

- SUBJECT:** Prohibiting use of restraints on pregnant inmates in county jails
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 8 ayes — Coleman, Bohac, Anderson, Biedermann, Cole, Dominguez, Rosenthal, Stickland
- 0 nays
- 1 absent — Huberty
- WITNESSES:** For — Kaycie Alexander, Texas Public Policy Foundation; Bill Hammond, Texas Smart on Crime Coalition; Allison Crawford; (*Registered, but did not testify:* Nick Hudson, American Civil Liberties Union of Texas; Mignon McGarry, American College of Obstetricians and Gynecologists Texas District; Mandy Blott, Austin Justice Coalition; Steve Bresnen, El Paso County; Traci Berry, Goodwill Central Texas; Cindy Klempner, National Alliance on Mental Illness-Austin; Alissa Sughrue, National Alliance on Mental Illness-Texas; Josette Saxton, Texans Care for Children; Lori Henning, Texas Association of Goodwills; Michael Barba, Texas Catholic Conference of Bishops; Day Brown, Texas Criminal Justice Coalition; Joey Gidseg, Texas Democrats with Disabilities; Nikiya Natale, Texas Equal Access Fund, Lilith Fund for Reproductive Equity; Diana Claitor, Kevin Garrett, and Krishnaveni Gundu, Texas Jail Project; Michelle Romero, Texas Medical Association; Jacob Palmer, TexProtects; Nataly Saucedo, United Ways of Texas)
- Against — (*Registered, but did not testify:* James Skinner, Sheriffs' Association of Texas)
- BACKGROUND:** 37 T.A.C. part 9, sec. 273.6 requires documentation of the use of restraints during labor, delivery, and recovery for known pregnant inmates. This documentation must include, at a minimum, the events leading up to the need for restraints, the time the restraints were applied, the justification for their use, observations of the inmate's behavior and condition and the time the restraints were removed.

DIGEST: HB 1651 would require the Commission on Jail Standards to prohibit the use of restraints on a pregnant prisoner for the duration of the pregnancy and for 12 weeks after the prisoner had given birth unless:

- the use of restraints was necessary to prevent an immediate and credible risk that the prisoner would attempt to escape;
- the prisoner posed an immediate and serious threat to the health and safety of the prisoner, staff, or any member of the public; or
- a health care professional determined that the use of restraints was appropriate for the health and safety of the prisoner.

When restraining a pregnant prisoner, jail staff would be required to use the least restrictive restraints necessary to prevent escape or to ensure health and safety. Staff also would be required to refrain from using restraints or to remove restraints at the request of a health care professional.

The bill would require county jails to submit annually to the commission a report on the jail's use of any type of restraints used on a prisoner who was pregnant or who gave birth in the preceding 12 weeks. The report would be due by February 1 and would be required to contain the following information:

- the specific type of restraints used;
- the activity in which the prisoner was engaged immediately before being restrained;
- whether the prisoner was restrained during or after delivery;
- whether the prisoner was restrained while being transported to a local hospital; and
- the reasons supporting the determination to use the restraints, a description of the decision-making process, and the name and title of the person or persons making the determination.

The bill also would require the commission to adopt reasonable rules and procedures establishing minimum requirements for a county jail to ensure

that the jail's health services plan addressed obstetrical and gynecological care and to identify when a pregnant prisoner was in labor and provide appropriate care, including promptly transporting the prisoner to a local hospital.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

HB 1651 would apply to the inmates of Texas county jails a nationwide consensus against using restraints on pregnant women.

Shackling pregnant inmates is banned in Texas state prisons and was recently outlawed at the federal level. This bill would extend the same common sense protection to the inmates of our state's county jails. The restrictions would not compromise safety or security or prevent jail officials from being able to do their jobs, as the bill's exceptions to the ban on restraints provide jail officials with the ability to address dangerous situations when necessary.

Pregnancy requires specialized attention that non-professionals or general practitioners are not able to provide. The bill would ensure that pregnant inmates received the specialized care that they needed.

The Texas Administrative Code currently requires county jails to document each time restraints are used on a pregnant inmate during labor, delivery and recovery. The bill would not pose an additional burden but merely extend the documentation to the duration of the pregnancy and for 12 weeks after the prisoner had given birth.

**OPPONENTS
SAY:**

HB 1651's recordkeeping requirements could constitute an unfunded mandate that could impose burdensome logistical and fiscal hardships on county governments.