

By the Committee on Judiciary; and Senators Jones and Powell

590-02514A-22

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1 A bill to be entitled
2 An act relating to pregnant women in custody;
3 providing a short title; creating s. 907.033, F.S.;
4 requiring that every female who is arrested and not
5 released on bond within 72 hours after arrest be
6 administered a pregnancy test within a specified
7 timeframe, upon her request; requiring that each
8 municipal or county detention facility notify each
9 arrested female upon booking at the facility of her
10 right to request a pregnancy test; providing for the
11 types of pregnancy tests that may be given; defining
12 the term "female"; creating s. 925.13, F.S.; defining
13 the term "pregnant woman"; authorizing a sentencing
14 court to stay the beginning of the period of
15 incarceration for up to a certain timeframe for a
16 pregnant woman convicted of any offense; requiring the
17 court to consider specified factors in determining
18 whether to grant a pregnant woman's request to stay
19 the beginning of the period of incarceration;
20 requiring the court to explain its reasons for
21 granting a stay of incarceration in writing;
22 authorizing a sentencing court to order a pregnant
23 woman to comply with specified terms and conditions
24 during the stay of the incarceration; requiring that,
25 within 10 days after the end of the stay and the
26 commencement of the woman's incarceration, she be
27 offered and receive, upon her request, a specified
28 assessment and services; authorizing a judge to impose
29 specified sanctions for another criminal conviction or

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30 a violation of the terms and conditions ordered by the
31 judge; requiring municipal and county detention
32 facilities to collect and report to the Department of
33 Corrections, and the department to collect from its
34 own institutions, specified information; requiring the
35 department to quarterly compile and publish the
36 information on its public website; providing
37 requirements for publishing such information;
38 providing an effective date.

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40 Be It Enacted by the Legislature of the State of Florida:

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42 Section 1. This act may be cited as "Ava's Law."

43 Section 2. Section 907.033, Florida Statutes, is created to
44 read:

45 907.033 Pregnancy testing of female arrestees.—Every female
46 who is arrested and not released on bond within 72 hours after
47 arrest must, upon her request, be administered a pregnancy test
48 by the municipal or county detention facility as defined in s.
49 951.23 where she is being held within 24 hours after the
50 request. Upon her booking into the facility, the facility must
51 notify each such arrestee of her right to request a pregnancy
52 test 72 hours after arrest if she is still in custody. The
53 pregnancy test may be conducted through urine or blood tests, by
54 ultrasound scan, or by any other standard pregnancy testing
55 protocols adopted by the facility. As used in this section, the
56 term "female" includes a juvenile or adult woman.

57 Section 3. Section 925.13, Florida Statutes, is created to
58 read:

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59 925.13 Staying of sentence for pregnant women.—

60 (1) As used in this section, the term "pregnant woman"
61 means a juvenile or adult woman whose pregnancy has been
62 verified by a pregnancy test or through a medical examination
63 conducted by a health care practitioner.

64 (2) Notwithstanding any other law, after a pregnant woman
65 is convicted of any offense and when the sentencing court
66 pronounces a sentence of incarceration, the court has the
67 discretion to stay the beginning of the period of incarceration
68 for up to 12 weeks after the pregnant woman gives birth or is no
69 longer pregnant. In determining whether to grant a pregnant
70 woman's request to stay the beginning of the period of
71 incarceration, the court must consider all of the following:

72 (a) The severity of the offense for which the defendant is
73 convicted.

74 (b) Whether the defendant was previously convicted of a
75 felony.

76 (c) Whether other felony charges are pending against the
77 defendant.

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

80 (e) The rights of the victim of the defendant's crime,
81 consistent with s. 16, Art. I of the State Constitution and s.
82 960.0021.

83 (f) Whether staying the incarceration is consistent with
84 protecting the life, health, and safety of the unborn child and
85 its life during the first 12 weeks after birth. In considering
86 this factor, the court shall consider the existence of any prior
87 substance abuse by the defendant, whether any other children of

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88 the defendant have been adjudicated dependent, and any other
89 information relevant to the health and safety of the unborn
90 child.

91
92 If the court grants the request to stay the incarceration, it
93 must explain its reasons in writing.

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

98 (4) Within 10 days after the end of the stay of
99 incarceration and the commencement of the woman's incarceration
100 to serve the sentence, she must be offered an appropriate
101 assessment by a licensed health care practitioner or a
102 telehealth provider as defined in s. 456.47, and upon her
103 request, the licensed health care practitioner or telehealth
104 provider shall provide a postpartum assessment, including the
105 need for any necessary medical tests, procedures, lactation
106 support, mental health support, or treatments associated with
107 her postpartum condition. The Department of Corrections and
108 municipal and county detention facilities shall develop and
109 offer such assessments and treatments in consultation with
110 community support organizations, licensed health care
111 practitioners, social services programs, and local and state
112 government agencies, including nonprofit organizations.

113 (5) If, during the stay of incarceration, the pregnant
114 woman is convicted of another crime or violates any of the
115 conditions imposed by the sentencing judge, the judge may impose
116 any sanction under s. 948.06, including an order requiring the

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117 incarceration of the pregnant woman to serve the sentence for
118 which the stay was granted.

119 (6) (a) The Department of Corrections shall collect from its
120 own institutions, and each municipal detention facility and
121 county detention facility as those terms are defined in s.
122 951.23 shall collect and report to the department, all of the
123 following information, which the department shall compile and
124 publish quarterly on its public website:

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

127 2. The total number of births, including the number of live
128 births and stillbirths, to women whose sentences are stayed, and
129 the gestational age and birth weight of each infant at the time
130 of birth or stillbirth;

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

133 4. The total number of women who experience miscarriages;
134 and

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

138 (b) The information published pursuant to paragraph (a)
139 must exclude personally identifying information and must comply
140 with state and federal confidentiality laws.

141 Section 4. This act shall take effect July 1, 2022.