

6296

2009-2010 Regular Sessions

I N S E N A T E

November 17, 2009

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and
when printed to be committed to the Committee on Rules

AN ACT to amend the correction law, in relation to the restraint of
pregnant female prisoners during childbirth

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 411 of the laws of 2009, is amended to read as
3 follows:
4 1. If a woman confined in any institution as defined in paragraph [c]
5 (C) of subdivision four of section two of [the correction law] THIS
6 CHAPTER or local correctional facility as defined in paragraph (a) of
7 subdivision sixteen of section two of [the correction law] THIS CHAPTER,
8 be pregnant and about to give birth to a child, the superintendent as
9 defined in subdivision twelve of section two of the correction law or
10 sheriff as defined in paragraph [c] (C) of subdivision sixteen of
11 section two of [the correction law] THIS CHAPTER in charge of such
12 institution or facility, a reasonable time before the anticipated birth
13 of such child, shall cause such woman to be removed from such institu-
14 tion or facility and provided with comfortable accommodations, mainte-
15 nance and medical care elsewhere, under such supervision and safeguards
16 to prevent her escape from custody as the superintendent or sheriff or
17 his or her designee may determine. No restraints of any kind shall be
18 used during transport to or from the hospital, institution or clinic
19 where such woman receives care[; provided, however, in extraordinary
20 circumstances, where restraints are necessary to prevent such woman from
21 injuring herself or medical or correctional personnel, such woman may be
22 cuffed by one wrist. In cases where restraints are used, the superinten-
23 dent or sheriff shall make and maintain written findings as to the
24 reasons for such use]. No restraints of any kind shall be used when such
25 woman is in labor, admitted to a hospital, institution or clinic for

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

LBD14702-02-9

1 delivery, or recovering after giving birth. Any such personnel as may be
2 necessary to supervise the woman during transport to and from and during
3 her stay at the hospital, institution or clinic shall be provided to
4 ensure adequate care, custody and control of the woman. The superinten-
5 dent or sheriff or his or her designee shall cause such woman to be
6 subject to return to such institution or local correctional facility as
7 soon after the birth of her child as the state of her health will permit
8 as determined by the medical professional responsible for the care of
9 such woman. If such woman is confined in a local correctional facility,
10 the expense of such accommodation, maintenance and medical care shall be
11 paid by such woman or her relatives or from any available funds of the
12 local correctional facility and if not available from such sources,
13 shall be a charge upon the county, city or town in which is located the
14 court from which such inmate was committed to such local correctional
15 facility. If such woman is confined in any institution under the
16 control of the department, the expense of such accommodation, mainte-
17 nance and medical care shall be paid by such woman or her relatives and
18 if not available from such sources, such maintenance and medical care
19 shall be paid by the state. In cases where payment of such accommo-
20 dations, maintenance and medical care is assumed by the county, city or
21 town from which such inmate was committed the payor shall make payment
22 by issuing payment instrument in favor of the agency or individual that
23 provided such accommodations and services, after certification has been
24 made by the head of the institution to which the inmate was legally
25 confined, that the charges for such accommodations, maintenance and
26 medical care were necessary and are just, and that the institution has
27 no available funds for such purpose.

28 S 2. This act shall take effect immediately.