

HOUSE BILL 1240

By Camper

AN ACT to amend Tennessee Code Annotated, Title 39;  
Title 40; Title 41 and Title 68, relative to pregnant  
inmates.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 41, Chapter 21, Part 2, is amended by adding the following language as a new section:

(a) A penal institution, correctional facility, detention center, and county jail shall use the least restrictive restraints necessary on a pregnant inmate when the facility has actual or constructive knowledge that the inmate is pregnant. Unless otherwise directed by the physician in charge, the presumption is that no restraints of any kind will be used:

- (1) When transporting an inmate who is in active labor;
- (2) During any stage of active labor;
- (3) While the inmate is in any stage of active delivery; or

(4) While the inmate is recuperating from the delivery of a baby, unless there are compelling grounds to believe that the inmate presents an immediate threat to self, staff, or others, or that the inmate is a substantial flight risk and cannot be reasonably contained by other means.

(b) Prior to an inmate going into labor, only the least restrictive restraints may be used on the inmate to ensure the safety of the inmate, staff, or others, and the least restrictive restraints must be used in a way that mitigates the risk of adverse clinical consequences to the inmate. Consultation with medical staff is required prior to the application of restraints on a pregnant inmate. The warden of a penal institution, director of a correctional facility, director of a detention center, or sheriff of a county jail shall provide written approval prior to the application of restraints on a pregnant inmate unless

there are compelling grounds to believe that the inmate presents an immediate and serious threat of harm to self, staff, or others, or that the inmate is a substantial flight risk and cannot be reasonably contained by other means. In general, the least restrictive restraint necessary is a frontal wrist restraint which, if used, must be applied in such a manner that the pregnant inmate is able to protect the fetus and self in the event of a forward fall. A penal institution, correctional facility, detention center, and county jail shall make correctional officers available to remove restraints upon request from medical personnel. The following restraints and control techniques are prohibited:

(1) Abdominal restraints;

(2) Four-point restraints or placing the pregnant inmate in a facedown position;

(3) Leg and ankle restraints that may increase the risk of forward falls; and

(4) Any kind of chain restraints where the inmate is linked to another inmate.

(c) Correctional staff shall not be present in the delivery room during the birth of a baby unless requested by the medical staff supervising the delivery.

SECTION 2. Tennessee Code Annotated, Section 41-21-204(c), is amended by inserting the following as a new subdivision (2) and by redesignating the subsequent subdivision accordingly:

(2) The physician shall provide pregnant inmates with regular prenatal and postpartum medical care, including the prescription of appropriate nutritional supplements as necessary.

SECTION 3. Tennessee Code Annotated, Title 41, Chapter 21, Part 2, is amended by adding the following language as a new section:

(a) A penal institution, correctional facility, detention center, and county jail shall provide a pregnant inmate with nutritionally appropriate meals.

(b) In order to allow lactating inmates to express milk for the purpose of maintaining breast milk supply, a penal institution, correctional facility, detention center, and county jail shall provide postpartum inmates access to breast pumps at regular intervals for a period of six (6) months from giving birth. The department of health shall provide breast pumps to pregnant inmates free of charge.

(c) A penal institution, correctional facility, detention center, and county jail shall:

(1) Provide sanitary storage for an inmate's breast milk, if the inmate desires the milk to be stored; and

(2) Allow for visits to enable breastfeeding of the inmate's child or allow for the timely collection of the breast milk expressed by the inmate for the child by the inmate's family, relatives, or other designated individuals.

SECTION 4. Tennessee Code Annotated, Section 41-21-402, is amended by adding the following new subsection:

(c) Solitary confinement is prohibited for pregnant inmates and inmates who have given birth within the past eight (8) weeks regardless of whether the purpose of confinement is for punishment or safekeeping.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.