



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5538

Introduced 2/15/2012, by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Unified Code of Corrections. Provides that the Department of Corrections or the Department of Juvenile Justice shall not apply security restraints to a committed person that has been determined by a qualified medical professional to be pregnant and is known to be pregnant by the Department or in postpartum recovery, which is the entire period a woman is in the medical facility after birth, unless the corrections official makes an individualized determination that the pregnant committed person presents a substantial flight risk or some other extraordinary circumstance that dictates security restraints be used to ensure the safety and security of the pregnant committed person, her child or unborn child, the staff of the Department or medical facility, other committed persons, or the public. Provides that upon discharge from a medical facility, postpartum committed persons shall be restrained only with handcuffs in front of the body during transport to the Department facility. Provides that the corrections official shall immediately remove all security restraints upon written or oral request by medical personnel. Provides that leg irons, shackles, or waist shackles shall not be used on a pregnant or postpartum committed person regardless of security classification. Makes other changes.

LRB097 17705 RLC 62919 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning corrections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by  
5 changing Section 3-6-7 as follows:

6 (730 ILCS 5/3-6-7)

7 Sec. 3-6-7. Pregnant female committed persons.

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

9 "Committed person" means a person committed to the  
10 Department by judicially determined placement in the  
11 custody of the Department on the basis of delinquency or  
12 conviction, or under the terms and conditions of parole,  
13 probation, pretrial release, or diversionary program, and  
14 a person detained under federal immigration law at a  
15 correctional facility.

16 "Correctional institution or facility" means a  
17 building or part of a building where committed persons are  
18 kept in a secured manner, including adult and juvenile  
19 correctional institutions or facilities.

20 "Corrections official" means the official that is  
21 responsible for oversight of a correctional institution,  
22 or his or her designee.

23 "Extraordinary circumstance" means an extraordinary

1 medical or security circumstance, including a substantial  
2 flight risk, that dictates restraints be used to ensure the  
3 safety and security of the committed person, the staff of  
4 the correctional institution or medical facility, other  
5 committed persons, or the public.

6 "Labor" means the period of time before a birth and  
7 shall include a medical condition in which a woman is sent  
8 or brought to the hospital for the purpose of delivering  
9 her baby. These situations include induction of labor,  
10 prodromal labor, pre-term labor, prelabor rupture of  
11 membranes, the three stages of active labor, uterine  
12 hemorrhage during the third trimester of pregnancy, and  
13 caesarian delivery including pre-operative preparation.

14 "Post-partum" means, as determined by her physician,  
15 the period immediately following delivery, including the  
16 entire period a woman is in the hospital or infirmary after  
17 birth.

18 "Restraints" means a physical restraint or mechanical  
19 device used to control the movement of a committed person's  
20 body or limbs, or both, including, but not limited to, flex  
21 cuffs, soft restraints, hard metal handcuffs, a black box,  
22 leg irons, belly chains, a security (tether) chain,  
23 electronic restraints, a convex shield, or shackles of any  
24 kind.

25 (b) The Department shall not apply security restraints to a  
26 committed person that has been determined by a qualified

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

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

1 shall be issued unless medical or mental health personnel,  
2 after personally observing and examining the committed  
3 person, are clinically satisfied that the use of  
4 therapeutic restraints is justified and permitted in  
5 accordance with hospital policies and applicable State  
6 law. Metal handcuffs or shackles are not considered  
7 therapeutic restraints.

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

11 (3) Leg irons, shackles or waist shackles shall not be  
12 used on a pregnant or postpartum committed person  
13 regardless of security classification.

14 (4) When a pregnant or postpartum committed person must  
15 be restrained, restraints used shall be the least  
16 restrictive restraints possible to ensure the safety and  
17 security of the committed person, her child, unborn child,  
18 the staff of the Department or medical facility, other  
19 committed persons, or the public.

20 (5) Upon the pregnant committed person's entry into a  
21 hospital room, and completion of initial room inspection, a  
22 corrections official shall be posted immediately outside  
23 the hospital room and not inside the room, unless requested  
24 to be in the room by medical personnel attending to the  
25 pregnant committed person's medical needs.

26 (6) The Department shall provide adequate personnel to

1 monitor the pregnant committed person during her transport  
2 to and from the hospital and during her stay at the  
3 hospital.

4 (7) Where the Department requires safety assessments,  
5 a corrections official may enter the hospital room to  
6 conduct periodic safety assessments, except during a  
7 medical examination or the delivery process.

8 (8) Upon discharge from a medical facility, a  
9 postpartum committed person shall be restrained only with  
10 handcuffs in front of the body during transport to the  
11 Department facility. The corrections official shall  
12 immediately remove all security restraints upon written or  
13 oral request by medical personnel. When medical personnel  
14 makes an oral request, that request shall be verified in  
15 writing as promptly as reasonably possible.

16 (c) Annual report. No later than 30 days before the end of  
17 each fiscal year, the Director of Corrections and Director of  
18 the Department of Juvenile Justice shall submit a written  
19 report to the General Assembly that includes an account of  
20 every instance of restraint of a pregnant or post-partum  
21 committed person under this Section. The written report shall  
22 include the time, date, location, the corrections official  
23 involved, medical staff involved, and the rationale for using  
24 restraints. The written report shall not contain individually  
25 identifying information of a committed person. The reports  
26 shall be made available for public inspection.

1       (d) Training. The Department shall require all security  
2 staff to undergo training in the treatment, movement, and  
3 transportation of pregnant committed persons during their  
4 initial training. The training shall include: information  
5 about the medical risks involved in placing handcuffs and other  
6 restraints on a pregnant woman; information about trauma,  
7 post-traumatic stress, the risks to the fetus' brain  
8 development from causing stress to the pregnant woman, and the  
9 risk of post-partum depression being caused by trauma and  
10 stress.

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

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

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Statutes amended in order of appearance

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730 ILCS 5/3-6-7