

**SUBSTITUTE FOR  
SENATE BILL NO. 830**

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
(MCL 791.201 to 791.285) by adding section 65j.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 65j. (1) Except as otherwise provided in this section, an  
2 employee of the department shall not restrain an incarcerated  
3 individual who is known to be pregnant or is within a postpartum  
4 period unless the employee makes an individualized determination,  
5 with explicit permission from a ranking prison administrator after  
6 consultation with health care staff, that restraints are reasonably  
7 necessary for the legitimate safety and security needs of the  
8 incarcerated individual, correctional facility employees, other  
9 incarcerated individuals, or the public. Subject to subsection (4),



1 an employee may make an individualized determination to temporarily  
2 place an individual who is known to be pregnant or is within a  
3 postpartum period in handcuffs secured in front of the individual's  
4 body without explicit permission from the ranking prison  
5 administrator to protect the incarcerated individual, correctional  
6 facility employees, other incarcerated individuals, or the public.  
7 If restraints are temporarily placed on an individual under this  
8 subsection, the restraints must be removed within 1 hour unless the  
9 employee obtains explicit permission from the ranking prison  
10 administrator to maintain the use of the restraint beyond 1 hour.  
11 If restraints are determined to be necessary, the restraint must be  
12 the least restrictive restraint that is appropriate for the  
13 circumstance.

14 (2) Subject to this subsection, an employee of a correctional  
15 facility may restrain an incarcerated individual who is known to be  
16 pregnant or is within a postpartum period while the incarcerated  
17 individual is being transported through the use of handcuffs placed  
18 on the wrists of the individual in front of the individual's body.  
19 If the treating medical care provider determines the individual is  
20 in labor or the restraint must be removed to provide medical  
21 treatment during transport, the employee shall request permission  
22 from the ranking prison administrator to remove the restraint and  
23 shall immediately remove the restraint if the administrator gives  
24 that permission. An employee of a correctional facility shall not  
25 restrain an incarcerated individual who is known to be pregnant or  
26 is within a postpartum period while the incarcerated individual is  
27 being transported if the restraint is through the use of leg  
28 restraints, waist chains, or another device that impairs the  
29 incarcerated individual's ability to walk or touches the



1 incarcerated individual's abdomen unless all of the following  
2 conditions apply:

3 (a) There is a substantial flight risk or another  
4 extraordinary medical or security circumstance that dictates the  
5 type of restraint must be used to ensure the safety and security of  
6 the incarcerated individual, correctional facility employees, other  
7 incarcerated individuals, or the public.

8 (b) The employee has made an individualized determination,  
9 with explicit permission from a ranking prison administrator in  
10 consultation with health care staff, that the type of restraint is  
11 necessary to prevent escape or injury.

12 (c) The restraint is the least restrictive restraint that is  
13 appropriate for the circumstance.

14 (3) An employee of the department may not place an  
15 incarcerated individual who is known to be pregnant or is within a  
16 postpartum period in segregation or isolating conditions unless any  
17 of the following circumstances apply:

18 (a) The incarcerated individual is placed in a therapeutic  
19 observation status by a qualified mental health provider due to a  
20 risk that the incarcerated individual will engage in self-harm.

21 (b) The incarcerated individual makes a bona fide request for  
22 protection that requires temporary isolation.

23 (c) The incarcerated individual requires medical isolation  
24 pursuant to policies related to the spread of a communicable  
25 disease.

26 (d) The incarcerated individual is placed on non-bond status  
27 due to a class I misconduct.

28 (4) An employee of a correctional facility may restrain an  
29 incarcerated individual who is in labor or who has given birth



1 within the preceding 3 days only if all of the following conditions  
2 apply:

3 (a) There is a substantial flight risk or another  
4 extraordinary medical or security circumstance that dictates  
5 restraints be used to ensure the safety and security of the  
6 incarcerated individual, correctional facility employees, other  
7 incarcerated individuals, or the public.

8 (b) The employee has made an individualized determination,  
9 with explicit permission from a ranking prison administrator and  
10 the treating medical care provider, that restraints are necessary  
11 to prevent escape or injury.

12 (c) The restraints used are the least restrictive restraint  
13 that are appropriate for the circumstance.

14 (5) If restraints are used on an incarcerated individual who  
15 is known to be pregnant or is within a postpartum period, an  
16 employee of the correctional facility shall document, in writing,  
17 all of the following:

18 (a) The reason for the use of restraints.

19 (b) The type of restraints used.

20 (c) An assessment of the reasons the restraints used were the  
21 least restrictive type that were appropriate for the circumstance.

22 (d) The reasons the prison administrator, in consultation with  
23 health care staff, approved the use of the restraints.

24 (6) Upon arriving at a reception center designated under  
25 section 67(1), the department must offer pregnancy testing to each  
26 incoming female incarcerated individual who is not more than 55  
27 years of age. An individual offered testing on arrival at the  
28 reception center under this subsection must be offered an  
29 additional pregnancy test not more than 14 days after arrival.



1           (7) The department must allow an incarcerated individual who  
2 is known to be pregnant to develop a birth plan with the assistance  
3 of a physician who is board certified as an obstetrician-  
4 gynecologist, a certified nurse midwife, or an individual providing  
5 doula services. Subject to department policies on informed consent  
6 and medical necessity, the department shall allow for autonomy in  
7 treatment decisions for the incarcerated individual during the  
8 birth process and the postpartum period, including, but not limited  
9 to:

10           (a) If the incarcerated individual has an opioid use disorder,  
11 access to medicated-assisted treatment that will be provided by the  
12 department.

13           (b) Access to medically necessitated best practices for care  
14 and services as determined appropriate by the department.

15           (8) The department must ensure every incarcerated individual  
16 who has given birth within the last 12 months and is producing  
17 breast milk is provided all of the following opportunities:

18           (a) To breast-feed the infant child of the incarcerated  
19 individual during any visit with the infant.

20           (b) To express breast milk for the infant child of the  
21 incarcerated individual.

22           (c) To express breast milk for disposal at the correctional  
23 facility to allow for breast feeding to continue after the  
24 incarcerated individual is released.

25           (9) Subject to sufficient appropriation, the department shall  
26 provide the necessary supplies, including a breast pump and  
27 appropriate, sanitary containers for storage to an incarcerated  
28 individual who expresses her breast milk as authorized under  
29 subsection (8) (b) or (c) and must not restrict the individual's



1 access to the supplies. The department must allow an incarcerated  
2 individual who expresses her breast milk as authorized under  
3 subsection (8) (b) to have the breast milk stored under  
4 refrigeration until it is picked up by a person the incarcerated  
5 individual has authorized for that purpose. In addition to any  
6 other immunity or defense otherwise provided by law, the department  
7 is not liable for any loss or injury sustained once an incarcerated  
8 individual's breast milk is relinquished to the person authorized  
9 to pick up the breast milk under this subsection.

10 (10) The department must allow an incarcerated individual to  
11 have access to doula services if the incarcerated individual is  
12 known to be pregnant or has given birth not more than 6 weeks  
13 before she arrived at a reception center designated under section  
14 67(1). A support person who has completed birth planning with the  
15 pregnant incarcerated individual and has been cleared using the law  
16 enforcement information network as provided in the C.J.I.S. policy  
17 council act, 1974 PA 163, MCL 28.211 to 28.215, may be present in  
18 the delivery room with the pregnant incarcerated individual, along  
19 with an individual providing doula services. An employee of the  
20 department who is on duty may be present in the delivery room  
21 during the pregnant incarcerated individual's labor and delivery of  
22 her child.

23 (11) The department shall provide more frequent visitation for  
24 a female incarcerated individual who is breastfeeding a child who  
25 is less than 12 months old.

26 (12) An employee of the correctional facility who may have  
27 contact with incarcerated individuals who are pregnant or within a  
28 postpartum period and are incarcerated in the facility must receive  
29 annual training on the provisions of this section.



1 (13) An incarcerated individual known to be pregnant must be  
2 asked to designate a person to receive updates about her medical  
3 condition. A person designated under this subsection must be  
4 notified when that incarcerated individual is transported to a  
5 hospital for purposes of labor or delivering the child.

6 (14) Except as provided in subsection (16), the department  
7 shall not limit the visitation of an incarcerated individual with  
8 her child during the following periods:

9 (a) The period after the incarcerated individual delivers that  
10 child until the incarcerated individual is transported back to the  
11 correctional facility.

12 (b) Any admission of the child into a neonatal intensive care  
13 unit.

14 (15) The department shall provide quarterly reports to the  
15 legislature and to the public that include all of the following  
16 information regarding incarcerated individuals in correctional  
17 facilities:

18 (a) The number who are pregnant women.

19 (b) The race and age of each pregnant woman.

20 (c) The number of women with a high-risk pregnancy.

21 (d) The number of off-site medical appointments for pregnant  
22 women, categorized by the race and age of the incarcerated  
23 individual.

24 (e) The number of on-site medical appointments for pregnant  
25 women, categorized by the race and age of the incarcerated  
26 individual.

27 (f) The documentation required under subsection (5).

28 (16) The department may limit the visitation under subsection  
29 (14) if both of the following apply:



1 (a) The incarcerated individual has a documented history of  
2 child abuse or neglect or has been convicted of child abuse.

3 (b) A licensed bachelor's social worker or licensed master's  
4 social worker who has reviewed the details of the documented  
5 history or conviction under subdivision (a) and the proposed  
6 visitation with the warden of the correctional facility makes a  
7 recommendation opposing contact between the incarcerated individual  
8 and the child.

9 (17) As used in this section:

10 (a) "Doula services" means childbirth education and support  
11 services, including emotional, physical, and informational support  
12 provided during pregnancy, labor, birth, and the postpartum period.

13 (b) "Health care staff" means an employee of the department  
14 who provides health care to incarcerated individuals and who is not  
15 a correctional officer.

16 (c) "Incarcerated individual" means an individual who is under  
17 the jurisdiction of the department and has not been released on  
18 parole or discharged.

19 (d) "Postpartum" means the 12 weeks following childbirth.

20 (e) "Treating medical care provider" means a physician who is  
21 licensed under part 170 or 175 of the public health code, 1978 PA  
22 368, MCL 333.17001 to 333.17097, and 333.17501 to 333.17556, has a  
23 physician-patient relationship with the individual at issue, and is  
24 not employed by the department.

25 Enacting section 1. This amendatory act takes effect 90 days  
26 after the date it is enacted into law.

