SUBJECT: Requiring reports on the confinement of pregnant inmates in county jails

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Coleman, Burrows, Romero, Schubert, Stickland, Tinderholt, Wu

             1 nay — Spitzer

             1 absent — Farias

WITNESSES: For — Matt Simpson, ACLU of Texas; Alexandra Chirico, Texas Criminal Justice Coalition; Diana Claitor, Texas Jail Project; Jennifer Allmon, The Texas Catholic Conference of Bishops; Lauren Johnson; (*Registered, but did not testify*: Jason Sabo, Children at Risk; Kathryn Freeman, Christian Life Commission; Charles Reed, Dallas County Commissioners Court; Bob Libal, Grassroots Leadership; Cate Graziani, Mental Health America of Texas; Eileen Garcia, Texans Care for Children; Jacqueline Rodriguez and Kyleen Wright, Texans for Life Committee; Joe Pojman, Texas Alliance for Life; Josh Gravens, Texas Citizens United for Rehabilitation of Errants (CURE); Joshua Houston, Texas Impact; Troy Alexander, Texas Medical Association; Andrew Cates, Texas Nurses Association; Lisa Haufler; Leah Lobsiger; Nancy Mcenany)

             Against — R. Glenn Smith; (*Registered, but did not testify*: William Travis, Micah Harmon, AJ Louderback, and Dennis D. Wilson, Sheriffs' Association of Texas)

             On — Brandon Wood, Texas Commission on Jail Standards; (*Registered, but did not testify*: Diana Spiller, Texas Commission on Jail Standards)

BACKGROUND: Government Code, sec. 511.009(a)(18) requires that the Texas Commission on Jail Standards adopt reasonable rules and procedures establishing minimum requirements for jails to determine if an inmate is pregnant and to ensure that the jail's health services plan addresses

medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for pregnant inmates.

Local Government Code, sec. 361.082 places restrictions on the use of restraints for pregnant women in jail. A municipal or county jail may not use restraints to control the movement of a pregnant woman in jail at any time when the woman is in labor or delivery or recovering from delivery, except as determined necessary to ensure the safety and security of the woman or her infant, jail or medical personnel, or any member of the public, or to prevent a substantial risk that the woman will attempt escape. If a determination to use restraints is made, the type of restraint used and its manner of use must be the least restrictive available under the circumstances to ensure safety and security or to prevent escape.

DIGEST: HB 1140 would require each sheriff to report to the Texas Commission on Jail Standards on the implementation of policies and procedures to provide adequate care to pregnant inmates jailed in the sheriff's county. The report, due September 1, 2016, would include:

- a description of the sheriff's actions to comply with the rules and procedures adopted under Government Code, sec. 511.009(a)(18) and any policies adopted on the placement of a pregnant inmate in solitary confinement or administrative segregation;
- information on the health care provided to a pregnant inmate, including the availability of obstetrical or gynecological care, prenatal health care visits, mental health care, and drug abuse or chemical dependency treatment;
- a detailed summary of pregnant inmates' nutritional standards, including their average caloric intake and other dietary information; and
- a detailed summary of pregnant inmates' work assignments, housing conditions, and situations in which a pregnant inmate had been restrained, including the reason for the use of restraints.

The commission would be required to compile, analyze, and summarize the information contained in the sheriffs' reports by December 1, 2016.

The commission is required to provide a copy of the summary to the governor, lieutenant governor, House speaker, and each standing committee of the Senate and House of Representatives with primary jurisdiction over matters relating to corrections.

The bill would take effect September 1, 2015, and would expire February 1, 2017.

SUPPORTERS SAY:

HB 1140 would direct the Texas Commission on Jail Standards (TCJS) to conduct a comprehensive study that would provide necessary data to assess the care and conditions for pregnant inmates in Texas jails. While TCJS currently evaluates incidents involving pregnant inmates on a case-by-case basis, Texas is ill-equipped to evaluate its policies on nutrition standards, use of restraints, and the health care needs with regard to pregnant inmates in county jails because the state currently does not collect or maintain these data.

Each month, hundreds of pregnant women are confined in county jails. Policies at individual jails that determine the care they receive can be opaque, and the study required by the bill would help bring clarity to specific needs and areas for improvement that the state should address. While the bill could lead to additional work for county jails, this work would be crucial and necessary to protect the basic human rights of pregnant inmates and their babies.

HB 1140 would not lead to violations of federal law protecting the privacy of health information because the data would be collected and reported in a way that did not tie it to specific inmates. The bill also would help protect counties against liability. By identifying gaps in the service and treatment of pregnant inmates, it would reduce the potential for lawsuits by pregnant inmates who alleged mistreatment.

OPPONENTS SAY:

HB 1140 would be unnecessary because county jails in Texas already work closely with TCJS to ensure that inmates receive quality care. The bill's reporting requirement could duplicate information in reports jails already submit on a monthly basis in a different form. Meeting the

reporting requirement could be burdensome for jails with large inmate populations because it would take a significant amount of time for staff to collect the required information. In addition, the gathering and reporting of health information about inmates could conflict with laws protecting the privacy of health records.