

# STATE OF NEW YORK

4879--B

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, CRUZ, FORREST, McMAHON, LUNSFORD, WALKER, CUNNINGHAM, SEAWRIGHT, TAYLOR, SHIMSKY, BICHOTTE HERMELYN, WEPRIN, GIBBS, HEVESI, SEPTIMO, TAPIA, RAGA, BORES, DAVILA, SIMONE, LUCAS, GLICK, VALDEZ, ROSENTHAL, R. CARROLL, BURROUGHS, LAVINE, TORRES, WIEDER, SOLAGES, BENEDETTO, ALVAREZ, SCHIAVONI, WRIGHT, ROMERO, LUPARDO, MEEKS, DE LOS SANTOS, PAULIN, JACKSON, LASHER, HOOKS, BRONSON, ZACCARO, KIM, LEE, STECK, OTIS, HUNTER -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- 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.

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

LBD05763-05-6

1 § 2. Section 611 of the correction law, as amended by chapter 242 of  
2 the laws of 1930, the section heading as amended by chapter 322 of the  
3 laws of 2021, subdivision 1 as amended by chapter 17 of the laws of  
4 2016, paragraph (c) of subdivision 1 and subdivision 2 as separately  
5 amended by chapters 322 and 621 of the laws of 2021, and subdivision 4  
6 as amended by chapter 486 of the laws of 2022, is amended to read as  
7 follows:

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

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

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

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

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

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

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

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

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

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

1 (b) If a determination has been made pursuant to subparagraph i or ii  
2 of paragraph (a) of this subdivision that extraordinary circumstances  
3 exist then restraints shall be limited to wrist restraints in front of  
4 the body. The superintendent or sheriff or [~~his or her~~] their designee  
5 pursuant to subparagraph i of paragraph (a) of this subdivision or  
6 correctional personnel pursuant to subparagraph ii of paragraph (a) of  
7 this subdivision shall document in writing the facts upon which the  
8 finding of extraordinary circumstances were based within five days of  
9 the use of such restraints and shall also document the type of  
10 restraints used and the length of time such restraints were used.

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

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

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

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

45 [~~2. A child so born may be returned with its mother to the correction-~~  
46 ~~al institution in which the mother is confined]~~ 3. Birthing parents  
47 shall be provided with appropriate accommodations and continuous access  
48 to prenatal, perinatal, and postpartum care, including all necessary  
49 prenatal screening and diagnostic tests, medication as prescribed by  
50 medical personnel, consultation and treatment, including treatment by  
51 specialists, and appropriate medical care after delivery or other preg-  
52 nancy outcomes, including postpartum physical, mental, and reproductive  
53 health care, as recommended by the American college of obstetricians and  
54 gynecologists. The commissioner and the state commission on corrections  
55 shall establish rules and regulations relating to conditions in the

1 institution or local correctional facility, treatment and care that  
2 shall include, but is not limited to:

3 (a) Access to pregnancy tests upon request, which request shall be  
4 complied with immediately;

5 (b) Regularly scheduled obstetric care appointments with a medical  
6 practitioner and continuing as recommended by medical personnel through  
7 the postpartum period following confirmation of a positive pregnancy  
8 test or upon entering such facility for an incarcerated individual  
9 having already confirmed pregnancy;

10 (c) Access to prenatal appointments with a medical practitioner pursu-  
11 ant to this paragraph at a frequency in line with recommendations by the  
12 American college of obstetricians and gynecologists and access to a  
13 high-risk obstetrician, without delay, if such medical practitioner  
14 deems it necessary;

15 (d) Access to fetal ultrasound imaging conducted by a sonographer who  
16 is certified in or who has received a degree in sonography from a  
17 national certifying or degree-granting body at a frequency determined by  
18 the medical practitioner caring for such individual, including, at a  
19 minimum: one dating ultrasound if such individual is in their first  
20 trimester or has not yet had or does not have records of a prior such  
21 ultrasound; one ultrasound to assess fetal anatomy between eighteen and  
22 twenty-two weeks of pregnancy if such individual has not yet reached  
23 twenty-two weeks of pregnancy; and within two weeks of entering custody  
24 in an institution or local correctional facility if such individual  
25 enters custody past twenty-two weeks of pregnancy. Such individual shall  
26 be permitted to have physical images from the ultrasound to keep at the  
27 institution or local correctional facility and, if such images are capa-  
28 ble of being generated and such individual chooses, an additional copy  
29 for a person of the individual's choosing;

30 (e) For individuals with a high-risk pregnancy, the frequency of  
31 prenatal appointments shall be determined by the high-risk obstetrician  
32 caring for such individuals;

33 (f) Access to a medical practitioner twenty-four hours per day seven  
34 days per week, and in the event of an emergency related to an individ-  
35 ual's pregnancy and permitting such individual access to speak with such  
36 practitioners directly;

37 (g) Allowing the birthing parent to be examined by medical staff with-  
38 out correction staff or volunteers present unless requested by the  
39 birthing parent or by the medical staff when the situation poses a clear  
40 risk of danger to the medical staff or others;

41 (h) Allowing a birthing parent to have a consultation with a nutri-  
42 tionist or dietician about pregnancy appropriate nutrition and physical  
43 activity at least once a trimester;

44 (i) Access to a dentist within one month of the institution or local  
45 correctional facility learning such individual is pregnant. Such dentist  
46 shall offer such individual a comprehensive exam, cleaning, and timely  
47 referral to dental specialists if necessary;

48 (j) Access to at least one consultation prior to the birth between  
49 such individual and such individual's medical practitioner, midwife,  
50 and/or doula, to discuss anticipatory guidance related to the birth and  
51 establish a birth plan, that the institution or local correctional  
52 facility shall accommodate that birthing plan;

53 (k) Access to perinatal vitamins that meet the standards of the United  
54 States Food and Drug Administration and that are recommended by the  
55 birthing parent's medical practitioner;

1 (l) Access to evidence-based treatment and medication for opioid use  
2 disorder, smoking cessation, alcohol use disorder and other substance  
3 use disorders that shall not be denied on account of pregnancy;

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

8 (n) Access to a consultation with a medical professional for influenza  
9 and Tdap vaccines;

10 (o) Screening the birthing parent for mental health concerns and  
11 psychological and psychiatric therapy and treatment, and if recommended  
12 as a result of such screening, access to a consultation with a medical  
13 professional regarding psychiatric medications and provision to psychi-  
14 atric medications that are safe during pregnancy;

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

31 (q) Timely access to medications, vaccines, and prenatal, perinatal,  
32 postpartum, and fetal tests as recommended by the medical practitioner  
33 caring for such individual and timely access to results of such tests,  
34 including tests identifying the sex of the fetus, if such individual  
35 confirms they want this information;

36 (r) Access to appropriate hydration and nutrition that shall include  
37 distilled water for formula, bottles and bottled filtered water for  
38 drinking. Such nutrition shall include the provision of additional  
39 portions of nutritious food, fresh fruits and vegetables that are safe  
40 to consume during the prenatal, perinatal and postpartum periods,  
41 including breastfeeding-related nutritional recommendations of the Amer-  
42 ican college of obstetricians and gynecologists and the American academy  
43 of pediatrics and the birthing parent's treating physician. Access to  
44 additional food, milk, and hydration in the birthing parent's living  
45 area during the prenatal, perinatal and postpartum periods and while  
46 breastfeeding;

47 (s) Regular access to safe and appropriate exercise facilities for at  
48 least one hour per day during the prenatal, perinatal and postpartum  
49 periods as appropriate to their physical health and birth outcome;

50 (t) Reasonable accommodations for sleep, rest, and work requirements  
51 for the prenatal, perinatal and postpartum periods and the entire period  
52 the child remains with birthing parent. Such accommodations shall mini-  
53 mize the requirements which result in the birthing parent repeatedly  
54 climbing stairs and lifting heavy items, if the birthing parent's treat-  
55 ing physician determines that such activities present a risk of harm to  
56 such individual;

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

4 (v) For breastfeeding birthing parents, access to a nursing cover;

5 (w) Ensure necessary safeguards to prevent exposure to substances or  
6 chemicals that could present a risk of harm to the birthing parent  
7 during the prenatal, perinatal and postpartum periods or such person's  
8 fetus or infant;

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

14 (y) In-person, telephonic, or virtual consultations with legal counsel  
15 of their choice regarding their postpartum decisions related to the  
16 short term and long term care of the child, and appropriate peer and  
17 social support of other incarcerated parents in person or virtual if  
18 necessary. Such postpartum individuals shall also have access to reason-  
19 able technology to take and share photos of such person's child;

20 (z) Accommodations for a birthing parent's decisions regarding their  
21 child's daily life including feeding, dressing, sleeping, and hygiene,  
22 provided that such decisions do not present a significant risk to the  
23 health of the child or the safety and security of the institution or  
24 local correctional facility; and

25 (aa) Policies and procedures to prevent withholding care from a birth-  
26 ing parent as a result of such pregnancy and ensuring that education and  
27 programming continue uninterrupted by such pregnancy.

28 4. (a) The commissioner and the state commission on corrections shall  
29 establish rules and regulations relating to conditions and procedures in  
30 the institution or local correctional facility that shall allow a child  
31 of a birthing parent to remain in such institution or local correctional  
32 facility, which shall include, but are not limited to:

33 (i) a child up to eighteen months old shall remain in the institution  
34 or correctional facility; provided, however, that if the birthing parent  
35 is to be released by the time the child becomes twenty-four months of  
36 age, such child may remain at the institution or local correctional  
37 facility until the birthing parent is released. If a birthing parent of  
38 a child under the age of eighteen months is incarcerated at an institu-  
39 tion or local correctional facility, such child may accompany such  
40 person to such institution or facility if such person is physically fit  
41 to have the care of such child, subject to the provisions of this  
42 section. If any person committed to any such institution or facility at  
43 the time of such commitment is the birthing parent of, and has under  
44 their exclusive care, a child more than eighteen months of age, the  
45 justice or magistrate committing such person shall refer such child to  
46 the commissioner of public welfare or other officer or board exercising  
47 in relation to children the power of a commissioner of public welfare of  
48 the county from which the person is committed to be cared for as  
49 provided by law in the case of a child becoming dependent upon the coun-  
50 ty.

51 (ii) unless the chief medical officer of the [correctional] institu-  
52 tion [shall certify that the mother is physically unfit to care for the  
53 child, in which case the statement of the said medical officer shall be  
54 final. A child may remain in the correctional institution with its  
55 mother for such period as seems desirable for the welfare of such child,  
56 but not after it is one year of age, provided, however, if the mother is

1 ~~in a state reformatory and is to be paroled shortly after the child~~  
2 ~~becomes one year of age, such child may remain at the state reformatory~~  
3 ~~until its mother is paroled, but in no case after the child is eighteen~~  
4 ~~months old. If a pregnant woman or mother of a child under the age of~~  
5 ~~eighteen months is incarcerated at a state or local correctional facili-~~  
6 ~~ty, the department shall inform her of her ability to apply to any nurs-~~  
7 ~~ery program run by the department and the locality] or local correction-~~  
8 ~~al facility demonstrates a finding by clear and convincing evidence that~~  
9 ~~such person poses an imminent risk to the health and safety of the~~  
10 ~~child.~~

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

25 (c) No child shall be removed from the nursery without the express  
26 oral and written consent of the birthing parent or a finding, by clear  
27 and convincing evidence, that the birthing parent poses an imminent risk  
28 to the health and safety of the child and that this risk cannot be miti-  
29 gated through reasonable efforts on behalf of the institution or local  
30 correctional facility. The birthing parent shall be afforded the right  
31 to seek counsel and due process shall be afforded to the birthing parent  
32 prior to, or shortly after, such removal and if the finding above is not  
33 sustained, the child shall be immediately returned to the care and  
34 custody of the birthing parent. The officer in charge of an institution  
35 or local correctional facility may, upon proof being furnished by the  
36 [~~father~~] non-birthing parent or other relatives of [~~their~~] such rela-  
37 tives' ability to properly care for and maintain such child, and with  
38 the express written and oral consent of the birthing parent who gave  
39 birth to the child within the previous eighteen months, give the child  
40 into the care and custody of such [~~father~~] non-birthing parent or other  
41 relatives, who shall thereafter maintain the same at their own expense.  
42 If it shall appear that such [~~father~~] non-birthing parent or other rela-  
43 tives are unable to properly care for and maintain such child, such  
44 officer shall place the child in the care of the commissioner of public  
45 welfare or other officer or board exercising in relation to children the  
46 power of a commissioner of public welfare of the county from which such  
47 [~~incarcerated individual~~] birthing parent was committed as a charge upon  
48 such county. The officer in charge of the correctional institution shall  
49 send to such commissioner, officer or board a report of all information  
50 available in regard to the [~~mother~~] birthing parent and the child. Such  
51 commissioner of public welfare or other officer or board shall care for  
52 or place out such child as provided by law in the case of a child becom-  
53 ing dependent upon the county.

54 [~~3. If any woman, committed to any such correctional institution at~~  
55 ~~the time of such commitment is the mother of a nursing child in her care~~  
56 ~~under one year of age, such child may accompany her to such institution~~

~~1 if she is physically fit to have the care of such child, subject to the  
2 provisions of subdivision two of this section. If any woman committed to  
3 any such institution at the time of such commitment is the mother of and  
4 has under her exclusive care a child more than one year of age the  
5 justice or magistrate committing such woman shall refer such child to  
6 the commissioner of public welfare or other officer or board exercising  
7 in relation to children the power of a commissioner of public welfare of  
8 the county from which the woman is committed to be cared for as provided  
9 by law in the case of a child becoming dependent upon the county.~~

10 4.] 5. The birthing parent and their child in the nursery of the  
11 correctional institution or local correctional facility shall be enti-  
12 tled to the following:

13 (a) No person shall separate or threaten to separate a birthing parent  
14 who is caring for their child in the nursery and such threat shall never  
15 be used as a disciplinary tool or sanction.

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

18 (c) The opportunity for a quiet and private sleeping space until the  
19 child is weaned or such child consistently sleeps through the night,  
20 whichever occurs later.

21 (d) Access to timely consultations with pediatricians, including  
22 in-person consultations. These appointments shall be conducted after  
23 birth, at one month, two months, four months, six months, nine months,  
24 one year, fifteen months, eighteen months, and twenty-four months,  
25 according to the child's pediatrician.

26 (e) Access to appropriate over-the-counter medications for their  
27 child, regardless of whether the birthing parent has consulted with a  
28 pediatrician.

29 (f) Access to counseling for birthing parents who have given birth  
30 within the previous eighteen months regarding all options open to them,  
31 including all rights under this section to postpartum care, to maintain  
32 the care and custody of their child while incarcerated, all rights of  
33 such child to receive pediatric care and a safe, nurturing and develop-  
34 mentally appropriate environment, and alternative care arrangements for  
35 their child.

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

40 (h) In addition to the requirements of section 7651.17 of title 9 of  
41 the codes, rules and regulations of the state of New York, appropriate  
42 pediatric care, including all necessary medical and developmental test-  
43 ing, as recommended by the American academy of pediatrics.

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

50 (j) Access to all relevant features of early intervention or other  
51 special medical or developmental services when needed as determined by  
52 an assessment, via experts within or outside the facility as stated in  
53 article twenty-five of the public health law.

54 (k) Access to a clean, safe and nurturing environment for children,  
55 which includes safe and appropriate sleeping arrangements that reduce  
56 the risk of sudden infant death syndrome, safe and appropriate playing,

1 eating, and bathing spaces, adequate hygiene and personal care supplies,  
 2 adequate over-the-counter medication for common conditions such as  
 3 colds, teething pain, and diaper rash, and daily access to natural  
 4 light, quiet, and music.

5 (l) Access to non-prescription pediatric medications, creams, oint-  
 6 ments, and sprays approved by the United States Food and Drug Adminis-  
 7 tration upon the birthing parent's request.

8 (m) Access to full opportunity to bond with such child's birthing  
 9 parents, including consistent and extensive physical skin-to-skin  
 10 contact from the moment of birth.

11 (n) Healthy nutrition, including breastfeeding or breast milk that has  
 12 been pumped, stored and warmed, if such birthing parent so chooses.

13 (o) Adequate quantities of age-appropriate diapers, baby clothes, baby  
 14 blankets, burp cloths, bibs, baby bathing equipment, and developmentally  
 15 appropriate toys.

16 (p) A safe place separated from the general incarcerated population.

17 (q) Reasonable visiting hours for family and friends, subject to the  
 18 consent of the birthing parent.

19 (r) Access to time outdoors for at least one hour per day.

20 6. Upon admitting a [woman] person known to be pregnant, or upon  
 21 learning of pregnancy status, the chief medical officer of each institu-  
 22 tion or local correctional facility housing [~~female incarcerated indi-~~  
 23 ~~viduals~~] birthing parents, including the medical professional responsi-  
 24 ble for each local correctional facility housing [~~female incarcerated~~  
 25 ~~individuals~~] birthing parents, or such officer or professional's desig-  
 26 nee, shall immediately inform such [woman] birthing parent of [~~the~~  
 27 ~~option of participating in~~] their right to comprehensive pregnancy coun-  
 28 seling services and the right to abortion services.

29 7. Enforcement. (a) The commissioner or the state commission on  
 30 correction shall promulgate rules and regulations necessary for the  
 31 implementation of this section within one hundred eighty days of the  
 32 effective date of this subdivision.

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

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

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

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

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