SENATE BILL 255

By: Senator West
Introduced and read first time: January 20, 2020
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Correctional Services – Pregnant Incarcerated Individuals – Substance Abuse Assessment and Treatment

FOR the purpose of requiring that a certain pregnant incarcerated individual be screened for substance use disorder at a certain time in a certain manner; requiring that a certain pregnant incarcerated individual be referred to certain health care providers for certain purposes at a certain time; requiring a certain correctional unit to ensure that a certain individual continues to receive certain medication in a certain manner under certain circumstances; requiring that a certain pregnant incarcerated individual be started on certain medication treatment at a certain time under certain circumstances; requiring that a certain pregnant incarcerated individual be allowed to decline or terminate certain medication treatment in a certain manner and be counseled on certain risks; requiring that certain correctional units follow the clinical guidance of certain organizations at certain times; requiring a certain correctional unit to arrange for certain health insurance coverage and follow–up health care for a certain pregnant incarcerated individual at a certain time; requiring that a certain pregnant incarcerated individual be provided with certain records at a certain time; defining certain terms; providing for the application of this Act; and generally relating to pregnant incarcerated individuals.

BY adding to

Article – Correctional Services
Section 9–601.2
Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Correctional Services

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PREGNANT INCARCERATED INDIVIDUAL” MEANS AN INCARCERATED INDIVIDUAL AT ANY STAGE OF PREGNANCY, LABOR, DELIVERY, OR THE 12–WEEK POSTPARTUM PERIOD.

(3) “REPRODUCTIVE HEALTH CARE PROVIDER” MEANS:

   (I) AN OBSTETRICIAN;

   (II) A GYNECOLOGIST;

   (III) A CERTIFIED NURSE MIDWIFE; OR

   (IV) A PHYSICIAN, NURSE PRACTITIONER, OR PHYSICIAN’S ASSISTANT WITH SPECIALIZATION IN TREATING PREGNANT PATIENTS.

(B) THIS SECTION APPLIES TO ALL CORRECTIONAL UNITS, AS DEFINED IN § 8–201 OF THIS ARTICLE.

(C) (1) A PREGNANT INCARCERATED INDIVIDUAL, REGARDLESS OF THE JURISDICTION OF CONFINEMENT OR THE LENGTH OF TIME THAT THE INDIVIDUAL IS EXPECTED TO BE AT THE CORRECTIONAL UNIT, SHALL BE SCREENED FOR SUBSTANCE USE DISORDER AT INTAKE USING A VALIDATED SCREENING TOOL.

   (2) A PREGNANT INCARCERATED INDIVIDUAL WHO HAS BOTH A POSITIVE PREGNANCY TEST AT INTAKE AND SCORES POSITIVE ON THE SUBSTANCE USE DISORDER SCREENING SHALL BE REFERRED IMMEDIATELY TO A BEHAVIORAL HEALTH CARE PROVIDER AND A REPRODUCTIVE HEALTH CARE PROVIDER FOR:

      (I) FULL ASSESSMENT;

      (II) COUNSELING ON ALL AVAILABLE AND RECOMMENDED TREATMENT OPTIONS; AND

      (III) IF CLINICALLY APPROPRIATE, THE INITIATION OR CONTINUATION OF MEDICATION.

(3) IF A PREGNANT INCARCERATED INDIVIDUAL WAS RECEIVING MEDICATION TREATMENT FOR OPIOID USE DISORDER PRIOR TO INCARCERATION
AND DESIRES TO CONTINUE THAT TREATMENT WHILE INSIDE THE CORRECTIONAL UNIT, THE CORRECTIONAL UNIT SHALL ENSURE THAT THE INDIVIDUAL CONTINUES TO RECEIVE THE SAME MEDICATION WITHOUT A BREAK IN CARE.

(4) A PREGNANT INCARCERATED INDIVIDUAL WITH OPIOID USE DISORDER WHO WAS NOT ON MEDICATION TREATMENT BEFORE INCARCERATION SHALL BE STARTED ON APPROPRIATE MEDICATION TREATMENT WHILE IN CUSTODY IF:

(I) THE TREATMENT IS RECOMMENDED; AND

(II) THE INDIVIDUAL CONSENTS TO THE TREATMENT.

(5) A PREGNANT INCARCERATED INDIVIDUAL FOR WHOM MEDICATION FOR THE TREATMENT OF OPIOID USE DISORDER IS INDICATED BUT WHO DECLINES THIS TYPE OF TREATMENT, OR WHO WOULD LIKE TO TERMINATE THE USE OF MEDICATION WHILE INCARCERATED, SHALL BE:

(I) ALLOWED TO DECLINE OR TERMINATE MEDICATION TREATMENT IN A TIMELY MANNER; AND

(II) COUNSELED ON THE RISKS ASSOCIATED WITH THE ACTION.

(6) ALL CORRECTIONAL UNITS SHALL FOLLOW THE CLINICAL GUIDANCE OF THE AMERICAN COLLEGE OF NURSE MIDWIVES OR THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS WHEN PROVIDING CARE TO PREGNANT INCARCERATED INDIVIDUALS.

(D) BEFORE releASING A PREGNANT INCARCERATED INDIVIDUAL, A CORRECTIONAL UNIT SHALL:

(1) CONTACT AND WORK WITH THE APPROPRIATE GOVERNMENT AGENCIES AND OTHER ENTITIES TO ARRANGE HEALTH INSURANCE COVERAGE FOR THE INDIVIDUAL, WITH COVERAGE TO BECOME EFFECTIVE NOT LATER THAN 24 HOURS AFTER RELEASE;

(2) REFER THE INDIVIDUAL TO A QUALIFIED REPRODUCTIVE HEALTH CARE PROVIDER THAT OFFERS SPECIALIZED SERVICES FOR PREGNANT AND POSTPARTUM INDIVIDUALS IN THE JURISDICTION OF THE INDIVIDUAL’S RESIDENCE TO CONTINUE PREGNANCY–RELATED HEALTH CARE; AND

(3) REFER THE INDIVIDUAL TO A COMMUNITY–BASED MENTAL HEALTH AND SUBSTANCE USE PROFESSIONAL FOR TREATMENT AND MEDICATION
CONTINUITY IN THE JURISDICTION OF RESIDENCE OF THE INDIVIDUAL.

(E) IMMEDIATELY ON RELEASE OR WITHIN NOT MORE THAN 10 CALENDAR DAYS AFTER RELEASE, A PREGNANT INCARCERATED INDIVIDUAL SHALL BE PROVIDED WITH A COMPLETE COPY OF THE INDIVIDUAL’S MEDICAL RECORDS, MENTAL HEALTH EVALUATIONS, ADDICTION EVALUATIONS, AND TREATMENT ASSESSMENTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.