

TITLE 20
STATE PRISON AND COUNTY JAILS

CHAPTER 9
RESTRAINT OF PREGNANT PRISONERS

20-901. DEFINITIONS. In this chapter:

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

(2) "Corrections official" means the official designated as responsible for oversight of a correctional institution, or his or her designee.

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

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

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

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

[20-901, added 2011, ch. 223, sec. 1, p. 610.]

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

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

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

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

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

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

(b) The corrections official shall make written findings within ten (10) days as to the extraordinary circumstance that dictated the use of the restraints. As part of this documentation, the corrections official must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances. These findings shall be kept on file by the institution for at least five (5) years and be made available for public inspection, except that no information identifying any indi-

vidual prisoner or detainee shall be made public under the provisions of this section without the prisoner or detainee's prior written consent. [20-902, added 2011, ch. 223, sec. 1, p. 610.]

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

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

[20-903, added 2011, ch. 223, sec. 1, p. 611.]