

GOVERNMENT CODE

CHAPTER 511. COMMISSION ON JAIL STANDARDS

Sec. 511.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Commission on Jail Standards.

(2) "Correctional facility" means a facility operated by a county, a municipality, or a private vendor for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

(3) "County jail" means a facility operated by or for a county for the confinement of persons accused or convicted of an offense.

(4) "Executive director" means the executive director of the commission.

(5) "Federal prisoner" means a person arrested for, charged with, or convicted of a violation of a federal law.

(6) "Inmate" means a person arrested for, charged with, or convicted of a criminal offense of this state or another state of the United States and confined in a county jail, a municipal jail, or a correctional facility operated by a county, a municipality, or a private vendor.

(7) "Prisoner" means a person confined in a county jail.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 259, Sec. 1, eff. Sept. 1, 1997.

Sec. 511.002. COMMISSION. The Commission on Jail Standards is an agency of the state.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989.

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.03, eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 2, eff. Sept. 1, 1997.

Sec. 511.004. MEMBERSHIP; TERMS; VACANCIES. (a) The commission consists of nine members appointed by the governor with the advice and consent of the senate. One member must be a sheriff of a county with a population of more than 35,000, one must be a sheriff of a county with a population of 35,000 or less, one must be a county judge, one must be a county commissioner, one must be a practitioner of medicine licensed by the Texas State Board of Medical Examiners, and the other four must be representatives of the general public. At least one of the four citizen members must be from a county with a population of 35,000 or less.

(b) The sheriffs, county judge, and county commissioner appointed to the commission shall perform the duties of a member in addition to their other duties.

(c) Members serve for terms of six years with the terms of one-third of the members expiring on January 31 of each odd-numbered year.

(d) If a sheriff, county judge, or county commissioner member of the commission ceases to be sheriff, county judge, or county commissioner, the person's position on the commission becomes vacant.

(e) A person appointed to fill a vacancy must have the same qualifications for appointment as the member who vacated the position.

(f) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity, county jail, or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from

the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(h) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with Subsection (i).

(i) The training program required by Subsection (h) must provide information to the person regarding:

(1) the enabling legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interests laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(j) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program required by Subsection (h) as provided by the General Appropriations Act and as if the person were a member of the commission.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 3, eff. Sept. 1, 1997.

Sec. 511.0041. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 511.004;

(2) does not maintain during service on the commission the qualifications required by Section 511.004;

(3) violates a prohibition established by Section 511.0042;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 3, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 259, Sec. 4, eff. Sept. 1, 1997.

Sec. 511.0042. CONFLICT OF INTEREST. (a) An officer, employee, or paid consultant of a Texas trade association in the field of county corrections may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of county

corrections may not be a commission member and may not be a commission employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(d) A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 4, eff. Sept. 1, 1991.

Sec. 511.005. PRESIDING OFFICER; ASSISTANT PRESIDING OFFICER. (a) The governor shall designate one member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(b) The commission biennially shall elect from the membership an assistant presiding officer. The assistant presiding officer serves in that capacity for a period of two years expiring February 1 of each odd-numbered year.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 5, eff. Sept. 1, 1991.

Sec. 511.006. MEETINGS; RULES. (a) The commission shall hold a regular meeting each calendar quarter and may hold special meetings at the call of the presiding officer or on the written request of three members. If the presiding officer is absent, the assistant presiding officer shall preside at a meeting.

(b) The commission shall adopt, amend, and rescind rules for the conduct of its proceedings.

(c) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 6, eff. Sept. 1, 1991.

Sec. 511.007. COMPENSATION; REIMBURSEMENT. A member of the commission is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989.

Sec. 511.0071. COMPLAINTS AND ACCESS. (a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the commission programs.

(c) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated under this chapter or of an entity the creation of which is authorized by this chapter;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated under this chapter or of an entity the creation of which is authorized by this chapter; or

(3) in a bill for service provided by an individual or entity regulated under this chapter or by an entity the creation of which is authorized by this chapter.

(d) The commission shall keep an information file about each

complaint filed with the commission that the commission has authority to resolve. The commission is not required to keep an information file about a complaint to the commission from or related to a prisoner of a county or municipal jail. The commission shall refer a complaint from or related to a prisoner to the appropriate local agency for investigation and resolution and may perform a special inspection of a facility named in the complaint to determine compliance with commission requirements.

(e) If a written complaint is filed with the commission that the commission has authority to resolve, the commission at least quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(f) The commission shall collect and maintain information about each complaint received by the commission, including:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;

- (5) a summary of the results of the review or investigation of the complaint; and

- (6) for a complaint for which the agency took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 7, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 259, Sec. 5, eff. Sept. 1, 1997.

Sec. 511.008. DIRECTOR; STAFF. (a) The commission shall employ an executive director who is the chief executive officer of the commission and who serves at the will of the commission. The executive director is subject to the policy direction of the commission.

(b) The executive director may employ personnel as necessary to enforce and administer this chapter.

(c) The executive director and employees are entitled to compensation and expenses as provided by legislative appropriation.

(d) The commission shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the commission.

(f) The executive director or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(g) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for commission employees must be based on the system established under this subsection.

(h) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with Chapter 21, Labor Code;

- (2) a comprehensive analysis of the commission work force that meets federal and state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations;

- (3) procedures by which a determination can be made about the extent of underuse in the commission work force of all persons for whom federal or state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations encourage a more equitable balance; and

- (4) reasonable methods to appropriately address those areas of underuse.

(i) A policy statement prepared under Subsection (h) must cover an annual period, be updated at least annually and reviewed by the Commission on Human Rights for compliance with Subsection (h)(1), and be filed with the governor's office.

(j) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (i). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 8, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 259, Sec. 6, eff. Sept. 1, 1997.

Sec. 511.009. GENERAL DUTIES. (a) The commission shall:

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

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

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) revise, amend, or change rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

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

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

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

(15) schedule announced and unannounced inspections of jails under its jurisdiction based on the jail's history of compliance with commission standards and other high-risk factors identified by the commission.

(b) A commission rule or procedure is not unreasonable because compliance with the rule or procedure requires major modification or renovation of an existing jail or construction of a new jail.

(c) At any time and on the application of the county commissioners court or sheriff, the commission may grant reasonable variances, including variances that are to last for the life of a facility, clearly justified by the facts, for operation of a facility not in strict compliance with state law. A variance may

not permit unhealthy, unsanitary, or unsafe conditions. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 171, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 89, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 722, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 12.30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 259, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1092, Sec. 1, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 1094, Sec. 8, eff. Sept. 1, 2005.

Sec. 511.0091. FEES; INSPECTION ACCOUNT. (a) The commission shall set and collect reasonable fees to cover the cost of performing the following services for municipal jails operated for a municipality by a private vendor or for county jails, whether financed, purchased, designed, constructed, leased, operated, maintained, or managed for the county by a private vendor or provided entirely by the county:

(1) review of and comment on construction documents for new facilities or expansion projects;

(2) performance of occupancy inspections; and

(3) performance of annual inspections.

(b) The commission may collect a fee under Subsection (a)(1) only for the review of and comment on construction documents for a jail for which the commission projects:

(1) a rated capacity of 100 or more prisoners; and

(2) an annual average jail population of prisoners sentenced by jurisdictions other than the courts of this state that is 30 percent or more of the total population of the jail.

(c) The commission may collect a fee under Subsection (a)(2) or (a)(3) only for the performance of an inspection of a jail that during the year in which the inspection is performed:

(1) has a rated capacity of 100 or more prisoners; and

(2) the commission projects as having an annual average jail population of prisoners sentenced by jurisdictions other than the courts of this state that is 30 percent or more of the total population of the jail.

(c-1) In addition to the other fees authorized by this section, the commission may set and collect a reasonable fee to cover the cost of performing any reinspection of a municipal or county jail described by Subsection (a) that is conducted by the commission:

(1) following a determination by the commission that the jail is not in compliance with minimum standards; and

(2) in response to a request by the operator of the jail for an inspection.

(d) All money paid to the commission under this chapter:

(1) is subject to Subchapter F, Chapter 404; and

(2) shall be deposited to the credit of a special account in the general revenue fund to be appropriated only to pay costs incurred by the commission in performing services under this section.

Added by Acts 1991, 72nd Leg., ch. 740, Sec. 9, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 259, Sec. 8, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 359, Sec. 1, eff. Sept. 1, 2005.

Sec. 511.0092. CONTRACTS FOR OUT-OF-STATE INMATES. (a) The only entities other than the state that are authorized to operate a correctional facility to house in this state inmates convicted of offenses committed against the laws of another state of the United States are:

(1) a county or municipality; and

(2) a private vendor operating a correctional facility under a contract with a county under Subchapter F, Chapter 351, Local Government Code, or a municipality under Subchapter E, Chapter 361, Local Government Code.

(b) A county commissioners court or the governing body of a municipality may enter into a contract with another state or a jurisdiction in another state for the purpose described by Subsection (a) only if:

(1) the county or municipality submits to the commission:

(A) a statement of the custody level capacity and availability in the correctional facility that will house the inmates; and

(B) a written plan explaining the procedure to be used to coordinate law enforcement activities in response to any riot, rebellion, escape, or other emergency situation occurring in

the facility; and

(2) the commission:

(A) inspects the facility and reviews the statement and plan submitted under Subdivision (1); and

(B) after the inspection and review, determines that the correctional facility is a proper facility for housing the inmates and provides the county or municipality with a copy of that determination.

(c) A private vendor operating a correctional facility in this state may not enter into a contract for the purposes of Subsection (a) with another state or a jurisdiction in another state.

(d) A contract described by Subsection (b) must provide that:

(1) each correctional facility in which inmates are to be housed meets minimum standards established by the commission;

(2) each inmate to be released from custody must be released in the sending state;

(3) before transferring an inmate, the receiving facility shall review for compliance with the commission's classification standards:

(A) all records concerning the sending state's classification of the inmate, including records relating to the inmate's conduct while confined in the sending state; and

(B) appropriate medical information concerning the inmate, including certification of tuberculosis screening or treatment;

(4) except as provided by Subsection (e), the sending state will not transfer and the receiving facility will not accept an inmate who has a record of institutional violence involving the use of a deadly weapon or a pattern of violence while confined in the sending state or a record of escape or attempted escape from secure custody;

(5) the receiving entity will determine the inmate's custody level in accordance with commission rules, in order to ensure that the custody level assignments for the facility as a whole are compatible with the construction security level availability in the facility; and

(6) the receiving facility is entitled to terminate at will the contract by providing the sending state with 90 days' notice of the intent to terminate the contract.

(e) The commission may waive the requirement that a contract contain the provision described by Subsection (d)(4) if the commission determines that the receiving facility is capable of confining an inmate described by Subsection (d)(4).

(f) A county, municipality, or private vendor operating under a contract described by Subsection (b) shall:

(1) send a copy of the contract to the commission;

(2) require all employees at the facility to maintain certification as required by the Commission on Law Enforcement Officer Standards and Education;

(3) submit to inspections by the commission; and

(4) immediately notify the commission of any riot, rebellion, escape, or other emergency situation occurring at the facility.

(g) The commission may require the sending state or an entity described in Subsection (a) to reimburse the state for any cost incurred by a state agency in responding to any riot, rebellion, escape, or other emergency situation occurring at the facility.

(h) Notwithstanding the provisions of Chapter 252, Chapter 262, Subchapter F, Chapter 351, or Subchapter E, Chapter 361, Local Government Code, the governing body of a municipality or a county commissioners court may enter into a contract with a private vendor to provide professional services under this section if the commission reviews and approves the private vendor's qualifications to provide such services and the terms of the proposed contract comply with this section.

(i) Chapter 1702, Occupations Code, does not apply to an employee of a facility in the actual discharge of duties as an employee of the facility if the employee is required by Subsection (f)(2) or by Section 1701.406, Occupations Code, to maintain certification from the Commission on Law Enforcement Officer Standards and Education.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.764, eff. Sept. 1, 2001.

Sec. 511.0093. RULES AND FEES RELATED TO OUT-OF-STATE INMATES. (a) The commission may impose a fee on a private vendor that operates a correctional facility housing prisoners from jurisdictions other than this state. The fee must reasonably compensate the commission for the cost of regulating and providing technical assistance to the facility.

(b) The commission may adopt rules regulating the number of federal prisoners and prisoners from jurisdictions other than Texas that are housed in a county jail, a municipal jail, or a correctional facility operated by a private vendor under contract with a municipality if the jail or correctional facility houses state, county, or municipal prisoners or prisoners of another state of the United States.

(c) The commission may adopt other rules regulating jails or correctional facilities described by Subsection (b) as necessary to protect the health and safety of prisoners described by Subsection (b), local and Texas prisoners, jail personnel, and the public.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Sec. 511.0094. EXCLUSION OF JAILS OR CORRECTIONAL FACILITIES HOUSING ONLY FEDERAL PRISONERS. The provisions of this chapter do not apply to a correctional facility contracting to house only federal prisoners and operating pursuant to a contract between a unit of the federal government and a county, a municipality, or a private vendor. If a county, municipality, or private vendor contracts to house or begins to house state, county, or municipal prisoners or prisoners of another state of the United States, it shall report to the commission before placing such inmates in a correctional facility housing only federal prisoners.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 755, Sec. 1, eff. Sept. 1, 2003.

Sec. 511.0095. AUTHORITY TO HOUSE OUT-OF-STATE INMATES. Nothing in this chapter shall be construed to limit the authority of the state granted under Article 42.19, Code of Criminal Procedure, or other applicable law to house in this state inmates convicted of offenses committed against the laws of another state of the United States.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Sec. 511.0096. TERMINATION OF CONTRACTS FOR OUT-OF-STATE INMATES. The commission may require the receiving facility to terminate a contract under Section 511.0092(d)(6), if the commission determines that the receiving facility is needed to house inmates convicted of offenses against the laws of the state and funds have been appropriated by the state to compensate the receiving facility for the incarceration of the inmates.

Added by Acts 1997, 75th Leg., ch. 259, Sec. 9, eff. Sept. 1, 1997.

Sec. 511.0097. FIRE SPRINKLER HEAD INSPECTION. (a) On the request of a sheriff, the commission shall inspect a facility to determine whether there are areas in the facility in which fire sprinkler heads should not be placed as a fire prevention measure. In making a decision under this section, the commission shall consider:

(1) the numbers and types of inmates having access to the area;

(2) the likelihood that an inmate will attempt to vandalize the fire sprinkler system or commit suicide by hanging from a sprinkler head; and

(3) the suitability of other types of fire prevention and smoke dispersal devices available for use in the area.

(b) If the commission determines that fire sprinkler heads should not be placed in a particular area within a facility, neither a county fire marshal nor a municipal officer charged with enforcing ordinances related to fire safety may require the sheriff to install sprinkler heads in that area.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 9.008(a), eff. Sept. 1, 2003.

Sec. 511.010. GATHERING OF INFORMATION. (a) The commission shall be granted access at any reasonable time to a county jail and to books, records, and data relating to a county jail that the commission or executive director considers necessary to administer the commission's functions, powers, and duties.

(b) The county commissioners and sheriff of each county shall furnish the commission, a member of the commission, the

executive director, or an employee designated by the executive director any information that the requesting person states is necessary for the commission to:

- (1) discharge its functions, powers, and duties;
- (2) determine whether the commission's rules are being observed or whether its orders are being obeyed; and
- (3) otherwise implement this chapter.

(c) To carry out its functions, powers, and duties, the commission may:

(1) issue subpoenas and subpoenas duces tecum to compel attendance of witnesses and the production of books, records, and documents;

(2) administer oaths; and

(3) take testimony concerning all matters within its jurisdiction.

(d) The commission is not bound by strict rules of evidence or procedure in the conduct of its proceedings, but its determinations must be founded on sufficient legal evidence.

(e) The commission may delegate to the executive director the authority conferred by this section.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989.

Sec. 511.0101. JAIL POPULATION REPORTS. (a) Each county shall submit to the commission on or before the fifth day of each month a report containing the following information:

(1) the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories:

(A) total prisoners;

(B) pretrial Class C misdemeanor offenders;

(C) pretrial Class A and B misdemeanor offenders;

(D) convicted misdemeanor offenders;

(E) felony offenders whose penalty has been reduced to a misdemeanor;

(F) pretrial felony offenders;

(G) convicted felony offenders;

(H) prisoners detained on bench warrants;

(I) prisoners detained for parole violations;

(J) prisoners detained for federal officers;

(K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;

(L) prisoners detained after having been transferred from another jail and for whom the commission has made a payment under Subchapter F, Chapter 499, Government Code; and

(M) other prisoners;

(2) the total capacity of the county jail on the first day of the month; and

(3) certification by the reporting official that the information in the report is accurate.

(b) The commission shall prescribe a form for the report required by this section. If the report establishes that a county jail has been operated in excess of its total capacity for three consecutive months, the commission may consider adoption of an order to prohibit confinement of prisoners in the county jail under Section 511.012.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 18.01, eff. Oct. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1368, Sec. 1, eff. June 20, 1997.

Sec. 511.011. REPORT ON NONCOMPLIANCE. If the commission finds that a county jail does not comply with state law, including Chapter 89, Health and Safety Code, or the rules, standards, or procedures of the commission, it shall report the noncompliance to the county commissioners and sheriff of the county responsible for the county jail and shall send a copy of the report to the governor. Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 12, eff. Sept. 1, 1997.

Sec. 511.012. FAILURE TO COMPLY AFTER REPORT. (a) The commission shall grant the county or sheriff a reasonable period of not more than one year after the date of the report under Section 511.011 to comply with commission rules and procedures and state law.

(b) If the county commissioners or sheriff does not comply within the period granted by the commission, the commission by order may prohibit confinement of prisoners in the county jail. In that event, the commission shall furnish the sheriff with a list of qualified detention facilities to which the prisoners may be transferred for confinement. Immediately on issuance of the commission's order, the sheriff shall transfer the number of prisoners necessary to bring the county jail into compliance to a detention facility that agrees to accept the prisoners. The agreement must be in writing and signed by the sheriffs of the counties transferring and receiving the prisoners. A county transferring prisoners under this section shall remove the prisoners from the receiving facility immediately on request of the sheriff of the receiving county.

(c) The county transferring prisoners under this section is liable for payment of the costs of transportation for, and maintenance of, transferred prisoners. These costs shall be determined by agreement between the participating counties and shall be paid into the treasury of the entity operating the detention facility receiving the prisoners.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1092, Sec. 2, eff. June 20, 2003.

Sec. 511.0121. FAILURE TO COOPERATE IN PAROLE IN ABSENTIA PROGRAM. The Texas Board of Criminal Justice shall notify the commission of the failure of a county to fully cooperate with employees of the institutional division of the Texas Department of Criminal Justice in evaluating inmates for release on parole from the county jail. On such notification, the commission shall find the county in noncompliance for the purpose of this chapter and may invoke a remedy as provided by Section 511.012.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.07, eff. Aug. 29, 1991.

Sec. 511.013. APPEAL OF ORDER. (a) A county commissioner or sheriff may seek review of an order issued under Section 511.012(b) by making a written request to the executive director for a contested case hearing not later than the 30th day after the date of receipt of the order.

(b) Procedure and practice in a contested case hearing is governed by Chapter 2001 and the rules of the commission.

(c) After the contested case hearing, judicial review of the final decision of the commission is governed by Subchapter G, Chapter 2001.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1092, Sec. 3, eff. June 20, 2003.

Sec. 511.014. ACTION TO ENFORCE. (a) Instead of closing a county jail, the commission may bring an action in its own name to enforce or enjoin a violation of Subchapter A, Chapter 351, Local Government Code, Chapter 89, Health and Safety Code, or a commission rule, order, or procedure. The action is in addition to any other action, proceeding, or remedy provided by law. The court shall give preferential setting and shall try the action without a jury, unless the county requests a jury trial. The attorney general shall represent the commission.

(b) The suit may be brought in a district court of Travis County.

(c) The court shall issue an injunction ordering compliance with commission rules and procedures and state law if it finds that:

(1) the operation of the county jail does not comply with the rules and procedures or state law; and

(2) the county commissioners or sheriff, having been given a reasonable period to comply, has failed to comply with the rules and procedures.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 13, eff. Sept. 1, 1997.

Sec. 511.015. ANNUAL REPORTS. (a) Before February 1 of each year the commission shall submit to the governor and the presiding officer of each house of the legislature a report on its operations, its findings concerning county jails during the preceding year, and recommendations that it considers appropriate.

(b) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and

disbursed by the commission during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Added by Acts 1989, 71st Leg., ch. 212, Sec. 2.01, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 740, Sec. 10, eff. Sept. 1, 1991.

Sec. 511.016. AUDITS. (a) Each county auditor shall provide the commission with a copy of the auditor's quarterly audit of the county jail's commissary operations and a copy of the annual financial audit of general operations of the county jail. The county auditor shall provide a copy of an audit not later than the 10th day after completing the audit.

(b) At the request of the commissioners court or a sheriff or on the commission's own initiative, the commission shall conduct an audit of staffing matters at a county jail.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 18.02, eff. Oct. 1, 1991.

Sec. 511.017. DUTIES RELATED TO STATE JAIL FELONY FACILITIES AND INSTITUTIONAL DIVISION TRANSFER FACILITIES. (a) In this section:

(1) "State jail division" means the state jail division of the Texas Department of Criminal Justice.

(2) "State jail felony facility" means a state jail felony facility authorized by Subchapter A, Chapter 507.

(3) "Transfer facility" means a transfer facility operated by the institutional division of the Texas Department of Criminal Justice under Subchapter G, Chapter 499.

(b) The commission shall provide the state jail division with consultation and technical assistance relating to the operation and construction of state jail felony facilities.

Added by Acts 1993, 73rd Leg., ch. 988, Sec. 1.09, eff. Sept. 1, 1993.