



State of Tennessee

PUBLIC CHAPTER NO. 1041

SENATE BILL NO. 2769

By Akbari, Bowling, Gilmore, Campbell, Lamar

Substituted for: House Bill No. 2875

By Camper, Chism, Hardaway, Dixie, Love, Ogles, Hakeem, McKenzie, Towns, Gloria Johnson, Miller, Jernigan, Clemmons, Harris, Cooper, Powell, Parkinson, Thompson, Ragan

AN ACT to amend Tennessee Code Annotated, Title 41, relative to pregnant women who are incarcerated.

WHEREAS, the General Assembly recognizes the importance of protecting the life and safety of the unborn baby and the pregnant mother; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 41, Chapter 51, is amended by adding the following new part:

41-51-201. As used in this part:

(1) "Correctional environment" means a physical location, whether a facility or transport vehicle, in which an inmate must be under custody and control of a correctional officer in accordance with recognized correctional standards;

(2) "Correctional institution" means a facility under the authority of this state, a county, or a municipal government that has the power to detain or restrain, or both, a person under the laws of this state;

(3) "Extraordinary circumstance" means that an inmate presents a substantial flight risk or some other extraordinary medical, mental health, or security circumstance;

(4) "Inmate" means a person incarcerated or detained in a correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of criminal law or the terms and conditions of parole, probation, pretrial release, or a diversionary program;

(5) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix; and

(6) "Restraints" means a physical or mechanical device used to control the movement of an inmate's body, limbs, or both.

41-51-202.

(a) Except as provided in subsection (b), beginning on the date on which a pregnancy is known to a law enforcement agency and confirmed by a healthcare professional, an inmate in the custody of a correctional institution must not be placed in restraints.

(b) The prohibition under subsection (a) does not apply if:

(1) An inmate is restrained solely by handcuffs in front of her body during internal escort or at any time outside of the incarceration facility;

(2) An appropriate corrections officer makes a determination that:

(A) The inmate is an immediate and credible flight risk that cannot reasonably be prevented by other means;

(B) The inmate poses an immediate and serious threat of harm to herself, the unborn child, or others that cannot reasonably be prevented by other means; or

(C) The custody or classification level of the inmate requires the use of restraints; or

(3) A healthcare professional responsible for the health and safety of the inmate determines that the use of restraints is appropriate for the medical safety of the inmate or the unborn child.

(c) If restraints are used pursuant to an exception under subsection (b), only the least restrictive restraints may be used that are necessary to prevent harm to the inmate, unborn child, or others, or to prevent the risk of escape.

(d) The exceptions under subsection (b) must not be applied:

(1) To place restraints around the ankles, legs, or waist of an inmate who is in labor or delivery;

(2) To restrain an inmate's hands behind her back; or

(3) To attach an inmate to another inmate.

(e) If restraints are used on a pregnant inmate in extraordinary circumstances pursuant to subsection (b) that are outside of necessary restrained movement in a correctional environment, the corrections official shall, within seventy-two (72) hours, document in writing the extraordinary circumstances that dictated the use of the restraints to ensure the safety and security of the inmate, the unborn child, the staff of the correctional institution or medical facility, other prisoners or detainees, or the public.

(f) The commissioner of correction and the sheriffs, superintendents, and jail administrators of each local correctional facility shall require annual training of staff members who transport or supervise female inmates on the requirements of this part.

(g) All inmates potentially affected by this part must be advised in a separate, clear, and concise writing of the requirements of this part, and of § 41-21-227(h), upon admission to the correctional institution and when known to be pregnant.

(h) Notwithstanding subsection (b), upon the request of a healthcare professional who is responsible for the health and safety of an inmate, a corrections officer must refrain from using restraints on the inmate or must remove restraints used on the inmate.

SECTION 2. This act takes effect July 1, 2022, the public welfare requiring it.

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PASSED: April 21, 2022



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of May 2022



BILL LEE, GOVERNOR