



Rep. Robyn Gabel

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LRB097 08003 RLC 54163 a

1 AMENDMENT TO HOUSE BILL 1958

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1958, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Counties Code is amended by changing  
6 Section 3-15003.6 as follows:

7 (55 ILCS 5/3-15003.6)

8 Sec. 3-15003.6. Pregnant female prisoners.

9 (a) Definitions. For the purpose of this Section:

10 (1) "Restraints" means any physical restraint or  
11 mechanical device used to control the movement of a  
12 prisoner's body or limbs, or both, including, but not  
13 limited to, flex cuffs, soft restraints, hard metal  
14 handcuffs, a black box, Chubb cuffs, leg irons, belly  
15 chains, a security (tether) chain, or a convex shield, or  
16 shackles of any kind.

1           (2) "Labor" means the period of time before a birth and  
2           shall include any medical condition in which a woman is  
3           sent or brought to the hospital for the purpose of  
4           delivering her baby. These situations include: induction  
5           of labor, prodromal labor, pre-term labor, prelabor  
6           rupture of membranes, the 3 stages of active labor, uterine  
7           hemorrhage during the third trimester of pregnancy, and  
8           caesarian delivery including pre-operative preparation.

9           (3) "Post-partum" means, as determined by her  
10           physician, the period immediately following delivery,  
11           including the entire period a woman is in the hospital or  
12           infirmary after birth.

13           (4) "Correctional institution" means any entity under  
14           the authority of any state, county, or municipal law  
15           enforcement division that has the power to detain or  
16           restrain, or both, a person under the laws of the State.

17           (5) "Corrections official" means the official that is  
18           responsible for oversight of a correctional institution,  
19           or his or her designee.

20           (6) "Prisoner" means any person incarcerated or  
21           detained in any facility who is accused of, convicted of,  
22           sentenced for, or adjudicated delinquent for, violations  
23           of criminal law or the terms and conditions of parole,  
24           probation, pretrial release, or diversionary program, and  
25           any person detained under the immigration laws of the  
26           United States at any correctional facility.

1           (7) "Extraordinary circumstance" means an  
2           extraordinary medical or security circumstance, including  
3           a substantial flight risk, that dictates restraints be used  
4           to ensure the safety and security of the prisoner, the  
5           staff of the correctional institution or medical facility,  
6           other prisoners, or the public.

7           (b) A county department of corrections shall not apply  
8           security restraints to a prisoner that has been determined by a  
9           qualified medical professional to be pregnant and is known by  
10           the county department of corrections to be pregnant or in  
11           postpartum recovery, which is the entire period a woman is in  
12           the medical facility after birth, unless the corrections  
13           official makes an individualized determination that the  
14           prisoner presents a substantial flight risk or some other  
15           extraordinary circumstance that dictates security restraints  
16           be used to ensure the safety and security of the prisoner, her  
17           child or unborn child, the staff of the county department of  
18           corrections or medical facility, other prisoners, or the  
19           public. The protections set out in clauses (b) (3) and (b) (4) of  
20           this Section shall apply to security restraints used pursuant  
21           to this subsection. The corrections official shall immediately  
22           remove all restraints upon the written or oral request of  
23           medical personnel. When medical personnel makes an oral  
24           request, that request will be verified in writing as promptly  
25           as reasonably possible.

26           (1) Qualified authorized health staff shall have the

1 authority to order therapeutic restraints for a pregnant or  
2 postpartum prisoner who is a danger to herself, her child,  
3 unborn child, or other persons due to a psychiatric or  
4 medical disorder. Therapeutic restraints may only be  
5 initiated, monitored and discontinued by qualified and  
6 authorized health staff and used to safely limit a  
7 prisoner's mobility for psychiatric or medical reasons. No  
8 order for therapeutic restraints shall be written unless  
9 medical or mental health personnel, after personally  
10 observing and examining the prisoner, are clinically  
11 satisfied that the use of therapeutic restraints is  
12 justified and permitted in accordance with hospital  
13 policies and applicable State law. Metal handcuffs or  
14 shackles are not considered therapeutic restraints.

15 (2) Whenever therapeutic restraints are used by  
16 medical personnel, Section 2-108 of the Mental Health and  
17 Developmental Disabilities Code shall apply.

18 (3) Leg irons, shackles or waist shackles shall not be  
19 used on any pregnant or postpartum prisoner regardless of  
20 security classification. Except for therapeutic restraints  
21 under clause (b)(2), no restraints of any kind may be  
22 applied to prisoners during labor.

23 (4) When a pregnant or postpartum prisoner must be  
24 restrained, restraints used shall be the least restrictive  
25 restraints possible to ensure the safety and security of  
26 the prisoner, her child, unborn child, the staff of the

1 county department of corrections or medical facility,  
2 other prisoners, or the public, and in no case shall  
3 include leg irons, shackles or waist shackles.

4 (5) Upon the pregnant prisoner's entry into a hospital  
5 room, and completion of initial room inspection, a  
6 corrections official shall be posted immediately outside  
7 the hospital room, unless requested to be in the room by  
8 medical personnel attending to the prisoner's medical  
9 needs.

10 (6) The county department of corrections shall provide  
11 adequate corrections personnel to monitor the pregnant  
12 prisoner during her transport to and from the hospital and  
13 during her stay at the hospital.

14 (7) Where the county department of corrections  
15 requires prisoner safety assessments, a corrections  
16 official may enter the hospital room to conduct periodic  
17 prisoner safety assessments, except during a medical  
18 examination or the delivery process.

19 (8) Upon discharge from a medical facility, postpartum  
20 prisoners shall be restrained only with handcuffs in front  
21 of the body during transport to the county department of  
22 corrections. A corrections official shall immediately  
23 remove all security restraints upon written or oral request  
24 by medical personnel. When medical personnel makes an oral  
25 request, that request shall be verified in writing as  
26 promptly as reasonably possible.

1       (c) Enforcement. No later than 30 days before the end of  
2 each fiscal year, the county sheriff or corrections official of  
3 each municipal and county correctional institution where a  
4 pregnant prisoner has been restrained during that previous  
5 fiscal year, shall each submit a written report to the Illinois  
6 General Assembly and the Office of the Governor that includes  
7 an account of every instance of prisoner restraint pursuant to  
8 this Section. The written report shall state the date, time,  
9 location and rationale for each instance in which restraints  
10 are used. The written report shall not contain any individually  
11 identifying information of any prisoner. Such reports shall be  
12 made available for public inspection.

13 ~~Notwithstanding any other statute, directive, or~~  
14 ~~administrative regulation, when a pregnant female prisoner is~~  
15 ~~brought to a hospital from a County Department of Corrections~~  
16 ~~facility for the purpose of delivering her baby, no handcuffs,~~  
17 ~~shackles, or restraints of any kind may be used during her~~  
18 ~~transport to a medical facility for the purpose of delivering~~  
19 ~~her baby. Under no circumstances may leg irons or shackles or~~  
20 ~~waist shackles be used on any pregnant female prisoner who is~~  
21 ~~in labor. Upon the pregnant female prisoner's entry to the~~  
22 ~~hospital delivery room, a county correctional officer must be~~  
23 ~~posted immediately outside the delivery room. The Sheriff must~~  
24 ~~provide for adequate personnel to monitor the pregnant female~~  
25 ~~prisoner during her transport to and from the hospital and~~  
26 ~~during her stay at the hospital.~~

1 (Source: P.A. 91-253, eff. 1-1-00.)

2 Section 10. The County Jail Act is amended by changing  
3 Section 17.5 as follows:

4 (730 ILCS 125/17.5)

5 Sec. 17.5. Pregnant female prisoners.

6 (a) Definitions. For the purpose of this Section:

7 (1) "Restraints" means any physical restraint or  
8 mechanical device used to control the movement of a  
9 prisoner's body or limbs, or both, including, but not  
10 limited to, flex cuffs, soft restraints, hard metal  
11 handcuffs, a black box, Chubb cuffs, leg irons, belly  
12 chains, a security (tether) chain, or a convex shield, or  
13 shackles of any kind.

14 (2) "Labor" means the period of time before a birth and  
15 shall include any medical condition in which a woman is  
16 sent or brought to the hospital for the purpose of  
17 delivering her baby. These situations include: induction  
18 of labor, prodromal labor, pre-term labor, prelabor  
19 rupture of membranes, the 3 stages of active labor, uterine  
20 hemorrhage during the third trimester of pregnancy, and  
21 caesarian delivery including pre-operative preparation.

22 (3) "Post-partum" means, as determined by her  
23 physician, the period immediately following delivery,  
24 including the entire period a woman is in the hospital or

1 infirmery after birth.

2 (4) "Correctional institution" means any entity under  
3 the authority of any state, county, or municipal law  
4 enforcement division that has the power to detain or  
5 restrain, or both, a person under the laws of the State.

6 (5) "Corrections official" means the official that is  
7 responsible for oversight of a correctional institution,  
8 or his or her designee.

9 (6) "Prisoner" means any person incarcerated or  
10 detained in any facility who is accused of, convicted of,  
11 sentenced for, or adjudicated delinquent for, violations  
12 of criminal law or the terms and conditions of parole,  
13 probation, pretrial release, or diversionary program, and  
14 any person detained under the immigration laws of the  
15 United States at any correctional facility.

16 (7) "Extraordinary circumstance" means an  
17 extraordinary medical or security circumstance, including  
18 a substantial flight risk, that dictates restraints be used  
19 to ensure the safety and security of the prisoner, the  
20 staff of the correctional institution or medical facility,  
21 other prisoners, or the public.

22 (b) A county department of corrections shall not apply  
23 security restraints, except as permitted under clause (b) (3),  
24 to a prisoner that has been determined by a qualified medical  
25 professional to be pregnant and is known by the county  
26 department of corrections to be pregnant or in postpartum



1 recovery, which is the entire period a woman is in the medical  
2 facility after birth, unless the corrections official makes an  
3 individualized determination that the prisoner presents a  
4 substantial flight risk or some other extraordinary security  
5 circumstance that dictates security restraints be used to  
6 ensure the safety and security of the prisoner, her child or  
7 unborn child, the staff of the county department of corrections  
8 or medical facility, other prisoners, or the public. The  
9 protections set out in clauses (b)(3) and (b)(4) of this  
10 Section shall apply to security restraints used pursuant to  
11 this subsection. The corrections official shall immediately  
12 remove all restraints upon the written or oral request of  
13 medical personnel. When medical personnel makes an oral  
14 request, that request will be verified in writing as promptly  
15 as reasonably possible.

16 (1) Qualified and authorized health staff shall have  
17 the authority to order therapeutic restraints for a  
18 pregnant or postpartum prisoner who is a danger to herself,  
19 her child, unborn child, or other persons due to a  
20 psychiatric or medical disorder. Therapeutic restraints  
21 may only be initiated, monitored and discontinued only by  
22 qualified and authorized health staff and used to safely  
23 limit a prisoner's mobility for psychiatric or medical  
24 reasons. No order for therapeutic restraints shall be  
25 written unless medical or mental health personnel, after  
26 personally observing and examining the prisoner, are

1       clinically satisfied that the use of therapeutic  
2       restraints is justified and permitted in accordance with  
3       hospital policies and applicable State law. Metal  
4       handcuffs or shackles are not considered therapeutic  
5       restraints.

6       (2) Whenever therapeutic restraints are used by  
7       medical personnel, Section 2-108 of the Mental Health and  
8       Developmental Disabilities Code shall apply.

9       (3) Leg irons, shackles or waist shackles shall not be  
10      used on any pregnant or postpartum prisoner regardless of  
11      security classification. Except for therapeutic restraints  
12      under clause (b)(2), no restraints of any kind may be  
13      applied to prisoners who are in labor. When restraints are  
14      necessary during transport of pregnant prisoners who are  
15      not in labor or pregnancy-related medical distress,  
16      restraints shall be limited to handcuffs in front.

17      (4) When a pregnant or postpartum prisoner must be  
18      restrained, restraints used shall be the least restrictive  
19      restraints possible to ensure the safety and security of  
20      the prisoner, her child, unborn child, the staff of the  
21      county department of corrections or medical facility,  
22      other prisoners, or the public.

23      (5) Upon the pregnant prisoner's entry into a hospital  
24      room, and completion of initial room inspection, a  
25      corrections official shall be posted immediately outside  
26      the hospital room, unless requested to be in the room by

1 medical personnel attending to the prisoner's medical  
2 needs.

3 (6) The county department of corrections shall provide  
4 adequate personnel to monitor the pregnant prisoner during  
5 her transport to and from the hospital and during her stay  
6 at the hospital.

7 (7) Where the county department of corrections  
8 requires prisoner safety assessments, a corrections  
9 official may enter the hospital room to conduct periodic  
10 prisoner safety assessments, except during a medical  
11 examination or the delivery process.

12 (8) Upon discharge from a medical facility, postpartum  
13 prisoners shall be restrained only with handcuffs in front  
14 of the body during transport to the county department of  
15 corrections. The corrections official shall immediately  
16 remove all security restraints upon written or oral request  
17 by medical personnel. When medical personnel makes an oral  
18 request, that request will be verified in writing as  
19 promptly as reasonably possible.

20 (c) Enforcement.

21 No later than 30 days before the end of each fiscal year,  
22 the county sheriff or corrections official of each municipal  
23 and county correctional institution where a pregnant prisoner  
24 has been restrained during that previous fiscal year, shall  
25 each submit a written report to the Illinois General Assembly  
26 and the Office of the Governor that includes an account of

1 every instance of prisoner restraint pursuant to this Section,  
2 except as permitted under clause (b)(3). The written report  
3 shall state the date, time, location and rationale for each  
4 instance in which restraints are used. The written report shall  
5 not contain any individually identifying information of any  
6 prisoner. Such reports shall be made available for public  
7 inspection.

8 (d) Training of staff.

9 The County Department of Corrections shall require all  
10 security staff to undergo training in the treatment, movement,  
11 and transportation of pregnant prisoners during their initial  
12 training. The Department shall also include such training as a  
13 component in an annual training program.

14 ~~Notwithstanding any other statute, directive, or~~  
15 ~~administrative regulation, when a pregnant female prisoner is~~  
16 ~~brought to a hospital from a county jail for the purpose of~~  
17 ~~delivering her baby, no handcuffs, shackles, or restraints of~~  
18 ~~any kind may be used during her transport to a medical facility~~  
19 ~~for the purpose of delivering her baby. Under no circumstances~~  
20 ~~may leg irons or shackles or waist shackles be used on any~~  
21 ~~pregnant female prisoner who is in labor. Upon the pregnant~~  
22 ~~female prisoner's entry to the hospital delivery room, a county~~  
23 ~~correctional officer must be posted immediately outside the~~  
24 ~~delivery room. The Sheriff must provide for adequate personnel~~  
25 ~~to monitor the pregnant female prisoner during her transport to~~  
26 ~~and from the hospital and during her stay at the hospital.~~

1 (Source: P.A. 91-253, eff. 1-1-00.)".