

BILL ANALYSIS

C.S.H.B. 2331
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Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Criminal Justice (TDCJ) is not unlike other state systems in that it was caught off guard by the COVID-19 pandemic. Guidance from trusted health authorities was often contradictory or inadequate. Furthermore, the prison system often lacked the authority to take decisive steps to reduce the population and mitigate the spread of the virus because release decisions are not within TDCJ purview. It has been suggested that this lack of leadership resulted in around 200 deaths within dozens of prison units in Texas and more than 25,000 new COVID-19 cases. The COVID-19 crisis has demonstrated the need for clear legislative direction and authority that would allow our state prison system to act decisively during times of unprecedented emergency and provide the tools it needs to respond effectively in future crises such as epidemics, natural disasters, and similar emergencies. C.S.H.B. 2331 seeks to establish an advisory board to provide TDCJ with recommendations on emergency responses during times of crisis and to require TDCJ to develop an emergency response plan that includes certain operating procedures.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2331 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to develop an emergency response plan to be implemented when responding to a disaster declared by the governor under the Texas Disaster Act of 1975 or by the U.S. president under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act if any part of Texas is named in the federally declared disaster area. The emergency response plan must specify operating procedures that will be implemented by a correctional facility during a declared disaster, including evacuation procedures, guidelines for ensuring employee safety and well-being, and specified provisions regarding lockdowns or periods of inmate segregation, inmate participation in certain classes or programs, commissary access, in-person visitation, personal protective equipment for employees and inmates, and inmate access to medical care, medication, and personal hygiene items.

C.S.H.B. 2331 establishes an advisory board to develop and provide TDCJ with recommendations for the emergency response plan, not later than March 1, 2022, and to update those recommendations and submit those recommendations to TDCJ not later than March 1 of each year. The bill does the following with respect to the advisory board:

- provides for its members, including the TDCJ executive director, the commissioner of state health services or the commissioner's designee, and members appointed by the governor;
- exempts the advisory board from statutory provisions governing state agency advisory committees with regard to its composition and duration;
- requires TDCJ to provide the advisory board with access to all relevant information necessary to develop and update the recommendations;
- requires the advisory board, in developing and updating the recommendations, to consider all strategies to plan for emergency situations, including plans to prevent interruptions to the provision of educational and rehabilitative programming to inmates;
- authorizes the advisory board to access any facility operated by or under contract with TDCJ; and
- if the TDCJ response to a declared disaster is inconsistent with the advisory board's recommendations, authorizes the advisory board to obtain any relevant data and reports and conduct interviews with inmates and other relevant persons to identify any consequences of the response.

C.S.H.B. 2331 requires TDCJ to develop the emergency response plan not later than the 180th day after the date the advisory board submits its recommendations.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2331 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.

Whereas the original required TDCJ and the Board of Pardons and Paroles (BPP) to jointly develop the emergency response plan and included both as recipients of the recommendations developed by the advisory board, the substitute does not involve the BPP in the plan development, does not include it as a recipient of the recommendations or in related provisions, and does not include a definition for "board."

The substitute does not include the specification that appeared in the original that the plan is to be implemented by each agency when responding to a declared disaster.

The substitute does not include the following provisions that appeared in the original:

- provisions requiring the BPP to implement during a declared disaster an expedited parole approval process and modify existing parole policies and previous parole decisions to allow an eligible inmate to complete any previously ordered and still remaining classes or programs after being released on parole;
- a requirement for the emergency response plan to specify procedures governing the release of inmates on parole during the expedited parole approval process, including certain specified criteria and procedures;
- provisions requiring a parole panel to consider those criteria when determining whether to approve an inmate for release on parole during a declared emergency and authorizing a parole panel in that scenario to release an inmate on parole regardless of certain statutory requirements;
- procedural provisions relating to the duties of the BPP and a parole panel in the original's provisions; and
- requirements for the plan's specified operating procedures for a correctional facility during a declared disaster to require TDCJ to waive any fee charged to an inmate for

medical care and to prohibit an inmate from being required to work under certain conditions.

The substitute includes language that did not appear in the original clarifying that the plan's specified operating procedures relating to inmate continued participation in certain classes or programs and in-person inmate visitation apply during any extended period of a declared disaster.

The substitute revises the composition of the advisory board established in the original as follows:

- includes at least two additional governor-appointed members who are correctional officers employed by TDCJ at the level of sergeant or lower and who are members of a certain employee organization; and
- does not include the presiding officer of the BPP, who was included as a member in the original.

The substitute includes a requirement for the advisory board to consider all strategies to plan for emergency situations in developing and updating the recommendations, which was not included in the original.