SYNOPSIS:

Existing law does not allow a pregnant or postpartum woman sentenced to incarceration to defer her sentence until after the birth of her child and completion of her postpartum recovery period.

This bill would adopt the Alabama Women's Childbirth Alternatives, Resources, and Education (CARE) Act to provide that if a woman is admitted to a jail, she must inform the individual conducting her initial intake medical screening if she is pregnant, suspects she may be pregnant, or is within 12 months postpartum.

This bill would require a woman who is pregnant or suspects she 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 authorize the court to order the supervised release of a woman who tests positive for pregnancy or is confirmed to be postpartum, unless the court determines that the woman poses a documented, immediate risk to public safety.

This bill would provide that, if a woman is pregnant or in her postpartum recovery period at the time she is sentenced to incarceration, the court may

include a term of pre-incarceration probation to be served until 12 months after the woman gives birth, unless the court determines that the woman poses a documented, immediate risk to public safety.

This bill would allow any pre-incarceration term of probation to be credited to the woman's sentence and would require the pre-incarceration term of probation to be served with certain electronic supervision, as determined by the Board of Pardons and Paroles, and without payment of any fines.

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

This bill would prohibit the use of shackles, waist chains, or other restraints on a woman during pregnancy, labor, delivery, or within 12 weeks of delivery.

This bill would require the Board of Pardons and Paroles to establish a CARE Coordinator to coordinate the provision of pre-incarceration terms of probation provided for pregnant and postpartum women.

This bill would require a woman serving a pre-incarceration term of probation to self-surrender 12 months after the birth of her child and would provide that failure to surrender is a Class D felony.

This bill would also allow the Board of Pardons

and Paroles to adopt rules to implement and administer pre-incarceration periods of probation for pregnant and postpartum women.

A BILL

TO BE ENTITLED

AN ACT

Relating to incarceration; to adopt the Alabama Women's Childbirth Alternatives, Resources, and Education Act; to provide for the pregnancy testing of certain women after admission to a jail; to provide for the supervised pre-incarceration probation of a pregnant or postpartum woman in certain circumstances; to authorize the Board of Pardons and Paroles to determine the scope of supervision; to provide for the self-surrender of a woman serving a pre-incarceration term of probation after the birth of her child; to provide for criminal penalties for failure to surrender; to provide procedures for a woman to follow if she loses her pregnancy while on pre-incarceration probation; to require the board to develop a CARE Coordinator; to authorize the board to adopt rules; and to amend Section 14-6-19.1, Code of Alabama 1975, to prohibit the use of shackles or other restraints on a woman during pregnancy, labor, delivery, or within 12 weeks of delivery.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as

the Alabama Women's Childbirth Alternatives, Resources, and Education (CARE) Act.

Section 2. For the purposes of Sections 2 through 6 of this act, the following terms have the following meanings:

(1) BOARD. The Board of Pardons and Paroles.

(2) DIRECTOR. The Director of the Board of Pardons and Paroles.

(3) POSTPARTUM. The 12-month period following childbirth unless extended by a health care professional due to complications.

Section 3. (a)(1) Upon the admission of each woman to a jail, the individual conducting the initial intake medical screening shall ask the woman whether she is pregnant, suspects that she may be pregnant, or is postpartum. If the woman is pregnant or suspects she may be pregnant, the woman shall be given a urine pregnancy test within three days of her initial intake medical screening, unless the woman declines testing. The results of the pregnancy test shall be used solely for the purpose of determining pregnancy for medical and diversion purposes pursuant to Sections 2 through 6 of this act.

(2) Pregnancy testing shall be offered voluntarily, with informed consent, and conducted privately. No woman may be penalized for declining pregnancy testing.

(b)(1) If a woman given a pregnancy test pursuant to subsection (a) tests positive for pregnancy, the result shall be reported to the CARE Coordinator, the court, and the county health department. After receiving the report of the positive

pregnancy test, the court shall release the woman on her own recognizance, with non-monetary conditions, and under supervision, provided that the court determines that the pregnant woman does not pose a documented, immediate risk to public safety.

(2) If a woman reports that she is postpartum, the information shall be reported to the CARE Coordinator, the court, and the county health department. After confirming that the woman is postpartum, the court shall release the woman on her own recognizance, with non-monetary conditions, and under supervision, provided that the court determines that the postpartum woman does not pose a documented, immediate risk to public safety.

Section 4. (a)(1) When a pregnant or postpartum woman is either: (i) sentenced to a term of imprisonment; or (ii) in the custody of a county jail pending sentencing, the court may include a term of probation that shall be served pre-incarceration or pre-trial, provided that the court determines that the pregnant or postpartum woman does not pose a documented, immediate risk to public safety.

(2) The court may allow a pregnant or postpartum woman to be supervised on a pre-incarceration term of probation for the length of her pregnancy and for 12 months after the birth of her child. The woman shall report to the court for further guidance on the remainder of her sentence not later than 12 months after the birth of her child.

(3) The court shall order a woman released pursuant to Sections 2 through 6 of this act to surrender herself to the

Department of Corrections, the county jail, or the municipal jail, as applicable, 12 months after the birth of her child.

(b) The failure of a woman serving a pre-incarceration term of probation to surrender herself to the Department of Corrections, the county jail, or the municipal jail, as ordered by the court, after the birth of her child is a Class D felony.

(c)(1) The court shall not assess any fines, fees, restitution, or probation fees during a pre-incarceration term of probation served under Sections 2 through 6 of this act.

(2) Supervision for a pre-incarceration term of probation shall be conducted as follows:

a. By electronic monitoring administered by the board, the nature and extent of which shall be determined by the board on a case-by-case basis.

b. Through in-patient programming provided by the board's reentry facility, at the discretion of the director following the board's intake assessment.

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

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

(e) A pregnant or postpartum woman serving a pre-incarceration term of probation shall maintain perinatal health care, treatment, and assessments and participate in education and resource programs to the extent that they are

available in her community.

(f)(1) A pregnant woman serving a pre-incarceration term of probation shall report any pregnancy loss to her probation officer within 72 hours of the loss. The court shall have discretion to determine when a woman who loses a pregnancy during a pre-incarceration term of probation shall be required to surrender herself to the Department of Corrections, the county jail, or the municipal jail.

(2) Pregnancy loss shall be treated as a medical and mental health event.

Section 5. (a) The board shall designate a CARE Coordinator, who shall be an employee of the board, to oversee case review, release planning, and care coordination for women assigned a pre-incarceration term of probation pursuant to Sections 2 through 6 of this act. The duties of the CARE Coordinator shall include, but not be limited to, the following:

(1) Coordinating supervised probation for pregnant women and postpartum women with county jails and local courts.

(2) Providing support to women assigned to periods of pre-incarceration terms of probation pursuant to Sections 2 through 6 of this act.

(3) As necessary, referring women assigned to pre-incarceration terms of probation to behavioral health services, housing, and parental support resources.

(b) The board shall connect each pregnant woman or postpartum woman assigned a pre-incarceration term of probation pursuant to Sections 2 through 6 of this act to the

CARE Coordinator.

Section 6. (a) The board may adopt rules to implement and administer pre-incarceration terms of probation pursuant to Sections 2 through 6 of this act.

(b) The board shall maintain data on the number of women who are eligible for pre-incarceration terms of probation, the number of women who are enrolled in pre-incarceration terms of probation, the demographic data for those women, and the outcome of enrollment. No later than March 1 of each year, the board shall publish a report about the pre-incarceration terms of probation, including, but not limited to, the data required by this subsection. The board shall make the report publicly available on its website.

Section 7. Section 14-6-19.1, Code of Alabama 1975, is amended to read as follows:

"§14-6-19.1

(a) For purposes of this section, the following terms have the following meanings:

(1) CUSTODIAN. A warden, sheriff, jailer, deputy sheriff, police officer, or any other law enforcement officer.

(2) HEALTH CARE PROFESSIONAL. A physician as defined in Section 34-24-50.1, a licensed practical nurse or a licensed professional nurse as defined in Section 34-21-1, an advanced practice nurse as defined in Section 34-21-81, or an assistant to ~~physicians~~ physician as defined in Section 34-24-290.

(3) IMMEDIATE POSTPARTUM PERIOD. The ~~six-week~~ 12-week period following childbirth unless extended by a health care professional due to complications.

(4) OFFICER IN CHARGE. The individual who is responsible for the supervision of a penal institution.

(5) PENAL INSTITUTION. Any place of confinement for juvenile or adult individuals accused of, convicted of, or adjudicated for violating a law of this state or an ordinance of a political subdivision of this state.

(6) PREGNANT WOMAN. A juvenile or adult female who is in the first, second, or third trimester of pregnancy whose pregnancy has been verified by a pregnancy test as required by this section.

(b) During the initial intake medical screening, a female inmate shall inform the person conducting the screening if she is pregnant or suspects that she may be pregnant.

(c) If the female inmate informs the person conducting the screening that she suspects she may be pregnant, the female inmate shall be assessed for pregnancy by a urine pregnancy test within 72 hours of the initial medical intake screening, unless the female inmate refuses testing.

(d) A pregnant woman shall not be required to squat and cough during a strip search performed by a custodian, unless the custodian has reason to suspect that the pregnant woman is hiding contraband. In the alternative, a pregnant woman may be required to squat and cough during a strip search if the strip search is performed by a health care professional.

(e) A pregnant woman shall not be required to undergo any vaginal examination unless performed by a health care professional.

(f) Except as otherwise provided in this section, a

custodian shall not shackle or use any leg or waist restraint in any of the following situations:

(1) On any pregnant woman.

(2) During labor or delivery.

(3) During the immediate postpartum period.

(g) A woman who is pregnant or in the immediate postpartum period may only be restrained using leg or wrist handcuffs with her wrists held in front of her body~~,~~ and only if the custodian makes a determination that one of the following is true:

(1) The woman poses an immediate flight risk and cannot be reasonably contained by other means.

(2) The woman poses an immediate risk of harm to the unborn child, herself, staff, or others and cannot be reasonably contained by other means.

(h) If a custodian uses shackles or leg or wrist ~~handcuffs~~restraints on a woman who is in the immediate postpartum period under an exception provided in subsection (g), the custodian shall document the circumstances for and details of the exception ~~shall be documented within~~ not later than two days ~~of~~ after the incident. The information shall include the nature of the circumstances and the length of time ~~of the use of~~ the shackles or restraints were used. The officer in charge shall review the documentation ~~shall be reviewed by the officer in charge~~ and the penal institution shall retain the documentation ~~retained by the penal institution~~ for reporting purposes.

(i) Nothing in this section shall prohibit the use of

medical restraints by a licensed health care professional to ensure the medical safety of a pregnant woman.

(j) Nothing in this section shall prohibit the placement of a woman in a cell or hospital room by herself to ensure the medical safety of the unborn child, a pregnant woman, or a woman in the immediate postpartum period.

(k) If a custodian places a woman in a cell or hospital room by herself under the exception provided in subsection (j), the custodian shall document the circumstances for and details of the exception ~~shall be documented within~~ not later than two days ~~of~~ after the incident. The information shall include the nature of the circumstances and the length of time of the solitary confinement. The officer in charge shall review the documentation and ~~shall be reviewed by the officer in charge and retained by~~ the penal system shall retain the documentation for reporting purposes.

(l) A pregnant woman who is temporarily held in a county jail pending transfer to a state penal institution shall be transferred as expeditiously as possible.

(m) The Department of Corrections and a sheriff overseeing a county jail in which a pregnant woman is incarcerated shall make all reasonable efforts to facilitate her transfer. This subsection does not apply to a pregnant woman who has been sentenced to a county jail."

Section 8. This act shall become effective on October 1, 2026.