



**PA 18-4—sSB 13**  
*Judiciary Committee*

**AN ACT CONCERNING THE FAIR TREATMENT OF INCARCERATED PERSONS**

**SUMMARY:** This act makes several changes in laws that govern the treatment of inmates.

The act 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 (“York”) 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 York;
3. gives pregnant inmates the right to receive specified counseling and written material, medical care at York, a specialized diet, appropriate clothing and sanitary materials, an 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;
6. requires York to provide pregnant inmates with counseling and discharge planning prior to their release; and
7. requires the DOC commissioner to report to the Judiciary Committee, by October 1, 2019, on certain incidences related to pregnant inmates that occur from July 1, 2018 to June 30, 2019.

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

Under the act, DOC may, in consultation with the Department of Mental Health and Addiction Services (DMHAS), reinstate its training program on mental health issues for custodial staff. It must also:

1. establish visitation policies for all inmates with children under age 18, including rules on physical contact, visit convenience and frequency, and access to child-friendly visiting areas (§ 4);
2. permit specific privacy-related parameters for staff of the opposite gender regarding certain inmate activities; and

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3. adhere to certain requirements that relate to the treatment and placement of inmates with a gender identity that differs from the inmate's assigned sex at birth.

The act 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 gender identity provision is effective July 1, 2018, and the DOC reporting provision is effective upon passage.

### § 1 — TREATMENT OF PREGNANT INMATES

#### *Licensed Department or Contracted Health Care Provider*

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

#### *Pregnancy Assessment*

The act requires a licensed health care provider to assess each inmate for pregnancy upon admission to York. The provider must inform the inmate of any necessary medical tests associated with the assessment before administering them.

#### *Rights of Pregnant Inmates*

The York Correctional Institution must provide each pregnant inmate with counseling and written material (known as the "Pregnant Woman's Guide"), 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;
6. the institution's policies and practices on inmate care during pregnancy, labor and delivery, and the postpartum period; and
7. restrictions on using restraints on pregnant inmates.

The act also requires York to provide pregnant inmates with medical care at the correctional institution, including (1) periodic health monitoring and evaluation during pregnancy and (2) prenatal vitamins or supplements, as deemed necessary by a licensed health care provider.

Additionally, York must provide pregnant inmates with:

1. a diet containing the nutrients necessary for 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 trained in prenatal and postpartum medical care;
3. the opportunity for ambulatory movement (e.g., walking) at least one hour

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- daily; and
4. access to treatment for postpartum depression by a qualified mental health professional, if deemed necessary by a licensed health care provider trained in postpartum medical care.

### *High Risk Pregnancy*

Under the act, 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 a medical infirmary setting or any hospital deemed appropriate, as determined by such provider or professional.

### *Use of Restraints*

The act generally prohibits York's correctional staff from using any leg or waist restraint on any inmate who is known to be pregnant or in the postpartum period. Under the act, "restraints" means metal handcuffs, metal leg restraints, and waist and tether chains.

*Risk of Harm or Escape.* The act generally limits the use of restraints on pregnant inmates to handcuffs that are placed on the wrists held in front of her body. It allows correctional staff to place the inmate in wrist, leg, or waist restraints if (1) there are compelling grounds to believe that the inmate presents an immediate and serious threat of harm to herself, staff, and others or a substantial flight risk and cannot be reasonably contained by other means and (2) the institution's unit administrator or his or her designee approves it, except under exigent circumstances. In such cases, the restraints must be the least restrictive kind considering the circumstances. (The act prohibits the use of restraints during labor and delivery, as described below.)

*Documentation.* When restraints other than handcuffs are used on a pregnant inmate, the act 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 act 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.

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

### *Labor and Delivery*

Under the act, each pregnant inmate at York must receive labor and delivery

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services in a hospital deemed appropriate by a department or contracted licensed health care provider.

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

### *Counseling and Discharge Planning*

York 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 act requires DOC to establish prenatal, labor, and postpartum services and supports for women incarcerated at York, including a lactation policy that allows inmates who are mothers to pump and store breast milk for their babies.

DOC must also establish and make available to such women parenting support literature, including information on child custody processes, child support, and family reunification resources.

## § 3 — FEMININE HYGIENE PRODUCTS

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

## § 5 — PRIVACY

Under the act, 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 act 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 act, requires DOC, the Board of Pardons and

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

Under prior law, the department, board, and division, in developing the risk assessment strategy, could partner with an in-state educational institution with expertise in criminal justice and psychiatry. Under the act, such educational institution does not have to be in Connecticut.

### § 7 — CUSTODIAL STAFF TRAINING

Prior law required DOC to develop a training program for custodial staff members which required between four and eight hours of training on mental health issues each year. This program terminated on July 1, 2012. The act allows DOC, in consultation with DMHAS, to reinstate this program. The training program must be offered to all custodial staff members at one or more correctional facilities designated by the commissioner.

The act 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 such inmates.

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

### § 8 — GENDER IDENTITY

Under the act, any correctional institution inmate who has a gender identity that differs from the inmate's assigned sex at birth and has a diagnosis of gender dysphoria, as set forth in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders," must:

1. be addressed by correctional staff in a manner consistent with the inmate's gender identity;
2. have access to commissary items, clothing, personal property, programming, and educational materials that are consistent with the inmate's gender identity; and
3. have the right to be searched by a correctional staff member of the same

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gender identity, unless the inmate requests otherwise or under exigent circumstances.

An inmate who has a birth certificate, passport, or driver's license that reflects his or her gender identity, or who can meet established standards for obtaining such a document to confirm the inmate's gender identity, must presumptively be placed in a correctional institution with inmates of the gender consistent with the inmate's gender identity. To overcome the presumptive placement, the DOC commissioner, or his designee, must demonstrate that the placement would present significant safety, management, or security problems.

The act requires the commissioner, or his designee, in making these determinations, to give serious consideration to the inmate's views about his or her safety.

### § 9 — DOC REPORTING

The act requires the DOC commissioner, or his designee, to report to the Judiciary Committee, by October 1, 2019, on instances during FY 19 in which:

1. more than one type of restraint was simultaneously used on a pregnant inmate,
2. an inmate incarcerated in a correctional institution gave birth outside of a traditional hospital setting, and
3. a pregnant inmate was held in administrative segregation.