By:  Coleman, Davis of Dallas, Collier H.B. No. 4468

     (Senate Sponsor - Whitmire)

(In the Senate - Received from the House May 13, 2019; May 13, 2019, read first time and referred to Committee on Criminal Justice; May 17, 2019, reported favorably by the following vote: Yeas 6, Nays 0; May 17, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman                   X

Buckingham      X

Flores          X

Hughes          X

Miles           X

Perry           X

A BILL TO BE ENTITLED

AN ACT

relating to county jails and community mental health programs in certain counties.

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

SECTION 1.  Section 511.009(a), Government Code, is amended to read as follows:

(a)  The commission shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A)  common issues concerning jail administration;

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

(C)  solutions to operational challenges for jails;

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

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

(A)  determine if a prisoner is pregnant; and

(B)  ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

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

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

(21)  require the sheriff of each county to:

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

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

(22)  adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A)  allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

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

(23)  adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

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

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

(C)  if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 2.  Section 511.011, Government Code, is amended to read as follows:

Sec. 511.011.  REPORT ON NONCOMPLIANCE. (a) If the commission finds that a county jail does not comply with state law, including Chapter 89, Health and Safety Code, or the rules, standards, or procedures of the commission, it shall report the noncompliance to the county commissioners and sheriff of the county responsible for the county jail and shall send a copy of the report to the governor.

(b)  If a notice of noncompliance is issued to a facility operated by a private entity under Section 351.101 or 361.061, Local Government Code, the compliance status of the facility shall be reviewed at the next meeting of the Commission on Jail Standards.

SECTION 3.  Section 511.019(d), Government Code, is amended to read as follows:

(d)  The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 288 [~~96~~] prisoners.

SECTION 4.  Section 539.002, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b)  Except as provided by Subsection (c), the [~~The~~] department shall require each entity awarded a grant under this section to:

(1)  leverage additional funding or in-kind contributions from private sources in an amount that is at least equal to the amount of the grant awarded under this section;

(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 the purpose of providing services to those persons.

(c)  The department may award a grant under this chapter to an entity for the purpose of establishing a community mental health program in a county with a population of less than 250,000, if the entity leverages additional funding from private sources in an amount equal to one-quarter of the amount of the grant to be awarded under this section, and the entity otherwise meets the requirements of Subsections (b)(2) and (3).

SECTION 5.  Section 1701.310(b), Occupations Code, is amended to read as follows:

(b)  A county jailer appointed on a temporary basis who does not satisfactorily complete the preparatory training program before the first anniversary of the date that the person is appointed shall be removed from the position. A county jailer appointed on a temporary basis shall be enrolled in the preparatory training program on or before the 90th day after their temporary appointment. A temporary appointment may not be renewed[~~, except that not earlier than the first anniversary of the date that a person is removed under this subsection, the sheriff may petition the commission for reinstatement of the person to a temporary appointment~~].

SECTION 6.  Section 1701.310, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f)  A county jailer appointed on a temporary basis may not be promoted to a supervisory position in a county jail.

SECTION 7.  Not later than January 1, 2020, the Commission on Jail Standards shall update rules and procedures as necessary to comply with Section 511.009(a)(23), Government Code, as amended by this Act.

SECTION 8.  This Act takes effect September 1, 2019.

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