

House Bill 345 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43rd, Silcox of the 52nd, Anulewicz of the 42nd, Rich of the 97th, Harrell of the 106th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,
2 relating to inmate policies, so as to provide for prohibited practices relating to a pregnant
3 female inmate or a female inmate who is in the immediate postpartum period; to provide for
4 definitions; to prohibit certain actions relating to strip searches, restraints, examinations,
5 labor and delivery, solitary confinement, and transfer; to provide for related matters; to
6 provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
10 inmate policies, is amended by adding a new Code section to read as follows:

11 "42-1-11.3.

12 (a) As used in this Code section, the term:

13 (1) 'Custodian' means warden, sheriff, jailer, deputy sheriff, police officer, or any other
14 law enforcement officer.

15 (2) 'Immediate postpartum period' means the six-week period following childbirth unless
16 extended by a physician due to complications.

17 (3) 'Officer in charge' means the individual who is responsible for the supervision of a
18 penal institution.

19 (4) 'Penal institution' means any place of confinement for juvenile or adult individuals
20 accused of, convicted of, or adjudicated for violating a law of this state or an ordinance
21 of a political subdivision of this state.

22 (5) 'Pregnant woman' means a woman whose pregnancy has been verified by a
23 pregnancy test or through a medical examination conducted by a physician.

24 (6) 'Woman' means a juvenile or adult female who is confined in a penal institution.

25 (b) A pregnant woman shall not be required to squat or cough during a strip search
26 conducted by a custodian during the second or third trimester of pregnancy.

27 (c) A pregnant woman shall not be required to undergo any vaginal examination unless
28 prescribed and performed by a licensed health care professional.(d)(1) Except as otherwise
29 provided in this subsection and notwithstanding Code Section 42-5-58, a custodian shall

30 not use handcuffs, waist shackles, leg irons, or restraints of any kind on a pregnant woman
 31 who is in the second or third trimester of pregnancy, in labor, or in delivery, or on a woman
 32 in the immediate postpartum period.

33 (2) A woman who is in the immediate postpartum period may only be restrained using
 34 wrist handcuffs with her wrists held in front of her body and only if there are compelling
 35 grounds to believe that such woman presents:

36 (A) An immediate and serious threat of harm to herself, staff, or others; or

37 (B) A substantial flight risk and cannot be reasonably contained by other means.

38 (3) If a custodian uses wrist handcuffs on a woman who is in the immediate postpartum
 39 period under an exception provided in paragraph (2) of this subsection, the circumstances
 40 for and details of such exception shall be documented within two days of the incident.

41 Such information shall include the nature of the circumstances and the length of time of
 42 such use of restraints. The documentation shall be reviewed by the officer in charge and
 43 retained by the penal institution for reporting purposes.

44 (4) Nothing in this subsection shall prohibit the use of medical restraints by a licensed
 45 health care professional to ensure the medical safety of a pregnant woman.

46 (e) A pregnant woman or woman who is in the immediate postpartum period shall not be
 47 placed in solitary confinement, in administrative segregation, or for medical observation
 48 in a solitary confinement setting; provided, however, that this shall not prevent the
 49 placement of such woman in a cell or hospital room by herself.

50 (f) It is the intent of the General Assembly that a pregnant woman who is temporarily held
 51 in a county jail pending transfer to a state penal institution be transferred as expeditiously
 52 as possible. The Department of Corrections and a sheriff overseeing a county jail in which
 53 a pregnant woman is incarcerated shall make all reasonable efforts to facilitate such
 54 transfer. This subsection shall not apply to a pregnant woman who has been sentenced to
 55 a county jail by a judge.

56

57 **SECTION 2.**

58 This Act shall become effective on October 1, 2019.

59 **SECTION 3.**

60 All laws and parts of laws in conflict with this Act are repealed.