

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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;

SENATE VERSION (CS)

SECTION 1. Same as House version.

CONFERENCE

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(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;

SENATE VERSION (CS)

CONFERENCE

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (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 a county jail [jails] to:
 - (A) determine if a prisoner is pregnant; ~~[and]~~
 - (B) ensure that the jail's health services plan addresses medical care, including obstetrical and gynecological care, [and] mental health care, [including] nutritional requirements, and any special housing or work assignment needs for prisoners [persons] who are [confined in the jail and are] known or determined to be pregnant; and
 - (C) identify when a pregnant prisoner is in labor and provide appropriate care to the prisoner, including promptly transporting the prisoner to a local hospital;
- (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:

SENATE VERSION (CS)

CONFERENCE

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(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 through a telemental health service 24 hours a day;

(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

SENATE VERSION (CS)

CONFERENCE

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(b) The rules and procedures must:

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

(A) supervisory personnel determines:

(i) the use of restraints is necessary to prevent an immediate and credible risk that the prisoner will attempt to escape; or
(ii) the prisoner poses an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public; or

(B) a health care professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the health and safety of the prisoner and/or her unborn child;

SENATE VERSION (CS)

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

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

(b) The rules and procedures must:

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

(A) supervisory personnel determines:

(i) the use of restraints is necessary to prevent an immediate and credible risk that the prisoner will attempt to escape; or
(ii) the prisoner poses an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public; or

(B) a health care professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the health and safety of the prisoner and, if applicable, the unborn child of the prisoner;

CONFERENCE

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(2) require jail staff that uses restraints as permitted under Subdivision (1) to use the least restrictive restraints necessary to prevent escape or to ensure health and safety; and

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

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

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

(1) the specific type of restraints used;

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

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

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

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

(c) The commission shall prescribe a form for the report required for this section.

SENATE VERSION (CS)

(2) require jail staff that uses restraints as permitted under Subdivision (1) to use the least restrictive restraints necessary to prevent escape or to ensure health and safety; and

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

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

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

(1) the specific type of restraints used;

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

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

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

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

(c) The commission shall prescribe a form for the report required for this section.

CONFERENCE

House Bill 1651
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

- (1) adopt the rules and procedures required by Section 511.009(a)(18), Government Code, as amended by this Act, and Section 511.0104, Government Code, as added by this Act; and
- (2) prescribe the form required by Section 511.0105, Government Code, as added by this Act.

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

SENATE VERSION (CS)

SECTION 3. Same as House version.

SECTION 4. Same as House version.

CONFERENCE