

1 HB230
2 218398-4
3 By Representatives Hollis and Hall
4 RFD: Public Safety and Homeland Security
5 First Read: 02-FEB-22

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to female inmates; to prohibit certain
9 practices relating to the treatment of a pregnant female
10 inmate or a female inmate who is in the immediate postpartum
11 period.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

17 (2) HEALTH CARE PROFESSIONAL. A physician as defined
18 in Section 34-24-50.1, Code of Alabama 1975, a licensed
19 practical nurse or a licensed professional nurse as defined in
20 Section 34-21-1, Code of Alabama 1975, an advanced practice
21 nurse as defined in Section 34-21-81, Code of Alabama 1975, or
22 an assistant to physicians as defined in Section 34-24-290,
23 Code of Alabama 1975.

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

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

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

7 (6) PREGNANT WOMAN. A juvenile or adult female who
8 is in the ~~second or third~~ first, second, or third trimester of
9 pregnancy whose pregnancy has been verified by a pregnancy
10 test as required by this act.

11 Section 2. (a) During the initial intake medical
12 screening, a female inmate shall inform the person conducting
13 the screening if she is pregnant or suspects that she may be
14 pregnant.

15 (b) If the female inmate informs the person
16 conducting the screening that she suspects she may be
17 pregnant, the female inmate shall be assessed for pregnancy by
18 a urine pregnancy test within 72 hours of the initial medical
19 intake screening, unless the female inmate refuses testing.

20 (c) A pregnant woman shall not be required to squat
21 or cough during a strip search performed by a custodian,
22 unless the custodian has reason to suspect that the pregnant
23 woman is hiding contraband. A pregnant woman who is suspected
24 of hiding contraband may be required to squat or cough during
25 a strip search if the strip search is performed by a health
26 care professional.

1 (d) A pregnant woman shall not be required to
2 undergo any vaginal examination unless performed by a health
3 care professional.

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

7 (1) On any pregnant woman.

8 (2) During labor or delivery.

9 (3) During the immediate postpartum period.

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

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

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

19 (g) If a custodian uses wrist handcuffs on a woman
20 who is in the immediate postpartum period under an exception
21 provided in subsection (f), the circumstances for and details
22 of the exception shall be documented within two days of the
23 incident. The information shall include the nature of the
24 circumstances and the length of time of the use of restraints.
25 The documentation shall be reviewed by the officer in charge
26 and retained by the penal institution for reporting purposes.

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

4 (i) Nothing in this section shall prohibit the
5 placement of a woman in a cell or hospital room by herself to
6 ensure the medical safety of a pregnant woman or a woman in
7 the immediate postpartum period.

8 (j) If a custodian places a woman in a cell or
9 hospital room by herself under the exception provided in
10 subsection (i), the circumstances for and details of the
11 exception shall be documented within two days of the incident.
12 The information shall include the nature of the circumstances
13 and the length of time of the solitary confinement. The
14 documentation shall be reviewed by the officer in charge and
15 retained by the penal system for reporting purposes.

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

19 (l) The Department of Corrections and a sheriff
20 overseeing a county jail in which a pregnant woman is
21 incarcerated shall make all reasonable efforts to facilitate
22 her transfer. This subsection does not apply to a pregnant
23 woman who has been sentenced to a county jail.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

16
17
18
19

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Public Safety
and Homeland Security..... 02-FEB-22

Read for the second time and placed
on the calendar with 1 substitute
and..... 17-MAR-22

Read for the third time and passed
as amended..... 29-MAR-22

Yeas 78, Nays 21, Abstains 0

Jeff Woodard
Clerk