

116TH CONGRESS
2D SESSION

H. R. 6129

To provide improved care and protection to incarcerated mothers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2020

Ms. PRESSLEY (for herself, Ms. UNDERWOOD, Ms. ADAMS, Ms. SEWELL of Alabama, Ms. NORTON, Ms. SCANLON, Ms. MOORE, Mr. CLAY, Mr. KHANNA, and Mr. LAWSON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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

A BILL

To provide improved care and protection to incarcerated mothers, 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 “Justice for Incarcer-
5 ated Moms Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that the respect and prop-
8 er care that mothers deserve is inclusive, and whether the

1 mothers are transgender, cisgender, or gender noncon-
2 forming, all deserve dignity.

3 **SEC. 3. ENDING THE SHACKLING OF PREGNANT INDIVID-**
4 **UALS.**

5 (a) IN GENERAL.—Beginning on the date that is 6
6 months after the date of enactment of this Act, and annu-
7 ally thereafter, in each State that received a grant under
8 subpart 1 of part E of title I of the Omnibus Crime Con-
9 trol and Safe Streets Act of 1968 (34 U.S.C. 10151 et
10 seq.) (commonly referred to as the “Edward Byrne Memo-
11 rial Justice Grant Program”) and that does not have in
12 effect throughout the State for such fiscal year laws re-
13 stricting the use of restraints on pregnant individuals in
14 prison that are substantially similar to the rights, proce-
15 dures, requirements, effects, and penalties set forth in sec-
16 tion 4322 of title 18, United States Code, the amount of
17 such grant that would otherwise be allocated to such State
18 under such subpart for the fiscal year shall be decreased
19 by 25 percent.

20 (b) REALLOCATION.—Amounts not allocated to a
21 State for failure to comply with subsection (a) shall be
22 reallocated in accordance with subpart 1 of part E of title
23 I of the Omnibus Crime Control and Safe Streets Act of
24 1968 (34 U.S.C. 10151 et seq.) to States that have com-
25 plied with such subsection.

1 **SEC. 4. CREATING MODEL PROGRAMS FOR THE CARE OF**
2 **INCARCERATED INDIVIDUALS IN THE PRE-**
3 **NATAL AND POSTPARTUM PERIODS.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this Act, the Attorney General, act-
6 ing through the Director of the Bureau of Prisons, shall
7 establish, in not more than 6 Bureau of Prisons facilities,
8 programs to optimize maternal health outcomes for preg-
9 nant and postpartum individuals incarcerated in such fa-
10 cilities. The Attorney General shall establish such pro-
11 grams in consultation with stakeholders such as—

12 (1) relevant community-based organizations,
13 particularly organizations that represent incarcer-
14 ated and formerly incarcerated individuals and orga-
15 nizations that seek to improve maternal health out-
16 comes for minority women;

17 (2) relevant organizations representing patients,
18 with a particular focus on minority patients;

19 (3) relevant organizations representing mater-
20 nal health care providers;

21 (4) nonclinical perinatal health workers such as
22 doulas, community health workers, peer supporters,
23 certified lactation consultants, nutritionists and di-
24 etitians, social workers, home visitors, and naviga-
25 tors; and

1 (5) researchers and policy experts in fields re-
2 lated to women’s health care for incarcerated indi-
3 viduals.

4 (b) **START DATE.**—Each selected facility shall begin
5 facility programs not later than 18 months after the date
6 of enactment of this Act.

7 (c) **FACILITY PRIORITY.**—In carrying out subsection
8 (a), the Director shall give priority to a facility based on—

9 (1) the number of pregnant and postpartum in-
10 dividuals incarcerated in such facility and, among
11 such individuals, the number of pregnant and
12 postpartum minority individuals; and

13 (2) the extent to which the leaders of such facil-
14 ity have demonstrated a commitment to developing
15 exemplary programs for pregnant and postpartum
16 individuals incarcerated in such facility.

17 (d) **PROGRAM DURATION.**—The programs established
18 under this section shall be for a 5-year period.

19 (e) **PROGRAMS.**—Bureau of Prisons facilities selected
20 by the Director shall establish programs for pregnant and
21 postpartum incarcerated individuals, and such programs
22 may—

23 (1) provide access to doulas and other perinatal
24 health workers from pregnancy through the
25 postpartum period;

1 (2) provide access to healthy foods and coun-
2 seling on nutrition, recommended activity levels, and
3 safety measures throughout pregnancy;

4 (3) train correctional officers and medical per-
5 sonnel to ensure that pregnant incarcerated individ-
6 uals receive trauma-informed, culturally congruent
7 care that promotes the health and safety of the
8 pregnant individuals;

9 (4) provide counseling and treatment for indi-
10 viduals who have suffered from—

11 (A) diagnosed mental or behavioral health
12 conditions, including trauma and substance use
13 disorders;

14 (B) domestic violence;

15 (C) human immunodeficiency virus;

16 (D) sexual abuse;

17 (E) pregnancy or infant loss; or

18 (F) chronic conditions, including heart dis-
19 ease, diabetes, osteoporosis and osteopenia, hy-
20 pertension, asthma, liver disease, and bleeding
21 disorders;

22 (5) provide pregnancy and childbirth education,
23 parenting support, and other relevant forms of
24 health literacy;

1 (6) offer opportunities for postpartum individ-
2 uals to maintain contact with the individual’s new-
3 born child to promote bonding, including enhanced
4 visitation policies, access to prison nursery pro-
5 grams, or breastfeeding support;

6 (7) provide reentry assistance, particularly to—

7 (A) ensure continuity of health insurance
8 coverage if an incarcerated individual exits the
9 criminal justice system during such individual’s
10 pregnancy or in the postpartum period; and

11 (B) connect individuals exiting the criminal
12 justice system during pregnancy or in the
13 postpartum period to community-based re-
14 sources, such as referrals to health care pro-
15 viders and social services that address social de-
16 terminants of health like housing, employment
17 opportunities, transportation, and nutrition; or

18 (8) establish partnerships with local public enti-
19 ties, private community entities, community-based
20 organizations, Indian Tribes and tribal organizations
21 (as such terms are defined in section 4 of the Indian
22 Self-Determination and Education Assistance Act
23 (25 U.S.C. 5304)), and urban Indian organizations
24 (as such term is defined in section 4 of the Indian
25 Health Care Improvement Act (25 U.S.C. 1603)) to

1 establish or expand pretrial diversion programs as
2 an alternative to incarceration for pregnant and
3 postpartum individuals. Such programs may in-
4 clude—

5 (A) parenting classes;

6 (B) prenatal health coordination;

7 (C) family and individual counseling;

8 (D) evidence-based screenings, education,
9 and, as needed, treatment for mental and be-
10 havioral health conditions, including drug and
11 alcohol treatments;

12 (E) family case management services;

13 (F) domestic violence education and pre-
14 vention;

15 (G) physical and sexual abuse counseling;

16 and

17 (H) programs to address social deter-
18 minants of health such as employment, housing,
19 education, transportation, and nutrition.

20 (f) IMPLEMENTATION AND REPORTING.—A selected
21 facility shall be responsible for—

22 (1) implementing programs, which may include
23 the programs described in subsection (e); and

24 (2) not later than 3 years after the date of en-
25 actment of this Act, and not 6 years after the date

1 of enactment of this Act, reporting results of the
2 programs to the Director, including information de-
3 scribing—

4 (A) relevant quantitative indicators of suc-
5 cess in improving the standard of care and
6 health outcomes for pregnant and postpartum
7 incarcerated individuals who participated in
8 such programs, including data stratified by
9 race, ethnicity, sex, age, geography, disability
10 status, the category of the criminal charge
11 against such individual, rates of pregnancy-re-
12 lated deaths, pregnancy-associated deaths, cases
13 of infant mortality, cases of severe maternal
14 morbidity, cases of violence against pregnant or
15 postpartum individuals, diagnoses of maternal
16 mental or behavioral health conditions, and
17 other such information as appropriate;

18 (B) relevant qualitative evaluations from
19 pregnant and postpartum incarcerated individ-
20 uals who participated in such programs, includ-
21 ing subjective measures of patient-reported ex-
22 perience of care;

23 (C) evaluations of cost effectiveness; and

24 (D) strategies to sustain such programs
25 beyond 2026.

1 (g) REPORT.—Not later than 7 years after the date
2 of enactment of this Act, the Director shall submit to the
3 Attorney General and to the Committee on the Judiciary
4 of the House of Representatives and the Senate a report
5 describing the results of the programs funded under this
6 section.

7 (h) OVERSIGHT.—Not later than 1 year after the
8 date of enactment of this Act, the Attorney General shall
9 award a contract to an independent organization or inde-
10 pendent organizations to conduct oversight of the pro-
11 grams described in subsection (e).

12 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$10,000,000 for each of fiscal years 2021 through 2025.

15 **SEC. 5. GRANT PROGRAM TO IMPROVE MATERNAL HEALTH**
16 **OUTCOMES FOR INDIVIDUALS IN STATE AND**
17 **LOCAL PRISONS AND JAILS.**

18 (a) ESTABLISHMENT.—Not later than 1 year after
19 the date of enactment of this Act, the Attorney General,
20 acting through the Director of the Bureau of Justice As-
21 sistance, shall award Justice for Incarcerated Moms
22 grants to States to establish or expand programs in State
23 and local prisons and jails for pregnant and postpartum
24 incarcerated individuals. The Attorney General shall

1 award such grants in consultation with stakeholders such
2 as—

3 (1) relevant community-based organizations,
4 particularly organizations that represent incarcerated
5 and formerly incarcerated individuals and organiza-
6 tions that seek to improve maternal health out-
7 comes for minority women;

8 (2) relevant organizations representing patients,
9 with a particular focus on minority patients;

10 (3) relevant organizations representing mater-
11 nal health care providers;

12 (4) nonclinical perinatal health workers such as
13 doulas, community health workers, peer supporters,
14 certified lactation consultants, nutritionists and di-
15 etitians, social workers, home visitors, and naviga-
16 tors; and

17 (5) researchers and policy experts in fields re-
18 lated to women’s health care for incarcerated indi-
19 viduals.

20 (b) APPLICATIONS.—Each applicant for a grant
21 under this section shall submit to the Director of the Bu-
22 reau of Justice Assistance an application at such time, in
23 such manner, and containing such information as the Di-
24 rector may require.

1 (c) USE OF FUNDS.—A State that is awarded a grant
2 under this section shall use such grant to establish or ex-
3 pand programs for pregnant and postpartum incarcerated
4 individuals, and such programs may—

5 (1) provide access to doulas and other perinatal
6 health workers from pregnancy through the
7 postpartum period;

8 (2) provide access to healthy foods and coun-
9 seling on nutrition, recommended activity levels, and
10 safety measures throughout pregnancy;

11 (3) train correctional officers and medical per-
12 sonnel to ensure that pregnant incarcerated individ-
13 uals receive trauma-informed, culturally congruent
14 care that promotes the health and safety of the
15 pregnant individuals;

16 (4) provide counseling and treatment for indi-
17 viduals who have suffered from—

18 (A) diagnosed mental or behavioral health
19 conditions, including trauma and substance use
20 disorders;

21 (B) domestic violence;

22 (C) human immunodeficiency virus;

23 (D) sexual abuse;

24 (E) pregnancy or infant loss; or

1 (F) chronic conditions, including heart dis-
2 ease, diabetes, osteoporosis and osteopenia, hy-
3 pertension, asthma, liver disease, and bleeding
4 disorders;

5 (5) provide pregnancy and childbirth education,
6 parenting support, and other relevant forms of
7 health literacy;

8 (6) offer opportunities for postpartum individ-
9 uals to maintain contact with the individual's new-
10 born child to promote bonding, including enhanced
11 visitation policies, access to prison nursery pro-
12 grams, or breastfeeding support;

13 (7) provide reentry assistance, particularly to—

14 (A) ensure continuity of health insurance
15 coverage if an incarcerated individual exits the
16 criminal justice system during such individual's
17 pregnancy or in the postpartum period; and

18 (B) connect individuals exiting the criminal
19 justice system during pregnancy or in the
20 postpartum period to community-based re-
21 sources, such as referrals to health care pro-
22 viders and social services that address social de-
23 terminants of health like housing, employment
24 opportunities, transportation, and nutrition; or

1 (8) establish partnerships with local public enti-
2 ties, private community entities, community-based
3 organizations, Indian Tribes and tribal organizations
4 (as such terms are defined in section 4 of the Indian
5 Self-Determination and Education Assistance Act
6 (25 U.S.C. 5304)), and urban Indian organizations
7 (as such term is defined in section 4 of the Indian
8 Health Care Improvement Act (25 U.S.C. 1603)) to
9 establish or expand pretrial diversion programs as
10 an alternative to incarceration for pregnant and
11 postpartum individuals. Such programs may in-
12 clude—

13 (A) parenting classes;

14 (B) prenatal health coordination;

15 (C) family and individual counseling;

16 (D) evidence-based screenings, education,
17 and, as needed, treatment for mental and be-
18 havioral health conditions, including drug and
19 alcohol treatments;

20 (E) family case management services;

21 (F) domestic violence education and pre-
22 vention;

23 (G) physical and sexual abuse counseling;

24 and

1 (H) programs to address social deter-
2 minants of health such as employment, housing,
3 education, transportation, and nutrition.

4 (d) PRIORITY.—In awarding grants under this sec-
5 tion, the Director of the Bureau of Justice Assistance
6 shall give priority to applicants based on—

7 (1) the number of pregnant and postpartum in-
8 dividuals incarcerated in the State and, among such
9 individuals, the number of pregnant and postpartum
10 minority individuals; and

11 (2) the extent to which the State has dem-
12 onstrated a commitment to developing exemplary
13 programs for pregnant and postpartum individuals
14 incarcerated the prisons and jails in the State.

15 (e) GRANT DURATION.—A grant awarded under this
16 section shall be for a 5-year period.

17 (f) IMPLEMENTING AND REPORTING.—A State that
18 receives a grant under this section shall be responsible
19 for—

20 (1) implementing the program funded by the
21 grant; and

22 (2) not later than 3 years after the date of en-
23 actment of this Act, and 6 years after the date of
24 enactment of this Act, reporting results of such pro-

1 gram to the Attorney General, including information
2 describing—

3 (A) relevant quantitative indicators of the
4 program’s success in improving the standard of
5 care and health outcomes for pregnant and
6 postpartum incarcerated individuals who par-
7 ticipated in such program, including data strati-
8 fied by race, ethnicity, sex, age, geography, dis-
9 ability status, category of the criminal charge
10 against such individual, incidence rates of preg-
11 nancy-related deaths, pregnancy-associated
12 deaths, cases of infant mortality, cases of severe
13 maternal morbidity, cases of violence against
14 pregnant or postpartum individuals, diagnoses
15 of maternal mental or behavioral health condi-
16 tions, and other such information as appro-
17 priate;

18 (B) relevant qualitative evaluations from
19 pregnant and postpartum incarcerated individ-
20 uals who participated in such programs, includ-
21 ing subjective measures of patient-reported ex-
22 perience of care;

23 (C) evaluations of cost effectiveness; and

24 (D) strategies to sustain such programs
25 beyond the duration of the grant.

1 (g) REPORT.—Not later than 7 years after the date
2 of enactment of this Act, the Attorney General shall sub-
3 mit to the Committee on the Judiciary of the House of
4 Representatives and the Senate a report describing the re-
5 sults of such grant programs.

6 (h) OVERSIGHT.—Not later than 1 year after the
7 date of enactment of this Act, the Attorney General shall
8 award a contract to an independent organization or inde-
9 pendent organizations to conduct oversight of the pro-
10 grams described in subsection (c).

11 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 \$10,000,000 for each of fiscal years 2021 through 2025.

14 **SEC. 6. GAO REPORT.**

15 (a) IN GENERAL.—Not later than 2 years after the
16 date of enactment of this Act, the Comptroller General
17 of the United States shall submit to Congress a report
18 on adverse maternal health outcomes among incarcerated
19 individuals, with a particular focus on racial and ethnic
20 disparities in maternal health outcomes for incarcerated
21 individuals.

22 (b) CONTENTS OF REPORT.—The report described in
23 this section shall include—

24 (1) to the extent practicable—

1 (A) the number of incarcerated individuals,
2 including those incarcerated in Federal, State,
3 and local correctional facilities, who have expe-
4 rienced a pregnancy-related death or preg-
5 nancy-associated death in the most recent 10
6 years of available data;

7 (B) the number of cases of severe maternal
8 morbidity among incarcerated individuals, in-
9 cluding those incarcerated in Federal, State,
10 and local detention facilities, in the most recent
11 year of available data; and

12 (C) statistics on the racial and ethnic dis-
13 parities in maternal and infant health outcomes
14 and severe maternal morbidity rates among in-
15 carcerated individuals, including those incarcer-
16 ated in Federal, State, and local detention fa-
17 cilities;

18 (2) in the case that the Comptroller General of
19 the United States is unable determine the informa-
20 tion required in paragraphs (1) through (4), an as-
21 sessment of the barriers to determining such infor-
22 mation and recommendations for improvements in
23 tracking maternal health outcomes among incarcer-
24 ated individuals, including those incarcerated in
25 Federal, State, and local detention facilities;

1 (3) causes of adverse maternal health outcomes
2 that are unique to incarcerated individuals, including
3 those incarcerated in Federal, State, and local deten-
4 tion facilities;

5 (4) causes of adverse maternal health outcomes
6 and severe maternal morbidity that are unique to in-
7 carcerated individuals of color;

8 (5) recommendations to reduce maternal mor-
9 tality and severe maternal morbidity among incar-
10 cerated individuals and to address racial and ethnic
11 disparities in maternal health outcomes for incarcer-
12 ated individuals in Bureau of Prisons facilities and
13 State and local prisons and jails; and

14 (6) such other information as may be appro-
15 priate to reduce the occurrence of adverse maternal
16 health outcomes among incarcerated individuals and
17 to address racial and ethnic disparities in maternal
18 health outcomes for such individuals.

19 **SEC. 7. MACPAC REPORT.**

20 (a) IN GENERAL.—Not later than 2 years after the
21 date of enactment of this Act, the Medicaid and CHIP
22 Payment and Access Commission (referred to in this sec-
23 tion as “MACPAC”) shall publish a report on the implica-
24 tions of pregnant and postpartum incarcerated individuals
25 being ineligible for medical assistance under a State plan

1 under title XIX of the Social Security Act (42 U.S.C.
2 1396 et seq.).

3 (b) CONTENTS OF REPORT.—The report described in
4 this section shall include—

5 (1) information on the effect of ineligibility for
6 medical assistance under a State plan under title
7 XIX of the Social Security Act (42 U.S.C. 1396 et
8 seq.) on maternal health outcomes for pregnant and
9 postpartum incarcerated individuals, concentrating
10 on the effects of such ineligibility for pregnant and
11 postpartum individuals of color; and

12 (2) the potential implications on maternal
13 health outcomes resulting from suspending eligibility
14 for medical assistance under a State plan under
15 such title of such Act when a pregnant or
16 postpartum individual is incarcerated.

17 **SEC. 8. DEFINITIONS.**

18 In this Act:

19 (1) CULTURALLY CONGRUENT.—The term “cul-
20 turally congruent” means in agreement with the pre-
21 ferred cultural values, beliefs, worldview, and prac-
22 tices of the health care consumer and other stake-
23 holders.

1 (2) POSTPARTUM.—The term “postpartum”
2 means the one-year period beginning on the last day
3 of an individual’s pregnancy.

○