

# HOUSE BILL No. 1430

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-1; IC 11-10; IC 11-11-6-1; IC 11-12-4-1; IC 31-31.

**Synopsis:** Protections for pregnant inmates. Provides that the department of correction, a county jail, a juvenile detention center, or a juvenile detention facility shall: (1) use the least restrictive restraints necessary on a pregnant inmate when the pregnant inmate is in the second or third trimester of pregnancy; or (2) no restraints on a pregnant inmate who is in labor, delivering a baby, recuperating from a delivery, or dealing with a medical emergency related to the pregnancy, with certain exceptions. Provides that the department of correction, a county jail, a juvenile detention center, or a juvenile detention facility shall provide specific care, treatment, and education for pregnant inmates and inmates who have recently given birth. Repeals the current statute concerning prenatal and postnatal care and treatment and incorporates it into a new chapter concerning medical care and treatment for pregnant inmates. Establishes the women's prison oversight advisory committee. Defines "pregnant inmate" and "restraints".

**Effective:** July 1, 2021.

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## Bauer M, Summers

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January 14, 2021, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1430



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 11-8-1-11 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2021]: **Sec. 11. "Pregnant inmate" has the meaning set forth in**
- 4 **IC 11-10-3.5-1.**
- 5 SECTION 2. IC 11-8-1-12 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2021]: **Sec. 12. "Restraints" has the meaning set forth in**
- 8 **IC 11-10-3.5-2.**
- 9 SECTION 3. IC 11-10-3-3 IS REPEALED [EFFECTIVE JULY 1,
- 10 2021]. ~~Sec. 3. Necessary prenatal and postnatal care and treatment shall~~
- 11 ~~be provided consistent with acceptable medical practice and standards.~~
- 12 ~~When possible, arrangements shall be made for children to be born in a~~
- 13 ~~hospital outside the correctional facility. If a child is born in a~~
- 14 ~~correctional facility, this fact may not be mentioned on the birth~~
- 15 ~~certificate.~~
- 16 SECTION 4. IC 11-10-3.5 IS ADDED TO THE INDIANA CODE
- 17 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]:

2 **Chapter 3.5. Medical Care and Treatment for Pregnant Inmates**

3 **Sec. 1. As used in this chapter, "pregnant inmate" means a**  
4 **confined person who is pregnant.**

5 **Sec. 2. As used in this chapter, "restraints" means any**  
6 **mechanical device used to control the movement of a pregnant**  
7 **inmate's body or limbs, including handcuffs, leg shackles, and belly**  
8 **chains.**

9 **Sec. 3. Necessary prenatal and postnatal care and treatment**  
10 **shall be provided consistent with acceptable medical practice and**  
11 **standards. When possible, arrangements shall be made for children**  
12 **to be born in a hospital outside the correctional facility. If a child**  
13 **is born in a correctional facility, this fact may not be mentioned on**  
14 **the birth certificate.**

15 **Sec. 4. (a) The department shall do the following:**

16 (1) Use the least restrictive restraints necessary on a pregnant  
17 inmate when the pregnant inmate is in the second or third  
18 trimester of pregnancy.

19 (2) Use no restraints on a pregnant inmate who is in labor,  
20 delivering a baby, recuperating from delivery, or dealing with  
21 a medical emergency related to the pregnancy.

22 (b) The department shall use the least restrictive restraints  
23 necessary on a pregnant inmate described in subsection (a)(1) if the  
24 department has actual or constructive knowledge that the pregnant  
25 inmate is in the second or third trimester of pregnancy.

26 (c) The department may only use the least restrictive restraints  
27 necessary on a pregnant inmate described in subsection (a)(2) if the  
28 pregnant inmate:

29 (1) presents an immediate danger to the pregnant inmate or  
30 to others; or

31 (2) is a substantial flight risk and cannot be contained by any  
32 other reasonable means.

33 **Sec. 5. (a) The warden of each state owned or operated**  
34 **correctional facility housing a pregnant inmate shall do the**  
35 **following:**

36 (1) Make an agreement with a specific community medical  
37 facility for the delivery of a minor child.

38 (2) Require medical examinations to be included as a  
39 component of prenatal care.

40 (3) Keep a list of all pregnancies and their outcomes.

41 (4) Provide for screening or special treatment for high risk  
42 pregnancies.



1 (5) Allow a minor child visitation to see the minor child's  
2 confined parent at least two (2) times a week.

3 (6) Provide training to personnel who may come in contact  
4 with a pregnant inmate.

5 (7) Allow for a pregnant inmate to use doula services if the  
6 pregnant inmate pays for the services.

7 (b) Not later than June 30 of each year, the warden of each state  
8 owned or operated correctional facility housing a pregnant inmate  
9 shall compile a report that includes an account of every instance  
10 when a pregnant inmate has been restrained as described in section  
11 4 of this chapter. The report shall include the:

12 (1) date;

13 (2) time;

14 (3) location; and

15 (4) reason;

16 for each instance when a pregnant inmate has been restrained. The  
17 report shall not contain any personal identifying information of the  
18 pregnant inmate. The report shall be submitted to the  
19 commissioner, the women's prison oversight advisory committee  
20 described in section 7 of this chapter, and, in an electronic format  
21 under IC 5-14-6, to the legislative council. The report created  
22 under this section is a public record subject to public inspection  
23 under IC 5-14-3.

24 Sec. 6. The warden of each state owned or operated correctional  
25 facility shall ensure that every confined person who is a female:

26 (1) is tested for pregnancy if under fifty (50) years of age,  
27 unless the confined person refuses the test;

28 (2) if pregnant, is tested for sexually transmitted diseases,  
29 including human immunodeficiency virus (HIV);

30 (3) if pregnant or has given birth in the last six (6) weeks, is  
31 provided appropriate educational materials and resources  
32 related to pregnancy, child birth, breast feeding, and  
33 parenting;

34 (4) if pregnant or has given birth in the last six (6) months, has  
35 access to a mental health assessment and, if necessary,  
36 treatment while the pregnant inmate is pregnant and  
37 postpartum;

38 (5) if pregnant or has given birth in the last six (6) months and  
39 is determined to be suffering from mental illness, has access  
40 to evidence based psychotropic medication;

41 (6) if pregnant or has given birth in the last six (6) months and  
42 is determined to be suffering from postpartum depression, has



1 access to evidence based therapeutic care for the depression;  
2 and

3 (7) if pregnant, is advised, orally or in writing, of applicable  
4 laws and policies governing pregnant inmates.

5 Sec. 7. (a) There is created the women's prison oversight  
6 advisory committee to assist the commissioner in identifying the  
7 standards of evidence based care, treatment, and education for  
8 pregnant inmates and inmates who have recently given birth.

9 (b) The advisory committee is comprised of persons with an  
10 expertise in and a knowledge of issues concerning pregnant  
11 inmates housed in Indiana's state owned or operated correctional  
12 facilities.

13 (c) The commissioner shall:

14 (1) determine the number of persons, which must include a  
15 doula, to serve on the advisory committee;

16 (2) appoint a chairperson or co-chairpersons for the advisory  
17 committee; and

18 (3) establish policies and procedures under which the advisory  
19 committee operates.

20 (d) A member of the committee is entitled to reimbursement for  
21 traveling expenses and other expenses actually incurred in  
22 connection with the member's duties, as provided in the state travel  
23 policies and procedures established by the department of  
24 administration and approved by the budget agency. A member  
25 who is not an officer or employee of the state is entitled to the  
26 minimum salary per diem as provided in IC 4-10-11-2.1(b) while  
27 performing the member's duties.

28 (e) The women's prison oversight advisory committee shall do  
29 the following:

30 (1) Identify the standards of evidence based care, treatment,  
31 and education for pregnant inmates and inmates who have  
32 recently given birth.

33 (2) Other duties as determined necessary by the chairperson  
34 or co-chairpersons of the committee.

35 (3) Not later than June 30 of each year, develop and make  
36 recommendations to the commissioner and, in an electronic  
37 format under IC 5-14-6, to the legislative council concerning  
38 the results of the committee's work under subdivisions (1) and  
39 (2).

40 SECTION 5. IC 11-11-6-1 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The department  
42 shall adopt policies and procedures for the protection, **health, and**



1 **safety** of committed persons, including:

- 2 (1) the monitoring of committed persons whose presence in the  
 3 general population of a facility or program constitutes a threat of  
 4 physical danger to other persons;  
 5 (2) reasonable searches of committed persons, facilities and  
 6 premises to reduce the number of weapons and dangerous items;  
 7 (3) adequate staff supervision of committed persons, including  
 8 living quarters;  
 9 (4) maintenance of accurate records regarding incidents of  
 10 violence;  
 11 (5) referral of serious criminal conduct to investigating and  
 12 prosecuting authorities with appropriate information; **and**  
 13 (6) policies and procedures designed to reduce racial tension; **and**  
 14 (7) **policies and procedures designed to provide care,**  
 15 **treatment, and education for pregnant inmates as described**  
 16 **in IC 11-10-3.5.**

17 (b) For purposes of IC 4-22-2, the terms "policies" and "procedures"  
 18 as used in this section relate solely to internal policies and procedures  
 19 not having the force of law.

20 SECTION 6. IC 11-12-4-1 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The department  
 22 shall adopt under IC 4-22-2 minimum standards for county jails  
 23 governing:

- 24 (1) general physical and environmental conditions;  
 25 (2) services and programs to be provided to confined persons; and  
 26 (3) procedures for the care and control of confined persons that  
 27 are necessary to ensure the health and safety of confined persons,  
 28 the security of the jail, and public safety, **including the**  
 29 **implementation of IC 11-10-3.5.**

30 However, the department may not adopt any standard that prohibits the  
 31 placement of more than one (1) prisoner in a prisoner cell that has  
 32 thirty-five (35) square feet or more of floor space per prisoner.

33 (b) The standards must be sufficiently flexible to foster the  
 34 development of new and improved practices and to accommodate local  
 35 needs and circumstances. The standards must be consistent with the  
 36 laws of Indiana and the rules of the state department of health and the  
 37 fire prevention and building safety commission.

38 (c) The commissioner shall select a committee of not less than five  
 39 (5) county sheriffs to consult with the department before and during the  
 40 drafting of the proposed minimum standards. County sheriffs shall be  
 41 selected from the various classes of counties to ensure that densely,  
 42 moderately, and sparsely populated counties are represented. Each



1 county sheriff is entitled to the minimum salary per diem as provided  
2 in IC 4-10-11-2.1 for each day engaged in the official business of the  
3 committee and to reimbursement for traveling and other expenses, as  
4 provided in the state travel policies and procedures established by the  
5 Indiana department of administration and approved by the budget  
6 agency.

7 (d) At least sixty (60) days before setting the date for a public  
8 hearing under IC 4-22-2, the department shall forward copies of the  
9 proposed minimum standards to each county sheriff and each board of  
10 county commissioners and shall solicit their views and suggestions.

11 SECTION 7. IC 31-31-8-5, AS AMENDED BY P.L.145-2006,  
12 SECTION 276, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2021]: Sec. 5. (a) Juvenile detention facilities  
14 shall be operated in accordance with rules adopted by the department  
15 of correction, **including the implementation of IC 11-10-3.5.**

16 (b) Shelter care facilities shall be operated in accordance with rules  
17 adopted by the department of child services under IC 31-27.

18 SECTION 8. IC 31-31-9-3, AS AMENDED BY P.L.145-2006,  
19 SECTION 277, IS AMENDED TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) The juvenile detention center  
21 shall be operated in accordance with rules adopted by the department  
22 of correction, **including the implementation of IC 11-10-3.5.**

23 (b) The department of child services shall make an annual  
24 inspection of the center and report to the advisory board whether the  
25 center meets the requirements established by the state department of  
26 health for temporary detention centers. Any noncompliance with those  
27 requirements must be stated in writing to the advisory board.

