

STATE OF NEW YORK

1670--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 10, 2025

Introduced by M. of A. ROSENTHAL, FORREST, CRUZ, GLICK, SEAWRIGHT, REYES, DAVILA, LUCAS, SIMON, SHIMSKY, LEVENBERG, TAPIA, SIMONE, RAGA, BURDICK, WEPRIN, LAVINE, KELLES, PAULIN, SAYEGH -- 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:

1 Section 1. Subdivision 1 of section 611 of the correction law, as
2 amended by chapter 17 of the laws of 2016, paragraph (c) as separately
3 amended by chapters 322 and 621 of the laws of 2021, is amended to read
4 as follows:
5 1. (a) If a [~~woman~~] person confined in any institution or local
6 correctional facility [~~be~~] is pregnant and about to give birth [~~to a~~
7 ~~child~~], or needs medical care elsewhere related to pregnancy or any
8 pregnancy outcome, including birth, abortion, miscarriage and still-
9 birth, the superintendent or sheriff in charge of such institution or
10 facility, a reasonable time before the anticipated birth [~~of such child~~]
11 or need for such other care, as determined by such person's health care
12 provider, or if unavailable, by personnel providing medical services to
13 such person, in accordance with medical best practices and standards of
14 care, shall cause such [~~woman~~] person to be removed from such institu-
15 tion or facility and provided with comfortable accommodations, mainte-
16 nance and medical care elsewhere[~~7~~]. This shall be done under such
17 supervision and safeguards to prevent [~~her~~] their escape from custody as
18 the superintendent or sheriff or [~~his or her~~] their designee may deter-
19 mine except as provided by paragraphs (b), (c), (d), (g), and (h) of
20 this subdivision.

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

LBD04205-07-6

1 (b) No restraints of any kind shall be used during transport of such
2 ~~[woman] person~~, a ~~[woman] person~~ who is known to be pregnant or known to
3 be within twelve weeks of any pregnancy outcome, including birth,
4 abortion, miscarriage, and stillbirth, by correctional personnel or
5 personnel providing medical services to the institution or local correc-
6 tional facility~~[, or a woman within eight weeks after delivery or preg-~~
7 ~~nancy outcome,].~~ This includes, but is not limited to, persons receiv-
8 ing care at a hospital or medical facility or in labor or delivery, and
9 is absent extraordinary circumstances in which[+]

10 ~~i. the superintendent or sheriff or his or her designee in consulta-~~
11 ~~tion with the medical professional responsible for the institution has~~
12 ~~made an individualized determination that restraints are necessary to~~
13 ~~prevent such woman from injuring herself or medical or correctional~~
14 ~~personnel or others and cannot reasonably be restrained by other means,~~
15 ~~including the use of additional personnel; or~~

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

22 ~~[(b)]~~ (c) If a determination has been made pursuant to ~~[subparagraph i~~
23 ~~or ii of]~~ paragraph ~~[(a)]~~ (b) of this subdivision that extraordinary
24 circumstances exist then restraints shall be limited to wrist restraints
25 in front of the body. The ~~[superintendent or sheriff or his or her~~
26 ~~designee pursuant to subparagraph i of paragraph (a) of this subdivision~~
27 ~~or]~~ correctional personnel pursuant to ~~[subparagraph ii of]~~ paragraph
28 ~~[(a)]~~ (b) of this subdivision shall document in writing the facts upon
29 which the finding of extraordinary circumstances were based within five
30 days of the use of such restraints and shall also document the type of
31 restraints used and the length of time such restraints were used.

32 ~~[(e) No restraints of any kind shall be used when such woman is in~~
33 ~~labor, admitted to a hospital, institution or clinic for delivery, or~~
34 ~~recovering after giving birth. Any such personnel as may be necessary to~~
35 ~~supervise the woman during transport to and from and during her stay at~~
36 ~~the hospital, institution or clinic shall be provided to ensure adequate~~
37 ~~care, custody and control of the woman, except that no]~~

38 (d) No correctional staff shall be present in the ~~[delivery] patient's~~
39 room during ~~[the birth of a baby] counseling and medical care related to~~
40 the pregnancy and all pregnancy outcomes including birth, abortion,
41 miscarriage, and stillbirth and during and after labor unless requested
42 by the medical staff ~~[supervising] providing~~ such ~~[delivery] care when~~
43 the situation poses a clear risk of danger to the medical staff or
44 others or by the ~~[woman giving birth] person~~ receiving such care. If a
45 determination has been made pursuant to this subdivision that correc-
46 tional staff shall be present, correctional personnel shall document in
47 writing within five days: the facts, as reported by medical staff, on
48 which the determination was based; the nature of the care being
49 provided; and what, if any, alternatives were attempted to avoid having
50 correctional staff present and why they failed.

51 (e) The ~~[woman] person~~ shall be permitted to have at least one support
52 person of ~~[her] their~~ choosing accompany ~~[her in the delivery room and~~
53 ~~when such woman is in labor and recovering after giving birth] them to a~~
54 hospital or medical facility for labor, birth, postpartum recovery and
55 counseling and medical care related to pregnancy and all pregnancy
56 outcomes including birth, abortion, miscarriage and stillbirth and shall

1 be permitted to remain with such support person for the duration of
2 their stay in the hospital or medical facility subject to the visitation
3 rules of that hospital or medical facility. A support person shall not
4 need to have visited the [~~woman~~] person at a correctional facility prior
5 to serving as a support person[~~, a person~~] and may not be denied eligi-
6 bility to serve as a support person solely on the basis of a past criminal
7 conviction or that such support person is on probation, conditional
8 release, parole or post release supervision. Any decision by an [~~agency~~]
9 institution or local correctional facility to deny a [~~woman's~~] request
10 [~~to have~~] for a specific support person [~~serve as a support person~~]
11 shall be made with reasons specified in writing within five days of
12 [~~her~~] the request and promptly provided to the [~~woman~~] person making
13 the request. A support person shall be notified immediately after such
14 [~~woman~~] person goes into labor, [~~or immediately after a caesarean~~] is
15 scheduled for labor induction or a cesarean section [~~or termination~~], is
16 identified as having a miscarriage or stillbirth, or is scheduled for
17 medical care for any pregnancy outcome, including birth, abortion,
18 miscarriage, and stillbirth. If available, a doula[~~, midwife~~] or other
19 birthing support specialist may also assist during labor [~~and~~], delivery
20 [~~in addition to at least one support person of the woman's choosing. Any~~
21 ~~woman confined in a state or local correctional facility shall receive~~
22 ~~notice in writing in a language and manner understandable to her about~~
23 ~~the requirements of this section upon her admission to such state or~~
24 ~~local correctional facility and again when she is known to be pregnant.~~
25 ~~The superintendent or sheriff shall publish notice of the requirements~~
26 ~~of this section in prominent locations where medical care is provided],~~
27 postpartum recovery, and during medical care for and recovery from any
28 pregnancy outcome including birth, abortion, miscarriage, and
29 stillbirth. The superintendent or sheriff or [~~his or her~~] their designee
30 shall cause such [~~woman~~] person to be subject to return to such institu-
31 tion or local correctional facility [~~as soon~~] after the birth of [~~her~~]
32 their child or other pregnancy outcome or provision of counseling and
33 medical care related to pregnancy or any pregnancy outcome as the state
34 of [~~her~~] their health will permit as determined by the medical profes-
35 sional responsible for the care of such [~~woman~~] person. [~~If such woman~~
36 ~~is confined in a local correctional facility, the expense of such accom-~~
37 ~~modation, maintenance and medical care shall be paid by such woman or~~
38 ~~her relatives or from any available funds of the local correctional~~
39 ~~facility and if not available from such sources, shall be a charge upon~~
40 ~~the county, city or town in which is located the court from which such~~
41 ~~incarcerated individual was committed to such local correctional facili-~~
42 ~~ty. If such woman is confined in any institution under the control of~~
43 ~~the department, the expense of such accommodation, maintenance and~~
44 ~~medical care shall be paid by such woman or her relatives and if not~~
45 ~~available from such sources, such maintenance and medical care shall be~~
46 ~~paid by the state. In cases where payment of such accommodations, main-~~
47 ~~tenance and medical care is assumed by the county, city or town from~~
48 ~~which such incarcerated individual was committed the payor shall make~~
49 ~~payment by issuing payment instrument in favor of the agency or individ-~~
50 ~~ual that provided such accommodations and services, after certification~~
51 ~~has been made by the head of the institution to which the incarcerated~~
52 ~~individual was legally confined, that the charges for such accommo-~~
53 ~~dations, maintenance and medical care were necessary and are just, and~~
54 ~~that the institution has no available funds for such purpose.~~

55 (d) (f) Any [~~woman~~] person confined in an institution or local
56 correctional facility shall receive notice in writing in a language and

1 manner understandable to [~~her~~] them about the requirements of this
2 section upon [~~her~~] their admission to an institution or local correc-
3 tional facility and again when [~~she is~~] they are known to be pregnant.
4 The superintendent or sheriff shall publish notice of the requirements
5 of this section in prominent locations where medical care is provided.
6 The department and the sheriff shall provide annual training on
7 provisions of this section to all correctional personnel who are
8 involved in the transportation, supervision or medical care of incarcer-
9 ated [~~women~~] persons.

10 [(e)] (g) Force against a pregnant person or any person within twelve
11 weeks after delivery or pregnancy outcome shall not be used, except as a
12 last resort, and then only in situations in which the staff member
13 reasonably believes that force is necessary to protect themselves, the
14 incarcerated individual, or a third person from what they reasonably
15 believe to be the use or imminent use of physical force by such individ-
16 ual that could cause death or serious physical injury. The use of spit
17 masks, chemical agents, tasers, weapons, chokeholds or blows to the body
18 against a pregnant person or any person within twelve weeks after deliv-
19 ery or pregnancy outcome shall be strictly prohibited.

20 (h) If a determination has been made pursuant to paragraph (g) of this
21 subdivision that force must be used, correctional personnel shall docu-
22 ment in writing within five days of the use of such force: the facts
23 from which the finding that force was necessary as a last resort were
24 based, what non-force alternatives were attempted and why they failed,
25 the type or types of force used, the length of time such force was used,
26 and a description of each injury incurred by the incarcerated person.

27 (i) i. The department shall report annually to the governor, the
28 temporary president of the senate, the minority leader of the senate,
29 the speaker of the assembly, the minority leader of the assembly, the
30 chairperson of the senate crime victims, crime and correction committee
31 and the chairperson of the assembly correction committee concerning:

32 (A) every use of restraints and force on a [~~woman~~] person under this
33 section, including the reason such restraint was used, the type of
34 restraint used and the length of time such restraint was used pursuant
35 to paragraph [~~(b)~~] (c) of this subdivision, but shall exclude [~~individ-~~
36 ual identifying] personally identifiable information; and

37 (B) every use of force on a person under this section, including the
38 reason such force was used, what non-force alternatives were attempted
39 and why they failed, the type or types of force used, the length of time
40 such force was used, and a description of each injury incurred by the
41 incarcerated person pursuant to paragraph (h) of this subdivision, but
42 shall exclude personally identifiable information.

43 ii. The sheriff of each county shall report at least annually to the
44 commission, in a form and manner prescribed by the commission[~~r~~]:

45 (A) every use of restraints on a [~~woman~~] person under this section,
46 including the reason such restraint was used, the type of restraint used
47 and the length of time such restraint was used pursuant to paragraph
48 [~~(b)~~] (c) of this subdivision, [~~annually to the commission~~] but shall
49 exclude personally identifiable information; and

50 (B) every use of force on a person under this section, including the
51 reason such force was used, what non-force alternatives were attempted
52 and why they failed, the type or types of force used, the length of time
53 such force was used, and a description of each injury incurred by the
54 incarcerated person pursuant to paragraph (h) of this subdivision, but
55 shall exclude personally identifiable information. The commission shall
56 include such information in its annual report pursuant to section

1 forty-five of this chapter, but shall exclude identifying information
2 from such report.

3 iii. Reports required by this section shall be posted on the websites
4 maintained by the department and the commission.

5 (j) The department and the commission shall issue uniform minimum
6 standards and procedures regarding the implementation of this subdivi-
7 sion within one hundred eighty days of the effective date of the chapter
8 of the laws of two thousand twenty-six that amended this subdivision.
9 These standards shall be developed in consultation with medical, social
10 work, and mental health professionals, including those with specializa-
11 tions in reproductive health care, pediatrics, child development, and
12 postpartum mental health, as well as advocates for pregnant people who
13 are incarcerated, including presently and formerly incarcerated individ-
14 uals.

15 § 2. The executive law is amended by adding a new section 837-t-1 to
16 read as follows:

17 § 837-t-1. Use of restraints on pregnant and post-pregnant persons by
18 law enforcement. 1. Where a person who is known to be pregnant, in
19 labor or delivery, or twelve weeks post-pregnancy is in the custody of
20 law enforcement, subject to custodial interrogation, or has their free-
21 dom of action restricted by law enforcement in any significant way, the
22 use of restraints of any kind by law enforcement personnel shall be
23 prohibited. The provisions of this section shall at minimum apply to
24 police stations, holding facilities for prisoners, prosecutors' offices,
25 medical areas and hospitals, and any facility where persons are held in
26 detention in connection with criminal or juvenile delinquency charges
27 that have been or may be filed against them, as well as during transfer
28 to and from such locations. A person's disclosure of their status shall
29 serve as sufficient notice to law enforcement under this provision.

30 2. (a) If restraints are used on a person who is pregnant or post-
31 pregnancy contrary to this section, the law enforcement personnel
32 responsible for such use of restraints shall document in writing within
33 five days: the reason such restraints were used, the type of restraints
34 used, and the length of time such restraints were used.

35 (b) The chief of every police department, county sheriff, and the
36 superintendent of state police shall report to the division, in a form
37 and manner prescribed by the division, all such uses of restraints,
38 disaggregated by county, and shall include the following information,
39 but shall exclude personally identifiable information:

40 (i) the reason restraints were used;

41 (ii) the type of restraints used;

42 (iii) the length of time such restraints were used;

43 (iv) the race, ethnicity, age, and gender identity of the individual;

44 and

45 (v) the zip code or location where the use of restraints occurred.

46 (c) The division shall make the information reported pursuant to this
47 subdivision available to the public by posting it on the website of the
48 division, excluding personally identifiable information.

49 (d) The division shall submit to the governor and the legislature an
50 annual report of all uses of restraints on pregnant and post-pregnant
51 persons by law enforcement, including the information reported pursuant
52 to this subdivision, but shall exclude personally identifying informa-
53 tion.

54 (e) The division may promulgate regulations to effectuate the report-
55 ing required by this subdivision.

56 § 3. This act shall take effect immediately.