

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 363

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

AN ACT

RELATING TO INCARCERATED WOMEN; ENACTING THE EXPECTANT AND
POSTPARTUM PRISONERS ACT; PROVIDING FOR THE RELEASE OF WOMEN
WHO ARE EXPECTING A CHILD OR LACTATING; REQUIRING JAILS AND
PRISONS TO DEVELOP POLICIES FOR LACTATING PRISONERS.

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

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

SECTION 2. [NEW MATERIAL] LEGISLATIVE FINDINGS--PURPOSE
OF ACT.--The legislature finds that pregnant and lactating
women who are detained in the state's prisons and jails, and
their children, have special needs and present particular
challenges to the administrators of the state's correctional
and detention facilities. The purpose of the Expectant and
Postpartum Prisoners Act is to provide a framework for the care

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1 and treatment of pregnant and lactating women who come under
2 the supervision of the state's prisons and jails, to provide
3 for better medical care for these women, to promote more
4 efficient use of the medical resources of the corrections
5 department and to support the needs of newborn children and
6 encourage family bonding.

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

9 A. The court shall take into account a woman's
10 pregnancy and lactation status when determining whether she is
11 eligible for release or bond and in the computation of good
12 time credit. A presumption shall be made in favor of release
13 for a woman who is pregnant or lactating.

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

25 C. As used in this section, "release" means a

1 temporary leave of absence from incarceration, after which, the
2 woman shall be remanded to custody to serve the duration of her
3 sentence.

4 SECTION 4. [NEW MATERIAL] BREAST MILK AND
5 BREASTFEEDING.--The secretary of corrections and detention
6 administrators shall develop policies for lactating prisoners
7 to express milk for the purpose of maintaining breast milk
8 supply.

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