

SENATE, No. 221

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senator A.R.Bucco

SYNOPSIS

Prohibits the restraint of prisoners during and immediately after childbirth.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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

1 restraints upon request of the doctor, nurse, or other health care
2 professional caring for the incarcerated person.

3

4 3. As used in this act:

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

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

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

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

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

30 (1) the incarcerated person presents a substantial flight risk; or

31 (2) some other extraordinary medical or security circumstance
32 dictates that the incarcerated person must be restrained to ensure the
33 safety and security of the incarcerated person, the employees of the
34 county correctional facility or medical facility, other incarcerated
35 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 county
44 correctional facility who has the ability to release the restraints
45 should such release become medically necessary. The staff member
46 of, or medical service provider for, the county correctional facility
47 shall immediately remove all restraints upon request of the doctor,

1 nurse, or other health care professional caring for the incarcerated
2 person.

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

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STATEMENT

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

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

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

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