Senator Pizzo moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 944.241, Florida Statutes, is amended to read:

944.241 Shackling of Incarcerated pregnant women.—

(1) SHORT TITLE.—This section may be cited as the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act.”

(2) DEFINITIONS.—As used in this section, the term:

(a) “Correctional institution” means any facility under the
authority of the department or the Department of Juvenile Justice, a county or municipal detention facility, or a detention facility operated by a private entity.

(b) “Corrections official” means the official who is responsible for oversight of a correctional institution, or his or her designee.

(c) “Department” means the Department of Corrections.

(d) “Extraordinary circumstance” means a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints or restrictive housing be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, or the public.

(e) “Invasive body cavity search” means a search that involves a manual inspection using touch, insertion, or probing of the openings, cavities, and orifices of the human body, including, but not limited to, the genitals, buttocks, anus, or breasts that is not conducted for a medical purpose.

(f) “Labor” means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(g) “Postpartum recovery” means, as determined by her physician, the period immediately following delivery, including the recovery period when a woman is in the hospital or infirmary following birth, up to 24 hours after delivery unless the physician after consultation with the department or correctional institution recommends a longer period of time.

(h) “Prisoner” means any person incarcerated or detained
in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for a violation of criminal law or the terms and conditions of parole, probation, community control, pretrial release, or a diversionary program. For purposes of this section, the term includes any woman detained under the immigration laws of the United States at any correctional institution.

(i)(h) “Restraints” means any physical restraint or mechanical device used to control the movement of a prisoner’s body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

(j) “Restrictive housing” means the placement of pregnant prisoners separately from the general population of a correctional institution. The term includes placing the prisoner in medical isolation, in a medical housing unit, or in the infirmary.

(3) RESTRAINT OF PRISONERS.—

(a) Except as provided in paragraph (b), restraints may not be used on a prisoner who is known to be pregnant:

1. If any doctor, nurse, or other health professional treating the prisoner in labor, in delivery, or in postpartum recovery requests that restraints not be used due to a documentable medical purpose. If the doctor, nurse, or other health professional makes such a request, the correctional officer or other law enforcement officer accompanying the prisoner must immediately remove all restraints.

2. During transport, labor, delivery, or and postpartum
recovery, unless the corrections official makes an
individualized determination that the prisoner presents an
extraordinary circumstance, except that:

1. The physician may request that restraints not be used
for documentable medical purposes. The correctional officer,
correctional institution employee, or other officer accompanying
the pregnant prisoner may consult with the medical staff;
however, if the corrections official determines there is
an extraordinary public safety risk, the official may authorize to
apply restraints as limited by paragraph (b) subparagraph 2.

(b) A restraint may be used on a prisoner who is known to
be pregnant or in postpartum recovery only if all of the
following apply:

1. The corrections official makes an individualized
determination that the prisoner presents an extraordinary
circumstance.

2. The restraints used are the least restrictive necessary.

3. If wrist restraints are used, the restraints are applied
in the front of the prisoner so that she may protect herself in
the event of a forward fall.

4. Under no circumstances shall leg, ankle, or waist
restraints are not used on any pregnant prisoner who is in
labor or delivery.

(b) If restraints are used on a pregnant prisoner pursuant
to paragraph (a):

1. The type of restraint applied and the application of the
restraint must be done in the least restrictive manner
necessary; and
(c) The corrections official shall make written findings within 10 days after the use of restraints as to the extraordinary circumstance that dictated the use of the restraints. These findings shall be kept on file by the department or correctional institution for at least 5 years.

(d) A pregnant prisoner who is transported by a correctional institution must be transported using a restraint that is the least restrictive necessary. A correctional institution that uses restraints on a pregnant prisoner during transport must comply with the written findings required in paragraph (c).

(e) During the third trimester of pregnancy or when requested by the physician treating a pregnant prisoner, unless there are significant documentable security reasons noted by the department or correctional institution to the contrary that would threaten the safety of the prisoner, the unborn child, or the public in general:

1. Leg, ankle, and waist restraints may not be used; and
2. If wrist restraints are used, they must be applied in the front so the pregnant prisoner is able to protect herself in the event of a forward fall.

(d) In addition to the specific requirements of paragraphs (a)-(c), any restraint of a prisoner who is known to be pregnant must be done in the least restrictive manner necessary in order to mitigate the possibility of adverse clinical consequences.

(4) INVASIVE BODY CAVITY SEARCHES.—
(a) Except as provided under paragraph (b), an invasive body cavity search of a pregnant prisoner may be conducted only by a medical professional.
(b) A correctional officer may conduct an invasive body cavity search of a pregnant prisoner only if the officer has a reasonable belief that the prisoner is concealing contraband. An officer who conducts an invasive body cavity search must submit a written report to the corrections official within 72 hours after the search. The report must:

1. Explain the reasons for the search; and
2. Identify any contraband recovered in the search.

(5) RESTRICTIVE HOUSING.—
(a) Except as provided in paragraph (b), a pregnant prisoner may not be involuntarily placed in restrictive housing. This subsection does not prohibit a corrections official from placing a pregnant prisoner in restrictive housing for disciplinary violations or to address security risks to the pregnant prisoner, other prisoners, or staff directly related to the pregnant prisoner provided the corrections official complies with the reporting requirements of subparagraph (b)1.

(b) A pregnant prisoner may be involuntarily placed in restrictive housing only if the corrections official of the correctional institution, in consultation with the medical staff overseeing prenatal care and medical treatment at the correctional institution, determines that an extraordinary circumstance exists such that restrictive housing is necessary and that there are no less restrictive means available.

1. The corrections official shall, before placing a prisoner in restrictive housing, write a report that states:
   a. The extraordinary circumstance that is present; and
   b. The reason less restrictive means are not available.
2. The corrections official shall review the report at
least every 24 hours to confirm that the extraordinary
circumstance cited in the report still exists. A copy of the
report and each review must be provided to the pregnant
prisoner.

(c) A pregnant prisoner who is placed in restrictive
housing under this section shall be:

1. Seen at least every 12 hours by the medical staff
overseeing prenatal care and medical treatment in the facility;

2. Housed in the least restrictive setting consistent with
the health and safety of the pregnant prisoner; and

3. Given an intensive treatment plan developed and approved
by the medical staff overseeing prenatal care and medical
treatment at the facility.

(d) If a pregnant prisoner needs medical care, an
authorized medical staff must provide an order for the pregnant
prisoner to be placed in a designated medical housing unit or
admitted to the infirmary. If the pregnant prisoner has passed
her due date, she must be placed in a designated medical housing
unit or admitted to the infirmary until labor begins or until
other housing arrangements are made. A pregnant prisoner who has
been placed in a designated medical housing unit or admitted to
the infirmary shall be provided:

1. The same access to outdoor recreation, visitation, mail,
and telephone calls as other prisoners; and

2. The ability to continue to participate in other
privileges and classes granted to the general population.

(6) ENFORCEMENT.—

(a) Notwithstanding any relief or claims afforded by
federal or state law, any prisoner who is restrained in
violation of this section may file a grievance with the
correctional institution, and be granted a 45-day extension if
requested in writing pursuant to rules promulgated by the
correctional institution.

(b) This section does not prevent a woman harmed through
the use of restraints under this section from filing a complaint
under any other relevant provision of federal or state law.

(7)(5) NOTICE TO PRISONERS.—

(a) By September 1, 2012, The department and the Department
of Juvenile Justice shall adopt rules pursuant to ss. 120.536(1)
and 120.54 to administer this section.

(b) Each correctional institution shall inform female
prisoners of the rules developed pursuant to paragraph (a) upon
admission to the correctional institution, including the
policies and practices in the prisoner handbook, and post the
policies and practices in locations in the correctional
institution where such notices are commonly posted and will be
seen by female prisoners, including common housing areas and
medical care facilities.

Section 2. This act shall take effect July 1, 2020.

================= T I T L E A M E N D M E N T =================

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to incarcerated pregnant women;
amending s. 944.241, F.S.; amending the short title;
redefining the term “extraordinary circumstance”;
defining the terms “invasive body cavity search” and
“restrictive housing”; revising the circumstances under which a prisoner who is known to be pregnant may not be restrained; specifying conditions under which restraints may be used; requiring that invasive body cavity searches on a pregnant prisoner be conducted by a medical professional; providing an exception; prohibiting the involuntary placement of pregnant prisoners in restrictive housing; providing exceptions; requiring corrections officials to write a specified report if an extraordinary circumstance necessitates placing a pregnant prisoner in restrictive housing; providing requirements for the report; requiring corrections officials to review such reports at specified intervals; requiring a copy of such reports and reviews to be provided to pregnant prisoners in restrictive housing; providing requirements for the treatment of pregnant prisoners placed in restrictive housing; requiring pregnant prisoners to be placed in a designated medical housing unit or admitted to the infirmary under certain circumstances; providing certain rights for pregnant prisoners placed in a designated medical housing unit or admitted to the infirmary; providing an effective date.