

§ 148-25.2. Care for female incarcerated persons related to pregnancy, childbirth, and postpartum recovery.

(a) **Limitation on Use of Restraints.** – Except as otherwise provided in this subsection, the Department of Public Safety and correctional facility employees shall not apply restraints on a pregnant female incarcerated person during the second and third trimester of pregnancy, during labor and delivery, and during the postpartum recovery period.

A female incarcerated person who is in the postpartum recovery period may only be restrained if a correctional facility employee makes an individualized determination that an important circumstance exists. In this case, only wrist handcuffs held in front of the female incarcerated person's body may be used and only when she is ambulatory. The correctional facility employee ordering use of restraints on any female incarcerated person while in the postpartum recovery period shall submit a written report to the warden or administrator of the correctional facility within five days following the use of restraints. The report shall contain the justification for restraining the female incarcerated person during postpartum recovery.

Nothing in this subsection shall prohibit the use of handcuffs or wrist restraints held in front of the female incarcerated person's body when in transport outside of the correctional facility, except that these restraints shall not be used in transport when the female incarcerated person is in labor or is suspected to be in labor.

Nothing in this subsection shall prohibit the use of medical restraints by a licensed health care professional to ensure the medical safety of a pregnant female incarcerated person.

(b) **Body Cavity Searches.** – No correctional facility employee, other than a certified health care professional, shall conduct body cavity searches of a female incarcerated person who is pregnant or in the postpartum recovery period unless the correctional facility employee has probable cause to believe that the female incarcerated person is concealing contraband that presents an immediate threat of harm to the female incarcerated person, the fetus, or another person. In this case, the correctional facility employee shall submit a written report to the warden or administrator of the correctional facility within five days following the body cavity search, containing the justification for the body cavity search and the presence or absence of any contraband.

(c) **Nutrition.** – The Department of Public Safety and the administrator of the correctional facility shall ensure that pregnant female incarcerated persons are provided sufficient food and dietary supplements and are provided access to food at appropriate times of day, as ordered by a physician, a physician staff member, or a correctional facility nutritionist to meet generally accepted prenatal nutritional guidelines for pregnant female incarcerated persons. While in the hospital, pregnant female incarcerated persons and female incarcerated persons in the postpartum recovery period shall have access to the full range of meal options provided by the hospital to ensure that each meal meets the female incarcerated person's nutritional needs.

(d) **Restrictive Housing.** – The Department of Public Safety and the administrator of the correctional facility shall not place any pregnant female incarcerated person, or any female incarcerated person who is in the postpartum recovery period, in restrictive housing unless a correctional facility employee makes an individualized determination that an important circumstance exists. In this case, the correctional facility employee authorizing the placement of the female incarcerated person in restrictive housing shall submit a written report to the warden or administrator of the correctional facility within five days following the transfer. The report shall contain the justification for confining the female incarcerated person in restrictive housing.

(e) **Bed Assignments.** – The Department of Public Safety and the administrator of the correctional facility shall not assign any female incarcerated person who is pregnant or in postpartum recovery to any bed that is elevated more than 3 feet from the floor of the correctional facility.

(f) Cost of Care. – While a pregnant female incarcerated person is incarcerated, the pregnant female incarcerated person shall be provided necessary prenatal, labor, and delivery care as needed at no cost to the pregnant female incarcerated person.

(g) Bonding Period. – Following the delivery of a newborn by a female incarcerated person, the Department of Public Safety or the administrator of the correctional facility shall permit the newborn to remain with the female incarcerated person while the female incarcerated person is in the hospital, unless the medical provider has a reasonable belief that remaining with the female incarcerated person poses a health or safety risk to the newborn.

(h) Nutritional and Hygiene Products During the Postpartum Period. – During the period of postpartum recovery, the Department of Public Safety and the administrator of the correctional facility shall make available the necessary nutritional and hygiene products, including sanitary napkins, underwear, and hygiene products for the postpartum female incarcerated person. The products shall be provided at no cost to the female incarcerated person.

(i) Placement of Female Incarcerated Person. – To the greatest extent practicable, after accounting for security and capacity, the Department of Public Safety shall place a female incarcerated person who is in the custody of the State prison system and who is the mother of a minor child under the age of 1 within 250 miles of the child's permanent address of record.

(j) Visitation of Incarcerated Mothers. – The Department of Public Safety shall authorize visitation of incarcerated mothers held in State prisons with low- or minimum-security classifications, who are mothers of a minor child under the age of 1, by the incarcerated mother's minor child under the age of 1. These visitations shall be allowed at least twice per week unless a correctional facility employee has a reasonable belief that the child may be harmed during visitation. These visitations shall be allowed by contact visit. The employee denying visitation shall submit a written report to the warden or administrator of the correctional facility within five days following the denial of visitation. The report shall contain the justification for denying the visitation.

(k) Reporting. – The warden or administrator of the correctional facility shall compile a monthly summary of all written reports received pursuant to this section and G.S. 148-25.3. The warden or administrator of the correctional facility shall submit the summary to the Chief Deputy Secretary of Adult Correction and Juvenile Justice. (2021-143, s. 2(a).)