

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 163

BY HEALTH AND WELFARE 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 CIRCUMSTANCE 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 Chap-
10 ter 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 this state.

17 (2) "Corrections official" means the official designated as responsi-
18 ble for oversight of a correctional institution, or his or her designee.

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

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

27 (5) "Prisoner" means any person incarcerated or detained in any facil-
28 ity, including persons held under the immigration laws of the United States.

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

31 20-902. RESTRICTIONS ON RESTRAINT OF PREGNANT PRISONERS -- EXTRAORDI-
32 NARY CIRCUMSTANCE. (1) A correctional institution shall not use restraints
33 of any kind on a prisoner known to be pregnant during labor and delivery, ex-
34 cept as provided in subsection (2) of this section.

35 (2) In an extraordinary circumstance, where a corrections official
36 makes an individualized determination that restraints are necessary to
37 prevent a prisoner from escaping or from injuring herself or medical or cor-
38 rectional personnel, such a prisoner or detainee may be restrained, provided
39 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 re-
9 straint 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 of
12 the restraints. As part of this documentation, the corrections offi-
13 cial must also include the kind of restraints used and the reasons those
14 restraints were considered the least restrictive available and the most
15 reasonable under the circumstances. These findings shall be kept on
16 file by the institution for at least five (5) years and be made available
17 for public inspection, except that no information identifying any indi-
18 vidual prisoner or detainee shall be made public under the provisions of
19 this section without the prisoner or detainee's prior written consent.

20 20-903. NOTICE TO PRISONERS. (1) Correctional institutions shall in-
21 form prisoners of the provisions of this chapter upon admission to the cor-
22 rectional institution.

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

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