



Senate

General Assembly

File No. 603

February Session, 2018

Substitute Senate Bill No. 13

Senate, April 19, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING FAIR TREATMENT OF INCARCERATED WOMEN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) The Commissioner of
2 Correction shall ensure that at least one departmental or contracted,
3 licensed health care provider who is employed at the York
4 Correctional Institution (1) has been trained in prenatal and
5 postpartum medical care, and (2) has knowledge of and the ability to
6 educate any inmate who is pregnant concerning prenatal nutrition,
7 high-risk pregnancy and addiction and substance abuse during
8 pregnancy and childbirth.

9 (b) Upon admission to the York Correctional Institution, while
10 awaiting trial or after sentencing, each inmate shall be assessed for
11 pregnancy by a licensed health care provider. The licensed health care
12 provider shall inform the inmate of any necessary medical tests
13 associated with the pregnancy assessment prior to the administration

14 of such tests.

15 (c) The York Correctional Institution shall provide each inmate who
16 is pregnant with: (1) Counseling and written material, in a form that
17 may be reasonably understood, concerning (A) the inmate's options
18 with regard to her pregnancy, (B) prenatal nutrition, (C) maintaining a
19 healthy pregnancy, (D) labor and delivery, (E) the postpartum period,
20 and (F) the institution's policies and practices regarding the care of an
21 inmate who is pregnant throughout her pregnancy, during labor and
22 delivery and during the postpartum period, (2) medical care at the
23 correctional facility, which shall include, but not be limited to: (A)
24 Periodic health monitoring and evaluation during pregnancy, and (B)
25 prenatal vitamins or supplements, as deemed necessary by a licensed
26 health care provider, (3) a diet containing the nutrients necessary to
27 maintain a healthy pregnancy, as determined by a licensed health care
28 provider trained in prenatal care, (4) the clothing, undergarments and
29 sanitary materials deemed appropriate by a licensed health care
30 provider who has been trained in prenatal and postpartum medical
31 care, (5) the opportunity for a minimum of one hour of ambulatory
32 movement every day, and (6) access to treatment for postpartum
33 depression by a qualified mental health professional, provided such
34 treatment is deemed necessary by a licensed health care provider who
35 has been trained in postpartum medical care. If a departmental or
36 contracted licensed health care provider in prenatal medical care, or
37 any other health care professional who evaluates or treats an inmate
38 who is pregnant, determines that the inmate's pregnancy is high risk or
39 involves any other medical complication for either the inmate or the
40 baby, such inmate shall be immediately transferred to the medical
41 infirmary setting or any hospital deemed appropriate, as determined
42 by such health care provider or professional.

43 (d) Except as provided in this subsection, correctional staff of the
44 York Correctional Institution shall not use any leg or waist restraint on
45 any inmate of the institution who has been determined to be pregnant
46 or in the postpartum period by a licensed health care provider. The
47 correctional staff of the York Correctional Institution shall ensure that

48 any inmate, who is determined to be in the second or third trimester of
49 a pregnancy by a licensed health care provider, is transported to and
50 from visits to health care providers and court proceedings in a vehicle
51 with seatbelts. A pregnant inmate may only be restrained using
52 handcuffs that are placed on the wrists held in front of the inmate's
53 body unless there are compelling grounds to believe that an inmate
54 presents (1) an immediate and serious threat of harm to herself, staff
55 and others; or (2) a substantial flight risk and cannot be reasonably
56 contained by other means, in which case an inmate may be placed in
57 wrist, leg or waist restraints. Such restraints shall be the least
58 restrictive kind of restraints considering the circumstances.
59 Correctional staff shall document, in writing, the reasons for such
60 determination, the kind of restraints used and the reasons staff
61 considered such restraints to be the least restrictive kind available and
62 the most reasonable means of preventing harm or escape. If an
63 attending physician or advanced practice registered nurse requests
64 that the inmate's restraints be removed for medical reasons,
65 correctional staff shall immediately remove the restraints. Nothing in
66 this subsection shall prohibit the use of medical restraints by a licensed
67 health care provider to ensure the medical safety of the inmate. As
68 used in subsections (d) and (e) of this section, "restraints" means metal
69 handcuffs, metal leg restraints and waist and tether chains.

70 (e) Each pregnant inmate of the York Correctional Institution shall
71 receive labor and delivery services in a hospital deemed appropriate
72 by a departmental or contracted, licensed health care provider.
73 Notwithstanding the provisions of subsection (d) of this section, an
74 inmate who is in any stage of labor or delivery, as determined by a
75 licensed health care provider, shall not be placed in restraints at any
76 time, including, but not limited to, during transportation to the
77 hospital. If a correction officer is present with the inmate during any
78 stage of labor or delivery, such correction officer shall be female, if
79 possible. Such correction officer shall be positioned in a location that
80 ensures the inmate's privacy, to the extent possible.

81 (f) Any inmate in the postpartum period shall be assessed by a

82 licensed health care provider upon return to the correctional facility.
83 Each inmate in the postpartum period shall be housed in a medical or
84 mental health housing unit at the correctional facility until discharged
85 by a licensed health care provider.

86 (g) The York Correctional Institution shall provide a pregnant
87 inmate, prior to the inmate's release, with counseling and discharge
88 planning to ensure, to the extent feasible, the continuity of prenatal
89 and pregnancy-related care, including substance abuse programs and
90 treatment referrals when deemed appropriate.

91 Sec. 2. (NEW) (*Effective October 1, 2018*) (a) The Department of
92 Correction shall establish prenatal, labor, and postpartum services and
93 supports for women incarcerated at the York Correctional Institution.
94 Such services and supports shall include, but need not be limited to, a
95 lactation policy that provides inmate mothers the opportunity to pump
96 and store breast milk for their babies and a neonatal intensive care unit
97 visiting policy that makes reasonably regular visits available to inmate
98 mothers whose babies require specialized care after birth.

99 (b) The Department of Correction shall establish and make available
100 to women incarcerated at the York Correctional Institution parenting
101 support literature, including information on child custody processes,
102 child support and family reunification resources.

103 Sec. 3. (NEW) (*Effective October 1, 2018*) Correctional staff at York
104 Correctional Institution shall, upon request, provide an inmate at the
105 institution with feminine hygiene products as soon as practicable.
106 Correctional staff shall provide such feminine hygiene products for
107 free and in a quantity that is appropriate to the health care needs of the
108 inmate. For purposes of this section, "feminine hygiene products"
109 means tampons and sanitary napkins.

110 Sec. 4. (NEW) (*Effective October 1, 2018*) The Commissioner of
111 Correction shall establish visitation policies for any inmate who is a
112 parent to a child under the age of eighteen. Such policies shall include,
113 but need not be limited to, rules regarding: (1) Physical contact, (2)

114 convenience and frequency of visits, and (3) access to child-friendly
115 visiting areas.

116 Sec. 5. (NEW) (*Effective October 1, 2018*) All inmates shall be
117 permitted to shower, perform bodily functions and change clothes
118 without nonmedical staff of the opposite gender viewing their breasts,
119 buttocks or genitalia, except in exigent circumstances or when such
120 viewing is incidental to a routine cell check. Staff of the opposite
121 gender shall announce their presence when entering an inmate
122 housing unit when no other staff of the opposite gender is present.

123 Sec. 6. Section 18-81z of the general statutes is repealed and the
124 following is substituted in lieu thereof (*Effective October 1, 2018*):

125 The Department of Correction, the Board of Pardons and Paroles
126 and the Court Support Services Division of the Judicial Branch shall
127 develop a risk assessment strategy for offenders committed to the
128 custody of the Commissioner of Correction that will (1) utilize a risk
129 assessment tool that accurately rates an offender's likelihood to
130 recidivate upon release from custody, and (2) identify the support
131 programs that will best position the offender for successful reentry into
132 the community. Such strategy shall incorporate use of both static and
133 dynamic factors and utilize a gender-responsive approach that
134 recognizes the unique risks and needs of female offenders. In the
135 development of such risk assessment strategy, the department, board
136 and division may partner with an educational institution [in this state]
137 that has expertise in criminal justice and psychiatry to evaluate risk
138 assessment tools and customize a risk assessment tool to best meet the
139 state's needs. On or before January 1, 2009, and annually thereafter, the
140 department, board and division shall report to the Governor and the
141 joint standing committee of the General Assembly on judiciary, in
142 accordance with section 11-4a, on the development, implementation
143 and effectiveness of such strategy.

144 Sec. 7. Subsection (b) of section 18-96a of the general statutes is
145 repealed and the following is substituted in lieu thereof (*Effective*
146 *October 1, 2018*):

147 (b) (1) The Department of Correction [shall, within available
148 appropriations,] may develop a program for custodial staff members
149 to receive not less than four hours and not more than eight hours of
150 training on mental health issues each year. [Such training shall consist
151 of classroom instruction and written materials provided by a qualified
152 mental health professional in conjunction with a training academy
153 accredited by the American Correctional Association, and] Within
154 available appropriations, such training shall include, at a minimum:
155 (A) Prevention of suicide and self-injury; (B) recognition of signs of
156 mental illness; (C) communication skills for interacting with inmates
157 with mental illness; and (D) alternatives to disciplinary action and the
158 use of force when dealing with inmates with mental illness. Such
159 program shall be offered: (i) Commencing on July 1, 2009, to all
160 custodial staff members at one or more correctional facilities
161 designated by the Commissioner of Correction; (ii) on and after July 1,
162 2010, to all custodial staff members at one or more additional
163 correctional facilities designated by the commissioner; and (iii) on and
164 after July 1, 2011, to all custodial staff members at one or more
165 additional correctional facilities designated by the commissioner. [Such
166 program shall terminate on July 1, 2012.]

167 (2) [In] On and after October 1, 2018, in addition to the requirements
168 of subdivision (1) of this subsection, all custodial staff members at each
169 correctional facility of the Department of Correction in which female
170 inmates are confined [may, during the fiscal year ending June 30, 2008,
171 and] may, within available appropriations, receive not less than four
172 hours and not more than eight hours of training on [mental health
173 issues, including] gender-specific and trauma-related mental health
174 issues faced by female inmates.

175 Sec. 8. (NEW) (*Effective July 1, 2018*) On or before October 1, 2018,
176 the Department of Correction shall develop and implement a policy
177 regarding the safety and protection of transgender inmates. Such
178 policy shall comply with the federal Prison Rape Elimination Act of
179 2003, 34 USC 30301, et seq., as amended from time to time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section
Sec. 2	<i>October 1, 2018</i>	New section
Sec. 3	<i>October 1, 2018</i>	New section
Sec. 4	<i>October 1, 2018</i>	New section
Sec. 5	<i>October 1, 2018</i>	New section
Sec. 6	<i>October 1, 2018</i>	18-81z
Sec. 7	<i>October 1, 2018</i>	18-96a(b)
Sec. 8	<i>July 1, 2018</i>	New section

Statement of Legislative Commissioners:

In Section 1(a), "licensed departmental or contracted health care provider" was changed to " departmental or contracted, licensed health care provider" for consistency with other provisions of the bill. In Section 8, the effective date has been changed from "October 1, 2018" to "July 1, 2018" to permit development and implementation of the policy described in said section, and "2108" was changed to "2018" for accuracy.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Correction, Dept.	GF - Cost	38,000	38,000

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill establishes various requirements for female and pregnant inmates and results in a cost to the state. Section 3 requires DOC to provide feminine hygiene products free of charge to inmates and is estimated to cost \$38,000 per year. The remaining provisions contained in the bill result in no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 13*****AN ACT CONCERNING FAIR TREATMENT OF INCARCERATED WOMEN.*****SUMMARY**

This bill makes several changes to laws that govern the treatment of inmates.

The bill establishes various requirements that specifically apply to pregnant inmates. Among other things, it:

1. requires the Department of Correction (DOC) commissioner to ensure that at least one health care provider employed at York Correctional Institution has certain specialized training and knowledge related to pregnancy and childbirth;
2. requires a licensed health care provider to assess each inmate for pregnancy upon admission to the correctional institution;
3. gives pregnant inmates the right to receive specified counseling and written material, medical care at the correctional institution, specialized diet, appropriate clothing and sanitary materials, opportunity for ambulatory movement, and access to treatment for postpartum depression;
4. requires the transfer of inmates with high risk pregnancies to the medical infirmary or a hospital;
5. generally limits the use of restraints on pregnant inmates, including during transportation, labor and delivery, and during the postpartum period, and requires written documentation when certain restraints are used; and

6. requires the correctional institution to provide pregnant inmates with counseling and discharge planning prior to their release.

Among the changes the bill makes regarding the general treatment of incarcerated women, it requires DOC to (1) establish support services for incarcerated women, such as a lactation policy and a neonatal intensive care unit and (2) provide inmates with feminine hygiene products free of cost, upon request.

Under the bill, DOC may reinstate its training program on mental health issues for custodial staff and must also:

1. establish visitation policies for all inmates with children under age 18;
2. permit specific privacy-related parameters for staff of the opposite gender regarding certain inmate activities; and
3. develop and implement, by October 1, 2018, a policy regarding the safety and protection of transgender inmates.

The bill also requires DOC, the Board of Pardons and Paroles, and the judicial branch's Court Support Services Division (CSSD) to use a gender-responsive approach in their risk assessment strategy.

EFFECTIVE DATE: October 1, 2018, except the provision related to the DOC's transgender safety and protection policy is effective July 1, 2018.

§1 — TREATMENT OF PREGNANT INMATES

Licensed Department or Contracted Health Care Provider

The bill requires the DOC commissioner to ensure that at least one department or contracted licensed health care provider who is employed at the York Correctional Institution (1) has been trained in prenatal and postpartum medical care and (2) has knowledge of and the ability to educate pregnant inmates on prenatal nutrition, high-risk pregnancy, and addiction and substance abuse during pregnancy and childbirth.

Pregnancy Assessment

The bill requires a licensed health care provider to assess each inmate for pregnancy upon admission to the York Correctional Institution, while awaiting trial or after sentencing.

The licensed health care provider must inform the inmate of any necessary medical tests associated with the pregnancy assessment before administering the tests.

Rights of Pregnant Inmates

The York Correctional Institution must provide each pregnant inmate with counseling and written material, in a form she can reasonably understand, concerning:

1. the inmate's options with regard to her pregnancy;
2. prenatal nutrition;
3. maintaining a healthy pregnancy;
4. labor and delivery;
5. the postpartum period; and
6. the institution's policies and practices regarding the care of an inmate throughout her pregnancy, during labor and delivery, and during the postpartum period.

The bill also requires York Correctional Institution to provide pregnant inmates with medical care at the correctional facility, which must include (1) periodic health monitoring and evaluation during pregnancy and (2) prenatal vitamins or supplements, as deemed necessary by a licensed health care provider.

Additionally, the correctional institution must provide pregnant inmates with:

1. a diet containing the nutrients necessary to maintain a healthy pregnancy, as determined by a licensed health care provider

trained in prenatal care;

2. the clothing, undergarments, and sanitary materials deemed appropriate by a licensed health care provider who has been trained in prenatal and postpartum medical care;
3. the opportunity for ambulatory movement at least one hour of every day; and
4. access to treatment for postpartum depression by a qualified mental health professional, if deemed necessary by a licensed health care provider who has been trained in postpartum medical care.

High Risk Pregnancy

Under the bill, if a department or contracted licensed health care provider in prenatal medical care, or any other health care professional who evaluates or treats a pregnant inmate, determines that the inmate's pregnancy is high risk or involves any other medical complication for either the inmate or the baby, the inmate must be immediately transferred to the medical infirmary setting or any hospital deemed appropriate, as determined by such health care provider or professional.

Use of Restraints

The bill generally prohibits correctional staff of the York Correctional Institution from using any leg or waist restraint on any inmate who has been determined to be pregnant or in the postpartum period by a licensed health care provider. Under the bill, "restraints" means metal handcuffs, metal leg restraints, and waist and tether chains.

Transportation. The correctional staff must ensure that any inmate, who is determined to be in the second or third trimester of a pregnancy by a licensed health care provider, is transported to and from visits to health care providers and court proceedings in a vehicle with seatbelts.

Risk of Harm or Escape. The bill generally limits the use of restraints on pregnant inmates to handcuffs that are placed on the wrists held in front of her body, unless there are compelling grounds to believe that the inmate presents (1) an immediate and serious threat of harm to herself, staff, and others or (2) a substantial flight risk and cannot be reasonably contained by other means. In such a case, correctional staff may place the inmate in wrist, leg, or waist restraints. The restraints must be the least restrictive kind considering the circumstances. (The bill prohibits the use of restraints during labor and delivery, as described below.)

Documentation. The bill requires correctional staff to document, in writing, the:

1. reasons they believed that the inmate posed a risk of harm or escape,
2. kind of restraints used, and
3. reasons they considered such restraints to be the least restrictive kind available and the most reasonable means of preventing harm or escape.

Medical Restraints and Removal. The bill does not prohibit the use of medical restraints by a licensed health care provider to ensure the medical safety of the inmate. Also, correctional staff must immediately remove any correctional restraints, if an attending physician or advanced practice registered nurse requests it for medical reasons.

Labor and Delivery

Under the bill, each pregnant inmate at the York Correctional Institution must receive labor and delivery services in a hospital deemed appropriate by a department or contracted licensed health care provider.

The bill prohibits the use of restraints at any time on an inmate who

is in any stage of labor or delivery, including during transportation to the hospital.

If a correction officer is present with the inmate during any stage of labor or delivery, the correction officer must be (1) female, if possible, and (2) in a location that ensures the inmate's privacy to the extent possible.

Postpartum Period

Under the bill, inmates in the postpartum period must be assessed by a licensed health care provider upon return to the correctional facility. Each inmate in the postpartum period must be housed in a medical or mental health housing unit at the correctional facility until discharged by a licensed health care provider.

Counseling and Discharge Planning

The York Correctional Institution must provide pregnant inmates, prior to their release, with counseling and discharge planning to ensure, to the extent feasible, the continuity of prenatal and pregnancy-related care, including substance abuse programming and treatment referrals when deemed appropriate.

§ 2 — SERVICES AND SUPPORTS

The bill requires DOC to establish prenatal, labor, and postpartum services and supports for women incarcerated at the York Correctional Institution, including a (1) lactation policy that provides inmate mothers the opportunity to pump and store breast milk for their babies and (2) neonatal intensive care unit visit policy that makes reasonably regular visits available to inmate mothers whose babies require specialized care after birth.

DOC must also establish and make available to women incarcerated at the York Correctional Institution parenting support literature, including information on child custody processes, child support, and family reunification resources.

§ 3 — FEMININE HYGIENE PRODUCTS

The bill requires York Correctional Institution correctional staff, upon request, to provide inmates at the institution with feminine hygiene products (i.e., tampons and sanitary napkins) at no cost as soon as practicable and in an amount appropriate to the health care needs of the inmate.

§ 4 — VISITATION POLICIES

The DOC commissioner must establish visitation policies for any inmate with a child under age 18, with rules regarding (1) physical contact, (2) convenience and frequency of visits, and (3) access to child-friendly visiting areas.

§ 5 — PRIVACY

Under the bill, all inmates must be permitted to shower, perform bodily functions, and change clothes without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when it is incidental to a routine cell check. The bill requires staff of the opposite gender to announce their presence when entering an inmate housing unit when no other staff of the inmate's gender is present.

§ 6 — RISK ASSESSMENT STRATEGY

Existing law, unchanged by the bill, requires DOC, the Board of Pardons and Paroles, and the Court Support Services Division of the judicial branch to use a risk assessment strategy to rate an offender's likelihood to recidivate and identify the support programs for successful reentry into the community.

Under existing law, such strategy must incorporate use of both static and dynamic factors. The bill expands this by requiring that the strategy also use a gender-responsive approach that recognizes the unique risks and needs of female offenders.

Under current law, the department, board, and division, in developing the risk assessment strategy, may partner with an educational institution in the state with expertise in criminal justice and psychiatry. Under the bill, such educational institution does not

have to be in Connecticut.

§ 7 — CUSTODIAL STAFF TRAINING

The bill reinstates a provision allowing DOC to develop a training program for custodial staff members which requires between four and eight hours of training on mental health issues each year. Within available appropriations, the training program must be offered to all custodial staff members at one or more correctional facilities designated by the commissioner.

The bill eliminates the requirement that the training consist of classroom instruction and written materials provided by a qualified mental health professional in conjunction with a training academy accredited by the American Correctional Association.

It requires that, within available appropriations, the training include:

1. prevention of suicide and self-injury,
2. recognition of signs of mental illness,
3. communication skills for interacting with inmates with mental illness, and
4. alternatives to disciplinary action and the use of force when dealing with inmates with mental illness.

Under the bill, all custodial staff at each DOC facility in which female inmates are confined may, within available appropriations, also receive between four and eight hours of training on gender-specific and trauma-related mental health issues faced by female inmates.

§ 8 — TRANSGENDER INMATES

The bill requires DOC, by October 1, 2018, to develop and implement a policy regarding the safety and protection of transgender inmates. The policy must comply with the federal Prison Rape Elimination Act.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/02/2018)