

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1714

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 31-201.01, Arizona Revised Statutes, is amended
3 to read:

4 31-201.01. Duties of the director; tort actions; medical
5 treatment costs; state immunity; definitions

6 A. The director shall hold in custody all persons who are sentenced
7 to the department under the law and shall hold such persons for the term
8 directed by the court, subject to law.

9 B. In addition to the medical and health services to be provided
10 pursuant to subsection D of this section, the director, in cooperation with
11 the department of health services, may provide to prisoners psychiatric
12 care and treatment pursuant to sections 31-226 and 31-226.01.

13 C. The director may institute and pursue programs that promote the
14 rehabilitation of the prisoners in the director's charge.

15 D. The director shall provide medical and health services for the
16 prisoners. The director may contract for professional services to assist
17 the director in carrying out this responsibility on behalf of the state,
18 except that all records made and retained in connection with the services
19 provided by this subsection shall be made and retained only by duly
20 authorized or qualified medical and professional personnel and not by any
21 prisoner. Such records when not in use shall be retained in a safe and
22 secure place.

23 E. If a victim of a person for whom a cost of incarceration has been
24 calculated notifies the state that full restitution has not been made by

1 the person for whom a cost of incarceration has been calculated, the state
2 shall interplead with the superior court the disputed amount and set off
3 the amounts owed the state from the remaining obligation.

4 F. Any and all causes of action that may arise out of tort caused by
5 the director, prison officers or employees of the department, within the
6 scope of their legal duty, shall run only against the state.

7 G. The director shall establish by rule reasonable medical and
8 health service fees for the medical and health services that are provided
9 pursuant to subsection D of this section. Except as provided in subsection
10 I of this section, every inmate shall be charged a reasonable medical and
11 health services fee for each medical visit an inmate makes pursuant to a
12 health needs request form or for emergency treatment.

13 H. Except as provided in subsection I of this section, the director
14 may charge each inmate a reasonable fee for prescriptions, medication or
15 prosthetic devices.

16 I. The director shall exempt the following inmates or medical visits
17 by inmates from payment of medical and health services fees and fees for
18 prescriptions, medication or prosthetic devices:

19 1. Medical visits initiated by the medical or mental health staff of
20 the department.

21 2. Medical visits to a physician by inmates who are referred by a
22 physician assistant or nurse practitioner.

23 3. Inmates at reception centers.

24 4. Juvenile inmates.

25 5. Pregnant inmates.

26 6. Seriously mentally ill inmates. For the purposes of this
27 paragraph, "seriously mentally ill inmates" means inmates who as a result
28 of a mental disorder as defined in section 36-501 exhibit emotional or
29 behavioral functioning which is so impaired as to interfere substantially
30 with their capacity to remain in the general prison population without
31 supportive treatment or services of a long-term or indefinite duration and

1 whose mental disability is severe and persistent, resulting in a long-term
2 limitation of their functional capacities for primary activities of daily
3 living, including interpersonal relationships, self-care, employment and
4 recreation.

5 7. Inmates with developmental disabilities who are housed in a
6 special programs unit.

7 8. Inmates who are housed in unit 8 at the Florence prison facility.

8 9. Inmates who are inpatients at the Alhambra prison facility
9 special programs psychiatric hospital.

10 10. Inmates who are inpatients at the Flamenco prison facility
11 mental health treatment unit.

12 11. Inmates who are undergoing administrative physical examinations
13 for statewide driver status and fire fighting crews.

14 12. Inmates who are undergoing follow-up medical treatment for
15 chronic diseases.

16 J. An inmate shall not be refused medical treatment for financial
17 reasons.

18 K. All monies received by the department for medical and health
19 service fees shall be deposited in the general fund.

20 L. A person who is convicted of a felony offense and who is
21 incarcerated while awaiting sentence or while serving a sentence imposed by
22 a court of law may not bring a cause of action seeking damages or equitable
23 relief from the state or its political subdivisions, agencies, officers or
24 employees for injuries suffered while in the custody of the state or its
25 political subdivisions or agencies unless the complaint alleges specific
26 facts from which the court may conclude that the plaintiff suffered serious
27 physical injury or the claim is authorized by a federal statute.

28 M. The director shall establish criteria for reasonable deductions
29 from monies credited to the prisoner's spendable account to repay the cost
30 of:

1 1. EXPLAIN TO THE PRISONER THE CONSEQUENCES OF NOT RECEIVING MEDICAL
2 TREATMENT.

3 2. COMPLETE A REFUSAL TO SUBMIT TO MEDICAL TREATMENT FORM THAT
4 THOROUGHLY DOCUMENTS THE MEDICAL CONDITION, THE CONSEQUENCES OF NOT
5 RECEIVING TREATMENT AND ANY OTHER RELEVANT INFORMATION IN THE PRESENCE OF
6 THE PRISONER AND DO BOTH OF THE FOLLOWING:

7 (a) HAVE THE PRISONER SIGN THE COMPLETED FORM. IF THE PRISONER
8 REFUSES TO SIGN THE FORM, TWO DEPARTMENT HEALTH CARE STAFF MEMBERS MUST
9 WITNESS THE REFUSAL AND SIGN THE FORM WITH A NOTATION THAT THE PRISONER
10 REFUSED TO SIGN THE COMPLETED FORM.

11 (b) PLACE THE COMPLETED FORM IN THE PRISONER'S MEDICAL RECORD.

12 3. HONOR A PRISONER'S PREFERENCE TO REFUSE MEDICAL TREATMENT.

13 4. CONTINUE TO RESPOND TO FUTURE MEDICAL CONDITIONS INVOLVING THE
14 SAME PRISONER.

15 Sec. 3. Section 31-601, Arizona Revised Statutes, is amended to
16 read:

17 31-601. Pregnant prisoners; restraints; written findings;
18 rules; appropriate food and dietary supplements;
19 restrictive housing; bed placement; training;
20 reporting; definitions

21 A. After a correctional institution receives information that a
22 prisoner or detainee is pregnant or after a prisoner's or detainee's
23 pregnancy diagnosis, a correctional institution shall not use restraints on
24 ~~a~~ THE prisoner or detainee for the duration of the pregnancy and for
25 thirty days following the delivery of ~~a~~ THE child, including when the
26 prisoner or detainee is being transported for delivery or during labor,
27 delivery and postpartum recovery, unless either of the following applies:

28 1. Attending medical staff requests the use of restraints.

29 2. The corrections official makes an individualized determination
30 that the prisoner or detainee presents an extraordinary circumstance.

1 B. Leg restraints, waist restraints or restraints that hinder the
2 ability of the physician to move the prisoner or detainee, as determined by
3 the physician, shall not be used on any prisoner or detainee who is in
4 labor or delivery.

5 C. If restraints are used on a prisoner or detainee pursuant to
6 subsection A of this section:

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

9 2. The corrections official shall make written findings within
10 seventy-two hours as to the extraordinary circumstance that dictated the
11 use of the restraints. These findings shall be kept on file by the
12 correctional institution for at least two years and made available for
13 public inspection unless otherwise ~~dictated~~ PRESCRIBED by state or federal
14 law.

15 D. THE STATE DEPARTMENT OF CORRECTIONS AND ANY OF THE DEPARTMENT'S
16 EMPLOYEES, AGENTS AND CONTRACTORS MAY NOT COMPEL, COERCE OR REQUEST A
17 PREGNANT PRISONER OR DETAINEE TO ELECTIVELY INDUCE LABOR. BEFORE A
18 PRISONER OR DETAINEE AGREES TO INDUCE LABOR, THE PRISONER OR DETAINEE MUST
19 SIGN A WRITTEN NOTICE THAT STATES THAT THE STATE DEPARTMENT OF CORRECTIONS
20 AND ANY OF THE DEPARTMENT'S EMPLOYEES, AGENTS AND CONTRACTORS MAY NOT
21 COMPEL, COERCE OR REQUEST THE PRISONER OR DETAINEE TO AGREE TO LABOR
22 INDUCTION.

23 ~~E.~~ E. Notwithstanding subsection A of this section, a security
24 tether chain that is attached to the bed frame and the prisoner's or
25 detainee's ankle may be used during postpartum recovery. The security
26 tether chain shall be long enough for the prisoner or detainee to reach the
27 bathroom in a private or semi-private room or to exit the bed and stand in
28 any other recovery setting.

29 ~~F.~~ F. Unless the correctional employee is a licensed health care
30 professional, the correctional employee may not conduct a body cavity
31 search on a pregnant prisoner or detainee unless the correctional employee

1 has a reasonable belief that the pregnant prisoner or detainee is
2 concealing contraband. The correctional employee shall submit a written
3 report to the person in charge of the correctional institution within
4 seventy-two hours after a body cavity search for contraband that provides
5 the justification for the search and whether any contraband was found.

6 ~~F. G. When ordered by the attending medical staff or a nutritionist~~
7 A correctional institution shall ensure that a pregnant prisoner or
8 detainee is provided sufficient food and dietary supplements that meet
9 generally accepted prenatal nutritional guidelines SET BY THE AMERICAN
10 COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS for pregnant women. During the
11 first seventy-two hours after the prisoner or detainee gives birth, the
12 correctional institution shall provide all necessary hygiene and
13 nutritional products WITHOUT COST to the prisoner or detainee. ~~If the~~
14 ~~prisoner or detainee is indigent, the correctional institution shall~~
15 ~~provide the products without cost to the prisoner or detainee.~~

16 ~~G. H.~~ A correctional institution may not place a pregnant prisoner
17 or detainee or a prisoner or detainee who has given birth within the past
18 thirty days in restrictive housing unless a corrections official makes an
19 individualized determination that the prisoner or detainee presents an
20 extraordinary circumstance. The corrections official shall provide written
21 findings within seventy-two hours as to the extraordinary circumstance that
22 dictates the placement in restrictive housing. The correctional
23 institution shall keep these findings on file for at least two years and
24 make the findings available for public inspection unless otherwise dictated
25 by state or federal law.

26 ~~H. I.~~ A correctional institution may not place a pregnant prisoner
27 or detainee or a prisoner or detainee who has given birth within the past
28 thirty days in a bed that is elevated more than three feet from the floor
29 of the correctional institution.

30 ~~I. J.~~ The corrections official shall compile a monthly summary of
31 the WRITTEN FINDINGS AND reports that are received pursuant to subsections

1 C, ~~E~~ F and ~~G~~ H of this section. The corrections official shall provide
2 the WRITTEN FINDINGS AND reports to the director of the state department of
3 corrections each month.

4 ~~J~~ K. The correctional institution shall allow a newborn baby to
5 remain with the mother for seventy-two hours following the delivery unless
6 the attending medical staff has a reasonable belief that remaining with the
7 mother poses a health or safety risk to the newborn baby.

8 ~~K~~ L. ~~Within thirty days after the effective date of this amendment~~
9 ~~to this section~~, All correctional institutions in this state shall adopt
10 rules or policies pursuant to this section.

11 ~~L~~ M. The state department of corrections shall develop and provide
12 to all:

13 1. Correctional employees who have contact with pregnant prisoners
14 or detainees training that is related to the physical and mental health of
15 a pregnant prisoner or detainee and the fetus, including all of the
16 following:

17 (a) General care of a pregnant woman.

18 (b) The impact of restraints on a pregnant prisoner or detainee and
19 the fetus.

20 (c) The impact on pregnant prisoners or detainees who are placed in
21 restrictive housing.

22 (d) The impact of an invasive body cavity search on a pregnant
23 prisoner or detainee.

24 2. Pregnant prisoners and detainees the following educational
25 programming:

26 (a) Prenatal care.

27 (b) Pregnancy-specific hygiene.

28 (c) IN-PERSON BIRTHING CLASSES.

29 (d) WRITTEN EDUCATIONAL MATERIALS THAT EXPLAIN THE DIFFERENT
30 BIRTHING OPTIONS THAT MAY BE AVAILABLE, INCLUDING INFORMATION ON INDUCING
31 LABOR AND NOT INDUCING LABOR.

1 ~~(c)~~ (e) Parenting skills.

2 ~~(d)~~ (f) The impact of alcohol and drugs on the fetus.

3 ~~(e)~~ (g) General health topics for children.

4 ~~M.~~ N. For the purposes of this section:

5 1. "Correctional institution" means any entity under the authority
6 of any state or county law enforcement agency that has the power to detain
7 or restrain a person under the laws of this state, including a juvenile
8 detention center.

9 2. "Corrections official" means the official who is responsible for
10 oversight of a correctional institution or the official's designee.

11 3. "Detainee" includes any female person who is detained under the
12 immigration laws of the United States at any correctional institution.

13 4. "Extraordinary circumstance" means a substantial flight risk or
14 some other medical or security circumstance that dictates restraints be
15 used to ensure the safety and security of the prisoner or detainee, the
16 staff of the correctional institution or medical facility, other prisoners
17 or detainees or the public.

18 5. "Labor" means, as determined by a physician, nurse, physician's
19 assistant or other medical practitioner, the period of time before a birth
20 during which contractions are of sufficient frequency, intensity and
21 duration to bring about effacement and progressive dilation of the cervix.

22 6. "Postpartum recovery" means, as determined by the woman's
23 physician, the period immediately following delivery and directly related
24 to the birth, including the period a woman is in the hospital or infirmary
25 after birth.

26 7. "Prisoner" means any female person who is incarcerated or
27 detained in any correctional institution and who is accused of, convicted
28 of, sentenced for or adjudicated delinquent for a violation of a criminal
29 law or the terms and conditions of community supervision, probation,
30 pretrial release or diversionary programs.

1 8. "Restraints" means any physical restraint or mechanical device
2 used to control the movement of a prisoner's or detainee's body or limbs,
3 including flex cuffs, soft restraints, hard metal handcuffs, a black box,
4 chubb cuffs, leg irons, belly chains, a security tether chain or a convex
5 shield."
6 Amend title to conform

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