

SENATE BILL REPORT

SB 5248

As of January 28, 2021

Title: An act relating to establishing the joint legislative task force on jail standards.

Brief Description: Establishing the joint legislative task force on jail standards.

Sponsors: Senators Darneille, Das, Dhingra, Gildon, Hasegawa, Lovelett, Nguyen, Saldaña and Wilson, C..

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/28/21.

Brief Summary of Bill

- Establishes the Joint Legislative Task Force on Jail Standards.
- Specifies the membership and charge of the task force.
- Requires a report to the Governor and appropriate committees of the Legislature by December 1, 2023.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kelsey-anne Fung (786-7479)

Background: Local Jail Standards. Cities and counties are authorized to acquire, build, operate, and maintain holding, detention, special detention, and correctional facilities at any place within the county that is designated by the county or municipal legislative authority. Local governments that own or operate adult correctional facilities must adopt and follow operation standards for those facilities. Standards must meet federal and state constitutional requirements relating to the health, safety, and welfare of inmates and staff as well as state and federal statutory requirements. Standards must provide for the public's health, safety, and welfare.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

A city or county that is primarily responsible for the operation of a jail may create a department of corrections to be in charge of the jail and persons confined in the jail. If a city or county does not create a department of corrections, the chief law enforcement officer of the city or county is in charge of the jail and persons confined in the jail. Local governments may also execute interlocal contracts for jail services between other cities and counties that give one local government the responsibility for the operation of the jail and include the applicable charges for maintaining custody of the persons confined in the jail. Further, local governments may create and operate regional jails that are governed by representatives from multiple jurisdictions.

According to a 2019 jail statistics survey conducted by the Washington Association of Sheriffs and Police Chiefs (WASPC), there are 37 county jails, 2 regional jails, and 14 city jails.

Corrections Standards Board. In 1977, the Legislature passed the City and County Jails Act which created the Washington State Jail Commission. The Jail Commission drafted minimum physical plant and custodial care standards that the Legislature approved in 1979. In 1981, the Legislature created the Washington State Corrections Standards Board (CSB) as a board within the Jail Commission. CSB had authority to recommend advisory prison standards to (1) meet federal and state constitutional requirements for the health, safety, security, and welfare of inmates, (2) meet specific state or federal statutory requirements, and (3) provide for the public's health, safety, and welfare. The 1981 statute also required CSB to assume the functions of the Jail Commission on July 1, 1983, which included promulgation of mandatory and advisory jail standards, inspection of jails for compliance, and administration of local jail construction using state bond funds. The statute included a sunset date for the CSB for July 1, 1987.

CSB was composed of nine voting members appointed by the Governor and five nonvoting members representing the Legislature and the Department of Corrections (DOC). CSB had ten staff that included prison and jail inspectors. CSB inspectors conducted annual jail inspections to monitor and enforce compliance with standards; noncompliant jails were given time to correct deficiencies or risk closure. The board also set physical plant standards for jails, including standards for square footage per incarcerated individual for general population dormitories, to respond to capacity and overcrowding issues. State funding was provided through the local jail construction program for new construction or remodeling of local jails to meet and implement the physical plant standards.

In addition to inspections, CSB operated two statewide jail data systems—the Jail Population Accounting System and Convicted Felony Reporting. These systems provided information for monitoring jail crowding and general population trends, planning, forecasting future jail felony populations, and addressing legislative and policy issues.

In 1986, the Legislative Budget Committee conducted a sunset review and recommended that CSB be terminated and its various functions be transferred to other agencies. The

following legislative session, the Legislature passed HB 738 which:

- terminated the CSB;
- transferred the juvenile confinement compliance function to the Department of Social and Health Services;
- transferred the jail population data collection function and local jail construction funding program to the Office of Financial Management;
- eliminated state mandated operating standards for local jails and required local governments to adopt their own jail operating standards; and
- required DOC to adopt operating standards for its prison facilities.

Jail Accreditation. WASPC offers two accreditation programs; one for law enforcement and one for jails. As of November 2020, only four jails have been awarded WASPC Jail Accreditation—the South Correctional Entity (2016), Kent Jail (2017), Clallam County Jail (2017); and Snohomish County Corrections (2019). WASPC's Accreditation Committee is responsible for maintaining accreditation standards, reviewing on-site reports, and making recommendations to the board of directors whether an agency should receive WASPC accreditation. As part of the jail accreditation process, there is an on-site evaluation, review of agency policies and procedures, review of documentation or proof for each standard, and interviews with staff members to show compliance with WASPC jail standards. Agencies must go through a reaccreditation process every four years, and repeat the entire process.

The National Commission on Correctional Health Care (NCCHC) offers a voluntary accreditation program for institutions that meet its standards for health services in correctional facilities. Skagit County Community Justice Center is accredited by NCCHC, and Whatcom county jail has been accredited by NCCHC since 1977.

Summary of Bill: The Joint Legislative Task Force on Jail Standards is established. The task force is composed of one member from each of the two largest caucuses of the Senate and one member from each of the two largest caucuses of the House of Representatives. The Senate and House of Representatives must jointly appoint 13 members representing the interests of prosecutors, defense attorneys, law enforcement, counties, cities, jail administrators, superior courts, district and municipal courts, a state designated protection and advocacy agency, medical and mental health service providers, a statewide civil legal aid organization; persons with lived experience; and other entities involved with or interested in the operation of local jails.

The task force must choose its chair from among its legislative membership. Staff support must be provided by the Office of the Attorney General. The task force must review the following issues:

- the adequacy of standards adopted and used by jails including, but not limited to, standards for conditions and operations, inspections, enforcement, and oversight;
- current data on jails in the state including, but not limited to, square footage of living space per individual, jail capacity, average daily population over the previous five years, medical and dental services, mental health services, treatment programming

- options, accreditation status, use of force incidents over the previous five years, and in-custody deaths and the causes of those deaths;
- how jails in the state compare to jail standards and practices in other states regarding safety and physical conditions; health and welfare; access to medical, mental health, dental care, and substance use disorder treatment; food quality and quantity; use of force; use of solitary confinement; and recreational activities and programming;
 - the revenue sources and funding mechanisms used by other states to pay for local jails and the kinds of services that are provided to inmates in jails in other states, including identifying the entity that is responsible for financing those services;
 - inmate's access to jail telecommunication, electronic media, and commissary services, including the rates and fees charged by the jail for these services that are often borne by families of incarcerated individuals; and
 - other issues the task force deems relevant to the conditions of jails.

The task force must make recommendations on:

- statewide minimum jail standards, oversight, or other policy changes to ensure jail conditions meet state and federal constitutional and statutory standards and include adequate safety and welfare safeguards for incarcerated persons and staff; and
- restoration of a statewide authority to set mandatory minimum jail standards and conduct inspections of jails for compliance and enforcement of those standards.

The task force must consult with organizations and entities with interest or experience in jail standards and operations including, but not limited to, treatment providers, victims' advocates, inmate advocates, organizations representing jail employees and officers, and other community organizations. The Washington Association of Sheriffs and Police Chiefs and representatives from county, city, and regional jails must provide any data or information requested by the task force.

The task force must report findings and recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2023. The task force expires on July 1, 2024.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: It has been 30 years since the Legislature has undertaken the process of reviewing jail conditions. Jails are now the largest mental health facilities in some counties, with large percentages of individuals held in jails living with

serious chronic health conditions, major mental health illness, drug dependency or abuse, or coexisting mental health and substance use and abuse conditions. Statewide jail standards are important to address their many problems, including inadequate medical, mental health, and substance abuse care, food quality, visitation with families, abuse of solitary confinement, and more. Better care may be more costly, but could also be offset by reducing the number of people waiting for trial or using alternatives to incarceration. Treating those held in jails with greater care and dignity is necessary for a decent society.

OTHER: The task force recommendations should include an analysis of how much it will cost to implement the recommendations and how the recommendations can be paid for. This will make the process fully informed.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor; David Trieweiler, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

OTHER: James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.