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Senate Judiciary Committee

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Sponsor Testimony SB 18

Chair Eklund, Vice Chair Manning, Ranking Member Thomas and members of the Senate Judiciary committee, thank you for the opportunity to testify on SB 18, the Prohibition of Restraints on Pregnant Prisoners Act.

This legislation prohibits corrections officers and law enforcement personnel from shackling pregnant inmates with physical restraints during the inmate's third trimester (month 6-9) of pregnancy, labor and delivery. This legislation would also prohibit law enforcement officials from placing an inmate in her third trimester of pregnancy, through labor and delivery into solitary confinement.

Writer and activist Victoria Law said, "Imagine being pregnant and going into labor. Now imagine having handcuffs around your wrists attached to a chain, leading to a chain wrapped around your waist. Another chain leads from your waist to your feet, where cuffs keep them only inches apart. This is a practice known as shackling."¹

Overwhelming evidence shows that physical restraints are dangerous to both mothers and their developing fetus after the second trimester as well as during labor and delivery. The practice of shackling pregnant women is especially dangerous as these restraints can affect balance making pregnant women unsteady on their feet with great risk of falling, which could harm the mother and fetus.² During labor and delivery, the practice of shackling can often delay or prevent practitioners from providing medically necessary care.³

¹ <https://www.theguardian.com/us-news/2015/feb/13/mothers-prison-illegal-shackled-while-giving-birth>

² https://www.washingtonpost.com/local/public-safety/bipartisan-bill-would-outlaw-shackling-of-pregnant-inmates-in-federal-prisons/2018/09/12/26fd0988-b5cd-11e8-a7b5-adaaa5b2a57f_story.html?utm_term=.af70120a71e9

³ <https://www.nytimes.com/2018/12/06/nyregion/pregnant-inmate-shackled-lawsuit.html>

There is universal consensus among every court that has addressed this issue—that the practice of shackling pregnant inmates constitutes unnecessary and wanton infliction of pain under the protections of eighth amendment.⁴

Dr. Patricia Garcia, an obstetrician and gynecologist at Northwestern University's Prentice Women's Hospital, detailed the extreme dangers of shackling nearly two decades ago.⁵

“Women in labor need to be mobile so that they can assume various positions as needed and so they can quickly be moved to an operating room. Having the woman in shackles compromises the ability to manipulate her legs into the proper position for necessary treatment. The mother and baby's health could be compromised if there were complications during delivery, such as hemorrhage or decrease in fetal heart tones. If there were a need for a C-section (caesarian delivery), the mother needs to be moved to an operating room immediately, and a delay of even five minutes could result in permanent brain damage for the baby. The use of restraints creates a hazardous situation for the mother and the baby, compromises the mother's ability postpartum to care for her baby and keeps her from being able to breast feed.”

Increasingly, states are passing legislation to protect pregnant inmates from this violation of rights, with West Virginia, Illinois and Pennsylvania, just three of our neighboring states that have passed legislation banning or severely curtailing the shackling of pregnant inmates.⁶

While systemic issue reports from Ohio's Correctional Institution Inspection Committee imply that the Ohio Department of Corrections does have security policies regarding the physical restraint of pregnant inmates, these policies are not made public.⁷ Without having detailed documentation, there is little guarantee that pregnant inmates and developing infants are afforded the safety, health and dignity they are entitled to. There are no other barriers in Ohio to prevent this brutal practice. Anecdotal reports from healthcare providers suggest that this practice continues.

⁴ <http://www.opn.ca6.uscourts.gov/opinions.pdf/13a0059p-06.pdf>

⁵ <https://www.amnestyusa.org/reports/usa-not-part-of-my-sentence-violations-of-the-human-rights-of-women-in-custody/>

⁶ <https://www.aclu.org/other/aclu-briefing-paper-shackling-pregnant-women-girls-us-prisons-jails-youth-detention-centers>; page 1

⁷ <http://www.ciic.state.oh.us/docs/Women's%20Healthcare%202012%20Final.pdf>

Moreover, I was approached by an emergency room nurse in my community who witnessed women giving birth in shackles and described to me the health and safety concerns as well as emotional duress this puts a women through.

It is imperative that we consider women's health and neonatal health in Ohio's Corrections system by virtue of the sheer rate women are incarcerated at in the United States. Only 4% of the world's female population lives in the U.S., but the U.S. accounts for over 30% of the world's incarcerated women.⁸ The state of Ohio's average female incarceration rate is higher than the national average by more than ten incarcerations.

Women's prison population growth outpaces men's in Ohio⁹. The opioid epidemic is drastically increasing the rate at which women are incarcerated in Ohio.¹⁰ Unfortunately, the state's corrections infrastructure has demonstrated that it is ill prepared to handle the unique medical needs of women, particularly with such a marked influx in female inmates. In a Butler County facility, an incarcerated woman gave birth to her child in a jail toilet. Subsequently, a corrections officer "scooped" the newborn out of the toilet and stabilized the child with a towel. Two more children were born in that same facility in the following years.¹¹

This alarming inability or unwillingness to recognize when a woman is in labor is egregious. This is not what reproductive care looks like. This legislation is the first step to ensuring incarcerated women in Ohio are given the dignity, health and safety they deserve. As public servants, we have an obligation to ensure that the people of Ohio are protected by the rights they are guaranteed in this country--this includes incarcerated women.

The following organizations have supported this legislation in other states: the American College of Obstetricians and Gynecologists, the American Medical Association and the American College of Nurse-Midwives, the American Public Health Association, the Federal Bureau of Prisons, and the American Correctional Association.¹²

⁸ <https://www.prisonpolicy.org/global/women/2018.html>

⁹ https://www.prisonpolicy.org/reports/women_overtime.html

¹⁰ <https://www.pri.org/stories/2018-04-02/opioids-land-more-women-prison-ohio-finds-alternative-treatments>

¹¹ <https://www.mydaytondailynews.com/news/crime--law/pregnant-inmates-have-local-jails-scrambling-provide-care/iSYcVXihpmoVmoHzEVhNbO/>

¹² <https://www.ama-assn.org/sites/default/files/media-browser/specialty%20group/arc/shackling-pregnant-prisoners-issue-brief.pdf>

Lastly in January of this year, the President sign a bipartisan piece of criminal justice reform legislation entitled The First Step Act which would prohibit the shackling of pregnant prisoners in federal custody, except in certain cases.¹³ This marked a major milestone in the ongoing battle to end this brutal, inhumane, and unnecessary practice.

Thank you for your consideration. We would be happy to take questions at this time.

¹³ <https://www.firststepact.org/about>