

**CHAPTER 234--S.F.No. 2423**

*An act relating to public safety; addressing the needs of incarcerated women related to pregnancy and childbirth; authorizing an advisory committee; proposing coding for new law in Minnesota Statutes, chapter 241.*

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

Section 1. **[241.87] DEFINITIONS.**

As used in sections 241.88 and 241.89, the following terms have the meanings given:

- (1) "certified doula" has the meaning given in section 148.995, subdivision 2;
- (2) "correctional facility" has the meaning given in section 241.021, subdivision 1;
- (3) "doula services" has the meaning given in section 148.995, subdivision 4;
- (4) "postpartum" means the period of time following the birth of an infant to six months after the birth;  
and
- (5) "restrain" means the use of a mechanical or other device to constrain the movement of a person's body or limbs.

Sec. 2. **[241.88] RESTRAINING AN INCARCERATED PREGNANT WOMAN.**

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

(b) A representative of a correctional facility may not restrain a woman known to be pregnant while the woman is being transported if the restraint is through the use of waist chains or other devices that cross or otherwise touch the woman's abdomen or handcuffs or other devices that cross or otherwise touch the woman's wrists when affixed behind the woman's back.

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

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

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

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

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

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

Subd. 2. **Required training.** The head of each correctional facility shall ensure that staff members of the facility who come in contact with pregnant women incarcerated in the facility are provided training on the provisions of this section.

### Sec. 3. **[241.89] REQUIREMENTS FOR AN INCARCERATED WOMAN.**

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

(1) incarcerated following conviction; and

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

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

(1) is tested for pregnancy, if under 50 years of age unless the inmate refuses the test;

(2) if pregnant and agrees to testing, is tested for sexually transmitted diseases, including HIV;

(3) if pregnant or has given birth in the past six weeks, is provided appropriate educational materials and resources related to pregnancy, child birth, breast feeding, and parenting;

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

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

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

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

(8) if pregnant, is advised, orally or in writing, of applicable laws and policies governing incarcerated pregnant women.

### Sec. 4. **ADVISORY COMMITTEE.**

(a) An advisory committee of stakeholders may be convened by a representative from the University of Minnesota Department of Pediatrics. The committee shall consider standards of evidence-based care, treatment, and education for incarcerated women and girls who are pregnant or have recently given birth.

(b) The advisory committee may consist of representatives from corrections, human services, and health; Isis Rising, Prison Doula Program; the Minnesota Better Birth Coalition; Children's Defense Fund, Minnesota; and the Minnesota Sheriffs' Association.

(c) By January 15, 2015, the advisory committee shall report the committee's findings to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over criminal justice policy.

Sec. 5. **EFFECTIVE DATE; APPLICABILITY.**

Section 4 is effective the day following final enactment. Sections 1 to 3 are effective July 1, 2014, and apply to state correctional facilities on and after that date, and apply to other correctional facilities on and after July 1, 2015.

Presented to the governor May 9, 2014

Signed by the governor May 13, 2014, 12:08 p.m.