

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Smith, C. offered the following:

2
3 **Amendment to Amendment (252236) (with title amendment)**

4 Remove lines 21-192 of the amendment and insert:
5 circumstance that dictates restraints be used to ensure the
6 safety and security of the prisoner, the staff of the
7 correctional institution or medical facility, other prisoners,
8 or the public.

9 (e) "Invasive body search" means a search that involves a
10 manual inspection of the breasts or a manual inspection using
11 touch, insertion, or probing of the cavities of the human body,
12 including the genitals, buttocks, or anus.

13 (f)-(e) "Labor" means the period of time before a birth

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14 during which contractions are of sufficient frequency,
15 intensity, and duration to bring about effacement and
16 progressive dilation of the cervix.

17 (g)~~(f)~~ "Postpartum recovery" means, as determined by her
18 physician, the period immediately following delivery, including
19 the recovery period when a woman is in the hospital or infirmary
20 following birth, up to 24 hours after delivery unless the
21 physician after consultation with the department or correctional
22 institution recommends a longer period of time.

23 (h) "Pregnant prisoner" means any prisoner whose pregnancy
24 is confirmed by or is otherwise known to a qualified healthcare
25 professional at the correctional institution.

26 (i)~~(g)~~ "Prisoner" means any person incarcerated or
27 detained in any correctional institution who is accused of,
28 convicted of, sentenced for, or adjudicated delinquent for a
29 violation of criminal law or the terms and conditions of parole,
30 probation, community control, pretrial release, or a
31 diversionary program. For purposes of this section, the term
32 includes any woman detained under the immigration laws of the
33 United States at any correctional institution.

34 (j)~~(h)~~ "Restraints" means any physical restraint or
35 mechanical device used to control the movement of a prisoner's
36 body or limbs, including, but not limited to, flex cuffs, soft
37 restraints, hard metal handcuffs, a black box, chubb cuffs, leg
38 irons, belly chains, a security or tether chain, or a convex

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39 shield.

40 (k) "Restrictive housing" means housing a prisoner
41 separately from the general population of a correctional
42 institution and imposing restrictions on her movement, behavior,
43 and privileges. The term includes placing a prisoner in medical
44 isolation, in a medical housing unit, or in the infirmary.

45 (3) RESTRAINT OF PRISONERS.—

46 (a) Restraints may not be used on a pregnant prisoner who
47 is known to be pregnant during labor, delivery, or and
48 postpartum recovery if a qualified healthcare professional
49 treating the prisoner in labor, delivery, or postpartum recovery
50 requests that restraints not be used due to a documentable
51 medical purpose. If such a request is made, the correctional
52 officer or law enforcement officer accompanying the pregnant
53 prisoner must immediately remove all restraints unless:

54 1. The correctional officer or law enforcement officer
55 makes an individualized determination that the pregnant prisoner
56 presents an extraordinary circumstance.

57 2. The restraints used are the least restrictive
58 necessary, unless the corrections official makes an
59 individualized determination that the prisoner presents an
60 extraordinary circumstance, except that:

61 1. The physician may request that restraints not be used
62 for documentable medical purposes. The correctional officer,
63 correctional institution employee, or other officer accompanying

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64 ~~the pregnant prisoner may consult with the medical staff;~~
65 ~~however, if the officer determines there is an extraordinary~~
66 ~~public safety risk, the officer is authorized to apply~~
67 ~~restraints as limited by subparagraph 2.~~

68
69 However, leg, ankle, and waist restraints may not be used on a
70 prisoner in labor, delivery, or postpartum recovery, including
71 during transport of the prisoner for labor, delivery, or
72 postpartum recovery.

73 ~~2. Under no circumstances shall leg, ankle, or waist~~
74 ~~restraints be used on any pregnant prisoner who is in labor or~~
75 ~~delivery.~~

76 (b) Restraints may not be ~~If restraints are used on a~~
77 ~~pregnant prisoner during transport to or from a correctional~~
78 ~~institution or within a correctional institution unless pursuant~~
79 ~~to paragraph (a):~~

80 1. The restraints used are the least restrictive
81 necessary. ~~type of restraint applied and the application of the~~
82 ~~restraint must be done in the least restrictive manner~~
83 ~~necessary; and~~

84 2. If wrist restraints are used, the restraints are
85 applied in the front of the pregnant prisoner so that she may
86 protect herself in the event of a forward fall.

87 3. Leg, ankle, and waist restraints are not used unless
88 the corrections official makes an individualized determination

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89 that the pregnant prisoner presents an extraordinary
90 circumstance.

91 (c)2. The corrections official shall make written findings
92 within 10 days after the use of restraints under this subsection
93 as to the extraordinary circumstance that dictated the use of
94 the restraints. These findings shall be kept on file by the
95 department or correctional institution for at least 5 years.

96 ~~(c) During the third trimester of pregnancy or when~~
97 ~~requested by the physician treating a pregnant prisoner, unless~~
98 ~~there are significant documentable security reasons noted by the~~
99 ~~department or correctional institution to the contrary that~~
100 ~~would threaten the safety of the prisoner, the unborn child, or~~
101 ~~the public in general:~~

102 ~~1. Leg, ankle, and waist restraints may not be used; and~~

103 ~~2. If wrist restraints are used, they must be applied in~~
104 ~~the front so the pregnant prisoner is able to protect herself in~~
105 ~~the event of a forward fall.~~

106 ~~(d) In addition to the specific requirements of paragraphs~~
107 ~~(a)-(c), any restraint of a prisoner who is known to be pregnant~~
108 ~~must be done in the least restrictive manner necessary in order~~
109 ~~to mitigate the possibility of adverse clinical consequences.~~

110 (4) INVASIVE BODY SEARCHES.—A correctional officer may
111 conduct an invasive body search of a pregnant prisoner only if
112 the correctional officer has a reasonable belief that the
113 pregnant prisoner is concealing contraband in a place where it

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114 could only be discovered through an invasive body search. If
115 such a reasonable belief exists, the correctional officer may
116 request that a qualified healthcare professional conduct the
117 search. If an invasive body search is conducted under this
118 paragraph, the correctional officer who conducted or requested
119 the search must submit a written report to the corrections
120 official within 72 hours after the search, which must:

121 (a) State the reason for the search.

122 (b) Identify the contraband recovered by the search, if
123 any.

124 (5) RESTRICTIVE HOUSING.—

125 (a) Except as provided in paragraph (b) or paragraph (d),
126 a pregnant prisoner may not be involuntarily placed in
127 restrictive housing.

128 (b) A pregnant prisoner may be involuntarily placed in
129 restrictive housing if the corrections official of the
130 correctional institution makes an individualized determination
131 that restrictive housing is necessary to protect the health and
132 safety of the pregnant prisoner or others or to preserve the
133 security and order of the correctional institution and that
134 there are no less restrictive means available. After placing a
135 pregnant prisoner in restrictive housing under this paragraph,
136 the corrections official must write a report stating:

137 1. The individualized reason restrictive housing is
138 necessary.

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139 2. The reason less restrictive means are not available.

140 3. Whether the qualified healthcare professional at the
141 correctional institution objects to the placement.

142
143 The corrections official must provide a copy of such report to
144 the pregnant prisoner within 12 hours after placing her in
145 restrictive housing.

146 (c) A pregnant prisoner who is placed in restrictive
147 housing under this section must be:

148 1. Seen by a qualified healthcare professional at least
149 once every 16 hours.

150 2. Housed in the least restrictive setting consistent with
151 the health and safety of the pregnant prisoner.

152 3. Given a medical treatment plan developed and approved
153 by a qualified healthcare professional if the pregnant prisoner
154 does not already have such a treatment plan in place.

155 (d) If a pregnant prisoner needs medical care, a primary
156 care nurse practitioner or obstetrician must provide an order
157 for the pregnant prisoner to be placed in a designated medical
158 housing unit or admitted to the infirmary. If a pregnant
159 prisoner has passed her due date, she must be placed in a
160 designated medical housing unit or admitted to the infirmary
161 until labor begins. A pregnant prisoner who has been placed in a
162 designated medical housing unit or admitted to the infirmary
163 must be provided the same access to outdoor recreation,

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164 visitation, mail, telephone calls, and other privileges and
 165 classes available to the general population unless the
 166 corrections official, after consulting with a qualified
 167 healthcare professional at the correctional institution,
 168 determines that such access poses a danger to the safety and
 169 security of the correctional institution or the qualified
 170 healthcare professional at the institution determines that such
 171 access poses a danger of adverse clinical consequences for the
 172 pregnant prisoner or others and documents such determination in
 173 the pregnant prisoner's medical file.

174 (6)-(4) ENFORCEMENT.—

175 (a) Notwithstanding any relief or claims afforded by
 176 federal or state law, any prisoner who is restrained, searched,
 177 or housed in violation of this section may file a grievance with
 178 the correctional institution, and be granted a 45-day extension
 179 if requested in writing pursuant to rules promulgated by the
 180 correctional institution.

181 (b) This section does not prevent a woman harmed through
 182 the use of restraints, an invasive body search, or placement in
 183 restrictive housing under this section from filing a complaint
 184

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186 **T I T L E A M E N D M E N T**

187 Remove lines 214-239 of the amendment and insert:

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188 providing definitions; revising the circumstances in which
189 restraints may not be used on a pregnant prisoner;
190 providing exceptions; requiring that invasive body searches
191 be conducted on a pregnant prisoner only under specified
192 circumstances; requiring a correctional officer to write a
193 report following an invasive body search of a pregnant
194 prisoner; providing requirements for the report;
195 prohibiting the involuntary placement of a pregnant
196 prisoner in restrictive housing; providing exceptions;
197 requiring corrections officials to write a specified report
198 if circumstances necessitate placing a pregnant prisoner in
199 restrictive housing; providing requirements for the report;
200 requiring a copy of such reports to be provided to a
201 pregnant prisoner in restrictive housing; providing
202 requirements for the treatment of a pregnant prisoner
203 placed in restrictive housing; requiring a pregnant
204 prisoner to be placed in a designated medical housing unit
205 or admitted to the infirmary under certain circumstances;
206 providing certain rights for a pregnant prisoner placed in
207 a designated medical housing unit or admitted to the
208 infirmary; providing an effective

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