Suspend the Rules and Pass the Bill, H.R. 7718, With an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
2D Session

H. R. 7718

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

IN THE HOUSE OF REPRESENTATIVES

July 22, 2020

Ms. Bass (for herself, Mr. Reschenthaler, Ms. Clark of Massachusetts, and Mrs. Lesko) introduced the following bill; which was referred to the Committee on the Judiciary

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 “Protecting the Health and Wellness of Babies and Pregnant Women in Custody

5 Act”.

6
SEC. 2. DATA COLLECTION.

(a) IN GENERAL.—Beginning not later than 1 year after the date of the enactment of this Act, pursuant to the authority under section 302 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—

(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 pregnant woman;

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

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

(B) whether a social worker, psychologist, doula or other support person, or pregnancy or parenting program was offered and provided during pregnancy and delivery;

(C) whether a nursery or residential program to keep mothers and infants together
post-delivery was offered and whether such a nursery or residential program was provided;

(D) the number of days the mother stayed in the hospital post-delivery;

(E) the number of days the infant remained with the mother post-delivery; and

(F) the number of days the infant remained in the hospital after the mother was discharged;

(3) the location of the nearest hospital with a licensed obstetrician-gynecologist in proximity to where the inmate is housed and the length of travel required to transport the inmate;

(4) whether a written policy or protocol is in place to respond to unexpected childbirth, labor, deliveries, and medical complications related to the pregnancies of incarcerated pregnant women and for incarcerated pregnant women experiencing labor or medical complications related to pregnancy outside of a hospital;

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

(7) the number of incidents in which an incarcerated woman who is pregnant, in labor, or in postpartum recovery is placed in restrictive housing, the reason for such restriction or placement, and the circumstances under which each incident occurred, including the duration of time in restrictive housing, during—

(A) pregnancy;
(B) labor;
(C) delivery;
(D) postpartum recovery; and
(E) the 6-month period after delivery; and

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

(b) PERSONALLY IDENTIFIABLE INFORMATION.—Data collected under this paragraph may not contain any personally identifiable information of any incarcerated pregnant woman.

SEC. 3. CARE FOR FEDERALLY INCARCERATED WOMEN RELATED TO PREGNANCY AND CHILDBIRTH.

(a) IN GENERAL.—The Director of the Bureau of Prisons shall ensure that appropriate services and pro-
grams are provided to women in custody, to address the
health and safety needs of such women related to preg-
nancy and childbirth. The warden of each Bureau of Pris-
ons facility that houses women shall ensure that these
services and programs are implemented for women in cus-
tody at that facility.

(b) SERVICES AND PROGRAMS PROVIDED.—The Di-
rector of the Bureau of Prisons shall ensure that the fol-
lowing services and programs are available to women in
custody:

(1) ACCESS TO COMPLETE APPROPRIATE
HEALTH SERVICES FOR THE LIFE CYCLE OF
WOMEN.—The Director of the Bureau of Prisons
shall provide to each woman in custody who is of re-
productive age pregnancy testing, contraception, and
testing for sexually transmitted diseases and provide
each woman with the option to decline such services.

(2) COMPLIANCE WITH PROTOCOLS RELATING
TO HEALTH OF A PREGNANT WOMAN.—On confirma-
tion of the pregnancy of a woman in custody by clin-
ical diagnostics and assessment, the chief health
care professional of a Bureau of Prisons facility that
houses women shall ensure that a summary of all
appropriate protocols directly pertaining to the safe-
ty and well-being of the woman are provided to the
woman and that such protocols are complied with, including an assessment of undue safety risks and necessary changes to accommodate the woman where and when appropriate, as it relates to—

(A) housing or transfer to a lower bunk for safety reasons;

(B) appropriate bedding or clothing to respond to a woman’s changing physical requirements and the temperature in housing units;

(C) regular access to water and bathrooms;

(D) a diet that complies with the nutritional standards established by the Secretary of Agriculture and the Secretary of Health and Human Services in the Dietary Guidelines for Americans report published pursuant to section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341(a)(3)), and that includes—

(i) any appropriate dietary supplement, including prenatal vitamins;

(ii) timely and regular nutritious meals;

(iii) additional caloric content in meals provided;
(iv) a prohibition on withholding food from an incarcerated pregnant woman or serving any food that is used as a punishment, including nutraloaf or any food similar to nutraloaf that is not considered a nutritious meal; and

(v) such other modifications to the diet of the woman as the Director of the Bureau of Prisons determines to be necessary after consultation with the Secretary of Health and Human Services and consideration of such recommendations as the Secretary may provide;

(E) modified recreation and transportation, in accordance with standards within the obstetrical and gynecological care community, to prevent overexertion or prolonged periods of inactivity; and

(F) such other changes to living conditions as the Director of the Bureau of Prisons may require after consultation with the Secretary of Health and Human Services and consideration of such recommendations as the Secretary may provide.

(3) EDUCATION AND SUPPORT SERVICES.—
(A) PREGNANCY IN CUSTODY.—In the case of a woman who is pregnant at intake or who becomes pregnant while in custody, that woman shall, at intake or not later than 48 hours after pregnancy is confirmed, as appropriate, 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)(D);

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

(v) information on breastfeeding, 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 the risk of debt repayment obligations associated with their child’s participation in social welfare programs, including assistance under any State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or benefits under the supplemental nutrition assistance program, as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), or any State program carried out under that Act; and

(viii) information from the Office of Child Support Enforcement of the Department of Health and Human Services regarding seeking or modifying child support while incarcerated, including how to participate in the Bureau of Prison’s Inmate Financial Responsibility Program under subpart B of title 28, Code of Federal Regulations (or any successor program).
(B) BIRTH WHILE IN CUSTODY OR PRIOR TO CUSTODY.—In the case of a woman who gave birth in custody or who experienced any other pregnancy outcome during the 6-month period immediately preceding intake, that woman shall receive counseling provided by a licensed or certified 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; and

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

(4) TESTING.—Not later than 1 day after an incarcerated woman notifies an employee of the Bureau of Prisons that the woman may be pregnant, a Bureau of Prisons healthcare care professional shall administer a pregnancy test to determine whether the woman is pregnant.

(5) EVALUATIONS.—Each woman in custody who is pregnant or whose pregnancy results in a birth or any other pregnancy outcome during the 6-month period immediately preceding intake or any
time in custody thereafter shall be evaluated not later than 4 days after intake or confirmation of pregnancy through evidence-based screening and assessment for substance use disorders or mental health conditions, including postpartum depression or depression related to a pregnancy outcome or early child care. Screening shall include identification of any of the following risk factors:

(A) An existing mental or physical health condition or substance use disorder.

(B) Being underweight or overweight.

(C) Multiple births or a previous still birth.

(D) A history of preeclampsia.

(E) A previous Caesarean section.

(F) A previous miscarriage.

(G) Being older than 35 or younger than 15.

(H) Being diagnosed with the human immunodeficiency virus, hepatitis, diabetes, or hypertension.

(I) Such other risk factors as the chief health care professional of a Bureau of Prisons facility that houses women may determine to be appropriate.
(6) **EXPECTED BIRTHS RULEMAKING.**—Not later than 180 days after the date of enactment of this Act, the Attorney General shall make rules establishing procedures for responding to unexpected childbirth deliveries, labor complications, and medical complications related to pregnancy if a woman in custody is unable to access a hospital in a timely manner.

(7) **TREATMENT.**—In the case of any woman in custody who, after an evaluation under paragraph (4), is diagnosed as having a substance use disorder or a mental health disorder, that woman shall be entitled to treatment in accordance with the following:

(A) Treatment shall include participation in a support group, including a 12-step program, such as Alcoholics Anonymous, Narcotics Anonymous, and Cocaine Anonymous or a comparable nonreligious program.

(B) Treatment may include psychosocial interventions and medication.

(C) In the case that adequate treatment cannot be provided to a woman in custody in a Bureau of Prisons facility, the Director of the Bureau of Prisons shall transfer the woman to a residential reentry program that offers such
treatment pursuant to section 508 of the Public Health Service Act (42 U.S.C. 290bb–1).

(D) To the extent practicable, treatment for substance use disorders provided pursuant to this section shall be conducted in a licensed hospital.

SEC. 4. USE OF RESTRICTIVE HOUSING AND RESTRAINTS ON INCARCERATED PREGNANT WOMEN DURING PREGNANCY, LABOR, AND POSTPARTUM RECOVERY PROHIBITED.

(a) In General.—Section 4322 of title 18, United States Code, is amended to read as follows:

“§ 4322. Use of restraints and restrictive housing on incarcerated women during the period of pregnancy, labor, and postpartum recovery prohibited and to improve pregnancy care for women in Federal prisons

“(a) Prohibition.—Except as provided in subsection (b), beginning on the date on which pregnancy is confirmed by a health care professional and ending not earlier than 12 weeks after delivery, an incarcerated woman in the custody of the Bureau of Prisons, or in the custody of the United States Marshals Service pursuant to section 4086, shall not be placed in restraints or held in restrictive housing.
“(b) EXCEPTIONS.—

“(1) USE OF RESTRAINTS.—The prohibition under subsection (a) shall not apply if the senior Bureau of Prisons official or United States Marshals Service official overseeing women’s health and services and a health care professional responsible for the health and safety of the incarcerated woman determines that the use of restraints is appropriate for the medical safety of the woman, and the health care professional reviews such determination not later than every 6 hours after such use is initially approved until such use is terminated.

“(2) SITUATIONAL USE.—The individualized determination described under paragraph (1) shall only apply to a specific situation and must be reaffirmed through the same process to use restraints again in any future situation involving the same woman.

“(3) ACCESS TO CARE.—Immediately upon the cessation of the use of restraints or restrictive housing as outlined in this subsection, the Director of the Bureau of Prisons or the United States Marshal Service shall provide the incarcerated woman with immediate access to physical and mental health assessments and all recommended treatment.
“(4) Response to behavioral risks in the Bureau of Prisons.—

“(A) Restrictive housing.—The prohibition under subsection (a) relating to restrictive housing shall not apply if the Director of the Bureau of Prisons or a senior Bureau of Prisons official overseeing women’s health and services, in consultation with senior officials in health services, makes an individualized determination that restrictive housing is required as a temporary response to behavior that poses a serious and immediate risk of physical harm.

“(B) Review.—The official who makes a determination under subparagraph (A) shall review such determination every 4 hours for the purpose of removing an incarcerated woman as quickly as feasible from restrictive housing.

“(C) Restrictive housing plan.—The official who makes a determination under subparagraph (A) shall develop an individualized plan to move an incarcerated woman to less restrictive housing within a reasonable amount of time, not to exceed 2 days.
“(D) Monitoring.—An incarcerated woman who is placed in restrictive housing pursuant to this paragraph shall be—

“(i) monitored every hour;

“(ii) placed in a location visible to correctional officers; and

“(iii) prohibited from being placed in solitary confinement if the incarcerated woman is in her third trimester.

“(c) Reports.—

“(1) Report to the Director and Health Care Professional After the Use of Restraints.—If an official identified in subsection (b)(1) or a correctional officer uses restraints on an incarcerated woman under subsection (b), that official (or an officer or marshal designated by that official) or correctional officer shall submit, not later than 30 days after placing the woman in restraints, to the Director of the Bureau of Prisons or the Director of the U.S. Marshal Service, as applicable, a written report which describes the facts and circumstances surrounding the use of restraints, and includes each of the following:
“(A) A description of all attempts to use alternative interventions and sanctions before the restraints were used.

“(B) A description of the circumstances that led to the use of restraints.

“(C) Strategies the facility is putting in place to identify more appropriate alternative interventions should a similar situation arise again.

“(2) REPORT TO CONGRESS.—Beginning on the date that is 6 months after the date of enactment of the Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act, and every 6 months thereafter for a period of 10 years, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on—

“(A) the reasoning upon which the determination to use restraints was made;

“(B) the details of the use of restraints, including the type of restraints used and length of time during which restraints were used; and

“(C) any resulting physical effects on the prisoner observed by or known to the correc-
tions official or United States Marshal, as applicable.

“(3) REPORT TO THE DIRECTOR AND HEALTH CARE PROFESSIONAL AFTER PLACEMENT IN RESTRICTIVE HOUSING.—If an official identified in subsection (b)(3), correctional officer, or United States Marshal places or causes an incarcerated woman to be placed in restrictive housing under such subsection, that official, correctional officer, or United States Marshal shall submit, not later than 30 days after placing or causing the placement of the incarcerated woman in restrictive housing, to the Director of the Bureau of Prisons or the Director of the United States Marshals Service, as applicable, and to the health care professional responsible for the health and safety of the woman, a written report which describes the facts and circumstances surrounding the restrictive housing placement, and includes the following:

“(A) The reasoning upon which the determination for the placement was made.

“(B) The details of the placement, including length of time of placement and how frequently and how many times the determination was made subsequent to the initial determina-
tion to continue the restrictive housing placement.

“(C) A description of all attempts to use alternative interventions and sanctions before the restrictive housing was used.

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

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

“(4) REPORT TO CONGRESS.—Beginning on the date that is 6 months after the date of enactment of the Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act, and every 6 months thereafter for a period of 10 years, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the information described in paragraph (3).

“(d) NOTICE.—Not later than 24 hours after the confirmation of an incarcerated woman’s pregnancy by a health care professional, that woman shall be notified,
orally and in writing, by an appropriate health care professional, correctional officer, or United States Marshal, as applicable—

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

“(2) of the incarcerated woman’s right to make a confidential report of a violation of restrictions on the use of restraints or restrictive housing placement; and

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

“(e) VIOLATION REPORTING PROCESS.—Not later than 180 days after the date of enactment of this Act, the Director of the Bureau of Prisons and the Director of the United States Marshals Service shall establish processes through which an incarcerated person may report a violation of this section.

“(f) NOTIFICATION OF RIGHTS.—The warden of the Bureau of Prisons facility where a pregnant woman is in custody shall notify necessary facility staff of the pregnancy and of the incarcerated pregnant woman’s rights under subsection (a).
“(g) RETALIATION.—It shall be unlawful for any Bureau of Prisons or United States Marshal Service employee to retaliate against an incarcerated person for reporting under the provisions of subsection (e) a violation of subsection (a).

“(h) EDUCATION.—Not later than 90 days after the date of enactment of the Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act, the Director of the Bureau of Prisons and the Director of the United States Marshals Service shall each develop education guidelines regarding the physical and mental health needs of incarcerated pregnant women, and the use of restraints and restrictive housing placements on incarcerated women during the period of pregnancy, labor, and postpartum recovery, and shall incorporate such guidelines into appropriate education programs.

“(i) DEFINITION.—In this section:

“(1) RESTRAINTS.—The term ‘restraints’ means any physical or mechanical device used to control the movement of an incarcerated pregnant woman’s body, limbs, or both.

“(2) RESTRICTIVE HOUSING.—The term ‘restrictive housing’ means any type of detention that involves—
“(A) removal from the general inmate population, whether voluntary or involuntary;

“(B) placement in a locked room or cell, whether alone or with another inmate; and

“(C) inability to leave the room or cell for the vast majority of the day.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 317 of title 18, United States Code, is amended by amending the item relating to section 4322 to read as follows:

“4322. Use of restraints and restrictive housing on incarcerated women during the period of pregnancy, labor, and postpartum recovery prohibited and to improve pregnancy care for women in Federal prisons.”.

SEC. 5. TREATMENT OF WOMEN WITH HIGH-RISK PREGNANCIES.

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

“§ 4051. Treatment of incarcerated pregnant women

“(a) HIGH-RISK PREGNANCY HEALTH CARE.—The Director of the Bureau of Prisons shall ensure that each incarcerated pregnant woman receives health care appropriate for a high-risk pregnancy, including obstetrical and gynecological care, during pregnancy and post-partum recovery.

“(b) HIGH-RISK PREGNANCIES.—
“(1) IN GENERAL.—The Director of the Bureau of Prisons shall transfer any incarcerated woman, who is determined by a health care professional to have a high-risk pregnancy and who agrees to be transferred, to a Residential Reentry Center with adequate health care during her pregnancy and postpartum recovery.

“(2) PRIORITY.—The Residential Reentry Center to which an incarcerated pregnant woman is transferred pursuant to paragraph (1) shall be in a geographical location that is close to the family members of the incarcerated pregnant woman. In the case that a Residential Reentry Center is unavailable, the incarcerated pregnant woman shall be transferred to alternative housing, including housing with a family member.

“(3) TRANSPORTATION.—To transport an incarcerated pregnant woman to a Residential Reentry Center, the Director of the Bureau of Prisons shall provide to the woman a mode of transportation that has been approved by the woman’s health care professional, at no expense to the woman.

“(4) MONITORING.—In the case that an incarcerated pregnant woman transferred to alternative housing pursuant to this section is monitored elec-
tronically, an ankle monitor may not be used on the
woman, unless there is no feasible alternative for
monitoring the woman.

“(5) **SERVICE OF SENTENCE.**—Any time ac-
crued at a Residential Reentry Center or alternative
housing as a result of a transfer made pursuant to
this section shall be credited toward service of the
incarcerated pregnant woman’s sentence.

“(6) **CREDIT FOR PRETRIAL CUSTODY.**—In the
case of an incarcerated pregnant woman, any time
accrued in pretrial custody shall be credited toward
service of the woman’s sentence.

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

“(1) **FAMILY MEMBER.**—The term ‘family
member’ means any individual related by blood or
affinity whose close association with the incarcerated
pregnant woman is the equivalent of a family rela-
tionship, including a parent, sibling, child, or indi-
vidual standing in loco parentis.

“(2) **RESIDENTIAL REENTRY CENTER.**—The
term ‘Residential Reentry Center’ means a Bureau
of Prisons contracted residential reentry center.

“(3) **HEALTH CARE PROFESSIONAL.**—

“(A) **IN GENERAL.**—The term ‘health care
professional’ means—
“(i) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices;

“(ii) any physician’s assistant or nurse practitioner who is supervised by a doctor of medicine or osteopathy described in clause (i); or

“(iii) any other person determined by the Secretary to be capable of providing health care services.

“(B) OTHER HEALTH CARE SERVICES.—A person is capable of providing health care services if the person is—

“(i) a podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

“(ii) a nurse practitioner, nurse-midwife, clinical social worker, or physician’s assistant who is authorized to practice
under State law and who is performing within the scope of their practice as defined under State law; and

“(iii) any health care professional from whom an employer or the employer’s group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

“(C) AUTHORIZED TO PRACTICE IN THE STATE.—The term ‘authorized to practice in the State’ means that a professional must be authorized to diagnose and treat physical or mental health conditions under the laws of the State in which the professional practices and where the facility is located.

“(4) HIGH-RISK PREGNANCY.—The term ‘high-risk pregnancy’ means, with respect to an incarcerated woman, that the pregnancy threatens the health or life of the woman or pregnancy, as determined by a health care professional.

“(5) POST-PARTUM RECOVERY.—The term ‘post-partum recovery’ means the 3-month period beginning on the date on which an incarcerated pregnant woman gives birth.”.
(b) CONFORMING AMENDMENT.—The table of sections for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

“4051. Treatment of incarcerated pregnant women.”.

SEC. 6. EXEMPTION OF INCARCERATED PREGNANT WOMEN FROM THE REQUIREMENTS FOR SUITS BY PRISONERS.

Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a), by inserting after the period at the end the following: “This subsection shall not apply with respect to an incarcerated pregnant woman who brings an action relating to or affecting the woman’s pregnancy.”; and

(2) in subsection (d)(1), insert “, except an incarcerated pregnant woman,” before “who is confined”.

SEC. 7. DEFINITIONS.

In this Act:

(1) IN CUSTODY.—The term “in custody” means, with respect to an individual, that the individual is under the supervision of a Federal, State, tribal or local correctional facility, including pretrial and contract facilities, and juvenile or medical or mental health facilities.
(2) OTHER PREGNANCY OUTCOME.—The term “other pregnancy outcome” means a pregnancy that ends in stillbirth, miscarriage, or ectopic pregnancy.

(3) POSTPARTUM RECOVERY.—The term “postpartum recovery” means the 12-week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated pregnant woman, following delivery, and shall include the entire period that the incarcerated pregnant woman is in the hospital or infirmary.

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

(5) RESTRICTIVE HOUSING.—The term “restrictive housing” means any type of detention that involves—

(A) removal from the general inmate population, whether voluntary or involuntary;

(B) placement in a locked room or cell, whether alone or with another inmate; and

(C) inability to leave the room or cell for the vast majority of the day.
SEC. 8. EDUCATION AND TECHNICAL ASSISTANCE.

The Director of the National Institute of Corrections shall provide education and technical assistance, in conjunction with the appropriate public agencies, at State and local correctional facilities that house women and facilities in which incarcerated women go into labor and give birth, in order to educate the employees of such facilities, including health personnel, on the dangers and potential mental health consequences associated with the use of restrictive housing and restraints on incarcerated women during pregnancy, labor, and postpartum recovery, and on alternatives to the use of restraints and restrictive housing placement.

SEC. 9. BUREAU OF PRISONS STAFF AND U.S. MARSHALS TRAINING.

(a) BUREAU OF PRISONS TRAINING.—Beginning not later than 180 days after the date of enactment of this Act, and biannually thereafter, the Director of the Bureau of Prisons shall train each correctional officer at any Bureau of Prisons women’s facility to carry out the requirements of this Act.

(b) NEW HIRES.—Beginning not later than 180 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall train any newly hired correctional officer at a Bureau of Prisons facility that houses
women to carry out the requirements of this Act not later 
than 30 days after the date on which the officer is hired.

(c) U.S. Marshal Training.—Beginning not later 
than 180 days after the date of enactment of this Act, 
and biannually thereafter, the Director of the U.S. Marshals Service shall ensure that each Deputy U.S. Marshal 
is trained pursuant to the guidelines described in sub-
section (d). Newly hired deputies shall receive such train-
ing not later than 30 days after the date on which such 

(d) Guidelines.—The Director of the Bureau of 
Prisons and the United States Marshals Service shall each 
develop guidelines on the treatment of incarcerated women 
during pregnancy, labor, and postpartum recovery and in-
corporate such guidelines in the training required under 
this section. Such guidelines shall include guidance on—

(1) the transportation of incarcerated pregnant 

women; 

(2) housing of incarcerated pregnant women; 

(3) nutritional requirements for incarcerated 
pregnant women; and 

(4) the right of a health care professional to re-
quest that restraints not be used.
SEC. 10. GAO STUDY ON STATE AND LOCAL CORRECTIONAL FACILITIES.

The Comptroller General of the United States shall conduct a study of services and protections provided for pregnant incarcerated women in local and State correctional settings, including policies on obstetrical and gynecological care, education on nutrition, health and safety risks associated with pregnancy, mental health and substance use treatment, access to prenatal and post-delivery support services and programs, the use of restraints and restrictive housing placement, and the extent to which the intent of such policies are fulfilled.

SEC. 11. GAO STUDY ON FEDERAL PRETRIAL DETENTION FACILITIES.

(a) Study.—The Comptroller General of the United States shall conduct a study of services and protections provided for pregnant women who are incarcerated in Federal pretrial detention facilities. Specifically, the study shall examine—

(1) what available data indicate about pregnant women detained or held in Federal pretrial detention facilities;

(2) existing U.S. Marshals Service policies and standards that address the care of pregnant women in Federal pretrial detention facilities; and
(3) what is known about the care provided to pregnant women in Federal pretrial detention facilities.

(b) REPORT AND BEST PRACTICES.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report of the results of the study conducted under subsection (a) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. The report shall identify best practices for ensuring that Federal pretrial detention facilities implement services and protections for pregnant women consistent with this Act and shall provide recommendations on how to implement these best practices among all Federal pretrial detention facilities.

(e) DEFINITION.—For purposes of this section, the term “Federal pretrial detention facilities” includes State, local, private, or other facilities under contract with the U.S. Marshals Service for the purpose of housing Federal pretrial detainees.

SEC. 12. PWIC GRANT PROGRAM.

Section 508 of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.) is amended to read as follows:
SEC. 508. PREGNANT WOMEN IN CUSTODY GRANT PROGRAM.

(a) Short Title.—This section may be cited as the ‘Pregnant Women in Custody Grant Program of 2020’ or the ‘PWIC Act of 2020’.

(b) Establishment.—The Attorney General may make grants to eligible entities that have established a program to promote the health needs of incarcerated pregnant women in the criminal justice system at the State, tribal, and local levels or have declared their intent to establish such a program. Eligible entities shall—

(1) promote the safety and wellness of pregnant women in custody;

(2) provide services for obstetrical and gynecological care, for women in custody;

(3) facilitate resources and support services for nutrition and physical and mental health, for women in custody;

(4) establish and maintain policies that are substantially similar to the limitations imposed under section 4322 of title 18, United States Code, limiting the use of restraints on pregnant women in custody; and

(5) maintain, establish, or build post-delivery lactation and nursery care or residential programs to keep the infant with the mother and to promote and
facilitate bonding skills for incarcerated pregnant women and women with dependent children.

“(c) GRANT PERIOD.—A grant awarded under this section shall be for a period of not more than 5 years.

“(d) ELIGIBLE ENTITY.—An entity is eligible for a grant under this section if the entity is—

“(1) a State or territory department of corrections;

“(2) a tribal entity that operates a correctional facility; or

“(3) a unit of local government that operates a prison or jail that houses women; or

“(4) a locally-based nonprofit organization, that has partnered with a State or unit of local government that operates a correctional facility, with expertise in providing health services to incarcerated pregnant women.

“(e) APPLICATION.—To receive a grant under this section, an eligible entity shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including a detailed description of the need for the grant and an account of the number of individuals the grantee expects to benefit from the grant.
“(f) ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant awarded under this section may be used for costs incurred to administer such grant.

“(g) CONSTRUCTION COSTS.—Notwithstanding any other provision of this Act, no funds provided under this section may be used, directly or indirectly, for construction projects, other than new construction or upgrade to a facility used to provide lactation, nursery, obstetrical, or gynecological services.

“(h) PRIORITY FUNDING FOR STATES THAT PROVIDE PROGRAMS AND SERVICES FOR INCARCERATED WOMEN RELATED TO PREGNANCY AND CHILDBIRTH.—In determining the amount provided to a State or unit of local government under this section, the Attorney General shall give priority to States or units of local government that have enacted laws or policies and implemented services or pilot programs for incarcerated pregnant women aimed at enhancing the safety and wellness of pregnant women in custody, including providing services for obstetrical and gynecological care, resources and support services for nutrition and physical and mental health, and post-delivery lactation and nursery care or residential programs to keep the infant with the mother and to promote and facilitate bonding skills for incarcerated pregnant women and women with dependent children.
“(i) **Subgrant Priority.**—A State that receives a grant under this section shall prioritize subgrants to a unit of local government within the State that has established a pilot program that enhances safety and wellness of pregnant women in custody.

“(j) **Federal Share.**—

“(1) **In general.**—The Federal share of a grant under this section may not exceed 75 percent of the total costs of the projects described in the grant application.

“(2) **Waiver.**—The requirement of paragraph (1) may be waived by the Assistant Attorney General upon a determination that the financial circumstances affecting the applicant warrant a finding that such a waiver is equitable.

“(k) **Compliance and Redirection of Funds.**—

“(1) **In general.**—Not later than 1 year after an eligible entity receives a grant under this section, such entity shall implement a policy that is substantially similar to the policy under section 3 of Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act.

“(2) **Extension.**—The Attorney General may provide a 120-day extension to an eligible entity that
is making good faith efforts to collect the information required under paragraph (1).

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

“(1) for fiscal year 2021, $5,000,000;
“(2) for fiscal year 2022, $5,000,000;
“(3) for fiscal year 2023, $5,000,000;
“(4) for fiscal year 2024, $6,000,000; and
“(5) for fiscal year 2025, $6,000,000.

“(m) FUNDS TO BE SUPPLEMENTAL.—To receive a grant under this section, the eligible entity shall certify to the Attorney General that the amounts received under the grant shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs or services in the prison where funds will be used.

“(n) UNOBLIGATED AND UNSPENT FUNDS.—Funds made available pursuant to this section that remain unobligated for a period of 6 months after the end of the fiscal year for which the funds have been appropriated shall be awarded to other recipients of this grant.

“(o) CIVIL RIGHTS OBLIGATION.—A recipient of a grant under this section shall be subject to the non-discrimination requirement under section 40002(b)(13) of
the Violence Against Women Act of 1994 (34 U.S.C. 12291(b)(13)).

“(p) **DEFINITIONS.—** In this section, the term ‘in custody’ means, with respect to an individual, that the individual is under the supervision of a Federal, State, tribal, or local correctional facility, including pretrial and contract facilities, and juvenile or medical or mental health facilities.”.

**SEC. 13. PLACEMENT IN PRERELEASE CUSTODY.**

Section 3624(c)(1) of title 18, United States Code, is amended by adding at the end the following: “Notwithstanding any other provision of this paragraph, in the case of a pregnant woman in custody, if that woman’s due date is within the final year of her term of imprisonment, that woman may be placed into prerelease custody beginning not earlier than the date that is 2 months prior to that woman’s due date.”.

**SEC. 14. DETERMINATION OF BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, pro-
vided that such statement has been submitted prior to the vote on passage.