

HOUSE No. 3987

Text of an amendment (offered by Ms. Khan of Newton) to the Senate Bill to prevent shackling and promote safe pregnancies for female inmates (Senate, No. 2063). March 26, 2014.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

By striking out all after the enacting clause and inserting in place thereof the following:—

1 "SECTION 1. Chapter 127 of the General Laws is hereby amended by striking out
2 section 118, as appearing in the 2012 Official Edition, and inserting in place thereof the
3 following section:—

4 Section 118. (a) Upon admission to a correctional facility, while awaiting trial or after
5 sentencing, a female inmate shall be screened and assessed for pregnancy by a licensed health
6 care professional; provided that the inmate shall be informed of any necessary medical tests
7 connected with the screening prior to the administration of such tests. A pregnant inmate shall
8 receive nondirective counseling and written material, in a form understandable by the inmate, on
9 pregnancy options and correctional facility policies and practices regarding care and labor for
10 pregnant inmates. Correctional facilities housing female inmates shall ensure that at least 1
11 member of the facility's medical staff is trained in pregnancy-related care which shall include
12 knowledge of prenatal nutrition, high-risk pregnancy, addiction and substance abuse during
13 pregnancy, and childbirth education.

14 A pregnant and postpartum inmate shall be provided regular prenatal and postpartum
15 medical care at the correctional facility in which she is housed including periodic health
16 monitoring and evaluation during pregnancy; the opportunity for a minimum of 1 hour of
17 ambulatory movement each day; a diet containing the nutrients necessary to maintain a healthy
18 pregnancy, including prenatal vitamins and supplements; postpartum screening for depression;
19 and written information regarding prenatal nutrition, maintaining a healthy pregnancy and
20 childbirth. Pregnant and postpartum inmates shall be provided appropriate clothing,
21 undergarments and sanitary materials.

22 The department of correction shall, in consultation with the department of public health
23 and the Massachusetts Sheriffs Association, develop appropriate standards of care for pregnant
24 and postpartum inmates, which shall incorporate, at a minimum, the standards for health services
25 set forth by the National Commission on Correctional Health Care. If a pregnant inmate requires

26 medically necessary, specialized care that is unavailable at the correctional facility, she shall
27 have access to such care at a supporting medical facility with appropriate expertise.

28 If a postpartum inmate is determined to be suffering from postpartum depression, she
29 shall have regular access to a mental health clinician. A postpartum inmate shall not be subject
30 to isolation absent an individualized, documented determination that the inmate poses a serious
31 risk of harm to herself or others. Prior to release, correctional facility medical staff shall provide
32 a pregnant inmate with counseling and discharge planning in order to ensure continuity of
33 pregnancy-related care, including uninterrupted substance abuse treatment.

34 (b) During the second and third trimesters of pregnancy or during post-delivery
35 recuperation, an inmate shall be transported to and from visits to medical providers and court
36 proceedings in a vehicle with seatbelts and may only be restrained using handcuffs in front. If a
37 correction officer is present in the room during the pregnant inmate's physical examinations,
38 labor or childbirth, the officer shall, if possible, be female. Whenever possible, the correction
39 officer shall be positioned in a location in the room that will ensure, to the extent feasible, patient
40 privacy.

41 A pregnant inmate shall receive labor and delivery care in an accredited hospital and shall
42 not be removed to another penal institution for the purpose of giving birth. An inmate who is in
43 any stage of labor or delivery, as determined by a licensed health care professional, shall not be
44 placed in restraints at any time, including during transportation.

45 During post-delivery recuperation, an inmate shall remain in the hospital until the
46 attending physician certifies that she may be safely discharged and transferred back to the
47 correctional facility. An inmate in post-delivery recuperation shall not be placed in restraints,
48 except under extraordinary circumstances.

49 For the purposes of this section, 'extraordinary circumstances' shall mean a situation in
50 which a corrections officer determines that the specific inmate presents an immediate and serious
51 threat to herself or others; or the inmate presents an immediate and credible risk of escape that
52 cannot be curtailed by other reasonable means. If an inmate is restrained, the restraints shall be
53 the least restrictive available and the most reasonable under the circumstances. In no case shall
54 leg or waist restraints be used on any pregnant or postpartum inmate. In the event the corrections
55 officer believes that extraordinary circumstances exist and restraints are used, the corrections
56 officer shall fully document in writing the reasons that the officer determined such extraordinary
57 circumstances existed, the kind of restraints used, and the reasons those restraints were
58 considered the least restrictive available and the most reasonable under the circumstances. A
59 superintendent shall approve the use of any restraints used due to extraordinary circumstances
60 either before the inmate is hospitalized or after the corrections officer submits documentation
61 detailing the reasons restraints were required. If the attending physician or nurse treating the

62 pregnant inmate requests that restraints be removed for medical reasons, the corrections officer
63 shall immediately remove all restraints.

64 (c) Nothing in this section shall prohibit the use of hospital restraints requested by a
65 treating physician for the medical safety of a patient.

66 (d) Any time restraints are used on an inmate, the superintendent shall submit a report
67 within 48 hours to the security of public safety and security, including the date, time, duration,
68 location, rationale for the use of restraints, and the agency to which the corrections officer
69 reports; provided, however, that such reports shall not contain individually identifying
70 information regarding any inmate. The secretary shall submit to the legislature an annual report
71 regarding compliance with this section, including all incidents involving use of restraints. Such
72 report shall be filed annually on or before July 1 with the offices of the clerk of the house and the
73 senate and shall be a public record."