

1                   A bill to be entitled  
2           An act relating to restrictive housing for  
3           incarcerated pregnant women; amending s. 944.241,  
4           F.S.; providing definitions; prohibiting the  
5           involuntary placement of pregnant prisoners in  
6           restrictive housing under specified circumstances;  
7           providing exceptions; requiring corrections officials  
8           to write a specified report if circumstances  
9           necessitate placing a pregnant prisoner in restrictive  
10          housing; providing requirements for the report;  
11          requiring a copy of such reports to be provided to  
12          pregnant prisoners in restrictive housing; providing  
13          requirements for the treatment of pregnant prisoners  
14          placed in restrictive housing; requiring pregnant  
15          prisoners to be admitted to the infirmary under  
16          certain circumstances; providing certain rights for  
17          pregnant prisoners admitted to the infirmary;  
18          requiring the Department of Corrections and the  
19          Department of Juvenile Justice to adopt rules by a  
20          specified date; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1.   Section 944.241, Florida Statutes, is amended  
25   to read:

26 | 944.241 ~~Shackling of Incarcerated pregnant women;~~  
 27 | restraints; restrictive housing.—

28 | (1) SHORT TITLE.—This section may be cited as the "Healthy  
 29 | Pregnancies for Incarcerated Women Act."

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

31 | (a) "Correctional institution" means any facility under  
 32 | the authority of the department or the Department of Juvenile  
 33 | Justice, a county or municipal detention facility, or a  
 34 | detention facility operated by a private entity.

35 | (b) "Corrections official" means the official who is  
 36 | responsible for oversight of a correctional institution, or his  
 37 | or her designee.

38 | (c) "Department" means the Department of Corrections.

39 | (d) "Extraordinary circumstance" means a substantial  
 40 | flight risk or some other extraordinary medical or security  
 41 | circumstance that dictates restraints be used to ensure the  
 42 | safety and security of the prisoner, the staff of the  
 43 | correctional institution or medical facility, other prisoners,  
 44 | or the public.

45 | (e) "Gestation" means the development of a human embryo or  
 46 | fetus between fertilization and birth.

47 | (f) ~~(e)~~ "Labor" means the period of time before a birth  
 48 | during which contractions are of sufficient frequency,  
 49 | intensity, and duration to bring about effacement and  
 50 | progressive dilation of the cervix.

51        (g)~~(f)~~ "Postpartum recovery" means, as determined by her  
 52 physician, the period immediately following delivery, including  
 53 the recovery period when a woman is in the hospital or infirmary  
 54 following birth, up to 24 hours after delivery unless the  
 55 physician after consultation with the department or correctional  
 56 institution recommends a longer period of time.

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

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

71        (j) "Restrictive housing" means housing some prisoners  
 72 separately from the general population of a correctional  
 73 institution and imposing restrictions on their movement,  
 74 behavior, and privileges. The term includes placing the prisoner  
 75 in medical isolation or in the infirmary.

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

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

80 2. "Second trimester," which is the period of time from  
 81 the beginning of the 12th week of gestation through the end of  
 82 the 23rd week of gestation.

83 3. "Third trimester," which is the period of time from the  
 84 beginning of the 24th week of gestation through birth.

85 (3) RESTRAINT OF PRISONERS.—

86 (a) Restraints may not be used on a prisoner who is known  
 87 to be pregnant during labor, delivery, and postpartum recovery,  
 88 unless the corrections official makes an individualized  
 89 determination that the prisoner presents an extraordinary  
 90 circumstance, except that:

91 1. The physician may request that restraints not be used  
 92 for documentable medical purposes. The correctional officer,  
 93 correctional institution employee, or other officer accompanying  
 94 the pregnant prisoner may consult with the medical staff;  
 95 however, if the officer determines there is an extraordinary  
 96 public safety risk, the officer is authorized to apply  
 97 restraints as limited by subparagraph 2.

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

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

103 1. The type of restraint applied and the application of  
104 the restraint must be done in the least restrictive manner  
105 necessary; and

106 2. The corrections official shall make written findings  
107 within 10 days after the use of restraints as to the  
108 extraordinary circumstance that dictated the use of the  
109 restraints. These findings shall be kept on file by the  
110 department or correctional institution for at least 5 years.

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

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

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

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

125 (4) ENFORCEMENT.—

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

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

135 (5) RESTRICTIVE HOUSING.—

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

139 1. Third trimester of pregnancy.

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

145 (b) A pregnant prisoner as described in subparagraph (a)1.  
 146 or subparagraph (a)2. may be involuntarily placed in restrictive  
 147 housing only if the corrections official of the correctional  
 148 institution makes an individualized determination that  
 149 restrictive housing is necessary to protect the health and  
 150 safety of the prisoner or others or to preserve the security and

151 order of the correctional institution and that there are no less  
152 restrictive means available. Before placing a pregnant prisoner  
153 in restrictive housing under this paragraph, the corrections  
154 official must write a report stating:

155 1. The individualized reason restrictive housing is  
156 necessary;

157 2. The reason less restrictive means are not available;  
158 and

159 3. Whether the individual overseeing prenatal care and  
160 medical treatment at the correctional institution objects to the  
161 placement.

162  
163 The corrections official must provide a copy of such report to  
164 the prisoner within 12 hours of placing the prisoner in  
165 restrictive housing.

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

168 1. Examined at least every 24 hours by the individual  
169 overseeing prenatal care and medical treatment at the  
170 correctional institution;

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

173 3. Given a medical treatment plan developed and approved  
174 by the individual overseeing prenatal care and medical treatment  
175 at the correctional institution if the inmate does not already

176 | have such a treatment plan in place.

177 |       (d) If a pregnant prisoner needs infirmary care, a primary  
 178 | care nurse practitioner or obstetrician must provide an order  
 179 | for the prisoner to be admitted to the infirmary. If the  
 180 | prisoner has passed her due date, she must be admitted to the  
 181 | infirmary until labor begins or until the treating obstetrician  
 182 | makes other housing arrangements. A pregnant prisoner who has  
 183 | been placed in the infirmary must be provided the same access to  
 184 | outdoor recreation, visitation, mail, telephone calls, and other  
 185 | privileges and classes available to the general population  
 186 | unless the individual overseeing prenatal care and medical  
 187 | treatment at the correctional institution determines that such  
 188 | access poses a danger of adverse clinical consequences for the  
 189 | prisoner or others and documents such determination in the  
 190 | prisoner's medical file.

191 |       (6) ~~(5)~~ NOTICE TO PRISONERS.—

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

195 |       (b) Each correctional institution must ~~shall~~ inform female  
 196 | prisoners of the rules developed pursuant to paragraph (a) upon  
 197 | admission to the correctional institution, including the  
 198 | policies and practices in the prisoner handbook, and post the  
 199 | policies and practices in locations in the correctional  
 200 | institution where such notices are commonly posted and will be



201 | seen by female prisoners, including common housing areas and  
202 | medical care facilities.

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