

§ 153A-229.2. Care for female incarcerated persons related to pregnancy, childbirth, and postpartum recovery.

(a) **Limitation on Use of Restraints.** – Except as otherwise provided in this subsection, facility employees shall not apply restraints on a pregnant female incarcerated person during the second and third trimester of pregnancy, during labor and delivery, and during the postpartum recovery period.

A female incarcerated person who is in the postpartum recovery period may only be restrained if a facility employee makes an individualized determination that an important circumstance exists. In this case, only wrist handcuffs held in front of the female incarcerated person's body may be used and only when she is ambulatory. The facility employee ordering use of restraints on any female incarcerated person while in the postpartum recovery period shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the use of restraints. The report shall contain the justification for restraining the female incarcerated person during postpartum recovery.

Nothing in this subsection shall prohibit the use of handcuffs or wrist restraints held in front of the female incarcerated person's body when in transport outside of the local confinement facility, except that these restraints shall not be used in transport when the female incarcerated person is in labor or is suspected to be in labor.

Nothing in this subsection shall prohibit the use of medical restraints by a licensed health care professional to ensure the medical safety of a pregnant female incarcerated person.

(b) **Body Cavity Searches.** – No facility employee, other than a certified health care professional, shall conduct body cavity searches of a female incarcerated person who is pregnant or in the postpartum recovery period unless the facility employee has probable cause to believe that the female incarcerated person is concealing contraband that presents an immediate threat of harm to the female incarcerated person, the fetus, or another person. In this case, the facility employee shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the body cavity search, containing the justification for the body cavity search and the presence or absence of any contraband.

(c) **Nutrition.** – The sheriff or the administrator of the local confinement facility shall ensure that pregnant female incarcerated persons are provided sufficient food and dietary supplements and are provided access to food at appropriate times of day, as ordered by a physician, a physician staff member, or a local confinement facility nutritionist in accordance with the guidelines for women who are pregnant or lactating as set forth in the most recent edition of Dietary Guidelines for Americans published by the United States Department of Health and Human Services and the United States Department of Agriculture. Orders by a physician or physician staff regarding dietary needs or restrictions for any particular pregnant incarcerated person shall take precedence over the Dietary Guidelines for Americans. While in the hospital, pregnant female incarcerated persons and female incarcerated persons in the postpartum recovery period shall have access to the full range of meal options provided by the hospital to ensure that each meal meets the female incarcerated person's nutritional needs.

(d) **Restrictive Housing.** – The sheriff or the administrator of the local confinement facility shall not place any pregnant female incarcerated person, or any female incarcerated person who is in the postpartum recovery period, in restrictive housing unless a local confinement facility employee makes an individualized determination that an important circumstance exists. In this case, the facility employee authorizing the placement of the female incarcerated person in restrictive housing shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the transfer. The report shall contain the justification for confining the female incarcerated person in restrictive housing.

(e) **Bed Assignments.** – The sheriff or the administrator of the local confinement facility shall not assign any female incarcerated person who is pregnant or in postpartum recovery to any bed that is elevated more than 3 feet from the floor of the local confinement facility.

(f) **Cost of Care.** – While a pregnant female incarcerated person is incarcerated, the pregnant female incarcerated person shall be provided necessary prenatal, labor, and delivery care as needed at no cost to the pregnant female incarcerated person.

(g) **Bonding Period.** – Following the delivery of a newborn by a female incarcerated person, the administrator of the local confinement facility shall permit the newborn to remain with the female incarcerated person while the female incarcerated person is in the hospital, unless the medical provider has a reasonable belief that remaining with the female incarcerated person poses a health or safety risk to the newborn.

(h) **Nutritional and Hygiene Products During the Postpartum Period.** – During the period of postpartum recovery, the sheriff or administrator of the local confinement facility shall make available the necessary nutritional and hygiene products, including sanitary napkins, underwear, and hygiene products for the postpartum female incarcerated person. The products shall be provided at no cost to the female incarcerated person.

(i) **Reporting.** – The sheriff or administrator of the local confinement facility shall compile a monthly summary of all written reports received pursuant to this section and G.S. 148-25.3. (2021-143, s. 3(a); 2022-74, s. 9K.2(b).)