

SUBJECT: Requiring certain agencies to take custody of defendants within 45 days

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Herrero, Kacal, Allen, V. Jones, R. Lopez, Swanson, Toth
0 nays
2 absent — Murr, Sherman

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas; Rick Bailey, Johnson County and County Judges and Commissioners Association of Texas (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Leward LaFleur, County of Marion; Rebekah Chenelle, Dallas County Commissioners Court; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Elisa M. Tamayo, El Paso County; Bill Stoudt, Gregg County; Paul Sugg, Harris County Commissioners Court; David Batton, Harris County Deputies Organization FOP 39; Ray Hunt, Houston Police Officers' Union; Anthony Kivela, Houston Police Retired Officers Association; Skylor Hearn, Sheriffs' Association of Texas; Thomas Wilson, Smith County Criminal District Attorney's Office; Russell Schaffner, Tarrant County Commissioners Court; John Wilkerson, Texas Municipal Police Association; AJ Louderback, Texas Sheriffs Regional Alliance; Julie Wheeler, Travis County Commissioners Court; Brien Casey, Williamson County Deputies Association; Noel Johnson, Williamson County Sheriffs Office)

Against — None

On — (*Registered, but did not testify*: Kristy Carr, Health and Human Services Commission; Bobby Lumpkin, Texas Department of Criminal Justice)

BACKGROUND: Concerns have been raised that certain state agencies may not take timely

custody of certain people confined in county jails and facilities, which can increase costs for local governments.

DIGEST: CSHB 3363 would require:

- the Health and Human Services Commission (HHSC) to take custody of a defendant awaiting competency restoration to a facility operated by or under contract with HHSC within 45 days after an order to commit the defendant to the facility;
- the Texas Juvenile Justice Department (TJJD) to accept custody of a child within 45 days after a judge signed a disposition order committing a child to TJJD; and
- the Texas Department of Criminal Justice (TDCJ) to take custody of a person awaiting transfer to TDCJ following a felony conviction or a releasee who committed an administrative release violation within 45 days after all processing required for the transfer had been completed.

If HHSC, TJJD, or TDCJ did not take custody of the person within the 45-day period, the applicable agency would be required to compensate the county for the cost of confinement or detention for each day the person remained in a county facility or jail beyond the 45-day period. The compensation would have to be equal to the amount that the applicable agency would have incurred to confine or detain the person.

If a person awaiting transfer to TDCJ following a felony conviction remained confined in a county jail beyond the 45-day period due to a delay caused by the county, the county would not be entitled to compensation for confinement beyond the 45-day period. The bill would require the county and TDCJ to arrange to transfer the person to TDCJ as soon as practicable after the delay.

The bill would repeal a legislative declaration giving the institutional division of TDCJ a duty to accept inmates confined in county jails within 45 days.

The Texas Board of Criminal Justice would have to adopt the revised schedule admission policy for TDCJ by December 31, 2023. The bill would apply only to confinement or detention costs occurring on or after January 1, 2024.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, the bill's fiscal implications could not be determined because of the unknown number of additional individuals who would be committed to HHSC and TJJD and the related costs to compensate counties. The bill could have a significant negative fiscal impact to the state.