

**HB 2535 A STAFF MEASURE SUMMARY****Carrier:** Rep. Reynolds**House Committee On Judiciary****Action Date:** 03/09/23**Action:** Do pass with amendments and rescind subsequent referral to Ways and Means. (Printed A-Eng.)**Vote:** 9-0-1-0**Yeas:** 9 - Andersen, Chaichi, Conrad, Kropf, Lewis, Morgan, Reynolds, Tran, Wallan**Exc:** 1 - Bynum**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Patricia Pascone, LPRO Analyst**Meeting Dates:** 2/27, 3/9**WHAT THE MEASURE DOES:**

Directs the Department of Corrections (DOC) to establish a doula program at Coffee Creek Correctional Facility for adults in custody (AIC) who are pregnant or who have given birth in the past year. Specifies provision of doula services for physical, emotional, and informational support, including culturally specific and trauma-informed birth plans, and support and assistance during labor, childbirth, and the postpartum period. Permits DOC to partner with community-based professionals, and directs that one employee be point of contact for such partners. Requires DOC transport officers have a policy checklist and copy of the birth plan and document any variance from the birth plan. Restricts use of mechanical restraints during labor, childbirth, or postpartum recovery in the hospital unless reasonably necessary for public safety and security of the AIC, correctional staff, other persons, or the public. Provides mechanical restraints must not present a medical risk to the AIC, be in the least restrictive manner possible, and not interfere with holding or nursing the infant or receiving postpartum care from hospital staff. Requires AIC transport after giving birth be medically appropriate and the least restrictive means to ensure safe transport. Directs DOC to develop procedures regarding the use of mechanical restraints and documentation of policy checklist variances. Requires DOC to report to the Legislative Assembly by March 15, 2024, on implementation actions taken and procedures developed; reporting requirement sunsets on January 2, 2025. Specifies operative date of June 1, 2024, for provisions establishing doula program, restricting medical restraints, and means of transport. Takes effect on 91st day following adjournment sine die.

**ISSUES DISCUSSED:**

- Conditions of pregnancy's effects on baby
- Studies in Minnesota's Adults in custody (AIC) doula program showed it reduced caesarian rates
- Doulas to be supplied by outside agencies at no cost
- Concerns regarding escapes
- Approximately 12 women per year give birth while in custody at Coffee Creek
- Coffee Creek AICs' birthing experiences while in custody

**EFFECT OF AMENDMENT:**

Removes requirement for Department of Corrections (DOC) to create a pregnancy coordinator; requires one employee to be the point of contact for Coffee Creek doula providers. Removes shackling and body cavity search provisions. Restricts use of mechanical restraints during labor, childbirth, or postpartum recovery in the hospital unless reasonably necessary for safety and meeting other specified requirements. Requires that adults in custody transport after giving birth be medically appropriate and the least restrictive means to ensure safe transport. Removes requirement to document and file any variance from policy checklist. Directs DOC to develop procedures regarding the use of mechanical restraints and documentation of policy checklist variances, and to report to the

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### **BACKGROUND:**

Minnesota and Alabama have prison doula programs in partnership with a nonprofit provider of doula services. The nonprofit provides supplemental training specific to serving incarcerated individuals. Data from the Center for Disease Control and Prevention indicate that mothers in the Alabama Prison Birth Project had lower rates of caesarian sections, preterm birth, and low birth weight, and higher rates of breast feeding, as compared to the general Alabama population. Wisconsin is also currently considering legislation to create a prison doula program.

The U.S. Department of Justice conducted a study in 2014 for its National Task Force on the Use of Restraints with Pregnant Women under Correctional Custody, and reported that approximately four percent of adults in custody in state prisons reported being pregnant at intake, and approximately five percent of adults in custody in jails were pregnant at intake. In 2018, the U.S. Congress passed the First Step Act, which prohibits U.S. Marshals or Bureau of Prisons corrections officials from restraining pregnant or postpartum prisoners when safe to do so.

House Bill 2535 A establishes a doula program at the Coffee Creek Correctional facility, directs the Department of Corrections to develop procedures, restricts certain mechanical restraint of pregnant or postpartum adults in custody during labor, delivery or postpartum recovery in the hospital, and requires medically appropriate and least restrictive means of transport.