

By: Marquez, Olivo, King of Taylor, Madden

H.B. No. 3653

Substitute the following for H.B. No. 3653:

By: McReynolds

C.S.H.B. No. 3653

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the use of restraints to control the movement of
3 pregnant women and female children confined in certain correctional
4 facilities in this state.

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

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

8 Sec. 501.066. RESTRAINT OF PREGNANT INMATE OR DEFENDANT.

9 (a) The department may not use restraints to control the movement
10 of a pregnant woman in the custody of the department at any time
11 during which the woman is in labor or delivery or recovering from
12 delivery, unless the director or director's designee determines
13 that the use of restraints is necessary to:

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

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

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

24 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.