

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

~~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~~ themselves 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

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 mum: 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 Gonorrhea, 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 twen-
5 ty-four 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 incarcer-
8 ated 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

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

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 mended 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 designee, shall immediately inform such [woman] birthing parent of [~~the~~
15 ~~option of participating in~~] their right to comprehensive pregnancy coun-
16 seling services and the right to abortion services.

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

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

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

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

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

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