

FIRST REGULAR SESSION

SENATE BILL NO. 180

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 2, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0703S.02I

AN ACT

To amend chapter 217, RSMo, by adding thereto one new section relating to restraint of pregnant or postpartum offenders.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 217, RSMo, is amended by adding thereto one new section, to be known as section 217.151, to read as follows:

217.151. 1. This section shall be known and may be cited as the Pregnant Offender Transportation, Evaluation, and Correctional Treatment Act, or the ProTECT Act.

2. For purposes of this section, "extraordinary circumstances" exist when a chief administrative officer or their designee makes a determination that restraints are necessary to prevent a pregnant or postpartum offender from escaping or seriously injuring herself, her unborn or newborn child, medical or correctional personnel, or others. For purposes of this section, "postpartum" is the period of recovery immediately following childbirth, which is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so determined by a physician or nurse.

3. The department shall establish by rule under section 217.040, policies and procedures for the transportation, evaluation, and treatment of pregnant and postpartum offenders consistent with the statutes of this state. The department shall consult with physicians, nursing, correctional, and other professional organizations in establishing such rules. Such rules shall include, but need not be limited to:

(1) Any time restraints are used on a pregnant offender during the second or third trimester or on a postpartum offender for forty-

22 eight hours post-delivery, the restraints shall be the least restrictive
23 available and the most reasonable under the circumstances. If wrist
24 restraints are used on a pregnant offender, they shall be applied in the
25 front so she is able to protect herself and her unborn child in the event
26 of a forward fall. In no case shall leg, ankle, or waist restraints be used
27 during examination and tests for symptoms of preterm labor, during
28 labor and delivery, or during immediate post-delivery recuperation;

29 (2) Except in extraordinary circumstances, no restraints of any
30 kind shall be used on offenders during the second or third trimester of
31 pregnancy or for forty-eight hours post-delivery, whether during
32 transportation to and from visits to health care providers outside of the
33 correctional center, court proceedings, or other places, or during labor
34 and delivery;

35 (3) Pregnant and postpartum offenders shall be transported to
36 and from visits to health care providers outside of the correctional
37 center, court proceedings, or other places in vehicles with seatbelts;

38 (4) If a doctor, nurse, or other health care provider treating a
39 pregnant or postpartum offender requests that restraints not be used,
40 the corrections officer accompanying the pregnant or postpartum
41 offender shall immediately remove all restraints, unless there are
42 extraordinary circumstances;

43 (5) Upon intake, a pregnant or postpartum offender shall be
44 evaluated and treated for:

45 (a) Overall maternal health, and if necessary, provided dietary
46 supplements for pregnant and breastfeeding offenders. Readily
47 available and regularly scheduled obstetric care, beginning in early
48 pregnancy and continuing through the postpartum period, shall be
49 provided. The department shall, with the assistance of the department
50 of social services and consent of the pregnant offender, consider
51 enrolling an unborn child in the show-me healthy babies program
52 under section 208.662;

53 (b) Substance abuse, and provided treatment, including, if
54 necessary, provided opioid-assisted therapy for offenders who are
55 opioid-dependent;

56 (c) Infection with human immunodeficiency virus (HIV), and if
57 HIV positive, provided treatment for maternal health and to prevent
58 perinatal HIV transmission; and

59 (d) Depression or mental stress during pregnancy and for
60 postpartum depression after delivery, and provided treatment as
61 needed; and

62 (6) Required activities with a high risk of falling shall be
63 avoided. Pregnant and postpartum offenders shall be given a bottom
64 bunk during pregnancy and the postpartum period.

65 4. In the event a chief administrative officer or their designee
66 determines that extraordinary circumstances exist and restraints are
67 used, the chief administrative officer or their designee shall fully
68 document in writing within seven days of the incident the reasons he
69 or she determined such extraordinary circumstances existed, the kind
70 of restraints used, and the reasons those restraints were considered the
71 least restrictive available and the most reasonable under the
72 circumstances.

73 5. The sentencing and corrections oversight commission
74 established under section 217.147, and the advisory committee
75 established under section 217.015, shall conduct biannual reviews of
76 every report written on the use of restraints on a pregnant or
77 postpartum offender in accordance with subsection 4 of this section to
78 determine compliance with this section. The written reports shall be
79 kept on file by the department for five years.

80 6. The chief administrative officer of each correctional center
81 that houses pregnant and postpartum offenders shall:

82 (1) Ensure the employees of the correctional center who come in
83 contact with pregnant or postpartum offenders are provided with
84 training, which may include online training, on the provisions of this
85 section; and

86 (2) Inform female offenders of the policies and procedures
87 developed in accordance with this section upon admission to the
88 correctional center, including the policies and procedures in the
89 offender handbook, and post the policies and procedures in locations
90 in the correctional center where such notices are commonly posted and
91 will be seen by female offenders, including common housing areas and
92 health care facilities.