

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 900 Session of 2023

INTRODUCED BY CEPHAS, M. JONES, T. DAVIS, PIELLI, KINKEAD, HOHENSTEIN, PROBST, GUENST, SANCHEZ, MADDEN, DELLOSO, HILL-EVANS, SCHLOSSBERG, HANBIDGE, PARKER, WAXMAN, FIEDLER, CEPEDA-FREYTIZ, HOWARD, SAPPEY, KINSEY, STEHR, KHAN, BULLOCK, WARREN, INNAMORATO, SHUSTERMAN, KAZEEM, KRAJEWSKI, MAYES, TAKAC, OTTEN AND GREEN, APRIL 12, 2023

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 21, 2023

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, in general administration, further
3 providing for State recording system for application of
4 restraints to pregnant prisoners or detainees; in county
5 correctional institutions, further providing for county
6 recording system for application of restraints to pregnant
7 prisoners or detainees; providing for Department of Human
8 Services facilities; and, in miscellaneous provisions,
9 further providing for healthy birth for incarcerated women
10 and providing for restrictive housing prohibited for pregnant
11 or postpartum incarcerated individuals and detainees, for
12 cavity search and inspection restrictions, for training and
13 education requirement, for family consideration in placement <--
14 and visitation, for feminine hygiene and incontinence
15 products and for postpartum recovery.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Sections 1104 and 1758 heading, (a) and (b) of
19 Title 61 of the Pennsylvania Consolidated Statutes are amended
20 to read:

21 § 1104. State recording system [for application of restraints]
22 relating to pregnant [prisoners] and postpartum

1           incarcerated individuals or detainees.

2           (a) General rule.--[A correctional institution as defined by  
3 section 5905(e) (relating to healthy birth for incarcerated  
4 women) shall report each restraint applied to a pregnant  
5 prisoner or detainee. The report must be in writing and must  
6 note the number of restraints. Individual, separate written  
7 findings for each restraint must accompany the report. This  
8 shall include reports from the following:] A correctional  
9 institution shall, in writing, report each restraint applied to  
10 a pregnant, laboring or postpartum individual in the  
11 correctional institution's custody, as well as any instance  
12 where a pregnant, laboring or postpartum individual is placed in  
13 restrictive housing. The report shall note the number and type  
14 of restraints or, in the case of restrictive housing, the length  
15 of time the individual was placed in restrictive housing. The  
16 provisions of this subsection shall apply to any person tasked  
17 with transporting or housing incarcerated individuals or  
18 detainees. As it relates to restraints, the report need not <--  
19 include when handcuffs are used on an incarcerated individual or  
20 detainee that are associated with placement while in restrictive  
21 housing. Reports shall be made as follows:

22           (1) A correctional institution that is not operated,  
23 supervised or licensed by the Department of [Public Welfare]  
24 Human Services pursuant to the act of June 13, 1967 (P.L.31,  
25 No.21), known as the [Public Welfare] Human Services Code,  
26 shall make the report to the secretary.

27           (2) A correctional institution that is operated,  
28 supervised or licensed by the Department of [Public Welfare]  
29 Human Services pursuant to the [Public Welfare] Human  
30 Services Code shall make the report to the Secretary of

1 [Public Welfare] Human Services.

2 (b) Contents of [written findings.--Written findings]  
3 report.--Reports of each restraint or placement of an  
4 incarcerated individual or detainee in restrictive housing as  
5 required under subsection (a) must include the following:

6 [(1) the circumstances that led to the determination  
7 that the prisoner or detainee represented a substantial risk  
8 of imminent flight; or

9 (2) the circumstances that led to the determination that  
10 other extraordinary medical or security circumstances  
11 dictated the prisoner or detainee be restrained to ensure the  
12 safety and security of the prisoner or detainee, the staff of  
13 the correctional institution or medical facility, other  
14 prisoners or detainees or the public.]

15 (2.1) The circumstances that led to the determination  
16 that:

17 (i) the incarcerated individual or detainee  
18 represented a substantial risk of imminent flight; or

19 (ii) other extraordinary medical or security  
20 circumstances dictated that the incarcerated individual  
21 or detainee be restrained or placed in restrictive  
22 housing to ensure the safety and security of the  
23 incarcerated individual or detainee, the staff of the  
24 correctional institution or medical facility, other  
25 incarcerated individuals or detainees or the public.

26 (3) The date and time restraints were applied or the  
27 restrictive housing placement occurred and the length of time  
28 the incarcerated individual or detainee was kept in  
29 restraints or restrictive housing.

30 (4) The badge number or identification number of the

1 following:

2 (i) The custodian or staff member who applied the  
3 restraints or placed the individual into restrictive  
4 housing.

5 (ii) Any superior officers approving or advising the  
6 application of restraints or placement in restrictive  
7 housing.

8 (5) The number and type of restraints used or the  
9 location and description of the restrictive housing.

10 (6) Any visible injury of the incarcerated individual or  
11 detainee resulting from placement in the restraints that is  
12 documented by the correctional institution.

13 (c) Staff presence during labor.--Other than licensed  
14 medical professionals, only female staff shall be present in the  
15 room during the examination, labor or delivery of the pregnant  
16 incarcerated individual. If male staff, other than licensed  
17 medical professionals, remain present during the examination,  
18 labor or delivery of the pregnant incarcerated individual, that  
19 information and the reasons for the presence shall be reported  
20 to the department or the Department of Human Services, as  
21 applicable.

22 (d) Availability of reports.--The nonidentifying data  
23 contained in the written reports submitted to the department or  
24 the Department of Human Services shall be posted on the  
25 department's or the Department of Human Services' publicly  
26 accessible Internet website annually. No identifying  
27 information, such as names or dates of birth, shall be posted.

28 (e) Failure to submit report.--If a correctional institution  
29 fails to submit a report under this section within 30 days after  
30 the end of the fiscal year, the department or the Department of

1 Human Services, as applicable, shall obtain a certification, to  
2 be created by the department or the Department of Human  
3 Services, as applicable, from the correctional institution  
4 verifying that the correctional institution had zero instances  
5 of use of restraints, placement in restrictive housing or male  
6 staff presence, other than licensed medical professionals,  
7 during medical examinations or appointments of pregnant  
8 incarcerated individuals under the provisions of this section.

9 (f) Definitions.--As used in this section, the following  
10 words and phrases shall have the meanings given to them in this  
11 subsection unless the context clearly indicates otherwise:

12 "Correctional institution." As defined in section 5905(e)  
13 (relating to healthy birth for incarcerated women).

14 "Postpartum." The eight-week period, or longer as determined  
15 by the health care professional responsible for the health and  
16 safety of the incarcerated individual or detainee, following  
17 childbirth.

18 "Restraints." Any physical or mechanical device used to  
19 restrict or control the movement of an incarcerated individual's  
20 body, limbs or both.

21 "Restrictive housing." Any type of detention that involves  
22 removal from the general incarcerated population for purposes of  
23 discipline or administrative purpose.

24 "Staff." An individual who is employed or contracted by a  
25 correctional institution, the department or the Department of  
26 Human Services.

27 § 1758. County recording system for [application of restraints  
28 to pregnant prisoners] pregnant and postpartum  
29 incarcerated individuals or detainees.

30 (a) General rule.--[The application of restraints to a

1 pregnant prisoner or detainee occurring pursuant to section 5905  
2 (relating to healthy birth for incarcerated women) shall  
3 constitute an incident that qualifies as an extraordinary  
4 occurrence that must be reported to the department in the County  
5 Extraordinary Occurrence Monthly Report.] Each of the following  
6 shall constitute an incident that qualifies as an extraordinary  
7 occurrence that must be reported to the department in the County  
8 Extraordinary Occurrence Monthly Report in accordance with  
9 sections 5905 (relating to healthy birth for incarcerated women)  
10 and 5905.1 (relating to restrictive housing prohibited for  
11 pregnant or postpartum incarcerated individuals and detainees):

12 (1) The application of restraints or placement in  
13 restrictive housing for a pregnant or postpartum incarcerated  
14 individual or detainee.

15 (2) An invasive body cavity search of a pregnant or  
16 postpartum incarcerated individual or detainee or inspection  
17 of a female incarcerated individual or detainee in a state of  
18 undress.

19 (3) The presence of male staff during labor or delivery  
20 of the pregnant incarcerated individual or detainee.

21 (b) Information to be included in County Extraordinary  
22 Occurrence Monthly Report.--

23 [(1) Any and all incidents where the application of  
24 restraints to a pregnant prisoner or detainee pursuant to  
25 section 5905 occurred must be included in the County  
26 Extraordinary Occurrence Monthly Report that is submitted to  
27 the department. An indication of the incidents must be noted  
28 on the designated report form or other available approved  
29 method, if applicable, and individual, separate written  
30 findings must accompany the form for each incident that

1 occurred.

2 (2) Written findings of each incident as required under  
3 paragraph (1) must include the following:

4 (i) the circumstances that led to the determination  
5 that the prisoner or detainee represented a substantial  
6 risk of imminent flight; or

7 (ii) the circumstances that led to the determination  
8 that other extraordinary medical or security  
9 circumstances dictated the prisoner or detainee be  
10 restrained to ensure the safety and security of the  
11 prisoner or detainee, the staff of the correctional  
12 institution or medical facility, other prisoners or  
13 detainees or the public.]

14 (3) The report for application of restraints or  
15 placement in restrictive housing for a pregnant or postpartum  
16 incarcerated individual or detainee shall require the  
17 following information:

18 (i) The circumstances that led to the determination  
19 that:

20 (A) the incarcerated individual or detainee  
21 represented a substantial risk of imminent flight; or

22 (B) other extraordinary medical or security  
23 circumstances dictated that the incarcerated  
24 individual or detainee be restrained or placed in  
25 restrictive housing to ensure the safety and security  
26 of the incarcerated individual or detainee, the staff  
27 of the correctional institution or medical facility,  
28 other incarcerated individuals or detainees or the  
29 public.

30 (ii) The date and time restraints were applied or

1 the restrictive housing placement occurred and the length  
2 of time the incarcerated individual or detainee was kept  
3 in restraints or restrictive housing.

4 (iii) The badge number or identification number of  
5 the following:

6 (A) The custodian or staff member who applied  
7 the restraints or placed the individual into  
8 restrictive housing.

9 (B) Any superior officers approving or advising  
10 the application of restraints or placement in  
11 restrictive housing.

12 (iv) The number and type of restraints used or the  
13 location and description of the restrictive housing.

14 (v) Any visible injury of the incarcerated  
15 individual or detainee resulting from placement in the  
16 restraints that is documented by the correctional  
17 institution.

18 (4) The report for an invasive body cavity search of a  
19 pregnant or postpartum incarcerated individual or detainee or  
20 inspection of a female incarcerated individual or detainee in  
21 a state of undress shall contain the following information:

22 (i) The justification for performing a cavity search  
23 or male staff inspection of a female incarcerated  
24 individual or detainee in a state of undress.

25 (ii) The identification of any contraband that was  
26 found on the incarcerated individual or detainee.

27 (5) The report for the presence of male staff during  
28 labor or delivery of the pregnant incarcerated individual or  
29 detainee shall include the reasons for the presence of male  
30 staff.



1 5708. Reports relating to pregnant or postpartum child.

2 § 5701. Definitions.

3 The following words and phrases when used in this chapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Body cavity search." An invasive search of a child  
7 conducted by staff in search of contraband, excluding the nose,  
8 ears and mouth.

9 "Child." As follows:

10 (1) An individual who resides in an entity licensed or  
11 operated by the department and meets one of the following  
12 conditions:

13 (i) Is under 18 years of age.

14 (ii) Is under 21 years of age and committed an act  
15 of delinquency before reaching 18 years of age and  
16 remains under the jurisdiction of the juvenile court.

17 (iii) Was adjudicated dependent before reaching 18  
18 years of age and while engaged in instruction or  
19 treatment, requests the court to retain jurisdiction  
20 until the instruction or treatment is completed, but a  
21 child may not remain in a course of instruction or  
22 treatment past 21 years of age.

23 (iv) Has an intellectual disability, a mental  
24 illness or a serious emotional disturbance, with a  
25 transfer plan to move to an adult setting by 21 years of  
26 age.

27 (2) The term does not include a child in foster care as  
28 provided in 42 U.S.C. Ch. 7 Subch. IV (relating to grants to  
29 states for aid and services to needy families with children  
30 and for child-welfare services).

1 "Department." The Department of Human Services of the  
2 Commonwealth.

3 "Exclusion." As follows:

4 (1) The removal of a resident from the resident's  
5 immediate environment and restricting the resident alone in a  
6 room or area.

7 (2) The term does not include an occasion when:

8 (i) An employee of a facility remains in the  
9 exclusion area with the resident.

10 (ii) A resident is voluntarily restricted to an area  
11 or room.

12 (iii) All residents are required to be in their  
13 rooms or another room or area as part of the program  
14 schedule.

15 "Facility." Except as exempted by regulation, a premise or  
16 part of a premise serving children who are adjudicated either  
17 dependent or delinquent and meeting one of the following  
18 conditions:

19 (1) Operated for a portion of a 24-hour day in which  
20 alternative education, intervention or support programs are  
21 provided to one or more children to prevent a child's  
22 placement in a more restrictive setting or to facilitate the  
23 child's reunification with the child's family.

24 (2) Operated in a 24-hour living setting in which care  
25 is provided for one or more children who are not relatives of  
26 the facility operator.

27 "Health care professional." An individual who is licensed,  
28 certified or otherwise authorized or permitted by the laws of  
29 this Commonwealth to administer health care in the ordinary  
30 course of business or in the practice of a profession.

1 "Menstrual hygiene products." As follows:

2 (1) Products RELATING TO BODILY FUNCTIONS THAT ARE used <--  
3 during menstruation.

4 (2) The term includes tampons and sanitary pads.

5 "Postpartum." An eight-week period or a longer period as  
6 determined by the health care professional responsible for the  
7 health and safety of the child following childbirth.

8 "Restraints." Any physical or mechanical device used to  
9 restrict or control the movement of a child's body or limbs or  
10 both.

11 "Staff." An individual who is employed by a facility.

12 "State of undress." A state where a child is partially or  
13 fully naked, either in the shower, toilet areas, a medical  
14 examination room or while a body cavity search is being  
15 conducted.

16 "Substantial risk of imminent flight." As follows:

17 (1) A showing of real and considerable risk of escaping  
18 by a child from a facility.

19 (2) A child's history of escape attempts and flight to  
20 avoid the facility may be relevant to the determination but  
21 history alone does not satisfy the requirement.

22 "Trauma-informed care." A strengths-based approach to  
23 service delivery and organizational structure that:

24 (1) Realizes the widespread impact of trauma, including  
25 historical trauma.

26 (2) Understands potential paths to recovery.

27 (3) Recognizes the signs and symptoms of trauma in a  
28 child, parent, legal guardian, staff or another involved in  
29 the system.

30 (4) Responds by fully integrating knowledge about trauma

1 into policies, procedures, practices and relationships.

2 (5) Seeks to actively prevent retraumatization.

3 § 5702. Seclusion prohibited for pregnant or postpartum child.

4 (a) ~~Seclusion prohibited.~~ GENERAL RULE.--Except as provided <--  
5 under subsection (c), a pregnant or postpartum child may not be  
6 involuntarily placed in seclusion in any facility in this  
7 Commonwealth.

8 (b) Alternative discipline.--Forms of discipline for a  
9 pregnant or postpartum child shall be limited to sanctions,  
10 including restrictions on telephone usage or visitation or other  
11 common forms of alternative discipline used in the United  
12 States.

13 (c) Exceptions.--A pregnant or postpartum child may be  
14 placed in ~~exclusion~~ SECLUSION only as a temporary response to <--  
15 behavior that poses a serious and immediate risk of physical  
16 harm to the pregnant or postpartum child, another child, the  
17 unborn child of the pregnant child or staff. The following  
18 apply:

19 (1) The decision to place a pregnant or postpartum child  
20 in ~~exclusion~~ SECLUSION under this subsection must be approved <--  
21 by the individual in charge of the facility.

22 (2) The rationale for the decision to use ~~exclusion~~ <--  
23 SECLUSION must be documented as required by section 5708 <--  
24 (relating to reports relating to pregnant or postpartum  
25 child).

26 (3) No period of ~~exclusion~~ SECLUSION in excess of seven <--  
27 days may be approved.

28 (d) Bed assignments.--The facility may not assign a pregnant  
29 child to any bed that is elevated more than three feet from the  
30 floor of the facility.

1 § 5703. Body cavity search and inspection restrictions.

2 (a) Body cavity search and inspection restrictions.--To the  
3 greatest extent possible:

4 (1) Only a health care professional shall conduct an  
5 invasive body cavity search of a pregnant child.

6 (2) If a search is required, staff shall accommodate the  
7 child's stated preference regarding the gender of the staff  
8 to be present in the room during the search except in cases  
9 of exigent circumstances as determined by the facility  
10 director or designee.

11 (b) Documentation requirement.--If a health care  
12 professional is required to perform an invasive body cavity  
13 search on a pregnant child, or the child's stated preference  
14 regarding the gender of the staff present in the room during a  
15 search while the child is in a state of undress is not met,  
16 staff shall submit a written report to the individual in charge  
17 of the facility within 72 hours following the body cavity search  
18 or inspection. The report under this subsection shall:

19 (1) Include the justification for performing the body  
20 cavity search or failing to honor the child's stated  
21 preference regarding the gender of the staff performing the  
22 inspection.

23 (2) Note if any contraband was found on the child.

24 (3) Be sent to the department.

25 § 5704. Training and education requirement.

26 (a) Facility staff training.--The facility shall provide or  
27 arrange a training program for staff who have contact with a  
28 pregnant, laboring or postpartum child. The training program  
29 shall be related to the physical and mental health of the  
30 pregnant or postpartum child and unborn baby, including:

- 1           (1) The general care of a pregnant child.  
2           (2) The impact of restraints on a pregnant child and  
3           unborn baby.  
4           (3) The impact of being placed in restrictive housing on  
5           a pregnant child.  
6           (4) The impact of invasive searches on a pregnant child.  
7           (5) Any other pertinent information the department finds  
8           appropriate or necessary.

9           (b) Facility staff training exceptions.--If the facility  
10          prohibits the placement of a pregnant child as a matter of  
11          policy, the facility may submit a written exemption reporting  
12          that there is no risk of staff interacting with a pregnant child  
13          housed in the facility. The following apply:

14           (1) The exemption under this subsection shall apply only  
15           to the facility, not the individual staff of the facility.

16           (2) All facility staff that come in contact with a  
17           pregnant child shall complete the training under this  
18           section.

19           (3) If facility staff work at more than one institution,  
20           the staff must receive the required training at the nonexempt  
21           facility.

22           (c) Education programming for a pregnant child.--The  
23          facility shall develop and provide educational programming for a  
24          pregnant or postpartum child. The educational programming shall  
25          be related to:

26           (1) Medical screenings related to reproductive and  
27           overall health, including preventive screenings.

28           (2) Prenatal care.

29           (3) Pregnancy-specific hygiene.

30           (4) The impact of alcohol and drugs on the unborn baby.

1           (5) General health of the unborn baby.

2           (6) Any other pertinent information the department finds  
3 appropriate or necessary.

4           (d) Trauma-informed care.--

5           (1) The individual in charge of a facility shall, as  
6 necessary, ensure that the facility provides quality trauma-  
7 informed care to a child.

8           (2) Trauma-informed care for a child shall begin  
9 immediately upon the child's intake and assessment at a  
10 facility.

11           (3) Facility staff shall have no fewer than four hours  
12 of professional training related to trauma-informed care,  
13 which shall include the following:

14           (i) Training to identify a child with trauma.

15           (ii) Training on how and when to refer a child to  
16 the proper health care professionals, including  
17 preventive health care and mental health care.

18           (iii) Training on how to interact with and empower a  
19 child who has experienced trauma.

20 ~~§ 5705. Family consideration in placement and visitation.~~           <--

21           ~~(a) Visitation. Except as provided under subsection (b),~~  
22 ~~the facility shall make efforts to authorize visitation for a~~  
23 ~~child. The following apply:~~

24           ~~(1) A child shall have the right to visit with family at~~  
25 ~~least once every two weeks, at a time and location convenient~~  
26 ~~for the family, the child and the facility, unless visits are~~  
27 ~~restricted by court order.~~

28           ~~(2) The right under paragraph (1) shall not restrict~~  
29 ~~more frequent family visits.~~

30           ~~(b) Exceptions. Visitation rights shall not be authorized~~

1 ~~under subsection (a):~~

2 ~~(1) For a parent who has been deemed by the department~~  
3 ~~as unsafe or ineligible for visitation.~~

4 ~~(2) In instances where the minor child was the victim of~~  
5 ~~a criminal offense under 18 Pa.C.S. (relating to crimes and~~  
6 ~~offenses). (RESERVED).~~ <--

7 § 5706. Menstrual hygiene and incontinence products.

8 (a) Issuance of menstrual hygiene products.--

9 (1) A facility shall supply menstrual hygiene products  
10 each month to a child who is menstruating at no cost to the  
11 child regardless of financial means.

12 (2) A child may not be required to show proof of need or  
13 to undergo a medical examination or obtain a medical permit,  
14 authorization or diagnosis to receive the products under  
15 subsections (b) and (c).

16 (b) Menstrual hygiene products provided.--A choice of at  
17 least two sizes or absorbencies of sanitary pads and tampons  
18 shall be available to a child who is menstruating in a facility  
19 or if requested from medical staff.

20 (c) Issuance of hygiene products related to bladder control  
21 and incontinence.--A supply of products for bladder control and  
22 incontinence, including adult diapers and protective  
23 undergarments, shall be provided to a child, including a  
24 postpartum child, who requires the products each month at no  
25 cost to the child, regardless of financial means.

26 § 5707. Postpartum recovery.

27 (a) Restraints during postpartum recovery.--No restraints  
28 shall be used on any child who has given birth within the last  
29 30 days and is in postpartum recovery, unless the department  
30 has a reasonable belief that the child will harm the child, the

1 child's newborn or another individual or pose a substantial risk  
2 of imminent flight. If restraints are used, the staff ordering  
3 the use of restraints on a child while in postpartum recovery  
4 shall submit a written report to the individual in charge of the  
5 facility within 72 hours following the use of the restraints,  
6 containing the justification for restraining the child during  
7 postpartum recovery. The report shall also be sent to the  
8 department.

9 (b) Post-delivery bonding period.--Subject to hospital  
10 policy, following the delivery of a newborn, the department  
11 shall permit the newborn to remain with the child at the  
12 hospital for 72 hours unless a health care professional has a  
13 reasonable belief that the newborn remaining with the child  
14 poses a health or safety risk to the newborn.

15 (c) Nutritional and hygiene products.--During the 72-hour  
16 period under subsection (b), the department shall make available  
17 the necessary nutritional and hygiene products to care for the  
18 newborn.

19 § 5708. Reports relating to pregnant or postpartum child.

20 (a) Requirement.--A facility shall, in writing, report to  
21 the department on each restraint applied to a pregnant, laboring  
22 or postpartum child in the facility's custody. The following  
23 apply:

24 (1) The report shall note the number and type of  
25 restraints.

26 (2) The provisions of this subsection shall apply to any  
27 person tasked with transporting or housing a pregnant or  
28 postpartum child.

29 (b) Contents of report.--Reports of each restraint or  
30 placement of a child as required under subsection (a) must

1 include the following:

2 (1) The circumstances that led to the determination that  
3 the child represented a substantial risk of imminent flight.

4 (2) The circumstances that led to the determination that  
5 other extraordinary medical or security circumstances  
6 dictated that the child be restrained to ensure the safety  
7 and security of the child, the staff of the facility or  
8 medical facility, another child or the public.

9 (3) The date and time restraints were applied, and the  
10 length of time the child was kept in restraints.

11 (4) The number and type of restraints used.

12 (5) Any physical effects on the child or the unborn baby  
13 of a child resulting from placement in the restraints.

14 (c) Staff presence during labor.--If staff presence is  
15 required, staff shall accommodate the child's stated preference  
16 regarding the gender of the staff to be present in the room  
17 during the examination, labor or delivery of the pregnant child,  
18 except in cases of exigent circumstances as determined by the  
19 facility director or designee.

20 (d) Availability of reports.--The nonidentifying data  
21 contained in the reports submitted to the department shall be  
22 posted on the department's publicly accessible Internet website  
23 annually. No identifying information, such as names or dates of  
24 birth, shall be posted.

25 Section 3. Section 5905 of Title 61 is amended to read:

26 § 5905. Healthy birth for incarcerated women.

27 (a) Duties of correctional institution.--Consistent with  
28 established policy and practice, it shall be the duty and  
29 responsibility of the correctional institution to provide  
30 adequate personnel to monitor the pregnant [prisoner]

1 incarcerated individual or detainee during transport to and from  
2 the medical facility and during her stay at the medical  
3 facility.

4 (b) Restraint of pregnant [prisoners] incarcerated  
5 individuals and detainees.--

6 (1) Unless provided in paragraph (2), a correctional  
7 institution shall not apply restraints, ~~excluding~~ INCLUDING <--  
8 handcuffs, to [a prisoner] an incarcerated individual or  
9 detainee known to be pregnant ~~+~~during any stage of labor[, <--  
10 any pregnancy-related medical distress, any period of  
11 delivery,] ~~or during~~ any period of postpartum as defined in <--  
12 [subsection (e) or transport to a medical facility as a  
13 result of any of the preceding conditions or transport to a  
14 medical facility after the beginning of the second trimester  
15 of pregnancy.] section 1104(f) (relating to State recording  
16 system relating to pregnant and postpartum incarcerated  
17 individuals or detainees).

18 (2) Paragraph (1) shall not bar reasonable restraint  
19 provided the correctional institution staff assigned to the  
20 [prisoner] incarcerated individual or detainee makes an  
21 individualized determination that the [prisoner] incarcerated  
22 individual or detainee presents a substantial risk of  
23 imminent flight or some other extraordinary medical or  
24 security circumstance dictates that the [prisoner]  
25 incarcerated individual or detainee be restrained to ensure  
26 the safety and security of the [prisoner] incarcerated  
27 individual or detainee, the staff of the correctional  
28 institution or medical facility, other [prisoners]  
29 incarcerated individuals or detainees or the public. The  
30 assigned correctional institution staff shall report the

1 incident to the correctional institution in a reasonable  
2 amount of time after the restraint occurs. [If the assigned  
3 correctional institution staff is not employed by the  
4 correctional institution, then the assigned correctional  
5 institution staff] In the case of any use of restraints on a  
6 pregnant or postpartum incarcerated individual by an  
7 individual or entity that is not employed by the correctional  
8 institution but is transporting the pregnant or postpartum  
9 incarcerated individual on behalf of the correctional  
10 institution, the individual or entity shall report the  
11 restraint to the correctional institution in a reasonable  
12 amount of time after the incident occurs. The reporting  
13 requirement shall not apply to a law enforcement agency  
14 unless the law enforcement agency is transporting pregnant or  
15 postpartum incarcerated individuals on behalf of the  
16 correctional institution.

17 (3) If restraint is applied under paragraph (2), at no  
18 time shall the [prisoner] incarcerated individual or detainee  
19 be left unattended by a correctional institution staff with  
20 the ability to release the restraint should a release become  
21 medically necessary.

22 (4) When a restraint is permitted under this section, a  
23 correctional institution shall use the least restrictive  
24 restraint necessary when the facility has actual or  
25 constructive knowledge that [a prisoner] an incarcerated  
26 individual or detainee is in the second or third trimester of  
27 pregnancy.

28 (c) Restraints.--The following shall apply to [a prisoner]  
29 an incarcerated individual or detainee who has been restrained  
30 under this subsection:

1           (1) The correctional institution staff accompanying the  
2 [prisoner] incarcerated individual or detainee shall  
3 [immediately] promptly remove all restraints upon request of  
4 a doctor, nurse or other health care professional.

5           (2) Leg or waist restraints shall not be used on any  
6 [prisoner] incarcerated individual or detainee who is in  
7 labor.

8           (3) The type of restraint applied and the application of  
9 the restraint shall be done in the least restrictive manner  
10 possible.

11 [(d) Annual report.--No later than August 1 of each year,  
12 the secretary and the Secretary of Public Welfare shall each  
13 submit to the Governor's Office a written report containing  
14 information regarding the use of restraints on any pregnant  
15 prisoner or detainee during the preceding fiscal year  
16 specifically identifying and enumerating the circumstances that  
17 led to the determination that the prisoner or detainee fell  
18 under the exception in subsection (b) (2). The secretary shall  
19 report on pregnant prisoners or detainees in the custody of  
20 correctional institutions operated, supervised or licensed by  
21 the department. The Secretary of Public Welfare shall report on  
22 pregnant prisoners or detainees in the custody of correctional  
23 institutions operated, supervised or licensed by the Department  
24 of Public Welfare pursuant to the act of June 13, 1967 (P.L.31,  
25 No.21), known as the Public Welfare Code. The reports shall not  
26 contain any identifying information of any prisoner or detainee.  
27 The reports shall be posted on the Governor's Internet website  
28 and shall be made available for public inspection at the offices  
29 of the department and the Department of Public Welfare,  
30 respectively.]

1 (e) Definitions.--As used in this section, the following  
2 words and phrases shall have the meanings given to them in this  
3 subsection unless the context clearly indicates otherwise:

4 "Correctional institution." Any entity under the authority  
5 of the state or any county or municipality that has the power to  
6 detain and restrain a person under the laws of this  
7 Commonwealth.

8 "Detainee." Includes any person detained under the  
9 immigration laws of the United States at any correctional  
10 facility.

11 ["Labor." The period of time before a birth during which  
12 contractions are of sufficient frequency, intensity and duration  
13 to bring about effacement and progressive dilation of the  
14 cervix. The determination of when labor has commenced shall rest  
15 solely with the medical providers of the prisoner or detainee.

16 "Postpartum." The period following delivery before a  
17 prisoner or detainee has been discharged from a medical  
18 facility.

19 "Prisoner." Any person incarcerated or detained in any  
20 correctional institution who is accused of, convicted of,  
21 sentenced for or adjudicated delinquent for violations of  
22 criminal law or the terms and conditions of parole, probation,  
23 pretrial release or a diversionary program.]

24 "Incarcerated individual." An individual incarcerated or  
25 detained in a correctional institution who is accused of,  
26 convicted of, sentenced for or adjudicated delinquent for  
27 violations of criminal law or the terms and conditions of  
28 parole, probation, pretrial release or a diversionary program.

29 "Restraint." Any physical hold or mechanical device used to  
30 control the movement of [a prisoner's] an incarcerated

1 individual's or detainee's body [and] or limbs[, including, but  
2 not limited to, shackles, flex cuffs, soft restraints, hard  
3 metal handcuffs, a black box, Chubb cuffs, leg irons, belly  
4 chains, a security (tether) chain or a convex shield] or both.

5 Section 4. Title 61 is amended by adding sections to read:

6 § 5905.1. Restrictive housing prohibited for pregnant or  
7 postpartum incarcerated individuals and detainees.

8 (a) Restrictive housing prohibited.--Except as provided  
9 under subsection (c), a pregnant or postpartum incarcerated  
10 individual or detainee may not be involuntarily placed in  
11 restrictive housing in any correctional institution in this  
12 Commonwealth.

13 (b) Alternative discipline.--Forms of discipline for  
14 pregnant and postpartum incarcerated individuals or detainees  
15 shall be limited to sanctions, including restrictions on  
16 telephone usage or visitation or other common forms of  
17 alternative discipline used in the United States.

18 (c) Exceptions.--A pregnant or postpartum incarcerated  
19 individual or detainee may be placed in restrictive housing only  
20 as a temporary response to behavior that poses a serious and  
21 immediate risk of physical harm to the pregnant or postpartum  
22 incarcerated individual or detainee, another incarcerated  
23 individual or detainee, the unborn child of the pregnant  
24 incarcerated individual or detainee or staff. The following  
25 shall apply:

26 (1) The decision to place a pregnant or postpartum  
27 incarcerated individual or detainee in restrictive housing  
28 under this subsection must be approved by the chief  
29 administrator.

30 (2) The rationale for the decision under this subsection

1 must be documented as required by section 1104 (relating to  
2 State recording system relating to pregnant and postpartum  
3 incarcerated individuals or detainees).

4 (3) No period of restrictive housing shall exceed seven  
5 days without additional approval and documented rationale, as  
6 required by section 1104, of the chief administrator. There  
7 shall be a minimum of seven days between each restrictive  
8 placement absent extraordinary circumstances.

9 (d) Bed assignments.--The correctional institution may not  
10 assign a pregnant incarcerated individual or detainee to any bed  
11 that is elevated more than three feet from the floor of the  
12 facility.

13 (e) Definition.--As used in this section, the term  
14 "postpartum" means the eight-week period, or longer as  
15 determined by the health care professional responsible for the  
16 health and safety of the incarcerated individual or detainee,  
17 following childbirth.

18 § 5908. Cavity search and inspection restrictions.

19 (a) Cavity search and inspection restrictions.--To the  
20 greatest extent possible:

21 (1) No staff other than a licensed health care  
22 professional shall conduct an invasive body cavity search of  
23 a pregnant or postpartum incarcerated individual or detainee.

24 (2) A correctional institution shall limit searches by  
25 male staff, other than medically licensed professional male  
26 staff, if a female incarcerated individual or detainee is in  
27 a state of undress.

28 (b) Documentation requirement.--If staff is required to  
29 perform an invasive body cavity search on a pregnant or  
30 postpartum incarcerated individual or detainee, or male staff,

1 other than medically licensed professional male staff, is  
2 required to conduct a search on a female incarcerated individual  
3 or detainee in a state of undress, a written report shall be  
4 submitted to the correctional institution within 72 hours  
5 following the cavity search or inspection. The report under this  
6 subsection shall:

7 (1) include the justification for performing the cavity  
8 search or male staff inspection as required in this  
9 subsection;

10 (2) document and identify any contraband that was found  
11 on the incarcerated individual or detainee; and

12 (3) be sent to the department or the Department of Human  
13 Services, as applicable.

14 (c) Definitions.--As used in this section, the following  
15 words and phrases shall have the meanings given to them in this  
16 subsection unless the context clearly indicates otherwise:

17 "Body cavity search." An invasive search of incarcerated  
18 individuals or detainees, conducted by staff in search of  
19 contraband, excluding the nose, ears and mouth.

20 "Staff." An individual, including contracted staff, who is  
21 employed by a correctional institution, the department or the  
22 Department of Human Services, excluding any licensed medical  
23 professional.

24 "State of undress." A state where an incarcerated or  
25 detained female is partially or fully naked, either in the  
26 shower, toilet areas, a medical examination room or while a body  
27 cavity search is being conducted.

28 § 5909. Training and education requirement.

29 (a) Correctional institution staff training.--The department  
30 and the Department of Human Services shall jointly develop and

1 provide correctional institutions with a training program for  
2 staff who have contact with a pregnant, laboring or postpartum  
3 incarcerated individual or detainee. The training program shall  
4 be related to the physical and mental health of the pregnant or  
5 postpartum incarcerated individual or detainee and unborn child,  
6 including:

7 (1) The general care of a pregnant individual.

8 (2) The impact of restraints on a pregnant individual  
9 and unborn child.

10 (3) The impact of being placed in restrictive housing on  
11 a pregnant individual.

12 (4) The impact of invasive searches on a pregnant  
13 individual.

14 (5) Any other pertinent information the department or  
15 the Department of Human Services finds appropriate or  
16 necessary.

17 (b) Correctional institution staff training exceptions.--If  
18 the correctional institution or county correctional institution  
19 prohibits the placement of pregnant individuals as a matter of  
20 law, that institution may submit a written exemption reporting  
21 that there is no risk of staff interacting with pregnant  
22 individuals housed in the institution. The exemption under this  
23 subsection shall apply only to the correctional institution, not  
24 the individual staff of the institution. All correctional  
25 institution staff that come in contact with pregnant  
26 incarcerated individuals shall complete the training under this  
27 section. If correctional institution staff work at more than one  
28 institution, the staff must receive the required training at the  
29 nonexempt institution.

30 (c) Education programming for pregnant incarcerated

1 individuals.--The department and the Department of Human  
2 Services shall jointly develop and provide correctional  
3 institutions and county correctional institutions with  
4 educational programming for pregnant or postpartum incarcerated  
5 individuals or detainees. The educational programming shall be  
6 related to:

7 (1) Medical screenings related to female reproductive  
8 and overall health, including preventive screenings.

9 (2) Prenatal care.

10 (3) Pregnancy-specific hygiene.

11 (4) The impact of alcohol and drugs on the unborn child.

12 (5) General health of the child.

13 (6) Any other pertinent information the department or  
14 the Department of Human Services finds appropriate or  
15 necessary.

16 (d) Trauma-informed care.--

17 (1) The chief administrator shall, as the chief  
18 administrator deems necessary, ensure that the correctional  
19 institution provides to incarcerated individuals and  
20 detainees quality trauma-informed care.

21 (2) Trauma-informed care for an individual shall begin  
22 immediately upon the individual's intake and assessment at a  
23 correctional institution.

24 (3) Correctional staff shall receive professional  
25 training, approved by the Department of Human Services,  
26 relating to trauma-informed care, which shall include the  
27 following:

28 (i) Training to identify individuals with trauma.

29 (ii) Training on how and when to refer individuals  
30 to the proper health care professionals, including

1 preventive health care and mental health care.

2 (iii) Training on how to interact with and empower  
3 incarcerated individuals who have experienced trauma.

4 (e) Definitions.--As used in this section, the following  
5 words and phrases shall have the meanings given to them in this  
6 subsection unless the context clearly indicates otherwise:

7 "Postpartum." The eight-week period, or longer as determined  
8 by the health care professional responsible for the health and  
9 safety of the incarcerated individual or detainee, following  
10 childbirth.

11 "Trauma-informed care." An organizational structure and  
12 treatment framework that involves recognizing, understanding and  
13 responding to the effects of trauma.

14 ~~§ 5910. Family consideration in placement and visitation.~~ <--

15 ~~(a) Visitation. The department and the Department of Human~~  
16 ~~Services shall make efforts to authorize visitation by a minor~~  
17 ~~dependent child under 18 years of age, with the minimum~~  
18 ~~following requirements:~~

19 ~~(1) The minor dependent child shall be able to visit in~~  
20 ~~person the minor dependent child's parent at least once per~~  
21 ~~week subject to department policy and facility space,~~  
22 ~~staffing and administrative capacity.~~

23 ~~(2) The visits shall not impact visitation privileges~~  
24 ~~under 37 Pa. Code § 93.3 (relating to inmate visiting~~  
25 ~~privileges).~~

26 ~~(3) Additional visits may be permitted through virtual~~  
27 ~~means, subject to department policy and facility space,~~  
28 ~~staffing and administrative capacity.~~

29 ~~(b) Exceptions. Visitation privileges shall not be~~  
30 ~~authorized under subsection (a):~~

1 ~~(1) For parents who have been deemed unsafe or~~  
2 ~~ineligible for visitation through the department or the~~  
3 ~~Department of Human Services until deemed safe or eligible~~  
4 ~~for visitation by the department or the Department of Human~~  
5 ~~Services.~~

6 ~~(2) In instances where the minor dependent child was the~~  
7 ~~victim of a criminal offense under 18 Pa.C.S. (relating to~~  
8 ~~crimes and offenses) resulting in the incarceration or~~  
9 ~~detention of the parent.~~

10 ~~(3) If the parent voluntarily enrolled in a detention~~  
11 ~~program which prohibits visitation.~~

12 ~~§ 5911~~ 5910. Feminine hygiene and incontinence products. <--

13 (a) Issuance of feminine hygiene products relating to  
14 menstruation.--A supply of feminine hygiene products shall be  
15 provided to all incarcerated individuals and detainees who are  
16 menstruating in a correctional institution each month at no cost  
17 to the incarcerated individuals and detainees, regardless of  
18 financial means. Incarcerated individuals and detainees shall  
19 not be required to show proof of need or to undergo a medical  
20 examination or obtain a medical permit, authorization or  
21 diagnosis to receive the products under subsection (b).

22 (b) Feminine hygiene products provided.--A choice of at  
23 least two sizes or absorbencies of sanitary pads shall be  
24 distributed to all incarcerated individuals and detainees who  
25 are menstruating in a correctional institution or if requested  
26 from medical staff.

27 (c) Feminine hygiene products to be requested.--A choice of  
28 at least two sizes of tampons shall be distributed to  
29 incarcerated individuals and detainees who request a tampon from  
30 medical staff.

1 (d) Issuance of feminine hygiene products relating to  
2 bladder control and incontinence.--A supply of products for  
3 bladder control and incontinence shall be provided to  
4 incarcerated individuals and detainees, including geriatric  
5 incarcerated individuals and postpartum incarcerated  
6 individuals, who require such products each month at no cost to  
7 incarcerated individuals and detainees, regardless of financial  
8 means.

9 (e) Bladder control and incontinence products  
10 distribution.--Adult diapers or protective undergarments shall  
11 be distributed to incarcerated individuals who require them.

12 (f) Rules and regulations.--The correctional institution  
13 shall promulgate rules necessary to implement and enforce the  
14 provisions of this section.

15 (g) Definition.--As used in this section, the term "feminine  
16 hygiene products" means products that women use during  
17 menstruation. The term includes tampons and sanitary napkins.  
18 § ~~5912~~ 5911. Postpartum recovery. <--

19 (a) Restraints during postpartum recovery.--No restraints  
20 shall be used on any incarcerated individual or detainee who has  
21 given birth within the last 30 days and is in postpartum  
22 recovery, unless the department or the Department of Human  
23 Services, as applicable, has a reasonable belief that the  
24 incarcerated individual or detainee will harm themselves, their  
25 newborn or another individual or pose a substantial risk of  
26 imminent flight. If restraints are used, the facility employee  
27 ordering the use of restraints on an incarcerated individual or  
28 detainee while in postpartum recovery shall submit a written  
29 report to the chief administrator of the facility within 72  
30 hours following the use of the restraints, containing the

1 justification for restraining the incarcerated individual or  
2 detainee during postpartum recovery. The report shall also be  
3 sent to the department or the Department of Human Services, as  
4 applicable.

5 (b) Postdelivery bonding period.--Following the delivery of  
6 a newborn and subject to hospital policies, including length of  
7 stay, the department or the Department of Human Services shall  
8 permit the child to remain with the mother at the hospital for  
9 up to 72 hours unless there is a reasonable belief that the  
10 child remaining with the mother presents a health or safety risk  
11 to the child.

12 (c) Definitions.--As used in this section, the following  
13 words and phrases shall have the meanings given to them in this  
14 subsection unless the context clearly indicates otherwise:

15 "Postpartum." The eight-week period, or longer as determined  
16 by the health care professional responsible for the health and  
17 safety of the incarcerated individual or detainee, following  
18 childbirth.

19 "Substantial risk of imminent flight." A showing of real and  
20 considerable risk of escaping by the incarcerated individual  
21 with the intent to avoid continued incarceration. An  
22 individual's history of escape attempts and flight to avoid  
23 continued incarceration may be relevant to the determination,  
24 but history alone cannot meet the requirement.

25 Section 5. This act shall take effect in 180 days.