GOVERNOR GREG ABBOTT

March 29, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30 PM O'CLOCK
MAR 29 2020
Secretary of State

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

> Executive Order No. GA-13 relating to detention in county and municipal jails during the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
March 29, 2020

EXECUTIVE ORDER
GA 13

Relating to detention in county and municipal jails during the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, the Commissioner of the Texas Department of State Health Services has determined that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued numerous executive orders and suspensions of Texas laws in response to the COVID-19 disaster, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, the jail population in Texas presents unique challenges in mitigating against and responding to the spread of COVID-19; and

WHEREAS, my office has worked with the Texas Commission on Jail Standards and with state and local officials to address these challenges while ensuring public safety for all Texans; and

WHEREAS, several counties are now reportedly considering the broad-scale release of arrested or jailed individuals as a result of COVID-19, including potentially those who have committed felonies, in order to reduce the size of the jail population; and

WHEREAS, such releases from county or municipal jails of those charged with, convicted of, or having a history of offenses involving physical violence or threats of physical violence would not only gravely threaten public safety, but would also hinder efforts to cope with the COVID-19 disaster; and

WHEREAS, a statewide standard is needed to avoid disparate release policies or practices that may endanger the public safety of Texans; and

WHEREAS, the Texas Judicial Council has recently reminded judges that individuals who pose a significant risk to the community or the victim, or who present a significant risk of flight, should be detained, and Texas judges are legally required and oath-bound to determine bail on an individualized basis after considering the factors mandated by

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Article 17.15 of the Texas Code of Criminal Procedure, which does not include the option of releases based solely on concerns or fears surrounding COVID-19; and

WHEREAS, the "governor is responsible for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), in addition to the other powers given, the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.017(a), the "governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area."

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

Article 17.03 of the Texas Code of Criminal Procedure, and all other relevant statutes and rules relating to personal bonds, are hereby suspended to the extent necessary to preclude the release on personal bond of any person previously convicted of a crime that involves physical violence or the threat of physical violence, or of any person currently arrested for such a crime that is supported by probable cause. I hereby order that no authority should release on personal bond any person previously convicted of a crime that involves physical violence or the threat of physical violence, or any person currently arrested for such a crime that is supported by probable cause.

Article 17.151 of the Texas Code of Criminal Procedure is hereby suspended to the extent necessary to prevent any person's automatic release on personal bond because the State is not ready for trial.

Article 15.21 of the Texas Code of Criminal Procedure is hereby suspended to the extent necessary to prevent any person's automatic release on personal bond because the jail of the county where the offense is alleged to have been committed does not take charge of the arrested person before the 11th day after the date the person is committed to the jail of the county in which the person is arrested.

Article 42.032 of the Texas Code of Criminal Procedure, and all other relevant statutes and rules, are hereby suspended to the extent necessary to preclude the grant of commutation of time for good conduct, industry, and obedience to achieve the release of any person who has previously been convicted of or is currently

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serving a sentence for a crime that involves physical violence or the threat of physical violence. I hereby order that no authority should grant the commutation of time for good conduct, industry, and obedience to achieve the release of any person who has previously been convicted of or is currently serving a sentence for a crime that involves physical violence or the threat of physical violence. This provision does not preclude the accumulation of credit for good conduct, industry, and obedience during the pendency of this executive order.

Article 42.035 of the Texas Code of Criminal Procedure is hereby suspended to the extent necessary to preclude any release of a person to an electronic monitoring program, rather than being confined in the jail, if the person has previously been convicted of or is currently serving a sentence for a crime that involves physical violence or the threat of physical violence.

Sections 418.1015(b) and 418.108 of the Texas Government Code are hereby suspended to the extent necessary to preclude any county judge or mayor of a municipality, or any emergency management director, from releasing persons under any circumstances inconsistent with this order.

Provided, however, that nothing herein shall prevent the lawful exercise of authority by a county criminal court judge, district judge, or appellate judge in considering release on an individualized basis for health or medical reasons, provided that proper notice is given to the district attorney and an opportunity for hearing is given.

This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the governor.

Given under my hand this the 29th day of March, 2020.

GREG ABBOTT
Governor

ATTESTED BY:

RUTH R. HUGHS
Secretary of State

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