

1290--A

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I N S E N A T E

January 28, 2009

Introduced by Sens. MONTGOMERY, BRESLIN, DILAN, DUANE, HASSELL-THOMPSON, SAVINO, SCHNEIDERMAN, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the correction law, in relation to pregnant female prisoners

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 611 of the correction law, as
2 amended by chapter 758 of the laws of 1968, is amended to read as
3 follows:

4 1. If a woman confined in any institution [under the control of the
5 state department of correction, or in any penitentiary or jail] AS
6 DEFINED IN PARAGRAPH C OF SUBDIVISION FOUR OF SECTION TWO OF THE
7 CORRECTION LAW OR LOCAL CORRECTIONAL FACILITY AS DEFINED IN PARAGRAPH
8 (A) OF SUBDIVISION SIXTEEN OF SECTION TWO OF THE CORRECTION LAW, be
9 pregnant and about to give birth to a child, the [officer] SUPERINTEN-
10 DENT AS DEFINED IN SUBDIVISION TWELVE OF SECTION TWO OF THE CORRECTION
11 LAW OR SHERIFF AS DEFINED IN PARAGRAPH C OF SUBDIVISION SIXTEEN OF
12 SECTION TWO OF THE CORRECTION LAW in charge of such institution OR
13 FACILITY, a reasonable time before the anticipated birth of such child,
14 shall cause such woman to be removed from such institution OR FACILITY
15 and provided with comfortable accommodations, maintenance and medical
16 care elsewhere, under such supervision and safeguards to prevent her
17 escape from custody as [he] THE SUPERINTENDENT OR SHERIFF OR HIS OR HER
18 DESIGNEE may determine[, and]. NO RESTRAINTS OF ANY KIND SHALL BE USED
19 DURING TRANSPORT TO OR FROM THE HOSPITAL, INSTITUTION OR CLINIC WHERE
20 SUCH WOMAN RECEIVES CARE; PROVIDED, HOWEVER, IN EXTRAORDINARY CIRCUM-
21 STANCES, WHERE RESTRAINTS ARE NECESSARY TO PREVENT SUCH WOMAN FROM

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

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1 INJURING HERSELF OR MEDICAL OR CORRECTIONAL PERSONNEL, SUCH WOMAN MAY BE
2 CUFFED BY ONE WRIST. IN CASES WHERE RESTRAINTS ARE USED, THE SUPERINTEN-
3 DENT OR SHERIFF SHALL MAKE AND MAINTAIN WRITTEN FINDINGS AS TO THE
4 REASONS FOR SUCH USE. NO RESTRAINTS OF ANY KIND SHALL BE USED WHEN SUCH
5 WOMAN IS IN LABOR, ADMITTED TO A HOSPITAL, INSTITUTION OR CLINIC FOR
6 DELIVERY, OR RECOVERING AFTER GIVING BIRTH. ANY SUCH PERSONNEL AS MAY BE
7 NECESSARY TO SUPERVISE THE WOMAN DURING TRANSPORT TO AND FROM AND DURING
8 HER STAY AT THE HOSPITAL, INSTITUTION OR CLINIC SHALL BE PROVIDED TO
9 ENSURE ADEQUATE CARE, CUSTODY AND CONTROL OF THE WOMAN. THE SUPERINTEN-
10 DENT OR SHERIFF OR HIS OR HER DESIGNEE SHALL CAUSE SUCH WOMAN TO BE
11 subject to [her] return to such institution OR LOCAL CORRECTIONAL FACIL-
12 ITY as soon after the birth of her child as the state of her health will
13 permit AS DETERMINED BY THE MEDICAL PROFESSIONAL RESPONSIBLE FOR THE
14 CARE OF SUCH WOMAN. If such woman is confined in a [penitentiary or
15 jail] LOCAL CORRECTIONAL FACILITY, the expense of such accommodation,
16 maintenance and medical care shall be paid by such woman or her rela-
17 tives or from any available funds of the [penitentiary or jail] LOCAL
18 CORRECTIONAL FACILITY and if not available from such sources, shall be a
19 charge upon the county, city or town in which is located the court from
20 which such inmate was committed to such [penitentiary or jail] LOCAL
21 CORRECTIONAL FACILITY. If such woman is confined in any institution
22 under the control of the [state] department [of correction], the expense
23 of such accommodation, maintenance and medical care shall be paid by
24 such woman or her relatives and if not available from such sources, such
25 maintenance and medical care shall be paid by the state. In cases where
26 payment of such accommodations, maintenance and medical care is assumed
27 by the county, city or town from which such inmate was committed the
28 payor shall make payment by issuing payment instrument in favor of the
29 agency or individual that provided such accommodations and services,
30 after certification has been made by the head of the institution to
31 which the inmate was legally confined, that the charges for such accom-
32 modations, maintenance and medical care were necessary and are just, and
33 that the institution has no available funds for such purpose.

34 S 2. This act shall take effect immediately.