field of county corrections [~~may not be a commission member and may~~
24 ~~not be a commission employee who is exempt from the state's position~~
25 ~~classification plan or is compensated at or above the amount~~
26 ~~prescribed by the General Appropriations Act for step 1, salary~~
27 ~~group 17, of the position classification salary schedule].~~

1 **(b)** In [~~(c) For the purposes of~~] this section, "Texas
2 trade association" means [~~a Texas trade association is~~] a
3 [~~nonprofit,~~] cooperative[~~,~~] and voluntarily joined statewide
4 association of business or professional competitors in this state
5 designed to assist its members and its industry or profession in
6 dealing with mutual business or professional problems and in
7 promoting their common interest.

8 **(c)** [~~(d)~~] A person may not be [~~serve as~~] a member of the
9 commission or act as the general counsel to the commission if the
10 person is required to register as a lobbyist under Chapter 305
11 because of the person's activities for compensation on behalf of a
12 profession related to the operation of the commission.

13 SECTION 5. Chapter 511, Government Code, is amended by
14 adding Section 511.0061 to read as follows:

15 Sec. 511.0061. USE OF TECHNOLOGY. The commission shall
16 implement a policy requiring the commission to use appropriate
17 technological solutions to improve the commission's ability to
18 perform its functions. The policy must ensure that the public is
19 able to interact with the commission on the Internet.

20 SECTION 6. Section 511.0071, Government Code, is amended by
21 amending Subsections (a), (d), (e), and (f) and adding Subsection
22 (a-1) to read as follows:

23 (a) The commission shall prepare information of public
24 interest describing the functions of the commission and the
25 commission's procedures by which complaints regarding the
26 commission and complaints regarding jails under the commission's
27 jurisdiction are filed with and resolved by the commission. The

1 commission shall make the information available:

2 (1) to the public, inmates, county officials, and
3 appropriate state agencies; and

4 (2) on any publicly accessible Internet website
5 maintained by the commission.

6 (a-1) The commission shall adopt rules and procedures
7 regarding the receipt, investigation, resolution, and disclosure
8 to the public of complaints regarding the commission and complaints
9 regarding jails under the commission's jurisdiction that are filed
10 with the commission. The commission shall:

11 (1) prescribe a form or forms on which written
12 complaints regarding the commission and complaints regarding jails
13 under the commission's jurisdiction may be filed with the
14 commission;

15 (2) keep an information file in accordance with
16 Subsection (f) regarding each complaint filed with the commission
17 regarding the commission or a jail under the commission's
18 jurisdiction;

19 (3) develop procedures for prioritizing complaints
20 filed with the commission and a reasonable time frame for
21 responding to those complaints;

22 (4) maintain a system for promptly and efficiently
23 acting on complaints filed with the commission;

24 (5) develop a procedure for tracking and analyzing all
25 complaints filed with the commission, according to criteria that
26 must include:

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

1 (B) the average number of days that elapse
2 between the date on which complaints are filed, the date on which
3 the commission first investigates or otherwise responds to
4 complaints, and the date on which complaints are resolved;

5 (C) the outcome of investigations or the
6 resolution of complaints, including dismissals and commission
7 actions resulting from complaints;

8 (D) the number of pending complaints at the close
9 of each fiscal year; and

10 (E) a list of complaint topics that the
11 commission does not have jurisdiction to investigate or resolve;
12 and

13 (6) regularly prepare and distribute to members of the
14 commission a report containing a summary of the information
15 compiled under Subdivision (5).

16 ~~(d) [The commission shall keep an information file about~~
17 ~~each complaint filed with the commission that the commission has~~
18 ~~authority to resolve. The commission is not required to keep an~~
19 ~~information file about a complaint to the commission from or~~
20 ~~related to a prisoner of a county or municipal jail.]~~ The
21 commission shall adopt rules and procedures regarding the referral
22 of [refer] a complaint filed with the commission from or related to
23 a prisoner to the appropriate local agency for investigation and
24 resolution. The commission ~~and~~ may perform a special inspection
25 of a facility named in the complaint to determine compliance with
26 commission requirements.

27 (e) If a written complaint is filed with the commission that

1 the commission has authority to resolve, the commission at least
2 quarterly and until final disposition of the complaint shall notify
3 the parties to the complaint of the status of the complaint, unless
4 the notice would jeopardize an undercover investigation. This
5 subsection does not apply to a complaint referred to a local agency
6 under Subsection (d).

7 (f) The commission shall collect and maintain information
8 about each complaint received by the commission regarding the
9 commission or a jail under the commission's jurisdiction,
10 including:

- 11 (1) the date the complaint is received;
- 12 (2) the name of the complainant;
- 13 (3) the subject matter of the complaint;
- 14 (4) a record of all persons contacted in relation to
15 the complaint;
- 16 (5) a summary of the results of the review or
17 investigation of the complaint; and
- 18 (6) for a complaint for which the agency took no
19 action, an explanation of the reason the complaint was closed
20 without action.

21 SECTION 7. Subsection (e), Section 511.008, Government
22 Code, is amended to read as follows:

23 (e) The commission shall develop and implement policies
24 that clearly separate the policymaking responsibilities of the
25 commission and the management responsibilities of the executive
26 director [~~define the respective responsibilities of the~~
27 ~~commission~~] and the staff of the commission.

1 SECTION 8. Chapter 511, Government Code, is amended by
2 adding Section 511.0085 to read as follows:

3 Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN.

4 (a) The commission shall develop a comprehensive set of risk
5 factors to use in assessing the overall risk level of each jail
6 under the commission's jurisdiction. The set of risk factors must
7 include:

8 (1) a history of the jail's compliance with state law
9 and commission rules, standards, and procedures;

10 (2) the population of the jail;

11 (3) the number and nature of complaints regarding the
12 jail, including complaints regarding a violation of any required
13 ratio of correctional officers to inmates;

14 (4) problems with the jail's internal grievance
15 procedures;

16 (5) available mental and medical health reports
17 relating to inmates in the jail, including reports relating to
18 infectious disease or pregnant inmates;

19 (6) recent turnover among sheriffs and jail staff;

20 (7) inmate escapes from the jail;

21 (8) the number and nature of inmate deaths at the jail,
22 including the results of the investigations of those deaths; and

23 (9) whether the jail is in compliance with commission
24 rules, standards developed by the Texas Correctional Office on
25 Offenders with Medical or Mental Impairments, and the requirements
26 of Article 16.22, Code of Criminal Procedure, regarding screening
27 and assessment protocols for the early identification of and

1 reports concerning persons with mental illness.

2 (b) The commission shall use the set of risk factors
3 developed under Subsection (a) to guide the inspections process for
4 all jails under the commission's jurisdiction by:

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

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

9 SECTION 9. Subsection (a), Section 511.009, Government
10 Code, is amended to read as follows:

11 (a) The commission shall:

12 (1) adopt reasonable rules and procedures
13 establishing minimum standards for the construction, equipment,
14 maintenance, and operation of county jails;

15 (2) adopt reasonable rules and procedures
16 establishing minimum standards for the custody, care, and treatment
17 of prisoners;

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

21 (4) adopt reasonable rules and procedures
22 establishing minimum requirements for programs of rehabilitation,
23 education, and recreation in county jails;

24 (5) revise, amend, or change rules and procedures if
25 necessary;

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

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

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

9 (9) review the reports submitted under Subdivision (8)
10 and require commission employees to inspect county jails regularly
11 to ensure compliance with state law, commission orders, and rules
12 and procedures adopted under this chapter;

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

17 (11) adopt rules relating to requirements for
18 segregation of classes of inmates and to capacities for county
19 jails;

20 (12) require that the chief jailer of each municipal
21 lockup 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 lockup, including all information
24 necessary to determine compliance with state law concerning secure
25 confinement of children in municipal lockups;

26 (13) at least annually determine whether each county
27 jail is in compliance with the rules and procedures adopted under

1 this chapter;

2 (14) require that the sheriff and commissioners court
3 of each county submit to the commission, on a form prescribed by the
4 commission, an annual report of persons under 17 years of age
5 securely detained in the county jail, including all information
6 necessary to determine compliance with state law concerning secure
7 confinement of children in county jails; ~~and~~

8 (15) schedule announced and unannounced inspections
9 of jails under the commission's [its] jurisdiction using the risk
10 assessment plan established under Section 511.0085 to guide the
11 inspections process;

12 (16) adopt a policy for gathering and distributing to
13 jails under the commission's jurisdiction information regarding:

14 (A) common issues concerning jail
15 administration;

16 (B) examples of successful strategies for
17 maintaining compliance with state law and the rules, standards, and
18 procedures of the commission; and

19 (C) solutions to operational challenges for
20 jails;

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

24 (18) adopt reasonable rules and procedures
25 establishing minimum requirements for jails to:

26 (A) determine if a prisoner is pregnant; and

27 (B) ensure that the jail's health services plan

1 addresses medical and mental health care, including nutritional
2 requirements, and any special housing or work assignment needs for
3 persons who are confined in the jail and are known or determined to
4 be pregnant; and

5 (19) provide guidelines to sheriffs regarding
6 contracts between a sheriff and another entity for the provision of
7 food services to or the operation of a commissary in a jail under
8 the commission's jurisdiction, including specific provisions
9 regarding conflicts of interest and avoiding the appearance of
10 impropriety [~~based on the jail's history of compliance with~~
11 ~~commission standards and other high-risk factors identified by the~~
12 ~~commission~~].

13 SECTION 10. Subsection (a), Section 511.0101, Government
14 Code, is amended to read as follows:

15 (a) Each county shall submit to the commission on or before
16 the fifth day of each month a report containing the following
17 information:

18 (1) the number of prisoners confined in the county
19 jail on the first day of the month, classified on the basis of the
20 following categories:

- 21 (A) total prisoners;
- 22 (B) pretrial Class C misdemeanor offenders;
- 23 (C) pretrial Class A and B misdemeanor offenders;
- 24 (D) convicted misdemeanor offenders;
- 25 (E) felony offenders whose penalty has been
26 reduced to a misdemeanor;
- 27 (F) pretrial felony offenders;

1 (G) convicted felony offenders;

2 (H) prisoners detained on bench warrants;

3 (I) prisoners detained for parole violations;

4 (J) prisoners detained for federal officers;

5 (K) prisoners awaiting transfer to the
6 institutional division of the Texas Department of Criminal Justice
7 following conviction of a felony or revocation of probation,
8 parole, or release on mandatory supervision and for whom paperwork
9 and processing required for transfer have been completed;

10 (L) prisoners detained after having been
11 transferred from another jail and for whom the commission has made a
12 payment under Subchapter F, Chapter 499, Government Code; and

13 (M) other prisoners;

14 (2) the total capacity of the county jail on the first
15 day of the month; ~~and~~

16 (3) the total number of prisoners who were confined in
17 the county jail during the preceding month, based on a count
18 conducted on each day of that month, who were known or had been
19 determined to be pregnant; and

20 (4) certification by the reporting official that the
21 information in the report is accurate.

22 SECTION 11. Chapter 511, Government Code, is amended by
23 adding Section 511.0115 to read as follows:

24 Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS
25 OF JAILS. The commission shall provide information to the public
26 concerning whether jails under the commission's jurisdiction are in
27 compliance with state law and the rules, standards, and procedures

1 of the commission:

2 (1) on any publicly accessible Internet website
3 maintained by the commission; and

4 (2) through other formats, including newsletters or
5 press releases, as determined by the commission.

6 SECTION 12. Chapter 511, Government Code, is amended by
7 adding Section 511.018 to read as follows:

8 Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The
9 commission shall develop and implement a policy to encourage the
10 use of:

11 (1) negotiated rulemaking procedures under Chapter
12 2008 for the adoption of commission rules; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009 to assist in the resolution of
15 internal and external disputes under the commission's
16 jurisdiction.

17 (b) The commission's procedures relating to alternative
18 dispute resolution must conform, to the extent possible, to any
19 model guidelines issued by the State Office of Administrative
20 Hearings for the use of alternative dispute resolution by state
21 agencies.

22 (c) The commission shall designate a trained person to:

23 (1) coordinate the implementation of the policy
24 adopted under Subsection (a);

25 (2) serve as a resource for any training needed to
26 implement the procedures for negotiated rulemaking or alternative
27 dispute resolution; and

1 (3) collect data concerning the effectiveness of those
2 procedures, as implemented by the commission.

3 SECTION 13. Subsection (c), Section 511.0071, Government
4 Code, is repealed.

5 SECTION 14. The change in law made by Subsection (h),
6 Section 511.004, Government Code, as amended by this Act, regarding
7 training for members of the Commission on Jail Standards does not
8 affect the entitlement of a member serving on the commission
9 immediately before September 1, 2009, to continue to serve and
10 function as a member of the commission for the remainder of the
11 member's term, unless otherwise removed as provided by law. The
12 change in law described by Subsection (h), Section 511.004,
13 Government Code, applies only to a member appointed or reappointed
14 on or after September 1, 2009.

15 SECTION 15. The changes in law made by this Act in the
16 prohibitions or qualifications applying to a member of the
17 Commission on Jail Standards do not affect the entitlement of a
18 member serving on the commission immediately before September 1,
19 2009, to continue to serve and function as a member of the
20 commission for the remainder of the member's term, unless otherwise
21 removed as provided by law. Those changes in law apply only to a
22 member appointed on or after September 1, 2009.

23 SECTION 16. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1009 passed the Senate on April 16, 2009, by the following vote: Yeas 31, Nays 0; May 28, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 29, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1009 passed the House, with amendments, on May 21, 2009, by the following vote: Yeas 143, Nays 0, two present not voting; May 29, 2009, House granted request of the Senate for appointment of Conference Committee; May 31, 2009, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor