

HOUSE No. 02234

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to safe pregnancies and related health care for female inmates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>

<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>

HOUSE No. 02234

By Ms. Khan of Newton, a petition (accompanied by bill, House, No. 2234) of Wolf and others relative to safe pregnancies and related health care for female inmates Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to safe pregnancies and related health care for female inmates.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 AN ACT RELATIVE TO SAFE PREGNANCIES AND RELATED HEALTH CARE FOR
2 FEMALE INMATES.

3 Be it enacted by the Senate and House of Representatives in General Court assembled,
4 and by the authority of the same, as follows:

5

6 SECTION 1. Chapter 127 of the General Laws, as appearing in the 2004 Official Edition, is
7 hereby amended by striking out section 118 and inserting in place thereof the following:—

8 Section 118. (a) All female inmates, upon admission to a correctional facility when awaiting
9 trial or sentenced, shall be screened and assessed for pregnancy by a nurse and shall be informed
10 of any medical tests administered in connection with such screening. Pregnant inmates shall

11 receive nondirective counseling and written material, in a form understandable by each inmate,
12 on issues including but not limited to pregnancy options and correctional facility policies and
13 practices regarding care and labor for pregnant inmates. The correctional facility shall ensure that
14 at least one member of the medical and nursing staff is trained in pregnancy-related care, which
15 shall at a minimum include knowledge of prenatal nutrition, high-risk pregnancy, addiction and
16 substance abuse during pregnancy, and childbirth education.

17 Pregnant and postpartum inmates shall be provided regular prenatal and postpartum medical care
18 at the correctional facility in which they are housed, periodic health monitoring and evaluation
19 during pregnancy, and postpartum screening for depression. Regular prenatal care shall include
20 the opportunity for a minimum of one hour of ambulatory movement each day and a diet
21 containing the nutrients necessary to maintain a healthy pregnancy, including prenatal vitamins
22 and supplements. The Department of Correction shall, in consultation with the Department of
23 Public Health, develop appropriate standards of care for pregnant and postpartum inmates, which
24 shall reflect, at a minimum, the standards set forth by the National Commission on Correctional
25 Health Care and the American Dietetic Association. If pregnant inmates require medically
26 necessary, specialized care that is unavailable at the correctional facility, they shall have access
27 to such care at a supporting medical facility with appropriate expertise. If a postpartum inmate is
28 determined to be suffering from postpartum depression, she shall have regular access to a mental
29 health clinician. Postpartum inmates shall not be subject to isolation absent an individualized,
30 documented determination that the inmate poses a serious risk of harm to herself or others.

31 All pregnant inmates shall be offered weekly prenatal classes or, when not practicable, written
32 information, regarding prenatal nutrition, maintaining a healthy pregnancy, and childbirth, and
33 shall have the opportunity to discuss this information with the medical personnel trained in these

34 matters. Pregnant and postpartum inmates shall be provided maternity clothes, athletic support
35 bras, sanitary pads, and breast pads.

36 Prior to delivery, all pregnant inmates shall be given the opportunity to develop a custody plan,
37 including the opportunity to contact family members and the Department of Children and
38 Families to explore and understand their options. Every effort shall be made to keep infants of
39 twelve months or less born to incarcerated mothers with their mothers. If it is not possible for the
40 child to remain with the mother, female inmates who are expected to retain custody upon release
41 shall be allowed a minimum of at least one visit per week with their child.

42 Prior to release, correctional facility medical personnel shall provide pregnant inmates
43 counseling and discharge planning in order to ensure continuity of pregnancy-related care,
44 including uninterrupted substance abuse treatment.

45 (b) Pregnant inmates shall have access to labor and delivery care in an accredited hospital and
46 shall not be removed to another penal institution for giving birth. An inmate who has been
47 transferred to a hospital for labor and delivery care shall be permitted to stay in such hospital for
48 a minimum of forty-eight hours after delivery, provided however that in no case shall an inmate
49 be removed to the correctional facility until the hospital physician certifies she may be safely
50 removed.

51 Pregnant and postpartum inmates shall be transported to and from visits to medical providers and
52 court proceedings in a car with seatbelts. Except in extraordinary circumstances, no restraints of
53 any kind may be used on any pregnant inmates during transportation to and from visits to
54 medical providers and court proceedings beyond the first trimester of her pregnancy, or during
55 postpartum recovery. For purposes of this section, “extraordinary circumstances” exist where a

56 corrections officer makes an individualized determination that restraints are necessary to prevent
57 a pregnant inmate from escaping, or from injuring herself, medical or correctional personnel, or
58 others. In the event the corrections officer determines that extraordinary circumstances exist and
59 restraints are used, the corrections officer must fully document in writing the reasons that he or
60 she determined such extraordinary circumstances existed such that restraints were used. As part
61 of this documentation, the corrections officer must also include the kind of restraints used and
62 the reasons those restraints were considered the least restrictive available and the most
63 reasonable under the circumstances.

64 While the pregnant inmate is in labor or in childbirth, no restraints of any kind may be used.
65 Nothing in this section affects the use of hospital restraints requested for the medical safety of a
66 patient by treating physicians.

67 Any time restraints are permitted to be used on a pregnant inmate, the restraints must be the least
68 restrictive available and the most reasonable under the circumstances, but in no case shall leg or
69 waist restraints be used on any pregnant or postpartum inmate.

70 No correctional personnel shall be present in the room during the pregnant inmate's physical
71 examinations, labor, or childbirth, unless specifically requested by medical personnel. If the
72 employee's presence is requested by medical personnel, the employee should be female.

73 If the doctor, nurse, or other health professional treating the pregnant inmate requests that
74 restraints not be used, the corrections officer accompanying the pregnant inmate shall
75 immediately remove all restraints.

76 (c) Not less than three months prior to the date of release for a female inmate of child-bearing
77 age, medical personnel at the correctional facility shall offer the inmate counseling and written

78 information regarding contraception and sexually transmitted diseases, provide a list of FDA-
79 approved contraceptives, and provide her with any contraceptive method she may select. If the
80 inmate selects a form of contraception that must be taken for a period of time before it becomes
81 effective, said contraception shall be introduced into her regular medical regimen without delay.
82 Upon her release, medical personnel shall furnish the inmate with a twelve-month prescription to
83 refill any contraceptive medication and a copy of the Directory of Family Planning Agencies
84 issued by the Department of Public Health.