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A resolution by Supervisors Taylor (2), Dimitrijevic, Lipscomb, Sr., Alexander, Johnson, Jr., Sartori, Haas, Moore Omokunde, West, Sebring, Nicholson, and Mayo, Sr., creating a policy on the treatment of pregnant or postpartum persons in a Milwaukee County correctional facility, by recommending adoption of the following:

A RESOLUTION

WHEREAS, a recent court case brought to light that a pregnant inmate who was incarcerated at the Milwaukee County Jail was shackled during childbirth against the wishes of a certified nurse midwife; and

WHEREAS, the use of shackles on pregnant women is a practice that many people and organizations consider inhumane and outdated; and

WHEREAS, at least eighteen states, the Federal Bureau of Prisons, United States (U.S) Immigration and Customs Enforcement, the U.S. Marshals Service, and the American Correctional Association all have policies limiting the use of shackles on pregnant prisoners; and

WHEREAS, the New York Times and the American Civil Liberties Union reported that among states that restrict the shackling of pregnant inmates there are no documented cases of women in labor escaping, or causing harm to the themselves, the public, security guards, or medical staff; and

WHEREAS, the practice of restraining pregnant women using shackles or other devices, has been found by the American College of Obstetricians and Gynecologists to interfere with the ability of the physicians to safely practice medicine, to “put the health and lives of the women and unborn children at risk,” and is “demeaning and unnecessary”; and

WHEREAS, the Committee on Judiciary, Safety, and General Services, at its meeting of September 14, 2017, recommended adoption of File No. 17-523 (vote 4-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors opposes the use of restraints on pregnant or postpartum women unless there are extraordinary situations requiring restraints for the legitimate safety and security needs of the person, correctional staff, or public; and

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BE IT FURTHER RESOLVED, the following is the policy of Milwaukee County (the County):

1. A representative of a County correctional facility, including the Jail, House of Correction, and Juvenile Justice Center, may not restrain a person known to be pregnant unless the representative makes an individualized determination that restraints are reasonably necessary for the legitimate safety and security needs of the person, correctional staff, or public. If restraints are determined to be necessary, the restraints must be the least restrictive effective type and the most reasonable under the circumstances. Restraints include the use of mechanical, chemical, or other devices to constrain the movement of a person's body or limbs.
2. A representative of a County correctional facility may not restrain a person known to be pregnant while the person is being transported if the restraint is through the use of leg irons, waist chains, or other devices that cross or otherwise touch the person's abdomen, or handcuffs or other devices that cross or otherwise touch the person's wrists when affixed behind the person's back.
3. A representative of a County correctional facility may not place a person known to be pregnant in solitary confinement for any punitive purpose.
4. All staff members who may encounter a pregnant or postpartum person at any County correctional facility shall receive training on these requirements on an annual basis.
5. A representative of a County correctional facility may restrain a person in labor or who has given birth in the preceding 3 days only if all the following apply:
 - i. There is no objection to the use of restraints by the treating medical care provider.
 - ii. There is a substantial flight risk or some other extraordinary medical or security circumstance that requires restraints be used to ensure the safety and security of the person, the staff of the correctional or medical facility, other inmates, or the public.
 - iii. The representative has made an individualized determination that restraints are necessary to prevent escape or injury.
 - iv. The restraints used are the least restrictive effective type and are used in the least restrictive manner.

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- v. The safety and security of the person, staff of the correctional or medical facility, other inmates, or the public, or the risk of escape or injury, cannot be addressed using additional correctional staff instead of restraints.

; and

BE IT FURTHER RESOLVED, the Office of the County Clerk is requested to provide copies of this resolution to the Office of the Sheriff, the House of Correction, and the Delinquency and Court Services Division, Department of Health and Human Services.

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09/14/17
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