



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 900 PRINTER'S NO. 2406 PRIME SPONSOR: Cephias

COST / (SAVINGS)

FUND	FY 2022/23	FY 2023/24
General Fund	\$0	See Fiscal Impact
County Funds	\$0	See Fiscal Impact

SUMMARY:

Amends Title 61 (Prisons and Parole) to limit the use of restrictive housing, restraints, and cavity searches on pregnant or postpartum incarcerated women and children, to provide for training for staff who have contact with pregnant, laboring, or postpartum women and for pregnant incarcerated individuals, to facilitate postpartum recovery, and to provide free feminine hygiene and incontinence products to incarcerated individuals.

ANALYSIS:

House Bill 900 Printer's Number 959 amends Title 61 (Prisons and Parole) Section 1104 and adds Sections 5905.1 and Sections 5908 through 5911.

State Correctional Institutions

The bill amends Section 1104 to expand the scope of the existing state reporting system used to report when restraints are used on a pregnant individual to include laboring and postpartum individuals and to include instances when a pregnant, laboring, or postpartum individual is placed in restrictive housing. The amended section adds data elements that are required to be in the report, including:

- the number and type of restraints used
- the length of time in and the location and description of restrictive housing
- the badge number or identification number of the custodian or staff member that applied the restraints or placed the individual in restrictive housing as well as any superior officers approving or advising the application of restraints or placement in restrictive housing
- any visible injury of the incarcerated individual or detainee resulting from placement in the documented restraints

Section 1104 is further amended to require that only female staff may be present in the room during the examination, labor, or delivery of a pregnant incarcerated person. If a male staff member remains in the room, that fact, as well as the reasons therefore, must be reported to the Department of Corrections (DOC) or the Department of Human Services (DHS).

Correctional institutions are required to submit this information to DOC or DHS within 30 days of the end of the fiscal year or obtain certification verifying that the institution had zero instances of use of restraints, placement in restrictive housing or male staff presence during medical examinations or appointments of pregnant incarcerated individuals. The DOC or DHS will post the deidentified data from the submitted reports on their website.

County Correctional Institutions

Similar provisions to those affecting state correctional institutions are applied to county facilities as well.

Section 1758 is amended to expand the reporting of extraordinary occurrences in county correctional institutions to include:

- the placement of a pregnant or postpartum incarcerated individual or detainee in restrictive housing
- an invasive body cavity search of a pregnant or postpartum incarcerated individual or detainee or inspection of a female incarcerated individual or detainee in a state of undress
- the presence of a male staff member during labor or delivery of the pregnant incarcerated individual or detainee

The amended section adds additional data elements that are required to be in the report, including:

- the number and type of restraints used
- the length of time in and the location and description of restrictive housing
- the badge number or identification number of the custodian or staff member that applied the restraints or placed the individual in restrictive housing as well as any superior officers approving or advising the application of restraints or placement in restrictive housing
- any visible injury of the incarcerated individual or detainee resulting from placement in the documented restraints
- the report for an invasive body cavity search or inspection of a female incarcerated individual in a state of undress shall include:
 - the justification for performing a cavity search or male staff inspection of a female incarcerated individual in a state of undress
 - the identification of any contraband found
- the report for the presence of a male staff member during labor or delivery shall include the reasons for the presence of the male staff

County correctional institutions are required to submit this information to DOC or DHS within 30 days of the end of the fiscal year or obtain certification verifying that the institution had zero instances of use of restraints, placement in restrictive housing or male staff presence during medical examinations or appointments of pregnant incarcerated individuals. The DOC or DHS will post the deidentified data from the submitted reports on their website.

Department of Human Services Facilities

The bill adds Chapter 57 to Title 61, which provides for protection of children in facilities operated or licensed by DHS.

- With certain exceptions, Section 5702 prohibits seclusion and the length of seclusion for a pregnant or postpartum child
- Section 5703 places restrictions on body cavity searches and inspections and requires the submission of a written report if a health care professional is required to perform an invasive body cavity search that includes the justification for performing the search and whether or not contraband was found on the child
- Section 5704 adds a training and education requirement for the facility.
 - The facility is required to provide or arrange a training program for staff who have contact with a pregnant, laboring, or postpartum child.
 - The facility is also required to develop and provide educational programming for a pregnant or postpartum child.

- Adds the requirement that the facility provides trauma-informed care to a child and that facility staff have no fewer than four hours of professional training related to trauma-informed care
- Section 5706 provides for the provision of menstrual hygiene and incontinence products at no cost to a child
- Section 5707 places restriction on the use of restraints on a child who has given birth within the last 30 days and is in postpartum recovery. The section provides for a post-delivery bonding period of 72 hours to permit the newborn to remain at the hospital with the child, during which the Department of Human Services will make available the necessary nutritional and hygiene products to care for the newborn
- Section 5708 adds the requirement that facilities report to the Department of Human Services when a restraint is placed on a pregnant, laboring, or postpartum child in the facility's custody.

Miscellaneous Provisions

The legislation amends Section 5905 of Title 61 to restrict and establish guidelines for the use of restraints, including handcuffs, on an incarcerated individual or detainee known to be pregnant during any stage or labor or any period of postpartum. Section 5905.1 is added to prohibit placement of a pregnant or post-partum individual in restrictive housing except as a temporary response to behavior that poses a serious and immediate risk of physical harm to the pregnant or postpartum incarcerated or detained individual, another incarcerated or detained individual, the unborn child of the pregnant incarcerated or detained individual, or staff.

Section 5908 restricts and establishes guidelines for cavity searches and inspections of pregnant or postpartum incarcerated individuals. The section further requires the submission of a written report if a staff member is required to perform invasive body cavity search or if a male staff member is required to conduct a search on a female incarcerated individual or detainee in a state of undress.

Section 5909 establishes training and education requirements for county and state correctional institutions. The Department of Corrections and the Department of Human Services are required to jointly develop and provide correctional institutions with a training program for staff who have contact with a pregnant, laboring, or postpartum incarcerated individual as well as a training program for pregnant or postpartum incarcerated individuals. The section also requires that incarcerated individuals are provided with quality trauma-informed care and that institutional staff have received training, approved by the Department of Human Services, related to trauma-informed care.

Section 5910 ensures that incarcerated individuals will be provided with free feminine hygiene and incontinence products at State and County correctional institutions.

Section 5911 facilitates the postpartum recovery of incarcerated individuals by limiting and establishing the guidelines for the use of restraints during postpartum recovery. If restraints are required, the individual ordering the use of restraints is required to submit a written report to the chief administrator of the facility within 72 hours following the use of the restraints. The section additionally requires the DOC and the DHS to permit the delivered child to remain with the mother at the hospital for 72 hours unless there is a reasonable belief that the child remaining with the mother presents a health or safety risk to the child.

This legislation would take effect in 180 days upon enactment.

FISCAL IMPACT:

In addition to modifying standards for the use of restraints, restrictive housing, and cavity searches and inspections of pregnant, laboring, or postpartum incarcerated individuals or children, House Bill 900 establishes additional reporting and training standards for county and state institutional staff and provides for menstrual and incontinence products at no cost to incarcerated women.

The legislation creates new training and programming requirements for staff and for pregnant and postpartum incarcerated individuals and tasks the DOC and DHS with creating new training programs. It is important to recognize that female incarcerated inmates make up a small percentage of the total inmate population. As of December 31, 2022, there were 2,309 women in three DOC institutions. The number of pregnant or postpartum incarcerated individuals is an even smaller proportion of the total inmate population in state facilities. In 2020, there were 26 pregnant incarcerated individuals, 17 deliveries, and 9 individuals who were released while still pregnant. In 2021, there were 22 pregnant incarcerated individuals, 11 successful deliveries, 2 miscarriages, and 2 individuals who were released while still pregnant. Women are only housed in three State Correctional Institutions: SCI Muncy, SCI Cambridge Springs, and the Quehanna Boot Camp.

This means that the number of correctional officers who could potentially require additional training because they could come in contact with pregnant or incarcerated postpartum incarcerated individuals is limited to three facilities. It should also limit the amount of time spent on the additional reporting requirements related to the use of restrictive housing, restraints, and cavity searches.

According to the DOC the new training requirements in the bill may result in a minimal fiscal impact to the Department, which can be handled within its existing budget. This assumes that the DOC is only required to train staff at state correctional institutions and not at county correctional institutions. The DOC and the DHS can develop the new programming within their existing budgets and provide this training to the county correctional institutions.

The legislation also creates a legislated mandate for correctional institutions to provide female incarcerated inmates with menstrual and incontinence products. The DOC already provides female incarcerated individuals with menstrual and incontinence products free of charge and the DHS has stated that enactment of the legislation would have no budgetary impact on the Department. It is possible that this mandate would have a budgetary impact on county correctional institutions that do not already offer these products at no charge to incarcerated individuals. In 2022, there were 2,860 female inmates in county correctional institutions. According to the Rhode Island Medical Journal, the average woman spends \$20 per month on menstrual products or \$240 per year¹. Depending on sentence length, this could impose a burden of up to \$240 per year for each female incarcerated individual in a county facility.

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

¹ <http://www.rimed.org/rimedicaljournal/2017/12/2017-12-14-pov-parrillo.pdf>