

1-1 By: Allen, et al. (Senate Sponsor - Whitmire) H.B. No. 2169
 1-2 (In the Senate - Received from the House April 30, 2019;
 1-3 May 1, 2019, read first time and referred to Committee on Criminal
 1-4 Justice; May 9, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; May 9, 2019, 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 COMMITTEE SUBSTITUTE FOR H.B. No. 2169 By: Whitmire

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to reporting concerning female prisoners who are confined
 1-20 in county jails and to the provision of feminine hygiene products to
 1-21 female prisoners.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 511.009(a), Government Code, is amended
 1-24 to read as follows:

1-25 (a) The commission shall:

1-26 (1) adopt reasonable rules and procedures
 1-27 establishing minimum standards for the construction, equipment,
 1-28 maintenance, and operation of county jails;

1-29 (2) adopt reasonable rules and procedures
 1-30 establishing minimum standards for the custody, care, and treatment
 1-31 of prisoners;

1-32 (3) adopt reasonable rules establishing minimum
 1-33 standards for the number of jail supervisory personnel and for
 1-34 programs and services to meet the needs of prisoners;

1-35 (4) adopt reasonable rules and procedures
 1-36 establishing minimum requirements for programs of rehabilitation,
 1-37 education, and recreation in county jails;

1-38 (5) revise, amend, or change rules and procedures if
 1-39 necessary;

1-40 (6) provide to local government officials
 1-41 consultation on and technical assistance for county jails;

1-42 (7) review and comment on plans for the construction
 1-43 and major modification or renovation of county jails;

1-44 (8) require that the sheriff and commissioners of each
 1-45 county submit to the commission, on a form prescribed by the
 1-46 commission, an annual report on the conditions in each county jail
 1-47 within their jurisdiction, including all information necessary to
 1-48 determine compliance with state law, commission orders, and the
 1-49 rules adopted under this chapter;

1-50 (9) review the reports submitted under Subdivision (8)
 1-51 and require commission employees to inspect county jails regularly
 1-52 to ensure compliance with state law, commission orders, and rules
 1-53 and procedures adopted under this chapter;

1-54 (10) adopt a classification system to assist sheriffs
 1-55 and judges in determining which defendants are low-risk and
 1-56 consequently suitable participants in a county jail work release
 1-57 program under Article 42.034, Code of Criminal Procedure;

1-58 (11) adopt rules relating to requirements for
 1-59 segregation of classes of inmates and to capacities for county
 1-60 jails;

2-1 (12) require that the chief jailer of each municipal
2-2 lockup submit to the commission, on a form prescribed by the
2-3 commission, an annual report of persons under 17 years of age
2-4 securely detained in the lockup, including all information
2-5 necessary to determine compliance with state law concerning secure
2-6 confinement of children in municipal lockups;
2-7 (13) at least annually determine whether each county
2-8 jail is in compliance with the rules and procedures adopted under
2-9 this chapter;
2-10 (14) require that the sheriff and commissioners court
2-11 of each county submit to the commission, on a form prescribed by the
2-12 commission, an annual report of persons under 17 years of age
2-13 securely detained in the county jail, including all information
2-14 necessary to determine compliance with state law concerning secure
2-15 confinement of children in county jails;
2-16 (15) schedule announced and unannounced inspections
2-17 of jails under the commission's jurisdiction using the risk
2-18 assessment plan established under Section 511.0085 to guide the
2-19 inspections process;
2-20 (16) adopt a policy for gathering and distributing to
2-21 jails under the commission's jurisdiction information regarding:
2-22 (A) common issues concerning jail
2-23 administration;
2-24 (B) examples of successful strategies for
2-25 maintaining compliance with state law and the rules, standards, and
2-26 procedures of the commission; and
2-27 (C) solutions to operational challenges for
2-28 jails;
2-29 (17) report to the Texas Correctional Office on
2-30 Offenders with Medical or Mental Impairments on a jail's compliance
2-31 with Article 16.22, Code of Criminal Procedure;
2-32 (18) adopt reasonable rules and procedures
2-33 establishing minimum requirements for jails to:
2-34 (A) determine if a prisoner is pregnant; and
2-35 (B) ensure that the jail's health services plan
2-36 addresses medical and mental health care, including nutritional
2-37 requirements, and any special housing or work assignment needs for
2-38 persons who are confined in the jail and are known or determined to
2-39 be pregnant;
2-40 (19) provide guidelines to sheriffs regarding
2-41 contracts between a sheriff and another entity for the provision of
2-42 food services to or the operation of a commissary in a jail under
2-43 the commission's jurisdiction, including specific provisions
2-44 regarding conflicts of interest and avoiding the appearance of
2-45 impropriety;
2-46 (20) adopt reasonable rules and procedures
2-47 establishing minimum standards for prisoner visitation that
2-48 provide each prisoner at a county jail with a minimum of two
2-49 in-person, noncontact visitation periods per week of at least 20
2-50 minutes duration each;
2-51 (21) require the sheriff of each county to:
2-52 (A) investigate and verify the veteran status of
2-53 each prisoner by using data made available from the Veterans
2-54 Reentry Search Service (VRSS) operated by the United States
2-55 Department of Veterans Affairs or a similar service; and
2-56 (B) use the data described by Paragraph (A) to
2-57 assist prisoners who are veterans in applying for federal benefits
2-58 or compensation for which the prisoners may be eligible under a
2-59 program administered by the United States Department of Veterans
2-60 Affairs;
2-61 (22) adopt reasonable rules and procedures regarding
2-62 visitation of a prisoner at a county jail by a guardian, as defined
2-63 by Section 1002.012, Estates Code, that:
2-64 (A) allow visitation by a guardian to the same
2-65 extent as the prisoner's next of kin, including placing the
2-66 guardian on the prisoner's approved visitors list on the guardian's
2-67 request and providing the guardian access to the prisoner during a
2-68 facility's standard visitation hours if the prisoner is otherwise
2-69 eligible to receive visitors; and

3-1 (B) require the guardian to provide the sheriff
3-2 with letters of guardianship issued as provided by Section
3-3 1106.001, Estates Code, before being allowed to visit the prisoner;
3-4 [~~and~~]

3-5 (23) adopt reasonable rules and procedures to ensure
3-6 the safety of prisoners, including rules and procedures that
3-7 require a county jail to:

3-8 (A) give prisoners the ability to access a mental
3-9 health professional at the jail through a telemental health service
3-10 24 hours a day;

3-11 (B) give prisoners the ability to access a health
3-12 professional at the jail or through a telehealth service 24 hours a
3-13 day or, if a health professional is unavailable at the jail or
3-14 through a telehealth service, provide for a prisoner to be
3-15 transported to access a health professional; and

3-16 (C) if funding is available under Section
3-17 511.019, install automated electronic sensors or cameras to ensure
3-18 accurate and timely in-person checks of cells or groups of cells
3-19 confining at-risk individuals; and

3-20 (24) adopt reasonable rules and procedures
3-21 establishing minimum standards for the quantity and quality of
3-22 feminine hygiene products, including tampons in regular and large
3-23 sizes and menstrual pads with wings in regular and large sizes,
3-24 provided to a female prisoner.

3-25 SECTION 2. Section 511.0101(a), Government Code, is amended
3-26 to read as follows:

3-27 (a) Each county shall submit to the commission on or before
3-28 the fifth day of each month a report containing the following
3-29 information:

3-30 (1) the number of prisoners confined in the county
3-31 jail on the first day of the month, classified on the basis of the
3-32 following categories:

- 3-33 (A) total prisoners;
- 3-34 (B) pretrial Class C misdemeanor offenders;
- 3-35 (C) pretrial Class A and B misdemeanor offenders;
- 3-36 (D) convicted misdemeanor offenders;
- 3-37 (E) felony offenders whose penalty has been
3-38 reduced to a misdemeanor;

- 3-39 (F) pretrial felony offenders;
- 3-40 (G) convicted felony offenders;
- 3-41 (H) prisoners detained on bench warrants;
- 3-42 (I) prisoners detained for parole violations;
- 3-43 (J) prisoners detained for federal officers;
- 3-44 (K) prisoners awaiting transfer to the
3-45 institutional division of the Texas Department of Criminal Justice
3-46 following conviction of a felony or revocation of probation,
3-47 parole, or release on mandatory supervision and for whom paperwork
3-48 and processing required for transfer have been completed;

3-49 (L) prisoners detained after having been
3-50 transferred from another jail and for whom the commission has made a
3-51 payment under Subchapter F, Chapter 499, Government Code;

3-52 (M) prisoners for whom an immigration detainer
3-53 has been issued by United States Immigration and Customs
3-54 Enforcement; [~~and~~]

- 3-55 (N) female prisoners; and
- 3-56 (O) other prisoners;

3-57 (2) the total capacity of the county jail on the first
3-58 day of the month;

3-59 (3) the total number of prisoners who were confined in
3-60 the county jail during the preceding month, based on a count
3-61 conducted on each day of that month, who were known or had been
3-62 determined to be pregnant;

3-63 (4) the total cost to the county during the preceding
3-64 month of housing prisoners described by Subdivision (1)(M),
3-65 calculated based on the average daily cost of housing a prisoner in
3-66 the county jail; and

3-67 (5) certification by the reporting official that the
3-68 information in the report is accurate.

3-69 SECTION 3. Not later than December 1, 2019, the Commission

4-1 on Jail Standards shall adopt the rules and procedures required by
4-2 Section 511.009(a)(24), Government Code, as added by this Act.

4-3 SECTION 4. A county shall submit the first report required
4-4 by Section 511.0101, Government Code, as amended by this Act, not
4-5 later than October 5, 2019.

4-6 SECTION 5. This Act takes effect September 1, 2019.

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