

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 777

Short Title: Restraint Prohibition and I WILL Act. (Public)

Sponsors: Senator Smith (Primary Sponsor).

Referred to: Rules and Operations of the Senate

May 18, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
3 POLICY THAT PROHIBITS THE RESTRAINT OF PREGNANT PRISONERS AND
4 DETAINEES, TO ENACT THE INCARCERATED WOMEN INTERESTED IN
5 LEARNING AND LIVING ACT TO PROVIDE FOR MAMMOGRAMS FOR
6 INCARCERATED WOMEN, AND TO APPROPRIATE FUNDS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Chapter 15A of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 87.

11 "Treatment of Pregnant Prisoners and Detainees.

12 "**§ 15A-1391. Definitions.**

13 The following words have the listed meaning in this Article:

- 14 (1) Correctional institution. – Any unit of the State prison system, local
15 confinement facility, juvenile detention facility, or other entity under the
16 authority of any State or local law enforcement agency that has the power to
17 detain or restrain a person under the laws of this State.
- 18 (2) Corrections official. – The official that is responsible for oversight of a
19 correctional institution or that official's designee.
- 20 (3) Detainee. – Any person detained under the immigration laws of the United
21 States at any correctional institution.
- 22 (4) Extraordinary circumstance. – There has been an individualized determination
23 that restraints are necessary to prevent the woman from injuring herself or
24 others and cannot reasonably be restrained by other means, including the use
25 of additional personnel.
- 26 (5) Labor. – The period of time before a birth during which contractions are of
27 sufficient frequency, intensity, and duration to bring about effacement and
28 progressive dilation of the cervix.
- 29 (6) Postpartum period. – The eight weeks following the birth of the baby.
- 30 (7) Postpartum recovery. – As determined by a woman's physician or obstetrical
31 provider, the period immediately following delivery, including the entire
32 period a woman is in the hospital or infirmary after giving birth.
- 33 (8) Prisoner. – Any person incarcerated or detained in any facility who is accused
34 of, convicted of, sentenced for, or adjudicated delinquent for violations of
35 criminal law or the terms and conditions of parole, probation, pretrial release,
36 or diversionary program.



1 (9) Restraints. – Any physical restraint or mechanical device used to control the
2 movement of a prisoner or detainee's body or limbs.

3 **"§ 15A-1392. Restraint of prisoners and detainees.**

4 (a) A correctional institution shall not use restraints on a prisoner or detainee known to
5 be pregnant, including during labor, transport to a medical facility, delivery, postpartum
6 recovery, and the postpartum period, unless the corrections official makes an individualized
7 determination that the prisoner or detainee presents an extraordinary circumstance. Under no
8 circumstances shall leg or waist restraints be used on any prisoner or detainee who is in labor or
9 delivery.

10 (b) If the physician, obstetrical provider, nurse, or other health professional treating the
11 prisoner or detainee requests that restraints not be used, the corrections officer accompanying the
12 prisoner or detainee shall immediately remove all restraints.

13 (c) If restraints are used on a prisoner or detainee pursuant to subsection (a) of this
14 section:

15 (1) The type of restraint applied and the application of the restraint shall be
16 accomplished in the least restrictive manner necessary.

17 (2) The corrections official shall make written findings within 10 days as to the
18 extraordinary circumstance that dictated the use of the restraints. The findings
19 shall be retained by the correctional institution for at least five years and be
20 made available for public inspection, except that no individually identifying
21 information of any prisoner or detainee shall be made public under this Article
22 without the prisoner or detainee's prior written consent.

23 **"§ 15A-1393. Notification.**

24 All correctional facilities in the State shall inform all prisoners and detainees within the
25 facilities' custody of the provisions of this Article."

26 **SECTION 1.(b)** This section becomes effective October 1, 2020.

27 **SECTION 2.(a)** There is appropriated from the General Fund to the Department of
28 Public Safety, Division of Adult Correction and Juvenile Justice, the sum of two hundred fifty
29 thousand dollars (\$250,000) in nonrecurring funds for the 2020-2021 fiscal year to be allocated
30 to policy implementation, education, and training of the procedures required in Section 1 of this
31 act.

32 **SECTION 2.(b)** This section becomes effective July 1, 2020.

33 **SECTION 3.** The Division of Adult Correction shall provide mammograms for
34 women age 40 or over who are incarcerated in the State prison system.

35 **SECTION 4.(a)** There is appropriated from the General Fund to the Department of
36 Public Safety the sum of one hundred fifty thousand dollars (\$150,000) in recurring funds for the
37 2020-2021 fiscal year to contract to provide housing assistance to female offenders reentering
38 the community from the State prison system.

39 **SECTION 4.(b)** This section becomes effective July 1, 2020.

40 **SECTION 5.** Except as otherwise provided, the remainder of this act is effective
41 when it becomes law.