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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Ms. KAMLAGER-DOVE introduced the following bill; which was referred to the Committee on _____

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) COVERED FACILITY.—The term “covered
9 facility” means a—

1 (A) Bureau of Prisons facility;

2 (B) facility of the U.S. Customs and Bor-
3 der Protection or the U.S. Immigration and
4 Customs Enforcement; or

5 (C) shelter of the Office of Refugee Reset-
6 tlement of the Department of Health and
7 Human Service.

8 (2) IN CUSTODY.—The term “in custody”, with
9 respect to an individual, means that the individual—

10 (A) is under the supervision of a Federal,
11 State, Tribal, or local correctional facility, in-
12 cluding a pretrial, juvenile, medical, or mental
13 health facility and a facility operated under a
14 contract with the Federal Government or a
15 State, Tribal, or local government;

16 (B) in the custody of the U.S. Customs
17 and Border Protection; or

18 (C) incarcerated, detained, or sheltered by
19 the U.S. Immigration and Customs Enforce-
20 ment or the Office of Refugee Resettlement of
21 the Department of Health and Human Service.

22 (3) OTHER PREGNANCY OUTCOME.—The term
23 “other pregnancy outcome” means a pregnancy that
24 ends in stillbirth, miscarriage, or ectopic pregnancy.

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

5 (5) RESTRAINTS.—The term “restraints”
6 means any physical or mechanical device used to
7 control the movement of an in custody pregnant
8 woman’s body, limbs, or both.

9 (6) RESTRICTIVE HOUSING.—The term “re-
10 strictive housing” has the meaning given that term
11 in section 4322 of title 18, United States Code, as
12 added by this Act.

13 **SEC. 3. DATA COLLECTION.**

14 (a) IN GENERAL.—Beginning not later than 1 year
15 after the date of enactment of this Act, pursuant to the
16 authority under section 302 of title I of the Omnibus
17 Crime Control and Safe Streets Act of 1968 (34 U.S.C.
18 10132), the Director of the Bureau of Justice Statistics
19 shall include in the National Prisoner Statistics Program
20 and Annual Survey of Jails statistics relating to the health
21 needs of incarcerated pregnant women in the criminal jus-
22 tice system at the Federal, State, Tribal, and local levels,
23 including—

24 (1) demographic and other information about
25 incarcerated women who are pregnant, in labor, or

1 in postpartum recovery, including the race, ethnicity,
2 and age of the woman;

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

5 (A) whether prenatal, delivery, and post-
6 delivery check-up visits were scheduled and pro-
7 vided;

8 (B) whether a social worker, psychologist,
9 doula or other support person was offered and
10 provided during pregnancy and delivery and
11 post-delivery;

12 (C) whether a pregnancy or parenting pro-
13 gram was offered and provided during preg-
14 nancy;

15 (D) whether a nursery or residential pro-
16 gram to keep mothers and infants together
17 post-delivery was offered and whether such a
18 nursery or residential program was provided;

19 (E) the number of days the mother stayed
20 in the hospital post-delivery;

21 (F) the number of days the infant re-
22 mained with the mother post-delivery; and

23 (G) the number of days the infant re-
24 mained in the hospital after the mother was
25 discharged;

1 (3) the location of the nearest hospital with a
2 licensed obstetrician-gynecologist in proximity to
3 where the incarcerated pregnant woman is housed
4 and the length of travel required to transport the
5 woman;

6 (4) whether a written policy or protocol is in
7 place—

8 (A) to respond to unexpected childbirth,
9 labor, deliveries, or medical complications re-
10 lated to the pregnancies of incarcerated preg-
11 nant women; and

12 (B) for incarcerated pregnant women expe-
13 riencing labor or medical complications related
14 to pregnancy outside of a hospital;

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

18 (6) the total number of incarcerated pregnant
19 women and the number of incarcerated women who
20 became pregnant while incarcerated;

21 (7) the number of incidents in which an incar-
22 cerated woman who is pregnant, in labor, or in
23 postpartum recovery is placed in restrictive housing,
24 the reason for such restriction or placement, and the
25 circumstances under which each incident occurred,

1 including the duration of time in restrictive housing,
2 during—

3 (A) pregnancy;

4 (B) labor;

5 (C) delivery;

6 (D) postpartum recovery; and

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

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

10 (b) IN CUSTODY PREGNANT WOMEN.—Beginning
11 not later than 1 year after the date of enactment of this
12 Act, the Director of the Office of Homeland Security Sta-
13 tistics and the Director of the Office of Refugee Resettle-
14 ment shall publish on the internet website of the Depart-
15 ment of Homeland Security and the Department of Health
16 and Human Services, as applicable, the statistics relating
17 to the health needs of pregnant woman in custody of the
18 Secretary of Homeland Security or the Secretary of
19 Health and Human Services, as applicable.

20 (c) PERSONALLY IDENTIFIABLE INFORMATION.—
21 Data collected under this section may not contain any per-
22 sonally identifiable information of any incarcerated preg-
23 nant woman or woman in postpartum recovery.

1 **SEC. 4. FAMILY UNITY.**

2 (a) IN GENERAL.—The Director of the Bureau of
3 Prisons, Secretary of Homeland Security, or the Director
4 of the Office of Refugee Resettlement, as applicable, shall
5 ensure that appropriate nursery or residential services and
6 programs, as described in subsection (b), are provided to
7 woman in custody. The warden of each covered facility
8 that houses women shall ensure that these services and
9 programs are implemented for woman in custody at that
10 facility.

11 (b) NURSERY OR RESIDENTIAL SERVICES AND PRO-
12 GRAMS.—The services and programs described in this sub-
13 section are the following:

14 (1) Programs that enable a mother and infant
15 to remain together after delivery.

16 (2) Programs that permit regular mother-infant
17 contact periods based on the mother's request.

18 (3) Programs that provide lactation support, in-
19 cluding:

20 (A) lactation counseling sessions;

21 (B) physical tools and equipment to assist
22 with lactation;

23 (C) any other support recommended by a
24 physician attending the woman in custody.

25 (c) REQUIREMENT.—The Director of the Bureau of
26 Prisons, Secretary of Homeland Security, or the Director

1 of the Office of Refugee Resettlement, as applicable, shall
2 ensure a minimum bonding time of 60 minutes between
3 a mother and newborn.

4 **SEC. 5. CARE FOR FEDERALLY INCARCERATED WOMEN RE-**
5 **LATED TO PREGNANCY AND CHILDBIRTH.**

6 (a) IN GENERAL.—The Director of the Bureau of
7 Prisons, Secretary of Homeland Security, or the Director
8 of the Office of Refugee Resettlement, as applicable, shall
9 ensure that appropriate services and programs, as de-
10 scribed in subsection (b), are provided to woman in cus-
11 tody, to address the health and safety needs of such
12 women related to pregnancy and childbirth. The warden
13 of each covered facility that houses women shall ensure
14 that these services and programs are implemented for
15 woman in custody at that facility.

16 (b) SERVICES AND PROGRAMS PROVIDED.—The serv-
17 ices and programs described in this subsection are the fol-
18 lowing:

19 (1) ACCESS TO COMPLETE APPROPRIATE
20 HEALTH SERVICES FOR THE LIFE CYCLE OF
21 WOMEN.—The Director of the Bureau of Prisons,
22 Secretary of Homeland Security, or the Director of
23 the Office of Refugee Resettlement, as applicable,
24 shall ensure that each woman of reproductive age in
25 custody at a Bureau of Prisons facility—

1 (A) has access to contraception and testing
2 for pregnancy and sexually transmitted dis-
3 eases, upon request of any such woman; and

4 (B) is administered a pregnancy test on
5 the date on which the woman enters the facility,
6 which the woman may decline.

7 (2) COMPLIANCE WITH PROTOCOLS RELATING
8 TO HEALTH OF A PREGNANT WOMAN.—On confirma-
9 tion of the pregnancy of a woman in custody by clin-
10 ical diagnostics and assessment, the chief health
11 care professional of the covered facility in which the
12 woman is housed shall ensure that—

13 (A) a summary of all appropriate protocols
14 directly pertaining to the safety and well-being
15 of the woman are provided to the woman;

16 (B) such protocols are complied with; and

17 (C) such protocols include an assessment
18 of undue safety risks and necessary changes to
19 accommodate the woman where and when ap-
20 propriate, as it relates to—

21 (i) housing or transfer to a lower
22 bunk for safety reasons;

23 (ii) appropriate bedding or clothing to
24 respond to the woman's changing physical

1 requirements and the temperature in hous-
2 ing units;

3 (iii) regular access to water and bath-
4 rooms;

5 (iv) a diet that—

6 (I) complies with the nutritional
7 standards established by the Secretary
8 of Agriculture and the Secretary of
9 Health and Human Services in the
10 Dietary Guidelines for Americans re-
11 port published pursuant to section
12 301(a)(3) of the National Nutrition
13 Monitoring and Related Research Act
14 of 1990 (7 U.S.C. 5341(a)(3)); and

15 (II) includes—

16 (aa) any appropriate dietary
17 supplement, including prenatal
18 vitamins;

19 (bb) timely and regular nu-
20 tritious meals;

21 (cc) additional caloric con-
22 tent in meals provided;

23 (dd) a prohibition on with-
24 holding food from the woman or
25 serving any food that is used as

1 a punishment, including
2 nutraloaf or any food similar to
3 nutraloaf that is not considered a
4 nutritious meal; and

5 (ee) such other modifications
6 to the diet of the woman as the
7 Director of the Bureau of Pris-
8 ons, Secretary of Homeland Se-
9 curity, or the Director of the Of-
10 fice of Refugee Resettlement, as
11 applicable, determines to be nec-
12 essary after consultation with the
13 Secretary of Health and Human
14 Services and consideration of
15 such recommendations as the
16 Secretary may provide;

17 (v) modified recreation and transpor-
18 tation, in accordance with standards within
19 the obstetrical and gynecological care com-
20 munity, to prevent overexertion or pro-
21 longed periods of inactivity; and

22 (vi) such other changes to living con-
23 ditions as the Director of the Bureau of
24 Prisons, Secretary of Homeland Security,
25 or the Director of the Office of Refugee

1 Resettlement, as applicable, may require
2 after consultation with the Secretary of
3 Health and Human Services and consider-
4 ation of such recommendations as the Sec-
5 retary may provide.

6 (3) EDUCATION AND SUPPORT SERVICES.—

7 (A) PREGNANCY IN CUSTODY.—A woman
8 who is pregnant at intake or who becomes preg-
9 nant while in custody shall, not later than 14
10 days after the pregnant woman notifies a offi-
11 cial of a covered facility of the pregnancy, re-
12 ceive prenatal education, counseling, and birth
13 support services provided by a provider trained
14 to provide such services, including—

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

19 (ii) information about family preserva-
20 tion support services that are available to
21 the woman;

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

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

5 (v) information on breast-feeding, lac-
6 tation, and breast health;

7 (vi) appropriate educational materials,
8 resources, and services related to preg-
9 nancy, childbirth, and parenting;

10 (vii) information and notification serv-
11 ices for incarcerated parents regarding the
12 risk of debt repayment obligations associ-
13 ated with their child's participation in so-
14 cial welfare programs, including assistance
15 under any State program funded under
16 part A of title IV of the Social Security
17 Act (42 U.S.C. 601 et seq.) or benefits
18 under the supplemental nutrition assist-
19 ance program, as defined in section 3 of
20 the Food and Nutrition Act of 2008 (7
21 U.S.C. 2012), or any State program car-
22 ried out under that Act; and

23 (viii) information from the Office of
24 Child Support Enforcement of the Depart-
25 ment of Health and Human Services re-

1 garding seeking or modifying child support
2 while incarcerated, including how to par-
3 ticipate in the Bureau of Prison's Inmate
4 Financial Responsibility Program under
5 subpart B of part 545 of title 28, Code of
6 Federal Regulations (or any successor pro-
7 gram).

8 (B) BIRTH WHILE IN CUSTODY OR PRIOR
9 TO CUSTODY.—A woman who, while in custody
10 or during the 6-month period immediately pre-
11 ceding intake, gave birth or experienced any
12 other pregnancy outcome shall receive coun-
13 seling provided by a licensed or certified pro-
14 vider trained to provide such services, includ-
15 ing—

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

20 (ii) information about family preserva-
21 tion support services that are available to
22 the woman; and

23 (iii) postpartum health conditions.

24 (4) EVALUATIONS.—

1 (A) IN GENERAL.—Each woman in custody
2 who is pregnant or whose pregnancy results in
3 a birth or any other pregnancy outcome during
4 the 6-month period immediately preceding in-
5 take or any time in custody thereafter shall be
6 evaluated as soon as practicable after intake or
7 confirmation of pregnancy through evidence-
8 based screening and assessment for substance
9 use disorders or mental health conditions, in-
10 cluding postpartum depression or depression re-
11 lated to pregnancy, birth, or any other preg-
12 nancy outcome or early child care.

13 (B) RISK FACTORS.—Screening under sub-
14 paragraph (A) shall include identification of
15 any of the following risk factors:

- 16 (i) An existing mental or physical
17 health condition or substance use disorder.
- 18 (ii) Being underweight or overweight.
- 19 (iii) Multiple births or a previous still
20 birth.
- 21 (iv) A history of preeclampsia.
- 22 (v) A previous Caesarean section.
- 23 (vi) A previous miscarriage.
- 24 (vii) Being older than 35 or younger
25 than 15.

1 (viii) Being diagnosed with the human
2 immunodeficiency virus, hepatitis, diabetes,
3 or hypertension.

4 (ix) Such other risk factors as the
5 chief health care professional of the Bu-
6 reau of Prisons facility that house the
7 woman may determine to be appropriate.

8 (5) UNEXPECTED BIRTHS RULEMAKING.—The
9 Director of the Bureau of Prisons, Secretary of
10 Homeland Security, or the Director of the Office of
11 Refugee Resettlement, as applicable, shall provide
12 services to respond to unexpected childbirth deliv-
13 eries, labor complications, and medical complications
14 related to pregnancy if a woman in custody is unable
15 to access a hospital in a timely manner in accord-
16 ance with rules promulgated by the Attorney Gen-
17 eral, which shall be promulgated not later than 180
18 days after the date of enactment of this Act.

19 (6) TREATMENT.—The Director of the Bureau
20 of Prisons shall use best efforts to provide a woman
21 in custody who is pregnant and diagnosed with hav-
22 ing a substance use disorder or a mental health dis-
23 order with appropriate evidence-based treatment.

24 (c) CIVIL ACTION.—Any person injured by a violation
25 of this section may bring a civil action in a United States

1 district court against the Director of the Bureau of Pris-
2 ons, Secretary of Homeland Security, or the Director of
3 the Office of Refugee Resettlement, as applicable, to ob-
4 tain compensatory damages and injunctive relief or other
5 equitable relief.

6 **SEC. 6. USE OF RESTRICTIVE HOUSING ON INCARCERATED**
7 **PREGNANT WOMEN DURING PREGNANCY,**
8 **LABOR, AND POSTPARTUM RECOVERY PRO-**
9 **HIBITED.**

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

12 **“§ 4322. Use of restrictive housing on incarcerated**
13 **women during the period of pregnancy,**
14 **labor, and postpartum recovery prohib-**
15 **ited**

16 “(a) PROHIBITION.—Except as provided in sub-
17 section (b), during the period beginning on the date on
18 which pregnancy is confirmed by a health care professional
19 and ending not earlier than 12 weeks after delivery or ,
20 an incarcerated longer as determined by a healthcare pro-
21 fessional responsible for the health and safety of the
22 woman in the custody of the Bureau of Prisons, or in the
23 custody of the United States Marshals Service pursuant
24 to section 4086, shall not be held in restrictive housing

1 or be shackled or restrained during pregnancy, labor, or
2 delivery.

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 Di-
7 rector of the Bureau of Prisons or a senior Bureau
8 of Prisons official overseeing women’s health and
9 services, in consultation with senior officials in
10 health services, makes an individualized determina-
11 tion that restrictive housing is required as a tem-
12 porary response to behavior that poses a serious and
13 immediate 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 offi-
20 cial who makes a determination under subparagraph
21 (A) shall develop an individualized plan to move an
22 incarcerated woman to less restrictive housing within
23 a reasonable amount of time.

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

1 restrictive 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
6 CARE PROFESSIONAL AFTER PLACEMENT IN RE-
7 STRICTIVE HOUSING.—Not later than 30 days after
8 the date on which an incarcerated woman is placed
9 in restrictive housing under subsection (b), the ap-
10 applicable official identified in subsection (b)(1), cor-
11 rectional officer, or United States Marshal shall sub-
12 mit to the Director of the Bureau of Prisons or the
13 Director of the United States Marshals Service, as
14 applicable, and to the health care professional re-
15 sponsible for the health and safety of the woman, a
16 written report which describes the facts and cir-
17 cumstances surrounding the restrictive housing
18 placement, and includes the following:

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

21 “(B) The details of the placement, includ-
22 ing length of time of placement and how fre-
23 quently and how many times the determination
24 was made subsequent to the initial determina-

1 tion to continue the restrictive housing place-
2 ment.

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

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

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

14 “(2) REPORT TO CONGRESS.—Not later than
15 180 days after the date of enactment of the Preg-
16 nant Women in Custody Act, and every 180 days
17 thereafter for a period of 10 years, the Attorney
18 General shall submit to the Committee on the Judi-
19 ciary of the Senate and the Committee on the Judi-
20 ciary of the House of Representatives a report on
21 the placement of incarcerated women in restrictive
22 housing under subsection (b), which shall include the
23 information described in paragraph (1).

24 “(d) NOTICE.—Not later than 24 hours after the con-
25 firmation of the pregnancy of an incarcerated woman by

1 a health care professional, that woman shall be notified,
2 orally and in writing, by an appropriate health care profes-
3 sional, correctional officer, or United States Marshal, as
4 applicable—

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

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

11 “(3) that the facility staff have been advised of
12 all rights of the incarcerated woman under sub-
13 section (a).

14 “(e) VIOLATION REPORTING PROCESS.—Not later
15 than 180 days after the date of enactment of the Pregnant
16 Women in Custody Act, the Director of the Bureau of
17 Prisons and the Director of the United States Marshals
18 Service shall establish processes through which an incar-
19 cerated person may report a violation of this section.

20 “(f) NOTIFICATION OF RIGHTS.—The warden of the
21 Bureau of Prisons facility where a pregnant woman is in
22 custody shall notify necessary facility staff of the preg-
23 nancy and of the rights of the incarcerated pregnant
24 woman under subsection (a).

1 “(g) RETALIATION.—It shall be unlawful for any Bu-
2 reau of Prisons or United States Marshals Service em-
3 ployee to retaliate against an incarcerated person for re-
4 porting under the processes established under subsection
5 (e) a violation of subsection (a).

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

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

15 “(2) incorporate such guidelines into appro-
16 priate education programs.

17 “(i) CIVIL ACTION.—Any person injured by a viola-
18 tion of this section may bring a civil action in a United
19 States district court against the Director of the Bureau
20 of Prisons or the Director of the United States Marshals
21 Service, as applicable, to obtain compensatory damages
22 and injunctive relief or other equitable relief.

23 “(j) DEFINITION.—In this section, the term ‘restrie-
24 tive housing’ means any type of detention that involves—

1 which pregnancy is confirmed by a health care professional
2 and ending not earlier than 12 weeks after delivery or
3 longer as determined by the healthcare professional re-
4 sponsible for the health and safety of the woman in the
5 custody of the U.S. Customs and Border Protection or in-
6 carcerated, detained, or sheltered by the U.S. Immigration
7 and Customs Enforcement or the Office of Refugee Reset-
8 tlement of the Department of Health and Human Service,
9 shall not be held in restrictive housing or be shackled or
10 restrained during pregnancy, labor, or delivery.

11 “(b) EXCEPTIONS.—

12 “(1) RESTRICTIVE HOUSING.—Subject to para-
13 graph (4), the prohibition under subsection (a) relat-
14 ing to restrictive housing shall not apply if the offi-
15 cial overseeing women’s health and services, in con-
16 sultation with senior officials in health services,
17 makes an individualized determination that restric-
18 tive housing is required as a temporary response to
19 behavior that poses a serious and immediate risk of
20 physical harm.

21 “(2) REVIEW.—The official who makes a deter-
22 mination under subparagraph (A) shall review such
23 determination daily for the purpose of removing a
24 woman as quickly as feasible from restrictive hous-
25 ing.

1 “(3) RESTRICTIVE HOUSING PLAN.—The offi-
2 cial who makes a determination under subparagraph
3 (A) shall develop an individualized plan to move a
4 woman to less restrictive housing within a reason-
5 able amount of time.

6 “(4) PROHIBITION ON SOLITARY CONFINEMENT.—An woman who is placed in restrictive hous-
7 ing under this subsection may not be placed in soli-
8 tary confinement if the incarcerated woman is in her
9 third trimester.
10 third trimester.

11 “(c) REPORTS.—

12 “(1) REPORT TO DIRECTORS AND HEALTH
13 CARE PROFESSIONAL AFTER PLACEMENT IN RE-
14 STRICTIVE HOUSING.—Not later than 30 days after
15 the date on which a woman is placed in restrictive
16 housing under subsection (b), the applicable official
17 identified in subsection (b)(1) shall submit to the
18 health care professional responsible for the health
19 and safety of the woman, a written report which de-
20 scribes the facts and circumstances surrounding the
21 restrictive housing placement, and includes the fol-
22 lowing:

23 “(A) The reasoning upon which the deter-
24 mination for the placement was made.

1 “(B) The details of the placement, includ-
2 ing length of time of placement and how fre-
3 quently and how many times the determination
4 was made subsequent to the initial determina-
5 tion to continue the restrictive housing place-
6 ment.

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

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

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

18 “(2) REPORT TO CONGRESS.—Not later than
19 180 days after the date of enactment of the Preg-
20 nant Women in Custody Act, and every 180 days
21 thereafter for a period of 10 years, the Secretary of
22 Homeland Security and the Secretary of Health and
23 Human Services shall submit to the Committee on
24 the Judiciary of the Senate and the Committee on
25 the Judiciary of the House of Representatives a re-

1 port on the placement of women in restrictive hous-
2 ing under subsection (b), which shall include the in-
3 formation described in paragraph (1).

4 “(d) NOTICE.—Not later than 24 hours after the con-
5 firmation of the pregnancy of a woman by a health care
6 professional, that woman shall be notified, orally and in
7 writing, by the health care professional, as applicable—

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

10 “(2) of the right of the woman to make a con-
11 fidential report of a violation of restrictions on the
12 use of restrictive housing placement; and

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

15 “(e) VIOLATION REPORTING PROCESS.—Not later
16 than 180 days after the date of enactment of the Pregnant
17 Women in Custody Act, the Secretary of Homeland Secu-
18 rity and the Secretary of Health and Human Services
19 shall establish processes through which an incarcerated
20 person may report a violation of this section.

21 “(f) NOTIFICATION OF RIGHTS.—The warden of a fa-
22 cility where a pregnant woman is in custody shall notify
23 necessary facility staff of the pregnancy and of the rights
24 of the pregnant woman under subsection (a).

1 “(g) RETALIATION.—It shall be unlawful for any em-
2 ployee of a facility where a in custody pregnant woman
3 to retaliate against a person for reporting under the proc-
4 esses established under subsection (e) a violation of sub-
5 section (a).

6 “(h) EDUCATION.—Not later than 90 days after the
7 date of enactment of the Pregnant Women in Custody Act,
8 the Secretary of Homeland Security and the Secretary of
9 Health and Human Services shall each—

10 “(1) develop education guidelines regarding the
11 physical and mental health needs of in custody preg-
12 nant women, and the use of restrictive housing
13 placements on women during the period of preg-
14 nancy, labor, and postpartum recovery; and

15 “(2) incorporate such guidelines into appro-
16 priate education programs.

17 “(i) CIVIL ACTION.—Any person injured by a viola-
18 tion of this section may bring a civil action in a United
19 States district court against the Secretary of Homeland
20 Security and the Secretary of Health and Human Serv-
21 ices, as applicable, to obtain compensatory damages and
22 injunctive relief or other equitable relief.

23 “(j) DEFINITION.—In this section, the term ‘restrie-
24 tive housing’ means any type of detention that involves—

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

3 “(2) placement in a locked room or cell, wheth-
4 er alone or with another inmate; and

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

7 **SEC. 8. TREATMENT OF WOMEN WITH HIGH-RISK PREG-**
8 **NANCIES.**

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

12 **“§ 4052. Treatment of incarcerated pregnant women**

13 “(a) HIGH-RISK PREGNANCY HEALTH CARE.—The
14 Director of the Bureau of Prisons shall ensure that each
15 incarcerated pregnant woman receives an evaluation to de-
16 termine if the pregnancy is high-risk and, if so, receives
17 healthcare appropriate for a high-risk pregnancy, includ-
18 ing obstetrical and gynecological care, during pregnancy
19 and postpartum recovery.

20 “(b) HIGH-RISK PREGNANCIES.—

21 “(1) IN GENERAL.—The Director of the Bureau
22 of Prisons shall transfer to a Residential Reentry
23 Center with adequate health care during her preg-
24 nancy and postpartum recovery any incarcerated
25 woman who—

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

3 “(B) agrees to be transferred.

4 “(2) PRIORITY.—The Residential Reentry Cen-
5 ter to which an incarcerated pregnant woman is
6 transferred under paragraph (1) shall, to the extent
7 practicable, be in a geographical location that is
8 close to the family members of the incarcerated
9 pregnant woman.

10 “(3) TRANSPORTATION.—To transport an in-
11 carcerated pregnant woman to a Residential Reentry
12 Center, the Director of the Bureau of Prisons shall
13 provide to the woman a mode of transportation that
14 a healthcare professional has determined to be safe
15 for transporting the pregnant woman.

16 “(4) SERVICE OF SENTENCE.—Any time ac-
17 crued at a Residential Reentry Center or alternative
18 housing as a result of a transfer made under this
19 section shall be credited toward service of the incar-
20 cerated pregnant woman’s sentence.

21 “(c) CIVIL ACTION.—Any person injured by a viola-
22 tion of this section may bring a civil action in a United
23 States district court against the Director of the Bureau
24 of Prisons to obtain compensatory damages and injunctive
25 relief or other equitable relief.

1 “(d) DEFINITIONS.—In this section:

2 “(1) HEALTH CARE PROFESSIONAL.—The term
3 ‘health care professional’ means—

4 “(A) a doctor of medicine or osteopathy
5 who is authorized to diagnose and treat phys-
6 ical or mental health conditions under the laws
7 of the State in which the doctor practices and
8 where the facility is located;

9 “(B) any physician’s assistant or nurse
10 practitioner who is supervised by a doctor of
11 medicine or osteopathy described in subpara-
12 graph (A); or

13 “(C) any other person determined by the
14 Director of the Bureau of Prisons to be capable
15 of providing health care services.

16 “(2) HIGH-RISK PREGNANCY.—The term ‘high-
17 risk pregnancy’ means, with respect to an incarcer-
18 ated woman, that the pregnancy threatens the
19 health or life of the woman or pregnancy, as deter-
20 mined by a health care professional.

21 “(3) POSTPARTUM RECOVERY.—The term
22 ‘postpartum recovery’ means the 3-month period be-
23 ginning on the date on which an incarcerated preg-
24 nant woman gives birth, or longer as determined by
25 a health care professional following delivery, and

1 shall include the entire period that the incarcerated
2 pregnant woman is in the hospital or infirmary.

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

6 (b) CONFORMING AMENDMENT.—The table of sec-
7 tions for chapter 303 of title 18, United States Code, is
8 amended by adding at the end the following:

“4052. Treatment of incarcerated pregnant women.”.

9 **SEC. 9. REPORTING REQUIREMENT REGARDING CLAIMS**
10 **FILED BY PREGNANT INMATES.**

11 The Director of the Bureau of Prisons shall make
12 publicly available on the website of the Federal Bureau
13 of Prisons on an annual basis the following information:

14 (1) The total number of Administrative Remedy
15 appeals related to pregnant inmates that were filed
16 during the previous year.

17 (2) The total number of institution-level Re-
18 quests for Administrative Remedy related to preg-
19 nant inmates that were filed during the previous
20 year.

21 (3) The total number of informal requests for
22 administrative remedy related to pregnant inmates
23 that were filed during the previous year.

24 (4) The total number of requests or appeals re-
25 lated to pregnant inmates during the previous year

1 that were not resolved before the inmate gave birth
2 or that were mooted because the inmate's pregnancy
3 ended.

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

7 (6) The shortest and longest amounts of time
8 that a request or appeal in each category that was
9 resolved in the last year took to resolve.

10 **SEC. 10. EDUCATION AND TECHNICAL ASSISTANCE.**

11 (a) NATIONAL INSTITUTE OF CORRECTIONS.—The
12 Director of the National Institute of Corrections shall pro-
13 vide education and technical assistance, in conjunction
14 with the appropriate public agencies, at State and local
15 correctional facilities that house women and facilities in
16 which incarcerated women go into labor and give birth,
17 in order to educate the employees of such facilities, includ-
18 ing health personnel, on the dangers and potential mental
19 health consequences associated with the use of restrictive
20 housing and restraints on incarcerated women during
21 pregnancy, labor, and postpartum recovery, and on alter-
22 natives to the use of restraints and restrictive housing
23 placement.

24 (b) SECRETARY OF HOMELAND SECURITY.—The
25 Secretary of Homeland Security and Secretary of Health

1 and Human Services shall provide the education and tech-
2 nical assistance described in subsection (a) to relevant fa-
3 cilities that house woman in custody of the U.S. Customs
4 and Border Protection or incarcerated, detained, or shel-
5 tered by the U.S. Immigration and Customs Enforcement
6 or the Office of Refugee Resettlement of the Department
7 of Health and Human Service.

8 **SEC. 11. BUREAU OF PRISONS STAFF AND UNITED STATES**
9 **MARSHALS TRAINING.**

10 (a) BUREAU OF PRISONS TRAINING.—

11 (1) IN GENERAL.—

12 (A) INITIAL TRAINING.—Not later than
13 180 days after the date of enactment of this
14 Act, the Director of the Bureau of Prisons shall
15 provide training to carry out the requirements
16 of this Act and the amendments made by this
17 Act to each correctional officer at any Bureau
18 of Prisons facility that houses women who is
19 employed on the date of enactment of this Act.

20 (B) SUBSEQUENT TRAINING.—After the
21 initial training provided under subparagraph
22 (A), the Director of the Bureau of Prisons shall
23 provide training to carry out the requirements
24 of this Act and the amendments made by this
25 Act twice each year to each correctional officer

1 at any Bureau of Prisons facility that houses
2 women.

3 (2) NEW HIRES.—

4 (A) DEFINITION.—In this paragraph, the
5 term “covered new correctional officer” means
6 an individual appointed to a position as a cor-
7 rectional officer at a Bureau of Prisons facility
8 that houses women on or after the date that is
9 180 days after the date of enactment of this
10 Act.

11 (B) TRAINING.—The Director of the Bu-
12 reau of Prisons shall train each covered new
13 correctional officer to carry out the require-
14 ments of this Act and the amendments made by
15 this Act not later than 30 days after the date
16 on which the covered new correctional officer is
17 appointed.

18 (b) UNITED STATES MARSHALS TRAINING.—

19 (1) IN GENERAL.—On and after the date that
20 is 180 days after the date of enactment of this Act,
21 the Director of the United States Marshals Service
22 shall ensure that each Deputy United States Mar-
23 shal has received trained pursuant to the guidelines
24 described in subsection (c).

25 (2) NEW HIRES.—

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

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

12 (c) GUIDELINES.—

13 (1) IN GENERAL.—The Director of the Bureau
14 of Prisons and the United States Marshals Service
15 shall each develop guidelines on the treatment of in-
16 carcerated women during pregnancy, labor, and
17 postpartum recovery and incorporate such guidelines
18 in the training required under this section.

19 (2) DETENTION FACILITIES.—The Secretary of
20 Homeland Security and Secretary of Homeland Se-
21 curity, as applicable, shall develop guidelines on the
22 treatment of women in the custody of U.S. Customs
23 and Border Protection, U.S. Immigration and Cus-
24 toms Enforcement, or Office of Refugee Resettle-
25 ment of the Department of Health and Human dur-

- 1 (1) policies on—
- 2 (A) obstetrical and gynecological care;
- 3 (B) education on nutritional issues and
- 4 health and safety risks associated with preg-
- 5 nancy;
- 6 (C) mental health and substance use treat-
- 7 ment;
- 8 (D) access to prenatal and post-delivery
- 9 support services and programs; and
- 10 (E) the use of restraints and restrictive
- 11 housing placement; and
- 12 (2) the extent to which the intent of such poli-
- 13 cies is fulfilled.

14 **SEC. 13. DETERMINATION OF BUDGETARY EFFECTS.**

15 The budgetary effects of this Act, for the purpose of

16 complying with the Statutory Pay-As-You-Go Act of 2010,

17 shall be determined by reference to the latest statement

18 titled “Budgetary Effects of PAYGO Legislation” for this

19 Act, submitted for printing in the Congressional Record

20 by the Chairman of the House Budget Committee, pro-

21 vided that such statement has been submitted prior to the

22 vote on passage.