

By: Eckhardt

S.B. No. 1844

A BILL TO BE ENTITLED

AN ACT

relating to the collection and reporting of certain information regarding mental health jail diversion.

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

SECTION 1. Articles 2.134(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Articles [Article] 2.133 and 2.135. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Texas Commission on Law Enforcement and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;

1 (B) examine the disposition of motor vehicle
2 stops made by officers employed by the agency, categorized
3 according to the race or ethnicity of the affected persons, as
4 appropriate, including any searches resulting from stops within the
5 applicable jurisdiction; and

6 (C) evaluate and compare the number of searches
7 resulting from motor vehicle stops within the applicable
8 jurisdiction and whether contraband or other evidence was
9 discovered in the course of those searches; ~~and~~

10 (2) a comparative analysis of the information compiled
11 under Article 2.135 to:

12 (A) examine the initial reason that a peace
13 officer arrested a person the officer had reasonable cause to
14 believe is a person with a mental illness or intellectual
15 disability;

16 (B) examine discrepancies between attempted
17 diversions of persons with a mental illness or intellectual
18 disability from criminal justice involvement that were not
19 successful and attempted diversions that were successful; and

20 (C) evaluate the peace officer's use of
21 restraints and use of force against persons who the officer has
22 reasonable cause to believe are persons with a mental illness or
23 intellectual disability; and

24 (3) information relating to each complaint filed with
25 the agency alleging that a peace officer employed by the agency has
26 engaged in racial profiling.

27 SECTION 2. Chapter 2, Code of Criminal Procedure, is

1 amended by adding Article 2.135 to read as follows:

2 Art. 2.135. REPORTS REQUIRED FOR PERSONS WITH SUSPECTED
3 MENTAL ILLNESS OR INTELLECTUAL DISABILITY. (a) A peace officer who
4 arrests a person the peace officer has reasonable cause to believe
5 is a person with a mental illness or intellectual disability or
6 detains the person in accordance with Subchapter A, Chapter 573,
7 Health and Safety Code, shall report to the officer's law
8 enforcement agency certain information, including:

9 (1) a description of the person's behavior that led the
10 peace officer to reasonably believe that the person is a person with
11 a mental illness or intellectual disability, including:

12 (A) behavioral indications of a mental illness or
13 intellectual disability;

14 (B) verbal indications of distress by the person
15 or a bystander;

16 (C) physical injuries incurred before or during
17 the arrest; and

18 (D) any medical treatment provided during the
19 arrest;

20 (2) the initial reason for the person's arrest;

21 (3) whether the officer conducted a search and, if so,
22 whether the person consented to the search;

23 (4) any contraband or other evidence that was
24 discovered in the course of a search conducted by the officer and a
25 description of the contraband or evidence;

26 (5) the reason for a search conducted by the officer,
27 including whether:

1 (A) any contraband or other evidence was in plain
2 view;

3 (B) any probable cause or reasonable suspicion
4 existed to perform the search; or

5 (C) the search was performed as a result of:

6 (i) the towing of the motor vehicle; or

7 (ii) the arrest of any person in the motor
8 vehicle;

9 (6) whether the law enforcement agency made a good
10 faith effort to divert a person suffering a mental health crisis or
11 from the effects of substance abuse to a proper treatment center, as
12 described by Article 16.23;

13 (7) whether the officer used restraint against the
14 person; and

15 (8) whether the officer used physical force that
16 resulted in bodily injury, as that term is defined by Section 1.07,
17 Penal Code, during the stop.

18 (b) The arresting officer shall provide the report
19 described by Subsection (a) to the sheriff or municipal jailer at
20 the time the defendant is transferred into the custody of the
21 sheriff or jailer.

22 (c) The chief administrator of a law enforcement agency,
23 regardless of whether the administrator is elected, employed, or
24 appointed, is responsible for auditing reports under Subsection (a)
25 to ensure the agency complies with this article by reporting all the
26 required information.

27 SECTION 3. Section [511.0101\(a\)](#), Government Code, is amended

1 to read as follows:

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

5 (1) the number of prisoners confined in the county
6 jail on the first day of the month, classified on the basis of the
7 following categories:

8 (A) total prisoners;

9 (B) pretrial Class C misdemeanor offenders;

10 (C) pretrial Class A and B misdemeanor offenders;

11 (D) convicted misdemeanor offenders;

12 (E) felony offenders whose penalty has been
13 reduced to a misdemeanor;

14 (F) pretrial felony offenders;

15 (G) convicted felony offenders;

16 (H) prisoners detained on bench warrants;

17 (I) prisoners detained for parole violations;

18 (J) prisoners detained for federal officers;

19 (K) prisoners awaiting transfer to the
20 institutional division of the Texas Department of Criminal Justice
21 following conviction of a felony or revocation of probation,
22 parole, or release on mandatory supervision and for whom paperwork
23 and processing required for transfer have been completed;

24 (L) prisoners detained after having been
25 transferred from another jail and for whom the commission has made a
26 payment under Subchapter F, Chapter 499, Government Code;

27 (M) prisoners for whom an immigration detainer

1 has been issued by United States Immigration and Customs
2 Enforcement;

3 (N) female prisoners; and

4 (O) other prisoners;

5 (2) the total capacity of the county jail on the first
6 day of the month;

7 (3) the total number of prisoners who were confined in
8 the county jail during the preceding month, based on a count
9 conducted on each day of that month, who were known or had been
10 determined to be pregnant;

11 (4) the total cost to the county during the preceding
12 month of housing prisoners described by Subdivision (1)(M),
13 calculated based on the average daily cost of housing a prisoner in
14 the county jail; ~~and~~

15 (5) the following information concerning prisoners in
16 the county jail that the sheriff has reasonable cause to believe are
17 persons with a mental illness or intellectual disability:

18 (A) the total number of mental health or
19 intellectual and developmental disability screenings completed in
20 the jail;

21 (B) the total number of notifications that a
22 sheriff or municipal jailer provided to a magistrate, as required
23 by Article 16.22(a)(1), Code of Criminal Procedure;

24 (C) the total number of mental health or
25 intellectual and developmental disability interviews, as required
26 by Article 16.22(a)(1), Code of Criminal Procedure;

27 (D) the location of the interviews described by

1 Paragraph (C);

2 (E) whether the interview described by Paragraph
3 (C) was conducted in person in the jail, by telephone, through a
4 telemedicine medical service or telehealth service, or through any
5 other method; and

6 (F) the outcome of the interview described by
7 Paragraph (C); and

8 (6) certification by the reporting official that the
9 information in the report is accurate.

10 SECTION 4. Section 1701.164, Occupations Code, is amended
11 to read as follows:

12 Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA
13 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall
14 collect and maintain incident-based data submitted to the
15 commission under Article 2.134, Code of Criminal Procedure,
16 including incident-based data compiled by a law enforcement agency
17 from reports received by the law enforcement agency under Articles
18 ~~[Article]~~ 2.133 and 2.135 of that code. The commission in
19 consultation with the Department of Public Safety, the Bill
20 Blackwood Law Enforcement Management Institute of Texas, the W. W.
21 Caruth, Jr., Police Institute at Dallas, and the Texas Police
22 Chiefs Association shall develop guidelines for submitting in a
23 standard format the report containing incident-based data as
24 required by Article 2.134, Code of Criminal Procedure.

25 SECTION 5. A county shall submit the first report required
26 by Section 511.0101, Government Code, as amended by this Act, not
27 later than October 5, 2021.

1 SECTION 6. This Act takes effect September 1, 2021.