

STATE OF NEW YORK

616

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL, LUPARDO, SEAWRIGHT, OTIS -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to the rights of pregnant inmates

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

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

6 (c) No restraints of any kind shall be used when such woman is in
7 labor, admitted to a hospital, institution or clinic for delivery, or
8 recovering after giving birth. Any such personnel as may be necessary to
9 supervise the woman during transport to and from and during her stay at
10 the hospital, institution or clinic shall be provided to ensure adequate
11 care, custody and control of the woman, except that no correctional
12 staff shall be present in the delivery room during the birth of a baby
13 unless requested by the medical staff supervising such delivery or by
14 the woman giving birth. The woman shall be permitted to have one support
15 person of her choosing accompany her into the delivery room during the
16 birth of the child. The superintendent or sheriff or his or her designee
17 shall cause such woman to be subject to return to such institution or
18 local correctional facility as soon after the birth of her child as the
19 state of her health will permit as determined by the medical profes-
20 sional responsible for the care of such woman. If such woman is confined
21 in a local correctional facility, the expense of such accommodation,
22 maintenance and medical care shall be paid by such woman or her rela-
23 tives or from any available funds of the local correctional facility and
24 if not available from such sources, shall be a charge upon the county,
25 city or town in which is located the court from which such inmate was
26 committed to such local correctional facility. If such woman is confined
27 in any institution under the control of the department, the expense of

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

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1 such accommodation, maintenance and medical care shall be paid by such
2 woman or her relatives and if not available from such sources, such
3 maintenance and medical care shall be paid by the state. In cases where
4 payment of such accommodations, maintenance and medical care is assumed
5 by the county, city or town from which such inmate was committed the
6 payor shall make payment by issuing payment instrument in favor of the
7 agency or individual that provided such accommodations and services,
8 after certification has been made by the head of the institution to
9 which the inmate was legally confined, that the charges for such accom-
10 modations, maintenance and medical care were necessary and are just, and
11 that the institution has no available funds for such purpose.

12 2. A child so born may be returned with its mother to the correctional
13 institution in which the mother is confined unless the chief medical
14 officer of the correctional institution shall certify that the mother is
15 physically unfit to care for the child, in which case the statement of
16 the said medical officer shall be final. A child may remain in the
17 correctional institution with its mother for such period as seems desir-
18 able for the welfare of such child, but not after it is one year of age,
19 provided, however, if the mother is in a state reformatory and is to be
20 paroled shortly after the child becomes one year of age, such child may
21 remain at the state reformatory until its mother is paroled, but in no
22 case after the child is eighteen months old. If the mother is an inmate
23 at a state correctional facility, the department shall inform her of her
24 ability to apply to any nursery program run by the department. The offi-
25 cer in charge of such institution may cause a child cared for therein
26 with its mother to be removed from the institution at any time before
27 the child is one year of age. He shall make provision for a child
28 removed from the institution without its mother or a child born to a
29 woman inmate who is not returned to the institution with its mother as
30 hereinafter provided. He may, upon proof being furnished by the father
31 or other relatives of their ability to properly care for and maintain
32 such child, give the child into the care and custody of such father or
33 other relatives, who shall thereafter maintain the same at their own
34 expense. If it shall appear that such father or other relatives are
35 unable to properly care for and maintain such child, such officer shall
36 place the child in the care of the commissioner of public welfare or
37 other officer or board exercising in relation to children the power of a
38 commissioner of public welfare of the county from which such inmate was
39 committed as a charge upon such county. The officer in charge of the
40 correctional institution shall send to such commissioner, officer or
41 board a report of all information available in regard to the mother and
42 the child. Such commissioner of public welfare or other officer or board
43 shall care for or place out such child as provided by law in the case of
44 a child becoming dependent upon the county.

45 4. The chief medical officer of each correctional facility housing
46 female inmates or his or her designee shall inform any inmate known to
47 be pregnant of her option of participating in pregnancy counseling
48 services and of her right to abortion services.

49 § 2. This act shall take effect on the one hundred twentieth day after
50 it shall have become a law. Effective immediately, the addition, amend-
51 ment and/or repeal of any rules or regulations necessary for the imple-
52 mentation of this act on its effective date are authorized to be made by
53 the department of corrections and community supervision in consultation
54 with the department of health on or before such effective date.