

SENATE No. 2012

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act to prevent shackling and promote safe pregnancies 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 SECTION 1. Chapter 127 of the General Laws, as appearing in the 2010 Official Edition,
2 is hereby amended by striking out section 118 and inserting in place thereof the following:—

3 Section 118. (a) All female inmates, upon admission to a correctional facility when
4 awaiting trial or sentenced, shall be screened and assessed for pregnancy by a nurse and shall be
5 informed of any medical tests administered in connection with such screening. Pregnant inmates
6 shall receive nondirective counseling and accessible written material on pregnancy options and
7 correctional facility policies and practices regarding care and labor for pregnant inmates.
8 Correctional facilities housing female inmates shall ensure that at least one member of their
9 medical and nursing staff is trained in pregnancy-related care, which shall include knowledge of
10 prenatal nutrition, high-risk pregnancy, addiction and substance abuse during pregnancy, and
11 childbirth education.

12 Pregnant and postpartum inmates shall be provided regular prenatal and postpartum
13 medical care at the correctional facility in which they are housed, including: periodic health
14 monitoring and evaluation during pregnancy; the opportunity for a minimum of one hour of
15 ambulatory movement each day; a diet containing the nutrients necessary to maintain a healthy
16 pregnancy, including prenatal vitamins and supplements; written information regarding prenatal
17 nutrition, maintaining a healthy pregnancy, and childbirth; and postpartum screening for
18 depression. The Department of Correction shall, in consultation with the Department of Public
19 Health, develop appropriate standards of care for pregnant and postpartum inmates, which shall
20 reflect, at a minimum, the standards set forth by the National Commission on Correctional
21 Health Care and the American Dietetic Association. Pregnant and postpartum inmates shall be
22 provided appropriate clothing, undergarments, and sanitary materials. If pregnant inmates require

23 medically necessary, specialized care that is unavailable at the correctional facility, they shall
24 have access to such care at a supporting medical facility with appropriate expertise.

25 If a postpartum inmate is determined to be suffering from postpartum depression, she
26 shall have regular access to a mental health clinician. Postpartum inmates shall not be subject to
27 isolation absent an individualized, documented determination that the inmate poses a serious risk
28 of harm to herself or others.

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

32 (b) Pregnant inmates, during the second or third trimester, or in post-delivery
33 recuperation, shall be transported to and from visits to medical providers and court proceedings
34 in a vehicle with seatbelts and shall not be placed in restraints during transportation, except
35 handcuffs in front under extraordinary circumstances.

36 An inmate who is in labor, delivering her baby, or who is being transported or housed in
37 an outside medical facility for the purpose of treating labor symptoms, shall not be placed in
38 restraints.

39 An inmate in post-delivery recuperation shall not be placed in restraints, except under
40 extraordinary circumstances.

41 For purposes of this section, “extraordinary circumstances” exist where a corrections
42 officer makes an individualized determination that the inmate presents an immediate, serious
43 threat of hurting herself or others, or that the inmate presents an immediate and credible risk of
44 escape that cannot be reasonably contained through other methods. In the event the corrections
45 officer determines that extraordinary circumstances exist, the officer shall document in writing
46 the reasons for the determination, and the specific type of restraints used.

47 If an inmate is restrained, the restraints used must be the least restrictive restraints
48 necessary to still ensure safety and security and the corrections officer must document in writing
49 the reasons the restraints used are considered the least restrictive necessary under the
50 circumstances. In no case shall leg or waist restraints be used on any inmate during the second or
51 third trimester of pregnancy, labor, delivery, or during post-delivery recuperation. If the
52 attending physician or other health professional treating the pregnant inmate requests that
53 restraints be removed for medical reasons, the corrections officer shall immediately remove all
54 restraints.

55 (c) Pregnant inmates shall receive labor and delivery care in an accredited hospital and
56 shall not be removed to another penal institution for the purpose of giving birth. During post-

57 delivery recuperation, an inmate shall be kept in such hospital until the attending physician
58 certifies that she may safely be removed.

59 If a corrections officer is present in the room during the pregnant inmate's physical
60 examinations, labor, or childbirth, the employee shall be female and positioned at the head of the
61 bed so as to maintain maximum patient privacy.

62 Nothing in this section affects the use of hospital restraints requested for the medical
63 safety of a patient by treating physicians.