



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5051/P2
MLJ:emw&amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to create* 302.085 of the statutes; **relating to:** the treatment of a
2 pregnant or postpartum person in prison and county jail.

Analysis by the Legislative Reference Bureau

This bill limits the use of physical restraints on pregnant and postpartum people who are in the custody of a correctional facility. Under the bill, a pregnant person may not be restrained unless the restraints are reasonably necessary for the legitimate safety and security needs of the person, correctional staff, or public, and any restraints used must be the least restrictive possible. In addition, the bill provides that a person who is in labor or has given birth in the preceding three days may be restrained only in very limited circumstances.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 302.085 of the statutes is created to read:

4 **302.085 Treatment of a pregnant or postpartum person. (1) DEFINITIONS.**

5 In this section:

6 (a) “Correctional facility” has the meaning given in s. 101.123 (1) (ac).

1 (b) "Restrain" means to use a mechanical, chemical, or other device to constrain
2 the movement of a person's body or limbs.

3 (2) RESTRAINING A PREGNANT PERSON. (a) A representative of a correctional
4 facility may not restrain a person known to be pregnant unless the representative
5 makes an individualized determination that restraints are reasonably necessary for
6 the legitimate safety and security needs of the person, correctional staff, or public.
7 If restraints are determined to be necessary, the restraints must be the least
8 restrictive effective type and the most reasonable under the circumstances.

9 (b) A representative of a correctional facility may not restrain a person known
10 to be pregnant while the person is being transported if the restraint is through the
11 use of leg irons, waist chains or other devices that cross or otherwise touch the
12 person's abdomen, or handcuffs or other devices that cross or otherwise touch the
13 person's wrists when affixed behind the person's back.

14 (c) A representative of a correctional facility may restrain a person who is in
15 labor or who has given birth in the preceding 3 days only if all of the following apply:

16 1. There is a substantial flight risk or some other extraordinary medical or
17 security circumstance that requires restraints be used to ensure the safety and
18 security of the person, the staff of the correctional or medical facility, other inmates,
19 or the public.

20 2. The representative has made an individualized determination that
21 restraints are necessary to prevent escape or injury.

22 3. There is no objection to the use of restraints by the treating medical care
23 provider.

24 4. The restraints used are the least restrictive effective type and are used in
25 the least restrictive manner.

