

By Senator Jones

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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"; requiring that, if a  
14      pregnant woman is convicted of a crime and sentenced  
15      to incarceration of any length, the sentencing judge  
16      provide the pregnant woman the opportunity to defer  
17      the imposed sentence until a specified time after  
18      delivery; authorizing a sentencing judge to order a  
19      pregnant woman to comply with certain terms and  
20      conditions during the deferral; requiring that, within  
21      10 days after the deferral period ends and the woman  
22      is incarcerated, she be offered and receive, upon her  
23      request, specified services; authorizing sanctions for  
24      a new criminal conviction or violation of the terms  
25      and conditions ordered by the judge; requiring  
26      municipal and county detention facilities to collect  
27      and report to the Department of Corrections, and the  
28      department to collect from its own institutions,  
29      specified information; requiring the department to

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30           quarterly compile and publish the information on its  
31           public website; providing requirements for publishing  
32           such information; providing an effective date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36           Section 1. This act may be cited as "Ava's Law."

37           Section 2. Section 907.033, Florida Statutes, is created to  
38 read:

39           907.033 Pregnancy testing of female arrestees.—Every female  
40 who is arrested and not released on bond within 72 hours after  
41 arrest must, upon her request, be administered a pregnancy test  
42 by the municipal or county detention facility as defined in s.  
43 951.23 where she is being held within 24 hours after the  
44 request. Upon her booking into the facility, the facility must  
45 notify each such arrestee of her right to request a pregnancy  
46 test 72 hours after arrest if she is still in custody. The  
47 pregnancy test may be conducted through urine or blood tests, by  
48 ultrasound scan, or by any other standard pregnancy testing  
49 protocols adopted by the facility. As used in this section, the  
50 term "female" includes a juvenile or adult woman.

51           Section 3. Section 925.13, Florida Statutes, is created to  
52 read:

53           925.13 Sentence deferral for pregnant women.—

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

58           (2) Notwithstanding any other law, the sentence of a

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59 pregnant woman who is convicted of a crime and sentenced to  
60 incarceration of any length must comply with all of the  
61 following requirements:

62 (a) The sentencing judge must provide a pregnant woman the  
63 opportunity to defer the imposed sentence until 12 weeks after  
64 delivery of the baby so that during the deferral period the  
65 pregnant woman may receive necessary health care for herself and  
66 the unborn child. If the pregnancy ends at any time before the  
67 delivery of the baby, the deferral period will end 12 weeks from  
68 the date the pregnancy ends. If the pregnant woman chooses not  
69 to defer her sentence, she must be incarcerated as directed by  
70 the judge.

71 (b) The sentencing judge may order a pregnant woman whose  
72 sentence is deferred to comply with any of the terms and  
73 conditions specified in s. 948.03 until such time as she is  
74 incarcerated.

75 (c) Within 10 days after the deferral period ends and the  
76 woman is incarcerated to serve the sentence, she must be offered  
77 an appropriate assessment by a licensed health care practitioner  
78 or a telehealth provider as defined in s. 456.47, and, upon the  
79 request of the incarcerated woman, the licensed health care  
80 practitioner or telehealth provider shall provide a postpartum  
81 assessment, including the need for any necessary medical tests,  
82 procedures, lactation support, mental health support, or  
83 treatments associated with her postpartum condition. The  
84 Department of Corrections and municipal and county detention  
85 facilities shall develop and offer such assessments and  
86 treatments in consultation with community support organizations,  
87 licensed health care practitioners, social services programs,

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88 and local and state government agencies, including nonprofit  
89 organizations.

90 (3) If, during the deferral period, the pregnant woman is  
91 convicted of a new crime or violates any of the conditions  
92 imposed by the sentencing judge, the judge may impose any  
93 sanction that may be imposed under s. 948.06, including an order  
94 requiring the incarceration of the pregnant woman to serve the  
95 sentence for which the deferral was granted.

96 (4) (a) The Department of Corrections shall collect from its  
97 own institutions, and each municipal and county detention  
98 facility, as those terms are defined in s. 951.23, shall collect  
99 and report to the department, all of the following information,  
100 which the department shall compile and publish quarterly on its  
101 public website:

102 1. The total number of pregnant women who receive a  
103 sentence deferral under paragraph (2) (a);

104 2. The total number of women who receive or who decline an  
105 assessment under paragraph (2) (c);

106 3. The total number of births, including the number of live  
107 births and stillbirths, to women whose sentences are deferred,  
108 and the gestational age and birth weight of each infant at the  
109 time of birth or stillbirth;

110 4. The total number of women who experience complications  
111 during pregnancy and the type of complications experienced;

112 5. The total number of women who experience miscarriages;  
113 and

114 6. The total number of women who refuse to provide  
115 information regarding the outcome of their pregnancies as  
116 indicated in subparagraphs 3., 4., and 5.

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117       (b) The information published pursuant to paragraph (a)  
118 must exclude personally identifying information and must comply  
119 with state and federal confidentiality laws.

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