

1 HB230  
2 216819-1  
3 By Representatives Hollis and Hall  
4 RFD: Public Safety and Homeland Security  
5 First Read: 02-FEB-22

8 SYNOPSIS: This bill would prohibit certain practices  
9 relating to a pregnant female inmate or a female  
10 inmate who is in the immediate postpartum period.

11 This bill would also specifically prohibit  
12 certain actions relating to strip searches,  
13 restraints, examinations, labor and delivery,  
14 solitary confinement, and transfer.

16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 Relating to female inmates; to prohibit certain  
21 practices relating to the treatment of a pregnant female  
22 inmate or a female inmate who is in the immediate postpartum  
23 period.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. For purposes of this act, the following  
26 terms have the following meanings:

1           (1) CUSTODIAN. A warden, sheriff, jailer, deputy  
2 sheriff, police officer, or any other law enforcement officer.

3           (2) HEALTH CARE PROFESSIONAL. A physician as defined  
4 in Section 34-20-50.1, Code of Alabama 1975, a licensed  
5 practical nurse or a licensed professional nurse as defined in  
6 Section 34-21-1, Code of Alabama 1975, an advanced practice  
7 nurse as defined in Section 34-21-81, Code of Alabama 1975, an  
8 assistant to physicians as defined in Section 34-24-290, Code  
9 of Alabama 1975, or a licensed midwife as defined in Section  
10 34-19-11, Code of Alabama 1975.

11           (3) IMMEDIATE POSTPARTUM PERIOD. The six-week period  
12 following childbirth unless extended by a health care  
13 professional due to complications.

14           (4) OFFICER IN CHARGE. The individual who is  
15 responsible for the supervision of a penal institution.

16           (5) PENAL INSTITUTION. Any place of confinement for  
17 juvenile or adult individuals accused of, convicted of, or  
18 adjudicated for violating a law of this state or an ordinance  
19 of a political subdivision of this state.

20           (6) PREGNANT WOMAN. A juvenile or adult female who  
21 is in the second or third trimester of pregnancy whose  
22 pregnancy has been verified by a pregnancy test or through a  
23 medical examination conducted by a health care professional.

24           Section 2. (a) Within 72 hours of being confined to  
25 a penal institution, each woman under confinement shall be  
26 assessed for pregnancy by a urine pregnancy test, unless the  
27 woman refuses testing.

1 (b) A pregnant woman shall not be required to squat  
2 or cough during a strip search conducted by a custodian.

3 (c) A pregnant woman shall not be required to  
4 undergo any vaginal examination unless prescribed and  
5 performed by a health care professional.

6 (d) Except as otherwise provided in this section, a  
7 custodian shall not use any leg or waist restraint on any  
8 pregnant woman during labor and delivery and during the  
9 six-week postpartum recovery period, nor shall any pregnant  
10 woman or woman who is postpartum be chained to any other  
11 woman.

12 (e) A woman who is in the immediate postpartum  
13 period may only be restrained using wrist handcuffs with her  
14 wrists held in front of her body and only if there are  
15 compelling grounds to believe that the woman presents either  
16 of the following:

17 (1) An immediate and serious threat of harm to  
18 herself, staff, or others.

19 (2) A substantial flight risk that cannot be  
20 reasonably contained by other means.

21 (f) If a custodian uses wrist handcuffs on a woman  
22 who is in the immediate postpartum period under an exception  
23 provided in subsection (e), the circumstances for and details  
24 of the exception shall be documented within two days of the  
25 incident. The information shall include the nature of the  
26 circumstances and the length of time of the use of restraints.

1 The documentation shall be reviewed by the officer in charge  
2 and retained by the penal institution for reporting purposes.

3 (g) Nothing in this section shall prohibit the use  
4 of medical restraints by a licensed health care professional  
5 to ensure the medical safety of a pregnant woman.

6 (h) A pregnant woman or woman who is in the  
7 immediate postpartum period may not be placed in solitary  
8 confinement, in administrative segregation, or for medical  
9 observation in a solitary confinement setting.

10 (i) Nothing in this section shall prohibit the  
11 placement of the woman in a cell or hospital room by herself.

12 (j) A pregnant woman who is temporarily held in a  
13 county jail pending transfer to a state penal institution  
14 shall be transferred as expeditiously as possible.

15 (k) The Department of Corrections and a sheriff  
16 overseeing a county jail in which a pregnant woman is  
17 incarcerated shall make all reasonable efforts to facilitate  
18 the transfer. This subsection does not apply to a pregnant  
19 woman who has been sentenced to a county jail.

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