

# Housing and Caring for Pregnant Inmates

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## WHAT IS ACT 2022-440?

- Promulgates standards for treatment of female inmates who are either pregnant or in the “immediate postpartum period.”
- It is codified at Ala. Code § 14-6-19.1.

WHEN IS THE  
ACT  
EFFECTIVE?

- As of July 1, 2022.

# WHO DOES ACT 2022-440 COVER?

- The following definitions are found in § 14-6-19.1(a).
- Custodian: warden, sheriff, jailer, deputy sheriff, police officer, or any other law enforcement officer.
- Pregnant woman: juvenile or adult female who is in the second or third trimester of pregnancy whose pregnancy has been verified by a pregnancy test.
- Immediate post-partum period: the six-week period following childbirth unless extended by a health care professional due to complications.

## OTHER DEFINITIONS

- Health Care Professional: a physician, a licensed practical or professional nurse, an advanced practice nurse, or an assistant to physicians.
  - Includes certified registered nurse practitioners (CRNP), certified nurse midwives (CNP), certified registered nurse anesthetists (CRNA), and clinical nurse specialists (CNS).
- Officer in Charge: individual who is responsible for the supervision of a penal institution.
- Penal Institution: any place of confinement for juvenile or adult individuals accused of, convicted of, or adjudicated for violating a law of this state or an ordinance of a political subdivision of this state.

# WHAT ARE THE REQUIREMENTS UNDER § 14-6-19.1(b)-(c)?

- Requires that a woman be asked if she is pregnant or suspects that she is pregnant during the initial intake.
- Requires that women reporting pregnancy be offered a urinalysis test within 72 hours of the initial medical intake screening (subject to her refusal).

# WHAT IS FORBIDDEN UNDER § 14-6-19.1(d)-(e)?

- Forbids custodian's from requiring a "pregnant woman" or a woman in the immediate post-partum period to squat and cough during a strip search.
  - Exception if the custodian has reason to believe that the pregnant woman is hiding contraband.
  - Exception for healthcare professionals.
- Forbids custodians from requiring a "pregnant woman" to undergo a vaginal examination.
  - Exception for health care professionals.

## WHAT IS FORBIDDEN UNDER § 14-6-19.1(f)?

- Forbids custodian's from using leg and waist restraints on
  - “a pregnant woman,”
  - During labor and delivery
  - During the immediate post-partum period.



# WHAT IS PERMITTED UNDER § 14-6-19.1(g)-(h)??

- A “woman who is pregnant” or a woman in the immediate postpartum period may only be restrained using leg or wrist handcuffs with her wrists held in front of her body, and only if the custodian makes a determination that one of the following are true:
  - The woman poses an immediate flight risk and cannot be reasonably contained by other means.
  - The woman poses an immediate risk of harm to the unborn child, herself, staff, or others and cannot be reasonably contained by other means.
- If a custodian uses leg or wrist handcuffs, the circumstances and details of the incident shall be documented within 2 days.
- Note that provision (g) says a “woman who is pregnant” instead of “pregnant woman.”

## WHAT IS PERMITTED UNDER § 14-6-19.1(i)-(k)??

- A health care professional may use medical restraints to ensure the pregnant woman's medical safety.
- A pregnant woman or woman in the immediate postpartum period may be placed in solitary confinement to ensure her or the unborn child's medical safety.
  - Officer must document the incident within 2 days.

## WHAT IS REQUIRED UNDER § 14-6-19.1(l)-(m)??

- Requires transfer of pregnant women held in a county jail pending transfer to a state penal institution be transferred to DOC custody “as expeditiously as possible.”
- The DOC and a sheriff overseeing a county jail where a pregnant woman is incarcerated shall make all reasonable efforts to facilitate her transfer.

# WHAT SHOULD COUNTY JAILS DO NOW?

- Develop a pregnant inmate policy to ensure all officers working in the jail understand their roles when interacting with pregnant female inmates.

# PREGNANT INMATE POLICY

- Explains that at initial intake a female inmate must be asked if she is or suspects that she is pregnant.
  - If she says she is pregnant, then it must be documented in writing in the inmate's medical file.
  - If she suspects she is pregnant, the inmate must be given a pregnancy test within 72 hours.
- Defines pregnant woman and the forbidden searches, restraints, and required documentation for the use of leg or wrist restraints described in the previous slides.

## PREGNANT INMATE POLICY... CONTINUED

- Explains that officers may place a pregnant woman in solitary confinement to ensure her or the unborn child's safety if the incident is documented within 2 days.
- Explains that a pregnant woman temporarily held in county jail pending transfer to a state institution shall be transferred as quickly as possible, but this does not apply to pregnant women who were sentenced to a county jail.

# QUESTIONS?

