

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1859 Session of 2021

INTRODUCED BY CRUZ, SANCHEZ, HANBIDGE, FREEMAN, SCHLOSSBERG,  
HOHENSTEIN, GILLEN, McNEILL, N. NELSON, INNAMORATO AND  
MADDEN, SEPTEMBER 14, 2021

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 14, 2021

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania  
2 Consolidated Statutes, in miscellaneous provisions, providing  
3 for invasive searches of pregnant and postpartum inmates.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 61 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 5908. Invasive searches of pregnant and postpartum inmates.

9 (a) Invasive searches or inspections.--Except as provided  
10 under subsection (b), an invasive search or inspection of a  
11 pregnant or postpartum prisoner or detainee shall only be  
12 performed by a licensed health care professional.

13 (b) Exception.--A corrections officer who is not a licensed  
14 health care professional may perform an invasive search or  
15 inspection of a pregnant or postpartum prisoner or detainee if  
16 all of the following apply:

17 (1) The corrections officer has a reasonable belief that  
18 the pregnant or postpartum prisoner or detainee is concealing

1 contraband that presents an immediate threat of harm to the  
2 individual, an unborn child, another prisoner or detainee or  
3 correctional institution staff.

4 (2) The corrections officer submits a written report to  
5 the correctional institution within 72 hours after the  
6 invasive search or inspection was performed. The report shall  
7 include all of the following information:

8 (i) The date and time when the invasive search or  
9 inspection was performed.

10 (ii) The name of the prisoner or detainee on which  
11 the invasive search or inspection was performed.

12 (iii) The name of the corrections officer that  
13 performed the invasive search or inspection.

14 (iv) The corrections officer's justification for the  
15 individualized determination to conduct the invasive  
16 search or inspection, including the underlying facts that  
17 led to the determination that the prisoner or detainee  
18 was concealing under paragraph (1).

19 (v) Whether any contraband was found on the prisoner  
20 or detainee.

21 (c) Duties of chief administrators.--The chief administrator  
22 of a correctional institution shall have the following duties:

23 (1) Submit a summary containing each report required  
24 under subsection (b) (2) to the secretary within 30 days of  
25 the end of the previous month.

26 (2) Review and assess the appropriateness of the use of  
27 invasive searches and inspections on pregnant and postpartum  
28 prisoners and detainees.

29 (3) Maintain the reports required under subsection (b)  
30 (2) for a minimum of five years.

1     (d) 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     "Chief administrator." The warden, superintendent or other  
5     officer in charge of a correctional institution.

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

10    "Corrections officer." An individual employed at a  
11    correctional institution to provide any security or custodial  
12    service for a prisoner or detainee.

13    "Detainee." The term includes any person detained under the  
14    immigration laws of the United States at a correctional  
15    institution.

16    "Invasive search or inspection." A search or inspection that  
17    uses touch, insertion or probing of the cavities and orifices of  
18    the human body and is not conducted for a medical purpose.

19    "Licensed health care professional." A licensed physician,  
20    nurse or other health care professional responsible for the  
21    health and safety of a prisoner or detainee.

22    "Postpartum." A period of eight weeks, or a longer period as  
23    determined by a licensed health care professional, after  
24    delivery.

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

30     Section 2. This act shall take effect in 60 days.