119TH CONGRESS
2D SESSION

S. _____

To improve maternal health policies in correctional facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve maternal health policies in correctional facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Justice for Incarcerated Moms Act''.

SEC. 2. ENDING THE SHACKLING OF PREGNANT INDIVIDUALS.

(a) IN GENERAL.—For each fiscal year beginning on or after the date that is 180 days after the date of enactment of this Act, for each State that receives a grant for

such fiscal year under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10151 et seq.) (commonly referred to as the ''Edward Byrne Memorial Justice Assistance Grant Program'') and that does not have in effect throughout the State for such fiscal year laws restricting the use of restraints on pregnant individuals in correctional facilities that are substantially similar to the rights, procedures, requirements, effects, and penalties set forth in section 4322 of title 18, United States Code, the amount of such grant that would otherwise be allocated to such State under such subpart for the fiscal year shall be decreased by 25 percent.

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

SEC. 3. CREATING MODEL PROGRAMS FOR THE CARE OF INCARCERATED INDIVIDUALS IN THE PRENATAL AND POSTPARTUM PERIODS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney

General, acting through the Director of the Bureau of Prisons (referred to in this section as the ''Director''), shall establish, in not fewer than 6 Bureau of Prisons facilities, programs to optimize maternal health outcomes for pregnant and postpartum individuals incarcerated in such facilities.

(2) CONSULTATION WITH STAKEHOLDERS.—The Attorney General shall establish such programs in consultation with stakeholders, such as—

(A) relevant community-based organizations, particularly organizations that represent incarcerated and formerly incarcerated individuals and organizations that seek to improve maternal health outcomes for pregnant and postpartum individuals from demographic groups with elevated rates of maternal mortality, severe maternal morbidity, maternal health disparities, or other adverse perinatal or childbirth outcomes;

(B) relevant organizations representing patients, with a particular focus on patients from demographic groups with elevated rates of maternal mortality, severe maternal morbidity, maternal health disparities, or other adverse perinatal or childbirth outcomes;

(C) organizations representing maternity care providers and maternal health care education programs;

(D) perinatal health workers; and

(E) researchers and policy experts in fields related to maternal health care for incarcerated individuals.

(b) START DATE.—A facility selected under subsection (a) shall begin carrying out the programs required under subsection (e) not later than 18 months after the date of enactment of this Act.

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

(1) the number of pregnant and postpartum individuals incarcerated in such facility and, among such individuals, the number of pregnant and postpartum individuals from demographic groups with elevated rates of maternal mortality, severe maternal morbidity, maternal health disparities, or other adverse perinatal or childbirth outcomes; and

(2) the extent to which the leaders of such facility have demonstrated a commitment to developing exemplary programs for pregnant and postpartum individuals incarcerated in such facility.

(d) PROGRAM DURATION.—The programs established under subsection (e) shall be carried out for a 5-year period.

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

(1) provide access to perinatal health workers from pregnancy through the postpartum period;

(2) provide access to healthy foods and counseling on nutrition, recommended activity levels, and safety measures throughout pregnancy;

(3) train correctional officers to ensure that pregnant incarcerated individuals receive safe and respectful treatment;

(4) train medical personnel to ensure that pregnant incarcerated individuals receive trauma-informed, culturally and linguistically congruent care that promotes the health and safety of the pregnant individuals;

(5) provide counseling and treatment for individuals who have suffered from—

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

(B) trauma or violence, including domestic violence;

(C) human immunodeficiency virus;

(D) sexual abuse;

(E) pregnancy or infant loss; or

(F) chronic conditions;

(6) provide evidence-based pregnancy and childbirth education, parenting support, and other relevant forms of health literacy;

(7) provide clinical education opportunities to maternity care providers in training to expand pathways into maternal health care careers serving incarcerated individuals;

(8) offer opportunities for postpartum individuals to maintain contact with the individual's newborn child to promote bonding, including enhanced visitation policies, access to prison nursery programs, and breastfeeding support;

(9) provide reentry assistance, particularly to—

(A) ensure access to health insurance coverage and transfer of health records to community providers if an incarcerated individual exits the criminal justice system during such individual's pregnancy or in the postpartum period; and

(B) connect individuals exiting the criminal justice system during pregnancy or in the postpartum period to community-based resources, such as referrals to health care providers, substance use disorder treatments, and social services that address social determinants of maternal health; or

(10) establish partnerships with local public entities, private community entities, community-based organizations, Indian Tribes and Tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)), and Urban Indian organizations (as such term is defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) to establish or expand pretrial diversion programs as an alternative to incarceration for pregnant and postpartum individuals, including—

(A) evidence-based childbirth education or parenting classes;

(B) prenatal health coordination;

(C) family and individual counseling;

(D) evidence-based screenings, education, and, as needed, treatment for mental and be-

havioral health conditions, including drug and alcohol treatments;

(E) family case management services;

(F) domestic violence education and prevention;

(G) physical and sexual abuse counseling; and

(H) programs to address social determinants of health such as employment, housing, education, transportation, and nutrition.

(f) IMPLEMENTATION AND REPORTING.—A facility selected under subsection (a) shall be responsible for—

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

(2) not later than 3 years after the date of enactment of this Act, reporting results of the programs to the Director, including information describing—

(A) relevant quantitative indicators of the success of the programs in improving the standard of care and health outcomes for pregnant and postpartum incarcerated individuals in the facility, including data stratified by race, ethnicity, sex, gender, primary language, age, geography, disability status, category of the crimi-

nal charge against such individual, rates of pregnancy-related deaths, pregnancy-associated deaths, cases of infant mortality and morbidity, rates of preterm births and low-birthweight births, cases of severe maternal morbidity, cases of violence against pregnant or postpartum individuals, diagnoses of maternal mental or behavioral health conditions, and other such information as appropriate;

(B) relevant qualitative and quantitative evaluations from pregnant and postpartum incarcerated individuals who participated in such programs, including measures of patient-reported experience of care; and

(C) strategies to sustain such programs after fiscal year 2033 and expand such programs to other facilities.

(g) REPORT.—Not later than 6 years after the date of enactment of this Act, the Director shall submit to the Attorney General and Congress a report describing the results of the programs funded under this section.

(h) OVERSIGHT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall award a contract to an independent organization or inde-

pendent organizations to conduct oversight of the programs required under subsection (e).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2028 through 2032.

SEC. 4. GRANT PROGRAM TO IMPROVE MATERNAL HEALTH OUTCOMES FOR INDIVIDUALS IN STATE AND LOCAL CORRECTIONAL FACILITIES.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General, acting through the Director of the Bureau of Justice Assistance (referred to in this section as the ''Director''), shall award Justice for Incarcerated Moms grants to States to establish or expand programs in State and local correctional facilities for pregnant and postpartum incarcerated individuals.

(2) CONSULTATION WITH STAKEHOLDERS.—The Attorney General shall award such grants in consultation with stakeholders, such as—

(A) relevant community-based organizations, particularly organizations that represent incarcerated and formerly incarcerated individuals and organizations that seek to improve maternal health outcomes for pregnant and

postpartum individuals from demographic groups with elevated rates of maternal mortality, severe maternal morbidity, maternal health disparities, or other adverse perinatal or childbirth outcomes;

(B) relevant organizations representing patients, with a particular focus on patients from demographic groups with elevated rates of maternal mortality, severe maternal morbidity, maternal health disparities, or other adverse perinatal or childbirth outcomes;

(C) organizations representing maternity care providers and maternal health care education programs;

(D) perinatal health workers; and

(E) researchers and policy experts in fields related to maternal health care for incarcerated individuals.

(b) APPLICATIONS.—Each applicant for a grant under this section shall submit to the Director an application at such time, in such manner, and containing such information as the Director may require.

(c) USE OF FUNDS.—A State that is awarded a grant under this section shall use such grant to establish or ex-

pand programs for pregnant and postpartum incarcerated individuals, and such programs may—

(1) provide access to perinatal health workers from pregnancy through the postpartum period;

(2) provide access to healthy foods and counseling on nutrition, recommended activity levels, and safety measures throughout pregnancy;

(3) train correctional officers to ensure that pregnant incarcerated individuals receive safe and respectful treatment;

(4) train medical personnel to ensure that pregnant incarcerated individuals receive trauma-informed, culturally and linguistically congruent care that promotes the health and safety of the pregnant individuals;

(5) provide counseling and treatment for individuals who have suffered from—

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

(B) trauma or violence, including domestic violence;

(C) human immunodeficiency virus;

(D) sexual abuse;

(E) pregnancy or infant loss; or

(F) chronic conditions;

(6) provide evidence-based pregnancy and childbirth education, parenting support, and other relevant forms of health literacy;

(7) provide clinical education opportunities to maternity care providers in training to expand pathways into maternal health care careers serving incarcerated individuals;

(8) offer opportunities for postpartum individuals to maintain contact with the individual's newborn child to promote bonding, including enhanced visitation policies, access to prison nursery programs, and breastfeeding support;

(9) provide reentry assistance, particularly to—

(A) ensure access to health insurance coverage and transfer of health records to community providers if an incarcerated individual exits the criminal justice system during such individual's pregnancy or in the postpartum period; and

(B) connect individuals exiting the criminal justice system during pregnancy or in the postpartum period to community-based resources, such as referrals to health care providers, substance use disorder treatments, and

social services that address social determinants of maternal health; or

(10) establish partnerships with local public entities, private community entities, community-based organizations, Indian Tribes and Tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)), and Urban Indian organizations (as such term is defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) to establish or expand pretrial diversion programs as an alternative to incarceration for pregnant and postpartum individuals, including—

(A) evidence-based childbirth education or parenting classes;

(B) prenatal health coordination;

(C) family and individual counseling;

(D) evidence-based screenings, education, and, as needed, treatment for mental and behavioral health conditions, including drug and alcohol treatments;

(E) family case management services;

(F) domestic violence education and prevention;

(G) physical and sexual abuse counseling; and

(H) programs to address social determinants of health such as employment, housing, education, transportation, and nutrition.

(d) PRIORITY.—In awarding grants under this section, the Director shall give priority to applicants based on—

(1) the number of pregnant and postpartum individuals incarcerated in the State and, among such individuals, the number of pregnant and postpartum individuals from demographic groups with elevated rates of maternal mortality, severe maternal morbidity, maternal health disparities, or other adverse perinatal or childbirth outcomes; and

(2) the extent to which the State has demonstrated a commitment to developing exemplary programs for pregnant and postpartum individuals incarcerated in the correctional facilities in the State.

(e) GRANT DURATION.—A grant awarded under this section shall be for a period of 5 years.

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

(1) implementing the programs funded by the grant; and

(2) not later than 3 years after the date of enactment of this Act reporting results of such programs to the Attorney General, including information describing—

(A) relevant quantitative indicators of the success of the programs in improving the standard of care and health outcomes for pregnant and postpartum incarcerated individuals in the facility, including data stratified by race, ethnicity, sex, gender, primary language, age, geography, disability status, category of the criminal charge against such individual, rates of pregnancy-related deaths, pregnancy-associated deaths, cases of infant mortality and morbidity, rates of preterm births and low-birthweight births, cases of severe maternal morbidity, cases of violence against pregnant or postpartum individuals, diagnoses of maternal mental or behavioral health conditions, and other such information as appropriate;

(B) relevant qualitative and quantitative evaluations from pregnant and postpartum incarcerated individuals who participated in such

programs, including measures of patient-reported experience of care; and

(C) strategies to sustain such programs after the end of the grant period and expand such programs to facilities at which such programs were not implemented under the grant.

(g) REPORT.—Not later than 6 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the results of programs carried out using grants under this section.

(h) OVERSIGHT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall award a contract to an independent organization or independent organizations to conduct oversight of the programs funded under grants under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2028 through 2032.

SEC. 5. GAO REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on adverse maternal and infant health outcomes among incarcerated individuals and infants born to such individuals, with a particular focus on racial and ethnic dispari-

ties in maternal and infant health outcomes for incarcerated individuals.

(b) CONTENTS OF REPORT.—The report described in subsection (a) shall include—

(1) to the extent practicable, for the available data for the 10 years preceding the date of the report—

(A) the number of pregnant individuals who are incarcerated in Bureau of Prisons facilities;

(B) the number of incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities, who have experienced a pregnancy-related death, pregnancy-associated death, or the death of an infant;

(C) the number of cases of severe maternal morbidity among incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities;

(D) the number of stillbirths, miscarriages, and other adverse pregnancy outcomes experienced by incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities;

(E) the number of pregnant incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities, receiving prenatal care;

(F) the number of preterm and low-birthweight births of infants born to incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities; and

(G) statistics on the racial and ethnic disparities in maternal and infant health outcomes and severe maternal morbidity rates among incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities;

(2) in the case that the Comptroller General of the United States is unable determine the information required under paragraph (1), an assessment of the barriers to determining such information and recommendations for improvements in tracking maternal health outcomes among incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities;

(3) the implications of pregnant and postpartum incarcerated individuals being ineligible for medical assistance under a State plan under title

XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including information about—

(A) the effects of such ineligibility on maternal health outcomes for pregnant and postpartum incarcerated individuals, with emphasis given to such effects for pregnant and postpartum individuals from racial and ethnic minority groups; and

(B) potential implications on maternal health outcomes resulting from temporarily suspending, rather than permanently terminating, such eligibility when a pregnant or postpartum individual is incarcerated;

(4) the extent to which Federal, State, and local correctional facilities are holding pregnant and postpartum individuals who test positive for illicit drug use in detention with special conditions, such as additional bond requirements, due to drug use by the individual, and the effect of such detention policies on maternal and infant health outcomes;

(5) causes of adverse maternal health outcomes that are unique to incarcerated individuals, including those incarcerated in Federal, State, and local correctional facilities;

(6) causes of adverse maternal health outcomes and severe maternal morbidity that are unique to incarcerated individuals from racial and ethnic minority groups;

(7) recommendations to reduce maternal mortality and severe maternal morbidity among incarcerated individuals and to address racial and ethnic disparities in maternal health outcomes for incarcerated individuals in Bureau of Prisons facilities and State and local correctional facilities; and

(8) such other information as may be appropriate to reduce the occurrence of adverse maternal health outcomes among incarcerated individuals and to address racial and ethnic disparities in maternal health outcomes for such individuals.