
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 1017 Session of
2015

INTRODUCED BY M. DALEY, THOMAS, FRANKEL, COOK-ARTIS, DAVIS,
PHILLIPS-HILL, O'BRIEN, KINSEY, D. MILLER, GAINNEY,
YOUNGBLOOD, GILLEN, BULLOCK, SCHWEYER, SCHLOSSBERG AND BOYLE,
SEPTEMBER 22, 2016

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 22, 2016

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, lack of education, inadequate health care and
15 substance abuse; and

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

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

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

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

1 emergencies; and

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

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

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

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

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

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

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

29 WHEREAS, These individuals work hard to protect the safety of
30 residents, staff and the public at large each day while adhering

1 to State mandates in a difficult environment; and

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

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

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

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

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

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

29 WHEREAS, There is also concern that pregnant women and girls
30 continue to be restrained across this Commonwealth in violation

1 of the Act; therefore be it

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

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

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

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

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

24 (4) Determine whether a staff training process is
25 undertaken annually in State correctional facilities,
26 selected county jails and juvenile detention facilities
27 regarding their obligations under the Act.

28 (5) Survey selected health care professionals in this
29 Commonwealth to determine their knowledge of their rights and
30 responsibilities under the Act as well as their interactions

1 and experiences with incarcerated pregnant women and girls
2 who are under their care.

3 (6) Recommend specific changes to the Act, including
4 measures that can be taken to ensure that institutions
5 adequately limit the use of restraints and report instances
6 of shackling of pregnant women and girls.

7 (7) Recommend nonlegislative solutions to improve
8 understanding of and compliance with the Act, such as the
9 development of a standardized training module for all
10 facilities and the establishment of a specific reporting form
11 for instances of restraint and shackling.

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

20 and be it further

21 RESOLVED, That the Legislative Budget and Finance Committee
22 report its findings and recommendations to the House of
23 Representatives within one year of the adoption of this
24 resolution.