

HB411 INTRODUCED



1 HB411
2 Q6MH551-1
3 By Representative Hollis
4 RFD: Judiciary
5 First Read: 04-Apr-24



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SYNOPSIS:

Existing law does not allow a pregnant woman sentenced to incarceration to defer her sentence until after the birth of her child.

This bill would adopt the Alabama Women's Child Care Alternatives, Resources, and Education (CARE) Act.

This bill would provide that each woman, upon admission to a jail, shall inform the individual conducting her initial intake medical screening if she is pregnant or suspects she may be pregnant.

This bill would require each woman who informs the individual conducting her initial intake medical screening that she is or may be pregnant to be assessed for pregnancy with a urine pregnancy test within three days of her initial intake medical screening, unless she declines the testing.

This bill would require a woman who tests positive for pregnancy to be released on bail, provided that the court determines that the woman does not pose a significant threat.

This bill would provide that, if a woman is pregnant at the time she is sentenced to incarceration, the court shall include a term of pre-incarceration probation to be served until 12 weeks after the woman gives birth, provided that the court determines that



HB411 INTRODUCED

29 the woman does not pose a significant threat.

30 This bill would allow any pre-incarceration term
31 of probation to be credited to the woman's sentence,
32 and would provide that a pre-incarceration term of
33 probation shall be served with certain electronic
34 supervision and without payment of any fines.

35 This bill would require a woman serving a
36 pre-incarceration term of probation to report the loss
37 of her pregnancy to her probation officer and would
38 give the court discretion as to when she should self
39 surrender following the pregnancy loss.

40 This bill would also require a woman serving a
41 pre-incarceration term of probation to self surrender
42 12 weeks after the birth of her child and provide that
43 failure to surrender is a Class A misdemeanor.

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A BILL

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TO BE ENTITLED

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AN ACT

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53 Relating to incarceration; to adopt the Alabama Women's
54 CARE Act; to provide for the pregnancy testing of certain
55 women after admission to a jail; to provide for the supervised
56 pre-incarceration probation of a pregnant woman in certain



HB411 INTRODUCED

57 circumstances; to provide for the self surrender of a woman
58 serving a pre-incarceration term of probation 12 weeks after
59 the birth of her child; to provide for criminal penalties for
60 failure to surrender; and to provide procedures for if a woman
61 loses her pregnancy while on pre-incarceration probation.

62 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

63 Section 1. This act shall be known and may be cited as
64 the Alabama Women's Child Care Alternatives, Resources, and
65 Education (CARE) Act.

66 Section 2. (a) Each woman, upon admission to a jail,
67 shall inform the individual conducting the initial intake
68 medical screening if she is pregnant or suspects that she may
69 be pregnant. If the woman informs the individual conducting
70 the screening that she is pregnant or suspects she may be
71 pregnant the woman shall be given a urine pregnancy test
72 within three days of her initial intake medical screening,
73 unless the woman declines testing. The results of the
74 pregnancy test shall be used solely for the purpose of
75 determining pregnancy.

76 (b) If a woman given a pregnancy test pursuant to
77 subsection (a) tests positive for pregnancy, the result shall
78 be reported to the court and the county health department.
79 After receiving the report of the positive pregnancy test, the
80 court shall release her on bail, provided that the court
81 determines that the pregnant woman does not pose a significant
82 threat or danger to any person, to the community, or to any
83 property in the community.

84 Section 3. (a) (1) At the time of sentencing, when a



HB411 INTRODUCED

85 pregnant woman has been sentenced to a term of imprisonment,
86 the court shall include a term of probation that shall be
87 served pre-incarceration, provided that the court determines
88 that the pregnant woman does not pose a significant threat or
89 danger to any person, to the community, or to any property in
90 the community.

91 (2) The court shall allow a pregnant woman to be
92 supervised on a pre-incarceration term of probation for the
93 length of her pregnancy and for 12 weeks after the birth of
94 her child. The woman shall surrender herself to the Department
95 of Corrections, the county jail, or the municipal jail, as
96 applicable, 12 weeks after the birth of her child.

97 (b) Failure of a woman with a deferred sentence
98 pursuant to this act to surrender herself to the Department of
99 Corrections, county jail, or municipal jail 12 weeks after the
100 birth of her child is a Class A misdemeanor.

101 (c)(1) A pre-incarceration term of probation to be
102 served pursuant to this act shall be served without the
103 payment of fines, fees, restitution, or probation fees.

104 (2) Supervision for a pre-incarceration term of
105 probation shall be conducted by phone or other electronic
106 communication.

107 (3) The court's jurisdiction during a
108 pre-incarceration term of probation shall be the same as set
109 forth in Chapter 22 of Title 15 of the Code of Alabama of
110 1975.

111 (d) Any time a pregnant woman spends on a
112 pre-incarceration term of probation pursuant to this act shall



HB411 INTRODUCED

113 be credited to the woman's sentence or disposition.

114 (e) A pregnant woman serving a pre-incarceration term
115 of probation shall maintain perinatal health care, treatment,
116 and assessments and participate in education and resource
117 programs to the extent that they are available in her
118 community.

119 (f) A pregnant woman serving a pre-incarceration term
120 of probation shall report any pregnancy loss to her probation
121 officer within 72 hours of the loss. The court shall have
122 discretion to determine when a woman who loses a pregnancy
123 during a pre-incarceration term of probation shall surrender
124 herself to the Department of Corrections, the county jail, or
125 the municipal jail.

126 Section 4. This act shall become effective October 1,
127 2024.