

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 1038
May 30, 2018
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10460-MMa-136A

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

Sponsors: Representatives B. Richardson and Cunningham (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 used
21 to ensure the safety and security of the prisoner or detainee, the staff of the
22 correctional institution or medical facility, other prisoners or detainees, or the
23 public.
- 24 (5) "Labor" means the period of time before a birth during which contractions are
25 of sufficient frequency, intensity, and duration to bring about effacement and
26 progressive dilation of the cervix.
- 27 (6) "Postpartum recovery" means, as determined by a woman's physician or
28 obstetrical provider, the period immediately following delivery, including the
29 entire period a woman 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 control
35 the movement of a prisoner or detainee's body or limbs.

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



* D R H 1 0 4 6 0 - M M A - 1 3 6 A *

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, obstetrical provider, nurse, or other health professional treating
6 the prisoner or detainee requests that restraints not be used, the corrections
7 officer 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 individually
19 identifying information of any prisoner or detainee shall be made public under
20 this Article without the prisoner or detainee's prior written consent."

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

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

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