



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1419

PRINTERS NO. 3470

PRIME SPONSOR: Mizgorski

COST / (SAVINGS)

FUND	FY 2022/23	FY 2023/24
General Fund	See Fiscal Impact	

SUMMARY:

House Bill 1419 amends the Prisons and Parole Code (Title 61) to make changes to codify numerous best practices relating to the incarceration of women. It would take effect in 180 days.

ANALYSIS:

House Bill 1419 makes numerous changes to Title 61 relating to best practices for the incarceration of women. These changes generally apply to facilities run by the Department of Corrections (DOC) or the Department of Human Services (DHS). The changes are summarized by section below.

Section 1104. State recording system relating to pregnant and postpartum incarcerated individuals or detainees. – Changes to this section require correctional institutions to include in a written report instances when a pregnant, laboring, or postpartum individual is placed into restrictive housing or any time they are placed in a restraint. A detailed list of the information that must be included in these reports is provided in this section.

This section is also amended to require that, other than licensed medical professionals, only female staff be present in the room during the examination, labor, or delivery with a pregnant incarcerated individual. If male staff are present, that must be reported to DOC or DHS. In addition, this section is amended to outline procedures when a correctional institution fails to submit a report by the end of a fiscal year as required.

Section 1758. County recording system for pregnant and postpartum incarcerated individuals or detainees. – Changes to this section make county jails subject to the same requirements that are imposed by Section 1104, as amended by this legislation. Instances when pregnant, laboring, or postpartum individuals are placed in restrictive housing or in restraints are to be included in the Extraordinary Occurrence Monthly Report, an existing report that county jails must submit to the DOC. The presence of male staff during labor or delivery of the pregnant incarcerated individual or detainee must also be included. In addition, this section is amended to outline procedures when a county jail fails to submit a report as required.

Section 5905. Healthy birth for incarcerated women. – Changes to this section further clarify when pregnant or postpartum prisoners may or may not be placed in restraints. For purposes of this section, restraints do not include handcuffs.

Section 5905.1. Restrictive housing prohibited for pregnant or postpartum incarcerated individuals and detainees. – This new section prohibits pregnant, or postpartum incarcerated individuals from being involuntarily placed in restrictive housing unless they pose a serious risk of physical harm to themselves, another individual, or their unborn child. Any placement in restrictive housing must be approved by the chief administrator and the rationale for the placement must be documented. The restrictive housing may not exceed seven days without additional approval and documentation from the chief administrator.

Section 5908. Cavity search and inspection restrictions. – This new section outlines procedures and reporting requirements related to cavity searches of pregnant incarcerated individuals.

Section 5909. Training and education requirement. – This new section concerns training and education for correctional institution staff who have contact with pregnant incarcerated individuals. The training would include general care of a pregnant individual, the impact of restraints, restrictive housing, and invasive searches on pregnant prisoners, and other information DHS or DOC finds appropriate or necessary. Staff will also be required to receive training in trauma-informed care. Trauma-informed care is defined as an organizational structure and treatment framework that involves recognizing, understanding, and responding to the effects of trauma.

Section 5910. Family consideration in placement and visitation. – This new section requires DOC and DHS to authorize specific visitation conditions for minor dependent children and their incarcerated parents, unless the parent is deemed unsafe by DHS, the child is the victim of the crime that resulted in the parent's incarceration, or if the parent enrolled voluntarily in a program that prohibits visitation. These visitation conditions are also subject to department policy and facility space, staffing, and administrative capacity.

Section 5911. Feminine hygiene and incontinence products. – This new section requires the provision of free feminine hygiene products each month to incarcerated individuals and detainees who are menstruating, regardless of their financial means.

Section 5912. Postpartum recovery. – This new section specifies that no restraints may be used on any incarcerated individual who has given birth within the last 30 days unless the DOC or DHS believe the individual may harm themselves, their newborn or others or poses a substantial risk of flight. If restraints are used the facility employee ordering their use must submit a written report to the chief administrator within 72 hours following their use. Finally, subject to hospital policy and other exceptions, the newborn child will be permitted to remain with the mother at the hospital for 72 hours after birth.

FISCAL IMPACT:

Enactment of this legislation will have no significant impact on Commonwealth or local government funds.

According to the DOC, the training requirements in the bill may result in some fiscal impact to the Department, which can be handled within its existing budget. Many of the other changes in this legislation either codify current practices in the Department or will have no fiscal impact.

According to DHS, enactment of this legislation will have no impact on the Department.

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House Appropriations Committee (R)

DATE: September 19, 2022

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.