

**STATE OF RHODE ISLAND
DEPARTMENT OF CORRECTIONS
PUBLIC NOTICE OF PROPOSED RULE-MAKING**

In accordance with Rhode Island General Laws (RIGL) § 42-35-3, notice is hereby given that the RI Department of Corrections (RIDOC) proposes to adopt the following RIDOC rule:

9.17 DOC Use of Restraints on Pregnant Detainees of Inmates

This new rule specifies the procedures to follow, as outlined in RIGL §42-56.3-1, the Healthy Pregnancies for Incarcerated Women Act, for the use of restrains on pregnant detainees or inmates when they are transported to an outside medical facility and during hospital stays.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the RI Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) and the RIDOC website (<http://www.doc.ri.gov/index.php>) or available in hard copy upon request (401) 462-3533. Interested persons should submit written comments by Friday, January 6, 2012, to Gina Caruolo, Chief, Program and Policy Development, RI Department of Corrections, 1375 Pontiac Avenue, Cranston, RI 02920 (gina.caruolo@doc.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

RIDOC does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE



POLICY NUMBER:

9.17 DOC

SUPERSEDES:

N/A

EFFECTIVE DATE:

Draft #2

10/13/2011

DIRECTOR:

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**SECTION:
SECURITY & CONTROL**

**SUBJECT: USE OF RESTRAINTS ON
PREGNANT DETAINEES OR
INMATES**

AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22), Powers of the director; § 42-56.3-1, Healthy Pregnancies for Incarcerated Women Act;

REFERENCES: NCCHC Position Statement (10/10/2010), RIDOC policy 1.07-4 DOC; Public Access to Departmental Records/Inmate Information

INMATE / PUBLIC ACCESS? X YES NO

AVAILABLE IN SPANISH? X YES NO

Public Hearing?

X Yes

No

GMC
Initials

I. PURPOSE:

To specify the procedures to follow for the use of restraints on pregnant detainees or inmates and when they are transported to an outside medical facility and during hospital stays.

II. POLICY:

A. Whenever RIDOC staff has actual or constructive knowledge that a detainee or inmate is in the second or third trimester of pregnancy, any restraints used on the pregnant detainee or inmate are only those deemed medically appropriate.

B. RIDOC is committed to providing safe transport of pregnant detainees or inmates.

Public Notice:

Public Hearing:

- C. If restraints are used on a pregnant detainee or inmate, the type of restraint applied and the application of the restraint is done in the least restrictive manner necessary.

III. PROCEDURES:

A. General Restraint Procedures

Whenever RIDOC staff has actual or constructive knowledge that a detainee or inmate is in the second or third trimester of pregnancy, any restraints used on the pregnant detainee or inmate are only those deemed medically appropriate.

B. Transport, Labor and Delivery Restraint Procedures

1. Transport

- a. No handcuffs, shackles or other restraints are used on a detainee or inmate known to be pregnant during transport to a medical facility unless there are compelling grounds to believe that the detainee or inmate presents:

- (1) An immediate and serious threat of physical harm to herself, staff or others; or
- (2) A substantial flight risk and cannot be reasonably contained by other means.

- b. If handcuffs, shackles or other restraints are used on a pregnant detainee or inmate, the type of restraint applied and the application of the restraint is done in the least restrictive manner necessary.

2. Labor and Delivery

- a. Under no circumstances can leg or waist restraints be used on any detainee or inmate during labor and delivery.
- b. To use handcuffs, compelling grounds to believe that the detainee or inmate presents the following must be met:
- (1) An immediate and serious threat of physical harm to herself, staff or others; or

- (2) A substantial flight risk and cannot be reasonably contained by other means

3. Postpartum

- a. For the purposes of this policy “postpartum recovery” means, as determined by her physician, the period immediately following delivery, including the entire period a woman is in the hospital or infirmary after birth.
- b. Waist restraints are not used under any circumstances during postpartum recovery.
- c. If handcuffs or leg restraints are used on a pregnant detainee or inmate, the following compelling criteria must be met and the type of restraint applied and the application of the restraint is done in the least restrictive manner necessary
 - (1) An immediate and serious threat of physical harm to herself, staff or others; or
 - (2) A substantial flight risk and cannot be reasonably contained by other means
- d. If the circumstances cited in Section II.B. 3. c. (1) or (2) exist, upon confirmation by RIDOC’s Medical Program Director that a detainee or inmate in postpartum recovery may be subject to restraint, the treating health care professional, in consultation with RIDOC’s Medical Program Director, determine whether leg or hand restraints shall be used.

NOTE: Please refer to the chart in Attachment 1 for distinctions between III. B. 1., 2., 3.

C. Removal of Restraints

If the doctor, nurse or other health care professional treating the detainee or inmate requests, based on his/her professional medical judgment, that restraints not be used, any Correctional Officer accompanying the detainee or inmate immediately removes all restraints; provided further, however, that in the absence of exigent

circumstances, as determined by the health care professional, RIDOC's Medical Program Director is first consulted.

C. Reporting Requirements

If restraints are used on a pregnant detainee or inmate, the Correctional Officer who applied the restraints submits within five (5) days of the event an Incident Report to the Shift Commander, articulating the grounds that dictated the use of restraints. These findings are kept on file by the Warden/designee and made available for public inspection (See policy 1.07-4 DOC; Public Access to Departmental Records/Inmate Information, or a successive policy). No individually identifying information of any detainee or inmate is made public without the detainee or inmate's written consent.

D. Notice

All pregnant inmates and detainees affected by this policy shall be advised of the requirements of RIGL § 42-56.3-1 upon admission to RIDOC Women's Facilities and when known to be pregnant. Said notification shall be made through the Women's Facilities Handbook.

ATTACHMENT 1

Whenever RIDOC staff has actual or constructive knowledge that a detainee or inmate is in the second or third trimester of pregnancy, any restraints used on the pregnant detainee or inmate are only those deemed medically appropriate.

Situation	Restraint(s)
Transport	No handcuffs, shackles or other restraints.*
Labor	No leg or waist restraints – NO EXCEPTIONS. No handcuffs.*
Delivery	No leg or waist restraints – NO EXCEPTIONS. No handcuffs.*
Postpartum	No waist restraints – NO EXCEPTIONS. No handcuffs or leg restraints.*

*NOTE – Unless there are compelling grounds to believe that the detainee or inmate presents:

- (1) An immediate and serious threat of physical harm to herself, staff or others; or
- (2) A substantial flight risk and cannot be reasonably contained by other means.