



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

45 Calvert Street, Suite 7A, Annapolis, MD 21401
(443) 240-8696 • www.dpscs.maryland.gov

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OPERATIONS

VACANT
ASSISTANT SECRETARY

JENNIFER A. BESKID
DIRECTOR

BILL: HOUSE BILL 44

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill will require an incarcerated pregnant individual be screened for substance use disorder at intake, be referred to behavioral and reproductive health care providers, receive the same medication for substance use disorder they were receiving prior to incarceration, and ensure health insurance and medical records are provided upon release.

The Department operates the Division of Correction (DOC), the Division of Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).

- DOC operates 13 State correctional facilities housing offenders sentenced to periods of incarceration for 18 months and longer. The Maryland Correctional Institution for Women (MCI-W) houses the female sentenced population
- DPDS operates the Baltimore City Pretrial Complex which houses pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less. Baltimore Central Booking and Intake Center (BCBIC) houses female detainees.
- DPP supervises parolees, probationers and those on mandatory release from correctional facilities.

DPSCS has several concerns with the implementation and effect of the following provisions of HB 44 , specifically:

- **The bill uses the definition of “correctional unit” under Correctional Services Article § 8-201** which includes individuals who have been placed on parole, mandatory supervision, or probation, or have received a suspended sentence. Individuals under supervision are no longer under the care of the Division of Correction (DOC), but are under supervision with the Division of Parole and Probation (DPP). As returning citizens, pregnant women should receive medical care in the community. DPP Agents are not medical providers and are not equipped to administer medication, nor should they be.
- **HB 44 removes the DPSCS medical provider from making the most appropriate clinical decision for the pregnant incarcerated individual** as it requires the medical personnel to continue an individual on the SAME medication the individual was taking prior to incarceration. DPSCS medical providers have no knowledge of whether or not the pregnant individual was receiving appropriate medical care prior to incarceration and

cannot determine whether the medication the pregnant individual was taking prior is appropriate until a medical provider has made that determination.

- It should also be noted that a woman who was receiving medication in the community may have been receiving it without informing the provider that she was pregnant or even knowing herself that she was pregnant. Therefore, continuing her on the same dose she was receiving in the community may put her and the pregnancy at risk.
- The bill also allows a pregnant incarcerated individual to decline or terminate treatment. Allowing a pregnant incarcerated individual to decline or terminate medication treatment has unintended consequences. The health of the mother and pregnancy is of the utmost importance, and complications may arise when treatment is declined. Allowing an individual to decline or terminate medication should be made in consultation with a mental health provider.
- **HB 44 requires DPSCS to contact and work with government agencies to arrange health insurance coverage.** This requirement is not necessary as DPSCS has Medicaid Enrollment Specialists and works with Healthcare Access Maryland to enroll incarcerated individuals in Medicaid prior to release, but can only do so if the individual elects to participate. In FY 2022, DPSCS successfully enrolled over 2,500 individuals in Medicaid prior to release. Again, enrollment in Medicaid is voluntary and many individuals decline to be enrolled at intake.
- **HB 44 requires that pregnant incarcerated individuals shall be provided a complete set of their medical records at release or within 10 calendar days.** Currently, when an incarcerated individual is released, they are provided a Continuity of Care form that provides information on medications, medical history, ongoing treatments, follow-up appointments and clinical test notes. In addition, all pregnant females receive wrap-around services to ensure continuity of care, continuation of substance abuse treatment when indicated, and required prenatal care.
 - DPSCS will send a complete copy of an individual's medical record to a community health provider upon request.
 - Providing a complete set of medical records to the individuals upon release does not guarantee that they will reach a provider.

DPSCS provides robust care for pregnant incarcerated individuals, including:

- Upon intake, all incarcerated individuals and detainees receive an initial medical, mental health and substance use screening, conducted by a Registered Nurse or higher level health care staff, within 4 hours of entrance into the facility from the community. DPSCS has a 95% compliancy rating for conducting screenings within 4 hours of intake. For female offenders, the screening includes a pregnancy test.
 - Upon determination of pregnancy, a female offender is immediately enrolled in a prenatal program.

- A pregnant female offender is immediately referred to medical for a focused pregnancy evaluation
 - All pregnant individuals receive an initial medical and mental health screening at intake. **Positive screens for substance use disorder are referred to the Addiction Specialist for evaluation and treatment.**
- DPSCS has contracted with two substance use disorder providers that provide substance use disorder treatment services to the incarcerated population.
 - BCBIC has made significant progress in its efforts to implement all aspects of the State Opioid Examination and Treatment Program as required by HB 116 that passed in 2019; and
 - BCBIC operates a licensed, accredited Opioid Treatment Program offering Methadone, Buprenorphine and Naltrexone, as well as Substance Use Counseling services including group therapy.
- All pregnant individuals diagnosed with Substance Use Disorder are provided medication under the Opioid Therapy Program at BCBIC and MCI-W.
- The practices employed by the infirmary at MCI-W for the care of pregnant incarcerated individuals meet the evidence-based guidelines established by the American College of Obstetrics and Gynecology for care of safe performance of gynecology and obstetrics procedures, as prescribed under this bill.
- With two substance use disorders contracts in place to provide substance use disorder treatment to incarcerated individuals and the ongoing efforts to implement all aspects of the State Opioid Examination and Treatment Act of 2019 (HB116), legislation is not required to implement the provisions of this bill.
- DPSCS follows the Community of Care practices for the medical and mental treatment of ALL incarcerated individuals. Moreover, clinical practices and standards of care should be developed by certified clinicians and physicians within the medical field.

CONCLUSION: The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on House Bill 44.