



# Pregnancy in Prison

## *Allowing doulas to serve incarcerated expectant mothers*

*“Although birth is only one day in the life of a woman, it has an imprint on her for the rest of her life.” - Justine Caines*

### Overview

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Incarcerated pregnant women have health care needs that must be addressed by the carceral and health system. Currently, there is a lack of clear and mandatory standards for providing prenatal and pregnancy care for women in prison. Women are likely to enter prison with a history of abuse, trauma, and mental health problems. The pre-existing health issues are aggravated within the prison environment. Incarcerated women, particularly pregnant women, face additional health risks when compared to women in the general population. Additionally, Black women are incarcerated at twice the rate of white women which contributes to the health disparity that exists between Black women and white women. Maternal health outcomes in the carceral system are further linked to the racial maternal health disparities present in the United States.

Given the racial disparities in incarceration rates, addressing this problem through the use of doulas is crucial to achieving racial justice and equity. Thus, it is essential to allow doulas to assist incarcerated birthing people in the state of Delaware in order to improve infant health, improve maternal health, and strengthen families.

### Problem

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Delaware has an incarceration rate of 756 per 100,000 people. The women’s prison population growth has **outpaced** men’s prison population growth in the state of Delaware.<sup>1</sup>

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<sup>1</sup> Sawyer, W., 2018. The Gender Divide: Tracking Women's State Prison Growth. [online] Prison Policy Initiative. Available at: <[https://www.prisonpolicy.org/reports/women\\_overtime.html](https://www.prisonpolicy.org/reports/women_overtime.html)> [Accessed 24 September 2021].

Women are likely to enter prison with a history of abuse, trauma, and mental health problems. In fact, about **70 percent of women** incarcerated in women's facilities suffer from some type of mental illness.<sup>2</sup> They are often arrested for behavior that is a product of living with mental illness and are simply unable to comply with bail and pretrial release requirements due to their financial situation or mental illness. The pre-existing health issues which are often attributed to economic conditions, substance abuse, and limited access to healthcare prior to incarceration are aggravated within the prison environment.

Incarcerated women, particularly pregnant women, face additional health risks when compared to women in the general population. Most incarcerated women are of reproductive age, and the majority have children.<sup>3</sup> According to the U.S. Bureau of Justice Statistics, 4 percent of women in federal prison and 3 percent of women in state prison are pregnant at the time of incarceration.<sup>4</sup>

Expectant mothers have unique needs that must be addressed by the carceral and health systems. Negligent correctional procedures can exacerbate pregnancy-related mental health disorders, which are disproportionately experienced by Black women.

Incarcerated expectant mothers are currently at **higher risk of experiencing low birth weight, preterm birth, gestational diabetes** and other health problems, in part due to nutritional deficits and limited access to prenatal care and information prison. Additionally, there is a current lack of clear and mandatory standards for prenatal and pregnancy care for incarcerated women.<sup>5</sup>

The Black community is particularly affected by the issues concerning infant mortality and mass incarceration. The **infant mortality rate** for the Black community is **twice** the mortality rate for the white community. **Black women** are clearly **overrepresented** in the criminal justice system, being incarcerated at **twice** the rate of white women.<sup>6</sup> This overrepresentation contributes to the health disparity that exists between Black women and white women. Maternal health outcomes in the carceral system are further linked to the racial maternal health disparities present in the United States.<sup>7</sup>

Furthermore, incarcerated people continue to suffer from poor health once released from prison. The New England Journal of Medicine found that the mortality rate among released

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<sup>2</sup> Ibid. 2018.

<sup>3</sup> Shlafer et al., 2014. Doulas' Perspectives about Providing Support to Incarcerated Women: A Feasibility Study. Public Health Nursing, 32(4), pp.316-326. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4281502/> [Accessed 24 September 2021].

<sup>4</sup> Maxwell, C. and Solomon, D., 2018. Mass Incarceration, Stress, and Black Infant Mortality. [online] The Center for American Progress. Available at: <https://www.americanprogress.org/issues/race/reports/2018/06/05/451647/mass-incarceration-stress-black-infant-mortality/> [Accessed 24 September 2021].

<sup>5</sup> Ibid. 2018

<sup>6</sup> Tribone, L., 2020. Filling the Maternal-Care Gap in Prison. [online] The American Prospect. Available at: <https://prospect.org/health/filling-the-maternal-care-gap-in-prison/> [Accessed 24 September 2021].

<sup>7</sup> Lambert, J., 2019. Pregnant Behind Bars: What We Do And Don't Know About Pregnancy And Incarceration. [online] Delaware Public Media. Available at: <https://www.delawarepublic.org/post/pregnant-behind-bars-what-we-do-and-dont-know-about-pregnancy-and-incarceration/> [Accessed 24 September 2021].

incarcerated people “**was 3.5 times** that among state residents of the same age, sex, and race.”<sup>8</sup>

The incarceration of mothers has profound consequences on future generations. Children who are separated from their mothers even from birth are more likely to end up in the foster care system and lack contact with their parents. Given the racial disparities in incarceration rates, addressing these issues regarding pregnancy in prisons through the use of doulas is crucial to achieving racial justice and equity.

## Policy Solutions

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It is essential to allow doulas to assist incarcerated birthing people in the state of Delaware in order to improve infant health, improve maternal health, and strengthen families.

Several States have created legislation addressing accessibility to doulas for expectant mothers in prison. While some legislation provides for State-funding, others only allow for non-profit agencies to provide such support. Additionally, some legislation is broad and generic and speaks to provision of support persons during and after pregnancy. While Minnesota and Oregon have expanded access to doula services across the board for pregnant Medicaid enrollees, most legislation currently requires incarcerated women to pay for doula care, limiting their impact and use. In the state of Delaware, postpartum and antepartum doula fees range from **\$25-\$45 per hour**.<sup>9</sup>

Women who received continuous intrapartum support by providers such as nurses, doulas, or midwives had shorter labors, were more likely to have spontaneous vaginal deliveries, and were less likely to request for epidurals, pain medication, and report dissatisfaction with their childbirth experiences. As such, doula-supported births have potential cost-savings, particularly among low-income women and reduce expenses for correctional facilities.

### Doulas' Perspectives about Providing Support to Incarcerated Women

A feasibility study that documents the logistical feasibility of a doula program for pregnant incarcerated women describes the implementation of a doula program in a Midwestern state prison.<sup>10</sup>

Pregnant women who wished to receive doula support were matched with a doula. A **doula met individually** with the expectant mother at least **twice** prior to her labor. These meetings took place in a private space in prison and involved **prenatal education, birth planning, and emotional support**. When an expectant mother was determined to be in active labor by prison medical staff, she was transferred to the local hospital. When the doula was notified of the transfer, they met their client at the hospital. They remained with their client **throughout labor and delivery, and during the postpartum period**. Most women remained in the hospital with their infants for 48-72 hours. On the second day, the doula called the hospital and inquired about the mother's expected discharge date and time. The doula then met her client at the hospital and provided support to her when she was separated from her infant.

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<sup>8</sup> Shlafer et al., 2014. Doulas' Perspectives.

<sup>9</sup> Delco Doula Birth Services. n.d. *FAQ*. [online] Available at: <<http://www.delcodoula.com/faq.html>> [Accessed 24 September 2021].

<sup>10</sup> Shlafer et al., 2014. Doulas' Perspectives.

# Model Legislation

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## State Level:

### Massachusetts<sup>11</sup>

*Pending legislation - not clear if the combination of the 2 Bills will mandate for Doula services in prison.*

- An Act to Ensure Compliance with the Anti-Shackling Law for Pregnant Incarcerated Women (S.1453)
  - This bill would provide a mechanism to ensure compliance with the previously enacted legislation prohibiting the use of shackling for pregnant incarcerated women.
- An Act Relative to Medicaid Coverage for Doula Services (H.4780, previously H.1182)
  - This bill would make doula services eligible for insurance coverage under both private insurance and MassHealth. Doulas would become eligible for coverage after completing requirements enumerated in the legislation

### California

- AB-1225 The Dignity for Incarcerated Women Act. (2021-2022)<sup>12</sup>
  - Does not mention, "doulas", but section within speaks of support options:
    - (b) An incarcerated person with a positive pregnancy test result shall be offered comprehensive and unbiased options counseling that includes information about prenatal health care, adoption, and abortion. This counseling shall be furnished by a licensed health care provider or counselor who has been provided with training in reproductive health care and shall be nondirective, unbiased, and noncoercive. Prison staff shall not urge, force, or otherwise influence a pregnant person's decision.
- AB-732 County jails: prisons: incarcerated pregnant persons. (2019-2020) (attached Bill prior to approval of Law)<sup>13</sup>
  - Note: Speaks of right to a "support person" and not specifically indicating a doula.

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<sup>11</sup> Massachusetts Commission on the Status of Women, 2020. Annual Report. Boston: Massachusetts Commission on the Status of Women, p.11. Available at: <[https://malegislature.gov/Reports/10037/SD3034\\_MCSW%202020%20Annual%20Report.pdf](https://malegislature.gov/Reports/10037/SD3034_MCSW%202020%20Annual%20Report.pdf)> [Accessed 24 September 2021].

<sup>12</sup> AB-1225 The Dignity for Incarcerated Women Act, Sess. 2020, (Cal. 2020), Available at: <[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB1225](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1225)> [Accessed 24 September 2021].

<sup>13</sup> AB-732 County jails: prisons: incarcerated pregnant persons, Sess. of 2020 (Cal. 2020), Available at: <[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB732](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB732)> [Accessed 24 September 2021].

## Federal Level:<sup>14</sup>

- H.R.7718 - Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act
  - Not passed yet: 2019-2020
  - Latest Action: Senate - 10/19/2020 Received in the Senate and Read twice and referred to the Committee on the Judiciary.

## Resources for More Information

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- <https://crosscut.com/2018/04/pregnant-prison-now-doulas-and-midwives-help>
- <https://www.refinery29.com/en-us/2015/04/85595/prison-doulas-giving-birth-behind-bars-true-story>
- <https://www.ancientsongdoulaservices.com/prison-doula-services>
- <https://www.ojp.gov/pdffiles1/nij/223168.pdf>
- <https://www.dona.org/prison-doulas/>
- <https://www.theatlantic.com/health/archive/2019/12/doulas-county-jail/603730/>
- <https://www.illinoisbirthjustice.org/women-pregnancy-doula-support>

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<sup>14</sup> H.R. 7718 - Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act, Sess. 2020 (U.S. 2020), Available at: <<https://www.congress.gov/bill/116th-congress/house-bill/7718/text>> [Accessed 24 September 2021].