

1-1 By: Marquez, et al. (Senate Sponsor - Davis) H.B. No. 3653  
1-2 (In the Senate - Received from the House May 13, 2009;  
1-3 May 14, 2009, read first time and referred to Committee on Criminal  
1-4 Justice; May 22, 2009, reported favorably by the following vote:  
1-5 Yeas 6, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the use of restraints to control the movement of  
1-9 pregnant women and female children confined in certain correctional  
1-10 facilities in this state.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter B, Chapter 501, Government Code, is  
1-13 amended by adding Section 501.066 to read as follows:

1-14 Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

1-15 (a) The department may not use restraints to control the movement  
1-16 of a pregnant woman in the custody of the department at any time  
1-17 during which the woman is in labor or delivery or recovering from  
1-18 delivery, unless the director or director's designee determines  
1-19 that the use of restraints is necessary to:

1-20 (1) ensure the safety and security of the woman or her  
1-21 infant, department or medical personnel, or any member of the  
1-22 public; or

1-23 (2) prevent a substantial risk that the woman will  
1-24 attempt escape.

1-25 (b) If a determination to use restraints is made under  
1-26 Subsection (a), the type of restraint used and the manner in which  
1-27 the restraint is used must be the least restrictive available under  
1-28 the circumstances to ensure safety and security or to prevent  
1-29 escape.

1-30 SECTION 2. Subchapter E, Chapter 61, Human Resources Code,  
1-31 is amended by adding Section 61.07611 to read as follows:

1-32 Sec. 61.07611. RESTRAINT OF PREGNANT JUVENILE. (a) The

1-33 commission may not use restraints to control the movement of a  
1-34 pregnant child who is committed to the commission at any time during  
1-35 which the child is in labor or delivery or recovering from delivery,  
1-36 unless the executive director or executive director's designee  
1-37 determines that the use of restraints is necessary to:

1-38 (1) ensure the safety and security of the child or her  
1-39 infant, commission or medical personnel, or any member of the  
1-40 public; or

1-41 (2) prevent a substantial risk that the child will  
1-42 attempt escape.

1-43 (b) If a determination to use restraints is made under  
1-44 Subsection (a), the type of restraint used and the manner in which  
1-45 the restraint is used must be the least restrictive available under  
1-46 the circumstances to ensure safety and security or to prevent  
1-47 escape.

1-48 SECTION 3. Subchapter F, Chapter 361, Local Government  
1-49 Code, is amended by adding Section 361.082 to read as follows:

1-50 Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

1-51 (a) A municipal or county jail may not use restraints to control  
1-52 the movement of a pregnant woman in the custody of the jail at any  
1-53 time during which the woman is in labor or delivery or recovering  
1-54 from delivery, unless the sheriff or another person with  
1-55 supervisory authority over the jail determines that the use of  
1-56 restraints is necessary to:

1-57 (1) ensure the safety and security of the woman or her  
1-58 infant, jail or medical personnel, or any member of the public; or

1-59 (2) prevent a substantial risk that the woman will  
1-60 attempt escape.

1-61 (b) If a determination to use restraints is made under  
1-62 Subsection (a), the type of restraint used and the manner in which  
1-63 the restraint is used must be the least restrictive available under  
1-64 the circumstances to ensure safety and security or to prevent

2-1 escape.

2-2 SECTION 4. This Act takes effect September 1, 2009.

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