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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
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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,



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