

PROPOSED AMENDMENT

HB 1294 # 2

DIGEST

Procedural requirements. Provides certain guidelines for a correctional facility to follow when using discretion to restrain an inmate known to be pregnant. Provides that restraints should not be used on a pregnant inmate during the immediate postdelivery period. Removes reporting requirements concerning when a pregnant inmate is restrained in a correctional facility. Removes provisions concerning certain services that a correctional facility must provide a pregnant inmate. Removes SECTION 5 and SECTION 6.

- 1 Page 1, delete lines 16 through 17, begin a new paragraph and
2 insert:
3 "SECTION 4. IC 11-10-3.5 IS ADDED TO THE INDIANA CODE
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2022]:
6 **Chapter 3.5. Pregnant Inmates**
7 **Sec. 1. The following definitions apply throughout this chapter:**
8 (1) "Correctional facility" has the meaning set forth in
9 IC 5-1.2-2-11.
10 (2) "Pregnant inmate" means a confined person who is
11 pregnant.
12 (3) "Restraints" means any mechanical device used to control
13 the movement of a pregnant inmate's body or limbs, including
14 handcuffs, leg shackles, and belly chains.
15 **Sec. 2. Necessary prenatal and postnatal care and treatment**
16 **shall be provided consistent with acceptable medical practice and**
17 **standards. When possible, arrangements shall be made for children**
18 **to be born in a hospital outside the correctional facility. If a child**
19 **is born in a correctional facility, this fact may not be mentioned on**
20 **the birth certificate.**
21 **Sec. 3. (a) A correctional facility may restrain an inmate known**
22 **to be pregnant if an individualized determination is made by the**
23 **correctional facility that restraints are reasonably necessary for**
24 **the legitimate safety and security needs of the pregnant inmate,**
25 **staff, other inmates, or the public.**

1 **(b) If restraints are determined to be necessary, the restraints**
 2 **must be the least restrictive available and the most reasonable**
 3 **under the circumstances. A correctional facility may do the**
 4 **following:**

5 **(1) Use the least restrictive restraints necessary on a pregnant**
 6 **inmate when the pregnant inmate is in the second or third**
 7 **trimester of pregnancy.**

8 **(2) Use no restraints on a pregnant inmate:**

9 **(A) who is in labor;**

10 **(B) delivering a baby;**

11 **(C) during the immediate postdelivery period; or**

12 **(D) dealing with a medical emergency related to the**
 13 **pregnancy.**

14 **(c) A correctional facility may use the least restrictive restraints**
 15 **necessary on a pregnant inmate described in subsection (b)(1) if the**
 16 **correctional facility has actual or constructive knowledge that the**
 17 **pregnant inmate is in the second or third trimester of pregnancy.**

18 **(d) A correctional facility may only use the least restrictive**
 19 **restraints necessary on a pregnant inmate described in subsection**
 20 **(b)(2) if:**

21 **(1) the pregnant inmate presents an immediate danger to the**
 22 **pregnant inmate or to others; or**

23 **(2) the pregnant inmate is a substantial flight risk and cannot**
 24 **be contained by any other reasonable means.**

25 **(e) A correctional facility may restrain a pregnant inmate while**
 26 **the inmate is being transported if the restraints are applied in such**
 27 **a way that the pregnant inmate may be able to protect the inmate**
 28 **and the inmate's fetus in the event of a forward fall.**

29 **Sec. 4. The warden of each correctional facility housing a**
 30 **pregnant inmate shall ensure that staff members of the facility who**
 31 **come into contact with pregnant inmates incarcerated at the**
 32 **facility are provided training concerning the requirements under**
 33 **this chapter."**

34 Delete pages 2 through 5.

35 Renumber all SECTIONS consecutively.

(Reference is to HB 1294 as introduced.)