

# STATE OF NEW YORK

4583

2025-2026 Regular Sessions

## IN SENATE

February 7, 2025

Introduced by Sens. SALAZAR, BAILEY, BRISPORT, BROUK, CLEARE, FERNANDEZ, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, LIU, MARTINEZ, MYRIE, RAMOS, RIVERA, SEPULVEDA, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

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  
17 amended by chapters 322 and 621 of the laws of 2021, and subdivision 4  
18 as amended by chapter 486 of the laws of 2022, is amended to read as  
19 follows:

20 § 611. [~~Births to incarcerated individuals of correctional insti-~~  
21 ~~tutions and care of children of incarcerated individuals of correctional~~

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

LBD05763-02-5

1 ~~institutions~~] Rights and care of birthing parents and such persons'  
2 children. 1. For the purposes of this section, the following terms  
3 shall have the following meanings:

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

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

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

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

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

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

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

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

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

49 (b) If a determination has been made pursuant to subparagraph i or ii  
50 of paragraph (a) of this subdivision that extraordinary circumstances  
51 exist then restraints shall be limited to wrist restraints in front of  
52 the body. The superintendent or sheriff or [~~his or her~~] their designee  
53 pursuant to subparagraph i of paragraph (a) of this subdivision or  
54 correctional personnel pursuant to subparagraph ii of paragraph (a) of  
55 this subdivision shall document in writing the facts upon which the  
56 finding of extraordinary circumstances were based within five days of

1 the use of such restraints and shall also document the type of  
2 restraints used and the length of time such restraints were used.

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

1 payment by issuing payment instrument in favor of the agency or individ-  
2 ual that provided such accommodations and services, after certification  
3 has been made by the head of the institution to which the incarcerated  
4 individual was legally confined, that the charges for such accommo-  
5 dations, maintenance and medical care were necessary and are just, and  
6 that the institution has no available funds for such purpose.

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

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

37 [~~2-~~] 3. Birthing parents shall be provided with comprehensive and  
38 uninterrupted access to prenatal, perinatal, and postpartum care,  
39 including all necessary prenatal screening and diagnostic tests, medica-  
40 tion as prescribed by medical personnel, consultation and treatment,  
41 including treatment by specialists, and appropriate medical care after  
42 delivery or other pregnancy outcomes, including postpartum physical,  
43 mental, and reproductive health care, as recommended by the American  
44 college of obstetricians and gynecologists. The commissioner shall  
45 establish rules and regulations relating to conditions in the institu-  
46 tion or local correctional facility, treatment and care that shall  
47 include, but is not limited to:

48 (a) Regularly scheduled obstetric care appointments with a medical  
49 practitioner, beginning in early pregnancy, within one week of the  
50 institution or local correctional facility learning an individual is  
51 pregnant, and continuing as recommended by medical personnel through the  
52 postpartum period;

53 (b) The appointment within the first week of the institution or local  
54 correctional facility upon learning an individual is pregnant shall  
55 include a comprehensive prenatal examination appropriate to the trimes-  
56 ter and health of such individual as recommended by the American college

1 of obstetricians and gynecologists. If the medical practitioner is not a  
2 high-risk obstetrician and determines that a referral to a high-risk  
3 obstetrician is necessary, such individual shall be referred to a high-  
4 risk obstetrician without delay;

5 (c) Prenatal appointments with a medical practitioner pursuant to this  
6 paragraph at a frequency of, at a minimum, once per month during the  
7 first six months of pregnancy, twice per month during the seventh and  
8 eighth months of pregnancy, and weekly during the last month of pregnan-  
9 cy if such individual does not have a high-risk pregnancy;

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

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

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

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

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

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

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

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

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

1 (iii) preferences for newborn feeding and care, including circumcision  
2 if applicable;

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

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

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

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

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

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

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

27 (o) Screening for mental health concerns and psychological and psychi-  
28 atric therapy and treatment as needed, including consultation regarding  
29 psychiatric medications and provision to psychiatric medications that  
30 are safe during pregnancy;

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

45 (i) a certified dietician and/or nutritionist for postpartum physical  
46 activity recommendations appropriate to labor and delivery outcomes of  
47 the birthing parent; and

48 (ii) a certified lactation consultant to assess, diagnose, and treat  
49 any breastfeeding issues such as nipple soreness, cracking or blister-  
50 ing, and to provide education on proper latching, positioning, milk  
51 supply management, and common breastfeeding considerations, including  
52 but not limited to, challenges expressing breast milk, proper breast  
53 pump and storage techniques, and dietary considerations and medications  
54 that may impact breastfeeding;

55 (q) Timely access to medications, vaccines, and prenatal, perinatal,  
56 postpartum, and fetal tests as recommended by the medical practitioner

1 caring for such individual and timely access to results of such tests,  
2 including tests identifying the sex of the fetus, if such individual  
3 confirms they want this information;

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

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

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

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

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

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

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

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

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

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

54 4. (a) A child [~~so born may be returned with its mother to the correc-~~  
55 tional institution in which the mother is confined] shall have the right

1 to return with their birthing parent and remain in the institution or  
2 local correctional facility with their birthing parent:

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

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

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

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

1 shortly after, such removal and if the finding above is not sustained,  
2 the child shall be immediately returned to the care and custody of the  
3 birthing parent. The officer in charge of an institution or local  
4 correctional facility may, upon proof being furnished by the [~~father~~]  
5 non-birthing parent or other relatives of [~~their~~] such relatives' ability  
6 to properly care for and maintain such child, and with the express  
7 written and oral consent of the birthing parent who gave birth to the  
8 child within the previous eighteen months, give the child into the care  
9 and custody of such [~~father~~] non-birthing parent or other relatives, who  
10 shall thereafter maintain the same at their own expense. If it shall  
11 appear that such [~~father~~] non-birthing parent or other relatives are  
12 unable to properly care for and maintain such child, such officer shall  
13 place the child in the care of the commissioner of public welfare or  
14 other officer or board exercising in relation to children the power of a  
15 commissioner of public welfare of the county from which such [~~incarcer-~~  
16 ~~ated individual~~] birthing parent was committed as a charge upon such  
17 county. The officer in charge of the correctional institution shall send  
18 to such commissioner, officer or board a report of all information  
19 available in regard to the [~~mother~~] birthing parent and the child. Such  
20 commissioner of public welfare or other officer or board shall care for  
21 or place out such child as provided by law in the case of a child becoming  
22 dependent upon the county.

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

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

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

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

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

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

55 (e) Birthing parents who are caring for their child in the nursery of  
56 the institution or local correctional facility shall be provided with

1 appropriate over-the-counter medications for their child, regardless of  
2 whether the birthing parent has consulted with a pediatrician.

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

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

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

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

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

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

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

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

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

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

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

1 (i) adequate quantities of age-appropriate diapers, baby clothes, baby  
2 blankets, burp cloths, bibs, baby bathing equipment, and developmentally  
3 appropriate toys;

4 (j) a safe place separated from the general incarcerated population;

5 (k) reasonable visiting hours from family and friends, subject to the  
6 consent of the birthing parent; and

7 (l) time outdoors with their birthing parent for at least one hour per  
8 day.

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

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

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

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

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

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

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