

2010 -- H 7551

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT CORRECTIONS

Introduced By: Representatives Giannini, Walsh, Naughton, Pacheco, and San Bento

Date Introduced: February 24, 2010

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 56.3

4 THE HEALTHY PREGNANCIES FOR INCARCERATED WOMEN ACT

5 42-56.3-1. Title. -- This act shall be known and may be cited as the "Healthy Pregnancies
6 for Incarcerated Women Act."

7 42-56.3-2. Findings. – The general assembly hereby finds and declares: (1) Restraining a
8 pregnant woman can pose undue health risks to the woman and her pregnancy;

9 (2) The vast majority of female prisoners or detainees in Rhode Island are non-violent
10 offenders;

11 (3) Restraining pregnant prisoners and detainees increases the potential for physical harm
12 from an accidental trip or fall;

13 (4) Freedom from physical restraints is especially critical during labor, delivery, and
14 postpartum recovery after delivery. Women often need to move around during labor and
15 recovery, and restraints can further interfere with medical staff's ability to appropriately assist in
16 childbirth or to conduct emergency procedures;

17 (5) Public health organizations have expressed opposition to shackling pregnant women
18 because of the dangers posed to a woman's health and well-being.

19 42-56.3-3. Restraint of prisoners and detainees. – (a) When the department of

1 corrections has actual or constructive knowledge that a prisoner or detainee is in the second or
2 third trimester of pregnancy, the department shall use the least restrictive restraints necessary on
3 the individual.

4 (b) No handcuffs, shackles or other restraints shall be used on a prisoner or detainee
5 known to be pregnant during transport to a medical facility, labor, delivery, or postpartum
6 recovery, unless there are compelling grounds to believe that the prisoner or detainee presents:

7 (1) An immediate and serious threat of physical harm to herself, staff or others; or

8 (2) A substantial flight risk that cannot be reasonably contained by other means.

9 (c) Notwithstanding the provisions of subsection (b):

10 (1) If the doctor, nurse or other health professional treating the prisoner or detainee
11 requests that restraints not be used, any correctional officer accompanying the prisoner or
12 detainee shall immediately remove all restraints; and

13 (2) Under no circumstances shall leg or waist restraints be used on any prisoner or
14 detainee who is in labor or delivery.

15 (d) If restraints are used on a prisoner or detainee pursuant to subsection (b):

16 (1) The type of restraint applied and the application of the restraint shall be done in the
17 least restrictive manner necessary; and

18 (2) The correctional officer shall submit to the department within five (5) days written
19 findings articulating the grounds that dictated the use of the restraints. These findings shall be
20 kept on file and shall be made available for public inspection, except that no identifying
21 information of any prisoner or detainee shall be made public without the prisoner's or detainee's
22 written consent.

23 **42-56.3-4. Enforcement.** -- In addition to any other rights and remedies afforded by law,
24 any person who has been restrained in violation of this chapter may file a civil action for damages
25 and any appropriate and equitable relief in superior court. The court may also award a prevailing
26 plaintiff reasonable attorneys' fees and costs.

27 **42-56.3-5. Regulations and notice to prisoners and detainees.** -- (a) The department
28 shall promulgate rules and regulations in accordance with chapter 35 of title 42 to implement this
29 chapter.

30 (b) All prisoners and detainees potentially affected by this chapter shall be advised of the
31 requirements of this chapter and the rules promulgated pursuant to subsection (a) upon admission
32 to the correctional institution and when known to be pregnant.

33 **42-56.3-6. Training school for youth.** -- The provisions of this chapter shall also apply
34 to the training school for youth.

1 **42-56.3-7. "Postpartum recovery" Defined.** -- For purposes of this chapter,
2 "postpartum recovery" means, as determined by her physician, the period immediately following
3 delivery, including the entire period a woman is in the hospital or infirmary after birth.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would set standards for the treatment of pregnant prisoners.
- 2 This act would take effect upon passage.

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