



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5539

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Counties Code, the Unified Code of Corrections, and the County Jail Act. Provides that the Cook County Department of Corrections, the Illinois Department of Corrections, and the county sheriffs shall provide training relating to medical and mental health care issues applicable to pregnant prisoners to: (1) each correctional officer employed by the respective Department or sheriff at a facility in which female prisoners are confined; and (2) any other Department or sheriff employee whose duties involve contact with pregnant prisoners. Provides that the Department or sheriff shall develop and provide to each pregnant prisoner educational programming relating to pregnancy and parenting. Provides that the Department or sheriff shall ensure that, for a period of 72 hours after the birth of an infant by a prisoner: (1) the infant is allowed to remain with the prisoner, unless a medical professional determines doing so would pose a health or safety risk to the prisoner or infant; and (2) the prisoner has access to any nutritional or hygiene-related products necessary to care for the infant, including diapers. Provides that the Department or sheriff may not place in administrative segregation a prisoner who is pregnant or who gave birth during the preceding 30 days unless the Director or sheriff or the Director's or sheriff's designee determines that the placement is necessary based on a reasonable belief that the prisoner will harm herself, the prisoner's infant, or any other person or will attempt escape. Provides that the Department or sheriff may not assign a pregnant prisoner to any bed that is elevated more than 3 feet above the floor.

LRB101 17618 RLC 67045 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing  
5 3-15003.6 and by adding Sections 3-15003.7, 3-15003.8,  
6 3-15003.9, and 3-15003.10 as follows:

7 (55 ILCS 5/3-15003.6)

8 Sec. 3-15003.6. Pregnant female prisoners.

9 (a) Definitions. For the purpose of this Section and  
10 Sections 3-15003.7, 3-15003.8, 3-15003.9, and 3-15003.10:

11 (1) "Restraints" means any physical restraint or  
12 mechanical device used to control the movement of a  
13 prisoner's body or limbs, or both, including, but not  
14 limited to, flex cuffs, soft restraints, hard metal  
15 handcuffs, a black box, Chubb cuffs, leg irons, belly  
16 chains, a security (tether) chain, or a convex shield, or  
17 shackles of any kind.

18 (2) "Labor" means the period of time before a birth and  
19 shall include any medical condition in which a woman is  
20 sent or brought to the hospital for the purpose of  
21 delivering her baby. These situations include: induction  
22 of labor, prodromal labor, pre-term labor, prelabor  
23 rupture of membranes, the 3 stages of active labor, uterine

1 hemorrhage during the third trimester of pregnancy, and  
2 caesarian delivery including pre-operative preparation.

3 (3) "Post-partum" means, as determined by her  
4 physician, advanced practice registered nurse, or  
5 physician assistant, the period immediately following  
6 delivery, including the entire period a woman is in the  
7 hospital or infirmary after birth.

8 (4) "Correctional institution" means any entity under  
9 the authority of a county law enforcement division of a  
10 county of more than 3,000,000 inhabitants that has the  
11 power to detain or restrain, or both, a person under the  
12 laws of the State.

13 (5) "Corrections official" means the official that is  
14 responsible for oversight of a correctional institution,  
15 or his or her designee.

16 (6) "Prisoner" means any person incarcerated or  
17 detained in any facility who is accused of, convicted of,  
18 sentenced for, or adjudicated delinquent for, violations  
19 of criminal law or the terms and conditions of parole,  
20 probation, pretrial release, or diversionary program, and  
21 any person detained under the immigration laws of the  
22 United States at any correctional facility.

23 (7) "Extraordinary circumstance" means an  
24 extraordinary medical or security circumstance, including  
25 a substantial flight risk, that dictates restraints be used  
26 to ensure the safety and security of the prisoner, the

1 staff of the correctional institution or medical facility,  
2 other prisoners, or the public.

3 (b) A county department of corrections shall not apply  
4 security restraints to a prisoner that has been determined by a  
5 qualified medical professional to be pregnant and is known by  
6 the county department of corrections to be pregnant or in  
7 postpartum recovery, which is the entire period a woman is in  
8 the medical facility after birth, unless the corrections  
9 official makes an individualized determination that the  
10 prisoner presents a substantial flight risk or some other  
11 extraordinary circumstance that dictates security restraints  
12 be used to ensure the safety and security of the prisoner, her  
13 child or unborn child, the staff of the county department of  
14 corrections or medical facility, other prisoners, or the  
15 public. The protections set out in clauses (b) (3) and (b) (4) of  
16 this Section shall apply to security restraints used pursuant  
17 to this subsection. The corrections official shall immediately  
18 remove all restraints upon the written or oral request of  
19 medical personnel. Oral requests made by medical personnel  
20 shall be verified in writing as promptly as reasonably  
21 possible.

22 (1) Qualified authorized health staff shall have the  
23 authority to order therapeutic restraints for a pregnant or  
24 postpartum prisoner who is a danger to herself, her child,  
25 unborn child, or other persons due to a psychiatric or  
26 medical disorder. Therapeutic restraints may only be

1 initiated, monitored and discontinued by qualified and  
2 authorized health staff and used to safely limit a  
3 prisoner's mobility for psychiatric or medical reasons. No  
4 order for therapeutic restraints shall be written unless  
5 medical or mental health personnel, after personally  
6 observing and examining the prisoner, are clinically  
7 satisfied that the use of therapeutic restraints is  
8 justified and permitted in accordance with hospital  
9 policies and applicable State law. Metal handcuffs or  
10 shackles are not considered therapeutic restraints.

11 (2) Whenever therapeutic restraints are used by  
12 medical personnel, Section 2-108 of the Mental Health and  
13 Developmental Disabilities Code shall apply.

14 (3) Leg irons, shackles or waist shackles shall not be  
15 used on any pregnant or postpartum prisoner regardless of  
16 security classification. Except for therapeutic restraints  
17 under clause (b)(2), no restraints of any kind may be  
18 applied to prisoners during labor.

19 (4) When a pregnant or postpartum prisoner must be  
20 restrained, restraints used shall be the least restrictive  
21 restraints possible to ensure the safety and security of  
22 the prisoner, her child, unborn child, the staff of the  
23 county department of corrections or medical facility,  
24 other prisoners, or the public, and in no case shall  
25 include leg irons, shackles or waist shackles.

26 (5) Upon the pregnant prisoner's entry into a hospital

1 room, and completion of initial room inspection, a  
2 corrections official shall be posted immediately outside  
3 the hospital room, unless requested to be in the room by  
4 medical personnel attending to the prisoner's medical  
5 needs.

6 (6) The county department of corrections shall provide  
7 adequate corrections personnel to monitor the pregnant  
8 prisoner during her transport to and from the hospital and  
9 during her stay at the hospital.

10 (7) Where the county department of corrections  
11 requires prisoner safety assessments, a corrections  
12 official may enter the hospital room to conduct periodic  
13 prisoner safety assessments, except during a medical  
14 examination or the delivery process.

15 (8) Upon discharge from a medical facility, postpartum  
16 prisoners shall be restrained only with handcuffs in front  
17 of the body during transport to the county department of  
18 corrections. A corrections official shall immediately  
19 remove all security restraints upon written or oral request  
20 by medical personnel. Oral requests made by medical  
21 personnel shall be verified in writing as promptly as  
22 reasonably possible.

23 (c) Enforcement. No later than 30 days before the end of  
24 each fiscal year, the county sheriff or corrections official of  
25 the correctional institution where a pregnant prisoner has been  
26 restrained during that previous fiscal year, shall submit a

1 written report to the Illinois General Assembly and the Office  
2 of the Governor that includes an account of every instance of  
3 prisoner restraint pursuant to this Section. The written report  
4 shall state the date, time, location and rationale for each  
5 instance in which restraints are used. The written report shall  
6 not contain any individually identifying information of any  
7 prisoner. Such reports shall be made available for public  
8 inspection.

9 (Source: P.A. 99-581, eff. 1-1-17; 100-513, eff. 1-1-18.)

10 (55 ILCS 5/3-15003.7 new)

11 Sec. 3-15003.7. Corrections official training related to  
12 pregnant prisoners.

13 (a) A county department of corrections shall provide  
14 training relating to medical and mental health care issues  
15 applicable to pregnant prisoners to:

16 (1) each corrections official employed by a county  
17 department at a correctional institution in which female  
18 prisoners are confined; and

19 (2) any other county department of corrections  
20 employee whose duties involve contact with pregnant  
21 prisoners.

22 (b) The training must include information regarding:

23 (1) appropriate care for pregnant prisoners; and

24 (2) the impact on a pregnant prisoner and the  
25 prisoner's unborn child of:

- 1                   (A) the use of restraints;  
2                   (B) placement in administrative segregation; and  
3                   (C) invasive searches.

4           (55 ILCS 5/3-15003.8 new)

5           Sec. 3-15003.8. Educational programing for pregnant  
6 prisoners. A county department of corrections shall develop and  
7 provide to each pregnant prisoner educational programming  
8 relating to pregnancy and parenting. The programming must  
9 include instruction regarding:

- 10           (1) appropriate prenatal care and hygiene;  
11           (2) the effects of prenatal exposure to alcohol and drugs  
12 on a developing fetus;  
13           (3) parenting skills; and  
14           (4) medical and mental health issues applicable to  
15 children.

16           (55 ILCS 5/3-15003.9 new)

17           Sec. 3-15003.9. Prisoner post-partum recovery  
18 requirements. A county department of corrections shall ensure  
19 that, for a period of 72 hours after the birth of an infant by a  
20 prisoner:

- 21           (1) the infant is allowed to remain with the prisoner,  
22 unless a medical professional determines doing so would  
23 pose a health or safety risk to the prisoner or infant; and  
24           (2) the prisoner has access to any nutritional or



1 hygiene-related products necessary to care for the infant,  
2 including diapers.

3 (55 ILCS 5/3-15003.10 new)

4 Sec. 3-15003.10. Housing requirements applicable to  
5 pregnant prisoners.

6 (a) A county department of corrections may not place in  
7 administrative segregation a prisoner who is pregnant or who  
8 gave birth during the preceding 30 days unless the director of  
9 the county department of corrections or the director's designee  
10 determines that the placement is necessary based on a  
11 reasonable belief that the prisoner will harm herself, the  
12 prisoner's infant, or any other person or will attempt escape.

13 (b) A county department of corrections may not assign a  
14 pregnant prisoner to any bed that is elevated more than 3 feet  
15 above the floor.

16 Section 10. The Unified Code of Corrections is amended by  
17 adding Sections 3-6-7.1, 3-6-7.2, 3-6-7.3, and 3-6-7.4 as  
18 follows:

19 (730 ILCS 5/3-6-7.1 new)

20 Sec. 3-6-7.1. Correctional officer training related to  
21 pregnant committed persons.

22 (a) The Department shall provide training relating to  
23 medical and mental health care issues applicable to pregnant

1 committed persons to:

2 (1) each correctional officer employed by the  
3 Department at a correctional institution or facility in  
4 which female committed persons are confined; and

5 (2) any other Department employee whose duties involve  
6 contact with pregnant committed persons.

7 (b) The training must include information regarding:

8 (1) appropriate care for pregnant committed persons;  
9 and

10 (2) the impact on a pregnant committed person and the  
11 committed person's unborn child of:

12 (A) the use of restraints;

13 (B) placement in administrative segregation; and

14 (C) invasive searches.

15 (730 ILCS 5/3-6-7.2 new)

16 Sec. 3-6-7.2. Educational programing for pregnant  
17 committed persons. The Department shall develop and provide to  
18 each pregnant committed person educational programming  
19 relating to pregnancy and parenting. The programming must  
20 include instruction regarding:

21 (1) appropriate prenatal care and hygiene;

22 (2) the effects of prenatal exposure to alcohol and drugs  
23 on a developing fetus;

24 (3) parenting skills; and

25 (4) medical and mental health issues applicable to

1 children.

2 (730 ILCS 5/3-6-7.3 new)

3 Sec. 3-6-7.3. Committed person post-partum recovery  
4 requirements. The Department shall ensure that, for a period of  
5 72 hours after the birth of an infant by an committed person:

6 (1) the infant is allowed to remain with the committed  
7 person, unless a medical professional determines doing so  
8 would pose a health or safety risk to the committed person  
9 or infant; and

10 (2) the committed person has access to any nutritional  
11 or hygiene-related products necessary to care for the  
12 infant, including diapers.

13 (730 ILCS 5/3-6-7.4 new)

14 Sec. 3-6-7.4. Housing requirements applicable to pregnant  
15 committed persons.

16 (a) The Department may not place in administrative  
17 segregation a committed person who is pregnant or who gave  
18 birth during the preceding 30 days unless the Director or the  
19 Director's designee determines that the placement is necessary  
20 based on a reasonable belief that the committed person will  
21 harm herself, the committed person's infant, or any other  
22 person or will attempt escape.

23 (b) The Department may not assign a pregnant committed  
24 person to any bed that is elevated more than 3 feet above the

1 floor.

2 Section 15. The County Jail Act is amended by adding  
3 Sections 17.6, 17.7, 17.8, and 17.9 as follows:

4 (730 ILCS 125/17.6 new)

5 Sec. 17.6. Sheriff training related to pregnant prisoners.

6 (a) The sheriff shall provide training relating to medical  
7 and mental health care issues applicable to pregnant prisoners  
8 confined in the county jail to:

9 (1) each correctional officer employed by the sheriff  
10 at the county jail in which female committed persons are  
11 confined; and

12 (2) any other sheriff employee whose duties involve  
13 contact with pregnant prisoners.

14 (b) The training must include information regarding:

15 (1) appropriate care for pregnant prisoners; and

16 (2) the impact on a pregnant prisoner and the  
17 prisoner's unborn child of:

18 (A) the use of restraints;

19 (B) placement in administrative segregation; and

20 (C) invasive searches.

21 (730 ILCS 125/17.7 new)

22 Sec. 17.7. Educational programing for pregnant prisoners.

23 The sheriff shall develop and provide to each pregnant prisoner

1 educational programming relating to pregnancy and parenting.

2 The programming must include instruction regarding:

3 (1) appropriate prenatal care and hygiene;

4 (2) the effects of prenatal exposure to alcohol and drugs  
5 on a developing fetus;

6 (3) parenting skills; and

7 (4) medical and mental health issues applicable to  
8 children.

9 (730 ILCS 125/17.8 new)

10 Sec. 17.8. Prisoner post-partum recovery requirements. The  
11 sheriff shall ensure that, for a period of 72 hours after the  
12 birth of an infant by a prisoner:

13 (1) the infant is allowed to remain with the prisoner,  
14 unless a medical professional determines doing so would  
15 pose a health or safety risk to the prisoner or infant; and

16 (2) the prisoner has access to any nutritional or  
17 hygiene-related products necessary to care for the infant,  
18 including diapers.

19 (730 ILCS 125/17.9 new)

20 Sec. 17.9. Housing requirements applicable to pregnant  
21 prisoners.

22 (a) The sheriff may not place in administrative segregation  
23 a prisoner who is pregnant or who gave birth during the  
24 preceding 30 days unless the sheriff or the sheriff's designee

1 determines that the placement is necessary based on a  
2 reasonable belief that the prisoner will harm herself, the  
3 prisoner's infant, or any other person or will attempt escape.

4 (b) The sheriff may not assign a pregnant committed person  
5 to any bed that is elevated more than 3 feet above the floor.

1 INDEX

2 Statutes amended in order of appearance

3 55 ILCS 5/3-15003.6

4 55 ILCS 5/3-15003.7 new

5 55 ILCS 5/3-15003.8 new

6 55 ILCS 5/3-15003.9 new

7 55 ILCS 5/3-15003.10 new

8 730 ILCS 5/3-6-7.1 new

9 730 ILCS 5/3-6-7.2 new

10 730 ILCS 5/3-6-7.3 new

11 730 ILCS 5/3-6-7.4 new

12 730 ILCS 125/17.6 new

13 730 ILCS 125/17.7 new

14 730 ILCS 125/17.8 new

15 730 ILCS 125/17.9 new