

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL DRH10191-MSa-147 (03/27)

Short Title: Healthy Mother, Healthy Child. (Public)

Sponsors: Representatives Fisher, Cunningham, and Insko (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE HEALTHY PREGNANCIES FOR FEMALE PRISONERS AND
3 DETAINEES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 15A of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 84C.

8 "Treatment of Pregnant Prisoners and Detainees.

9 **§ 15A-1369.10. Definitions.**

10 As used in this Article:

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

36 **§ 15A-1369.11. Restraint of prisoners and detainees.**



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

5 (1) If the doctor, nurse, or other health professional treating the prisoner or
6 detainee requests that restraints not be used, the corrections officer
7 accompanying the prisoner or detainee shall immediately remove all
8 restraints.

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

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

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

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

22 **SECTION 2.** All correctional facilities in the State shall develop the rules
23 mandated under this act within 30 days of the date this act becomes law and shall inform
24 prisoners and detainees within their custody of those rules within 60 days of the date this act
25 becomes law.

26 **SECTION 3.** There is appropriated from the General Fund to the Department of
27 Public Safety the sum of two hundred fifty thousand dollars (\$250,000) in recurring funds to be
28 allocated to policy implementation, education, and training of the procedures outlined in
29 Section 1 of this act.

30 **SECTION 4.** This act is effective when it becomes law.