

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Buffy Wicks, Chair  
AB 923 (Quirk-Silva) – As Introduced February 19, 2025

Policy Committee: Public Safety

Vote: 6 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

**SUMMARY:**

This bill creates a rebuttable presumption against the incarceration of a pregnant or postpartum person and requires county jails to maintain data about pregnant people in jail custody.

Specifically, among other provisions, this bill:

- 1) Requires each county jail to maintain specified information about each pregnancy and pregnant person in jail custody, including the outcome of each birth, the gestational age and weight of each infant, the number and type of pregnancy complications experienced, the age and ethnicity of the pregnant person, and the crime for which the pregnant person is incarcerated.
- 2) Establishes a rebuttable presumption against the detention and incarceration of a pregnant or postpartum defendant if the defendant provides notice to the court and district attorney, as specified.
- 3) Requires a court to apply the rebuttable presumption of a pregnant or postpartum defendant when determining whether to issue bail or own-recognizance release, accept a diversion agreement, accept or continue a deferred entry of judgement, impose a sentence, or grant a stay of execution, as specified.
- 4) Requires staff to provide a pregnancy test upon request to a person who is arrested or in custody in a county jail or state prison and allow the person to take the pregnancy test within 24 hours after the request.
- 5) Allows a pregnant or postpartum defendant to raise the issue of their pregnancy or postpartum period at any time during their criminal proceedings or while serving a sentence, and requires notice to the district attorney if the issue is raised.
- 6) Requires a court to hold certain hearings related to a pregnant or postpartum defendant immediately or on an expedited basis, as specified.
- 7) Allows a pregnant or postpartum defendant to request a stay of execution by filing a written request to the court if the pregnant or postpartum defendant is detained or incarcerated in a county jail or state prison for any period of time through the end of the pregnancy or the postpartum period, and permits a court to order a stay of execution for an eligible defendant for any period of time through end of the pregnancy or postpartum period.

**FISCAL EFFECT:**

- 1) Costs (local funds, General Fund) to the counties of an unknown but likely significant amount to collect the required data, facilitate court appearances by pregnant incarcerated people, and to provide and process pregnancy tests on the timelines required by this bill. Workload to each county will depend on the size of the pregnant and postpartum incarcerated population in the county. General Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.
- 2) Possible costs (General Fund) to the California Department of Corrections and Rehabilitation (CDCR) to facilitate court appearances for pregnant people incarcerated in state prison. On average, fewer than ten people give birth while in CDCR custody each year, so these costs may not be significant. If a pregnant or postpartum person is released from CDCR custody under court order as a result of this bill, CDCR may also incur parole or other supervision costs, though these costs may be offset by savings from no longer incarcerating the person.
- 3) Costs (Trial Court Trust Fund, General Fund) to the courts of an unknown but potentially significant amount. This bill entitles a pregnant or postpartum arrestee, criminal defendant, or incarcerated person to additional, expedited court hearings. The bill also allows a pregnant or postpartum person to request a stay of execution of their sentence at any point during their incarceration, prompting a hearing by the court. It generally costs approximately \$1,000 to operate a courtroom for one hour. If the proceedings authorized by this bill result in more than 150 hours of court time statewide, total costs to the courts will exceed this committee's suspense threshold. Actual costs will depend on the number of hearings and stays requested and the amount of court time needed for each proceeding.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2024-25 state budget provides \$37.3 million ongoing General Fund to backfill declining revenue to the Trial Court Trust Fund.

**COMMENTS:**

- 1) **Purpose.** This bill is sponsored by RestoreHER U.S. America, an advocacy organization based in Georgia, which writes:

In California, the care provided to incarcerated pregnant individuals across jails, prisons, and youth facilities is glaringly insufficient, both in terms of policy and implementation... Particularly concerning is the impact of current practices on Black women, who face disproportionate challenges related to healthcare access, incarceration rates, and family separation. The prevailing inclination towards incarceration exacerbates these disparities and fails to address the root causes of recidivism. Diversion programs, stays of execution, and other forms of alternative sentencing present a more equitable and successful approach.

- 2) **Background.** State law specifies the pregnancy and postpartum care that must be provided to people incarcerated in jail facilities, but there is very little statewide or county-level data about the number of pregnant people incarcerated in county jails in California each year. In 2016, the ACLU, pursuant to the Public Records Act, attempted to gather data about pregnancy and reproductive care from county jails, but found the counties' data collection practices were inadequate. According to the ACLU's report:

Nearly all of the counties we surveyed (four out of five) tracked the number of pregnant people in custody but most could only provide that data for the most recent year and not the previous four years we requested. Only three of five counties partially tracked pregnancy outcomes (abortions and live birth). Two counties did not track outcomes at all. No counties tracked miscarriages or stillbirths.

While some county jail data practices may have changed since the ACLU's report, there are no state standards for the collection or maintenance of data about incarcerated pregnant people. The bill requires each county jail to maintain information about pregnancy in custody, including the number of pregnant incarcerated people in jail, demographic information about those people, and information about the outcomes of each pregnancy.

This bill also creates a legal presumption that a pregnant person (or a person who recently gave birth) should not be held in detention following an arrest or incarcerated following a criminal conviction. The bill allows a pregnant or postpartum person to request the court's consideration of their pregnancy at any point in their criminal case, including pre-trial, during trial, and after they have begun serving their sentence in county jail or state prison. The bill establishes court procedures for these matters, including requiring notice to the district attorney, expedited hearings to consider pregnancy-related issues, and providing that crime victims' right to be notified, attend, and be heard at specified hearings must be observed.

- 3) **Prior Legislation.** AB 2160 (McKinnor), was similar to this bill but did not require the county jail data collection described above. AB 2160 was held on this committee's suspense file.

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