

ASSEMBLY, No. 3492

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 15, 2010

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN
District 15 (Mercer)

SYNOPSIS

Prohibits the restraint of prisoners during and immediately after childbirth.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the restraint of prisoners during childbirth and
2 supplementing Title 30 of the Revised Statutes.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. As used in this act:

8 “Labor” means the period of time before a birth during which
9 contractions are of sufficient frequency, intensity, and duration to
10 bring about effacement and progressive dilatation of the cervix.
11 The determination of when labor has commenced shall rest solely
12 with the medical providers of the incarcerated person.

13 “Postpartum” means the period following delivery, including the
14 entire period a woman is in the hospital after the birth of her child
15 or children.

16 “Restraints” means any physical restraint or mechanical device
17 used to control the movement of a prisoner’s or detainee’s body and
18 limbs, including, but not limited to, shackles, flex cuffs, soft
19 restraints, hard metal handcuffs, a black box, Chubb cuffs, leg
20 irons, belly chains, a security or tether chain, or a convex shield.

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22 2. a. No staff member of, or medical service provider for, a
23 facility shall apply restraints to an incarcerated person known to be
24 pregnant during any stage of labor, any pregnancy related medical
25 distress, transport to a medical facility, or delivery, or postpartum.

26 b. A staff member of, or medical service provider for, a facility
27 may apply restraints to an incarcerated person known to be pregnant
28 at a time otherwise prohibited by subsection a. of this section,
29 provided a supervising staff member of, or medical service provider
30 for, the facility makes an individualized determination that:

31 (1) the incarcerated person presents a substantial flight risk; or
32 (2) some other extraordinary medical or security circumstance
33 dictates that the incarcerated person must be restrained to ensure the
34 safety and security of the incarcerated person, the employees of the
35 facility or medical facility, other incarcerated persons, or the public.

36 c. In cases when a restraint is applied pursuant to subsection b.
37 of this section, the least restrictive type and application of restraint
38 necessary to adequately provide for safety shall be used. Leg or
39 waist restraints shall not be used on any incarcerated person who is
40 in labor.

41 d. In cases when a restraint is applied pursuant to subsection b.
42 of this section, the incarcerated person shall be attended at all times
43 by a staff member of, or medical service provider for, the facility
44 who has the ability to release the restraints should such release
45 become medically necessary. The staff member of, or medical
46 service provider for, the facility shall immediately remove all
47 restraints upon request of the doctor, nurse, or other health care
48 professional caring for the incarcerated person.

1 3. As used in this act:

2 “Labor” means the period of time before a birth during which
3 contractions are of sufficient frequency, intensity, and duration to
4 bring about effacement and progressive dilatation of the cervix.
5 The determination of when labor has commenced shall rest solely
6 with the medical providers of the incarcerated person.

7 “Postpartum” means the period following delivery, including the
8 entire period a woman is in the hospital after the birth of her child
9 or children.

10 “Restraints” means any physical restraint or mechanical device
11 used to control the movement of a prisoner’s or detainee’s body and
12 limbs, including, but not limited to, shackles, flex cuffs, soft
13 restraints, hard metal handcuffs, a black box, Chubb cuffs, leg
14 irons, belly chains, a security or tether chain, or a convex shield.

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16 4. a. No staff member of, or medical service provider for, a
17 county correctional facility shall apply restraints to an incarcerated
18 person known to be pregnant during any stage of labor, any
19 pregnancy related medical distress, transport to a medical facility,
20 or delivery, or postpartum.

21 b. A staff member of, or medical service provider for, a county
22 correctional facility may apply restraints to an incarcerated person
23 known to be pregnant at a time otherwise prohibited by subsection
24 a. of this section, provided a supervising staff member of, or
25 medical service provider for, the county correctional facility makes
26 an individualized determination that:

- 27 (1) the incarcerated person presents a substantial flight risk; or
28 (2) some other extraordinary medical or security circumstance
29 dictates that the incarcerated person must be restrained to ensure the
30 safety and security of the incarcerated person, the employees of the
31 county correctional facility or medical facility, other incarcerated
32 persons, or the public.

33 c. In cases when a restraint is applied pursuant to subsection b.
34 of this section, the least restrictive type and application of restraint
35 necessary to adequately provide for safety shall be used. Leg or
36 waist restraints shall not be used on any incarcerated person who is
37 in labor.

38 d. In cases when a restraint is applied pursuant to subsection b.
39 of this section, the incarcerated person shall be attended at all times
40 by a staff member of, or medical service provider for, the county
41 correctional facility who has the ability to release the restraints
42 should such release become medically necessary. The staff member
43 of, or medical service provider for, the county correctional facility
44 shall immediately remove all restraints upon request of the doctor,
45 nurse, or other health care professional caring for the incarcerated
46 person.

1 5. This act shall take effect on the first day of the fourth month
2 following enactment.

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STATEMENT

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7 This bill would prohibit the restraint of women prisoners during
8 and immediately after childbirth. Under the bill, correctional
9 facility staff or medical providers would not be permitted to apply
10 restraints to a female prisoner known to be pregnant during any
11 stage of labor, any pregnancy related medical distress, transport to a
12 medical facility, or delivery, or postpartum.

13 Restraints would be allowed if a supervising employee or
14 medical provider makes an individualized determination that:

- 15 • the prisoner presents a substantial flight risk; or
16 • some other extraordinary medical or security
17 circumstance dictates that the prisoner must be restrained
18 to ensure the safety and security of the incarcerated
19 person, the employees of the facility or medical facility,
20 other incarcerated persons, or the public.

21 In cases when restraints are permitted, the bill would require that
22 the least restrictive type and application of restraint necessary
23 would be used. The bill would require that any prisoner restrained
24 in such a manner be attended at all times by an employee of the
25 facility or a medical provider with the ability to release the
26 restraints if medically necessary. The employee or medical
27 provider would be required to immediately remove all restraints
28 upon request of the doctor, nurse, or other health care professional
29 caring for the incarcerated person. The bill also specifies that it
30 would never be permissible to use leg and waist restraints on a
31 prisoner who is in labor.