

By: Representative Bomgar

To: Corrections

HOUSE BILL NO. 1422

1 AN ACT TO CREATE THE "DIGNITY FOR INCARCERATED WOMEN ACT"; TO
 2 DEFINE CERTAIN TERMS AS USED UNDER THE ACT; TO PROVIDE THAT WHEN
 3 AN INCARCERATED INMATE IS GIVING BIRTH, THE USE OF RESTRAINTS
 4 SHALL BE LIMITED; TO REQUIRE CERTAIN CARE AND TREATMENT FOR WOMEN
 5 RELATED TO PREGNANCY AND CHILDBIRTH; TO REQUIRE CERTAIN CARE
 6 DURING INMATE POSTPARTUM RECOVERY; TO URGE THE DEPARTMENT OF
 7 CORRECTIONS TO PLACE MOTHERS WHO ARE PARENTS OF A MINOR CHILD
 8 WITHIN A CERTAIN DISTANCE FROM THE MOTHER'S PERMANENT ADDRESS; TO
 9 PROVIDE CERTAIN STANDARDS WHERE A FEMALE IS IN THE STATE OF
 10 UNDRESS; TO PROVIDE THAT INCARCERATED WOMEN SHALL HAVE ACCESS TO
 11 FEMININE HYGIENE PRODUCTS AND TO PROVIDE SUCH PRODUCTS AT NO COST
 12 IF AN INMATE IS DETERMINED TO BE INDIGENT; TO REQUIRE THE
 13 DEPARTMENT OF CORRECTIONS TO DEVELOP AND PROVIDE TO ITS CORRECTION
 14 STAFF TRAINING RELATED TO THE PHYSICAL AND MENTAL HEALTH OF
 15 PREGNANT INMATES IF SUCH STAFF HAVE CONTACT WITH PREGNANT INMATES;
 16 AND FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1. Title.** Sections 1 through 9 of this act may be
 19 cited as the "Dignity for Incarcerated Women Act."

20 **SECTION 2. Legislative findings and purpose.**

21 The Legislature of the State of Mississippi finds that:

22 (a) The number of incarcerated women in the State of
 23 Mississippi has increased by a third (1/3) since 2001 and at one
 24 point in 2008 the rate had grown by forty-four(44%);



25 (b) Nationally, the number of children under age
26 eighteen (18) with a mother in prison more than doubled since
27 1991;

28 (c) Children who grow up with parents in prison are six
29 (6) to seven (7) times more likely to become incarcerated
30 themselves;

31 (d) Prisoners who maintain close contact with their
32 family members while incarcerated have better post-release
33 outcomes and lower recidivism rates;

34 (e) Children of inmates who are able to visit their
35 imprisoned parents have increased cognitive skills, improved
36 academic self-esteem, greater self-control and change schools much
37 less often;

38 (f) To mitigate the collateral impact on families and
39 children, the Department of Corrections should consider the
40 location of family;

41 (g) Nationally, approximately two thousand (2,000)
42 women give birth while incarcerated each year;

43 (h) Prenatal care significantly improves outcomes for
44 pregnant women and infants;

45 (i) Participation in post-delivery mother-infant
46 residency or nursery programs is associated with lower recidivism
47 rates, reduced risk of babies entering foster care, and improved
48 odds that mothers and their babies will remain together after the
49 mother's period of incarceration;



50 (j) Use of restrictive housing and restraints on
51 incarcerated pregnant women may be extremely dangerous to the
52 health of mothers, fetuses and infants; and

53 (k) Nationally, eighty-six percent (86%) of women in
54 prison were victims of sexual assault prior to entering the prison
55 system.

56 **SECTION 3. Definitions.**

57 (a) "Restraints" means any physical or mechanical
58 device used to restrict or control the movement of a prisoner's
59 body, limbs, or both.

60 (b) "Body cavity searches" means invasive searches on
61 inmates, conducted by facility employees in search of contraband.

62 (c) "Flight risk" means an inmate who has shown the
63 desire to escape the facility.

64 (d) "Restrictive housing" means any type of detention
65 that involves:

66 (i) Removal from the general inmate population,
67 whether voluntary or involuntary; and

68 (ii) Inability to leave a room or cell for the
69 vast majority of the day.

70 (e) "Postpartum recovery" means the eight-week period,
71 or longer as determined by the healthcare professional responsible
72 for the health and safety of the prisoner.



73 (f) "Menstrual hygiene products" means products that
74 women use during their menstrual cycle. This includes tampons,
75 sanitary napkins and menstrual cups.

76 (g) "Indigent" means an inmate who has less than an
77 average of Sixteen Dollars (\$16.00) in her prison account.

78 (h) "Correctional facility employee" refers to anyone
79 who is employed by the facility or the Department of Corrections.

80 (i) "State of undress" refers to a state where a female
81 is partially or fully naked, either in the shower, toilet areas, a
82 medical examination room or having a body cavity search conducted.

83 **SECTION 4. Care for incarcerated women related to pregnancy**
84 **and childbirth.**

85 (1) Upon notification and/or diagnosis of an inmate's
86 pregnancy, and for the duration of the pregnancy, and for thirty
87 (30) days following the inmate's delivery, the Department of
88 Corrections and/or a correctional facility employee shall not
89 apply the following restraints on the pregnant inmate unless a
90 correctional facility employee has a reasonable belief that the
91 inmate will harm herself, the fetus, or any other person, or pose
92 a substantial flight risk:

93 (a) Leg restraints.

94 (b) Handcuffs or other wrist restraints, except to
95 restrain the inmate's wrists in front of her.

96 (c) No restraints connected to other inmates.



97 (2) No restraints shall be used on any pregnant inmate while
98 in labor or during delivery unless a correctional facility
99 employee has a reasonable belief that the inmate will harm
100 herself, the fetus, or any other person, or pose a substantial
101 flight risk. In such case, the correctional facility employee
102 ordering use of restraints on any female inmate while in labor or
103 during delivery shall submit a written report to the warden of the
104 facility within seventy-two (72) hours following the use of
105 restraints, containing the justification for restraining the
106 female inmate during labor and delivery.

107 (3) No facility employee of the Department of Corrections,
108 other than a certified healthcare professional, shall conduct
109 invasive body cavity searches of pregnant inmates unless the
110 correctional facility employee has a reasonable belief that the
111 female inmate is concealing contraband. In such case, the
112 correctional facility employee shall submit a written report to
113 the warden of the facility within seventy-two (72) hours following
114 the invasive search, containing the justification for the invasive
115 search and what contraband, if any was recovered.

116 (4) The Department of Corrections shall ensure that pregnant
117 inmates be provided sufficient food and dietary supplements as
118 ordered by a physician, physician staff member, or a facility
119 nutritionist to meet general accepted prenatal nutritional
120 guidelines for pregnant women.



121 (5) The Department of Corrections shall not place any
122 pregnant inmate, or any female inmate who has given birth within
123 the previous thirty (30) days, in restrictive housing unless a
124 correctional facility employee has a reasonable belief that the
125 inmate will harm herself, the fetus or any other person, or pose a
126 substantial flight risk. In such case, the correctional facility
127 employee authorizing the placement of the inmate in restrictive
128 housing shall submit a written report to the warden of the
129 facility within seventy-two (72) hours following the transfer,
130 containing the justification for confining the female inmate in
131 restrictive housing.

132 (6) The Department of Corrections shall not assign any
133 pregnant inmate to any bed that is elevated more than three (3)
134 feet from the floor of the facility.

135 (7) The warden of the facility shall compile a monthly
136 summary of all written reports received pursuant to Section (4)
137 subsections (2), (3) and (5) of this act and under Section 5 (1)
138 of this act. The warden shall submit the summary to the
139 Commissioner of the Department of Corrections each month.

140 **SECTION 5. Inmate postpartum recovery.**

141 (1) No restraints shall be used on any female inmate who has
142 given birth within the last thirty (30) days and is in postpartum
143 recovery, unless the Department of Corrections has a reasonable
144 belief that the female inmate will harm herself, her newborn, or
145 any other person, or pose a substantial flight risk. In such



146 case, the facility employee ordering use of restraints on any
147 inmate while in postpartum recovery shall submit a written report
148 to the warden of the facility within seventy-two (72) hours
149 following the use of restraints, containing the justification for
150 restraining the female inmate during postpartum recovery.

151 (2) Following the delivery of a newborn, by an inmate, the
152 Department of Corrections shall permit the newborn to remain with
153 the mother for seventy-two (72) hours unless the medical provider
154 has a reasonable belief that remaining with the mother poses a
155 health or safety risk to the newborn.

156 (3) During that time, the Department of Corrections shall
157 make available the necessary nutritional and hygiene products,
158 including diapers, to care for the newborn.

159 (4) If the female inmate qualifies as indigent, such
160 products shall be provided without cost to the inmate.

161 **SECTION 6. Family considerations in inmate placement and**
162 **visitation.**

163 (1) To the greatest extent practicable, after accounting for
164 security and capacity factors, the Department of Corrections shall
165 place inmates who are parents of minor children within two hundred
166 fifty (250) miles of their permanent address of record.

167 (2) The Department of Corrections shall promulgate
168 regulations authorizing visitation of inmates who are parents of
169 minor children with low or minimum security classifications by
170 minor dependents, with the minimum following requirements:



171 (a) Opportunities for dependent children under the age
172 of eighteen (18) to visit their incarcerated parent at least twice
173 per week unless a correctional facility employee has a reasonable
174 belief that the dependent child:

175 (i) May be harmed during visitation; or

176 (ii) Poses a security risk due to a gang
177 affiliation, prior conviction or past violation of facility
178 contraband policy.

179 (b) Eliminating restrictions on the number of dependent
180 children under the age of eighteen (18) that may be permitted
181 visitation privileges.

182 (c) Authorizing contact visits for inmates who are
183 parents of minor children.

184 **SECTION 7. Inspections by employees of the Department of**
185 **Corrections.**

186 (1) To the greatest extent practicable, and consistent with
187 safety and order, the Commissioner of the Department of
188 Corrections shall issue regulations that limit inspections by male
189 correctional officers where a female inmate is in a state of
190 undress.

191 Nothing in this section shall limit the ability of a male
192 correctional officer from conducting inspections where a female
193 may be in a state of undress if no female correctional officers
194 are available.



195 (2) In such case that a male correctional officer deems it
196 is appropriate to conduct an inspection or search while the female
197 inmate is in a clear state of undress in an area such as the
198 shower, the medical examination room, toilet areas or where a
199 female inmate is having a body cavity search, the male
200 correctional officer shall submit a written report to the warden
201 of the facility within seventy-two (72) hours following the
202 inspection or search, containing the justification for a male
203 correctional officer to inspect the female inmate while in a state
204 of undress.

205 **SECTION 8. Access to feminine hygiene products.**

206 (1) The Department of Corrections shall ensure that
207 sufficient menstrual hygiene products are available at each
208 facility for all incarcerated women that have an active menstrual
209 cycle.

210 (2) Female inmates who otherwise qualify as indigent shall
211 be provided menstrual hygiene products as needed at no cost.

212 **SECTION 9. Training and technical assistance.**

213 (1) The Department of Corrections shall develop and provide
214 to all correctional facility employees and correctional officers
215 who have contact with pregnant inmates training related to the
216 physical and mental health of pregnant inmates and fetuses,
217 including the following:

218 (a) General care of pregnant women;



219 (b) The impact of restraints on pregnant inmates and
220 fetuses;

221 (c) The impact of being placed in restrictive housing
222 on pregnant inmates; and

223 (d) The impact of invasive searches on pregnant
224 inmates.

225 (2) The Department of Corrections shall develop and provide
226 educational programming for pregnant inmates related to:

227 (a) Prenatal care;

228 (b) Pregnancy-specific hygiene;

229 (c) Parenting skills;

230 (d) The impact of alcohol and drugs on the fetus; and

231 (e) General health of child.

232 **SECTION 10.** This act shall take effect and be in force from
233 and after July 1, 2019.

