

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 650
By: White et al. (Whitmire)
Criminal Justice
5/1/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 650 amends current law relating to inmates of the Texas Department of Criminal Justice.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Criminal Justice in SECTION 7 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 493, Government Code, by adding Section 493.032, as follows:

Sec. 493.032. CORRECTIONAL OFFICER TRAINING RELATED TO PREGNANT INMATES. (a) Requires the Texas Department of Criminal Justice (TDCJ) to provide training relating to medical and mental health care issues applicable to pregnant inmates to each correctional officer employed by TDCJ at a facility in which female inmates are confined and any other TDCJ employee whose duties involve contact with pregnant inmates.

(b) Requires the training to include information regarding:

- (1) appropriate care for pregnant inmates; and
- (2) the impact on a pregnant inmate and the inmate's unborn child of:
 - (A) the use of restraints;
 - (B) placement in administrative segregation; and
 - (C) invasive searches.

SECTION 2. Amends Subchapter A, Chapter 501, Government Code, by adding Section 501.0101, as follows:

Sec. 501.0101. STUDY OF VISITATION POLICIES; REPORT. (a) Requires TDCJ to conduct a study of the effect of TDCJ's visitation policies under Sections 501.010 (Visitors) and 507.030 (Visitation) on the relationships between inmates or defendants and their children. Requires TDCJ, in conducting the study, to:

- (1) review evidence-based visitation practices that enhance parental bonding and engagement and age-appropriate visitation activities for children that enhance cognitive and motor skills; and
- (2) consider implementing changes to the policies to strengthen the relationships between inmates or defendants and their children.

(b) Requires TDCJ, not later than December 31, 2020, to report the results of the study to the governor, the lieutenant governor, the speaker of the house of

representatives, and the standing legislative committees with primary jurisdiction over TDCJ.

(c) Provides that this section expires February 1, 2021.

SECTION 3. Amends Subchapter A, Chapter 501, Government Code, by adding Sections 501.0215 and 501.026, as follows:

Sec. 501.0215. EDUCATIONAL PROGRAMMING FOR PREGNANT INMATES. Requires TDCJ to develop and provide to each pregnant inmate educational programming relating to pregnancy and parenting. Requires the programming to include instruction regarding 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.

Sec. 501.026. LIMITATION ON CERTAIN SEARCHES. Requires TDCJ to adopt a policy regarding a search of any room or other area that occurs while a female inmate who is not fully clothed is present in the room or area. Requires the policy to:

- (1) require that the search be conducted by a female correctional officer if one is available;
- (2) include staffing procedures to ensure the availability of female officers; and
- (3) provide that if it is necessary for a male correctional officer to conduct the search, the officer is required to submit a written report explaining the reasons for the search to the warden not later than 72 hours after the search.

SECTION 4. Amends Section 501.066(a), Government Code, as follows:

(a) Prohibits TDCJ from placing restraints around the ankles, legs, or waist of a pregnant woman in the custody of TDCJ at any time after the woman's pregnancy has been confirmed by a medical professional, unless the director, the director's designee, or a medical professional determines that the use of restraints is necessary based on a reasonable belief that the woman will harm herself, her unborn child or infant, or any other person or will attempt escape, rather than prohibiting 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 or the 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.

SECTION 5. Amends Subchapter B, Chapter 501, Government Code, by adding Sections 501.0665, 501.0666, 501.0667, 501.0675, and 501.070, as follows;

Sec. 501.0665. CERTAIN INVASIVE SEARCHES PROHIBITED. (a) Requires any invasive body cavity search of a pregnant inmate, except as provided by Subsection (b), to be conducted by a medical professional.

(b) Authorizes a correctional officer to conduct an invasive body cavity search of a pregnant inmate only if the officer has a reasonable belief that the inmate is concealing contraband. Requires an officer who conducts a search described by this section to submit a written report to the warden not later than 72 hours after the search. Requires the report to explain the reasons for the search and identify any contraband recovered in the search.

Sec. 501.0666. NUTRITION REQUIREMENTS FOR PREGNANT INMATES. Requires TDCJ to ensure that pregnant inmates are provided sufficient food and dietary supplements, including prenatal vitamins, as ordered by an appropriate medical professional.

Sec. 501.0667. INMATE POSTPARTUM RECOVERY REQUIREMENTS. (a) Requires TDCJ to ensure that, for a period of 72 hours after the birth of an infant by an inmate:

(1) the infant is allowed to remain with the inmate, unless a medical professional determines doing so would pose a health or safety risk to the inmate or infant; and

(2) the inmate has access to any nutritional or hygiene-related products necessary to care for the infant, including diapers.

(b) Requires TDCJ to make the items described by Subection (a)(2) available free of charge to an indigent inmate.

Sec. 501.0675. PROVISION OF FEMININE HYGIENE PRODUCTS. (a) Defines "feminine hygiene product."

(b) Requires TDCJ, on request of a female inmate, to provide free of charge to the inmate up to 10 feminine hygiene products per day that comply with applicable federal standards for comfort, effectiveness, and safety.

Sec. 501.070. TRAUMA HISTORY SCREENING. Requires TDCJ to assess each female inmate during the diagnostic process to determine whether the inmate has experienced adverse childhood experiences or other significant trauma and refer the inmate as needed to the appropriate medical or mental health care professional for treatment.

SECTION 6. Amends Subchapter D, Chapter 501, Government Code, by adding Section 501.114, as follows:

Sec. 501.114. HOUSING REQUIREMENTS APPLICABLE TO PREGNANT INMATES. (a) Prohibits TDCJ from placing in administrative segregation an inmate who is pregnant or who gave birth during the preceding 30 days unless the director or director's designee determines that the placement is necessary based on a reasonable belief that the inmate will harm herself, her unborn child or infant, or any other person or will attempt escape.

(b) Prohibits TDCJ from assigning a pregnant inmate to any bed that is elevated more than three feet above the floor.

SECTION 7. Requires TDCJ, as soon as practicable after the effective date of this Act, but not later than December 1, 2019, to adopt rules and policies necessary to implement this Act.

SECTION 8. Effective date: September 1, 2019.