



**Model Legislation:** Reporting on Incarceration Pregnancy and Postpartum Outcomes Act

**Summary:**

Across the United States, at least 1,200 admissions of pregnant people occur each year in prisons and jails, yet states lack consistent, standardized data on pregnancy outcomes and the provision of prenatal and postpartum care in custodial settings. Available national data capture only basic outcome counts and provide limited to no information on complications, access to care, delays in medical response, or continuity of care during and after pregnancy.

Where more detailed evidence does exist, it suggests significant gaps in care. National analyses have documented delayed medical response, lack of prenatal testing, inadequate nutritional support, and instances of childbirth occurring outside clinical settings. This state of affairs makes it difficult for states to evaluate compliance with existing standards of care or to identify preventable harms.

Recent state efforts to require pregnancy outcomes reporting, including legislation such as Ohio's House Bill 542, reflect a growing recognition that pregnancy outcomes in custody should be documented as part of routine correctional oversight. These laws establish an important baseline, but so far have not defined minimum data elements or reporting standards sufficient to evaluate quality of care.

This model legislation augments prior efforts, establishing a uniform framework for collecting and reporting de-identified pregnancy and postpartum data in custodial settings. The model bill specifies core definitions, minimum data elements, reporting standards, confidentiality protections, and independent review requirements to support oversight, comparability across facilities, and evidence-based policymaking.

## **SECTION 0. LEGISLATIVE FINDINGS AND PURPOSES**

In enacting this legislation, the [State] Legislature recognizes the need for accurate, standardized information to evaluate pregnancy-related care in custodial settings and to support responsible oversight of correctional health systems. Accordingly, the Legislature makes the following findings and declares the following purposes:

### **(a) Findings**

(1) There has never been a comprehensive or consistent system for tracking pregnancies and pregnancy outcomes in custodial settings across the United States, nor have states collected and made available the requisite data, limiting the ability to assess maternal and infant health outcomes behind bars.

(2) Federal data indicates that more than seven hundred pregnancies were recorded in U.S. prisons in 2023, the most recent year for which data are available, but existing datasets do not capture information on preterm delivery, cesarean rates, maternal complications, access to prenatal care, or postpartum follow-up.

(3) Independent analyses have found that a substantial proportion of pregnant individuals in custody do not receive prenatal testing or basic nutritional support, and that some individuals give birth without timely access to medical care.

(4) Reviews of jail births have documented elevated rates of infant mortality when delivery occurs outside clinical settings, often following delayed medical response or untreated infection.

(5) Outcome-only reporting does not provide sufficient information to determine whether adverse outcomes are attributable to medical risk, operational barriers, delayed care, or systemic failures within custodial health systems.

(6) Standardized, de-identified data collection is necessary to evaluate care delivery; identify gaps in prenatal, delivery, and postpartum services; and support evidence-based oversight while protecting individual privacy.

### **(b) Purposes**

(1) To require standardized collection and reporting of pregnancy and postpartum outcomes for individuals in custody.

(2) To define minimum data elements necessary to evaluate access to care, timeliness of medical response, continuity of care, and pregnancy-related complications in custodial settings.

(3) To ensure consistency and comparability of pregnancy-related data across facilities and jurisdictions.

(4) To protect confidentiality through de-identification and limitations on data use.

(5) To support transparent oversight through independent data quality review and annual public reporting of aggregated information.

(6) To facilitate appropriately protected research, public health analysis, and quality improvement using data collection under this Act.

## SECTION 1. DEFINITIONS

For purposes of this Act:

(1) “**Facility**” means any state prison, county jail, municipal jail, detention facility, or other custodial setting operated by or under contract with a state or local governmental entity.

(2) “**In custody**” means detained, incarcerated, or otherwise confined by a Facility, including during transport or hospitalization when the individual remains under custodial supervision [Or refer to existing definition of “In custody” from state law]

(3) “**Pregnant individual**” means any person in custody who is known to be pregnant based on self-report, clinical assessment, diagnostic testing, or medical documentation.

(4) “**Pregnancy outcome**” means the conclusion of a pregnancy, including live birth, stillbirth, miscarriage, abortion, ectopic pregnancy, or other medically documented outcome.

(5) “**Postpartum period**” means the period beginning at the conclusion of a pregnancy and extending for one year thereafter.

(6) “**Maternal complication**” means a medical condition related to pregnancy or the postpartum period, including hemorrhage, infection, hypertensive disorders, sepsis, and other conditions designated by rule.

(7) “**De-identified data**” means information de-identified in accordance with 45 C.F.R. § 164.514(a)-(c), or any other standard that provides greater protection.

(8) “**Lead agency**” means the state agency designated to administer and oversee implementation of this Act.

## **SECTION 2. STATEWIDE PREGNANCY OUTCOMES REPORTING SYSTEM**

(a) The Lead Agency, in coordination with the state health department, shall serve as the statewide data custodian and shall establish and maintain a uniform statewide system, including a data dictionary, collection and submission protocol, validation standards, and privacy and security safeguards, for pregnancy and postpartum data reported by Facilities.

(b) Each Facility shall report required data for each pregnancy known to the Facility during the reporting period.

(c) Reporting under this Act applies to individuals who are pregnant at intake, become pregnant while in custody, or experience a pregnancy outcome while under custodial supervision.

## **SECTION 3. REQUIRED DATA COLLECTION**

(a) Facilities shall report, at a minimum, the following categories of information, as applicable, for each pregnancy:

(1) Custody status and facility information, including:

- Facility type (e.g., jail, prison, detention center);
- Facility location;
- Custody designations at identification of pregnancy (e.g., low or medium security, pretrial or sentenced);
- Changes in custody status during pregnancy;
- Transfers between facilities during pregnancy, including dates and reasons.

(2) Identification of pregnancy and length of custody during pregnancy, including:

- Method of pregnancy identification (e.g., self-report, intake screening, medical testing);
- Gestational age at time of pregnancy identification;
- Date of entry into custody while pregnant;
- Total length of custody during pregnancy;
- Periods of release or transfer during pregnancy, where applicable.

(3) Access to prenatal care and number of prenatal encounters, including:

- Initial pregnancy confirmation visit;
- Routine prenatal visits;
- High-risk or specialty obstetric consultations;
- Diagnostic services, including ultrasound or laboratory testing;
- Missed, delayed, or cancelled prenatal appointments attributable to custody status or facility operations.

(4) Timeliness of medical response to pregnancy-related complaints, including but not limited to:

- Time elapsed between complaint and clinical evaluation;
- On-site assessment by medical personnel;
- Referral to off-site care or emergency services;
- Diagnostic testing conducted;
- Treatment provided or recommended;
- Instances where no clinical action was taken and the documented rationale.

(5) Nature of pregnancy-related complaints and nature of responses, including but not limited to:

- Vaginal bleeding, abdominal pain, or cramping;
- Symptoms of preeclampsia or hypertension;
- Signs of infection or fever;
- Decreased fetal movement;
- Labor-related symptoms;
- Mental health concerns related to pregnancy, including acute distress.

(6) Labor and delivery conditions, including but not limited to:

- Location of delivery;
- Presence of medical personnel during labor and delivery;
- Use of restraints, if any;
- Transfer to external medical facilities;
- Emergency interventions during labor or delivery.

(7) Pregnancy outcome and associated complications, including:

- Pregnancy outcome (e.g., live birth, miscarriage, stillbirth, termination);
- Gestational age at pregnancy outcome;
- Birth outcome indicators, where applicable (e.g., preterm birth, low birth weight);
- Maternal complications during pregnancy or delivery;
- Neonatal complications identified at birth or prior to discharge.

(8) Postpartum care and follow-up during custody, where applicable, including:

- Postpartum medical evaluation following delivery;
- Access to postpartum follow-up visits;
- Screening or treatment for postpartum complications;
- Mental health screening or services related to postpartum care;
- Continuity of care planning upon release or transfer, where applicable.

(9) Demographic information sufficient to assess disparities in care, including at minimum age at pregnancy identification, race, and ethnicity, using standardized categories established by the Lead agency.

(b) The Lead agency shall not eliminate or materially narrow the reporting categories specified in subsection (a), but may further define subcategories, formats, and validation standards through the data dictionary.

## **SECTION 4. REPORTING REQUIREMENTS**

(a) Facilities shall submit required data on a quarterly basis in an electronic format prescribed by the Lead agency.

(b) The Lead agency shall establish and implement validation procedures to assess completeness and consistency of submissions.

(c) Prior to submitting any report under this section, medical providers and reporting facilities shall ensure that any suspected substance exposure or related pregnancy outcome has been confirmed through appropriate confirmatory laboratory testing. Preliminary or screening test results shall not be used as the sole basis for reporting.

## **SECTION 5. CONFIDENTIALITY AND LIMITATIONS ON USE**

(a) All data collected under this Act shall be de-identified prior to submission.

(b) Data shall not be used for criminal investigation, prosecution, immigration enforcement, or disciplinary action related to pregnancy outcomes.

(c) Public reporting shall be limited to aggregated data and shall suppress or combine small cells and rare events as necessary to prevent re-identification.

(d) Record-level data submitted under this Act are confidential and exempt from disclosure under [state public records law]. The Lead Agency may disclose a record-level de-identified dataset for research, public health, or health care operations only pursuant to a written data use agreement that prohibits re-identification, unauthorized redisclosure, and any attempt to contact an individual.

## **SECTION 6. INDEPENDENT REVIEW AND PUBLIC REPORTING**

(a) The Lead agency shall provide for periodic independent review of data quality and reporting compliance.

(b) The Lead agency shall publish an annual public report detailing aggregated statewide data collected under this Act.

## **SECTION 7. RULEMAKING AND IMPLEMENTATION**

The Lead agency may promulgate rules necessary to implement this Act, including reporting standards, timelines, and data protection requirements.

## **SECTION 8. SEVERABILITY**

If any provision of this Act or its application is held invalid, such invalidity shall not affect other provisions or applications.

## **SECTION 9. EFFECTIVE DATE**

This Act shall take effect on [insert date].