

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Jones offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 944.241 ~~Shackling of Incarcerated pregnant women;~~
 10 restraints; restrictive housing.-

11 (1) SHORT TITLE.-This section may be cited as the "Healthy
 12 Pregnancies for Incarcerated Women Act."

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

14 (a) "Correctional institution" means any facility under
 15 the authority of the department or the Department of Juvenile
 16 Justice, a county or municipal detention facility, or a

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17 detention facility operated by a private entity.

18 (b) "Corrections official" means the official who is
19 responsible for oversight of a correctional institution, or his
20 or her designee.

21 (c) "Department" means the Department of Corrections.

22 (d) "Extraordinary circumstance" means a substantial
23 flight risk or some other extraordinary medical or security
24 circumstance that dictates restraints be used to ensure the
25 safety and security of the prisoner, the staff of the
26 correctional institution or medical facility, other prisoners,
27 or the public.

28 (e) "Gestation" means the development of a human embryo or
29 fetus between fertilization and birth.

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

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

40 (h)-(g) "Prisoner" means any person incarcerated or
41 detained in any correctional institution who is accused of,

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42 convicted of, sentenced for, or adjudicated delinquent for a
43 violation of criminal law or the terms and conditions of parole,
44 probation, community control, pretrial release, or a
45 diversionary program. For purposes of this section, the term
46 includes any woman detained under the immigration laws of the
47 United States at any correctional institution.

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

54 (j) "Restrictive housing" means housing some prisoners
55 separately from the general population of a correctional
56 institution and imposing restrictions on their movement,
57 behavior, and privileges. The term includes placing the prisoner
58 in medical isolation or in the infirmary.

59 (k) "Trimester" means one of the following three distinct
60 periods of time in the duration of a pregnancy:

61 1. "First trimester," which is the period of time from
62 fertilization through the end of the 11th week of gestation.

63 2. "Second trimester," which is the period of time from
64 the beginning of the 12th week of gestation through the end of
65 the 23rd week of gestation.

66 3. "Third trimester," which is the period of time from the

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67 beginning of the 24th week of gestation through birth.

68 (3) RESTRAINT OF PRISONERS.—

69 (a) Restraints may not be used on a prisoner who is known
70 to be pregnant during labor, delivery, and postpartum recovery,
71 unless the corrections official makes an individualized
72 determination that the prisoner presents an extraordinary
73 circumstance, except that:

74 1. The physician may request that restraints not be used
75 for documentable medical purposes. The correctional officer,
76 correctional institution employee, or other officer accompanying
77 the pregnant prisoner may consult with the medical staff;
78 however, if the officer determines there is an extraordinary
79 public safety risk, the officer is authorized to apply
80 restraints as limited by subparagraph 2.

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

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

86 1. The type of restraint applied and the application of
87 the restraint must be done in the least restrictive manner
88 necessary; and

89 2. The corrections official shall make written findings
90 within 10 days after the use of restraints as to the
91 extraordinary circumstance that dictated the use of the

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92 restraints. These findings shall be kept on file by the
93 department or correctional institution for at least 5 years.

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

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

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

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

108 (4) ENFORCEMENT.—

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

115 (b) This section does not prevent a woman harmed through
116 the use of restraints under this section from filing a complaint

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117 under any other relevant provision of federal or state law.

118 (5) RESTRICTIVE HOUSING.—

119 (a) Except as provided in paragraph (b) or (d), a pregnant
120 prisoner may not be involuntarily placed in restrictive housing
121 during the:

122 1. Third trimester of pregnancy.

123 2. First or second trimester of pregnancy, if the
124 individual overseeing prenatal care and medical treatment at the
125 correctional institution determines that restrictive housing
126 poses a danger of adverse clinical consequences for the prisoner
127 and documents such determination in the prisoner's medical file.

128 (b) A pregnant prisoner as described in subparagraph (a)1.
129 or (a)2. may be involuntarily placed in restrictive housing only
130 if the corrections official of the correctional institution
131 makes an individualized determination that restrictive housing
132 is necessary to protect the health and safety of the prisoner or
133 others or to preserve the security and order of the correctional
134 institution and that there are no less restrictive means
135 available. Before placing a pregnant prisoner in restrictive
136 housing under this subsection, the corrections official must
137 write a report stating:

138 1. The individualized reason restrictive housing is
139 necessary;

140 2. The reason less restrictive means are not available;
141 and

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142 3. Whether the individual overseeing prenatal care and
143 medical treatment at the correctional institution objects to the
144 placement.

145
146 The corrections official must provide a copy of such report to
147 the prisoner within 12 hours of placing the prisoner in
148 restrictive housing.

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

151 1. Examined at least every 24 hours by the individual
152 overseeing prenatal care and medical treatment at the
153 correctional institution;

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

156 3. Given a medical treatment plan developed and approved
157 by the individual overseeing prenatal care and medical treatment
158 at the correctional institution if the inmate does not already
159 have such a treatment plan in place.

160 (d) If a pregnant prisoner needs infirmary care, a primary
161 care nurse practitioner or obstetrician must provide an order
162 for the prisoner to be admitted to the infirmary. If the
163 prisoner has passed her due date, she must be admitted to the
164 infirmary until labor begins or until the treating obstetrician
165 makes other housing arrangements. A pregnant prisoner who has
166 been placed in the infirmary must be provided the same access to

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167 outdoor recreation, visitation, mail, telephone calls, and other
168 privileges and classes available to the general population
169 unless the individual overseeing prenatal care and medical
170 treatment at the correctional institution determines that such
171 access poses a danger of adverse clinical consequences for the
172 prisoner or others and documents such determination in the
173 prisoner's medical file.

174 (6)(5) NOTICE TO PRISONERS.—

175 (a) By September 1, 2020 ~~2012~~, the department and the
176 Department of Juvenile Justice must ~~shall~~ adopt rules pursuant
177 to ss. 120.536(1) and 120.54 to administer this section.

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

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

187

188

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

190 Remove everything before the enacting clause and insert:

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191 An act relating to restrictive housing for
192 incarcerated pregnant women; amending s. 944.241,
193 F.S.; providing definitions; prohibiting the
194 involuntary placement of pregnant prisoners in
195 restrictive housing under specified circumstances;
196 providing exceptions; requiring corrections officials
197 to write a specified report if circumstances
198 necessitate placing a pregnant prisoner in restrictive
199 housing; providing requirements for the report;
200 requiring a copy of such reports to be provided to
201 pregnant prisoners in restrictive housing; providing
202 requirements for the treatment of pregnant prisoners
203 placed in restrictive housing; requiring pregnant
204 prisoners to be admitted to the infirmary under
205 certain circumstances; providing certain rights for
206 pregnant prisoners admitted to the infirmary;
207 requiring the Department of Corrections and the
208 Department of Juvenile Justice to promulgate rules;
209 providing an effective date.

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