

STATE OF NEW YORK

4879--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 7, 2025

Introduced by M. of A. KELLES, GONZALEZ-ROJAS, SIMON, CLARK, LEVENBERG, COLTON, BURDICK, REYES, GALLAGHER, SHRESTHA, EPSTEIN, CRUZ, FORREST, MAMDANI, McMAHON, LUNSFORD, WALKER, CUNNINGHAM, SEAWRIGHT, TAYLOR, SHIMSKY, BICHOTTE HERMELYN, WEPRIN, GIBBS, HEVESI, SEPTIMO, TAPIA, RAGA, BORES, DAVILA, SIMONE, LUCAS, GLICK, VALDEZ, ROSENTHAL, R. CARROLL, O'PHARROW, BURROUGHS, LAVINE, TORRES, WIEDER, SOLAGES, BENEDETTO, ALVAREZ, SCHIAVONI, WRIGHT, ROMERO, LUPARDO, MEEKS, DE LOS SANTOS, PAULIN -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to promoting the health, safety, and human rights of incarcerated pregnant individuals, incarcerated birthing parents of children and their children

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative purpose and findings. People incarcerated in
2 institutions or local correctional facilities face unique health risks
3 during pregnancy, childbirth, postpartum, and early childcare. Lack of
4 appropriate prenatal, obstetric, and postpartum medical care, and appro-
5 priate health and safety measures, can result in serious harm to these
6 birthing parents and their children. Birthing parents and such persons'
7 young children need prenatal, obstetric, and pediatric care, as well as
8 developmentally-appropriate resources provided in a safe, healthy, and
9 nurturing environment. Unless comprehensive and compassionate laws,
10 policies, and practices are in place, the rights and care of birthing
11 parents and such persons' young children may be compromised by the
12 conditions of confinement in correctional institutions or facilities.

13 § 2. Section 611 of the correction law, as amended by chapter 242 of
14 the laws of 1930, the section heading as amended by chapter 322 of the
15 laws of 2021, subdivision 1 as amended by chapter 17 of the laws of
16 2016, paragraph (c) of subdivision 1 and subdivision 2 as separately

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD05763-03-5

1 amended by chapters 322 and 621 of the laws of 2021, and subdivision 4
2 as amended by chapter 486 of the laws of 2022, is amended to read as
3 follows:

4 § 611. [~~Births to incarcerated individuals of correctional insti-~~
5 ~~tutions and care of children of incarcerated individuals of correctional~~
6 ~~institutions~~] Rights and care of birthing parents and such persons'
7 children. 1. For the purposes of this section, the following terms
8 shall have the following meanings:

9 (a) "Birthing parent" means any person who is incarcerated and preg-
10 nant, postpartum, or with custody of a child up to twenty-four months of
11 age.

12 (b) "Prenatal" means the period in which a person becomes pregnant and
13 up until birth or other pregnancy outcome occurs.

14 (c) "Perinatal" means the twelve-week period immediately before birth
15 and the twelve-week period immediately after birth.

16 (d) "Postpartum" means the twelve-week period after giving birth and
17 shall include stillbirth, miscarriage, and neonatal death, in accordance
18 with the American college of obstetricians and gynecologists.

19 (e) "Nursery" means a space where a birthing parent lives with their
20 child and receives services. A nursery shall include, at a minimum, a
21 window for natural light and the equipment and furnishings required by
22 section 7651.17 of title 9 of the codes, rules and regulations of the
23 state of New York.

24 (f) "Timely" means within the timeframe recommended by the treating
25 medical provider, unless otherwise specified in this section.

26 2. (a) If a [~~woman~~] person confined in any institution or local
27 correctional facility be pregnant and about to give birth to a child,
28 the superintendent or sheriff in charge of such institution or facility,
29 a reasonable time before the anticipated birth of such child, shall
30 cause such [~~woman~~] person to be removed from such institution or facili-
31 ty and provided with comfortable accommodations, maintenance and medical
32 care elsewhere, under such supervision and safeguards to prevent [~~her~~]
33 such birthing parent's escape from custody as the superintendent or
34 sheriff or [~~his or her~~] their designee may determine. No restraints of
35 any kind shall be used during transport of such [~~woman~~] birthing parent,
36 a [~~woman~~] person who is known to be pregnant by correctional personnel
37 or personnel providing medical services to the institution or local
38 correctional facility, or a [~~woman~~] birthing parent within eight weeks
39 after delivery or pregnancy outcome, absent extraordinary circumstances
40 in which:

41 i. the superintendent or sheriff or [~~his or her~~] their designee in
42 consultation with the medical professional responsible for the institu-
43 tion has made an individualized determination that restraints are neces-
44 sary to prevent such [~~woman~~] birthing parent from injuring [~~herself~~]
45 themselves or medical or correctional personnel or others and cannot
46 reasonably be restrained by other means, including the use of additional
47 personnel; or

48 ii. the correctional personnel directly responsible for the transport
49 of such a [~~woman~~] birthing parent determine that an emergency has arisen
50 in which restraints are necessary because the [~~woman~~] birthing parent
51 poses an immediate risk of serious injury to [~~herself~~] themselves or
52 medical or correctional personnel or others and cannot reasonably be
53 restrained by other means.

54 (b) If a determination has been made pursuant to subparagraph i or ii
55 of paragraph (a) of this subdivision that extraordinary circumstances
56 exist then restraints shall be limited to wrist restraints in front of

1 the body. The superintendent or sheriff or [~~his or her~~] their designee
2 pursuant to subparagraph i of paragraph (a) of this subdivision or
3 correctional personnel pursuant to subparagraph ii of paragraph (a) of
4 this subdivision shall document in writing the facts upon which the
5 finding of extraordinary circumstances were based within five days of
6 the use of such restraints and shall also document the type of
7 restraints used and the length of time such restraints were used.

8 (c) No restraints of any kind shall be used when such [~~woman~~] birthing
9 parent is in labor, admitted to a hospital, institution or clinic for
10 delivery, or recovering after giving birth. Any such personnel as may be
11 necessary to supervise the [~~woman~~] birthing parent during transport to
12 and from and during [~~her~~] their stay at the hospital, institution or
13 clinic shall be provided to ensure adequate care, custody and control of
14 the [~~woman~~] birthing parent, except that no correctional staff shall be
15 present in the delivery room during the birth of a baby unless requested
16 by the medical staff supervising such delivery or by the [~~woman~~] birth-
17 ing parent giving birth. The [~~woman~~] birthing parent shall be permitted
18 to have at least one support person of [~~her~~] their choosing accompany
19 [~~her~~] them in the delivery room and when such [~~woman~~] birthing parent is
20 in labor and recovering after giving birth. A support person shall not
21 need to have visited the [~~woman~~] birthing parent at a correctional
22 facility prior to serving as a support person. A person may not be
23 denied eligibility to serve as a support person solely on the basis of a
24 past criminal conviction or that such person is on probation, condi-
25 tional release, parole or post release supervision. Any decision by an
26 agency to deny a [~~woman's~~] birthing parent's request to have a specific
27 person serve as a support person shall be made with reasons specified in
28 writing within five days of [~~her~~] the request and promptly provided to
29 the [~~woman~~] birthing parent. A support person shall be notified imme-
30 diately after such [~~woman~~] birthing parent goes into labor, or imme-
31 diately after a caesarean section or termination is scheduled. If avail-
32 able, a doula, midwife or other birthing support specialist may also
33 assist during labor and delivery in addition to at least one support
34 person of the [~~woman's~~] birthing parent's choosing. Any [~~woman~~] birthing
35 parent confined in a state or local correctional facility shall receive
36 notice in writing in a language and manner understandable to [~~her~~] such
37 birthing parent about the requirements of this section upon [~~her~~] such
38 birthing parent's admission to such state or local correctional facility
39 and again when [~~she~~] the birthing parent is known to be pregnant. The
40 superintendent or sheriff shall publish notice of the requirements of
41 this section in prominent locations where medical care is provided. The
42 superintendent or sheriff or [~~his or her~~] their designee shall cause
43 such [~~woman~~] birthing parent to be subject to return to such institution
44 or local correctional facility as soon after the birth of [~~her~~] such
45 birthing parent's child as the state of [~~her~~] such birthing parent's
46 health will permit as determined by the medical professional responsible
47 for the care of such [~~woman~~] birthing parent. If such [~~woman~~] birthing
48 parent is confined in a local correctional facility, the expense of such
49 accommodation, maintenance and medical care shall be paid by such
50 [~~woman~~] birthing parent or [~~her~~] their relatives or from any available
51 funds of the local correctional facility and if not available from such
52 sources, shall be a charge upon the county, city or town in which is
53 located the court from which such incarcerated individual was committed
54 to such local correctional facility. If such [~~woman~~] birthing parent is
55 confined in any institution under the control of the department, the
56 expense of such accommodation, maintenance and medical care shall be

1 paid by such [~~woman~~] birthing parent or [~~her~~] their relatives and if not
2 available from such sources, such maintenance and medical care shall be
3 paid by the state. In cases where payment of such accommodations, main-
4 tenance and medical care is assumed by the county, city or town from
5 which such incarcerated individual was committed the payor shall make
6 payment by issuing payment instrument in favor of the agency or individ-
7 ual that provided such accommodations and services, after certification
8 has been made by the head of the institution to which the incarcerated
9 individual was legally confined, that the charges for such accommo-
10 dations, maintenance and medical care were necessary and are just, and
11 that the institution has no available funds for such purpose.

12 (d) Any [~~woman~~] birthing parent confined in an institution or local
13 correctional facility shall receive notice in writing in a language and
14 manner understandable to [~~her~~] such birthing parent about the require-
15 ments of this section upon [~~her~~] such birthing parent's admission to an
16 institution or local correctional facility and again when [~~she~~] such
17 birthing parent is known to be pregnant. The superintendent or sheriff
18 shall publish notice of the requirements of this section in prominent
19 locations where medical care is provided. The department and the sheriff
20 shall provide annual training on provisions of this section to all
21 correctional personnel who are involved in the transportation, super-
22 vision or medical care of incarcerated [~~women~~] individuals.

23 (e) The department shall report annually to the governor, the tempo-
24 rary president of the senate, the minority leader of the senate, the
25 speaker of the assembly, the minority leader of the assembly, the chair-
26 person of the senate crime victims, crime and correction committee and
27 the chairperson of the assembly correction committee concerning every
28 use of restraints on a [~~woman~~] birthing parent under this section,
29 including the reason such restraint was used, the type of restraint used
30 and the length of time such restraint was used pursuant to paragraph (b)
31 of this subdivision, but shall exclude individual identifying informa-
32 tion. The sheriff of each county shall report, in a form and manner
33 prescribed by the commission, every use of restraints on a [~~woman~~]
34 birthing parent under this section, including the reason such restraint
35 was used, the type of restraint used and the length of time such
36 restraint was used pursuant to paragraph (b) of this subdivision, annu-
37 ally to the commission. The commission shall include such information in
38 its annual report pursuant to section forty-five of this chapter, but
39 shall exclude identifying information from such report. Reports required
40 by this section shall be posted on the websites maintained by the
41 department and the commission.

42 [~~2-~~] 3. Birthing parents shall be provided with comprehensive and
43 uninterrupted access to prenatal, perinatal, and postpartum care,
44 including all necessary prenatal screening and diagnostic tests, medica-
45 tion as prescribed by medical personnel, consultation and treatment,
46 including treatment by specialists, and appropriate medical care after
47 delivery or other pregnancy outcomes, including postpartum physical,
48 mental, and reproductive health care, as recommended by the American
49 college of obstetricians and gynecologists. The commissioner shall
50 establish rules and regulations relating to conditions in the institu-
51 tion or local correctional facility, treatment and care that shall
52 include, but is not limited to:

53 (a) Regularly scheduled obstetric care appointments with a medical
54 practitioner, beginning in early pregnancy, within one week of the
55 institution or local correctional facility learning an individual is

1 pregnant, and continuing as recommended by medical personnel through the
2 postpartum period;

3 (b) An appointment to be scheduled within the first week of the insti-
4 tution or local correctional facility learning an individual is pregnant
5 and which appointment shall take place within a reasonable timeframe,
6 not to exceed four weeks. Such appointment shall include a comprehensive
7 prenatal examination appropriate to the trimester and health of such
8 individual as recommended by the American college of obstetricians and
9 gynecologists. If the medical practitioner is not a high-risk obstetri-
10 cian and determines that a referral to a high-risk obstetrician is
11 necessary, such individual shall be referred to a high-risk obstetrician
12 without delay;

13 (c) Prenatal appointments with a medical practitioner pursuant to this
14 paragraph at a frequency in line with recommendations by the American
15 college of obstetricians and gynecologists;

16 (d) Fetal ultrasound imaging conducted by a sonographer who is certi-
17 fied in or who has received a degree in sonography from a national
18 certifying or degree-granting body at a frequency determined by the
19 medical practitioner caring for such individual, including, at a mini-
20 mum: one dating ultrasound if such individual is in their first trimes-
21 ter or has not yet had or does not have records of a prior such ultra-
22 sound; one ultrasound to assess fetal anatomy between eighteen and
23 twenty-two weeks of pregnancy if such individual has not yet reached
24 twenty-two weeks of pregnancy; and within two weeks of entering custody
25 in an institution or local correctional facility if such individual
26 enters custody past twenty-two weeks of pregnancy. Such individual shall
27 be permitted to view their ultrasound imaging during the procedure and
28 shall be provided with physical images from the ultrasound to keep at
29 the institution or local correctional facility and an additional copy
30 for a person of the individual's choosing if such images are capable of
31 being generated and if such individual wants such images;

32 (e) For individuals with a high-risk pregnancy, the frequency of
33 prenatal appointments shall be determined by the high-risk obstetrician
34 caring for such individuals in line with recommendations by the American
35 college of obstetricians and gynecologists;

36 (f) Emergency access to a medical practitioner pursuant to this para-
37 graph for twenty-four hours per day seven days per week. If emergency
38 access is needed, such individuals shall be permitted to speak with such
39 practitioners directly;

40 (g) No correction staff or volunteers shall be present during these
41 examinations unless requested by the birthing parent or by the medical
42 staff when the situation poses a clear risk of danger to the medical
43 staff or others;

44 (h) At least once each trimester, a consultation with a nutritionist
45 or dietician about pregnancy appropriate nutrition and physical activ-
46 ity;

47 (i) Access to a dentist within one month of the institution or local
48 correctional facility learning such individual is pregnant. Such dentist
49 shall offer such individual a comprehensive exam, cleaning, and timely
50 referral to dental specialists if necessary, pursuant to the recommenda-
51 tions by the American college of obstetricians and gynecologists;

52 (j) At least one consultation prior to the birth between such individ-
53 ual and such individual's medical practitioner, midwife, and/or doula,
54 to discuss anticipatory guidance related to the birth and establish a
55 birth plan, including but not limited to:

1 (i) modes of delivery, possible interventions and guidance regarding
2 medical testing and fetal monitoring;

3 (ii) medication that may be employed during birth and the possible
4 side effects of such medication on such individual and their newborn
5 consistent with section twenty-five hundred three of the public health
6 law;

7 (iii) preferences for newborn feeding and care, including circumcision
8 if applicable;

9 (iv) information for maternity patients as required by section twen-
10 ty-eight hundred three-j of the public health law;

11 (v) information regarding the length of hospital stay for maternity
12 patients contained in section twenty-eight hundred three-n of the public
13 health law; and

14 (vi) a comprehensive postpartum appointment schedule with a medical
15 practitioner pursuant to this paragraph at a frequency determined by
16 such practitioner based on the health of such individual and any compli-
17 cations related to birth, including one appointment three weeks after a
18 vaginal birth and two weeks after a cesarean section, and another
19 appointment twelve weeks after birth, in accordance with recommendations
20 from the American college of obstetricians and gynecologists;

21 (k) Perinatal vitamins that meet the standards of the United States
22 Food and Drug Administration and that include key vitamins and minerals
23 as recommended by the American college of obstetricians and gynecolo-
24 gists in order to safely deliver a child and breast feed them;

25 (l) Evidence-based treatment and medication for opioid use disorder,
26 smoking cessation, alcohol use disorder and other substance use disor-
27 ders shall not be denied on account of pregnancy;

28 (m) Screening for HIV, hepatitis B, syphilis, chlamydial infection,
29 and Neisseria Gonorrhoeae, as recommended by the American academy of
30 pediatrics and the American college of obstetricians and gynecologists
31 with prior written and oral informed consent specific to the test;

32 (n) Consultation access to influenza and Tdap vaccines;

33 (o) Screening for mental health concerns and psychological and psychi-
34 atric therapy and treatment as needed, including consultation regarding
35 psychiatric medications and provision to psychiatric medications that
36 are safe during pregnancy;

37 (p) Medical care during labor and delivery, which shall include care
38 by qualified medical personnel, such as someone who has been certified
39 in obstetrics by the American board of medical specialties or a compara-
40 ble national certifying board or a midwife licensed to practice midwif-
41 ery pursuant to article one hundred forty of the education law provided
42 that such a midwife is available and such individual requests midwifery
43 care and necessary medical equipment, including full access to pain
44 management medications when safe. A birthing parent shall remain at the
45 hospital and in care by qualified medical personnel for forty-eight
46 hours after vaginal birth and ninety-six hours after cesarean birth in
47 accordance with recommendations from the American college of obstetri-
48 cians and gynecologists. Prior to release from the hospital, the birth-
49 ing parent shall receive consultations from qualified practitioners to
50 include but not be limited to a certified dietician and/or nutritionist
51 for postpartum physical activity recommendations appropriate to labor
52 and delivery outcomes of the birthing parent;

53 (q) Timely access to medications, vaccines, and prenatal, perinatal,
54 postpartum, and fetal tests as recommended by the medical practitioner
55 caring for such individual and timely access to results of such tests,

1 including tests identifying the sex of the fetus, if such individual
2 confirms they want this information;

3 (r) Appropriate hydration and nutrition. Such hydration shall include
4 distilled water for bottles and bottled filtered water for drinking.
5 Such nutrition shall include the provision of additional portions of
6 nutritious food, fresh fruits and vegetables that are safe to consume
7 during the prenatal, perinatal and postpartum periods, including breast-
8 feeding-related nutritional recommendations of the American college of
9 obstetricians and gynecologists and the American academy of pediatrics.
10 These individuals may request an additional tray of food, milk, and
11 hydration to bring back to their living area during the prenatal, peri-
12 natal and postpartum periods and while breastfeeding;

13 (s) Regular access to safe and appropriate exercise facilities for at
14 least one hour per day during the prenatal, perinatal and postpartum
15 periods as appropriate to their physical health and birth outcome, as
16 well as trips outside the institution or local correctional facility
17 guided by correctional officers for birthing parents;

18 (t) Reasonable accommodations for sleep, rest, and work requirements
19 for the prenatal, perinatal and postpartum periods and the entire period
20 the child remains with birthing parent. Reprieve from daily activities,
21 such as repeatedly climbing stairs and lifting heavy items, if the
22 medical practitioner providing care to such individual determines that
23 such activities present a risk of harm to such individual;

24 (u) Access to seating with back support in situations that require
25 sitting, including waiting for an appointment and participating in
26 programs or work duties;

27 (v) Privacy with regard to the care of prenatal, perinatal, and post-
28 partum conditions. Breastfeeding birthing parents shall have access to a
29 nursing cover;

30 (w) Prevention from exposure to substances or chemicals that could
31 present a risk of harm to the birthing parent during the prenatal, peri-
32 natal and postpartum periods or such person's fetus or infant;

33 (x) Safe and appropriate housing and living conditions, including
34 adequate bedding, clothing, and personal hygiene and self-care supplies
35 during prenatal, perinatal and postpartum periods and during the entire
36 period the child remains with the birthing parent. Bedding includes
37 additional mattresses, pillows, blankets, and sheets;

38 (y) In-person consultations with legal counsel of their choice regard-
39 ing their postpartum decisions related to the short term and long term
40 care of the child, or by telephone or video if necessary, and appropri-
41 ate peer and social support of other incarcerated parents in person or
42 online or via videoconference if necessary. Such postpartum individuals
43 shall also have access to reasonable technology to take and share photos
44 of such person's child;

45 (z) Authority to make decisions regarding their child's daily life
46 including feeding, dressing, sleeping, and hygiene, provided that such
47 decisions do not present a significant risk to the health of the child
48 or the safety and security of the institution or local correctional
49 facility; and

50 (aa) Freedom from discrimination with respect to access to services,
51 education or programming, including programming related to early release
52 or sentence-shortening options.

53 4. (a) A child [~~so born may be returned with its mother to the correc-~~
54 ~~tional institution in which the mother is confined]~~ shall have the right
55 to return with their birthing parent and remain in the institution or
56 local correctional facility with their birthing parent:

1 (i) until the child is eighteen months old; provided, however, that if
2 the birthing parent is to be paroled by the time the child becomes twenty-four
3 months of age, such child may remain at the institution or
4 local correctional facility until the birthing parent is paroled. If a
5 birthing parent of a child under the age of eighteen months is incarcerated
6 at an institution or local correctional facility, such child may
7 accompany such person to such institution or facility if such person is
8 physically fit to have the care of such child, subject to the provisions
9 of this section. If any person committed to any such institution or
10 facility at the time of such commitment is the birthing parent of, and
11 has under their exclusive care, a child more than eighteen months of
12 age, the justice or magistrate committing such person shall refer such
13 child to the commissioner of public welfare or other officer or board
14 exercising in relation to children the power of a commissioner of public
15 welfare of the county from which the person is committed to be cared for
16 as provided by law in the case of a child becoming dependent upon the
17 county.

18 (ii) unless the chief medical officer of the [correctional] institu-
19 tion [shall certify that the mother is physically unfit to care for the
20 child, in which case the statement of the said medical officer shall be
21 final. A child may remain in the correctional institution with its
22 mother for such period as seems desirable for the welfare of such child,
23 but not after it is one year of age, provided, however, if the mother is
24 in a state reformatory and is to be paroled shortly after the child
25 becomes one year of age, such child may remain at the state reformatory
26 until its mother is paroled, but in no case after the child is eighteen
27 months old. If a pregnant woman or mother of a child under the age of
28 eighteen months is incarcerated at a state or local correctional facili-
29 ty, the department shall inform her of her ability to apply to any nurs-
30 ery program run by the department and the locality] or local correction-
31 al facility demonstrates a finding by clear and convincing evidence that
32 such person poses an imminent risk to the health and safety of the
33 child.

34 (b) Any [woman] person confined in [a-state] an institution or local
35 correctional facility shall receive notice in writing in a language and
36 manner understandable to [her] them about [the requirements of] their
37 rights under this section upon [her] their admission to [a-state] an
38 institution or local correctional facility and again when [she is] they
39 are known to be pregnant. The superintendent or sheriff shall publish
40 notice of [the requirements of this section] such rights in prominent
41 locations where medical care is provided. [The officer in charge of such
42 institution may cause a child cared for therein with its mother to be
43 removed from the institution at any time before the child is one year of
44 age. He or she shall make provision for a child removed from the insti-
45 tution without its mother or a child born to a woman incarcerated indi-
46 vidual who is not returned to the institution with its mother as herein-
47 after provided. He or she]

48 (c) No child shall be removed from the nursery without the express
49 oral and written consent of the birthing parent or a finding, by clear
50 and convincing evidence, that the birthing parent poses an imminent risk
51 to the health and safety of the child and that this risk cannot be miti-
52 gated through reasonable efforts on behalf of the institution or local
53 correctional facility. The right to counsel and due process shall be
54 afforded to the birthing parent as well as to the child prior to, or
55 shortly after, such removal and if the finding above is not sustained,
56 the child shall be immediately returned to the care and custody of the

1 birthing parent. The officer in charge of an institution or local
2 correctional facility may, upon proof being furnished by the [~~father~~]
3 non-birthing parent or other relatives of [~~their~~] such relatives' abili-
4 ty to properly care for and maintain such child, and with the express
5 written and oral consent of the birthing parent who gave birth to the
6 child within the previous eighteen months, give the child into the care
7 and custody of such [~~father~~] non-birthing parent or other relatives, who
8 shall thereafter maintain the same at their own expense. If it shall
9 appear that such [~~father~~] non-birthing parent or other relatives are
10 unable to properly care for and maintain such child, such officer shall
11 place the child in the care of the commissioner of public welfare or
12 other officer or board exercising in relation to children the power of a
13 commissioner of public welfare of the county from which such [~~incarcer-~~
14 ~~ated individual~~] birthing parent was committed as a charge upon such
15 county. The officer in charge of the correctional institution shall send
16 to such commissioner, officer or board a report of all information
17 available in regard to the [~~mother~~] birthing parent and the child. Such
18 commissioner of public welfare or other officer or board shall care for
19 or place out such child as provided by law in the case of a child becom-
20 ing dependent upon the county.

21 ~~[3. If any woman, committed to any such correctional institution at~~
22 ~~the time of such commitment is the mother of a nursing child in her care~~
23 ~~under one year of age, such child may accompany her to such institution~~
24 ~~if she is physically fit to have the care of such child, subject to the~~
25 ~~provisions of subdivision two of this section. If any woman committed to~~
26 ~~any such institution at the time of such commitment is the mother of and~~
27 ~~has under her exclusive care a child more than one year of age the~~
28 ~~justice or magistrate committing such woman shall refer such child to~~
29 ~~the commissioner of public welfare or other officer or board exercising~~
30 ~~in relation to children the power of a commissioner of public welfare of~~
31 ~~the county from which the woman is committed to be cared for as provided~~
32 ~~by law in the case of a child becoming dependent upon the county.~~

33 4.] 5. The birthing parent and their child in the nursery of the
34 correctional institution or local correctional facility shall be enti-
35 tled to the following rights and conditions:

36 (a) Separation or the threat of separation of a birthing parent who is
37 caring for their child in the nursery of the institution or local
38 correctional facility shall never be used as a disciplinary tool or
39 sanction.

40 (b) No person shall care for the child without the express permission
41 of the birthing parent.

42 (c) Birthing parents who are caring for their child in the nursery
43 while incarcerated shall have quiet and private sleeping spaces until
44 their child is weaned or such child consistently sleeps through the
45 night, whichever occurs later.

46 (d) Birthing parents who are caring for their child in the nursery of
47 the institution or local correctional facility shall have timely consul-
48 tations with pediatricians, including in-person consultations. These
49 appointments shall be conducted after birth, at one month, two months,
50 four months, six months, nine months, one year, fifteen months, eighteen
51 months, and twenty-four months, according to the American academy of
52 pediatrics.

53 (e) Birthing parents who are caring for their child in the nursery of
54 the institution or local correctional facility shall be provided with
55 appropriate over-the-counter medications for their child, regardless of
56 whether the birthing parent has consulted with a pediatrician.

1 (f) Birthing parents who have given birth within the previous eighteen
2 months shall be provided with counseling regarding all options open to
3 them, including all rights under this section to postpartum care, to
4 maintain the care and custody of their child while incarcerated, all
5 rights of such child to receive pediatric care and a safe, nurturing and
6 developmentally appropriate environment, and alternative care arrange-
7 ments for their child.

8 (g) Under no circumstances shall a birthing parent who has given birth
9 within the prior eighteen months and who is caring for their child while
10 incarcerated be subjected to isolation or segregated confinement, used
11 as a disciplinary tool or sanction, with or without their child.

12 6. Children born to birthing parents and who are cared for in the
13 nursery of the institution or local correctional facility shall have the
14 right to the following:

15 (a) in addition to the requirements of section 7651.17 of title 9 of
16 the codes, rules and regulations of the state of New York, appropriate
17 pediatric care, including all necessary medical and developmental test-
18 ing, as recommended by the American academy of pediatrics;

19 (b) an appointment for such child with a physician, physician assist-
20 ant, or nurse practitioner who is certified by a national certifying
21 board to provide pediatric care at the next medically appropriate point
22 after leaving the hospital in which the child was born, along with
23 appointments with such a practitioner at regular intervals as recom-
24 ended by the American academy of pediatrics and timely access to pedia-
25 tric specialists as recommended by such a practitioner. Such appoint-
26 ments shall be conducted after birth, one month, two months, four
27 months, six months, nine months, one year, fifteen months, eighteen
28 months, and twenty-four months;

29 (c) emergency access to a physician, physician assistant, or nurse
30 practitioner who is certified by a national certifying board to provide
31 pediatric care twenty-four hours per day, seven days per week. Such
32 emergency access shall include medical care for infants within two hours
33 of infant distress. A telehealth option shall be available when neces-
34 sary as a last resort;

35 (d) access to all relevant features of early intervention or other
36 special medical or developmental services when needed as determined by
37 an assessment, via experts within or outside the facility as stated in
38 article twenty-five of the public health law;

39 (e) a clean, safe and nurturing environment for children, which
40 includes safe and appropriate sleeping arrangements that reduce the risk
41 of sudden infant death syndrome, safe and appropriate playing, eating,
42 and bathing spaces, adequate hygiene and personal care supplies,
43 adequate over-the-counter medication for common conditions such as
44 colds, teething pain, and diaper rash, and daily access to natural
45 light, quiet, and music;

46 (f) access to nonprescription pediatric medications, creams, oint-
47 ments, and sprays approved by the United States Food and Drug Adminis-
48 tration upon the birthing parent's request;

49 (g) full opportunity to bond with such child's birthing parents,
50 including consistent and extensive physical skin-to-skin contact from
51 the moment of birth;

52 (h) healthy nutrition, including breastfeeding or breast milk that has
53 been pumped, stored and warmed, if such birthing parent so chooses;

54 (i) adequate quantities of age-appropriate diapers, baby clothes, baby
55 blankets, burp cloths, bibs, baby bathing equipment, and developmentally
56 appropriate toys;

1 (j) a safe place separated from the general incarcerated population;
2 (k) reasonable visiting hours from family and friends, subject to the
3 consent of the birthing parent; and
4 (l) time outdoors with their birthing parent for at least one hour per
5 day.

6 7. Upon admitting a [~~woman~~] person known to be pregnant, or upon
7 learning of pregnancy status, the chief medical officer of each institu-
8 tion or local correctional facility housing [~~female incarcerated indi-~~
9 ~~viduals~~] birthing parents, including the medical professional responsi-
10 ble for each local correctional facility housing [~~female incarcerated~~
11 ~~individuals~~] birthing parents, or such officer or professional's desig-
12 nee, shall immediately inform such [~~woman~~] birthing parent of [~~the~~
13 ~~option of participating in~~] their right to comprehensive pregnancy coun-
14 seling services and the right to abortion services.

15 8. Enforcement. (a) The department or the commission shall promulgate
16 rules and regulations necessary for the implementation of this section
17 within one hundred eighty days of the effective date of this subdivi-
18 sion.

19 (b) If a birthing parent claims that either they or the child in their
20 care have suffered as a result of conduct prohibited under this section
21 or have been denied the rights provided in this section, the provisions
22 of this section shall be enforceable by a proceeding brought pursuant to
23 article seventy-eight of the civil practice law and rules.

24 § 3. Subdivision 33 of section 2 of the correction law, as added by
25 chapter 93 of the laws of 2021, is amended to read as follows:

26 33. "Special populations" means any person: (a) twenty-one years of
27 age or younger; (b) fifty-five years of age or older; (c) with a disa-
28 bility as defined in paragraph (a) of subdivision twenty-one of section
29 two hundred ninety-two of the executive law; or (d) who is pregnant, in
30 the first [~~eight weeks~~] twelve weeks of the [~~post-partum~~] postpartum
31 recovery period after giving birth, or caring for a child in a correc-
32 tional institution pursuant to [~~subdivisions two or three of~~] section
33 six hundred eleven of this chapter.

34 § 4. Severability. If any word, phrase, clause, sentence, paragraph,
35 section, or part of this act shall be adjudged by any court of competent
36 jurisdiction to be invalid, such judgment shall not affect, impair, or
37 invalidate the remainder thereof, but shall be confined in its operation
38 to the word, phrase, clause, sentence, paragraph, section, or part ther-
39 eof directly involved in the controversy in which such judgment shall
40 have been rendered.

41 § 5. This act shall take effect on the one hundred eightieth day after
42 it shall have become a law.