

## SENATE SUBSTITUTE TO HB 345:

## AS PASSED SENATE

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,  
 2 relating to inmate policies, so as to provide for prohibited practices relating to a pregnant  
 3 female inmate or a female inmate who is in the immediate postpartum period; to provide for  
 4 definitions; to prohibit certain actions relating to strip searches, restraints, examinations,  
 5 labor and delivery, solitary confinement, and transfer; to provide for documentation and  
 6 annual reporting of certain information; to provide for related matters; to provide an effective  
 7 date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to  
 11 inmate policies, is amended by adding a new Code section to read as follows:

12 "42-1-11.3.

13 (a) As used in this Code section, the term:

14 (1) 'Custodian' means warden, sheriff, jailer, deputy sheriff, police officer, or any other  
 15 law enforcement officer.

16 (2) 'Immediate postpartum period' means the six-week period following childbirth unless  
 17 extended by a physician due to complications.

18 (3) 'Officer in charge' means the individual who is responsible for the supervision of a  
 19 penal institution.

20 (4) 'Penal institution' means any place of confinement for juvenile or adult individuals  
 21 accused of, convicted of, or adjudicated for violating a law of this state or an ordinance  
 22 of a political subdivision of this state.

23 (5) 'Pregnant woman' means a woman whose pregnancy has been verified by a  
 24 pregnancy test or through a medical examination conducted by a physician.

25 (6) 'Woman' means a juvenile or adult female who is confined in a penal institution.

26 (b) A pregnant woman shall not be required to squat or cough during a strip search  
 27 conducted by a custodian during the second or third trimester of pregnancy.

28 (c) A pregnant woman shall not be required to undergo any vaginal examination unless  
 29 prescribed and performed by a licensed health care professional.

30 (d)(1) Except as otherwise provided in this subsection and notwithstanding Code  
 31 Section 42-5-58, a custodian shall not use handcuffs, waist shackles, leg irons, or  
 32 restraints of any kind on a pregnant woman who is in the second or third trimester of  
 33 pregnancy, in labor, or in delivery, or on a woman in the immediate postpartum period.

34 (2) A woman who is in the immediate postpartum period may only be restrained using  
 35 wrist handcuffs with her wrists held in front of her body and only if there are compelling  
 36 grounds to believe that such woman presents:

37 (A) An immediate and serious threat of harm to herself, staff, or others; or

38 (B) A substantial flight risk and cannot be reasonably contained by other means.

39 (3) If a custodian uses wrist handcuffs on a woman who is in the immediate postpartum  
 40 period under an exception provided in paragraph (2) of this subsection, the circumstances  
 41 for and details of such exception shall be documented within two days of the incident.  
 42 Such information shall include the nature of the circumstances and the length of time of  
 43 such use of restraints. The documentation shall be reviewed by the officer in charge and  
 44 retained by the penal institution for reporting purposes.

45 (4) Nothing in this subsection shall prohibit the use of medical restraints by a licensed  
 46 health care professional to ensure the medical safety of a pregnant woman.

47 (e) A pregnant woman or woman who is in the immediate postpartum period shall not be  
 48 placed in solitary confinement, in administrative segregation, or for medical observation  
 49 in a solitary confinement setting; provided, however, that this shall not prevent the  
 50 placement of such woman in a cell or hospital room by herself.

51 (f) It is the intent of the General Assembly that a pregnant woman who is temporarily held  
 52 in a county jail pending transfer to a state penal institution be transferred as expeditiously  
 53 as possible. The Department of Corrections and a sheriff overseeing a county jail in which  
 54 a pregnant woman is incarcerated shall make all reasonable efforts to facilitate such  
 55 transfer. This subsection shall not apply to a pregnant woman who has been sentenced to  
 56 a county jail by a judge.

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## **SECTION 2.**

59 This Act shall become effective on October 1, 2019.

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## **SECTION 3.**

61 All laws and parts of laws in conflict with this Act are repealed.