

By: Whitmire, et al.

S.B. No. 1849

A BILL TO BE ENTITLED

AN ACT

1
2 relating to interactions between law enforcement and individuals
3 detained or arrested on suspicion of the commission of criminal
4 offenses, to the confinement, conviction, or release of those
5 individuals, and to grants supporting populations that are more
6 likely to interact frequently with law enforcement.

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

8 ARTICLE 1. SHORT TITLE

9 SECTION 1.01. SHORT TITLE. This Act shall be known as the
10 Sandra Bland Act, in memory of Sandra Bland.

11 ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR
12 PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL
13 DISABILITY, OR A SUBSTANCE ABUSE ISSUE

14 SECTION 2.01. Article 16.22, Code of Criminal Procedure, is
15 amended to read as follows:

16 Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF
17 HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [~~MENTAL~~
18 ~~RETARDATION~~]. (a)(1) Not later than 12 [~~72~~] hours after receiving
19 credible information that may establish reasonable cause to believe
20 that a defendant committed to the sheriff's custody has a mental
21 illness or is a person with an intellectual disability [~~mental~~
22 ~~retardation~~], including observation of the defendant's behavior
23 immediately before, during, and after the defendant's arrest and
24 the results of any previous assessment of the defendant, the

1 sheriff shall provide written or electronic notice of the
2 information to the magistrate. On a determination that there is
3 reasonable cause to believe that the defendant has a mental illness
4 or is a person with an intellectual disability [~~mental~~
5 ~~retardation~~], the magistrate, except as provided by Subdivision
6 (2), shall order the local mental health or intellectual and
7 developmental disability [~~mental-retardation~~] authority or another
8 qualified mental health or intellectual disability [~~mental~~
9 ~~retardation~~] expert to:

10 (A) collect information regarding whether the
11 defendant has a mental illness as defined by Section 571.003,
12 Health and Safety Code, or is a person with an intellectual
13 disability [~~mental-retardation~~] as defined by Section 591.003,
14 Health and Safety Code, including information obtained from any
15 previous assessment of the defendant; and

16 (B) provide to the magistrate a written
17 assessment of the information collected under Paragraph (A).

18 (2) The magistrate is not required to order the
19 collection of information under Subdivision (1) if the defendant in
20 the year preceding the defendant's applicable date of arrest has
21 been determined to have a mental illness or to be a person with an
22 intellectual disability [~~mental-retardation~~] by the local mental
23 health or intellectual and developmental disability [~~mental~~
24 ~~retardation~~] authority or another mental health or intellectual
25 disability [~~mental-retardation~~] expert described by Subdivision
26 (1). A court that elects to use the results of that previous
27 determination may proceed under Subsection (c).

1 (3) If the defendant fails or refuses to submit to the
2 collection of information regarding the defendant as required under
3 Subdivision (1), the magistrate may order the defendant to submit
4 to an examination in a mental health facility determined to be
5 appropriate by the local mental health or intellectual and
6 developmental disability [~~mental retardation~~] authority for a
7 reasonable period not to exceed 21 days. The magistrate may order a
8 defendant to a facility operated by the Department of State Health
9 Services or the Health and Human Services Commission [~~Department of~~
10 ~~Aging and Disability Services~~] for examination only on request of
11 the local mental health or intellectual and developmental
12 disability [~~mental retardation~~] authority and with the consent of
13 the head of the facility. If a defendant who has been ordered to a
14 facility operated by the Department of State Health Services or the
15 Health and Human Services Commission [~~Department of Aging and~~
16 ~~Disability Services~~] for examination remains in the facility for a
17 period exceeding 21 days, the head of that facility shall cause the
18 defendant to be immediately transported to the committing court and
19 placed in the custody of the sheriff of the county in which the
20 committing court is located. That county shall reimburse the
21 facility for the mileage and per diem expenses of the personnel
22 required to transport the defendant calculated in accordance with
23 the state travel regulations in effect at the time.

24 (b) A written assessment of the information collected under
25 Subsection (a)(1)(A) shall be provided to the magistrate not later
26 than the 30th day after the date of any order issued under
27 Subsection (a) in a felony case and not later than the 10th day

1 after the date of any order issued under that subsection in a
2 misdemeanor case, and the magistrate shall provide copies of the
3 written assessment to the defense counsel, the prosecuting
4 attorney, and the trial court. The written assessment must include
5 a description of the procedures used in the collection of
6 information under Subsection (a)(1)(A) and the applicable expert's
7 observations and findings pertaining to:

8 (1) whether the defendant is a person who has a mental
9 illness or is a person with an intellectual disability [~~mental~~
10 ~~retardation~~];

11 (2) whether there is clinical evidence to support a
12 belief that the defendant may be incompetent to stand trial and
13 should undergo a complete competency examination under Subchapter
14 B, Chapter 46B; and

15 (3) recommended treatment.

16 (c) After the trial court receives the applicable expert's
17 written assessment relating to the defendant under Subsection (b)
18 or elects to use the results of a previous determination as
19 described by Subsection (a)(2), the trial court may, as applicable:

20 (1) resume criminal proceedings against the
21 defendant, including any appropriate proceedings related to the
22 defendant's release on personal bond under Article 17.032;

23 (2) resume or initiate competency proceedings, if
24 required, as provided by Chapter 46B or other proceedings affecting
25 the defendant's receipt of appropriate court-ordered mental health
26 or intellectual disability [~~mental—retardation~~] services,
27 including proceedings related to the defendant's receipt of

1 outpatient mental health services under Section 574.034, Health and
2 Safety Code; or

3 (3) consider the written assessment during the
4 punishment phase after a conviction of the offense for which the
5 defendant was arrested, as part of a presentence investigation
6 report, or in connection with the impositions of conditions
7 following placement on community supervision, including deferred
8 adjudication community supervision.

9 (d) This article does not prevent the applicable court from,
10 before, during, or after the collection of information regarding
11 the defendant as described by this article:

12 (1) releasing a defendant who has a mental illness
13 [~~mentally ill~~] or is a person with an intellectual disability
14 [~~mentally retarded defendant~~] from custody on personal or surety
15 bond; or

16 (2) ordering an examination regarding the defendant's
17 competency to stand trial.

18 SECTION 2.02. Chapter 16, Code of Criminal Procedure, is
19 amended by adding Article 16.23 to read as follows:

20 Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH
21 CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency
22 shall make a good faith effort to divert a person suffering a mental
23 health crisis or suffering from the effects of substance abuse to a
24 proper treatment center in the agency's jurisdiction if:

25 (1) there is an available and appropriate treatment
26 center in the agency's jurisdiction to which the agency may divert
27 the person;

1 (2) it is reasonable to divert the person;

2 (3) the offense that the person is accused of is a
3 misdemeanor, other than a misdemeanor involving violence; and

4 (4) the mental health crisis or substance abuse issue
5 is suspected to be the reason the person committed the alleged
6 offense.

7 (b) Subsection (a) does not apply to a person who is accused
8 of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065,
9 49.07, or 49.08, Penal Code.

10 SECTION 2.03. Section 539.002, Government Code, is amended
11 to read as follows:

12 Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF
13 COMMUNITY COLLABORATIVES. (a) To the extent funds are
14 appropriated to the department for that purpose, the department
15 shall make grants to entities, including local governmental
16 entities, nonprofit community organizations, and faith-based
17 community organizations, to establish or expand community
18 collaboratives that bring the public and private sectors together
19 to provide services to persons experiencing homelessness,
20 substance abuse issues, or [and] mental illness. [The department
21 may make a maximum of five grants, which must be made in the most
22 populous municipalities in this state that are located in counties
23 with a population of more than one million.] In awarding grants,
24 the department shall give special consideration to entities:

25 (1) establishing [a] new collaboratives; or

26 (2) establishing or expanding collaboratives that
27 serve two or more counties, each with a population of less than

1 100,000 [~~collaborative~~].

2 (b) The department shall require each entity awarded a grant
3 under this section to:

4 (1) leverage additional funding from private sources
5 in an amount that is at least equal to the amount of the grant
6 awarded under this section; [~~and~~]

7 (2) provide evidence of significant coordination and
8 collaboration between the entity, local mental health authorities,
9 municipalities, local law enforcement agencies, and other
10 community stakeholders in establishing or expanding a community
11 collaborative funded by a grant awarded under this section; and

12 (3) provide evidence of a local law enforcement policy
13 to divert appropriate persons from jails or other detention
14 facilities to an entity affiliated with a community collaborative
15 for the purpose of providing services to those persons.

16 SECTION 2.04. Chapter 539, Government Code, is amended by
17 adding Section 539.0051 to read as follows:

18 Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY
19 COLLABORATIVES. (a) The governing body of a county shall develop
20 and make public a plan detailing:

21 (1) how local mental health authorities,
22 municipalities, local law enforcement agencies, and other
23 community stakeholders in the county could coordinate to establish
24 or expand a community collaborative to accomplish the goals of
25 Section 539.002;

26 (2) how entities in the county may leverage funding
27 from private sources to accomplish the goals of Section 539.002

1 through the formation or expansion of a community collaborative;
2 and

3 (3) how the formation or expansion of a community
4 collaborative could establish or support resources or services to
5 help local law enforcement agencies to divert persons who have been
6 arrested to appropriate mental health care or substance abuse
7 treatment.

8 (b) The governing body of a county in which an entity that
9 received a grant under Section 539.002 before September 1, 2017, is
10 located is not required to develop a plan under Subsection (a).

11 (c) Two or more counties, each with a population of less
12 than 100,000, may form a joint plan under Subsection (a).

13 ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

14 SECTION 3.01. The heading to Article 17.032, Code of
15 Criminal Procedure, is amended to read as follows:

16 Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [~~MENTALLY~~
17 ~~ILL~~] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

18 SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal
19 Procedure, are amended to read as follows:

20 (b) A magistrate shall release a defendant on personal bond
21 unless good cause is shown otherwise if the:

22 (1) defendant is not charged with and has not been
23 previously convicted of a violent offense;

24 (2) defendant is examined by the local mental health
25 or intellectual and developmental disability [~~mental retardation~~]
26 authority or another mental health expert under Article 16.22 [~~of~~
27 ~~this code~~];

1 (3) applicable expert, in a written assessment
2 submitted to the magistrate under Article 16.22:

3 (A) concludes that the defendant has a mental
4 illness or is a person with an intellectual disability [~~mental~~
5 ~~retardation~~] and is nonetheless competent to stand trial; and

6 (B) recommends mental health treatment or
7 intellectual disability treatment for the defendant, as
8 applicable; and

9 (4) magistrate determines, in consultation with the
10 local mental health or intellectual and developmental disability
11 [~~mental retardation~~] authority, that appropriate community-based
12 mental health or intellectual disability [~~mental retardation~~]
13 services for the defendant are available through the [~~Texas~~
14 Department of State [~~Mental~~] Health Services [~~and Mental~~
15 ~~Retardation~~] under Section 534.053, Health and Safety Code, or
16 through another mental health or intellectual disability [~~mental~~
17 ~~retardation~~] services provider.

18 (c) The magistrate, unless good cause is shown for not
19 requiring treatment, shall require as a condition of release on
20 personal bond under this article that the defendant submit to
21 outpatient or inpatient mental health or intellectual disability
22 [~~mental retardation~~] treatment as recommended by the local mental
23 health or intellectual and developmental disability [~~mental~~
24 ~~retardation~~] authority if the defendant's:

25 (1) mental illness or intellectual disability [~~mental~~
26 ~~retardation~~] is chronic in nature; or

27 (2) ability to function independently will continue to

1 deteriorate if the defendant is not treated.

2 SECTION 3.03. Article 25.03, Code of Criminal Procedure, is
3 amended to read as follows:

4 Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case
5 of felony, is on bail at the time the indictment is presented, [~~it~~
6 ~~is not necessary to serve him with a copy, but~~] the clerk shall [~~on~~
7 ~~request~~] deliver a copy of the indictment [~~same~~] to the accused or
8 the accused's [~~his~~] counsel[~~r~~] at the earliest possible time.

9 SECTION 3.04. Article 25.04, Code of Criminal Procedure, is
10 amended to read as follows:

11 Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk
12 shall deliver a copy of the indictment or information to the accused
13 or the accused's counsel at the earliest possible time before trial
14 [~~it shall not be necessary before trial to furnish the accused with~~
15 ~~a copy of the indictment or information; but he or his counsel may~~
16 ~~demand a copy, which shall be given as early as possible~~].

17 SECTION 3.05. Section 511.009(a), Government Code, as
18 amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B.
19 634), Acts of the 84th Legislature, Regular Session, 2015, is
20 reenacted and amended to read as follows:

21 (a) The commission shall:

22 (1) adopt reasonable rules and procedures
23 establishing minimum standards for the construction, equipment,
24 maintenance, and operation of county jails;

25 (2) adopt reasonable rules and procedures
26 establishing minimum standards for the custody, care, and treatment
27 of prisoners;

- 1 (3) adopt reasonable rules establishing minimum
2 standards for the number of jail supervisory personnel and for
3 programs and services to meet the needs of prisoners;
- 4 (4) adopt reasonable rules and procedures
5 establishing minimum requirements for programs of rehabilitation,
6 education, and recreation in county jails;
- 7 (5) revise, amend, or change rules and procedures if
8 necessary;
- 9 (6) provide to local government officials
10 consultation on and technical assistance for county jails;
- 11 (7) review and comment on plans for the construction
12 and major modification or renovation of county jails;
- 13 (8) require that the sheriff and commissioners of each
14 county submit to the commission, on a form prescribed by the
15 commission, an annual report on the conditions in each county jail
16 within their jurisdiction, including all information necessary to
17 determine compliance with state law, commission orders, and the
18 rules adopted under this chapter;
- 19 (9) review the reports submitted under Subdivision (8)
20 and require commission employees to inspect county jails regularly
21 to ensure compliance with state law, commission orders, and rules
22 and procedures adopted under this chapter;
- 23 (10) adopt a classification system to assist sheriffs
24 and judges in determining which defendants are low-risk and
25 consequently suitable participants in a county jail work release
26 program under Article [42.034](#), Code of Criminal Procedure;
- 27 (11) adopt rules relating to requirements for

1 segregation of classes of inmates and to capacities for county
2 jails;

3 (12) require that the chief jailer of each municipal
4 lockup submit to the commission, on a form prescribed by the
5 commission, an annual report of persons under 17 years of age
6 securely detained in the lockup, including all information
7 necessary to determine compliance with state law concerning secure
8 confinement of children in municipal lockups;

9 (13) at least annually determine whether each county
10 jail is in compliance with the rules and procedures adopted under
11 this chapter;

12 (14) require that the sheriff and commissioners court
13 of each county submit to the commission, on a form prescribed by the
14 commission, an annual report of persons under 17 years of age
15 securely detained in the county jail, including all information
16 necessary to determine compliance with state law concerning secure
17 confinement of children in county jails;

18 (15) schedule announced and unannounced inspections
19 of jails under the commission's jurisdiction using the risk
20 assessment plan established under Section 511.0085 to guide the
21 inspections process;

22 (16) adopt a policy for gathering and distributing to
23 jails under the commission's jurisdiction information regarding:

24 (A) common issues concerning jail
25 administration;

26 (B) examples of successful strategies for
27 maintaining compliance with state law and the rules, standards, and

1 procedures of the commission; and

2 (C) solutions to operational challenges for
3 jails;

4 (17) report to the Texas Correctional Office on
5 Offenders with Medical or Mental Impairments on a jail's compliance
6 with Article 16.22, Code of Criminal Procedure;

7 (18) adopt reasonable rules and procedures
8 establishing minimum requirements for jails to:

9 (A) determine if a prisoner is pregnant; and

10 (B) ensure that the jail's health services plan
11 addresses medical and mental health care, including nutritional
12 requirements, and any special housing or work assignment needs for
13 persons who are confined in the jail and are known or determined to
14 be pregnant;

15 (19) provide guidelines to sheriffs regarding
16 contracts between a sheriff and another entity for the provision of
17 food services to or the operation of a commissary in a jail under
18 the commission's jurisdiction, including specific provisions
19 regarding conflicts of interest and avoiding the appearance of
20 impropriety; ~~and~~

21 (20) adopt reasonable rules and procedures
22 establishing minimum standards for prisoner visitation that
23 provide each prisoner at a county jail with a minimum of two
24 in-person, noncontact visitation periods per week of at least 20
25 minutes duration each;

26 (21) ~~(20)~~ require the sheriff of each county to:

27 (A) investigate and verify the veteran status of

1 each prisoner by using data made available from the Veterans
2 Reentry Search Service (VRSS) operated by the United States
3 Department of Veterans Affairs or a similar service; and

4 (B) use the data described by Paragraph (A) to
5 assist prisoners who are veterans in applying for federal benefits
6 or compensation for which the prisoners may be eligible under a
7 program administered by the United States Department of Veterans
8 Affairs;

9 (22) [~~(20)~~] adopt reasonable rules and procedures
10 regarding visitation of a prisoner at a county jail by a guardian,
11 as defined by Section [1002.012](#), Estates Code, that:

12 (A) allow visitation by a guardian to the same
13 extent as the prisoner's next of kin, including placing the
14 guardian on the prisoner's approved visitors list on the guardian's
15 request and providing the guardian access to the prisoner during a
16 facility's standard visitation hours if the prisoner is otherwise
17 eligible to receive visitors; and

18 (B) require the guardian to provide the sheriff
19 with letters of guardianship issued as provided by Section
20 [1106.001](#), Estates Code, before being allowed to visit the prisoner;
21 and

22 (23) adopt reasonable rules and procedures to ensure
23 the safety of prisoners, including rules and procedures that
24 require a county jail to:

25 (A) give prisoners the ability to access a mental
26 health professional at the jail through a telemental health service
27 24 hours a day;

1 (B) give prisoners the ability to access a health
2 professional at the jail or through a telehealth service 24 hours a
3 day or, if a health professional is unavailable at the jail or
4 through a telehealth service, provide for a prisoner to be
5 transported to access a health professional; and

6 (C) if funding is available under Section
7 511.019, install automated electronic sensors or cameras to ensure
8 accurate and timely in-person checks of cells or groups of cells
9 confining at-risk individuals.

10 SECTION 3.06. Section 511.009, Government Code, is amended
11 by adding Subsection (d) to read as follows:

12 (d) The commission shall adopt reasonable rules and
13 procedures establishing minimum standards regarding the continuity
14 of prescription medications for the care and treatment of
15 prisoners. The rules and procedures shall require that a qualified
16 medical professional shall review as soon as possible any
17 prescription medication a prisoner is taking when the prisoner is
18 taken into custody.

19 SECTION 3.07. Chapter 511, Government Code, is amended by
20 adding Sections 511.019, 511.020, and 511.021 to read as follows:

21 Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner
22 safety fund is a dedicated account in the general revenue fund.

23 (b) The prisoner safety fund consists of:

24 (1) appropriations of money to the fund by the
25 legislature; and

26 (2) gifts, grants, including grants from the federal
27 government, and other donations received for the fund.

1 (c) Money in the fund may be appropriated only to the
2 commission to pay for capital improvements that are required under
3 Section 511.009(a)(23).

4 (d) The commission by rule may establish a grant program to
5 provide grants to counties to fund capital improvements described
6 by Subsection (c). The commission may only provide a grant to a
7 county for capital improvements to a county jail with a capacity of
8 not more than 96 prisoners.

9 Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before
10 the fifth day of each month, the sheriff of each county shall report
11 to the commission regarding the occurrence during the preceding
12 month of any of the following incidents involving a prisoner in the
13 county jail:

- 14 (1) a suicide;
- 15 (2) an attempted suicide;
- 16 (3) a death;
- 17 (4) a serious bodily injury, as that term is defined by
18 Section 1.07, Penal Code;
- 19 (5) an assault;
- 20 (6) an escape;
- 21 (7) a sexual assault; and
- 22 (8) any use of force resulting in bodily injury, as
23 that term is defined by Section 1.07, Penal Code.

24 (b) The commission shall prescribe a form for the report
25 required by Subsection (a).

26 (c) The information required to be reported under
27 Subsection (a)(8) may not include the name or other identifying

1 information of a county jailer or jail employee.

2 (d) The information reported under Subsection (a) is public
3 information subject to an open records request under Chapter 552.

4 Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING
5 IN COUNTY JAIL. (a) On the death of a prisoner in a county jail,
6 the commission shall appoint a law enforcement agency, other than
7 the local law enforcement agency that operates the county jail, to
8 investigate the death as soon as possible.

9 (b) The commission shall adopt any rules necessary relating
10 to the appointment of a law enforcement agency under Subsection
11 (a), including rules relating to cooperation between law
12 enforcement agencies and to procedures for handling evidence.

13 SECTION 3.08. The changes in law made by this article to
14 Article 17.032, Code of Criminal Procedure, apply only to a
15 personal bond that is executed on or after the effective date of
16 this Act. A personal bond executed before the effective date of
17 this Act is governed by the law in effect when the personal bond was
18 executed, and the former law is continued in effect for that
19 purpose.

20 SECTION 3.09. Not later than January 1, 2018, the
21 Commission on Jail Standards shall:

22 (1) adopt the rules and procedures required by Section
23 511.009(d), Government Code, as added by this article, and the
24 rules required by Section 511.021(b), Government Code, as added by
25 this article; and

26 (2) prescribe the form required by Section 511.020(b),
27 Government Code, as added by this article.

1 SECTION 3.10. Not later than September 1, 2018, the
2 Commission on Jail Standards shall adopt the rules and procedures
3 required by Section 511.009(a)(23), Government Code, as added by
4 this article. On and after September 1, 2020, a county jail shall
5 comply with any rule or procedure adopted by the Commission on Jail
6 Standards under that subdivision.

7 SECTION 3.11. To the extent of any conflict, this Act
8 prevails over another Act of the 85th Legislature, Regular Session,
9 2017, relating to nonsubstantive additions to and corrections in
10 enacted codes.

11 ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

12 SECTION 4.01. Chapter 511, Government Code, is amended by
13 adding Section 511.00905 to read as follows:

14 Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION
15 REQUIRED. (a) The Texas Commission on Law Enforcement shall
16 develop and the commission shall approve an examination for a
17 person assigned to the jail administrator position overseeing a
18 county jail.

19 (b) The commission shall adopt rules requiring a person,
20 other than a sheriff, assigned to the jail administrator position
21 overseeing a county jail to pass the examination not later than the
22 180th day after the date the person is assigned to that position.
23 The rules must provide that a person who fails the examination may
24 be immediately removed from the position and may not be reinstated
25 until the person passes the examination.

26 (c) The sheriff of a county shall perform the duties of the
27 jail administrator position at any time there is not a person

1 available who satisfies the examination requirements of this
2 section.

3 (d) A person other than a sheriff may not serve in the jail
4 administrator position of a county jail unless the person satisfies
5 the examination requirement of this section.

6 SECTION 4.02. Section 1701.253, Occupations Code, is
7 amended by amending Subsection (j) and adding Subsection (n) to
8 read as follows:

9 (j) As part of the minimum curriculum requirements, the
10 commission shall require an officer to complete a 40-hour statewide
11 education and training program on de-escalation and crisis
12 intervention techniques to facilitate interaction with persons
13 with mental impairments. An officer shall complete the program not
14 later than the second anniversary of the date the officer is
15 licensed under this chapter or the date the officer applies for an
16 intermediate proficiency certificate, whichever date is earlier.
17 An officer may not satisfy the requirements of this subsection
18 [~~section~~] or Section 1701.402(g) by taking an online course on
19 de-escalation and crisis intervention techniques to facilitate
20 interaction with persons with mental impairments.

21 (n) As part of the minimum curriculum requirements, the
22 commission shall require an officer to complete a statewide
23 education and training program on de-escalation techniques to
24 facilitate interaction with members of the public, including
25 techniques for limiting the use of force resulting in bodily
26 injury.

27 SECTION 4.03. Section 1701.310(a), Occupations Code, is

1 amended to read as follows:

2 (a) Except as provided by Subsection (e), a person may not
3 be appointed as a county jailer, except on a temporary basis, unless
4 the person has satisfactorily completed a preparatory training
5 program, as required by the commission, in the operation of a county
6 jail at a school operated or licensed by the commission. The
7 training program must consist of at least eight hours of mental
8 health training approved by the commission and the Commission on
9 Jail Standards.

10 SECTION 4.04. Section 1701.352(b), Occupations Code, is
11 amended to read as follows:

12 (b) The commission shall require a state, county, special
13 district, or municipal agency that appoints or employs peace
14 officers to provide each peace officer with a training program at
15 least once every 48 months that is approved by the commission and
16 consists of:

17 (1) topics selected by the agency; and

18 (2) for an officer holding only a basic proficiency
19 certificate, not more than 20 hours of education and training that
20 contain curricula incorporating the learning objectives developed
21 by the commission regarding:

22 (A) civil rights, racial sensitivity, and
23 cultural diversity;

24 (B) de-escalation and crisis intervention
25 techniques to facilitate interaction with persons with mental
26 impairments; ~~and~~

27 (C) de-escalation techniques to facilitate

1 interaction with members of the public, including techniques for
2 limiting the use of force resulting in bodily injury; and

3 (D) unless determined by the agency head to be
4 inconsistent with the officer's assigned duties:

5 (i) the recognition and documentation of
6 cases that involve child abuse or neglect, family violence, and
7 sexual assault; and

8 (ii) issues concerning sex offender
9 characteristics.

10 SECTION 4.05. Section 1701.402, Occupations Code, is
11 amended by adding Subsection (n) to read as follows:

12 (n) As a requirement for an intermediate proficiency
13 certificate or an advanced proficiency certificate, an officer must
14 complete the education and training program regarding
15 de-escalation techniques to facilitate interaction with members of
16 the public established by the commission under Section 1701.253(n).

17 SECTION 4.06. Not later than March 1, 2018, the Texas
18 Commission on Law Enforcement shall develop and the Commission on
19 Jail Standards shall approve the examination required by Section
20 511.00905, Government Code, as added by this article.

21 SECTION 4.07. (a) Not later than March 1, 2018, the Texas
22 Commission on Law Enforcement shall establish or modify training
23 programs as necessary to comply with Section 1701.253, Occupations
24 Code, as amended by this article.

25 (b) The minimum curriculum requirements under Section
26 1701.253(j), Occupations Code, as amended by this article, apply
27 only to a peace officer who first begins to satisfy those

1 requirements on or after April 1, 2018.

2 SECTION 4.08. (a) Section 1701.310, Occupations Code, as
3 amended by this article, takes effect January 1, 2018.

4 (b) A person in the position of county jailer on September
5 1, 2017, must comply with Section 1701.310(a), Occupations Code, as
6 amended by this article, not later than August 31, 2021.

7 ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF
8 CITATIONS

9 SECTION 5.01. Article 2.132, Code of Criminal Procedure, is
10 amended by amending Subsections (b) and (d) and adding Subsection
11 (h) to read as follows:

12 (b) Each law enforcement agency in this state shall adopt a
13 detailed written policy on racial profiling. The policy must:

14 (1) clearly define acts constituting racial
15 profiling;

16 (2) strictly prohibit peace officers employed by the
17 agency from engaging in racial profiling;

18 (3) implement a process by which an individual may
19 file a complaint with the agency if the individual believes that a
20 peace officer employed by the agency has engaged in racial
21 profiling with respect to the individual;

22 (4) provide public education relating to the agency's
23 compliment and complaint process, including providing the
24 telephone number, mailing address, and e-mail address to make a
25 compliment or complaint with respect to each ticket, citation, or
26 warning issued by a peace officer;

27 (5) require appropriate corrective action to be taken

1 against a peace officer employed by the agency who, after an
2 investigation, is shown to have engaged in racial profiling in
3 violation of the agency's policy adopted under this article;

4 (6) require collection of information relating to
5 motor vehicle stops in which a ticket, citation, or warning is
6 issued and to arrests made as a result of those stops, including
7 information relating to:

8 (A) the race or ethnicity of the individual
9 detained;

10 (B) whether a search was conducted and, if so,
11 whether the individual detained consented to the search; ~~and~~

12 (C) whether the peace officer knew the race or
13 ethnicity of the individual detained before detaining that
14 individual;

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

18 (E) the location of the stop; and

19 (F) the reason for the stop; and

20 (7) require the chief administrator of the agency,
21 regardless of whether the administrator is elected, employed, or
22 appointed, to submit an annual report of the information collected
23 under Subdivision (6) to:

24 (A) the Texas Commission on Law Enforcement; and

25 (B) the governing body of each county or
26 municipality served by the agency, if the agency is an agency of a
27 county, municipality, or other political subdivision of the state.

1 (d) On adoption of a policy under Subsection (b), a law
2 enforcement agency shall examine the feasibility of installing
3 video camera and transmitter-activated equipment in each agency law
4 enforcement motor vehicle regularly used to make motor vehicle
5 stops and transmitter-activated equipment in each agency law
6 enforcement motorcycle regularly used to make motor vehicle stops.
7 The agency also shall examine the feasibility of equipping each
8 peace officer who regularly detains or stops motor vehicles with a
9 body worn camera, as that term is defined by Section 1701.651,
10 Occupations Code. If a law enforcement agency installs video or
11 audio equipment or equips peace officers with body worn cameras as
12 provided by this subsection, the policy adopted by the agency under
13 Subsection (b) must include standards for reviewing video and audio
14 documentation.

15 (h) A law enforcement agency shall review the data collected
16 under Subsection (b)(6) to identify any improvements the agency
17 could make in its practices and policies regarding motor vehicle
18 stops.

19 SECTION 5.02. Article 2.133, Code of Criminal Procedure, is
20 amended by amending Subsection (b) and adding Subsection (c) to
21 read as follows:

22 (b) A peace officer who stops a motor vehicle for an alleged
23 violation of a law or ordinance shall report to the law enforcement
24 agency that employs the officer information relating to the stop,
25 including:

26 (1) a physical description of any person operating the
27 motor vehicle who is detained as a result of the stop, including:

- 1 (A) the person's gender; and
- 2 (B) the person's race or ethnicity, as stated by
- 3 the person or, if the person does not state the person's race or
- 4 ethnicity, as determined by the officer to the best of the officer's
- 5 ability;
- 6 (2) the initial reason for the stop;
- 7 (3) whether the officer conducted a search as a result
- 8 of the stop and, if so, whether the person detained consented to the
- 9 search;
- 10 (4) whether any contraband or other evidence was
- 11 discovered in the course of the search and a description of the
- 12 contraband or evidence;
- 13 (5) the reason for the search, including whether:
- 14 (A) any contraband or other evidence was in plain
- 15 view;
- 16 (B) any probable cause or reasonable suspicion
- 17 existed to perform the search; or
- 18 (C) the search was performed as a result of the
- 19 towing of the motor vehicle or the arrest of any person in the motor
- 20 vehicle;
- 21 (6) whether the officer made an arrest as a result of
- 22 the stop or the search, including a statement of whether the arrest
- 23 was based on a violation of the Penal Code, a violation of a traffic
- 24 law or ordinance, or an outstanding warrant and a statement of the
- 25 offense charged;
- 26 (7) the street address or approximate location of the
- 27 stop; [~~and~~]

1 (8) whether the officer issued a verbal or written
2 warning or a ticket or citation as a result of the stop; and

3 (9) whether the officer used physical force that
4 resulted in bodily injury, as that term is defined by Section 1.07,
5 Penal Code, during the stop.

6 (c) The chief administrator of a law enforcement agency,
7 regardless of whether the administrator is elected, employed, or
8 appointed, is responsible for auditing reports under Subsection (b)
9 to ensure that the race or ethnicity of the person operating the
10 motor vehicle is being reported.

11 SECTION 5.03. Article 2.134(c), Code of Criminal Procedure,
12 is amended to read as follows:

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

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

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

23 (B) examine the disposition of motor vehicle
24 stops made by officers employed by the agency, categorized
25 according to the race or ethnicity of the affected persons, as
26 appropriate, including any searches resulting from stops within the
27 applicable jurisdiction; and

1 (C) evaluate and compare the number of searches
2 resulting from motor vehicle stops within the applicable
3 jurisdiction and whether contraband or other evidence was
4 discovered in the course of those searches; and

5 (2) information relating to each complaint filed with
6 the agency alleging that a peace officer employed by the agency has
7 engaged in racial profiling.

8 SECTION 5.04. Article 2.137, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The
11 Department of Public Safety shall adopt rules for providing funds
12 or video and audio equipment to law enforcement agencies for the
13 purpose of installing video and audio equipment in law enforcement
14 motor vehicles and motorcycles or equipping peace officers with
15 body worn cameras [~~as described by Article 2.135(a)(1)(A)~~],
16 including specifying criteria to prioritize funding or equipment
17 provided to law enforcement agencies. The criteria may include
18 consideration of tax effort, financial hardship, available
19 revenue, and budget surpluses. The criteria must give priority to:

20 (1) law enforcement agencies that employ peace
21 officers whose primary duty is traffic enforcement;

22 (2) smaller jurisdictions; and

23 (3) municipal and county law enforcement agencies.

24 (b) The Department of Public Safety shall collaborate with
25 an institution of higher education to identify law enforcement
26 agencies that need funds or video and audio equipment for the
27 purpose of installing video and audio equipment in law enforcement

1 motor vehicles and motorcycles or equipping peace officers with
2 body worn cameras [~~as described by Article 2.135(a)(1)(A)~~]. The
3 collaboration may include the use of a survey to assist in
4 developing criteria to prioritize funding or equipment provided to
5 law enforcement agencies.

6 (c) To receive funds or video and audio equipment from the
7 state for the purpose of installing video and audio equipment in law
8 enforcement motor vehicles and motorcycles or equipping peace
9 officers with body worn cameras [~~as described by Article~~
10 ~~2.135(a)(1)(A)~~], the governing body of a county or municipality, in
11 conjunction with the law enforcement agency serving the county or
12 municipality, shall certify to the Department of Public Safety that
13 the law enforcement agency needs funds or video and audio equipment
14 for that purpose.

15 (d) On receipt of funds or video and audio equipment from
16 the state for the purpose of installing video and audio equipment in
17 law enforcement motor vehicles and motorcycles or equipping peace
18 officers with body worn cameras [~~as described by Article~~
19 ~~2.135(a)(1)(A)~~], the governing body of a county or municipality, in
20 conjunction with the law enforcement agency serving the county or
21 municipality, shall certify to the Department of Public Safety that
22 the law enforcement agency has taken the necessary actions to use
23 and is using [~~installed~~] video and audio equipment and body worn
24 cameras for those purposes [~~as described by Article 2.135(a)(1)(A)~~
25 ~~and is using the equipment as required by Article 2.135(a)(1)~~].

26 SECTION 5.05. Article 2.1385(a), Code of Criminal
27 Procedure, is amended to read as follows:

1 (a) If the chief administrator of a local law enforcement
2 agency intentionally fails to submit the incident-based data as
3 required by Article 2.134, the agency is liable to the state for a
4 civil penalty in an ~~[the]~~ amount not to exceed \$5,000 ~~[of \$1,000]~~
5 for each violation. The attorney general may sue to collect a
6 civil penalty under this subsection.

7 SECTION 5.06. Article 2.135, Code of Criminal Procedure, is
8 repealed.

9 SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal
10 Procedure, as amended by this article, apply only to a report
11 covering a calendar year beginning on or after January 1, 2018.

12 SECTION 5.08. Not later than September 1, 2018, the Texas
13 Commission on Law Enforcement shall:

14 (1) evaluate and change the guidelines for compiling
15 and reporting information required under Article 2.134, Code of
16 Criminal Procedure, as amended by this article, to enable the
17 guidelines to better withstand academic scrutiny; and

18 (2) make accessible online:

19 (A) a downloadable format of any information
20 submitted under Article 2.134(b), Code of Criminal Procedure, that
21 is not exempt from public disclosure under Chapter 552, Government
22 Code; and

23 (B) a glossary of terms relating to the
24 information to make the information readily understandable to the
25 public.

26 ARTICLE 6. EFFECTIVE DATE

27 SECTION 6.01. Except as otherwise provided by this Act,

S.B. No. 1849

1 this Act takes effect September 1, 2017.