

By: Jones of Harris

H.B. No. 1751

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 mental illness or a person with an
15 intellectual disability;

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

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

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

SECTION 2. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.135 to read as follows:

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

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

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

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

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

(D) any medical treatment provided during the arrest;

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

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

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

1 (5) the reason for a search conducted by the officer,
2 including whether:

3 (A) any contraband or other evidence was in plain
4 view;

5 (B) any probable cause or reasonable suspicion
6 existed to perform the search; or

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

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

9 (ii) the arrest of any person in the motor
10 vehicle;

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

15 (7) whether the officer used restraint against the
16 person; and

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

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

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

required information.

SECTION 3. Section 511.0101(a), Government Code, is amended to read as follows:

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

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

- (A) total prisoners;
- (B) pretrial Class C misdemeanor offenders;
- (C) pretrial Class A and B misdemeanor offenders;
- (D) convicted misdemeanor offenders;
- (E) felony offenders whose penalty has been reduced to a misdemeanor;
- (F) pretrial felony offenders;
- (G) convicted felony offenders;
- (H) prisoners detained on bench warrants;
- (I) prisoners detained for parole violations;
- (J) prisoners detained for federal officers;
- (K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;
- (L) prisoners detained after having been transferred from another jail and for whom the commission has made a

1 payment under Subchapter F, Chapter 499, Government Code;

2 (M) prisoners for whom an immigration detainer
3 has been issued by United States Immigration and Customs
4 Enforcement;

5 (N) female prisoners; and

6 (O) other prisoners;

7 (2) the total capacity of the county jail on the first
8 day of the month;

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

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

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

21 (A) the total number of mental health or
22 intellectual and developmental disability screenings completed in
23 the jail;

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

27 (C) the total number of mental health or

1 intellectual and developmental disability interviews, as required
2 by Article 16.22(a)(1), Code of Criminal Procedure;

3 (D) the location of the interviews described by
4 Paragraph (C);

5 (E) whether the interviews described by
6 Paragraph (C) were conducted in person in the jail, by telephone,
7 through a telemedicine medical service or telehealth service, or
8 through any other method; and

9 (F) the outcomes of the interviews described by
10 Paragraph (C); and

11 (6) certification by the reporting official that the
12 information in the report is accurate.

13 SECTION 4. Section 1701.164, Occupations Code, is amended
14 to read as follows:

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

H.B. No. 1751

1 SECTION 5. A county shall submit the first report required
2 by Section [511.0101](#), Government Code, as amended by this Act, not
3 later than October 5, 2023.

4 SECTION 6. This Act takes effect September 1, 2023.