

By: Marquez

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 confined in certain correctional facilities in this
4 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 of
10 a pregnant woman confined in a facility operated by or under
11 contract with the department at any time during which the woman is
12 in labor or delivery, being transported to a medical facility, or
13 recovering from delivery, unless the director or director's
14 designee determines that the use of restraints is necessary to:

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

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

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

1 SECTION 2. Subchapter F, Chapter 361, Local Government
2 Code, is amended by adding Section 361.082 to read as follows:

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

4 (a) A municipal or county jail may not use restraints to control the
5 movement of a pregnant woman in the custody of the jail at any time
6 during which the woman is in labor or delivery, being transported to
7 a medical facility, or recovering from delivery, unless the sheriff
8 or another person with supervisory authority over the jail
9 determines that the use of restraints is necessary to:

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

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

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

20 SECTION 3. This Act takes effect September 1, 2009.