

118TH CONGRESS  
2D SESSION

# S. 4060

To improve maternal health policies in correctional facilities, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 22, 2024

Mr. BOOKER (for himself, Mr. DURBIN, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To improve maternal health policies in correctional facilities, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Incarcer-  
5 ated Moms Act”.

6 **SEC. 2. ENDING THE SHACKLING OF PREGNANT INDIVID-**  
7 **UALS.**

8 (a) IN GENERAL.—Beginning on the date that is 180  
9 days after the date of enactment of this Act, and annually  
10 thereafter, for each State that receives a grant under sub-

1 part 1 of part E of title I of the Omnibus Crime Control  
 2 and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.)  
 3 (commonly referred to as the “Edward Byrne Memorial  
 4 Justice Assistance Grant Program”) and that does not  
 5 have in effect throughout the State for such fiscal year  
 6 laws restricting the use of restraints on pregnant individ-  
 7 uals in correctional facilities that are substantially similar  
 8 to the rights, procedures, requirements, effects, and pen-  
 9 alties set forth in section 4322 of title 18, United States  
 10 Code, the amount of such grant that would otherwise be  
 11 allocated to such State under such subpart for the fiscal  
 12 year shall be decreased by 25 percent.

13 (b) REALLOCATION.—Amounts not allocated to a  
 14 State for failure to comply with subsection (a) shall be  
 15 reallocated in accordance with subpart 1 of part E of title  
 16 I of the Omnibus Crime Control and Safe Streets Act of  
 17 1968 (34 U.S.C. 10151 et seq.) to States that have com-  
 18 plied with such subsection.

19 **SEC. 3. CREATING MODEL PROGRAMS FOR THE CARE OF**  
 20 **INCARCERATED INDIVIDUALS IN THE PRE-**  
 21 **NATAL AND POSTPARTUM PERIODS.**

22 (a) IN GENERAL.—

23 (1) ESTABLISHMENT.—Not later than 1 year  
 24 after the date of enactment of this Act, the Attorney  
 25 General, acting through the Director of the Bureau

1 of Prisons (referred to in this section as the “Direc-  
2 tor”), shall establish, in not fewer than 6 Bureau of  
3 Prisons facilities, programs to optimize maternal  
4 health outcomes for pregnant and postpartum indi-  
5 viduals incarcerated in such facilities.

6 (2) CONSULTATION WITH STAKEHOLDERS.—  
7 The Attorney General shall establish such programs  
8 in consultation with stakeholders such as—

9 (A) relevant community-based organiza-  
10 tions, particularly organizations that represent  
11 incarcerated and formerly incarcerated individ-  
12 uals and organizations that seek to improve ma-  
13 ternal health outcomes for pregnant and  
14 postpartum individuals from demographic  
15 groups with elevated rates of maternal mor-  
16 tality, severe maternal morbidity, maternal  
17 health disparities, or other adverse perinatal or  
18 childbirth outcomes;

19 (B) relevant organizations representing pa-  
20 tients, with a particular focus on patients from  
21 demographic groups with elevated rates of ma-  
22 ternal mortality, severe maternal morbidity, ma-  
23 ternal health disparities, or other adverse  
24 perinatal or childbirth outcomes;

1 (C) organizations representing maternity  
2 care providers and maternal health care edu-  
3 cation programs;

4 (D) perinatal health workers; and

5 (E) researchers and policy experts in fields  
6 related to maternal health care for incarcerated  
7 individuals.

8 (b) **START DATE.**—A facility selected under sub-  
9 section (a) shall begin the programs described in sub-  
10 section (e) not later than 18 months after the date of en-  
11 actment of this Act.

12 (c) **FACILITY PRIORITY.**—In carrying out subsection  
13 (a), the Director shall give priority to a facility based on—

14 (1) the number of pregnant and postpartum in-  
15 dividuals incarcerated in such facility and, among  
16 such individuals, the number of pregnant and  
17 postpartum individuals from demographic groups  
18 with elevated rates of maternal mortality, severe ma-  
19 ternal morbidity, maternal health disparities, or  
20 other adverse perinatal or childbirth outcomes; and

21 (2) the extent to which the leaders of such facil-  
22 ity have demonstrated a commitment to developing  
23 exemplary programs for pregnant and postpartum  
24 individuals incarcerated in such facility.

1 (d) PROGRAM DURATION.—The programs established  
2 under subsection (e) shall be carried out for a 5-year pe-  
3 riod.

4 (e) PROGRAMS.—Bureau of Prisons facilities selected  
5 by the Director shall establish programs for pregnant and  
6 postpartum incarcerated individuals, and such programs  
7 may—

8 (1) provide access to perinatal health workers  
9 from pregnancy through the postpartum period;

10 (2) provide access to healthy foods and coun-  
11 seling on nutrition, recommended activity levels, and  
12 safety measures throughout pregnancy;

13 (3) train correctional officers to ensure that  
14 pregnant incarcerated individuals receive safe and  
15 respectful treatment;

16 (4) train medical personnel to ensure that preg-  
17 nant incarcerated individuals receive trauma-in-  
18 formed, culturally and linguistically congruent care  
19 that promotes the health and safety of the pregnant  
20 individuals;

21 (5) provide counseling and treatment for indi-  
22 viduals who have suffered from—

23 (A) diagnosed mental or behavioral health  
24 conditions, including trauma and substance use  
25 disorders;

1 (B) trauma or violence, including domestic  
2 violence;

3 (C) human immunodeficiency virus;

4 (D) sexual abuse;

5 (E) pregnancy or infant loss; or

6 (F) chronic conditions;

7 (6) provide evidence-based pregnancy and child-  
8 birth education, parenting support, and other rel-  
9 evant forms of health literacy;

10 (7) provide clinical education opportunities to  
11 maternity care providers in training to expand path-  
12 ways into maternal health care careers serving incar-  
13 cerated individuals;

14 (8) offer opportunities for postpartum individ-  
15 uals to maintain contact with the individual's new-  
16 born child to promote bonding, including enhanced  
17 visitation policies, access to prison nursery pro-  
18 grams, or breastfeeding support;

19 (9) provide reentry assistance, particularly to—

20 (A) ensure access to health insurance cov-  
21 erage and transfer of health records to commu-  
22 nity providers if an incarcerated individual exits  
23 the criminal justice system during such individ-  
24 ual's pregnancy or in the postpartum period;  
25 and

1 (B) connect individuals exiting the criminal  
2 justice system during pregnancy or in the  
3 postpartum period to community-based re-  
4 sources, such as referrals to health care pro-  
5 viders, substance use disorder treatments, and  
6 social services that address social determinants  
7 of maternal health; or

8 (10) establish partnerships with local public en-  
9 tities, private community entities, community-based  
10 organizations, Indian Tribes and Tribal organiza-  
11 tions (as such terms are defined in section 4 of the  
12 Indian Self-Determination and Education Assistance  
13 Act (25 U.S.C. 5304)), and Urban Indian organiza-  
14 tions (as such term is defined in section 4 of the In-  
15 dian Health Care Improvement Act (25 U.S.C.  
16 1603)) to establish or expand pretrial diversion pro-  
17 grams as an alternative to incarceration for preg-  
18 nant and postpartum individuals, including—

19 (A) evidence-based childbirth education or  
20 parenting classes;

21 (B) prenatal health coordination;

22 (C) family and individual counseling;

23 (D) evidence-based screenings, education,  
24 and, as needed, treatment for mental and be-

1           havioral health conditions, including drug and  
2           alcohol treatments;

3           (E) family case management services;

4           (F) domestic violence education and pre-  
5           vention;

6           (G) physical and sexual abuse counseling;  
7           and

8           (H) programs to address social deter-  
9           minants of health such as employment, housing,  
10          education, transportation, and nutrition.

11       (f) IMPLEMENTATION AND REPORTING.—A facility  
12       selected under subsection (a) shall be responsible for—

13           (1) implementing programs, which may include  
14           the programs described in subsection (e); and

15           (2) not later than 3 years after the date of en-  
16           actment of this Act, reporting results of the pro-  
17           grams to the Director, including information de-  
18           scribing—

19           (A) relevant quantitative indicators of suc-  
20           cess in improving the standard of care and  
21           health outcomes for pregnant and postpartum  
22           incarcerated individuals in the facility, including  
23           data stratified by race, ethnicity, sex, gender,  
24           primary language, age, geography, disability  
25           status, the category of the criminal charge



1 against such individual, rates of pregnancy-re-  
2 lated deaths, pregnancy-associated deaths, cases  
3 of infant mortality and morbidity, rates of  
4 preterm births and low-birthweight births, cases  
5 of severe maternal morbidity, cases of violence  
6 against pregnant or postpartum individuals, di-  
7 agnoses of maternal mental or behavioral health  
8 conditions, and other such information as ap-  
9 propriate;

10 (B) relevant qualitative and quantitative  
11 evaluations from pregnant and postpartum in-  
12 carcerated individuals who participated in such  
13 programs, including measures of patient-re-  
14 ported experience of care; and

15 (C) strategies to sustain such programs  
16 after fiscal year 2029 and expand such pro-  
17 grams to other facilities.

18 (g) REPORT.—Not later than 6 years after the date  
19 of enactment of this Act, the Director shall submit to the  
20 Attorney General and Congress a report describing the re-  
21 sults of the programs funded under this section.

22 (h) OVERSIGHT.—Not later than 1 year after the  
23 date of enactment of this Act, the Attorney General shall  
24 award a contract to an independent organization or inde-

1 pendent organizations to conduct oversight of the pro-  
 2 grams described in subsection (e).

3 (i) AUTHORIZATION OF APPROPRIATIONS.—There is  
 4 authorized to be appropriated to carry out this section  
 5 \$10,000,000 for each of fiscal years 2025 through 2029.

6 **SEC. 4. GRANT PROGRAM TO IMPROVE MATERNAL HEALTH**  
 7 **OUTCOMES FOR INDIVIDUALS IN STATE AND**  
 8 **LOCAL CORRECTIONAL FACILITIES.**

9 (a) IN GENERAL.—

10 (1) ESTABLISHMENT.—Not later than 1 year  
 11 after the date of enactment of this Act, the Attorney  
 12 General, acting through the Director of the Bureau  
 13 of Justice Assistance (referred to in this section as  
 14 the “Director”), shall award Justice for Incarcerated  
 15 Moms grants to States to establish or expand pro-  
 16 grams in State and local correctional facilities for  
 17 pregnant and postpartum incarcerated individuals.

18 (2) CONSULTATION WITH STAKEHOLDERS.—  
 19 The Attorney General shall award such grants in  
 20 consultation with stakeholders such as—

21 (A) relevant community-based organiza-  
 22 tions, particularly organizations that represent  
 23 incarcerated and formerly incarcerated individ-  
 24 uals and organizations that seek to improve ma-  
 25 ternal health outcomes for pregnant and

1 postpartum individuals from demographic  
2 groups with elevated rates of maternal mor-  
3 tality, severe maternal morbidity, maternal  
4 health disparities, or other adverse perinatal or  
5 childbirth outcomes;

6 (B) relevant organizations representing pa-  
7 tients, with a particular focus on patients from  
8 demographic groups with elevated rates of ma-  
9 ternal mortality, severe maternal morbidity, ma-  
10 ternal health disparities, or other adverse  
11 perinatal or childbirth outcomes;

12 (C) organizations representing maternity  
13 care providers and maternal health care edu-  
14 cation programs;

15 (D) perinatal health workers; and

16 (E) researchers and policy experts in fields  
17 related to maternal health care for incarcerated  
18 individuals.

19 (b) APPLICATIONS.—Each applicant for a grant  
20 under this section shall submit to the Director an applica-  
21 tion at such time, in such manner, and containing such  
22 information as the Director may require.

23 (c) USE OF FUNDS.—A State that is awarded a grant  
24 under this section shall use such grant to establish or ex-

1 pand programs for pregnant and postpartum incarcerated  
2 individuals, and such programs may—

3 (1) provide access to perinatal health workers  
4 from pregnancy through the postpartum period;

5 (2) provide access to healthy foods and coun-  
6 seling on nutrition, recommended activity levels, and  
7 safety measures throughout pregnancy;

8 (3) train correctional officers to ensure that  
9 pregnant incarcerated individuals receive safe and  
10 respectful treatment;

11 (4) train medical personnel to ensure that preg-  
12 nant incarcerated individuals receive trauma-in-  
13 formed, culturally and linguistically congruent care  
14 that promotes the health and safety of the pregnant  
15 individuals;

16 (5) provide counseling and treatment for indi-  
17 viduals who have suffered from—

18 (A) diagnosed mental or behavioral health  
19 conditions, including trauma and substance use  
20 disorders;

21 (B) trauma or violence, including domestic  
22 violence;

23 (C) human immunodeficiency virus;

24 (D) sexual abuse;

25 (E) pregnancy or infant loss; or

- 1 (F) chronic conditions;
- 2 (6) provide evidence-based pregnancy and child-  
3 birth education, parenting support, and other rel-  
4 evant forms of health literacy;
- 5 (7) provide clinical education opportunities to  
6 maternity care providers in training to expand path-  
7 ways into maternal health care careers serving incar-  
8 cerated individuals;
- 9 (8) offer opportunities for postpartum individ-  
10 uals to maintain contact with the individual's new-  
11 born child to promote bonding, including enhanced  
12 visitation policies, access to prison nursery pro-  
13 grams, or breastfeeding support;
- 14 (9) provide reentry assistance, particularly to—
- 15 (A) ensure access to health insurance cov-  
16 erage and transfer of health records to commu-  
17 nity providers if an incarcerated individual exits  
18 the criminal justice system during such individ-  
19 ual's pregnancy or in the postpartum period;  
20 and
- 21 (B) connect individuals exiting the criminal  
22 justice system during pregnancy or in the  
23 postpartum period to community-based re-  
24 sources, such as referrals to health care pro-  
25 viders, substance use disorder treatments, and

1 social services that address social determinants  
2 of maternal health; or

3 (10) establish partnerships with local public en-  
4 tities, private community entities, community-based  
5 organizations, Indian Tribes and Tribal organiza-  
6 tions (as such terms are defined in section 4 of the  
7 Indian Self-Determination and Education Assistance  
8 Act (25 U.S.C. 5304)), and Urban Indian organiza-  
9 tions (as such term is defined in section 4 of the In-  
10 dian Health Care Improvement Act (25 U.S.C.  
11 1603)) to establish or expand pretrial diversion pro-  
12 grams as an alternative to incarceration for preg-  
13 nant and postpartum individuals, including—

14 (A) evidence-based childbirth education or  
15 parenting classes;

16 (B) prenatal health coordination;

17 (C) family and individual counseling;

18 (D) evidence-based screenings, education,  
19 and, as needed, treatment for mental and be-  
20 havioral health conditions, including drug and  
21 alcohol treatments;

22 (E) family case management services;

23 (F) domestic violence education and pre-  
24 vention;

1 (G) physical and sexual abuse counseling;  
2 and

3 (H) programs to address social deter-  
4 minants of health such as employment, housing,  
5 education, transportation, and nutrition.

6 (d) PRIORITY.—In awarding grants under this sec-  
7 tion, the Director shall give priority to applicants based  
8 on—

9 (1) the number of pregnant and postpartum in-  
10 dividuals incarcerated in the State and, among such  
11 individuals, the number of pregnant and postpartum  
12 individuals from demographic groups with elevated  
13 rates of maternal mortality, severe maternal mor-  
14 bidity, maternal health disparities, or other adverse  
15 perinatal or childbirth outcomes; and

16 (2) the extent to which the State has dem-  
17 onstrated a commitment to developing exemplary  
18 programs for pregnant and postpartum individuals  
19 incarcerated in the correctional facilities in the  
20 State.

21 (e) GRANT DURATION.—A grant awarded under this  
22 section shall be for a period of 5 years.

23 (f) IMPLEMENTING AND REPORTING.—A State that  
24 receives a grant under this section shall be responsible  
25 for—

1           (1) implementing the program funded by the  
2 grant; and

3           (2) not later than 3 years after the date of en-  
4 actment of this Act reporting results of such pro-  
5 gram to the Attorney General, including information  
6 describing—

7           (A) relevant quantitative indicators of the  
8 success of the program in improving the stand-  
9 ard of care and health outcomes for pregnant  
10 and postpartum incarcerated individuals in the  
11 facility, including data stratified by race, eth-  
12 nicity, sex, gender, primary language, age, ge-  
13 ography, disability status, category of the crimi-  
14 nal charge against such individual, incidence  
15 rates of pregnancy-related deaths, pregnancy-  
16 associated deaths, cases of infant mortality and  
17 morbidity, rates of preterm births and low-  
18 birthweight births, cases of severe maternal  
19 morbidity, cases of violence against pregnant or  
20 postpartum individuals, diagnoses of maternal  
21 mental or behavioral health conditions, and  
22 other such information as appropriate;

23           (B) relevant qualitative and quantitative  
24 evaluations from pregnant and postpartum in-  
25 carcerated individuals who participated in such



1 programs, including measures of patient-re-  
2 ported experience of care; and

3 (C) strategies to sustain such programs be-  
4 yond the duration of the grant and expand such  
5 programs to other facilities.

6 (g) REPORT.—Not later than 6 years after the date  
7 of enactment of this Act, the Attorney General shall sub-  
8 mit to Congress a report describing the results of pro-  
9 grams carried out using grants under this subsection.

10 (h) OVERSIGHT.—Not later than 1 year after the  
11 date of enactment of this Act, the Attorney General shall  
12 award a contract to an independent organization or inde-  
13 pendent organizations to conduct oversight of the pro-  
14 grams described in subsection (c).

15 (i) AUTHORIZATION OF APPROPRIATIONS.—There is  
16 authorized to be appropriated to carry out this section  
17 \$10,000,000 for each of fiscal years 2025 through 2029.

18 **SEC. 5. GAO REPORT.**

19 (a) IN GENERAL.—Not later than 2 years after the  
20 date of enactment of this Act, the Comptroller General  
21 of the United States shall submit to Congress a report  
22 on adverse maternal and infant health outcomes among  
23 incarcerated individuals and infants born to such individ-  
24 uals, with a particular focus on racial and ethnic dispari-

1 ties in maternal and infant health outcomes for incarcer-  
2 ated individuals.

3 (b) CONTENTS OF REPORT.—The report described in  
4 subsection (a) shall include—

5 (1) to the extent practicable, for the available  
6 data for the 10 years preceding the date of the re-  
7 port—

8 (A) the number of pregnant individuals  
9 who are incarcerated in Bureau of Prisons fa-  
10 cilities;

11 (B) the number of incarcerated individuals,  
12 including those incarcerated in Federal, State,  
13 and local correctional facilities, who have expe-  
14 rienced a pregnancy-related death, pregnancy-  
15 associated death, or the death of an infant;

16 (C) the number of cases of severe maternal  
17 morbidity among incarcerated individuals, in-  
18 cluding those incarcerated in Federal, State,  
19 and local correctional facilities;

20 (D) the number of stillbirths, miscarriages,  
21 and other adverse pregnancy outcomes experi-  
22 enced by incarcerated individuals, including  
23 those incarcerated in Federal, State, and local  
24 correctional facilities;

1 (E) the number of pregnant incarcerated  
2 individuals, including those incarcerated in Fed-  
3 eral, State, and local correctional facilities, re-  
4 ceiving prenatal care;

5 (F) the number of preterm and low-birth-  
6 weight births of infants born to incarcerated in-  
7 dividuals, including those incarcerated in Fed-  
8 eral, State, and local correctional facilities; and

9 (G) statistics on the racial and ethnic dis-  
10 parities in maternal and infant health outcomes  
11 and severe maternal morbidity rates among in-  
12 carcerated individuals, including those incarcer-  
13 ated in Federal, State, and local correctional fa-  
14 cilities;

15 (2) in the case that the Comptroller General of  
16 the United States is unable determine the informa-  
17 tion required under paragraph (1), an assessment of  
18 the barriers to determining such information and  
19 recommendations for improvements in tracking ma-  
20 ternal health outcomes among incarcerated individ-  
21 uals, including those incarcerated in Federal, State,  
22 and local correctional facilities;

23 (3) the implications of pregnant and  
24 postpartum incarcerated individuals being ineligible  
25 for medical assistance under a State plan under title

1 XIX of the Social Security Act (42 U.S.C. 1396 et  
2 seq.), including information about—

3 (A) the effects of such ineligibility on ma-  
4 ternal health outcomes for pregnant and  
5 postpartum incarcerated individuals, with em-  
6 phasis given to such effects for pregnant and  
7 postpartum individuals from racial and ethnic  
8 minority groups; and

9 (B) potential implications on maternal  
10 health outcomes resulting from temporarily sus-  
11 pending, rather than permanently terminating,  
12 such eligibility when a pregnant or postpartum  
13 individual is incarcerated;

14 (4) the extent to which Federal, State, and  
15 local correctional facilities are holding pregnant and  
16 postpartum individuals who test positive for illicit  
17 drug use in detention with special conditions, such  
18 as additional bond requirements, due to drug use by  
19 the individual, and the effect of such detention poli-  
20 cies on maternal and infant health outcomes;

21 (5) causes of adverse maternal health outcomes  
22 that are unique to incarcerated individuals, including  
23 those incarcerated in Federal, State, and local cor-  
24 rectional facilities;

1           (6) causes of adverse maternal health outcomes  
2           and severe maternal morbidity that are unique to in-  
3           carcerated individuals from racial and ethnic minor-  
4           ity groups;

5           (7) recommendations to reduce maternal mor-  
6           tality and severe maternal morbidity among incar-  
7           cerated individuals and to address racial and ethnic  
8           disparities in maternal health outcomes for incarcer-  
9           ated individuals in Bureau of Prisons facilities and  
10          State and local correctional facilities; and

11          (8) such other information as may be appro-  
12          priate to reduce the occurrence of adverse maternal  
13          health outcomes among incarcerated individuals and  
14          to address racial and ethnic disparities in maternal  
15          health outcomes for such individuals.

○