S T A T E O F N E W Y O R K

983--A

2015-2016 Regular Sessions

I N S E N A T E

January 7, 2015

Introduced by Sens. MONTGOMERY, HOYLMAN, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision 1 of section 611 of the correction law, as amended by chapter 411 of the laws of 2009, is amended to read as follows:

1. (A) If a woman confined in any institution [as defined in paragraph c of subdivision four of section two of the correction law] or local correctional facility [as defined in paragraph (a) of subdivision sixteen of section two of the correction law,] be pregnant and about to give birth to a child, the superintendent [as defined in subdivision twelve of section two of the correction law] or sheriff [as defined in paragraph c of subdivision sixteen of section two of the correction law] in charge of such institution or facility, a reasonable time before the anticipated birth of such child, shall cause such woman to be removed from such institution or facility and provided with comfortable accommodations, maintenance and medical care elsewhere, under such supervision and safeguards to prevent her escape from custody as the superintendent or sheriff or his or her designee may determine. No restraints of any kind shall be used during transport [to or from the hospital, institution or clinic where] OF such woman [receives care; provided, however, in extraordinary circumstances, where restraints are necessary to prevent such woman from injuring herself or medical or correctional personnel, such woman may be cuffed by one wrist. In cases where restraints are used, the superintendent or sheriff shall make and main-

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

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tain written findings as to the reasons for such use], A WOMAN WHO IS KNOWN TO BE PREGNANT OR A WOMAN WITHIN EIGHT WEEKS AFTER DELIVERY OR PREGNANCY OUTCOME RECEIVES CARE ABSENT EXTRAORDINARY CIRCUMSTANCES IN WHICH THE SUPERINTENDENT OR SHERIFF OR HIS OR HER DESIGNEE IN CONSULTATION WITH THE CHIEF MEDICAL OFFICER HAS MADE AN INDIVIDUALIZED DETERMINATION THAT RESTRAINTS ARE NECESSARY TO PREVENT SUCH WOMAN FROM INJURING HERSELF OR MEDICAL OR CORRECTIONAL PERSONNEL OR OTHERS AND CANNOT REASONABLY BE RESTRAINED BY OTHER MEANS, INCLUDING THE USE OF ADDITIONAL PERSONNEL. IF A DETERMINATION HAS BEEN MADE THAT EXTRAORDINARY CIRCUMSTANCES EXIST THEN RESTRAINTS SHALL BE LIMITED TO HANDCUFFS IN FRONT OF THE BODY. THE SUPERINTENDENT OR SHERIFF OR HIS OR HER DESIGNEE SHALL DOCUMENT THE FACTS UPON WHICH THE FINDING OF EXTRAORDINARY CIRCUMSTANCES WERE BASED WITHIN FIVE DAYS OF THE USE OF SUCH RESTRAINTS AND SHALL ALSO DOCUMENT THE TYPE OF RESTRAINTS USED AND THE LENGTH OF TIME SUCH RESTRAINTS WERE USED. No restraints of any kind shall be used when such woman is in labor, admitted to a hospital, institution or clinic for delivery, or recovering after giving birth. Any such personnel as may be necessary to supervise the woman during transport to and from and during her stay at the hospital, institution or clinic shall be provided to ensure adequate care, custody and control of the woman, EXCEPT THAT NO CORRECTIONAL STAFF SHALL BE PRESENT IN THE DELIVERY ROOM DURING THE BIRTH OF A BABY UNLESS REQUESTED BY THE MEDICAL STAFF SUPERVISING SUCH DELIVERY OR BY THE WOMAN GIVING BIRTH. The superintendent or sheriff or his or her designee shall cause such woman to be subject to return to such institution or local correctional facility as soon after the birth of her child as the state of her health will permit as determined by the medical professional responsible for the care of such woman. If such woman is confined in a local correctional facility, the expense of such accommodation, maintenance and medical care shall be paid by such woman or her relatives or from any available funds of the local correctional facility and if not available from such sources, shall be a charge upon the county, city or town in which is located the court from which such inmate was committed to such local correctional facility. If such woman is confined in any institution under the control of the department, the expense of such accommodation, maintenance and medical care shall be paid by such woman or her relatives and if not available from such sources, such maintenance and medical care shall be paid by the state. In cases where payment of such accommodations, maintenance and medical care is assumed by the county, city or town from which such inmate was committed the payor shall make payment by issuing payment instrument in favor of the agency or individual that provided such accommodations and services, after certification has been made by the head of the institution to which the inmate was legally confined, that the charges for such accommodations, maintenance and medical care were necessary and are just, and that the institution has no available funds for such purpose.

(B) ANY WOMAN CONFINED IN AN INSTITUTION OR LOCAL CORRECTIONAL FACILITY SHALL RECEIVE NOTICE IN WRITING IN A LANGUAGE AND MANNER UNDERSTANDABLE TO HER ABOUT THE REQUIREMENTS OF THIS SECTION UPON HER ADMISSION TO AN INSTITUTION OR LOCAL CORRECTIONAL FACILITY AND AGAIN WHEN SHE IS KNOWN TO BE PREGNANT. THE SUPERINTENDENT OR SHERIFF SHALL PUBLISH NOTICE OF THE REQUIREMENTS OF THIS SECTION IN PROMINENT LOCATIONS WHERE MEDICAL CARE IS PROVIDED. THE DEPARTMENT AND THE SHERIFF SHALL PROVIDE ANNUAL TRAINING ON PROVISIONS OF THIS SECTION TO ALL CORRECTIONAL PERSONNEL WHO ARE INVOLVED IN THE TRANSPORTATION, SUPERVISION OR MEDICAL CARE OF INCARCERATED WOMEN.

(C) THE DEPARTMENT AND SHERIFF SHALL REPORT ANNUALLY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY, THE CHAIRPERSON OF THE SENATE CRIME VICTIMS, CRIME AND CORRECTION COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY CORRECTION COMMITTEE CONCERNING EVERY USE OF RESTRAINTS ON A WOMAN UNDER THIS SECTION BUT SHALL EXCLUDE INDIVIDUAL IDENTIFYING INFORMATION.

S 2. This act shall take effect immediately.