

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1419 Session of  
2021

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AND BRIGGS, SEPTEMBER 21, 2021

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 24, 2022

## AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania <--  
2 Consolidated Statutes, in general administration, further  
3 providing for State recording system for application of  
4 restraints to pregnant prisoners or detainees; and, in  
5 miscellaneous provisions, providing for restrictive housing  
6 prohibited for pregnant or postpartum inmates and detainees,  
7 for cavity search and inspection restrictions, for training  
8 and education requirement, for family consideration in  
9 placement and visitation, for feminine hygiene and  
10 incontinence products and for postpartum recovery.

11 AMENDING TITLE 61 (PRISONS AND PAROLE) OF THE PENNSYLVANIA <--  
12 CONSOLIDATED STATUTES, IN GENERAL ADMINISTRATION, FURTHER  
13 PROVIDING FOR STATE RECORDING SYSTEM FOR APPLICATION OF  
14 RESTRAINTS TO PREGNANT PRISONERS OR DETAINees; IN COUNTY  
15 CORRECTIONAL INSTITUTIONS, FURTHER PROVIDING FOR COUNTY  
16 RECORDING SYSTEM FOR APPLICATION OF RESTRAINTS TO PREGNANT  
17 PRISONERS OR DETAINees; AND, IN MISCELLANEOUS PROVISIONS,  
18 FURTHER PROVIDING FOR HEALTHY BIRTH FOR INCARCERATED WOMEN  
19 AND PROVIDING FOR RESTRICTIVE HOUSING PROHIBITED FOR PREGNANT  
20 OR POSTPARTUM INCARCERATED INDIVIDUALS AND DETAINees, FOR  
21 CAVITY SEARCH AND INSPECTION RESTRICTIONS, FOR TRAINING AND  
22 EDUCATION REQUIREMENT, FOR FAMILY CONSIDERATION IN PLACEMENT  
23 AND VISITATION, FOR FEMININE HYGIENE AND INCONTINENCE  
24 PRODUCTS AND FOR POSTPARTUM RECOVERY.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3 ~~Section 1. Section 1104 of Title 61 of the Pennsylvania~~ <--  
4 ~~Consolidated Statutes~~ is amended to read:

5 ~~S 1104. State recording system [for application of restraints]~~  
6 ~~relating to pregnant [prisoners] and postpartum~~  
7 ~~inmates or detainees.~~

8 (a) ~~General rule. [A correctional institution as defined by~~  
9 ~~section 5905(e) (relating to healthy birth for incarcerated~~  
10 ~~women) shall report each restraint applied to a pregnant~~  
11 ~~prisoner or detainee. The report must be in writing and must~~  
12 ~~note the number of restraints. Individual, separate written~~  
13 ~~findings for each restraint must accompany the report. This~~  
14 ~~shall include reports from the following:] A correctional~~  
15 ~~institution shall, in writing, report each restraint applied to~~  
16 ~~a pregnant, laboring or postpartum individual in the~~  
17 ~~correctional institution's custody, as well as any instance~~  
18 ~~where a pregnant, laboring or postpartum individual is placed in~~  
19 ~~restrictive housing. The report shall note the number and type~~  
20 ~~of restraints or, in the case of restrictive housing, the length~~  
21 ~~of time the individual was placed in restrictive housing. The~~  
22 ~~provisions of this subsection shall apply to any person tasked~~  
23 ~~with transporting or housing incarcerated or detained~~  
24 ~~individuals. Reports shall be made as follows:~~

25 (1) ~~A correctional institution that is not operated,~~  
26 ~~supervised or licensed by the Department of [Public Welfare]~~  
27 ~~Human Services pursuant to the act of June 13, 1967 (P.L.31,~~  
28 ~~No.21), known as the [Public Welfare] Human Services Code,~~  
29 ~~shall make the report to the secretary.~~

30 (2) ~~A correctional institution that is operated,~~

1 supervised or licensed by the Department of [Public Welfare]  
2 Human Services pursuant to the [Public Welfare] Human  
3 Services Code shall make the report to the Secretary of  
4 [Public Welfare] Human Services.

5 (b) Contents of [written findings] report. [Written  
6 findings] Reports of each restraint or placement of an  
7 incarcerated or detained individual in restrictive housing as  
8 required under subsection (a) must include the following:

9 (1) [the] The circumstances that led to the  
10 determination that the [prisoner] inmate or detainee  
11 represented a substantial risk of imminent flight[; or].

12 (2) [the] The circumstances that led to the  
13 determination that other extraordinary medical or security  
14 circumstances dictated the [prisoner] inmate or detainee be  
15 restrained to ensure the safety and security of the  
16 [prisoner] inmate or detainee, the staff of the correctional  
17 institution or medical facility, other [prisoners] inmates or  
18 detainees or the public.

19 (3) The date and time restraints were applied or the  
20 restrictive housing placement occurred, and the length of  
21 time the incarcerated or detained individual was kept in  
22 restraints or restrictive housing.

23 (4) The badge number or identification number of the  
24 following:

25 (i) The custodian or staff member that applied the  
26 restraints or placed the individual into restrictive  
27 housing.

28 (ii) Any superior officers approving or advising the  
29 application of restraints or placement in restrictive  
30 housing.

(5) The number and type of restraints used.

(6) Any physical effects on the incarcerated or detained individual or the unborn child of an incarcerated or detained individual resulting from placement in the restraints or restrictive housing.

(c) Staff presence during labor. Only female staff shall be present in the room during the examination, labor or delivery of the pregnant incarcerated individual. If male staff remain present during the examination, labor or delivery of the pregnant incarcerated individual, that information shall be reported to the department or the Department of Human Services, as applicable.

(d) Availability of reports. The nonidentifying data contained in the written reports submitted to the department or the Department of Human Services shall be posted on the department or Department of Human Services' publicly accessible Internet website annually. No identifying information, such as names or dates of birth, shall be posted.

19       (e) Failure to submit report. If a correctional institution  
20       fails to submit a report under this section by the end of the  
21       fiscal year, the department or the Department of Human Services,  
22       as applicable, shall obtain a certification, to be created by  
23       the department or the Department of Human Services, as  
24       applicable, from the correctional institution verifying that the  
25       institution had zero instances of use of restraints, placement  
26       in restrictive housing or male staff presence during medical  
27       examinations or appointments of pregnant incarcerated  
28       individuals under the provisions of this section.

29       (f) Definitions. As used in this section, the following  
30 words and phrases shall have the meanings given to them in this

1 subsection unless the context clearly indicates otherwise:

2 "Correctional institution." As defined in section 5905(e)  
3 (relating to healthy birth for incarcerated women).

4 "Postpartum." The eight week period, or longer as determined  
5 by the health care professional responsible for the health and  
6 safety of the incarcerated or detained person, following  
7 childbirth.

8 "Restraints." Any physical or mechanical device used to  
9 restrict or control the movement of a prisoner's body, limbs or  
10 both.

11 "Restrictive housing." Any type of detention that involves  
12 removal from the general incarcerated population for purposes of  
13 discipline or administrative purpose.

14 "Staff." An individual who is employed by a correctional  
15 institution, the department or the Department of Human Services.

16 Section 2. Title 61 is amended by adding sections to read:

17 S 5905.1. Restrictive housing prohibited for pregnant or  
18 postpartum inmates and detainees.

19 (a) Restrictive housing prohibited. Except as provided  
20 under subsection (c), a pregnant or postpartum incarcerated or  
21 detained individual may not be involuntarily placed in  
22 restrictive housing in any correctional institution in this  
23 Commonwealth.

24 (b) Alternative discipline. Forms of discipline for  
25 pregnant and postpartum incarcerated or detained individuals  
26 shall be limited to sanctions, including restrictions on  
27 telephone usage or visitation or other common forms of  
28 alternative discipline used in the United States.

29 (c) Exceptions. A pregnant or postpartum incarcerated or  
30 detained individual may be placed in restrictive housing only as

1 a temporary response to behavior that poses a serious and  
2 immediate risk of physical harm to the pregnant or postpartum  
3 incarcerated or detained individual, another incarcerated or  
4 detained individual, the unborn child of the pregnant  
5 incarcerated or detained individual or staff. The following  
6 shall apply:

7       (1) The decision to place a pregnant or postpartum  
8 incarcerated or detained individual in restrictive housing  
9 under this subsection must be approved by the warden or  
10 individual in charge of the correctional institution.

11       (2) The rationale for the decision under this subsection  
12 must be documented as required by section 1104 (relating to  
13 State recording system relating to pregnant and postpartum  
14 inmates or detainees).

15       (3) No period of restrictive housing in excess of seven  
16 days may be approved.

17       (d) Bed assignments. The correctional institution may not  
18 assign a pregnant incarcerated individual or detainee to any bed  
19 that is elevated more than three feet from the floor of the  
20 facility.

21       (e) Definition. As used in this section, the term  
22 "postpartum" means the eight week period, or longer as  
23 determined by the health care professional responsible for the  
24 health and safety of the incarcerated or detained person,  
25 following childbirth.

26 § 5908. Cavity search and inspection restrictions.

27       (a) Cavity search and inspection restrictions. To the  
28 greatest extent possible:

29       (1) No staff other than a licensed health care  
30 professional shall conduct an invasive body cavity search of

1       a pregnant incarcerated individual or detainee.

2       (2) A correctional institution shall limit searches by  
3       male staff where a female incarcerated individual or detainee  
4       is in a state of undress.

5       (b) Documentation requirement. If staff is required to  
6       perform an invasive cavity search on a pregnant incarcerated  
7       individual or detainee, or male staff is required to conduct a  
8       search on a female incarcerated individual or detainee in a  
9       state of undress, a written report shall be submitted to the  
10       correctional institution within 72 hours following the cavity  
11       search or inspection. The report under this subsection shall:

12       (1) include the justification for performing the cavity  
13       search or male staff inspection;

14       (2) note if any contraband was found on the incarcerated  
15       individual or detainee; and

16       (3) be sent to the department or the Department of Human  
17       Services, as applicable.

18       (c) Definitions. As used in this section, the following  
19       words and phrases shall have the meanings given to them in this  
20       subsection unless the context clearly indicates otherwise:

21       "Body cavity search." An invasive search of incarcerated or  
22       detained individuals, conducted by staff in search of  
23       contraband.

24       "Staff." An individual, including contracted staff, who is  
25       employed by a correctional institution, the department or the  
26       Department of Human Services.

27       "State of undress." A state where an incarcerated or  
28       detained female is partially or fully naked, either in the  
29       shower, toilet areas, a medical examination room or while a body  
30       cavity search is being conducted.

1 s 5909. Training and education requirement.

2 (a) Correctional institution staff training. The department  
3 and the Department of Human Services shall jointly develop and  
4 provide both correctional institutions with a training program  
5 for staff who have contact with a pregnant, laboring or  
6 postpartum incarcerated or detained individual. The training  
7 program shall be related to the physical and mental health of  
8 the pregnant or postpartum incarcerated or detained individual  
9 and unborn child, including:

10 (1) The general care of a pregnant individual.

11 (2) The impact of restraints on a pregnant individual  
12 and unborn child.

13 (3) The impact of being placed in restrictive housing on  
14 a pregnant individual.

15 (4) The impact of invasive searches on a pregnant  
16 individual.

17 (5) Any other pertinent information the department or  
18 the Department of Human Services finds appropriate or  
19 necessary.

20 (b) Correctional institution staff training exceptions. If  
21 the correctional institution or county correctional institution  
22 prohibits the placement of pregnant individuals as a matter of  
23 law, that institution may submit a written exemption reporting  
24 that there is no risk of staff interacting with pregnant  
25 individuals housed in the institution. The exemption under this  
26 subsection shall apply only to the correctional institution, not  
27 the individual staff of the institution. All correctional  
28 institution staff that come in contact with pregnant  
29 incarcerated individuals shall complete the training under this  
30 section. If correctional institution staff work at more than one

1 institution, the staff must receive the required training at the  
2 non exempt institution.

3 (c) Education programming for pregnant incarcerated  
4 individuals. The department and the Department of Human  
5 Services shall jointly develop and provide both correctional  
6 institutions and county correctional institutions with  
7 educational programming for pregnant or postpartum incarcerated  
8 or detained individuals. The educational programming shall be  
9 related to:

10 (1) Medical screenings related to female reproductive  
11 and overall health, including preventive screenings.

12 (2) Prenatal care.

13 (3) Pregnancy specific hygiene.

14 (4) The impact of alcohol and drugs on the unborn child.

15 (5) General health of the child.

16 (6) Any other pertinent information the department or  
17 the Department of Human Services finds appropriate or  
18 necessary.

19 (d) Trauma informed care. The following shall apply:

20 (1) The warden of a correctional institution shall, as  
21 the warden deems necessary, ensure that the correctional  
22 institution provides to incarcerated individuals and  
23 detainees quality trauma informed care.

24 (2) Trauma informed care for an individual shall begin  
25 immediately upon the individual's intake and assessment at a  
26 correctional institution.

27 (3) Correctional staff training. Correctional staff  
28 shall have no fewer than four hours of professional training  
29 related to trauma informed care, which shall include, but not  
30 be limited to, the following:

- (i) Training to identify individuals with trauma.
- (ii) Training on how and when to refer individuals to the proper health care professionals, including, but not limited to, preventive health care and mental health care.

(iii) Training on how to interact with and empower incarcerated individuals who have experienced trauma.

(e) Definitions. As used in this section, the following

words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Postpartum." The eight week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated or detained person, following childbirth.

"Trauma informed care." An organizational structure and treatment framework that involves recognizing, understanding and responding to the effects of trauma.

§ 5910. Family consideration in placement and visitation.

(a) Visitation. The department and the Department of Human Services shall authorize visitation by a minor dependent child, with the minimum following requirements:

(1) A minor dependent child under 18 years of age shall be able to visit the minor dependent child's parent with primary physical custody at least two days per week.

(2) No restriction on the number of minor dependent children under 18 years of age that may be permitted.  
visitation privileges may be enforced, subject to the facility's space, staffing and administrative capacity to accommodate the number of visitors present.

(3) Contact visits for a parent with primary physical

1 custody with low security or minimum security classifications  
2 shall be authorized.

3 (b) Exceptions. Visitation rights shall not be authorized  
4 under subsection (a):

5 (1) For parents who have been deemed unsafe or  
6 ineligible for visitation through the department or the  
7 Department of Human Services until deemed safe or eligible  
8 for visitation by the department or the Department of Human  
9 Services.

10 (2) In instances where the minor dependent child was the  
11 victim of a criminal offense under 18 Pa.C.S. (relating to  
12 crimes and offenses) resulting in the incarceration or  
13 detention of the parent.

14 (3) If the parent voluntarily enrolled in a detention  
15 program which prohibits visitation.

16 (c) Primary physical custody. For purposes of this section,  
17 an incarcerated or detained individual must prove that the  
18 individual had physical custody of the minor dependent child for  
19 the majority of time to be considered a parent with primary  
20 physical custody.

21 (d) Definitions. As used in this section, the following  
22 words and phrases shall have the meanings given to them in this  
23 subsection unless the context clearly indicates otherwise:

24 "Minor dependent child." An individual under 18 years of age  
25 who the incarcerated individual was the former primary caregiver  
26 of and who is proven to be related to the incarcerated or  
27 detained individual by the facility.

28 § 5911. Feminine hygiene and incontinence products.

29 (a) Issuance of feminine hygiene products related to  
30 menstruation. A supply of feminine hygiene products shall be

1 provided to all incarcerated individuals and detainees who are  
2 menstruating in a correctional institution each month at no cost  
3 to the incarcerated individuals and detainees, regardless of  
4 financial means. Incarcerated individuals and detainees may not  
5 be required to show proof of need or to undergo a medical  
6 examination or obtain a medical permit, authorization or  
7 diagnosis to receive the products under subsection (b).

8       (b) Feminine hygiene products provided. A choice of at  
9 least two sizes or absorbencies of sanitary pads shall be  
10 distributed to all incarcerated individuals and detainees who  
11 are menstruating in a correctional institution or if requested  
12 from medical staff.

13       (c) Feminine hygiene products to be requested. A choice of  
14 at least two sizes of tampons shall be distributed to  
15 incarcerated individuals and detainees who request a tampon from  
16 medical staff.

17       (d) Issuance of feminine hygiene products related to bladder  
18 control and incontinence. A supply of products for bladder  
19 control and incontinence shall be provided to incarcerated  
20 individuals and detainees, including geriatric incarcerated  
21 individuals and postpartum incarcerated individuals, who require  
22 such products each month at no cost to incarcerated individuals  
23 and detainees, regardless of financial means.

24       (e) Bladder control and incontinence products  
25 distribution. Adult diapers or protective undergarments shall  
26 be distributed to incarcerated individuals who require them.

27       (f) Rules and regulations. The correctional institution  
28 shall promulgate rules necessary to implement and enforce the  
29 provisions of this section.

30       (g) Definition. As used in this section, the term "feminine

1 hygiene products" means products that women use during  
2 menstruation. The term includes tampons and sanitary napkins.

3 § 5912. Postpartum recovery.

4 (a) Restraints during postpartum recovery. No restraints  
5 shall be used on any incarcerated or detained individual who has  
6 given birth within the last 30 days and is in postpartum  
7 recovery, unless the department or the Department of Human  
8 Services, as applicable, has a reasonable belief that the  
9 incarcerated or detained individual will harm themselves, their  
10 newborn or another individual or pose a substantial risk of  
11 imminent flight. If restraints are used, the facility employee  
12 ordering the use of restraints on an incarcerated or detained  
13 individual while in postpartum recovery shall submit a written  
14 report to the warden of the facility within 72 hours following  
15 the use of the restraints, containing the justification for  
16 restraining the incarcerated or detained individual during  
17 postpartum recovery. The report shall also be sent to the  
18 department or the Department of Human Services, as applicable.

19 (b) Post delivery bonding period. Subject to hospital  
20 policy, following the delivery of a newborn, the department or  
21 the Department of Human Services, as applicable, shall permit  
22 the child to remain with the mother at the hospital for 72 hours  
23 unless a licensed medical professional or mental health  
24 professional has a reasonable belief that the newborn child  
25 remaining with the mother poses a health or safety risk to the  
26 newborn child.

27 (c) Nutritional and hygiene products. During the 72 hour  
28 period under subsection (b), the department or the Department of  
29 Human Services, as applicable, shall make available the  
30 necessary nutritional and hygiene products to care for the

newborn.

(d) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Licensed medical professional." An individual licensed to practice medicine in this Commonwealth.

"Postpartum recovery." The eight week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated or detained person, following childbirth.

"Substantial risk of imminent flight." A showing of real and considerable risk of escaping by the incarcerated individual with the intent to avoid continued incarceration. An individual's history of escape attempts and flight to avoid continued incarceration may be relevant to the determination, but history alone cannot meet the requirement.

Section 3. This act shall apply to an entity under the authority of the Commonwealth or any county or municipality that has the power to detain and restrain an individual under the laws of this Commonwealth, including, but not limited to, State correctional institutions, county correctional institutions, juvenile detention facilities, police departments, constable's offices, sheriff's offices and private entities performing contracts for the Commonwealth or a county or municipality of the Commonwealth.

~~Section 4. This act shall take effect in 60 days.~~

SECTION 1. SECTION 1104 OF TITLE 61 OF THE PENNSYLVANIA

CONSOLIDATED STATUTES IS AMENDED TO READ:

§ 1104. STATE RECORDING SYSTEM [FOR APPLICATION OF RESTRAINTS]

RELATING TO PREGNANT [PRISONERS] AND POSTPARTUM

1                   INCARCERATED INDIVIDUALS OR DETAINEES.

2       (A) GENERAL RULE.--[A CORRECTIONAL INSTITUTION AS DEFINED BY

3 SECTION 5905(E) (RELATING TO HEALTHY BIRTH FOR INCARCERATED

4 WOMEN) SHALL REPORT EACH RESTRAINT APPLIED TO A PREGNANT

5 PRISONER OR DETAINEE. THE REPORT MUST BE IN WRITING AND MUST

6 NOTE THE NUMBER OF RESTRAINTS. INDIVIDUAL, SEPARATE WRITTEN

7 FINDINGS FOR EACH RESTRAINT MUST ACCOMPANY THE REPORT. THIS

8 SHALL INCLUDE REPORTS FROM THE FOLLOWING:] A CORRECTIONAL

9 INSTITUTION SHALL, IN WRITING, REPORT EACH RESTRAINT APPLIED TO

10 A PREGNANT, LABORING OR POSTPARTUM INDIVIDUAL IN THE

11 CORRECTIONAL INSTITUTION'S CUSTODY, AS WELL AS ANY INSTANCE

12 WHERE A PREGNANT, LABORING OR POSTPARTUM INDIVIDUAL IS PLACED IN

13 RESTRICTIVE HOUSING. THE REPORT SHALL NOTE THE NUMBER AND TYPE

14 OF RESTRAINTS OR, IN THE CASE OF RESTRICTIVE HOUSING, THE LENGTH

15 OF TIME THE INDIVIDUAL WAS PLACED IN RESTRICTIVE HOUSING. THE

16 PROVISIONS OF THIS SUBSECTION SHALL APPLY TO ANY PERSON TASKED

17 WITH TRANSPORTING OR HOUSING INCARCERATED INDIVIDUALS OR

18 DETAINEES. AS IT RELATES TO RESTRAINTS, THE REPORT NEED NOT

19 INCLUDE WHEN HANDCUFFS ARE USED ON AN INCARCERATED INDIVIDUAL OR

20 DETAINEE THAT ARE ASSOCIATED WITH PLACEMENT WHILE IN RESTRICTIVE

21 HOUSING. REPORTS SHALL BE MADE AS FOLLOWS:

22                   (1) A CORRECTIONAL INSTITUTION THAT IS NOT OPERATED,

23 SUPERVISED OR LICENSED BY THE DEPARTMENT OF [PUBLIC WELFARE]

24 HUMAN SERVICES PURSUANT TO THE ACT OF JUNE 13, 1967 (P.L.31,

25 NO.21), KNOWN AS THE [PUBLIC WELFARE] HUMAN SERVICES CODE,

26 SHALL MAKE THE REPORT TO THE SECRETARY.

27                   (2) A CORRECTIONAL INSTITUTION THAT IS OPERATED,

28 SUPERVISED OR LICENSED BY THE DEPARTMENT OF [PUBLIC WELFARE]

29 HUMAN SERVICES PURSUANT TO THE [PUBLIC WELFARE] HUMAN

30 SERVICES CODE SHALL MAKE THE REPORT TO THE SECRETARY OF

1 [PUBLIC WELFARE] HUMAN SERVICES.

2 (B) CONTENTS OF [WRITTEN FINDINGS.--WRITTEN FINDINGS]

3 REPORT.--REPORTS OF EACH RESTRAINT OR PLACEMENT OF AN

4 INCARCERATED INDIVIDUAL OR DETAINEE IN RESTRICTIVE HOUSING AS

5 REQUIRED UNDER SUBSECTION (A) MUST INCLUDE THE FOLLOWING:

6 [(1) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION  
7 THAT THE PRISONER OR DETAINEE REPRESENTED A SUBSTANTIAL RISK  
8 OF IMMINENT FLIGHT; OR

9 (2) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION THAT  
10 OTHER EXTRAORDINARY MEDICAL OR SECURITY CIRCUMSTANCES  
11 DICTATED THE PRISONER OR DETAINEE BE RESTRAINED TO ENSURE THE  
12 SAFETY AND SECURITY OF THE PRISONER OR DETAINEE, THE STAFF OF  
13 THE CORRECTIONAL INSTITUTION OR MEDICAL FACILITY, OTHER  
14 PRISONERS OR DETAINES OR THE PUBLIC.]

15 (2.1) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION  
16 THAT:

17 (I) THE INCARCERATED INDIVIDUAL OR DETAINEE  
18 REPRESENTED A SUBSTANTIAL RISK OF IMMINENT FLIGHT; OR  
19 (II) OTHER EXTRAORDINARY MEDICAL OR SECURITY  
20 CIRCUMSTANCES DICTATED THAT THE INCARCERATED INDIVIDUAL  
21 OR DETAINEE BE RESTRAINED OR PLACED IN RESTRICTIVE  
22 HOUSING TO ENSURE THE SAFETY AND SECURITY OF THE  
23 INCARCERATED INDIVIDUAL OR DETAINEE, THE STAFF OF THE  
24 CORRECTIONAL INSTITUTION OR MEDICAL FACILITY, OTHER  
25 INCARCERATED INDIVIDUALS OR DETAINES OR THE PUBLIC.

26 (3) THE DATE AND TIME RESTRAINTS WERE APPLIED OR THE  
27 RESTRICTIVE HOUSING PLACEMENT OCCURRED AND THE LENGTH OF TIME  
28 THE INCARCERATED INDIVIDUAL OR DETAINEE WAS KEPT IN  
29 RESTRAINTS OR RESTRICTIVE HOUSING.

30 (4) THE BADGE NUMBER OR IDENTIFICATION NUMBER OF THE

1       FOLLOWING:

2           (I) THE CUSTODIAN OR STAFF MEMBER THAT APPLIED THE  
3           RESTRAINTS OR PLACED THE INDIVIDUAL INTO RESTRICTIVE  
4           HOUSING.

5           (II) ANY SUPERIOR OFFICERS APPROVING OR ADVISING THE  
6           APPLICATION OF RESTRAINTS OR PLACEMENT IN RESTRICTIVE  
7           HOUSING.

8           (5) THE NUMBER AND TYPE OF RESTRAINTS USED OR THE  
9           LOCATION AND DESCRIPTION OF THE RESTRICTIVE HOUSING.

10          (6) ANY VISIBLE INJURY OF THE INCARCERATED INDIVIDUAL OR  
11          DETAINEE RESULTING FROM PLACEMENT IN THE RESTRAINTS THAT IS  
12          DOCUMENTED BY THE CORRECTIONAL INSTITUTION.

13          (C) STAFF PRESENCE DURING LABOR.--OTHER THAN LICENSED  
14          MEDICAL PROFESSIONALS, ONLY FEMALE STAFF SHALL BE PRESENT IN THE  
15          ROOM DURING THE EXAMINATION, LABOR OR DELIVERY OF THE PREGNANT  
16          INCARCERATED INDIVIDUAL. IF MALE STAFF, OTHER THAN LICENSED  
17          MEDICAL PROFESSIONALS, REMAIN PRESENT DURING THE EXAMINATION,  
18          LABOR OR DELIVERY OF THE PREGNANT INCARCERATED INDIVIDUAL, THAT  
19          INFORMATION AND THE REASONS FOR THE PRESENCE SHALL BE REPORTED  
20          TO THE DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES, AS  
21          APPLICABLE.

22          (D) AVAILABILITY OF REPORTS.--THE NONIDENTIFYING DATA  
23          CONTAINED IN THE WRITTEN REPORTS SUBMITTED TO THE DEPARTMENT OR  
24          THE DEPARTMENT OF HUMAN SERVICES SHALL BE POSTED ON THE  
25          DEPARTMENT'S OR THE DEPARTMENT OF HUMAN SERVICES' PUBLICLY  
26          ACCESSIBLE INTERNET WEBSITE ANNUALLY. NO IDENTIFYING  
27          INFORMATION, SUCH AS NAMES OR DATES OF BIRTH, SHALL BE POSTED.

28          (E) FAILURE TO SUBMIT REPORT.--IF A CORRECTIONAL INSTITUTION  
29          FAILS TO SUBMIT A REPORT UNDER THIS SECTION WITHIN 30 DAYS AFTER  
30          THE END OF THE FISCAL YEAR, THE DEPARTMENT OR THE DEPARTMENT OF

1 HUMAN SERVICES, AS APPLICABLE, SHALL OBTAIN A CERTIFICATION, TO  
2 BE CREATED BY THE DEPARTMENT OR THE DEPARTMENT OF HUMAN  
3 SERVICES, AS APPLICABLE, FROM THE CORRECTIONAL INSTITUTION  
4 VERIFYING THAT THE INSTITUTION HAD ZERO INSTANCES OF USE OF  
5 RESTRAINTS, PLACEMENT IN RESTRICTIVE HOUSING OR MALE STAFF  
6 PRESENCE, OTHER THAN LICENSED MEDICAL PROFESSIONALS, DURING  
7 MEDICAL EXAMINATIONS OR APPOINTMENTS OF PREGNANT INCARCERATED  
8 INDIVIDUALS UNDER THE PROVISIONS OF THIS SECTION.

9 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
10 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
11 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

12 "CORRECTIONAL INSTITUTION." AS DEFINED IN SECTION 5905(E)  
13 (RELATING TO HEALTHY BIRTH FOR INCARCERATED WOMEN).  
14 "POSTPARTUM." THE EIGHT-WEEK PERIOD, OR LONGER AS DETERMINED  
15 BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE HEALTH AND  
16 SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE, FOLLOWING  
17 CHILDBIRTH.

18 "RESTRAINTS." ANY PHYSICAL OR MECHANICAL DEVICE USED TO  
19 RESTRICT OR CONTROL THE MOVEMENT OF AN INCARCERATED INDIVIDUAL'S  
20 BODY, LIMBS OR BOTH.

21 "RESTRICTIVE HOUSING." ANY TYPE OF DETENTION THAT INVOLVES  
22 REMOVAL FROM THE GENERAL INCARCERATED POPULATION FOR PURPOSES OF  
23 DISCIPLINE OR ADMINISTRATIVE PURPOSE.

24 "STAFF." AN INDIVIDUAL WHO IS EMPLOYED OR CONTRACTED BY A  
25 CORRECTIONAL INSTITUTION, THE DEPARTMENT OR THE DEPARTMENT OF  
26 HUMAN SERVICES.

27 SECTION 2. SECTIONS 1758 HEADING, (A) AND (B) AND 5905 OF  
28 TITLE 61 ARE AMENDED TO READ:

29 § 1758. COUNTY RECORDING SYSTEM FOR [APPLICATION OF RESTRAINTS  
30 TO PREGNANT PRISONERS] PREGNANT AND POSTPARTUM



1 METHOD, IF APPLICABLE, AND INDIVIDUAL, SEPARATE WRITTEN  
2 FINDINGS MUST ACCOMPANY THE FORM FOR EACH INCIDENT THAT  
3 OCCURRED.

4 (2) WRITTEN FINDINGS OF EACH INCIDENT AS REQUIRED UNDER  
5 PARAGRAPH (1) MUST INCLUDE THE FOLLOWING:

6 (I) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION  
7 THAT THE PRISONER OR DETAINEE REPRESENTED A SUBSTANTIAL  
8 RISK OF IMMINENT FLIGHT; OR  
9 (II) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION  
10 THAT OTHER EXTRAORDINARY MEDICAL OR SECURITY  
11 CIRCUMSTANCES DICTATED THE PRISONER OR DETAINEE BE  
12 RESTRAINED TO ENSURE THE SAFETY AND SECURITY OF THE  
13 PRISONER OR DETAINEE, THE STAFF OF THE CORRECTIONAL  
14 INSTITUTION OR MEDICAL FACILITY, OTHER PRISONERS OR  
15 DETAINEES OR THE PUBLIC.]

16 (3) THE REPORT FOR APPLICATION OF RESTRAINTS OR  
17 PLACEMENT IN RESTRICTED HOUSING FOR A PREGNANT OR POSTPARTUM  
18 INCARCERATED INDIVIDUAL OR DETAINEE SHALL REQUIRE THE  
19 FOLLOWING INFORMATION:

20 (I) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION  
21 THAT:

22 (A) THE INCARCERATED INDIVIDUAL OR DETAINEE  
23 REPRESENTED A SUBSTANTIAL RISK OF IMMINENT FLIGHT; OR  
24 (B) OTHER EXTRAORDINARY MEDICAL OR SECURITY  
25 CIRCUMSTANCES DICTATED THAT THE INCARCERATED  
26 INDIVIDUAL OR DETAINEE BE RESTRAINED OR PLACED IN  
27 RESTRICTIVE HOUSING TO ENSURE THE SAFETY AND SECURITY  
28 OF THE INCARCERATED INDIVIDUAL OR DETAINEE, THE STAFF  
29 OF THE CORRECTIONAL INSTITUTION OR MEDICAL FACILITY,  
30 OTHER INCARCERATED INDIVIDUALS OR DETAINEES OR THE

1                   PUBLIC.

2                   (II) THE DATE AND TIME RESTRAINTS WERE APPLIED OR  
3                   THE RESTRICTIVE HOUSING PLACEMENT OCCURRED AND THE LENGTH  
4                   OF TIME THE INCARCERATED INDIVIDUAL OR DETAINEE WAS KEPT  
5                   IN RESTRAINTS OR RESTRICTIVE HOUSING.

6                   (III) THE BADGE NUMBER OR IDENTIFICATION NUMBER OF  
7                   THE FOLLOWING:

8                   (A) THE CUSTODIAN OR STAFF MEMBER THAT APPLIED  
9                   THE RESTRAINTS OR PLACED THE INDIVIDUAL INTO  
10                   RESTRICTIVE HOUSING.

11                   (B) ANY SUPERIOR OFFICERS APPROVING OR ADVISING  
12                   THE APPLICATION OF RESTRAINTS OR PLACEMENT IN  
13                   RESTRICTIVE HOUSING.

14                   (IV) THE NUMBER AND TYPE OF RESTRAINTS USED OR THE  
15                   LOCATION AND DESCRIPTION OF THE RESTRICTIVE HOUSING.

16                   (V) ANY VISIBLE INJURY OF THE INCARCERATED  
17                   INDIVIDUAL OR DETAINEE RESULTING FROM PLACEMENT IN THE  
18                   RESTRAINTS THAT IS DOCUMENTED BY THE CORRECTIONAL  
19                   INSTITUTION.

20                   (4) THE REPORT FOR AN INVASIVE CAVITY SEARCH OF A  
21                   PREGNANT OR POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE OR  
22                   INSPECTION OF A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE IN  
23                   A STATE OF UNDRESS SHALL CONTAIN THE FOLLOWING INFORMATION:

24                   (I) THE JUSTIFICATION FOR PERFORMING A CAVITY SEARCH  
25                   OR MALE STAFF INSPECTION OF A FEMALE INCARCERATED  
26                   INDIVIDUAL OR DETAINEE IN A STATE OF UNDRESS.

27                   (II) THE IDENTIFICATION OF ANY CONTRABAND THAT WAS  
28                   FOUND ON THE INCARCERATED INDIVIDUAL OR DETAINEE.

29                   (5) THE REPORT FOR THE PRESENCE OF MALE STAFF DURING  
30                   LABOR OR DELIVERY OF THE PREGNANT INCARCERATED INDIVIDUAL OR

1       DETAINEE SHALL INCLUDE THE REASONS FOR THE PRESENCE OF MALE  
2       STAFF.

3       (6) THE NONIDENTIFYING DATA CONTAINED IN THE WRITTEN  
4       REPORTS SUBMITTED TO THE DEPARTMENT OR THE DEPARTMENT OF  
5       HUMAN SERVICES SHALL BE POSTED ANNUALLY ON THE PUBLICLY  
6       ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT OR THE  
7       DEPARTMENT OF HUMAN SERVICES. NO IDENTIFYING INFORMATION,  
8       SUCH AS NAMES OR DATES OF BIRTH, SHALL BE POSTED.

9       (7) IF A CORRECTIONAL INSTITUTION FAILS TO SUBMIT A  
10      REPORT UNDER THIS SECTION WITHIN 30 DAYS AFTER THE END OF THE  
11      FISCAL YEAR, THE DEPARTMENT OR THE DEPARTMENT OF HUMAN  
12      SERVICES, AS APPLICABLE, SHALL OBTAIN A CERTIFICATION, TO BE  
13      CREATED BY THE DEPARTMENT OR THE DEPARTMENT OF HUMAN  
14      SERVICES, AS APPLICABLE, FROM THE CORRECTIONAL INSTITUTION  
15      VERIFYING THAT THE INSTITUTION HAD ZERO INSTANCES OF USE OF  
16      RESTRAINTS, PLACEMENT IN RESTRICTIVE HOUSING OR MALE STAFF  
17      PRESENCE, OTHER THAN LICENSED MEDICAL PROFESSIONALS, DURING  
18      MEDICAL EXAMINATIONS OR APPOINTMENTS OF PREGNANT INCARCERATED  
19      INDIVIDUALS UNDER THE PROVISIONS OF THIS SECTION.

20      \* \* \*

21      § 5905. HEALTHY BIRTH FOR INCARCERATED WOMEN.

22      (A) DUTIES OF CORRECTIONAL INSTITUTION.--CONSISTENT WITH  
23      ESTABLISHED POLICY AND PRACTICE, IT SHALL BE THE DUTY AND  
24      RESPONSIBILITY OF THE CORRECTIONAL INSTITUTION TO PROVIDE  
25      ADEQUATE PERSONNEL TO MONITOR THE PREGNANT [PRISONER]  
26      INCARCERATED INDIVIDUAL OR DETAINEE DURING TRANSPORT TO AND FROM  
27      THE MEDICAL FACILITY AND DURING HER STAY AT THE MEDICAL  
28      FACILITY.

29      (B) RESTRAINT OF PREGNANT [PRISONERS] INCARCERATED  
30      INDIVIDUALS AND DETAINEES.--

(1) UNLESS PROVIDED IN PARAGRAPH (2), A CORRECTIONAL INSTITUTION SHALL NOT APPLY RESTRAINTS TO [A PRISONER] AN INCARCERATED INDIVIDUAL OR DETAINEE KNOWN TO BE PREGNANT [DURING ANY STAGE OF LABOR, ANY PREGNANCY-RELATED MEDICAL DISTRESS, ANY PERIOD OF DELIVERY,] OR DURING ANY PERIOD OF POSTPARTUM AS DEFINED IN [SUBSECTION (E) OR TRANSPORT TO A MEDICAL FACILITY AS A RESULT OF ANY OF THE PRECEDING CONDITIONS OR TRANSPORT TO A MEDICAL FACILITY AFTER THE BEGINNING OF THE SECOND TRIMESTER OF PREGNANCY.] SECTION 1104(F) (RELATING TO STATE RECORDING SYSTEM RELATING TO PREGNANT AND POSTPARTUM INCARCERATED INDIVIDUALS OR DETAINEES).

(2) PARAGRAPH (1) SHALL NOT BAR REASONABLE RESTRAINT PROVIDED THE CORRECTIONAL INSTITUTION STAFF ASSIGNED TO THE [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE MAKES AN INDIVIDUALIZED DETERMINATION THAT THE [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE PRESENTS A SUBSTANTIAL RISK OF IMMINENT FLIGHT OR SOME OTHER EXTRAORDINARY MEDICAL OR SECURITY CIRCUMSTANCE DICTATES THAT THE [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE BE RESTRAINED TO ENSURE THE SAFETY AND SECURITY OF THE [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE, THE STAFF OF THE CORRECTIONAL INSTITUTION OR MEDICAL FACILITY, OTHER [PRISONERS] INCARCERATED INDIVIDUALS OR DETAINEES OR THE PUBLIC. THE ASSIGNED CORRECTIONAL INSTITUTION STAFF SHALL REPORT THE INCIDENT TO THE CORRECTIONAL INSTITUTION IN A REASONABLE AMOUNT OF TIME AFTER THE RESTRAINT OCCURS. [IF THE ASSIGNED CORRECTIONAL INSTITUTION STAFF IS NOT EMPLOYED BY THE CORRECTIONAL INSTITUTION, THEN THE ASSIGNED CORRECTIONAL INSTITUTION STAFF] ANY USE OF RESTRAINTS ON A PREGNANT OR

1 POSTPARTUM INCARCERATED INDIVIDUAL BY AN INDIVIDUAL OR ENTITY  
2 THAT IS NOT EMPLOYED BY THE CORRECTIONAL INSTITUTION BUT IS  
3 TRANSPORTING THE PREGNANT OR POSTPARTUM INCARCERATED  
4 INDIVIDUAL ON BEHALF OF THE CORRECTIONAL INSTITUTION SHALL  
5 REPORT THE RESTRAINT TO THE CORRECTIONAL INSTITUTION IN A  
6 REASONABLE AMOUNT OF TIME AFTER THE INCIDENT OCCURS. THE  
7 REPORTING REQUIREMENT SHALL NOT APPLY TO ANY LAW ENFORCEMENT  
8 AGENCY UNLESS IT IS TRANSPORTING PREGNANT OR POSTPARTUM  
9 INCARCERATED INDIVIDUALS ON BEHALF OF THE CORRECTIONAL  
10 INSTITUTION.

11 (3) IF RESTRAINT IS APPLIED UNDER PARAGRAPH (2), AT NO  
12 TIME SHALL THE [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE  
13 BE LEFT UNATTENDED BY A CORRECTIONAL INSTITUTION STAFF WITH  
14 THE ABILITY TO RELEASE THE RESTRAINT SHOULD A RELEASE BECOME  
15 MEDICALLY NECESSARY.

16 (4) WHEN A RESTRAINT IS PERMITTED UNDER THIS SECTION, A  
17 CORRECTIONAL INSTITUTION SHALL USE THE LEAST RESTRICTIVE  
18 RESTRAINT NECESSARY WHEN THE FACILITY HAS ACTUAL OR  
19 CONSTRUCTIVE KNOWLEDGE THAT [A PRISONER] AN INCARCERATED  
20 INDIVIDUAL OR DETAINEE IS IN THE SECOND OR THIRD TRIMESTER OF  
21 PREGNANCY.

22 (C) RESTRAINTS.--THE FOLLOWING SHALL APPLY TO [A PRISONER]  
23 AN INCARCERATED INDIVIDUAL OR DETAINEE WHO HAS BEEN RESTRAINED  
24 UNDER THIS SUBSECTION:

25 (1) THE CORRECTIONAL INSTITUTION STAFF ACCOMPANYING THE  
26 [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE SHALL  
27 IMMEDIATELY REMOVE ALL RESTRAINTS UPON REQUEST OF A DOCTOR,  
28 NURSE OR OTHER HEALTH CARE PROFESSIONAL.

29 (2) LEG OR WAIST RESTRAINTS SHALL NOT BE USED ON ANY  
30 [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE WHO IS IN

1 LABOR.

2 (3) THE TYPE OF RESTRAINT APPLIED AND THE APPLICATION OF  
3 THE RESTRAINT SHALL BE DONE IN THE LEAST RESTRICTIVE MANNER  
4 POSSIBLE.

5 [(D) ANNUAL REPORT.--NO LATER THAN AUGUST 1 OF EACH YEAR,  
6 THE SECRETARY AND THE SECRETARY OF PUBLIC WELFARE SHALL EACH  
7 SUBMIT TO THE GOVERNOR'S OFFICE A WRITTEN REPORT CONTAINING  
8 INFORMATION REGARDING THE USE OF RESTRAINTS ON ANY PREGNANT  
9 PRISONER OR DETAINEE DURING THE PRECEDING FISCAL YEAR  
10 SPECIFICALLY IDENTIFYING AND ENUMERATING THE CIRCUMSTANCES THAT  
11 LED TO THE DETERMINATION THAT THE PRISONER OR DETAINEE FELL  
12 UNDER THE EXCEPTION IN SUBSECTION (B) (2). THE SECRETARY SHALL  
13 REPORT ON PREGNANT PRISONERS OR DETAINEES IN THE CUSTODY OF  
14 CORRECTIONAL INSTITUTIONS OPERATED, SUPERVISED OR LICENSED BY  
15 THE DEPARTMENT. THE SECRETARY OF PUBLIC WELFARE SHALL REPORT ON  
16 PREGNANT PRISONERS OR DETAINEES IN THE CUSTODY OF CORRECTIONAL  
17 INSTITUTIONS OPERATED, SUPERVISED OR LICENSED BY THE DEPARTMENT  
18 OF PUBLIC WELFARE PURSUANT TO THE ACT OF JUNE 13, 1967 (P.L.31,  
19 NO.21), KNOWN AS THE PUBLIC WELFARE CODE. THE REPORTS SHALL NOT  
20 CONTAIN ANY IDENTIFYING INFORMATION OF ANY PRISONER OR DETAINEE.  
21 THE REPORTS SHALL BE POSTED ON THE GOVERNOR'S INTERNET WEBSITE  
22 AND SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES  
23 OF THE DEPARTMENT AND THE DEPARTMENT OF PUBLIC WELFARE,  
24 RESPECTIVELY.]

25 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
27 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

28 "CORRECTIONAL INSTITUTION." ANY ENTITY UNDER THE AUTHORITY  
29 OF THE STATE OR ANY COUNTY OR MUNICIPALITY THAT HAS THE POWER TO  
30 DETAIN AND RESTRAIN A PERSON UNDER THE LAWS OF THIS

1 COMMONWEALTH.

2 "DETAINEE." INCLUDES ANY PERSON DETAINED UNDER THE  
3 IMMIGRATION LAWS OF THE UNITED STATES AT ANY CORRECTIONAL  
4 FACILITY.

5 "INCARCERATED INDIVIDUAL." AN INDIVIDUAL INCARCERATED OR  
6 DETAINED IN A CORRECTIONAL INSTITUTION WHO IS ACCUSED OF,  
7 CONVICTED OF, SENTENCED FOR OR ADJUDICATED DELINQUENT FOR  
8 VIOLATIONS OF CRIMINAL LAW OR THE TERMS AND CONDITIONS OF  
9 PAROLE, PROBATION, PRETRIAL RELEASE OR A DIVERSIONARY PROGRAM.

10 ["LABOR." THE PERIOD OF TIME BEFORE A BIRTH DURING WHICH  
11 CONTRACTIONS ARE OF SUFFICIENT FREQUENCY, INTENSITY AND DURATION  
12 TO BRING ABOUT EFFACEMENT AND PROGRESSIVE DILATATION OF THE  
13 CERVIX. THE DETERMINATION OF WHEN LABOR HAS COMMENCED SHALL REST  
14 SOLELY WITH THE MEDICAL PROVIDERS OF THE PRISONER OR DETAINEE.

15 "POSTPARTUM." THE PERIOD FOLLOWING DELIVERY BEFORE A  
16 PRISONER OR DETAINEE HAS BEEN DISCHARGED FROM A MEDICAL  
17 FACILITY.

18 "PRISONER." ANY PERSON INCARCERATED OR DETAINED IN ANY  
19 CORRECTIONAL INSTITUTION WHO IS ACCUSED OF, CONVICTED OF,  
20 SENTENCED FOR OR ADJUDICATED DELINQUENT FOR VIOLATIONS OF  
21 CRIMINAL LAW OR THE TERMS AND CONDITIONS OF PAROLE, PROBATION,  
22 PRETRIAL RELEASE OR A DIVERSIONARY PROGRAM.]

23 "RESTRAINT." ANY PHYSICAL HOLD OR MECHANICAL DEVICE USED TO  
24 CONTROL THE MOVEMENT OF [A PRISONER'S] AN INCARCERATED  
25 INDIVIDUAL'S OR DETAINEE'S BODY [AND] OR LIMBS [, INCLUDING, BUT  
26 NOT LIMITED TO, SHACKLES, FLEX CUFFS, SOFT RESTRAINTS, HARD  
27 METAL HANDCUFFS, A BLACK BOX, CHUBB CUFFS, LEG IRONS, BELLY  
28 CHAINS, A SECURITY (TETHER) CHAIN OR A CONVEX SHIELD] OR BOTH.

29 SECTION 3. TITLE 61 IS AMENDED BY ADDING SECTIONS TO READ:  
30 § 5905.1. RESTRICTIVE HOUSING PROHIBITED FOR PREGNANT OR

1                   POSTPARTUM INCARCERATED INDIVIDUALS AND DETAINEES.

2                   (A) RESTRICTIVE HOUSING PROHIBITED.--EXCEPT AS PROVIDED

3                   UNDER SUBSECTION (C), A PREGNANT OR POSTPARTUM INCARCERATED

4                   INDIVIDUAL OR DETAINEE MAY NOT BE INVOLUNTARILY PLACED IN

5                   RESTRICTIVE HOUSING IN ANY CORRECTIONAL INSTITUTION IN THIS

6                   COMMONWEALTH.

7                   (B) ALTERNATIVE DISCIPLINE.--FORMS OF DISCIPLINE FOR

8                   PREGNANT AND POSTPARTUM INCARCERATED INDIVIDUALS OR DETAINEES

9                   SHALL BE LIMITED TO SANCTIONS, INCLUDING RESTRICTIONS ON

10                   TELEPHONE USAGE OR VISITATION OR OTHER COMMON FORMS OF

11                   ALTERNATIVE DISCIPLINE USED IN THE UNITED STATES.

12                   (C) EXCEPTIONS.--A PREGNANT OR POSTPARTUM INCARCERATED

13                   INDIVIDUAL OR DETAINEE MAY BE PLACED IN RESTRICTIVE HOUSING ONLY

14                   AS A TEMPORARY RESPONSE TO BEHAVIOR THAT POSES A SERIOUS AND

15                   IMMEDIATE RISK OF PHYSICAL HARM TO THE PREGNANT OR POSTPARTUM

16                   INCARCERATED INDIVIDUAL OR DETAINEE, ANOTHER INCARCERATED

17                   INDIVIDUAL OR DETAINEE, THE UNBORN CHILD OF THE PREGNANT

18                   INCARCERATED INDIVIDUAL OR DETAINEE OR STAFF. THE FOLLOWING

19                   SHALL APPLY:

20                   (1) THE DECISION TO PLACE A PREGNANT OR POSTPARTUM

21                   INCARCERATED INDIVIDUAL OR DETAINEE IN RESTRICTIVE HOUSING

22                   UNDER THIS SUBSECTION MUST BE APPROVED BY THE CHIEF

23                   ADMINISTRATOR.

24                   (2) THE RATIONALE FOR THE DECISION UNDER THIS SUBSECTION

25                   MUST BE DOCUMENTED AS REQUIRED BY SECTION 1104 (RELATING TO

26                   STATE RECORDING SYSTEM RELATING TO PREGNANT AND POSTPARTUM

27                   INCARCERATED INDIVIDUALS OR DETAINEES).

28                   (3) NO PERIOD OF RESTRICTIVE HOUSING SHALL EXCEED SEVEN

29                   DAYS WITHOUT ADDITIONAL APPROVAL AND DOCUMENTED RATIONALE, AS

30                   REQUIRED BY SECTION 1104, OF THE CHIEF ADMINISTRATOR. THERE

1       SHALL BE A MINIMUM OF SEVEN DAYS BETWEEN EACH RESTRICTIVE  
2       PLACEMENT ABSENT EXTRAORDINARY CIRCUMSTANCES.

3       (D) BED ASSIGNMENTS.--THE CORRECTIONAL INSTITUTION MAY NOT  
4       ASSIGN A PREGNANT INCARCERATED INDIVIDUAL OR DETAINEE TO ANY BED  
5       THAT IS ELEVATED MORE THAN THREE FEET FROM THE FLOOR OF THE  
6       FACILITY.

7       (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM  
8       "POSTPARTUM" MEANS THE EIGHT-WEEK PERIOD, OR LONGER AS  
9       DETERMINED BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE  
10       HEALTH AND SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE,  
11       FOLLOWING CHILDBIRTH.

12       § 5908. CAVITY SEARCH AND INSPECTION RESTRICTIONS.

13       (A) CAVITY SEARCH AND INSPECTION RESTRICTIONS.--TO THE  
14       GREATEST EXTENT POSSIBLE:

15       (1) NO STAFF OTHER THAN A LICENSED HEALTH CARE  
16       PROFESSIONAL SHALL CONDUCT AN INVASIVE BODY CAVITY SEARCH OF  
17       A PREGNANT OR POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE.

18       (2) A CORRECTIONAL INSTITUTION SHALL LIMIT SEARCHES BY  
19       MALE STAFF, OTHER THAN MEDICALLY LICENSED PROFESSIONAL MALE  
20       STAFF, IF A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE IS IN  
21       A STATE OF UNDRESS.

22       (B) DOCUMENTATION REQUIREMENT.--IF STAFF IS REQUIRED TO  
23       PERFORM AN INVASIVE CAVITY SEARCH ON A PREGNANT OR POSTPARTUM  
24       INCARCERATED INDIVIDUAL OR DETAINEE, OR MALE STAFF, OTHER THAN  
25       MEDICALLY LICENSED PROFESSIONAL MALE STAFF, IS REQUIRED TO  
26       CONDUCT A SEARCH ON A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE  
27       IN A STATE OF UNDRESS, A WRITTEN REPORT SHALL BE SUBMITTED TO  
28       THE CORRECTIONAL INSTITUTION WITHIN 72 HOURS FOLLOWING THE  
29       CAVITY SEARCH OR INSPECTION. THE REPORT UNDER THIS SUBSECTION  
30       SHALL:

1                   (1) INCLUDE THE JUSTIFICATION FOR PERFORMING THE CAVITY  
2                   SEARCH OR MALE STAFF INSPECTION AS REQUIRED IN THIS  
3                   SUBSECTION;

4                   (2) DOCUMENT AND IDENTIFY ANY CONTRABAND THAT WAS FOUND  
5                   ON THE INCARCERATED INDIVIDUAL OR DETAINEE; AND

6                   (3) BE SENT TO THE DEPARTMENT OR THE DEPARTMENT OF HUMAN  
7                   SERVICES, AS APPLICABLE.

8                   (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
9                   WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
10                   SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

11                   "BODY CAVITY SEARCH." AN INVASIVE SEARCH OF INCARCERATED  
12                   INDIVIDUALS OR DETAINEES, CONDUCTED BY STAFF IN SEARCH OF  
13                   CONTRABAND, EXCLUDING THE NOSE, EARS AND MOUTH.

14                   "STAFF." AN INDIVIDUAL, INCLUDING CONTRACTED STAFF, WHO IS  
15                   EMPLOYED BY A CORRECTIONAL INSTITUTION, THE DEPARTMENT OR THE  
16                   DEPARTMENT OF HUMAN SERVICES, EXCLUDING ANY LICENSED MEDICAL  
17                   PROFESSIONAL.

18                   "STATE OF UNDRESS." A STATE WHERE AN INCARCERATED OR  
19                   DETAINED FEMALE IS PARTIALLY OR FULLY NAKED, EITHER IN THE  
20                   SHOWER, TOILET AREAS, A MEDICAL EXAMINATION ROOM OR WHILE A BODY  
21                   CAVITY SEARCH IS BEING CONDUCTED.

22                   § 5909. TRAINING AND EDUCATION REQUIREMENT.

23                   (A) CORRECTIONAL INSTITUTION STAFF TRAINING.--THE DEPARTMENT  
24                   AND THE DEPARTMENT OF HUMAN SERVICES SHALL JOINTLY DEVELOP AND  
25                   PROVIDE CORRECTIONAL INSTITUTIONS WITH A TRAINING PROGRAM FOR  
26                   STAFF WHO HAVE CONTACT WITH A PREGNANT, LABORING OR POSTPARTUM  
27                   INCARCERATED INDIVIDUAL OR DETAINEE. THE TRAINING PROGRAM SHALL  
28                   BE RELATED TO THE PHYSICAL AND MENTAL HEALTH OF THE PREGNANT OR  
29                   POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE AND UNBORN CHILD,  
30                   INCLUDING:



(1) MEDICAL SCREENINGS RELATED TO FEMALE REPRODUCTIVE AND OVERALL HEALTH, INCLUDING PREVENTIVE SCREENINGS.

(2) PRENATAL CARE.

(3) PREGNANCY-SPECIFIC HYGIENE.

(4) THE IMPACT OF ALCOHOL AND DRUGS ON THE UNBORN CHILD.

(5) GENERAL HEALTH OF THE CHILD.

(6) ANY OTHER PERTINENT INFORMATION THE DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES FINDS APPROPRIATE OR NECESSARY.

(D) TRAUMA-INFORMED CARE.--THE FOLLOWING SHALL APPLY:

(1) THE CHIEF ADMINISTRATOR SHALL, AS THE CHIEF ADMINISTRATOR DEEMS NECESSARY, ENSURE THAT THE CORRECTIONAL INSTITUTION PROVIDES TO INCARCERATED INDIVIDUALS AND DETAINERS QUALITY TRAUMA-INFORMED CARE.

(2) TRAUMA-INFORMED CARE FOR AN INDIVIDUAL SHALL BEGIN IMMEDIATELY UPON THE INDIVIDUAL'S INTAKE AND ASSESSMENT AT A CORRECTIONAL INSTITUTION.

(3) CORRECTIONAL STAFF SHALL RECEIVE PROFESSIONAL TRAINING, APPROVED BY THE DEPARTMENT OF HUMAN SERVICES, RELATED TO TRAUMA-INFORMED CARE, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) TRAINING TO IDENTIFY INDIVIDUALS WITH TRAUMA.

(II) TRAINING ON HOW AND WHEN TO REFER INDIVIDUALS TO THE PROPER HEALTH CARE PROFESSIONALS, INCLUDING, BUT NOT LIMITED TO, PREVENTIVE HEALTH CARE AND MENTAL HEALTH CARE.

(III) TRAINING ON HOW TO INTERACT WITH AND EMPOWER INCARCERATED INDIVIDUALS WHO HAVE EXPERIENCED TRAUMA.

29 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING

30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:  
2 "POSTPARTUM." THE EIGHT-WEEK PERIOD, OR LONGER AS DETERMINED  
3 BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE HEALTH AND  
4 SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE, FOLLOWING  
5 CHILDBIRTH.

6 "TRAUMA-INFORMED CARE." AN ORGANIZATIONAL STRUCTURE AND  
7 TREATMENT FRAMEWORK THAT INVOLVES RECOGNIZING, UNDERSTANDING AND  
8 RESPONDING TO THE EFFECTS OF TRAUMA.

9 § 5910. FAMILY CONSIDERATION IN PLACEMENT AND VISITATION.

10 (A) VISITATION.--THE DEPARTMENT AND THE DEPARTMENT OF HUMAN  
11 SERVICES SHALL MAKE EFFORTS TO AUTHORIZE VISITATION BY A MINOR  
12 DEPENDENT CHILD, WITH THE MINIMUM FOLLOWING REQUIREMENTS:

13 (1) ONE VISIT PER INMATE PER WEEK WILL BE PERMITTED.

14 ADDITIONAL VISITS MAY BE PERMITTED.

15 (2) A MINOR DEPENDENT CHILD UNDER 18 YEARS OF AGE MAY BE  
16 ABLE TO VISIT THE MINOR DEPENDENT CHILD'S PARENT AT LEAST ONE  
17 DAY PER WEEK SUBJECT TO DEPARTMENT POLICY AND FACILITY SPACE,  
18 STAFFING AND ADMINISTRATIVE CAPACITY. THE DEPARTMENT SHALL  
19 MAKE EFFORTS TO PROVIDE THE VISITATION IN PERSON, BUT THE  
20 VISITATION MAY BE PERMITTED THROUGH VIRTUAL MEANS, SUBJECT TO  
21 DEPARTMENT POLICY AND FACILITY SPACE, STAFFING AND  
22 ADMINISTRATIVE CAPACITY.

23 (B) EXCEPTIONS.--VISITATION PRIVILEGES SHALL NOT BE  
24 AUTHORIZED UNDER SUBSECTION (A):

25 (1) FOR PARENTS WHO HAVE BEEN DEEMED UNSAFE OR  
26 INELIGIBLE FOR VISITATION THROUGH THE DEPARTMENT OR THE  
27 DEPARTMENT OF HUMAN SERVICES UNTIL DEEMED SAFE OR ELIGIBLE  
28 FOR VISITATION BY THE DEPARTMENT OR THE DEPARTMENT OF HUMAN  
29 SERVICES.

30 (2) IN INSTANCES WHERE THE MINOR DEPENDENT CHILD WAS THE

1       VICTIM OF A CRIMINAL OFFENSE UNDER 18 P.A.C.S. (RELATING TO  
2       CRIMES AND OFFENSES) RESULTING IN THE INCARCERATION OR  
3       DETENTION OF THE PARENT.

4       (3) IF THE PARENT VOLUNTARILY ENROLLED IN A DETENTION  
5       PROGRAM WHICH PROHIBITS VISITATION.

6       § 5911. FEMININE HYGIENE AND INCONTINENCE PRODUCTS.

7       (A) ISSUANCE OF FEMININE HYGIENE PRODUCTS RELATED TO  
8       MENSTRUATION.--A SUPPLY OF FEMININE HYGIENE PRODUCTS SHALL BE  
9       PROVIDED TO ALL INCARCERATED INDIVIDUALS AND DETAINEES WHO ARE  
10       MENSTRUATING IN A CORRECTIONAL INSTITUTION EACH MONTH AT NO COST  
11       TO THE INCARCERATED INDIVIDUALS AND DETAINEES, REGARDLESS OF  
12       FINANCIAL MEANS. INCARCERATED INDIVIDUALS AND DETAINEES SHALL  
13       NOT BE REQUIRED TO SHOW PROOF OF NEED OR TO UNDERGO A MEDICAL  
14       EXAMINATION OR OBTAIN A MEDICAL PERMIT, AUTHORIZATION OR  
15       DIAGNOSIS TO RECEIVE THE PRODUCTS UNDER SUBSECTION (B).

16       (B) FEMININE HYGIENE PRODUCTS PROVIDED.--A CHOICE OF AT  
17       LEAST TWO SIZES OR ABSORBENCIES OF SANITARY PADS SHALL BE  
18       DISTRIBUTED TO ALL INCARCERATED INDIVIDUALS AND DETAINEES WHO  
19       ARE MENSTRUATING IN A CORRECTIONAL INSTITUTION OR IF REQUESTED  
20       FROM MEDICAL STAFF.

21       (C) FEMININE HYGIENE PRODUCTS TO BE REQUESTED.--A CHOICE OF  
22       AT LEAST TWO SIZES OF TAMPONS SHALL BE DISTRIBUTED TO  
23       INCARCERATED INDIVIDUALS AND DETAINEES WHO REQUEST A TAMPON FROM  
24       MEDICAL STAFF.

25       (D) ISSUANCE OF FEMININE HYGIENE PRODUCTS RELATED TO BLADDER  
26       CONTROL AND INCONTINENCE.--A SUPPLY OF PRODUCTS FOR BLADDER  
27       CONTROL AND INCONTINENCE SHALL BE PROVIDED TO INCARCERATED  
28       INDIVIDUALS AND DETAINEES, INCLUDING GERIATRIC INCARCERATED  
29       INDIVIDUALS AND POSTPARTUM INCARCERATED INDIVIDUALS, WHO REQUIRE  
30       SUCH PRODUCTS EACH MONTH AT NO COST TO INCARCERATED INDIVIDUALS

1 AND DETAINEES, REGARDLESS OF FINANCIAL MEANS.

2 (E) BLADDER CONTROL AND INCONTINENCE PRODUCTS

3 DISTRIBUTION.--ADULT DIAPERS OR PROTECTIVE UNDERGARMENTS SHALL

4 BE DISTRIBUTED TO INCARCERATED INDIVIDUALS WHO REQUIRE THEM.

5 (F) RULES AND REGULATIONS.--THE CORRECTIONAL INSTITUTION

6 SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT AND ENFORCE THE

7 PROVISIONS OF THIS SECTION.

8 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "FEMININE

9 HYGIENE PRODUCTS" MEANS PRODUCTS THAT WOMEN USE DURING

10 MENSTRUATION. THE TERM INCLUDES TAMPONS AND SANITARY NAPKINS.

11 § 5912. POSTPARTUM RECOVERY.

12 (A) RESTRAINTS DURING POSTPARTUM RECOVERY.--NO RESTRAINTS

13 SHALL BE USED ON ANY INCARCERATED INDIVIDUAL OR DETAINEE WHO HAS

14 GIVEN BIRTH WITHIN THE LAST 30 DAYS AND IS IN POSTPARTUM

15 RECOVERY, UNLESS THE DEPARTMENT OR THE DEPARTMENT OF HUMAN

16 SERVICES, AS APPLICABLE, HAS A REASONABLE BELIEF THAT THE

17 INCARCERATED INDIVIDUAL OR DETAINEE WILL HARM THEMSELVES, THEIR

18 NEWBORN OR ANOTHER INDIVIDUAL OR POSE A SUBSTANTIAL RISK OF

19 IMMINENT FLIGHT. IF RESTRAINTS ARE USED, THE FACILITY EMPLOYEE

20 ORDERING THE USE OF RESTRAINTS ON AN INCARCERATED INDIVIDUAL OR

21 DETAINEE WHILE IN POSTPARTUM RECOVERY SHALL SUBMIT A WRITTEN

22 REPORT TO THE CHIEF ADMINISTRATOR OF THE FACILITY WITHIN 72

23 HOURS FOLLOWING THE USE OF THE RESTRAINTS, CONTAINING THE

24 JUSTIFICATION FOR RESTRAINING THE INCARCERATED INDIVIDUAL OR

25 DETAINEE DURING POSTPARTUM RECOVERY. THE REPORT SHALL ALSO BE

26 SENT TO THE DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES, AS

27 APPLICABLE.

28 (B) POSTDELIVERY BONDING PERIOD.--FOLLOWING THE DELIVERY OF

29 A NEWBORN AND SUBJECT TO HOSPITAL POLICIES, INCLUDING, BUT NOT

30 LIMITED TO, LENGTH OF STAY, THE DEPARTMENT OR THE DEPARTMENT OF

1 HUMAN SERVICES SHALL PERMIT THE CHILD TO REMAIN WITH THE MOTHER  
2 AT THE HOSPITAL FOR UP TO 72 HOURS UNLESS THERE IS A REASONABLE  
3 BELIEF THAT THE CHILD REMAINING WITH THE MOTHER PRESENTS A  
4 HEALTH OR SAFETY RISK TO THE CHILD.

5 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
6 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
7 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

8 "LICENSED MEDICAL PROFESSIONAL." AN INDIVIDUAL LICENSED TO  
9 PRACTICE MEDICINE IN THIS COMMONWEALTH, AS WELL AS A NURSE  
10 PRACTITIONER, PHYSICIAN ASSISTANT OR NURSE.

11 "POSTPARTUM RECOVERY." THE EIGHT-WEEK PERIOD, OR LONGER AS  
12 DETERMINED BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE  
13 HEALTH AND SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE,  
14 FOLLOWING CHILDBIRTH.

15 "SUBSTANTIAL RISK OF IMMINENT FLIGHT." A SHOWING OF REAL AND  
16 CONSIDERABLE RISK OF ESCAPING BY THE INCARCERATED INDIVIDUAL  
17 WITH THE INTENT TO AVOID CONTINUED INCARCERATION. AN  
18 INDIVIDUAL'S HISTORY OF ESCAPE ATTEMPTS AND FLIGHT TO AVOID  
19 CONTINUED INCARCERATION MAY BE RELEVANT TO THE DETERMINATION,  
20 BUT HISTORY ALONE CANNOT MEET THE REQUIREMENT.

21 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.