

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4
5 By: Representative Petty
6 By: Senator Bledsoe
7

A Bill

HOUSE BILL 1523

For An Act To Be Entitled

9 AN ACT CONCERNING THE TREATMENT OF FEMALE INMATES AND
10 DETAINEES IN CORRECTIONAL OR DETENTION FACILITIES;
11 CONCERNING PREGNANT INMATES AND DETAINEES; AND FOR
12 OTHER PURPOSES.
13
14

Subtitle

15 CONCERNING THE TREATMENT OF FEMALE
16 INMATES AND DETAINEES IN CORRECTIONAL OR
17 DETENTION FACILITIES; AND CONCERNING
18 PREGNANT INMATES AND DETAINEES.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 12 is amended to add an additional
25 chapter to read as follows:
26

Chapter 32 – Treatment of Female Inmates or Detainees

12-32-101. Definitions.

As used in this chapter:

31 (1) "Correctional or detention facility" means:

32 (A) A local or state correctional facility or detention
33 facility that has the power to detain or restrain a person under the laws of
34 the state, including a city jail, county jail, or facility operated by the
35 Department of Correction or the Department of Community Correction; or

36 (B) A post-incarceration residential reentry facility



1 designed to house a person on parole;

2 (2) "Detainee" includes a person detained under the immigration
 3 laws of the United States;

4 (3) "Inmate" means any person incarcerated in a correctional or
 5 detention facility for any reason;

6 (4) "Labor" means the period of time before a birth during which
 7 contractions are of sufficient frequency, intensity, and duration to bring
 8 about effacement and progressive dilation of the cervix;

9 (5) "Post-partum" means, as determined by the physician of the
 10 inmate or detainee, the period immediately following delivery of a child,
 11 including the entire period the inmate or detainee is in the hospital or
 12 infirmary after the birth of the child; and

13 (6)(A) "Restraints" means a physical restraint or mechanical
 14 device used to control the movement of an inmate's or detainee's body or
 15 limbs, including without limitation:

16 (i) Flex cuffs;

17 (ii) Soft restraints;

18 (iii) Hard metal handcuffs;

19 (iv) A black box;

20 (v) Chubb cuffs;

21 (vi) Leg irons;

22 (vii) Belly chains;

23 (viii) A security tether or chain; and

24 (ix) A convex shield.

25 (B) "Restraints" does not include a door to a room.

26
 27 12-32-102. Restraint of pregnant inmate or detainee.

28 (a) A correctional or detention facility shall not place an inmate or
 29 detainee known to be pregnant, in labor, or in post-partum recovery in
 30 restraints unless:

31 (1) The correctional or detention facility makes an
 32 individualized determination that the inmate or detainee presents a
 33 substantial flight risk; or

34 (2) An extraordinary medical or security circumstance dictates
 35 that the inmate or detainee be restrained to:

36 (A) Ensure the safety and security of:

1 (i) The inmate or detainee;

2 (ii) The staff of the correctional or detention
3 facility, or medical facility;

4 (iii) Other inmates or detainees; or

5 (iv) The public; or

6 (B) Prevent the risk of escape by the inmate or detainee
7 that cannot be reasonably minimized through any method other than restraints.

8 (b)(1) If the correctional or detention facility determines that the
9 inmate or detainee is required to be restrained under subsection (a) of this
10 section, the restraints shall be removed if a physician, nurse, or other
11 health professional requests that the inmate or detainee not be restrained.

12 (2)(A) The physician, nurse, or other health professional
13 providing inmate or detainee obstetric care shall have final decision-making
14 authority on the use of restraints.

15 (B) If the inmate or detainee is not under the care of a
16 physician, nurse, or other health professional, the official at the
17 correctional or detention facility primarily responsible for medical care of
18 inmates or detainees shall have final decision-making authority on the use of
19 restraints and shall consult with a physician or nurse who specializes in
20 obstetrics about the use of restraints on the inmate or detainee.

21 (c) If restraints are used on an inmate or detainee under subsection
22 (a) of this section:

23 (1)(A) The type of restraints shall be the least restrictive
24 type necessary, and the restraints shall be applied in the least restrictive
25 manner necessary.

26 (B) Leg or waist restraints shall not be used on any
27 inmate or detainee who is in labor;

28 (2) The restraints shall always be forward-facing, designed to
29 restrain the person's hands in front of the person;

30 (3) Only medical restraints may be used; and

31 (4)(A) The correctional or detention facility shall make written
32 findings within ten (10) days regarding the substantial flight risk of that
33 inmate or detainee or other extraordinary medical or security circumstance
34 that dictated the inmate or detainee be restrained to ensure the safety and
35 security of the inmate or detainee, the staff of the correctional or
36 detention facility, or medical facility, other inmates or detainees, or the

1 public.

2 (B) The written findings under subdivision (c)(4)(A) of
 3 this section shall be maintained by the correctional or detention facility
 4 for at least five (5) years and be made available for public inspection,
 5 except that information identifying any inmate or detainee shall not be made
 6 public.

7 (d) If restraints are used during labor, the correctional or detention
 8 facility shall report the use of restraints during labor to the Attorney
 9 General.

10
 11 12-32-103. Adequate female prenatal nutrition and hygiene products
 12 required.

13 (a) A correctional or detention facility shall establish a policy for
 14 providing:

15 (1) Adequate prenatal vitamins and nutrition for pregnant
 16 inmates and detainees;

17 (2) An adequate number of hygiene products for female inmates
 18 and detainees; and

19 (3) An appropriate number of undergarments for female inmates
 20 and detainees.

21 (b) A policy under this section may be reviewed by the Charitable,
 22 Penal and Correctional Institutions Subcommittee of the Legislative Council.

23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36