

86th TEXAS LEGISLATIVE SESSION UPDATE

New Laws Specifically Directing TCJS

HB 1651, Gonzalez

Subject: Pregnant Inmate Restraints

Requires TCJS to adopt minimum standards:

- 1) to ensure obstetrical and gynecological care be addressed in jail health service plans, and
 - 2) to identify when a pregnant prisoner is in labor and provide appropriate care to the prisoner, including promptly transporting the prisoner to a local hospital
 - 3) to prohibit restraints on pregnant inmates during pregnancy and 12 weeks thereafter unless the restraints would prevent escape or harm, as defined
- Requires the least restrictive restraints necessary on pregnant inmates.
 - Requires the restraints must also be, if applicable, for the health and safety of the unborn child.
 - Requires jailers to remove or refrain from using the restraints at the request of a health care professional responsible for the health and safety of the prisoner.
 - Requires jails to submit to TCJS a report, as specified, not later than Feb 1 every year on the use of restraints on pregnant inmates during pregnancy and for 12 weeks after giving birth.
 - Requires TCJS to prescribe the form for the annual report described above.

Effective 9/1/2019. By 12/1/19, TCJS must

- adopt rules, procedures for:
 - including obstetrical and gynecological care in jail health service plans
 - identifying when a pregnant inmate is in labor and providing appropriate care
 - the restraint of pregnant prisoners
- prescribe the annual restraint report form

HB 2169, Allen

Subject: Feminine Hygiene Products

Amends Gov. Code 511 to require TCJS to adopt rules and procedures for minimum standards for quantity, quality, type, and size of feminine hygiene products. Requires TCJS to count pregnant prisoners.

Effective 9/1/2019.

HB 3116, White

Subject: TCJS Study: IDD Detention Best Practices

Establishes a task force and requires TCJS to appoint 8 members, including one representative of a county jail, to conduct a comprehensive study on best practice standards for the detention of a person with an intellectual or developmental disability, specifically:

- (1) current policies and procedures
- (2) barriers to accommodations and justice
- (3) best practices used in other states
- (4) policies that would improve jail standards; and
- (5) any other issue the task force considers appropriate

Requires the task force to prepare and submit to the governor, lieutenant governor, speaker of house, and presiding officer of criminal justice-related standing committees of both houses a written report, as defined.

Effective 9/1/2019; written report due: 12/1/2020

HB 3440, Capriglione

Subject: TCJS Electronic Report Submission

Amends Gov. Code 511 to require TCJS to develop and establish a system for jails to submit information to TCJS electronically and in electronic format. Allows TCJS to charge jails a reasonable fee for not using its electronic system. TCJS will adopt rules and procedures.

Effective 9/1/2019. Implementation by 9/1/2020.

HB 4559, Fierro

Subject: LMHA may request inmate health coverage beneficiary information.

Amends Gov. Code to add §511.0098 to allow an LMHA or other health insurance or health benefits coverage to collect specified health coverage information, such as policyholder name, policy number, a copy of the coverage card, etc. TCJS will adopt rules and procedures.

Effective 9/1/ 2019.

HB 4468, Coleman

Subject: Inmate mental health access, temp jailer 90-day training, Prisoner Safety Fund 288 Bed Threshold

Current law requires jails to give prisoners the ability to access a mental health professional at the jail through telemental health service 24 hours per day, beginning 9/1/2020. This law amends Gov. Code 511.009(a) to give jails three options for providing mental illness treatment:

- 1) In-person treatment in the jail
 - 2) 24/7 telemental health treatment in the jail
 - 3) If in-person or 24/7 telemental treatment are not available at the county jail, then the jail must use all reasonable efforts to arrange for the inmate to have access to a mental health professional within a reasonable time
- Requires TCJS to adopt rules requiring commission meeting review of non-compliant private jails
 - Amends Occ. Code 1701 to require temporary county jailers be enrolled in preparatory training on or before the 90th day after hire
 - Repeals existing law that allows sheriffs to petition TCOLE to reinstate a temporary jailer after their first anniversary of hire
 - Prevents temporary county jailers from being promoted to supervisory position. TCJS will adopt rules and procedures

Effective 9/1/2019. If a jail is going to implement 24/7 telemental health access, then it must be in place by 9/1/2020.

SB 346, Zaffirini

Subject: Inmate reimbursement fee for medical care

Subject: Currently, CCP requires that current or former county jail inmates who received medical, dental, or health related services from a county or a hospital district to pay for such services when they are rendered. This law requires inmates to pay instead a reimbursement fee for such services. TCJS may require jails to revise their Health Service Operations Plans.

Effective 1/1/2020

SB 1700, Whitmire

Subject: Discharge inmates from 6:00 AM to 5:00 PM

Amends CCP 43 to require jails to release defendants, mentally ill inmates excepted, between 6 A.M. and 5 P.M. on the day of discharge, as specified and with exceptions. Permits the jail to release inmates the day before the defendant's sentence ends. When the inmate requests it, this law permits the jail to release inmates before 6 A.M. or after 5 P.M. TCJS will adopt rules.

Effective 9/1/2019

New Laws Directing All State Agencies, Including TCJS – No Standards Required

HB 7, Morrison

Subject: Disaster suspension of rules

Amends Gov. Code to require the governor's office to compile a list of statutes and rules that may need to be suspended during a disaster. Requires state agencies impacted to advise the governor's office on the list. TCJS may be required to advise on the list.

Effective 9/1/2019

HB 2042, Stucky

Subject: Postpayment audits conducted by comptroller

Current law permits the comptroller and a state agency to contract for the comptroller to audit post-payment claims. This bill amends Gov. Code 403 to permit the comptroller to audit state agency post-payment claims regardless whether it has entered into a contract with the state agency to do so. Requires the law's provisions to apply only post-payment audits initiated on or after the Act's effective date. TCJS must permit comptroller to access its records for the audit.

Effective 9/1/2019

HB 2110, Shaheen

Subject: Customer Service survey standardization

Current law requires state agencies to collect information regarding the quality of service of the agency and the LBB to develop means for state agencies to accomplish that. This bill amends Gov. Code to require both the LBB and the Governor's Office of Budget and Policy to develop jointly a standardized method and standardized performance measures. Changes TCJS biennial customer satisfaction survey.

Effective 9/1/2019

HB 2340, Dominguez

Subject: Emergency disaster management

Amends Gov. Code to encourage state agencies, local governments, nongovernmental organizations, private entities, and individuals to adopt the goals of the strategic plan of FEMA for preparing for, responding to, and recovering from a disaster that emphasize cooperation among all interested entities.

Effective 9/1/2019

HB 3834, Capriglione

Subject: Requires state employees take cybersecurity training

Amends Gov. Code to require state employees who use a computer to complete at least 25% of their duties to complete a cybersecurity training program, as defined. The bill contains other related provisions. Requires agency heads to conduct periodic (undefined) audits to ensure compliance. Permits local governments to offer specified cybersecurity training.

Effective immediately

HB 3875, Capriglione

Subject: Automated info systems cloud compatible

Current law requires a state agency consider cloud computing service options for an automated information system or major information resources projects, as defined, and must ensure the system or project is capable of being deployed and run on cloud computing services, with exceptions as specified. This law requires that the agencies ensure that an automated information system project is capable of being deployed and run on cloud computing services. Impacts TCJS only if TCJS commences an automated info system.

Effective 9/1/2019

HB 3980, Hunter

Subject: SBHCC suicide report

Requires the State Behavioral Health Coordinating Committee (SBHCC) to prepare a summary report on the prevalence of suicide in Texas and state policies and programs to prevent suicides and submit the report by 12/1/2019 to the governor, lieutenant governor, speaker of the house, and each standing health-related committee. Requires the SBHCC by 12/1/2020 to prepare a legislative report that makes recommendations for state agencies to improve suicide data collection, develop policy related to reducing suicide. May impact TCJS and stakeholders, depending on the SBHCC report. TCJS serves on SBHCC.

Effective immediately; Expires 12/1/2020

SB 64, Nelson

Subject: IT breach notification to DIR

Requires state agencies to cooperate with DIR in its report to LBB that prioritizes cybersecurity projects and projects to modernize or replace legacy systems. Requires state agencies to notify DIR within 10 days of an IT security breach, etc. Effective 9/1/2019

SB 68, Nelson

Subject: Strategic fiscal reviews agencies programs

Amends Gov. Code 322 to require the LBB to perform a strategic fiscal review for each state agency currently the subject of Sunset review. Requires LBB to submit the review, as specified, by 9/1 of the even-numbered year to the Governor, Lieutenant Gov., Speaker, Senate Finance Committee and House Appropriations. The bill specifies the report must include justification for and effectiveness of the agency activities, a quantitative impact of eliminating each activity, an itemized account of activity expenditures, a ranking of each activity's importance, and recommendations whether to continue each activity.

Effective 9/1/2019

SB 562, Zaffirini

Subject: Jails must include mental health documents when transferring inmates to TDCJ

When counties transfer defendants to TDCJ, current law requires the counties to include specified documents and information, including health information. This law amends CCP 42 to require that the county also transfer the inmate's MH records, MH screening reports, or similar MH info.

Effective immediately upon governor's signature 6/14/2019.

SB 943, Watson

Subject: Makes contracting info public

Amends the Public Information Act to make contracting information, as defined, public unless specially excepted in Gov. Code 522. Makes any information excepted from disclosure if release would harm an agency's interests by providing an advantage to a competitor or bidder. TCJS has already made Prisoner Safety Fund information public.

Effective 1/1/2020

SB 944, Watson

Subject: Relating to the public information law.

Amends Gov. Code 522 to create a definition of "Temporary custodian" as a governmental officer or employee who creates or receives public information he/she has not provided to the officer for public information. The term includes current or former government employees and would require them to preserve official info on personal devices or transfer the info to governmental body server or to preserve the info on the private device. Amends Gov. Code 552 to provide that protected health information is not public and not disclosable as it is defined in HS Code 181.006, which is that, for a covered entity that is a governmental unit, an individual's protected health information includes any information that reflects that an individual received health care from the covered entity; and is not public information and is not subject to disclosure under Gov. Code 552. The Committee analysis states the law would thereby create a new exception to disclosure for sensitive healthcare information and address any concerns that an exception in HIPAA will lead to the release of private patient records in Texas. Allows governmental bodies to designate a single e-mail address and a single mailing address to receive PIA requests. TCJS employees/officers would have to transfer or preserve work information on private devices.

Effective 9/1/2019

New Laws Related to Jails Only – No Standards Required

HB 601, Price

Subject: Mental Health Expert Interview

Previously, a magistrate was required to order a qualified mental health expert or intellectual disability expert to assess the information collected from an inmate suspected of having mental illness or intellectual disability. This new law now requires the expert to interview these inmates if the inmate has not previously been interviewed on or after the date the inmate was arrested. This law permits the interview to be conducted either in person in the jail, by telephone, by telemedicine, or by telehealth service. This law requires the commissioner's courts to reimburse the expert for the cost of performing the interview. This law requires jails to include any mental health records, mental health screening reports when transferring an inmate to the Department of Criminal Justice (TDCJ).

Effective 9/1/2019

HB 1374, Hernandez

Subject: Relating to grants for the development and operation of pretrial intervention programs for defendants who are the primary caretaker of a child.

Amends Gov. Code 509 to permit a specified division of TDCJ to award a grant to a department for the development and operation of a pretrial intervention program for defendants who are pregnant at the time of program placement or the primary caretaker of a child under 18. Reduces incarceration in county jails of pregnant inmates or inmates who are primary caretakers of a child under 18.

Effective 9/1/2019.

HB 3503, Anderson

Subject: Firearms training for county jailers.

Amends Occ. Code to require TCOLE to develop firearms training, as specified, for county jailers. Allows jailers who have passed the training to carry a firearm while performing duties. Requires agencies that employ county jailers authorized to carry firearms to designate a firearms proficiency officer and requires each jailer to annually demonstrate weapons proficiency to the firearms proficiency officer. Failure to demonstrate proficiency does not affect the county jailer's license.

Effective 9/1/2019.

SB 22, Campbell

Subject: Abortion

Prohibits jails from using public tax revenue to obtain abortions at Abortion Facilities established by Health and Safety Code or at ambulatory surgical centers that perform fewer than 50 abortions per year. Jails could still pay for abortions at licensed hospitals, doctor offices who perform fewer than 50 abortions per year, state hospitals, teaching hospitals, and specified residency programs that train resident physicians.

Effective 9/1/2019

SB 340, Huffman

Subject: Creates a grant program to assist law enforcement agencies with the purchase of opioid antagonists.

Amends Gov. Code 772 to require the criminal justice division of the Governor's Office to establish and administer a grant program to provide financial assistance to a law enforcement agency that seeks to provide opioid antagonists to peace officers and "related personnel" who are likely to come into contact with opioids or encounter persons suffering from an apparent opioid-related drug overdose. Requires the agency requesting the grant to first adopt a policy addressing the usage of an opioid antagonist. Allows the law to be implemented only if only if the legislature appropriates money specifically for that purpose.

Effective 9/1/2019.

SB 362, Huffman

Subject: Court-ordered mental health services.

Amends Civil Practice and Remedies law to allow that, as applicable and within specified conditions, a trial court may release a defendant on bail while charges remain pending and enter an order transferring the defendant to the appropriate court for court-ordered outpatient mental health services for no longer than 45 to 90 days.

Effective 9/1/2019.

SB 405, Birdwell

Subject: It is a crime to make a false report to jailers and others, as specified.

Amends Penal Code to make it a crime to make false statements to corrections officers and jailers.

Effective 9/1/2019.

SB 632, Kolkhorst

Subject: Includes sheriffs on governing bodies of local mental health authorities

Amends Health and Safety Code 533 to require LMHA governing bodies, when existing, to include a sheriff or sheriff representative as a non-voting ex-officio member. When the LMHA service area includes multiple counties, the sheriffs rotate every two years. Where LMHAs do not have governing bodies, the law requires that the LMHAs consult with a sheriff or sheriff representative regarding the use of LMHA funds received

from DSHS. Requires community center board of trustees must include a sheriff or a representative of a sheriff. Permits LMHAs to rotate the position among sheriffs.
Effective 9/1/2019.