

2
3 HOUSE PUBLIC SAFETY AND HOMELAND SECURITY COMMITTEE SUBSTITUTE
4 FOR HB230

5
6
7
8
9 SYNOPSIS: This bill would prohibit certain practices
10 relating to a pregnant female inmate or a female
11 inmate who is in the immediate postpartum period.

12 This bill would also specifically prohibit
13 certain actions relating to strip searches,
14 restraints, examinations, labor and delivery, and
15 transfer of female inmates.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to female inmates; to prohibit certain
22 practices relating to the treatment of a pregnant female
23 inmate or a female inmate who is in the immediate postpartum
24 period.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. For purposes of this act, the following
27 terms shall have the following meanings:

1 (1) CUSTODIAN. A warden, sheriff, jailer, deputy
2 sheriff, police officer, or any other law enforcement officer.

3 (2) HEALTH CARE PROFESSIONAL. A physician as defined
4 in Section 34-24-50.1, Code of Alabama 1975, a licensed
5 practical nurse or a licensed professional nurse as defined in
6 Section 34-21-1, Code of Alabama 1975, an advanced practice
7 nurse as defined in Section 34-21-81, Code of Alabama 1975, or
8 an assistant to physicians as defined in Section 34-24-290,
9 Code of Alabama 1975.

10 (3) IMMEDIATE POSTPARTUM PERIOD. The six-week period
11 following childbirth unless extended by a health care
12 professional due to complications.

13 (4) OFFICER IN CHARGE. The individual who is
14 responsible for the supervision of a penal institution.

15 (5) PENAL INSTITUTION. Any place of confinement for
16 juvenile or adult individuals accused of, convicted of, or
17 adjudicated for violating a law of this state or an ordinance
18 of a political subdivision of this state.

19 (6) PREGNANT WOMAN. A juvenile or adult female who
20 is in the second or third trimester of pregnancy whose
21 pregnancy has been verified by a pregnancy test as required by
22 this act.

23 Section 2. (a) During the initial intake medical
24 screening, a female inmate shall inform the person conducting
25 the screening if she is pregnant or suspects that she may be
26 pregnant.

1 (b) If the female inmate informs the person
2 conducting the screening that she suspects she may be
3 pregnant, the female inmate shall be assessed for pregnancy by
4 a urine pregnancy test within 72 hours of the initial medical
5 intake screening, unless the female inmate refuses testing.

6 (c) A pregnant woman shall not be required to squat
7 or cough during a strip search performed by a custodian,
8 unless the custodian has reason to suspect that the pregnant
9 woman is hiding contraband. A pregnant woman who is suspected
10 of hiding contraband may be required to squat or cough during
11 a strip search if the strip search is performed by a health
12 care professional.

13 (d) A pregnant woman shall not be required to
14 undergo any vaginal examination unless performed by a health
15 care professional.

16 (e) Except as otherwise provided in this section, a
17 custodian shall not use any leg or waist restraint in any of
18 the following situations:

19 (1) On any pregnant woman.

20 (2) During labor or delivery.

21 (3) During the immediate postpartum period.

22 (f) A woman who is in the immediate postpartum
23 period may only be restrained using wrist handcuffs with her
24 wrists held in front of her body, and only if the custodian
25 makes a determination that one of the following is true:

26 (1) The woman poses an immediate flight risk and
27 cannot be reasonably contained by other means.

1 (2) The woman poses an immediate risk of harm to
2 herself, staff, or others and cannot be reasonably contained
3 by other means.

4 (g) If a custodian uses wrist handcuffs on a woman
5 who is in the immediate postpartum period under an exception
6 provided in subsection (f), the circumstances for and details
7 of the exception shall be documented within two days of the
8 incident. The information shall include the nature of the
9 circumstances and the length of time of the use of restraints.
10 The documentation shall be reviewed by the officer in charge
11 and retained by the penal institution for reporting purposes.

12 (h) Nothing in this section shall prohibit the use
13 of medical restraints by a licensed health care professional
14 to ensure the medical safety of a pregnant woman.

15 (i) Nothing in this section shall prohibit the
16 placement of a woman in a cell or hospital room by herself to
17 ensure the medical safety of a pregnant woman or a woman in
18 the immediate postpartum period.

19 (j) If a custodian places a woman in a cell or
20 hospital room by herself under the exception provided in
21 subsection (i), the circumstances for and details of the
22 exception shall be documented within two days of the incident.
23 The information shall include the nature of the circumstances
24 and the length of time of the solitary confinement. The
25 documentation shall be reviewed by the officer in charge and
26 retained by the penal system for reporting purposes.

1 (k) A pregnant woman who is temporarily held in a
2 county jail pending transfer to a state penal institution
3 shall be transferred as expeditiously as possible.

4 (1) The Department of Corrections and a sheriff
5 overseeing a county jail in which a pregnant woman is
6 incarcerated shall make all reasonable efforts to facilitate
7 her transfer. This subsection does not apply to a pregnant
8 woman who has been sentenced to a county jail.

9 Section 3. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.