

1-1 By: Whitmire, Miles S.B. No. 1849
 1-2 (In the Senate - Filed March 10, 2017; March 23, 2017, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 May 5, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; May 5, 2017, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1849 By: Garcia

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to interactions between law enforcement and individuals
 1-22 detained or arrested on suspicion of the commission of criminal
 1-23 offenses, to the confinement, conviction, or release of those
 1-24 individuals, and to grants supporting populations that are more
 1-25 likely to interact frequently with law enforcement.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 ARTICLE 1. SHORT TITLE

1-28 SECTION 1.01. SHORT TITLE. This Act shall be known as the
 1-29 Sandra Bland Act, in memory of Sandra Bland.

1-30 ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR
 1-31 PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL
 1-32 DISABILITY, OR A SUBSTANCE ABUSE ISSUE

1-33 SECTION 2.01. Article 16.22, Code of Criminal Procedure, is
 1-34 amended to read as follows:

1-35 Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF
 1-36 HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL~~
 1-37 ~~RETARDATION~~]. (a)(1) Not later than 12 [~~72~~] hours after receiving
 1-38 credible information that may establish reasonable cause to believe
 1-39 that a defendant committed to the sheriff's custody has a mental
 1-40 illness or is a person with an intellectual disability [~~mental~~
 1-41 ~~retardation~~], including observation of the defendant's behavior
 1-42 immediately before, during, and after the defendant's arrest and
 1-43 the results of any previous assessment of the defendant, the
 1-44 sheriff shall provide written or electronic notice of the
 1-45 information to the magistrate. On a determination that there is
 1-46 reasonable cause to believe that the defendant has a mental illness
 1-47 or is a person with an intellectual disability [~~mental~~
 1-48 ~~retardation~~], the magistrate, except as provided by Subdivision
 1-49 (2), shall order the local mental health or intellectual and
 1-50 developmental disability [~~mental retardation~~] authority or another
 1-51 qualified mental health or intellectual disability [~~mental~~
 1-52 ~~retardation~~] expert to:

1-53 (A) collect information regarding whether the
 1-54 defendant has a mental illness as defined by Section 571.003,
 1-55 Health and Safety Code, or is a person with an intellectual
 1-56 disability [~~mental retardation~~] as defined by Section 591.003,
 1-57 Health and Safety Code, including information obtained from any
 1-58 previous assessment of the defendant; and

1-59 (B) provide to the magistrate a written
 1-60 assessment of the information collected under Paragraph (A).

2-1 (2) The magistrate is not required to order the
 2-2 collection of information under Subdivision (1) if the defendant in
 2-3 the year preceding the defendant's applicable date of arrest has
 2-4 been determined to have a mental illness or to be a person with an
 2-5 intellectual disability [~~mental retardation~~] by the local mental
 2-6 health or intellectual and developmental disability [~~mental~~
 2-7 ~~retardation~~] authority or another mental health or intellectual
 2-8 disability [~~mental retardation~~] expert described by Subdivision
 2-9 (1). A court that elects to use the results of that previous
 2-10 determination may proceed under Subsection (c).

2-11 (3) If the defendant fails or refuses to submit to the
 2-12 collection of information regarding the defendant as required under
 2-13 Subdivision (1), the magistrate may order the defendant to submit
 2-14 to an examination in a mental health facility determined to be
 2-15 appropriate by the local mental health or intellectual and
 2-16 developmental disability [~~mental retardation~~] authority for a
 2-17 reasonable period not to exceed 21 days. The magistrate may order a
 2-18 defendant to a facility operated by the Department of State Health
 2-19 Services or the Health and Human Services Commission [~~Department of~~
 2-20 ~~Aging and Disability Services~~] for examination only on request of
 2-21 the local mental health or intellectual and developmental
 2-22 disability [~~mental retardation~~] authority and with the consent of
 2-23 the head of the facility. If a defendant who has been ordered to a
 2-24 facility operated by the Department of State Health Services or the
 2-25 Health and Human Services Commission [~~Department of Aging and~~
 2-26 ~~Disability Services~~] for examination remains in the facility for a
 2-27 period exceeding 21 days, the head of that facility shall cause the
 2-28 defendant to be immediately transported to the committing court and
 2-29 placed in the custody of the sheriff of the county in which the
 2-30 committing court is located. That county shall reimburse the
 2-31 facility for the mileage and per diem expenses of the personnel
 2-32 required to transport the defendant calculated in accordance with
 2-33 the state travel regulations in effect at the time.

2-34 (b) A written assessment of the information collected under
 2-35 Subsection (a)(1)(A) shall be provided to the magistrate not later
 2-36 than the 30th day after the date of any order issued under
 2-37 Subsection (a) in a felony case and not later than the 10th day
 2-38 after the date of any order issued under that subsection in a
 2-39 misdemeanor case, and the magistrate shall provide copies of the
 2-40 written assessment to the defense counsel, the prosecuting
 2-41 attorney, and the trial court. The written assessment must include
 2-42 a description of the procedures used in the collection of
 2-43 information under Subsection (a)(1)(A) and the applicable expert's
 2-44 observations and findings pertaining to:

2-45 (1) whether the defendant is a person who has a mental
 2-46 illness or is a person with an intellectual disability [~~mental~~
 2-47 ~~retardation~~];

2-48 (2) whether there is clinical evidence to support a
 2-49 belief that the defendant may be incompetent to stand trial and
 2-50 should undergo a complete competency examination under Subchapter
 2-51 B, Chapter 46B; and

2-52 (3) recommended treatment.

2-53 (c) After the trial court receives the applicable expert's
 2-54 written assessment relating to the defendant under Subsection (b)
 2-55 or elects to use the results of a previous determination as
 2-56 described by Subsection (a)(2), the trial court may, as applicable:

2-57 (1) resume criminal proceedings against the
 2-58 defendant, including any appropriate proceedings related to the
 2-59 defendant's release on personal bond under Article 17.032;

2-60 (2) resume or initiate competency proceedings, if
 2-61 required, as provided by Chapter 46B or other proceedings affecting
 2-62 the defendant's receipt of appropriate court-ordered mental health
 2-63 or intellectual disability [~~mental retardation~~] services,
 2-64 including proceedings related to the defendant's receipt of
 2-65 outpatient mental health services under Section 574.034, Health and
 2-66 Safety Code; or

2-67 (3) consider the written assessment during the
 2-68 punishment phase after a conviction of the offense for which the
 2-69 defendant was arrested, as part of a presentence investigation

3-1 report, or in connection with the impositions of conditions
3-2 following placement on community supervision, including deferred
3-3 adjudication community supervision.

3-4 (d) This article does not prevent the applicable court from,
3-5 before, during, or after the collection of information regarding
3-6 the defendant as described by this article:

3-7 (1) releasing a defendant who has a mental illness
3-8 ~~[mentally ill]~~ or is a person with an intellectual disability
3-9 ~~[mentally retarded defendant]~~ from custody on personal or surety
3-10 bond; or

3-11 (2) ordering an examination regarding the defendant's
3-12 competency to stand trial.

3-13 SECTION 2.02. Chapter 16, Code of Criminal Procedure, is
3-14 amended by adding Article 16.23 to read as follows:

3-15 Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH
3-16 CRISIS OR SUBSTANCE ABUSE ISSUE. Each law enforcement agency shall
3-17 make a good faith effort to divert a person suffering a mental
3-18 health crisis or suffering from the effects of substance abuse to a
3-19 proper treatment center in the agency's jurisdiction if:

3-20 (1) it is reasonably possible to divert the person;

3-21 (2) the offense that the person is accused of is a
3-22 misdemeanor, other than a misdemeanor involving violence; and

3-23 (3) the mental health crisis or substance abuse issue
3-24 is suspected to be the reason the person committed the alleged
3-25 offense.

3-26 SECTION 2.03. Section 539.002, Government Code, is amended
3-27 to read as follows:

3-28 Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF
3-29 COMMUNITY COLLABORATIVES. (a) To the extent funds are
3-30 appropriated to the department for that purpose, the department
3-31 shall make grants to entities, including local governmental
3-32 entities, nonprofit community organizations, and faith-based
3-33 community organizations, to establish or expand community
3-34 collaboratives that bring the public and private sectors together
3-35 to provide services to persons experiencing homelessness,
3-36 substance abuse issues, or [and] mental illness. [The department
3-37 may make a maximum of five grants, which must be made in the most
3-38 populous municipalities in this state that are located in counties
3-39 with a population of more than one million.] In awarding grants,
3-40 the department shall give special consideration to entities:

3-41 (1) establishing [a] new collaboratives; or

3-42 (2) establishing or expanding collaboratives that
3-43 serve two or more counties, each with a population of less than
3-44 100,000 [collaborative].

3-45 (b) The department shall require each entity awarded a grant
3-46 under this section to:

3-47 (1) leverage additional funding from private sources
3-48 in an amount that is at least equal to the amount of the grant
3-49 awarded under this section; [and]

3-50 (2) provide evidence of significant coordination and
3-51 collaboration between the entity, local mental health authorities,
3-52 municipalities, local law enforcement agencies, and other
3-53 community stakeholders in establishing or expanding a community
3-54 collaborative funded by a grant awarded under this section; and

3-55 (3) provide evidence of a local law enforcement policy
3-56 to divert appropriate persons from jails or other detention
3-57 facilities to an entity affiliated with a community collaborative
3-58 for the purpose of providing services to those persons.

3-59 SECTION 2.04. Chapter 539, Government Code, is amended by
3-60 adding Section 539.0051 to read as follows:

3-61 Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY
3-62 COLLABORATIVES. (a) The governing body of a county shall develop
3-63 and make public a plan detailing:

3-64 (1) how local mental health authorities,
3-65 municipalities, local law enforcement agencies, and other
3-66 community stakeholders in the county could coordinate to establish
3-67 or expand a community collaborative to accomplish the goals of
3-68 Section 539.002;

3-69 (2) how entities in the county may leverage funding

4-1 from private sources to accomplish the goals of Section 539.002
4-2 through the formation or expansion of a community collaborative;
4-3 and

4-4 (3) how the formation or expansion of a community
4-5 collaborative could establish or support resources or services to
4-6 help local law enforcement agencies to divert persons who have been
4-7 arrested to appropriate mental health care or substance abuse
4-8 treatment.

4-9 (b) The governing body of a county in which an entity that
4-10 received a grant under Section 539.002 before September 1, 2017, is
4-11 located is not required to develop a plan under Subsection (a).

4-12 (c) Two or more counties, each with a population of less
4-13 than 100,000, may form a joint plan under Subsection (a).

4-14 ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

4-15 SECTION 3.01. The heading to Article 17.032, Code of
4-16 Criminal Procedure, is amended to read as follows:

4-17 Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY
4-18 ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

4-19 SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal
4-20 Procedure, are amended to read as follows:

4-21 (b) A magistrate shall release a defendant on personal bond
4-22 unless good cause is shown otherwise if the:

4-23 (1) defendant is not charged with and has not been
4-24 previously convicted of a violent offense;

4-25 (2) defendant is examined by the local mental health
4-26 or intellectual and developmental disability [mental retardation]
4-27 authority or another mental health expert under Article 16.22 [of
4-28 this code];

4-29 (3) applicable expert, in a written assessment
4-30 submitted to the magistrate under Article 16.22:

4-31 (A) concludes that the defendant has a mental
4-32 illness or is a person with an intellectual disability [mental
4-33 retardation] and is nonetheless competent to stand trial; and

4-34 (B) recommends mental health treatment or
4-35 intellectual disability treatment for the defendant, as
4-36 applicable; and

4-37 (4) magistrate determines, in consultation with the
4-38 local mental health or intellectual and developmental disability
4-39 [mental retardation] authority, that appropriate community-based
4-40 mental health or intellectual disability [mental retardation]
4-41 services for the defendant are available through the [Texas]
4-42 Department of State [Mental] Health Services [and Mental
4-43 Retardation] under Section 534.053, Health and Safety Code, or
4-44 through another mental health or intellectual disability [mental
4-45 retardation] services provider.

4-46 (c) The magistrate, unless good cause is shown for not
4-47 requiring treatment, shall require as a condition of release on
4-48 personal bond under this article that the defendant submit to
4-49 outpatient or inpatient mental health or intellectual disability
4-50 [mental retardation] treatment as recommended by the local mental
4-51 health or intellectual and developmental disability [mental
4-52 retardation] authority if the defendant's:

4-53 (1) mental illness or intellectual disability [mental
4-54 retardation] is chronic in nature; or

4-55 (2) ability to function independently will continue to
4-56 deteriorate if the defendant is not treated.

4-57 SECTION 3.03. Article 25.03, Code of Criminal Procedure, is
4-58 amended to read as follows:

4-59 Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case
4-60 of felony, is on bail at the time the indictment is presented, [it
4-61 is not necessary to serve him with a copy, but] the clerk shall [on
4-62 request] deliver a copy of the indictment [same] to the accused or
4-63 the accused's [his] counsel[.] at the earliest possible time.

4-64 SECTION 3.04. Article 25.04, Code of Criminal Procedure, is
4-65 amended to read as follows:

4-66 Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk
4-67 shall deliver a copy of the indictment or information to the accused
4-68 or the accused's counsel at the earliest possible time before trial
4-69 [it shall not be necessary before trial to furnish the accused with

5-1 ~~a copy of the indictment or information, but he or his counsel may~~
5-2 ~~demand a copy, which shall be given as early as possible].~~

5-3 SECTION 3.05. Section 511.009(a), Government Code, as
5-4 amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B.
5-5 634), Acts of the 84th Legislature, Regular Session, 2015, is
5-6 reenacted and amended to read as follows:

5-7 (a) The commission shall:

5-8 (1) adopt reasonable rules and procedures
5-9 establishing minimum standards for the construction, equipment,
5-10 maintenance, and operation of county jails;

5-11 (2) adopt reasonable rules and procedures
5-12 establishing minimum standards for the custody, care, and treatment
5-13 of prisoners;

5-14 (3) adopt reasonable rules establishing minimum
5-15 standards for the number of jail supervisory personnel and for
5-16 programs and services to meet the needs of prisoners;

5-17 (4) adopt reasonable rules and procedures
5-18 establishing minimum requirements for programs of rehabilitation,
5-19 education, and recreation in county jails;

5-20 (5) revise, amend, or change rules and procedures if
5-21 necessary;

5-22 (6) provide to local government officials
5-23 consultation on and technical assistance for county jails;

5-24 (7) review and comment on plans for the construction
5-25 and major modification or renovation of county jails;

5-26 (8) require that the sheriff and commissioners of each
5-27 county submit to the commission, on a form prescribed by the
5-28 commission, an annual report on the conditions in each county jail
5-29 within their jurisdiction, including all information necessary to
5-30 determine compliance with state law, commission orders, and the
5-31 rules adopted under this chapter;

5-32 (9) review the reports submitted under Subdivision (8)
5-33 and require commission employees to inspect county jails regularly
5-34 to ensure compliance with state law, commission orders, and rules
5-35 and procedures adopted under this chapter;

5-36 (10) adopt a classification system to assist sheriffs
5-37 and judges in determining which defendants are low-risk and
5-38 consequently suitable participants in a county jail work release
5-39 program under Article 42.034, Code of Criminal Procedure;

5-40 (11) adopt rules relating to requirements for
5-41 segregation of classes of inmates and to capacities for county
5-42 jails;

5-43 (12) require that the chief jailer of each municipal
5-44 lockup submit to the commission, on a form prescribed by the
5-45 commission, an annual report of persons under 17 years of age
5-46 securely detained in the lockup, including all information
5-47 necessary to determine compliance with state law concerning secure
5-48 confinement of children in municipal lockups;

5-49 (13) at least annually determine whether each county
5-50 jail is in compliance with the rules and procedures adopted under
5-51 this chapter;

5-52 (14) require that the sheriff and commissioners court
5-53 of each county submit to the commission, on a form prescribed by the
5-54 commission, an annual report of persons under 17 years of age
5-55 securely detained in the county jail, including all information
5-56 necessary to determine compliance with state law concerning secure
5-57 confinement of children in county jails;

5-58 (15) schedule announced and unannounced inspections
5-59 of jails under the commission's jurisdiction using the risk
5-60 assessment plan established under Section 511.0085 to guide the
5-61 inspections process;

5-62 (16) adopt a policy for gathering and distributing to
5-63 jails under the commission's jurisdiction information regarding:

5-64 (A) common issues concerning jail
5-65 administration;

5-66 (B) examples of successful strategies for
5-67 maintaining compliance with state law and the rules, standards, and
5-68 procedures of the commission; and

5-69 (C) solutions to operational challenges for

6-1 jails;

6-2 (17) report to the Texas Correctional Office on
6-3 Offenders with Medical or Mental Impairments on a jail's compliance
6-4 with Article 16.22, Code of Criminal Procedure;

6-5 (18) adopt reasonable rules and procedures
6-6 establishing minimum requirements for jails to:

6-7 (A) determine if a prisoner is pregnant; and
6-8 (B) ensure that the jail's health services plan
6-9 addresses medical and mental health care, including nutritional
6-10 requirements, and any special housing or work assignment needs for
6-11 persons who are confined in the jail and are known or determined to
6-12 be pregnant;

6-13 (19) provide guidelines to sheriffs regarding
6-14 contracts between a sheriff and another entity for the provision of
6-15 food services to or the operation of a commissary in a jail under
6-16 the commission's jurisdiction, including specific provisions
6-17 regarding conflicts of interest and avoiding the appearance of
6-18 impropriety; ~~and~~

6-19 (20) adopt reasonable rules and procedures
6-20 establishing minimum standards for prisoner visitation that
6-21 provide each prisoner at a county jail with a minimum of two
6-22 in-person, noncontact visitation periods per week of at least 20
6-23 minutes duration each;

6-24 (21) ~~(20)~~ require the sheriff of each county to:

6-25 (A) investigate and verify the veteran status of
6-26 each prisoner by using data made available from the Veterans
6-27 Reentry Search Service (VRSS) operated by the United States
6-28 Department of Veterans Affairs or a similar service; and
6-29 (B) use the data described by Paragraph (A) to
6-30 assist prisoners who are veterans in applying for federal benefits
6-31 or compensation for which the prisoners may be eligible under a
6-32 program administered by the United States Department of Veterans
6-33 Affairs;

6-34 (22) ~~(20)~~ adopt reasonable rules and procedures
6-35 regarding visitation of a prisoner at a county jail by a guardian,
6-36 as defined by Section 1002.012, Estates Code, that:

6-37 (A) allow visitation by a guardian to the same
6-38 extent as the prisoner's next of kin, including placing the
6-39 guardian on the prisoner's approved visitors list on the guardian's
6-40 request and providing the guardian access to the prisoner during a
6-41 facility's standard visitation hours if the prisoner is otherwise
6-42 eligible to receive visitors; and
6-43 (B) require the guardian to provide the sheriff
6-44 with letters of guardianship issued as provided by Section
6-45 1106.001, Estates Code, before being allowed to visit the prisoner;

6-46 (23) adopt reasonable rules and procedures
6-47 establishing minimum standards regarding the management of an
6-48 intoxicated prisoner; and

6-49 (24) adopt reasonable rules and procedures to ensure
6-50 the safety of prisoners, including rules and procedures that
6-51 require a county jail to:

6-52 (A) give prisoners the ability to access a mental
6-53 health professional at the jail through a telemental health service
6-54 24 hours a day;

6-55 (B) give prisoners the ability to access a health
6-56 professional at the jail or through a telehealth service 24 hours a
6-57 day or, if a health professional is unavailable at the jail or
6-58 through a telehealth service, provide for a prisoner to be
6-59 transported to access a health professional; and

6-60 (C) install automated electronic sensors or
6-61 cameras to ensure accurate and timely checks of cells or groups of
6-62 cells confining at-risk individuals.

6-63 SECTION 3.06. Section 511.009, Government Code, is amended
6-64 by adding Subsection (d) to read as follows:

6-65 (d) The commission shall adopt reasonable rules and
6-66 procedures establishing minimum standards regarding the continuity
6-67 of prescription medications for the care and treatment of
6-68 prisoners. The rules and procedures shall require that a qualified
6-69 medical professional shall review as soon as possible any

7-1 prescription medication a prisoner is taking when the prisoner is
7-2 taken into custody.

7-3 SECTION 3.07. Chapter 511, Government Code, is amended by
7-4 adding Sections 511.019, 511.020, and 511.021 to read as follows:

7-5 Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner
7-6 safety fund is a dedicated account in the general revenue fund.

7-7 (b) The prisoner safety fund consists of:
7-8 (1) appropriations of money to the fund by the
7-9 legislature; and

7-10 (2) gifts, grants, including grants from the federal
7-11 government, and other donations received for the fund.

7-12 (c) Money in the fund may be appropriated only to the
7-13 commission to pay for capital improvements that are required under
7-14 Section 511.009(a)(24).

7-15 (d) The commission by rule may establish a grant program to
7-16 provide grants to counties to fund capital improvements described
7-17 by Subsection (c). The commission may only provide a grant to a
7-18 county for capital improvements to a county jail with a capacity of
7-19 not more than 96 prisoners.

7-20 Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before
7-21 the fifth day of each month, the sheriff of each county shall report
7-22 to the commission regarding the occurrence during the preceding
7-23 month of any of the following incidents involving a prisoner in the
7-24 county jail:

7-25 (1) a suicide;

7-26 (2) an attempted suicide;

7-27 (3) a death;

7-28 (4) a serious bodily injury, as that term is defined by
7-29 Section 1.07, Penal Code;

7-30 (5) an assault;

7-31 (6) an escape;

7-32 (7) a sexual assault; and

7-33 (8) any use of force resulting in bodily injury, as
7-34 that term is defined by Section 1.07, Penal Code.

7-35 (b) The commission shall prescribe a form for the report
7-36 required by Subsection (a).

7-37 (c) The information reported under Subsection (a) is public
7-38 information subject to an open records request under Chapter 552.

7-39 Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING
7-40 IN COUNTY JAIL. (a) On the death of a prisoner in a county jail,
7-41 the Department of Public Safety shall appoint a law enforcement
7-42 agency, other than the local law enforcement agency that operates
7-43 the county jail or that otherwise has jurisdiction over the area in
7-44 which the jail is located, to investigate the death as soon as
7-45 possible and shall notify the commission of the agency's
7-46 appointment.

7-47 (b) The sheriff's office that operates the county jail where
7-48 the prisoner's death occurred shall conduct an investigation into
7-49 the death until the law enforcement agency appointed under
7-50 Subsection (a) begins its investigation.

7-51 (c) The local law enforcement agency shall give all evidence
7-52 to and cooperate fully with the law enforcement agency appointed
7-53 under Subsection (a) to investigate the prisoner's death.

7-54 SECTION 3.08. The changes in law made by this article to
7-55 Article 17.032, Code of Criminal Procedure, apply only to a
7-56 personal bond that is executed on or after the effective date of
7-57 this Act. A personal bond executed before the effective date of
7-58 this Act is governed by the law in effect when the personal bond was
7-59 executed, and the former law is continued in effect for that
7-60 purpose.

7-61 SECTION 3.09. Not later than January 1, 2018, the
7-62 Commission on Jail Standards shall:

7-63 (1) adopt the rules and procedures required by
7-64 Sections 511.009(a)(23) and (d), Government Code, as added by this
7-65 article; and

7-66 (2) prescribe the form required by Section 511.020(b),
7-67 Government Code, as added by this article.

7-68 SECTION 3.10. Not later than September 1, 2018, the
7-69 Commission on Jail Standards shall adopt the rules and procedures

8-1 required by Section 511.009(a)(24), Government Code, as added by
8-2 this article. On and after September 1, 2020, a county jail shall
8-3 comply with any rule or procedure adopted by the Commission on Jail
8-4 Standards under that subdivision.

8-5 SECTION 3.11. To the extent of any conflict, this Act
8-6 prevails over another Act of the 85th Legislature, Regular Session,
8-7 2017, relating to nonsubstantive additions to and corrections in
8-8 enacted codes.

8-9 ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

8-10 SECTION 4.01. Chapter 511, Government Code, is amended by
8-11 adding Section 511.00905 to read as follows:

8-12 Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION
8-13 REQUIRED. (a) The Texas Commission on Law Enforcement shall
8-14 develop and the commission shall approve an examination for a
8-15 person assigned to the jail administrator position overseeing a
8-16 county jail.

8-17 (b) The commission shall adopt rules requiring a person,
8-18 other than a sheriff, assigned to the jail administrator position
8-19 overseeing a county jail to pass the examination not later than the
8-20 180th day after the date the person is assigned to that position.
8-21 The rules must provide that a person who fails the examination may
8-22 be immediately removed from the position and may not be reinstated
8-23 until the person passes the examination.

8-24 (c) The sheriff of a county shall perform the duties of the
8-25 jail administrator position at any time there is not a person
8-26 available who satisfies the examination requirements of this
8-27 section.

8-28 (d) The commission shall provide for the examination to be
8-29 available at testing centers approved by the Texas Commission on
8-30 Law Enforcement throughout this state. If the commission contracts
8-31 with a testing service to administer and grade the examination, the
8-32 contract shall authorize the service to collect a reasonable fee
8-33 not to exceed \$50 from each examinee.

8-34 SECTION 4.02. Section 1701.253, Occupations Code, is
8-35 amended by amending Subsections (c) and (j) and adding Subsection
8-36 (n) to read as follows:

8-37 (c) As part of the minimum curriculum requirements, the
8-38 commission shall establish a statewide comprehensive education and
8-39 training program on civil rights, racial sensitivity including
8-40 implicit bias, and cultural diversity for persons licensed under
8-41 this chapter.

8-42 (j) As part of the minimum curriculum requirements, the
8-43 commission shall require an officer to complete a 40-hour statewide
8-44 education and training program on de-escalation and crisis
8-45 intervention techniques to facilitate interaction with persons
8-46 with mental impairments. An officer shall complete the program not
8-47 later than the second anniversary of the date the officer is
8-48 licensed under this chapter or the date the officer applies for an
8-49 intermediate proficiency certificate, whichever date is earlier.
8-50 An officer may not satisfy the requirements of this subsection
8-51 [section] or Section 1701.402(g) by taking an online course on
8-52 de-escalation and crisis intervention techniques to facilitate
8-53 interaction with persons with mental impairments.

8-54 (n) As part of the minimum curriculum requirements, the
8-55 commission shall require an officer to complete a statewide
8-56 education and training program on de-escalation techniques to
8-57 facilitate interaction with members of the public, including
8-58 techniques for limiting the use of force resulting in bodily
8-59 injury. An officer must complete the program to be promoted to the
8-60 next rank or level as an officer.

8-61 SECTION 4.03. Section 1701.310, Occupations Code, is
8-62 amended by amending Subsection (a) and adding Subsection (a-1) to
8-63 read as follows:

8-64 (a) Except as provided by Subsection (e), a person may not
8-65 be appointed as a county jailer, except on a temporary basis, unless
8-66 the person has satisfactorily completed a preparatory training
8-67 program, as required by the commission, in the operation of a county
8-68 jail at a school operated or licensed by the commission. The
8-69 training program must include a mental health first aid training

9-1 program provided by a local mental health authority under Section
9-2 1001.203, Health and Safety Code.

9-3 (a-1) A person other than a sheriff may not serve in the jail
9-4 administrator position of a county jail unless the person satisfies
9-5 the examination requirement of Section 511.00905, Government Code.

9-6 SECTION 4.04. Sections 1701.352(b) and (e), Occupations
9-7 Code, are amended to read as follows:

9-8 (b) The commission shall require a state, county, special
9-9 district, or municipal agency that appoints or employs peace
9-10 officers to provide each peace officer with a training program at
9-11 least once every 48 months that is approved by the commission and
9-12 consists of:

9-13 (1) topics selected by the agency; and

9-14 (2) for an officer holding only a basic proficiency
9-15 certificate, not more than 20 hours of education and training that
9-16 contain curricula incorporating the learning objectives developed
9-17 by the commission regarding:

9-18 (A) civil rights, racial sensitivity including
9-19 implicit bias, and cultural diversity;

9-20 (B) de-escalation and crisis intervention
9-21 techniques to facilitate interaction with persons with mental
9-22 impairments; ~~and~~

9-23 (C) de-escalation techniques to facilitate
9-24 interaction with members of the public, including techniques for
9-25 limiting the use of force resulting in bodily injury; and

9-26 (D) unless determined by the agency head to be
9-27 inconsistent with the officer's assigned duties:

9-28 (i) the recognition and documentation of
9-29 cases that involve child abuse or neglect, family violence, and
9-30 sexual assault; and

9-31 (ii) issues concerning sex offender
9-32 characteristics.

9-33 (e) The commission may require a state, county, special
9-34 district, or municipal agency that appoints or employs a reserve
9-35 law enforcement officer, county jailer, or public security officer
9-36 to provide each of those persons with education and training in
9-37 civil rights, racial sensitivity including implicit bias, and
9-38 cultural diversity at least once every 48 months.

9-39 SECTION 4.05. Section 1701.402, Occupations Code, is
9-40 amended by amending Subsection (i) and adding Subsection (n) to
9-41 read as follows:

9-42 (i) As a requirement for an intermediate proficiency
9-43 certificate, an officer must complete an education and training
9-44 program on civil rights, racial sensitivity including implicit
9-45 bias, and cultural diversity established by the commission under
9-46 Section 1701.253(c).

9-47 (n) As a requirement for an intermediate proficiency
9-48 certificate or an advanced proficiency certificate, an officer must
9-49 complete the education and training program regarding
9-50 de-escalation techniques to facilitate interaction with members of
9-51 the public established by the commission under Section 1701.253(n).

9-52 SECTION 4.06. Not later than March 1, 2018, the Texas
9-53 Commission on Law Enforcement shall develop and the Commission on
9-54 Jail Standards shall approve the examination required by Section
9-55 511.00905, Government Code, as added by this article.

9-56 SECTION 4.07. (a) Not later than January 1, 2018, the
9-57 Texas Commission on Law Enforcement shall establish or modify
9-58 training programs as necessary to comply with Section 1701.253,
9-59 Occupations Code, as amended by this article.

9-60 (b) The minimum curriculum requirements under Section
9-61 1701.253(j), Occupations Code, as amended by this article, apply
9-62 only to a peace officer who first begins to satisfy those
9-63 requirements on or after March 1, 2018.

9-64 SECTION 4.08. (a) Section 1701.310, Occupations Code, as
9-65 amended by this article, takes effect January 1, 2018.

9-66 (b) A person in the position of county jailer on September
9-67 1, 2017, must comply with Section 1701.310(a), Occupations Code, as
9-68 amended by this article, not later than January 1, 2019.

ARTICLE 5. MOTOR VEHICLE 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 conduct a search based solely on a person's consent to the search unless:

(1) the officer verbally and in writing informs the person of the person's right to refuse the search; and

(2) the person signs an acknowledgment, or makes a verbal statement that is recorded by the officer's body worn camera or the camera in the officer's motor vehicle or motorcycle, that the person:

(A) received the information described by Subdivision (1); and

(B) consents to the search.

SECTION 5.02. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) 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 compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to 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 motor vehicle stops in which a ticket, citation, or warning 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 signed an acknowledgment or made a recorded verbal statement that the individual consented to the search; [and]

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for 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.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops.

11-1 The agency also shall examine the feasibility of equipping each
11-2 peace officer who regularly detains or stops motor vehicles with a
11-3 body worn camera, as that term is defined by Section 1701.651,
11-4 Occupations Code. If a law enforcement agency installs video or
11-5 audio equipment or equips peace officers with body worn cameras as
11-6 provided by this subsection, the policy adopted by the agency under
11-7 Subsection (b) must include standards for reviewing video and audio
11-8 documentation.

11-9 (h) A law enforcement agency shall review the data collected
11-10 under Subsection (b)(6) to identify any improvements the agency
11-11 could make in its practices and policies regarding motor vehicle
11-12 stops.

11-13 SECTION 5.03. Article 2.133, Code of Criminal Procedure, is
11-14 amended by amending Subsection (b) and adding Subsection (c) to
11-15 read as follows:

11-16 (b) A peace officer who stops a motor vehicle for an alleged
11-17 violation of a law or ordinance shall report to the law enforcement
11-18 agency that employs the officer information relating to the stop,
11-19 including:

11-20 (1) a physical description of any person operating the
11-21 motor vehicle who is detained as a result of the stop, including:

11-22 (A) the person's gender; and

11-23 (B) the person's race or ethnicity, as stated by
11-24 the person or, if the person does not state the person's race or
11-25 ethnicity, as determined by the officer to the best of the officer's
11-26 ability;

11-27 (2) the initial reason for the stop;

11-28 (3) whether the officer conducted a search as a result
11-29 of the stop and, if so, whether the person detained signed an
11-30 acknowledgment or made a recorded verbal statement that the person
11-31 consented to the search;

11-32 (4) whether any contraband or other evidence was
11-33 discovered in the course of the search and a description of the
11-34 contraband or evidence;

11-35 (5) the reason for the search, including whether:

11-36 (A) any contraband or other evidence was in plain
11-37 view;

11-38 (B) any probable cause or reasonable suspicion
11-39 existed to perform the search; or

11-40 (C) the search was performed as a result of the
11-41 towing of the motor vehicle or the arrest of any person in the motor
11-42 vehicle;

11-43 (6) whether the officer made an arrest as a result of
11-44 the stop or the search, including a statement of whether the arrest
11-45 was based on a violation of the Penal Code, a violation of a traffic
11-46 law or ordinance, or an outstanding warrant and a statement of the
11-47 offense charged;

11-48 (7) the street address or approximate location of the
11-49 stop; ~~and~~

11-50 (8) whether the officer issued a verbal or written
11-51 warning or a ticket or citation as a result of the stop; and

11-52 (9) whether the officer used physical force that
11-53 resulted in bodily injury, as that term is defined by Section 1.07,
11-54 Penal Code, during the stop.

11-55 (c) The chief administrator of a law enforcement agency,
11-56 regardless of whether the administrator is elected, employed, or
11-57 appointed, is responsible for auditing reports under Subsection (b)
11-58 to ensure that the race or ethnicity of the person operating the
11-59 motor vehicle is being reported.

11-60 SECTION 5.04. Article 2.134(c), Code of Criminal Procedure,
11-61 is amended to read as follows:

11-62 (c) A report required under Subsection (b) must be submitted
11-63 by the chief administrator of the law enforcement agency,
11-64 regardless of whether the administrator is elected, employed, or
11-65 appointed, and must include:

11-66 (1) a comparative analysis of the information compiled
11-67 under Article 2.133 to:

11-68 (A) evaluate and compare the number of motor
11-69 vehicle stops, within the applicable jurisdiction, of persons who

12-1 are recognized as racial or ethnic minorities and persons who are
 12-2 not recognized as racial or ethnic minorities; ~~and~~

12-3 (B) examine the disposition of motor vehicle
 12-4 stops made by officers employed by the agency, categorized
 12-5 according to the race or ethnicity of the affected persons, as
 12-6 appropriate, including any searches resulting from stops within the
 12-7 applicable jurisdiction; and

12-8 (C) evaluate and compare the number of searches
 12-9 resulting from motor vehicle stops within the applicable
 12-10 jurisdiction and whether contraband or other evidence was
 12-11 discovered in the course of those searches; and

12-12 (2) information relating to each complaint filed with
 12-13 the agency alleging that a peace officer employed by the agency has
 12-14 engaged in racial profiling.

12-15 SECTION 5.05. Article 2.137, Code of Criminal Procedure, is
 12-16 amended to read as follows:

12-17 Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The
 12-18 Department of Public Safety shall adopt rules for providing funds
 12-19 or video and audio equipment to law enforcement agencies for the
 12-20 purpose of installing video and audio equipment in law enforcement
 12-21 motor vehicles and motorcycles or equipping peace officers with
 12-22 body worn cameras ~~[as described by Article 2.135(a)(1)(A)]~~,
 12-23 including specifying criteria to prioritize funding or equipment
 12-24 provided to law enforcement agencies. The criteria may include
 12-25 consideration of tax effort, financial hardship, available
 12-26 revenue, and budget surpluses. The criteria must give priority to:

12-27 (1) law enforcement agencies that employ peace
 12-28 officers whose primary duty is traffic enforcement;

12-29 (2) smaller jurisdictions; and

12-30 (3) municipal and county law enforcement agencies.

12-31 (b) The Department of Public Safety shall collaborate with
 12-32 an institution of higher education to identify law enforcement
 12-33 agencies that need funds or video and audio equipment for the
 12-34 purpose of installing video and audio equipment in law enforcement
 12-35 motor vehicles and motorcycles or equipping peace officers with
 12-36 body worn cameras ~~[as described by Article 2.135(a)(1)(A)]~~. The
 12-37 collaboration may include the use of a survey to assist in
 12-38 developing criteria to prioritize funding or equipment provided to
 12-39 law enforcement agencies.

12-40 (c) To receive funds or video and audio equipment from the
 12-41 state for the purpose of installing video and audio equipment in law
 12-42 enforcement motor vehicles and motorcycles or equipping peace
 12-43 officers with body worn cameras ~~[as described by Article~~
 12-44 ~~2.135(a)(1)(A)]~~, the governing body of a county or municipality, in
 12-45 conjunction with the law enforcement agency serving the county or
 12-46 municipality, shall certify to the Department of Public Safety that
 12-47 the law enforcement agency needs funds or video and audio equipment
 12-48 for that purpose.

12-49 (d) On receipt of funds or video and audio equipment from
 12-50 the state for the purpose of installing video and audio equipment in
 12-51 law enforcement motor vehicles and motorcycles or equipping peace
 12-52 officers with body worn cameras ~~[as described by Article~~
 12-53 ~~2.135(a)(1)(A)]~~, the governing body of a county or municipality, in
 12-54 conjunction with the law enforcement agency serving the county or
 12-55 municipality, shall certify to the Department of Public Safety that
 12-56 the law enforcement agency has taken the necessary actions to use
 12-57 and is using ~~[installed]~~ video and audio equipment and body worn
 12-58 cameras for those purposes ~~[as described by Article 2.135(a)(1)(A)~~
 12-59 ~~and is using the equipment as required by Article 2.135(a)(1)]~~.

12-60 SECTION 5.06. Article 2.1385(a), Code of Criminal
 12-61 Procedure, is amended to read as follows:

12-62 (a) If the chief administrator of a local law enforcement
 12-63 agency intentionally fails to submit the incident-based data as
 12-64 required by Article 2.134, the agency is liable to the state for a
 12-65 civil penalty in an ~~[the]~~ amount not to exceed \$5,000 ~~[of \$1,000]~~
 12-66 for each violation. The attorney general may sue to collect a
 12-67 civil penalty under this subsection.

12-68 SECTION 5.07. Article 2.135, Code of Criminal Procedure, is
 12-69 repealed.

13-1 SECTION 5.08. Article 2.13(d), Code of Criminal Procedure,
13-2 as added by this article, applies only to a motor vehicle stop or
13-3 search that occurs on or after the effective date of this Act.

13-4 SECTION 5.09. Articles 2.132 and 2.134, Code of Criminal
13-5 Procedure, as amended by this article, apply only to a report
13-6 covering a calendar year beginning on or after January 1, 2018.

13-7 SECTION 5.10. Not later than September 1, 2018, the Texas
13-8 Commission on Law Enforcement shall:

13-9 (1) evaluate and change the guidelines for compiling
13-10 and reporting information required under Article 2.134, Code of
13-11 Criminal Procedure, as amended by this article, to enable the
13-12 guidelines to better withstand academic scrutiny; and

13-13 (2) make accessible online:

13-14 (A) a downloadable format of any information
13-15 submitted under Article 2.134(b), Code of Criminal Procedure, that
13-16 is not exempt from public disclosure under Chapter 552, Government
13-17 Code; and

13-18 (B) a glossary of terms relating to the
13-19 information to make the information readily understandable to the
13-20 public.

13-21 ARTICLE 6. EFFECTIVE DATE

13-22 SECTION 6.01. Except as otherwise provided by this Act,
13-23 this Act takes effect September 1, 2017.

13-24 * * * * *