

A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 conduct a study on the use of restraints on pregnant women
3 and girls in State correctional institutions, county jails
4 and juvenile detention facilities within this Commonwealth.

5 WHEREAS, Women and girls housed in State correctional
6 institutions, county jails and juvenile detention facilities
7 confront a unique set of challenges and requirements when
8 compared to their male counterparts; and

9 WHEREAS, More than 200,000 women are held in prisons and
10 jails nationwide; and

11 WHEREAS, Almost three-quarters of women in Federal and state
12 correctional facilities are mothers, an increase of more than
13 100% since 1991; and

14 WHEREAS, It is estimated that 3% of women in Federal
15 correctional facilities and 4% of women in state correctional
16 facilities indicated that they were pregnant at the time of
17 admission; and

18 WHEREAS, Approximately 5% of women in local jails reported

1 being pregnant at intake; and

2 WHEREAS, More than 2,500 women are currently housed in State
3 correctional institutions in this Commonwealth; and

4 WHEREAS, As of January 2015, the official one-day census of
5 county jails in this Commonwealth found that 4,740 females were
6 housed in these institutions; and

7 WHEREAS, This finding is not an adequate representation of
8 the total number of women passing through county jails each
9 year; and

10 WHEREAS, Hundreds of young girls are involved in juvenile
11 court dispositions in this Commonwealth each year, with some
12 being placed in secure residential facilities; and

13 WHEREAS, Many incarcerated women have high-risk pregnancies
14 due to poverty, inadequate health care and substance abuse; and

15 WHEREAS, The issue of restraining pregnant women in state
16 correctional facilities, county jails and juvenile detention
17 facilities has gained national attention in recent years; and

18 WHEREAS, Numerous correctional associations and medical
19 associations, including the American Congress of Obstetricians
20 and Gynecologists, the American Medical Association, the
21 American Public Health Association and the American
22 Psychological Association, have taken a position against the
23 general use of shackles and restraints on pregnant women, citing
24 health concerns for the woman and fetus; and

25 WHEREAS, Being shackled or restrained can directly impact the
26 mental and physical well-being of pregnant women; and

27 WHEREAS, The health risks associated with the use of
28 restraints and shackles include increased likelihood of falls,
29 general trauma and limited access to treatment during medical
30 emergencies; and

1 WHEREAS, These risks can result in increased medical costs to
2 state and local governments; and

3 WHEREAS, The General Assembly, recognizing the health risks
4 associated with restraining pregnant women, enacted the act of
5 July 2, 2010 (P.L.275, No.45), which added sections 1104, 1758
6 and 5905 to Title 61 (Prisons and Parole) of the Pennsylvania
7 Consolidated Statutes; and

8 WHEREAS, These new provisions are commonly referred to as the
9 Healthy Birth for Incarcerated Women Act (the Act); and

10 WHEREAS, The Act generally prohibits placing pregnant women
11 in restraints during labor or in transport to a medical facility
12 in the second or third trimesters of pregnancy unless
13 correctional staff determines that the individual represents a
14 substantial risk of flight or if there is some other
15 extraordinary medical or security circumstance; and

16 WHEREAS, The Act also requires State correctional
17 institutions, county jails and juvenile detention facilities to
18 annually report instances of restraining pregnant women and
19 girls to the Department of Corrections or the Department of
20 Human Services; and

21 WHEREAS, The Act delineates the documentation requirements
22 for State correctional institutions, county jails and juvenile
23 detention facilities that must be met in reporting these
24 instances; and

25 WHEREAS, Thousands of individuals are employed in State
26 correctional institutions, county jails and juvenile detention
27 facilities in this Commonwealth; and

28 WHEREAS, These individuals work hard to protect the safety of
29 residents, staff and the public at large each day while adhering
30 to State mandates in a difficult environment; and

1 WHEREAS, While the Act was a meaningful step in ensuring that
2 many pregnant women are not shackled or restrained in State
3 correctional institutions, county jails and juvenile detention
4 facilities, there have been challenges with enforcing the law;
5 and

6 WHEREAS, The annual report compiled by the Department of
7 Corrections on this issue consistently finds that only a handful
8 of county jails are reporting instances of restraint under the
9 law; and

10 WHEREAS, The most recent report of the Department of
11 Corrections specifically stated that it is unclear whether the
12 remaining county jails were without incident or failed to report
13 incidents as required; and

14 WHEREAS, The county jail reports received by the Department
15 of Corrections under the Act often lack critical information
16 such as trimester of pregnancy and the required separate written
17 findings describing the circumstances that led to the
18 determination that the inmate represented a substantial flight
19 risk or a safety threat; and

20 WHEREAS, The Department of Corrections has stated that the
21 Act lacks any kind of enforcement mechanism to hold facilities
22 accountable for failing to properly report incidents involving
23 application of restraints on pregnant women housed in State
24 correctional facilities and county jails; and

25 WHEREAS, There is concern that county jails throughout this
26 Commonwealth have interpreted the requirements of the Act
27 differently, leading to confusion and lack of relevant data; and

28 WHEREAS, There is also concern that pregnant women and girls
29 continue to be restrained across this Commonwealth in violation
30 of the Act; therefore be it

1 RESOLVED, That the House of Representatives direct the
2 Legislative Budget and Finance Committee to review and evaluate
3 the use of restraints on pregnant women and girls in State
4 correctional institutions, county jails and juvenile detention
5 facilities within this Commonwealth, including overall best
6 practices in the care of pregnant women in State and county
7 custody, by interviewing administrators and employees of these
8 facilities; and be it further

9 RESOLVED, That the Legislative Budget and Finance Committee
10 prepare a report of its findings that shall at a minimum:

11 (1) Identify reasons why a lack of data exists from
12 institutions required to report instances of restraint under
13 the Act.

14 (2) Estimate the number of pregnant women being
15 restrained in State correctional institutions, county jails
16 and juvenile detention facilities, broken down by race if
17 possible, and determine if the application of these
18 restraints violates the Act.

19 (3) Determine the level of awareness surrounding the
20 requirements of the Act among wardens and chief executives of
21 State correctional institutions, county jails and juvenile
22 detention facilities.

23 (4) Evaluate the quality, scope, frequency, accuracy and
24 effectiveness of training regarding the requirements of the
25 Act to the following:

26 (i) Individuals who place or remove restraints on
27 pregnant or postpartum women or girls in State
28 correctional institutions, county jails and juvenile
29 detention facilities in this Commonwealth.

30 (ii) Individuals who have custodial responsibility

1 or provide medical care to incarcerated pregnant or
2 postpartum women or girls.

3 (5) Survey selected health care professionals in this
4 Commonwealth to determine their knowledge of their rights and
5 responsibilities under the Act as well as their interactions
6 and experiences with incarcerated pregnant women and girls
7 who are under their care.

8 (6) Determine whether the Act achieves the purpose of
9 eliminating the use of restraints on pregnant inmates in all
10 but the most extraordinary circumstances and, if the Act does
11 not, make recommendations for amending the Act or improving
12 enforcement of the Act.

13 (7) Recommend nonlegislative solutions to improve
14 understanding of and compliance with the Act, such as the
15 development of a standardized training module for all
16 facilities and the establishment of a specific reporting form
17 for instances of restraint and shackling.

18 (8) Summarize overall best practices regarding the care
19 and treatment of incarcerated pregnant women from the
20 prenatal period through the postpartum period, with an
21 emphasis on the 2014 report by the Bureau of Justice
22 Assistance entitled Best Practices in the Use of Restraints
23 with Pregnant Women and Girls Under Correctional Custody, and
24 determine whether those practices are being followed in this
25 Commonwealth;

26 and be it further

27 RESOLVED, That the Legislative Budget and Finance Committee
28 report its findings and recommendations to the House of
29 Representatives within one year of the adoption of this
30 resolution.