

By: Representatives Bain, Jackson, Williams- To: Judiciary B
Barnes, Owen, Gibbs (72nd), Summers,
Roberson, Crawford, Mickens, Anthony,
Eubanks, Stamps

HOUSE BILL NO. 196
(As Sent to Governor)

1 AN ACT TO CREATE THE "DIGNITY FOR INCARCERATED WOMEN ACT"; TO
2 DEFINE CERTAIN TERMS AS USED UNDER THE ACT; TO PROVIDE THAT WHEN
3 AN INCARCERATED INMATE IS GIVING BIRTH, THE USE OF RESTRAINTS
4 SHALL BE LIMITED; TO REQUIRE CERTAIN CARE AND TREATMENT FOR WOMEN
5 RELATED TO PREGNANCY AND CHILDBIRTH; TO REQUIRE CERTAIN CARE
6 DURING INMATE POSTPARTUM RECOVERY; TO URGE THE DEPARTMENT OF
7 CORRECTIONS TO PLACE MOTHERS WHO ARE PARENTS OF A MINOR CHILD
8 WITHIN A CERTAIN DISTANCE FROM THE MOTHER'S PERMANENT ADDRESS; TO
9 PROVIDE CERTAIN STANDARDS WHERE A FEMALE IS IN THE STATE OF
10 UNDRESS; TO PROVIDE THAT INCARCERATED WOMEN SHALL HAVE ACCESS TO
11 FEMININE HYGIENE PRODUCTS AND TO PROVIDE SUCH PRODUCTS AT NO COST
12 IF AN INMATE IS DETERMINED TO BE INDIGENT; TO REQUIRE THE
13 DEPARTMENT OF CORRECTIONS TO DEVELOP AND PROVIDE TO ITS CORRECTION
14 STAFF TRAINING RELATED TO THE PHYSICAL AND MENTAL HEALTH OF
15 PREGNANT INMATES IF SUCH STAFF HAVE CONTACT WITH PREGNANT INMATES;
16 AND FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** **Title.** Sections 1 through 9 of this act may be
19 cited as the "Dignity for Incarcerated Women Act."

20 **SECTION 2.** **Legislative findings and purpose.** The
21 Legislature of the State of Mississippi finds that:

22 (a) The number of incarcerated women in the State of
23 Mississippi has increased by a third (1/3) since 2001 and at one
24 point in 2008 the rate had grown by forty-four percent (44%);



25 (b) Nationally, the number of children under age
26 eighteen (18) with a mother in prison more than doubled since
27 1991;

28 (c) Children who grow up with parents in prison are six
29 (6) to seven (7) times more likely to become incarcerated
30 themselves;

31 (d) Prisoners who maintain close contact with their
32 family members while incarcerated have better post-release
33 outcomes and lower recidivism rates;

34 (e) Children of inmates who are able to visit their
35 imprisoned parents have increased cognitive skills, improved
36 academic self-esteem, greater self-control and change schools much
37 less often;

38 (f) To mitigate the collateral impact on families and
39 children, the Department of Corrections should consider the
40 location of family;

41 (g) Nationally, approximately two thousand (2,000)
42 women give birth while incarcerated each year;

43 (h) Prenatal care significantly improves outcomes for
44 pregnant women and infants;

45 (i) Participation in post-delivery mother-infant
46 residency or nursery programs is associated with lower recidivism
47 rates, reduced risk of babies entering foster care, and improved
48 odds that mothers and their babies will remain together after the
49 mother's period of incarceration;



50 (j) Use of restrictive housing and restraints on
51 incarcerated pregnant women may be extremely dangerous to the
52 health of mothers, fetuses and infants; and

53 (k) Nationally, eighty-six percent (86%) of women in
54 prison were victims of sexual assault prior to entering the prison
55 system.

56 **SECTION 3. Definitions.** (a) "Restraints" means any
57 physical or mechanical device used to restrict or control the
58 movement of a prisoner's body, limbs, or both.

59 (b) "Body cavity searches" means invasive searches on
60 inmates, conducted by facility employees in search of contraband.

61 (c) "Flight risk" means an inmate who has shown the
62 desire to escape the facility.

63 (d) "Restrictive housing" means any type of detention
64 that involves:

65 (i) Removal from the general inmate population,
66 whether voluntary or involuntary; and

67 (ii) Inability to leave a room or cell for the
68 vast majority of the day.

69 (e) "Postpartum recovery" means the eight-week period,
70 or longer as determined by the healthcare professional responsible
71 for the health and safety of the prisoner.

72 (f) "Menstrual hygiene products" means products that
73 women use during their menstrual cycle. This includes tampons,
74 sanitary napkins and menstrual cups.



75 (g) "Indigent" means an inmate who has less than an
76 average of Sixteen Dollars (\$16.00) in her prison account.

77 (h) "Correctional facility employee" refers to anyone
78 who is employed by the facility or the Department of Corrections.

79 (i) "State of undress" refers to a state where a female
80 is partially or fully naked, either in the shower, toilet areas, a
81 medical examination room or having a body cavity search conducted.

82 **SECTION 4. Care for incarcerated women related to pregnancy**

83 **and childbirth.** (1) Upon notification and/or diagnosis of an
84 inmate's pregnancy, and for the duration of the pregnancy, and for
85 thirty (30) days following the inmate's delivery, the Department
86 of Corrections and/or a correctional facility employee shall not
87 apply the following restraints on the pregnant inmate unless a
88 correctional facility employee has a reasonable belief that the
89 inmate will harm herself, the fetus, or any other person, or pose
90 a substantial flight risk:

91 (a) Leg restraints.

92 (b) Handcuffs or other wrist restraints, except to
93 restrain the inmate's wrists in front of her.

94 (c) No restraints connected to other inmates.

95 (2) No restraints shall be used on any pregnant inmate while
96 in labor or during delivery unless a correctional facility
97 employee has a reasonable belief that the inmate will harm
98 herself, the fetus, or any other person, or pose a substantial
99 flight risk. In such case, the correctional facility employee



100 ordering use of restraints on any female inmate while in labor or
101 during delivery shall submit a written report to the warden of the
102 facility within seventy-two (72) hours following the use of
103 restraints, containing the justification for restraining the
104 female inmate during labor and delivery.

105 (3) No facility employee of the Department of Corrections,
106 other than a certified healthcare professional, shall conduct
107 invasive body cavity searches of pregnant inmates unless the
108 correctional facility employee has a reasonable belief that the
109 female inmate is concealing contraband. In such case, the
110 correctional facility employee shall submit a written report to
111 the warden of the facility within seventy-two (72) hours following
112 the invasive search, containing the justification for the invasive
113 search and what contraband, if any was recovered.

114 (4) The Department of Corrections shall ensure that pregnant
115 inmates be provided sufficient food and dietary supplements as
116 ordered by a physician, physician staff member, or a facility
117 nutritionist to meet general accepted prenatal nutritional
118 guidelines for pregnant women.

119 (5) The Department of Corrections shall not place any
120 pregnant inmate, or any female inmate who has given birth within
121 the previous thirty (30) days, in restrictive housing unless a
122 correctional facility employee has a reasonable belief that the
123 inmate will harm herself, the fetus or any other person, or pose a
124 substantial flight risk. In such case, the correctional facility



125 employee authorizing the placement of the inmate in restrictive
126 housing shall submit a written report to the warden of the
127 facility within seventy-two (72) hours following the transfer,
128 containing the justification for confining the female inmate in
129 restrictive housing.

130 (6) The Department of Corrections shall not assign any
131 pregnant inmate to any bed that is elevated more than three (3)
132 feet from the floor of the facility.

133 (7) The warden of the facility shall compile a monthly
134 summary of all written reports received pursuant to Section (4)
135 subsections (2), (3) and (5) of this act and under Section 5 (1)
136 of this act. The warden shall submit the summary to the
137 Commissioner of the Department of Corrections each month.

138 **SECTION 5. Inmate postpartum recovery.** (1) No restraints
139 shall be used on any female inmate who has given birth within the
140 last thirty (30) days and is in postpartum recovery, unless the
141 Department of Corrections has a reasonable belief that the female
142 inmate will harm herself, her newborn, or any other person, or
143 pose a substantial flight risk. In such case, the facility
144 employee ordering use of restraints on any inmate while in
145 postpartum recovery shall submit a written report to the warden of
146 the facility within seventy-two (72) hours following the use of
147 restraints, containing the justification for restraining the
148 female inmate during postpartum recovery.



149 (2) Following the delivery of a newborn, by an inmate, the
150 Department of Corrections shall permit the newborn to remain with
151 the mother for seventy-two (72) hours unless the medical provider
152 has a reasonable belief that remaining with the mother poses a
153 health or safety risk to the newborn.

154 (3) During that time, the Department of Corrections shall
155 make available the necessary nutritional and hygiene products,
156 including diapers, to care for the newborn.

157 (4) If the female inmate qualifies as indigent, such
158 products shall be provided without cost to the inmate.

159 **SECTION 6. Family considerations in inmate placement and**

160 **visitation.** (1) To the greatest extent practicable, after
161 accounting for security and capacity factors, the Department of
162 Corrections shall place inmates who are parents of minor children
163 within two hundred fifty (250) miles of their permanent address of
164 record.

165 (2) The Department of Corrections shall promulgate
166 regulations authorizing visitation of inmates who are parents of
167 minor children with low or minimum security classifications by
168 minor dependents, with the minimum following requirements:

169 (a) Opportunities for dependent children under the age
170 of eighteen (18) to visit their incarcerated parent at least twice
171 per week unless a correctional facility employee has a reasonable
172 belief that the dependent child:

173 (i) May be harmed during visitation; or



174 (ii) Poses a security risk due to a gang
175 affiliation, prior conviction or past violation of facility
176 contraband policy.

177 (b) Eliminating restrictions on the number of dependent
178 children under the age of eighteen (18) that may be permitted
179 visitation privileges.

180 (c) Authorizing contact visits for inmates who are
181 parents of minor children.

182 **SECTION 7. Inspections by employees of the Department of**

183 **Corrections.** (1) To the greatest extent practicable, and
184 consistent with safety and order, the Commissioner of the
185 Department of Corrections shall issue regulations that limit
186 inspections by male correctional officers where a female inmate is
187 in a state of undress.

188 Nothing in this section shall limit the ability of a male
189 correctional officer from conducting inspections where a female
190 may be in a state of undress if no female correctional officers
191 are available.

192 (2) In such case that a male correctional officer deems it
193 is appropriate to conduct an inspection or search while the female
194 inmate is in a clear state of undress in an area such as the
195 shower, the medical examination room, toilet areas or where a
196 female inmate is having a body cavity search, the male
197 correctional officer shall submit a written report to the warden
198 of the facility within seventy-two (72) hours following the



199 inspection or search, containing the justification for a male
200 correctional officer to inspect the female inmate while in a state
201 of undress.

202 **SECTION 8. Access to feminine hygiene products.** The
203 Department of Corrections shall ensure that sufficient personal
204 hygiene products are available at each facility for all
205 incarcerated women.

206 **SECTION 9. Training and technical assistance.** (1) The
207 Department of Corrections shall develop and provide to all
208 correctional facility employees and correctional officers who have
209 contact with pregnant inmates training related to the physical and
210 mental health of pregnant inmates and fetuses, including the
211 following:

212 (a) General care of pregnant women;

213 (b) The impact of restraints on pregnant inmates and
214 fetuses;

215 (c) The impact of being placed in restrictive housing
216 on pregnant inmates; and

217 (d) The impact of invasive searches on pregnant
218 inmates.

219 (2) The Department of Corrections shall develop and provide
220 educational programming for pregnant inmates related to:

221 (a) Prenatal care;

222 (b) Pregnancy-specific hygiene;

223 (c) Parenting skills;



224 (d) The impact of alcohol and drugs on the fetus; and

225 (e) General health of child.

226 **SECTION 10.** This act shall take effect and be in force from
227 and after July 1, 2021.

