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LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete lines 58 - 116

and insert:

(2) Notwithstanding any other law, after a pregnant woman is convicted of any offense and when the sentencing court pronounces a sentence of incarceration, the court has the discretion to stay the beginning of the period of incarceration for up to 12 weeks after the pregnant woman gives birth or is no longer pregnant. In determining whether to grant a pregnant woman's request to stay the beginning of the period of



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12 incarceration, the court must consider all of the following:

13 (a) The severity of the offense for which the defendant is
14 convicted.

15 (b) Whether the defendant was previously convicted of a
16 felony.

17 (c) Whether other felony charges are pending against the
18 defendant.

19 (d) The state's interest in deterring and punishing
20 criminal activity and protecting the public.

21 (e) The rights of the victim of the defendant's crime,
22 consistent with s. 16, Art. I of the State Constitution and s.
23 960.0021.

24 (f) Whether staying the incarceration is consistent with
25 protecting the life, health, and safety of the unborn child and
26 its life during the first 12 weeks after birth. In considering
27 this factor, the court shall consider the existence of any prior
28 substance abuse by the defendant, whether any other children of
29 the defendant have been adjudicated dependent, and any other
30 information relevant to the health and safety of the unborn
31 child.

32
33 If the court grants the request to stay the incarceration, it
34 must explain its reasons in writing.

35 (3) The sentencing court may order a pregnant woman whose
36 incarceration is stayed to comply with any of the terms and
37 conditions specified in s. 948.03 until such time as she is
38 incarcerated.

39 (4) Within 10 days after the end of the stay of
40 incarceration and the commencement of the woman's incarceration



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41 to serve the sentence, she must be offered an appropriate
42 assessment by a licensed health care practitioner or a
43 telehealth provider as defined in s. 456.47, and upon her
44 request, the licensed health care practitioner or telehealth
45 provider shall provide a postpartum assessment, including the
46 need for any necessary medical tests, procedures, lactation
47 support, mental health support, or treatments associated with
48 her postpartum condition. The Department of Corrections and
49 municipal and county detention facilities shall develop and
50 offer such assessments and treatments in consultation with
51 community support organizations, licensed health care
52 practitioners, social services programs, and local and state
53 government agencies, including nonprofit organizations.

54 (5) If, during the stay of incarceration, the pregnant
55 woman is convicted of another crime or violates any of the
56 conditions imposed by the sentencing judge, the judge may impose
57 any sanction under s. 948.06, including an order requiring the
58 incarceration of the pregnant woman to serve the sentence for
59 which the stay was granted.

60 (6) (a) The Department of Corrections shall collect from its
61 own institutions, and each municipal detention facility and
62 county detention facility as those terms are defined in s.
63 951.23 shall collect and report to the department, all of the
64 following information, which the department shall compile and
65 publish quarterly on its public website:

66 1. The total number of pregnant women whose sentences are
67 stayed under subsection (2);

68 2. The total number of births, including the number of live
69 births and stillbirths, to women whose sentences are deferred,



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70 and the gestational age and birth weight of each infant at the
71 time of birth or stillbirth;

72 3. The total number of women who experience complications
73 during pregnancy and the type of complications experienced;

74 4. The total number of women who experience miscarriages;
75 and

76 5. The total number of women who refuse to provide
77 information regarding the outcome of their pregnancies as
78 indicated in subparagraphs 2., 3., and 4.

79

80 ===== T I T L E A M E N D M E N T =====

81 And the title is amended as follows:

82 Delete lines 13 - 24

83 and insert:

84 the term "pregnant woman"; authorizing a sentencing
85 court to stay the beginning of the period of
86 incarceration for up to a certain timeframe for a
87 pregnant woman convicted of any offense; requiring the
88 court to consider specified factors in determining
89 whether to grant a pregnant woman's request to stay
90 the beginning of the period of incarceration;
91 requiring the court to explain its reasons for
92 granting a stay of incarceration in writing;
93 authorizing a sentencing court to order a pregnant
94 woman to comply with specified terms and conditions
95 during the stay of the incarceration; requiring that,
96 within 10 days after the end of the stay and the
97 commencement of the woman's incarceration, she be
98 offered and receive, upon her request, a specified



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99 assessment and services; authorizing a judge to impose
100 specified sanctions for another criminal conviction or
101 a violation of the terms