

BILL ANALYSIS

C.S.H.B. 650
By: White
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised over the lack of specific Texas Department of Criminal Justice (TDCJ) standards regarding the care of incarcerated women. C.S.H.B. 650 seeks to address these concerns by setting out provisions regarding these women and regarding, among other things, the treatment of incarcerated pregnant women, educational programming for pregnant inmates, and training related to pregnant inmates for correctional officers and other TDCJ employees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Criminal Justice in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 650 amends the Government Code to require the Texas Department of Criminal Justice (TDCJ) to provide training relating to medical and mental health care issues applicable to pregnant inmates to each correctional officer employed by TDCJ at a facility in which female inmates are confined and any other TDCJ employee whose duties involve contact with pregnant inmates. The training must include information regarding appropriate care for pregnant inmates and the impact on a pregnant inmate of the use of restraints, placement in administrative segregation, and invasive searches.

C.S.H.B. 650 requires TDCJ to develop and provide to each pregnant inmate educational programming relating to pregnancy and parenting and sets out the instruction that must be included in the programming.

C.S.H.B. 650 requires TDCJ to adopt a policy regarding a search of any room or other area that occurs while a female inmate who is not fully clothed is present in the room or area and sets out requirements relating to the policy. The bill requires any invasive body cavity search of a pregnant inmate to be conducted by a medical professional but authorizes a correctional officer to conduct such a search if the officer has a reasonable belief that the inmate is concealing contraband. The bill requires an officer who conducts such a search to submit a written report to the warden not later than 72 hours after the search and requires the report to explain the reasons for the search and identify any contraband recovered in the search.

C.S.H.B. 650 requires TDCJ to ensure that pregnant inmates are provided sufficient food and dietary supplements, including prenatal vitamins, as ordered by an appropriate medical professional. The bill requires TDCJ to ensure that, for a period of 72 hours after the birth of an

infant by an inmate, the infant is allowed to remain with the inmate unless a medical professional determines doing so would pose a health or safety risk to the inmate or infant and the inmate has access to any nutritional or hygiene-related products necessary to care for the infant, including diapers. The bill requires TDCJ to make those nutritional and hygiene-related products available free of charge to an indigent inmate.

C.S.H.B. 650 requires TDCJ to provide free of charge to a female inmate up to 10 feminine hygiene products per day that comply with applicable federal standards for comfort, effectiveness and safety on request of the inmate and defines "feminine hygiene product" for the purposes of this requirement.

C.S.H.B. 650 requires TDCJ to assess each female inmate during the diagnostic process to determine whether the inmate has experienced adverse childhood experiences or other significant trauma and to refer the inmate as needed to the appropriate medical or mental health care professional for treatment.

C.S.H.B. 650 changes the period during which TDCJ may not use restraints to control the movement of a pregnant woman in custody from any time during which the woman is in labor or delivery or recovering from delivery to any time during which the woman is pregnant or recovering from delivery. The bill includes among the exceptions to that prohibition a determination by the director of the institutional division or director's designee that the use of restraints is necessary to ensure the safety and security of correctional staff or to ensure that the woman will not hurt herself or any other person.

C.S.H.B. 650 prohibits TDCJ from placing in administrative segregation an inmate who is pregnant or who gave birth during the preceding 30 days unless the director or director's designee determines that the placement is necessary based on a reasonable belief that the inmate will harm herself, the inmate's infant, or any other person or will attempt escape. The bill prohibits TDCJ from assigning a pregnant inmate to any bed that is elevated more than three feet above the floor.

C.S.H.B. 650 requires TDCJ to conduct a study of the effect of the visitation policies of the institutional division and the state jail division of TDCJ on the relationships between female inmates or defendants and their children and sets out the required contents of the study. The bill requires TDCJ to report the results of the study not later than December 31, 2020, to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislative committees with primary jurisdiction over TDCJ. The bill's provisions relating to the study and report expire February 1, 2021.

C.S.H.B. 650 requires TDCJ, not later than December 1, 2019, to adopt rules and policies necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 650 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute makes the training requirement for correctional officers applicable only to an officer employed at a facility in which female inmates are confined.

The substitute includes a requirement for TDCJ to conduct a trauma history assessment of each female inmate and to refer the inmate for appropriate treatment.

The substitute does not include visitation policy requirements applicable to female inmates or defendants with young children but includes a temporary provision requiring a study of visitation policies.