

# HOUSE BILL NO. 16

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCCREERY.

2524H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapters 217 and 221, RSMo, by adding thereto four new sections relating to the protection of certain pregnant women while in custody.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 217 and 221, RSMo, are amended by adding thereto four new sections, to be known as sections 217.149, 217.151, 221.520, and 221.523, to read as follows:

**217.149. 1. By October 1, 2017, all correctional centers shall develop specific procedures for the intake and care of offenders who are pregnant, which shall include procedures regarding:**

**(1) Maternal health evaluations;**

**(2) Dietary supplements;**

**(3) Substance abuse treatment;**

**(4) Treatment for the human immunodeficiency virus and ways to avoid human immunodeficiency virus transmission;**

**(5) Hepatitis C;**

**(6) Sleeping arrangements for such offenders, including requiring such offenders to sleep on the bottom bunk bed;**

**(7) Access to mental health professionals;**

**(8) Sanitary materials;**

**(9) Postpartum recovery, including that no such offender shall be placed in isolation during such recovery; and**

**(10) A requirement that a female medical professional be present during any examination of such offender.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           2. As used in this section "postpartum recovery" means, as determined by a  
19 physician, the period immediately following delivery, including the entire period an  
20 offender who was pregnant is in the hospital or infirmary after delivery.

          217.151. 1. As used in this section, the following terms shall mean:

2           (1) "Extraordinary circumstance", a substantial flight risk or some other  
3 extraordinary medical or security circumstance that dictates restraints be used to ensure  
4 the safety and security a pregnant offender in her third trimester or a postpartum offender  
5 forty-eight hours postdelivery, the staff of the correctional center or medical facility, other  
6 offenders, or the public;

7           (2) "Labor", the period of time before a birth during which contractions are  
8 present;

9           (3) "Postpartum", the period of recovery immediately following childbirth, which  
10 is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so  
11 determined by a physician or nurse;

12           (4) "Restraints", any physical restraint or other device used to control the  
13 movement of a person's body or limbs.

14           2. A correctional center shall not use restraints on a pregnant offender in her third  
15 trimester whether during transportation to and from visits to health care providers and  
16 court proceedings or medical appointments and examinations or during labor, delivery,  
17 or forty-eight hours postdelivery.

18           3. Pregnant offenders shall be transported in vehicles equipped with seatbelts.

19           4. Any time restraints are used on a pregnant offender in her third trimester or on  
20 a postpartum offender forty-eight hours postdelivery, the restraints shall be the least  
21 restrictive available and the most reasonable under the circumstances. In no case shall leg,  
22 ankle, or waist restraints or any mechanical restraints be used on any such offender, and  
23 if wrist restraints are used, such restraints shall be placed in the front of such offender's  
24 body to protect the offender and fetus in the case of a forward fall.

25           5. If a doctor, nurse, or other health care provider treating the pregnant offender  
26 in her third trimester or the postpartum offender forty-eight hours postdelivery requests  
27 that restraints not be used, the corrections officer accompanying such offender shall  
28 immediately remove all restraints.

29           6. In the event a corrections officer determines that extraordinary circumstances  
30 exist and restraints are necessary, the corrections officer shall fully document in writing  
31 within forty-eight hours of the incident the reasons he or she determined such  
32 extraordinary circumstances existed, the type of restraints used, and the reasons those  
33 restraints were considered the least restrictive available and the most reasonable under the

34 circumstances. Such documents shall be kept on file by the correctional center for at least  
35 five years from the date the restraints were used.

36 7. The sentencing and corrections oversight commission established under section  
37 217.147 and the advisory committee established under section 217.015 shall conduct  
38 biannual reviews of every report written on the use of restraints on a pregnant offender  
39 in her third trimester or on a postpartum offender forty-eight hours postdelivery in  
40 accordance with subsection 6 of this section to determine compliance with this section. The  
41 written reports shall be kept on file by the department for ten years.

42 8. The chief administrative officer, or equivalent position, of each correctional  
43 center shall:

44 (1) Ensure that employees of the correctional center are provided with training,  
45 which may include online training, on the provisions of this section; and

46 (2) Inform female offenders, in writing and orally, of any policies and practices  
47 developed in accordance with this section upon admission to the correctional center,  
48 including policies and practices in any offender handbook, and post the policies and  
49 practices in locations in the correctional center where such notices are commonly posted  
50 and will be seen by female offenders, including common housing areas and health care  
51 facilities.

221.520. 1. As used in this section, the following terms shall mean:

2 (1) "Extraordinary circumstance", a substantial flight risk or some other  
3 extraordinary medical or security circumstance that dictates restraints be used to ensure  
4 the safety and security of a pregnant prisoner in her third trimester or a postpartum  
5 prisoner forty-eight hours postdelivery, the staff of the county or city jail or medical  
6 facility, other prisoners, or the public;

7 (2) "Labor", the period of time before a birth during which contractions are  
8 present;

9 (3) "Postpartum", the period of recovery immediately following childbirth, which  
10 is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so  
11 determined by a physician or nurse;

12 (4) "Restraints", any physical restraint or other device used to control the  
13 movement of a person's body or limbs.

14 2. A county or city jail shall not use restraints on a pregnant prisoner in her third  
15 trimester whether during transportation to and from visits to health care providers and  
16 court proceedings or medical appointments and examinations or during labor, delivery,  
17 or forty-eight hours postdelivery.

18 3. Pregnant prisoners shall be transported in vehicles equipped with seatbelts.

19           **4. Anytime restraints are used on a pregnant prisoner in her third trimester or on**  
20 **a postpartum prisoner forty-eight hours postdelivery, the restraints shall be the least**  
21 **restrictive available and the most reasonable under the circumstances. In no case shall leg,**  
22 **ankle, or waist restraints or any mechanical restraints be used on any such prisoner, and**  
23 **if wrist restraints are used, such restraints shall be placed in the front of such prisoner's**  
24 **body to protect the prisoner and fetus in the case of a forward fall.**

25           **5. If a doctor, nurse, or other health care provider treating the pregnant prisoner**  
26 **in her third trimester or the postpartum prisoner forty-eight hours postdelivery requests**  
27 **that restraints not be used, the sheriff or jailer accompanying such prisoner shall**  
28 **immediately remove all restraints.**

29           **6. In the event a sheriff or jailer determines that extraordinary circumstances exist**  
30 **and restraints are necessary, the sheriff or jailer shall fully document in writing within**  
31 **forty-eight hours of the incident the reasons he or she determined such extraordinary**  
32 **circumstances existed, the type of restraints used, and the reasons those restraints were**  
33 **considered the least restrictive available and the most reasonable under the circumstances.**  
34 **Such documents shall be kept on file by the county or city jail for at least five years from**  
35 **the date the restraints were used.**

36           **7. The county or city jail shall:**

37           **(1) Ensure that employees of the jail are provided with training, which may include**  
38 **online training, on the provisions of this section; and**

39           **(2) Inform female prisoners, in writing and orally, of any policies and practices**  
40 **developed in accordance with this section upon admission to the jail, and post the policies**  
41 **and practices in locations in the jail where such notices are commonly posted and will be**  
42 **seen by female prisoners.**

**221.523. 1. By October 1, 2017, all county and city jails shall develop specific**  
2 **procedures for the intake and care of prisoners who are pregnant, which shall include**  
3 **procedures regarding:**

4           **(1) Maternal health evaluations;**

5           **(2) Dietary supplements;**

6           **(3) Substance abuse treatment;**

7           **(4) Treatment for the human immunodeficiency virus and ways to avoid human**  
8 **immunodeficiency virus transmission;**

9           **(5) Hepatitis C;**

10          **(6) Sleeping arrangements for such prisoners, including requiring such prisoners**  
11 **to sleep on the bottom bunk bed;**

12          **(7) Access to mental health professionals;**

13           **(8) Sanitary materials;**

14           **(9) Postpartum recovery, including that no such prisoner shall be placed in**  
15 **isolation during such recovery; and**

16           **(10) A requirement that a female medical professional be present during any**  
17 **examination of such prisoner.**

18           **2. As used in this section "postpartum recovery" means, as determined by a**  
19 **physician, the period immediately following delivery, including the entire period a prisoner**  
20 **who was pregnant is in the hospital or infirmary after delivery.**

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