

HOUSE No. 2234

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to safe pregnancies and related health care for female inmates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>William N. Brownsberger</i>	<input type="checkbox"/> <i>[District]</i> <input type="checkbox"/>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Kenneth J. Donnelly</i>	<input type="checkbox"/> <i>[District]</i> <input type="checkbox"/>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>

<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>James B. Eldridge</i>	<input type="checkbox"/> <i>[District]</i> <input type="checkbox"/>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

HOUSE No. 2234

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 2234) of Kay Khan and others relative to safe pregnancies and related health care for female inmates. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to safe pregnancies and related health care for female inmates.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 AN ACT RELATIVE TO SAFE PREGNANCIES AND RELATED HEALTH CARE
2 FOR FEMALE INMATES.

3 Be it enacted by the Senate and House of Representatives in General Court
4 assembled, and by the authority of the same, as follows:

5

6 SECTION 1. Chapter 127 of the General Laws, as appearing in the 2004 Official Edition,
7 is hereby amended by striking out section 118 and inserting in place thereof the following:—

8 Section 118. (a) All female inmates, upon admission to a correctional facility when
9 awaiting trial or sentenced, shall be screened and assessed for pregnancy by a nurse and shall be
10 informed of any medical tests administered in connection with such screening. Pregnant inmates
11 shall receive nondirective counseling and written material, in a form understandable by each
12 inmate, on issues including but not limited to pregnancy options and correctional facility policies
13 and practices regarding care and labor for pregnant inmates. The correctional facility shall ensure
14 that at least one member of the medical and nursing staff is trained in pregnancy-related care,
15 which shall at a minimum include knowledge of prenatal nutrition, high-risk pregnancy,
16 addiction and substance abuse during pregnancy, and childbirth education.

17 Pregnant and postpartum inmates shall be provided regular prenatal and postpartum
18 medical care at the correctional facility in which they are housed, periodic health monitoring and
19 evaluation during pregnancy, and postpartum screening for depression. Regular prenatal care
20 shall include the opportunity for a minimum of one hour of ambulatory movement each day and
21 a diet containing the nutrients necessary to maintain a healthy pregnancy, including prenatal
22 vitamins and supplements. The Department of Correction shall, in consultation with the
23 Department of Public Health, develop appropriate standards of care for pregnant and postpartum

24 inmates, which shall reflect, at a minimum, the standards set forth by the National Commission
25 on Correctional Health Care and the American Dietetic Association. If pregnant inmates require
26 medically necessary, specialized care that is unavailable at the correctional facility, they shall
27 have access to such care at a supporting medical facility with appropriate expertise. If a
28 postpartum inmate is determined to be suffering from postpartum depression, she shall have
29 regular access to a mental health clinician. Postpartum inmates shall not be subject to isolation
30 absent an individualized, documented determination that the inmate poses a serious risk of harm
31 to herself or others.

32 All pregnant inmates shall be offered weekly prenatal classes or, when not practicable,
33 written information, regarding prenatal nutrition, maintaining a healthy pregnancy, and
34 childbirth, and shall have the opportunity to discuss this information with the medical personnel
35 trained in these matters. Pregnant and postpartum inmates shall be provided maternity clothes,
36 athletic support bras, sanitary pads, and breast pads.

37 Prior to delivery, all pregnant inmates shall be given the opportunity to develop a custody
38 plan, including the opportunity to contact family members and the Department of Children and
39 Families to explore and understand their options. Every effort shall be made to keep infants of
40 twelve months or less born to incarcerated mothers with their mothers. If it is not possible for the
41 child to remain with the mother, female inmates who are expected to retain custody upon release
42 shall be allowed a minimum of at least one visit per week with their child.

43 Prior to release, correctional facility medical personnel shall provide pregnant inmates
44 counseling and discharge planning in order to ensure continuity of pregnancy-related care,
45 including uninterrupted substance abuse treatment.

46 (b) Pregnant inmates shall have access to labor and delivery care in an accredited hospital
47 and shall not be removed to another penal institution for giving birth. An inmate who has been
48 transferred to a hospital for labor and delivery care shall be permitted to stay in such hospital for
49 a minimum of forty-eight hours after delivery, provided however that in no case shall an inmate
50 be removed to the correctional facility until the hospital physician certifies she may be safely
51 removed.

52 Pregnant and postpartum inmates shall be transported to and from visits to medical
53 providers and court proceedings in a car with seatbelts. Except in extraordinary circumstances,
54 no restraints of any kind may be used on any pregnant inmates during transportation to and from
55 visits to medical providers and court proceedings beyond the first trimester of her pregnancy, or
56 during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist
57 where a corrections officer makes an individualized determination that restraints are necessary to
58 prevent a pregnant inmate from escaping, or from injuring herself, medical or correctional
59 personnel, or others. In the event the corrections officer determines that extraordinary
60 circumstances exist and restraints are used, the corrections officer must fully document in writing

61 the reasons that he or she determined such extraordinary circumstances existed such that
62 restraints were used. As part of this documentation, the corrections officer must also include the
63 kind of restraints used and the reasons those restraints were considered the least restrictive
64 available and the most reasonable under the circumstances.

65 While the pregnant inmate is in labor or in childbirth, no restraints of any kind may be
66 used. Nothing in this section affects the use of hospital restraints requested for the medical
67 safety of a patient by treating physicians.

68 Any time restraints are permitted to be used on a pregnant inmate, the restraints must be
69 the least restrictive available and the most reasonable under the circumstances, but in no case
70 shall leg or waist restraints be used on any pregnant or postpartum inmate.

71 No correctional personnel shall be present in the room during the pregnant inmate's
72 physical examinations, labor, or childbirth, unless specifically requested by medical personnel.
73 If the employee's presence is requested by medical personnel, the employee should be female.

74 If the doctor, nurse, or other health professional treating the pregnant inmate requests that
75 restraints not be used, the corrections officer accompanying the pregnant inmate shall
76 immediately remove all restraints.

77 (c) Not less than three months prior to the date of release for a female inmate of child-
78 bearing age, medical personnel at the correctional facility shall offer the inmate counseling and
79 written information regarding contraception and sexually transmitted diseases, provide a list of
80 FDA-approved contraceptives, and provide her with any contraceptive method she may select. If
81 the inmate selects a form of contraception that must be taken for a period of time before it
82 becomes effective, said contraception shall be introduced into her regular medical regimen
83 without delay. Upon her release, medical personnel shall furnish the inmate with a twelve-month
84 prescription to refill any contraceptive medication and a copy of the Directory of Family
85 Planning Agencies issued by the Department of Public Health.