



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-5735/1  
MJW:cjs

## 2023 SENATE BILL 1013

February 8, 2024 - Introduced by Senators ROYS, L. JOHNSON, AGARD, CARPENTER, HESSELBEIN, LARSON, PFAFF, SMITH, SPREITZER and WIRCH, cosponsored by Representatives SUBECK, SNODGRASS, C. ANDERSON, J. ANDERSON, ANDRACA, BALDEH, BARE, BEHNKE, CLANCY, CONLEY, CONSIDINE, EMERSON, JACOBSON, JOERS, MADISON, MOORE OMOKUNDE, NEUBAUER, OHNSTAD, PALMERI, RATCLIFF, SCHUTT, SHELTON, SINICKI, STUBBS and VINING. Referred to Committee on Judiciary and Public Safety.

- 1 **AN ACT to create** 302.085 of the statutes; **relating to:** treatment of person in  
2 labor and postpartum person in prison and jail.

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### *Analysis by the Legislative Reference Bureau*

This bill limits the use of physical restraints on people who are in labor and postpartum people who are in the custody of a correctional facility. Under the bill, a person in labor or a person who has given birth in the preceding three days may not be restrained unless there is a substantial flight risk or some other extraordinary medical or security circumstance that requires restraints to be used to ensure the safety and security of the person, the staff of the correctional or medical facility, other inmates, or the public; there has been an individualized determination that restraints are necessary to prevent escape or injury or ensure the safety and security of the person, the staff of the correctional or medical facility, other inmates, or the public; there is no objection to the use of restraints by the treating medical care provider; and any restraints used are the least restrictive possible under the circumstances.

In addition, the bill requires that every woman in the custody of a correctional facility be offered testing for pregnancy, and, if pregnant, be offered testing for sexually transmitted infections. The bill also requires the correctional facility where the pregnant or postpartum person is being confined to provide information related to pregnancy, labor, and the postpartum period, and to provide access to certain health services related to pregnancy, labor, and the postpartum period.

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For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 302.085 of the statutes is created to read:

2           **302.085 Treatment of a person in labor or postpartum person. (1)**

3           DEFINITIONS. In this section:

4           (a) “Correctional facility” has the meaning given in s. 101.123 (1) (ac).

5           (b) “Doula” means a nonmedical, trained professional who provides continuous  
6           physical, emotional, and informational support during pregnancy, labor, birth, and  
7           the postpartum period.

8           (c) “Doula services” means childbirth education and support services, including  
9           emotional, physical, and informational support provided during pregnancy, labor,  
10          birth, and the postpartum period.

11          (d) “Postpartum” means the period of time following the birth of an infant to  
12          6 months after the birth.

13          (e) “Restrain” means to use a mechanical, chemical, or other device to constrain  
14          the movement of a person’s body or limbs.

15          **(2) RESTRAINING A PERSON IN LABOR OR POSTPARTUM PERSON.** (a) A representative  
16          of a correctional facility may restrain a person who is in labor or who has given birth  
17          in the preceding 3 days only if all of the following apply:

18           1. There is a substantial flight risk or some other extraordinary medical or  
19           security circumstance that requires restraints to be used to ensure the safety and  
20           security of the person, the staff of the correctional or medical facility, other inmates,  
21           or the public.

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1           2. The representative has made an individualized determination that  
2 restraints are necessary to prevent escape or injury or ensure the safety and security  
3 of the person, the staff of the correctional or medical facility, other inmates, or the  
4 public.

5           3. There is no objection to the use of restraints by the treating medical care  
6 provider.

7           4. The restraints used are the least restrictive effective type and are used in  
8 the least restrictive manner.

9           (b) All staff members who may come into contact with a person in labor or  
10 postpartum person at any correctional facility shall receive training on the  
11 requirements of this subsection on an annual basis.

12           **(3) TREATMENT OF A PREGNANT OR POSTPARTUM PERSON.** A correctional facility  
13 shall ensure all of the following for every person incarcerated at the facility:

14           (a) That every woman under 50 years of age is offered testing for pregnancy.

15           (b) That every pregnant person is offered testing for sexually transmitted  
16 infections, including HIV.

17           (c) That every pregnant person who is on a medication-assisted treatment be  
18 provided continuing medication-assisted treatment.

19           (d) That every pregnant person and every person who has given birth in the  
20 past 6 weeks is provided appropriate educational materials and resources related to  
21 pregnancy, childbirth, breastfeeding, and parenting.

22           (e) That every pregnant person and every person who has given birth in the  
23 past 6 weeks has access to doula services if these services are provided by a doula  
24 without charge to the correctional facility or the incarcerated person pays for the  
25 doula services.

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1           (f) That every pregnant person and every person who has given birth in the past  
2           6 months has access to a mental health assessment and, if necessary, mental health  
3           treatment.

4           (g) That every pregnant person and every person who has given birth in the  
5           past 6 months who is determined to be suffering from a mental illness has access to  
6           evidence-based mental health treatment including psychotropic medication.

7           (h) That every pregnant person who is determined to be suffering from  
8           depression and every person who has given birth in the past 6 months who is  
9           determined to be suffering from postpartum depression has access to  
10          evidence-based therapeutic care for depression.

11          (i) That every person who has given birth in the past 12 months whose body is  
12          producing breast milk has access to the necessary supplies and is provided an  
13          opportunity to express the breast milk as needed to maintain an active supply of  
14          breast milk.

15          (j) That every pregnant person and every person who has given birth in the past  
16          6 months is advised orally and in writing of all applicable laws and policies governing  
17          an incarcerated pregnant or postpartum person.

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(END)