

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1419 Session of 2021

INTRODUCED BY MIZGORSKI, JONES, CEPHAS, T. DAVIS, SHUSTERMAN, DALEY, KINSEY, KRAJEWSKI, McNEILL, RYAN, HILL-EVANS, HOHENSTEIN, FREEMAN, INNAMORATO, ISAACSON, MALAGARI, SANCHEZ, SIMS, GUZMAN, WEBSTER, LEE, HOWARD, BROOKS, WARREN, SOLOMON, D. MILLER, KINKEAD, HANBIDGE, YOUNG, KIM, N. NELSON, HELM, SCHWEYER, FITZGERALD, KEEFER, BOBACK, PENNYCUICK, OTTEN, BULLOCK, GUENST, A. BROWN, FIEDLER, McCLINTON, GILLEN, FLOOD, KENYATTA, SCHMITT, BURGOS, PARKER, MERSKI, MERCURI, KAIL, LEWIS, TOOHIL, KNOWLES, ECKER, RIGBY, FRANKEL, BONNER, SCHEMEL, GLEIM, B. MILLER, ZIMMERMAN, COOK, TWARDZIK, MOUL AND BRIGGS, SEPTEMBER 21, 2021

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 24, 2022

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; and, in~~
5 ~~miscellaneous provisions, providing for restrictive housing~~
6 ~~prohibited for pregnant or postpartum inmates and detainees,~~
7 ~~for cavity search and inspection restrictions, for training~~
8 ~~and education requirement, for family consideration in~~
9 ~~placement and visitation, for feminine hygiene and~~
10 ~~incontinence products and for postpartum recovery.~~
11 AMENDING TITLE 61 (PRISONS AND PAROLE) OF THE PENNSYLVANIA <--
12 CONSOLIDATED STATUTES, IN GENERAL ADMINISTRATION, FURTHER
13 PROVIDING FOR STATE RECORDING SYSTEM FOR APPLICATION OF
14 RESTRAINTS TO PREGNANT PRISONERS OR DETAINEES; IN COUNTY
15 CORRECTIONAL INSTITUTIONS, FURTHER PROVIDING FOR COUNTY
16 RECORDING SYSTEM FOR APPLICATION OF RESTRAINTS TO PREGNANT
17 PRISONERS OR DETAINEES; AND, IN MISCELLANEOUS PROVISIONS,
18 FURTHER PROVIDING FOR HEALTHY BIRTH FOR INCARCERATED WOMEN
19 AND PROVIDING FOR RESTRICTIVE HOUSING PROHIBITED FOR PREGNANT
20 OR POSTPARTUM INCARCERATED INDIVIDUALS AND DETAINEES, FOR
21 CAVITY SEARCH AND INSPECTION RESTRICTIONS, FOR TRAINING AND
22 EDUCATION REQUIREMENT, FOR FAMILY CONSIDERATION IN PLACEMENT
23 AND VISITATION, FOR FEMININE HYGIENE AND INCONTINENCE
24 PRODUCTS AND FOR POSTPARTUM RECOVERY.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 ~~Section 1. Section 1104 of Title 61 of the Pennsylvania~~ <--
4 ~~Consolidated Statutes is amended to read:~~

5 ~~§ 1104. State recording system [for application of restraints]~~
6 ~~relating to pregnant [prisoners] and postpartum~~
7 ~~inmates or detainees.~~

8 (a) ~~General rule. [A correctional institution as defined by~~
9 ~~section 5905(e) (relating to healthy birth for incarcerated~~
10 ~~women) shall report each restraint applied to a pregnant~~
11 ~~prisoner or detainee. The report must be in writing and must~~
12 ~~note the number of restraints. Individual, separate written~~
13 ~~findings for each restraint must accompany the report. This~~
14 ~~shall include reports from the following:] A correctional~~
15 ~~institution shall, in writing, report each restraint applied to~~
16 ~~a pregnant, laboring or postpartum individual in the~~
17 ~~correctional institution's custody, as well as any instance~~
18 ~~where a pregnant, laboring or postpartum individual is placed in~~
19 ~~restrictive housing. The report shall note the number and type~~
20 ~~of restraints or, in the case of restrictive housing, the length~~
21 ~~of time the individual was placed in restrictive housing. The~~
22 ~~provisions of this subsection shall apply to any person tasked~~
23 ~~with transporting or housing incarcerated or detained~~
24 ~~individuals. Reports shall be made as follows:~~

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

30 (2) ~~A correctional institution that is operated,~~

1 supervised or licensed by the Department of ~~[Public Welfare]~~
2 ~~Human Services~~ pursuant to the ~~[Public Welfare] Human~~
3 ~~Services Code~~ shall make the report to the Secretary of
4 ~~[Public Welfare] Human Services.~~

5 ~~(b) Contents of [written findings] report. [Written~~
6 ~~findings] Reports of each restraint or placement of an~~
7 ~~incarcerated or detained individual in restrictive housing as~~
8 ~~required under subsection (a) must include the following:~~

9 ~~(1) [the] The circumstances that led to the~~
10 ~~determination that the [prisoner] inmate or detainee~~
11 ~~represented a substantial risk of imminent flight[; or].~~

12 ~~(2) [the] The circumstances that led to the~~
13 ~~determination that other extraordinary medical or security~~
14 ~~circumstances dictated the [prisoner] inmate or detainee be~~
15 ~~restrained to ensure the safety and security of the~~
16 ~~[prisoner] inmate or detainee, the staff of the correctional~~
17 ~~institution or medical facility, other [prisoners] inmates or~~
18 ~~detainees or the public.~~

19 ~~(3) The date and time restraints were applied or the~~
20 ~~restrictive housing placement occurred, and the length of~~
21 ~~time the incarcerated or detained individual was kept in~~
22 ~~restraints or restrictive housing.~~

23 ~~(4) The badge number or identification number of the~~
24 ~~following:~~

25 ~~(i) The custodian or staff member that applied the~~
26 ~~restraints or placed the individual into restrictive~~
27 ~~housing.~~

28 ~~(ii) Any superior officers approving or advising the~~
29 ~~application of restraints or placement in restrictive~~
30 ~~housing.~~

1 ~~(5) The number and type of restraints used.~~

2 ~~(6) Any physical effects on the incarcerated or detained~~
3 ~~individual or the unborn child of an incarcerated or detained~~
4 ~~individual resulting from placement in the restraints or~~
5 ~~restrictive housing.~~

6 ~~(c) Staff presence during labor. Only female staff shall be~~
7 ~~present in the room during the examination, labor or delivery of~~
8 ~~the pregnant incarcerated individual. If male staff remain~~
9 ~~present during the examination, labor or delivery of the~~
10 ~~pregnant incarcerated individual, that information shall be~~
11 ~~reported to the department or the Department of Human Services,~~
12 ~~as applicable.~~

13 ~~(d) Availability of reports. The nonidentifying data~~
14 ~~contained in the written reports submitted to the department or~~
15 ~~the Department of Human Services shall be posted on the~~
16 ~~department or Department of Human Services' publicly accessible~~
17 ~~Internet website annually. No identifying information, such as~~
18 ~~names or dates of birth, shall be posted.~~

19 ~~(e) Failure to submit report. If a correctional institution~~
20 ~~fails to submit a report under this section by the end of the~~
21 ~~fiscal year, the department or the Department of Human Services,~~
22 ~~as applicable, shall obtain a certification, to be created by~~
23 ~~the department or the Department of Human Services, as~~
24 ~~applicable, from the correctional institution verifying that the~~
25 ~~institution had zero instances of use of restraints, placement~~
26 ~~in restrictive housing or male staff presence during medical~~
27 ~~examinations or appointments of pregnant incarcerated~~
28 ~~individuals under the provisions of this section.~~

29 ~~(f) Definitions. As used in this section, the following~~
30 ~~words and phrases shall have the meanings given to them in this~~

1 ~~subsection unless the context clearly indicates otherwise:~~

2 ~~"Correctional institution." As defined in section 5905(e)~~
3 ~~(relating to healthy birth for incarcerated women).~~

4 ~~"Postpartum." The eight week period, or longer as determined~~
5 ~~by the health care professional responsible for the health and~~
6 ~~safety of the incarcerated or detained person, following~~
7 ~~childbirth.~~

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

11 ~~"Restrictive housing." Any type of detention that involves~~
12 ~~removal from the general incarcerated population for purposes of~~
13 ~~discipline or administrative purpose.~~

14 ~~"Staff." An individual who is employed by a correctional~~
15 ~~institution, the department or the Department of Human Services.~~

16 Section 2. Title 61 is amended by adding sections to read:
17 ~~§ 5905.1. Restrictive housing prohibited for pregnant or~~
18 ~~postpartum inmates and detainees.~~

19 ~~(a) Restrictive housing prohibited. Except as provided~~
20 ~~under subsection (c), a pregnant or postpartum incarcerated or~~
21 ~~detained individual may not be involuntarily placed in~~
22 ~~restrictive housing in any correctional institution in this~~
23 ~~Commonwealth.~~

24 ~~(b) Alternative discipline. Forms of discipline for~~
25 ~~pregnant and postpartum incarcerated or detained individuals~~
26 ~~shall be limited to sanctions, including restrictions on~~
27 ~~telephone usage or visitation or other common forms of~~
28 ~~alternative discipline used in the United States.~~

29 ~~(c) Exceptions. A pregnant or postpartum incarcerated or~~
30 ~~detained individual may be placed in restrictive housing only as~~

1 ~~a temporary response to behavior that poses a serious and~~
2 ~~immediate risk of physical harm to the pregnant or postpartum~~
3 ~~incarcerated or detained individual, another incarcerated or~~
4 ~~detained individual, the unborn child of the pregnant~~
5 ~~incarcerated or detained individual or staff. The following~~
6 ~~shall apply:~~

7 ~~(1) The decision to place a pregnant or postpartum~~
8 ~~incarcerated or detained individual in restrictive housing~~
9 ~~under this subsection must be approved by the warden or~~
10 ~~individual in charge of the correctional institution.~~

11 ~~(2) The rationale for the decision under this subsection~~
12 ~~must be documented as required by section 1104 (relating to~~
13 ~~State recording system relating to pregnant and postpartum~~
14 ~~inmates or detainees).~~

15 ~~(3) No period of restrictive housing in excess of seven~~
16 ~~days may be approved.~~

17 ~~(d) Bed assignments. The correctional institution may not~~
18 ~~assign a pregnant incarcerated individual or detainee to any bed~~
19 ~~that is elevated more than three feet from the floor of the~~
20 ~~facility.~~

21 ~~(e) Definition. As used in this section, the term~~
22 ~~"postpartum" means the eight week period, or longer as~~
23 ~~determined by the health care professional responsible for the~~
24 ~~health and safety of the incarcerated or detained person,~~
25 ~~following childbirth.~~

26 ~~§ 5908. Cavity search and inspection restrictions.~~

27 ~~(a) Cavity search and inspection restrictions. To the~~
28 ~~greatest extent possible:~~

29 ~~(1) No staff other than a licensed health care~~
30 ~~professional shall conduct an invasive body cavity search of~~

1 ~~a pregnant incarcerated individual or detainee.~~

2 ~~(2) A correctional institution shall limit searches by~~
3 ~~male staff where a female incarcerated individual or detainee~~
4 ~~is in a state of undress.~~

5 ~~(b) Documentation requirement. If staff is required to~~
6 ~~perform an invasive cavity search on a pregnant incarcerated~~
7 ~~individual or detainee, or male staff is required to conduct a~~
8 ~~search on a female incarcerated individual or detainee in a~~
9 ~~state of undress, a written report shall be submitted to the~~
10 ~~correctional institution within 72 hours following the cavity~~
11 ~~search or inspection. The report under this subsection shall:~~

12 ~~(1) include the justification for performing the cavity~~
13 ~~search or male staff inspection;~~

14 ~~(2) note if any contraband was found on the incarcerated~~
15 ~~individual or detainee; and~~

16 ~~(3) be sent to the department or the Department of Human~~
17 ~~Services, as applicable.~~

18 ~~(c) Definitions. As used in this section, the following~~
19 ~~words and phrases shall have the meanings given to them in this~~
20 ~~subsection unless the context clearly indicates otherwise:~~

21 ~~"Body cavity search." An invasive search of incarcerated or~~
22 ~~detained individuals, conducted by staff in search of~~
23 ~~contraband.~~

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

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

1 ~~§ 5909. Training and education requirement.~~

2 ~~(a) Correctional institution staff training. The department~~
3 ~~and the Department of Human Services shall jointly develop and~~
4 ~~provide both correctional institutions with a training program~~
5 ~~for staff who have contact with a pregnant, laboring or~~
6 ~~postpartum incarcerated or detained individual. The training~~
7 ~~program shall be related to the physical and mental health of~~
8 ~~the pregnant or postpartum incarcerated or detained individual~~
9 ~~and unborn child, including:~~

10 ~~(1) The general care of a pregnant individual.~~

11 ~~(2) The impact of restraints on a pregnant individual~~
12 ~~and unborn child.~~

13 ~~(3) The impact of being placed in restrictive housing on~~
14 ~~a pregnant individual.~~

15 ~~(4) The impact of invasive searches on a pregnant~~
16 ~~individual.~~

17 ~~(5) Any other pertinent information the department or~~
18 ~~the Department of Human Services finds appropriate or~~
19 ~~necessary.~~

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

1 ~~institution, the staff must receive the required training at the~~
2 ~~non-exempt institution.~~

3 ~~(c) Education programming for pregnant incarcerated~~
4 ~~individuals. The department and the Department of Human~~
5 ~~Services shall jointly develop and provide both correctional~~
6 ~~institutions and county correctional institutions with~~
7 ~~educational programming for pregnant or postpartum incarcerated~~
8 ~~or detained individuals. The educational programming shall be~~
9 ~~related to:~~

10 ~~(1) Medical screenings related to female reproductive~~
11 ~~and overall health, including preventive screenings.~~

12 ~~(2) Prenatal care.~~

13 ~~(3) Pregnancy specific hygiene.~~

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

15 ~~(5) General health of the child.~~

16 ~~(6) Any other pertinent information the department or~~
17 ~~the Department of Human Services finds appropriate or~~
18 ~~necessary.~~

19 ~~(d) Trauma informed care. The following shall apply:~~

20 ~~(1) The warden of a correctional institution shall, as~~
21 ~~the warden deems necessary, ensure that the correctional~~
22 ~~institution provides to incarcerated individuals and~~
23 ~~detainees quality trauma informed care.~~

24 ~~(2) Trauma informed care for an individual shall begin~~
25 ~~immediately upon the individual's intake and assessment at a~~
26 ~~correctional institution.~~

27 ~~(3) Correctional staff training. Correctional staff~~
28 ~~shall have no fewer than four hours of professional training~~
29 ~~related to trauma informed care, which shall include, but not~~
30 ~~be limited to, the following:~~

1 ~~(i) Training to identify individuals with trauma.~~

2 ~~(ii) Training on how and when to refer individuals~~
3 ~~to the proper health care professionals, including, but~~
4 ~~not limited to, preventive health care and mental health~~
5 ~~care.~~

6 ~~(iii) Training on how to interact with and empower~~
7 ~~incarcerated individuals who have experienced trauma.~~

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

11 ~~"Postpartum." The eight week period, or longer as determined~~
12 ~~by the health care professional responsible for the health and~~
13 ~~safety of the incarcerated or detained person, following~~
14 ~~childbirth.~~

15 ~~"Trauma informed care." An organizational structure and~~
16 ~~treatment framework that involves recognizing, understanding and~~
17 ~~responding to the effects of trauma.~~

18 ~~§ 5910. Family consideration in placement and visitation.~~

19 ~~(a) Visitation. The department and the Department of Human~~
20 ~~Services shall authorize visitation by a minor dependent child,~~
21 ~~with the minimum following requirements:~~

22 ~~(1) A minor dependent child under 18 years of age shall~~
23 ~~be able to visit the minor dependent child's parent with~~
24 ~~primary physical custody at least two days per week.~~

25 ~~(2) No restriction on the number of minor dependent~~
26 ~~children under 18 years of age that may be permitted~~
27 ~~visitation privileges may be enforced, subject to the~~
28 ~~facility's space, staffing and administrative capacity to~~
29 ~~accommodate the number of visitors present.~~

30 ~~(3) Contact visits for a parent with primary physical~~

~~1 custody with low security or minimum security classifications~~
~~2 shall be authorized.~~

~~3 (b) Exceptions. Visitation rights shall not be authorized~~
~~4 under subsection (a):~~

~~5 (1) For parents who have been deemed unsafe or~~
~~6 ineligible for visitation through the department or the~~
~~7 Department of Human Services until deemed safe or eligible~~
~~8 for visitation by the department or the Department of Human~~
~~9 Services.~~

~~10 (2) In instances where the minor dependent child was the~~
~~11 victim of a criminal offense under 18 Pa.C.S. (relating to~~
~~12 crimes and offenses) resulting in the incarceration or~~
~~13 detention of the parent.~~

~~14 (3) If the parent voluntarily enrolled in a detention~~
~~15 program which prohibits visitation.~~

~~16 (c) Primary physical custody. For purposes of this section,~~
~~17 an incarcerated or detained individual must prove that the~~
~~18 individual had physical custody of the minor dependent child for~~
~~19 the majority of time to be considered a parent with primary~~
~~20 physical custody.~~

~~21 (d) Definitions. As used in this section, the following~~
~~22 words and phrases shall have the meanings given to them in this~~
~~23 subsection unless the context clearly indicates otherwise:~~

~~24 "Minor dependent child." An individual under 18 years of age~~
~~25 who the incarcerated individual was the former primary caregiver~~
~~26 of and who is proven to be related to the incarcerated or~~
~~27 detained individual by the facility.~~

~~28 § 5911. Feminine hygiene and incontinence products.~~

~~29 (a) Issuance of feminine hygiene products related to~~
~~30 menstruation. A supply of feminine hygiene products shall be~~

~~1 provided to all incarcerated individuals and detainees who are
2 menstruating in a correctional institution each month at no cost
3 to the incarcerated individuals and detainees, regardless of
4 financial means. Incarcerated individuals and detainees may not
5 be required to show proof of need or to undergo a medical
6 examination or obtain a medical permit, authorization or
7 diagnosis to receive the products under subsection (b).~~

~~8 (b) Feminine hygiene products provided. A choice of at
9 least two sizes or absorbencies of sanitary pads shall be
10 distributed to all incarcerated individuals and detainees who
11 are menstruating in a correctional institution or if requested
12 from medical staff.~~

~~13 (c) Feminine hygiene products to be requested. A choice of
14 at least two sizes of tampons shall be distributed to
15 incarcerated individuals and detainees who request a tampon from
16 medical staff.~~

~~17 (d) Issuance of feminine hygiene products related to bladder
18 control and incontinence. A supply of products for bladder
19 control and incontinence shall be provided to incarcerated
20 individuals and detainees, including geriatric incarcerated
21 individuals and postpartum incarcerated individuals, who require
22 such products each month at no cost to incarcerated individuals
23 and detainees, regardless of financial means.~~

~~24 (e) Bladder control and incontinence products
25 distribution. Adult diapers or protective undergarments shall
26 be distributed to incarcerated individuals who require them.~~

~~27 (f) Rules and regulations. The correctional institution
28 shall promulgate rules necessary to implement and enforce the
29 provisions of this section.~~

~~30 (g) Definition. As used in this section, the term "feminine~~

1 ~~hygiene products" means products that women use during~~
2 ~~menstruation. The term includes tampons and sanitary napkins.~~
3 ~~§ 5912. Postpartum recovery.~~

4 ~~(a) Restraints during postpartum recovery. No restraints~~
5 ~~shall be used on any incarcerated or detained individual who has~~
6 ~~given birth within the last 30 days and is in postpartum~~
7 ~~recovery, unless the department or the Department of Human~~
8 ~~Services, as applicable, has a reasonable belief that the~~
9 ~~incarcerated or detained individual will harm themselves, their~~
10 ~~newborn or another individual or pose a substantial risk of~~
11 ~~imminent flight. If restraints are used, the facility employee~~
12 ~~ordering the use of restraints on an incarcerated or detained~~
13 ~~individual while in postpartum recovery shall submit a written~~
14 ~~report to the warden of the facility within 72 hours following~~
15 ~~the use of the restraints, containing the justification for~~
16 ~~restraining the incarcerated or detained individual during~~
17 ~~postpartum recovery. The report shall also be sent to the~~
18 ~~department or the Department of Human Services, as applicable.~~

19 ~~(b) Post delivery bonding period. Subject to hospital~~
20 ~~policy, following the delivery of a newborn, the department or~~
21 ~~the Department of Human Services, as applicable, shall permit~~
22 ~~the child to remain with the mother at the hospital for 72 hours~~
23 ~~unless a licensed medical professional or mental health~~
24 ~~professional has a reasonable belief that the newborn child~~
25 ~~remaining with the mother poses a health or safety risk to the~~
26 ~~newborn child.~~

27 ~~(c) Nutritional and hygiene products. During the 72 hour~~
28 ~~period under subsection (b), the department or the Department of~~
29 ~~Human Services, as applicable, shall make available the~~
30 ~~necessary nutritional and hygiene products to care for the~~

1 ~~newborn.~~

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

5 ~~"Licensed medical professional." An individual licensed to~~
6 ~~practice medicine in this Commonwealth.~~

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

11 ~~"Substantial risk of imminent flight." A showing of real and~~
12 ~~considerable risk of escaping by the incarcerated individual~~
13 ~~with the intent to avoid continued incarceration. An~~
14 ~~individual's history of escape attempts and flight to avoid~~
15 ~~continued incarceration may be relevant to the determination,~~
16 ~~but history alone cannot meet the requirement.~~

17 ~~Section 3. This act shall apply to an entity under the~~
18 ~~authority of the Commonwealth or any county or municipality that~~
19 ~~has the power to detain and restrain an individual under the~~
20 ~~laws of this Commonwealth, including, but not limited to, State~~
21 ~~correctional institutions, county correctional institutions,~~
22 ~~juvenile detention facilities, police departments, constable's~~
23 ~~offices, sheriff's offices and private entities performing~~
24 ~~contracts for the Commonwealth or a county or municipality of~~
25 ~~the Commonwealth.~~

26 ~~Section 4. This act shall take effect in 60 days.~~

27 SECTION 1. SECTION 1104 OF TITLE 61 OF THE PENNSYLVANIA
28 CONSOLIDATED STATUTES IS AMENDED TO READ:

29 § 1104. STATE RECORDING SYSTEM [FOR APPLICATION OF RESTRAINTS]
30 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 THAT 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 INSTITUTION HAD ZERO INSTANCES OF USE OF
5 RESTRAINTS, PLACEMENT IN RESTRICTIVE HOUSING OR MALE STAFF
6 PRESENCE, OTHER THAN LICENSED MEDICAL PROFESSIONALS, DURING
7 MEDICAL EXAMINATIONS OR APPOINTMENTS OF PREGNANT INCARCERATED
8 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 SECTION 2. SECTIONS 1758 HEADING, (A) AND (B) AND 5905 OF
28 TITLE 61 ARE AMENDED TO READ:

29 § 1758. COUNTY RECORDING SYSTEM FOR [APPLICATION OF RESTRAINTS
30 TO PREGNANT PRISONERS] PREGNANT AND POSTPARTUM

1 INCARCERATED INDIVIDUALS OR DETAINEES.

2 (A) GENERAL RULE.--[THE APPLICATION OF RESTRAINTS TO A
3 PREGNANT PRISONER OR DETAINEE OCCURRING PURSUANT TO SECTION 5905
4 (RELATING TO HEALTHY BIRTH FOR INCARCERATED WOMEN) SHALL
5 CONSTITUTE AN INCIDENT THAT QUALIFIES AS AN EXTRAORDINARY
6 OCCURRENCE THAT MUST BE REPORTED TO THE DEPARTMENT IN THE COUNTY
7 EXTRAORDINARY OCCURRENCE MONTHLY REPORT.] EACH OF THE FOLLOWING
8 SHALL CONSTITUTE AN INCIDENT THAT QUALIFIES AS AN EXTRAORDINARY
9 OCCURRENCE THAT MUST BE REPORTED TO THE DEPARTMENT IN THE COUNTY
10 EXTRAORDINARY OCCURRENCE MONTHLY REPORT IN ACCORDANCE WITH
11 SECTIONS 5905 (RELATING TO HEALTHY BIRTH FOR INCARCERATED WOMEN)
12 AND 5905.1 (RELATING TO RESTRICTIVE HOUSING PROHIBITED FOR
13 PREGNANT OR POSTPARTUM INCARCERATED INDIVIDUALS AND DETAINEES):

14 (1) THE APPLICATION OF RESTRAINTS OR PLACEMENT IN
15 RESTRICTED HOUSING FOR A PREGNANT OR POSTPARTUM INCARCERATED
16 INDIVIDUAL OR DETAINEE.

17 (2) AN INVASIVE CAVITY SEARCH OF A PREGNANT OR
18 POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE OR INSPECTION
19 OF A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE IN A STATE OF
20 UNDRESS.

21 (3) THE PRESENCE OF MALE STAFF DURING LABOR OR DELIVERY
22 OF THE PREGNANT INCARCERATED INDIVIDUAL OR DETAINEE.

23 (B) INFORMATION TO BE INCLUDED IN COUNTY EXTRAORDINARY
24 OCCURRENCE MONTHLY REPORT.--

25 [(1) ANY AND ALL INCIDENTS WHERE THE APPLICATION OF
26 RESTRAINTS TO A PREGNANT PRISONER OR DETAINEE PURSUANT TO
27 SECTION 5905 OCCURRED MUST BE INCLUDED IN THE COUNTY
28 EXTRAORDINARY OCCURRENCE MONTHLY REPORT THAT IS SUBMITTED TO
29 THE DEPARTMENT. AN INDICATION OF THE INCIDENTS MUST BE NOTED
30 ON THE DESIGNATED REPORT FORM OR OTHER AVAILABLE APPROVED

1 METHOD, IF APPLICABLE, AND INDIVIDUAL, SEPARATE WRITTEN
2 FINDINGS MUST ACCOMPANY THE FORM FOR EACH INCIDENT THAT
3 OCCURRED.

4 (2) WRITTEN FINDINGS OF EACH INCIDENT AS REQUIRED UNDER
5 PARAGRAPH (1) MUST INCLUDE THE FOLLOWING:

6 (I) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION
7 THAT THE PRISONER OR DETAINEE REPRESENTED A SUBSTANTIAL
8 RISK OF IMMINENT FLIGHT; OR

9 (II) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION
10 THAT OTHER EXTRAORDINARY MEDICAL OR SECURITY
11 CIRCUMSTANCES DICTATED THE PRISONER OR DETAINEE BE
12 RESTRAINED TO ENSURE THE SAFETY AND SECURITY OF THE
13 PRISONER OR DETAINEE, THE STAFF OF THE CORRECTIONAL
14 INSTITUTION OR MEDICAL FACILITY, OTHER PRISONERS OR
15 DETAINEES OR THE PUBLIC.]

16 (3) THE REPORT FOR APPLICATION OF RESTRAINTS OR
17 PLACEMENT IN RESTRICTED HOUSING FOR A PREGNANT OR POSTPARTUM
18 INCARCERATED INDIVIDUAL OR DETAINEE SHALL REQUIRE THE
19 FOLLOWING INFORMATION:

20 (I) THE CIRCUMSTANCES THAT LED TO THE DETERMINATION
21 THAT:

22 (A) THE INCARCERATED INDIVIDUAL OR DETAINEE
23 REPRESENTED A SUBSTANTIAL RISK OF IMMINENT FLIGHT; OR

24 (B) OTHER EXTRAORDINARY MEDICAL OR SECURITY
25 CIRCUMSTANCES DICTATED THAT THE INCARCERATED
26 INDIVIDUAL OR DETAINEE BE RESTRAINED OR PLACED IN
27 RESTRICTIVE HOUSING TO ENSURE THE SAFETY AND SECURITY
28 OF THE INCARCERATED INDIVIDUAL OR DETAINEE, THE STAFF
29 OF THE CORRECTIONAL INSTITUTION OR MEDICAL FACILITY,
30 OTHER INCARCERATED INDIVIDUALS OR DETAINEES OR THE

1 PUBLIC.

2 (II) THE DATE AND TIME RESTRAINTS WERE APPLIED OR
3 THE RESTRICTIVE HOUSING PLACEMENT OCCURRED AND THE LENGTH
4 OF TIME THE INCARCERATED INDIVIDUAL OR DETAINEE WAS KEPT
5 IN RESTRAINTS OR RESTRICTIVE HOUSING.

6 (III) THE BADGE NUMBER OR IDENTIFICATION NUMBER OF
7 THE FOLLOWING:

8 (A) THE CUSTODIAN OR STAFF MEMBER THAT APPLIED
9 THE RESTRAINTS OR PLACED THE INDIVIDUAL INTO
10 RESTRICTIVE HOUSING.

11 (B) ANY SUPERIOR OFFICERS APPROVING OR ADVISING
12 THE APPLICATION OF RESTRAINTS OR PLACEMENT IN
13 RESTRICTIVE HOUSING.

14 (IV) THE NUMBER AND TYPE OF RESTRAINTS USED OR THE
15 LOCATION AND DESCRIPTION OF THE RESTRICTIVE HOUSING.

16 (V) ANY VISIBLE INJURY OF THE INCARCERATED
17 INDIVIDUAL OR DETAINEE RESULTING FROM PLACEMENT IN THE
18 RESTRAINTS THAT IS DOCUMENTED BY THE CORRECTIONAL
19 INSTITUTION.

20 (4) THE REPORT FOR AN INVASIVE CAVITY SEARCH OF A
21 PREGNANT OR POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE OR
22 INSPECTION OF A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE IN
23 A STATE OF UNDRESS SHALL CONTAIN THE FOLLOWING INFORMATION:

24 (I) THE JUSTIFICATION FOR PERFORMING A CAVITY SEARCH
25 OR MALE STAFF INSPECTION OF A FEMALE INCARCERATED
26 INDIVIDUAL OR DETAINEE IN A STATE OF UNDRESS.

27 (II) THE IDENTIFICATION OF ANY CONTRABAND THAT WAS
28 FOUND ON THE INCARCERATED INDIVIDUAL OR DETAINEE.

29 (5) THE REPORT FOR THE PRESENCE OF MALE STAFF DURING
30 LABOR OR DELIVERY OF THE PREGNANT INCARCERATED INDIVIDUAL OR

1 DETAINEE SHALL INCLUDE THE REASONS FOR THE PRESENCE OF MALE
2 STAFF.

3 (6) THE NONIDENTIFYING DATA CONTAINED IN THE WRITTEN
4 REPORTS SUBMITTED TO THE DEPARTMENT OR THE DEPARTMENT OF
5 HUMAN SERVICES SHALL BE POSTED ANNUALLY ON THE PUBLICLY
6 ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT OR THE
7 DEPARTMENT OF HUMAN SERVICES. NO IDENTIFYING INFORMATION,
8 SUCH AS NAMES OR DATES OF BIRTH, SHALL BE POSTED.

9 (7) IF A CORRECTIONAL INSTITUTION FAILS TO SUBMIT A
10 REPORT UNDER THIS SECTION WITHIN 30 DAYS AFTER THE END OF THE
11 FISCAL YEAR, THE DEPARTMENT OR THE DEPARTMENT OF HUMAN
12 SERVICES, AS APPLICABLE, SHALL OBTAIN A CERTIFICATION, TO BE
13 CREATED BY THE DEPARTMENT OR THE DEPARTMENT OF HUMAN
14 SERVICES, AS APPLICABLE, FROM THE CORRECTIONAL INSTITUTION
15 VERIFYING THAT THE INSTITUTION HAD ZERO INSTANCES OF USE OF
16 RESTRAINTS, PLACEMENT IN RESTRICTIVE HOUSING OR MALE STAFF
17 PRESENCE, OTHER THAN LICENSED MEDICAL PROFESSIONALS, DURING
18 MEDICAL EXAMINATIONS OR APPOINTMENTS OF PREGNANT INCARCERATED
19 INDIVIDUALS UNDER THE PROVISIONS OF THIS SECTION.

20 * * *

21 § 5905. HEALTHY BIRTH FOR INCARCERATED WOMEN.

22 (A) DUTIES OF CORRECTIONAL INSTITUTION.--CONSISTENT WITH
23 ESTABLISHED POLICY AND PRACTICE, IT SHALL BE THE DUTY AND
24 RESPONSIBILITY OF THE CORRECTIONAL INSTITUTION TO PROVIDE
25 ADEQUATE PERSONNEL TO MONITOR THE PREGNANT [PRISONER]
26 INCARCERATED INDIVIDUAL OR DETAINEE DURING TRANSPORT TO AND FROM
27 THE MEDICAL FACILITY AND DURING HER STAY AT THE MEDICAL
28 FACILITY.

29 (B) RESTRAINT OF PREGNANT [PRISONERS] INCARCERATED
30 INDIVIDUALS AND DETAINEES.--

1 (1) UNLESS PROVIDED IN PARAGRAPH (2), A CORRECTIONAL
2 INSTITUTION SHALL NOT APPLY RESTRAINTS TO [A PRISONER] AN
3 INCARCERATED INDIVIDUAL OR DETAINEE KNOWN TO BE PREGNANT
4 [DURING ANY STAGE OF LABOR, ANY PREGNANCY-RELATED MEDICAL
5 DISTRESS, ANY PERIOD OF DELIVERY,] OR DURING ANY PERIOD OF
6 POSTPARTUM AS DEFINED IN [SUBSECTION (E) OR TRANSPORT TO A
7 MEDICAL FACILITY AS A RESULT OF ANY OF THE PRECEDING
8 CONDITIONS OR TRANSPORT TO A MEDICAL FACILITY AFTER THE
9 BEGINNING OF THE SECOND TRIMESTER OF PREGNANCY.] SECTION
10 1104(F) (RELATING TO STATE RECORDING SYSTEM RELATING TO
11 PREGNANT AND POSTPARTUM INCARCERATED INDIVIDUALS OR
12 DETAINEES).

13 (2) PARAGRAPH (1) SHALL NOT BAR REASONABLE RESTRAINT
14 PROVIDED THE CORRECTIONAL INSTITUTION STAFF ASSIGNED TO THE
15 [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE MAKES AN
16 INDIVIDUALIZED DETERMINATION THAT THE [PRISONER] INCARCERATED
17 INDIVIDUAL OR DETAINEE PRESENTS A SUBSTANTIAL RISK OF
18 IMMINENT FLIGHT OR SOME OTHER EXTRAORDINARY MEDICAL OR
19 SECURITY CIRCUMSTANCE DICTATES THAT THE [PRISONER]
20 INCARCERATED INDIVIDUAL OR DETAINEE BE RESTRAINED TO ENSURE
21 THE SAFETY AND SECURITY OF THE [PRISONER] INCARCERATED
22 INDIVIDUAL OR DETAINEE, THE STAFF OF THE CORRECTIONAL
23 INSTITUTION OR MEDICAL FACILITY, OTHER [PRISONERS]
24 INCARCERATED INDIVIDUALS OR DETAINEES OR THE PUBLIC. THE
25 ASSIGNED CORRECTIONAL INSTITUTION STAFF SHALL REPORT THE
26 INCIDENT TO THE CORRECTIONAL INSTITUTION IN A REASONABLE
27 AMOUNT OF TIME AFTER THE RESTRAINT OCCURS. [IF THE ASSIGNED
28 CORRECTIONAL INSTITUTION STAFF IS NOT EMPLOYED BY THE
29 CORRECTIONAL INSTITUTION, THEN THE ASSIGNED CORRECTIONAL
30 INSTITUTION STAFF] ANY USE OF RESTRAINTS ON A PREGNANT OR

1 POSTPARTUM INCARCERATED INDIVIDUAL BY AN INDIVIDUAL OR ENTITY
2 THAT IS NOT EMPLOYED BY THE CORRECTIONAL INSTITUTION BUT IS
3 TRANSPORTING THE PREGNANT OR POSTPARTUM INCARCERATED
4 INDIVIDUAL ON BEHALF OF THE CORRECTIONAL INSTITUTION SHALL
5 REPORT THE RESTRAINT TO THE CORRECTIONAL INSTITUTION IN A
6 REASONABLE AMOUNT OF TIME AFTER THE INCIDENT OCCURS. THE
7 REPORTING REQUIREMENT SHALL NOT APPLY TO ANY LAW ENFORCEMENT
8 AGENCY UNLESS IT IS TRANSPORTING PREGNANT OR POSTPARTUM
9 INCARCERATED INDIVIDUALS ON BEHALF OF THE CORRECTIONAL
10 INSTITUTION.

11 (3) IF RESTRAINT IS APPLIED UNDER PARAGRAPH (2), AT NO
12 TIME SHALL THE [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE
13 BE LEFT UNATTENDED BY A CORRECTIONAL INSTITUTION STAFF WITH
14 THE ABILITY TO RELEASE THE RESTRAINT SHOULD A RELEASE BECOME
15 MEDICALLY NECESSARY.

16 (4) WHEN A RESTRAINT IS PERMITTED UNDER THIS SECTION, A
17 CORRECTIONAL INSTITUTION SHALL USE THE LEAST RESTRICTIVE
18 RESTRAINT NECESSARY WHEN THE FACILITY HAS ACTUAL OR
19 CONSTRUCTIVE KNOWLEDGE THAT [A PRISONER] AN INCARCERATED
20 INDIVIDUAL OR DETAINEE IS IN THE SECOND OR THIRD TRIMESTER OF
21 PREGNANCY.

22 (C) RESTRAINTS.--THE FOLLOWING SHALL APPLY TO [A PRISONER]
23 AN INCARCERATED INDIVIDUAL OR DETAINEE WHO HAS BEEN RESTRAINED
24 UNDER THIS SUBSECTION:

25 (1) THE CORRECTIONAL INSTITUTION STAFF ACCOMPANYING THE
26 [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE SHALL
27 IMMEDIATELY REMOVE ALL RESTRAINTS UPON REQUEST OF A DOCTOR,
28 NURSE OR OTHER HEALTH CARE PROFESSIONAL.

29 (2) LEG OR WAIST RESTRAINTS SHALL NOT BE USED ON ANY
30 [PRISONER] INCARCERATED INDIVIDUAL OR DETAINEE WHO IS IN

1 LABOR.

2 (3) THE TYPE OF RESTRAINT APPLIED AND THE APPLICATION OF
3 THE RESTRAINT SHALL BE DONE IN THE LEAST RESTRICTIVE MANNER
4 POSSIBLE.

5 [(D) ANNUAL REPORT.--NO LATER THAN AUGUST 1 OF EACH YEAR,
6 THE SECRETARY AND THE SECRETARY OF PUBLIC WELFARE SHALL EACH
7 SUBMIT TO THE GOVERNOR'S OFFICE A WRITTEN REPORT CONTAINING
8 INFORMATION REGARDING THE USE OF RESTRAINTS ON ANY PREGNANT
9 PRISONER OR DETAINEE DURING THE PRECEDING FISCAL YEAR
10 SPECIFICALLY IDENTIFYING AND ENUMERATING THE CIRCUMSTANCES THAT
11 LED TO THE DETERMINATION THAT THE PRISONER OR DETAINEE FELL
12 UNDER THE EXCEPTION IN SUBSECTION (B) (2). THE SECRETARY SHALL
13 REPORT ON PREGNANT PRISONERS OR DETAINEES IN THE CUSTODY OF
14 CORRECTIONAL INSTITUTIONS OPERATED, SUPERVISED OR LICENSED BY
15 THE DEPARTMENT. THE SECRETARY OF PUBLIC WELFARE SHALL REPORT ON
16 PREGNANT PRISONERS OR DETAINEES IN THE CUSTODY OF CORRECTIONAL
17 INSTITUTIONS OPERATED, SUPERVISED OR LICENSED BY THE DEPARTMENT
18 OF PUBLIC WELFARE PURSUANT TO THE ACT OF JUNE 13, 1967 (P.L.31,
19 NO.21), KNOWN AS THE PUBLIC WELFARE CODE. THE REPORTS SHALL NOT
20 CONTAIN ANY IDENTIFYING INFORMATION OF ANY PRISONER OR DETAINEE.
21 THE REPORTS SHALL BE POSTED ON THE GOVERNOR'S INTERNET WEBSITE
22 AND SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES
23 OF THE DEPARTMENT AND THE DEPARTMENT OF PUBLIC WELFARE,
24 RESPECTIVELY.]

25 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

28 "CORRECTIONAL INSTITUTION." ANY ENTITY UNDER THE AUTHORITY
29 OF THE STATE OR ANY COUNTY OR MUNICIPALITY THAT HAS THE POWER TO
30 DETAIN AND RESTRAIN A PERSON UNDER THE LAWS OF THIS

1 COMMONWEALTH.

2 "DETAINEE." INCLUDES ANY PERSON DETAINED UNDER THE
3 IMMIGRATION LAWS OF THE UNITED STATES AT ANY CORRECTIONAL
4 FACILITY.

5 "INCARCERATED INDIVIDUAL." AN INDIVIDUAL INCARCERATED OR
6 DETAINED IN A CORRECTIONAL INSTITUTION WHO IS ACCUSED OF,
7 CONVICTED OF, SENTENCED FOR OR ADJUDICATED DELINQUENT FOR
8 VIOLATIONS OF CRIMINAL LAW OR THE TERMS AND CONDITIONS OF
9 PAROLE, PROBATION, PRETRIAL RELEASE OR A DIVERSIONARY PROGRAM.

10 ["LABOR." THE PERIOD OF TIME BEFORE A BIRTH DURING WHICH
11 CONTRACTIONS ARE OF SUFFICIENT FREQUENCY, INTENSITY AND DURATION
12 TO BRING ABOUT EFFACEMENT AND PROGRESSIVE DILATION OF THE
13 CERVIX. THE DETERMINATION OF WHEN LABOR HAS COMMENCED SHALL REST
14 SOLELY WITH THE MEDICAL PROVIDERS OF THE PRISONER OR DETAINEE.]

15 "POSTPARTUM." THE PERIOD FOLLOWING DELIVERY BEFORE A
16 PRISONER OR DETAINEE HAS BEEN DISCHARGED FROM A MEDICAL
17 FACILITY.

18 "PRISONER." ANY PERSON INCARCERATED OR DETAINED IN ANY
19 CORRECTIONAL INSTITUTION WHO IS ACCUSED OF, CONVICTED OF,
20 SENTENCED FOR OR ADJUDICATED DELINQUENT FOR VIOLATIONS OF
21 CRIMINAL LAW OR THE TERMS AND CONDITIONS OF PAROLE, PROBATION,
22 PRETRIAL RELEASE OR A DIVERSIONARY PROGRAM.]

23 "RESTRAINT." ANY PHYSICAL HOLD OR MECHANICAL DEVICE USED TO
24 CONTROL THE MOVEMENT OF [A PRISONER'S] AN INCARCERATED
25 INDIVIDUAL'S OR DETAINEE'S BODY [AND] OR LIMBS[, INCLUDING, BUT
26 NOT LIMITED TO, SHACKLES, FLEX CUFFS, SOFT RESTRAINTS, HARD
27 METAL HANDCUFFS, A BLACK BOX, CHUBB CUFFS, LEG IRONS, BELLY
28 CHAINS, A SECURITY (TETHER) CHAIN OR A CONVEX SHIELD] OR BOTH.

29 SECTION 3. TITLE 61 IS AMENDED BY ADDING SECTIONS TO READ:
30 § 5905.1. RESTRICTIVE HOUSING PROHIBITED FOR PREGNANT OR

1 POSTPARTUM INCARCERATED INDIVIDUALS AND DETAINEES.

2 (A) RESTRICTIVE HOUSING PROHIBITED.--EXCEPT AS PROVIDED
3 UNDER SUBSECTION (C), A PREGNANT OR POSTPARTUM INCARCERATED
4 INDIVIDUAL OR DETAINEE MAY NOT BE INVOLUNTARILY PLACED IN
5 RESTRICTIVE HOUSING IN ANY CORRECTIONAL INSTITUTION IN THIS
6 COMMONWEALTH.

7 (B) ALTERNATIVE DISCIPLINE.--FORMS OF DISCIPLINE FOR
8 PREGNANT AND POSTPARTUM INCARCERATED INDIVIDUALS OR DETAINEES
9 SHALL BE LIMITED TO SANCTIONS, INCLUDING RESTRICTIONS ON
10 TELEPHONE USAGE OR VISITATION OR OTHER COMMON FORMS OF
11 ALTERNATIVE DISCIPLINE USED IN THE UNITED STATES.

12 (C) EXCEPTIONS.--A PREGNANT OR POSTPARTUM INCARCERATED
13 INDIVIDUAL OR DETAINEE MAY BE PLACED IN RESTRICTIVE HOUSING ONLY
14 AS A TEMPORARY RESPONSE TO BEHAVIOR THAT POSES A SERIOUS AND
15 IMMEDIATE RISK OF PHYSICAL HARM TO THE PREGNANT OR POSTPARTUM
16 INCARCERATED INDIVIDUAL OR DETAINEE, ANOTHER INCARCERATED
17 INDIVIDUAL OR DETAINEE, THE UNBORN CHILD OF THE PREGNANT
18 INCARCERATED INDIVIDUAL OR DETAINEE OR STAFF. THE FOLLOWING
19 SHALL APPLY:

20 (1) THE DECISION TO PLACE A PREGNANT OR POSTPARTUM
21 INCARCERATED INDIVIDUAL OR DETAINEE IN RESTRICTIVE HOUSING
22 UNDER THIS SUBSECTION MUST BE APPROVED BY THE CHIEF
23 ADMINISTRATOR.

24 (2) THE RATIONALE FOR THE DECISION UNDER THIS SUBSECTION
25 MUST BE DOCUMENTED AS REQUIRED BY SECTION 1104 (RELATING TO
26 STATE RECORDING SYSTEM RELATING TO PREGNANT AND POSTPARTUM
27 INCARCERATED INDIVIDUALS OR DETAINEES).

28 (3) NO PERIOD OF RESTRICTIVE HOUSING SHALL EXCEED SEVEN
29 DAYS WITHOUT ADDITIONAL APPROVAL AND DOCUMENTED RATIONALE, AS
30 REQUIRED BY SECTION 1104, OF THE CHIEF ADMINISTRATOR. THERE

1 SHALL BE A MINIMUM OF SEVEN DAYS BETWEEN EACH RESTRICTIVE
2 PLACEMENT ABSENT EXTRAORDINARY CIRCUMSTANCES.

3 (D) BED ASSIGNMENTS.--THE CORRECTIONAL INSTITUTION MAY NOT
4 ASSIGN A PREGNANT INCARCERATED INDIVIDUAL OR DETAINEE TO ANY BED
5 THAT IS ELEVATED MORE THAN THREE FEET FROM THE FLOOR OF THE
6 FACILITY.

7 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM
8 "POSTPARTUM" MEANS THE EIGHT-WEEK PERIOD, OR LONGER AS
9 DETERMINED BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE
10 HEALTH AND SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE,
11 FOLLOWING CHILDBIRTH.

12 § 5908. CAVITY SEARCH AND INSPECTION RESTRICTIONS.

13 (A) CAVITY SEARCH AND INSPECTION RESTRICTIONS.--TO THE
14 GREATEST EXTENT POSSIBLE:

15 (1) NO STAFF OTHER THAN A LICENSED HEALTH CARE
16 PROFESSIONAL SHALL CONDUCT AN INVASIVE BODY CAVITY SEARCH OF
17 A PREGNANT OR POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE.

18 (2) A CORRECTIONAL INSTITUTION SHALL LIMIT SEARCHES BY
19 MALE STAFF, OTHER THAN MEDICALLY LICENSED PROFESSIONAL MALE
20 STAFF, IF A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE IS IN
21 A STATE OF UNDRESS.

22 (B) DOCUMENTATION REQUIREMENT.--IF STAFF IS REQUIRED TO
23 PERFORM AN INVASIVE CAVITY SEARCH ON A PREGNANT OR POSTPARTUM
24 INCARCERATED INDIVIDUAL OR DETAINEE, OR MALE STAFF, OTHER THAN
25 MEDICALLY LICENSED PROFESSIONAL MALE STAFF, IS REQUIRED TO
26 CONDUCT A SEARCH ON A FEMALE INCARCERATED INDIVIDUAL OR DETAINEE
27 IN A STATE OF UNDRESS, A WRITTEN REPORT SHALL BE SUBMITTED TO
28 THE CORRECTIONAL INSTITUTION WITHIN 72 HOURS FOLLOWING THE
29 CAVITY SEARCH OR INSPECTION. THE REPORT UNDER THIS SUBSECTION
30 SHALL:

1 (1) INCLUDE THE JUSTIFICATION FOR PERFORMING THE CAVITY
2 SEARCH OR MALE STAFF INSPECTION AS REQUIRED IN THIS
3 SUBSECTION;

4 (2) DOCUMENT AND IDENTIFY ANY CONTRABAND THAT WAS FOUND
5 ON THE INCARCERATED INDIVIDUAL OR DETAINEE; AND

6 (3) BE SENT TO THE DEPARTMENT OR THE DEPARTMENT OF HUMAN
7 SERVICES, AS APPLICABLE.

8 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
9 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
10 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

11 "BODY CAVITY SEARCH." AN INVASIVE SEARCH OF INCARCERATED
12 INDIVIDUALS OR DETAINEES, CONDUCTED BY STAFF IN SEARCH OF
13 CONTRABAND, EXCLUDING THE NOSE, EARS AND MOUTH.

14 "STAFF." AN INDIVIDUAL, INCLUDING CONTRACTED STAFF, WHO IS
15 EMPLOYED BY A CORRECTIONAL INSTITUTION, THE DEPARTMENT OR THE
16 DEPARTMENT OF HUMAN SERVICES, EXCLUDING ANY LICENSED MEDICAL
17 PROFESSIONAL.

18 "STATE OF UNDRESS." A STATE WHERE AN INCARCERATED OR
19 DETAINED FEMALE IS PARTIALLY OR FULLY NAKED, EITHER IN THE
20 SHOWER, TOILET AREAS, A MEDICAL EXAMINATION ROOM OR WHILE A BODY
21 CAVITY SEARCH IS BEING CONDUCTED.

22 § 5909. TRAINING AND EDUCATION REQUIREMENT.

23 (A) CORRECTIONAL INSTITUTION STAFF TRAINING.--THE DEPARTMENT
24 AND THE DEPARTMENT OF HUMAN SERVICES SHALL JOINTLY DEVELOP AND
25 PROVIDE CORRECTIONAL INSTITUTIONS WITH A TRAINING PROGRAM FOR
26 STAFF WHO HAVE CONTACT WITH A PREGNANT, LABORING OR POSTPARTUM
27 INCARCERATED INDIVIDUAL OR DETAINEE. THE TRAINING PROGRAM SHALL
28 BE RELATED TO THE PHYSICAL AND MENTAL HEALTH OF THE PREGNANT OR
29 POSTPARTUM INCARCERATED INDIVIDUAL OR DETAINEE AND UNBORN CHILD,
30 INCLUDING:

1 (1) THE GENERAL CARE OF A PREGNANT INDIVIDUAL.

2 (2) THE IMPACT OF RESTRAINTS ON A PREGNANT INDIVIDUAL
3 AND UNBORN CHILD.

4 (3) THE IMPACT OF BEING PLACED IN RESTRICTIVE HOUSING ON
5 A PREGNANT INDIVIDUAL.

6 (4) THE IMPACT OF INVASIVE SEARCHES ON A PREGNANT
7 INDIVIDUAL.

8 (5) ANY OTHER PERTINENT INFORMATION THE DEPARTMENT OR
9 THE DEPARTMENT OF HUMAN SERVICES FINDS APPROPRIATE OR
10 NECESSARY.

11 (B) CORRECTIONAL INSTITUTION STAFF TRAINING EXCEPTIONS.--IF
12 THE CORRECTIONAL INSTITUTION OR COUNTY CORRECTIONAL INSTITUTION
13 PROHIBITS THE PLACEMENT OF PREGNANT INDIVIDUALS AS A MATTER OF
14 LAW, THAT INSTITUTION MAY SUBMIT A WRITTEN EXEMPTION REPORTING
15 THAT THERE IS NO RISK OF STAFF INTERACTING WITH PREGNANT
16 INDIVIDUALS HOUSED IN THE INSTITUTION. THE EXEMPTION UNDER THIS
17 SUBSECTION SHALL APPLY ONLY TO THE CORRECTIONAL INSTITUTION, NOT
18 THE INDIVIDUAL STAFF OF THE INSTITUTION. ALL CORRECTIONAL
19 INSTITUTION STAFF THAT COME IN CONTACT WITH PREGNANT
20 INCARCERATED INDIVIDUALS SHALL COMPLETE THE TRAINING UNDER THIS
21 SECTION. IF CORRECTIONAL INSTITUTION STAFF WORK AT MORE THAN ONE
22 INSTITUTION, THE STAFF MUST RECEIVE THE REQUIRED TRAINING AT THE
23 NONEXEMPT INSTITUTION.

24 (C) EDUCATION PROGRAMMING FOR PREGNANT INCARCERATED
25 INDIVIDUALS.--THE DEPARTMENT AND THE DEPARTMENT OF HUMAN
26 SERVICES SHALL JOINTLY DEVELOP AND PROVIDE CORRECTIONAL
27 INSTITUTIONS AND COUNTY CORRECTIONAL INSTITUTIONS WITH
28 EDUCATIONAL PROGRAMMING FOR PREGNANT OR POSTPARTUM INCARCERATED
29 INDIVIDUALS OR DETAINEES. THE EDUCATIONAL PROGRAMMING SHALL BE
30 RELATED TO:

1 (1) MEDICAL SCREENINGS RELATED TO FEMALE REPRODUCTIVE
2 AND OVERALL HEALTH, INCLUDING PREVENTIVE SCREENINGS.

3 (2) PRENATAL CARE.

4 (3) PREGNANCY-SPECIFIC HYGIENE.

5 (4) THE IMPACT OF ALCOHOL AND DRUGS ON THE UNBORN CHILD.

6 (5) GENERAL HEALTH OF THE CHILD.

7 (6) ANY OTHER PERTINENT INFORMATION THE DEPARTMENT OR
8 THE DEPARTMENT OF HUMAN SERVICES FINDS APPROPRIATE OR
9 NECESSARY.

10 (D) TRAUMA-INFORMED CARE.--THE FOLLOWING SHALL APPLY:

11 (1) THE CHIEF ADMINISTRATOR SHALL, AS THE CHIEF
12 ADMINISTRATOR DEEMS NECESSARY, ENSURE THAT THE CORRECTIONAL
13 INSTITUTION PROVIDES TO INCARCERATED INDIVIDUALS AND
14 DETAINEES QUALITY TRAUMA-INFORMED CARE.

15 (2) TRAUMA-INFORMED CARE FOR AN INDIVIDUAL SHALL BEGIN
16 IMMEDIATELY UPON THE INDIVIDUAL'S INTAKE AND ASSESSMENT AT A
17 CORRECTIONAL INSTITUTION.

18 (3) CORRECTIONAL STAFF SHALL RECEIVE PROFESSIONAL
19 TRAINING, APPROVED BY THE DEPARTMENT OF HUMAN SERVICES,
20 RELATED TO TRAUMA-INFORMED CARE, WHICH SHALL INCLUDE, BUT NOT
21 BE LIMITED TO, THE FOLLOWING:

22 (I) TRAINING TO IDENTIFY INDIVIDUALS WITH TRAUMA.

23 (II) TRAINING ON HOW AND WHEN TO REFER INDIVIDUALS
24 TO THE PROPER HEALTH CARE PROFESSIONALS, INCLUDING, BUT
25 NOT LIMITED TO, PREVENTIVE HEALTH CARE AND MENTAL HEALTH
26 CARE.

27 (III) TRAINING ON HOW TO INTERACT WITH AND EMPOWER
28 INCARCERATED INDIVIDUALS WHO HAVE EXPERIENCED TRAUMA.

29 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
30 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS

1 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

2 "POSTPARTUM." THE EIGHT-WEEK PERIOD, OR LONGER AS DETERMINED
3 BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE HEALTH AND
4 SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE, FOLLOWING
5 CHILDBIRTH.

6 "TRAUMA-INFORMED CARE." AN ORGANIZATIONAL STRUCTURE AND
7 TREATMENT FRAMEWORK THAT INVOLVES RECOGNIZING, UNDERSTANDING AND
8 RESPONDING TO THE EFFECTS OF TRAUMA.

9 § 5910. FAMILY CONSIDERATION IN PLACEMENT AND VISITATION.

10 (A) VISITATION.--THE DEPARTMENT AND THE DEPARTMENT OF HUMAN
11 SERVICES SHALL MAKE EFFORTS TO AUTHORIZE VISITATION BY A MINOR
12 DEPENDENT CHILD, WITH THE MINIMUM FOLLOWING REQUIREMENTS:

13 (1) ONE VISIT PER INMATE PER WEEK WILL BE PERMITTED.
14 ADDITIONAL VISITS MAY BE PERMITTED.

15 (2) A MINOR DEPENDENT CHILD UNDER 18 YEARS OF AGE MAY BE
16 ABLE TO VISIT THE MINOR DEPENDENT CHILD'S PARENT AT LEAST ONE
17 DAY PER WEEK SUBJECT TO DEPARTMENT POLICY AND FACILITY SPACE,
18 STAFFING AND ADMINISTRATIVE CAPACITY. THE DEPARTMENT SHALL
19 MAKE EFFORTS TO PROVIDE THE VISITATION IN PERSON, BUT THE
20 VISITATION MAY BE PERMITTED THROUGH VIRTUAL MEANS, SUBJECT TO
21 DEPARTMENT POLICY AND FACILITY SPACE, STAFFING AND
22 ADMINISTRATIVE CAPACITY.

23 (B) EXCEPTIONS.--VISITATION PRIVILEGES SHALL NOT BE
24 AUTHORIZED UNDER SUBSECTION (A):

25 (1) FOR PARENTS WHO HAVE BEEN DEEMED UNSAFE OR
26 INELIGIBLE FOR VISITATION THROUGH THE DEPARTMENT OR THE
27 DEPARTMENT OF HUMAN SERVICES UNTIL DEEMED SAFE OR ELIGIBLE
28 FOR VISITATION BY THE DEPARTMENT OR THE DEPARTMENT OF HUMAN
29 SERVICES.

30 (2) IN INSTANCES WHERE THE MINOR DEPENDENT CHILD WAS THE

1 VICTIM OF A CRIMINAL OFFENSE UNDER 18 PA.C.S. (RELATING TO
2 CRIMES AND OFFENSES) RESULTING IN THE INCARCERATION OR
3 DETENTION OF THE PARENT.

4 (3) IF THE PARENT VOLUNTARILY ENROLLED IN A DETENTION
5 PROGRAM WHICH PROHIBITS VISITATION.

6 § 5911. FEMININE HYGIENE AND INCONTINENCE PRODUCTS.

7 (A) ISSUANCE OF FEMININE HYGIENE PRODUCTS RELATED TO
8 MENSTRUATION.--A SUPPLY OF FEMININE HYGIENE PRODUCTS SHALL BE
9 PROVIDED TO ALL INCARCERATED INDIVIDUALS AND DETAINEES WHO ARE
10 MENSTRUATING IN A CORRECTIONAL INSTITUTION EACH MONTH AT NO COST
11 TO THE INCARCERATED INDIVIDUALS AND DETAINEES, REGARDLESS OF
12 FINANCIAL MEANS. INCARCERATED INDIVIDUALS AND DETAINEES SHALL
13 NOT BE REQUIRED TO SHOW PROOF OF NEED OR TO UNDERGO A MEDICAL
14 EXAMINATION OR OBTAIN A MEDICAL PERMIT, AUTHORIZATION OR
15 DIAGNOSIS TO RECEIVE THE PRODUCTS UNDER SUBSECTION (B).

16 (B) FEMININE HYGIENE PRODUCTS PROVIDED.--A CHOICE OF AT
17 LEAST TWO SIZES OR ABSORBENCIES OF SANITARY PADS SHALL BE
18 DISTRIBUTED TO ALL INCARCERATED INDIVIDUALS AND DETAINEES WHO
19 ARE MENSTRUATING IN A CORRECTIONAL INSTITUTION OR IF REQUESTED
20 FROM MEDICAL STAFF.

21 (C) FEMININE HYGIENE PRODUCTS TO BE REQUESTED.--A CHOICE OF
22 AT LEAST TWO SIZES OF TAMPONS SHALL BE DISTRIBUTED TO
23 INCARCERATED INDIVIDUALS AND DETAINEES WHO REQUEST A TAMPON FROM
24 MEDICAL STAFF.

25 (D) ISSUANCE OF FEMININE HYGIENE PRODUCTS RELATED TO BLADDER
26 CONTROL AND INCONTINENCE.--A SUPPLY OF PRODUCTS FOR BLADDER
27 CONTROL AND INCONTINENCE SHALL BE PROVIDED TO INCARCERATED
28 INDIVIDUALS AND DETAINEES, INCLUDING GERIATRIC INCARCERATED
29 INDIVIDUALS AND POSTPARTUM INCARCERATED INDIVIDUALS, WHO REQUIRE
30 SUCH PRODUCTS EACH MONTH AT NO COST TO INCARCERATED INDIVIDUALS

1 AND DETAINEES, REGARDLESS OF FINANCIAL MEANS.

2 (E) BLADDER CONTROL AND INCONTINENCE PRODUCTS
3 DISTRIBUTION.--ADULT DIAPERS OR PROTECTIVE UNDERGARMENTS SHALL
4 BE DISTRIBUTED TO INCARCERATED INDIVIDUALS WHO REQUIRE THEM.

5 (F) RULES AND REGULATIONS.--THE CORRECTIONAL INSTITUTION
6 SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT AND ENFORCE THE
7 PROVISIONS OF THIS SECTION.

8 (G) DEFINITION.--AS USED IN THIS SECTION, THE TERM "FEMININE
9 HYGIENE PRODUCTS" MEANS PRODUCTS THAT WOMEN USE DURING
10 MENSTRUATION. THE TERM INCLUDES TAMPONS AND SANITARY NAPKINS.
11 § 5912. POSTPARTUM RECOVERY.

12 (A) RESTRAINTS DURING POSTPARTUM RECOVERY.--NO RESTRAINTS
13 SHALL BE USED ON ANY INCARCERATED INDIVIDUAL OR DETAINEE WHO HAS
14 GIVEN BIRTH WITHIN THE LAST 30 DAYS AND IS IN POSTPARTUM
15 RECOVERY, UNLESS THE DEPARTMENT OR THE DEPARTMENT OF HUMAN
16 SERVICES, AS APPLICABLE, HAS A REASONABLE BELIEF THAT THE
17 INCARCERATED INDIVIDUAL OR DETAINEE WILL HARM THEMSELVES, THEIR
18 NEWBORN OR ANOTHER INDIVIDUAL OR POSE A SUBSTANTIAL RISK OF
19 IMMINENT FLIGHT. IF RESTRAINTS ARE USED, THE FACILITY EMPLOYEE
20 ORDERING THE USE OF RESTRAINTS ON AN INCARCERATED INDIVIDUAL OR
21 DETAINEE WHILE IN POSTPARTUM RECOVERY SHALL SUBMIT A WRITTEN
22 REPORT TO THE CHIEF ADMINISTRATOR OF THE FACILITY WITHIN 72
23 HOURS FOLLOWING THE USE OF THE RESTRAINTS, CONTAINING THE
24 JUSTIFICATION FOR RESTRAINING THE INCARCERATED INDIVIDUAL OR
25 DETAINEE DURING POSTPARTUM RECOVERY. THE REPORT SHALL ALSO BE
26 SENT TO THE DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES, AS
27 APPLICABLE.

28 (B) POSTDELIVERY BONDING PERIOD.--FOLLOWING THE DELIVERY OF
29 A NEWBORN AND SUBJECT TO HOSPITAL POLICIES, INCLUDING, BUT NOT
30 LIMITED TO, LENGTH OF STAY, THE DEPARTMENT OR THE DEPARTMENT OF

1 HUMAN SERVICES SHALL PERMIT THE CHILD TO REMAIN WITH THE MOTHER
2 AT THE HOSPITAL FOR UP TO 72 HOURS UNLESS THERE IS A REASONABLE
3 BELIEF THAT THE CHILD REMAINING WITH THE MOTHER PRESENTS A
4 HEALTH OR SAFETY RISK TO THE CHILD.

5 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
6 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
7 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

8 "LICENSED MEDICAL PROFESSIONAL." AN INDIVIDUAL LICENSED TO
9 PRACTICE MEDICINE IN THIS COMMONWEALTH, AS WELL AS A NURSE
10 PRACTITIONER, PHYSICIAN ASSISTANT OR NURSE.

11 "POSTPARTUM RECOVERY." THE EIGHT-WEEK PERIOD, OR LONGER AS
12 DETERMINED BY THE HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE
13 HEALTH AND SAFETY OF THE INCARCERATED INDIVIDUAL OR DETAINEE,
14 FOLLOWING CHILDBIRTH.

15 "SUBSTANTIAL RISK OF IMMINENT FLIGHT." A SHOWING OF REAL AND
16 CONSIDERABLE RISK OF ESCAPING BY THE INCARCERATED INDIVIDUAL
17 WITH THE INTENT TO AVOID CONTINUED INCARCERATION. AN
18 INDIVIDUAL'S HISTORY OF ESCAPE ATTEMPTS AND FLIGHT TO AVOID
19 CONTINUED INCARCERATION MAY BE RELEVANT TO THE DETERMINATION,
20 BUT HISTORY ALONE CANNOT MEET THE REQUIREMENT.

21 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.