

COUNCIL OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE GENERAL COUNSEL  
WASHINGTON, D.C. 20004

TRANSMITTAL OF RE-ENGROSSED LEGISLATION

Short Title: Safe and Supported Pregnancy and Delivery for Incarcerated Individuals  
Amendment Act of 2024

Bill #25-914

cc: Councilmember Pinto

  
\_\_\_\_\_  
Legislative Counsel

\_\_\_\_\_  
Date 12/13/24

\_\_\_\_\_  
Office of the Secretary

\_\_\_\_\_  
Date

A BILL

25-914

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend An Act To create a Department of Corrections in the District of Columbia to improve the resources and supports available to incarcerated individuals who are pregnant while in the custody of the Department of Corrections, to make pregnancy testing, pregnancy counseling options, and abortion counseling options available to incarcerated individuals who are pregnant or may be pregnant, to provide a pregnant individual with a method to request the presence of a support or alternate support person, to provide necessary supplies for safe storage and transportation of breast milk, and to provide for a private right of action for damages and such other remedies as appropriate; and to amend the Limitations on the Use of Restraints Amendment Act of 2014 to expand reporting requirements on the use of restraints.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Safe and Supported Pregnancy and Delivery Amendment Act of 2024”.

Sec. 2. An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.01 *et seq.*), is amended by adding new sections 10 and 11 to read as follows:

“Sec. 10. Safe and supported pregnancy and delivery for incarcerated individuals.

“(a) The Department of Corrections (“Department”) shall make pregnancy testing, pregnancy counseling options, and abortion counseling options available to incarcerated individuals who are pregnant or may be pregnant.

29           “(b) The Department shall ensure that incarcerated individuals who are pregnant receive  
30 confidential, appropriate, timely, culturally responsive, and comprehensive healthcare,  
31 evaluation, and treatment from healthcare providers licensed in the District, including:

32                   “(1) Healthcare for related health conditions that emerge during the pregnancy or  
33 during postpartum recovery;

34                   “(2) Specialized pregnancy or postpartum healthcare, if necessary, which may be  
35 referred to external healthcare providers, in accordance with the Limitations on the Use of  
36 Restraints Amendment Act of 2014, effective July 25, 2015 (D.C. Law 20-280; D.C. Official  
37 Code 24-276.01 *et seq.*); and

38                   “(3) Medical, healthcare, and personal care supplies prescribed or recommended  
39 by a licensed healthcare provider treating an individual or reasonably requested by an individual,  
40 which shall be provided at no cost to the individual, including:

41                           “(A) Equipment and cleaning supplies necessary to safely pump, store,  
42 and transport breast milk, including nursing brassieres, breast pumps, breast milk storage bags,  
43 detergent, bottle brushes, drying racks, a refrigerator of sufficient capacity, and a cooler; and

44                           “(B) The diet that is required by Department policy or is medically  
45 recommended during pregnancy and postpartum.

46           “(c)(1) If an incarcerated individual who is pregnant is scheduled to deliver an infant  
47 while in the custody of the Department, the Department shall provide the individual with a  
48 method to request the presence of a support person, or an alternate support person in the event

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49 that the primary support person is unavailable, at the time of delivery, during labor, delivery, a  
50 cesarean section, a pregnancy termination, and during postpartum recovery while hospitalized.

51 “(2)(A) The Director of the Department or the Director’s designee shall approve a  
52 request for a primary support person and an alternate support person within 5 business days after  
53 receipt of a request, unless the department determined the request raises specific safety or  
54 security concerns for the incarcerated individual, infant, public, or staff.

55 “(B) Denials shall be issued sparingly and shall not be issued based  
56 on the requested support persons’ past criminal record or their probation, conditional release,  
57 parole, or supervision status.

58 “(C) The Department shall not require that a primary support  
59 person or an alternate support person need to have visited the incarcerated individual while in  
60 Department custody prior to serving as a support person.

61 “(D) If the Director of the Department or the Director’s designee  
62 denies a request for a primary support person or an alternate support person, detailed reasons for  
63 the denial shall be provided in writing to the incarcerated individual within 3 business days after  
64 the denial. The written denial shall provide the rationale for the denial, including specific safety  
65 or security concerns for the incarcerated individual, infant, public, or staff. Upon receipt of a  
66 written denial, an incarcerated individual may submit another request.

67 “(3)(A) The Department shall notify the incarcerated individual and approved  
68 support persons within 3 business days after approving the request.

69                   “(B) The Department shall provide approved support persons with  
70 information regarding their rights and responsibilities as a support person, the anticipated due  
71 date or possible due dates of the incarcerated individual, and a written confirmation stating the  
72 above to bring to the hospital.

73                   “(C) Approved support persons shall be notified as follows:

74                                 “(i) Within one hour after the Department determining that an  
75 incarcerated individual is in labor or at least one hour before an incarcerated individual is  
76 transported to a hospital for labor and delivery or termination; and

77                                 “(ii) Within one hour after an induction, cesarean section, or  
78 pregnancy termination is scheduled.

79                   “(D) When the incarcerated individual is transported to a hospital for labor  
80 and delivery, the Department shall notify the designated hospital security staff in writing of the  
81 support person’s name and contact information to facilitate access.

82                   “(E) The alternate support person may be present with the incarcerated  
83 individual in the event that the primary support person cannot be present with the incarcerated  
84 individual during labor, delivery, a cesarean section, pregnancy termination, or during  
85 postpartum recovery while hospitalized.

86                   “(d)(1) The incarcerated individual shall be given the maximum level of privacy possible  
87 during labor, delivery, a cesarean section, or a pregnancy termination.

88                   “(2) Department officers required to escort or accompany the incarcerated  
89 individual to a hospital during labor, delivery, a cesarean section, pregnancy termination, or

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90 during postpartum recovery while hospitalized shall be stationed outside the delivery room;  
91 except, that in the event of extraordinary circumstances as determined by the Department, a  
92 Department officer may stand in a place in the delivery room that grants as much privacy as  
93 possible to the incarcerated individual throughout labor, delivery, a cesarean section, or a  
94 pregnancy termination; provided further, that a Department officer may not be stationed in the  
95 delivery room if a Department staff member is present acting as the incarcerated individual's  
96 approved support person or if the medical provider determines that the removal of the  
97 Department officer is medically necessary.

98           “(e) For the duration of the period that an approved support person is present with the  
99 incarcerated individual, the Department shall:

100                   “(1) Allow a support person to freely leave the delivery room and return;

101                   “(2) Allow a support person to bring a camera or a telephone with a camera into  
102 the delivery or recovery room;

103                   “(3) Allow a support person and the incarcerated individual to take pictures; and

104                   “(4) Allow an incarcerated individual to use a support person's telephone  
105 speakerphone capabilities to communicate about the birth of the infant.

106           “(f) At least 2 months prior to an incarcerated pregnant individual's estimated delivery  
107 date or within one week of arrival in DOC custody if the incarcerated individual's estimated  
108 delivery date is sooner than 2 months away, the Department shall provide the individual with  
109 contact information for family law attorneys that can counsel the individual regarding their

110 options to establish the infant’s paternity, and for the placement, custody, and care of the infant  
111 after birth.

112 “(g) The Department shall allow additional visitation above that permitted by Department  
113 policy between an incarcerated individual who is the parent of a child under one year of age and  
114 that child, and shall give special consideration of additional visitation to an incarcerated  
115 individual who is breastfeeding their child. The Department shall allow an incarcerated  
116 individual who pumps breast milk to breast feed their child during visitation if the individual  
117 informs a supervising guard that they wish to.

118 “(h) The rights provided for incarcerated individuals by this section shall be posted in any  
119 non-English language spoken by one or more limited or no-English proficient incarcerated  
120 individuals in at least one conspicuous place to which all incarcerated individuals have access  
121 and in locations in the Department where medical care is provided.

122 “(i) Any individual in the Department’s custody who is known to be pregnant or could be  
123 pregnant shall receive notice in writing in a language and manner understandable to them about  
124 the requirements of this section upon admission to the Department.

125 “(j) The Department shall ensure that all guards and staff who interact with incarcerated  
126 individuals known to be or could become pregnant receive annual training of their  
127 responsibilities under this section.

128 “(k) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure  
129 Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue  
130 rules to implement the provisions of this section.

131 “Sec. 11. Private right of action.

132 “(a) Any incarcerated individual who has been deprived of the rights conferred by section  
133 10 shall have a private cause of action in any court of competent jurisdiction for damages and  
134 such other remedies as may be appropriate. A private cause of action pursuant to this section  
135 shall be filed in a court of competent jurisdiction within one year after the unlawful act, or the  
136 discovery thereof.

137 “(b) An incarcerated individual who prevails in a private cause of action under this  
138 section shall be entitled to costs, including reasonable attorney’s and expert’s fees.

139 “(c) Notwithstanding any other law:

140 “(1) No action shall be brought under this section until such administrative  
141 remedies as are available are exhausted;

142 “(2) If an incarcerated individual is not provided timely access to the necessary  
143 resources, including access to any requested grievance form, writing utensils, and access to the  
144 Inmate Grievance Procedure mailbox, to make use of the grievance process outlined in paragraph  
145 (1) of this subsection, the administrative remedy process outlined by paragraph (1) of this  
146 subsection shall be deemed unavailable; and

147 “(3) In an action under this section, an incarcerated individual’s sworn statement  
148 including facts that if true would be sufficient to show the individual had either completed the  
149 grievance process or that the grievance process was unavailable to the individual, shall create a  
150 rebuttable presumption that can only be overcome by clear and convincing evidence that the  
151 grievance process was completed or unavailable.”.



152           Sec. 3. The Limitations on the Use of Restraints Amendment Act of 2014, effective July  
153 25, 2015 (D.C. Law 20-280; D.C. Official Code § 24-276.01 *et seq.*), is amended as follows:

154           (a) Section 203(b) (D.C. Official Code § 24-276.03(b)) is amended by striking the phrase  
155 “provide the following information to the Council:” and inserting the phrase “submit to the  
156 Council Secretary and to the Council chairperson with oversight jurisdiction over the Department  
157 a report containing, at a minimum, the following:” in its place.

158           (b) Section 204 (D.C. Official Code § 24-276.04) is amended as follows:

159                   (1) The existing text is designated as subsection (a).

160                   (2) A new subsection (b) is added to read as follows:

161           “(b) The Department shall ensure that all guards and staff who interact with incarcerated  
162 individuals known to be or could become pregnant receive annual training of their  
163 responsibilities under this title.”.

164           (c) A new section 205 is added to read as follows:

165           “Sec. 205. Private right of action.

166           “(a) Any incarcerated individual who has been deprived of the rights conferred by this  
167 title shall have a private cause of action in any court of competent jurisdiction for damages and  
168 such other remedies as may be appropriate. A private cause of action pursuant to this section  
169 shall be filed in a court of competent jurisdiction within one year after the unlawful act, or the  
170 discovery thereof.

171           “(b) An incarcerated individual who prevails in a private cause of action under this  
172 section shall be entitled to costs, including reasonable attorney’s and expert’s fees.

173 “(c) Notwithstanding any other law:

174 “(1) No action shall be brought under this section until such administrative  
175 remedies as are available are exhausted;

176 “(2) If an incarcerated individual is not provided timely access to the necessary  
177 resources, including access to any requested grievance form, writing utensils, and access to the  
178 Inmate Grievance Procedure mailbox, to make use of the grievance process outlined in paragraph  
179 (1) of this subsection, the administrative remedy process outlined by paragraph (1) of this  
180 subsection shall be deemed unavailable; and

181 “(3) In an action under this section, an incarcerated individual’s sworn statement  
182 including facts that if true would be sufficient to show the individual had either completed the  
183 grievance process or that the grievance process was unavailable to the individual, shall create a  
184 rebuttable presumption that can only be overcome by clear and convincing evidence that the  
185 grievance process was completed or unavailable.”.

186 Sec. 3a. Applicability.

187 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget  
188 and financial plan.

189 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in  
190 an approved budget and financial plan, and provide notice to the Budget Director of the Council  
191 of the certification.

192 (c)(1) The Budget Director shall cause the notice of the certification to be published in the  
193 District of Columbia Register.

194 \_\_\_\_\_ (2) The date of publication of the notice of the certification shall not affect the  
195 applicability of this act.

196           Sec. 4. Fiscal impact statement.

197           The Council adopts the fiscal impact statement in the committee report as the fiscal  
198 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
199 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

200           Sec. 5. Effective date.

201           This act shall take effect following approval by the Mayor (or in the event of veto by the  
202 Mayor, action by the Council to override the veto), and a 60-day period of congressional review  
203 as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December  
204 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)).