

BILL ANALYSIS

C.S.H.B. 3764
By: Marquez
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In the Texas corrections system, many inmates are housed in several categories of solitary confinement, known as administrative segregation. Some of those who are confined in administrative segregation may have not committed an institutional offense but are placed in segregation due to gang membership regardless of whether the inmate engaged in unlawful acts on behalf of the gang. Inmates in administrative segregation are denied many privileges, including contact visits, participation in educational or vocational programs, good time credits, and other privileges granted the general prison population.

C.S.H.B. 3764 seeks to address this issue by requiring the Texas Department of Criminal Justice to report certain information and review policies regarding inmates and the use and costs of administrative segregation.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3764 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ), not later than January 1 of each year, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the senate and house of representatives having primary jurisdiction over TDCJ a written report containing the following information for the preceding fiscal year:

- the number of inmates in the general prison population who were referred to mental health professionals and the reasons for the referrals;
- the number of inmates confined in administrative segregation who were referred to mental health professionals and the reasons for the referrals;
- a summary of the types of offenses for which each inmate was imprisoned;
- the number of documented suicide attempts by inmates in the general prison population;
- the number of documented suicide attempts by inmates confined in administrative segregation;
- the number of inmates who were confined in administrative segregation immediately before the inmates' discharge from TDCJ;
- the number of inmates who were confined in administrative segregation immediately before the inmates' release on parole or to mandatory supervision;
- the rate of recidivism among inmates who were confined in administrative segregation immediately before or at any time prior to the inmates' release or discharge from TDCJ and among inmates who were never confined in administrative segregation before the

inmates' release or discharge;

- for inmates confined in administrative segregation at any time during the fiscal year, certain specified information relating to the periods of time in which an inmate was confined in administrative segregation and the offenses and reasons for which inmates so confined were imprisoned and placed in administrative segregation, respectively;
- the number of inmates discharged or released directly from the general prison population, and the number of inmates discharged or released directly from confinement in administrative segregation, who have obtained regular employment on or before the 180th day after the inmates' release or discharge, to the extent that information is available;
- the number of reviews conducted by TDCJ concerning an inmate's placement in administrative segregation and the number of those reviews that resulted in the inmate being transferred to the general prison population;
- the number of inmates who were transferred from administrative segregation to the general prison population as a result of successfully completing a program designed to facilitate the return of an inmate to the general prison population; and
- information regarding the operations and activity of gangs, identified security threat groups, or other disruptive groups within each facility operated by or under contract with TDCJ.

The bill requires TDCJ to submit the first report not later than January 1, 2012.

C.S.H.B. 3764 requires the Legislative Budget Board to include in its Criminal Justice Uniform Cost Report the cost per day calculation of confining an inmate in administrative segregation.

C.S.H.B. 3764 requires TDCJ to conduct a review of its policies regarding the use of administrative segregation and requires the review to examine methods to reduce the number of inmates housed in administrative segregation, including alternatives to administrative segregation. The bill requires TDCJ, based on the review, to develop a plan to reduce the department's use of administrative segregation. The bill requires the plan to provide an inmate confined in administrative segregation with the following, based on the inmate's assessed risks and needs and the personal safety of the inmate or another person:

- the opportunity to participate in programs and services in the inmate's cell that are similar to the educational courses, work-related training, or other technical or vocational programs that are available to the general inmate population;
- increases in the amount of time the inmate is allowed out of the inmate's cell based on the length of the inmate's period of confinement in administrative segregation;
- the opportunity to exercise with inmates in the general prison population;
- daily contact with prison staff; and
- access to audio and visual media that provide the inmate with appropriate mental stimulation.

The bill requires the plan, in addition to such requirements, for an inmate confined in administrative segregation for reasons other than the inmate's misconduct or disciplinary record or membership in a gang or identified security threat group, to allow the inmate adequate and regular access to mental health services and, if the inmate will be confined in administrative segregation immediately before the inmate's release or discharge from TDCJ, access to services and programs that assist inmates in developing the ability to obtain and maintain long-term employment and stable housing and in developing social skills and life skills.

C.S.H.B. 3764 requires TDCJ to develop and include in the plan a program that provides an opportunity for an inmate who is confined in administrative segregation based on the inmate's membership in a gang or security threat group to return to the general prison population. The bill

prohibits the program from exceeding eight months in length and requires the program to be available to an inmate who has renounced the inmate's membership in the gang or security threat group and, during the one-year period preceding the inmate's application to the program, has not committed assault against another inmate or a member of the prison staff, been the subject of major disciplinary action, or participated in any gang-related or security threat group-related activity. The bill prohibits the plan from resulting in increased danger to inmates imprisoned in, or employees employed at, any facility operated by or under contract with TDCJ.

C.S.H.B. 3764 requires TDCJ, not later than June 1, 2012, to submit for review and comment the plan for reducing TDCJ's use of administrative segregation to the governor, the lieutenant governor, the speaker of the house of representatives, each standing committee of the senate and house of representatives having primary jurisdiction over TDCJ, and the Legislative Budget Board.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3764 contains provisions not included in the original requiring the Texas Department of Criminal Justice (TDCJ) to annually submit to certain state officials and entities a written report containing certain specified information relating to inmates in the general prison population and inmates confined in administrative segregation.

C.S.H.B. 3764 contains a provision not included in the original requiring the Legislative Budget Board to include in its Criminal Justice Uniform Cost Report the cost per day calculation of confining an inmate in administrative segregation.

C.S.H.B. 3764, in the provisions requiring TDCJ to conduct a review of its policies regarding the use of administrative segregation, contains a provision not included in the original requiring TDCJ to develop a plan to reduce its use of administrative segregation based on the review. The substitute omits provisions included in the original setting out requirements for TDCJ's review, requiring TDCJ to report the results of the review to certain state officials and entities by a specified date, and establishing that the review provisions are temporary and set to expire February 1, 2013.

C.S.H.B. 3764 omits provisions included in the original requiring TDCJ to adopt a policy prohibiting confining an inmate in administrative segregation based solely on certain specified factors.

C.S.H.B. 3764 differs from the original by requiring the plan to reduce TDCJ's use of administrative segregation to provide an inmate confined in administrative segregation the opportunity to participate in certain programs and services in the inmate's cell that are similar to those available to the general inmate population, whereas the original requires TDCJ to adopt a policy that allows such an inmate to participate in the programs that are available to the general inmate population. The substitute differs from the original by requiring TDCJ's plan to provide such an inmate increased time out of the inmate's cell, exercising opportunities, daily contact with prison staff, and access to audio and visual media, whereas the original requires TDCJ's policy to allow such an inmate to have contact visits with the inmate's family. The substitute differs from the original by requiring TDCJ's plan to allow an inmate confined in administrative segregation for reasons other than the inmate's conduct or disciplinary record or membership in a gang or identified security threat group access to certain services, whereas the original requires TDCJ's policy to allow any inmate confined in administrative segregation access to such services.

C.S.H.B. 3764 contains provisions not included in the original requiring TDCJ to develop and include in the plan to reduce its use of administrative segregation a program that provides an opportunity for an inmate confined in administrative segregation based on membership in a gang or security threat to return to the general prison population, setting out the inmate qualifications for participation in the program, and prohibiting TDCJ's plan from resulting in increased danger to inmates and employees at certain TDCJ facilities.

C.S.H.B. 3764 contains a provision not included in the original relating to the submission of TDCJ's plan for review and comment to certain state officials and entities and to TDCJ's first annual report regarding certain general prison population and administrative segregation inmates.

C.S.H.B. 3764 differs from the original in nonsubstantive ways.