STATE OF NEW YORK

8137--A

2021-2022 Regular Sessions

IN ASSEMBLY

June 11, 2021

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law and the executive law, in relation to prohibiting the use of restraints on incarcerated individuals during labor, absent extraordinary circumstances, and on pregnant persons during a custodial interrogation

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

Section 1. Paragraph (a) of subdivision 1 of section 611 of the correction law, as amended by chapter 17 of the laws of 2016, is amended to read as follows:

(a) If a woman confined in any institution or local correctional facility be pregnant and about to give birth to a child, the superintendent or sheriff 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 of such woman, a woman who is known to be pregnant by correctional personnel or personnel providing medical services to the institution or local correctional facility, or a woman within eight weeks after delivery or pregnancy outcome, absent extraordinary circumstances in which[~~:~~

~~**i. the superintendent or sheriff or his or her designee in consultation with the medical professional responsible for the institution has made an individualized determination that restraints are necessary to prevent such woman from injuring herself or medical or correctional**~~

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

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~~personnel or others and cannot reasonably be restrained by other means, including the use of additional personnel; or~~

~~ii.~~] the correctional personnel directly responsible for the transport of such a woman determine that an emergency has arisen in which restraints are necessary because the woman poses an immediate risk of serious injury to herself or medical or correctional personnel or others and cannot reasonably be restrained by other means.

§ 2. The executive law is amended by adding a new section 837-w to read as follows:

§ 837-w. Use of restraints on pregnant and post-pregnant persons by law enforcement. Where a person who is pregnant, in labor or delivery, or twelve weeks post-pregnancy is in the custody of law enforcement, subject to custodial interrogation, or has their freedom of action restricted by law enforcement in any significant way, the use of restraints of any kind by law enforcement personnel shall be prohibited. The provisions of this section shall at minimum apply to police stations, correctional facilities, holding facilities for prisoners, prosecutors' offices, medical areas and hospitals, and any facility where persons are held in detention in connection with criminal or juvenile delinquency charges that have been or may be filed against them, as well as during transfer to and from such locations. A person's disclosure of their status shall serve as sufficient notice to law enforcement under this provision. A person claiming to have been restrained in violation of this section shall have a private right of action for appropriate relief including damages, declaratory and injunctive relief, reasonable attorney's fees and costs, and other equitable relief which the court deems proper.

§ 3. This act shall take effect immediately.