

**State Representative Nickie J. Antonio**

**Ohio House District 13**

Community and Family Advancement Committee

June 20, 2018

Sponsor Testimony HB 688

Chair Ginter, Vice Chair LaTourette, Ranking Member Boyd and members of the House Community and Family Advancement committee, thank you for the opportunity to testify on HB 688, the Prohibition of Restraints on Pregnant Prisoners Act. This legislation prohibits corrections officers from shackling pregnant inmates with physical restraints during the inmate’s third trimester of pregnancy, labor and delivery.

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]](#footnote-1)

There is overwhelming evidence demonstrating the critical risk physical restraints pose to both mothers and developing infants after the second trimester, let alone during labor and delivery.[[2]](#footnote-2) This practice impedes an incarcerated mother’s ability to protect their child should she fall – either by failing to catch herself as a result of restraints, or tripping over the shackles themselves. During labor and delivery, the practice of shackling often not only delays/prevents practitioners from providing medically necessary care, but often permanently disfigures mothers, burdening them with life-long disabilities.

There is universal consensus among every court that has addressed this issue -- the practice of shackling pregnant inmates constitutes unnecessary and wanton infliction of pain under the protections of eighth amendment.[[3]](#footnote-3) The first woman to ever bring her case to court had experienced extreme mental anguish and pain, permanent debilitating hip injury, torn stomach muscles, sciatic nerve damage and an umbilical hernia requiring surgical repair as a result of being shackled beyond the second trimester and through the delivery of her child. She was awarded a nominal $1 in damages.

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[[4]](#footnote-4):

“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, other states are passing legislation to protect pregnant inmates from this violation of rights – California, Illinois, North Carolina and New York are just three of the prominent states that have passed legislation banning or severely curtailing the shackling of pregnant inmates.

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.[[5]](#footnote-5) Without a having a higher level of accountability, 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 barbaric process.

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 5% of the world's female population lives in the U.S., but the U.S. accounts for nearly 30% of the world's incarcerated women.[[6]](#footnote-6) The state of Ohio’s average female incarceration rate falls only five incarcerations behind the national average.

Women’s prison population growth outpaces men’s in Ohio[[7]](#footnote-7). The opioid epidemic is drastically increasing the rate at which women are incarcerated in Ohio.[[8]](#footnote-8) 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.[[9]](#footnote-9)

This alarming inability or unwillingness to recognize when a woman is in labor is egregious. This is not 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.[[10]](#footnote-10)

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

1. https://www.theguardian.com/us-news/2015/feb/13/mothers-prison-illegal-shackled-while-giving-birth [↑](#footnote-ref-1)
2. https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Health-Care-for-Pregnant-and-Postpartum-Incarcerated-Women-and-Adolescent-Females [↑](#footnote-ref-2)
3. http://www.opn.ca6.uscourts.gov/opinions.pdf/13a0059p-06.pdf [↑](#footnote-ref-3)
4. https://www.amnestyusa.org/reports/usa-not-part-of-my-sentence-violations-of-the-human-rights-of-women-in-custody/ [↑](#footnote-ref-4)
5. http://www.ciic.state.oh.us/docs/Women's%20Healthcare%202012%20Final.pdf [↑](#footnote-ref-5)
6. https://www.prisonpolicy.org/global/women/ [↑](#footnote-ref-6)
7. https://www.prisonpolicy.org/reports/women\_overtime.html [↑](#footnote-ref-7)
8. https://www.pri.org/stories/2018-04-02/opioids-land-more-women-prison-ohio-finds-alternative-treatments [↑](#footnote-ref-8)
9. https://www.mydaytondailynews.com/news/crime--law/pregnant-inmates-have-local-jails-scrambling-provide-care/iSYcVXihpmoVmoHzEVhNbO/ [↑](#footnote-ref-9)
10. https://www.ama-assn.org/sites/default/files/media-browser/specialty%20group/arc/shackling-pregnant-prisoners-issue-brief.pdf [↑](#footnote-ref-10)