

HOUSE BILL REPORT

HB 2747

As Reported by House Committee On: Human Services

Title: An act relating to the use of restraints on pregnant women or youth.

Brief Description: Limiting the use of restraints on pregnant women or youth.

Sponsors: Representatives Darneille, Cody, Williams, Kagi, Pedersen, Nelson, Dickerson, Hasegawa and Chase.

Brief History:

Committee Activity:

Human Services: 1/18/10, 1/28/10 [DPS].

Brief Summary of Substitute Bill

- Prohibits restraints of any kind on any pregnant woman or youth in a correctional or detention facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy and while she is in labor, in the process of delivering her baby, or in postpartum recovery.
- Requires notice of the requirements of this act to be given to the appropriate staff at correctional or detention facilities, including all medical staff and staff involved in the transport of women and youth who are or may become pregnant.
- Requires notice of the requirements of this act to be provided to all women or youth who are or may become pregnant at the time that the correctional or detention facility assumes custody of the person.
- Requires notice of the requirements of this act to be posted in locations in which medical care is provided in the facilities.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Darneille, Green, Herrera, O'Brien and Walsh.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Linda Merelle (786-7092).

Background:

There are approximately 1,500 women in the custody of the Department of Corrections (DOC) and many women who are held in custody in city and county corrections facilities, and juvenile detention facilities. From November 2008 through October 2009, there were 35 births within the DOC. There are approximately 59 female juveniles in the custody of the Juvenile Rehabilitation Administration (JRA). On average, one youth in JRA's custody gives birth in a year.

Summary of Substitute Bill:

Use of Restraints.

No restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional or detention facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy or while she is in labor, in the process of delivering her baby, or in postpartum recovery.

Notice.

Notice of the requirements of this act must be provided to appropriate staff, including medical staff. Notice must be provided to all females who are in custody and who are or may become pregnant. Notice of this act containing its requirements must be posted in the locations in a correctional or detention facility where medical care is provided.

Substitute Bill Compared to Original Bill:

The substitute bill only addresses the use of restraints on pregnant women and youth in relation to transportation to and from medical providers and legal proceedings during the third trimester and during labor, delivery, and postpartum recovery.

No written findings regarding any use of restraints are required, and no record keeping regarding the use of restraints is required. There is no training requirement for staff at correctional and detention facilities, and notice at the facilities is only required to be posted in places where medical care is provided rather than "in conspicuous places."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill addresses pregnancies that would already be at risk and we want to keep these babies safe. Child birth is not just medical, it is also social and can be transformative. Negative birth experiences can impact women for life. Women who are restrained have options taken away which allow them to cope with labor. When a woman becomes pregnant, it changes her life. Being shackled during labor sets a woman up for failure. Memories associated with labor are hugely important to the ability to parent the child. Restraining incarcerated women during birth is to do so at one of the most sacred points in life. Shackling is medically dangerous. Other states have seen fit to ban the practice. None of the corrections institutions other than the Department of Corrections have policies in place. The attitude of a health professional changes towards a woman who is shackled. During labor, complications can happen quickly and shackling can interfere. The best way to avoid postpartum blood clots is by moving around. Walking around and moving helps women avoid pain. Women are very vulnerable during birth and much compassion is needed.

(With concerns) There are rare instances where the prohibition of restraints may result in safety concerns for the individual, the pregnancy, the community, or employees, and we would be more comfortable with a ban on restraints except in extraordinary circumstances where it is necessary to prevent harm. We have concerns about the definition of physical restraint and would appreciate a clarification.

(Available for questions) Statistics show there have been 35 births in the last year. The DOC is not shackling at this point. We have an operational memorandum, and it drives how the DOC would manage a woman who is pregnant during transportation.

(Opposed) There can be extraordinary circumstances in which restraints may be necessary.

Persons Testifying: (In support) Representative Darneille, prime sponsor; Sheila Capestany and Candace Barber, Open Arms Perinatal Services; Sara Ainsworth, Legal Voice; Kimberly Mays; Dr. Caroline Mitchell; Wendy Carrillo; and Ruth Gordon, Gender and Justice Commission.

(With concerns) Ton Johnson, Washington Federation of State Employees; Candace Bock, Association of Washington Cities; and Brian Enslow, Washington State Association of Counties.

(Available for questions) Earl Wright, Department of Corrections.

(Opposed) Jo Arlow, Washington Association of Sheriffs and Police Chiefs; and Penny Bartley, City of Renton Police.

Persons Signed In To Testify But Not Testifying: None.