

## **BILL ANALYSIS**

S.B. 1849  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties contend that the events leading up to Sandra Bland's jailing and death proved the need for comprehensive criminal justice reform in Texas to avoid unnecessary incarceration and deaths in county jails in the future. S.B. 1849 seeks to provide that reform by enacting the Sandra Bland Act to address a variety of criminal justice topics.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Commission on Jail Standards in SECTIONS 3.05, 3.06, 3.07, and 4.01 of this bill.

### **ANALYSIS**

#### **Article 1**

S.B. 1849 establishes that its provisions are to be known as the Sandra Bland Act.

#### **Article 2**

S.B. 1849 amends the Code of Criminal Procedure to shorten the deadline by which a sheriff is required to provide notice to a magistrate of credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability from not later than 72 hours after receiving the information to not later than 12 hours after receiving the information. The bill requires each law enforcement agency to make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person; it is reasonable to divert the person; the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense. That requirement expressly does not apply to a person accused of certain specified intoxication-related offenses.

S.B. 1849 amends the Government Code to include persons experiencing substance abuse issues among those eligible to receive services from Department of State Health Services (DSHS) community collaborative grants and to require DSHS, in awarding those grants, to give special consideration to entities establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000. The bill revises the evidence DSHS must

require each entity awarded a grant to provide and removes the limit on the number of grants that may be made and restrictions on where the grants are to be made. The bill sets out provisions relating to a plan required to be developed by the governing body of a county for certain community collaboratives.

### **Article 3**

S.B. 1849 amends the Government Code to require the Commission on Jail Standards, not later than September 1, 2018, to adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day; to give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and, if funding is available from the prisoner safety fund established under the bill's provisions, to install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals, and requires a county jail to comply with any such rule or procedure on and after September 1, 2020. The bill requires the commission, not later than January 1, 2018, to adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners and requires those rules and procedures to require that a qualified medical professional to review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

S.B. 1849 establishes the prisoner safety fund as a dedicated account in the general revenue fund to be appropriated to the commission to pay for certain capital improvements required under the bill's provision requiring the commission to adopt reasonable rules and procedures to ensure the safety of prisoners. The bill sets out the fund's composition and authorizes the commission to establish by rule a grant program to provide grants to counties to fund those certain capital improvements to a county jail with a capacity of not more than 96 prisoners. The bill provides for the reporting of certain serious county jail incidents and the independent investigation of deaths that occur in county jails.

S.B. 1849 amends the Code of Criminal Procedure to revise provisions relating to service of a copy of an indictment or information, as applicable.

### **Article 4**

S.B. 1849 amends the Government Code to require the Texas Commission on Law Enforcement (TCOLE) to develop and the Commission on Jail Standards to approve, not later than March 1, 2018, an examination for a person assigned to the jail administrator position overseeing a county jail. The bill requires the commission to adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position and requires those rules to provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination. The bill requires the sheriff of a county to perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirement and prohibits a person other than a sheriff from serving in the jail administrator position of a county jail unless the person satisfies that examination requirement.

S.B. 1849 amends the Occupations Code to revise provisions relating to the school curriculum for law enforcement officers. The bill requires TCOLE to require the completion, as part of the minimum curriculum requirements for certain officers, of a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury. The bill requires the

statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments included as part of the minimum curriculum requirements to be a 40-hour program and makes the 40-hour requirement applicable only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

S.B. 1849, effective January 1, 2018, requires the county jailer preparatory training program to consist of at least eight hours of mental health training approved by TCOLE and the Commission on Jail Standards. The bill requires a person in the position of county jailer on September 1, 2017, to comply with the preparatory training program requirements as amended by the bill not later than August 31, 2021.

S.B. 1849 includes education and training regarding de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury, among the curricula of the continuing education program for a peace officer holding only a basic proficiency certificate. The bill requires a peace officer or reserve law enforcement officer to complete the de-escalation techniques education and training that are part of the minimum school curriculum requirements as a requirement for an intermediate proficiency certificate or an advanced proficiency certificate. The bill requires TCOLE, not later than March 1, 2018, to establish or modify training programs as necessary to comply with the school curriculum provisions as amended by the bill.

## **Article 5**

S.B. 1849 amends the Code of Criminal Procedure to revise requirements for a law enforcement agency's written policy on racial profiling and requires a law enforcement agency to review the data relating to motor vehicle stops collected under that policy to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops. The bill requires a law enforcement agency to examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera and requires the agency's policy to include standards for reviewing video and audio documentation if the agency equips peace officers with body worn cameras.

S.B. 1849 revises the information a peace officer is required to report to the law enforcement agency that employs the officer regarding a motor vehicle stop and includes among that required information whether the officer used physical force that resulted in bodily injury, as that term is defined by the Penal Code, during the stop. The bill makes the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, responsible for auditing those reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

S.B. 1849 requires a law enforcement agency's motor vehicle stop incident-based data report to include a comparative analysis of the motor vehicle stop information to evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches. The bill requires TCOLE, not later than September 1, 2018, to evaluate and change the guidelines for compiling and reporting motor vehicle stop incident-based data information to better withstand academic scrutiny and, not later than that date, to make accessible online a downloadable format of any such information submitted that is not exempt from public disclosure under state public information law and a glossary of terms relating to such information to make the information readily understandable to the public. The bill repeals provisions that provide for a partial exemption from the motor vehicle stop reporting requirement for a peace officer and from the related compilation, analysis, and reporting requirements for the chief administrator of a law enforcement agency. The bill establishes that changes under the bill's provisions to the requirements for compilation and analysis of information collected apply only to a report covering a calendar year beginning on or after January 1, 2018.

S.B. 1849 expands the purposes for which the Department of Public Safety is required to adopt rules for providing funds or video and audio equipment to law enforcement agencies to include equipping peace officers with body worn cameras. The bill changes the amount of the civil penalty for the failure of the chief administrator of a local law enforcement agency to submit motor vehicle stop incident-based data to applicable recipients as required from a fixed penalty of \$1,000 for each violation to an amount capped at \$5,000 for each violation.

S.B. 1849 repeals Article 2.135, Code of Criminal Procedure.

**EFFECTIVE DATE**

Except as otherwise provided, September 1, 2017.