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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1247

02/25/2015 Authored by Laine, Cornish, Moran, Lohmer, Winkler and others

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act  
1.2 relating to public safety; addressing needs of incarcerated women relating to  
1.3 pregnancy and childbirth; requiring a report on use of restraints; amending  
1.4 Minnesota Statutes 2014, sections 241.88, subdivision 1, by adding a subdivision;  
1.5 241.89, subdivisions 1, 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 241.88, subdivision 1, is amended to read:

1.8 Subdivision 1. **Restraint.** (a) A representative of a correctional facility may not  
1.9 restrain a woman known to be pregnant unless the representative makes an individualized  
1.10 determination that restraints are reasonably necessary for the legitimate safety and security  
1.11 needs of the woman, correctional staff, or public. If restraints are determined to be  
1.12 necessary, the restraints must be the least restrictive available and the most reasonable  
1.13 under the circumstances.

1.14 (b) A representative of a correctional facility may not restrain a woman known to be  
1.15 pregnant while the woman is being transported if the restraint is through the use of waist  
1.16 chains or other devices that cross or otherwise touch the woman's abdomen or handcuffs  
1.17 or other devices that cross or otherwise touch the woman's wrists when affixed behind the  
1.18 woman's back. If used, wrist restraints should be applied in such a way that the pregnant  
1.19 woman may be able to protect herself and her fetus in the event of a forward fall.

1.20 (c) A representative of a correctional facility may restrain a woman who is in labor  
1.21 or who has given birth within the preceding three days only if:

1.22 (1) there is a substantial flight risk or some other extraordinary medical or security  
1.23 circumstance that dictates restraints be used to ensure the safety and security of the  
1.24 woman, the staff of the correctional or medical facility, other inmates, or the public;

2.1 (2) the representative has made an individualized determination that restraints are  
 2.2 necessary to prevent escape or injury;

2.3 (3) there is no objection from the treating medical care provider; and

2.4 (4) the restraints used are the least restrictive type and are used in the least restrictive  
 2.5 manner.

2.6 (d) Section 645.241 does not apply to this section.

2.7 Sec. 2. Minnesota Statutes 2014, section 241.88, is amended by adding a subdivision  
 2.8 to read:

2.9 Subd. 3. **Required annual report.** By February 15 of each year, the commissioner  
 2.10 shall report to the chairs and ranking minority members of the senate and house of  
 2.11 representatives committees and divisions having jurisdiction over criminal justice policy  
 2.12 and funding on the use of restraints on pregnant women, women in labor, and women  
 2.13 who have given birth in the preceding three days, who are incarcerated in state and local  
 2.14 correctional facilities during the preceding calendar year. For reporting purposes, the use of  
 2.15 restraints does not include use of hand cuffs on the front of the body of a pregnant woman.

2.16 Sec. 3. Minnesota Statutes 2014, section 241.89, subdivision 1, is amended to read:

2.17 Subdivision 1. **Applicability.** This section applies only to a woman:

2.18 (1) incarcerated following conviction; ~~and~~ or

2.19 (2) incarcerated before conviction beyond the period specified for the woman's initial  
 2.20 appearance before the court in Rules of Criminal Procedure, rules 3.02, 4.01, and 4.02.

2.21 Sec. 4. Minnesota Statutes 2014, section 241.89, subdivision 2, is amended to read:

2.22 Subd. 2. **Requirements.** The head of each correctional facility shall ensure that  
 2.23 every woman incarcerated at the facility:

2.24 (1) is tested for pregnancy on or before day 14 of incarceration, if under 50 years  
 2.25 of age unless the inmate refuses the test;

2.26 (2) if pregnant ~~and agrees to testing~~, ~~is tested for sexually transmitted diseases,~~  
 2.27 ~~including HIV~~, is provided the prevailing standard of care or current practice by the  
 2.28 medical care provider's peer group;

2.29 (3) if pregnant or has given birth in the past six weeks, is provided appropriate  
 2.30 educational materials and resources related to pregnancy, childbirth, breastfeeding, and  
 2.31 parenting;

3.1 (4) if pregnant or has given birth in the past six weeks, has access to doula services if  
3.2 these services are provided by a certified doula without charge to the correctional facility  
3.3 or the incarcerated woman pays for the certified doula services;

3.4 (5) if pregnant or has given birth in the past six months, has access to a mental health  
3.5 assessment and, if necessary, treatment;

3.6 (6) if pregnant or has given birth in the past six months and determined to be  
3.7 suffering from a mental illness, has access to evidence-based mental health treatment  
3.8 including psychotropic medication;

3.9 (7) if pregnant or has given birth in the past six months and determined to be  
3.10 suffering from postpartum depression, has access to evidence-based therapeutic care for  
3.11 the depression; and

3.12 (8) if pregnant or has given birth in the past six months, is advised, orally or in  
3.13 writing, of applicable laws and policies governing incarcerated pregnant women.

3.14 Sec. 5. **EFFECTIVE DATE.**

3.15 Sections 1 to 4 are effective July 1, 2015.