

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1184

AN ACT

AMENDING TITLE 31, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 5; RELATING TO RESTRAINTS ON PREGNANT PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 31, Arizona Revised Statutes, is amended by adding
3 chapter 5, to read:

4 CHAPTER 5
5 RESTRAINTS ON PREGNANT PRISONERS
6 ARTICLE 1. GENERAL PROVISIONS

7 31-601. Pregnant prisoners; restraints; written findings;
8 rules; definitions

9 A. A CORRECTIONAL INSTITUTION SHALL NOT USE RESTRAINTS ON A PRISONER
10 OR DETAINEE WHO IS BEING TRANSPORTED FOR DELIVERY OR DURING LABOR, DELIVERY
11 AND POSTPARTUM RECOVERY, UNLESS EITHER OF THE FOLLOWING APPLIES:

12 1. ATTENDING MEDICAL STAFF REQUESTS THE USE OF RESTRAINTS.

13 2. THE CORRECTIONS OFFICIAL MAKES AN INDIVIDUALIZED DETERMINATION THAT
14 THE PRISONER OR DETAINEE PRESENTS AN EXTRAORDINARY CIRCUMSTANCE.

15 B. LEG RESTRAINTS, WAIST RESTRAINTS OR RESTRAINTS THAT HINDER THE
16 ABILITY OF THE PHYSICIAN TO MOVE THE PRISONER OR DETAINEE, AS DETERMINED BY
17 THE PHYSICIAN SHALL NOT BE USED ON ANY PRISONER OR DETAINEE WHO IS IN LABOR
18 OR DELIVERY.

19 C. IF RESTRAINTS ARE USED ON A PRISONER OR DETAINEE PURSUANT TO
20 SUBSECTION A OF THIS SECTION:

21 1. THE TYPE OF RESTRAINT APPLIED AND THE APPLICATION OF THE RESTRAINT
22 MUST BE DONE IN THE LEAST RESTRICTIVE MANNER NECESSARY.

23 2. THE CORRECTIONS OFFICIAL SHALL MAKE WRITTEN FINDINGS WITHIN
24 FOURTEEN DAYS AS TO THE EXTRAORDINARY CIRCUMSTANCE THAT DICTATED THE USE OF
25 THE RESTRAINTS. THESE FINDINGS SHALL BE KEPT ON FILE BY THE CORRECTIONAL
26 INSTITUTION FOR AT LEAST TWO YEARS AND MADE AVAILABLE FOR PUBLIC INSPECTION
27 UNLESS OTHERWISE DICTATED BY STATE OR FEDERAL LAW.

28 D. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A SECURITY TETHER
29 CHAIN THAT IS ATTACHED TO THE BED FRAME AND THE PRISONER'S OR DETAINEE'S
30 ANKLE MAY BE USED DURING POSTPARTUM RECOVERY. THE SECURITY TETHER CHAIN
31 SHALL BE LONG ENOUGH FOR THE PRISONER OR DETAINEE TO REACH THE BATHROOM IN A
32 PRIVATE OR SEMI-PRIVATE ROOM OR TO EXIT THE BED AND STAND IN ANY OTHER
33 RECOVERY SETTING.

34 E. WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, ALL
35 CORRECTIONAL INSTITUTIONS IN THIS STATE SHALL ADOPT RULES OR POLICIES
36 PURSUANT TO THIS SECTION.

37 F. FOR THE PURPOSES OF THIS SECTION:

38 1. "CORRECTIONAL INSTITUTION" MEANS ANY ENTITY UNDER THE AUTHORITY OF
39 ANY STATE OR COUNTY LAW ENFORCEMENT AGENCY THAT HAS THE POWER TO DETAIN OR
40 RESTRAIN A PERSON UNDER THE LAWS OF THIS STATE, INCLUDING A JUVENILE
41 DETENTION CENTER.

42 2. "CORRECTIONS OFFICIAL" MEANS THE OFFICIAL WHO IS RESPONSIBLE FOR
43 OVERSIGHT OF A CORRECTIONAL INSTITUTION OR THE OFFICIAL'S DESIGNEE.

44 3. "DETAINEE" INCLUDES ANY FEMALE PERSON WHO IS DETAINED UNDER THE
45 IMMIGRATION LAWS OF THE UNITED STATES AT ANY CORRECTIONAL INSTITUTION.

1 4. "EXTRAORDINARY CIRCUMSTANCE" MEANS A SUBSTANTIAL FLIGHT RISK OR
2 SOME OTHER MEDICAL OR SECURITY CIRCUMSTANCE THAT DICTATES RESTRAINTS BE USED
3 TO ENSURE THE SAFETY AND SECURITY OF THE PRISONER OR DETAINEE, THE STAFF OF
4 THE CORRECTIONAL INSTITUTION OR MEDICAL FACILITY, OTHER PRISONERS OR
5 DETAINEES OR THE PUBLIC.

6 5. "LABOR" MEANS, AS DETERMINED BY A PHYSICIAN, NURSE, PHYSICIAN'S
7 ASSISTANT OR OTHER MEDICAL PRACTITIONER, THE PERIOD OF TIME BEFORE A BIRTH
8 DURING WHICH CONTRACTIONS ARE OF SUFFICIENT FREQUENCY, INTENSITY AND DURATION
9 TO BRING ABOUT EFFACEMENT AND PROGRESSIVE DILATION OF THE CERVIX.

10 6. "POSTPARTUM RECOVERY" MEANS, AS DETERMINED BY THE WOMAN'S
11 PHYSICIAN, THE PERIOD IMMEDIATELY FOLLOWING DELIVERY AND DIRECTLY RELATED TO
12 THE BIRTH, INCLUDING THE PERIOD A WOMAN IS IN THE HOSPITAL OR INFIRMARY AFTER
13 BIRTH.

14 7. "PRISONER" MEANS ANY FEMALE PERSON WHO IS INCARCERATED OR DETAINED
15 IN ANY CORRECTIONAL INSTITUTION AND WHO IS ACCUSED OF, CONVICTED OF,
16 SENTENCED FOR OR ADJUDICATED DELINQUENT FOR A VIOLATION OF A CRIMINAL LAW OR
17 THE TERMS AND CONDITIONS OF COMMUNITY SUPERVISION, PROBATION, PRETRIAL
18 RELEASE OR DIVERSIONARY PROGRAMS.

19 8. "RESTRAINTS" MEANS ANY PHYSICAL RESTRAINT OR MECHANICAL DEVICE USED
20 TO CONTROL THE MOVEMENT OF A PRISONER'S OR DETAINEE'S BODY OR LIMBS,
21 INCLUDING FLEX CUFFS, SOFT RESTRAINTS, HARD METAL HANDCUFFS, A BLACK BOX,
22 CHUBB CUFFS, LEG IRONS, BELLY CHAINS, A SECURITY TETHER CHAIN OR A CONVEX
23 SHIELD.