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H.B. No. 3653

A BILL TO BE ENTITLED

AN ACT

relating to the use of restraints to control the movement of pregnant women and female children confined in certain correctional facilities in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.066 to read as follows:

Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

(a) The department may not use 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 or delivery or recovering from delivery, unless the director or director's designee determines that the use of restraints is necessary to:

(1) ensure the safety and security of the woman or her infant, department or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the woman will attempt escape.

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

SECTION 2. Subchapter E, Chapter 61, Human Resources Code,

is amended by adding Section 61.07611 to read as follows:

Sec. 61.07611. RESTRAINT OF PREGNANT JUVENILE. (a) The commission may not use restraints to control the movement of 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 or executive director's designee determines that the use of restraints is necessary to:

(1) ensure the safety and security of the child or her infant, commission or medical personnel, or any member of the public; or

(2) prevent a substantial risk that the child will attempt escape.

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

SECTION 3. Subchapter F, Chapter 361, Local Government Code, is amended by adding Section 361.082 to read as follows:

Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

(a) A municipal or county jail may not use 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:

(1) ensure the safety and security of the woman or her

1 infant, jail or medical personnel, or any member of the public; or
2 (2) prevent a substantial risk that the woman will
3 attempt escape.

4 (b) If a determination to use restraints is made under
5 Subsection (a), the type of restraint used and the manner in which
6 the restraint is used must be the least restrictive available under
7 the circumstances to ensure safety and security or to prevent
8 escape.

9 SECTION 4. This Act takes effect September 1, 2009.