

117TH CONGRESS  
2D SESSION

# H. R. 6878

To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2022

Ms. BASS (for herself, Mr. RESCHENTHALER, Ms. CLARK of Massachusetts, Mrs. LESKO, Mrs. LAWRENCE, Ms. GARCIA of Texas, Ms. SPEIER, Ms. LOIS FRANKEL of Florida, Ms. BONAMICI, Mr. THOMPSON of Mississippi, Ms. CLARKE of New York, Mr. DANNY K. DAVIS of Illinois, Ms. ADAMS, Mrs. CAROLYN B. MALONEY of New York, Mr. COHEN, Ms. MENG, Ms. BLUNT ROCHESTER, Ms. SCANLON, Mr. JOHNSON of Georgia, Mr. RASKIN, Ms. TITUS, Mr. NEGUSE, Mr. CÁRDENAS, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting the Health  
3 and Wellness of Babies and Pregnant Women Act of  
4 2022”.

5 **SEC. 2. DATA COLLECTION.**

6 (a) IN GENERAL.—Beginning not later than 1 year  
7 after the date of the enactment of this Act, pursuant to  
8 the authority under section 302 of the Omnibus Crime  
9 Control and Safe Streets Act of 1968 (34 U.S.C. 10132),  
10 the Director of the Bureau of Justice Statistics shall in-  
11 clude in the National Prisoner Statistics Program and An-  
12 nual Survey of Jails statistics relating to the health needs  
13 of incarcerated pregnant women in the criminal justice  
14 system at the Federal, State, tribal, and local levels, in-  
15 cluding—

16 (1) demographic and other information about  
17 incarcerated women who are pregnant, in labor, or  
18 in postpartum recovery, including the race, ethnicity,  
19 and age of the pregnant woman;

20 (2) the provision of pregnancy care and services  
21 provided for such women, including—

22 (A) whether prenatal, delivery, and post-  
23 delivery check-up visits were scheduled and pro-  
24 vided;

25 (B) whether a social worker, psychologist,  
26 doula or other support person, or pregnancy or

1 parenting program was offered and provided  
2 during pregnancy and delivery;

3 (C) whether a nursery or residential pro-  
4 gram to keep mothers and infants together  
5 post-delivery was offered and whether such a  
6 nursery or residential program was provided;

7 (D) the number of days the mother stayed  
8 in the hospital post-delivery;

9 (E) the number of days the infant re-  
10 mained with the mother post-delivery; and

11 (F) the number of days the infant re-  
12 mained in the hospital after the mother was  
13 discharged;

14 (3) the location of the nearest hospital with a  
15 licensed obstetrician-gynecologist in proximity to  
16 where the inmate is housed and the length of travel  
17 required to transport the inmate;

18 (4) whether a written policy or protocol is in  
19 place to respond to unexpected childbirth, labor, de-  
20 liveries, and medical complications related to the  
21 pregnancies of incarcerated pregnant women and for  
22 incarcerated pregnant women experiencing labor or  
23 medical complications related to pregnancy outside  
24 of a hospital;

1           (5) the number of incarcerated women who are  
2           determined by a health care professional to have a  
3           high-risk pregnancy;

4           (6) the total number of incarcerated pregnant  
5           women and the number of incarcerated women who  
6           became pregnant while incarcerated;

7           (7) the number of incidents in which an incar-  
8           cerated woman who is pregnant, in labor, or in  
9           postpartum recovery is placed in restrictive housing,  
10          the reason for such restriction or placement, and the  
11          circumstances under which each incident occurred,  
12          including the duration of time in restrictive housing,  
13          during—

14                   (A) pregnancy;

15                   (B) labor;

16                   (C) delivery;

17                   (D) postpartum recovery; and

18                   (E) the 6-month period after delivery; and

19          (8) the disposition of the custody of the infant  
20          post-delivery.

21          (b) PERSONALLY IDENTIFIABLE INFORMATION.—

22          Data collected under this paragraph may not contain any  
23          personally identifiable information of any incarcerated  
24          pregnant woman.

1 **SEC. 3. CARE FOR FEDERALLY INCARCERATED WOMEN RE-**  
2 **LATED TO PREGNANCY AND CHILDBIRTH.**

3 (a) IN GENERAL.—The Director of the Bureau of  
4 Prisons shall ensure that appropriate services and pro-  
5 grams are provided to women in custody, to address the  
6 health and safety needs of such women related to preg-  
7 nancy and childbirth. The warden of each Bureau of Pris-  
8 ons facility that houses women shall ensure that these  
9 services and programs are implemented for women in cus-  
10 tody at that facility.

11 (b) SERVICES AND PROGRAMS PROVIDED.—The Di-  
12 rector of the Bureau of Prisons shall ensure that the fol-  
13 lowing services and programs are available to women in  
14 custody:

15 (1) ACCESS TO COMPLETE APPROPRIATE  
16 HEALTH SERVICES FOR THE LIFE CYCLE OF  
17 WOMEN.—The Director of the Bureau of Prisons  
18 shall provide to each woman in custody who is of re-  
19 productive age pregnancy testing, contraception, and  
20 testing for sexually transmitted diseases and provide  
21 each woman with the option to decline such services.

22 (2) COMPLIANCE WITH PROTOCOLS RELATING  
23 TO HEALTH OF A PREGNANT WOMAN.—On confirma-  
24 tion of the pregnancy of a woman in custody by clin-  
25 ical diagnostics and assessment, the chief health  
26 care professional of a Bureau of Prisons facility that

1 houses women shall ensure that a summary of all  
2 appropriate protocols directly pertaining to the safe-  
3 ty and well-being of the woman are provided to the  
4 woman and that such protocols are complied with,  
5 including an assessment of undue safety risks and  
6 necessary changes to accommodate the woman where  
7 and when appropriate, as it relates to—

8 (A) housing or transfer to a lower bunk for  
9 safety reasons;

10 (B) appropriate bedding or clothing to re-  
11 spond to a woman’s changing physical require-  
12 ments and the temperature in housing units;

13 (C) regular access to water and bathrooms;

14 (D) a diet that complies with the nutri-  
15 tional standards established by the Secretary of  
16 Agriculture and the Secretary of Health and  
17 Human Services in the Dietary Guidelines for  
18 Americans report published pursuant to section  
19 301 of the National Nutrition Monitoring and  
20 Related Research Act of 1990 (7 U.S.C.  
21 5341(a)(3)), and that includes—

22 (i) any appropriate dietary supple-  
23 ment, including prenatal vitamins;

24 (ii) timely and regular nutritious  
25 meals;

1 (iii) additional caloric content in  
2 meals provided;

3 (iv) a prohibition on withholding food  
4 from an incarcerated pregnant woman or  
5 serving any food that is used as a punish-  
6 ment, including nutraloaf or any food simi-  
7 lar to nutraloaf that is not considered a  
8 nutritious meal; and

9 (v) such other modifications to the  
10 diet of the woman as the Director of the  
11 Bureau of Prisons determines to be nec-  
12 essary after consultation with the Sec-  
13 retary of Health and Human Services and  
14 consideration of such recommendations as  
15 the Secretary may provide;

16 (E) modified recreation and transpor-  
17 tation, in accordance with standards within the  
18 obstetrical and gynecological care community,  
19 to prevent overexertion or prolonged periods of  
20 inactivity; and

21 (F) such other changes to living conditions  
22 as the Director of the Bureau of Prisons may  
23 require after consultation with the Secretary of  
24 Health and Human Services and consideration

1 of such recommendations as the Secretary may  
2 provide.

3 (3) EDUCATION AND SUPPORT SERVICES.—

4 (A) PREGNANCY IN CUSTODY.—In the case  
5 of a woman who is pregnant at intake or who  
6 becomes pregnant while in custody, that woman  
7 shall, at intake or not later than 48 hours after  
8 pregnancy is confirmed, as appropriate, receive  
9 prenatal education, counseling, and birth sup-  
10 port services provided by a provider trained to  
11 provide such services, including—

12 (i) information about the parental  
13 rights of the woman, including the right to  
14 place the child in kinship care, and notice  
15 of the rights of the child;

16 (ii) information about family preserva-  
17 tion support services that are available to  
18 the woman;

19 (iii) information about the nutritional  
20 standards referred to in paragraph (2)(D);

21 (iv) information pertaining to the  
22 health and safety risks of pregnancy, child-  
23 birth, and parenting, including postpartum  
24 depression;



1 (v) information on breastfeeding, lac-  
2 tation, and breast health;

3 (vi) appropriate educational materials,  
4 resources, and services related to preg-  
5 nancy, childbirth, and parenting;

6 (vii) information and notification serv-  
7 ices for incarcerated parents regarding the  
8 risk of debt repayment obligations associ-  
9 ated with their child's participation in so-  
10 cial welfare programs, including assistance  
11 under any State program funded under  
12 part A of title IV of the Social Security  
13 Act (42 U.S.C. 601 et seq.) or benefits  
14 under the supplemental nutrition assist-  
15 ance program, as defined in section 3 of  
16 the Food and Nutrition Act of 2008 (7  
17 U.S.C. 2012), or any State program car-  
18 ried out under that Act; and

19 (viii) information from the Office of  
20 Child Support Enforcement of the Depart-  
21 ment of Health and Human Services re-  
22 garding seeking or modifying child support  
23 while incarcerated, including how to par-  
24 ticipate in the Bureau of Prison's Inmate  
25 Financial Responsibility Program under

1 subpart B of title 28, Code of Federal  
2 Regulations (or any successor program).

3 (B) BIRTH WHILE IN CUSTODY OR PRIOR  
4 TO CUSTODY.—In the case of a woman who  
5 gave birth in custody or who experienced any  
6 other pregnancy outcome during the 6-month  
7 period immediately preceding intake, that  
8 woman shall receive counseling provided by a li-  
9 censed or certified provider trained to provide  
10 such services, including—

11 (i) information about the parental  
12 rights of the woman, including the right to  
13 place the child in kinship care, and notice  
14 of the rights of the child; and

15 (ii) information about family preserva-  
16 tion support services that are available to  
17 the woman.

18 (4) TESTING.—Not later than 1 day after an  
19 incarcerated woman notifies an employee of the Bu-  
20 reau of Prisons that the woman may be pregnant,  
21 a Bureau of Prisons healthcare care professional  
22 shall administer a pregnancy test to determine  
23 whether the woman is pregnant.

24 (5) EVALUATIONS.—Each woman in custody  
25 who is pregnant or whose pregnancy results in a

1 birth or any other pregnancy outcome during the 6-  
2 month period immediately preceding intake or any  
3 time in custody thereafter shall be evaluated not  
4 later than 4 days after intake or confirmation of  
5 pregnancy through evidence-based screening and as-  
6 sessment for substance use disorders or mental  
7 health conditions, including postpartum depression  
8 or depression related to a pregnancy outcome or  
9 early child care. Screening shall include identifica-  
10 tion of any of the following risk factors:

11 (A) An existing mental or physical health  
12 condition or substance use disorder.

13 (B) Being underweight or overweight.

14 (C) Multiple births or a previous still birth.

15 (D) A history of preeclampsia.

16 (E) A previous Caesarean section.

17 (F) A previous miscarriage.

18 (G) Being older than 35 or younger than  
19 15.

20 (H) Being diagnosed with the human im-  
21 munodeficiency virus, hepatitis, diabetes, or hy-  
22 pertension.

23 (I) Such other risk factors as the chief  
24 health care professional of a Bureau of Prisons

1 facility that houses women may determine to be  
2 appropriate.

3 (6) UNEXPECTED BIRTHS RULEMAKING.—Not  
4 later than 180 days after the date of enactment of  
5 this Act, the Attorney General shall make rules es-  
6 tablishing procedures for responding to unexpected  
7 childbirth deliveries, labor complications, and med-  
8 ical complications related to pregnancy if a woman  
9 in custody is unable to access a hospital in a timely  
10 manner.

11 (7) TREATMENT.—In the case of any woman in  
12 custody who, after an evaluation under paragraph  
13 (4), is diagnosed as having a substance use disorder  
14 or a mental health disorder, that woman shall be en-  
15 titled to treatment in accordance with the following:

16 (A) Treatment shall include participation  
17 in a support group, including a 12-step pro-  
18 gram, such as Alcoholics Anonymous, Narcotics  
19 Anonymous, and Cocaine Anonymous or a com-  
20 parable nonreligious program.

21 (B) Treatment may include psychosocial  
22 interventions and medication.

23 (C) In the case that adequate treatment  
24 cannot be provided to a woman in custody in a  
25 Bureau of Prisons facility, the Director of the

1 Bureau of Prisons shall transfer the woman to  
2 a residential reentry program that offers such  
3 treatment pursuant to section 508 of the Public  
4 Health Service Act (42 U.S.C. 290bb–1).

5 (D) To the extent practicable, treatment  
6 for substance use disorders provided pursuant  
7 to this section shall be conducted in a licensed  
8 hospital.

9 **SEC. 4. USE OF RESTRICTIVE HOUSING AND RESTRAINTS**  
10 **ON INCARCERATED PREGNANT WOMEN DUR-**  
11 **ING PREGNANCY, LABOR, AND POSTPARTUM**  
12 **RECOVERY PROHIBITED.**

13 (a) IN GENERAL.—Section 4322 of title 18, United  
14 States Code, is amended to read as follows:

15 **“§ 4322. Use of restraints and restrictive housing on**  
16 **incarcerated women during the period of**  
17 **pregnancy, labor, and postpartum recov-**  
18 **ery prohibited and to improve pregnancy**  
19 **care for women in Federal prisons**

20 “(a) PROHIBITION.—Except as provided in sub-  
21 section (b), beginning on the date on which pregnancy is  
22 confirmed by a health care professional and ending not  
23 earlier than 12 weeks after delivery, an incarcerated  
24 woman in the custody of the Bureau of Prisons, or in the  
25 custody of the United States Marshals Service pursuant

1 to section 4086, shall not be placed in restraints or held  
2 in restrictive housing.

3 “(b) EXCEPTIONS.—

4 “(1) USE OF RESTRAINTS.—The prohibition  
5 under subsection (a) shall not apply if the senior  
6 Bureau of Prisons official or United States Marshals  
7 Service official overseeing women’s health and serv-  
8 ices and a health care professional responsible for  
9 the health and safety of the incarcerated woman de-  
10 termines that the use of restraints is appropriate for  
11 the medical safety of the woman, and the health care  
12 professional reviews such determination not later  
13 than every 6 hours after such use is initially ap-  
14 proved until such use is terminated.

15 “(2) SITUATIONAL USE.—The individualized de-  
16 termination described under paragraph (1) shall only  
17 apply to a specific situation and must be reaffirmed  
18 through the same process to use restraints again in  
19 any future situation involving the same woman.

20 “(3) ACCESS TO CARE.—Immediately upon the  
21 cessation of the use of restraints or restrictive hous-  
22 ing as outlined in this subsection, the Director of the  
23 Bureau of Prisons or the United States Marshal  
24 Service shall provide the incarcerated woman with

1 immediate access to physical and mental health as-  
2 sements and all recommended treatment.

3 “(4) RESPONSE TO BEHAVIORAL RISKS IN THE  
4 BUREAU OF PRISONS.—

5 “(A) RESTRICTIVE HOUSING.—The prohi-  
6 bition under subsection (a) relating to restric-  
7 tive housing shall not apply if the Director of  
8 the Bureau of Prisons or a senior Bureau of  
9 Prisons official overseeing women’s health and  
10 services, in consultation with senior officials in  
11 health services, makes an individualized deter-  
12 mination that restrictive housing is required as  
13 a temporary response to behavior that poses a  
14 serious and immediate risk of physical harm.

15 “(B) REVIEW.—The official who makes a  
16 determination under subparagraph (A) shall re-  
17 view such determination every 4 hours for the  
18 purpose of removing an incarcerated woman as  
19 quickly as feasible from restrictive housing.

20 “(C) RESTRICTIVE HOUSING PLAN.—The  
21 official who makes a determination under sub-  
22 paragraph (A) shall develop an individualized  
23 plan to move an incarcerated woman to less re-  
24 strictive housing within a reasonable amount of  
25 time, not to exceed 2 days.

1           “(D) MONITORING.—An incarcerated  
2 woman who is placed in restrictive housing pur-  
3 suant to this paragraph shall be—

4                   “(i) monitored every hour;

5                   “(ii) placed in a location visible to cor-  
6 rectional officers; and

7                   “(iii) prohibited from being placed in  
8 solitary confinement if the incarcerated  
9 woman is in her third trimester.

10       “(c) REPORTS.—

11           “(1) REPORT TO THE DIRECTOR AND HEALTH  
12 CARE PROFESSIONAL AFTER THE USE OF RE-  
13 STRAINTS.—If an official identified in subsection  
14 (b)(1) or a correctional officer uses restraints on an  
15 incarcerated woman under subsection (b), that offi-  
16 cial (or an officer or marshal designated by that offi-  
17 cial) or correctional officer shall submit, not later  
18 than 30 days after placing the woman in restraints,  
19 to the Director of the Bureau of Prisons or the Di-  
20 rector of the U.S. Marshal Service, as applicable, a  
21 written report which describes the facts and cir-  
22 cumstances surrounding the use of restraints, and  
23 includes each of the following:



1           “(A) A description of all attempts to use  
2 alternative interventions and sanctions before  
3 the restraints were used.

4           “(B) A description of the circumstances  
5 that led to the use of restraints.

6           “(C) Strategies the facility is putting in  
7 place to identify more appropriate alternative  
8 interventions should a similar situation arise  
9 again.

10          “(2) REPORT TO CONGRESS.—Beginning on the  
11 date that is 6 months after the date of enactment  
12 of the Protecting the Health and Wellness of Babies  
13 and Pregnant Women Act of 2022, and every 6  
14 months thereafter for a period of 10 years, the At-  
15 torney General shall submit to the Committees on  
16 the Judiciary of the House of Representatives and  
17 the Senate a report on—

18           “(A) the reasoning upon which the deter-  
19 mination to use restraints was made;

20           “(B) the details of the use of restraints,  
21 including the type of restraints used and length  
22 of time during which restraints were used; and

23           “(C) any resulting physical effects on the  
24 prisoner observed by or known to the correc-

1           tions official or United States Marshal, as ap-  
2           plicable.

3           “(3) REPORT TO THE DIRECTOR AND HEALTH  
4           CARE PROFESSIONAL AFTER PLACEMENT IN RE-  
5           STRICTIVE HOUSING.—If an official identified in  
6           subsection (b)(3), correctional officer, or United  
7           States Marshal places or causes an incarcerated  
8           woman to be placed in restrictive housing under  
9           such subsection, that official, correctional officer, or  
10          United States Marshal shall submit, not later than  
11          30 days after placing or causing the placement of  
12          the incarcerated woman in restrictive housing, to the  
13          Director of the Bureau of Prisons or the Director of  
14          the United States Marshals Service, as applicable,  
15          and to the health care professional responsible for  
16          the health and safety of the woman, a written report  
17          which describes the facts and circumstances sur-  
18          rounding the restrictive housing placement, and in-  
19          cludes the following:

20                 “(A) The reasoning upon which the deter-  
21                 mination for the placement was made.

22                 “(B) The details of the placement, includ-  
23                 ing length of time of placement and how fre-  
24                 quently and how many times the determination  
25                 was made subsequent to the initial determina-

1           tion to continue the restrictive housing place-  
2           ment.

3           “(C) A description of all attempts to use  
4           alternative interventions and sanctions before  
5           the restrictive housing was used.

6           “(D) Any resulting physical effects on the  
7           woman observed by or reported by the health  
8           care professional responsible for the health and  
9           safety of the woman.

10          “(E) Strategies the facility is putting in  
11          place to identify more appropriate alternative  
12          interventions should a similar situation arise  
13          again.

14          “(4) REPORT TO CONGRESS.—Beginning on the  
15          date that is 6 months after the date of enactment  
16          of the Protecting the Health and Wellness of Babies  
17          and Pregnant Women Act of 2022, and every 6  
18          months thereafter for a period of 10 years, the At-  
19          torney General shall submit to the Committees on  
20          the Judiciary of the House of Representatives and  
21          the Senate a report on the information described in  
22          paragraph (3).

23          “(d) NOTICE.—Not later than 24 hours after the con-  
24          firmation of an incarcerated woman’s pregnancy by a  
25          health care professional, that woman shall be notified,

1 orally and in writing, by an appropriate health care profes-  
2 sional, correctional officer, or United States Marshal, as  
3 applicable—

4 “(1) of the restrictions on the use of restraints  
5 and restrictive housing placements under this sec-  
6 tion;

7 “(2) of the incarcerated woman’s right to make  
8 a confidential report of a violation of restrictions on  
9 the use of restraints or restrictive housing place-  
10 ment; and

11 “(3) that the facility staff have been advised of  
12 all rights of the incarcerated woman under sub-  
13 section (a).

14 “(e) VIOLATION REPORTING PROCESS.—Not later  
15 than 180 days after the date of enactment of this Act,  
16 the Director of the Bureau of Prisons and the Director  
17 of the United States Marshals Service shall establish proc-  
18 esses through which an incarcerated person may report  
19 a violation of this section.

20 “(f) NOTIFICATION OF RIGHTS.—The warden of the  
21 Bureau of Prisons facility where a pregnant woman is in  
22 custody shall notify necessary facility staff of the preg-  
23 nancy and of the incarcerated pregnant woman’s rights  
24 under subsection (a).

1       “(g) RETALIATION.—It shall be unlawful for any Bu-  
2 reau of Prisons or United States Marshal Service em-  
3 ployee to retaliate against an incarcerated person for re-  
4 porting under the provisions of subsection (e) a violation  
5 of subsection (a).

6       “(h) EDUCATION.—Not later than 90 days after the  
7 date of enactment of the Protecting the Health and  
8 Wellness of Babies and Pregnant Women Act of 2022, the  
9 Director of the Bureau of Prisons and the Director of the  
10 United States Marshals Service shall each develop edu-  
11 cation guidelines regarding the physical and mental health  
12 needs of incarcerated pregnant women, and the use of re-  
13 straints and restrictive housing placements on incarcer-  
14 ated women during the period of pregnancy, labor, and  
15 postpartum recovery, and shall incorporate such guidelines  
16 into appropriate education programs.

17       “(i) DEFINITION.—In this section:

18               “(1) RESTRAINTS.—The term ‘restraints’  
19 means any physical or mechanical device used to  
20 control the movement of an incarcerated pregnant  
21 woman’s body, limbs, or both.

22               “(2) RESTRICTIVE HOUSING.—The term ‘re-  
23 strictive housing’ means any type of detention that  
24 involves—

1                   “(A) removal from the general inmate pop-  
2                   ulation, whether voluntary or involuntary;

3                   “(B) placement in a locked room or cell,  
4                   whether alone or with another inmate; and

5                   “(C) inability to leave the room or cell for  
6                   the vast majority of the day.”.

7           (b) CLERICAL AMENDMENT.—The table of sections  
8           at the beginning of chapter 317 of title 18, United States  
9           Code, is amended by amending the item relating to section  
10          4322 to read as follows:

          “4322. Use of restraints and restrictive housing on incarcerated women during  
                          the period of pregnancy, labor, and postpartum recovery pro-  
                          hibited and to improve pregnancy care for women in Federal  
                          prisons.”.

11   **SEC. 5. TREATMENT OF WOMEN WITH HIGH-RISK PREG-**  
12                                   **NANCIES.**

13           (a) IN GENERAL.—Chapter 303 of title 18, United  
14           States Code, is amended by adding at the end the fol-  
15           lowing:

16   **“§ 4051. Treatment of incarcerated pregnant women**

17           “(a) HIGH-RISK PREGNANCY HEALTH CARE.—The  
18           Director of the Bureau of Prisons shall ensure that each  
19           incarcerated pregnant woman receives health care appro-  
20           priate for a high-risk pregnancy, including obstetrical and  
21           gynecological care, during pregnancy and post-partum re-  
22           covery.

23           “(b) HIGH-RISK PREGNANCIES.—

1           “(1) IN GENERAL.—The Director of the Bureau  
2 of Prisons shall transfer any incarcerated woman,  
3 who is determined by a health care professional to  
4 have a high-risk pregnancy and who agrees to be  
5 transferred, to a Residential Reentry Center with  
6 adequate health care during her pregnancy and post-  
7 partum recovery.

8           “(2) PRIORITY.—The Residential Reentry Cen-  
9 ter to which an incarcerated pregnant woman is  
10 transferred pursuant to paragraph (1) shall be in a  
11 geographical location that is close to the family  
12 members of the incarcerated pregnant woman. In  
13 the case that a Residential Reentry Center is un-  
14 available, the incarcerated pregnant woman shall be  
15 transferred to alternative housing, including housing  
16 with a family member.

17           “(3) TRANSPORTATION.—To transport an in-  
18 carcerated pregnant woman to a Residential Reentry  
19 Center, the Director of the Bureau of Prisons shall  
20 provide to the woman a mode of transportation that  
21 has been approved by the woman’s health care pro-  
22 fessional, at no expense to the woman.

23           “(4) MONITORING.—In the case that an incar-  
24 cerated pregnant woman transferred to alternative  
25 housing pursuant to this section is monitored elec-

1       tronically, an ankle monitor may not be used on the  
2       woman, unless there is no feasible alternative for  
3       monitoring the woman.

4               “(5) SERVICE OF SENTENCE.—Any time ac-  
5       crued at a Residential Reentry Center or alternative  
6       housing as a result of a transfer made pursuant to  
7       this section shall be credited toward service of the  
8       incarcerated pregnant woman’s sentence.

9               “(6) CREDIT FOR PRETRIAL CUSTODY.—In the  
10       case of an incarcerated pregnant woman, any time  
11       accrued in pretrial custody shall be credited toward  
12       service of the woman’s sentence.

13       “(c) DEFINITIONS.—In this section:

14               “(1) FAMILY MEMBER.—The term ‘family  
15       member’ means any individual related by blood or  
16       affinity whose close association with the incarcerated  
17       pregnant woman is the equivalent of a family rela-  
18       tionship, including a parent, sibling, child, or indi-  
19       vidual standing in loco parentis.

20               “(2) RESIDENTIAL REENTRY CENTER.—The  
21       term ‘Residential Reentry Center’ means a Bureau  
22       of Prisons contracted residential reentry center.

23               “(3) HEALTH CARE PROFESSIONAL.—

24                       “(A) IN GENERAL.—The term ‘health care  
25       professional’ means—



1           “(i) a doctor of medicine or osteop-  
2           athy who is authorized to practice medicine  
3           or surgery by the State in which the doctor  
4           practices;

5           “(ii) any physician’s assistant or  
6           nurse practitioner who is supervised by a  
7           doctor of medicine or osteopathy described  
8           in clause (i); or

9           “(iii) any other person determined by  
10          the Secretary to be capable of providing  
11          health care services.

12          “(B) OTHER HEALTH CARE SERVICES.—A  
13          person is capable of providing health care serv-  
14          ices if the person is—

15               “(i) a podiatrist, dentist, clinical psy-  
16               chologist, optometrist, or chiropractor (lim-  
17               ited to treatment consisting of manual ma-  
18               nipulation of the spine to correct a sub-  
19               luxation as demonstrated by X-ray to  
20               exist) authorized to practice in the State  
21               and performing within the scope of their  
22               practice as defined under State law;

23               “(ii) a nurse practitioner, nurse-mid-  
24               wife, clinical social worker, or physician’s  
25               assistant who is authorized to practice

1 under State law and who is performing  
2 within the scope of their practice as de-  
3 fined under State law; and

4 “(iii) any health care professional  
5 from whom an employer or the employer’s  
6 group health plan’s benefits manager will  
7 accept certification of the existence of a se-  
8 rious health condition to substantiate a  
9 claim for benefits.

10 “(C) AUTHORIZED TO PRACTICE IN THE  
11 STATE.—The term ‘authorized to practice in  
12 the State’ means that a professional must be  
13 authorized to diagnose and treat physical or  
14 mental health conditions under the laws of the  
15 State in which the professional practices and  
16 where the facility is located.

17 “(4) HIGH-RISK PREGNANCY.—The term ‘high-  
18 risk pregnancy’ means, with respect to an incarcer-  
19 ated woman, that the pregnancy threatens the  
20 health or life of the woman or pregnancy, as deter-  
21 mined by a health care professional.

22 “(5) POST-PARTUM RECOVERY.—The term  
23 ‘post-partum recovery’ means the 3-month period be-  
24 ginning on the date on which an incarcerated preg-  
25 nant woman gives birth.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-  
2 tions for chapter 303 of title 18, United States Code, is  
3 amended by adding at the end the following:

“4051. Treatment of incarcerated pregnant women.”.

4 **SEC. 6. EXEMPTION OF INCARCERATED PREGNANT WOMEN**  
5 **FROM THE REQUIREMENTS FOR SUITS BY**  
6 **PRISONERS.**

7 Section 7 of the Civil Rights of Institutionalized Per-  
8 sons Act (42 U.S.C. 1997e) is amended—

9 (1) in subsection (a), by inserting after the pe-  
10 riod at the end the following: “This subsection shall  
11 not apply with respect to an incarcerated pregnant  
12 woman who brings an action relating to or affecting  
13 the woman’s pregnancy.”; and

14 (2) in subsection (d)(1), insert “, except an in-  
15 carcerated pregnant woman,” before “who is con-  
16 fined”.

17 **SEC. 7. DEFINITIONS.**

18 In this Act:

19 (1) **IN CUSTODY.**—The term “in custody”  
20 means, with respect to an individual, that the indi-  
21 vidual is under the supervision of a Federal, State,  
22 tribal or local correctional facility, including pretrial  
23 and contract facilities, and juvenile or medical or  
24 mental health facilities.

1           (2) OTHER PREGNANCY OUTCOME.—The term  
2           “other pregnancy outcome” means a pregnancy that  
3           ends in stillbirth, miscarriage, or ectopic pregnancy.

4           (3) POSTPARTUM RECOVERY.—The term  
5           “postpartum recovery” means the 12-week period, or  
6           longer as determined by the health care professional  
7           responsible for the health and safety of the incarcerated  
8           pregnant woman, following delivery, and shall  
9           include the entire period that the incarcerated preg-  
10          nant woman is in the hospital or infirmary.

11          (4) RESTRAINTS.—The term “restraints”  
12          means any physical or mechanical device used to  
13          control the movement of an incarcerated pregnant  
14          woman’s body, limbs, or both.

15          (5) RESTRICTIVE HOUSING.—The term “re-  
16          strictive housing” means any type of detention that  
17          involves—

18                 (A) removal from the general inmate popu-  
19                 lation, whether voluntary or involuntary;

20                 (B) placement in a locked room or cell,  
21                 whether alone or with another inmate; and

22                 (C) inability to leave the room or cell for  
23                 the vast majority of the day.

1 **SEC. 8. EDUCATION AND TECHNICAL ASSISTANCE.**

2       The Director of the National Institute of Corrections  
3 shall provide education and technical assistance, in con-  
4 junction with the appropriate public agencies, at State and  
5 local correctional facilities that house women and facilities  
6 in which incarcerated women go into labor and give birth,  
7 in order to educate the employees of such facilities, includ-  
8 ing health personnel, on the dangers and potential mental  
9 health consequences associated with the use of restrictive  
10 housing and restraints on incarcerated women during  
11 pregnancy, labor, and postpartum recovery, and on alter-  
12 natives to the use of restraints and restrictive housing  
13 placement.

14 **SEC. 9. BUREAU OF PRISONS STAFF AND U.S. MARSHALS**  
15 **TRAINING.**

16       (a) BUREAU OF PRISONS TRAINING.—Beginning not  
17 later than 180 days after the date of enactment of this  
18 Act, and biannually thereafter, the Director of the Bureau  
19 of Prisons shall train each correctional officer at any Bu-  
20 reau of Prisons women’s facility to carry out the require-  
21 ments of this Act.

22       (b) NEW HIRES.—Beginning not later than 180 days  
23 after the date of enactment of this Act, the Director of  
24 the Bureau of Prisons shall train any newly hired correc-  
25 tional officer at a Bureau of Prisons facility that houses

1 women to carry out the requirements of this Act not later  
2 than 30 days after the date on which the officer is hired.

3 (c) U.S. MARSHAL TRAINING.—Beginning not later  
4 than 180 days after the date of enactment of this Act,  
5 and biannually thereafter, the Director of the U.S. Mar-  
6 shals Service shall ensure that each Deputy U.S. Marshal  
7 is trained pursuant to the guidelines described in sub-  
8 section (d). Newly hired deputies shall receive such train-  
9 ing not later than 30 days after the date on which such  
10 deputy starts employment.

11 (d) GUIDELINES.—The Director of the Bureau of  
12 Prisons and the United States Marshals Service shall each  
13 develop guidelines on the treatment of incarcerated women  
14 during pregnancy, labor, and postpartum recovery and in-  
15 corporate such guidelines in the training required under  
16 this section. Such guidelines shall include guidance on—

17 (1) the transportation of incarcerated pregnant  
18 women;

19 (2) housing of incarcerated pregnant women;

20 (3) nutritional requirements for incarcerated  
21 pregnant women; and

22 (4) the right of a health care professional to re-  
23 quest that restraints not be used.

1 **SEC. 10. GAO STUDY ON STATE AND LOCAL CORRECTIONAL**  
2 **FACILITIES.**

3 The Comptroller General of the United States shall  
4 conduct a study of services and protections provided for  
5 pregnant incarcerated women in local and State correc-  
6 tional settings, including policies on obstetrical and gyne-  
7 cological care, education on nutrition, health and safety  
8 risks associated with pregnancy, mental health and sub-  
9 stance use treatment, access to prenatal and post-delivery  
10 support services and programs, the use of restraints and  
11 restrictive housing placement, and the extent to which the  
12 intent of such policies are fulfilled.

13 **SEC. 11. PWIC GRANT PROGRAM.**

14 Part E of the Omnibus Crime Control and Safe  
15 Streets Act of 1968 (34 U.S.C. 10151 et seq.) is amended  
16 by adding at the end the following:

17 **“Subpart 4—Women in Custody**

18 **“SEC. 531. PREGNANT WOMEN IN CUSTODY GRANT PRO-**  
19 **GRAM.**

20 “(a) ESTABLISHMENT.—The Attorney General may  
21 make grants to eligible entities that have established a  
22 program to promote the health needs of incarcerated preg-  
23 nant women in the criminal justice system at the State,  
24 tribal, and local levels or have declared their intent to es-  
25 tablish such a program. Eligible entities shall—

1           “(1) promote the safety and wellness of preg-  
2           nant women in custody;

3           “(2) provide services for obstetrical and gynecolo-  
4           gical care, for women in custody;

5           “(3) facilitate resources and support services  
6           for nutrition and physical and mental health, for  
7           women in custody;

8           “(4) establish and maintain policies that are  
9           substantially similar to the limitations imposed  
10          under section 4322 of title 18, United States Code,  
11          limiting the use of restraints on pregnant women in  
12          custody; and

13          “(5) maintain, establish, or build post-delivery  
14          lactation and nursery care or residential programs to  
15          keep the infant with the mother and to promote and  
16          facilitate bonding skills for incarcerated pregnant  
17          women and women with dependent children.

18          “(b) GRANT PERIOD.—A grant awarded under this  
19          section shall be for a period of not more than 5 years.

20          “(c) ELIGIBLE ENTITY.—An entity is eligible for a  
21          grant under this section if the entity is—

22                 “(1) a State or territory department of correc-  
23                 tions;

24                 “(2) a tribal entity that operates a correctional  
25                 facility; or



1           “(3) a unit of local government that operates a  
2           prison or jail that houses women; or

3           “(4) a locally-based nonprofit organization, that  
4           has partnered with a State or unit of local govern-  
5           ment that operates a correctional facility, with ex-  
6           pertise in providing health services to incarcerated  
7           pregnant women.

8           “(d) APPLICATION.—To receive a grant under this  
9           section, an eligible entity shall submit an application to  
10          the Attorney General at such time, in such manner, and  
11          containing such information as the Attorney General may  
12          require, including a detailed description of the need for  
13          the grant and an account of the number of individuals the  
14          grantee expects to benefit from the grant.

15          “(e) ADMINISTRATIVE COSTS.—Not more than 5 per-  
16          cent of a grant awarded under this section may be used  
17          for costs incurred to administer such grant.

18          “(f) CONSTRUCTION COSTS.—Notwithstanding any  
19          other provision of this Act, no funds provided under this  
20          section may be used, directly or indirectly, for construction  
21          projects, other than new construction or upgrade to a fa-  
22          cility used to provide lactation, nursery, obstetrical, or  
23          gynecological services.

24          “(g) PRIORITY FUNDING FOR STATES THAT PRO-  
25          VIDE PROGRAMS AND SERVICES FOR INCARCERATED

1 WOMEN RELATED TO PREGNANCY AND CHILDBIRTH.—  
2 In determining the amount provided to a State or unit  
3 of local government under this section, the Attorney Gen-  
4 eral shall give priority to States or units of local govern-  
5 ment that have enacted laws or policies and implemented  
6 services or pilot programs for incarcerated pregnant  
7 women aimed at enhancing the safety and wellness of  
8 pregnant women in custody, including providing services  
9 for obstetrical and gynecological care, resources and sup-  
10 port services for nutrition and physical and mental health,  
11 and post-delivery lactation and nursery care or residential  
12 programs to keep the infant with the mother and to pro-  
13 mote and facilitate bonding skills for incarcerated preg-  
14 nant women and women with dependent children.

15       “(h) SUBGRANT PRIORITY.—A State that receives a  
16 grant under this section shall prioritize subgrants to a unit  
17 of local government within the State that has established  
18 a pilot program that enhances safety and wellness of preg-  
19 nant women in custody.

20       “(i) FEDERAL SHARE.—

21               “(1) IN GENERAL.—The Federal share of a  
22 grant under this section may not exceed 75 percent  
23 of the total costs of the projects described in the  
24 grant application.

1           “(2) WAIVER.—The requirement of paragraph  
2           (1) may be waived by the Assistant Attorney Gen-  
3           eral upon a determination that the financial cir-  
4           cumstances affecting the applicant warrant a finding  
5           that such a waiver is equitable.

6           “(j) COMPLIANCE AND REDIRECTION OF FUNDS.—

7           “(1) IN GENERAL.—Not later than 1 year after  
8           an eligible entity receives a grant under this section,  
9           such entity shall implement a policy that is substan-  
10          tially similar to the policy under section 3 of Pro-  
11          tecting the Health and Wellness of Babies and Preg-  
12          nant Women Act of 2022.

13          “(2) EXTENSION.—The Attorney General may  
14          provide a 120-day extension to an eligible entity that  
15          is making good faith efforts to collect the informa-  
16          tion required under paragraph (1).

17          “(k) AUTHORIZATION OF APPROPRIATIONS.—There  
18          are authorized to be appropriated to carry out this section,  
19          to remain available until expended—

20                 “(1) for fiscal year 2023, \$5,000,000;

21                 “(2) for fiscal year 2024, \$5,000,000;

22                 “(3) for fiscal year 2025, \$5,000,000;

23                 “(4) for fiscal year 2026, \$6,000,000; and

24                 “(5) for fiscal year 2027, \$6,000,000.

1       “(l) FUNDS TO BE SUPPLEMENTAL.—To receive a  
2 grant under this section, the eligible entity shall certify  
3 to the Attorney General that the amounts received under  
4 the grant shall be used to supplement, not supplant, non-  
5 Federal funds that would otherwise be available for pro-  
6 grams or services in the prison where funds will be used.

7       “(m) UNOBLIGATED AND UNSPENT FUNDS.—Funds  
8 made available pursuant to this section that remain unob-  
9 ligated for a period of 6 months after the end of the fiscal  
10 year for which the funds have been appropriated shall be  
11 awarded to other recipients of this grant.

12       “(n) CIVIL RIGHTS OBLIGATION.—A recipient of a  
13 grant under this section shall be subject to the non-  
14 discrimination requirement under section 40002(b)(13) of  
15 the Violence Against Women Act of 1994 (34 U.S.C.  
16 12291(b)(13)).

17       “(o) DEFINITIONS.—In this section, the term ‘in cus-  
18 tody’ means, with respect to an individual, that the indi-  
19 vidual is under the supervision of a Federal, State, tribal,  
20 or local correctional facility, including pretrial and con-  
21 tract facilities, and juvenile or medical or mental health  
22 facilities.”.

23 **SEC. 12. PLACEMENT IN PRERELEASE CUSTODY.**

24       Section 3624(c)(1) of title 18, United States Code,  
25 is amended by adding at the end the following: “Notwith-

1 standing any other provision of this paragraph, in the case  
2 of a pregnant woman in custody, if that woman's due date  
3 is within the final year of her term of imprisonment, that  
4 woman may be placed into prerelease custody beginning  
5 not earlier than the date that is 2 months prior to that  
6 woman's due date.".

7 **SEC. 13. DETERMINATION OF BUDGETARY EFFECTS.**

8       The budgetary effects of this Act, for the purpose of  
9 complying with the Statutory Pay-As-You-Go Act of 2010,  
10 shall be determined by reference to the latest statement  
11 titled "Budgetary Effects of PAYGO Legislation" for this  
12 Act, submitted for printing in the Congressional Record  
13 by the Chairman of the House Budget Committee, pro-  
14 vided that such statement has been submitted prior to the  
15 vote on passage.

○