

TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR
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July 24, 2017

Dear Sheriff:

The 85th Legislature passed, and Governor Abbott signed SB 1849, commonly referred to as "The Sandra Bland Act" which will require changes to Minimum Jail Standards. The formal adoption of the amended minimum jail standards will progress through normal rulemaking procedures but in order to meet the mandated deadlines of the bill, this process will begin on August 3, 2017. Public comment on the proposed rules will be accepted, considered and taken into account before the final rules are adopted. Some of these changes will require a change to your operational plans. Please do not submit any changes to your operational plans until **AFTER** the Commission has adopted the final version of the proposed rules. The commission will provide you with instructions on how and when to submit your operational plans for review and approval. Please find below a summary of the enacted legislation and action required by counties.

Item 1

CCP Art. 16.22 has been amended to read as follows, "Not later than 12 hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability, including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate."

*This changes the notification requirement from 72 hours to 12 hours. This amendment to Art. 16.22 will not require a change to standards but will go into effect **September 1, 2017**.*

Item 2

To ensure the safety of prisoners, a county jail is required to:

1. give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;
2. give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional;
3. install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

Judge Bill Stoudt, Longview, Chair
Jerry W. Lowry, New Caney, Vice Chair
Larry S. May, Sweetwater

Sheriff Dennis D. Wilson, Groesbeck
Sheriff Kelly Rowe, Lubbock
Dr. Esmail Porsa, M.D., Parker

Commissioner Ben Perry, Waco
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Counties will be required to provide access to a mental health professional at the jail through a telemental health service 24 hours a day if on-site access is not available 24 hours a day.

Counties will also be required to provide access to a health professional at the jail or through a telehealth service 24 hours a day. If a health professional is unavailable in person or via telehealth, the county will provide transport to access a health professional. These two sections mean counties will be required to provide access to mental health and medical health care 24 hours a day, either on-site or through tele-med.

Counties will also be required to have either electronic sensors or cameras that can demonstrate checks are being made in your high risk areas (holding, detox, violent and separation cells.) The legislature created an account to be managed by TCJS called the Prisoner Safety Fund. Counties that operate a jail that is 96 beds or less may apply for grants to assist in paying for the capital improvement upgrades required (electronic sensors and possibly cameras.) This program is currently being developed and additional information on how to apply and what will be covered will be provided after completion of a survey that will be conducted by the commission.

*TCJS is required to adopt rules and procedures for the above requirements not later than **September 1, 2018**. A county jail shall comply with any rule or procedures for the above requirements by **September 1, 2020**.*

Item 3

TCJS is required to adopt rules and procedures establishing minimum jail standards regarding the continuity of prescription medications for the care and treatment of prisoners no later than **January 1, 2018**. The rules and procedures shall require that a qualified medical professional review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

*Proposed rule language will be considered **August 3, 2017**. Counties will have the opportunity and are encouraged to comment on the proposed language for this section prior to **November 2, 2017**. All comments will be reviewed and considered before the rule is adopted and becomes effective on **January 1, 2018**.*

Item 4

On or before the fifth day of each month, the sheriff of each county shall report to TCJS the number of serious incident occurring the previous month involving a prisoner in the county jail: Suicide; Attempted suicide; Death; A serious Bodily injury, as defined by Section 1.07, Penal Code; An assault; An escape; A sexual assault; Any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

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*TCJS is required to prescribe a form for the report by **January 1, 2018**. This form is being developed and will be reviewed and tested by selected counties.*

Item 5

On the death of a prisoner in a county jail, the Texas Commission on Jail Standards shall appoint a law enforcement agency, other than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

*While counties may have their own Criminal Investigators or Internal Affairs Divisions investigate deaths in custody, TCJS is mandated to appoint an independent, outside agency to investigate the death. TCJS is required to adopt any rules necessary relating to the appointment of a law enforcement agency, including rules relating to cooperation between law enforcement agencies and procedures for handling evidence. TCJS is collaborating with DPS and other law enforcement agencies in an effort to create a workable solution. Draft language and ideas will be provided for comment and review before adoption of any rules which is required by **January 1, 2018**.*

Item 7

Not later than **March 2018**, TCOLE shall develop and TCJS shall approve an examination for a person assigned to the jail administrator position. TCJS is mandated to adopt a rule requiring a person, other than the sheriff, assigned to the jail administrator position to pass the examination not later than the 180th day after the date the person is assigned to that position. A person who fails the exam will be immediately removed from the position and may not be reinstated until the person passes the exam. The sheriff shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination.

TCJS and TCOLE have created a workgroup, made up of current and former jail administrators to create the test. It will consist of questions about jail operations; Areas covered during TCJS Annual Inspection; Management procedures; TCOLE Licensing requirements; and other pertinent areas. A study guide will be provided to assist students prior to taking the examination. The guide will prepare the student with the knowledge and areas of study they need to get ready for the exam.

Persons serving as Jail Administrators on or before March 1, 2018 will be grandfathered and not required to take the exam. This exemption expires if: a jail administrator accepts the position of jail administrator in another county, or a new/incoming sheriff appoints the existing jail administrator to the same position.

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Item 8

Occupations Code 1701.310(a) is amended to include that the required county jailer training course include at least eight hours of mental health training approved by TCOLE and the Texas Commission on Jail Standards. Current licensed jailers have until August 31, 2021 to take an approved eight hour mental health training course. New Jailers hired on and after September 1, 2017 will receive the required mental health training while in jail school.

TCJS will develop a free course that meets this requirement and employ three mental health trainers to assist the current licensed jailers to meet the training requirement by August 31, 2021. Additional details regarding classes will be provided by December 1, 2017.

If you have any questions regarding this letter or any other issue, please do not hesitate to contact my office.

Sincerely,


Brandon S. Wood
Executive Director

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