



Submission to the Senate Legal and Constitutional Affairs Legislation Committee

Inquiry into the Crimes Amendment (Prohibiting Shackling During Childbirth) Bill 2026

Submitted by: Kirsty Kitchen, Director, The Birth Companions Institute

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About Birth Companions

Birth Companions is a charity that supports pregnant women, mothers and babies facing severe disadvantage, including women in contact with the criminal justice system, children's social care, maternity and immigration systems in England. We were founded 30 years ago in direct response to a national scandal over the treatment of a pregnant woman restrained in prison custody during early labour, and have been providing support and advocacy to pregnant women and mothers of infants in prisons in England ever since, alongside a programme of policy, research and public affairs work led by our team in the Birth Companions Institute. Our [Birth Charter for Women in Prison](#) was adapted for use in Australia in 2020 by [CQUniversity academics](#).

We have campaigned for over three decades for an end to the imprisonment of pregnant women and mothers of children up to the age of two in all but the most exceptional circumstances, and for the rights, dignity and safety of women who are held in custody during this period. We welcome the Committee's invitation to contribute to this inquiry and set out below why we believe our experience in England is directly relevant to its consideration of the Bill.

Summary of our position

Birth Companions strongly supports the intent of the Crimes Amendment (Prohibiting Shackling During Childbirth) Bill 2026. Shackling a woman during labour or birth serves no legitimate security purpose, causes lasting physical and psychological harm, and has no place in a system that claims to provide safe and lawful care to those in its custody.

Our key point for the Committee is this: policy is not enough. Birth Companions has direct, painful experience of watching a clear policy against the use of restraints fail to prevent the practice recurring.

The experience in England: a policy prohibition that has failed

Birth Companions exists because of this issue. Our organisation was founded 30 years ago after a woman was restrained in labour in an English prison – HMP Holloway. The case was exposed through undercover filming aired on Channel 4 television, and caused public outrage and questions in parliament, which led to a change in national policy. Since that point, Ministry of Justice and HM Prison and Probation Service (HMPPS) policy has been unambiguous: pregnant women should not be placed in restraints during medical appointments, labour or the immediate postnatal period, other than in exceptional and clearly justified circumstances.

In February 2025, Channel 4 News reported that women held in an English prison, including women on remand, had been handcuffed and chained to prison officers, including male officers, during internal examinations, labour and routine antenatal appointments. This was in direct contravention of the policy that had been in place since soon after we were founded in 1996.

The UK Parliament's cross-party Justice Committee wrote to the Prisons Minister on 26 February 2025 describing itself as “alarmed” by the reports and noting that the alleged treatment would be “in direct contravention of government guidance”. Significantly, the Committee had to formally request basic information the Ministry did not appear to hold or have volunteered: how many times pregnant women had been restrained during medical appointments or childbirth since April 2024 and on what justification; how many prisons had failed to comply with the guidance; and what penalties applied to non-compliance. In other words, a policy-level prohibition had existed for decades, but no one, including Parliament, could readily say how often it had been contravened.

We understand that Australia's own prison system has already seen a similar pattern. Western Australia's Office of the Inspector of Custodial Services reported in June 2020 that pregnant women were being routinely restrained during medical appointments and hospital visits despite policy restricting the practice, and that record-keeping on the use of restraints was fragmented and unreliable, undermining any meaningful oversight of compliance. The Human Rights Law Centre, commenting on the findings, called for restraint of pregnant women to be prohibited outright and for law reform to follow.

In June 2025, the Prisons Minister here in the UK commissioned an independent investigation by the Prisons and Probation Ombudsman (PPO) into the use of restraints on pregnant women across all women's prisons in England and Wales between 2021 and 2025. That investigation took many months to get underway and is ongoing at the time of writing. We anticipate this investigation may find there have been many cases of restraint against policy, across multiple prisons, although the full scale of this practice and the level of harm associated with it will run deeper than this investigation will be able to measure. In the meantime, the policy on the use of restraints on pregnant women has been further clarified and strengthened in the [External Escorts Policy Framework](#), updated in January 2026, which states:

Restraints must not be applied to pregnant prisoners, including travel to and from medical appointments, unless there are exceptional circumstances. Any use of restraints must be justified and based on an up to date comprehensive risk assessment. Applying restraints without justification, risks breaching the prisoner's Article 3 rights.

While we welcomed this policy, we know that previous policies have been repeatedly breached. On that basis, we believe legislative prohibition is key. It is a necessary and overdue step both here in England and across the world.

Matters we would encourage the Committee to consider

We strongly support the Bill's central purpose: placing a prohibition on shackling during childbirth into statute gives it a stronger and more durable foundation than administrative policy, which can be revised, reinterpreted, or quietly disregarded without parliamentary or public scrutiny. Legislation also opens a route to remedy and accountability that policy alone typically does not.

Drawing on the experience set out above, we would respectfully encourage the Committee to consider whether the Bill, its implementation, or any associated guidance and oversight arrangements, should also secure the following.

1. **Mandatory record-keeping and public reporting:** a requirement that every use of restraint on a pregnant or postpartum woman, and every occasion on which restraint is removed or withheld, is formally recorded and reported, so that compliance can be independently verified rather than assumed.
2. **Independent oversight and inspection:** a body independent of the justice system, with the power and resourcing to inspect compliance on an ongoing basis, rather than only in response to individual complaints or media coverage.
3. **Accessible and confidential routes to report breaches and seek redress,** including for women who have since left custody, so that failures can come to light regardless of whether a woman remains within the system.
4. **Meaningful involvement of women with lived experience,** with funded legal support where appropriate, in any investigation or review of alleged breaches, so that their voice shapes remedy and system change and not only legislative intent.

Finally, we would encourage the Committee, in scrutinising this Bill, to situate the question of shackling within the wider question of whether pregnant women should be exposed to custody at all. Our starting position, formed over 30 years of frontline experience, is that prison is not a safe or appropriate environment for pregnant women and mothers of very young children, and that community-based alternatives should be used wherever possible. The [Women's Justice Board](#), tasked by the UK government to explore a new approach to women in the criminal justice system, recommended in March 2026 that legislation be introduced to remove courts' powers to imprison pregnant women in all but the most exceptional circumstances; a recognition that even robust safeguards cannot fully protect women and babies from the inherent harms posed by imprisonment.

Conclusion

Birth Companions strongly supports the intent of the Crimes Amendment (Prohibiting Shackling During Childbirth) Bill 2026 and commends Senator Thorpe and the Committee for giving this practice the legislative scrutiny it warrants. Our own experience in engaging with this issue over the last thirty years is tells a cautionary tale: written policy, however clear, has not been enough on its own, and women and babies have been harmed as a result. We would welcome the opportunity to provide further information to the Committee if that would assist its inquiry and wish the Committee well in its work.

Contact

Kirsty Kitchen

Director, The Birth Companions Institute

Birth Companions

kirsty@birthcompanions.org.uk