

House Bill 475

By: Representatives Dreyer of the 59th, Shannon of the 84th, Schofield of the 60th, Boddie of the 62nd, Cannon of the 58th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,
2 relating to inmate policies, so as to provide for matters related to the housing, health, and
3 care of female inmates; to provide for definitions; to provide for the prenatal, perinatal,
4 postpartum, and special needs of female inmates; to provide custodian training; to provide
5 for parental needs; to provide for the documentation and reporting of certain information; to
6 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
11 inmate policies, is amended by adding a new Code section to read as follows:

12 "42-1-11.3.

13 (a) As used in this Code section, the term:

14 (1) 'Certified doula' means an individual who has received a certification to perform
15 doula services from an organization recognized by the board.

16 (2) 'Custodian' means a warden, sheriff, jailer, deputy sheriff, police officer, or any other
17 law enforcement officer having actual custody of a woman.

18 (3) 'Doula services' means perinatal emotional and physical support, including during
19 labor and delivery, and intermittently during the prenatal period and postpartum.

20 (4) 'Officer in charge' means the warden, captain, superintendent, or other individual who
21 is responsible for the supervision of a penal institution.

22 (5) 'Penal institution' means any place of confinement for individuals accused of,
23 convicted of, or adjudicated for violating a law of this state or an ordinance of a political
24 subdivision of this state.

25 (6) 'Perinatal' means the period of time beginning at the twenty-second week of gestation
26 and ending one week after childbirth.

27 (7) 'Postpartum' means the 12 week period after childbirth.

28 (8) 'Woman' means a female who is confined in a penal institution.

29 (b) Penal institutions shall establish prenatal, perinatal, and postpartum services and
30 supports for women. Such services and supports shall include, but shall not be limited to,
31 providing breast pads, a lactation policy that provides mothers the opportunity to pump and
32 store breast milk for their babies, and parenting support literature that includes information
33 on child custody processes, child support, and family reunification resources. An
34 institution's policies and practices regarding prenatal and perinatal care, including during
35 labor and delivery, and postpartum care shall be kept on file with such institution.

36 (c) The officer in charge shall ensure that at least one departmental or contracted, licensed
37 health care provider at his or her penal institution has:

38 (1) Been trained in prenatal and postpartum medical care; and

39 (2) Knowledge of and the ability to educate any pregnant woman concerning prenatal
40 nutrition, exercise, breastfeeding, high-risk pregnancy, and substance use disorder during
41 pregnancy and postpartum.

42 (d) Within 14 days of being confined to a penal institution, each woman under 50 years
43 of age shall be assessed for pregnancy by a licensed health care provider unless such
44 woman refuses such testing. A licensed health care provider shall provide information
45 regarding any necessary medical tests, procedures, or treatments associated with the
46 pregnancy assessment prior to the administration of such tests.

47 (e) If a licensed health care provider trained in prenatal medical care, or any other licensed
48 health care professional who evaluates or treats a pregnant woman, determines that such
49 woman's pregnancy is high-risk or involves any other serious medical complication for
50 either her or the fetus, such woman shall be immediately transferred to the medical
51 infirmary setting or any hospital deemed appropriate, as determined by such licensed health
52 care provider or professional.

53 (f) Within 48 hours of determining that a woman is pregnant, a penal institution shall
54 provide such woman with:

55 (1) A written guide, in a form that may be reasonably understood, concerning:

56 (A) Prenatal nutrition;

57 (B) Maintaining a healthy pregnancy;

58 (C) The women's options with regard to her pregnancy and infant placement;

59 (D) Perinatal issues, including labor and delivery;

60 (E) Postpartum issues;

61 (F) Such institution's policies and practices regarding prenatal and perinatal care,
62 including during labor and delivery, and postpartum care; and

63 (G) Restrictions on the use of restraints on pregnant women;

- 64 (2) Information regarding access to doula services if such services are provided by a
65 certified doula free of charge to such penal institution. If such services are not provided
66 free of charge to such penal institution, the woman shall pay for such services;
- 67 (3) Medical care at such institution, which shall include, but shall not be limited to:
68 (A) Periodic health monitoring and evaluation during pregnancy by a licensed health
69 care provider trained in prenatal medical care; and
70 (B) Prenatal vitamins or supplements, as deemed necessary by a licensed health care
71 provider trained in prenatal medical care;
- 72 (4) A daily diet consisting of 2,400 calories across three meals; such diet shall include
73 the nutrients necessary to maintain a healthy pregnancy, as determined by a licensed
74 health care provider trained in prenatal medical care;
- 75 (5) The clothing, undergarments, and sanitary feminine hygiene products deemed
76 appropriate by a licensed health care provider trained in prenatal and postpartum medical
77 care; and
- 78 (6) Access to psychiatric services and medication deemed necessary by a licensed mental
79 health care provider taking into account the best interests of the mother and fetus.
- 80 (g)(1) A pregnant woman shall not be required to squat or cough during a strip search.
81 (2) Male custodians shall not conduct a pat-down search of a woman unless:
82 (A) The woman presents a risk of immediate harm to herself or others or risk of
83 escape; and
84 (B) A female custodian is not available to conduct the search.
- 85 (3) To prevent incidental viewing of a woman, a male custodian shall:
86 (A) Announce his presence when entering a housing unit;
87 (B) Not enter an area of the institution where women may be in a state of undress, or
88 be in an area where he can view women in a state of undress, including, but not limited
89 to, restrooms, shower areas, or medical treatment areas, unless a woman in such area
90 presents a risk of immediate harm to herself or others or if there is a medical emergency
91 in the area; and
92 (C) Not enter an area prohibited under subparagraph (B) of this paragraph if a female
93 custodian is available who can resolve the situation in a safe and timely manner without
94 his assistance.
- 95 (4) If a male custodian conducts a pat-down search under an exception provided in
96 paragraph (2) of this subsection or enters a prohibited area under an exception provided
97 in paragraph (3) of this subsection, the circumstances for and details of the exception
98 shall be documented within three days of the incident. The documentation shall be
99 reviewed by the officer in charge and retained by the penal institution for reporting
100 purposes.

101 (h)(1) Except as provided in this subsection and notwithstanding Code Section 42-5-58,
102 a custodian shall not use any leg or waist restraint on any pregnant woman or woman who
103 is postpartum nor shall any pregnant woman or woman who is postpartum be chained to
104 any other woman. A pregnant woman or woman who is postpartum shall only be
105 restrained using wrist handcuffs with her wrists held in front of her body only if there are
106 compelling grounds to believe that such woman presents:

107 (A) An immediate and serious threat of harm to herself, staff, or others; or

108 (B) A substantial flight risk and cannot be reasonably contained by other means.

109 (2) If a custodian uses wrist handcuffs on a pregnant woman or woman who is
110 postpartum under an exception provided in paragraph (1) of this subsection, the
111 circumstances for and details of the exception shall be documented within three days of
112 the incident. Such information shall include the nature of the circumstances and the
113 length of time of such use of restraints. The documentation shall be reviewed by the
114 officer in charge and retained by the penal institution for reporting purposes.

115 (3) A pregnant woman or woman who is postpartum shall not be placed in solitary
116 confinement, administrative segregation, or for medical observation in a solitary
117 confinement setting.

118 (4) A custodian shall ensure that any woman determined to be pregnant by a licensed
119 health care provider or other health care professional is transported to and from visits to
120 licensed health care providers or other health care professionals and court proceedings
121 in a vehicle with seatbelts.

122 (5) If a licensed health care provider or other health care professional requests that such
123 woman's restraints be removed for medical reasons, a custodian shall immediately
124 remove such restraints.

125 (6) Nothing in this subsection shall prohibit the use of medical restraints by a licensed
126 health care provider or other health care professional to ensure the medical safety of the
127 woman.

128 (i)(1) Each pregnant woman shall receive labor and delivery services in a hospital
129 deemed appropriate by a licensed health care provider. Notwithstanding subsection (h)
130 of this Code section, a woman who is in any stage of labor or delivery, as determined by
131 a licensed health care provider, shall not be placed in restraints at any time, including, but
132 not limited to, during transportation to the hospital. If a custodian is present with a
133 woman during any stage of labor or delivery, such custodian shall be female, if possible.
134 A custodian shall be positioned behind a privacy curtain out of such woman's view to
135 ensure such woman's privacy.

136 (2) After a baby has been delivered, the mother shall be placed in a hospital's regular
137 labor and delivery room with appropriate supervision by a custodian. Such custodian

138 shall be female, if possible. The mother shall be allowed to room-in with her child so
139 long as a licensed health care provider deems it appropriate for such mother and her child.
140 (j) A woman who is postpartum shall be assessed by a licensed health care provider within
141 three days of returning to the penal institution after the birth of her child. The penal
142 institution shall provide such woman with access to treatment for perinatal mood and
143 anxiety disorders by a licensed mental health care provider, provided such treatment is
144 deemed necessary by a licensed health care provider trained in postpartum medical care
145 and to doula services if such services are provided by a certified doula free of charge to the
146 penal institution. If such doula services are not provided free of charge to such penal
147 institution, the woman shall pay for such services. Each woman who is postpartum shall
148 be housed in a medical infirmary or mental health housing unit at the penal institution until
149 discharged by a licensed health care provider.
150 (k) Staff at penal institutions shall, upon request, provide women with tampons and
151 sanitary napkins within 24 hours of such request. Tampons and sanitary napkins shall be
152 provided free of charge and in a quantity that is appropriate to the health care needs of such
153 woman.
154 (l) Penal institutions shall provide women with:
155 (1) A supply of new underpants each quarter; and
156 (2) Written information concerning issues specifically related to female health.
157 (m) The department shall take into consideration the location of a spouse, child, stepchild,
158 parent, and stepparent when determining the location of the facility in which to place an
159 inmate.
160 (n) The officer in charge shall establish visitation policies for parents confined in a penal
161 institution who have a child under the age of 18 years. Such policies shall include, but
162 shall not be limited to, rules regarding physical contact, convenience and frequency of
163 visits, allowing at least six hours of visitation during each visit, and access to child-friendly
164 visiting areas.
165 (o)(1) Prior to her release, a penal institution shall provide a pregnant woman with
166 counseling and discharge planning to ensure, to the extent feasible, the continuity of
167 prenatal and pregnancy related care, including substance abuse programs and treatment
168 referrals when deemed appropriate.
169 (2) A penal institution shall provide a pregnant woman and a woman who gave birth
170 while confined at a penal institution a copy of all of her medical records upon her release
171 from custody and to the extent that such records are not available at that time, within
172 three days of her request for such records.
173 (p) The board, the Board of Public Safety, and the Board of Juvenile Justice shall ensure
174 that custodians undergo gender sensitivity and trauma training.

175 (q) Commencing November 1, 2019, the board, the Board of Public Safety, and the Board
176 of Juvenile Justice shall provide to the judiciary committees of the House of
177 Representatives and the Senate an annual report for the prior year detailing, for each penal
178 institution, the:

179 (1) Data collected pursuant to paragraph (4) of subsection (g) of this Code section;

180 (2) Data collected pursuant to paragraph (2) of subsection (h) of this Code section;

181 (3) Number of pregnant women;

182 (4) Total number of births, including the number of live births and stillbirths, and the
183 gestational age of each infant at the time of birth or stillbirth;

184 (5) The location of each birth or stillbirth;

185 (6) Number of miscarriages; and

186 (7) Number of terminated pregnancies."

187 **SECTION 2.**

188 This Act shall become effective on October 1, 2019.

189 **SECTION 3.**

190 All laws and parts of laws in conflict with this Act are repealed.