

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to arrest by law enforcement officers generally, so as to revise provisions relating  
3 to the arrests of pregnant women; to provide that women who have been arrested are offered  
4 pregnancy testing upon detention; to enact a provision regarding delayed sentencing for  
5 postpartum female inmates; to amend Article 1 of Chapter 1 of Title 42 of the Official Code  
6 of Georgia Annotated, relating to inmate policies, so as to revise provisions relating to the  
7 treatment of pregnant and postpartum female inmates; to provide for the reporting of certain  
8 information; to provide for a short title; to provide for related matters; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **PART I**  
12 **SECTION 1-1.**

13 This Act shall be known and may be cited as the "Georgia Women's Care (Child Care  
14 Alternatives, Resources, and Education) Act."

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## SECTION 1-2.

Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest by law enforcement officers generally, is amended by revising Code Section 17-4-26, relating to duty to bring persons arrested before judicial officer within 72 hours, notice to accused of time and place of commitment hearing, and effect of failure to notify, as follows:

"17-4-26.

(a) Every law enforcement officer arresting under a warrant shall exercise reasonable diligence in bringing the person arrested before the judicial officer authorized to examine, commit, or receive bail and in any event to present the person arrested before a committing judicial officer within 72 hours after arrest. The accused shall be notified as to when and where the commitment hearing is to be held. An arrested person who is not notified before the hearing of the time and place of the commitment hearing shall be released unless denied by the woman, submit to pregnancy testing protocols of the facility.

(b) Every woman arrested who is not released on bond within 72 hours of arrest shall, unless denied by the woman, submit to pregnancy testing protocols of the facility. Pregnancy testing shall include urine, blood, ultrasound scan, or other standard pregnancy testing protocols of the facility."

## PART II

### SECTION 2-1.

Article 1 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to inmate policies, is amended by revising Code section 42-1-11.3, relating to treatment of pregnant and postpartum female inmates, as follows:

"42-1-11.3.

(a) As used in this Code section, the term:

- 39 (1) 'Custodian' means warden, sheriff, jailer, deputy sheriff, police officer, or any other  
40 law enforcement officer.
- 41 (2) 'Immediate postpartum period' means the six-week period following childbirth,  
42 unless extended by a physician because of complications.
- 43 (3) 'Officer in charge' means the individual who is responsible for the supervision of a  
44 penal institution.
- 45 (4) 'Penal institution' means any place of confinement for juvenile or adult individuals  
46 accused of, convicted of, or adjudicated for violating a law of this state or an ordinance  
47 of a political subdivision of this state.
- 48 (5) 'Pregnant woman' means a woman whose pregnancy has been verified by a  
49 pregnancy test or through a medical examination conducted by a physician.
- 50 (6) 'Woman' means a juvenile or adult female who is confined in a penal institution.
- 51 (b) A pregnant woman shall not be required to squat or cough during a strip search  
52 conducted by a custodian during the second or third trimester of pregnancy.
- 53 (c) A pregnant woman shall not be required to undergo any vaginal examination unless  
54 prescribed and performed by a licensed health care professional.
- 55 (d)(1) Except as otherwise provided in this subsection and notwithstanding Code  
56 Section 42-5-58, a custodian shall not use handcuffs, waist shackles, leg irons, or  
57 restraints of any kind on a pregnant woman who is in the second or third trimester of  
58 pregnancy, in labor, or in delivery, or on a woman in the immediate postpartum period.
- 59 (2) A woman who is in the immediate postpartum period may only be restrained with the  
60 use of wrist handcuffs with her wrists held in front of her body and only if there are  
61 compelling grounds to believe that such woman presents:
- 62 (A) An immediate and serious threat of harm to herself, staff, or others; or  
63 (B) A substantial flight risk and cannot be reasonably contained by other means.
- 64 (3) If a custodian uses wrist handcuffs on a woman who is in the immediate postpartum  
65 period under an exception provided in paragraph (2) of this subsection, the circumstances

66 for and details of such exception shall be documented within two days of the incident.  
67 Such information shall include the nature of the circumstances and the length of time of  
68 such use of restraints. The documentation shall be reviewed by the officer in charge and  
69 retained by the penal institution for reporting purposes.

70 (4) Nothing in this subsection shall prohibit the use of medical restraints by a licensed  
71 health care professional to ensure the medical safety of a pregnant woman.

72 (e) A pregnant woman or woman who is in the immediate postpartum period shall not be  
73 placed in solitary confinement, in administrative segregation, or for medical observation  
74 in a solitary confinement setting; provided, however, that this shall not prevent the  
75 placement of such woman in a cell or hospital room by herself.

76 (f)(1) A pregnant woman who is convicted and sentenced to a period of confinement in  
77 a penal institution shall have such sentence deferred until 12 weeks post delivery, and  
78 during the deferred time, shall maintain perinatal health care, treatment, and assessments  
79 and shall participate in education and resource programs.

80 (2) Such assessments and treatments shall bring together community support services,  
81 licensed health care professionals, social programs, and local and state government  
82 agencies, including, but not limited to, nonprofit organizations, and the Department of  
83 Human Services.

84 (g) Commencing January 1, 2022, and annually thereafter, penal institutions shall report  
85 to the Department of Public Health the following:

86 (1) Data collected pursuant to subsection (f) of this Code section;

87 (2) Total number of women who were incarcerated;

88 (3) Total number of pregnant women; and

89 (4) Total number of women who declined deferred sentencing.

90 (h) The report provided pursuant to subsection (g) of this Code section shall exclude  
91 patient identifying information and shall be compliant with state and federal laws regarding

92 confidentiality including the requirements of the federal Health Insurance Portability and  
93 Accountability (HIPAA) of 1996.

94 (i) It is the intent of the General Assembly that a pregnant woman who is temporarily held  
95 in a county jail pending transfer to a state penal institution be transferred as expeditiously  
96 as possible. The Department of Corrections and a sheriff overseeing a county jail in which  
97 a pregnant woman is incarcerated shall make all reasonable efforts to facilitate such  
98 transfer. This subsection shall not apply to a pregnant woman who has been sentenced to  
99 a county jail by a judge."

100

**PART III**

101

**SECTION 3-1.**

102 All laws and parts of laws in conflict with this Act are repealed.