By: Perez of El Paso H.B. No. 738

A BILL TO BE ENTITLED

AN ACT

relating to minimum standards for civil detention facilities in this state, inspection of those facilities on the request of a county or municipality, and reporting of deaths and serious injuries occurring at those facilities.

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

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 249 to read as follows:

CHAPTER 249. CIVIL DETENTION FACILITY STANDARDS

Sec. 249.001. DEFINITIONS. In this chapter:

(1) "Child" means an individual younger than 18 years of age.

(2) "Civil detention facility" means a facility located in this state in which one or more individuals are held in custody and may not leave at will, other than custody imposed as punishment for or pending the disposition of a criminal charge, including a facility in which individuals are held:

(A) under an order of civil commitment;

(B) pending or following a determination of immigration status under federal law;

(C) as a condition of receiving residential care or treatment; or

(D) under any other civil process or authority.

(3) "Commission" means the Health and Human Services

Commission.

(4) "Executive commissioner" means the executive commissioner of the commission.

(5) "Local health authority" has the meaning assigned by Section 121.021.

(6) "Operator" means a person that operates or manages a civil detention facility. The term does not include the United States, an agency of the United States, or an officer or employee of the United States acting within the scope of that person's employment.

Sec. 249.002. APPLICABILITY. (a) This chapter applies to each civil detention facility located in this state.

(b) A civil detention facility that is licensed, certified, or otherwise regulated under Chapter 242, 247, 248, 252, or 555 of this code or under Chapter 574 of this code, and that is in compliance with the standards applicable to the facility under that chapter, is considered to be in compliance with the standards adopted under Section 249.003.

(c) This chapter does not apply to the United States, an agency of the United States, or an officer or employee of the United States acting within the scope of that person's employment.

Sec. 249.003. MINIMUM STANDARDS. (a) The executive commissioner by rule shall adopt minimum standards for civil detention facilities relating to:

(1) medical care, mental health care, and the administration of medication;

(2) food, water, and nutrition;

(3) sanitation, hygiene, and the control of communicable disease;

(4) ventilation, heating, cooling, lighting, and the condition of housing and sleeping areas;

(5) protection of individuals in custody from violence, sexual abuse, and self-harm;

(6) communication by an individual in custody with family members and legal counsel;

(7) access to interpretation and translation services; and

(8) the care of and contact between children and the adults with whom they were taken into custody.

(b) A standard adopted under this section may not be more stringent than the standard applicable under this code to a facility described by Section 249.002(b) that provides residential care to individuals who may not leave the facility at will.

(c) This chapter does not require a license, permit, or certification to operate a civil detention facility, and the commission may not under this chapter prohibit the operation of a civil detention facility or determine whether or where an individual may be held in custody.

Sec. 249.004. ASSESSMENT ON REQUEST OF COUNTY OR MUNICIPALITY. (a) The commissioners court of a county in which a civil detention facility is located, or the governing body of a municipality in which a civil detention facility is located, may request that the commission conduct an assessment of:

(1) the facility's compliance with the standards

adopted under Section 249.003; and

(2) conditions at the facility that affect the public health of the county or municipality.

(b) The commission shall conduct an assessment requested under Subsection (a) not later than the 30th day after the date the request is made.

(c) In conducting an assessment, the commission may enter the facility at reasonable times, inspect the premises, review records relating to the standards adopted under Section 249.003, and interview individuals in custody and personnel of the facility who consent to be interviewed.

(d) If the commission does not conduct an assessment within the period prescribed by Subsection (b), the local health authority for the county or municipality that made the request may conduct the assessment, and the commission shall reimburse the local health authority for the reasonable costs incurred.

(e) Not later than the 30th day after the date an assessment is completed, the commission or the local health authority, as applicable, shall prepare a report of the assessment, deliver the report to the requesting commissioners court or governing body and to the operator of the facility, and publish the report on the commission's Internet website.

(f) A county or municipality may not make a request under this section with respect to the same facility more than twice in a calendar year unless a death or an outbreak of communicable disease has been reported at the facility under Section 249.005 since the date of the most recent request.

Sec. 249.005. REPORTING. (a) Not later than 24 hours after the occurrence, an operator shall report to the commission and to the local health authority for the county in which the civil detention facility is located:

(1) the death of an individual in custody at the facility;

(2) serious bodily injury to an individual in custody at the facility;

(3) an outbreak of communicable disease at the facility; and

(4) an instance in which a child in custody at the facility is separated from an adult with whom the child was taken into custody.

(b) Not later than the 30th day after the last day of each calendar quarter, an operator shall report to the commission for that quarter:

(1) the average and maximum number of individuals held in custody at the facility and the facility's design capacity;

(2) the number of children held in custody at the facility and the average length of their custody; and

(3) the number of deaths, instances of serious bodily injury, and outbreaks of communicable disease at the facility.

(c) The commission shall publish on its Internet website the information reported under Subsection (b), aggregated by facility and by calendar quarter.

Sec. 249.006. CIVIL PENALTY. (a) An operator that fails to make a report required by Section 249.005 is liable to this state

for a civil penalty in an amount not to exceed $1,000 for each report not made.

(b) The attorney general or the district attorney, criminal district attorney, or county attorney of the county in which the civil detention facility is located may bring an action to recover a civil penalty under this section.

Sec. 249.007. CONSTRUCTION. (a) The remedies and procedures provided by this chapter are in addition to any other remedy or procedure provided by law.

(b) This chapter does not create a cause of action against the United States and does not purport to waive the sovereign immunity of the United States.

Sec. 249.008. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 2. Not later than September 1, 2028, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 249.003, Health and Safety Code, as added by this Act.

SECTION 3. Sections 249.004 and 249.005, Health and Safety Code, as added by this Act, apply beginning September 1, 2028.

SECTION 4. This Act takes effect September 1, 2027.