

TEXAS COMMISSION ON JAIL STANDARDS

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TECHNICAL ASSISTANCE MEMORANDUM #23-07

To: All Sheriffs and Jail Administrators
From: Brandon Wood, Executive Director
Date: June 26, 2023

RE: New Legislation

The 88th Legislative Session produced new laws that impact Texas county jails. This TA Memo is to assist you in identifying changes in law that may impact your operations. The Commission urges county jails to read the laws and consult with your attorneys to ensure full compliance.

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HB1 Budget Rider Continuity of Care

The General Appropriations Act amended a Texas Department of Criminal Justice budget rider regarding where counties and municipal jails may seek reimbursement for medication costs for inmates who have returned from a state hospital after competency has been restored.

- Counties and municipal jails, along with contracted community center (as defined by Texas Health and Safety Code 534.001), such as LMHA’s, must still coordinate with TDCJ’s Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) to establish methods for the continuity of care plans for pre- and post-release activities of defendants who are returned to the county of conviction after the defendant’s competency has been restored. TCOOMMI is available for technical assistance.
- As part of the Continuity of Care Plan prepared by the state mental health facility, TCOOMMI or through the contracted community centers will be able provide reimbursement to county or municipal jails for expenses related to providing up to a 90-day post-release supply of medication, related lab cost and prescriber cost to defendants

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“The Commission on Jail Standards welcomes all suggestions and will promptly respond to all complaints directed against the agency or any facilities under its purview”.

To empower local government to provide safe, secure and suitable local jail facilities through proper rules and procedures while promoting innovative programs and ideas

who, after having been committed to a state mental health facility for restoration of competency under Chapter 46B, Code of Criminal Procedure, are being returned to the committing court for trial. The GAA has appropriated \$500,000 per fiscal year for reimbursement costs to counties and municipal jails.

- TCOOMMI and TCJS will provide future education opportunities on how to seek reimbursement for related expenses.

TCJS recommends that you contact tcoommi@tdcj.texas.gov with any questions or for assistance with this opportunity for reimbursement.

HB 2183 Temporary Appointment of County Jailers

This bill amends Occupations Code 1701.310, which addresses the issuance of a temporary jailer license. Prior to this change, an individual could only be issued one temporary jailer license, which was valid for one year. Beginning September 1, 2023, the following will apply:

- The Sheriff may petition TCOLE to extend the appointment for up to six (6) months.
- A person who previously held a temporary jailer license and left in good standing may be issued a second temporary jailer license.
- A person who held a temporary jailer license and received a six-month extension but then separated in good standing is eligible for a second temporary license for an additional 12 months. The second temporary jailer license is not eligible for an extension.
- A person who previously held a county jailer license and is currently inactive may be appointed as a temporary jailer.

TCOLE will be adopting administrative rules necessary to implement these changes and provide information on the petition process.

HB 2620 Pending Transfer from County Jail to TDCJ and Compensation

This bill amends Gov't. Code § 499.071 and adds Gov't. Code § 499.1215 to clarify the process by which the Texas Department of Criminal Justice must certify pen packet documents and take a defendant into custody from the county. Beginning immediately, the following will apply:

- TDCJ will review documents required by Section 8 of Article 42.09 of the Code of Criminal Procedure and determine if the documents contain any errors or deficiencies requiring corrective action by the county.
- No later than the 5th business day after the date of receipt, TDCJ will either certify the documents or notify the county that the documents require corrective action.
- TDCJ must take the individual into custody no later than the 45th day following the date on which documents have been certified.

The Texas Board of Criminal Justice will be adopting an updated scheduled admissions policy.

TDCJ will be adopting a process to compensate a county for the costs related to the confinement of a person awaiting transfer following a conviction of a felony and sentencing to death or a term of imprisonment or confinement in a state jail after 45 days of the certification of required documents that occurs on or after October 1, 2023.

TCJS recommends that you contact Brittney Losack with any questions:

Email: Brittney.Losack@tdcj.texas.gov

Office: (936)437-6387

Cell: (936)355-7021

HB 4559 Commissary

This bill addressed multiple non-jail issues but does have a section regarding commissary operation in large counties. HB 4559 amended Local Gov. Code § 351.044155 to increase the population threshold of counties in which commissary operation is **NOT** at the sole discretion of the sheriff.

This change in statute affects ONLY the following counties:

HARRIS DALLAS TARRANT

- If the county has a population of 2.1 million or more, then this applies.
- If a county has two municipalities with a population of 250,00 or more and is adjacent to a county with a population of 2.1 million or more this applies.
- This law becomes effective 9/1/23.

SB 22 Rural Sheriff's Office Salary Assistance Grant Program

This bill amended Local Gov. Code Subchapter Z, by adding §§ 130.911, 130.912, and 130.913 to require the Comptroller to establish and administer a rural sheriff's office salary assistance grant program to provide financial assistance to sheriff's offices in counties with a population of 300,000 or less.

- A qualifying county may submit an application for a grant to the Comptroller once each fiscal year not later than the 30th day after the first day of the county's fiscal year after January 1, 2024.
- The grant will be in the following amounts:
 - \$250,000 if the county has a population of less than 10,000;
 - \$350,000 if the county has a population greater than 10,000 and less than 50,000; or
 - \$500,000 if the county has a population greater than 50,000 and less than 300,000.
- The grant funds may be used only as follows:
 - To provide a minimum annual salary of at least:
 - \$75,000 for the county sheriff;
 - \$45,000 for each deputy who makes motor vehicle stops in the routine performance of their duties; and
 - \$40,000 for each jailer whose duties include the safekeeping of prisoners and the security of a jail operated by the county;
 - Only after these salary requirements are met may the remaining funds then be used:
 - To hire additional deputies or staff for the sheriff's office; or
 - To purchase vehicles, firearms, and safety equipment for the sheriff's office.
 - To increase the salary above the minimum of a person described above;
- The new law prohibits counties from reducing sheriff office funding due to the grant.
- The law becomes effective 9/1/23.

SB 252 Legal Permanent Residents as Peace Officers, Jailers & Telecommunicators

This bill amended Occupations Code § 1701 to require Texas Commission On Law Enforcement (TCOLE) to issue licenses to a lawful permanent U. S. resident if the person:

- Meets the requirements as specified in Local Government Code and the TCOLE's rules;
- Is an honorably discharged veteran of the U.S. armed forces with at least two years of service before discharge; and
- Presents evidence satisfactory to TCOLE that the person has applied for U. S. citizenship.

- Amended Local Government Code to add § 370.007 to allow local governments to employ such persons. It also prohibits local governments from appointing or employing such persons to a supervisory position until the person becomes a United States citizen.
- The law is effective 9/1/23.

SB 1677 Jail Diversion Center Expansion

This bill added Gov't. Code § 531.09936 to require the Health and Human Services Commission (HHSC) to establish or expand behavioral health centers or jail diversion centers to the extent money is appropriated to HHSC for that purpose. The centers would provide:

- Additional forensic hospital beds and competency restoration services; and
- Services to reduce recidivism and the frequency of arrest, incarceration, and emergency detentions among persons with mental illness in the service areas.
- The law is effective on 9/1/23.

SB 2479 Magistrate Notification

- This bill amended CCP Article 16.22(a), (b-2), and (d) to require jails to report to the magistrate all alleged offenders for which the jail receives credible information that may establish reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability. Previously, CCP 16.22 required that only a Class B misdemeanor or higher be reported to a magistrate.
- The magistrate is no longer required to order the interview and collection of other information if the defendant was only arrested or charged with an offense punishable as a Class C misdemeanor.
- This bill added Health and Safety Code § 573.012(d-1) and amended § 573.012(h) so that a peace officer who transports an apprehended person to a competency restoration facility is not required to remain at the facility and may now leave the facility immediately after the peace officer provides to the facility the required documentation and after the person is taken into custody by appropriate facility staff.
- This law is effective on 9/1/23.