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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To improve maternal health outcomes for incarcerated individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. PRESSLEY introduced the following bill; which was referred to the Committee on _____

A BILL

To improve maternal health outcomes for incarcerated individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Incarcer-
5 ated Moms Act of 2021”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the respect and proper care that birthing
9 people deserve is inclusive; and

1 I of the Omnibus Crime Control and Safe Streets Act of
2 1968 (34 U.S.C. 10151 et seq.) to States that have com-
3 plied with such subsection.

4 **SEC. 4. CREATING MODEL PROGRAMS FOR THE CARE OF**
5 **INCARCERATED INDIVIDUALS IN THE PRE-**
6 **NATAL AND POSTPARTUM PERIODS.**

7 (a) IN GENERAL.—Not later than 1 year after the
8 date of enactment of this Act, the Attorney General, act-
9 ing through the Director of the Bureau of Prisons, shall
10 establish, in not fewer than 6 Bureau of Prisons facilities,
11 programs to optimize maternal health outcomes for preg-
12 nant and postpartum individuals incarcerated in such fa-
13 cilities. The Attorney General shall establish such pro-
14 grams in consultation with stakeholders such as—

15 (1) relevant community-based organizations,
16 particularly organizations that represent incarcer-
17 ated and formerly incarcerated individuals and orga-
18 nizations that seek to improve maternal health out-
19 comes for pregnant and postpartum individuals from
20 racial and ethnic minority groups;

21 (2) relevant organizations representing patients,
22 with a particular focus on patients from racial and
23 ethnic minority groups;

1 (3) organizations representing maternity care
2 providers and maternal health care education pro-
3 grams;

4 (4) perinatal health workers; and

5 (5) researchers and policy experts in fields re-
6 lated to maternal health care for incarcerated indi-
7 viduals.

8 (b) **START DATE.**—Each selected facility shall begin
9 facility programs not later than 18 months after the date
10 of enactment of this Act.

11 (c) **FACILITY PRIORITY.**—In carrying out subsection
12 (a), the Director shall give priority to a facility based on—

13 (1) the number of pregnant and postpartum in-
14 dividuals incarcerated in such facility and, among
15 such individuals, the number of pregnant and
16 postpartum individuals from racial and ethnic mi-
17 nority groups; and

18 (2) the extent to which the leaders of such facil-
19 ity have demonstrated a commitment to developing
20 exemplary programs for pregnant and postpartum
21 individuals incarcerated in such facility.

22 (d) **PROGRAM DURATION.**—The programs established
23 under this section shall be for a 5-year period.

24 (e) **PROGRAMS.**—Bureau of Prisons facilities selected
25 by the Director shall establish programs for pregnant and

1 postpartum incarcerated individuals, and such programs
2 may—

3 (1) provide access to perinatal health workers
4 from pregnancy through the postpartum period;

5 (2) provide access to healthy foods and coun-
6 seling on nutrition, recommended activity levels, and
7 safety measures throughout pregnancy;

8 (3) train correctional officers to ensure that
9 pregnant incarcerated individuals receive safe and
10 respectful treatment;

11 (4) train medical personnel to ensure that preg-
12 nant incarcerated individuals receive trauma-in-
13 formed, culturally congruent care that promotes the
14 health and safety of the pregnant individuals;

15 (5) provide counseling and treatment for indi-
16 viduals who have suffered from—

17 (A) diagnosed mental or behavioral health
18 conditions, including trauma and substance use
19 disorders;

20 (B) trauma or violence, including domestic
21 violence;

22 (C) human immunodeficiency virus;

23 (D) sexual abuse;

24 (E) pregnancy or infant loss; or

25 (F) chronic conditions;

1 (6) provide evidence-based pregnancy and child-
2 birth education, parenting support, and other rel-
3 evant forms of health literacy;

4 (7) provide clinical education opportunities to
5 maternity care providers in training to expand path-
6 ways into maternal health care careers serving incar-
7 cerated individuals;

8 (8) offer opportunities for postpartum individ-
9 uals to maintain contact with the individual's new-
10 born child to promote bonding, including enhanced
11 visitation policies, access to prison nursery pro-
12 grams, or breastfeeding support;

13 (9) provide reentry assistance, particularly to—

14 (A) ensure access to health insurance cov-
15 erage and transfer of health records to commu-
16 nity providers if an incarcerated individual exits
17 the criminal justice system during such individ-
18 ual's pregnancy or in the postpartum period;
19 and

20 (B) connect individuals exiting the criminal
21 justice system during pregnancy or in the
22 postpartum period to community-based re-
23 sources, such as referrals to health care pro-
24 viders, substance use disorder treatments, and

1 social services that address social determinants
2 maternal of health; or

3 (10) establish partnerships with local public en-
4 tities, private community entities, community-based
5 organizations, Indian Tribes and tribal organizations
6 (as such terms are defined in section 4 of the Indian
7 Self-Determination and Education Assistance Act
8 (25 U.S.C. 5304)), and urban Indian organizations
9 (as such term is defined in section 4 of the Indian
10 Health Care Improvement Act (25 U.S.C. 1603)) to
11 establish or expand pretrial diversion programs as
12 an alternative to incarceration for pregnant and
13 postpartum individuals, including—

14 (A) evidence-based childbirth education or
15 parenting classes;

16 (B) prenatal health coordination;

17 (C) family and individual counseling;

18 (D) evidence-based screenings, education,
19 and, as needed, treatment for mental and be-
20 havioral health conditions, including drug and
21 alcohol treatments;

22 (E) family case management services;

23 (F) domestic violence education and pre-
24 vention;

1 (G) physical and sexual abuse counseling;
2 and

3 (H) programs to address social deter-
4 minants of health such as employment, housing,
5 education, transportation, and nutrition.

6 (f) IMPLEMENTATION AND REPORTING.—A selected
7 facility shall be responsible for—

8 (1) implementing programs, which may include
9 the programs described in subsection (e); and

10 (2) not later than 3 years after the date of en-
11 actment of this Act, and 6 years after the date of
12 enactment of this Act, reporting results of the pro-
13 grams to the Director, including information de-
14 scribing—

15 (A) relevant quantitative indicators of suc-
16 cess in improving the standard of care and
17 health outcomes for pregnant and postpartum
18 incarcerated individuals in the facility, including
19 data stratified by race, ethnicity, sex, gender,
20 age, geography, disability status, the category
21 of the criminal charge against such individual,
22 rates of pregnancy-related deaths, pregnancy-
23 associated deaths, cases of infant mortality and
24 morbidity, rates of preterm births and low-
25 birthweight births, cases of severe maternal

1 morbidity, cases of violence against pregnant or
2 postpartum individuals, diagnoses of maternal
3 mental or behavioral health conditions, and
4 other such information as appropriate;

5 (B) relevant qualitative and quantitative
6 evaluations from pregnant and postpartum in-
7 carcerated individuals who participated in such
8 programs, including measures of patient-re-
9 ported experience of care; and

10 (C) strategies to sustain such programs
11 after fiscal year 2026 and expand such pro-
12 grams to other facilities.

13 (g) REPORT.—Not later than 6 years after the date
14 of enactment of this Act, the Director shall submit to the
15 Attorney General and to the Congress a report describing
16 the results of the programs funded under this section.

17 (h) OVERSIGHT.—Not later than 1 year after the
18 date of enactment of this Act, the Attorney General shall
19 award a contract to an independent organization or inde-
20 pendent organizations to conduct oversight of the pro-
21 grams described in subsection (e).

22 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to carry out this section
24 \$10,000,000 for each of fiscal years 2022 through 2026.

1 **SEC. 5. GRANT PROGRAM TO IMPROVE MATERNAL HEALTH**
2 **OUTCOMES FOR INDIVIDUALS IN STATE AND**
3 **LOCAL PRISONS AND JAILS.**

4 (a) ESTABLISHMENT.—Not later than 1 year after
5 the date of enactment of this Act, the Attorney General,
6 acting through the Director of the Bureau of Justice As-
7 sistance, shall award Justice for Incarcerated Moms
8 grants to States to establish or expand programs in State
9 and local prisons and jails for pregnant and postpartum
10 incarcerated individuals. The Attorney General shall
11 award such grants in consultation with stakeholders such
12 as—

13 (1) relevant community-based organizations,
14 particularly organizations that represent incarcer-
15 ated and formerly incarcerated individuals and orga-
16 nizations that seek to improve maternal health out-
17 comes for pregnant and postpartum individuals from
18 racial and ethnic minority groups;

19 (2) relevant organizations representing patients,
20 with a particular focus on patients from racial and
21 ethnic minority groups;

22 (3) organizations representing maternity care
23 providers and maternal health care education pro-
24 grams;

25 (4) perinatal health workers; and

1 (5) researchers and policy experts in fields re-
2 lated to maternal health care for incarcerated indi-
3 viduals.

4 (b) APPLICATIONS.—Each applicant for a grant
5 under this section shall submit to the Director of the Bu-
6 reau of Justice Assistance an application at such time, in
7 such manner, and containing such information as the Di-
8 rector may require.

9 (c) USE OF FUNDS.—A State that is awarded a grant
10 under this section shall use such grant to establish or ex-
11 pand programs for pregnant and postpartum incarcerated
12 individuals, and such programs may—

13 (1) provide access to perinatal health workers
14 from pregnancy through the postpartum period;

15 (2) provide access to healthy foods and coun-
16 seling on nutrition, recommended activity levels, and
17 safety measures throughout pregnancy;

18 (3) train correctional officers to ensure that
19 pregnant incarcerated individuals receive safe and
20 respectful treatment;

21 (4) train medical personnel to ensure that preg-
22 nant incarcerated individuals receive trauma-in-
23 formed, culturally congruent care that promotes the
24 health and safety of the pregnant individuals;

1 (5) provide counseling and treatment for indi-
2 viduals who have suffered from—

3 (A) diagnosed mental or behavioral health
4 conditions, including trauma and substance use
5 disorders;

6 (B) trauma or violence, including domestic
7 violence;

8 (C) human immunodeficiency virus;

9 (D) sexual abuse;

10 (E) pregnancy or infant loss; or

11 (F) chronic conditions;

12 (6) provide evidence-based pregnancy and child-
13 birth education, parenting support, and other rel-
14 evant forms of health literacy;

15 (7) provide clinical education opportunities to
16 maternity care providers in training to expand path-
17 ways into maternal health care careers serving incar-
18 cerated individuals;

19 (8) offer opportunities for postpartum individ-
20 uals to maintain contact with the individual's new-
21 born child to promote bonding, including enhanced
22 visitation policies, access to prison nursery pro-
23 grams, or breastfeeding support;

24 (9) provide reentry assistance, particularly to—

1 (A) ensure access to health insurance cov-
2 erage and transfer of health records to commu-
3 nity providers if an incarcerated individual exits
4 the criminal justice system during such individ-
5 ual's pregnancy or in the postpartum period;
6 and

7 (B) connect individuals exiting the criminal
8 justice system during pregnancy or in the
9 postpartum period to community-based re-
10 sources, such as referrals to health care pro-
11 viders, substance use disorder treatments, and
12 social services that address social determinants
13 of maternal health; or

14 (10) establish partnerships with local public en-
15 tities, private community entities, community-based
16 organizations, Indian Tribes and tribal organizations
17 (as such terms are defined in section 4 of the Indian
18 Self-Determination and Education Assistance Act
19 (25 U.S.C. 5304)), and urban Indian organizations
20 (as such term is defined in section 4 of the Indian
21 Health Care Improvement Act (25 U.S.C. 1603)) to
22 establish or expand pretrial diversion programs as
23 an alternative to incarceration for pregnant and
24 postpartum individuals, including—

1 (A) evidence-based childbirth education or
2 parenting classes;

3 (B) prenatal health coordination;

4 (C) family and individual counseling;

5 (D) evidence-based screenings, education,
6 and, as needed, treatment for mental and be-
7 havioral health conditions, including drug and
8 alcohol treatments;

9 (E) family case management services;

10 (F) domestic violence education and pre-
11 vention;

12 (G) physical and sexual abuse counseling;
13 and

14 (H) programs to address social deter-
15 minants of health such as employment, housing,
16 education, transportation, and nutrition.

17 (d) PRIORITY.—In awarding grants under this sec-
18 tion, the Director of the Bureau of Justice Assistance
19 shall give priority to applicants based on—

20 (1) the number of pregnant and postpartum in-
21 dividuals incarcerated in the State and, among such
22 individuals, the number of pregnant and postpartum
23 individuals from racial and ethnic minority groups;
24 and

1 (2) the extent to which the State has dem-
2 onstrated a commitment to developing exemplary
3 programs for pregnant and postpartum individuals
4 incarcerated in the prisons and jails in the State.

5 (e) GRANT DURATION.—A grant awarded under this
6 section shall be for a 5-year period.

7 (f) IMPLEMENTING AND REPORTING.—A State that
8 receives a grant under this section shall be responsible
9 for—

10 (1) implementing the program funded by the
11 grant; and

12 (2) not later than 3 years after the date of en-
13 actment of this Act, and 6 years after the date of
14 enactment of this Act, reporting results of such pro-
15 gram to the Attorney General, including information
16 describing—

17 (A) relevant quantitative indicators of the
18 program’s success in improving the standard of
19 care and health outcomes for pregnant and
20 postpartum incarcerated individuals in the facil-
21 ity, including data stratified by race, ethnicity,
22 sex, gender, age, geography, disability status,
23 category of the criminal charge against such in-
24 dividual, incidence rates of pregnancy-related
25 deaths, pregnancy-associated deaths, cases of

1 infant mortality and morbidity, rates of preterm
2 births and low-birthweight births, cases of se-
3 vere maternal morbidity, cases of violence
4 against pregnant or postpartum individuals, di-
5 agnoses of maternal mental or behavioral health
6 conditions, and other such information as ap-
7 propriate;

8 (B) relevant qualitative and quantitative
9 evaluations from pregnant and postpartum in-
10 carcerated individuals who participated in such
11 programs, including measures of patient-re-
12 ported experience of care; and

13 (C) strategies to sustain such programs be-
14 yond the duration of the grant and expand such
15 programs to other facilities.

16 (g) REPORT.—Not later than 6 years after the date
17 of enactment of this Act, the Attorney General shall sub-
18 mit to the Congress a report describing the results of such
19 grant programs.

20 (h) OVERSIGHT.—Not later than 1 year after the
21 date of enactment of this Act, the Attorney General shall
22 award a contract to an independent organization or inde-
23 pendent organizations to conduct oversight of the pro-
24 grams described in subsection (c).

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$10,000,000 for each of fiscal years 2022 through 2026.

4 **SEC. 6. GAO REPORT.**

5 (a) IN GENERAL.—Not later than 2 years after the
6 date of enactment of this Act, the Comptroller General
7 of the United States shall submit to Congress a report
8 on adverse maternal and infant health outcomes among
9 incarcerated individuals and infants born to such individ-
10 uals, with a particular focus on racial and ethnic dispari-
11 ties in maternal and infant health outcomes for incarcer-
12 ated individuals.

13 (b) CONTENTS OF REPORT.—The report described in
14 this section shall include—

15 (1) to the extent practicable—

16 (A) the number of pregnant individuals
17 who are incarcerated in Bureau of Prisons fa-
18 cilities;

19 (B) the number of incarcerated individuals,
20 including those incarcerated in Federal, State,
21 and local correctional facilities, who have expe-
22 rienced a pregnancy-related death, pregnancy-
23 associated death, or the death of an infant in
24 the most recent 10 years of available data;

1 (C) the number of cases of severe maternal
2 morbidity among incarcerated individuals, in-
3 cluding those incarcerated in Federal, State,
4 and local detention facilities, in the most recent
5 10 years of available data;

6 (D) the number of preterm and low-birth-
7 weight births of infants born to incarcerated in-
8 dividuals, including those incarcerated in Fed-
9 eral, State, and local correctional facilities, in
10 the most recent 10 years of available data; and

11 (E) statistics on the racial and ethnic dis-
12 parities in maternal and infant health outcomes
13 and severe maternal morbidity rates among in-
14 carcerated individuals, including those incarcer-
15 ated in Federal, State, and local detention fa-
16 cilities;

17 (2) in the case that the Comptroller General of
18 the United States is unable determine the informa-
19 tion required in subparagraphs (A) through (C) of
20 paragraph (1), an assessment of the barriers to de-
21 termining such information and recommendations
22 for improvements in tracking maternal health out-
23 comes among incarcerated individuals, including
24 those incarcerated in Federal, State, and local deten-
25 tion facilities;

1 (3) causes of adverse maternal health outcomes
2 that are unique to incarcerated individuals, including
3 those incarcerated in Federal, State, and local deten-
4 tion facilities;

5 (4) causes of adverse maternal health outcomes
6 and severe maternal morbidity that are unique to in-
7 carcerated individuals from racial and ethnic minor-
8 ity groups;

9 (5) recommendations to reduce maternal mor-
10 tality and severe maternal morbidity among incar-
11 cerated individuals and to address racial and ethnic
12 disparities in maternal health outcomes for incarcer-
13 ated individuals in Bureau of Prisons facilities and
14 State and local prisons and jails; and

15 (6) such other information as may be appro-
16 priate to reduce the occurrence of adverse maternal
17 health outcomes among incarcerated individuals and
18 to address racial and ethnic disparities in maternal
19 health outcomes for such individuals.

20 **SEC. 7. MACPAC REPORT.**

21 (a) IN GENERAL.—Not later than 2 years after the
22 date of enactment of this Act, the Medicaid and CHIP
23 Payment and Access Commission (referred to in this sec-
24 tion as “MACPAC”) shall publish a report on the implica-
25 tions of pregnant and postpartum incarcerated individuals

1 being ineligible for medical assistance under a State plan
2 under title XIX of the Social Security Act (42 U.S.C.
3 1396 et seq.) that contains the information described in
4 subsection.

5 (b) INFORMATION DESCRIBED.—For purposes of
6 subsection (a), the information described in this sub-
7 section includes—

8 (1) information on the effect of ineligibility for
9 medical assistance under a State plan under title
10 XIX of the Social Security Act (42 U.S.C. 1396 et
11 seq.) on maternal health outcomes for pregnant and
12 postpartum incarcerated individuals, concentrating
13 on the effects of such ineligibility for pregnant and
14 postpartum individuals from racial and ethnic mi-
15 nority groups; and

16 (2) the potential implications on maternal
17 health outcomes resulting from suspending eligibility
18 for medical assistance under a State plan under
19 such title of such Act when a pregnant or
20 postpartum individual is incarcerated.

21 **SEC. 8. DEFINITIONS.**

22 In this Act:

23 (1) CULTURALLY CONGRUENT.—The term “cul-
24 turally congruent”, with respect to care or maternity
25 care, means care that is in agreement with the pre-

1 ferred cultural values, beliefs, worldview, language,
2 and practices of the health care consumer and other
3 stakeholders.

4 (2) MATERNITY CARE PROVIDER.—The term
5 “maternity care provider” means a health care pro-
6 vider who—

7 (A) is a physician, physician assistant,
8 midwife who meets at a minimum the inter-
9 national definition of the midwife and global
10 standards for midwifery education as estab-
11 lished by the International Confederation of
12 Midwives, nurse practitioner, or clinical nurse
13 specialist; and

14 (B) has a focus on maternal or perinatal
15 health.

16 (3) MATERNAL MORTALITY.—The term “mater-
17 nal mortality” means a death occurring during or
18 within a one-year period after pregnancy, caused by
19 pregnancy-related or childbirth complications, in-
20 cluding a suicide, overdose, or other death resulting
21 from a mental health or substance use disorder at-
22 tributed to or aggravated by pregnancy-related or
23 childbirth complications.

24 (4) PERINATAL HEALTH WORKER.—The term
25 “perinatal health worker” means a doula, commu-

1 nity health worker, peer supporter, breastfeeding
2 and lactation educator or counselor, nutritionist or
3 dietitian, childbirth educator, social worker, home
4 visitor, language interpreter, or navigator.

5 (5) POSTPARTUM AND POSTPARTUM PERIOD.—
6 The terms “postpartum” and “postpartum period”
7 refer to the 1-year period beginning on the last day
8 of the pregnancy of an individual.

9 (6) PREGNANCY-ASSOCIATED DEATH.—The
10 term “pregnancy-associated death” means a death of
11 a pregnant or postpartum individual, by any cause,
12 that occurs during, or within 1 year following, the
13 individual’s pregnancy, regardless of the outcome,
14 duration, or site of the pregnancy.

15 (7) PREGNANCY-RELATED DEATH.—The term
16 “pregnancy-related death” means a death of a preg-
17 nant or postpartum individual that occurs during, or
18 within 1 year following, the individual’s pregnancy,
19 from a pregnancy complication, a chain of events
20 initiated by pregnancy, or the aggravation of an un-
21 related condition by the physiologic effects of preg-
22 nancy.

23 (8) RACIAL AND ETHNIC MINORITY GROUP.—
24 The term “racial and ethnic minority group” has the
25 meaning given such term in section 1707(g)(1) of

1 the Public Health Service Act (42 U.S.C. 300u–
2 6(g)(1)).

3 (9) SEVERE MATERNAL MORBIDITY.—The term
4 “severe maternal morbidity” means a health condi-
5 tion, including mental health conditions and sub-
6 stance use disorders, attributed to or aggravated by
7 pregnancy or childbirth that results in significant
8 short-term or long-term consequences to the health
9 of the individual who was pregnant.

10 (10) SOCIAL DETERMINANTS OF MATERNAL
11 HEALTH DEFINED.—The term “social determinants
12 of maternal health” means non-clinical factors that
13 impact maternal health outcomes, including—

14 (A) economic factors, which may include
15 poverty, employment, food security, support for
16 and access to lactation and other infant feeding
17 options, housing stability, and related factors;

18 (B) neighborhood factors, which may in-
19 clude quality of housing, access to transpor-
20 tation, access to child care, availability of
21 healthy foods and nutrition counseling, avail-
22 ability of clean water, air and water quality,
23 ambient temperatures, neighborhood crime and
24 violence, access to broadband, and related fac-
25 tors;

1 (C) social and community factors, which
2 may include systemic racism, gender discrimi-
3 nation or discrimination based on other pro-
4 tected classes, workplace conditions, incarcer-
5 ation, and related factors;

6 (D) household factors, which may include
7 ability to conduct lead testing and abatement,
8 car seat installation, indoor air temperatures,
9 and related factors;

10 (E) education access and quality factors,
11 which may include educational attainment, lan-
12 guage and literacy, and related factors; and

13 (F) health care access factors, including
14 health insurance coverage, access to culturally
15 congruent health care services, providers, and
16 non-clinical support, access to home visiting
17 services, access to wellness and stress manage-
18 ment programs, health literacy, access to tele-
19 health and items required to receive telehealth
20 services, and related factors.