

THE FLORIDA SENATE
2020 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 1259 — Incarcerated Pregnant Women

by Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Reps. Jones, Mercado, and others (CS/CS/SB 852 by Appropriations Committee; Criminal Justice Committee; and Senators Pizzo, Taddeo, Braynon, Rodriguez, and Torres)

The bill amends s. 944.241, F.S., renaming the Act the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act.” The bill prescribes procedures for when a pregnant prisoner is placed in restrictive housing and requires detention facilities to adopt written policies about using restraints and body cavity searches on pregnant prisoners.

The bill adds definitions to the Act, including:

- “Invasive body cavity search,” which is defined to mean a search involving a manual inspection of the breasts or a manual inspection using touch, insertion, or probing of the cavities of the human body, including the genitals, buttocks, or anus. An invasive body search may only be conducted according to a correctional institution’s written rules, policies, or procedures;
- “Pregnant prisoner,” which is defined to mean any prisoner whose pregnancy is confirmed by or otherwise known to a qualified healthcare professional at the correctional institution; and
- “Restrictive housing,” which is defined to mean housing a prisoner separately from the general population of a correctional institution and imposing restrictions on her movement, behavior, and privileges. The term includes placing a prisoner in medical isolation, in a medical housing unit, or in the infirmary.

The bill provides that a pregnant prisoner may be involuntarily placed in restrictive housing if the corrections official of the correctional institution makes an individualized determination that such housing is necessary to protect the health and safety of the pregnant prisoner or others or to preserve the security and order of the institution and there are no less restrictive means available.

The bill requires the corrections official to write a report after placing a pregnant prisoner in restrictive housing stating the individualized reason restrictive housing is necessary, the reason less restrictive means are not available, and whether a qualified healthcare professional at the correctional institution objects to the placement. The corrections official must provide a copy to the pregnant prisoner within 12 hours of placing the prisoner in restrictive housing.

The bill requires a pregnant prisoner placed in restrictive housing to be seen by a qualified healthcare professional at least once every 24 hours and observed by a correctional officer at least once every hour. The pregnant prisoner also must be housed in the least restrictive setting consistent with the health and safety of the pregnant prisoner and given a medical treatment plan developed and approved by a qualified healthcare professional at the correctional institution if the pregnant prisoner does not already have such a treatment plan in place.

The bill provides that if a pregnant prisoner needs medical care, a primary care nurse practitioner or obstetrician must provide an order for the pregnant prisoner to be placed in a designated medical housing unit or admitted to the infirmary. If a 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. A pregnant prisoner who has been placed in a designated medical housing unit or admitted to the infirmary must be provided the same access to outdoor recreation, visitation, mail, telephone calls, and other privileges and classes available to the general population unless such access poses a danger:

- To the safety and security of the correctional institution; or
- Of adverse clinical consequences for the pregnant prisoner or others and the corrections official documents such determination in the pregnant prisoner's medical file.

The bill maintains current provisions related to the use of restraints on pregnant prisoners, but requires every county and municipal detention facility and each detention facility operated by a private entity to adopt written policies about using restraints and body cavity searches on pregnant prisoners.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 37-0; House 112-0