

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
 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
 45 to read:

46 907.033 Pregnancy testing of female arrestees.—Every
 47 female who is arrested and not released on bond within 72 hours
 48 after arrest must, upon her request, be administered a pregnancy
 49 test by the municipal detention facility or county detention
 50 facility as those terms are defined in s. 951.23(1) where she is

51 being held within 24 hours after the request. During booking
52 into the facility, the facility must notify each such arrestee
53 of her right to request that a pregnancy test be administered
54 within 72 hours after arrest if she is still in custody. The
55 pregnancy test may be conducted by using urine or blood samples,
56 by ultrasound scan, or by any other standard pregnancy testing
57 protocols adopted by the facility. As used in this section, the
58 term "female" means a juvenile or an adult woman.

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 his or her life during the first 12 weeks after birth. In
88 considering this factor, the court shall consider the existence
89 of any prior substance abuse by the defendant, whether any other
90 children of the defendant have been adjudicated dependent, and
91 any other information relevant to the health and safety of the
92 unborn 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 she is incarcerated.

99 (4) Within 10 days after the end of the stay of
100 incarceration and the commencement of the woman's incarceration

101 to serve the sentence, she must be offered an appropriate
102 assessment by a licensed health care practitioner or a
103 telehealth provider as defined in s. 456.47(1), and upon her
104 request, the licensed health care practitioner or telehealth
105 provider 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 government 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
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 to serve the sentence for
120 which the stay was granted.

121 (6) (a) The Department of Corrections shall collect from
122 its own institutions, and each municipal detention facility and
123 county detention facility shall collect and report to the
124 department, all of the following information, which the
125 department shall compile and publish quarterly on its public

126 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
 130 live births and stillbirths, to women whose sentences are
 131 stayed, and the gestational age and birth weight of each infant
 132 at the time 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 5. The total number of women who refuse to provide
 137 information regarding the outcome of their pregnancies as
 138 indicated in subparagraphs 2., 3., and 4.

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

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