

2011 -- H 5257

LC00727

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT

Introduced By: Representatives Walsh, Ruggiero, Tanzi, Ajello, and Costa

Date Introduced: February 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 56.3

4 THE HEALTHY PREGNANCIES FOR INCARCERATED WOMEN ACT

5 42-56.3-1. Title. -- This chapter shall be known and may be cited as "The Healthy  
6 Pregnancies for Incarcerated Women Act."

7 42-56.3-2. Findings. -- (a) Restraining a pregnant woman can pose undue health risks to  
8 the woman and her pregnancy.

9 (b) The vast majority of female prisoners or detainees in Rhode Island are non-violent  
10 offenders.

11 (c) Restraining pregnant prisoners and detainees increases the potential for physical harm  
12 from an accidental trip or fall.

13 (d) Freedom from physical restraints is especially critical during labor, delivery, and  
14 postpartum recovery after delivery. Women often need to move around during labor and  
15 recovery, and restraints can further interfere with medical staff's ability to appropriately assist in  
16 childbirth or to conduct emergency procedures.

17 (e) Public health organizations have expressed opposition to shackling pregnant women  
18 because of the dangers posed to a woman's health and well-being.

19 42-56.3-3. Restraint of prisoners and detainees. -- (a) Whenever the department of

1 corrections has actual or constructive knowledge that a prisoner or detainee is in the second or  
2 third trimester of pregnancy, any restraints used on the pregnant prisoner or detainee shall not be  
3 deemed medically appropriate.

4 (b) No handcuffs, shackles or other restraints shall be used on a prisoner or detainee  
5 known to be pregnant during transport to a medical facility, labor, delivery, or postpartum  
6 recovery, unless there are compelling grounds to believe that the prisoner or detainee presents:

7 (1) An immediate and serious threat of physical harm to herself, staff or others; or

8 (2) A substantial flight risk and cannot be reasonably contained by other means.

9 (c) Notwithstanding the provisions of subsection (b):

10 (1) If the doctor, nurse or other health professional treating the prisoner or detainee  
11 requests that restraints not be used, any correctional officer accompanying the prisoner or  
12 detainee shall immediately remove all restraints; and

13 (2) Under no circumstances shall leg or waist restraints be used on any prisoner or  
14 detainee who is in labor or delivery, or during postpartum recovery.

15 (d) If restraints are used on a prisoner or detainee pursuant to subsection (a) or (b), the  
16 type of restraint applied and the application of the restraint shall be done in the least restrictive  
17 manner necessary; and

18 (e) If restraints are used on a prisoner or detainee pursuant to subsection (b), the  
19 correctional officer shall submit to the department within five (5) days written findings  
20 articulating the grounds that dictated the use of the restraints. These findings shall be kept on file  
21 and be made available for public inspection, except that no individually identifying information  
22 of any prisoner or detainee shall be made public without the prisoner or detainee's written  
23 consent.

24 **42-56.3-4. Enforcement.** – In addition to any other rights and remedies afforded by law,  
25 any woman who has been restrained in violation of this chapter may file a civil action for  
26 damages and any appropriate and equitable relief in Superior Court. The court may also award a  
27 prevailing plaintiff reasonable attorneys' fees and costs.

28 **42-56.3-5. Regulations and notice to prisoners and detainees.** – (a) The department  
29 shall promulgate rules and regulations in accordance with chapter 35 of title 42 to implement this  
30 chapter.

31 (b) All prisoners and detainees potentially affected by this chapter shall be advised of the  
32 requirements of this chapter and the rules promulgated pursuant to subsection (a) upon admission  
33 to the correctional institution and when known to be pregnant.

34 **42-56.3-6. Training school for youth.** – The provisions of this chapter shall also apply

1 [to the training school for youth.](#)

2 **42-56.3-7. Postpartum recovery defined.** – [For purposes of this chapter, “postpartum](#)  
3 [recovery” means, as determined by her physician, the period immediately following delivery,](#)  
4 [including the entire period a woman is in the hospital or infirmary after birth.](#)

5 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would create the Healthy Pregnancies for Incarcerated Women Act in order to  
2 provide restrictions on the physical restraint of pregnant prisoners.

3           This act would take effect upon passage.

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