

BILL ANALYSIS

Senate Research Center
88R30089 MCF-F

C.S.H.B. 2620
By: Geren et al. (King)
Criminal Justice
5/16/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

After final disposition, individuals sentenced to a Texas Department of Criminal Justice (TDCJ) facility wait in county jails until they are finally transferred to the state facility, with county taxpayers bearing the financial responsibility of housing these defendants for the period between their sentencing and transfer. Currently, there are no mechanisms for providing any reimbursement to counties for the expense incurred for housing individuals beyond the 45-day period in which TDCJ is supposed to take custody, which has created a financial burden on the county taxpayer. H.B. 2620 seeks to address this issue by requiring TDCJ to review and certify the documents required for transfer within five business days after their receipt and to accept the individual awaiting transfer within 45 days of the date on which all the documents have been received and certified. The bill also provides a mechanism for counties to be reimbursed for the costs of confining inmates beyond that 45-day period.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 2620 amends current law relating to the confinement in a county jail of a person pending a transfer to the Texas Department of Criminal Justice and to compensation to a county for certain costs of confinement.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 499.071, Government Code, as follows:

Sec. 499.071. SCHEDULED ADMISSIONS POLICY. Requires the Texas Board of Criminal Justice (TBCJ) to adopt and enforce a scheduled admissions policy that requires the Texas Department of Criminal Justice (TDCJ), to:

(1) review documents received under Section 8(a) (relating to requiring a county that transfers a defendant to TDCJ to deliver to an officer designated by TDCJ certain documents) or (c) (relating to requiring a county that transfers a defendant to TDCJ to also deliver to the designated officer any presentence or post sentence investigation report, revocation report, psychological or psychiatric evaluation of the defendant, including a written report provided to a court or an evaluation prepared for the juvenile court before transferring the defendant to criminal court and contained in the criminal prosecutor's file, and available social or psychological background information relating to the defendant and is authorized to deliver to the designated officer any additional information upon which the judge or jury bases the punishment decision), Article 42.09 (Commencement of Sentence; Status During Appeal; Pen Packet), Code of Criminal Procedure, and certify the documents or notify the county that the documents require corrective action within the time period required by Subsection 8(b) (relating to prohibiting TDCJ from taking a defendant into custody until the designated officer receives certain documents) of Article 42.09; and

(2) accept persons within the time period required by Section 499.1215(b).

Deletes existing text requiring TBCJ to adopt and enforce a scheduled admissions policy that permits the institutional division to accept inmates within 45 days of processing as required by Section 499.121(c) (relating to providing that the institutional division has a duty to accept, not later than the 45th day after the date on which all processing required for transfer has been completed, each inmate confined in a county jail while under an order of commitment to the institutional division).

SECTION 2. Amends Subchapter F, Chapter 499, Government Code, by adding Section 499.1215, as follows:

Sec. 499.1215. TRANSFER TO DEPARTMENT; COMPENSATION TO COUNTIES.
(a) Defines "cost of confinement."

(b) Requires TDCJ to take custody of a person awaiting transfer to TDCJ following conviction of a felony and sentencing to death or to a term of imprisonment in TDCJ or confinement in a state jail not later than the 45th day following the date on which all documents required by Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure, have been certified as required by Section 8(b) of that article.

(c) Requires TDCJ, if TDCJ does not take custody of a person within the period prescribed by Subsection (b), to compensate the county for the cost of confinement for each day the person remains confined in the county jail following the expiration of that period.

(d) Provides that if a person remains confined in the county jail following the expiration of the period prescribed by Subsection (b) due to a delay caused by the county:

(1) the county is not entitled to compensation under Subsection (c) for any day that the person remains confined due to the delay caused by the county; and

(2) the county and TDCJ are required to arrange to transfer the person to TDCJ as soon as practicable after the delay.

SECTION 3. Amends Section 8, Article 42.09, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Prohibits TDCJ from taking a defendant into custody under this article until the designated officer receives the documents required by Subsections (a) and (c) of this section and determines that the documents do not contain any errors or deficiencies requiring corrective action by the county. Requires the designated officer, not later than the fifth business day after the date of receipt of the documents, to certify the documents under the seal of TDCJ if the designated officer determines the documents do not require any corrective action or to notify the county that the designated officer has determined that the documents require corrective action. Makes nonsubstantive changes.

(b-1) Provides that a document certified under Subsection (b), rather than this subsection, is self-authenticated for the purposes of Rules 901, Texas Rules of Evidence.

SECTION 4. Repealer: Section 499.121(c) (relating to providing that the legislature declares that on and after September 1, 1995, the institutional division has a duty to accept, not later than the 45th day after the date on which all processing required for transfer has been completed, each inmate confined in a county jail while under an order of commitment to the institutional division), Government Code.

SECTION 5. Requires TBCJ to adopt the scheduled admissions policy required by Section 499.071, Government Code, as amended by this Act, not later than September 30, 2023.

SECTION 6. Makes application of Section 499.1215, Government Code, as added by this Act, prospective to October 1, 2023.

SECTION 7. Effective date: upon passage or September 1, 2023.