

By: González of El Paso

H.B. No. 1651

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the care of pregnant women confined in county jail.

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

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

6 (a) The commission shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

27           (14) require that the sheriff and commissioners court

1 of each county submit to the commission, on a form prescribed by the  
2 commission, an annual report of persons under 17 years of age  
3 securely detained in the county jail, including all information  
4 necessary to determine compliance with state law concerning secure  
5 confinement of children in county jails;

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

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

12 (A) common issues concerning jail  
13 administration;

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

17 (C) solutions to operational challenges for  
18 jails;

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

22 (18) adopt reasonable rules and procedures  
23 establishing minimum requirements for a county jail [~~jails~~] to:

24 (A) determine if a prisoner is pregnant; [~~and~~]

25 (B) ensure that the jail's health services plan  
26 addresses medical care, including obstetrical and gynecological  
27 care, [~~and~~] mental health care, [~~including~~] nutritional

1 requirements, and any special housing or work assignment needs for  
2 prisoners [~~persons~~] who are [~~confined in the jail and are~~] known or  
3 determined to be pregnant; and

4 (C) identify when a pregnant prisoner is in labor  
5 and provide appropriate care to the prisoner, including promptly  
6 transporting the prisoner to a local hospital;

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

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

18 (21) require the sheriff of each county to:

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

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

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

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

10           (B) require the guardian to provide the sheriff  
11 with letters of guardianship issued as provided by Section  
12 1106.001, Estates Code, before being allowed to visit the prisoner;  
13 and

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

17           (A) give prisoners the ability to access a mental  
18 health professional at the jail through a telemental health service  
19 24 hours a day;

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

25           (C) if funding is available under Section  
26 511.019, install automated electronic sensors or cameras to ensure  
27 accurate and timely in-person checks of cells or groups of cells

1 confining at-risk individuals.

2 SECTION 2. Chapter 511, Government Code, is amended by  
3 adding Sections 511.0104 and 511.0105 to read as follows:

4 Sec. 511.0104. RULES REGARDING RESTRAINT OF PREGNANT  
5 PRISONER. (a) The commission shall adopt reasonable rules and  
6 procedures regarding the use of any type of restraints to control or  
7 restrict the movement of a prisoner, including a limb or other part  
8 of the prisoner, who is confirmed to be pregnant or who gave birth  
9 in the preceding 12 weeks.

10 (b) The rules and procedures must:

11 (1) prohibit the use of restraints on a prisoner  
12 described by Subsection (a) for the duration of the pregnancy and  
13 for a period of not less than 12 weeks after the prisoner gives  
14 birth unless:

15 (A) supervisory personnel determines:

16 (i) the use of restraints is necessary to  
17 prevent an immediate and credible risk that the prisoner will  
18 attempt to escape; or

19 (ii) the prisoner poses an immediate and  
20 serious threat to the health and safety of the prisoner, staff, or  
21 any member of the public; or

22 (B) a health care professional responsible for  
23 the health and safety of the prisoner determines that the use of  
24 restraints is appropriate for the health and safety of the  
25 prisoner;

26 (2) require jail staff that uses restraints as  
27 permitted under Subdivision (1) to use the least restrictive

1 restraints necessary to prevent escape or to ensure health and  
2 safety; and

3 (3) notwithstanding Subdivision (1), require jail  
4 staff to, at the request of a health care professional responsible  
5 for the health and safety of the prisoner, refrain from using  
6 restraints on the prisoner or to remove the restraints.

7 Sec. 511.0105. REPORT REGARDING RESTRAINT OF PREGNANT  
8 PRISONER. (a) Not later than February 1 of each year, each county  
9 jail shall submit to the commission a report regarding the jail's  
10 use, during the preceding calendar year, of any type of restraints  
11 to control or restrict the movement of a prisoner, including a limb  
12 or other part of the prisoner, who is confirmed to be pregnant or  
13 who gave birth in the preceding 12 weeks.

14 (b) The report must include the circumstances of each use of  
15 restraints, including:

16 (1) the specific type of restraints used;

17 (2) what activity the prisoner was engaged in  
18 immediately before being restrained;

19 (3) whether the prisoner was restrained during or  
20 after delivery;

21 (4) whether the prisoner was restrained while being  
22 transported to a local hospital; and

23 (5) the reasons supporting the determination to use  
24 the restraints, a description of the process by which the  
25 determination was made, and the name and title of the person or  
26 persons making the determination.

27 (c) The commission shall prescribe a form for the report

1 required for this section.

2 SECTION 3. Not later than December 1, 2019, the Commission  
3 on Jail Standards shall:

4 (1) adopt the rules and procedures required by Section  
5 511.009(a)(18), Government Code, as amended by this Act, and  
6 Section 511.0104, Government Code, as added by this Act; and

7 (2) prescribe the form required by Section 511.0105,  
8 Government Code, as added by this Act.

9 SECTION 4. This Act takes effect September 1, 2019.