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LEGISLATIVE TESTIMONY

To: Members of the Joint Committee on the Judiciary
From: Edward F. Saunders, Jr., Esq., Executive Director
Re: House 1490, "An Act Relative to Pregnant and Postpartum Inmates in State Prisons"
Date: July 27, 2009

The Massachusetts Catholic Conference ("Conference") respectfully submits this testimony relative to *House 1490, "An Act Relative to Pregnant and Postpartum Inmates in State Prisons"*. This bill addresses the health and care of pregnant women and their unborn children as well as the needs of postpartum inmates and their newly born children.

House 1490 would require the Department of Correction to provide each pregnant inmate with a fulltime Prenatal Case Manager with credentials in childbirth education and knowledge of high-risk pregnancy and prenatal addiction issues. Prenatal care would require the inclusion of appropriate vitamins, iron supplements and a nutritional diet to ensure a safe pregnancy. Access to an accredited hospital for labor and delivery care would also be required.

Under the bill, female inmates would be screened and assessed for pregnancy and postpartum status upon admission to a correctional facility. At admission, women would be given written material explaining available services for pregnant and postpartum inmates.

Pregnant women could not be placed with an inmate suspected of having a communicable disease that is required to be reported by the Department of Health. Pregnant inmates would also be allowed the opportunity for a minimum of thirty minutes of ambulatory movement each day to prevent thrombosis. Such basic health protections are essential for all women and their unborn children.

The Department of Correction would be required to provide qualified screening for postpartum depression and psychosis. Counseling would be available for both pregnant and postpartum women.

The legislation mandates that prenatal childbirth education classes taught by a certified childbirth educator be provided to pregnant inmates. In the Spring 2008 issue of *The Journal of Prenatal Information*, Barbara Hotelling, MSN, CD (DONA), LCCE, FACCE eloquently describes why such education is important when she stated:

"Pregnancy and giving birth is a transformational time in a women's life. With adequate support and prenatal care, expectant and new mothers often discard lifestyle behaviors such as smoking and drinking alcohol that would negatively affect their babies. They eat more nutritious foods, alter their social lives to get appropriate sleep, and exercise more regularly, decreasing their risks of physical complications and depression. With education and support, preparation for birth

gives women the opportunity, in this most teachable moment, to change their lifestyle behaviors and to have positive birth experiences...¹

The foundation of a child's intellectual, emotional, and social qualities is developed during the child's first year of life,² highlighting the importance of a well organized custody plan for mothers who are incarcerated. The Prenatal Case Manager would be required to work closely with the Department of Social Services and/or designated infant/child caretakers to develop a custody plan for the newborn after delivery. Ideally, the birth mother will play an active role in this process.

Under this bill, the Department of Correction would be required to use alternative transportation and restraints with pregnant inmates. The use of shackles on pregnant inmates beyond the first trimester while being transported would be prohibited. Waist chains could no longer be used on pregnant inmates. Nor could they be cuffed to exam tables or labor beds during medical examinations and labor and delivery.

Practices that are in opposition to the dignity and fundamental rights of the human person should be abolished. Any unnecessary restraints, such as waist chains on pregnant woman and cuffs during labor and delivery, disregard human dignity and may cause harm to a woman and her unborn child. Handcuffs and shackles elevate posttraumatic stress³ and should be eliminated not only from a moral perspective, but also to protect the health and well being of a mother and her child. Studies suggest that maternal prenatal stress, anxiety, and depression may have lasting effects on child development.⁴

Illinois, California, Vermont and New Mexico currently have laws prohibiting the shackling of women in labor. Texas and New York have similar legislation awaiting their Governor's signature.

To assure the safety and continuity of care for pregnant inmates upon release from a correctional facility, the Prenatal Case Manager would be required to provide discharge planning. Emphasis would be placed on access to uninterrupted daily Methadone dosing for pregnant inmates titrated on Methadone and for any other high medical issues.

Good nutrition and health care are important for all women and children. Providing access to prenatal care for children at their earliest and most vulnerable stages of development and to their mothers not only respects the human dignity of women and children but is well established medical practice.

Additionally, more than 57% of the women incarcerated in the United States have already suffered severe and prolonged physical and/or sexual abuse⁵ prior to incarceration. Therefore, as

¹ Hotelling, Barbara, *Prenatal Needs of Pregnant, Incarcerated Women*, The Journal of Perinatal Education, Spring 2008 at 4.

² American Medical Association, Report 3 of the council on scientific affairs (I-97): Bonding programs for women prisoners and their newborn children, Chicago, 1997.

³ Covington S. S., *Incarcerated Women: Exacerbation of Issues, Needs and Barriers*. Paper presented at Perinatal Addiction: More Than Substance Abuse Conference in Richmond, VA, May 2000.

⁴ O'Connor TG, Capriarello P, Blackmore ER, Gregory AM, Glover, V, Fleming P, ALSPAC Study Team, *Prenatal Mood Disturbance Predicts Sleep Problems in Infancy and Toddlerhood*. Early Human Dev, July 2007, 83(7):451-8.

⁵ Rathbone, Cristina, *A World Apart*, Random House, May 2005 at p.22.

the Department of Correction reviews its policies it should be required to establish procedures to assure proper prenatal and postpartum medical care and to decrease the stress and anxiety on incarcerated pregnant women enhancing their health and the health of the children. Pregnant women, and their unborn children, deserve respect, safety, good medical care, compassion and support. This bill, House 1490, is designed to do this.

The efforts contained in House 1490 take needed steps to improve medical care and counseling for prenatal and postpartum inmates and their children. However, the current Department of Correction regulations at 103 CMR 620.04 Programs for Female Inmates, section 2, a copy of which is attached to this testimony, addresses an inmate's request to terminate her pregnancy and references abortion services. Protections to ensure a fully informed choice are not provided for women within this policy. Total care for women should ensure that women seeking abortions are provided a fully informed choice.

We respectfully ask that the committee craft legislation that is responsive to the complete medical, emotional and psychological needs of pregnant and postpartum inmates and include in this bill a requirement that inmates contemplating abortion be offered comprehensive information relative to abortion and available alternatives. Access to information on the abortion procedure, the risks, the unborn child's status and development (including ultrasound imaging and heartbeat recording when applicable), the availability of alternatives and corresponding resources, along with sufficient reflection time, would reduce the possibility of serious, lasting, or life threatening consequences of a medical, emotional and psychological nature, and thus should be guaranteed in any legislation addressing the overall care of pregnant women in correctional facilities.

All women and children deserve respect, safety, good medical care, compassion and support. Providing the information and counseling described in the preceding paragraph would go a long way towards meeting these goals.

For the foregoing reasons and to improve the medical and psychological care for pregnant and postpartum inmates and their children, the Conference urges the Committee to give House 1490 a favorable report recommending passage of the bill with the additional provisions enumerated above.

The Massachusetts Catholic Conference is the public policy office of the Roman Catholic Bishops in the Commonwealth, representing the Archdiocese of Boston and the Dioceses of Fall River, Springfield, and Worcester.