

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE RESOLUTION

No. 444 Session of  
2017

INTRODUCED BY DALEY, MURT, DEAN, SOLOMON, READSHAW, DAVIS,  
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EVANS, STURLA, KORTZ, M. QUINN, BULLOCK, FRANKEL AND  
CALTAGIRONE, AUGUST 16, 2017

REFERRED TO COMMITTEE ON JUDICIARY, AUGUST 16, 2017

## A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to  
2 conduct a study on the use of restraints on pregnant women  
3 and girls in State correctional institutions, county jails  
4 and juvenile detention facilities within this Commonwealth.

5 WHEREAS, Women and girls housed in State correctional  
6 institutions, county jails and juvenile detention facilities  
7 confront a unique set of challenges and requirements when  
8 compared to their male counterparts; and

9 WHEREAS, More than 200,000 women are held in prisons and  
10 jails nationwide; and

11 WHEREAS, Almost three-quarters of women in Federal and state  
12 correctional facilities are mothers, an increase of more than  
13 100% since 1991; and

14 WHEREAS, It is estimated that 3% of women in Federal  
15 correctional facilities and 4% of women in state correctional  
16 facilities indicated that they were pregnant at the time of  
17 admission; and

1 WHEREAS, Approximately 5% of women in local jails reported  
2 being pregnant at intake; and

3 WHEREAS, More than 2,500 women are currently housed in State  
4 correctional institutions in this Commonwealth; and

5 WHEREAS, As of January 2015, the official one-day census of  
6 county jails in this Commonwealth found that 4,740 females were  
7 housed in these institutions; and

8 WHEREAS, This finding is not an adequate representation of  
9 the total number of women passing through county jails each  
10 year; and

11 WHEREAS, Hundreds of young girls are involved in juvenile  
12 court dispositions in this Commonwealth each year, with some  
13 being placed in secure residential facilities; and

14 WHEREAS, Many incarcerated women have high-risk pregnancies  
15 due to poverty, inadequate health care and substance abuse; and

16 WHEREAS, The issue of restraining pregnant women in state  
17 correctional facilities, county jails and juvenile detention  
18 facilities has gained national attention in recent years; and

19 WHEREAS, Numerous correctional associations and medical  
20 associations, including the American Congress of Obstetricians  
21 and Gynecologists, the American Medical Association, the  
22 American Public Health Association and the American  
23 Psychological Association, have taken a position against the  
24 general use of shackles and restraints on pregnant women, citing  
25 health concerns for the woman and fetus; and

26 WHEREAS, Being shackled or restrained can directly impact the  
27 mental and physical well-being of pregnant women; and

28 WHEREAS, The health risks associated with the use of  
29 restraints and shackles include increased likelihood of falls,  
30 general trauma and limited access to treatment during medical

1 emergencies; and

2 WHEREAS, These risks can result in increased medical costs to  
3 state and local governments; and

4 WHEREAS, The General Assembly, recognizing the health risks  
5 associated with restraining pregnant women, enacted the act of  
6 July 2, 2010 (P.L.275, No.45), which added sections 1104, 1758  
7 and 5905 to Title 61 (Prisons and Parole) of the Pennsylvania  
8 Consolidated Statutes; and

9 WHEREAS, These new provisions are commonly referred to as the  
10 Healthy Birth for Incarcerated Women Act (the Act); and

11 WHEREAS, The Act generally prohibits placing pregnant women  
12 in restraints during labor or in transport to a medical facility  
13 in the second or third trimesters of pregnancy unless  
14 correctional staff determines that the individual represents a  
15 substantial risk of flight or if there is some other  
16 extraordinary medical or security circumstance; and

17 WHEREAS, The Act also requires State correctional  
18 institutions, county jails and juvenile detention facilities to  
19 annually report instances of restraining pregnant women and  
20 girls to the Department of Corrections or the Department of  
21 Human Services; and

22 WHEREAS, The Act delineates the documentation requirements  
23 for State correctional institutions, county jails and juvenile  
24 detention facilities that must be met in reporting these  
25 instances; and

26 WHEREAS, Thousands of individuals are employed in State  
27 correctional institutions, county jails and juvenile detention  
28 facilities in this Commonwealth; and

29 WHEREAS, These individuals work hard to protect the safety of  
30 residents, staff and the public at large each day while adhering

1 to State mandates in a difficult environment; and

2 WHEREAS, While the Act was a meaningful step in ensuring that  
3 many pregnant women are not shackled or restrained in State  
4 correctional institutions, county jails and juvenile detention  
5 facilities, there have been challenges with enforcing the law;  
6 and

7 WHEREAS, The annual report compiled by the Department of  
8 Corrections on this issue consistently finds that only a handful  
9 of county jails are reporting instances of restraint under the  
10 law; and

11 WHEREAS, The most recent report of the Department of  
12 Corrections specifically stated that it is unclear whether the  
13 remaining county jails were without incident or failed to report  
14 incidents as required; and

15 WHEREAS, The county jail reports received by the Department  
16 of Corrections under the Act often lack critical information  
17 such as trimester of pregnancy and the required separate written  
18 findings describing the circumstances that led to the  
19 determination that the inmate represented a substantial flight  
20 risk or a safety threat; and

21 WHEREAS, The Department of Corrections has stated that the  
22 Act lacks any kind of enforcement mechanism to hold facilities  
23 accountable for failing to properly report incidents involving  
24 application of restraints on pregnant women housed in State  
25 correctional facilities and county jails; and

26 WHEREAS, There is concern that county jails throughout this  
27 Commonwealth have interpreted the requirements of the Act  
28 differently, leading to confusion and lack of relevant data; and

29 WHEREAS, There is also concern that pregnant women and girls  
30 continue to be restrained across this Commonwealth in violation

1 of the Act; therefore be it

2       RESOLVED, That the House of Representatives direct the  
3 Legislative Budget and Finance Committee to review and evaluate  
4 the use of restraints on pregnant women and girls in State  
5 correctional institutions, county jails and juvenile detention  
6 facilities within this Commonwealth, including overall best  
7 practices in the care of pregnant women in State and county  
8 custody, by interviewing administrators and employees of these  
9 facilities; and be it further

10       RESOLVED, That the Legislative Budget and Finance Committee  
11 prepare a report of its findings that shall at a minimum:

12           (1) Identify reasons why a lack of data exists from  
13 institutions required to report instances of restraint under  
14 the Act.

15           (2) Estimate the number of pregnant women being  
16 restrained in State correctional institutions, county jails  
17 and juvenile detention facilities, broken down by race if  
18 possible, and determine if the application of these  
19 restraints violates the Act.

20           (3) Determine the level of awareness surrounding the  
21 requirements of the Act among wardens and chief executives of  
22 State correctional institutions, county jails and juvenile  
23 detention facilities.

24           (4) Evaluate the quality, scope, frequency, accuracy and  
25 effectiveness of training regarding the requirements of the  
26 Act to the following:

27               (i) Individuals who place or remove restraints on  
28 pregnant or postpartum women or girls in State  
29 correctional institutions, county jails and juvenile  
30 detention facilities in this Commonwealth.

1           (ii) Individuals who have custodial responsibility  
2           or provide medical care to incarcerated pregnant or  
3           postpartum women or girls.

4           (5) Survey selected health care professionals in this  
5           Commonwealth to determine their knowledge of their rights and  
6           responsibilities under the Act as well as their interactions  
7           and experiences with incarcerated pregnant women and girls  
8           who are under their care.

9           (6) Determine whether the Act achieves the purpose of  
10          eliminating the use of restraints on pregnant inmates in all  
11          but the most extraordinary circumstances and, if the Act does  
12          not, make recommendations for amending the Act or improving  
13          enforcement of the Act.

14          (7) Recommend nonlegislative solutions to improve  
15          understanding of and compliance with the Act, such as the  
16          development of a standardized training module for all  
17          facilities and the establishment of a specific reporting form  
18          for instances of restraint and shackling.

19          (8) Summarize overall best practices regarding the care  
20          and treatment of incarcerated pregnant women from the  
21          prenatal period through the postpartum period, with an  
22          emphasis on the 2014 report by the Bureau of Justice  
23          Assistance entitled Best Practices in the Use of Restraints  
24          with Pregnant Women and Girls Under Correctional Custody, and  
25          determine whether those practices are being followed in this  
26          Commonwealth;

27   and be it further

28       RESOLVED, That the Legislative Budget and Finance Committee  
29       report its findings and recommendations to the House of  
30       Representatives within one year of the adoption of this

1 resolution.