

RESOLUTION NUMBER: D- 01

REFERRED TO: Reference Committee on Legislative Activities and Public Relations

SUBJECT: Providing medical providers the authority to remove restraints in pregnant and postpartum patients who are incarcerated

SUBMITTED BY: Samantha Bookbinder, Medical University of South Carolina; Brooke Taylor, University of South Carolina- Greenville; Sherry Chen, University of South Carolina – Greenville; Sanjana Mandiwar, University of South Carolina - Greenville

1 **WHEREAS;** in May 2020, Bill A136, R141, H3967 added Section 24-13-35 to the
2 Code of Laws of South Carolina so as to provide requirements concerning the treatment of
3 female inmates, banning jails and prisons from using leg, waist, and ankle restraints on
4 pregnant women and women in labor;¹ and

5 **WHEREAS;** Section 24-13-35-C states “The following inmates must not be placed in
6 any restraints, including wrist restraints, unless... she presents an immediate, credible risk of
7 escape that cannot be reasonably contained through other methods”;¹ and

8 **WHEREAS;** an unshackled inmate supervised by one correction officer instead of two
9 correction officers while inpatient can be considered a “credible risk of escape”; and

10 **WHEREAS;** overall employment of correctional officers and bailiffs is projected to
11 decline 10% from 2021 to 2023; and

12 **WHEREAS;** approximately 4% of women in state prisons are pregnant;³ and

13 **WHEREAS;** Greenville and Charleston County jails, which make up approximately
14 15% of the state’s women jail population, reported a combined 11 live births in 2014.
15 Extrapolation of this data would suggest as many as 75 live births were to women in South
16 Carolina county jails in 2018; and

17 **WHEREAS;** using restraints during labor poses challenges with balance, increases the
18 risk of falls, causes delays during medical emergencies, and limits mobility making labor more
19 difficult;⁵ and

20 **WHEREAS;** in instances of life-threatening emergencies, shackles can limit fetal
21 chances of survival; a delay of an emergency c-section of even five minutes is sufficient to
22 cause permanent brain damage to the child due to anoxia;⁶ and

23 **WHEREAS;** the National Commission on Correctional Healthcare supports avoidance
24 of the use of restraints during all other points of pregnancy and the 6-week postpartum period
25 as standard and used only with a flight risk security concern;⁷ and

26 **WHEREAS;** the American College of Obstetricians and Gynecologists strongly
27 opposes the use of restraints in pregnancy, labor and delivery, and postpartum care, stating
28 “shacking interferes with the ability of clinicians to safely practice medicine and may put the
29 health of the pregnant person and fetus at risk”;⁸ and

30 **WHEREAS;** the majority of incarcerated women are non-violent offenders that pose
31 a low-security risk, especially during labor and the postpartum period;⁹ and

32 **WHEREAS;** upon New York City’s implementation of restricted use of restraints on
33 inmates admitted for delivery in 1990, there have been no reported incidents of escape or harm
34 to medical staff;¹⁰ and

35 **WHEREAS;** the American Medical Association adopted a resolution restricting the
36 use of restraints of any variety on women in active labor and postpartum recovery unless they
37 are an immediate and serious threat to self and/or pose a security risk¹¹; and

38 **WHEREAS;** the American Medical Association also supports restrictions on
39 shackling pregnant inmates within their 2nd and 3rd trimesters of pregnancy;¹² and

40 **WHEREAS;** the American College of Obstetricians and Gynecologists states optimal
41 laws to limit the use of restraints should include the following protections: 1) restrict restraints
42 throughout pregnancy, labor, delivery, and postpartum, including transport to a medical
43 facility, 2) give medical personnel authority to have restraints removed, 3) require corrections
44 personnel to remain outside delivery room for privacy concerns, and 4) require written
45 documentation by corrections personnel of the use of restraints;⁸ and

46 **WHEREAS;** 22 states and DC give medical personnel the authority to have restraints
47 removed and 12 states require corrections personnel to remain outside the delivery room for
48 privacy concerns;⁸ therefore, be it

49 **RESOLVED;** that the South Carolina Medical Association encourage legislation
50 allowing medical personnel the authority to have restraints removed; and

51 **RESOLVED;** that the South Carolina Medical Association encourage legislation
52 requiring written documentation by corrections personnel on the use of restraints.

April 2023

References:

1. Treatment of female inmates, Section 24-13-30, South Carolina Code of Laws.
<https://www.scstatehouse.gov/code/t24c013.php#24-13-35>
2. “Correctional Officers and Bailiffs: Occupational Outlook Handbook.” U.S. Bureau of Labor Statistics, U.S. Bureau of Labor Statistics, 8 Sept. 2022,
<https://www.bls.gov/ooh/protective-service/correctional-officers.htm#:~:text=Overall%20employment%20of%20correctional%20officers,percent%20from%202021%20to%202031>.
3. Bronson, J., & Sufirin, C. (2019). Pregnant Women in Prison and Jail Don’t Count: Data Gaps on Maternal Health and Incarceration. Public Health Reports.
<https://doi.org/10.1177/0033354918812088>
4. Pendleton V, Saunders JB, Shlafer R. Corrections officers' knowledge and perspectives of maternal and child health policies and programs for pregnant women in prison. Health Justice. 2020;8(1):1. Published 2020 Jan 4. doi:10.1186/s40352-019-0102-0
5. Katz VL. Perimortem cesarean delivery: its role in maternal mortality. Semin Perinatol. 2012;36(1):68-72. doi:10.1053/j.semperi.2011.09.013 “Nonuse of Restraints for Pregnant and Postpartum Incarcerated Individuals (2020).” National Commission on Correctional Health Care, 3 Feb. 2023, <https://www.ncchc.org/wp-content/uploads/Nonuse-of-Restraints-for-Pregnant-and-Postpartum-Incarcerated-Individuals-2020.pdf>.
6. ACOG Committee Opinion No. 830: Reproductive Health Care of Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals. <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2021/07/reproductive-health-care-for-incarcerated-pregnant-postpartum-and-nonpregnant-individuals.pdf>
7. Bureau Of Just. Stats., U.S. Dep’t Of Just., Corrections Statistical Analysis Tool: Prisoner Characteristics (2012), available at <http://www.bjs.gov/index.cfm?ty=nps>.
8. Stipulation and Order of Settlement at 38-39, Reynolds v. Sielaff, No. 81 Civ. 107 (S.D.N.Y. 1990).
9. AM. MED. ASSN, RES. 203: Shackling of Pregnant Women in Labor (2010), available at <http://www.ama-assn.org/assets/meeting/2010a/a10-ref-comm-b.pdf>.
10. AM. MED. ASSN, RES. 203: Shackling of Pregnant Women in Labor (2010), available at <http://www.ama-assn.org/assets/meeting/2010a/a10-ref-comm-b.pdf>.

RELEVANT AMA AND AMA-MSS POLICY:

Shackling of Pregnant Women in Labor H-420.957

1. Our AMA supports language recently adopted by the New Mexico legislature that "an adult or juvenile correctional facility, detention center or local jail shall use the least restrictive restraints necessary when the facility has actual or constructive knowledge that an inmate is in the 2nd or 3rd trimester of pregnancy. No restraints of any kind shall be used on an inmate who is in labor, delivering her baby, or recuperating from the delivery unless there are compelling grounds to believe that the inmate presents:

- An immediate and severe threat of harm to herself, staff or others; or
- A substantial flight risk cannot be reasonably contained by other means.

If an inmate in labor or delivering her baby is restrained, only the least restrictive restraints necessary to ensure safety and security shall be used."

2. Our AMA will develop model state legislation prohibiting the use of shackles on pregnant women unless flight or safety concerns exist.