**Informational Packet regarding the requirements of RCW 70.48.500 - Limiting the Use of Restraints on Pregnant Women or Youth:**

Use of Restraints

* Whenever restraints are used on a pregnant offender DURING ANY STAGE OF PREGNANCY, the restraints used must be the least restrictive available and most reasonable under the circumstances. HOWEVER, NO waist chains or leg irons may be used AT ANY TIME DURING ANY STAGE OF PREGNANCY on any offender KNOWN TO BE PREGNANT.
* While a pregnant offender is in labor or in child birth NO RESTRAINTS OF ANY KIND may be used whatsoever. However, treating physicians licensed under Title 18 RCW may request the use of hospital restraints for the medical safety of the patient.
* During transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery no restraints of any kind may be used on any pregnant offender EXCEPT IN EXTRAORDINARY CIRCUMSTANCES.
* “Extraordinary circumstances” exist where a correctional officer makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others.

Documentation of use of restraints

If it is determined that extraordinary circumstances exist and restraints are used, the correctional officer must fully document the reasons why it was determined to be extraordinary circumstances. As part of this documentation, the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances must be included/explained.

Other

* If a doctor, nurse, or other health professional treating a pregnant offender requests that restraints not be used, the officer accompanying the pregnant offender must immediately remove all restraints.
* No correctional personnel shall be present during the pregnant offender’s labor or childbirth while she is being attended to by medical personnel, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female if practicable.

Notice to Offenders:

The requirements of the law must be provided to all pregnant offenders at the time the department assumes custody of the person. The information should be provided at booking or intake and at the time an offender receives information regarding other facility rules, rights and obligations according to current agency policy.

In the case of a pregnant offender being taken into custody by a community corrections officer, the information should be provided as soon as feasible upon taking the offender into custody.

A notice or poster containing the requirements of the law must be posted in conspicuous locations in the correctional facilities, including but not limited to where medical care is provided.

Determination of Pregnancy

The law does not define what “known to be pregnant” means.

Facilities: It will be assumed that an offender is pregnant if she states she is, until proven otherwise (pregnancy test results are obtained).

Field: It will be assumed that an offender is pregnant if she states she is, offenders will not be asked if they are unless they appear to be obviously pregnant. Or unless the offender is coming from a county facility and the staff at that facility reports the offender is pregnant.

Policies should address the procedures for determining or verifying that an offender is in the third trimester of a pregnancy, particularly as it relates to the ban, except in extraordinary circumstances, on the use of restraints during transport to court or medical care during this time.

Policies should address the procedures for determining or verifying that an offender is in labor, as it relates to the absolute ban on any restraints during labor.

Retroactivity

It is prudent to provide the information in this model policy to all women known by the facility to be pregnant at the time of the effective date of the act, June 10, 2010, regardless of the date the facility assumed custody.

Definitions:

* “Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.
* “Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a pregnant offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:  
       (a) Prevent a pregnant offender from completing an act that would result in potential bodily harm to self or others or damage property;  
       (b) Remove a disruptive pregnant offender who is unwilling to leave the area voluntarily; or  
       (c) Guide an pregnant offender from one location to another.
* “Restraints" means anything used to control the movement of a person's body or limbs and includes:  
       (a) Physical restraint; or  
       (b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.
* "Postpartum recovery" means (a) the entire period a female offender is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after female offender leaves the hospital, birthing center, or clinic.
* “Transportation" means the conveying, by any means, of an incarcerated pregnant offender from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant offender from the correctional facility to a transport vehicle and from the vehicle to the other location.
* “Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.