

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 291, Page 22, Section 190.462, Line 44, by inserting after said section and line the
3 following:
4

5 "217.199. 1. As used in this section, "healthcare products" include tampons and sanitary
6 napkins.

7 2. The director shall ensure that healthcare products are available for free to offenders while
8 confined in any correctional center of the department, in a quantity that is appropriate for the
9 healthcare needs of each offender. The director shall ensure that the healthcare products conform
10 with applicable industry standards.

11 221.520. 1. As used in this section, the following terms shall mean:

12 (1) "Extraordinary circumstance", a substantial flight risk or some other extraordinary
13 security circumstance that dictates restraints be used to ensure the safety and security of a pregnant
14 prisoner in her third trimester or a postpartum prisoner within forty-eight hours postdelivery, the
15 staff of the county or city jail or medical facility, other prisoners, or the public;

16 (2) "Labor", the period of time before a birth during which contractions are present;

17 (3) "Major bodily function", functions of the immune system, normal cell growth, and
18 digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive
19 functions;

20 (4) "Medical emergency", a condition that, based on reasonable medical judgment, so
21 complicates the medical condition of a pregnant woman as to necessitate the immediate removal of
22 restraints to avert the death of the pregnant woman or for which a delay in removal of restraints will
23 create a serious risk of substantial and irreversible physical impairment of a major bodily function of
24 the pregnant woman;

25 (5) "Physician", any person licensed by the state board of registration for the healing arts to
26 practice medicine in this state;

27 (6) "Postpartum", the period of recovery immediately following childbirth, which is six
28 weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so determined by a
29 physician;

30 (7) "Reasonable medical judgment", a medical judgment made by a reasonably prudent
31 physician, knowledgeable about the case and the treatment possibilities with respect to the medical
32 conditions involved;

33 (8) "Restraints", any physical restraint or other device used to control the movement of a
34 person's body or limbs;

35 (9) "Third trimester", gestational age, which is the length of pregnancy as measured from
36 the first day of the woman's last menstrual period, of twenty-eight weeks or more;

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1 (10) "Unborn child", the offspring of human beings from the moment of conception until
 2 birth and at every state of its biological development, including the human conceptus, zygote,
 3 morula, blastocyst, embryo, and fetus.

4 2. Pregnant prisoners shall be transported in vehicles equipped with seatbelts.

5 3. Any time restraints are used on a pregnant prisoner in her third trimester or on a
 6 postpartum prisoner within forty-eight hours postdelivery, as documented by a physician and for
 7 which the county or city officer or sheriff or jailer has written notice, the restraints shall be the least
 8 restrictive available and reasonable under the circumstances. Only in extraordinary circumstances,
 9 as determined by a county or city officer or jail official, shall ankle or waist restraints be used on
 10 any such offender.

11 4. If, based on his or her reasonable medical judgment, a doctor, nurse, or other licensed
 12 health care provider treating the pregnant prisoner in her third trimester or the postpartum prisoner
 13 within forty-eight hours postdelivery, as previously documented by a physician, finds that a medical
 14 emergency exists and requests that restraints not be used, the county or city officer or sheriff or
 15 jailer accompanying such prisoner shall as soon as practical remove all restraints. The individual
 16 ordering the removal of restraints shall assume all liability for acts and damages that occur as a
 17 result of the restraints being removed and shall report in writing the specific facts justifying the
 18 medical emergency. The report shall be kept on file for at least five years.

19 5. In the event a county or city officer or sheriff or jailer determines that extraordinary
 20 circumstances exist and restraints are necessary, the officer, sheriff, or jailer shall fully document in
 21 writing within forty-eight hours of the incident the reasons he or she determined such extraordinary
 22 circumstances existed, the type of restraints used, and the reasons those restraints were considered
 23 the least restrictive available and reasonable under the circumstances. Such documents shall be kept
 24 on file by the county or city jail for at least five years from the date the restraints were used.

25 6. The county or city jail shall inform female prisoners, in writing and orally, of any policies
 26 and practices developed in accordance with this section upon admission to the jail, and post the
 27 policies and practices in locations in the jail where such notices are commonly posted and will be
 28 seen by female prisoners."; and
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30 Further amend said bill, Page 23, Section 488.5050, Line 21, by inserting after said section and line
 31 the following:
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33 "567.020. 1. A person commits the offense of prostitution if he or she engages in or offers
 34 or agrees to engage in sexual conduct with another person in return for something of value to be
 35 received by any person.

36 2. The offense of prostitution is a class B misdemeanor unless the person knew prior to
 37 performing the act of prostitution that he or she was infected with HIV in which case prostitution is
 38 a class B felony. The use of condoms is not a defense to this offense.

39 3. As used in this section, "HIV" means the human immunodeficiency virus that causes
 40 acquired immunodeficiency syndrome.

41 4. The judge may order a drug and alcohol abuse treatment program for any person found
 42 guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. For the class B
 43 misdemeanor offense, upon the successful completion of such program by the defendant, the court
 44 may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and
 45 enter a judgment of not guilty. For the class B felony offense, the court shall not allow the
 46 defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty.
 47 The judge, however, has discretion to take into consideration successful completion of a drug or
 48 alcohol treatment program in determining the defendant's sentence.

49 5. In addition to the affirmative defense provided in subsection 2 of section 566.223, it shall

1 be an affirmative defense to prosecution pursuant to this section that the defendant was under the
2 age of eighteen ~~and~~ or was acting under the coercion, as defined in section 566.200, of an agent at
3 the time of the offense charged. In such cases where the defendant was under the age of eighteen
4 and found not guilty of any violation under this section, the defendant shall be classified as a victim
5 of abuse, as defined under section 210.110, and such abuse shall be reported, as required under
6 section 210.115."; and
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8 Further amend said bill by amending the title, enacting clause, and intersectional references
9 accordingly.