

By: Metcalf, et al.

H.B. No. 634

A BILL TO BE ENTITLED

AN ACT

relating to the rights of a guardian of a person in the criminal justice system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.041 to read as follows:

Art. 26.041. PROCEDURES RELATED TO GUARDIANSHIPS. (a) In this article:

(1) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(2) "Letters of guardianship" means a certificate issued under Section 1106.001(a), Estates Code.

(b) A guardian who provides a court with letters of guardianship for a defendant may:

(1) provide information relevant to the determination of indigency; and

(2) request that counsel be appointed in accordance with this chapter.

SECTION 2. Section 501.010, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (b-1) to read as follows:

(a) In this section:

(1) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

1           (2) "Letters of guardianship" means a certificate  
2 issued under Section 1106.001(a), Estates Code.

3           (a-1) The institutional division shall allow the governor,  
4 members of the legislature, and members of the executive and  
5 judicial branches to enter at proper hours any part of a facility  
6 operated by the division where inmates are housed or worked, for the  
7 purpose of observing the operations of the division. A visitor  
8 described by this subsection may talk with inmates away from  
9 institutional division employees.

10          (b-1) The uniform visitation policy must:

11           (1) allow visitation by a guardian of an inmate to the  
12 same extent as the inmate's next of kin, including placing the  
13 guardian on the inmate's approved visitors list on the guardian's  
14 request and providing the guardian access to the inmate during a  
15 facility's standard visitation hours if the inmate is otherwise  
16 eligible to receive visitors; and

17           (2) require the guardian to provide the warden with  
18 letters of guardianship before being allowed to visit the inmate.

19          SECTION 3. Section 507.030, Government Code, is amended by  
20 amending Subsections (a) and (b) and adding Subsection (a-1) to  
21 read as follows:

22          (a) In this section:

23           (1) "Guardian" has the meaning assigned by Section  
24 1002.012, Estates Code.

25           (2) "Letters of guardianship" means a certificate  
26 issued under Section 1106.001(a), Estates Code.

27          (a-1) The state jail division shall allow the governor,

1 members of the legislature, and officials of the executive and  
2 judicial branches to enter during business hours any part of a  
3 facility operated by the division, for the purpose of observing the  
4 operations of the division. A visitor described by this subsection  
5 may talk with defendants away from division employees.

6 (b) The state jail division shall establish a visitation  
7 policy for persons confined in state jail felony facilities. The  
8 visitation policy must:

9 (1) allow visitation by a guardian of a defendant  
10 confined in a state jail felony facility to the same extent as the  
11 defendant's next of kin, including placing the guardian on the  
12 defendant's approved visitors list on the guardian's request and  
13 providing the guardian access to the defendant during a facility's  
14 standard visitation hours if the defendant is otherwise eligible to  
15 receive visitors; and

16 (2) require the guardian to provide the director of  
17 the facility with letters of guardianship before being allowed to  
18 visit the defendant.

19 SECTION 4. Section 511.009(a), Government Code, is amended  
20 to read as follows:

21 (a) The commission shall:

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

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

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

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

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

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

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

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

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

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

27           (11) adopt rules relating to requirements for

1 segregation of classes of inmates and to capacities for county  
2 jails;

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

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

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

18           (15) schedule announced and unannounced inspections  
19 of jails under the commission's jurisdiction using the risk  
20 assessment plan established under Section [511.0085](#) to guide the  
21 inspections process;

22           (16) adopt a policy for gathering and distributing to  
23 jails under the commission's jurisdiction information regarding:

24                   (A) common issues concerning jail  
25 administration;

26                   (B) examples of successful strategies for  
27 maintaining compliance with state law and the rules, standards, and

1 procedures of the commission; and

2 (C) solutions to operational challenges for  
3 jails;

4 (17) report to the Texas Correctional Office on  
5 Offenders with Medical or Mental Impairments on a jail's compliance  
6 with Article 16.22, Code of Criminal Procedure;

7 (18) adopt reasonable rules and procedures  
8 establishing minimum requirements for jails to:

9 (A) determine if a prisoner is pregnant; and

10 (B) ensure that the jail's health services plan  
11 addresses medical and mental health care, including nutritional  
12 requirements, and any special housing or work assignment needs for  
13 persons who are confined in the jail and are known or determined to  
14 be pregnant; ~~and~~

15 (19) provide guidelines to sheriffs regarding  
16 contracts between a sheriff and another entity for the provision of  
17 food services to or the operation of a commissary in a jail under  
18 the commission's jurisdiction, including specific provisions  
19 regarding conflicts of interest and avoiding the appearance of  
20 impropriety; and

21 (20) adopt reasonable rules and procedures regarding  
22 visitation of a prisoner at a county jail by a guardian, as defined  
23 by Section 1002.012, Estates Code, that:

24 (A) allow visitation by a guardian to the same  
25 extent as the prisoner's next of kin, including placing the  
26 guardian on the prisoner's approved visitors list on the guardian's  
27 request and providing the guardian access to the prisoner during a

1 facility's standard visitation hours if the prisoner is otherwise  
2 eligible to receive visitors; and

3 (B) require the guardian to provide the sheriff  
4 with letters of guardianship issued as provided by Section  
5 1106.001, Estates Code, before being allowed to visit the prisoner.

6 SECTION 5. Not later than December 1, 2015:

7 (1) the Texas Department of Criminal Justice shall  
8 revise visitation policies consistent with Sections 501.010 and  
9 507.030, Government Code, as amended by this Act; and

10 (2) the Commission on Jail Standards shall establish  
11 rules and procedures as required by Section 511.009(a)(20),  
12 Government Code, as added by this Act.

13 SECTION 6. Article 26.041, Code of Criminal Procedure, as  
14 added by this Act, applies to a defendant for whom indigency is at  
15 issue, regardless of whether the defendant is arrested before, on,  
16 or after the effective date of this Act.

17 SECTION 7. This Act takes effect September 1, 2015.