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:

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

§ 2. Section 611 of the correction law, as amended by chapter 242 of the laws of 1930, the section heading as amended by chapter 322 of the laws of 2021, subdivision 1 as amended by chapter 17 of the laws of 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.

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

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

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

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

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

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

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

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

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

i. the superintendent or sheriff or [~~his or her~~] their designee in consultation with the medical professional responsible for the institution has made an individualized determination that restraints are necessary to prevent such [~~woman~~] birthing parent from injuring [~~herself~~] themself or medical or correctional personnel or others and cannot reasonably be restrained by other means, including the use of additional personnel; or

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

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

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

(c) No restraints of any kind shall be used when such [~~woman~~] birthing parent is in labor, admitted to a hospital, institution or clinic for delivery, or recovering after giving birth. Any such personnel as may be necessary to supervise the [~~woman~~] birthing parent during transport to and from and during [~~her~~] their stay at the hospital, institution or clinic shall be provided to ensure adequate care, custody and control of the [~~woman~~] birthing parent, except that no correctional staff shall be present in the delivery room during the birth of a baby unless requested by the medical staff supervising such delivery or by the [~~woman~~] birthing parent giving birth. The [~~woman~~] birthing parent shall be permitted to have at least one support person of [~~her~~] their choosing accompany [~~her~~] them in the delivery room and when such [~~woman~~] birthing parent is in labor and recovering after giving birth. A support person shall not need to have visited the [~~woman~~] birthing parent at a correctional facility prior to serving as a support person. A person may not be denied eligibility to serve as a support person solely on the basis of a past criminal conviction or that such person is on probation, conditional release, parole or post release supervision. Any decision by an agency to deny a [~~woman's~~] birthing parent's request to have a specific person serve as a support person shall be made with reasons specified in writing within five days of [~~her~~] the request and promptly provided to the [~~woman~~] birthing parent. A support person shall be notified immediately after such [~~woman~~] birthing parent goes into labor, or immediately after a caesarean section or termination is scheduled. If available, a doula, midwife or other birthing support specialist may also assist during labor and delivery in addition to at least one support person of the [~~woman's~~] birthing parent's choosing. Any [~~woman~~] birthing parent confined in a state or local correctional facility shall receive notice in writing in a language and manner understandable to [~~her~~] such birthing parent about the requirements of this section upon [~~her~~] such birthing parent's admission to such state or local correctional facility and again when [~~she~~] the birthing parent is known to be pregnant. The superintendent or sheriff shall publish notice of the requirements of this section in prominent locations where medical care is provided. The superintendent or sheriff or [~~his or her~~] their designee shall cause such [~~woman~~] birthing parent to be subject to return to such institution or local correctional facility as soon after the birth of [~~her~~] such birthing parent's child as the state of [~~her~~] such birthing parent's health will permit as determined by the medical professional responsible for the care of such [~~woman~~] birthing parent. If such [~~woman~~] birthing parent is confined in a local correctional facility, the expense of such accommodation, maintenance and medical care shall be paid by such [~~woman~~] birthing parent or [~~her~~] their relatives or from any available funds of the local correctional facility and if not available from such sources, shall be a charge upon the county, city or town in which is located the court from which such incarcerated individual was committed to such local correctional facility. If such [~~woman~~] birthing parent is confined in any institution under the control of the department, the expense of such accommodation, maintenance and medical care shall be

paid by such [~~woman~~] **birthing parent** or [~~her~~] **their** relatives and if not available from such sources, such maintenance and medical care shall be paid by the state. In cases where payment of such accommodations, maintenance and medical care is assumed by the county, city or town from which such incarcerated individual was committed the payor shall make payment by issuing payment instrument in favor of the agency or individual that provided such accommodations and services, after certification has been made by the head of the institution to which the incarcerated individual was legally confined, that the charges for such accommodations, maintenance and medical care were necessary and are just, and that the institution has no available funds for such purpose.

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

(e) The department shall report annually to the governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, the chairperson of the senate crime victims, crime and correction committee and the chairperson of the assembly correction committee concerning every use of restraints on a [~~woman~~] **birthing parent** under this section, including the reason such restraint was used, the type of restraint used and the length of time such restraint was used pursuant to paragraph (b) of this subdivision, but shall exclude individual identifying information. The sheriff of each county shall report, in a form and manner prescribed by the commission, every use of restraints on a [~~woman~~] **birthing parent** under this section, including the reason such restraint was used, the type of restraint used and the length of time such restraint was used pursuant to paragraph (b) of this subdivision, annually to the commission. The commission shall include such information in its annual report pursuant to section forty-five of this chapter, but shall exclude identifying information from such report. Reports required by this section shall be posted on the websites maintained by the department and the commission.

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

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

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

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

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

(d) Fetal ultrasound imaging conducted by a sonographer who is certified in or who has received a degree in sonography from a national certifying or degree-granting body at a frequency determined by the medical practitioner caring for such individual, including, at a minimum: one dating ultrasound if such individual is in their first trimester or has not yet had or does not have records of a prior such ultrasound; one ultrasound to assess fetal anatomy between eighteen and twenty-two weeks of pregnancy if such individual has not yet reached twenty-two weeks of pregnancy; and within two weeks of entering custody in an institution or local correctional facility if such individual enters custody past twenty-two weeks of pregnancy. Such individual shall be permitted to view their ultrasound imaging during the procedure and shall be provided with physical images from the ultrasound to keep at the institution or local correctional facility and an additional copy for a person of the individual's choosing if such images are capable of being generated and if such individual wants such images;

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

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

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

(h) At least once each trimester, a consultation with a nutritionist or dietician about pregnancy appropriate nutrition and physical activity;

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

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

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

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

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

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

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

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

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

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

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

(n) Consultation access to influenza and Tdap vaccines;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) unless the chief medical officer of the [~~correctional~~] institution [~~shall certify that the mother is physically unfit to care for the child, in which case the statement of the said medical officer shall be final. A child may remain in the correctional institution with its mother for such period as seems desirable for the welfare of such child, but not after it is one year of age, provided, however, if the mother is in a state reformatory and is to be paroled shortly after the child becomes one year of age, such child may remain at the state reformatory until its mother is paroled, but in no case after the child is eighteen months old. If a pregnant woman or mother of a child under the age of eighteen months is incarcerated at a state or local correctional facility, the department shall inform her of her ability to apply to any nursery program run by the department and the locality~~] or local correctional facility demonstrates a finding by clear and convincing evidence that such person poses an imminent risk to the health and safety of the child.

(b) Any [~~woman~~] person confined in [~~a state~~] an institution or local correctional facility shall receive notice in writing in a language and manner understandable to [~~her~~] them about [~~the requirements of~~] their rights under this section upon [~~her~~] their admission to [~~a state~~] an institution or local correctional facility and again when [~~she is~~] they are known to be pregnant. The superintendent or sheriff shall publish notice of [~~the requirements of this section~~] such rights in prominent locations where medical care is provided. [~~The officer in charge of such institution may cause a child cared for therein with its mother to be removed from the institution at any time before the child is one year of age. He or she shall make provision for a child removed from the institution without its mother or a child born to a woman incarcerated individual who is not returned to the institution with its mother as hereinafter provided. He or she~~]

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

birthing parent. The officer in charge of an institution or local correctional facility may, upon proof being furnished by the [~~father~~] non-birthing parent or other relatives of [~~their~~] such relatives' ability to properly care for and maintain such child, and with the express written and oral consent of the birthing parent who gave birth to the child within the previous eighteen months, give the child into the care and custody of such [~~father~~] non-birthing parent or other relatives, who shall thereafter maintain the same at their own expense. If it shall appear that such [~~father~~] non-birthing parent or other relatives are unable to properly care for and maintain such child, such officer shall place the child in the care of the commissioner of public welfare or other officer or board exercising in relation to children the power of a commissioner of public welfare of the county from which such [~~incarcerated individual~~] birthing parent was committed as a charge upon such county. The officer in charge of the correctional institution shall send to such commissioner, officer or board a report of all information available in regard to the [~~mother~~] birthing parent and the child. Such commissioner of public welfare or other officer or board shall care for or place out such child as provided by law in the case of a child becoming dependent upon the county.

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

~~4.~~] 5. The birthing parent and their child in the nursery of the correctional institution or local correctional facility shall be entitled to the following rights and conditions:

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

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

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

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

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

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

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

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

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

(b) an appointment for such child with a physician, physician assistant, or nurse practitioner who is certified by a national certifying board to provide pediatric care at the next medically appropriate point after leaving the hospital in which the child was born, along with appointments with such a practitioner at regular intervals as recommended by the American academy of pediatrics and timely access to pediatric specialists as recommended by such a practitioner. Such appointments shall be conducted after birth, one month, two months, four months, six months, nine months, one year, fifteen months, eighteen months, and twenty-four months;

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

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

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

(f) access to nonprescription pediatric medications, creams, ointments, and sprays approved by the United States Food and Drug Administration upon the birthing parent's request;

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

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

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

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

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

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

7. Upon admitting a [~~woman~~] person known to be pregnant, or upon learning of pregnancy status, the chief medical officer of each institution or local correctional facility housing [~~female incarcerated individuals~~] birthing parents, including the medical professional responsible for each local correctional facility housing [~~female incarcerated individuals~~] birthing parents, or such officer or professional's designee, shall immediately inform such [~~woman~~] birthing parent of [~~the option of participating in~~] their right to comprehensive pregnancy counseling services and the right to abortion services.

8. Enforcement. (a) The department or the commission shall promulgate rules and regulations necessary for the implementation of this section within one hundred eighty days of the effective date of this subdivision.

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

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

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

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

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