REPORT ON LEGISLATION BY THE SEX & THE LAW, CHILDREN & THE LAW, CIVIL RIGHTS, AND CORRECTIONS & COMMUNITY REENTRY COMMITTEES

A.4879-A	**M. of A. Kelles**
S.4583-A	**Sen. Salazar**

AN ACT to amend the correction law, in relation to promoting the health, safety, and human rights of incarcerated pregnant individuals, incarcerated birthing parents of children and their children

Compassion and Reproductive Equity (CARE) Act

THIS BILL IS APPROVED

I. PURPOSE

The Sex & Law, Civil Rights, Children & the Law and Corrections & Community Reentry Committees of the New York City Bar Association support the enactment of the New York State Compassion and Reproductive Equity (CARE) Act (A.4879-A / S.4583-A).[1]

No child born behind bars and no pregnant individual or birthing parent should be denied basic medical care because of incarceration. Yet, in prisons and jails throughout the United States including those in New York, incarcerated pregnant and birthing individuals and their children are too often denied the standards of medical care available to non-incarcerated individuals and prescribed by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.[2] This legislation ensures basic prenatal and postpartum care and affirms fundamental human rights by establishing a comprehensive statutory medical care policy for incarcerated pregnant people and birthing parents. The legislation also provides essential pediatric medical care for infants born to incarcerated individuals, as well as the opportunity for children to

[1] N.Y. State Senate, *S4583 (2025–2026) Amendment A*, https://www.nysenate.gov/legislation/bills/2025/S4583/amendment/A and N.Y. State Assembly, *A4879 (2025–2026) Amendment A*, https://www.nysenate.gov/legislation/bills/2025/A4879/amendment/A. (All websites were last accessed May 6, 2026)

[2] Memorandum from N.Y. State Am. Acad. of Pediatrics on S. 4583-A/A. 1278-A (Apr. 2025) (on file with the N.Y. State Legislature); Am. Coll. of Obstetricians & Gynecologists, *Reproductive Health Care for Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals*, 138 Obstet. & Gynecology e24 (2021); Carolyn Kramer et al., *Maternal Health and Incarceration: Advancing Pregnancy Justice Through Research*, 13 Health & Just. 36 (2025).

About the Association
The mission of the New York City Bar Association, which was founded in 1870 and has over 20,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

benefit from essential prenatal nutrition, breastfeeding accommodations, and windowed nursery spaces for parent-child bonding. The CARE Act helps to rectify the crisis of medical neglect in New York's correctional system and brings the law into closer alignment with the recommendations of major medical associations, human rights practices, and equal protection guarantees for pregnant and birthing individuals under New York State's Constitution.

II. REASONS FOR SUPPORT

A. Remediating a Public Health Crisis in New York's Correctional Facilities

Access to basic medical care should not stop because of incarceration. Yet, there is a staggering public health crisis in the correctional system: nationally, over 45% of pregnant incarcerated women receive no prenatal care at all.[3] This lack of prenatal care significantly increases the likelihood of infant mortality, premature births and Neonatal Intensive Care Unit placements.[4] Poorer perinatal health behaviors inside prisons and jails compared to the general population leads to multigenerational physical, emotional and social negative outcomes.[5] The CARE Act prohibits New York's prisons and jails from depriving pregnant individuals and birthing parents of critical healthcare needed during pregnancy, delivery, and the postpartum period. Additionally, for newborns, access to both routine checkups and emergency medical care is critical. The Act requires that infant care in correctional facilities meets standards governed by major medical associations and that emergency care is provided via in-person or telehealth visits within two hours of reported infant distress. By requiring New York's correctional facilities to treat pregnancy and the post-partum period as medical priorities rather than as a security risk, this Act is an important step towards ending medical neglect that currently harms the health of infant children and their birthing parents in New York's correctional facilities.

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[3] Press Release, N.Y. State Senate, Sen. Salazar & N.Y. Senate Passage of CARE Act: Critical Prison Reform (May 14, 2025), https://www.nysenate.gov/newsroom/press-releases/2025/julia-salazar/sen-salazar-ny-senate-passage-care-act-critical-prison; Siobhan Guerrero et al., Nat'l P'ship for Women & Families, Incarceration Harms Moms and Babies (2021), https://nationalpartnership.org/report/incarceration-harms-moms-and-babies/. *See also* Camille Kramer et al., *Maternal Health and Incarceration: Advancing Pregnancy Justice Through Research*, 13 Health & Just. 36 (2025) (only about 50% of pregnant people in state prison and 46% of pregnant people in federal prison receive some form of prenatal care).

[4] Elizabeth R. Miller-Bedell et al., *Birth Outcomes of Individuals Who Have Experienced Incarceration During Pregnancy*, 45 J. Perinatology 600, 600–06 (2025).

[5] Robin D. Lee et al., *Recent Incarceration Exposure Among Parents of Live-Born Infants and Maternal and Child Health*, 138 Pub. Health Rep. 292 (2023), https://pmc.ncbi.nlm.nih.gov/articles/PMC10031842/; Alexander Testa et al., *Incarceration Exposure During Pregnancy and Maternal Disability: Findings from the Pregnancy Risk Assessment Monitoring System*, 22 BMC Pub. Health 744 (2022), https://pmc.ncbi.nlm.nih.gov/articles/PMC9009053/; Dora M. Dumont et al., *Incarceration, Maternal Hardship, and Perinatal Health Behaviors*, 18 Matern. Child Health J. 2179 (2014), https://pmc.ncbi.nlm.nih.gov/articles/PMC4161663/.

B. Closing Loopholes to End the Inhumane and Dangerous Use of Restraints on Pregnant and Birthing Individuals

Despite New York's 2009 ban on the shackling of pregnant and postpartum incarcerated individuals and subsequent 2015 legislation to promote compliance with the ban,[6] loopholes in the law allow these practices to persist in police stations and custodial settings. The CARE Act, in conjunction with A.1670-A/S.2667-A,[7] goes further to close loopholes and mandate an end to using restraints on pregnant individuals who are incarcerated in all custodial settings in New York during labor, delivery, and postpartum recovery. The Act provides prohibitions on the use of restraints during the transport of incarcerated pregnant individuals except for in very limited and extreme circumstances. Using restraints on pregnant people is not only physically dangerous but also directly opposes science-based guidelines. Restraints hinder the safe practice of medicine by clinicians and may risk the health of the fetus and pregnant person; restraints may reduce clinicians' ability to evaluate pregnant patients and fetuses, especially during obstetric emergency situations.[8] The routine use of restraints on pregnant incarcerated persons is opposed by the American Medical Association, the American College of Obstetricians and Gynecologists, the National Commission on Correctional Health Care, the Association of Women's Health, Obstetric and Neonatal Nurses, and the United Nations Committee Against Torture.[9] By helping to close loopholes that allow for the dangerous use of unnecessary restraints, the CARE Act promotes the human rights, health, and safety of incarcerated pregnant people, birthing parents, and their children.

C. Mitigating Cycles of Generational Trauma

People who are detained in jail or imprisoned during pregnancy are forced to receive care in a system that is designed to punish. With an estimated more than 90% of incarcerated women having experienced some form of childhood trauma such as sexual or physical violence,[10] the conflict between care and punishment causes additional traumatic experiences during pregnancy and birth while incarcerated. The CARE Act seeks to break these harmful patterns in line with recommendations set forth by the American Academy of Pediatrics[11] and the American College of

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[6] Letter from N.Y.C. Bar Ass'n to Andrew Cuomo, Governor of N.Y., in Support of Legislation to Strengthen Protections Preventing the Shackling of Incarcerated Pregnant Women (Oct. 9, 2015), https://www.nycbar.org/reports/letter-in-support-of-legislation-to-strengthen-protections-preventing-the-shackling-of-incarcerated-pregnant-women.

[7] The Sex & Law, Civil Rights and Children & the Law Committees have issued a simultaneous report in support of the passage of A.1670-A/S.2667-A, which provides more robust protections for incarcerated persons who are pregnant, in labor or delivery, or postpartum, see here https://www.nycbar.org/reports/supporting-legislation-to-end-the-use-of-restraints-and-force-on-pregnant-and-postpartum-incarcerated-individuals/.

[8] Am. Coll. of Obstetricians & Gynecologists, *Reproductive Health Care for Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals*, 138 Obstet. & Gynecology e24 (2021).

[9] *Id.*

[10] Council on Criminal Justice, *Women's Justice: A Preliminary Assessment of Women in the Criminal Justice System*, Council on Crim. Just. (July 9, 2024), https://counciloncj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system/.

[11] Memorandum from N.Y. State Am. Acad. of Pediatrics on S. 4583-A/A. 1278-A (Apr. 2025) (on file with the N.Y. State Legislature).

Obstetricians and Gynecologists,[12] providing: psychological services, substance abuse treatment, prenatal vitamins and proper nutrition, doula support, appropriate exercise possibilities, required prenatal and postpartum medical coverage, required medical coverage for children born to incarcerated parents, the opportunity to breastfeed children and the right for children to remain with their parents in a windowed nursery setting, thereby helping to mitigate, rather than exacerbate, generational trauma.

D. Protecting the Most Vulnerable Children

Incarcerated pregnant people are more likely to have pre-existing conditions compared to pregnant people in the general population.[13] Consequently, children born to incarcerated people face a heightened need for comprehensive pediatric care following birth. Besides providing critical prenatal nutrition and care to the birthing parent, the CARE Act mandates medical care for children born to incarcerated parents in line with guidelines supported by the American Academy of Pediatrics.[14]

Additionally, it is well documented that post-birthing bonding time is critically important for infants to develop the cognitive and physical resilience necessary to thrive.[15] Moreover, breastfeeding advances long-term parent-child bonding and benefits the physical and psychological health of both newborns and birthing parents.[16] Medical professional organizations recommend that infants are breastfed through six months or more after birth; continued milk

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[12] Am. Coll. of Obstetricians & Gynecologists, *Reproductive Health Care for Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals*, 138 Obstet. & Gynecology e24 (2021).

[13] R Kasturi Rajagopal et al., *Reproductive Health Care for Incarcerated People: Advancing Health Equity in Unequitable Settings*, 66 Clin. Obstet. & Gynecol. 73 (2023), doi.org; *Care Coalition Meeting*, New Hour for Women and Children LI (Apr. 11, 2026), https://newhourli.org/news-events/event-calendar.html/event/2026/03/11/1773248400/care-coalition-meeting. *See also* C. Amanda Hendricks et al., *Mental Health, Chronic and Infectious Conditions Among Pregnant Persons in US State Prisons and Local Jails 2016-2017*, 20 Women's Health 1 (2024), https://pmc.ncbi.nlm.nih.gov/articles/PMC10929028/, (approximately 50% of incarcerated individuals in women's prisons and jails have a history of a chronic medical condition).

[14] Memorandum from N.Y. State Am. Acad. of Pediatrics on S. 4583-A/A. 1278-A (Apr. 2025) (on file with the N.Y. State Legislature).

[15] *Positive Parenting Tips: Infants (0-1 Year), Ctrs. for Disease Control & Prevention* (last reviewed May 15, 2024), https://www.cdc.gov/child-development/positive-parenting-tips/infants.html (noting that a baby's bonds with parents in the first year of life set the foundation for their future interactions and development); see also Care Coalition Meeting, New Hour for Women and Children LI (Apr. 11, 2026), https://newhourli.org/news-events/event-calendar.html/event/2026/03/11/1773248400/care-coalition-meeting; Ankita Modak et al., The Psychological Benefits of Breastfeeding: Fostering Maternal Well-Being and Child Development, 15 Cureus 1 (2023), doi.org.

[16] Camille Kramer et al., *Maternal Health and Incarceration: Advancing Pregnancy Justice Through Research*, 13 Health & Just. 36 (2025); Nat'l Comm'n on Corr. Health Care, *Breastfeeding in Correctional Settings* (rev. 2023), https://ncchc.org/position-statements/breastfeeding-in-correctional-settings-2023/; *Abstracts from the Academy of Breastfeeding Medicine 26th Annual International Meeting*, 16 Breastfeeding Med. S-1 (2021), doi.org; Ankita Modak et al., *The Psychological Benefits of Breastfeeding: Fostering Maternal Well-Being and Child Development*, 15 Cureus 1 (2023), doi.org.

supply requires that the birth parents are given the opportunity to express breast milk regularly through direct feeding of their children or other methods such as pumping their milk.[17]

Forced separation of newborns from their birth parents for nonmedical reasons due to policies and practices of incarceration facilities are punitive, medically unnecessary, and have long-lasting negative impacts on parent-child bonding, breastfeeding and psychological health.[18] The CARE Act creates the opportunity for parent-child bonding during this critical time through windowed nursery access, breastfeeding support and other infant care opportunities, thereby promoting greater safety and protection for infants during the critical stages of development to which all children are entitled, regardless of their parents' incarceration status.

E. Addressing Racial and Socioeconomic Disparities

The number of incarcerated people in women's prisons and jails increased by over 600% between 1980 and 2023.[19] People of color are disproportionately affected. For instance, in 2023, Black women were incarcerated at 1.7 times the rate and Latinx/Hispanic women were incarcerated at 1.2 times the rate of white women.[20] In New York City jails, this disparity is also pronounced; in 2019 for instance, only 19% of women in pretrial admissions identified as white, while 52% identified as Black and 28% identified as Latinx.[21]

Racism and racial inequities in medical care and outcomes impact reproductive health for all people, including people in New York's jails and prisons.[22] Because Black and Latinx individuals are disproportionately incarcerated, the CARE Act is a critical step in addressing longstanding racial and socioeconomic disparities within the family regulation system, prenatal and infant medical care, and birthing parent-infant health outcomes.

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[17] *Nat'l Comm'n on Corr. Health Care, Breastfeeding in Correctional Settings (rev. 2023),* https://ncchc.org/position-statements/breastfeeding-in-correctional-settings-2023/; *Abstracts from the Academy of Breastfeeding Medicine 26th Annual International Meeting, 16 Breastfeeding Med. S-1 (2021), doi.org.*

[18] Am. Coll. of Obstetricians & Gynecologists, Comm. Opinion No. 827, Reproductive Health Care for Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals (2021), https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/07/reproductive-health-care-for-incarcerated-pregnant-postpartum-and-nonpregnant-individuals.

[19] Kristen M. Budd et al., Incarcerated Women and Girls, THE SENTENCING PROJECT (July 2024), https://www.sentencingproject.org/fact-sheet/incarcerated-women-and-girls/.

[20] *Id.*

[21] "Women in DOC: A Five-Year Analysis (2014-2018)" is DATA COLLABORATIVE FOR JUST., WOMEN IN DOC: A FIVE-YEAR ANALYSIS (2014–2018) (2021), https://datacollaborativeforjustice.org/wp-content/uploads/2021/07/2021_07_09_DOC_Women_Analysis_FINAL.pdf.

[22] Am. Coll. of Obstetricians & Gynecologists, Comm. Opinion No. 827, Reproductive Health Care for Incarcerated Pregnant, Postpartum, and Nonpregnant Individuals (2021), https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/07/reproductive-health-care-for-incarcerated-pregnant-postpartum-and-nonpregnant-individuals.

F. Rectifying Violations of Equal Rights Protections under the New York State Constitution

The CARE Act serves to help align New York's treatment of incarcerated people who are pregnant with the New York State Constitution's Equal Rights Amendment (NY ERA), which explicitly bars discrimination based on "pregnancy, pregnancy outcome, and reproductive healthcare and autonomy."[23] By ensuring access to essential reproductive medical care that pregnant and postpartum people need, this legislation would lessen the harms of medical neglect during incarceration that uniquely penalize pregnant individuals in violation of these constitutional protections. Accordingly, the CARE Act helps to align New York's policy with the NY ERA's mandate to ensure that the fundamental rights of pregnant individuals and birthing parents are upheld regardless of incarceration status.

III. CONCLUSION

The CARE Act helps prevent a sentence of incarceration from equating to a sentence of medical neglect and reproductive trauma. By mandating access to essential medical services and codifying protections against the dangerous use of unnecessary restraints during pregnancy, labor and delivery, and the postpartum period, this legislation helps to align state policy with the NY ERA. Additionally, these reforms are essential to dismantle the deep-seated racial and socioeconomic disparities that have historically plagued New York families and contributed to disparate child and parent health outcomes. Furthermore, by protecting the vital bonding period between parent and child, and by providing essential pediatric services to children, the CARE Act helps to mitigate generational trauma and ensures that infants are afforded a more stable start to life that is required for long-term healthy development. Ultimately, the Act serves as a necessary intervention to uphold the fundamental rights of New York's most vulnerable families. For all these reasons, the Committees urge passage of New York's CARE Act.

Sex & the Law Committee
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Susan Cersovsky, Co-Chair [24]

Civil Rights Committee
Evan Henley, Co- Chair

Children & the Law Committee
Amy Hozer- Weber, Co- Chair
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[23] N.Y. Const. art. I, § 11.

[24] Susan Cersovsky was the principal writer of this report.