

2016 -- S 2317

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - THE HEALTHY PREGNANCIES
FOR INCARCERATED WOMEN ACT

Introduced By: Senators Lynch Prata, Miller, Nesselbush, and Goldin

Date Introduced: February 09, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-56.3-3 of the General Laws in Chapter 42-56.3 entitled "The
2 Healthy Pregnancies for Incarcerated Women Act" is hereby amended to read as follows:

3 **42-56.3-3. Restraint of prisoners and detainees.** -- (a) Whenever the department of
4 corrections has actual or constructive knowledge that a prisoner or detainee is in the second or
5 third trimester of pregnancy, any restraints used on the pregnant prisoner or detainee shall be only
6 those deemed medically appropriate.

7 (b) No handcuffs, shackles or other restraints shall be used on a prisoner or detainee
8 known to be pregnant during transport to a medical facility, labor, delivery, or postpartum
9 recovery, or, during the third trimester of her pregnancy, to or from a court proceeding. unless
10 there are compelling grounds to believe that the prisoner or detainee presents:

11 (1) An immediate and serious threat of physical harm to herself, staff or others; or

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

13 (c) Notwithstanding the provisions of subsection (b):

14 (1) If the doctor, nurse or other health professional treating the prisoner or detainee
15 requests, based on his or her professional medical judgment, that restraints not be used, any
16 correctional officer accompanying the prisoner or detainee shall immediately remove all
17 restraints; provided further, however, that in the absence of exigent circumstances, as determined
18 by the health professional, the medical director of the department of corrections shall first be

1 consulted;

2 (2) Under no circumstances shall leg or waist restraints be used on any prisoner or
3 detainee who is in labor or delivery, nor shall waist restraints be used under any circumstances
4 during postpartum recovery; and

5 (3) Upon confirmation by the medical director of the department of corrections that a
6 prisoner or detainee in postpartum recovery may be subject to restraint pursuant to subsection (b),
7 the treating health professional shall, in consultation with the medical director, determine whether
8 leg or hand restraints shall be used.

9 (d) If restraints are used on a prisoner or detainee pursuant to subsection (a) or (b), the
10 type of restraint applied and the application of the restraint shall be done in the least restrictive
11 manner necessary; and

12 (e) If restraints are used on a prisoner or detainee pursuant to subsection (b), the
13 correctional officer shall submit to the department within five (5) days written findings
14 articulating the grounds that dictated the use of the restraints. These findings shall be kept on file
15 and be made available for public inspection, except that no individually identifying information
16 of any prisoner or detainee shall be made public without the prisoner or detainee's written
17 consent.

18 SECTION 2. Chapter 42-56.3 of the General Laws entitled "The Healthy Pregnancies for
19 Incarcerated Women Act" is hereby amended by adding thereto the following section:

20 **42-56.3-8. Reports.** -- The department shall report to the general assembly in January of
21 each year the number of pregnant women incarcerated at the adult correctional institution during
22 the previous year, including the number of women who gave birth, or who had a stillbirth or
23 termination of pregnancy, and the number who were subject to the use of restraints as specified in
24 §42-56.3-3(e).

25 SECTION 3. This act shall take effect on January 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - THE HEALTHY PREGNANCIES
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1 This act would prohibit the use of restraints on pregnant female prisoners during transport
2 to court during the third trimester of pregnancy, and would require the department of corrections
3 to submit annual reports to the general assembly regarding the number of pregnant women at the
4 Adult Correctional Institution, including the number of women who gave birth and the number of
5 pregnancies that were terminated in the previous year.

6 This act would take effect on January 1, 2017.

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