House Bill 2535

Sponsored by Representative REYNOLDS; Representative NOSSE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Requires Department of Corrections to establish doula program for pregnant and postpartum adults in custody at Coffee Creek Correctional Facility. Specifies requirements of program and doula services that must be provided to pregnant adults in custody and during one-year postpartum period.

Prohibits shackling of adults in custody during labor, childbirth and postpartum recovery in hospital. Prohibits restrictions in movement that interfere with postpartum individual's ability to hold or nurse infant, establish milk supply or receive postpartum recovery care.

Prohibits pregnant persons or adults in custody who arrive at Department of Corrections facility from undergoing specified types of searches. Permits exceptions when determined and documented concern for safety or suspicion of contraband exists. Requires specified searches to be performed by health care professionals.

A BILL FOR AN ACT

Relating to pregnancy in correctional facilities.

Whereas, over the past several decades, the number of women incarcerated in the United States has increased nearly 650 percent, with over 200,000 women currently in a correctional facility; and

Whereas the United States Department of Justice estimates that between 5 and 10 percent of female adults in custody are pregnant at the time of incarceration; and

Whereas approximately 68,000 children in Oregon have or have had an incarcerated parent; and

Whereas, compared to women in the general population, pregnant incarcerated women have a higher risk of poor birth outcomes, including preterm birth (birth prior to 37 weeks of gestation) and small-for-gestational-age babies (below the 10th percentile for babies born at the same gestational age); and

Whereas incarceration impacts more than a mother's pregnancy in that the separation of incarceration causes a disruption in the parent-child bond, which can lead to insecure attachment and cause a variety of adverse outcomes; and

Whereas as many as 70 percent of young children with incarcerated mothers have emotional or psychological problems that can extend far into adulthood; and

Whereas pregnant incarcerated women often lack appropriate labor and delivery support and may find themselves restrained while in the hospital or in transport to or from the hospital; and

Whereas post-delivery mothers are given 24 to 48 hours or less of recovery time in the hospital to rest and bond with their newborns, often undergo an invasive cavity search upon return from the hospital and lack access to the physical and mental recovery resources necessary during their postpartum period; and

Whereas incarcerated mothers lack consistent and adequate lactation resources or ways to get breast milk to their infants; and

Whereas the success or failure of the criminal justice system to adequately respond to the needs of pregnant incarcerated women has important implications for their health and the health of their offspring; now, therefore,

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Department of Corrections shall establish a doula program for pregnant and postpartum adults in custody at the Coffee Creek Correctional Facility.

(2) The doula program must provide doula services to adults in custody who are pregnant or who have given birth in the last year. Persons providing doula services must be granted appropriate facility access, must be allowed to attend and provide assistance during labor and childbirth when feasible and must have access to the adult in custody's relevant health information if the adult in custody authorizes disclosure.

(3) The department must create and fill a pregnancy coordinator position at the Coffee Creek Correctional Facility. The pregnancy coordinator shall serve as a single point of contact for all persons providing doula services at the facility.

(4) Doula services are services provided by a trained doula that are designed to provide physical, emotional or informational support to a pregnant adult before, during and after delivery of a child. Doula services provided to adults in custody at the Coffee Creek Correctional Facility must include, but are not limited to:

(a) Prenatal, postpartum and parent education;
(b) Development of a trauma-informed and culturally specific birth plan for each pregnant adult in custody;
(c) In-person attendance by a doula at routine prenatal visits, ultrasound imaging appointments and lab testing appointments;
(d) Consultation and participation in the determination of the stages and progression of labor when determining the transport to a hospital or other delivery facility;
(e) Culturally specific and trauma-informed support and assistance during labor and childbirth and the postpartum period;
(f) Assistance with breastfeeding or milk expression after childbirth if requested by the adult in custody;
(g) Enrollment of the adult in custody in the breastfeeding program and in a breastmilk transportation program for delivery of the mother's milk to the infant, including facilitating access to a breast pump and pumping supplies; and
(h) Support in the event an adult in custody has been or will become separated from her child.

(5) Services provided under this section may not supplant health care services routinely provided to adults in custody.

(6) For each adult in custody who is being provided transport to a hospital for labor and delivery, the department transport officer shall have a checklist of the policies to be adhered to during the transport and a copy of the birth plan. Confirmation that established procedures were followed, or an explanation of any variance from the established procedures, must be included in an adult in custody's medical file.

(7) If it is not feasible for a doula to attend and provide assistance during the labor and delivery of an adult in custody, the reason for the lack of feasibility for a doula's attendance must be documented in the adult in custody's medical file and an alternative birth plan must be developed, implemented and documented in the medical file.

(8) The department may partner with community professionals who have been credentialed in their line of service, trained or otherwise have specific expertise to provide the doula services described in this section.
(9) As used in this section “postpartum period” means a period of one year following childbirth.

SECTION 2. An adult in custody may not be shackled during labor, childbirth or postpartum recovery in a hospital. The individual's movement may not be restricted in a way that interferes with the postpartum individual's ability to hold the infant, nurse the infant, establish a milk supply or receive specific postpartum recovery care from hospital staff, including lactation support.

SECTION 3. (1) A pregnant person or an adult in custody arriving in a Department of Corrections facility following childbirth shall not be required to undergo a search that involves the removal of clothing or an inspection of body cavities unless there is a determined concern for safety or suspicion of contraband.

(2) A search described in subsection (1) of this section must be documented, and the documentation must specify the reason for the search.

(3) A search described in subsection (1) of this section must be performed by a health care professional.