



Pregnant and Postpartum Inmate Amendments

2nd Substitute | A Policy Overview | February 23, 2023

Correctional Facility Nursery

This bill allows the Department of Corrections to create a nursery subject to rules established by the Department of Health and Human Services.

- The Department of Corrections may create a correctional facility nursery using existing appropriations.
- If created, a correctional facility nursery must:
 - provide space for incarcerated mothers and infants and comply with requirements established by the Department of Health and Human Services.
 - restrict the nursery to infants who are 18 months or younger, unless otherwise authorized by the Correctional Postnatal and Early Childhood Advisory Board.
 - restrict the nursery to incarcerated mothers who have not been convicted of, or have charges pending for, a violent felony, including attempt, solicitation, or conspiracy to commit the violent felony, unless otherwise authorized by the Correctional Postnatal and Early Childhood Advisory Board.
- The Department of Corrections may make additional rules regarding eligibility.
- A correctional facility nursery may not begin operation until the Department of Health and Human Services has certified that it is in compliance with the rules established by DHHS.
- The Department of Corrections must ensure that at least one administrator of a correctional facility nursery has experience or training in early childhood development.
- The Department of Health and Human Services may make rules regarding corrective action, including suspension or closure of the nursery, if the Department of Corrections creates a nursery but fails to comply with the rules established by DHHS and the advisory board.

Correctional Postnatal and Early Childhood Advisory Board

This bill creates the Correctional Postnatal and Early Childhood Advisory Board, a joint effort between the Department of Health and Human Services and the Department of Corrections to help regulate any nursery established by the Department of Corrections and study best practices for helping incarcerated mothers and their children.

- Established under The Department of Health and Human Services.
- Duties of the board:
 - Review research regarding childhood development and best practices for infants placed in a nursery located within a secure correctional environment.
 - Study the benefits of having a nursery for infants and incarcerated mothers located within a secure correctional environment and the benefits of placing an infant or incarcerated mother in a diversion program removed from a secure correctional environment.



- Study the costs of, and create a provisional plan for, implementing a diversion program for infants and incarcerated mothers.
- Advise and make recommendations to the Department of Health and Human Services regarding rules and policies for any nursery established by the Department of Corrections.
- Make sure rules established to run a nursery address issues of safety, childhood development, medical needs of the infants and incarcerated mothers, etc.
- Report to the Law Enforcement and Criminal Justice Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee on their research and recommendations.
- Membership:
 - Two individuals from the Department of Corrections, appointed by the executive director of the department.
 - One individual appointed by the Board of Pardons and Parole.
 - Six individuals appointed by the executive director of the Department of Health and Human Services, including:
 - Two from DHHS with experience in childcare licensing.
 - Two pediatric healthcare providers.
 - One individual with expertise in early childhood development.
 - One individual with experience advocating for incarcerated women.
- The board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

Pregnant Inmate Restraints

This bill modifies requirements relating to the use of restraints on a pregnant inmate. Currently, use of restraints is restricted in state prison facilities and other healthcare facilities during labor or childbirth. This bill further restricts their use during the third trimester and expands these restrictions to the county jails.

- The staff of a correctional facility shall use the least restrictive restraints necessary if they know or have reason to believe that the inmate is pregnant or is in postpartum recovery.
- The staff of a correctional facility may not use restraints during the third trimester of pregnancy, labor, or childbirth unless:
 - The inmate presents an immediate and serious risk of harm to the inmate, the inmate's infant, medical staff, correctional staff, or the public.
 - There is a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.
- If restraints are used under those justifications, a written record of the authorization must be made, and the record must include an explanation of the grounds for the use of restraints, the type of restraints used, and the length of time they were used.
- The staff of a correctional facility may not use shackles, leg restraints, or waist restraints during the third trimester of pregnancy, labor, childbirth, or postpartum recovery.
- These provisions apply to state prison facilities and county jails.



Postpartum Care

This bill requires state prison facilities and county jails to provide postpartum care for inmates who have recently given birth.

- If directed by the inmate's physician, an infant may remain with the inmate at the health care facility for a minimum of 48 hours after the child is born.
- A correctional facility shall provide pregnant inmates or inmates who have given birth within the past six weeks, access to a social worker to help arrange childcare, establish a reunification plan, and establish a substance abuse treatment plan, if needed.
- The correctional facility shall also provide an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the inmate's physician.
- These provisions apply to state prison facilities and county jails.

