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Sturgeon, Townsend

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 258

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PRISONS AND PRISONERS.

1 WHEREAS, the number of women incarcerated has increased more than 400% between 1980 and 2014; and

2 WHEREAS, most women who are imprisoned are mothers and, specifically, at the end of the last decade, 65% of
3 women in state prisons had children under the age of 18; and

4 WHEREAS, 4% of state and 3% of federal inmates reported they were pregnant at the time they began their
5 incarceration; and

6 WHEREAS, it is estimated that 9% of female inmates will give birth during the time of their incarceration; and

7 WHEREAS, children are often placed in foster care or are left with other relatives while their parent is serving a
8 prison sentence; and

9 WHEREAS, prison nursery programs were created to allow a mother and her baby to be together to bond during
10 the mother's prison sentence; and

11 WHEREAS, these prison nursery programs have been found to increase beneficial attachments between the
12 mother and her baby; and

13 WHEREAS, studies have shown a reduction in recidivism rates for mothers inmates who participated in a prison
14 nursery program. In fact, one study showed that mothers who participated in nursery programs one year of release had a
15 5% recidivism rate as compared to 17% for mothers who did not.

16 NOW, THEREFORE:

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

18 Section 1. Amend Chapter 68, Title 11 of the Delaware Code by making deletions as shown by strike through and
19 insertions as shown by underline as follows:

20 § 6801 Findings and purposes.

21 The General Assembly hereby finds that the creation of correctional nursery programs where incarcerated mothers
22 who give birth while in prison can raise their young children up to 18 months old, lowers recidivism rates for the inmates
23 and provides necessary bonding for the mother and child.

24 § 6802 Definitions.

25 As used in this chapter:

26 (1) “Child-support order” means as defined in §6-102 of Title 13.

27 (2) “Commissioner” means the Commissioner of the Department of Correction.

28 (3) “Correctional institution” means as defined in §6602 of this title.

29 (4) “Department” means the Department of Correction.

30 (5) “Eligible offender” means an offender who meets all of the following criteria:

31 a. Is pregnant at the time she is brought into the custody of the Department.

32 b. Gives birth on or after the date the correctional nursery program is implemented.

33 c. Subject to a sentence of incarceration of not more than 3 years.

34 d. She and the child meet other criteria established by the Department.

35 (6) “Offender” means an individual that is detained within a correctional institution.

36 (7) “Obligee” means as defined in §6-102 of Title 13.

37 (8) “Support” means monetary support, health care, arrearages, retroactive support, or reimbursement for
38 financial assistance provided to an individual obligee.

39 (9) “Support order” means as defined in §6-102 of Title 13.

40 § 6803 Establishment of correctional nursery program.

41 The Department may establish a correctional nursery program to allow eligible offenders and children born to
42 them while in the custody of the Department to reside together in a correctional institution. Subject to appropriations
43 therefore, the correctional nursery program shall include all of the following:

44 (1) An educational and vocational component, emphasizing job-seeking skills.

45 (2) Parenting education program.

46 (3) Training for perpetrators and victims of domestic violence and sexual assault.

47 (4) A health education component, including self-care for the inmate and care of an infant, including all of the
48 following:

49 a. Information regarding recommended immunizations for the infant.

50 b. Information regarding follow-up medical treatment for the inmate and infant.

c. Referrals for community and governmental resources, programs and providers.

(5) A substance abuse education and treatment.

(6) A mental health education and treatment.

(7) Provide available supplies and equipment useful in caring for infants. Donations may be accepted for such supplies and equipment.

(8) The creation of a plan upon discharge of the child from the correctional nursery program that should consider visitation of the child with the offender that does not conflict with any court order to the contrary.

(9) Any other activities that the Department deems appropriate.

§ 6804 Terms of participation.

To participate in the correctional nursery program, each eligible offender selected by the Department must do all of the following:

(1) Comply with any educational, counseling or other requirements established for the program by the Department.

(2) Comply with Delaware law regarding immunizations of the infant.

(3) If eligible, have the child participate in the Medicaid program or health insurance program.

(4) Accept the normal risks of child bearing.

(5) Abide by any court decisions regarding the allocation of parental rights and responsibilities regarding the child.

(6) Assign to the Department any rights to support from any other person.

(7) Specify with whom the child is to be placed in the event the inmate's participation in the program is terminate for a reason other than release from incarceration.

§ 6805 Contract; admission into the program.

(a) No offender may participate in the correctional nursery program unless the offender voluntarily enrolls by agreeing to be bound by a written contract with the Department, which contract shall clearly set forth the obligations, duties, responsibilities and expectations with which such inmate must comply.

(b) A representative of the Department shall also explain to the inmate the intended benefits of the program, and consequences of termination in the program.

(c) No court may require an inmate to participate in the correctional nursery program.

§ 6806 Termination of the offender's participation in program.

An offender's participation in the correctional nursery program may be terminated by the Department if any of the following occurs:

(a) The offender fails to comply with the agreement entered into under §6804 of this chapter.

(b) The offender's child becomes seriously ill or the offender cannot meet the medical criteria established by the Department for the program, or otherwise cannot safely participate in the program.

(c) A court of competent jurisdiction issues an order that does any of the following:

(1) Designates an individual other than the offender as the child's custodial parent and legal guardian.

(2) Granting custody of the child to a person other than the offender.

(3) Granting temporary, permanent or legal custody of the child to a person other than the offender, or to a public children services agency or private placing agency.

(d) The offender is released from imprisonment.

(e) The child turns 18 months old.

§ 6807 Collection of child support.

(a) A child that is enrolled in the correctional nursery program does not waive their right to support under § 501 of Title 13.

(b) If there is an existing child-support order in which the inmate is the obligee in the interest of the minor child, the Department shall be assigned as the obligee upon the inmate enrolling the child in the correctional nursery program and until termination of the inmate and child's participation in the program. The Division of Child Support Services shall collect support payments made pursuant to the assignment and forward them to the Division.

(c) If there is not an existing child support order, the Department may file a Petition for Support on behalf of the inmate and in the interest of the minor child in which the Department is the assigned obligee upon the inmate enrolling the child in the correctional nursery program and until termination of the inmate and child's participation in the program. The Division of Child Support Services shall collect support payments made pursuant to the assignment and forward them to the Division.

(d) The Department may receive the following:

(1) Money that is assigned or donated on behalf of, and public assistance provided to, a specific inmate or child participating in the correctional nursery program.

(2) Money or other property assigned or donated to establish and maintain the correctional nursery program.

(e) 10% of the moneys described in this section shall be placed in a mandatory savings account of the mother for whom the money was received.

110 § 6807 Regulation.

111 The Department shall promulgate reasonable standards, and shall establish reasonable health and medical services,
112 for each institution with a correctional nursery program, including preventive, diagnostic and therapeutic measures on both
113 an out-patient and hospital basis.

114 Section 2. This Act is known as the “Susan C. DelPesco Correctional Nursery Program Act”.

SYNOPSIS

This bill allows the Department of Correction to implement prison nurseries, which would allow women inmates that give birth during their time incarcerated the option of raising their infant up to the age of 18 months. Studies have shown that prison nurseries allow a mother and child to bond during this critical time of infancy and in turn lowers recidivism rates of these women inmates. This bill would further take the burden off of the foster care system and reduce the damage done between the mother and child relationship as a result of imprisonment.