

1 HB28
2 209491-1
3 By Representatives Hollis and Hall
4 RFD: Judiciary
5 First Read: 11-JAN-22
6 PFD: 12/07/2021

SYNOPSIS: This bill would provide for prohibited practices relating to a pregnant female inmate or a female inmate who is in the immediate postpartum period.

This bill would also specifically prohibit certain actions relating to strip searches, restraints, examinations, labor and delivery, solitary confinement, and transfer.

A BILL
TO BE ENTITLED
AN ACT

Relating to inmates; to provide for prohibited practices relating to the treatment of a pregnant female inmate or a female inmate who is in the immediate postpartum period.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

3 (2) IMMEDIATE POSTPARTUM PERIOD. The six-week period
4 following childbirth unless extended by a physician due to
5 complications.

6 (3) OFFICER IN CHARGE. The individual who is
7 responsible for the supervision of a penal institution.

8 (4) PENAL INSTITUTION. Any place of confinement for
9 juvenile or adult individuals accused of, convicted of, or
10 adjudicated for violating a law of this state or an ordinance
11 of a political subdivision of this state.

12 (5) PREGNANT WOMAN. A juvenile or adult female whose
13 pregnancy has been verified by a pregnancy test or through a
14 medical examination conducted by a physician who is in the
15 second or third trimester of pregnancy.

16 Section 2. (a) A pregnant woman may not be required
17 to squat or cough during a strip search conducted by a
18 custodian.

19 (b) A pregnant woman may not be required to undergo
20 any vaginal examination unless prescribed and performed by a
21 licensed health care professional.

22 (c) Except as otherwise provided in this subsection,
23 a custodian may not use handcuffs, waist shackles, leg irons,
24 or restraints of any kind on a pregnant woman in labor, in
25 delivery, or on a woman in the immediate postpartum period
26 while in custody.

1 (d) A woman who is in the immediate postpartum
2 period may only be restrained using wrist handcuffs with her
3 wrists held in front of her body and only if there are
4 compelling grounds to believe that the woman presents either
5 of the following:

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

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

10 (e) If a custodian uses wrist handcuffs on a woman
11 who is in the immediate postpartum period under an exception
12 provided in paragraph (d) of this subsection, the
13 circumstances for and details of the exception shall be
14 documented within two days of the incident. The information
15 shall include the nature of the circumstances and the length
16 of time of the use of restraints. The documentation shall be
17 reviewed by the officer in charge and retained by the penal
18 institution for reporting purposes.

19 (f) Nothing in this subsection shall prohibit the
20 use of medical restraints by a licensed health care
21 professional to ensure the medical safety of a pregnant woman.

22 (g) A pregnant woman or woman who is in the
23 immediate postpartum period may not be placed in solitary
24 confinement, in administrative segregation, or for medical
25 observation in a solitary confinement setting.

26 (h) Nothing in this subsection shall prohibit the
27 placement of the woman in a cell or hospital room by herself.

1 (i) 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 (j) 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 the transfer. This subsection does not apply to a pregnant
8 woman who has been sentenced to a county jail by a judge.

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.