

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 635

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO RESTRAINT OF PREGNANT PRISONERS; AMENDING TITLE 20, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 9, TITLE 20, IDAHO CODE, TO DEFINE
3 TERMS, TO PROVIDE FOR RESTRICTIONS ON RESTRAINT OF PREGNANT PRISONERS
4 AND FOR EXTRAORDINARY CIRCUMSTANCES AND TO PROVIDE NOTICE TO PRISONERS;
5 AND DECLARING AN EMERGENCY.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Title 20, Idaho Code, be, and the same is hereby amended
9 by the addition thereto of a NEW CHAPTER, to be known and designated as
10 Chapter 9, Title 20, Idaho Code, and to read as follows:

11 CHAPTER 9

12 RESTRAINT OF PREGNANT PRISONERS

13 20-901. DEFINITIONS. In this chapter:

14 (1) "Correctional institution" means any entity under the authority of
15 any state, county or municipal law enforcement division that has the power to
16 detain and/or restrain a person under the laws of the state.

17 (2) "Corrections official" means the official designated as
18 responsible for oversight of a correctional institution, or his/her
19 designate.

20 (3) "Extraordinary circumstance" means a substantial flight risk or
21 some other extraordinary medical or security circumstance that dictates
22 restraints be used to ensure the safety and security of the prisoner or
23 detainee, the staff of the correctional institution or medical facility,
24 other prisoners or detainees, or the public.

25 (4) "Labor" means the period of time before a birth during which
26 contractions are of sufficient frequency, intensity and duration to bring
27 about effacement and progressive dilation of the cervix.

28 (5) "Prisoner" means any person incarcerated or detained in any
29 facility, including persons held under the immigration laws of the United
30 States.

31 (6) "Restraints" means any physical restraint or mechanical device
32 used to control the movement of a prisoner or detainee's body and/or limbs.

33 20-902. RESTRICTIONS ON RESTRAINT OF PREGNANT PRISONERS --
34 EXTRAORDINARY CIRCUMSTANCES. (1) A correctional institution shall not use
35 restraints of any kind on a prisoner known to be pregnant during labor and
36 delivery, except as provided in subsection (2) of this section.

37 (2) In extraordinary circumstances, where a corrections official makes
38 an individualized determination that restraints are necessary to prevent a
39 prisoner from escaping or from injuring herself or medical or correctional
40 personnel, such a prisoner or detainee may be restrained, provided that:

1 (a) If the doctor, nurse or other health professional treating the
2 prisoner requests that restraints not be used, the corrections officer
3 accompanying the prisoner shall immediately remove all restraints; and

4 (b) Under no circumstances shall leg or waist restraints be used on any
5 prisoner during labor or delivery.

6 (3) If restraints are used on a prisoner pursuant to subsection (2) of
7 this section:

8 (a) Both the type of restraint applied and the application of the
9 restraint must be done in the least restrictive manner necessary; and

10 (b) The corrections official shall make written findings within ten
11 (10) days as to the extraordinary circumstance that dictated the use
12 of the restraints. As part of this documentation, the corrections
13 official must also include the kind of restraints used and the reasons
14 those restraints were considered the least restrictive available and
15 the most reasonable under the circumstances. These findings shall
16 be kept on file by the institution for at least five (5) years and
17 be made available for public inspection, except that no information
18 identifying any individual prisoner or detainee shall be made public
19 under the provisions of this section without the prisoner or detainee's
20 prior written consent.

21 20-903. NOTICE TO PRISONERS. (1) Correctional institutions shall
22 inform prisoners of this chapter upon admission to the correctional
23 institution.

24 (2) Within sixty (60) days of the effective date of this chapter,
25 correctional institutions shall inform prisoners within the custody of the
26 correctional institution by posting this chapter in a location accessible to
27 all prisoners.

28 SECTION 2. An emergency existing therefor, which emergency is hereby
29 declared to exist, this act shall be in full force and effect on and after its
30 passage and approval.