

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
4

As Engrossed: S1/22/07 S2/5/07

A Bill

HOUSE BILL 1037

5 By: Representatives S. Dobbins, L. Smith, Webb
6 By: *Senator Madison*
7

For An Act To Be Entitled

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

Subtitle

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18 TO ENSURE THAT PREGNANT INMATES ARE NOT
19 SHACKLED EXCEPT UNDER LIMITED
20 CIRCUMSTANCES AND ONLY USING SOFT
21 RESTRAINTS.
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24 WHEREAS, labor and delivery are medical conditions that require the
25 exercise of medical judgment to protect the health of the mother and the
26 child; and
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28 WHEREAS, labor and delivery are difficult and painful experiences for
29 mothers under the best of circumstances; and
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31 WHEREAS, the shackling of a pregnant inmate during labor and delivery
32 is considered by many to be a human rights violation and to be unnecessary
33 due to the physical impairment that labor and delivery cause, except under
34 the most rare and unusual circumstances; and
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36 WHEREAS, the shackling of a pregnant inmate during labor and delivery



1 is medically dangerous and could result in medical complications for the
2 mother and child,

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4 NOW THEREFORE,

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

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

9 12-29-701. Title.

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

12
13 12-29-702. Soft restraint usage.

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

20
21 12-29-703. Transport of pregnant inmates for childbirth purposes.

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

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

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

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

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

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35 12-29-704. Labor and delivery.

36 (a) Except as provided under subsection (b) of this section, after the

1 pregnant inmate has been declared by the licensed medical professional to be
2 in labor, the pregnant inmate shall not be shackled by the wrists or ankles.

3 (b) A pregnant inmate may be shackled by only one (1) wrist or only
4 one (1) ankle if the shackles are reasonably necessary for the safety and
5 security of any one (1) or more of the following:

6 (1) The pregnant inmate;

7 (2) The medical staff;

8 (3) The newborn; or

9 (4) The public.

10
11 12-79-705. Recovery after giving birth.

12 (a)(1) Except as provided under subsection (c) of this section,
13 following childbirth and before discharge, an inmate who is in the hospital
14 or birthing center shall be given a reasonable opportunity to hold her child
15 and follow the orders of the attending physician in regard to mobility.

16 (2) As used in this section, "reasonable opportunity" means no
17 less than twenty-four (24) hours post-delivery.

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

21 (c) Following childbirth and before discharge, a pregnant inmate may
22 be shackled by only one (1) wrist or only one (1) ankle if the shackles are
23 reasonably necessary for the safety and security of any one (1) or more of
24 the following:

25 (1) The pregnant inmate;

26 (2) The medical staff;

27 (3) The newborn; or

28 (4) The public.

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30 /s/ S. Dobbins
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