

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 28, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3653** by Marquez (Relating to the use of restraints to control the movement of pregnant women and female children confined in certain correctional facilities in this state. ), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Government Code, the Human Resources Code, and the Local Government Code to prevent the use of certain restraints upon pregnant inmates in the custody of the Texas Department of Criminal Justice (TDCJ), pregnant juveniles committed to the Texas Youth Commission (TYC), and pregnant defendants in the custody of a municipal or county jail.

The bill would also require the Executive Commissioner of the Health and Human Services Commission (HHSC) to adopt rules limiting the use of restraints in state schools and prohibit use of prone and supine holds. The bill would prohibit issuance of an order or administration of a mechanical or physical restraint or injection of a psychoactive medication for a resident of a state school on a pro re nata basis. The bill would require that an injection of a psychoactive medication be administered only under a court order or an order issued by a physician pursuant to a psychiatric emergency. The bill would prohibit use of a straitjacket to restrain a resident of a state school. The bill would require a state school to report to the Executive Commissioner each incident in which a physical or mechanical restraint is administered.

The bill would require the DADS Commissioner to submit an annual report to the Senate Health and Human Services Committee that summarizes the use of restraints by each state school. DADS would be required to implement a training and certification program for state school staff who may administer restraints. The bill would require DADS to collect information at the time a person is admitted to a state school on the person's treatment history and any advance directives issued.

DADS would be required to establish a restraint reduction plan and a performance improvement plan. DADS would be required to develop debriefing procedures for staff and residents to be performed after each use of a restraint. DADS would be required to collect data from each state school on the use of restraints.

A state school would be required to incorporate the restraint reduction plan, train and educate staff, and implement innovative clinical approaches to further the philosophy of the restraint reduction plan. DADS would be required to develop a behavior support plan for state school residents.

DADS would be required to develop a disease management program for state school residents with a dual diagnosis of mental retardation and mental illness.

This analysis assumes the rulemaking at HHSC can be accomplished within existing resources. The Department of Aging and Disability Services indicates the bill would result in changes in policy and procedures, training and certification, annual reporting, and data collection which would not have a significant fiscal impact to the agency.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 539 Aging and Disability Services, Department of

**LBB Staff:** JOB, ESi, CL, JI, LL