

BILL ANALYSIS

C.S.H.B. 3739
By: Klick
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Stakeholders and formerly incarcerated women have raised concerns regarding the treatment, health, and safety of female inmates while they are being transported for in-person medical care within the state prison system. These women report that searches of female inmates may be conducted in violation of federal law and regulations, that there is a lack of basic sanitation on some transport buses, and that women may not have access to nutrition and bedding during the multiday journey. C.S.H.B. 3739 seeks to address these issues by requiring procedures for the transportation of female inmates for medical care to meet certain standards and by providing for greater access to telemedicine and telehealth services as well as on-site medical care.

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. 3739 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to establish procedures to be used during the regularly scheduled transportation of female inmates for nonemergency medical care to The University of Texas Medical Branch at Galveston (UTMB) or another medical facility that provides medical services for inmates. The procedures must ensure the following:

- any searches conducted are performed in an area and manner that conforms with the requirements of the federal Prison Rape Elimination Act of 2003 and any regulation adopted under that law;
- buses used to transport female inmates are equipped with bathrooms and have an adequate supply of toilet paper and feminine hygiene products for the inmates being transported;
- female inmates receive sufficient food and nutrition in accordance with medical or nutritional standards as determined by TDCJ; and
- facilities used to house female inmates overnight while being transported have an adequate number of beds for the inmates being transported.

C.S.H.B. 3739 requires TDCJ, in conjunction with UTMB and the Texas Tech University Health Sciences Center, to establish procedures to increase opportunities and expand access to telemedicine medical services, telehealth services, and on-site medical care for inmates, including on-site mobile care units that provide diagnostic imaging, physical therapy, and other appropriate mobile health services.

C.S.H.B. 3739 requires TDCJ to establish the procedures required under the bill not later than December 1, 2023, and requires TDCJ to submit a report not later than December 1, 2024, to the legislature on TDCJ's progress in increasing opportunities and expanding access to telemedicine medical services, telehealth services, and on-site medical care for inmates, including a summary of the relevant procedures and the number of inmates who received services or care under those procedures.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3739 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include the requirement from the introduced for the procedures established by TDCJ to prohibit the use of restraints around the ankles, legs, wrists, or waist of a female inmate in a manner that connects the inmate to another inmate.

The substitute replaces the requirement from the introduced for the procedures to prohibit a correctional officer from conducting an invasive body cavity search of a female inmate unless the officer has a reasonable belief that the inmate is concealing contraband and require a correctional officer who conducts such a search to submit a written report to the warden with a requirement for the procedures to ensure that any searches conducted are performed in an area and manner that conforms with the requirements of the federal Prison Rape Elimination Act and regulations adopted under that law.

The substitute replaces the requirement from the introduced for the procedures to allow female inmates to bring toilet paper and feminine hygiene products and ensure the buses used to transport female inmates are equipped with bathrooms that have ergonomically designed toilets and afford privacy to the user with a requirement for the procedures to ensure that the buses are equipped with bathrooms and have an adequate supply of toilet paper and feminine hygiene products for the inmates being transported.

The substitute revises the requirement from the introduced for the procedures to ensure that female inmates receive sufficient food as follows:

- by including the requirement that the female inmates receive sufficient nutrition; and
- by specifying that that the food and nutrition received be in accordance with medical or nutritional standards as determined by TDCJ.