

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 detention facility or county detention
9 facility notify each arrested female upon booking at
10 the facility of her right to request a pregnancy test;
11 providing for the types of pregnancy tests that may be
12 given; defining the term "female"; creating s. 925.13,
13 F.S.; defining the term "pregnant woman"; authorizing
14 a sentencing court to stay the beginning of the period
15 of incarceration for up to a certain amount of time
16 for a pregnant woman convicted of any offense;
17 requiring the court to consider specified factors in
18 determining whether to grant a pregnant woman's
19 request to stay the beginning of the period of
20 incarceration; requiring the court to explain in
21 writing its reasons for granting a stay of
22 incarceration; authorizing a sentencing court to order
23 a pregnant woman to comply with specified terms and
24 conditions during the stay of the incarceration;
25 requiring that, within 10 days after the end of the
26 stay and the commencement of the woman's
27 incarceration, she be offered and receive, upon her
28 request, a specified assessment and services;
29 authorizing a judge to impose specified sanctions for

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

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

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

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

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

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59 Section 3. Section 925.13, Florida Statutes, is created to
60 read:

61 925.13 Staying of sentence for pregnant women.—

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

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

74 (a) The severity of the offense for which the defendant is
75 convicted.

76 (b) Whether the defendant was previously convicted of a
77 felony.

78 (c) Whether other felony charges are pending against the
79 defendant.

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

82 (e) The rights of the victim of the defendant's crime,
83 consistent with s. 16, Art. I of the State Constitution and s.
84 960.0021.

85 (f) Whether staying the incarceration is consistent with
86 protecting the life, health, and safety of the unborn child and
87 its life during the first 12 weeks after birth. In considering

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88 this factor, the court shall consider the existence of any prior
89 substance abuse by the defendant, whether any other children of
90 the defendant have been adjudicated dependent, and any other
91 information relevant to the health and safety of the unborn
92 child.

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94 If the court grants the request to stay the incarceration, it
95 must explain its reasons in writing.

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

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

116 (5) If, during the stay of incarceration, the pregnant

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117 woman is convicted of another crime or violates any of the
118 conditions imposed by the sentencing judge, the judge may impose
119 any sanction under s. 948.06, including an order requiring the
120 incarceration of the pregnant woman to serve the sentence for
121 which the stay was granted.

122 (6) (a) The Department of Corrections shall collect from its
123 own institutions, and each municipal detention facility and
124 county detention facility as those terms are defined in s.
125 951.23 shall collect and report to the department, all of the
126 following information, which the department shall compile and
127 publish quarterly on its public website:

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

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

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

136 4. The total number of women who experience miscarriages;
137 and

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

141 (b) The information published pursuant to paragraph (a)
142 must exclude personally identifying information and must comply
143 with state and federal confidentiality laws.

144 Section 4. This act shall take effect July 1, 2023.