

Union Calendar No. 361

117TH CONGRESS
2^D SESSION

H. R. 6878

[Report No. 117–465, Part I]

To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2022

Ms. BASS (for herself, Mr. RESCHENTHALER, Ms. CLARK of Massachusetts, Mrs. LESKO, Mrs. LAWRENCE, Ms. GARCIA of Texas, Ms. SPEIER, Ms. LOIS FRANKEL of Florida, Ms. BONAMICI, Mr. THOMPSON of Mississippi, Ms. CLARKE of New York, Mr. DANNY K. DAVIS of Illinois, Ms. ADAMS, Mrs. CAROLYN B. MALONEY of New York, Mr. COHEN, Ms. MENG, Ms. BLUNT ROCHESTER, Ms. SCANLON, Mr. JOHNSON of Georgia, Mr. RASKIN, Ms. TITUS, Mr. NEGUSE, Mr. CÁRDENAS, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 13, 2022

Additional sponsors: Ms. SCHAKOWSKY, Ms. LEE of California, Ms. OMAR, Mr. PAYNE, Mrs. WATSON COLEMAN, Ms. BROWN of Ohio, Mr. TRONE, Mr. CARTER of Louisiana, Ms. CHU, Mr. MANN, Ms. ROYBAL-ALLARD, Ms. JOHNSON of Texas, and Ms. STANSBURY

SEPTEMBER 13, 2022

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 13, 2022

Committee on the Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 1, 2022]

A BILL

To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Pregnant Women in*
5 *Custody Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *IN CUSTODY.*—*The term “in custody”, with*
9 *respect to an individual, means that the individual is*
10 *under the supervision of a Federal, State, Tribal, or*
11 *local correctional facility, including a pretrial, juve-*
12 *nile, medical, or mental health facility and a facility*
13 *operated under a contract with the Federal Govern-*
14 *ment or a State, Tribal, or local government.*

15 (2) *OTHER PREGNANCY OUTCOME.*—*The term*
16 *“other pregnancy outcome” means a pregnancy that*
17 *ends in stillbirth, miscarriage, or ectopic pregnancy.*

18 (3) *POSTPARTUM RECOVERY.*—*The term*
19 *“postpartum recovery” has the meaning given that*
20 *term in section 4051(c) of title 18, United States*
21 *Code, as added by this Act.*

22 (4) *RESTRAINTS.*—*The term “restraints” means*
23 *any physical or mechanical device used to control the*
24 *movement of an incarcerated pregnant woman’s body,*
25 *limbs, or both.*

1 (5) *RESTRICTIVE HOUSING.*—*The term “restrictive housing” has the meaning given that term in section 4322 of title 18, United States Code, as added by this Act.*

5 **SEC. 3. DATA COLLECTION.**

6 (a) *IN GENERAL.*—*Beginning not later than 1 year after the date of enactment of this Act, pursuant to the authority under section 302 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10132), the Director of the Bureau of Justice Statistics shall include in the National Prisoner Statistics Program and Annual Survey of Jails statistics relating to the health needs of incarcerated pregnant women in the criminal justice system at the Federal, State, Tribal, and local levels, including—*

15 (1) *demographic and other information about incarcerated women who are pregnant, in labor, or in postpartum recovery, including the race, ethnicity, and age of the woman;*

19 (2) *the provision of pregnancy care and services provided for such women, including—*

21 (A) *whether prenatal, delivery, and post-delivery check-up visits were scheduled and provided;*

24 (B) *whether a social worker, psychologist, doula or other support person was offered and*

1 *provided during pregnancy and delivery and*
2 *post-delivery;*

3 *(C) whether a pregnancy or parenting pro-*
4 *gram was offered and provided during preg-*
5 *nancy;*

6 *(D) whether a nursery or residential pro-*
7 *gram to keep mothers and infants together post-*
8 *delivery was offered and whether such a nursery*
9 *or residential program was provided;*

10 *(E) the number of days the mother stayed*
11 *in the hospital post-delivery;*

12 *(F) the number of days the infant remained*
13 *with the mother post-delivery; and*

14 *(G) the number of days the infant remained*
15 *in the hospital after the mother was discharged;*

16 *(3) the location of the nearest hospital with a li-*
17 *censed obstetrician-gynecologist in proximity to where*
18 *the incarcerated pregnant woman is housed and the*
19 *length of travel required to transport the woman;*

20 *(4) whether a written policy or protocol is in*
21 *place—*

22 *(A) to respond to unexpected childbirth,*
23 *labor, deliveries, or medical complications re-*
24 *lated to the pregnancies of incarcerated pregnant*
25 *women; and*

1 (B) for incarcerated pregnant women experi-
2 encing labor or medical complications related
3 to pregnancy outside of a hospital;

4 (5) the number of incarcerated women who are
5 determined by a health care professional to have a
6 high-risk pregnancy;

7 (6) the total number of incarcerated pregnant
8 women and the number of incarcerated women who
9 became pregnant while incarcerated;

10 (7) the number of incidents in which an incar-
11 cerated woman who is pregnant, in labor, or in
12 postpartum recovery is placed in restrictive housing,
13 the reason for such restriction or placement, and the
14 circumstances under which each incident occurred,
15 including the duration of time in restrictive housing,
16 during—

17 (A) pregnancy;

18 (B) labor;

19 (C) delivery;

20 (D) postpartum recovery; and

21 (E) the 6-month period after delivery; and

22 (8) the disposition of the custody of the infant
23 post-delivery.

24 (b) *PERSONALLY IDENTIFIABLE INFORMATION.*—Data
25 collected under this section may not contain any personally

1 *identifiable information of any incarcerated pregnant*
 2 *woman or woman in postpartum recovery.*

3 **SEC. 4. CARE FOR FEDERALLY INCARCERATED WOMEN RE-**
 4 **LATED TO PREGNANCY AND CHILDBIRTH.**

5 *(a) IN GENERAL.—The Director of the Bureau of Pris-*
 6 *ons shall ensure that appropriate services and programs,*
 7 *as described in subsection (b), are provided to women in*
 8 *custody, to address the health and safety needs of such*
 9 *women related to pregnancy and childbirth. The warden of*
 10 *each Bureau of Prisons facility that houses women shall en-*
 11 *sure that these services and programs are implemented for*
 12 *women in custody at that facility.*

13 *(b) SERVICES AND PROGRAMS PROVIDED.—The serv-*
 14 *ices and programs described in this subsection are the fol-*
 15 *lowing:*

16 *(1) ACCESS TO COMPLETE APPROPRIATE HEALTH*
 17 *SERVICES FOR THE LIFE CYCLE OF WOMEN.—The Di-*
 18 *rector of the Bureau of Prisons—*

19 *(A) shall provide to each woman in cus-*
 20 *tody—*

21 *(i) pregnancy testing and testing for*
 22 *sexually transmitted diseases; and*

23 *(ii) the option to decline such testing;*
 24 *and*

1 (B) at an inmate's request, shall provide
2 contraception.

3 (2) COMPLIANCE WITH PROTOCOLS RELATING TO
4 HEALTH OF A PREGNANT WOMAN.—On confirmation
5 of the pregnancy of a woman in custody by clinical
6 diagnostics and assessment, the chief health care pro-
7 fessional of the Bureau of Prisons facility in which
8 the woman is housed shall ensure that—

9 (A) a summary of all appropriate protocols
10 directly pertaining to the safety and well-being
11 of the woman are provided to the woman;

12 (B) such protocols are complied with; and

13 (C) such protocols include an assessment of
14 undue safety risks and necessary changes to ac-
15 commodate the woman where and when appro-
16 priate, as it relates to—

17 (i) housing or transfer to a lower bunk
18 for safety reasons;

19 (ii) appropriate bedding or clothing to
20 respond to the woman's changing physical
21 requirements and the temperature in hous-
22 ing units;

23 (iii) regular access to water and bath-
24 rooms;

25 (iv) a diet that—

1 (I) *complies with the nutritional*
2 *standards established by the Secretary*
3 *of Agriculture and the Secretary of*
4 *Health and Human Services in the Di-*
5 *etary Guidelines for Americans report*
6 *published pursuant to section*
7 *301(a)(3) of the National Nutrition*
8 *Monitoring and Related Research Act*
9 *of 1990 (7 U.S.C. 5341(a)(3)); and*

10 (II) *includes—*

11 (aa) *any appropriate dietary*
12 *supplement, including prenatal*
13 *vitamins;*

14 (bb) *timely and regular nu-*
15 *tritious meals;*

16 (cc) *additional caloric con-*
17 *tent in meals provided;*

18 (dd) *a prohibition on with-*
19 *holding food from the woman or*
20 *serving any food that is used as a*
21 *punishment, including nutraloaf*
22 *or any food similar to nutraloaf*
23 *that is not considered a nutritious*
24 *meal; and*

1 *(ee) such other modifications*
2 *to the diet of the woman as the*
3 *Director of the Bureau of Prisons*
4 *determines to be necessary after*
5 *consultation with the Secretary of*
6 *Health and Human Services and*
7 *consideration of such rec-*
8 *ommendations as the Secretary*
9 *may provide;*

10 *(v) modified recreation and transpor-*
11 *tation, in accordance with standards within*
12 *the obstetrical and gynecological care com-*
13 *munity, to prevent overexertion or pro-*
14 *longed periods of inactivity; and*

15 *(vi) such other changes to living condi-*
16 *tions as the Director of the Bureau of Pris-*
17 *ons may require after consultation with the*
18 *Secretary of Health and Human Services*
19 *and consideration of such recommendations*
20 *as the Secretary may provide.*

21 *(3) EDUCATION AND SUPPORT SERVICES.—*

22 *(A) PREGNANCY IN CUSTODY.—A woman*
23 *who is pregnant at intake or who becomes preg-*
24 *nant while in custody shall, not later than 14*
25 *days after the pregnant woman notifies a Bu-*

reau of Prisons official of the pregnancy, receive prenatal education, counseling, and birth support services provided by a provider trained to provide such services, including—

(i) information about the parental rights of the woman, including the right to place the child in kinship care, and notice of the rights of the child;

(ii) information about family preservation support services that are available to the woman;

(iii) information about the nutritional standards referred to in paragraph (2)(C)(iv);

(iv) information pertaining to the health and safety risks of pregnancy, childbirth, and parenting, including postpartum depression;

(v) information on breast-feeding, lactation, and breast health;

(vi) appropriate educational materials, resources, and services related to pregnancy, childbirth, and parenting;

(vii) information and notification services for incarcerated parents regarding

1 *the risk of debt repayment obligations asso-*
2 *ciated with their child’s participation in so-*
3 *cial welfare programs, including assistance*
4 *under any State program funded under*
5 *part A of title IV of the Social Security Act*
6 *(42 U.S.C. 601 et seq.) or benefits under the*
7 *supplemental nutrition assistance program,*
8 *as defined in section 3 of the Food and Nu-*
9 *trition Act of 2008 (7 U.S.C. 2012), or any*
10 *State program carried out under that Act;*
11 *and*

12 *(viii) information from the Office of*
13 *Child Support Enforcement of the Depart-*
14 *ment of Health and Human Services re-*
15 *garding seeking or modifying child support*
16 *while incarcerated, including how to par-*
17 *ticipate in the Bureau of Prison’s Inmate*
18 *Financial Responsibility Program under*
19 *subpart B of part 545 of title 28, Code of*
20 *Federal Regulations (or any successor pro-*
21 *gram).*

22 *(B) BIRTH WHILE IN CUSTODY OR PRIOR TO*
23 *CUSTODY.—A woman who, while in custody or*
24 *during the 6-month period immediately pre-*
25 *ceding intake, gave birth or experienced any*

1 *other pregnancy outcome shall receive counseling*
2 *provided by a licensed or certified provider*
3 *trained to provide such services, including—*

4 *(i) information about the parental*
5 *rights of the woman, including the right to*
6 *place the child in kinship care, and notice*
7 *of the rights of the child; and*

8 *(ii) information about family preserva-*
9 *tion support services that are available to*
10 *the woman.*

11 *(4) EVALUATIONS.—*

12 *(A) IN GENERAL.—Each woman in custody*
13 *who is pregnant or whose pregnancy results in*
14 *a birth or any other pregnancy outcome during*
15 *the 6-month period immediately preceding intake*
16 *or any time in custody thereafter shall be evalu-*
17 *ated as soon as practicable after intake or con-*
18 *firmation of pregnancy through evidence-based*
19 *screening and assessment for substance use dis-*
20 *orders or mental health conditions, including*
21 *postpartum depression or depression related to*
22 *pregnancy, birth, or any other pregnancy out-*
23 *come or early child care.*

1 (B) *RISK FACTORS*.—Screening under sub-
2 paragraph (A) shall include identification of any
3 of the following risk factors:

4 (i) *An existing mental or physical*
5 *health condition or substance use disorder.*

6 (ii) *Being underweight or overweight.*

7 (iii) *Multiple births or a previous still*
8 *birth.*

9 (iv) *A history of preeclampsia.*

10 (v) *A previous Caesarean section.*

11 (vi) *A previous miscarriage.*

12 (vii) *Being older than 35 or younger*
13 *than 15.*

14 (viii) *Being diagnosed with the human*
15 *immunodeficiency virus, hepatitis, diabetes,*
16 *or hypertension.*

17 (ix) *Such other risk factors as the chief*
18 *health care professional of the Bureau of*
19 *Prisons facility that house the woman may*
20 *determine to be appropriate.*

21 (5) *UNEXPECTED BIRTHS RULEMAKING*.—The
22 Director of the Bureau of Prisons shall provide serv-
23 ices to respond to unexpected childbirth deliveries,
24 labor complications, and medical complications re-
25 lated to pregnancy if a woman in custody is unable

1 to access a hospital in a timely manner in accordance
 2 with rules promulgated by the Attorney General,
 3 which shall be promulgated not later than 180 days
 4 after the date of enactment of this Act.

5 (6) *TREATMENT.*—The Director of the Bureau of
 6 Prisons shall use best efforts to provide a woman in
 7 custody who is pregnant and diagnosed with having
 8 a substance use disorder or a mental health disorder
 9 with appropriate evidence-based treatment.

10 **SEC. 5. USE OF RESTRICTIVE HOUSING ON INCARCERATED**
 11 **PREGNANT WOMEN DURING PREGNANCY,**
 12 **LABOR, AND POSTPARTUM RECOVERY PRO-**
 13 **HIBITED.**

14 (a) *IN GENERAL.*—Section 4322 of title 18, United
 15 States Code, is amended to read as follows:

16 **“§4322. Use of restrictive housing on incarcerated**
 17 **women during the period of pregnancy,**
 18 **labor, and postpartum recovery prohib-**
 19 **ited**

20 “(a) *PROHIBITION.*—Except as provided in subsection
 21 (b), during the period beginning on the date on which preg-
 22 nancy is confirmed by a health care professional and end-
 23 ing not earlier than 12 weeks after delivery, an incarcerated
 24 woman in the custody of the Bureau of Prisons, or in the

1 *custody of the United States Marshals Service pursuant to*
2 *section 4086, shall not be held in restrictive housing.*

3 “(b) *EXCEPTIONS.*—

4 “(1) *RESTRICTIVE HOUSING.*—Subject to para-
5 *graph (4), the prohibition under subsection (a) relat-*
6 *ing to restrictive housing shall not apply if the Direc-*
7 *tor of the Bureau of Prisons or a senior Bureau of*
8 *Prisons official overseeing women’s health and serv-*
9 *ices, in consultation with senior officials in health*
10 *services, makes an individualized determination that*
11 *restrictive housing is required as a temporary re-*
12 *sponse to behavior that poses a serious and immediate*
13 *risk of physical harm.*

14 “(2) *REVIEW.*—The official who makes a deter-
15 *mination under subparagraph (A) shall review such*
16 *determination daily for the purpose of removing an*
17 *incarcerated woman as quickly as feasible from re-*
18 *strictive housing.*

19 “(3) *RESTRICTIVE HOUSING PLAN.*—The official
20 *who makes a determination under subparagraph (A)*
21 *shall develop an individualized plan to move an in-*
22 *carcerated woman to less restrictive housing within a*
23 *reasonable amount of time.*

24 “(4) *PROHIBITION ON SOLITARY CONFINEMENT.*—An incarcerated woman who is placed in re-
25

1 *strictive housing under this subsection may not be*
2 *placed in solitary confinement if the incarcerated*
3 *woman is in her third trimester.*

4 “(c) *REPORTS.*—

5 “(1) *REPORT TO DIRECTORS AND HEALTH CARE*
6 *PROFESSIONAL AFTER PLACEMENT IN RESTRICTIVE*
7 *HOUSING.*—*Not later than 30 days after the date on*
8 *which an incarcerated woman is placed in restrictive*
9 *housing under subsection (b), the applicable official*
10 *identified in subsection (b)(1), correctional officer, or*
11 *United States Marshal shall submit to the Director of*
12 *the Bureau of Prisons or the Director of the United*
13 *States Marshals Service, as applicable, and to the*
14 *health care professional responsible for the health and*
15 *safety of the woman, a written report which describes*
16 *the facts and circumstances surrounding the restric-*
17 *tive housing placement, and includes the following:*

18 “(A) *The reasoning upon which the deter-*
19 *mination for the placement was made.*

20 “(B) *The details of the placement, including*
21 *length of time of placement and how frequently*
22 *and how many times the determination was*
23 *made subsequent to the initial determination to*
24 *continue the restrictive housing placement.*

1 “(C) *A description of all attempts to use al-*
2 *ternative interventions and sanctions before the*
3 *restrictive housing was used.*

4 “(D) *Any resulting physical effects on the*
5 *woman observed by or reported by the health*
6 *care professional responsible for the health and*
7 *safety of the woman.*

8 “(E) *Strategies the facility is putting in*
9 *place to identify more appropriate alternative*
10 *interventions should a similar situation arise*
11 *again.*

12 “(2) *REPORT TO CONGRESS.—Not later than 180*
13 *days after the date of enactment of the Pregnant*
14 *Women in Custody Act, and every 180 days thereafter*
15 *for a period of 10 years, the Attorney General shall*
16 *submit to the Committee on the Judiciary of the Sen-*
17 *ate and the Committee on the Judiciary of the House*
18 *of Representatives a report on the placement of incar-*
19 *cerated women in restrictive housing under subsection*
20 *(b), which shall include the information described in*
21 *paragraph (1).*

22 “(d) *NOTICE.—Not later than 24 hours after the con-*
23 *firmation of the pregnancy of an incarcerated woman by*
24 *a health care professional, that woman shall be notified,*
25 *orally and in writing, by an appropriate health care profes-*

1 sional, correctional officer, or United States Marshal, as ap-
 2 plicable—

3 “(1) of the restrictions on the use of restrictive
 4 housing placements under this section;

5 “(2) of the right of the incarcerated woman to
 6 make a confidential report of a violation of restric-
 7 tions on the use of restrictive housing placement; and

8 “(3) that the facility staff have been advised of
 9 all rights of the incarcerated woman under subsection
 10 (a).

11 “(e) VIOLATION REPORTING PROCESS.—Not later than
 12 180 days after the date of enactment of the Pregnant
 13 Women in Custody Act, the Director of the Bureau of Pris-
 14 ons and the Director of the United States Marshals Service
 15 shall establish processes through which an incarcerated per-
 16 son may report a violation of this section.

17 “(f) NOTIFICATION OF RIGHTS.—The warden of the
 18 Bureau of Prisons facility where a pregnant woman is in
 19 custody shall notify necessary facility staff of the pregnancy
 20 and of the rights of the incarcerated pregnant woman under
 21 subsection (a).

22 “(g) RETALIATION.—It shall be unlawful for any Bu-
 23 reau of Prisons or United States Marshals Service employee
 24 to retaliate against an incarcerated person for reporting

1 *under the processes established under subsection (e) a viola-*
 2 *tion of subsection (a).*

3 “(h) *EDUCATION.*—*Not later than 90 days after the*
 4 *date of enactment of the Pregnant Women in Custody Act,*
 5 *the Director of the Bureau of Prisons and the Director of*
 6 *the United States Marshals Service shall each—*

7 “(1) *develop education guidelines regarding the*
 8 *physical and mental health needs of incarcerated*
 9 *pregnant women, and the use of restrictive housing*
 10 *placements on incarcerated women during the period*
 11 *of pregnancy, labor, and postpartum recovery; and*

12 “(2) *incorporate such guidelines into appro-*
 13 *priate education programs.*

14 “(i) *DEFINITION.*—*In this section, the term ‘restrictive*
 15 *housing’ means any type of detention that involves—*

16 “(1) *removal from the general inmate popu-*
 17 *lation, whether voluntary or involuntary;*

18 “(2) *placement in a locked room or cell, whether*
 19 *alone or with another inmate; and*

20 “(3) *inability to leave the room or cell for the*
 21 *vast majority of the day.”.*

22 “(b) *CLERICAL AMENDMENT.*—*The table of sections for*
 23 *chapter 317 of title 18, United States Code, is amended by*
 24 *striking the item relating to section 4322 and inserting the*
 25 *following:*

“4322. Use of restrictive housing on incarcerated women during the period of pregnancy, labor, and postpartum recovery prohibited.”.

1 **SEC. 6. TREATMENT OF WOMEN WITH HIGH-RISK PREG-**
 2 **NANCIES.**

3 *(a) IN GENERAL.—Chapter 303 of title 18, United*
 4 *States Code, is amended by adding at the end the following:*

5 **“§4052. Treatment of incarcerated pregnant women**

6 *“(a) HIGH-RISK PREGNANCY HEALTH CARE.—The*
 7 *Director of the Bureau of Prisons shall ensure that each*
 8 *incarcerated pregnant woman receives an evaluation to de-*
 9 *termine if the pregnancy is high-risk and, if so, receives*
 10 *healthcare appropriate for a high-risk pregnancy, including*
 11 *obstetrical and gynecological care, during pregnancy and*
 12 *postpartum recovery.*

13 *“(b) HIGH-RISK PREGNANCIES.—*

14 *“(1) IN GENERAL.—The Director of the Bureau*
 15 *of Prisons shall transfer to a Residential Reentry*
 16 *Center with adequate health care during her preg-*
 17 *nancy and postpartum recovery any incarcerated*
 18 *woman who—*

19 *“(A) is determined by a health care profes-*
 20 *sional to have a high-risk pregnancy; and*

21 *“(B) agrees to be transferred.*

22 *“(2) PRIORITY.—The Residential Reentry Center*
 23 *to which an incarcerated pregnant woman is trans-*
 24 *ferred under paragraph (1) shall, to the extent prac-*

1 *licable, be in a geographical location that is close to*
 2 *the family members of the incarcerated pregnant*
 3 *woman.*

4 *“(3) TRANSPORTATION.—To transport an incar-*
 5 *cerated pregnant woman to a Residential Reentry*
 6 *Center, the Director of the Bureau of Prisons shall*
 7 *provide to the woman a mode of transportation that*
 8 *a healthcare professional has determined to be safe for*
 9 *transporting the pregnant woman.*

10 *“(4) SERVICE OF SENTENCE.—Any time accrued*
 11 *at a Residential Reentry Center or alternative hous-*
 12 *ing as a result of a transfer made under this section*
 13 *shall be credited toward service of the incarcerated*
 14 *pregnant woman’s sentence.*

15 *“(c) DEFINITIONS.—In this section:*

16 *“(1) HEALTH CARE PROFESSIONAL.—The term*
 17 *‘health care professional’ means—*

18 *“(A) a doctor of medicine or osteopathy who*
 19 *is authorized to diagnose and treat physical or*
 20 *mental health conditions under the laws of the*
 21 *State in which the doctor practices and where*
 22 *the facility is located;*

23 *“(B) any physician’s assistant or nurse*
 24 *practitioner who is supervised by a doctor of*

1 *medicine or osteopathy described in subpara-*
 2 *graph (A); or*

3 “(C) *any other person determined by the*
 4 *Director of the Bureau of Prisons to be capable*
 5 *of providing health care services.*

6 “(2) *HIGH-RISK PREGNANCY.—The term ‘high-*
 7 *risk pregnancy’ means, with respect to an incarcer-*
 8 *ated woman, that the pregnancy threatens the health*
 9 *or life of the woman or pregnancy, as determined by*
 10 *a health care professional.*

11 “(3) *POSTPARTUM RECOVERY.—The term*
 12 *‘postpartum recovery’ means the 3-month period be-*
 13 *ginning on the date on which an incarcerated preg-*
 14 *nant woman gives birth, or longer as determined by*
 15 *a health care professional following delivery, and*
 16 *shall include the entire period that the incarcerated*
 17 *pregnant woman is in the hospital or infirmary.*

18 “(4) *RESIDENTIAL REENTRY CENTER.—The term*
 19 *‘Residential Reentry Center’ means a Bureau of Pris-*
 20 *ons contracted residential reentry center.’.*

21 “(b) *CONFORMING AMENDMENT.—The table of sections*
 22 *for chapter 303 of title 18, United States Code, is amended*
 23 *by adding at the end the following:*

“4052. Treatment of incarcerated pregnant women.”.

1 **SEC. 7. REPORTING REQUIREMENT REGARDING CLAIMS**
2 **FILED BY PREGNANT INMATES.**

3 *The Director of the Federal Bureau of Prisons shall*
4 *make publicly available on the website of the Federal Bu-*
5 *reau of Prisons on an annual basis the following informa-*
6 *tion:*

7 *(1) The total number of Administrative Remedy*
8 *appeals related to pregnant inmates that were filed*
9 *during the previous year.*

10 *(2) The total number of institution-level Requests*
11 *for Administrative Remedy related to pregnant in-*
12 *mates that were filed during the previous year.*

13 *(3) The total number of informal requests for ad-*
14 *ministrative remedy related to pregnant inmates that*
15 *were filed during the previous year.*

16 *(4) The total number of requests or appeals re-*
17 *lated to pregnant inmates during the previous year*
18 *that were not resolved before the inmate gave birth or*
19 *that were mooted because the inmate's pregnancy*
20 *ended.*

21 *(5) The average amount of time that each cat-*
22 *egory of request or appeal took to resolve during the*
23 *previous year.*

24 *(6) The shortest and longest amounts of time*
25 *that a request or appeal in each category that was re-*
26 *solved in the last year took to resolve.*

1 **SEC. 8. EDUCATION AND TECHNICAL ASSISTANCE.**

2 *The Director of the National Institute of Corrections*
 3 *shall provide education and technical assistance, in con-*
 4 *junction with the appropriate public agencies, at State and*
 5 *local correctional facilities that house women and facilities*
 6 *in which incarcerated women go into labor and give birth,*
 7 *in order to educate the employees of such facilities, includ-*
 8 *ing health personnel, on the dangers and potential mental*
 9 *health consequences associated with the use of restrictive*
 10 *housing and restraints on incarcerated women during preg-*
 11 *nancy, labor, and postpartum recovery, and on alternatives*
 12 *to the use of restraints and restrictive housing placement.*

13 **SEC. 9. BUREAU OF PRISONS STAFF AND UNITED STATES**
 14 **MARSHALS TRAINING.**

15 *(a) BUREAU OF PRISONS TRAINING.—*

16 *(1) IN GENERAL.—*

17 *(A) INITIAL TRAINING.—Not later than 180*
 18 *days after the date of enactment of this Act, the*
 19 *Director of the Bureau of Prisons shall provide*
 20 *training to carry out the requirements of this*
 21 *Act and the amendments made by this Act to*
 22 *each correctional officer at any Bureau of Pris-*
 23 *ons facility that houses women who is employed*
 24 *on the date of enactment of this Act.*

25 *(B) SUBSEQUENT TRAINING.—After the ini-*
 26 *tial training provided under subparagraph (A),*

1 *the Director of the Bureau of Prisons shall pro-*
2 *vide training to carry out the requirements of*
3 *this Act and the amendments made by this Act*
4 *twice each year to each correctional officer at*
5 *any Bureau of Prisons facility that houses*
6 *women.*

7 *(2) NEW HIRES.—*

8 *(A) DEFINITION.—In this paragraph, the*
9 *term “covered new correctional officer” means an*
10 *individual appointed to a position as a correc-*
11 *tional officer at a Bureau of Prisons facility that*
12 *houses women on or after the date that is 180*
13 *days after the date of enactment of this Act.*

14 *(B) TRAINING.—The Director of the Bureau*
15 *of Prisons shall train each covered new correc-*
16 *tional officer to carry out the requirements of*
17 *this Act and the amendments made by this Act*
18 *not later than 30 days after the date on which*
19 *the covered new correctional officer is appointed.*

20 *(b) UNITED STATES MARSHALS TRAINING.—*

21 *(1) IN GENERAL.—On and after the date that is*
22 *180 days after the date of enactment of this Act, the*
23 *Director of the United States Marshals Service shall*
24 *ensure that each Deputy United States Marshal has*

1 *received trained pursuant to the guidelines described*
2 *in subsection (c).*

3 (2) *NEW HIRES.*—

4 (A) *DEFINITION.*—*In this paragraph, the*
5 *term “new Deputy United States Marshal”*
6 *means an individual appointed to a position as*
7 *a Deputy United States Marshal after the date*
8 *of enactment of this Act.*

9 (B) *TRAINING.*—*Not later than 30 days*
10 *after the date on which a new Deputy United*
11 *States Marshal is appointed, the new Deputy*
12 *United States Marshal shall receive training*
13 *pursuant to the guidelines described in sub-*
14 *section (c).*

15 (c) *GUIDELINES.*—

16 (1) *IN GENERAL.*—*The Director of the Bureau of*
17 *Prisons and the United States Marshals Service shall*
18 *each develop guidelines on the treatment of incarcer-*
19 *ated women during pregnancy, labor, and postpartum*
20 *recovery and incorporate such guidelines in the train-*
21 *ing required under this section.*

22 (2) *CONTENTS.*—*The guidelines developed under*
23 *paragraph (1) shall include guidance on—*

24 (A) *the transportation of incarcerated preg-*
25 *nant women;*

1 (B) *housing of incarcerated pregnant*
 2 *women;*

3 (C) *nutritional requirements for incarcer-*
 4 *ated pregnant women; and*

5 (D) *the right of a health care professional to*
 6 *request that restraints not be used.*

7 **SEC. 10. GAO STUDY ON STATE AND LOCAL CORRECTIONAL**
 8 **FACILITIES.**

9 *The Comptroller General of the United States shall*
 10 *conduct a study of services and protections provided for*
 11 *pregnant incarcerated women in local and State correc-*
 12 *tional settings, including—*

13 (1) *policies on—*

14 (A) *obstetrical and gynecological care;*

15 (B) *education on nutritional issues and*
 16 *health and safety risks associated with preg-*
 17 *nancy;*

18 (C) *mental health and substance use treat-*
 19 *ment;*

20 (D) *access to prenatal and post-delivery*
 21 *support services and programs; and*

22 (E) *the use of restraints and restrictive*
 23 *housing placement; and*

24 (2) *the extent to which the intent of such policies*
 25 *is fulfilled.*

1 **SEC. 11. DETERMINATION OF BUDGETARY EFFECTS.**

2 *The budgetary effects of this Act, for the purpose of*
3 *complying with the Statutory Pay-As-You-Go-Act of 2010,*
4 *shall be determined by reference to the latest statement titled*
5 *“Budgetary Effects of PAYGO Legislation” for this Act,*
6 *submitted for printing in the Congressional Record by the*
7 *Chairman of the Senate Budget Committee, provided that*
8 *such statement has been submitted prior to the vote on pas-*
9 *sage.*

Union Calendar No. 361

117TH CONGRESS
2^D Session

H. R. 6878

[Report No. 117-465, Part I]

A BILL

To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes.

SEPTEMBER 13, 2022

Reported from the Committee on the Judiciary with an amendment

SEPTEMBER 13, 2022

Committee on the Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed