

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 119

Introduced by Cavanaugh, M., 6; Blood, 3.

Read first time January 07, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Healthy Pregnancies for Incarcerated
- 2 Women Act; to amend sections 47-1001 and 47-1003, Revised Statutes
- 3 Cumulative Supplement, 2020; to define terms; to provide for
- 4 breastfeeding and milk expression by a prisoner or detainee and for
- 5 a mother and infant to live together; to require a parent separation
- 6 policy; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 47-1001, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 47-1001 Sections 47-1001 to 47-1007 and section 3 of this act shall
4 be known and may be cited as the Healthy Pregnancies for Incarcerated
5 Women Act.

6 Sec. 2. Section 47-1003, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 47-1003 For the purposes of the Healthy Pregnancies for Incarcerated
9 Women Act:

10 (1) Administrator means the Director of Correctional Services, the
11 sheriff or other person charged with administration of a jail, or any
12 other official responsible for the administration of a detention
13 facility;

14 (2) Detainee includes any adult or juvenile female detained under
15 the immigration laws of the United States at any detention facility;

16 (3) Detention facility means any:

17 (a) Facility operated by the Department of Correctional Services;

18 (b) City or county jail;

19 (c) Juvenile detention facility or staff secure juvenile facility as
20 such terms are defined in section 83-4,125; or

21 (d) Any other entity or institution operated by the state, a
22 political subdivision, or a combination of political subdivisions for the
23 careful keeping or rehabilitative needs of prisoners or detainees;

24 (4) Infant means a child twenty-four months of age or younger;

25 (5) {4} Labor means the period of time before a birth during which
26 contractions are of sufficient frequency, intensity, and duration to
27 bring about effacement and progressive dilation of the cervix;

28 (6) Lactating means secreting breastmilk from the mammary glands
29 post-pregnancy;

30 (7) {5} Postpartum recovery means, as determined by her physician,
31 the period immediately following delivery, including the entire period a

1 woman is in the hospital or infirmary after birth;

2 (8) ~~(6)~~ Prisoner means any adult or juvenile incarcerated or
3 detained in any detention facility and includes, but is not limited to,
4 any adult or juvenile who is accused of, convicted of, sentenced for, or
5 adjudicated for violations of criminal law or the terms and conditions of
6 parole, probation, pretrial release, post-release supervision, or a
7 diversionary program; and

8 (9) ~~(7)~~ Restraints means any physical restraint or mechanical device
9 used to control the movement of a prisoner or detainee's body or limbs,
10 including, but not limited to, flex cuffs, soft restraints, hard metal
11 handcuffs, a black box, Chubb cuffs, leg irons, belly chains, a security
12 or tether chain, or a convex shield.

13 Sec. 3. (1) In any youth rehabilitation and treatment center or
14 Department of Correctional Services adult correctional facility that
15 incarcerates, detains, or houses women, a prisoner or detainee or a
16 juvenile placed at such youth rehabilitation and treatment center who is
17 lactating shall be given the opportunity to either nurse such prisoner's,
18 detainee's, or juvenile's infant or express milk to be given to such
19 infant.

20 (2) In any youth rehabilitation and treatment center or Department
21 of Correctional Services adult correctional facility that incarcerates,
22 detains, or houses women, any infant shall not be separated from a
23 prisoner, detainee, or juvenile who birthed such infant unless the
24 administrator of the facility or center makes and documents an
25 individualized determination that remaining with such prisoner, detainee,
26 or juvenile presents a clear and imminent danger to such infant. Such
27 determination shall be based solely upon the presenting behaviors of such
28 prisoner, detainee, or juvenile in relation to her infant, and not upon
29 administrative convenience.

30 (3) Any youth rehabilitation and treatment center or Department of
31 Correctional Services adult correctional facility that incarcerates,

1 detains, or houses women shall develop a parent separation policy and
2 make such policy publicly available. Such policy shall include, but not
3 be limited to, the process for placing an infant born of a prisoner,
4 detainee, or juvenile, information regarding the parental rights of a
5 prisoner, detainee, or juvenile, and the plan to provide for a lactating
6 prisoner, detainee, or juvenile.

7 (4)(a) Any youth rehabilitation and treatment center or Department
8 of Correctional Services adult correctional facility that incarcerates,
9 detains, or houses women may allow a pregnant prisoner, detainee, or
10 juvenile to live in a space dedicated for mothers and their infants to
11 live together, prior to giving birth, as space allows.

12 (b) If a youth rehabilitation and treatment center or a Department
13 of Correctional Services adult correctional facility that incarcerates,
14 detains, or houses women operates a nursery program for incarcerated or
15 detained women to live in a space dedicated for mothers and their infants
16 to live together, the guidelines for admittance to such nursery program
17 shall be made publicly available and made available to each pregnant
18 woman incarcerated or detained at such facility.

19 Sec. 4. Original sections 47-1001 and 47-1003, Revised Statutes
20 Cumulative Supplement, 2020, are repealed.