

**Acts****2014****Chapter 103** AN ACT TO PREVENT SHACKLING AND PROMOTE SAFE PREGNANCIES FOR FEMALE INMATES

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to promote forthwith safe pregnancies among female inmates in correctional facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

[Chapter 127 of the General Laws](#) is hereby amended by striking out section 118, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 118. (a) Upon admission to a correctional facility, while awaiting trial or after sentencing, a female inmate shall be screened and assessed for pregnancy by a licensed health care professional; provided, however, that the inmate shall be informed of any necessary medical tests connected with the pregnancy screening prior to the administration of such tests. A pregnant inmate shall receive nondirective counseling and written material, in a form the inmate can understand, on pregnancy options and correctional facility policies and practices regarding care and labor for pregnant inmates. Correctional facilities housing female inmates shall ensure that at least 1 member of the correctional facility's medical staff is trained in pregnancy-related care, which shall include knowledge of prenatal nutrition, high-risk pregnancy, addiction and substance abuse during pregnancy and childbirth education.

A pregnant and postpartum inmate shall be provided regular prenatal and postpartum medical care at the correctional facility in which she is housed, including: periodic health monitoring and evaluation during pregnancy; the opportunity for a minimum of 1 hour of ambulatory movement each day; a diet containing the nutrients necessary to maintain a healthy pregnancy, including prenatal vitamins and supplements; postpartum screening for depression; and written information regarding prenatal nutrition, maintaining a healthy pregnancy and childbirth. Pregnant and postpartum inmates shall be provided appropriate clothing, undergarments and sanitary materials.

The department of correction shall, in consultation with the department of public health and the Massachusetts Sheriffs Association, Inc., develop appropriate standards of care for pregnant and postpartum inmates, which shall include, at a minimum, the standards for health services set forth by the National Commission on Correctional Health Care. If a pregnant inmate requires medically necessary, specialized care that is unavailable at the correctional facility, the pregnant inmate shall have access to such care at a supporting medical facility with appropriate expertise.

If a licensed health care professional determines that an inmate is suffering from postpartum depression, she shall have regular access to a mental health clinician. A postpartum inmate shall not be subject to isolation absent an individualized, documented determination that the inmate poses a serious risk of harm to herself or others.

Prior to release, correctional facility medical staff shall provide a pregnant inmate with counseling and discharge planning in order to ensure continuity of pregnancy-related care, including uninterrupted substance abuse treatment.

(b) During the second and third trimesters of pregnancy or during post-delivery recuperation, as determined by the attending physician, an inmate shall be transported to and from visits to medical providers and court proceedings in a vehicle with seatbelts and may only be restrained using handcuffs in front.

A pregnant inmate shall receive labor and delivery care in an accredited hospital and shall not be removed to another penal institution for the purpose of giving birth. An inmate who is in any stage of labor or delivery, as determined by a licensed health care professional, shall not be placed in restraints at any time, including during transportation. If a correction officer is present in the room during the pregnant inmate's physical examinations, labor or childbirth, the officer shall, if possible, be female. Whenever possible, the correction officer shall be positioned in a location in the room that will ensure, to the extent possible, patient privacy.

During post-delivery recuperation, an inmate shall remain in the hospital until the attending physician certifies that she may be safely discharged and transferred back to the correctional facility. An inmate in post-delivery recuperation shall not be placed in restraints, except under extraordinary circumstances.

For the purposes of this section, "extraordinary circumstances" shall mean a situation in which a correction officer determines that the specific inmate presents an immediate and serious threat to herself or others or in which the inmate presents an immediate and credible risk of escape that cannot be curtailed by other reasonable means. If an inmate is restrained, the restraints shall be the least restrictive available and the most reasonable under the circumstances. Leg or waist restraints shall not be used on a pregnant or postpartum inmate. In the event the correction officer determines that extraordinary circumstances exist and restraints are used, the correction officer shall fully document, in writing, the reasons that the officer determined such extraordinary circumstances existed, the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances. A superintendent shall approve the use of any restraints used due to extraordinary circumstances either before the officer makes the determination or after the correction officer submits documentation detailing the reasons restraints were required. If the attending physician or nurse treating the pregnant inmate requests that restraints be removed for medical reasons, the correction officer shall immediately remove all restraints.

(c) Nothing in this section shall prohibit the use of hospital restraints requested by a treating physician for the medical safety of a patient.

Approved, May 15, 2014.

