



IN THE GENERAL ASSEMBLY STATE OF \_\_\_\_\_

**An Act to Prohibit the Shackling of Pregnant Prisoners**

1 Be it enacted by the People of the State of \_\_\_\_\_, represented in the General  
2 Assembly:

3 **Section 1. Title.** This act shall be known as and may be cited as an “Act to Prohibit the  
4 Shackling of Pregnant Prisoners.”

5 **Section 2. Purpose.** The Legislature hereby finds and declares that:

6 (a) Restraining a pregnant woman can pose undue health risks to the woman and her  
7 pregnancy.

8 (b) The vast majority of female prisoners or detainees in [State] are non-violent  
9 offenders.

10 (c) Restraining prisoners and detainees increases their potential for physical harm from  
11 an accidental trip or fall. The impact of such harm to a pregnant woman can  
12 negatively impact her pregnancy.

13 (d) Freedom from physical restraints is especially critical during labor, delivery, and  
14 postpartum recovery after delivery. Women often need to move around during  
15 labor and recovery, including moving their legs as part of the birthing process.

16 (e) Restraints on a pregnant woman can interfere with the medical staff’s ability to  
17 appropriately assist in childbirth or to conduct sudden emergency procedures.

1 (f) The American Medical Association, The Federal Bureau of Prisons, the U.S.  
2 Marshals Service, the American Correctional Association, the American College of  
3 Obstetricians and Gynecologists, and the American Public Health Association all  
4 oppose shackling women during labor, delivery, and postpartum recovery because it  
5 is unnecessary and dangerous to a woman’s health and well being.

6 (g) International human rights bodies have repeatedly expressed concern about policies  
7 that permit the shackling of pregnant and birthing women.

8 **Section 3. Definitions.**

9 (a) “Restraints” means any physical restraint or mechanical device used to control the  
10 movement of a prisoner or detainee’s body and/or limbs, including, but not limited  
11 to, flex cuffs, soft restraints, hard metal handcuffs, a black box, Chubb cuffs, leg  
12 irons, belly chains, a security (tether) chain, or a convex shield.

13 (b) “Labor” means the period of time before a birth during which contractions are of  
14 sufficient frequency, intensity, and duration to bring about effacement and  
15 progressive dilation of the cervix.

16 (c) “Postpartum recovery” means, as determined by her physician, the period  
17 immediately following delivery, including the entire period a woman is in the  
18 hospital or infirmary after birth.

19 (d) “Correctional institution” means any entity under the authority of any state, county  
20 or municipal law enforcement division that has the power to detain and/or restrain a  
21 person under the laws of the State.

22 (e) “Corrections official” means the official that is responsible for oversight of a  
23 correctional institution, or his/her designate.

1 (f) “Prisoner” means any person incarcerated or detained in any facility who is accused  
2 of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal  
3 law or the terms and conditions of parole, probation, pretrial release, or diversionary  
4 program.

5 (g) “Detainee” includes any person detained under the immigration laws of the United  
6 States at any correctional facility.

7 **Section 4. Requirements.** Restraint of Prisoners and Detainees.

8 (a) An adult or juvenile correctional institution shall use the least restrictive restraints  
9 necessary when the correctional institution has actual or constructive knowledge  
10 that a prisoner or detainee is in the second or third trimester of pregnancy. No  
11 restraints of any kind shall be used on a prisoner or detainee during labor, transport  
12 to a medical facility, delivery, and postpartum recovery unless there are compelling  
13 grounds to believe that the prisoner or detainee presents:

- 14 (1) an immediate and serious threat of harm to herself, staff or others; or  
15 (2) a substantial flight risk and cannot be reasonably contained by other means.

16 (b) Under no circumstances shall leg or waist restraints be used on any prisoner or  
17 detainee who is in labor or delivery.

18 (c) If restraints are used on a prisoner or detainee pursuant to subsection (a), the  
19 corrections official shall make written findings within ten (10) days as to the  
20 extraordinary circumstance that dictated the use of the restraints to ensure the safety  
21 and security of the prisoner or detainee, the staff of the correctional institution or  
22 medical facility, other prisoners or detainees, or the public. These findings shall be  
23 kept on file by the institution for at least five (5) years and be made available for

1 public inspection, except that no information identifying any prisoner or detainee  
2 shall be made public in violation of [insert relevant section]<sup>1</sup> without the prisoner  
3 or detainee’s prior written consent.

4 *Drafting note: If state has a specific statute about the release of private information*  
5 *about prisoners, it should be cross referenced here.*

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7 **Section 5. Enforcement.** Notice to Prisoners and Detainees

8 (a) Within 30 days of the effectiveness of this Act, all correctional institutions in [State]  
9 shall develop rules pursuant to this Act.

10 (b) Correctional institutions shall inform prisoners and detainees of the rules developed  
11 pursuant to subsection (a) upon admission to the correctional institution and  
12 [include policies and practices pursuant to this Act in the prisoner handbook] [post  
13 policies and practices pursuant to this Act in locations in the correctional institution  
14 where such notices are commonly posted, including common housing areas and  
15 medical care facilities].<sup>2</sup>

16 *Drafting note: Select one of the two bracketed clauses that are consistent with*  
17 *practices in your state prisons and jails, and/or consistent with other statutes governing*  
18 *the conveyance of information to prisoners or detainees. Many states have statutory*  
19 *requirements that prison rules be distributed to prisoners; if your state has such a*  
20 *policy, insert a cross reference to that law in this section.*

21  
22 (c) Within 60 days of the effectiveness of this Act, correctional institutions shall inform  
23 prisoners and detainees within the custody of the correctional institution of the rules  
24 developed pursuant to subsection (a).

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<sup>1</sup> Drafting note: if state has a specific statute about the release of private information about prisoners, it should be cross referenced here.

<sup>2</sup> Drafting note: select one of the two bracketed clauses that is consistent with practices in your state prisons and jails, and/or consistent with other statutes governing the conveyance of information to prisoners or detainees. Many states have statutory requirements that prison rules be distributed to prisoners; if your state has such a policy, insert a cross reference to that law in this section.

1 **Section 5. Effective Date.** This Act shall become effective immediately upon being  
2 enacted into law.

3 **Section 6. Severability.** If any provision of this Act is held by a court to be invalid, such  
4 invalidity shall not affect the remaining provisions of this Act, and to this end the  
5 provisions of this Act are hereby declared severable.