By: Whitmire S.B. No. 1849

A BILL TO BE ENTITLED
AN ACT
relating to interactions between law enforcement and individuals
detained or arrested on suspicion of the commission of criminal
offenses and the confinement or release of those individuals prior
to prosecution.

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

ARTICLE 1. SHORT TITLE, PREAMBLE, AND FINDINGS

SECTION 1.01. SHORT TITLE. This Act shall be known as the
Sandra Bland Act in memory of Sandra Bland.

SECTION 1.02. PREAMBLE. The events leading up to Sandra
Bland's unnecessary jailing and tragic death sparked statewide and
national outrage. The House Committee on County Affairs held
several hearings during the interim to discuss the circumstances
and policies that led to her death. The Sandra Bland Act aims to
improve and correct Texas' criminal justice system to make it
better for all people and prevent future tragedies like Sandra
Bland's.

SECTION 1.03. FINDINGS. After the tragic death of Sandra
Bland the House Committee on County Affairs held multiple hearings
during the interim of the 84th Texas Legislative Session. The
County Affairs Committee reviewed the facts, circumstances, and
policies that played a factor in the death of Sandra Bland.

The Committee found that there are significant racial
disparities in how the Texas Department of Public Safety treats
Blacks when compared to Whites after they have been pulled over for a traffic violation. The Committee also found that the way DPS records and presents the data needs to be improved. This Act will address these problems by strengthening Texas' racial profiling law, as well as ensuring that the data Texas collects is robust, clear, and accurate.

The Committee found reason to believe that Sandra Bland and many other people are still being stopped for an underlying pretext. Though pre-textual stops are not the policy of DPS, Texas law needs to be strengthened to ensure that it does not happen at DPS or any other law enforcement agency in Texas. The Sandra Bland Act does this by explicitly outlawing the practice of pretext stops, as well as outlawing consent searches, and raising the burden of proof needed to both stop and search vehicles in Texas. These changes will ensure the rights of all are better protected.

Additionally, the Committee found that it would be beneficial to the public that all law enforcement would use de-escalation tactics in all interactions with the public. The officer escalating the routine traffic stop was the catalyst for the events that led to the death of Sandra Bland. Implementing policies that better train officers to de-escalate interactions with the public will keep us all safer and prevent future tragedies.

The Committee also found that far too many people are being brought to jail and remaining there unnecessarily like Sandra Bland. The Committee found that policies of diverting people who are in crisis and running afoul of the law either due to their mental health or substance abuse would be better served being
diverted into treatment, rather than cycled through the jail system and released with the same problems that caused them to get arrested previously. The Committee found suspending medical benefits upon detention instead of terminating them to ensure there are not gaps in treatment would help elevate this revolving door problem.

Sandra Bland was also arrested for a fine-only offense. It is not logical and potentially unconstitutional to send someone to jail for an offense that carries no penalty of jail time. Sandra Bland, like many people currently in jail waiting for their trial, are unable to pay their bail. Many of these individuals pose no risk to the community nor are they a flight risk. Yet, the Committee found that county jails are spending millions of dollars every year combined to house these inmates who have yet to be proven guilty. Hence, this Act will increase diversion by creating policies to encourage it, and supporting funding for places where people can be diverted to. Additionally, this Act will create policies aimed at properly increasing the use of personal recognizance bonds. If these policies would have been in place, there is good reason to believe Sandra Bland would still be alive.

The Committee found that Sandra Bland died in jail because our jails are not as safe as they could be, and that people who have yet to be proven guilty and even those proven guilty should not be subject to the dangers found in our jails. To address that issue this Act improves training for our jailers, requires jails to have medical personnel present and access to a mental health professional either in person or through telemental health at all times, and automated electronic sensors to ensure accurate cell
checks. This Act also creates a grant program to ensure that all County jails will be able to afford these necessary changes.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF PERSONS SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a) (1) Not later than 24 [22] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision (2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003, Health and Safety Code, or is a person with an intellectual
disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision (1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision (1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of
the head of the facility. If a defendant who has been ordered to a
facility operated by the Department of State Health Services or the
Health and Human Services Commission [Department of Aging and
Disability Services] for examination remains in the facility for a
period exceeding 21 days, the head of that facility shall cause the
defendant to be immediately transported to the committing court and
placed in the custody of the sheriff of the county in which the
committing court is located. That county shall reimburse the
facility for the mileage and per diem expenses of the personnel
required to transport the defendant calculated in accordance with
the state travel regulations in effect at the time.

(b) A written assessment of the information collected under
Subsection (a)(1)(A) shall be provided to the magistrate not later
than the 30th day after the date of any order issued under
Subsection (a) in a felony case and not later than the 10th day
after the date of any order issued under that subsection in a
misdemeanor case, and the magistrate shall provide copies of the
written assessment to the defense counsel, the prosecuting
attorney, and the trial court. The written assessment must include
a description of the procedures used in the collection of
information under Subsection (a)(1)(A) and the applicable expert’s
observations and findings pertaining to:

1. whether the defendant is a person who has a mental
   illness or is a person with an intellectual disability [mental
   retardation];
2. whether there is clinical evidence to support a
   belief that the defendant may be incompetent to stand trial and
should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article:

(1) releasing a defendant who has a mental illness
or is a person with an intellectual disability from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE. Each peace officer shall make a good faith effort to divert a person suffering a mental health crisis or substance abuse to a proper treatment center in the officer's jurisdiction if:

(1) it is reasonably possible to divert the person;

(2) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(3) the crisis or abuse is suspected to be the reason the person committed the alleged offense.

SECTION 2.03. Article 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness,
substance abuse, and mental illness. [The department may make a
maximum of five grants, which must be made in the most populous
municipalities in this state that are located in counties with a
population of more than one million.] In awarding grants, the
department shall give special consideration to entities:
(1) establishing a new collaborative; and
(2) to collaboratives that serve multiple continues
counties with individual populations below 50,000.
(b) The department shall require each entity awarded a grant
under this section to:
(1) leverage additional funding from private sources
in an amount that is at least equal to the amount of the grant
awarded under this section; [and]
(2) provide evidence of significant coordination and
collaboration between the entity, local mental health authorities,
municipalities, local law enforcement agencies, and other
community stakeholders in establishing or expanding a community
collaborative funded by a grant awarded under this section; and
(3) provide evidence of a local law enforcement policy
to divert appropriate persons from jails or other detention
facilities to an entity affiliated with a community collaborative
for services.
SECTION 2.04. Chapter 539, Government Code, is amended by
adding Articles 539.0051 to read as follows:
Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY
COLLABORATIVES. (a) The governing body of a county shall develop
and make public a plan detailing:
S.B. No. 1849

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Counties with a population under 50,000 may work with multiple other counties that touch them that also have a population under 50,000 to form a joint plan.

SECTION 2.05. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0264 to read as follows:

Sec. 32.0264. SUSPENSION, TERMINATION, AND AUTOMATIC REINSTATEMENT OF ELIGIBILITY FOR INDIVIDUALS CONFINED IN COUNTY JAILS. (a) In this section, "county jail" means a facility operated by or for a county for the confinement of persons accused or convicted of an offense.

(b) If an individual is confined in a county jail because
the individual has been charged with but not convicted of an offense, the commission shall suspend the individual's eligibility for medical assistance during the period the individual is confined in the county jail.

(c) If an individual is confined in a county jail because the individual has been convicted of an offense, the commission shall, as appropriate:

(1) terminate the individual's eligibility for medical assistance; or
(2) suspend the individual's eligibility during the period the individual is confined in the county jail.

(d) Not later than 48 hours after the commission is notified of the release from a county jail of an individual whose eligibility for medical assistance has been suspended under this section, the commission shall reinstate the individual's eligibility, provided the individual's eligibility certification period has not elapsed. Following the reinstatement, the individual remains eligible until the expiration of the period for which the individual was certified as eligible.

SECTION 2.06. Subchapter C, Chapter 351, Local Government Code, is amended by adding Section 351.046 to read as follows:

Sec. 351.046. NOTICE TO CERTAIN GOVERNMENTAL ENTITIES. (a) The sheriff of a county may notify the Health and Human Services Commission:

(1) on the confinement in the county jail of an individual who is receiving medical assistance benefits under Chapter 32, Human Resources Code; and
(2) on the conviction of a prisoner who, immediately before the prisoner's confinement in the county jail, was receiving medical assistance benefits.

(b) If the sheriff of a county chooses to provide the notices described by Subsection (a), the sheriff shall provide the notices electronically or by other appropriate means as soon as possible and not later than the 30th day after the date of the individual's confinement or prisoner's conviction, as applicable.

(c) The sheriff of a county may notify:

(1) the United States Social Security Administration of the release or discharge of a prisoner who, immediately before the prisoner's confinement in the county jail, was receiving:

(A) Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.; or

(B) Social Security Disability Insurance (SSDI) benefits under 42 U.S.C. Section 401 et seq.; and

(2) the Health and Human Services Commission of the release or discharge of a prisoner who, immediately before the prisoner's confinement in the county jail, was receiving medical assistance benefits.

(d) If the sheriff of a county chooses to provide the notices described by Subsection (c), the sheriff shall provide the notices electronically or by other appropriate means not later than 48 hours after the prisoner's release or discharge from custody.

(e) If the sheriff of a county chooses to provide the notices described by Subsection (c), at the time of the prisoner's release or discharge, the sheriff shall provide the prisoner with a
written copy of each applicable notice and a phone number at which
the prisoner may contact the Health and Human Services Commission
regarding confirmation of or assistance relating to reinstatement
of the individual’s eligibility for medical assistance benefits, if
applicable.

(f) The Health and Human Services Commission shall
establish a means by which the sheriff of a county, or an employee
of the county or sheriff, may determine whether an individual
confined in the county jail is or was, as appropriate, receiving
medical assistance benefits under Chapter 32, Human Resources Code,
for purposes of this section.

(g) The county or sheriff, or an employee of the county or
sheriff, is not liable in a civil action for damages resulting from
a failure to comply with this section.

SECTION 2.07. Sections 32.0264(a)-(c), Human Resources
Code, and Section 351.046(a), Local Government Code, as added by
this Act, apply to an individual whose period of confinement in a
county jail begins on or after the effective date of this Act,
regardless of the date the individual was determined eligible for
medical assistance under Chapter 32, Human Resources Code.

SECTION 2.08. Section 32.0264(d), Human Resources Code, and
Section 351.046(c), Local Government Code, as added by this Act,
apply to the release or discharge of a prisoner from a county jail
that occurs on or after the effective date of this Act, regardless
of the date the prisoner was initially confined in the county jail.

SECTION 2.09. If before implementing any provision of this
Act a state agency determines that a waiver or authorization from a
federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

ARTICLE 3. BAIL AND PRETRIAL RELEASE

SECTION 3.01. Article 17.03, Code of Criminal Procedure, is amended by amending Subsections (a) and (c) and adding Subsection (b-1) to read as follows:

(a) Except as provided by Subsection (b) or (b-1) [of this article], a magistrate may, in the magistrate's discretion, release the defendant on [his] personal bond without sureties or other security.

(b-1) Notwithstanding any other law, a magistrate shall release on personal bond a defendant who is not charged with and has not been previously convicted of a violent offense unless the magistrate finds good cause to justify not releasing the defendant on personal bond.

(c) When setting a personal bond under this chapter, on reasonable belief by the investigating or arresting law enforcement agent or magistrate of the presence of a controlled substance in the defendant's body or on the finding of drug or alcohol abuse related to the offense for which the defendant is charged, the court or a magistrate may [shall] require as a condition of personal bond that the defendant submit to testing for alcohol or a controlled substance in the defendant's body and participate in an alcohol or drug abuse treatment or education program if such a condition will serve to reasonably assure the appearance of the defendant for
trial.

SECTION 3.02. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.03. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment for the defendant; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas]
Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.04. Article 17.033, Code of Criminal Procedure, is amended to read as follows:

Art. 17.033. RELEASE ON BOND OF CERTAIN PERSONS ARRESTED WITHOUT A WARRANT. (a) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on personal bond[, in an amount not to exceed $5,000,] not later than the 24th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. [If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.]
(b) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed $5,000 [$10,000], not later than the 24th [48th] hour after the person's arrest if the person was arrested for a felony and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.

(c) On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person under Subsection (a)[(a-1)], or (b) for not more than 48[22] hours after the person's arrest. An application filed under this subsection must state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.

(d) The time limits imposed by Subsections (a)[(a-1)], and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. For a person described by this subsection, the time limits imposed by Subsections (a)[(a-1)] and (b) begin to run at the time, as documented in the records of the hospital, clinic, or other medical facility, that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

SECTION 3.05. Article 25.03 and 25.04, Code of Criminal Procedure, is amended to read as follows:
Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the same to the accused or his counsel, at the earliest possible time.

Art. 25.04. IN MISDEMEANOR. In misdemeanors, it shall [not] be necessary before trial to furnish the accused with a copy of the indictment or information; [but he or his counsel may demand a copy, which shall be given as early as possible.] the clerk shall deliver a copy of the same to the accused or his counsel, at the earliest possible time.

SECTION 3.06. Chapter 511, Government Code, is amended by adding Section 511.009(a)(21-23) to read as follows:

(21) adopt reasonable rules establishing minimum standards for jails regarding use of force, prevention of sexual assault, the management of intoxicated inmates, and the continuity of medication for inmates upon entry and release from the jail.

(22) adopt reasonable standards for jails in establishing guidelines for inmate safety that include requiring jails to have:

(A) 24 hour access to a mental health professional either on site or through a telemental health service;

(B) automated electronic sensors to ensure accurate and timely cell checks; and

(C) on-duty nurse or EMT for all shifts.

(23) adopt a chief command position exam that the person assigned to the chief command position overseeing a county
The chief command position exam may be taken at any testing center, and the testing center may charge a reasonable fee up to $50 for administering and grading the exam.

The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of inmates and prisoners in county jails. The rules and procedures shall require that inmates and prisoners who are determined to be lawfully taking a prescription medication when they enter the county jail be maintained on that same prescription medication until a qualified health care professional directs otherwise upon individualized consideration.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Section 511.019 to read as follows:

Sec. 511.019. COUNTY INMATE SAFETY FUND. (a) The County Inmate Safety Fund is a dedicated account in the general revenue fund.

(b) The County Inmate Safety Fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(e) The Commission shall only make grants to county jails with a certified capacity of 96 inmates or below.

(d) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under
section 511.009(a)(22).

(e) The commission by rule may establish a grant program to provide grants to counties to fund programs, training, or capital improvements described by Subsection (c).

SECTION 3.08. Chapter 511, Government Code, is amended by adding Section 511.020 to read as follows:

Sec. 511.020. COLLECTION OF SERIOUS INCIDENTS. (a) The Sheriff of each county jail shall report on a monthly basis to the Commission the occurrence in their jail of:

(1) suicides;
(2) attempted suicides;
(3) deaths;
(4) serious injuries;
(5) assaults;
(6) escapes;
(7) sexual assaults; and
(8) uses of force.

(b) The Commission shall make this data available to the public, and shall produce a monthly report of the data.

SECTION 3.09. Chapter 511, Government Code, is amended by adding Section 511.1 to read as follows:

Sec. 511.1 OUTSIDE INVESTIGATION OF JAIL DEATHS. (a) The Department of Public Safety shall appoint a law enforcement agency other than that who operates the county jail where an inmate's death happened to investigate that inmate's death as soon as applicable.

(b) The law enforcement agency that operates the county jail where the inmate's death occurred shall begin and conduct the
investigation until the other law enforcement agency is named and
begins their investigation.

(c) The law enforcement agency that operates the county jail
where the inmate's death occurred shall hand over all evidence and
be complete compliance with the law enforcement agency assigned to
the investigation.

SECTION 3.10. The changes in law made by this article to
Articles 17.03 and 17.032, Code of Criminal Procedure, apply only
to a personal bond that is executed on or after the effective date
of this Act. A personal bond executed before the effective date of
this Act is governed by the law in effect when the personal bond was
executed, and the former law is continued in effect for that
purpose.

SECTION 3.11. The change in law made by this article to
Article 17.033, 25.03, and 25.04, Code of Criminal Procedure,
applies only to a person who is arrested on or after the effective
date of this Act. A person arrested before the effective date of
this Act is governed by the law in effect on the date the person was
arrested, and the former law is continued in effect for that
purpose.

SECTION 3.12. To the extent of any conflict, this Act
prevails over another Act of the 85th Legislature, Regular Session,
2017, relating to nonsubstantive additions to and corrections in
enacted codes.

SECTION 3.13. The change in law made by this article to
Article 511, Government Code, applies only to events on or after the
effective date of this Act.
SECTION 3.14. The change in law made by this article to Article 511.009(a)(22), Government Code, The Commission shall adopt rules by September 1, 2018, and county jails must be in compliance by September 1, 2020.

SECTION 3.15. The chief command position exam described in Article 511.009(a)(23), Government Code, shall be developed by the Criminal Justice Department at Sam Houston University with input and approval from the Texas Commission on Jail Standards.

ARTICLE 4. PEACE OFFICER TRAINING

SECTION 4.01. Section 1701.253, Occupations Code, is amended by amending Subsections (c), (h), and (j) and adding Subsection (n) to read as follows:

(c) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on civil rights, racial sensitivity, implicit bias, and cultural diversity for persons licensed under this chapter.

(h) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the first [second] anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(j) As part of the minimum curriculum requirements, the commission shall require an officer to complete a 40-hour statewide
education and training program on de-escalation and crisis
intervention techniques to facilitate interaction with persons
with mental impairments. An officer shall complete the program not
later than the first [second] anniversary of the date the officer is
licensed under this chapter or the date the officer applies for an
intermediate proficiency certificate, whichever date is earlier.
An officer may not satisfy the requirements of this subsection
or Section 1701.402(g) by taking an online course on
de-escalation and crisis intervention techniques to facilitate
interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the
commission shall require an officer to complete a statewide
education and training program on de-escalation techniques to
facilitate interaction with members of the public, including
techniques for limiting the use of force. An officer shall complete
the program not later than the first anniversary of the date the
officer is licensed under this chapter or the date the officer
applies for an intermediate proficiency certificate, whichever
date is earlier. An officer may not satisfy the requirements of
this subsection or Section 1701.402(n) by taking an online course.

SECTION 4.02. Section 1701.310, Occupations Code, is
amended by amending Subsections (a) to read as follows:

Sec. 1701.310. APPOINTMENT OF COUNTY JAILER; TRAINING
REQUIRED. (a) Except as provided by Subsection (e), a person may
not be appointed as a county jailer, except on a temporary basis,
unless the person has satisfactorily completed a preparatory
training program which includes 24 hours of training to facilitate
interaction with persons with mental impairments, as required by
the commission, in the operation of a county jail at a school
operated or licensed by the commission.

SECTION 4.03. Section 1701.310, Occupations Code, is
amended by adding Subsections (f) to read as follows:

(f) A person assigned by the sheriff to the chief command
position overseeing a county jail shall within 90 days of being
assigned to the chief command position overseeing a county jail
pass the chief command position exam.

(1) If a person assigned to the chief command position
overseeing a county jail fails the chief command position exam they
shall be immediately removed, and be unable to be reinstated until
they pass the chief command position exam.

(2) A person who fails the chief command position exam
must wait a minimum of 90 days to retake the exam.

(3) The Sheriff of the County in which the jail is
located shall hold the chief command position until a new person is
appointed, or the person originally assigned has passed the chief
command position exam.

SECTION 4.03. Section 1701.352, Occupations Code, is
amended by amending Subsections (b) and (e) and adding Subsection
(j) to read as follows:

(b) The commission shall require a state, county, special
district, or municipal agency that appoints or employs peace
officers to provide each peace officer with a training program at
least once every 48 months that is approved by the commission and
consists of:
(1) topics selected by the agency; and
(2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, implicit bias, and cultural diversity;
(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]
(C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force; and
(D) unless determined by the agency head to be inconsistent with the officer's assigned duties:
   (i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and
   (ii) issues concerning sex offender characteristics.

(e) The commission may require a state, county, special district, or municipal agency that appoints or employs a reserve law enforcement officer, county jailer, or public security officer to provide each of those persons with education and training in civil rights, racial sensitivity, implicit bias, and cultural diversity at least once every 48 months.

(j) The education and training program on de-escalation...
techniques to facilitate interaction with members of the public
under Subsection (b)(2)(C) may not be provided as an online course.

SECTION 4.04. Section 1701.402, Occupations Code, is
amended by amending Subsection (i) and adding Subsection (n) to
read as follows:

(i) As a requirement for an intermediate proficiency
certificate, an officer must complete an education and training
program on civil rights, racial sensitivity, implicit bias, and
cultural diversity established by the commission under Section
1701.253(c).

(n) As a requirement for an intermediate proficiency
certificate or an advanced proficiency certificate, an officer must
complete the education and training program regarding
de-escalation techniques to facilitate interaction with members of
the public established by the commission under Section 1701.253(n).

SECTION 4.05. Not later than January 1, 2018, the Texas
Commission on Law Enforcement shall establish or modify training
programs as necessary to comply with Section 1701.253, Occupations
Code, as amended by this article.

ARTICLE 5. PRETEXT STOPS, RACIAL PROFILING, AND ISSUANCE OF
CITATIONS

SECTION 5.01. Article 2.13, Code of Criminal Procedure, is
amended by adding Subsection (d) to read as follows:

(d) The officer may not:

(1) conduct a search based solely on a person's consent
to the search; or

(2) make a stop for an alleged violation of a traffic
law or ordinance as a pretext for investigating a violation of another penal law.

SECTION 5.02. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b), (c), and (e) and adding Subsections (h) and (i) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process, including providing the information regarding the complaint process on each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to all motor vehicle stops [in which a citation is issued and to arrests made as a result of those stops], including information relating to:
(A) the race or ethnicity of the individual detained; (B) whether a search was conducted [and, if so, whether the individual detained consented to the search]; and (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; [and] (D) whether the peace officer used physical force against anyone during the stop; and (7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to: (A) the Texas Commission on Law Enforcement; and (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state. (c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling but is admissible in a court of law as evidence of racial profiling. (e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6). (h) A law enforcement agency shall review the data collected
under Subsection (b)(6) to determine whether the number of vehicles
driven by a member of a particular race or ethnicity stopped by any
peace officer employed by the agency is disproportionate to the
population of that race or ethnicity in the county or municipality
served by the agency.

(i) If a law enforcement agency determines that the number
of vehicles driven by a member of a particular race or ethnicity
stopped by a peace officer is disproportionate, as described by
Subsection (h), the agency shall conduct an investigation of the
officer to determine whether the officer routinely stops vehicles
the drivers of which are members of a particular racial or ethnic
group for alleged violations of traffic laws or ordinances as a
pretext for investigating violations of other penal laws.

SECTION 5.03. Chapter 2, Code of Criminal Procedure, is
amended by adding Articles 2.1321 and 2.1322 to read as follows:

Art. 2.1321. RACIAL PROFILING INVESTIGATIONS. (a) The
chief administrator of a law enforcement agency, regardless of
whether the administrator is elected, employed, or appointed, shall
annually review the data collected by the agency on racial
profiling to determine if:

(1) racial profiling is potentially occurring on an
agency-wide level; or

(2) an individual peace officer may be engaging in
racial profiling.

(b) On a finding by the chief administrator of potential
racial profiling on an agency-wide basis or by an individual peace
officer, the agency shall initiate an investigation into the
potential racial profiling.

(c) The chief administrator of each law enforcement agency shall annually certify to the Texas Commission on Law Enforcement that the chief administrator conducted the review required by Subsection (a).

(d) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to conduct a review required by Subsection (a), the commission shall begin disciplinary procedures against the chief administrator.

Art. 2.1322. REQUIRED RACIAL PROFILING COUNSELING AND TRAINING FOR CERTAIN PEACE OFFICERS. (a) If an investigation initiated under Article 2.132 or 2.1321 results in a finding of racial profiling, the law enforcement agency shall provide appropriate counseling and training to any peace officer found to have engaged in racial profiling.

(b) The counseling and training under Subsection (a) must:

1. emphasize understanding and respect for racial and cultural differences;
2. address racial and cultural biases; and
3. include effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

(c) If, after a peace officer completes the counseling and training under Subsection (a), the officer is again found to have engaged in racial profiling, the law enforcement agency shall:

1. suspend the officer for not less than six months;
and

(2) require the officer to repeat the counseling and
training under Subsection (a).

SECTION 5.04. Article 2.133, Code of Criminal Procedure, is 
amended by amending Subsection (b) and adding Subsection (c) to 
read as follows:

(b) A peace officer who stops a motor vehicle for an alleged 
violation of a law or ordinance shall report to the law enforcement 
agency that employs the officer information relating to the stop, 
including:

(1) a physical description of any person operating the 
motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by 
the person or, if the person does not state the person's race or 
ethnicity, as determined by the officer to the best of the officer's 
ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result 
of the stop [and, if so, whether the person detained consented to 
the search];

(4) whether any contraband or other evidence was 
discovered in the course of the search and a description of the 
contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain 
view;
S.B. No. 1849

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a citation as a result of the stop; and

(9) whether the officer used physical force in conjunction with the arrest.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, shall make periodic random and unannounced reviews of motor vehicle stops by peace officers employed by the agency to ensure that the race or ethnicity of the person operating the motor vehicle is being properly identified in the report under Subsection (b).

SECTION 5.05. Articles 2.134(c), (d), and (f), Code of Criminal Procedure, are amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency,
regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; and

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches;

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling; and

(3) information relating the number of investigations initiated under Article 2.1321, and the outcomes of the investigations.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of
information required under Article 2.133(b)(1).

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling but is admissible in a court of law as evidence of racial profiling.

SECTION 5.06. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purposes of providing counseling and training for peace officers to prevent racial profiling and installing video and audio equipment in law enforcement motor vehicles and motorcycles, including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purposes of providing counseling and training for peace officers to prevent racial profiling and installing video and audio
equipment in law enforcement motor vehicles and motorcycles [as
described by Article 2.135(a)(1)(A)]. The collaboration may
include the use of a survey to assist in developing criteria to
prioritize funding or equipment provided to law enforcement
agencies.

(c) To receive funds or video and audio equipment from the
state for the purposes [purpose] of providing counseling and
installing video and audio equipment in law enforcement motor
vehicles and motorcycles [as described by Article 2.135(a)(1)(A)],
the governing body of a county or municipality, in conjunction with
the law enforcement agency serving the county or municipality,
shall certify to the Department of Public Safety that the law
enforcement agency needs funds or video and audio equipment for
those purposes [that purpose].

(d) On receipt of funds or video and audio equipment from
the state for the purposes [purpose] of providing counseling and
installing video and audio equipment in law enforcement motor
vehicles and motorcycles [as described by Article 2.135(a)(1)(A)],
the governing body of a county or municipality, in conjunction with
the law enforcement agency serving the county or municipality,
shall certify to the Department of Public Safety that the law
enforcement agency has installed and is using video and audio
equipment for those purposes [as described by Article
2.135(a)(1)(A) and is using the equipment as required by Article
2.135(a)(1)].
SECTION 5.07.  Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of $10,000 [$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.08.  Effective September 1, 2018, Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1386 to read as follows:

Art. 2.1386.  MOTOR VEHICLE STOP INVESTIGATIONS. (a) In this article, "law enforcement agency" and "motor vehicle stop" have the meanings assigned by Article 2.132(a).

(b) Each law enforcement agency shall adopt and implement a detailed written policy regarding the administration of a motor vehicle stop investigation in accordance with this article, including the administrative penalties for violations of the policy. A law enforcement agency may adopt the model policy promulgated by the Bill Blackwood Law Enforcement Management Institute of Texas or the agency's own policy.

(c) A peace officer may not:

(1) conduct a roadside investigation during a motor vehicle stop for an offense other than the traffic violation without suspicion based on a preponderance of the evidence that the driver has committed the other offense;

(2) continue a roadside investigation during a motor vehicle stop for an offense other than the traffic violation without suspicion based on a preponderance of the evidence that the driver has committed the other offense.
vehicle stop into an offense other than the traffic violation after
the driver has refused to consent to be searched unless the peace
officer has additional suspicion based on a preponderance of the
evidence that the driver has committed the other offense; or

(3) arrest a driver during a motor vehicle stop for a
traffic violation to conduct a search incident to arrest unless the
officer has probable cause to believe that the driver has committed
an offense more serious than a Class C misdemeanor.

(d) A peace officer who violates Subsection (c) shall be
subject to an administrative penalty of not less than a one-day
suspension.

SECTION 5.09. Article 3.05, Code of Criminal Procedure, is
amended to read as follows:

Art. 3.05. RACIAL PROFILING. (a) In this code, "racial
profiling" means a law enforcement-initiated action based on an
individual's race, ethnicity, or national origin rather than on the
individual's behavior or on information identifying the individual
as having engaged in criminal activity.

(b) Racial profiling may be identified through the
examination of sufficient and evidence-based data analysis.

SECTION 5.10. Article 14.06, Code of Criminal Procedure, is
amended by amending Subsection (b) and adding Subsection (b-1) to
read as follows:

(b) A peace officer who is charging a person, including a
child, with committing an offense that is a [Class C] misdemeanor
punishable by a fine only, other than an offense under Section
49.02, Penal Code, or an offense under Chapter 106, Alcoholic
S.B. No. 1849

Beverage Code, shall [may], instead of taking the person before a
magistrate, issue a citation to the person that contains written
notice of the time and place the person must appear before a
magistrate, the name and address of the person charged, the offense
charged, and the following admonishment, in boldfaced or underlined
type or in capital letters:

"If you are convicted of a misdemeanor offense involving
violence where you are or were a spouse, intimate partner, parent,
or guardian of the victim or are or were involved in another,
similar relationship with the victim, it may be unlawful for you to
possess or purchase a firearm, including a handgun or long gun, or
ammunition, pursuant to federal law under 18 U.S.C. Section
922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any
questions whether these laws make it illegal for you to possess or
purchase a firearm, you should consult an attorney."

(b-1) A peace officer who is charging a person, including a
child, with committing an offense that is a misdemeanor punishable
by a fine only under Chapter 106, Alcoholic Beverage Code, may,
instead of taking the person before a magistrate, issue to the
person a citation that contains written notice of the time and place
the person must appear before a magistrate, the name and address of
the person charged, and the offense charged.

SECTION 5.11. Section 543.004(a), Transportation Code, is
amended to read as follows:

(a) An officer shall issue a written notice to appear if:

(1) the offense charged is [speeding or] a misdemeanor
under this subtitle that is punishable by a fine only [violation of
(2) the person makes a written promise to appear in court as provided by Section 543.005.

SECTION 5.12. Effective January 1, 2018, Subchapter A, Chapter 543, Transportation Code, is amended by adding Section 543.0045 to read as follows:

Sec. 543.0045. NOTIFICATION REQUIRED DURING TRAFFIC STOP. (a) An officer who stops a motor vehicle as a result of a person's alleged commission of a misdemeanor under this subtitle that is punishable by a fine only shall promptly notify the person that:

(1) the alleged offense is a misdemeanor under this subtitle that is punishable by a fine only; and

(2) the officer may not arrest a person solely on the basis of that offense.

(b) The Texas Commission on Law Enforcement by rule shall specify the language that is required to be included in the notification described by Subsection (a).

SECTION 5.13. The following provisions of the Code of Criminal Procedure are repealed:

(1) Article 2.135.

SECTION 5.14. Article 2.13(d), Code of Criminal Procedure, as added by this article, applies only to a motor vehicle stop or search that occurs on or after the effective date of this Act.

SECTION 5.15. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.16. Articles 2.132(h) and (i), 2.1321, and
2.1322, Code of Criminal Procedure, as added by this article, apply to an investigation that occurs on or after the effective date of this Act, regardless of whether the potential racial profiling occurred before, on, or after that date.

SECTION 5.17. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to withstand academic scrutiny.

SECTION 5.18. (a) Not later than December 31, 2017, the Bill Blackwood Law Enforcement Management Institute of Texas, in consultation with large, medium, and small law enforcement agencies, law enforcement associations, and community organizations engaged in the development of law enforcement policy on behalf of the public, shall develop, adopt, and disseminate to all law enforcement agencies in this state a model policy and associated training materials for conducting a motor vehicle stop, in accordance with Article 2.1386, Code of Criminal Procedure, as added by this article.

(b) Not later than September 1, 2018, each law enforcement agency of this state shall adopt the policy required by Article 2.1386, Code of Criminal Procedure, as added by this article, if applicable.

SECTION 5.19. Not later than December 1, 2017, the Texas Commission on Law Enforcement shall adopt the rules required by Section 543.0045(b), Transportation Code, as added by this article.

SECTION 5.20. The changes in law made by this article apply
only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before that date.

ARTICLE 6. DISCIPLINARY PROCEDURES FOR PEACE OFFICERS.

SECTION 6.01. Effective September 1, 2018, the heading to Subchapter B, Chapter 614, Government Code, is amended to read as follows:

SUBCHAPTER B. COMPLAINT AGAINST PEACE [LAW ENFORCEMENT] OFFICER OR FIRE FIGHTER

SECTION 6.02. Effective September 1, 2018, Section 614.021, Government Code, is amended to read as follows:

Sec. 614.021. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Subsection (b), this subchapter applies only to a complaint against:

(1) [a law enforcement officer of the State of Texas, including an officer of the Department of Public Safety or of the Texas Alcoholic Beverage Commission;

(2) a fire fighter who is employed by this state or a political subdivision of this state;

(3) [a peace officer under Article 2.12, Code of Criminal Procedure, or other law who is appointed or employed by the State of Texas or a political subdivision of this state, including a political subdivision that is covered by a meet and confer or
collective bargaining agreement under Chapter 142, 143, or 174, Local Government Code; or

(3) a detention officer or county jailer who is appointed or employed by a political subdivision of this state.

(b) This subchapter does not apply to a peace officer or fire fighter appointed or employed by a political subdivision that is covered by a meet and confer or collective bargaining agreement under Chapter 143 or 174, Local Government Code, if that agreement includes provisions relating to the investigation of, and disciplinary action resulting from, a complaint against a peace officer or fire fighter, as applicable. This subchapter does not alter an at-will employment relationship between the employee and the political subdivision.

SECTION 6.03. Effective September 1, 2018, Section 614.022, Government Code, is amended to read as follows:

Sec. 614.022. CERTAIN COMPLAINTS [COMPLAINT] TO BE IN WRITING AND SIGNED BY COMPLAINANT. To be considered by the head of a state agency or by the head of a fire department or local law enforcement agency, a complaint filed by a member of the public against a fire fighter, detention officer, or county jailer must be:

(1) in writing; and

(2) signed by the person making the complaint.

SECTION 6.04. Effective September 1, 2018, Subchapter B, Chapter 614, Government Code, is amended by adding Sections 614.0225, 614.0226, and 614.0227 to read as follows:

Sec. 614.0225. STANDARD PROCEDURES FOR COMPLAINT AGAINST
PEACE OFFICER BY A MEMBER OF THE PUBLIC. (a) Each law enforcement agency shall adopt and implement standard procedures for processing a complaint filed by a member of the public including members of the public who are incarcerated, against a peace officer in accordance with this subchapter. A law enforcement agency may adopt the model standard procedures promulgated by the Bill Blackwood Law Enforcement Management Institute of Texas or the agency's own procedures.

(b) A law enforcement agency shall facilitate the filing of a written complaint against a peace officer by a member of the public by providing a means to complain in person, by mail, by e-mail, by telephone, and on the agency's Internet website.

(c) A law enforcement agency shall facilitate the filing of a complaint by a member of the public against a peace officer by providing a means of a friend or family member to file on the behalf of the victim.

Sec. 614.0226. REQUIREMENTS FOR COMPLAINT FILED BY A MEMBER OF THE PUBLIC AGAINST PEACE OFFICER. A complaint filed by a member of the public against a peace officer must include:

(1) the name and the telephone number or e-mail address of the person filing the complaint;
(2) the location of the interaction with the peace officer; and
(3) a description of the basis for the complaint.

Sec. 614.0227. REQUIREMENTS FOR CITATION. A citation issued by a peace officer must include the e-mail address, telephone number, Internet address, and physical location where a
complaint can be filed by a member of the public against the peace
officer and basic instructions for filing the complaint.

SECTION 6.05. Effective September 1, 2018, Section 614.023,
Government Code, is amended to read as follows:

Sec. 614.023. COPY OF COMPLAINT TO BE GIVEN TO FIRE FIGHTER,
DETENTION OFFICER, OR COUNTY JAILER [OFFICER OR EMPLOYEE]. (a) A
copy of a signed complaint filed by a member of the public against
[a law enforcement officer of this state or] a fire fighter,
detention officer, or county jailer [or peace officer appointed or
employed by a political subdivision of this state] shall be given to
the [officer or] employee within a reasonable time after the
complaint is filed.

(b) Disciplinary action may not be taken against the
[officer or] employee unless a copy of the signed complaint is given
to the [officer or] employee.

(c) In addition to the requirement of Subsection (b), the
[officer or] employee may not be indefinitely suspended or
terminated from employment based on the subject matter of the
complaint filed by a member of the public unless:

(1) the complaint is investigated; and

(2) there is evidence to prove the allegation of
misconduct.

SECTION 6.06. Effective September 1, 2018, Subchapter B,
Chapter 614, Government Code, is amended by adding Sections
614.024, 614.025, 614.026, and 614.027 to read as follows:

Sec. 614.024. COPY OF COMPLAINT FILED BY A MEMBER OF THE
PUBLIC TO BE GIVEN TO PEACE OFFICER. (a) A copy of a complaint
filed by a member of the public against a peace officer shall be
given to the peace officer within a reasonable time after the
complaint is filed.

(b) Disciplinary action may not be taken against the peace
officer unless a copy of the complaint is given to the peace
officer.

(c) In addition to the requirement of Subsection (b), the
peace officer may not be indefinitely suspended or terminated from
employment based on the subject matter of the complaint unless:

(1) the complaint is investigated; and

(2) the evidence proves the allegation of misconduct.

(d) This subchapter does not alter an the at-will employment
relationship between the peace officer and the law enforcement
agency.

Sec. 614.025. INVESTIGATION OF COMPLAINT FILED BY A MEMBER
OF THE PUBLIC AGAINST PEACE OFFICER. (a) A law enforcement agency
shall investigate each complaint filed by a member of the public
against a peace officer and review the available evidence related
to the complaint, including any audio or video recording and any
report filed by the peace officer.

(b) A law enforcement agency shall give a copy of any audio
or video evidence related to a complaint against a peace officer to
the complainant on request. This section does not prevent a law
enforcement agency from asserting that any confidential material is
exempt from disclosure under Sections 552.103, 552.107, or 552.108
of the Texas Government Code or under any other basis permitted by
law.
(c) If the law enforcement agency determines that there is a basis for further investigation into a possible violation by a peace officer, the agency shall notify the peace officer and the complainant that further investigation will be conducted.

(d) If the preliminary review of the evidence clearly indicates that there is no basis, in law or policy, for the complaint filed by a member of the public, the law enforcement agency shall notify the peace officer and the complainant that the complaint is without merit.

(e) An investigation must be completed not later than the 180th day after the date a complaint is filed. The law enforcement agency shall provide the complainant an update on the progress of the investigation at least once every two months during that period.

Sec. 614.026. APPEAL OF COMPLAINT FILED BY A MEMBER OF THE PUBLIC AGAINST PEACE OFFICER. (a) A law enforcement agency shall adopt and implement procedures for the appeal by a complainant of a decision to dismiss a complaint filed by a member of the public by the complainant, against a peace officer because the complaint is determined to be without merit. The procedures must allow the complainant to provide the agency additional evidence relating to the complaint, including witness statements.

(b) A peace officer may appeal a decision relating to a complaint filed by a member of the public against the peace officer under the procedures established under applicable law, including under a meet and confer agreement, a collective bargaining agreement, or Chapter 142, 143, or 174, Local Government Code.
Sec. 614.027. DATA RELATING TO COMPLAINTS FILED BY MEMBERS OF THE PUBLIC AGAINST PEACE OFFICERS. (a) A law enforcement agency shall provide data relating to complaints filed by members of the public against peace officers of the agency, including the outcome of each complaint, to the Institute for Urban Policy Research & Analysis at The University of Texas at Austin.

(b) A law enforcement agency shall adopt the model standard procedures promulgated by the Bill Blackwood Law Enforcement Management Institute of Texas or the agency's own procedures to implement this section.

SECTION 6.07. Section 142.067, Local Government Code, is amended to read as follows: Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Except as provided by Subsection (b), a written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

(b) An agreement under this subchapter may not conflict with and does not supersede Subchapter B, Chapter 614, Government Code, or Article 2.1386, Code of Criminal Procedure.

SECTION 6.08. Section 143.307, Local Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:
(a) Except as provided by Subsection (d), an agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent of any conflict with the statute.

(b) Except as provided by Subsection (d), an agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality.

(d) An agreement under this subchapter affecting police officers may not conflict with and does not supersedes Subchapter B, Chapter 614, Government Code, or Article 2.1386, Code of Criminal Procedure.

SECTION 6.09. Section 143.361, Local Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), a written agreement ratified under this subchapter between a public employer and the bargaining agent supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, and other terms of employment other than pension benefits to the extent of any conflict with the previous statute.

(b) Except as provided by Subsection (d), a written agreement ratified under this subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or a political subdivision or agent of the state, such
as a personnel board, a civil service commission, or a home-rule municipality.

(d) An agreement under this subchapter may not conflict with and does not supersede Subchapter B, Chapter 614, Government Code, or Article 2.1386, Code of Criminal Procedure.

SECTION 6.10. Section 174.005, Local Government Code, is amended to read as follows:

Sec. 174.005. PREEMPTION OF OTHER LAW. (a) Except as provided by Subsection (b), this chapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or by a political subdivision or agent of the state, including a personnel board, civil service commission, or home-rule municipality.

(b) This chapter does not authorize the adoption or implementation of an agreement that conflicts with Subchapter B, Chapter 614, Government Code, or Article 2.1386, Code of Criminal Procedure.

SECTION 6.11. Sections 142.067(b), 143.307(d), 143.361(d), and 174.005(b), Local Government Code, as added by this article, apply only to an agreement entered into or renewed on or after September 1, 2018. An agreement entered into or renewed before September 1, 2018, is governed by the law in effect on the date the agreement was entered into or renewed, and the former law is continued in effect for that purpose.

SECTION 6.12. (a) Not later than December 31, 2017, the Bill Blackwood Law Enforcement Management Institute of Texas, in consultation with large, medium, and small law enforcement
agencies, law enforcement associations, and community organizations engaged in the development of law enforcement policy on behalf of the public, shall develop, adopt, and disseminate to all law enforcement agencies in this state:

(1) the model standard procedures for a law enforcement agency to process a complaint filed by a member of the public against a peace officer, in accordance with Subchapter B, Chapter 614, Government Code, as amended by this article; and

(2) the model standard procedures for a law enforcement agency to report data relating to complaints against peace officers by members of the public to the Institute for Urban Policy Research & Analysis at The University of Texas at Austin, under Section 614.027, Government Code, as added by this article.

(b) Not later than September 1, 2018, each law enforcement agency of this state shall adopt the procedures required by Subchapter B, Chapter 614, Government Code, as amended by this article.

ARTICLE 7. INDEPENDENT OMBUDSMAN

SECTION 7.01. Section 261.001, Human Resources Code, is amended by adding Subsection (3) and (4) to read as follows:

Sec. 261.001. DEFINITIONS. In this chapter:

(1) "Independent ombudsman" means the individual who has been appointed under this chapter to the office of independent ombudsman.

(2) "Office" means the office of independent ombudsman created under this chapter.

(3) "Department" means the Texas Juvenile Justice
(4) "County jail" means a facility operated or contracted by a county for the confinement of persons accused or convicted of an offense.

SECTION 7.02. Section 261.002, Human Resources Code, is amended to read as follows:

Sec. 261.002. ESTABLISHMENT; PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children committed to the department, including a child released under supervision before final discharge, and adults confined in county jails.

SECTION 7.03. Section 261.056, Human Resources Code, is amended by amending subsection (a) to read as follows:

Sec. 261.056. COMMUNICATION AND CONFIDENTIALITY. (a) The department shall allow any child committed to the department, and the Sheriff shall allow any adult confined in a county jail to communicate with the independent ombudsman or an assistant to the ombudsman. The communication:

(1) may be in person, by mail, or by any other means; and

(2) is confidential and privileged.

SECTION 7.04. Section 261.057, Human Resources Code, is amended to read as follows:

Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. The independent ombudsman shall promote awareness among the public and the children committed to the department, and among persons...
confined in county jails of:

(1) how the office may be contacted;
(2) the purpose of the office; and
(3) the services the office provides.

SECTION 7.05. Section 261.058, Human Resources Code, is amended by amending subsection (b) to read as follows:

(b) The office and the board shall adopt rules necessary to implement Section 261.060, including rules that establish procedures for the department and county jails to review and comment on reports of the office and for the department and county jails to expedite or eliminate review of and comment on a report due to an emergency or a serious or flagrant circumstance described by Section 261.055(b).

SECTION 7.06. Section 261.101, Human Resources Code, is amended by amending subsection (a) to read as follows:

Sec. 261.101. DUTIES AND POWERS. (a) The independent ombudsman shall:

(1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;

(1-a) evaluate the delivery of services adults in county jails to ensure that the rights of adults in county jails are fully observed;

(2) review complaints filed with the independent ombudsman concerning the actions of the department and investigate each complaint in which it appears that a [child] person may be in need of assistance from the independent ombudsman;
conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:

(A) a child committed to the department, an adult in county jail, or the child's family may be in need of assistance from the office; or

(B) a systemic issue in the department's or a county jail's provision of services is raised by a complaint;

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the department, and the facilities and procedures of any county jail in which a person is confined, whether public or private, to ensure that the rights of children and the health and safety of persons confined in county jails are fully protected;

(5) provide assistance to a confined person, child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child or confined person;

(6) review court orders as necessary to fulfill its duties;

(7) recommend changes in any procedure relating to the treatment of children committed to the department, and adults in county jails;

(8) make appropriate referrals under any of the duties and powers listed in this subsection;

(9) supervise assistants who are serving as advocates
in their representation of children committed to the department in internal administrative and disciplinary hearings;

(10) review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints;

(11) report a possible standards violation by a local juvenile probation department to the appropriate division of the department or a possible standards violation by a county jail to the Commission on Jail Standards; [and]

(12) immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county[.]; and

(13) immediately report the substantiated findings of any investigation related to the health or safety of a person confined in a county jail to the Sheriff and Commissioners Court of the county.

SECTION 7.07. Section 261.104, Human Resources Code, is amended by adding subsection (c) to read as follows:

c) The office and the Commission on Jail Standards shall enter into a memorandum of understanding concerning:

(1) the most efficient manner in which to share information with one another; and

(2) opportunities for collaboration between the office and the Commission on Jail Standards.

SECTION 7.08. Section 261.151, Human Resources Code, is
amended by amending subsection (c) to read as follows:

(c) A local law enforcement agency shall allow the independent ombudsman access to its records relating to any child in the care or custody of the department or to any records relating to a person confined in a county jail.

SECTION 7.09. Section 261.152, Human Resources Code, is amended to read as follows:

Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. The independent ombudsman shall have access to the records of a private entity that relate to a child committed to the department or to a person confined in a county jail.

ARTICLE 8. EFFECTIVE DATE

SECTION 8.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.