

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 837
Judiciary

(Delegate Mireku-North, *et al.*)

Task Force to Study Forced Infant Separation From Incarcerated Individuals

This bill establishes the Task Force to Study Forced Infant Separation from Incarcerated Individuals. The Governor’s Office of Crime Prevention and Policy (GOCPP) must provide staff for the task force. The task force must (1) study specified information relating to pregnant and postpartum incarcerated individuals and forced infant separation; (2) make legislative recommendations regarding methods to reduce forced infant separation in the State and facilitate bonds between postpartum incarcerated individuals and their children; and (3) by December 31, 2026, report its findings and recommendations to the General Assembly. Task force members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations. **The bill takes effect July 1, 2025, and terminates June 30, 2027.**

Fiscal Summary

State Effect: General fund expenditures increase by \$55,500 in FY 2026 and by \$61,600 in FY 2027 for contractual staff to support the task force. No effect on revenues.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	55,500	61,600	0	0	0
Net Effect	(\$55,500)	(\$61,600)	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: The task force must study:

- the number of pregnant and postpartum incarcerated individuals in the State's prisons;
- the ability of the Division of Correction to create a space within the prerelease unit, when completed, for pregnant and postpartum incarcerated individuals;
- the impact of forced infant separation from the infant's mother;
- the best practices of other state correctional systems in handling (1) forced infant separation; (2) pregnant and postpartum incarcerated individuals; and (3) visitation between postpartum incarcerated individuals and their children; and
- any other issues that the task force considers relevant.

Current Law: If a representation is made to the managing official of a State correctional facility that an incarcerated individual in the facility is pregnant and about to give birth, the managing official must make an investigation and, if the facts require, recommend through the Maryland Parole Commission that the Governor exercise executive clemency. Without notice, the Governor may parole the incarcerated individual, commute the incarcerated individual's sentence, or suspend the execution of the incarcerated individual's sentence for a definite period or from time to time.

If the Governor suspends the execution of an incarcerated individual's sentence, the managing official of the correctional facility must, in a reasonable time before the anticipated birth, have the incarcerated individual transferred from the correctional facility to another facility that provides comfortable accommodations, maintenance, and medical care under supervision and safeguards that the managing official determines necessary to prevent the incarcerated individual's escape from custody. The managing official must also require the incarcerated individual to be returned to the correctional facility as soon after giving birth as the incarcerated individual's health allows.

Chapter 212 of 2014 requires that the medical professional responsible for the care of an incarcerated individual determines when the incarcerated individual's health allows the incarcerated individual to be returned to a correctional facility after giving birth.

If a representation is made to the managing official of a local correctional facility that an incarcerated individual in the custody of the managing official is pregnant, the managing official may (1) before the anticipated birth, have the incarcerated individual transferred from the local correctional facility to another facility that provides comfortable accommodations, maintenance, and medical care under supervision and safeguards that the managing official determines necessary to prevent the incarcerated individual's escape

from custody and (2) return the incarcerated individual to the local correctional facility as soon after giving birth as the incarcerated individual's health allows, as determined by the medical professional responsible for the care of the incarcerated individual.

Chapters 827 and 828 of 2018 require each State and local correctional facility to have a written policy in place regarding the medical care of pregnant incarcerated individuals, as specified. The managing official of a correctional facility must provide the required written policy to an incarcerated individual at the time of a positive pregnancy test result. The Maryland Commission on Correctional Standards must review each correctional facility's policy during regular inspections.

State Expenditures: GOCPP lacks the capacity to staff the task force with existing personnel and reports that it needs two full-time contractual positions to implement the bill. However, the Department of Legislative Services advises that the added responsibilities incurred by this legislation can be adequately performed by one contractual employee. Therefore, general fund expenditures for GOCPP increase by \$55,465 in fiscal 2026, which reflects the cost of hiring one full-time contractual employee to staff the task force (and assumes a 90-day start-up delay from the bill's July 1, 2025 effective date). It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1.0
Salary and Fringe Benefits	\$48,096
Operating Expenses	<u>7,369</u>
Total FY 2026 State Expenditures	\$55,465

Future year expenditures reflect (1) a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and (2) the termination of the contractual employee on June 30, 2027, consistent with the bill's termination date. Accordingly, there is no effect after fiscal 2027.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Any expense reimbursements for task force members are assumed to be minimal and absorbable within existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Governor's Office of Crime Prevention and Policy; Department of Public Safety and Correctional Services; Department of Legislative Services

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