

1 SENATE BILL 363

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Lisa A. Torraco

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10 AN ACT

11 RELATING TO INCARCERATED WOMEN; ENACTING THE EXPECTANT AND
12 POSTPARTUM PRISONERS ACT; PROVIDING FOR THE RELEASE OR FURLOUGH
13 OF WOMEN WHO ARE EXPECTING A CHILD OR LACTATING; REQUIRING
14 JAILS AND PRISONS TO ACCOMMODATE WOMEN WHO WISH TO PROVIDE
15 BREAST MILK FOR THE WOMAN'S CHILD.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
19 cited as the "Expectant and Postpartum Prisoners Act".

20 SECTION 2. [NEW MATERIAL] LEGISLATIVE FINDINGS--PURPOSE
21 OF ACT.--The legislature finds that pregnant and lactating
22 women who are detained in the state's prisons and jails, and
23 their children, have special needs and present particular
24 challenges to the administrators of the state's correctional
25 and detention facilities. The purpose of the Expectant and

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1 Postpartum Prisoners Act is to provide a framework for the care
2 and treatment of pregnant and lactating women who come under
3 the supervision of the state's prisons and jails and to support
4 the needs of newborn children and encourage family bonding.

5 SECTION 3. [NEW MATERIAL] RELEASE OF WOMEN WHO ARE
6 PREGNANT OR LACTATING.--

7 A. Courts, the corrections department, jail
8 administrators and county sheriffs shall take into account a
9 woman's pregnancy and lactation status when determining whether
10 she is eligible for release or bond, or in the computation of
11 earned meritorious deductions or good time credit. A
12 presumption shall be made in favor of release for a woman who
13 is pregnant or lactating, unless there is good cause to keep
14 the woman in a correctional setting.

15 B. A woman who is due to give birth shall be
16 released on alternative monitoring or granted furlough, if she
17 desires it, from incarceration in a prison or jail prior to the
18 presumptive birth date of her child and after the birth of her
19 child, unless a finding is made in court that the well-being of
20 the woman or her child would not be best served outside of a
21 correctional setting. A woman released pursuant to this
22 section shall be placed on the least restrictive conditions of
23 release necessary to ensure her return to custody for the
24 duration of her furlough. The conditions of release may
25 include electronic monitoring.

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SECTION 4. [NEW MATERIAL] BREAST MILK AND
BREASTFEEDING.--The secretary of corrections and the
administrators of the state's jails shall develop policies to:
A. allow for lactating prisoners to express milk
for the purpose of maintaining breast milk supply;
B. provide sanitary storage for a prisoner's breast
milk, if the woman desires the milk to be stored; and
C. allow for visits to enable breastfeeding of the
prisoner's child or allow for the timely collection of the
breast milk expressed by the prisoner for her child by the
prisoner's family or relatives or other designated individuals.

SECTION 5. TEMPORARY PROVISION--RECOMPILATION.--Section
33-1-4.2 NMSA 1978 (being Laws 2009, Chapter 73, Section 1) is
recompiled into the Expectant and Postpartum Prisoners Act.