

STATE OF NEW YORK

8764

2017-2018 Regular Sessions

IN ASSEMBLY

November 3, 2017

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

AN ACT to amend the correction law, in relation to establishing the women's health education program for correctional facilities and rights of pregnant inmates; to amend the public health law, in relation to requiring certain testing to be offered; to amend the correction law, in relation to providing pregnant inmates with access to prenatal vitamins and a specialized diet; and to require the department of health to collect data on women's health care in prisons and publish a report

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

1 Section 1. The correction law is amended by adding a new section 148-a
2 to read as follows:

3 § 148-a. Women's health education program. The commissioner of
4 corrections and community supervision is hereby authorized and directed
5 to assist and cooperate with the commissioner of health and the commis-
6 sioner of children and family services in the establishment and conduct
7 of a women's health education program in the institutions and facilities
8 under their direction. Such program shall educate institution and facil-
9 ity medical staff focusing on the specific medical needs of women and
10 providing professional, respectful and informed care for women, espe-
11 cially those who may be victims of domestic violence or sexual violence.

12 § 2. Paragraph (c) of subdivision 1 and subdivision 2 of section 611
13 of the correction law, paragraph (c) of subdivision 1 as amended by
14 chapter 17 of the laws of 2016 and subdivision 2 as amended by chapter
15 242 of the laws of 1930, are amended and a new subdivision 4 is added to
16 read as follows:

17 (c) No restraints of any kind shall be used when such woman is in
18 labor, admitted to a hospital, institution or clinic for delivery, or
19 recovering after giving birth. Any such personnel as may be necessary to

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

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1 supervise the woman during transport to and from and during her stay at
2 the hospital, institution or clinic shall be provided to ensure adequate
3 care, custody and control of the woman, except that no correctional
4 staff shall be present in the delivery room during the birth of a baby
5 unless requested by the medical staff supervising such delivery or by
6 the woman giving birth. The woman shall be permitted to have one support
7 person of their choosing, including another inmate, accompany them into
8 the delivery room during the birth of the child. The superintendent or
9 sheriff or his or her designee shall cause any inmate providing support
10 to the health of the woman and child to return to such institution or
11 local correctional facility as soon after the birth of the child and
12 after the health of the woman and child has been established. The super-
13 intendent or sheriff or his or her designee shall cause such woman to be
14 subject to return to such institution or local correctional facility as
15 soon after the birth of her child as the state of her health will permit
16 as determined by the medical professional responsible for the care of
17 such woman. If such woman is confined in a local correctional facility,
18 the expense of such accommodation, maintenance and medical care shall be
19 paid by such woman or her relatives or from any available funds of the
20 local correctional facility and if not available from such sources,
21 shall be a charge upon the county, city or town in which is located the
22 court from which such inmate was committed to such local correctional
23 facility. If such woman is confined in any institution under the control
24 of the department, the expense of such accommodation, maintenance and
25 medical care shall be paid by such woman or her relatives and if not
26 available from such sources, such maintenance and medical care shall be
27 paid by the state. In cases where payment of such accommodations, main-
28 tenance and medical care is assumed by the county, city or town from
29 which such inmate was committed the payor shall make payment by issuing
30 payment instrument in favor of the agency or individual that provided
31 such accommodations and services, after certification has been made by
32 the head of the institution to which the inmate was legally confined,
33 that the charges for such accommodations, maintenance and medical care
34 were necessary and are just, and that the institution has no available
35 funds for such purpose.

36 2. A child so born may be returned with its mother to the correctional
37 institution in which the mother is confined unless the chief medical
38 officer of the correctional institution shall certify that the mother is
39 physically unfit to care for the child, in which case the statement of
40 the said medical officer shall be final. A child may remain in the
41 correctional institution with its mother for such period as seems desir-
42 able for the welfare of such child, but not after it is one year of age,
43 provided, however, if the mother is in a state reformatory and is to be
44 paroled shortly after the child becomes one year of age, such child may
45 remain at the state reformatory until its mother is paroled, but in no
46 case after the child is eighteen months old. The correctional institu-
47 tion shall inform the mother of her ability to apply to the Children's
48 Center Program at Bedford Hills Correctional Facility pursuant to regu-
49 lation. The officer in charge of such institution may cause a child
50 cared for therein with its mother to be removed from the institution at
51 any time before the child is one year of age. He shall make provision
52 for a child removed from the institution without its mother or a child
53 born to a woman inmate who is not returned to the institution with its
54 mother as hereinafter provided. He may, upon proof being furnished by
55 the father or other relatives of their ability to properly care for and
56 maintain such child, give the child into the care and custody of such

1 father or other relatives, who shall thereafter maintain the same at
2 their own expense. If it shall appear that such father or other rela-
3 tives are unable to properly care for and maintain such child, such
4 officer shall place the child in the care of the commissioner of public
5 welfare or other officer or board exercising in relation to children the
6 power of a commissioner of public welfare of the county from which such
7 inmate was committed as a charge upon such county. The officer in charge
8 of the correctional institution shall send to such commissioner, officer
9 or board a report of all information available in regard to the mother
10 and the child. Such commissioner of public welfare or other officer or
11 board shall care for or place out such child as provided by law in the
12 case of a child becoming dependent upon the county.

13 4. Any woman confined in any institution or local correctional facili-
14 ty who is known to be pregnant shall be made aware of her option to
15 participate in pregnancy counseling services as established by the
16 department of corrections, in consultation with the department of
17 health, and shall be made aware of her right to abortion services, by
18 correctional personnel who are involved in the medical care of incarcer-
19 ated women.

20 § 3. Subdivision 1 of section 2308-a of the public health law, as
21 amended by section 38 of part E of chapter 56 of the laws of 2013, is
22 amended to read as follows:

23 1. The administrative officer or other person in charge of a clinic or
24 other facility providing gynecological, obstetrical, genito-urological,
25 contraceptive, sterilization or termination of pregnancy services or
26 treatment shall require the staff of such clinic or facility to offer to
27 administer to every resident of the state of New York coming to such
28 clinic or facility for such services or treatment, appropriate examina-
29 tions or tests for the detection of sexually transmitted diseases. For
30 the purposes of this subdivision, the term "facility" shall include a
31 correctional facility as defined in subdivision four of section two of
32 the correction law.

33 § 4. Subdivision 2 of section 140 of the correction law, as added by
34 chapter 516 of the laws of 1995, is amended to read as follows:

35 2. Subject to the regulations of the department of health, routine
36 medical, dental and mental health services and treatment is defined for
37 the purposes of this section to mean any routine diagnosis or treatment,
38 including without limitation the provision of gynecological services or
39 treatment for female inmates at least once per year, the administration
40 of medications or nutrition, the extraction of bodily fluids for analy-
41 sis, and dental care performed with a local anesthetic. Routine mental
42 health treatment shall not include psychiatric administration of medica-
43 tion unless it is part of an ongoing mental health plan or unless it is
44 otherwise authorized by law.

45 § 5. Subdivision 2 of section 505 of the correction law, as added by
46 chapter 437 of the laws of 2013, is amended to read as follows:

47 2. Subject to the regulations of the department of health, routine
48 medical, dental and mental health services and treatment is defined for
49 the purposes of this section to mean any routine diagnosis or treatment,
50 including without limitation the provision of gynecological services or
51 treatment for female inmates at least once per year, the administration
52 of medications or nutrition, the extraction of bodily fluids for analy-
53 sis, and dental care performed with a local anesthetic. Routine mental
54 health treatment shall not include psychiatric administration of medica-
55 tion unless it is part of an ongoing mental health plan or unless it is
56 otherwise authorized by law.

§ 6. The correction law is amended by adding a new section 140-a to read as follows:

§ 140-a. Provision for routine prenatal care. If a woman confined in any institution or local correctional facility be pregnant, she shall be provided with routine prenatal care for the duration of her pregnancy. For the purposes of this section, routine prenatal care shall mean a type of preventative care with the goal of providing regular check-ups that allow doctors to treat and prevent potential health problems throughout the course of the pregnancy while promoting healthy lifestyles that benefit both mother and child. For the purposes of this section, routine prenatal care shall include, but not be limited to the provision of:

1. prenatal vitamins; and

2. a specialized diet tailored to the nutritional needs of the pregnant inmate.

§ 7. The commissioner of corrections and community supervision, in conjunction with the commissioner of health shall promulgate such rules and regulations as may be necessary to effectuate the provisions of section six of this act.

§ 8. 1. The department of health, in cooperation with the department of corrections and community supervision, shall conduct a study of women's health care in prisons. Such study shall:

a. collect all available data relating to women's health care in prisons;

b. determine how often women in prisons are being seen by a medical professional;

c. determine how long it takes for women in prisons to be seen by a medical professional;

d. identify what issues women in prisons are most often being seen for;

e. determine the outcomes of women in prisons being seen by a medical professional; and

f. investigate anything deemed relevant by the commissioner of health or the commissioner of corrections and community supervision for the purposes of this study.

2. Upon completion of the study required by subdivision one of this section, the commissioner of health, or his or her designee, shall prepare a report to be given to the governor and the legislature which shall include the findings of such study. Such report shall be filed within one year of the effective date of this act, unless the commissioner of health requests in writing, an extension of time.

3. All other departments or agencies of the state or subdivisions thereof, and local governments shall, at the request of the commissioner of health or the commissioner of corrections and community supervision, provide expertise, assistance, and data that will enable such commissioner to carry out his or her powers and duties.

§ 9. This act shall take effect immediately; provided however, that:

1. Section two of this act shall take effect on the one hundred twentieth day after it shall have become a law; provided however that, effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of section two of this act on its effective date are authorized to be made by the department of corrections in consultation with the department of health on or before such effective date; and

2. Section six of this act shall take effect on the one hundred eightieth day after it shall have become a law.