

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2026

99TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 30, 2018, with recommendation that the Senate Committee Substitute do pass.

5747S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 221.050, RSMo, and to enact in lieu thereof five new sections relating to persons confined in jails.

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

Section A. Section 221.050, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 217.149, 217.151, 221.050, 221.520, and 221.523, to read as follows:

217.149. 1. By January 1, 2019, 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 unless deemed necessary for medical or security reasons. Such reasons shall be documented in writing within forty-eight hours of the incident. Such documents shall be kept on file by the correctional center for at least ten years from the date the incident occurred;**

20 **(10) A requirement that a female medical professional be present**
21 **during any examination of such offender while in a state of undress;**
22 **and**

23 **(11) The department shall, with the assistance of the department**
24 **of social services and consent of the pregnant offender, consider**
25 **enrolling an unborn child in the show-me healthy babies program**
26 **under section 208.662.**

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

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

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

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

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

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

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

20 **3. Pregnant offenders shall be transported in vehicles equipped**
21 **with seatbelts.**

22 **4. Any time restraints are used on a pregnant offender in her**
23 **third trimester or on a postpartum offender within forty-eight hours**
24 **postdelivery, the restraints shall be the least restrictive available and**
25 **the most reasonable under the circumstances. In no case shall leg,**
26 **ankle, or waist restraints or any mechanical restraints be used on any**

27 such offender, and if wrist restraints are used, such restraints shall be
28 placed in the front of such offender's body to protect the offender and
29 the unborn child in the case of a forward fall.

30 5. If a doctor, nurse, physician assistant, paramedic, or
31 emergency medical technician treating the pregnant offender in her
32 third trimester or the postpartum offender within forty-eight hours
33 postdelivery requests that restraints not be used, the corrections
34 officer accompanying such offender shall immediately remove all
35 restraints.

36 6. In the event a corrections officer determines that
37 extraordinary circumstances exist and restraints are necessary, the
38 corrections officer shall fully document in writing within forty-eight
39 hours of the incident the reasons he or she determined such
40 extraordinary circumstances existed, the type of restraints used, and
41 the reasons those restraints were considered the least restrictive
42 available and the most reasonable under the circumstances. Such
43 documents shall be kept on file by the correctional center for at least
44 ten years from the date the restraints were used.

45 7. The sentencing and corrections oversight commission
46 established under section 217.147 and the advisory committee
47 established under section 217.015 shall conduct biannual reviews of
48 every report written on the use of restraints on a pregnant offender in
49 her third trimester or on a postpartum offender within forty-eight
50 hours postdelivery in accordance with subsection 6 of this section to
51 determine compliance with this section. The written reports shall be
52 kept on file by the department for ten years.

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

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

58 (2) Inform female offenders, in writing and orally, of any policies
59 and practices developed in accordance with this section upon
60 admission to the correctional center, including policies and practices
61 in any offender handbook, and post the policies and practices in
62 locations in the correctional center where such notices are commonly
63 posted and will be seen by female offenders, including common housing

64 areas and health care facilities.

65 **9. Nothing in this section shall be construed to prohibit the use**
66 **of handcuffs upon arrest.**

221.050. Persons confined in jails shall be separated and confined
2 according to sex. Persons confined under civil process or for civil causes shall be
3 kept separate from criminals. **Nothing in this section shall be construed to**
4 **prohibit the housing of persons on probation or parole with offenders**
5 **or persons being held on criminal charges.**

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

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

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

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

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

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

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

23 4. Anytime restraints are used on a pregnant offender in her
24 third trimester or on a postpartum offender within forty-eight hours
25 postdelivery, the restraints shall be the least restrictive available and
26 the most reasonable under the circumstances. In no case shall leg,
27 ankle, or waist restraints or any mechanical restraints be used on any
28 such offender, and if wrist restraints are used, such restraints shall be
29 placed in the front of such offender's body to protect the offender and

30 the unborn child in the case of a forward fall.

31 5. If a doctor, nurse, physician assistant, paramedic, or
32 emergency medical technician treating the pregnant offender in her
33 third trimester or the postpartum offender within forty-eight hours
34 postdelivery requests that restraints not be used, the sheriff or jailer
35 accompanying such offender shall immediately remove all restraints.

36 6. In the event a sheriff or jailer determines that extraordinary
37 circumstances exist and restraints are necessary, the sheriff or jailer
38 shall fully document in writing within forty-eight hours of the incident
39 the reasons he or she determined such extraordinary circumstances
40 existed, the type of restraints used, and the reasons those restraints
41 were considered the least restrictive available and the most reasonable
42 under the circumstances. Such documents shall be kept on file by the
43 county or city jail for at least ten years from the date the restraints
44 were used.

45 7. The county or city jail shall:

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

49 (2) Inform female offenders, in writing and orally, of any policies
50 and practices developed in accordance with this section upon
51 admission to the jail, and post the policies and practices in locations in
52 the jail where such notices are commonly posted and will be seen by
53 female offenders.

54 8. Nothing in this section shall be construed to prohibit the use
55 of handcuffs upon arrest.

221.523. 1. By January 1, 2019, all county and city jails shall
2 develop specific procedures for the intake and care of offenders who
3 are pregnant, which shall include 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
8 to avoid human immunodeficiency virus transmission;

9 (5) Hepatitis C;

10 (6) Sleeping arrangements for such offenders, including
11 requiring such offenders 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 offender shall**
15 **be placed in isolation during such recovery unless deemed necessary**
16 **for medical or security reasons. Such reasons shall be documented in**
17 **writing within forty-eight hours of the incident. Such documents shall**
18 **be kept on file by the correctional center for at least ten years from the**
19 **date the incident occurred;**

20 **(10) A requirement that a female medical professional be present**
21 **during any examination of such offender while in a state of undress;**
22 **and**

23 **(11) The jail shall, with the assistance of the department of social**
24 **services and consent of the pregnant offender, consider enrolling an**
25 **unborn child in the show-me healthy babies program under section**
26 **208.662.**

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

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