

## HB 2535 -1 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 2/27, 3/9

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#### WHAT THE MEASURE DOES:

Directs the Department of Corrections ("Department") to establish a doula program at Coffee Creek Correctional Facility for adults in custody (AIC) who are pregnant or who have given birth in the past year, and to create and fill a pregnancy coordinator position that will act as a single point of contact. Specifies provision of doula services for physical, emotional and informational support, including culturally specific and trauma-informed birth plans, and support and assistance during labor, childbirth, and the postpartum period. Permits the Department to partner with community-based professionals. Requires that Department transport officers have a policy checklist and copy of the birth plan, and document any variance from them and the reason for it. Prohibits shackling of an AIC during labor, childbirth, or postpartum recovery in the hospital, and restriction of movement that interferes with holding or nursing the infant, establishing a milk supply, or receiving specific postpartum care. Prohibits the Department from conducting a body cavity search of, or removing clothing from, an AIC arriving at a facility following childbirth, except when the search is due to a concern for safety or suspicion of contraband; only a health care professional may conduct the search.

#### ISSUES DISCUSSED:

- Conditions of pregnancy's effects on baby
- Studies in Minnesota's AIC doula program showed it reduced caesarian rates
- Doulas to be supplied by outside agencies at no cost
- Concerns regarding escapes
- Approximately 12 women per year give birth while in custody at Coffee Creek
- Coffee Creek AICs' birthing experiences while in custody

#### EFFECT OF AMENDMENT:

-1 Removes requirement for the Department to create a pregnancy coordinator; requires one employee to be the point of contact for Coffee Creek doula providers. Removes shackling and body cavity search provisions. Restricts use of mechanical restraints during labor, childbirth, or postpartum recovery in the hospital unless reasonably necessary for the public safety and security of the AIC, correctional staff, other persons, or the public. Provides mechanical restraints must not present a medical risk to the AIC, be in the least restrictive manner possible, and not interfere with holding or nursing the infant, or receiving postpartum care from hospital staff. Requires that AIC transport after giving birth be medically appropriate and the least restrictive means to ensure safe transport. Removes the requirement to document and file any variance from the policy checklist. Directs the Department to develop procedures regarding the use of mechanical restraints and documentation of policy checklist variances. Requires the Department to report by March 15, 2024, on implementation actions taken and procedures developed. Ends the reporting requirement on January 2, 2025. Adds an operative date of June 1, 2024, for provisions establishing a doula program, restricting medical restraints, and means of transport. Adds an effective date of the 91st day following adjournment sine die.

#### BACKGROUND:

The U.S. Department of Justice conducted a study in 2014 for its National Task Force on the Use of Restraints with Pregnant Women under Correctional Custody, and reported that approximately 4% of adults in custody in state

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prisons reported being pregnant at intake, and approximately 5% of adults in custody in jails were pregnant at intake. In 2018, the U.S. Congress passed the First Step Act, which prohibits U.S. Marshals or Bureau of Prisons corrections officials from restraining pregnant or postpartum prisoners when safe to do so.

HB 2535 and the proposed amendment would establish a doula program at the Coffee Creek Correctional facility, direct the Department of Corrections to develop procedures, restrict certain mechanical restraint of pregnant or post-partum adults in custody during labor, delivery or postpartum recovery in the hospital, and require a medically appropriate and least restrictive means of transport.