

AB 1900

Limiting Use of Shackles on Incarcerated Pregnant Women

FACT SHEET

The Problem

Shackling pregnant women puts their health at risk and restraint policies must be standardized.^{1,2} Currently, nearly two-thirds of county jails shackle pregnant women in ways that could cause miscarriage or other injuries. Pregnant women are frequently shackled by the ankles, wrists, belly, and even to another person while being transported to and from a correctional facility. Although the vast majority of incarcerated women are non-violent, non-serious offenders, women as far along as 8 ½ months pregnant have been shackled in the most restrictive ways.³

The incidence of minor trauma, especially falls, increases as pregnancy progresses and excessive shackling poses undue health risks to a woman throughout her pregnancy.⁴ Extensive restrictions increase a pregnant woman's risk of falling while at the same time rendering her unable to break potential falls. Accordingly, the American College of Obstetricians and Gynecologists opposes the use of shackles on pregnant women in all but the most extreme circumstances.⁵

Despite the dangers of shackling, counties have inconsistent policies and practices for restraining pregnant incarcerated women. One-third of counties have been successful in implementing policies that require officers to use less restrictive means of restraint on pregnant incarcerated women.⁶

Why it Matters

Harmful shackling practices affect a significant number of women in California's prisons and jails. **California has the third largest population of incarcerated women in the country.**⁷ Tens of thousands of women go through county jails every year and an average of 4-7% are pregnant at some point in their custody.⁸

Federal courts have established that **prison officials are in violation of pregnant incarcerated women's rights and may be civilly liable when they act with deliberate indifference to the woman's health and safety.**⁹

To avoid threatening the health of pregnant women and potential legal challenge, it is critical that policies are adopted ensuring that restraints are properly used with this vulnerable population.

Existing Law

Recognizing the dangerous and unnecessary use of shackles on women giving birth, the California legislature enacted laws in 2005 that require officers to use least restrictive means when transporting pregnant women in labor and prohibit the use of shackles altogether during labor, delivery, and post-partum recovery (AB 478 Leiber, 2005).

While this was a major step in the right direction, shackling throughout a woman's pregnancy also threatens a her health¹ and the use of restraints on women during pregnancy must be standardized.²

The Bill

Our bill requires the Corrections Standards Authority (CSA) to set standards for how pregnant women are restrained. This will protect financially-strapped counties from being sued and ensure the health and safety of one of our most vulnerable populations. The bill establishes findings that the excessive shackling significantly limits a pregnant woman's mobility (e.g., shackling by the ankles, across the belly, behind the woman's back, and to another person)^{1,2,3} and can cause serious harm to the woman and her pregnancy.

The bill establishes the legislature's intent that state and local, adult and juvenile correctional facilities develop policies that ensure that during transportation pregnant incarcerated women are restrained in the least restrictive way possible, consistent with the legitimate security needs of each pregnant incarcerated woman.

Sources

¹ *Perinatal Needs of Pregnant, Incarcerated Women*. Journal of Perinatal Education (Barbara A. Hotelling, Spring 2008).

² *Not part of my sentence – Violations of the human rights of women in custody*. Amnesty International. United States of America (1999).

³ *Pregnant Women in Contra Costa Detention Facility*, a letter from Legal Services for Prisoners with Children (June 2009).

⁴ *Trauma in pregnancy*, Journal of Family Practice, (Francis L. Agnoli, Mark E. Deutchman, Dec. 1993).

⁵ American College of Obstetricians and Gynecologists letter (June 2007).

⁶ Legal Services for Prisoners with Children survey of shackling policies in CA (2009).

⁷ *Prisoners in 2003*, U.S. Department of Justice, Bureau of Justice Statistics (November 2004)

⁸ *Imprisonment and Families Fact Sheet*, Women in Prison Project (April 2009).

⁹ *Nelson v. Corr. Med. Servs.*, 583 F.3d 522 (2009)