

THE HEALTHY PREGNANCIES FOR INCARCERATED WOMEN ACT (H 7613/S 2317)

Five years ago, the General Assembly commendably passed a law recognizing that using restraints on incarcerated inmates during pregnancy, labor or after birth puts the health and lives of the women and their fetuses at risk. Presently, the law restricts the use of restraints on women when they are traveling to and from the hospital or medical appointments. This bill merely ensures that when a woman in her final trimester of pregnancy – when she is most at risk – is being transported to or from a court proceeding, those standards will also apply. The health risks to her and the fetus are the same, and so the protections available to her should be the same.

This Legislation Would Ensure:

- Generally, physical restraints are not used on a pregnant inmate, during the third trimester of her pregnancy, while being transported to or from a court proceeding (similar laws exist in Hawaii and Washington);
- If it is determined that the pregnant inmate presents a serious risk of physical harm to herself or others, or is considered a serious flight risk, the least restrictive restraints necessary may be used during transportation. The decision to use restraints under these circumstances will be documented and kept on file as a public record;
- The Department of Corrections will report annually the number of pregnant women incarcerated at the ACI and the number who were subjected to restraints.

Using restraints during pregnancy puts the health and lives of women and babies at risk.

- Handcuffs and ankle shackles can prevent a pregnant woman from breaking a fall if she trips or loses her balance and impede her ability to protect her stomach if she is jostled around in a prison van driving quickly to the hospital.
- Shackling cannot be justified as a measure necessary to prevent escape: women cannot run with any significant level of speed during this late stage of pregnancy.

Restricting the use of restraints will not jeopardize the safety of others.

- The vast majority of female prisoners are non-violent offenders who pose a low security risk—particularly during the third trimester when mobility is limited.
- Twenty-four states, including Rhode Island, and the District of Columbia restrict the use of restraints on pregnant inmates and those who have recently delivered. Washington and Hawaii explicitly address court transport in their laws, and others nationwide are recognizing the need to do the same.

The legislation allows for the use of the least restrictive restraint necessary in cases where the woman is at serious risk of harm to herself or others, or if she poses a serious flight risk.

This legislation does need to be amended to reflect that the Division of Sheriffs, not the Department of Corrections, is responsible for transportation of inmates to court.