

AMENDED IN SENATE AUGUST 11, 2010

AMENDED IN ASSEMBLY MAY 18, 2010

AMENDED IN ASSEMBLY MAY 3, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1900

Introduced by Assembly Member Skinner
(Coauthors: Assembly Members Chesbro, Bonnie Lowenthal, and
Ma)
(Coauthor: Senator Liu)

February 16, 2010

An act to amend Sections 5007.7 and 6030 of the Penal Code, and to amend Sections 222 and 1774 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Skinner. Pregnant inmates and wards: least restrictive restraints.

Existing law requires the Corrections Standards Authority to establish minimum standards for state and local correctional facilities, *including standards restricting the shackling of women in labor, during childbirth, and while in recovery after giving birth*, and to review those standards biennially and make any appropriate revisions, as specified.

This bill would require that the standards ensure that women who are pregnant shall not be shackled by the wrists, ankles, or both; during any transport, ~~and~~ during labor, *during* delivery, ~~or~~ *and while in recovery after giving birth*, except that the least restrictive restraints possible may be used when deemed necessary for the inmate, consistent with the legitimate security needs of the inmate, the staff, and the public. *The*

bill would require the authority to develop these standards regarding the shackling of pregnant women as part of its biennial review of its standards.

Under existing law, pregnant inmates of the Department of Corrections and Rehabilitation, wards of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and wards in the custody of a local juvenile facility, are to be transported in the least restrictive way possible when being taken to a hospital for purposes of childbirth.

This bill would prohibit inmates and wards of these facilities who are known to be pregnant from being shackled by the wrists, ankles, or both; during any transport, ~~and~~ during labor, *during* delivery, and *while in recovery after giving birth*, unless deemed necessary for the safety and security of the inmate *or ward*, the staff, and the public. If restraints are deemed necessary during labor, delivery, recovery after birth, or transport, this bill would allow the person to be restrained in the least restrictive way possible, consistent with the legitimate security needs of each inmate or ward, the staff, and the public.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California has the third largest population of incarcerated
- 4 women in the country. Tens of thousands of women go through
- 5 county jails every year and an average of 4 to 7 percent are
- 6 pregnant at some point in their custody.
- 7 (b) Using restraints that significantly limit a pregnant inmate's
- 8 mobility can cause serious and undue health risks to the woman
- 9 and her pregnancy.
- 10 (c) Potentially harmful methods of restraint include, but are not
- 11 limited to, shackling by the ankles, in front of the body, across the
- 12 belly and by the wrists, by the wrists behind the inmate's back, or
- 13 to another person.
- 14 (d) To avoid threatening the health of pregnant women and
- 15 potential legal challenges, it is critical that policies are adopted
- 16 ensuring that restraints are properly used with this vulnerable
- 17 population.

1 (e) The health and safety of pregnant inmates shall be a primary
2 concern of all adult and juvenile state and local correctional and
3 detention facilities.

4 (f) To avoid threatening the health of pregnant women and
5 potential legal challenges, it is critical that adult and juvenile state
6 and local correctional and detention facilities develop policies that
7 ensure that inmates who are known to be pregnant are restrained
8 in the least restrictive way possible, consistent with the legitimate
9 security needs of the inmate, for purposes of transportation to and
10 from a correctional facility.

11 (g) These policies must meet the minimum standards established
12 by the Corrections Standards Authority for the proper use of
13 restraints on pregnant inmates during transport, as established
14 pursuant to Section 6030 of the *Penal Code*.

15 SEC. 2. Section 5007.7 of the Penal Code is amended to read:

16 5007.7. ~~(a)~~—An inmate known to be pregnant shall not be
17 shackled by the wrists, ankles, or both during any transport to and
18 from a state or local correctional facility, including, but not limited
19 to, transport to and from a hospital or courthouse, during labor,
20 during delivery, and while in recovery after giving birth, unless
21 deemed necessary for the safety and security of the inmate, the
22 staff, and the public. In cases where restraints are deemed
23 necessary, the least restrictive restraints possible shall be used,
24 consistent with the legitimate security needs of each inmate, the
25 staff, and the public. Upon arrival at the hospital, once the inmate
26 has been declared by the attending physician to be in active labor,
27 the inmate shall not be shackled by the wrists, ankles, or both,
28 unless deemed necessary for the safety and security of the inmate,
29 the staff, and the public.

30 SEC. 3. Section 6030 of the Penal Code is amended to read:

31 6030. (a) The Corrections Standards Authority shall establish
32 minimum standards for state and local correctional facilities. The
33 authority shall review those standards biennially and make any
34 appropriate revisions.

35 (b) The standards shall include, but not be limited to, the
36 following: health and sanitary conditions, fire and life safety,
37 security, rehabilitation programs, recreation, treatment of persons
38 confined in state and local correctional facilities, and personnel
39 training.

1 (c) The standards shall require that at least one person on duty
2 at the facility is knowledgeable in the area of fire and life safety
3 procedures.

4 (d) The standards shall also include requirements relating to the
5 acquisition, storage, labeling, packaging, and dispensing of drugs.

6 (e) The standards shall require that inmates who are received
7 by the facility while they are pregnant are provided all of the
8 following:

9 (1) A balanced, nutritious diet approved by a doctor.

10 (2) Prenatal and post partum information and health care,
11 including, but not limited to, access to necessary vitamins as
12 recommended by a doctor.

13 (3) Information pertaining to childbirth education and infant
14 care.

15 (4) A dental cleaning while in a state facility.

16 (f) The standards shall provide that a woman known to be
17 pregnant shall not be shackled by the wrists, ankles, or both; during
18 any transport to and from a state or local correctional facility,
19 during labor, during delivery, and while in recovery after giving
20 birth, except as provided in Section 5007.7. For purposes of this
21 section, transportation to and from a state or local correctional
22 facility includes, but is not limited to, transport; to and from a
23 hospital or courthouse. *The authority shall develop new standards*
24 *regarding the shackling of pregnant women pursuant to the*
25 *amendments made to this subdivision in the 2009–10 Regular*
26 *Session as part of its biennial review of the standards established*
27 *pursuant to this section.*

28 (g) In establishing minimum standards, the authority shall seek
29 the advice of the following:

30 (1) For health and sanitary conditions:

31 The State Department of Health Services, physicians,
32 psychiatrists, local public health officials, and other interested
33 persons.

34 (2) For fire and life safety:

35 The State Fire Marshal, local fire officials, and other interested
36 persons.

37 (3) For security, rehabilitation programs, recreation, and
38 treatment of persons confined in correctional facilities:

39 The Department of Corrections and Rehabilitation, state and
40 local juvenile justice commissions, state and local correctional

1 officials, experts in criminology and penology, and other interested
2 persons.

3 (4) For personnel training:

4 The Commission on Peace Officer Standards and Training,
5 psychiatrists, experts in criminology and penology, the Department
6 of Corrections and Rehabilitation, state and local correctional
7 officials, and other interested persons.

8 (5) For female inmates and pregnant inmates in local adult and
9 juvenile facilities:

10 The California State Sheriffs' Association, the Chief Probation
11 Officers' Association of California, and other interested persons.

12 SEC. 4. Section 222 of the Welfare and Institutions Code is
13 amended to read:

14 222. (a) Any female in the custody of a local juvenile facility
15 shall have the right to summon and receive the services of any
16 physician and surgeon of her choice in order to determine whether
17 she is pregnant. If she is found to be pregnant, she is entitled to a
18 determination of the extent of the medical services needed by her
19 and to the receipt of those services from the physician and surgeon
20 of her choice. Any expenses occasioned by the services of a
21 physician and surgeon whose services are not provided by the
22 facility shall be borne by the female.

23 (b) A ward known to be pregnant shall not be shackled by the
24 wrists, ankles, or both during any transport to and from a local
25 juvenile facility, including, but is not limited to, transport to and
26 from a hospital or courthouse, during labor, during delivery, and
27 while in recovery after giving birth, unless deemed necessary for
28 the safety and security of the ward, the staff, and the public. In
29 cases where restraints are deemed necessary, the least restrictive
30 restraints possible shall be used, consistent with the legitimate
31 security needs of each ward, the staff, and the public. Upon arrival
32 at the hospital, once the ward has been declared by the attending
33 physician to be in active labor, the ward shall not be shackled by
34 the wrists, ankles, or both, unless deemed necessary for the safety
35 and security of the ward, the staff, and the public.

36 (c) For purposes of this section, "local juvenile facility" means
37 any city, county, or regional facility used for the confinement of
38 juveniles for more than 24 hours.

(d) The rights provided to females by this section shall be posted in at least one conspicuous place to which all female wards have access.

SEC. 5. Section 1774 of the Welfare and Institutions Code is amended to read:

1774. (a) Any female who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities shall have the right to summon and receive the services of any physician and surgeon of her choice in order to determine whether she is pregnant. The director may adopt reasonable rules and regulations with regard to the conduct of examinations to effectuate that determination.

(b) If she is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of those services from the physician and surgeon of her choice. Any expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by the female.

(c) A ward who gives birth while under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities or a community treatment program has the right to the following services:

(1) Prenatal care.

(2) Access to prenatal vitamins.

(3) Childbirth education.

(d) A ward known to be pregnant shall not be shackled by the wrists, ankles, or both during any transport to and from a juvenile facility, including, but is not limited to, transport to and from a hospital or courthouse, during labor, during delivery, and while in recovery after giving birth, unless deemed necessary for the safety and security of the ward, the staff, and the public. In cases where restraints are deemed necessary, the least restrictive restraints possible shall be used, consistent with the legitimate security needs of each ward, the staff, and the public. Upon arrival at the hospital, once the ward has been declared by the attending physician to be in active labor, the ward shall not be shackled by the wrists, ankles, or both, unless deemed necessary for the safety and security of the ward, the staff, and the public.

(e) Any physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage

1 in the practice of medicine issued pursuant to Chapter 5
2 (commencing with Section 2000) of Division 2 of the Business
3 and Professions Code.

4 (f) The rights provided to females by this section shall be posted
5 in at least one conspicuous place to which all female wards have
6 access.

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