



## Legislation Text

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**File #:** Res 0931-2015, **Version:** \*

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### Res. No. 931

Resolution calling on the Governor to sign A.6430A/S.983A, in relation to the shackling of pregnant inmates.

By Council Members Cumbo, Chin, Lander, Mendez and Rodriguez

Whereas, According to the Correctional Association of New York, during an average year in New York state, approximately 31,000 women are incarcerated in local jails and 4,000 women are incarcerated in state prisons; and

Whereas, The Correctional Association of New York has reported that, in an average year, approximately 1,700 of these women are pregnant; and

Whereas, The practice of restraining pregnant women through the use of shackles or other devices, commonly known as shackling, has been found by the American College of Obstetricians and Gynecologists to “put the health and lives of the women and unborn children at risk” by increasing the risk of certain conditions that can harm both the women and their unborn children, delaying diagnoses of certain conditions, and limiting or eliminating the ability of doctors to perform important medical tests; and

Whereas, The American College of Obstetricians and Gynecologists has found the practice of shackling pregnant inmates to “interfere with the ability of physicians to safely practice medicine,” and to be “demeaning and rarely necessary;” and

Whereas, The American Medical Association has opposed the use of shackling on a woman during the second or third trimester of pregnancy, labor, delivery or recuperation post-delivery, unless the woman is an immediate and serious threat to herself or others or a substantial flight risk; and

Whereas, Eighteen states, the Federal Bureau of Prisons, the United States Immigration and Customs

Enforcement Agency, the United States Marshals Service, and the American Correctional Association have all adopted policies banning or restricting the use of shackling on pregnant women; and

Whereas, The United States Court of Appeals for the Eighth Circuit, The United States Court of Appeals for the District of Columbia, and numerous federal district courts have found that the practice of shackling pregnant women may be unconstitutional; and

Whereas, The American Civil Liberties Union and the Women’s Prison Association have reported that no case of a pregnant inmate attempting to escape while not being shackled has ever been reported in the United States; and

Whereas, New York State Correction Law (“Correction Law”) section 611 prohibits the use of shackling on pregnant women who are “about to give birth to a child,” in labor, or who are “recovering after giving birth;” and

Whereas, However, this law does not address the shackling of women who are pregnant but not “about to give birth,” nor does it address the shackling of women beyond the immediate recovery from birth; and

Whereas, The American Medical Association has recommended that shackling be banned during the second and third trimester of pregnancy, absent an immediate threat of harm, and the American College of Obstetricians and Gynecologists has recommended that shackling be banned during all stages of pregnancy and for six weeks postpartum; and

Whereas; The New York State Senate has passed S.983A, which was introduced by Senator Velmanette Montgomery, and the New York State Assembly passed companion bill A.6430A, which was introduced by Assembly Member N. Nick Perry, which seek to prohibit the use of shackling for any pregnant women and for eight weeks postpartum, unless there are “extraordinary circumstances” such that shackling would be necessary to prevent harm to the woman or others; and

Whereas, Furthermore, the Correctional Association of New York has reported that Correction Law section 611 has routinely been ignored by state prison staff, that 23 of 27 women interviewed over a four-year

period were shackled illegally, and that only 15 of 52 counties have policies regarding shackling in accordance with Correction Law 611; and

Whereas, A.6430A/S.983A also requires that correctional staff report to the governor and legislature any case in which “extraordinary circumstances” justify the use of such shackling, and requires that pregnant women be notified of their rights pursuant to this law; and

Whereas, A.6430A/S.983A also requires the training of all correction officers affected by this law regarding these legal requirements; and

Whereas, These reporting and training requirements would help ensure that Correction Law section 611 is appropriately followed; and

Whereas, A.6430A/S.983A would apply to both state and local correctional institutions, and would therefore have a positive impact on policies related to shackling pregnant women statewide as well as in the City’s local jails; and

Whereas, According to the Correctional Association of New York, A.6430A/S.983A is supported by the American Congress of Obstetricians and Gynecologists, American College of Nurse-Midwives, New York State Association of Licensed Midwives, Family Planning Advocates of New York State, the National Organization for Women - NYC, the New York Civil Liberties Union, the Coalition for Women Prisoners, and the Correctional Association of New York; now, therefore, be it

Resolved, That the Council of the City of New York calls on the Governor to sign A.6430A/S.983A, in relation to the shackling of pregnant inmates.

LS 6931  
BC  
12/2/2015