



Department of Public Safety and Correctional Services

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BILL: SENATE BILL 190

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 of Public Safety and Correctional Services' (DPSCS) Division of Correction is responsible for operating 13 correctional facilities that house offenders sentenced to a period of incarceration for 18 months or longer. The Department also operates the Division of Pretrial Detention and Services, which houses pretrial detainees and inmates sentenced to incarceration for 18 months and less.
- The Maryland Correctional Institution for Women (MCI-W) houses the female sentenced population and the Baltimore Central Booking and Intake Center (BCBIC) houses female detainees.

DPSCS has several concerns with the implementation and effect of the following provisions of SB 190, 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 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 equipped to administer medication, nor should they be.
- **Section (C)(2) on page 2 of the bill** will require an incarcerated pregnant individual who has both a positive pregnancy test at intake and a positive score on a substance use disorder screening to be

referred to a behavioral health care provider; however, the behavioral health care provider is not clearly defined in the legislation.

- Given the transient nature of the detained population, a detainee may be released before a referral is made.
- **SB 190 removes the Department's medical provider from making the most appropriate clinical decision for the pregnant incarcerated individual** as it requires the Department's medical personnel to continue the individual on the same medication the individual was taking prior to incarceration. The Department has 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.
- To maintain the pregnant individual on the same drug she was receiving in the community would require a modification to the medical contract to include, at minimum, one Addiction Specialist medical doctor who has received their practitioner waiver to prescribe or dispense buprenorphine under the Drug Addiction Treatment Act of 2000 (DATA 2000) and patient limit increase. The estimated salary for an Addiction Specialist MD is **\$112.00 per hour** for a total of **\$232,960.00 per annum**.
- 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. The DOC is committed to providing all incarcerated individuals with appropriate medical care that is clinically recommended. In addition, if treatment is declined, counseling is provided on the risks associated with the action.
- SB 190 defines a pregnant incarcerated individual to include an individual who is within a 12-week postpartum period. The only way the Department would know if a pregnant individual was postpartum in the Division of Pretrial Detention and Services would be if she disclosed it during intake or throughout her detention.
- **SB 190 requires health insurance enrollment, but in actuality enrollment is voluntary and individuals may elect not to participate.** DPSCS does enroll incarcerated individuals in Medicaid prior to release, but can only do so if the individual elects to participate. Ensuring enrollment in a health care insurance plan,

other than Medicaid, and providing coverage within 24 hours of release is not feasible.

- **SB 190 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 includes a copy of their current medication list, which should be sufficient for the individual to continue with appropriate care. If the individual's community provider would like to have additional information, they can request the Department to provide it. This would ensure that the community provider receives the medical, mental health, addictions and assessment records.

DPSCS provides robust care for pregnant incarcerated individuals, including:

- Upon intake, all incarcerated individuals and detainees receive an initial medical and 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. The evaluation shall determine a history of substance abuse during the pregnancy, and most recent drug use.
 - All pregnant females with a history of opiate abuse will be assessed by a physician and the appropriate treatment plan initiated.
- Individuals eligible for methadone detoxification or methadone maintenance are referred to substance use specialists and enrolled in appropriate programs in accordance with established procedures. Enrollment occurs within twenty-four (24) hours of initial intake screening.
 - Methadone maintenance for pregnant women is an accepted best practice that has been used safely for years and has been widely researched.¹

¹ Jail-Based Medication-Assisted Treatment Promising Practices, Guidelines, and Resources for the Field, October 2018

- 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.
- DPSCS strives to enroll all incarcerated individuals in Medicaid prior to their release to ensure continuity of clinical care post-release. It should be noted that Medicaid enrollment is voluntary, so meeting the 24-hour deadline outlined in the bill is improbable. In addition, incarcerated individuals are connected to linkage of care programming within the community for assistance with housing, medical care, mental health care, community case management, and substance abuse treatment.
- Additionally, when a pregnant incarcerated individual is released, she is provided a Continuity of Care form that includes a copy of the current medication list, which should be sufficient for the individual to continue with appropriate community care. A community provider can request additional information by completing a Release of Information form, as is standard within the medical community.
- In closing, the Department follows the Community of Care practices for the treatment of all incarcerated individuals. 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 Senate Bill 190.