

STATE OF NEW YORK

399--A

Cal. No. 930

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BIAGGI, HOYLMAN, JACKSON, MYRIE, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Women's Issues -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 at least
15 one support person of her choosing accompany her in the delivery room
16 and when such woman is in labor and recovering after giving birth. A
17 support person shall not need to have visited the woman at a correction-
18 al facility prior to serving as a support person. A person may not be
19 denied eligibility to serve as a support person solely on the basis of a
20 past criminal conviction or that such person is on probation, condi-

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

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1 tional release, parole or post release supervision. Any decision by an
2 agency to deny a woman's request to have a specific person serve as a
3 support person shall be made with reasons specified in writing within
4 five days of her request and promptly provided to the woman. A support
5 person shall be notified immediately after such woman goes into labor,
6 or immediately after a caesarean section or termination is scheduled. If
7 available, a doula, midwife or other birthing support specialist may
8 also assist during labor and delivery in addition to at least one
9 support person of the woman's choosing. Any woman confined in a state or
10 local correctional facility shall receive notice in writing in a
11 language and manner understandable to her about the requirements of this
12 section upon her admission to such state or local correctional facility
13 and again when she is known to be pregnant. The superintendent or sher-
14 iff shall publish notice of the requirements of this section in promi-
15 nent locations where medical care is provided. The superintendent or
16 sheriff or his or her designee shall cause such woman to be subject to
17 return to such institution or local correctional facility as soon after
18 the birth of her child as the state of her health will permit as deter-
19 mined by the medical professional responsible for the care of such
20 woman. If such woman is confined in a local correctional facility, the
21 expense of such accommodation, maintenance and medical care shall be
22 paid by such woman or her relatives or from any available funds of the
23 local correctional facility and if not available from such sources,
24 shall be a charge upon the county, city or town in which is located the
25 court from which such inmate was committed to such local correctional
26 facility. If such woman is confined in any institution under the control
27 of the department, the expense of such accommodation, maintenance and
28 medical care shall be paid by such woman or her relatives and if not
29 available from such sources, such maintenance and medical care shall be
30 paid by the state. In cases where payment of such accommodations, main-
31 tenance and medical care is assumed by the county, city or town from
32 which such inmate was committed the payor shall make payment by issuing
33 payment instrument in favor of the agency or individual that provided
34 such accommodations and services, after certification has been made by
35 the head of the institution to which the inmate was legally confined,
36 that the charges for such accommodations, maintenance and medical care
37 were necessary and are just, and that the institution has no available
38 funds for such purpose.

39 2. A child so born may be returned with its mother to the correctional
40 institution in which the mother is confined unless the chief medical
41 officer of the correctional institution shall certify that the mother is
42 physically unfit to care for the child, in which case the statement of
43 the said medical officer shall be final. A child may remain in the
44 correctional institution with its mother for such period as seems desir-
45 able for the welfare of such child, but not after it is one year of age,
46 provided, however, if the mother is in a state reformatory and is to be
47 paroled shortly after the child becomes one year of age, such child may
48 remain at the state reformatory until its mother is paroled, but in no
49 case after the child is eighteen months old. If a pregnant woman or
50 mother of a child under the age of eighteen months is incarcerated at a
51 state or local correctional facility, the department shall inform her of
52 her ability to apply to any nursery program run by the department and
53 the locality. Any woman confined in a state or local correctional facil-
54 ity shall receive notice in writing in a language and manner understand-
55 able to her about the requirements of this section upon her admission to
56 a state or local correctional facility and again when she is known to be

1 pregnant. The superintendent or sheriff shall publish notice of the
2 requirements of this section in prominent locations where medical care
3 is provided. The officer in charge of such institution may cause a child
4 cared for therein with its mother to be removed from the institution at
5 any time before the child is one year of age. He or she shall make
6 provision for a child removed from the institution without its mother or
7 a child born to a woman inmate who is not returned to the institution
8 with its mother as hereinafter provided. He or she may, upon proof
9 being furnished by the father or other relatives of their ability to
10 properly care for and maintain such child, give the child into the care
11 and custody of such father or other relatives, who shall thereafter
12 maintain the same at their own expense. If it shall appear that such
13 father or other relatives are unable to properly care for and maintain
14 such child, such officer shall place the child in the care of the
15 commissioner of public welfare or other officer or board exercising in
16 relation to children the power of a commissioner of public welfare of
17 the county from which such inmate was committed as a charge upon such
18 county. The officer in charge of the correctional institution shall send
19 to such commissioner, officer or board a report of all information
20 available in regard to the mother and the child. Such commissioner of
21 public welfare or other officer or board shall care for or place out
22 such child as provided by law in the case of a child becoming dependent
23 upon the county.

24 4. Upon admitting a woman known to be pregnant, or upon learning of
25 pregnancy status, the chief medical officer of each correctional facili-
26 ty housing female inmates, including the medical professional responsi-
27 ble for each local correctional facility housing female inmates, or such
28 officer or professional's designee, shall immediately inform such woman
29 of the option of participating in pregnancy counseling services and the
30 right to abortion services.

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