

SUBJECT: Continuing the Texas Commission on Jail Standards

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — Coleman, Morrison, Bolton, Castro, J. Davis, Marquez, W. Smith
0 nays
2 absent — Berman, Sheffield

SENATE VOTE: On final passage, April 16 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 3392:*)
For — Jim Allison, County Judges and Commissioners Association of Texas; Hector M. Garcia Delgado, Deputy Sheriff’s Association of Bexar County; Matt Simpson, ACLU of Texas; Donald Lee, Texas Conference of Urban Counties; (*Registered, but did not testify:* Edgar Laney; Terry Simpson, Patricio County; Erica Surprenant, Texas Criminal Justice Coalition)

Against — None

On — Adan Munoz and Brandon Wood, Texas Commission on Jail Standards; (*Registered, but did not testify:* Katharine Teleki, Texas Sunset Commission)

BACKGROUND: The Texas Commission on Jail Standards (TCJS) was created in 1975 to oversee county jails in Texas. The commission’s duties include adopting rules and establishing minimum standards for the construction and operation of county jails; establishing minimum standards for the treatment of prisoners and prisoner programs and services; adopting rules and minimum standards for the required number of jail supervisory personnel; inspecting jails for compliance with state laws and commission rules; providing consultation and technical assistance for county jails; and annual reports on county jail conditions and on juveniles detained in city and county facilities.

TCJS currently regulates 248 jail facilities with a combined 85,130 beds, including 19 jails operated by private contractors. The commission inspects annually the jails under its jurisdiction using a standard process that monitors and evaluates compliance with safety, structural, and management standards. The commission provides technical assistance to counties to correct deficiencies revealed during inspections.

The commission has nine members, appointed by the governor with Senate consent, who serve staggered six-year terms. Members must include two sheriffs, one county commissioner, one county judge, a medical doctor licensed by the Texas Medical Board, and four citizen members of the general public. Of the two sheriffs, one must be a sheriff of a county with a population of more than 35,000, while the other must be a sheriff of a county with a population of 35,000 or less. At least one of the public members must be from a county with a population of 35,000 or less.

The commission currently employs 17 staff, including four jail inspectors. Funds for the commission come primarily through general revenue appropriated by the Legislature. For fiscal 2007-2008, the commission operated with an annual budget of \$948,288.

TCJS is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The commission last underwent sunset review in 1997.

DIGEST:

CSSB 1009 would continue the Texas Commission on Jail Standards (TCJS) until September 1, 2021. It would require the commission to update complaint processing procedures, develop and implement a risk-assessment plan for the jail inspection process, adopt procedures for identifying pregnant inmates and providing for their minimum health, nutritional, and housing needs, and establish additional reporting requirements related to mental illness screening.

Complaint procedures. CSSB 1009 would require the commission to adopt rules for investigating, tracking, analyzing, referring, resolving, and publishing complaints regarding the commission and the jails under its jurisdiction. The information would have to be made available to the public, inmates, county officials, and appropriate state agencies on a publicly accessible website maintained by the commission.

Targeting high risk jails; risk-assessment plan. CSSB 1009 would require TCJS to develop a comprehensive set of risk factors to guide the jail inspections process and regularly assess the overall risk level of each jail under the its jurisdiction. The set of risk factors would have to include:

- a history of the jail’s compliance with state law and commission standards;
- the population of the jail;
- the number and nature of complaints regarding the jail, including violations of any required ratio of correctional officers to inmates;
- problems with the jail’s internal complaint procedures;
- available reports detailing the mental and medical health of the jail’s inmates, including reports of infectious disease or pregnant inmates;
- recent turnover among sheriffs and jail staff;
- inmate escapes from the jail;
- the number and nature of inmate deaths at the jail, including the investigative results of said deaths; and
- whether the jail was in compliance with TCJS rules, standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), and the requirements regarding protocols and reports for the early identification of persons with mental illness.

Best practices. The bill would require the commission to adopt a policy for the gathering and distribution of successful strategies and solutions to common issues concerning jail administration, or “best practices,” to jails under the commission’s jurisdiction.

Reporting requirements. The commission would have to report to TCOOMMI each jail’s compliance with mental illness screening, assessment, and reporting requirements under Code of Criminal Procedure, art. 16.22.

The commission also would have to establish minimum requirements for jails to identify pregnant inmates and to ensure that those inmates’ health, nutritional, housing, and work assignment needs were met. Each county would have to submit to TCJS on or before the fifth day of each month a report of the total number of prisoners known or determined to be pregnant who were confined in the county jail during the preceding month.

Notifying the public about jail compliance with TCJS standards. The commission would have to inform the public whether jails under its jurisdiction were in compliance with state law and commission standards. The commission would have to post this information on any publicly accessible website maintained by the commission and through other formats as determined by the commission.

Miscellaneous provisions. The bill also would add standard Sunset provisions governing eligibility for board membership of the commission, conflict-of-interest and training policies for board members, effective use of technology to promote the commission's goals, and use of negotiated rulemaking and alternative dispute resolution.

Effective date. The provisions of CSSB 1009 would apply on or after the bill's September 1, 2009, effective date.

SUPPORTERS
SAY:

CSSB 1009 appropriately would continue the Texas Commission on Jail Standards (TCJS), which was found by the Sunset Advisory Commission to be positioned uniquely and effectively to establish and enforce minimum standards for county jails. Even though the commission has undergone critical scrutiny in the past, county officials and others interested in jail standards today generally support the commission's role in the state criminal justice system. The bill would revise and update its governing policies to ensure the continuation of the commission's services and assistance to counties as county jail populations continue to grow.

Complaint procedures. Because of the commission's role as a regulatory overseer, CSSB 1009 would require the commission to adopt clear procedures to guide the process of filing, investigating, tracking, analyzing, and disclosing complaints related to the commission and the jails under its jurisdiction. Accepting and investigating complaints is one of the primary methods the commission uses to detect jail non-compliance and address inmate grievances with county jails. By requiring the commission to adopt clear and specific rules for handling complaints against itself and the jails it oversees, this bill would make the complaint process easier for the public, inmates, and county officials and employees to understand.

Risk-assessment plan. CSSB 1009 would require TCJS to develop and implement a comprehensive risk-assessment plan, which would aid the commission in identifying and assisting jails with troubled compliance

records or “high-risk” jails. Currently, the commission does not use comprehensive risk information to plan its annual inspection schedule. Typically, the commission does not place a jail on its monthly risk-assessment list or conduct a special inspection unless the jail already had failed an annual inspection. According to the Sunset Commission staff report, risk factors such as the number of complaints, deaths, escapes, and inmate population numbers rarely trigger a special inspection or result in the placement of a jail on the commission’s risk-assessment tracking list. As a result, the commission often finds itself in a reactive mode, scrambling to fix problems after they have occurred and unable to target high-risk jails for proactive assistance and solutions.

A comprehensive risk-assessment plan with specific risk factors would enable TCJS to address potential problems before they occurred, thereby decreasing the number of inmate lawsuits and reducing the likelihood of federal intervention. TCJS already has access to valuable information that would aid in the development of risk factors to target high-risk jails. The bill simply would require the commission to use this information to monitor jail operations and assess risk more effectively.

Identifying pregnant inmates. CSSB 1009 would require TCJS to establish requirements for jails to identify and report pregnant inmates, a particularly vulnerable population group requiring specialized care and supervision. The promulgation of specific rules and procedures would give counties clearer guidance for meeting the health, nutritional, housing, and work-assignment needs for pregnant inmates.

Mental health reporting requirements. With some county jails increasingly assuming a de facto role in providing mental health services to mentally ill inmates, the need for greater guidance in providing specialized care and supervision for these inmates has become apparent. The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) comprises 21 agencies and organizations, including TCJS, and possesses expertise on inmates’ special healthcare needs. The bill would encourage communication between the commission and TCOOMMI by requiring the commission to report jail compliance with mental illness screening and assessment protocols, thereby promoting greater coordination in the development of healthcare and mental health standards applicable to jails within the commission’s jurisdiction.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee substitute would require TCJS to establish requirements for the identification and reporting of pregnant inmates by county jails, a provision not in the Senate-passed bill. The committee substitute also added the requirement that the commission consider a jail's compliance with standards established by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) in the commission's risk-assessment plan and report each jail's compliance results to TCOOMMI.

The companion bill, HB 3392 by Harper-Brown, was considered in a public hearing by the County Affairs Committee on April 16 and was left pending.