

BILL ANALYSIS

H.B. 1651
By: González, Mary
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that the use of restraints on a pregnant prisoner impedes the ability of medical professionals to work with the prisoner, increasing the risk of complications during labor and delivery. It has also been noted that restraints pose other health risks to pregnant prisoners and prisoners who are new mothers such as inhibiting their ability to break a fall. H.B. 1651 seeks to address these issues by providing for Commission on Jail Standards rules regarding the restraint of a pregnant prisoner.

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 Commission on Jail Standards in SECTIONS 1 and 2 of this bill.

ANALYSIS

H.B. 1651 amends the Government Code to require the Commission on Jail Standards (TCJS), not later than December 1, 2019, to adopt reasonable rules and procedures regarding the use of any type of restraints to control or restrict the movement of a prisoner, including a limb or other part of the prisoner, who is confirmed to be pregnant or who gave birth in the preceding 12 weeks. The bill requires the rules and procedures to prohibit the use of restraints on such a prisoner for the duration of the pregnancy and for a period of not less than 12 weeks after the prisoner gives birth unless a health care professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the health and safety of the prisoner or supervisory personnel determines the use of restraints is necessary to prevent an immediate and credible risk that the prisoner will attempt to escape or determines the prisoner poses an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public. The bill requires the rules and procedures to require jail staff that uses restraints as permitted under its provisions to use the least restrictive restraints necessary to prevent escape or to ensure health and safety. The bill requires the rules and procedures, notwithstanding such permitted uses of restraints, to require jail staff to refrain from using restraints on the prisoner or to remove the restraints at the request of a health care professional responsible for the health and safety of the prisoner.

H.B. 1651 requires each county jail, not later than February 1 of each year, to submit to TCJS a report regarding the jail's use, during the preceding calendar year, of any type of restraints to control or restrict the movement of a prisoner, including a limb or other part of the prisoner, who is confirmed to be pregnant or who gave birth in the preceding 12 weeks. The bill requires the report to include the circumstances of each use of restraints, including certain specified

information. The bill requires TCJS to prescribe a form for the report not later than December 1, 2019.

H.B. 1651 revises the requirement that TCJS adopt reasonable rules and procedures establishing minimum requirements for jails to ensure that the jail's health services plan addresses certain considerations with respect to pregnant prisoners to specify that the minimum requirements apply to county jails and that considerations relating to medical care include obstetrical and gynecological care. The bill adds minimum requirements for a county jail to identify when a pregnant prisoner is in labor and provide appropriate care to the prisoner, including promptly transporting the prisoner to a local hospital. The bill requires TCJS to adopt the revised rules and procedures not later than December 1, 2019.

EFFECTIVE DATE

September 1, 2019.