

BILL ANALYSIS

Senate Research Center
81R28384 PEP-D

H.B. 3653
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Criminal Justice
5/14/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not establish guidelines on the use of restraints on pregnant inmates during certain times of labor, delivery, or recovery. Shackling during labor and delivery can be detrimental to the health of both the infant and the mother.

H.B. 3653 prohibits the use of restraints on pregnant inmates or pregnant defendants during labor and delivery or recovery, except where security, safety, or escape risks exist.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 501, Government Code, by adding Section 501.066, as follows:

Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT. (a) Prohibits the Texas Department of Criminal Justice (TDCJ) from using restraints to control the movement of a pregnant woman in the custody of TDCJ at any time during which the woman is in labor or delivery or recovering from delivery, unless the director of TDCJ or director's designee determines that the use of restraints is necessary to ensure the safety and security of the woman or her infant, TDCJ or medical personnel, or any member of the public, or prevent a substantial risk that the woman will attempt escape.

(b) Requires that the type of restraint used and the manner in which the restraint is used, if a determination to use restraints is made under Subsection (a), be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

SECTION 2. Amends Subchapter E, Chapter 61, Human Resources Code, by adding Section 61.07611, as follows:

Sec. 61.07611. RESTRAINT OF PREGNANT JUVENILE. (a) Prohibits the Texas Youth Commission (TYC) from using restraints to control the movement of a pregnant child who is committed to TYC at any time during which the child is in labor or delivery or recovering from delivery, unless the executive director of TYC or executive director's designee determines that the use of restraints is necessary to ensure the safety and security of the child or her infant, TYC or medical personnel, or any member of the public, or prevent a substantial risk that the child will attempt escape.

(b) Requires that the type of restraint used and the manner in which the restraint is used, if a determination to use restraints is made under Subsection (a), be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

SECTION 3. Amends Subchapter F, Chapter 361, Local Government Code, by adding Section 361.082, as follows:

Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT. (a) Prohibits a municipal or county jail from using restraints to control the movement of a pregnant woman in the custody of the jail at any time during which the woman is in labor or delivery or recovering from delivery, unless the sheriff or another person with supervisory authority over the jail determines that the use of restraints is necessary to ensure the safety and security of the woman or her infant, jail or medical personnel, or any member of the public, or prevent a substantial risk that the woman will attempt escape.

(b) Requires that the type of restraint used and the manner in which the restraint is used, if a determination to use restraints is made under Subsection (a), be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

SECTION 4. Effective date: September 1, 2009.