

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,

1 is amended by adding Section 61.07611 to read as follows:

2 Sec. 61.07611. RESTRAINT OF PREGNANT JUVENILE. (a) The
3 commission may not use restraints to control the movement of a
4 pregnant child who is committed to the commission at any time during
5 which the child is in labor or delivery or recovering from delivery,
6 unless the executive director or executive director's designee
7 determines that the use of restraints is necessary to:

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

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

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

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

20 Sec. 361.082. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

21 (a) A municipal or county jail may not use restraints to control
22 the movement of a pregnant woman in the custody of the jail at any
23 time during which the woman is in labor or delivery or recovering
24 from delivery, unless the sheriff or another person with
25 supervisory authority over the jail determines that the use of
26 restraints is necessary to:

27 (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.

President of the Senate

Speaker of the House

I certify that H.B. No. 3653 was passed by the House on May 12, 2009, by the following vote: Yeas 116, Nays 30, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3653 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3653 on May 31, 2009, by the following vote: Yeas 141, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3653

I certify that H.B. No. 3653 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3653 on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor