



# HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

## FISCAL NOTE

SENATE BILL: 1074

PRINTER'S NO: 1776

PRIME SPONSOR: Leach

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
<b>Expenditure Increase/(Decrease):</b>		
General Fund	*See Analysis	*See Analysis

### OVERVIEW:

Senate Bill 1074 amends Title 61 (Penal and Correctional Institutions) by adding three new sections related to the application of restraints on pregnant prisoners or detainees and the reporting of such applications. The provisions under Senate Bill 1074 apply to Youth Development Centers/Youth Forestry Camps, and State Hospital forensic centers under the purview of the Department of Public Welfare (DPW), state correctional institutions, and county jails.

As a rule, a correctional institution shall complete a written report regarding each restraint applied to a pregnant prisoner or detainee and must include the following:

- the circumstances that led to the determination that the prisoner or detainee represented a substantial risk of imminent flight; or
- the circumstances that led to the determination that other extraordinary medical or security circumstances dictated the prisoner or detainee be restrained to ensure the safety and security of the prisoner or detainee, the staff of the correctional institution or medical facility, other prisoners or detainees, or the public.

Where counties are concerned, the application of restraints to a pregnant prisoner or detainee shall constitute an incident that qualifies as an extraordinary occurrence that must be reported to the Department of Corrections (DOC) in the County Extraordinary Occurrence Monthly Report. The report must contain the basic written report requirements outlined above.

Consistent with established policy and practice, it shall be the duty and responsibility of the correctional institution to provide adequate personnel to monitor the pregnant prisoner or detainee during transport to and from the medical facility and during her stay at the medical facility.

The prohibitions provided for in Senate Bill 1074 do not bar reasonable restraint, provided that the correctional institutional staff assigned to the prisoner or detainee makes an individualized determination that there is a substantial risk of imminent flight or some other extraordinary circumstances that warrant the use of restraints.

If restraints are used, they must be the least restrictive necessary and a prisoner or detainee may not be left unattended by a correctional institution staff member who has the ability to release the restraint should a release become medically necessary.

At the request of health care professionals, all restraints must be immediately removed and leg or waist restraints cannot be used on any prisoner or detainee who is in labor.

No later than August 1 of each year, the secretary of DOC and the secretary of DPW shall each submit to the Governor's office a written report containing information regarding the use of restraints on any pregnant prisoner or detainee during the preceding fiscal year specifically identifying and enumerating the circumstances that led to the determination that the prisoner or detainee required restraints. The reports shall not contain any identifying information of the prisoner or detainee. The reports are to be posted on the Governor's website and made available for public inspection at the office of DOC and DPW.

This act shall take effect in 60 days.

**ANALYSIS:**

According to DOC, the provisions of in Senate Bill 1074 are addressed by current policies and would affect an average of 30 prisoners or detainees annually. Counties currently have to submit reports called "County Extraordinary Occurrence Monthly Report" on a monthly basis. DOC indicates that the agency may incur minimal fiscal costs related to the development of a reporting system to the Governor's office for posting on the internet.

According to DPW, there would be no fiscal impact to the agency as a result of Senate Bill 1074.

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**General Note and Disclaimer:** *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*