

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Smith, C. offered the following:

2
3 **Amendment to Amendment (252236) (with title amendment)**

4 Remove lines 21-205 of the amendment and insert:
5 circumstance that dictates restraints or restrictive housing be
6 used to ensure the safety and security of the prisoner, the
7 staff of the correctional institution or medical facility, other
8 prisoners, or the public.

9 (e) "Invasive body search" means a search involving a
10 manual inspection of the breasts or a manual inspection using
11 touch, insertion, or probing of the cavities of the human body,
12 including the genitals, buttocks, or anus. An invasive body
13 search may only be conducted according to a correctional

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

14 institution's written rules, policies, or procedures as required
15 by subsection (6).

16 (f)-(e) "Labor" means the period of time before a birth
17 during which contractions are of sufficient frequency,
18 intensity, and duration to bring about effacement and
19 progressive dilation of the cervix.

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

26 (h) "Pregnant prisoner" means any prisoner whose pregnancy
27 is confirmed by or otherwise known to a qualified healthcare
28 professional at the correctional institution.

29 (i)-(g) "Prisoner" means any person incarcerated or
30 detained in any correctional institution who is accused of,
31 convicted of, sentenced for, or adjudicated delinquent for a
32 violation of criminal law or the terms and conditions of parole,
33 probation, community control, pretrial release, or a
34 diversionary program. For purposes of this section, the term
35 includes any woman detained under the immigration laws of the
36 United States at any correctional institution.

37 (j)-(h) "Restraints" means any physical restraint or
38 mechanical device used to control the movement of a prisoner's

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

39 body or limbs, including, but not limited to, flex cuffs, soft
40 restraints, hard metal handcuffs, a black box, chubb cuffs, leg
41 irons, belly chains, a security or tether chain, or a convex
42 shield.

43 (k) "Restrictive housing" means the placement of pregnant
44 prisoners separately from the general population of a
45 correctional institution. The term includes placing the prisoner
46 in medical isolation, in a medical housing unit, or in the
47 infirmary.

48 (3) RESTRAINT OF PRISONERS.—

49 (a) Restraints may not be used on a pregnant prisoner ~~who~~
50 ~~is known to be pregnant~~ during labor, delivery, and postpartum
51 recovery, unless the corrections official makes an
52 individualized determination that the pregnant prisoner presents
53 an extraordinary circumstance, except that:

54 1. The physician may request that restraints not be used
55 for documentable medical purposes. The correctional officer,
56 correctional institution employee, or other officer accompanying
57 the pregnant prisoner may consult with the medical staff;
58 however, if the officer determines there is an extraordinary
59 public safety risk, the officer is authorized to apply
60 restraints as limited by subparagraph 2.

61 2. ~~Under no circumstances shall~~ Leg, ankle, or waist
62 restraints may not be used on any pregnant prisoner who is in
63 labor or delivery.

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

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

66 1. The type of restraint applied and the application of
67 the restraint must be done in the least restrictive manner
68 necessary; and

69 2. The corrections official shall make written findings
70 within 10 days after the use of restraints as to the
71 extraordinary circumstance that dictated the use of the
72 restraints. These findings shall be kept on file by the
73 department or correctional institution for at least 5 years.

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

80 1. Leg, ankle, and waist restraints may not be used; and

81 2. If wrist restraints are used, they must be applied in
82 the front so the pregnant prisoner is able to protect herself in
83 the event of a forward fall.

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

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

89 (4) RESTRICTIVE HOUSING.—

90 (a) Except as provided in paragraph (b) or paragraph (d),
91 a pregnant prisoner may not be involuntarily placed in
92 restrictive housing.

93 (b) A pregnant prisoner may be involuntarily placed in
94 restrictive housing if the corrections official of the
95 correctional institution makes an individualized determination
96 that restrictive housing is necessary to protect the health and
97 safety of the pregnant prisoner or others or to preserve the
98 security and order of the correctional institution and that
99 there are no less restrictive means available. After placing a
100 pregnant prisoner in restrictive housing under this paragraph,
101 the corrections official must write a report stating:

102 1. The individualized reason restrictive housing is
103 necessary.

104 2. The reason less restrictive means are not available.

105 3. Whether a qualified healthcare professional at the
106 correctional institution objects to the placement.

107
108 The corrections official must provide a copy of such report to
109 the pregnant prisoner within 12 hours after placing the prisoner
110 in restrictive housing.

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

113 1. Seen by a qualified healthcare professional at least

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

114 once every 24 hours.

115 2. Observed by a correctional officer at least once every
116 hour.

117 3. Housed in the least restrictive setting consistent with
118 the health and safety of the pregnant prisoner.

119 4. Given a medical treatment plan developed and approved
120 by a qualified healthcare professional at the correctional
121 institution if the pregnant prisoner does not already have such
122 a treatment plan in place.

123 (d) If a pregnant prisoner needs medical care, a primary
124 care nurse practitioner or obstetrician must provide an order
125 for the pregnant prisoner to be placed in a designated medical
126 housing unit or admitted to the infirmary. If a pregnant
127 prisoner has passed her due date, she must be placed in a
128 designated medical housing unit or admitted to the infirmary
129 until labor begins. A pregnant prisoner who has been placed in a
130 designated medical housing unit or admitted to the infirmary
131 must be provided the same access to outdoor recreation,
132 visitation, mail, telephone calls, and other privileges and
133 classes available to the general population unless the
134 corrections official, after consulting with a qualified
135 healthcare professional at the correctional institution,
136 determines that such access poses a danger to the safety and
137 security of the correctional institution or a qualified
138 healthcare professional at the correctional institution

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

139 determines that such access poses a danger of adverse clinical
140 consequences for the pregnant prisoner or others and documents
141 such determination in the pregnant prisoner's medical file.

142 ~~(5)-(4)~~ ENFORCEMENT.—

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

149 (b) This section does not prevent a woman harmed through
150 the use of restraints or by placement in restrictive housing
151 under this section from filing a complaint under any other
152 relevant provision of federal or state law.

153 ~~(6)-(5)~~ NOTICE TO PRISONERS.—

154 (a) ~~By September 1, 2012,~~ The department and the
155 Department of Juvenile Justice shall adopt rules pursuant to ss.
156 120.536(1) and 120.54 to administer this section.

157 (b) Each correctional institution shall inform female
158 prisoners of the rules developed pursuant to paragraph (a) upon
159 admission to the correctional institution, including the
160 policies and practices in the prisoner handbook, and post the
161 policies and practices in locations in the correctional
162 institution where such notices are commonly posted and will be

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

163 | seen by female prisoners, including common housing areas and
164 | medical care facilities.

165 | (c) Each county or municipal detention facility and each
166 | detention facility operated by a private entity shall adopt
167 | written policies and procedures relating to the use of
168 | restraints and the performance of invasive body searches on
169 | pregnant prisoners.

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172 | **T I T L E A M E N D M E N T**

173 | Remove lines 214-239 of the amendment and insert:
174 | providing definitions; prohibiting the involuntary
175 | placement of pregnant prisoners in restrictive
176 | housing; providing exceptions; requiring corrections
177 | officials to write a specified report if circumstances
178 | necessitate placing a pregnant prisoner in restrictive
179 | housing; providing requirements for the report;
180 | requiring a copy of such reports to be provided to
181 | pregnant prisoners in restrictive housing; providing
182 | requirements for the treatment of pregnant prisoners
183 | placed in restrictive housing; requiring pregnant
184 | prisoners to be placed in a designated medical housing
185 | unit or admitted to the infirmary under certain
186 | circumstances; providing certain rights for pregnant
187 | prisoners placed in a designated medical housing unit

132871

Approved For Filing: 3/13/2020 8:21:21 PM

Amendment No.

188 | or admitted to the infirmary; expanding enforcement
189 | provisions to provide for grievances for violations
190 | relating to restrictive housing of pregnant prisoners;
191 | requiring the Department of Corrections and the
192 | Department of Juvenile Justice to adopt rules;
193 | requiring county or municipal detention facility and
194 | each detention facility operated by a private entity
195 | to adopt specified policies and procedures; providing
196 | an effective date.

132871

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