

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, upon her request, every female  
5       arrested and not released on bond within 72 hours  
6       after arrest be administered a pregnancy test within a  
7       specified timeframe; requiring each municipal  
8       detention facility or county detention facility to  
9       notify each arrested female upon booking at the  
10      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 incarceration; requiring  
25      that, within 10 days after the end of the stay and the  
26      commencement of the woman's incarceration, she be  
27      offered and, upon her request, receive a specified  
28      assessment and services; authorizing a judge to impose  
29      specified sanctions for another criminal conviction or

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

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. This act may be cited as "Ava's Law."

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

45 907.033 Pregnancy testing of female arrestees.—Upon her  
46 request, every female arrested and not released on bond within  
47 72 hours after arrest must be administered a pregnancy test by  
48 the municipal detention facility or county detention facility,  
49 as those terms are defined in s. 951.23, where she is being held  
50 within 24 hours after the request. During booking into the  
51 facility, the facility must notify each such arrestee of her  
52 right to request that she be administered a pregnancy test  
53 within 72 hours after arrest if she is still in custody. The  
54 pregnancy test may be administered by collection of urine or  
55 blood samples, by ultrasound scan, or by any other standard  
56 pregnancy testing protocols adopted by the facility. As used in  
57 this section, the term "female" means a juvenile girl or an  
58 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 girl 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, when a pregnant woman is  
67 convicted of any offense and the sentencing court pronounces a  
68 sentence of incarceration, the court has the discretion to stay  
69 the beginning of the period of incarceration for up to 12 weeks  
70 after the pregnant woman gives birth or is no longer pregnant.  
71 In determining whether to grant a pregnant woman's request to  
72 stay the beginning of the period of incarceration, the court  
73 shall 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.

93  
94 If the court grants a request to stay incarceration, it must  
95 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 who, upon her  
105 request, shall provide a postpartum assessment, including the  
106 need for any necessary medical tests, procedures, lactation  
107 support, mental health support, or treatments associated with  
108 her postpartum condition. The Department of Corrections,  
109 municipal detention facilities, and county detention facilities  
110 shall develop and offer such assessments and treatments in  
111 consultation with community support organizations, licensed  
112 health care practitioners, social services programs, and local  
113 and state governmental agencies, including nonprofit  
114 organizations.

115 (5) If, during the stay of incarceration, the pregnant  
116 woman is convicted of another crime or violates any of the

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117 conditions imposed by the sentencing judge, the judge may impose  
118 any sanction under s. 948.06, including an order requiring the  
119 incarceration of the pregnant woman for the purpose of serving  
120 the sentence for which the stay was granted.

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

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

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

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

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

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

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

143 Section 4. This act shall take effect July 1, 2024.