ASSEMBLY, No. 3214

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Assemblywoman BRITNEE N. TIMBERLAKE
District 34 (Essex and Passaic)
Assemblywoman VERLINA REYNOLDS-JACKSON
District 15 (Hunterdon and Mercer)
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District 32 (Bergen and Hudson)

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Assemblywomen Carter, Tucker, Assemblymen Conaway, Caputo, Moriarty, Assemblywoman Swain, Assemblyman Mejia, Assemblywoman Sumter, Assemblymen Wimberly and Calabrese

WITHDRAWN

SYNOPSIS

Prohibits the restraint of prisoners during and immediately after childbirth.

CURRENT VERSION OF TEXT

As introduced.

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

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

1. a. A staff member of, or medical service provider for, a State correctional facility shall not apply restraints to an inmate or detainee known to be pregnant during any stage of labor, any pregnancy related medical distress, transport to a medical facility, delivery, or postpartum.

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

(1) the inmate or detainee presents a substantial flight risk; or

(2) some other extraordinary medical or security circumstance dictates that the inmate or detainee must be restrained to ensure the safety and security of the inmate or detainee, the employees of the facility or medical facility, other inmates or detainees, or the public.

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

d. In cases when a restraint is applied pursuant to subsection b. of this section, the inmate or detainee shall be attended at all times by a staff member of, or medical service provider for, the facility who has the ability to release the restraints if release becomes medically necessary. The staff member of, or medical service provider for, the facility immediately shall remove all restraints upon request of the doctor, nurse, or other health care professional caring for the inmate or detainee.

e. As used in this section:

"Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilatation of the cervix. The determination of when labor has commenced shall rest solely with the medical provider of the inmate or detainee.

"Postpartum" means the period following delivery, including the entire period a woman is in the hospital after the birth of her child or children.

"Restraints" means any physical restraint or mechanical device used to control the movement of the body and limbs of an inmate or detainee, including, but not limited to, shackles, flex cuffs, soft restraints, hard metal handcuffs, a black box, Chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

WITHDRAWN

2. a. A staff member of, or medical service provider for, a county correctional facility shall not apply restraints to an inmate or detainee known to be pregnant during any stage of labor, any pregnancy related medical distress, transport to a medical facility, delivery, or postpartum.

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

(1) the inmate or detainee presents a substantial flight risk; or

(2) some other extraordinary medical or security circumstance dictates that the inmate or detainee must be restrained to ensure the safety and security of the inmate or detainee, the employees of the facility or medical facility, other inmates or detainees, or the public.

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

WITHDRAWN

STATEMENT

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

Restraints would be allowed if a supervising employee or medical provider makes an individualized determination that: the inmate or detainee presents a substantial flight risk; or some other extraordinary medical or security circumstance dictates that the inmate or detainee must be restrained to ensure the safety and security of the inmate or detainee, the employees of the facility or medical facility, other inmates or detainees, or the public.

In cases when restraints are permitted, the bill would require that the least restrictive type and application of restraint necessary would be used. The bill would require that any inmate or detainee restrained in this manner be attended at all times by an employee of the facility or a medical provider with the ability to release the restraints if medically necessary. The employee or medical provider would be required to immediately remove all restraints upon request of the doctor, nurse, or other health care professional caring for the inmate or detainee. The bill also specifies that it would never be permissible to use leg and waist restraints on an inmate or detainee who is in labor.

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