

## PREGNANT AND PARENTING PRISONERS MUST BE TREATED HUMANELY

Rep. Wendy McKamey

*Incarcerated pregnant people and parents are often invisible:  
Montana can improve the lives of these vulnerable people and their children*

### CURRENT LAW

Montana law fails to ensure that incarcerated people who are pregnant or parenting (1) have access to routine prenatal care, (2) are not shackled during their pregnancy, and (3) can express breast milk to nourish their infant, if desired.

### THE ISSUES

*Incarcerated People Who are Pregnant Must be Offered Prenatal Care*

Incarcerated people have a constitutionally protected right to obtain appropriate medical care during pregnancy. Ensuring access to this fundamental right is not just legal requirement, it is also a commonsense reform essential to ensuring the health of the pregnancy. Children born to an incarcerated parent deserve to have a healthy start in life.

*Shackling During Pregnancy is Inhumane, Dangerous, and Provides no Public Safety Benefit*

- **Shackling is inhumane and increases potential for harm to the pregnant person and their fetus.** Shackling interferes with appropriate medical care during labor and delivery. During labor, obstetricians recommend the mother walks and moves around. Being restrained during labor and delivery is extremely uncomfortable and can undermine a safe delivery, especially in pregnancies with complications. In addition, a pregnant person's center of gravity is constantly changing, making them more likely to fall. Restraints increase the likelihood of injury from a fall.
- **Limiting the shackling of incarcerated pregnant people does not jeopardize the safety of correctional or medical staff.** In states that have restricted shackling of incarcerated pregnant people, there are no documented instances of incarcerated pregnant people escaping or causing harm to themselves, the public, corrections officers, or medical staff because they were not shackled.<sup>1</sup> This reality has been recognized by twenty-two states, Washington D.C., the Federal Bureau of Prisons, the U.S. Marshals Service, and the American Correctional Association, which have all adopted policies or laws to limit the use of shackles on incarcerated pregnant people. Furthermore, [The First Step Act](#) – signed by President Trump in December of 2018 – prohibits the shackling of incarcerated pregnant people, except in very rare cases.
- **Major medical organizations support restricting or banning shackling.** The American College of Obstetricians and Gynecologists, the American Medical Association, the American Public Health Association, and the American Psychological Association have all recognized that the practice of shackling incarcerated pregnant people is unnecessary and dangerous.

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<sup>1</sup> <http://journal.policy-perspectives.org/article/viewFile/18348/11884>

## *Incarcerated Parents Have a Right to Feed Their Newborns*

Breastfeeding provides many benefits to both the parent and the infant. The American Academy of Pediatrics and the American College of Obstetricians and Gynecologists recommend exclusive breastfeeding for the first 6 months of life when possible. Incarcerated parents who choose to breastfeed their infants should be able to either breastfeed their infant or express their milk so that it can be delivered to the infant.

### **THE SOLUTION**

This bill protects the health and safety of incarcerated people who are pregnant or parenting at all of Montana's detention facilities. **Specifically, the bill ensures:**

- The provision of adequate and routine prenatal care (including access to additional services for high-risk pregnancies, access to mental health counseling as appropriate, and dietary modifications/assurance of minimum caloric requirements when recommended by a qualified nutritionist);
- The banning of shackling during labor and delivery in all cases, and limiting the use of shackling during pregnancy only when the pregnant incarcerated person is an established flight risk;
- Incarcerated parents have the option to express breast milk for their child with the assurance that the detention facilities will transport the milk to the child. Alternative sentences (i.e. community-based programs) for parents of infants is the best way to strengthen the parent-child bond, but this bill is a step in the right direction.

### **GROUPS SUPPORTING THIS BILL**

As introduced, this bill enjoys the support of a large network of advocacy organizations and interest groups as well as bipartisan support from the Montana Legislature. Organizations in support of this bill include: ACLU of Montana, Disability Rights Montana, Montana Association of Christians, Montana Coalition Against Domestic and Sexual Violence, and Planned Parenthood.