

HB138 INTRODUCED



1 HB138
2 9NJHBPB-1
3 By Representative Hollis
4 RFD: Judiciary
5 First Read: 04-Feb-25



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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 Childbirth 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 and shall 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 to herself or others.

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 the woman does not pose a significant threat to herself or others.



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

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

39 This bill would also require a woman serving a
40 pre-incarceration term of probation to self surrender
41 12 weeks after the birth of her child and would provide
42 that 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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51 Relating to incarceration; to adopt the Alabama Women's
52 Childbirth Alternatives, Resources, and Education Act; to
53 provide for the pregnancy testing of certain women after
54 admission to a jail; to provide for the supervised
55 pre-incarceration probation of a pregnant woman in certain
56 circumstances; to provide for the self surrender of a woman



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57 serving a pre-incarceration term of probation 12 weeks after
58 the birth of her child; to provide for criminal penalties for
59 failure to surrender; and to provide procedures for a woman to
60 follow if she loses her pregnancy while on pre-incarceration
61 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 Childbirth 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. Upon providing that information, the woman shall
70 be given a urine pregnancy test within three days of her
71 initial intake medical screening, unless the woman declines
72 testing. The results of the pregnancy test shall be used
73 solely for the purpose of determining pregnancy.

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

82 Section 3. (a) (1) At the time of sentencing, when a
83 pregnant woman has been sentenced to a term of imprisonment,
84 the court shall include a term of probation that shall be



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85 served pre-incarceration, provided that the court determines
86 that the pregnant woman does not pose a significant threat or
87 danger to herself, to any person, to the community, or to any
88 property in the community.

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

95 (b) Failure of a woman serving a pre-incarceration
96 term of probation to surrender herself to the Department of
97 Corrections, the county jail, or the municipal jail, as
98 applicable, 12 weeks after the birth of her child is a Class A
99 misdemeanor.

100 (c) (1) The payment of fines, fees, restitution, or
101 probation fees shall be suspended during a pre-incarceration
102 term of probation served under this section.

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

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

109 (d) Time served in a pre-incarceration term of
110 probation pursuant to this section shall be credited to the
111 woman's sentence or disposition.

112 (e) A pregnant woman serving a pre-incarceration term



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113 of probation shall maintain perinatal health care, treatment,
114 and assessments and participate in education and resource
115 programs to the extent that they are available in her
116 community.

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

124 Section 4. This act shall become effective on October
125 1, 2025.