

## AN ACT

relating to variances granted by the Commission on Jail Standards.

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

SECTION 1. Section 511.009, Government Code, is amended by adding Subsection (c) to read as follows:

(c) At any time and on the application of the county commissioners or sheriff, the commission may grant reasonable variances, including variances that are to last for the life of a facility, clearly justified by the facts, for operation of a facility not in strict compliance with state law. A variance may not permit unhealthy, unsanitary, or unsafe conditions.

SECTION 2. Section 511.012(a), Government Code, is amended to read as follows:

(a) The commission shall grant the county or sheriff a reasonable period of not more than one year after the date of the report under Section 511.011 to comply with commission rules and procedures and state law. ~~[On application of the county commissioners or sheriff, the commission may grant reasonable variances, clearly justified by the facts, for operation of a county jail not in strict compliance with state law. A variance may not permit unhealthy, unsanitary, or unsafe conditions.]~~

SECTION 3. Section 511.013, Government Code, is amended to read as follows:

Sec. 511.013. APPEAL OF ORDER. (a) A county commissioner

1 or sheriff may seek review of an order issued under Section  
2 511.012(b) by making a written request to the executive director  
3 for a contested case hearing not later than the 30th day after the  
4 date of receipt of the order.

5 (b) Procedure and practice in a contested case hearing is  
6 governed by Chapter 2001 and the rules of the commission.

7 (c) After the contested case hearing, judicial review of the  
8 final decision of the commission is governed by Subchapter G,  
9 Chapter 2001.

10 ~~[Sec. 511.013. APPEAL. (a) A county may appeal a~~  
11 ~~commission order issued under Section 511.012(b) by filing a~~  
12 ~~petition in a district court of Travis County within 30 days after~~  
13 ~~the date of the order.~~

14 ~~[(b) Citation on the commission must be served within 30~~  
15 ~~days after the date the petition is filed and may be served on the~~  
16 ~~executive director.~~

17 ~~[(c) In the appeal, the court is confined to the record~~  
18 ~~developed by the commission and may consider only whether:~~

19 ~~[(1) the commission's order is based on substantial~~  
20 ~~evidence, or~~

21 ~~[(2) the order is arbitrary, capricious, or illegal.]~~

22 SECTION 4. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2003.

Rand Duvhant

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 2071 was passed by the House on April 10, 2003, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2071 on May 28, 2003, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 2071 was passed by the Senate, with amendments, on May 26, 2003, by the following vote: Yeas 31, Nays 0.

Datsy Shaw  
Secretary of the Senate

APPROVED: 20 JUN 03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 P.M. O'CLOCK

JUN 20 2003  
Leann Shea  
Secretary of State