

HOUSE BILL 235

E4
HB 524/20 – JUD

(PRE-FILED)

1lr1415

By: **Delegate W. Fisher**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Pregnant Incarcerated Individuals – Substance Abuse**
3 **Assessment and Treatment**

4 FOR the purpose of requiring that a certain pregnant incarcerated individual be screened
5 for substance use disorder at a certain time in a certain manner; requiring that a
6 certain pregnant incarcerated individual be referred to certain health care providers
7 for certain purposes at a certain time; requiring a certain correctional unit to ensure
8 that a certain individual continues to receive certain medication in a certain manner
9 under certain circumstances; requiring that a certain pregnant incarcerated
10 individual be started on certain medication treatment at a certain time under certain
11 circumstances; requiring that a certain pregnant incarcerated individual be allowed
12 to decline or terminate certain medication treatment in a certain manner and be
13 counseled on certain risks; requiring that certain correctional units follow the clinical
14 guidance of certain organizations at certain times; requiring a certain correctional
15 unit to arrange for certain health insurance coverage and follow-up health care for
16 a certain pregnant incarcerated individual at a certain time; requiring that a certain
17 pregnant incarcerated individual be provided with certain records at a certain time;
18 defining certain terms; providing for the application of this Act; and generally
19 relating to pregnant incarcerated individuals.

20 BY adding to
21 Article – Correctional Services
22 Section 9–601.2
23 Annotated Code of Maryland
24 (2017 Replacement Volume and 2020 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Correctional Services**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **9-601.2.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "PREGNANT INCARCERATED INDIVIDUAL" MEANS AN
5 INCARCERATED INDIVIDUAL AT ANY STAGE OF PREGNANCY, LABOR, DELIVERY, OR
6 THE 12-WEEK POSTPARTUM PERIOD.

7 (3) "REPRODUCTIVE HEALTH CARE PROVIDER" MEANS:

8 (I) AN OBSTETRICIAN;

9 (II) A GYNECOLOGIST;

10 (III) A CERTIFIED NURSE MIDWIFE; OR

11 (IV) A PHYSICIAN, NURSE PRACTITIONER, OR PHYSICIAN'S
12 ASSISTANT WITH SPECIALIZATION IN TREATING PREGNANT PATIENTS.

13 (B) THIS SECTION APPLIES TO ALL CORRECTIONAL UNITS, AS DEFINED IN §
14 8-201 OF THIS ARTICLE.

15 (C) (1) A PREGNANT INCARCERATED INDIVIDUAL, REGARDLESS OF THE
16 JURISDICTION OF CONFINEMENT OR THE LENGTH OF TIME THAT THE INDIVIDUAL IS
17 EXPECTED TO BE AT THE CORRECTIONAL UNIT, SHALL BE SCREENED FOR
18 SUBSTANCE USE DISORDER AT INTAKE USING A VALIDATED SCREENING TOOL.

19 (2) A PREGNANT INCARCERATED INDIVIDUAL WHO HAS BOTH A
20 POSITIVE PREGNANCY TEST AT INTAKE AND SCORES POSITIVE ON THE SUBSTANCE
21 USE DISORDER SCREENING SHALL BE REFERRED IMMEDIATELY TO A BEHAVIORAL
22 HEALTH CARE PROVIDER AND A REPRODUCTIVE HEALTH CARE PROVIDER FOR:

23 (I) FULL ASSESSMENT;

24 (II) COUNSELING ON ALL AVAILABLE AND RECOMMENDED
25 TREATMENT OPTIONS; AND

26 (III) IF CLINICALLY APPROPRIATE, THE INITIATION OR
27 CONTINUATION OF MEDICATION.

28 (3) IF A PREGNANT INCARCERATED INDIVIDUAL WAS RECEIVING

1 MEDICATION TREATMENT FOR OPIOID USE DISORDER PRIOR TO INCARCERATION
2 AND DESIRES TO CONTINUE THAT TREATMENT WHILE INSIDE THE CORRECTIONAL
3 UNIT, THE CORRECTIONAL UNIT SHALL ENSURE THAT THE INDIVIDUAL CONTINUES
4 TO RECEIVE THE SAME MEDICATION WITHOUT A BREAK IN CARE.

5 (4) A PREGNANT INCARCERATED INDIVIDUAL WITH OPIOID USE
6 DISORDER WHO WAS NOT ON MEDICATION TREATMENT BEFORE INCARCERATION
7 SHALL BE STARTED ON APPROPRIATE MEDICATION TREATMENT WHILE IN CUSTODY
8 IF:

9 (I) THE TREATMENT IS RECOMMENDED; AND

10 (II) THE INDIVIDUAL CONSENTS TO THE TREATMENT.

11 (5) A PREGNANT INCARCERATED INDIVIDUAL FOR WHOM
12 MEDICATION FOR THE TREATMENT OF OPIOID USE DISORDER IS INDICATED BUT
13 WHO DECLINES THIS TYPE OF TREATMENT, OR WHO WOULD LIKE TO TERMINATE
14 THE USE OF MEDICATION WHILE INCARCERATED, SHALL BE:

15 (I) ALLOWED TO DECLINE OR TERMINATE MEDICATION
16 TREATMENT IN A TIMELY MANNER; AND

17 (II) COUNSELED ON THE RISKS ASSOCIATED WITH THE ACTION.

18 (6) ALL CORRECTIONAL UNITS SHALL FOLLOW THE CLINICAL
19 GUIDANCE OF THE AMERICAN COLLEGE OF NURSE MIDWIVES OR THE AMERICAN
20 COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS WHEN PROVIDING CARE TO
21 PREGNANT INCARCERATED INDIVIDUALS.

22 (D) BEFORE RELEASING A PREGNANT INCARCERATED INDIVIDUAL, A
23 CORRECTIONAL UNIT SHALL:

24 (1) CONTACT AND WORK WITH THE APPROPRIATE GOVERNMENT
25 AGENCIES AND OTHER ENTITIES TO ARRANGE HEALTH INSURANCE COVERAGE FOR
26 THE INDIVIDUAL, WITH COVERAGE TO BECOME EFFECTIVE NOT LATER THAN 24
27 HOURS AFTER RELEASE;

28 (2) REFER THE INDIVIDUAL TO A QUALIFIED REPRODUCTIVE HEALTH
29 CARE PROVIDER THAT OFFERS SPECIALIZED SERVICES FOR PREGNANT AND
30 POSTPARTUM INDIVIDUALS IN THE JURISDICTION OF THE INDIVIDUAL'S RESIDENCE
31 TO CONTINUE PREGNANCY-RELATED HEALTH CARE; AND

32 (3) REFER THE INDIVIDUAL TO A COMMUNITY-BASED MENTAL

1 HEALTH AND SUBSTANCE USE PROFESSIONAL FOR TREATMENT AND MEDICATION
2 CONTINUITY IN THE JURISDICTION OF RESIDENCE OF THE INDIVIDUAL.

3 (E) IMMEDIATELY ON RELEASE OR WITHIN NOT MORE THAN 10 CALENDAR
4 DAYS AFTER RELEASE, A PREGNANT INCARCERATED INDIVIDUAL SHALL BE
5 PROVIDED WITH A COMPLETE COPY OF THE INDIVIDUAL'S MEDICAL RECORDS,
6 MENTAL HEALTH EVALUATIONS, ADDICTION EVALUATIONS, AND TREATMENT
7 ASSESSMENTS.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2021.