

**SUBJECT:** Creating standards for female inmates, including pregnant inmates

**COMMITTEE:** Corrections — committee substitute recommended

**VOTE:** 6 ayes — White, Allen, Bowers, Dean, Sherman, Stephenson

0 nays

2 absent — Bailes, Neave

**WITNESSES:** For — Lauren Johnson, American Civil Liberties Union of Texas; Kaitlin Owens, American Conservative Union; Karen Smith, Texas Academy of Family Physicians; Kathryn Freeman, Texas Baptist Christian Life Commission; Lindsey Linder, Texas Criminal Justice Coalition; Kaycie Alexander, Texas Public Policy Foundation; Jason Vaughn, Texas Young Republicans; Koretta Brown; Elizabeth Gillette; Mia Greer; Margarita Luna; Kirsten Ricketts; (*Registered, but did not testify*: Juliana Kerker, American College of Obstetricians and Gynecologists, Texas District; Hal Wuertz, Austin Justice Coalition; Traci Berry, Goodwill Central Texas; Julia Egler, National Alliance on Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas; Mary Mergler, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Michael Barba, Texas Catholic Conference of Bishops; Lauren Oertel, Texas Inmate Families Association; Michelle Romero, Texas Medical Association; Nataly Saucedo, United Ways of Texas; and 10 individuals)

Against — None

On — Lorie Davis, Texas Department of Criminal Justice

**BACKGROUND:** Government Code sec. 501.066 prohibits the Texas Department of Criminal Justice from using restraints on a pregnant woman in custody at any time during labor or delivery or recovery from delivery, unless it determined that using restraints was necessary to ensure the safety and security of the woman or her infant, department or medical personnel, or any member of the public or to prevent an escape attempt.

DIGEST: CSHB 650 would prescribe certain requirements for the Texas Department of Criminal Justice (TDCJ) and create standards regarding the care of female inmates, including pregnant inmates.

**Correctional officer training related to pregnant inmates.** CSHB 650 would require TDCJ to provide training on medical and mental health care applicable to pregnant inmates to correctional officers working in facilities with female inmates and to any other employee whose duties involved contact with pregnant inmates.

The training would include information on the appropriate care for pregnant inmates and the impact on a pregnant inmate of the use of restraints, placement in administrative segregation, and invasive searches.

**Educational programming for pregnant inmates.** The bill would require TDCJ to develop and provide to each pregnant inmate educational programming relating to pregnancy and parenting, including:

- appropriate prenatal care and hygiene;
- the effects of prenatal exposure to alcohol and drugs on a developing fetus;
- parenting skills; and
- medical and mental health issues applicable to children.

**Limiting, prohibiting certain searches.** TDCJ would have to adopt a policy on the search of any room or other area in which a female inmate who was not fully clothed was present.

The policy would:

- require that the search be conducted by a female correctional officer if available;
- include staffing procedures to ensure the availability of female officers; and
- provide that if it was necessary for a male correctional officer to

conduct the search, the officer would have to submit a report to the warden explaining the reasons for the search within 72 hours.

The bill would require a medical professional to conduct any invasive body cavity search of a pregnant inmate.

If there was a reasonable belief that the inmate was concealing contraband, a correctional officer could conduct the search. The officer would have to report to the warden within 72 hours the reason for the search and identify any contraband recovered.

**Restraint of pregnant inmate or defendant.** The bill would expand the period for the prohibition on the use of restraints on a pregnant woman in custody to include any time during pregnancy.

The bill also would revise the circumstances under which TDCJ could use restraints on a pregnant inmate to include the use of restraints if necessary to ensure that the inmate would not hurt herself, her infant, or any other person.

**Housing requirements for pregnant inmates.** TDCJ could not place an inmate who was pregnant or who had given birth within the previous 30 days in administrative segregation unless it determined that the placement was necessary based on a reasonable belief the inmate would harm herself, her infant, or any other person or would attempt to escape.

TDCJ also could not assign a pregnant inmate to any bed that was elevated more than three feet above the floor.

**Nutritional requirements for pregnant inmates.** TDCJ would have to ensure that pregnant inmates were provided sufficient food and dietary supplements, including prenatal vitamins, as ordered by a medical professional.

**Inmate postpartum recovery requirements.** TDCJ would be required to ensure that for 72 hours after an inmate gave birth:

- the infant was allowed to remain with the inmate, unless a medical professional determined it would pose a health or safety risk to the inmate or infant; and
- the inmate had access to any nutritional or hygiene-related products necessary to care for the infant, including diapers.

The nutritional or hygiene-related products would be free for indigent inmates.

**Study of visitation policies.** TDCJ would be required to study the effect of its visitation policies on the relationships between female inmates or defendants and their children. The study would:

- review evidence-based visitation policies that enhanced parental bonding and engagement and age-appropriate visitation activities for children that enhanced cognitive and motor skills; and
- consider implementing policy changes to strengthen the relationship between female inmates or defendants and their children.

TDCJ would report the study results to the governor, lieutenant governor, House speaker, and appropriate legislative committees by December 31, 2020. The bill's provisions on the study would expire February 1, 2021.

**Provision of feminine hygiene products.** TDCJ would have to provide up to 10 feminine hygiene products per day for free to a female inmate who requested them. The products would have to comply with applicable federal standards for comfort, effectiveness, and safety.

**Trauma history assessment.** The bill would require TDCJ to assess each female inmate during the diagnostic process to determine whether the inmate experienced adverse childhood experiences or other significant trauma and refer the inmate as needed to appropriate medical or mental health care professionals for treatment.

The bill would take effect September 1, 2019, and TDCJ would have to adopt rules to implement it by December 1, 2019.

**SUPPORTERS  
SAY:**

CSHB 650 would address the unique issues facing incarcerated women, especially pregnant inmates. The Texas Department of Criminal Justice already has started efforts to improve outcomes for women involved in the justice system, many of whom are mothers and are incarcerated for non-violent offenses. This bill is needed to provide legislative guidance on common sense practices regarding female inmates and ensure that they are treated with dignity and provided the proper standard of care.

Female inmates deserve particular attention because of challenges they face with reentry, mental illness, substance use, and past trauma. These challenges can be intensified for pregnant inmates dealing with maternal health issues in correctional settings. Research has shown that female inmates who receive gender-specific care are more likely to complete voluntary community-based treatment upon release and are less likely to reoffend.

CSHB 650 would establish policies and practices that would help female inmates foster meaningful relationships with their families, which could lead to inmates being held accountable in a safe and healthy way and reduce the negative effects of parental incarceration on children.

**OPPONENTS  
SAY:**

No concerns identified.