HB411

Q6MH551-1

By Representative Hollis

RFD: Judiciary

First Read: 04-Apr-24

SYNOPSIS:

Existing law does not allow a pregnant woman sentenced to incarceration to defer her sentence until after the birth of her child.

This bill would adopt the Alabama Women's Child Care Alternatives, Resources, and Education (CARE) Act.

This bill would provide that each woman, upon admission to a jail, shall inform the individual conducting her initial intake medical screening if she is pregnant or suspects she may be pregnant.

This bill would require each woman who informs the individual conducting her initial intake medical screening that she is or may be pregnant to be assessed for pregnancy with a urine pregnancy test within three days of her initial intake medical screening, unless she declines the testing.

This bill would require a woman who tests positive for pregnancy to be released on bail, provided that the court determines that the woman does not pose a significant threat.

This bill would provide that, if a woman is pregnant at the time she is sentenced to incarceration, the court shall include a term of pre-incarceration probation to be served until 12 weeks after the woman gives birth, provided that the court determines that

the woman does not pose a significant threat.

This bill would allow any pre-incarceration term of probation to be credited to the woman's sentence, and would provide that a pre-incarceration term of probation shall be served with certain electronic supervision and without payment of any fines.

This bill would require a woman serving a pre-incarceration term of probation to report the loss of her pregnancy to her probation officer and would give the court discretion as to when she should self surrender following the pregnancy loss.

This bill would also require a woman serving a pre-incarceration term of probation to self surrender 12 weeks after the birth of her child and provide that failure to surrender is a Class A misdemeanor.

A BILL

TO BE ENTITLED

AN ACT

Relating to incarceration; to adopt the Alabama Women's CARE Act; to provide for the pregnancy testing of certain women after admission to a jail; to provide for the supervised pre-incarceration probation of a pregnant woman in certain

circumstances; to provide for the self surrender of a woman serving a pre-incarceration term of probation 12 weeks after the birth of her child; to provide for criminal penalties for failure to surrender; and to provide procedures for if a woman loses her pregnancy while on pre-incarceration probation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Women's Child Care Alternatives, Resources, and Education (CARE) Act.

Section 2. (a) Each woman, upon admission to a jail, shall inform the individual conducting the initial intake medical screening if she is pregnant or suspects that she may be pregnant. If the woman informs the individual conducting the screening that she is pregnant or suspects she may be pregnant the woman shall be given a urine pregnancy test within three days of her initial intake medical screening, unless the woman declines testing. The results of the pregnancy test shall be used solely for the purpose of determining pregnancy.

(b) If a woman given a pregnancy test pursuant to subsection (a) tests positive for pregnancy, the result shall be reported to the court and the county health department. After receiving the report of the positive pregnancy test, the court shall release her on bail, provided that the court determines that the pregnant woman does not pose a significant threat or danger to any person, to the community, or to any property in the community.

Section 3. (a)(1) At the time of sentencing, when a

pregnant woman has been sentenced to a term of imprisonment, the court shall include a term of probation that shall be served pre-incarceration, provided that the court determines that the pregnant woman does not pose a significant threat or danger to any person, to the community, or to any property in the community.

(2) The court shall allow a pregnant woman to be supervised on a pre-incarceration term of probation for the length of her pregnancy and for 12 weeks after the birth of her child. The woman shall surrender herself to the Department of Corrections, the county jail, or the municipal jail, as applicable, 12 weeks after the birth of her child.

(b) Failure of a woman with a deferred sentence pursuant to this act to surrender herself to the Department of Corrections, county jail, or municipal jail 12 weeks after the birth of her child is a Class A misdemeanor.

(c)(1) A pre-incarceration term of probation to be served pursuant to this act shall be served without the payment of fines, fees, restitution, or probation fees.

(2) Supervision for a pre-incarceration term of probation shall be conducted by phone or other electronic communication.

(3) The court's jurisdiction during a pre-incarceration term of probation shall be the same as set forth in Chapter 22 of Title 15 of the Code of Alabama of 1975.

(d) Any time a pregnant woman spends on a pre-incarceration term of probation pursuant to this act shall

be credited to the woman's sentence or disposition.

(e) A pregnant woman serving a pre-incarceration term of probation shall maintain perinatal health care, treatment, and assessments and participate in education and resource programs to the extent that they are available in her community.

(f) A pregnant woman serving a pre-incarceration term of probation shall report any pregnancy loss to her probation officer within 72 hours of the loss. The court shall have discretion to determine when a woman who loses a pregnancy during a pre-incarceration term of probation shall surrender herself to the Department of Corrections, the county jail, or the municipal jail.

Section 4. This act shall become effective October 1, 2024.