

BILL ANALYSIS

C.S.H.B. 3653
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Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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

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

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3653 amends the Government Code to prohibit the Texas Department of Criminal Justice (TDCJ) from using restraints to control the movement of a pregnant woman in the custody of the department at any time during which the woman is in labor, delivery, or recovering from delivery, unless the director of TDCJ 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, department or medical personnel, or any member of the public or to prevent a substantial risk that the woman will attempt escape. The bill specifies that if a determination to use restraints is made, the type of restraint used and the manner in which the restraint is used is required to be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

C.S.H.B. 3653 amends the Local Government Code to apply that prohibition to a municipal or county jail, unless the sheriff or another person with supervisory authority over the jail makes the same determination that the use of restraints is necessary, and to apply the same requirements if the determination is made.

C.S.H.B. 3653 amends the Human Resources Code to apply that prohibition to the Texas Youth Commission (TYC) for a pregnant child who is committed to the commission at any time during which the child is in labor or delivery or recovering from delivery, unless the executive director of TYC or the executive director's designee determines that the use of restraints is necessary for safety or security or to prevent escape, and to apply the same requirements if the determination is made.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3653 differs from the original by specifying that the prohibition against the Texas Department of Criminal Justice (TDCJ) using restraints to control the movement of a pregnant woman applies to a pregnant woman in the custody of the department, rather than a pregnant woman confined in a facility operated by or under contract with the department as in the original. The substitute omits language in the original applying the TDCJ and a municipal or county jail prohibition to the period during which the inmate or defendant is being transported to a medical facility. The substitute makes a technical correction to language in the original.

C.S.H.B. 3653 adds a provision not in the original prohibiting the Texas Youth Commission (TYC) from restraining a pregnant child who is committed to the commission at any time during which the child is in labor or delivery or recovering from delivery, and applying the same requirements as the other prohibitions under the bill's provisions to a determination made by the executive director of TYC.