SENATE SUMMARY OF HOUSE AMENDMENTS

SB 256 By Senator Martiny

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

CRIMINAL JUSTICE. Provides relative to the treatment of pregnant offenders in custody. (8/1/12)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Provides that actual knowledge of the "prison" is the knowledge of the prison operator or employee.

2. Requires the prison operator to take action required by proposed law.

3. Provides a definition of "prison operator".

4. Bureau amendments.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

Proposed law provides that whenever a prison operator or employee has actual or constructive knowledge that a prisoner is in the second or third trimester of pregnancy, the prison operator shall ensure all of the following:

(1) The type of restraint applied and the application of the restraint must be done in the least restrictive manner necessary.

(2) An electronic restraint belt can never be used on the prisoner.

(3) The prisoner can never be handcuffed behind the back.

(4) The prisoner can never be restrained using leg irons.

(5) The prisoner can never be placed in a face down position.

Proposed law provides that restraints cannot be used on a pregnant prisoner while she is in labor and during delivery unless a member of the medical staff orders therapeutic restraints for a prisoner who, due to a psychiatric or medical disorder, is a danger to herself, her child, her unborn child, or other persons. Proposed law further provides that "therapeutic restraints" do not include metal handcuffs or shackles.

Proposed law provides that restraints cannot be used on a prisoner known to be pregnant during any pregnancy-related medical distress, or while she is being transported to a medical facility or the Louisiana Correctional Institute for Women (LCIW) for delivery or any pregnancy-related medical distress, or during postpartum recovery, unless there are compelling grounds to believe that the prisoner presents either an immediate and serious threat of physical harm to herself, staff, or others, or the prisoner is a substantial flight risk and cannot be reasonably contained by other means.

Proposed law provides that it is the duty and responsibility of the prison operator to provide adequate personnel to monitor a pregnant prisoner during transport to and from a medical facility and during the prisoner's stay at the medical facility, and such personnel shall have the ability to release any restraint should a release from restraint become medically necessary.

Proposed law provides for definitions of "labor", "postpartum", "prison", "prison operator", "prisoner," "restraint", and "physical restraint."

Proposed law provides that all prisoners potentially affected by the provisions of proposed law shall be advised in writing of the requirements of proposed law upon admission to the prison and when known to be pregnant.

Proposed law provides that the prison authorizing the use of restraints on a pregnant prisoner pursuant to proposed law must, within 10 days of the use of restraints, make a written record of the use of restraints, which record is to include the type of restraint used, the circumstances that necessitated the use of restraints, and the length of time that restraints were used. Proposed law further provides that such records do not constitute a medical record for purposes of state and federal law, and shall be retained for a minimum of five years and made available for public inspection.

Effective August 1, 2012.

(Adds R.S. 15:744-744.8)

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