Ending Shackling of Incarcerated Mothers: Prioritizing the Counsel of Health Care Professionals

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THESIS
To protect incarcerated mothers and their children during labor, the Michigan Legislature should require the presence of a health care professional and grant them the professional authority in deciding if the mother is restrained with soft shackles during labor.

BACKGROUND & ANALYSIS
Shackling incarcerated mothers during birth is both a public health risk and a human rights violation. The misuse of restraints against incarcerated women during labor (shackles, waist and leg restraints, etc.) often results in dangerous injuries, as shackling decreases mobility (a necessary component of childbirth), can decrease a doctor’s ability to assist the mother, increases chances for falling and other dangerous injuries, and threatens the survival of both the mother and the child.⁴,⁵,⁶

Restraints are often used under an insufficient and/or inconsistent definition of “security risk” determined solely by correctional officers, without any professional insight from health care specialists. Oftentimes, correctional facilities do not have independent bodies that review cases of unwarranted restraint against a mother in labor.⁷ As a result, mothers in labor are often restrained even if arrested for nonviolent crimes.⁸

Shackling incarcerated mothers during childbirth particularly affects communities of color. People of color are not only overrepresented in today’s prison populations, but they have higher rates of infant mortality even among the civilian population.⁹ The infant mortality rate is 30 percent and 300 percent higher for Latino and African American infants, respectively, in comparison to that of non-Hispanic whites.¹⁰ Additionally, African American mothers are more than three times more likely to die during childbirth.¹¹

TALKING POINTS
• The International Human Rights Clinic at the University of Chicago Law School and the American Civil Liberties Union (ACLU) have explicitly recognized shackling during labor as a human rights violation.¹²

• Skilled birth attendants are trained to ensure safe childbirth practices and delivery.¹³

• Shackling makes it difficult for the skilled birth attendant to assist the mother during labor, increasing the chance of injury and/or death for both mother and child.¹⁴

KEY FACTS
• About 66 percent of the female prison population is incarcerated for a non-violent crime.¹

• No mother on record has ever tried to escape during labor.²

• Shackling disproportionately affects women of color, putting infants of color, who already suffer from high mortality rates, at an even higher risk.³
POLICY IDEA

To prevent the shackling of incarcerated mothers, the Michigan Legislature should require the presence and counsel of the designated skilled birth attendant (midwife, doctor, or nurse), specifically when an inmate is declared to be in the labor stage by a licensed health care professional. Additionally, the use of hard shackles should be banned during labor, with soft shackles being the maximum alternative.

POLICY ANALYSIS

This policy is cost efficient in two ways: prioritizing the counsel of the designated skilled birth attendant requires zero costs, and reducing the chance of injury for the mother and child decreases long-term economic costs for Michigan taxpayers. When a mother is shackled during childbirth, the chances of improperly following delivery procedures increases, which can lead to injury to the mother and child. If the mother or child endure injuries, this cost potentially falls on Michigan citizens: an incarcerated mother in state care uses state health insurance, and if the mother or the child’s family is unable to pay, the mother and/or child will then be reliant on health coverage from the State of Michigan. Ultimately, requiring the presence and prioritizing the counsel of a skilled birth attendant decreases the chance of injury for both the mother and the child, thus lowering the high price of long-term care for incarcerated mothers and their children with health complications from hazardous deliveries.

One major obstacle for implementing this policy would be to convince Michigan legislatures that the counsel of a skilled birth attendant should be prioritized over that of correctional officers, specifically because correctional officers most often exercise reigning opinions during the labor process. However, by prioritizing the counsel of the designated skilled birth attendant, the Michigan Legislature will counter rampant human rights violations against citizens in its care, and correctional facility officers will act as co-facilitators of a safe delivery for both the mother and the child.

NEXT STEPS

The Michigan legislature should pass this bill to protect incarcerated mothers in the Women’s Huron Valley Correctional Facility in Ypsilanti, the state’s only female prison. The Ypsilanti City Council is a principal actor in preventing the use of shackling during labor. Lois E. Allen-Richardson, Ypsilanti Council member and Washtenaw County Jail chaplain (home county of the Women’s Facility), is a target and potential ally. Similarly, the support of state senator Rebekah Warren, who has expressed concern for mass incarceration, is crucial. An inter-state coalition with organizations that have secured anti-shackling laws (including Massachusetts’ Prison Birth Project) and those who have extensive research on the intersection between reproductive and criminal justice (including University of Michigan’s Institute for Research on Women and Gender) are crucial allies to include. Finally, solidifying a collaborative definition of “security risk” with regard to incarcerated mothers during labor will help to reduce unnecessary use of shackling.
ENDNOTES

1 The Sentencing Project, “Women in the Criminal Justice System: Briefing Sheets.”
3 The Sentencing Project, “Women in the Criminal Justice System: Briefing Sheets.”
8 Quinn, “In Labor, in Chains.”