

116TH CONGRESS
1ST SESSION

S. 992

To improve the treatment of Federal prisoners who are primary caretaker
parents, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2019

Mr. BOOKER (for himself, Ms. WARREN, Mr. DURBIN, and Ms. HARRIS) intro-
duced the following bill; which was read twice and referred to the Com-
mittee on the Judiciary

A BILL

To improve the treatment of Federal prisoners who are
primary caretaker parents, 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 “Dignity for Incarcer-
5 ated Women Act of 2019” or the “Dignity Act”.

1 **SEC. 2. IMPROVING THE TREATMENT OF PRIMARY CARE-**
 2 **TAKER PARENTS AND OTHER INDIVIDUALS**
 3 **IN FEDERAL PRISONS.**

4 (a) IN GENERAL.—Chapter 303 of title 18, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 **“§ 4051. Treatment of primary caretaker parents and**
 8 **other individuals**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘correctional officer’ means a cor-
 11 rectional officer of the Bureau of Prisons;

12 “(2) the term ‘covered institution’ means a
 13 Federal penal or correctional institution;

14 “(3) the term ‘Director’ means the Director of
 15 the Bureau of Prisons;

16 “(4) the term ‘post-partum recovery’ has the
 17 meaning given the term ‘postpartum recovery’ in
 18 section 4322;

19 “(5) the term ‘primary caretaker parent’ has
 20 the meaning given the term in section 31903 of the
 21 Family Unity Demonstration Project Act (34 U.S.C.
 22 12242);

23 “(6) the term ‘prisoner’ means an individual
 24 who is incarcerated in a covered institution, includ-
 25 ing a vulnerable person; and

1 “(7) the term ‘vulnerable person’ means an in-
 2 dividual who—

3 “(A) is under 21 years of age or over 60
 4 years of age;

5 “(B) is pregnant;

6 “(C) identifies as lesbian, gay, bisexual,
 7 transgender, or intersex;

8 “(D) is victim of or witness to a crime;

9 “(E) has filed a nonfrivolous civil rights
 10 claim in Federal or State court;

11 “(F) has a serious mental or physical ill-
 12 ness or disability; or

13 “(G) during the period of incarceration,
 14 has been determined to have experienced or to
 15 be experiencing severe trauma or to be the vic-
 16 tim of gender-based violence—

17 “(i) by any court or administrative ju-
 18 dicial proceeding;

19 “(ii) by any corrections official;

20 “(iii) by the individual’s attorney or
 21 legal service provider; or

22 “(iv) by the individual.

23 “(b) VISITATION RULES.—The Director shall pro-
 24 mulgate regulations for visitation between prisoners who

1 are primary caretaker parents and their family members
2 under which—

3 “(1) a prisoner may receive visits not fewer
4 than 6 days per week, which shall include Saturday
5 and Sunday;

6 “(2) a Federal penal or correctional institution
7 shall be open for visitation for not fewer than 8
8 hours per day;

9 “(3) a prisoner may have up to 5 adult visitors
10 and an unlimited number of child visitors per visit;
11 and

12 “(4) a prisoner may have physical contact with
13 visitors unless the prisoner presents an immediate
14 physical danger to the visitors.

15 “(c) PROHIBITION ON PLACEMENT OF PREGNANT
16 PRISONERS OR PRISONERS IN POST-PARTUM RECOVERY
17 IN SEGREGATED HOUSING UNITS.—

18 “(1) PLACEMENT IN SEGREGATED HOUSING
19 UNITS.—A covered institution may not place a pris-
20 oner who is pregnant or in post-partum recovery in
21 a segregated housing unit unless the prisoner pre-
22 sents an immediate risk of harm to the prisoner or
23 others.

1 “(2) RESTRICTIONS.—Any placement of a pris-
 2 oner described in subparagraph (A) in a segregated
 3 housing unit shall be limited and temporary.

4 “(d) PARENTING CLASSES.—The Director shall pro-
 5 vide parenting classes to each prisoner who is a primary
 6 caretaker parent.

7 “(e) TRAUMA SCREENING.—The Director shall pro-
 8 vide training to each correctional officer and each em-
 9 ployee of the Bureau of Prisons who regularly interacts
 10 with prisoners, including each instructor and health care
 11 professional, to enable those correctional officers and em-
 12 ployees to—

13 “(1) identify a prisoner who has a mental or
 14 physical health need relating to trauma the prisoner
 15 has experienced; and

16 “(2) refer a prisoner described in paragraph (1)
 17 to the proper healthcare professional for treatment.

18 “(f) OMBUDSMAN.—The Attorney General shall des-
 19 ignate an ombudsman to oversee and monitor, with re-
 20 spect to Federal penal and correctional institutions—

21 “(1) prisoner transportation;

22 “(2) use of segregated housing;

23 “(3) strip searches of prisoners; and

24 “(4) civil rights violations.

25 “(g) TELECOMMUNICATIONS.—

1 “(1) IN GENERAL.—The Director—

2 “(A) may not charge a fee for a telephone
3 call made by a prisoner; and

4 “(B) shall make videoconferencing avail-
5 able to prisoners in each Federal penal or cor-
6 rectional institution free of charge.

7 “(2) RULE OF CONSTRUCTION.—Nothing in
8 paragraph (1)(B) shall be construed to authorize the
9 Director to use videoconferencing as a substitute for
10 in-person visits.

11 “(h) INMATE HEALTH.—

12 “(1) HEALTH CARE ACCESS.—The Director
13 shall ensure that all prisoners receive adequate
14 health care.

15 “(2) HEALTHCARE PRODUCTS.—

16 “(A) AVAILABILITY.—The Director shall
17 make the healthcare products described in sub-
18 paragraph (C) available to prisoners for free, in
19 a quantity that is appropriate to the healthcare
20 needs of each prisoner.

21 “(B) QUALITY OF PRODUCTS.—The Direc-
22 tor shall ensure that the healthcare products
23 provided under this paragraph conform with ap-
24 plicable industry standards.

1 “(C) PRODUCTS.—The healthcare products
2 described in this subparagraph are—

3 “(i) tampons;

4 “(ii) sanitary napkins;

5 “(iii) moisturizing soap, which may
6 not be lye-based;

7 “(iv) shampoo;

8 “(v) body lotion;

9 “(vi) Vaseline;

10 “(vii) toothpaste;

11 “(viii) toothbrushes;

12 “(ix) aspirin;

13 “(x) ibuprofen; and

14 “(xi) any other healthcare product
15 that the Director determines appropriate.

16 “(3) GYNECOLOGIST ACCESS.—The Director
17 shall ensure that all prisoners have access to a gynecologist as appropriate.

18 “(i) USE OF SEX-APPROPRIATE CORRECTIONAL OFFICERS.—
19 FICERS.—

20 “(1) REGULATIONS.—The Director shall make
21 rules under which—

22 “(A) a correctional officer may not conduct
23 a strip search of a prisoner of the opposite sex
24 unless—
25 unless—

1 “(i) the prisoner presents a risk of
2 immediate harm to the prisoner or others,
3 and no other correctional officer of the
4 same sex as the prisoner, or medical staff,
5 is available to assist; or

6 “(ii) the prisoner has previously re-
7 quested that an officer of a different sex
8 conduct searches;

9 “(B) a correctional officer may not enter a
10 restroom reserved for prisoners of the opposite
11 sex unless—

12 “(i) a prisoner in the restroom pre-
13 sents a risk of immediate harm to the pris-
14 oner or others; or

15 “(ii) there is a medical emergency in
16 the restroom and no other correctional offi-
17 cer of the appropriate sex is available to
18 assist;

19 “(C) a transgender prisoner’s sex shall be
20 determined according to the sex with which the
21 prisoner identifies; and

22 “(D) a correctional officer may not search
23 or physically examine a prisoner for the sole
24 purpose of determining the prisoner’s genital
25 status or sex.

1 “(2) RELATION TO OTHER LAWS.—Nothing in
2 paragraph (1) shall be construed to affect the re-
3 quirements under the Prison Rape Elimination Act
4 of 2003 (34 U.S.C. 30301 et seq.).”.

5 (b) SUBSTANCE ABUSE TREATMENT.—Section
6 3621(e) of title 18, United States Code, is amended by
7 adding at the end the following:

8 “(7) ELIGIBILITY OF PRIMARY CARETAKER
9 PARENTS AND PREGNANT WOMEN.—The Director of
10 the Bureau of Prisons may not prohibit an eligible
11 prisoner who is a primary caretaker parent (as de-
12 fined in section 4051) or pregnant from partici-
13 pating in a program of residential substance abuse
14 treatment provided under paragraph (1) on the basis
15 of a failure by the eligible prisoner, before being
16 committed to the custody of the Bureau of Prisons,
17 to disclose to any official of the Bureau of Prisons
18 that the eligible prisoner had a substance abuse
19 problem on or before the date on which the eligible
20 prisoner was committed to the custody of the Bu-
21 reau of Prisons.”.

22 (c) IMPLEMENTATION REPORT.—Not later than 1
23 year after the date of enactment of this Act, the Director
24 of the Bureau of Prisons shall submit to the Committee
25 on the Judiciary of the Senate and the Committee on the

1 Judiciary of the House of Representatives a report on the
 2 implementation of this section and the amendments made
 3 by this section.

4 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

5 (1) TABLE OF SECTIONS.—The table of sections
 6 for chapter 303 of title 18, United States Code, is
 7 amended by adding at the end the following:

“4051. Treatment of primary caretaker parents and other individuals.”.

8 (2) HEALTHCARE PRODUCTS.—Section 611 of
 9 the First Step Act of 2018 (Public Law 115–391;
 10 132 Stat. 5194) is repealed.

11 **SEC. 3. OVERNIGHT VISIT PILOT PROGRAM.**

12 (a) DEFINITIONS.—In this section—

13 (1) the term “Director” means the Director of
 14 the Bureau of Prisons;

15 (2) the term “primary caretaker parent” has
 16 the meaning given the term in section 31903 of the
 17 Family United Demonstration Project Act (34
 18 U.S.C. 12242); and

19 (3) the term “prisoner” means an individual
 20 who is incarcerated in a Federal penal or correc-
 21 tional institution.

22 (b) PILOT PROGRAM.—The Director shall carry out
 23 a pilot program under which prisoners who are primary
 24 caretaker parents and meet eligibility criteria established

1 by the Director may receive overnight visits from family
2 members.

3 (c) ELIGIBILITY CRITERIA.—In establishing eligi-
4 bility criteria for the pilot program under subsection (b),
5 the Director shall—

6 (1) require that a prisoner have displayed good
7 behavior; and

8 (2) prohibit participation by any prisoner who
9 has been convicted of a crime of violence (as defined
10 in section 16 of title 18, United States Code).

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