

SENATE No. 1171

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 adoption of the accompanying bill:

An Act to prevent shackling and promote safe pregnancies for female inmates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Anthony W. Petrucci</i>	<i>First Suffolk and Middlesex</i>

<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>

SENATE No. 1171

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1171) of Karen E. Spilka, William N. Brownsberger, John W. Scibak, Martha M. Walz and other members of the General Court for legislation to prevent shackling and promote safe pregnancies for female inmates. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
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An Act to prevent shackling and promote safe pregnancies 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 SECTION 1. Chapter 127 of the General Laws, as appearing in the 2010 Official Edition,
2 is hereby amended by striking out section 118 and inserting in place thereof the following:—

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

12 Pregnant and postpartum inmates shall be provided regular prenatal and postpartum
13 medical care at the correctional facility in which they are housed, periodic health monitoring and
14 evaluation during pregnancy, and postpartum screening for depression. Regular prenatal care
15 shall include the opportunity for a minimum of one hour of ambulatory movement each day and
16 a diet containing the nutrients necessary to maintain a healthy pregnancy, including prenatal
17 vitamins and supplements. The Department of Correction shall, in consultation with the
18 Department of Public Health, develop appropriate standards of care for pregnant and postpartum
19 inmates, which shall reflect, at a minimum, the standards set forth by the National Commission
20 on Correctional Health Care and the American Dietetic Association. If pregnant inmates require

21 medically necessary, specialized care that is unavailable at the correctional facility, they shall
22 have access to such care at a supporting medical facility with appropriate expertise. If a
23 postpartum inmate is determined to be suffering from postpartum depression, she shall have
24 regular access to a mental health clinician. Postpartum inmates shall not be subject to isolation
25 absent an individualized, documented determination that the inmate poses a serious risk of harm
26 to herself or others.

27 All pregnant inmates shall be offered weekly prenatal classes or, when not practicable,
28 written information, regarding prenatal nutrition, maintaining a healthy pregnancy, and
29 childbirth, and shall have the opportunity to discuss this information with the medical personnel
30 trained in these matters. Pregnant and postpartum inmates shall be provided appropriate clothing,
31 undergarments, and sanitary materials during pregnancy and postpartum, including maternity
32 clothes, athletic support bras, sanitary pads, and breast pads.

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

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

42 Except in extraordinary circumstances, no restraints of any kind may be used on inmates
43 after the first trimester of pregnancy or immediately postpartum, whether during transportation to
44 and from visits to medical providers and court proceedings, during labor and delivery, or during
45 postpartum recovery at the hospital. Pregnant and postpartum inmates shall be transported to
46 and from visits to medical providers and court proceedings in cars with seatbelts.

47 For purposes of this section, “extraordinary circumstances” exist where a corrections
48 officer makes an individualized determination that restraints are necessary to prevent a pregnant
49 or postpartum inmate from escaping, or from seriously injuring herself, medical or correctional
50 personnel, or others. Any time restraints are permitted to be used on a pregnant inmate, the
51 restraints must be the least restrictive available and the most reasonable under the circumstances.
52 In no case shall leg or waist restraints be used on any pregnant or postpartum inmate. In the
53 event the corrections officer determines that extraordinary circumstances exist and restraints are
54 used, the corrections officer must fully document in writing the reasons that he or she determined
55 such extraordinary circumstances existed, the kind of restraints used, and the reasons those
56 restraints were considered the least restrictive available and the most reasonable under the
57 circumstances. If the doctor, nurse, or other health professional treating the pregnant inmate

58 requests that restraints not be used, the corrections officer accompanying the pregnant inmate
59 shall immediately remove all restraints.

60 Nothing in this section affects the use of hospital restraints requested by treating
61 physicians for the medical safety of a patient.

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