

HOUSE No. 3978

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 24, 2014.

The committee on Ways and Means to whom was referred the Bill relative to prevent shackling and promote safe pregnancies for female inmates (House, No. 1433), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3978).

For the committee,

BRIAN S. DEMPSEY.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to prevent shackling and promote safe pregnancies for female inmates.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 127 of the General Laws is hereby amended by striking out section
2 118, as appearing in the 2012 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 118. (a) Upon admission to a correctional facility, while awaiting trial or after
5 sentencing, a female inmate shall be screened and assessed for pregnancy by a licensed health
6 care professional; provided that the inmate shall be informed of any necessary medical tests
7 connected with the screening prior to the administration of such tests. A pregnant inmate shall
8 receive nondirective counseling and written material, in a form understandable by the inmate, on
9 pregnancy options and correctional facility policies and practices regarding care and labor for
10 pregnant inmates. Correctional facilities housing female inmates shall ensure that at least 1
11 member of the facility’s medical staff is trained in pregnancy-related care which shall include
12 knowledge of prenatal nutrition, high-risk pregnancy, addiction and substance abuse during
13 pregnancy, and childbirth education.

14 A pregnant and postpartum inmate shall be provided regular prenatal and postpartum
15 medical care at the correctional facility in which she is housed including periodic health
16 monitoring and evaluation during pregnancy; the opportunity for a minimum of 1 hour of
17 ambulatory movement each day; a diet containing the nutrients necessary to maintain a healthy
18 pregnancy, including prenatal vitamins and supplements; and postpartum screening for
19 depression. Pregnant and postpartum inmates shall be provided appropriate clothing,
20 undergarments and sanitary materials.

21 The department of correction shall, in consultation with the department of public health,
22 develop appropriate standards of care for pregnant and postpartum inmates, which shall
23 incorporate, at a minimum, the standards for health services set forth by the National

24 Commission on Correctional Health Care. If a pregnant inmate requires medically necessary,
25 specialized care that is unavailable at the correctional facility, she shall have access to such care
26 at a supporting medical facility with appropriate expertise.

27 If a postpartum inmate is determined to be suffering from postpartum depression, she
28 shall have regular access to a mental health clinician. A postpartum inmate shall not be subject
29 to isolation absent an individualized, documented determination that the inmate poses a serious
30 risk of harm to herself or others. Prior to release, correctional facility medical staff shall provide
31 a pregnant inmate with counseling and discharge planning in order to ensure continuity of
32 pregnancy-related care, including uninterrupted substance abuse treatment.

33 (b) During the second and third trimesters of pregnancy or during post-delivery
34 recuperation, an inmate shall be transported to and from visits to medical providers and court
35 proceedings in a vehicle with seatbelts and may only be restrained using handcuffs. If a
36 correction officer is present in the room during the pregnant inmate's physical examinations,
37 labor or childbirth, the officer shall, if possible, be female.

38 A pregnant inmate shall receive labor and delivery care in an accredited hospital and shall
39 not be removed to another penal institution for the purpose of giving birth. An inmate who is in
40 any stage of labor or delivery, as determined by a licensed health care professional, shall not be
41 placed in restraints during transportation or while receiving medical treatment.

42 During post-delivery recuperation, an inmate shall remain in the hospital until the
43 attending physician certifies that she may be safely discharged and transferred back to the
44 correctional facility. An inmate in post-delivery recuperation shall not be placed in restraints,
45 except under extraordinary circumstances.

46 For the purposes of this section, "extraordinary circumstances" shall mean a situation in
47 which a corrections officer determines that the inmate presents an immediate and serious threat
48 to herself or others; or the inmate presents an immediate and credible risk of escape that cannot
49 be curtailed by other reasonable means. If an inmate is restrained, the restraints shall be the least
50 restrictive available and the most reasonable under the circumstances. In no case shall leg or
51 waist restraints be used on any pregnant or postpartum inmate. In the event the corrections
52 officer believes that extraordinary circumstances exist and restraints are used, the corrections
53 officer shall fully document in writing the reasons that the officer determined such extraordinary
54 circumstances existed, the kind of restraints used, and the reasons those restraints were
55 considered the least restrictive available and the most reasonable under the circumstances. A
56 superintendent shall approve the use of any restraints used due to extraordinary circumstances
57 either before the inmate is hospitalized or after the corrections officer submits documentation
58 detailing the reasons restraints were required. If the attending physician or nurse treating the
59 pregnant inmate requests that restraints be removed for medical reasons, the corrections officer
60 shall immediately remove all restraints.

61 (c) Nothing in this section shall prohibit the use of hospital restraints requested by a
62 treating physician for the medical safety of a patient.