COMMITTEE REPORT

April 5, 2022

**H. 4541**

Introduced by Reps. Haddon, Erickson, Cobb‑Hunter, Bennett, Bustos, Jones, Matthews and McCravy

S. Printed 4/5/22--H. [SEC 4/6/22 1:25 PM]

Read the first time January 11, 2022.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4541) to amend the Code of Laws of South Carolina, 1976, by adding Section 24‑13‑37 so as to provide for the treatment of pregnant and postpartum inmates., etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill establishes requirements for prisons, local detention facilities, and prison work camps regarding the treatment of pregnant and postpartum inmates. These requirements include the following:

 Within seven days of arrival at a prison, detention center, or prison work camp, an inmate who is confirmed to be pregnant must be scheduled for a pregnancy examination by a qualified provider.

 Pregnant inmates must receive a prescribed schedule of prenatal care visits and have access to newborn care.

 Pregnant inmates who have used opioids prior to incarceration must be provided with medication-assisted treatment and information on withdrawal.

 An inmate who gives birth after incarceration must be provided with information on relevant community-based programs and be referred to a social worker.

 A pregnant inmate who is in labor must be transported to a state licensed hospital or birthing center for the purpose of giving birth and may opt to have an approved support person present.

 Postpartum inmates must be allowed twelve weeks for recovery, during which time they must receive follow-up medical care.

A determination of the bill’s fiscal impact is pending, as the Department of Corrections is still reviewing the bill.

**Local Expenditure**

This bill establishes requirements for prisons, local detention facilities, and prison work camps regarding the treatment of pregnant and postpartum inmates. The local expenditure impact is pending, contingent upon responses from local law enforcement.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24‑13‑37 SO AS TO PROVIDE FOR THE TREATMENT OF PREGNANT AND POSTPARTUM INMATES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 13, Title 24 of the 1976 Code is amended by adding:

“Section 24‑13‑37. (A) An inmate who is confirmed to be pregnant, within seven days of arriving at a state correctional facility, local detention facility, prison camp, or work camp must be scheduled for a pregnancy examination with a physician, nurse practitioner, certified nurse midwife, or physician assistant. The examination shall include:

(1) a determination of the gestational age of the pregnancy and the estimated due date;

(2) a plan of care, including referrals for specialty and other services to evaluate the presence of chronic medical conditions or infectious diseases, and to use health and social status of the inmate to improve quality of care, isolation practices, level of activities, and bed assignments, and to inform appropriate specialists in relationship to gestational age and social and clinical needs, and to guide use of personal protective equipment and additional counseling for prevention and control of infectious diseases, if needed; and

(3) the ordering of prenatal labs and diagnostic studies, as needed based on gestational age or existing or newly diagnosed health conditions.

(B) Pregnant inmates must be scheduled for prenatal care visits as follows, unless otherwise indicated by the physician, nurse practitioner, certified nurse midwife, or physician assistant:

(1) every four weeks in the first trimester up to twenty‑four to twenty‑eight weeks;

(2) every two weeks thereafter up to thirty‑six weeks gestation; and

(3) every one week thereafter until birth.

(C) Pregnant inmates must be provided access to newborn care that includes access to appropriate assessment, diagnosis, care, and treatment for infectious diseases that may be transmitted from a birthing person to the birthing person’s infant, such as HIV or syphilis.

(D) Pregnant inmates must not be tased, pepper sprayed, or exposed to other chemical weapons.

(E) Pregnant inmates who have used opioids prior to incarceration, either by admission or written documentation by a probation officer, or who are currently receiving methadone treatment, must be offered medication‑assisted treatment and must be provided information on the risks of withdrawal.

(F) An eligible pregnant inmate or person who gives birth after incarceration in a state correctional facility, local detention facility, prison camp, or work camp must be provided notice of, access to, and written application for, community‑based programs serving pregnant, birthing, or lactating inmates. At a minimum, the notice shall contain guidelines for qualification, the timeframe for application, and the process for appealing a denial of admittance to those programs.

(G) If a community‑based program is denied access to a state correctional facility, local detention facility, prison camp, or work camp, the reason for the denial must be provided in writing to the inmate within fifteen working days of receipt of the request. The written denial shall address the safety or security concerns for the inmate, infant, public, or staff.

(H) Each pregnant inmate must be referred to a social worker who shall:

(1) discuss with the inmate the options available for feeding, placement, and care of the child after birth, including the benefits of lactation;

(2) assist the inmate with access to a telephone in order to contact relatives regarding newborn placement; and

(3) oversee the placement of the newborn child.

(I) A pregnant inmate must be taken temporarily to a state-licensed hospital or birthing center outside of the state correctional facility, local detention facility, prison camp, or work camp for the purpose of giving childbirth. A pregnant inmate in labor or presumed to be in labor must be treated as an emergency and must be transported to the outside facility, accompanied by state correctional facility, local detention facility, prison camp, or work camp staff.

(J) A pregnant inmate may elect to have a support person present during labor, childbirth, and during postpartum recovery while hospitalized. The support person may be an approved visitor or the state correctional facility, local detention facility, prison camp, or work camp staff designated to assist with prenatal care, labor, childbirth, lactation, and postpartum care. The approval for the support person must be made by the administrator of the state correctional facility, local detention facility, prison camp, or work camp, or his designee. If a pregnant inmate’s request for an elected support person is denied, the reason for the denial must be provided in writing to the inmate within fifteen working days of receipt of the request. The written denial shall address the safety or security concerns for the inmate, infant, public, or staff. Upon receipt of a written denial, the inmate may choose the approved institution staff to act as the support person.

(K) All pregnant and postpartum inmates shall receive appropriate, timely, culturally responsive, and medically accurate, comprehensive care, evaluation, and treatment of existing or newly diagnosed chronic conditions, including mental health disorders and infectious diseases.

(L) An inmate in labor and delivery must be given the maximum level of privacy possible during the labor and delivery process. If a guard is present, the guard must be stationed outside of the room, absent extraordinary circumstances. If a guard must be present in the room, the guard shall stand in a place that grants as much privacy as possible during labor and delivery. A guard must be removed from the room if a professional who is responsible for the medical care of the inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of the guard is medically necessary.

(M) Upon return to a state correctional facility, local detention facility, prison camp, or work camp, the physician, nurse practitioner, certified nurse midwife, or physician assistant shall provide a postpartum examination within one week from childbirth and as needed for up to twelve weeks postpartum, and shall determine whether the inmate may be cleared for full duty or if medical restrictions are warranted. Postpartum inmates must be given at least twelve weeks of recovery after any childbirth before they are required to resume normal activity.

(N) The rights provided for inmates by this section and Section 24‑13‑35 must be posted in at least one conspicuous place to which all inmates have access.”

SECTION 2. This act takes effect upon approval by the Governor.

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