

# STATE OF NEW YORK

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## IN SENATE

February 7, 2025

Introduced by Sens. SALAZAR, BAILEY, BRISPORT, BROUK, CLEARE, FERNANDEZ, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, LIU, MARTINEZ, MAYER, 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

LBD05763-04-5

1 as amended by chapter 486 of the laws of 2022, is amended to read as  
2 follows:

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

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

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

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

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

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

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

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

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

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

53 (b) If a determination has been made pursuant to subparagraph i or ii  
54 of paragraph (a) of this subdivision that extraordinary circumstances  
55 exist then restraints shall be limited to wrist restraints in front of  
56 the body. The superintendent or sheriff or [~~his or her~~] their designee

1 pursuant to subparagraph i of paragraph (a) of this subdivision or  
2 correctional personnel pursuant to subparagraph ii of paragraph (a) of  
3 this subdivision shall document in writing the facts upon which the  
4 finding of extraordinary circumstances were based within five days of  
5 the use of such restraints and shall also document the type of  
6 restraints used and the length of time such restraints were used.

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

1 available from such sources, such maintenance and medical care shall be  
2 paid by the state. In cases where payment of such accommodations, main-  
3 tenance and medical care is assumed by the county, city or town from  
4 which such incarcerated individual was committed the payor shall make  
5 payment by issuing payment instrument in favor of the agency or individ-  
6 ual that provided such accommodations and services, after certification  
7 has been made by the head of the institution to which the incarcerated  
8 individual was legally confined, that the charges for such accommo-  
9 dations, maintenance and medical care were necessary and are just, and  
10 that the institution has no available funds for such purpose.

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

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

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

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

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

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

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

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 in line with recommendations by the American  
33 college of obstetricians and gynecologists;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 (q) Timely access to medications, vaccines, and prenatal, perinatal,  
52 postpartum, and fetal tests as recommended by the medical practitioner  
53 caring for such individual and timely access to results of such tests,  
54 including tests identifying the sex of the fetus, if such individual  
55 confirms they want this information;

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

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

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

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

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

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

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

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

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

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

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

55 (i) until the child is eighteen months old; provided, however, that if  
56 the birthing parent is to be paroled by the time the child becomes twen-

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

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

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

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

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

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

31 4.] 5. The birthing parent and their child in the nursery of the  
32 correctional institution or local correctional facility shall be enti-  
33 ttled to the following rights and conditions:

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

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

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

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

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

55 (f) Birthing parents who have given birth within the previous eighteen  
56 months shall be provided with counseling regarding all options open to

1 them, including all rights under this section to postpartum care, to  
2 maintain the care and custody of their child while incarcerated, all  
3 rights of such child to receive pediatric care and a safe, nurturing and  
4 developmentally appropriate environment, and alternative care arrange-  
5 ments for their child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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