

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1037

4
5 By: Representatives S. Dobbins, L. Smith, Webb

For An Act To Be Entitled

9 AN ACT TO ENSURE THAT PREGNANT INMATES ARE NOT
10 SHACKLED WHEN TRANSPORTED FOR CHILDBIRTH, DURING
11 LABOR AND DELIVERY, AND DURING RECOVERY FROM
12 CHILDBIRTH, EXCEPT UNDER LIMITED CIRCUMSTANCES
13 AND ONLY USING SOFT RESTRAINTS; AND FOR OTHER
14 PURPOSES.

Subtitle

16 TO ENSURE THAT PREGNANT INMATES ARE NOT
17 SHACKLED EXCEPT UNDER LIMITED
18 CIRCUMSTANCES AND ONLY USING SOFT
19 RESTRAINTS.
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23 WHEREAS, labor and delivery are medical conditions that require the
24 exercise of medical judgment to protect the health of the mother and the
25 child; and

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27 WHEREAS, labor and delivery are difficult and painful experiences for
28 mothers under the best of circumstances; and

29
30 WHEREAS, women inmates who are pregnant face particularly difficult
31 situations during labor and delivery because of unclear rules that often
32 result in the pregnant inmate being shackled during labor and delivery; and
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34 WHEREAS, the shackling of a pregnant inmate during labor and delivery
35 is considered by many to be a human rights violation and to be unnecessary
36 due to the physical impairment that labor and delivery cause, except under



1 the most rare and unusual circumstances; and

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3 WHEREAS, the shackling of a pregnant inmate during labor and delivery
4 is medically dangerous and could result in medical complications for the
5 mother and child,

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7 NOW THEREFORE,

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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10 SECTION 1. Arkansas Code Title 12, Chapter 29 is amended to add an
11 additional subchapter to read as follows:

12 12-29-701. Title.

13 This subchapter shall be known and may be cited as the "Standard of
14 Care for Pregnant Inmates Act".

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16 12-29-702. Soft restraint usage.

17 If after consideration of the applicable factors under this subchapter
18 regarding the least restrictive manner of restraint to be used for a pregnant
19 inmate a determination is made that the pregnant inmate must be restrained
20 with shackles, then the pregnant inmate shall only be restrained with
21 shackles that are a soft restraint and shall not be shackled with iron or
22 metal shackles.

23
24 12-29-703. Transport of pregnant inmates for childbirth purposes.

25 (a) A pregnant inmate who is transported to a hospital outside of the
26 prison to give birth shall be transported in the least restrictive manner
27 that is possible.

28 (b) To determine the least restrictive manner that is possible for
29 transporting a pregnant inmate under this section, the Department of
30 Correction shall consider:

31 (1) The legitimate safety and security needs for the
32 transportation of the pregnant inmate as determined by the custodian;

33 (2) The physical limitations of the pregnant inmate related to
34 her late-stage pregnancy condition or labor; and

35 (3) The level of pain and discomfort that the pregnant inmate is
36 experiencing due to her late-stage pregnancy condition or labor.

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12-79-704. Labor and delivery.

(a) Except as provided under subsection (b) of this section, after the pregnant inmate has been declared by the attending physician to be in labor, the pregnant inmate shall not be shackled by the wrists or ankles.

(b) A pregnant inmate may be shackled only by the wrists or ankles and only if the shackles are reasonably necessary for the safety and security of:

- (1) The pregnant inmate;
- (2) The medical staff; and
- (3) The public.

12-79-705. Recovery after giving birth.

(a) Except as provided under subsection (c) of this section, following childbirth and before discharge, an inmate who is in the hospital or birthing center shall be given an adequate opportunity to hold her child and follow the orders of the attending physician in regard to mobility.

(b) Except as provided under subsection (c) of this section, following childbirth and before discharge, an inmate who is in the hospital or birthing center shall not be shackled by the wrists or ankles during recovery.

(c) Following childbirth and before discharge, a pregnant inmate may be shackled only by the wrists or ankles and only if the shackles are reasonably necessary for the safety and security of:

- (1) The inmate;
- (2) The medical staff; and
- (3) The public.