

BILL ANALYSIS

C.S.H.B. 1545
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

While state law charges local elected officials with funding and operating jails, the Commission on Jail Standards (TCJS) sets and enforces minimum standards to help ensure these facilities are safe and secure. The most recent review by Sunset Advisory Commission found that, while TCJS remains necessary and should be continued, there are areas in which TCJS has not kept pace with dynamic jail environments. More specifically, the commission found that TCJS has overly vague and outdated minimum standards that do not account for jails' different levels of risk and would benefit from improving its inspection and enforcement procedures to more efficiently and effectively mitigate risks in jails. The commission also found that TCJS needs to improve its data collection and analysis practices to increase efficiency for staff and transparency for taxpayers. C.S.H.B. 1545 seeks to continue TCJS for 12 years with various statutory modifications aimed at addressing the commission's findings.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commission on Jail Standards in SECTIONS 3, 5, 9, and 10 of this bill.

ANALYSIS

C.S.H.B. 1545 amends the Government Code to continue the Commission on Jail Standards (TCJS) until September 1, 2033. With respect to TCJS, the bill also does the following:

- removes the provision subjecting state law governing TCJS and the oversight of local jail facilities to expiration along with TCJS unless continued following review by the Sunset Advisory Commission;
- with respect to TCJS member training:
 - revises provisions relating to the required components of TCJS member training and provides for the creation of a related training manual that each member must acknowledge having received and reviewed; and
 - provides for the transition to the new training requirements for TCJS members appointed before the bill's effective date;
- with respect to TCJS complaint procedures:
 - sets out and revises provisions relating to those procedures to apply certain good government standards and expand the type of complaint information tracked, analyzed, and communicated to TCJS members and the public;
 - requires TCJS to adopt rules not later than March 1, 2022, requiring jail administrators to include in any inmate handbook and prominently display

- throughout the jail information regarding the procedure for complaint investigation and resolution; and
 - requires each jail under TCJS jurisdiction to post that information and update the handbooks as necessary to comply with those rules not later than April 1, 2022;
- authorizes TCJS by rule to establish advisory committees to make recommendations on programs, rules, and policies that TCJS administers;
- authorizes the set of risk factors used to assess the overall risk level of each jail under TCJS jurisdiction to include the number of months since the last TCJS inspection of the jail;
- with respect to TCJS general duties:
 - removes the requirement for TCJS to determine annually each jail's compliance with applicable rules and procedures and provides instead for the development of a risk-based inspection prioritization policy for jails that uses established risk factors to determine how frequently and intensively TCJS conducts inspections;
 - clarifies that TCJS compliance with its general duties, particularly the requirements regarding the adoption of rules and procedures, is not contingent on any additional legislation being enacted and becoming law;
 - requires TCJS to regularly review its rules and procedures to determine whether revisions, amendments, or changes are necessary; and
 - removes certain annual reporting requirements regarding juveniles detained in municipal lockups or county jails;
- with respect to the minimum standards established for jails under TCJS jurisdiction and compliance with those standards:
 - requires TCJS to ensure that the minimum standards take into consideration the needs and risks of the different types and sizes of jails under TCJS jurisdiction and provides for the ongoing review and, as necessary, revision of those standards;
 - requires TCJS to consider certain strategies when revising standards to take into account jails' different needs and risks, including establishing tiered or separate standards based on the size, resources, or type of jail;
 - prohibits any standards in effect on September 1, 2021, from being lowered as the result of such a review;
 - requires TCJS to adopt rules and procedures for reinspecting a jail following a determination that the jail is not in compliance with applicable minimum standards, including rules and procedures requiring TCJS to establish a percentage of reinspections for which it must assess compliance with all minimum standards, regardless of whether the jail was in compliance with a particular standard during the previous inspection;
 - requires TCJS to regularly analyze data collected during inspections or reported to TCJS to identify trends in noncompliance, inspection outcomes, serious incidents, and any other related area of jail operations; and
 - provides for the development, by rule, of a system of graduated, escalating enforcement actions TCJS is authorized to take against jails under its jurisdiction that have not made timely progress correcting noncompliance issues or have failed multiple inspections within a certain number of years as determined by TCJS; and
- with respect to an independent investigation of a death occurring in a county jail:
 - requires the law enforcement agency appointed by TCJS to investigate the death of a prisoner in a county jail to do so; and
 - authorizes the appointed agency to present evidence to TCJS that investigating the death would create a conflict of interest that the agency cannot mitigate and requires TCJS to appoint another law enforcement agency to investigate the death if TCJS determines that the conflict of interest truly cannot be mitigated.

C.S.H.B. 1545 repeals Sections 511.0071(e) and (f), Government Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1545 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute removes the provision subjecting state law governing TCJS and the oversight of local jail facilities to expiration along with TCJS unless continued following review by the Sunset Advisory Commission.