

HB0358S01 compared with HB0358

~~{deleted text}~~ shows text that was in HB0358 but was deleted in HB0358S01.

inserted text shows text that was not in HB0358 but was inserted into HB0358S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Candice B. Pierucci proposes the following substitute bill:

PREGNANT AND POSTPARTUM INMATE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amend provisions related to pregnant and postpartum inmates.

Highlighted Provisions:

This bill:

- ▶ provides that the Department of Corrections may not establish a nursery for a female inmate and the inmate's infant within a correctional facility;
- ▶ amends the Correctional Postnatal and Early Childhood Advisory Board;~~{~~

~~→ establishes guidelines for pregnant or postpartum inmates to enter community-based programming;}~~ and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~{26B-1-434, as enacted}~~ 63I-1-226 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329

63I-1-226 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332

63I-1-264, as enacted by Laws of Utah 2023, Chapter 420

64-13-46, as last amended by Laws of Utah 2023, Chapter 420

RENUMBERS AND AMENDS:

64-13-46.1, (Renumbered from 26B-1-434, as enacted by Laws of Utah 2023, Chapter 420)

REPEALS:

64-13-46.5, as enacted by Laws of Utah 2023, Chapter 420

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{26B-1-434}~~ 63I-1-226 (Superseded 07/01/24) is amended to read: 63I-1-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis

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Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.]

[(19)] (18) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[(20)] (19) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

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[(21)] (20) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[(22)] (21) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[(23)] (22) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[(24)] (23) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[(25)] (24) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[(26)] (25) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[(27)] (26) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[(28)] (27) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[(29)] (28) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

[(30)] (29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[(31)] (30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[(32)] (31) Section 26B-5-112.5 is repealed December 31, 2026.

[(33)] (32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[(34)] (33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[(35)] (34) Section 26B-5-120 is repealed December 31, 2026.

[(36)] (35) In relation to the Utah Assertive Community Treatment Act, on July 1,

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2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are

repealed.

[(37)] (36) In relation to the Behavioral Health Crisis Response Commission, on

December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[(38)] (37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[(39)] (38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[(40)] (39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[(41)] (40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[(42)] (41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[(43)] (42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 2. Section 63I-1-226 (Effective 07/01/24) is amended to read:

63I-1-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1,

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2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

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(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

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[(18)] Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[(19)] (18) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[(20)] (19) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[(21)] (20) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[(22)] (21) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[(23)] (22) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[(24)] (23) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[(25)] (24) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[(26)] (25) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[(27)] (26) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[(28)] (27) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[(29)] (28) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[(30)] (29) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[(31)] (30) Section 26B-5-112.5 is repealed December 31, 2026.

[(32)] (31) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

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~~[(33)]~~ (32) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

~~[(34)]~~ (33) Section 26B-5-120 is repealed December 31, 2026.

~~[(35)]~~ (34) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

~~[(36)]~~ (35) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

~~[(37)]~~ (36) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

~~[(38)]~~ (37) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

~~[(39)]~~ (38) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

~~[(40)]~~ (39) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

~~[(41)]~~ (40) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

~~[(42)]~~ (41) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 3. Section **63I-1-264** is amended to read:

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63I-1-264. Repeal dates: Title 64.

[Section 64-13-46.5, Correctional Facility Nursery, is repealed July 1, 2026].

Section 64-13-46.1, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2025.

Section 4. Section 64-13-46 is amended to read:

64-13-46. Pregnant inmates.

(1) As used in this section:

(a) "Postpartum recovery" means, as determined by the pregnant inmate's physician, the period immediately following delivery, including the entire period the inmate is in the hospital or health care facility after birth.

(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.

(c) (i) "Shackles" means metal restraints, including leg irons, belly chains, or a security or tether chain.

(ii) "Shackles" does not include hard metal handcuffs.

(2) Subject to Subsections (3) and (4), if the staff of a correctional facility knows or has reason to believe that an inmate is pregnant or is in postpartum recovery, the staff shall, when restraining the inmate at any time or location, use the least restrictive restraints necessary to ensure the safety and security of the inmate and others.

(3) A correctional staff member may not use restraints on an inmate during the third trimester of pregnancy, labor, or childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:

(a) an immediate and serious risk of harm to the inmate, the inmate's infant, medical staff, correctional staff, or the public; or

(b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

(4) Notwithstanding Subsection (3), under no circumstances may shackles, leg restraints, or waist restraints be used on an inmate during the third trimester of pregnancy, labor, childbirth, or postpartum recovery.

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(5) Correctional staff present during labor or childbirth shall:

(a) be stationed in a location that offers the maximum privacy to the inmate, while taking into consideration safety and security concerns; and

(b) be female, if practicable.

(6) If a correctional staff member authorizes restraints under Subsection (2) or (3), the correctional staff member shall make a written record of the authorization and use of the restraints that includes:

(a) an explanation of the grounds for the correctional staff member's authorization on the use of restraints;

(b) the type of restraints that were used; and

(c) the length of time the restraints were used.

(7) The record described in Subsection (6):

(a) shall be retained by the correctional facility for five years;

(b) shall be available for public inspection with individually identifying information redacted; and

(c) may not be considered a medical record under state or federal law.

(8) For a minimum of 48 hours after an inmate has given birth, a correctional facility shall, if directed by the inmate's physician, allow the infant to remain with the inmate at the health care facility.

(9) A correctional facility shall provide:

(a) an inmate who is pregnant, or who has given birth within the past six weeks, access to a social worker to help the inmate:

(i) arrange childcare;

(ii) establish a reunification plan; and

(iii) establish a substance abuse treatment plan, if needed; and

(b) an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the inmate's physician.

(10) The department may not create or operate a nursery in a correctional facility to provide space for a female inmate and the inmate's child.

Section 5. Section 64-13-46.1, which is renumbered from Section 26B-1-434 is renumbered and amended to read:

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26B-1-434. ~~Correctional~~ 64-13-46.1. Correctional Postnatal and Early Childhood Advisory Board -- Duties -- Rulemaking.

(1) As used in this part:

(a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.

(b) "Correctional facility" means a facility operated by the department or a county sheriff that houses inmates in a secure setting.

~~(b)~~ (c) "Incarcerated mother" means [the same as that term is defined in Section 64-13-46.5] an inmate who ~~gives~~:

(i) has recently given birth ~~after entering the department's custody~~ before entering a correctional facility;

(ii) is pregnant and incarcerated in a correctional facility; or

(iii) has given birth while incarcerated in a correctional facility.

(2) The advisory board shall consist of the following members:

(a) two individuals from the ~~Department of Corrections~~ department, appointed by the executive director ~~[of the Department of Corrections]~~;

(b) one individual appointed by the Board of Pardons and Parole; ~~and~~

~~(c) six~~

(c) one individual appointed by the president of the Utah Sheriffs' Association; and

~~(c)~~ (d) [six] four individuals appointed by the executive director ~~[of the department]~~ of the Department of Health and Human Services, including:

~~(i) two individuals from the department with experience in child care licensing;~~

~~(ii)~~ (i) two pediatric healthcare providers;

~~(iii)~~ (ii) one individual with expertise in early childhood development; and

~~(iv)~~ (iii) one individual with experience advocating for incarcerated women.

(3) (a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a four-year term.

(b) A member that is appointed to complete an unexpired term may complete the unexpired term and serve a subsequent four-year term.

(c) Appointments and reappointments may be staggered so that one-fourth of the advisory board changes each year.

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(d) The advisory board shall annually elect a chair and co-chair of the board from among the members of the board to serve a two-year term.

(4) The advisory board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

(5) A majority of the board constitutes a quorum and a vote of the majority of the members present constitutes an action of the advisory board.

(6) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The advisory board shall:

(a) review research regarding childhood development and best practices for ~~[infants placed in a nursery located within a secure correctional environment]~~ placing ~~an infant~~ ~~or~~ ~~infants and~~ incarcerated ~~mother~~ ~~mothers~~ in a diversion program not located in a ~~secure~~ ~~correctional~~ ~~environment~~ ~~facility~~;

~~[(b) as part of the advisory board's review of research under Subsection (7)(a), study the benefits of having a nursery for infants and incarcerated mothers located within a secure correctional environment and the benefits of placing an infant or incarcerated mother in a diversion program removed from a secure correctional environment;]~~

~~[(c)]~~ (b) study the costs of implementing a diversion program for infants and incarcerated mothers removed from a ~~secure correctional environment~~ ~~correctional facility~~;

~~[(d)]~~ (c) create a provisional plan for implementing a diversion program for infants and incarcerated mothers removed from a ~~secure correctional environment~~ ~~correctional facility~~;
and

~~[(e)]~~ (d) advise and make recommendations to the department ~~and county sheriffs~~ regarding rules and policies for ~~[any nursery established by the Department of Corrections to provide space for incarcerated mothers and infants.]~~ placing an infant or incarcerated mother in a diversion program not located in a ~~secure~~ ~~correctional~~ ~~environment~~ ~~facility~~.

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~~[(8) The advisory board, upon request from the Department of Corrections, may:]~~

~~[(a) after considering the specific circumstances of an infant and the infant's incarcerated mother, extend the age that qualifies the infant for a nursery under Subsection 64-13-46.5(2) up to 24 months old if:]~~

~~[(i) the extension is in the best interest of the infant; and]~~

~~[(ii) without the extension the infant would be separated from the incarcerated mother while the incarcerated mother remains in the correctional facility; or]~~

~~[(b) allow an incarcerated mother who has committed a violent felony to be provided space in a nursery if it is in the best interest of the incarcerated mother's infant.]~~

~~[(9)]~~ (8) On or before November 30, 2024, the advisory board shall provide a report of the advisory board's research and study under Subsections (7)(a) through ~~[(d)]~~ (c), including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Executive Offices and Criminal Justice Appropriations Subcommittee.

~~[(10) The department shall:]~~

~~[(a) after receiving recommendations from the advisory board under Subsection (7)(c), adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for certification of a nursery established in a secure correctional environment that address:]~~

~~[(i) the safety of the nursery for infants and incarcerated mothers;]~~

~~[(ii) the childhood development needs of the infants in the nursery;]~~

~~[(iii) the specific medical needs of the infants and incarcerated mothers in the nursery;]~~

~~[(iv) the appropriate needs of the incarcerated mothers in the nursery; and]~~

~~[(v) any other requirements recommended by the advisory board that the department deems necessary for the nursery; and]~~

~~[(b) certify that any nursery established by the Department of Corrections is in compliance with the rules established under this section before the nursery begins operations.]~~

~~[(11) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding corrective action, including closure of a nursery established by the Department of Corrections, if the Department of Corrections fails to comply with the rules established under this section.]~~

Section ~~{2. Section 63I-1-264 is amended to read:~~

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~~631-1-264. Repeal dates: Title 64.~~

~~[Section 64-13-46.5, Correctional Facility Nursery, is repealed July 1, 2026] Reserved.~~

~~Section 3. Section 64-13-46 is amended to read:~~

~~64-13-46. Pregnant inmates.~~

~~(1) As used in this section:~~

~~(a) "Postpartum recovery" means, as determined by the pregnant inmate's physician, the period immediately following delivery, including the entire period the inmate is in the hospital or health care facility after birth.~~

~~(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.~~

~~(c) (i) "Shackles" means metal restraints, including leg irons, belly chains, or a security or tether chain.~~

~~(ii) "Shackles" does not include hard metal handcuffs.~~

~~(d) "Violent felony" means the same as that term is defined in Section 76-3-203.5.~~

~~(2) Subject to Subsections (3) and (4), if the staff of a correctional facility knows or has reason to believe that an inmate is pregnant or is in postpartum recovery, the staff shall, when restraining the inmate at any time or location, use the least restrictive restraints necessary to ensure the safety and security of the inmate and others.~~

~~(3) A correctional staff member may not use restraints on an inmate during the third trimester of pregnancy, labor, or childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:~~

~~(a) an immediate and serious risk of harm to the inmate, the inmate's infant, medical staff, correctional staff, or the public; or~~

~~(b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.~~

~~(4) Notwithstanding Subsection (3), under no circumstances may shackles, leg restraints, or waist restraints be used on an inmate during the third trimester of pregnancy, labor, childbirth, or postpartum recovery.~~

~~(5) Correctional staff present during labor or childbirth shall:~~

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~~—— (a) be stationed in a location that offers the maximum privacy to the inmate, while taking into consideration safety and security concerns; and~~

~~—— (b) be female, if practicable.~~

~~—— (6) If a correctional staff member authorizes restraints under Subsection (2) or (3), the correctional staff member shall make a written record of the authorization and use of the restraints that includes:~~

~~—— (a) an explanation of the grounds for the correctional staff member's authorization on the use of restraints;~~

~~—— (b) the type of restraints that were used; and~~

~~—— (c) the length of time the restraints were used.~~

~~—— (7) The record described in Subsection (6):~~

~~—— (a) shall be retained by the correctional facility for five years;~~

~~—— (b) shall be available for public inspection with individually identifying information redacted; and~~

~~—— (c) may not be considered a medical record under state or federal law.~~

~~—— (8) For a minimum of 48 hours after an inmate has given birth, a correctional facility shall, if directed by the inmate's physician, allow the infant to remain with the inmate at the health care facility.~~

~~—— (9) A correctional facility shall provide:~~

~~—— (a) an inmate who is pregnant, or who has given birth within the past six weeks, access to a social worker to help the inmate:~~

~~—— (i) arrange childcare;~~

~~—— (ii) establish a reunification plan; and~~

~~—— (iii) establish a substance abuse treatment plan, if needed; and~~

~~—— (b) an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the inmate's physician.~~

~~—— (10) The department may transfer an inmate who is pregnant or has given birth within the past 24 months to a community-based program not located in a secure correctional environment and not operated by the department if:~~

~~—— (a) the inmate has not been convicted of, or has charges pending for, a violent felony, including attempt, solicitation, or conspiracy to commit a violent felony; and~~

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~~_____ (b) the community-based program:~~

~~_____ (i) is approved by the department and the Department of Health and Human Services;~~

~~_____ (ii) is aimed at rehabilitating inmates through community-based treatment and reentry services; and~~

~~_____ (iii) allows an inmate who has recently given birth, or an inmate who is about to give birth, to remain with the inmate's child in the same room of a designated residential facility or a half-way house until the child turns 36 months old.~~

~~_____ (11) The department may not create or operate a nursery in a correctional facility to provide space for a female inmate and the inmate's child.~~

~~_____ Section 4}6. Repealer.~~

This bill repeals:

Section 64-13-46.5, Correctional facility nursery.

Section {5}7. Effective date.

(1) ~~{This}~~Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-1-226 (Effective 07/01/24) take effect on July 1, 2024.