

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Smith, C. offered the following:

Amendment to Amendment (252236) (with title amendment)

Remove lines 21-205 of the amendment and insert:
circumstance that dictates restraints 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 search" means 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

436717

Approved For Filing: 3/13/2020 10:36:36 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

436717

Approved For Filing: 3/13/2020 10:36:36 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 housing a prisoner
44 separately from the general population of a correctional
45 institution and imposing restrictions on her movement, behavior,
46 and privileges. The term includes placing a prisoner in medical
47 isolation, in a medical housing unit, or in the 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.

436717

Approved For Filing: 3/13/2020 10:36:36 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.

436717

Approved For Filing: 3/13/2020 10:36:36 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

436717

Approved For Filing: 3/13/2020 10:36:36 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)1. 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.

127 2. If a pregnant prisoner has passed her due date, she
128 must be placed in a designated medical housing unit or admitted
129 to the infirmary until labor begins. A pregnant prisoner who has
130 been placed in a designated medical housing unit or admitted to
131 the infirmary must be provided the same access to outdoor
132 recreation, visitation, mail, telephone calls, and other
133 privileges and classes available to the general population
134 unless:

135 a. The corrections official, after consulting with a
136 qualified healthcare professional at the correctional
137 institution, determines that such access poses a danger to the
138 safety and security of the correctional institution; or

436717

Approved For Filing: 3/13/2020 10:36:36 PM

Amendment No.

139 b. A qualified healthcare professional at the correctional
140 institution determines that such access poses a danger of
141 adverse clinical consequences for the pregnant prisoner or
142 others and documents such determination in the pregnant
143 prisoner's medical file.

144 (5)-(4) ENFORCEMENT.-

145 (a) Notwithstanding any relief or claims afforded by
146 federal or state law, any prisoner who is restrained or placed
147 in restrictive housing in violation of this section may file a
148 grievance with the correctional institution, and be granted a
149 45-day extension if requested in writing pursuant to rules
150 promulgated by the correctional institution.

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

155 (6)-(5) NOTICE TO PRISONERS.-

156 (a) ~~By September 1, 2012,~~ The department and the
157 Department of Juvenile Justice shall adopt rules pursuant to ss.
158 120.536(1) and 120.54 to administer this section.

159 (b) Each correctional institution shall inform female
160 prisoners of the rules developed pursuant to paragraph (a) upon
161 admission to the correctional institution, including the
162 policies and practices in the prisoner handbook, and post the
163 policies and practices in locations in the correctional

436717

Approved For Filing: 3/13/2020 10:36:36 PM

Amendment No.

164 institution where such notices are commonly posted and will be
165 seen by female prisoners, including common housing areas and
166 medical care facilities.

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

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174 **T I T L E A M E N D M E N T**

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

436717

Approved For Filing: 3/13/2020 10:36:36 PM

Amendment No.

189 prisoners placed in a designated medical housing unit
190 or admitted to the infirmary; expanding enforcement
191 provisions to provide for grievances for violations
192 relating to restrictive housing of pregnant prisoners;
193 requiring the Department of Corrections and the
194 Department of Juvenile Justice to adopt rules;
195 requiring detention facilities to develop specified
196 written policies and procedures; providing an
197 effective date.

436717

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