

# TABLED



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 465

AMENDMENT NO. A9  
(to be filled in by  
Principal Clerk)

H465-ATG-40 [v.5]

Page 1 of 3

Amends Title [NO]  
Third Edition

Date \_\_\_\_\_, 2015

Senator Smith-Ingram

1 moves to amend the bill on page 9, line 6, by rewriting the line to read:

2  
3 "SECTION 6.(b) Chapter 15A of the General Statutes is amended by adding a new  
4 Article to read:

5 "Article 84C.

6 "Treatment of Pregnant Prisoners and Detainees.

7 "§ 15A-1369.10. Definitions.

8 As used in this Article:

- 9 (1) "Correctional institution" means any unit of the State prison system, local  
10 confinement facility, juvenile detention facility, or other entity under the  
11 authority of any State or local law enforcement agency that has the power to  
12 detain or restrain a person under the laws of this State.
- 13 (2) "Corrections official" means the official that is responsible for oversight of a  
14 correctional institution, or that official's designee.
- 15 (3) "Detainee" includes any person detained under the immigration laws of the  
16 United States at any correctional facility.
- 17 (4) "Extraordinary circumstance" means a substantial flight risk or some other  
18 extraordinary medical or security circumstance that dictates restraints be  
19 used to ensure the safety and security of the prisoner or detainee, the staff of  
20 the correctional institution or medical facility, other prisoners or detainees,  
21 or the public.
- 22 (5) "Labor" means the period of time before a birth during which contractions  
23 are of sufficient frequency, intensity, and duration to bring about effacement  
24 and progressive dilation of the cervix.
- 25 (6) "Postpartum recovery" means, as determined by a woman's physician, the  
26 period immediately following delivery, including the entire period a woman  
27 is in the hospital or infirmary after giving birth.
- 28 (7) "Prisoner" means any person incarcerated or detained in any facility who is  
29 accused of, convicted of, sentenced for, or adjudicated delinquent for,  
30 violations of criminal law or the terms and conditions of parole, probation,  
31 pretrial release, or diversionary program.



\* H 4 6 5 - A T G - 4 0 - V - 5 \*

NORTH CAROLINA GENERAL ASSEMBLY

AMENDMENT

House Bill 465

**TABLED**

AMENDMENT NO. A9

(to be filled in by  
Principal Clerk)

H465-ATG-40 [v.5]

Page 2 of 3

1           (8)   "Restraints" means any physical restraint or mechanical device used to  
2                    control the movement of a prisoner or detainee's body or limbs.

3   **"§ 15A-1369.11. Restraint of prisoners and detainees.**

4           (a)   A correctional institution shall not use restraints on a prisoner or detainee known to  
5           be pregnant, including during labor, transport to a medical facility, delivery, and postpartum  
6           recovery, unless the corrections official makes an individualized determination that the prisoner  
7           or detainee presents an extraordinary circumstance, except that:

8                   (1)   If the doctor, nurse, or other health professional treating the prisoner or  
9                    detainee requests for medical emergency reasons that restraints not be used,  
10                   the corrections officer accompanying the prisoner or detainee shall  
11                    immediately remove all restraints.

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

14           (b)   If restraints are used on a prisoner or detainee pursuant to subsection (a) of this  
15           section:

16                   (1)   The type of restraint applied and the application of the restraint shall be  
17                    accomplished in the least restrictive manner necessary.

18                   (2)   The corrections official shall make written findings within 10 days as to the  
19                    extraordinary circumstance that dictated the use of the restraints. These  
20                    findings shall be kept on file by the correctional institution for at least five  
21                    years and be made available for public inspection, except that no  
22                    individually identifying information of any prisoner or detainee shall be  
23                    made public under this Article without the prisoner or detainee's prior  
24                    written consent.

25   **"§ 15A-1369.12. Enforcement.**

26           (a)   Notwithstanding any relief or claims afforded by federal or State law, any person  
27           who has been restrained in violation of this Article may file a complaint within one year of the  
28           occurrence of the violation. If the complainant is no longer in the custody of the correctional  
29           institution, has exhausted the correctional institution's established grievance procedures or  
30           protocols, or the correctional institution has not responded to a complaint within 120 days, the  
31           complainant may institute suit in superior court.

32           (b)   Nothing in this Article shall prevent a woman harmed in violation of this Article  
33           from filing a complaint under any other relevant provision of federal or State law.

34           (c)   Notwithstanding the provisions of G.S. 150B-1(d), the Division of Adult Correction  
35           and all local governments that operate correctional institutions in this State shall develop rules  
36           pursuant to this Article and shall inform prisoners and detainees of those rules developed upon  
37           admission to the correctional institution, include policies and practices in compliance with the  
38           provisions of this Article in any prisoner handbook, and post those policies and practices in  
39           locations in the correctional institution where such notices are commonly posted, including  
40           common housing areas and medical care facilities.

41           (d)   The Division of Adult Correction, and any local confinement facility, as applicable,  
42           shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by May  
43           1 of each year on every instance in which a pregnant prisoner or detainee has been subjected to

NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 465

**TABLED**

AMENDMENT NO. A9  
(to be filled in by  
Principal Clerk)

H465-ATG-40 [v.5]

Page 3 of 3

1 the use of restraints as defined in this Article. These reports shall not contain any information  
2 identifying an individual prisoner or detainee and shall be made available for public  
3 inspection."  
4       **SECTION 6.(c)** All correctional facilities in the State shall develop the rules  
5 mandated under this act within 30 days of the date this act becomes law and shall inform  
6 prisoners and detainees within their custody of those rules within 60 days of the date this act  
7 becomes law.  
8       **SECTION 6.(d)** Subsection (a) of this section becomes effective on December 1,  
9 2015. Subsections (b) and (c) of this section are effective when this act becomes law."  
10  
11

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_