



# Commission of Correction

**THOMAS A. BEILEIN**  
Chairman

**PHYLLIS HARRISON-ROSS, M.D.**  
Commissioner

**THOMAS J. LOUGHREN**  
Commissioner

## CHAIRMAN'S MEMORANDUM

**NO:** 1-2016  
**DATE:** January 4, 2016  
**TO:** SHERIFFS, COMMISSIONERS OF CORRECTION, JAIL ADMINISTRATORS and WARDENS  
**RE:** Restraint of Pregnant Inmates

---

In 2009, legislation amended section 611 of the Correction Law to prohibit the restraint of a pregnant inmate during transport to a medical facility for delivery, during labor, and while recovering after giving birth. Effective December 22, 2015, further amendment of Correction Law section 611 expands the prohibition of restraint during transport to include all inmates "known to be pregnant," and inmates who are up to eight weeks postpartum. L.2015, Ch. 570. The statute further provides "extraordinary circumstances" in which restraints may be used, but limits any such use to handcuffs in front of the body, and first requires an individual determination of need by the Sheriff or his or her designee, following consultation with the facility's chief medical officer.

Further requirements of the amended statute include:

- Documentation of restraint use upon a finding of extraordinary circumstances
- Prohibition of correctional staff presence in the delivery room during birth unless requested by medical staff or inmate
- Provision of written notice of Correction Law §611 requirements to every female inmate upon admission, again when inmate "known to be pregnant," and posted in locations where medical care is provided
- Annual training of Correction Law §611 requirements for all correctional personnel involved in the transportation, supervision or medical care of incarcerated women
- Annual report of the Sheriff/Commissioner to the Governor and leaders of the State Legislature concerning every use of restraints under Correction Law §611

Attached for your review is a copy of the latest legislation that amended Correction Law §611, effective December 22, 2015. Should you have any specific questions following your review, please feel free to contact the Commission's Office of Counsel.

Thomas A. Beilein, Chairman

S T A T E O F N E W Y O R K

6430--A

2015-2016 Regular Sessions

I N A S S E M B L Y

March 24, 2015

Introduced by M. of A. PERRY, ROZIC -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to the restraint of pregnant female prisoners during childbirth

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 611 of the correction law, as  
2 amended by chapter 411 of the laws of 2009, is amended to read as  
3 follows:  
4 1. (A) If a woman confined in any institution [as defined in paragraph  
5 c of subdivision four of section two of the correction law] or local  
6 correctional facility [as defined in paragraph (a) of subdivision  
7 sixteen of section two of the correction law,] be pregnant and about to  
8 give birth to a child, the superintendent [as defined in subdivision  
9 twelve of section two of the correction law] or sheriff [as defined in  
10 paragraph c of subdivision sixteen of section two of the correction law]  
11 in charge of such institution or facility, a reasonable time before the  
12 anticipated birth of such child, shall cause such woman to be removed  
13 from such institution or facility and provided with comfortable accommo-  
14 dations, maintenance and medical care elsewhere, under such supervision  
15 and safeguards to prevent her escape from custody as the superintendent  
16 or sheriff or his or her designee may determine. No restraints of any  
17 kind shall be used during transport [to or from the hospital, institu-  
18 tion or clinic where] OF such woman [receives care; provided, however,  
19 in extraordinary circumstances, where restraints are necessary to  
20 prevent such woman from injuring herself or medical or correctional  
21 personnel, such woman may be cuffed by one wrist. In cases where  
22 restraints are used, the superintendent or sheriff shall make and main-  
23 tain written findings as to the reasons for such use], A WOMAN WHO IS  
24 KNOWN TO BE PREGNANT OR A WOMAN WITHIN EIGHT WEEKS AFTER DELIVERY OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD02990-02-5

1 PREGNANCY OUTCOME RECEIVES CARE ABSENT EXTRAORDINARY CIRCUMSTANCES IN  
2 WHICH THE SUPERINTENDENT OR SHERIFF OR HIS OR HER DESIGNEE IN CONSULTA-  
3 TION WITH THE CHIEF MEDICAL OFFICER HAS MADE AN INDIVIDUALIZED DETERMI-  
4 NATION THAT RESTRAINTS ARE NECESSARY TO PREVENT SUCH WOMAN FROM INJURING  
5 HERSELF OR MEDICAL OR CORRECTIONAL PERSONNEL OR OTHERS AND CANNOT  
6 REASONABLY BE RESTRAINED BY OTHER MEANS, INCLUDING THE USE OF ADDITIONAL  
7 PERSONNEL. IF A DETERMINATION HAS BEEN MADE THAT EXTRAORDINARY CIRCUM-  
8 STANCES EXIST THEN RESTRAINTS SHALL BE LIMITED TO HANDCUFFS IN FRONT OF  
9 THE BODY. THE SUPERINTENDENT OR SHERIFF OR HIS OR HER DESIGNEE SHALL  
10 DOCUMENT THE FACTS UPON WHICH THE FINDING OF EXTRAORDINARY CIRCUMSTANCES  
11 WERE BASED WITHIN FIVE DAYS OF THE USE OF SUCH RESTRAINTS AND SHALL ALSO  
12 DOCUMENT THE TYPE OF RESTRAINTS USED AND THE LENGTH OF TIME SUCH  
13 RESTRAINTS WERE USED. No restraints of any kind shall be used when such  
14 woman is in labor, admitted to a hospital, institution or clinic for  
15 delivery, or recovering after giving birth. Any such personnel as may be  
16 necessary to supervise the woman during transport to and from and during  
17 her stay at the hospital, institution or clinic shall be provided to  
18 ensure adequate care, custody and control of the woman, EXCEPT THAT NO  
19 CORRECTIONAL STAFF SHALL BE PRESENT IN THE DELIVERY ROOM DURING THE  
20 BIRTH OF A BABY UNLESS REQUESTED BY THE MEDICAL STAFF SUPERVISING SUCH  
21 DELIVERY OR BY THE WOMAN GIVING BIRTH. The superintendent or sheriff or  
22 his or her designee shall cause such woman to be subject to return to  
23 such institution or local correctional facility as soon after the birth  
24 of her child as the state of her health will permit as determined by the  
25 medical professional responsible for the care of such woman. If such  
26 woman is confined in a local correctional facility, the expense of such  
27 accommodation, maintenance and medical care shall be paid by such woman  
28 or her relatives or from any available funds of the local correctional  
29 facility and if not available from such sources, shall be a charge upon  
30 the county, city or town in which is located the court from which such  
31 inmate was committed to such local correctional facility. If such woman  
32 is confined in any institution under the control of the department, the  
33 expense of such accommodation, maintenance and medical care shall be  
34 paid by such woman or her relatives and if not available from such  
35 sources, such maintenance and medical care shall be paid by the state.  
36 In cases where payment of such accommodations, maintenance and medical  
37 care is assumed by the county, city or town from which such inmate was  
38 committed the payor shall make payment by issuing payment instrument in  
39 favor of the agency or individual that provided such accommodations and  
40 services, after certification has been made by the head of the institu-  
41 tion to which the inmate was legally confined, that the charges for such  
42 accommodations, maintenance and medical care were necessary and are  
43 just, and that the institution has no available funds for such purpose.

44 (B) ANY WOMAN CONFINED IN AN INSTITUTION OR LOCAL CORRECTIONAL FACILI-  
45 TY SHALL RECEIVE NOTICE IN WRITING IN A LANGUAGE AND MANNER UNDERSTAND-  
46 ABLE TO HER ABOUT THE REQUIREMENTS OF THIS SECTION UPON HER ADMISSION TO  
47 AN INSTITUTION OR LOCAL CORRECTIONAL FACILITY AND AGAIN WHEN SHE IS  
48 KNOWN TO BE PREGNANT. THE SUPERINTENDENT OR SHERIFF SHALL PUBLISH NOTICE  
49 OF THE REQUIREMENTS OF THIS SECTION IN PROMINENT LOCATIONS WHERE MEDICAL  
50 CARE IS PROVIDED. THE DEPARTMENT AND THE SHERIFF SHALL PROVIDE ANNUAL  
51 TRAINING ON PROVISIONS OF THIS SECTION TO ALL CORRECTIONAL PERSONNEL WHO  
52 ARE INVOLVED IN THE TRANSPORTATION, SUPERVISION OR MEDICAL CARE OF  
53 INCARCERATED WOMEN.

54 (C) THE DEPARTMENT AND SHERIFF SHALL REPORT ANNUALLY TO THE GOVERNOR,  
55 THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE  
56 SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEM-

1 BLY, THE CHAIRPERSON OF THE SENATE CRIME VICTIMS, CRIME AND CORRECTION  
2 COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY CORRECTION COMMITTEE  
3 CONCERNING EVERY USE OF RESTRAINTS ON A WOMAN UNDER THIS SECTION BUT  
4 SHALL EXCLUDE INDIVIDUAL IDENTIFYING INFORMATION.  
5 S 2. This act shall take effect immediately.