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MEMORANDUM

TO: House Judiciary Committee

FROM: Andy Hoover, Legislative Director

DATE: April 15, 2010

RE: SUPPORT FOR SENATE BILL 1074

On Tuesday, the House Judiciary Committee is scheduled to consider Senate Bill 1074. This legislation would ban the practice of shackling pregnant inmates during childbirth, with few exceptions, in Pennsylvania's state prisons and county jails. SB 1074 unanimously passed the Senate in March. The American Civil Liberties Union of Pennsylvania supports SB 1074, and on behalf of the 18,000 members of the ACLU of PA, I ask you to please vote "yes" on SB 1074.

Last month Washington became the eighth state to pass and sign legislation to ban shackling inmates in childbirth. Washington joins Texas, New Mexico, New York, California, Illinois, and Vermont in stopping this cruel practice via statute. The Federal Bureau of Prisons prohibits the use of "restraints on pregnant inmates...except in extenuating circumstances" in all federal correctional institutions and medical centers. And the federal Marshals Service, which transports people in federal custody, has adopted a similar policy.

The Eighth Amendment of the U.S. Constitution prohibits the use of "Cruel and Unusual Punishment." The Eighth Circuit Court of Appeals recently affirmed the constitutionally protected rights of incarcerated pregnant women by affirming a lower courts ruling that the shackling of pregnant women is indeed cruel and unusual.

We do not know how many times pregnant inmates in labor have been shackled in Pennsylvania. But the ACLU of PA and our allies have heard enough anecdotes of its occurrence to know that SB 1074 is necessary.

Medical experts have determined that the restraining of pregnant women can pose undue health risks to the woman and her pregnancy. National health associations like the American Public Health Association (APHA) and the American College of Obstetricians and Gynecologists (ACOG) support the prohibition of shackling of pregnant women. The APHA Task Force on Correctional Health Care Standards takes the position that "women must never be shackled during labor and delivery." ACOG goes further in that the shackling of pregnant women is "demeaning and

unnecessary” and that “physical restraints have interfered with the ability of physicians to safely practice medicine by reducing their ability to assess and evaluate the physical condition of the mother and the fetus, and have similarly made the labor and delivery process more difficult than it needs to be; thus, overall putting the health and lives of the women and unborn children at risk.”

As SB 1074 moved through the Senate, newspaper editorial boards voiced their support for the bill. *The Patriot News* of Harrisburg stated, “Legislators should pass this measure so no more babies are born to mothers shackled while in labor, like some scene from medieval times. Pennsylvania can do better.” In March, the *Pittsburgh Post Gazette* also endorsed the legislation, saying, “Pregnant women who are in prison must, of course, serve their time, but they don't need to be held in barbaric conditions while delivering a baby.”

With the passage of SB 1074, Pennsylvania would join in the efforts of the federal government and states across the country in eliminating the unnecessary and inhumane practice of shackling and reaffirm that pregnant women in prison do not lose their rights to safe and humane treatment.