

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 1038

Short Title: Healthy Mother & Child/Shackling Prohibition. (Public)

Sponsors: Representatives B. Richardson, Cunningham, Harrison, and Fisher (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Appropriations

May 31, 2018

A BILL TO BE ENTITLED

AN ACT TO ENSURE HEALTHY PREGNANCIES FOR FEMALE PRISONERS AND DETAINEES.

The General Assembly of North Carolina enacts:

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

"Article 84C.

"Treatment of Pregnant Prisoners and Detainees.

"§ 15A-1369.10. Definitions.

As used in this Article:

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



1 (8) "Restraints" means any physical restraint or mechanical device used to control
2 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, obstetrical provider, nurse, or other health professional treating
9 the prisoner or detainee requests that restraints not be used, the corrections
10 officer accompanying the prisoner or detainee shall immediately remove all
11 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 individually
22 identifying information of any prisoner or detainee shall be made public under
23 this Article without the prisoner or detainee's prior written consent."

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

27 **SECTION 3.** There is appropriated from the General Fund to the Department of
28 Public Safety, Division of Adult Correction and Juvenile Justice, the sum of two hundred fifty
29 thousand dollars (\$250,000) for fiscal year 2018-2019 in recurring funds to be allocated to policy
30 implementation, education, and training of the procedures outlined in Section 1 of this act.

31 **SECTION 4.** This act becomes effective July 1, 2018.