

What Will It Take To Pass Legislation to Limit Shackling of Pregnant Women Prisoners?

From

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In a time when the Iowa legislature is deadlocked politically, and little that benefits the common good seems to get passed, it is worrisome that legislation having bi-partisan support, plus support from a broad coalition of Iowans, can't be passed.

Shackling is a common restraint practice used when transporting prisoners to doctor visits or hospital stays. However, when a woman prisoner is pregnant, shackling poses dangers to the woman and her pregnancy because she is unable to walk normally and is more likely to trip or fall. Also, if she trips, she is not likely to be able to use her hands and arms effectively to break her fall without injury. Shackling during the latter months of pregnancy, labor, delivery, and immediately after delivery is dangerous to both the mother and her infant.

The shackling of pregnant women prisoners is decried internationally as a human rights abuse, and US Federal Courts have found the practice to be in violation of the protections of the Eighth Amendment of the US Constitution. The practice is likewise opposed by the American College of Gynecologist and Obstetricians (ACOG), and the American Medical Association (AMA).

In 2013, legislation before the Iowa General Assembly failed to pass in spite of bi-partisan support and the support of a coalition of organizations including The Board of Corrections for the Iowa Department of Corrections, Child and Family Policy Center, Iowa Medical Society- Iowa Catholic Conference, Iowa Right to Life Committee, and National Association of Social Workers, Iowa Chapter. In 2014, similar legislation was proposed that would require rule making to severely limit the circumstances under which the use of shackling restraints on pregnant prisoners and detainees could be used. After being passed unanimously in the Senate, the legislation failed because it was never assigned to a subcommittee or considered by the House Judiciary Committee.

In 1999 Illinois became the first state to ban shackling during childbirth. In 2008, the United States adopted a federal anti-shackling policy, but application of the policy is limited to prisons and detention centers operated by the federal government. In 2009 the Eighth Circuit Court of Appeals (whose jurisdiction includes the state of Iowa) found that in the Arkansas case of *Nelson v. Correctional Medical Services, et al.* Nelson's constitutional protections under the Eighth Amendment had been violated when prison staff kept Nelson shackled during labor and immediately following delivery causing permanent injuries to Nelson. Currently 18 states have developed procedures to insure the safety and security of pregnant prisoners during transport, labor, and delivery.

Beyond the issues of inmate health and safety, and the protections afforded inmates by the constitution, the state of Iowa and the Department of Corrections are vulnerable to lawsuits that might be brought on behalf of women or their babies that suffer physical injury due to shackling.

Despite the demonstrated ability of 18 other states to develop and implement procedures to monitor pregnant women safely without shackling, Iowa has failed to develop such policies for Iowa's prisons, jails, and detention facilities, and the Iowa legislature has failed to require the Department of Corrections to do so.

Why can't Iowa have legislation to limit this dangerous, inhumane, and painful practice?