

SENATE No. 2063

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Thursday, March 20, 2014

The committee on Ways and Means, to whom was referred the Senate Bill to prevent shackling and promote safe pregnancies for female inmates (Senate, No. 2012), reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2063).

For the committee,
Stephen M. Brewer

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

3 Section 118. (a) Female inmates, upon admission to a correctional facility when awaiting
4 trial or after being sentenced, shall be screened and assessed for pregnancy by a licensed health
5 care professional. The inmate shall be informed of any medical tests administered in connection
6 with such screening prior to being administered the medical test. Pregnant inmates shall receive
7 nondirective counseling and accessible written material on pregnancy options and correctional
8 facility policies and practices regarding care and labor for pregnant inmates. Correctional
9 facilities housing female inmates shall ensure that at least 1 member of the correctional facility's
10 medical and nursing staff is trained in pregnancy-related care, which shall include knowledge of
11 prenatal nutrition, high-risk pregnancy, addiction and substance abuse during pregnancy and
12 childbirth education.

13 Pregnant and postpartum inmates shall be provided regular prenatal and postpartum
14 medical care at the correctional facility in which they are housed, including: periodic health

15 monitoring and evaluation during pregnancy; the opportunity for a minimum of 1 hour of
16 ambulatory movement each day; a diet containing the nutrients necessary to maintain a healthy
17 pregnancy, including prenatal vitamins and supplements; and written information regarding
18 prenatal nutrition, maintaining a healthy pregnancy and childbirth. The department of correction
19 shall, in consultation with the department of public health and with approval from a licensed
20 dietitian/nutritionist, as defined in section 201 of chapter 112 of the General Laws, develop
21 appropriate standards of care for pregnant and postpartum inmates, which shall reflect, at a
22 minimum, the standards set forth by the National Commission on Correctional Health Care.
23 Pregnant and postpartum inmates shall be provided appropriate clothing, undergarments and
24 sanitary materials. If a pregnant inmate requires medically necessary specialized care that is
25 unavailable at the correctional facility, the pregnant inmate shall have access to such care at a
26 supporting medical facility with appropriate expertise.

27 If a postpartum inmate is determined to be suffering from postpartum depression, she
28 shall have regular access to a mental health clinician. A postpartum inmate shall not be subject to
29 isolation absent an individualized, documented determination that the inmate poses a serious risk
30 of harm to herself or others.

31 Prior to release, correctional facility medical and nursing staff shall provide a pregnant
32 inmate counseling and discharge planning in order to ensure continuity of pregnancy-related
33 care, including uninterrupted substance abuse treatment.

34 (b) A pregnant inmate, during the second or third trimester, or in post-delivery
35 recuperation, as determined by the attending physician, shall be transported to and from visits to

36 medical providers and court proceedings in a vehicle with seatbelts and may only be restrained
37 using handcuffs in front.

38 An inmate who is in labor, as determined by a licensed health care professional,
39 delivering her baby or who is being transported or housed in an outside medical facility for the
40 purpose of treating labor symptoms, shall not be placed in restraints.

41 An inmate in post-delivery recuperation, as determined by the attending physician, shall
42 not be placed in restraints, except under extraordinary circumstances.

43 For the purposes of this section, “extraordinary circumstances” shall mean a situation in
44 which a correction officer makes an individualized determination, approved by a superintendent,
45 that the inmate presents an immediate, serious threat of hurting herself or others or in which the
46 inmate presents an immediate and credible risk of escape that cannot be reasonably contained
47 through other methods. In the event the correction officer determines that extraordinary
48 circumstances exist, the officer shall document, in writing, the reasons for the determination and
49 the specific type of restraints used. The superintendent may approve the correction officer’s
50 determination in advance or immediately following the determination.

51 If an inmate is restrained, the restraints used shall be the least restrictive restraints
52 necessary to ensure safety and security and the correction officer shall document, in writing, the
53 reasons the restraints used are considered the least restrictive necessary under the circumstances.
54 Leg or waist restraints shall not be used on an inmate during the second or third trimester of
55 pregnancy, labor, delivery or during post-delivery recuperation. If the attending physician or
56 nursing staff shift supervisor treating the pregnant inmate requests that restraints be removed for
57 medical reasons, the correction officer shall immediately remove all restraints.

58 (c) A pregnant inmate shall receive labor and delivery care in an accredited hospital and
59 shall not be removed to another penal institution for the purpose of giving birth. During post-
60 delivery recuperation, an inmate shall be kept in such hospital until the attending physician
61 certifies that she may safely be removed.

62 If a correction officer is present in the room during the pregnant inmate's physical
63 examinations, labor or childbirth, the correction officer shall, if possible, be female and
64 positioned at the head of the bed or in another location so as to maintain maximum patient
65 privacy.

66 Nothing in this section shall affect the use of hospital restraints requested by a treating
67 physician for the medical safety of a patient.