

1 HB585
2 200337-1
3 By Representative Hall
4 RFD: Public Safety and Homeland Security
5 First Read: 07-MAY-19

SYNOPSIS: The federal First Step Act established guidelines for the treatment of prisoners, including procedures for the use of restraints on pregnant federal prisoners.

 This bill would adopt the procedures relating to pregnant prisoners as Alabama law.

A BILL
TO BE ENTITLED
AN ACT

 Relating to prisoners; to adopt federal standards relating to the use of restraints on pregnant prisoners in the custody of the Alabama Department of Corrections or a law enforcement officer.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

 Section 1. For the purposes of this act, the following words shall have the following meanings:

 (1) COMMISSIONER. The Commissioner of the Alabama Department of Corrections.

1 (2) CORRECTIONS OFFICIAL. An official of the Alabama
2 Department of Corrections.

3 (3) DEPARTMENT. The Alabama Department of
4 Corrections.

5 (4) POSTPARTUM RECOVERY. The 12-week period, or
6 longer as determined by the health care professional
7 responsible for the health and safety of the prisoner,
8 following delivery. This term shall also include the entire
9 period that the prisoner is in the hospital or infirmary.

10 (5) PRISONER. An individual who has been sentenced
11 to a term of imprisonment pursuant to a conviction for a
12 criminal offense, or an individual in the custody of the
13 Alabama Department of Corrections.

14 (6) RESTRAINTS. Any physical or mechanical device
15 used to control the movement of a prisoner's body, limbs, or
16 both.

17 Section 2. (a) Except as provided in subsection (b),
18 beginning on the date on which pregnancy is confirmed by a
19 health care professional, and ending at the conclusion of
20 postpartum recovery, a pregnant prisoner in the custody of the
21 department or in the custody of any law enforcement officer
22 shall not be placed in restraints.

23 (b) (1) The prohibition under subsection (a) shall
24 not apply under any of the following circumstances:

25 a. An appropriate corrections official, or a law
26 enforcement officer, as applicable, makes a determination that

1 the prisoner is an immediate and credible flight risk that
2 cannot reasonably be prevented by other means.

3 b. An appropriate corrections official, or a law
4 enforcement officer, as applicable, makes a determination that
5 the prisoner poses an immediate and serious threat of harm to
6 themselves or others that cannot reasonably be prevented by
7 any other means.

8 c. A health care professional responsible for the
9 health and safety of the prisoner determines that the use of
10 restraints is appropriate for the medical safety of the
11 prisoner.

12 (2) The use of restraints is to be recorded and
13 reported, pursuant to subsection (c).

14 (3) If restraints are used under subdivision (1),
15 only the least restrictive restraints necessary to prevent the
16 harm or risk of escape may be used. The least restrictive
17 restraints necessary shall never be interpreted to include any
18 of the following:

19 a. Restraints around the ankles, legs, or waist of a
20 prisoner.

21 b. Restraining of a prisoner's hands behind his or
22 her back.

23 c. Four-point restraints.

24 d. The attaching of a prisoner to another prisoner.

25 (4) Notwithstanding subdivision (1), upon the
26 request of a health care professional who is responsible for
27 the health and safety of a prisoner, a corrections official or

1 a law enforcement officer, as applicable, shall refrain from
2 using restraints on the prisoner and shall remove any
3 restraints in use on the prisoner.

4 (c) If a corrections official or a law enforcement
5 officer uses restraints on a prisoner under subsection (b),
6 that official or officer, within 30 days of placing that
7 prisoner in restraints, shall submit a written report to the
8 commissioner, the Warden of Julia Tutwiler Prison in Wetumpka,
9 and the health care professional responsible for the health
10 and safety of the prisoner. That report shall include, at a
11 minimum, all of the following:

12 (1) A description of all facts and circumstances
13 surrounding the use of restraints.

14 (2) The reasoning upon which the determination to
15 use restraints was made.

16 (3) The details of the use of restraints, including
17 the type of restraints used and length of time during which
18 the restraints were used.

19 (4) Any resulting physical effects on the prisoner
20 observed by or known to the corrections official or the law
21 enforcement officer who applied the restraints, as applicable.

22 (d) Upon receipt of a report under subsection (c),
23 the health care professional responsible for the health and
24 safety of the prisoner may submit to the commissioner such
25 information as the health care professional determines is
26 relevant to the use of restraints on the prisoner.

1 (e) (1) No later than one year after the effective
2 date of this act, and annually thereafter, the commissioner
3 and the Secretary of the Alabama State Law Enforcement Agency
4 shall each submit to the Senate Judiciary Committee and the
5 House Judiciary Committee a report that certifies compliance
6 with this act and includes the information required to be
7 reported under each subsection.

8 (2) The report under this subsection shall not
9 contain any personally identifiable information of any
10 prisoner and shall adhere to standards set forth by the Health
11 Insurance Portability and Accountability Act (HIPAA) within
12 medical settings.

13 (f) No later than 48 hours after the confirmation of
14 a prisoner's pregnancy by a health care professional, that
15 prisoner shall be notified by an appropriate health care
16 professional, corrections official, or law enforcement
17 officer, as applicable, of the restrictions on the use of
18 restraints under this section.

19 (g) The commissioner, in consultation with the
20 Secretary of the Alabama State Law Enforcement Agency, shall
21 establish a process through which a prisoner may report a
22 violation of this section.

23 (h) The commissioner, the Secretary of the Alabama
24 State Law Enforcement Agency, and the Warden of Julia Tutwiler
25 Prison in Wetumpka shall each develop training guidelines
26 regarding the use of restraints on prisoners during the period
27 of pregnancy, labor, and postpartum recovery, and shall

1 incorporate those guidelines into appropriate training
2 programs. The training guidelines shall include all of the
3 following:

4 (1) How to identify certain symptoms of pregnancy
5 that require immediate referral to a health care professional,
6 including preterm labor, preeclampsia, eclampsia, hemorrhage,
7 and miscarriage.

8 (2) Circumstances under which the exceptions under
9 subsection (b) would apply.

10 (3) In the case that an exception under subsection
11 (b) applies, how to apply restraints in a way that does not
12 harm the prisoner, the fetus, or the neonate.

13 (4) The information required to be reported under
14 subsection (c).

15 (5) The right of a health care professional to
16 request that restraints not be used, and the requirement under
17 subdivision (c)(4) to comply with that request.

18 (i) In developing the guidelines under subsection
19 (h), the commissioner, the Secretary of the Alabama State Law
20 Enforcement Agency, and the Warden of Julia Tutwiler Prison in
21 Wetumpka shall each consult with health care professionals
22 with expertise in caring for women during the period of
23 pregnancy and postpartum recovery.

24 Section 3. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.