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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

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

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 ASSEM-
BLY, 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]
10 THIS CHAPTER or sheriff as defined in paragraph [c] (C) of subdivision
11 sixteen of section two of [the correction law] THIS CHAPTER in charge of
12 such institution or facility, a reasonable time before the anticipated
13 birth of such child, shall cause such woman to be removed from such
14 institution or facility and provided with comfortable accommodations,
15 maintenance and medical care elsewhere, under such supervision and safe-
16 guards to prevent her escape from custody as the superintendent or sher-
17 iff or his or her designee may determine. No restraints of any kind
18 shall be used during transport to or from the hospital, institution or
19 clinic where such woman receives care[; provided, however, in extraor-
20 dinary circumstances, where restraints are necessary to prevent such
21 woman from injuring herself or medical or correctional personnel, such
22 woman may be cuffed by one wrist. In cases where restraints are used,
23 the superintendent or sheriff shall make and maintain written findings

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

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

30 S 2. This act shall take effect immediately.