



# Fact Sheet

## AB 568 – Skinner

### LIMITING USE OF SHACKLES ON PREGNANT INMATES

#### EXISTING LAW

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Current law mandates that no pregnant inmate may be shackled or handcuffed (by the legs or wrists) while being transported to a hospital or at any time while in labor, giving birth, or recovering from delivery (See *Penal code 3423, 5007.7, 6030(f)*). Further the Corrections Standards Authority (CSA) is tasked with developing minimum standards for state and local correctional facilities (See *Penal Code 6030*). However, current law does not address unsafe restraints practices used on women throughout their pregnancy.

#### PROBLEM

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While the passage of AB 478 (Lieber, 2005) intended to limit harmful restraints on pregnant inmates during labor, not all facilities have implemented policies that require officers to use least restrictive restraints. Currently, nearly two-thirds of county jails shackle pregnant women in ways that could cause miscarriage or other injuries.<sup>1</sup>

California has the third largest population of incarcerated women in the country. Tens of thousands of women go through county jails every year and an average of 4-7% are pregnant at some point in their custody.<sup>2</sup>

Pregnant women are frequently shackled by the ankles, wrists, belly, behind the back, and even to another person while being transported to and from a correctional facility. Most pregnant women receive sentences of less than 1 year in duration, often for first-time nonviolent, nonserious offenses.<sup>3</sup> Nevertheless, women as far along as 8 ½ months pregnant have been shackled in the most restrictive ways.

Pregnant women in correctional facilities are more likely to experience miscarriage, preeclampsia, preterm birth, and low-birth weight infants.<sup>4</sup> Studies indicate that the incidence of minor trauma, especially falls, increases as pregnancy progresses and excessive shackling poses undue health

risks to a woman throughout her pregnancy.<sup>5</sup> Despite the dangers of shackling, correctional facilities have inconsistent policies and practices for restraining pregnant incarcerated women.

Lastly, federal courts recently established that prison officials are in violation of pregnant incarcerated women's rights and may be civilly liable when they act with deliberate indifference to the woman's health and safety.<sup>6</sup>

To avoid threatening the health of pregnant women and potential legal challenges, it is critical that policies are adopted ensuring that restraints are properly used with this vulnerable population.

#### THIS BILL

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AB 568 requires the Corrections Standards Authority (CSA) to clarify standards for how pregnant women are restrained in and outside of facilities. This will protect counties and the state from being sued and ensure the health and safety of incarcerated women and their pregnancy. AB 568 establishes findings that excessive shackling significantly limits a pregnant woman's mobility and can cause serious harm to the woman and her fetus.

#### SUPPORT

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A New Way of Life Reentry Project  
ACLU (co-sponsor)  
American College of Obstetricians and Gynecologists (Sponsor)  
California Communities United Institute  
Californians United for a Responsible Budget  
Center for Young Women's Development (co-sponsor)  
Community Works West  
Families to Amend California's Three Strikes  
Justice Now  
Legal Services for Prisoners with Children (co-sponsor)  
National Council of Jewish Women  
Rainbow Services, Ltd.  
Time for Change Foundation (co-sponsor)  
Women's Community Clinic

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<sup>1</sup> Legal Services for Prisoners with Children survey in CA (2009).

<sup>2</sup> *Prisoners in 2003*, U.S. Department of Justice, Bureau of Justice Statistics (November 2004)

<sup>3</sup> Sabol W, West H, Cooper M. *Prisoners in 2008*. Washington, DC: Bureau of Justice Statistics; 2009. <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf>.

<sup>4</sup> Kyei-Aboagye K, Vragovic O, Chong D. Birth outcome in incarcerated, high risk pregnant women. *J Reprod Med*. 2000;45(3):190-194

<sup>5</sup> *Perinatal Needs of Pregnant, Incarcerated Women*. Journal of Perinatal Education (Barbara A. Hotelling, Spring 2008).

<sup>6</sup> *Nelson v. Corr. Med. Servs.*, 583 F.3d 522 (2009)