

STATE OF NEW YORK

8137

2021-2022 Regular Sessions

IN ASSEMBLY

June 11, 2021

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Correction

AN ACT amend the correction law and the executive law, in relation to prohibiting the use of shackles on inmates during labor, absent extraordinary circumstances, and on pregnant women during a custodial interrogation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 1 of section 611 of the
2 correction law, as amended by chapter 17 of the laws of 2016, is amended
3 to read as follows:

4 (a) If a woman confined in any institution or local correctional
5 facility be pregnant and about to give birth to a child, the superinten-
6 dent or sheriff in charge of such institution or facility, a reasonable
7 time before the anticipated birth of such child, shall cause such woman
8 to be removed from such institution or facility and provided with
9 comfortable accommodations, maintenance and medical care elsewhere,
10 under such supervision and safeguards to prevent her escape from custody
11 as the superintendent or sheriff or his or her designee may determine.
12 No restraints of any kind shall be used during transport of such woman,
13 a woman who is known to be pregnant by correctional personnel or person-
14 nel providing medical services to the institution or local correctional
15 facility, or a woman within eight weeks after delivery or pregnancy
16 outcome, absent extraordinary circumstances in which[+]

17 ~~i. the superintendent or sheriff or his or her designee in consulta-~~
18 ~~tion with the medical professional responsible for the institution has~~
19 ~~made an individualized determination that restraints are necessary to~~
20 ~~prevent such woman from injuring herself or medical or correctional~~
21 ~~personnel or others and cannot reasonably be restrained by other means,~~
22 ~~including the use of additional personnel; or~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ~~ii~~] the correctional personnel directly responsible for the transport
2 of such a woman determine that an emergency has arisen in which
3 restraints are necessary because the woman poses an immediate risk of
4 serious injury to herself or medical or correctional personnel or others
5 and cannot reasonably be restrained by other means.

6 § 2. The executive law is amended by adding a new section 837-w to
7 read as follows:

8 § 837-w. Use of shackles on pregnant women; custodial interrogation.
9 Where a pregnant woman is subject to custodial interrogation by a police
10 officer at a detention facility, the use of shackles on such pregnant
11 woman shall be prohibited for the entire custodial interrogation,
12 including the giving of any required advice of the rights of the indi-
13 vidual being questioned and the waiver of any rights by the individual.
14 For purposes of this section, the term "detention facility" shall mean a
15 police station, correctional facility, holding facility for prisoners,
16 prosecutor's office or other facility where persons are held in
17 detention in connection with criminal charges that have been or may be
18 filed against them.

19 § 3. This act shall take effect immediately.