

What is House Bill H. Res. 1153?

This resolution would express the House's condemnation of the performance of unwanted, unnecessary medical procedures without patients' full and informed consent. It would also recognize that everyone deserves to control their own reproductive choice and to make informed choices about their bodies.

Finally, it would affirm the House's belief that further accountability, oversight and transparency are needed to protect people in the custody of U.S. Immigration and Customs Enforcement (ICE).

Additionally, this bill would call on the Dept. of Homeland Security (DHS) to take a series of specific actions to protect individuals. These would include:

- Pausing the removal of any individual who experienced any medical procedure at the Irwin County Detention Center in Ocilla, Georgia, where it is alleged that detainees were subjected to unwanted, unnecessary medical procedures, including hysterectomies;
- Allowing individuals who may have experienced unnecessary or non-consensual procedures to immediately access adequate, safe and consensual medical treatment;
- Immediately complying with all investigations and record requests related to investigations of unwanted medical procedures; and
- Holding all individuals involved in unwanted medical procedures accountable and bringing them to justice.

As a simple resolution, this legislation is non-binding and wouldn't advance beyond the House if passed.

Impact

Victims of unwanted, unnecessary medical procedures; victims of unwanted, unnecessary medical procedures in federal custody; ICE; and DHS.

Cost of House Bill H. Res. 1153

A CBO cost estimate is unavailable.

More Information

In-Depth: Sponsoring Rep. Pramila Jayapal (D-WA) introduced this resolution in response to reports of unnecessary medical procedures, including hysterectomies, being performed on immigrant women without their consent at the Irwin County Detention Center in Ocilla, Georgia.

Two Georgia Republicans, Reps. Doug Collins (R-GA) and Austin Scott (R-GA), sent a letter to Dept. of Homeland Security Inspector General Joseph Cuffari on September 24, 2020. In the letter, Reps. Collins and Scott question the claims of forced hysterectomies and contend that the whistleblower at the Irwin County Detention Center is politically motivated:

“We write today concerning sensationalized reports regarding the treatment of detainees at the Irwin County Detention Center in Ocilla, Georgia. Recent developments indicate that the allegations included in the complaint made to your office by Dawn Wooten, represented by Project South, are questionable at best. We hope that your office will consider the recently reported facts disputing Ms. Wooten’s allegations, and shedding light on Project South’s radical, anti-law enforcement agenda, as you continue your investigation.”

This resolution has 224 Democratic House cosponsors. It is endorsed by nearly 50 racial and immigration justice advocacy organizations, including the AFL-CIO, Asian Americans Advancing Justice | AAJC, National Immigration Law Center and Women’s Refugee Commission.

Of Note: In mid-September 2020, it was revealed that the Dept. of Homeland Security (DHS) was investigating allegations that immigrant women detained at a privately-run detention center in Ocilla, Georgia were subjected to gynecological procedures, including hysterectomies, without their full understanding or consent.

The allegations, some of which were submitted as part of a whistleblower complaint by Dawn Wooten, a licensed practical nurse employed by the facility, and Project South, a Southern-based leadership

development organization that builds progressive movements, prompted over 170 members of Congress, including House Speaker Nancy Pelosi (D-CA), to call for an immediate inquiry within days of the revelation.

In the complaint, Wooten claimed that several women detained at the Irwin County Detention Center told her their uteruses had been removed without their consent. According to Wooten, one woman — who was ultimately not operated on due to testing positive for COVID-19 antibodies — was given three different explanations of what the procedure performed on her would be. Those ranged from having her womb removed entirely to having a small amount of tissue scraped away.

ICE Health Service Corps director Dr. Ada Rivera says the whistleblower complaint will be fully investigated. Simultaneously, Dr. Rivera says ICE “vehemently disputes the implication that detainees are used for experimental medical procedures.” In a statement, Dr. Rivera said that two women detained at the facility had been referred for hysterectomies since 2018.

ICE did not respond to requests for information about how many hysterectomy referrals were acted on or how many tubal ligations or other potentially sterilizing procedures it had performed in the past several years.

AKA

Condemning unwanted, unnecessary medical procedures on individuals without their full, informed consent.

Official Title

Condemning unwanted, unnecessary medical procedures on individuals without their full, informed consent.

What is House Bill H.R. 7718?

This bill, known as the Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act, would establish a national standard of care, data collection, and training and technical assistance for pregnant women in federal prisons. A breakdown of its various provisions can be found below.

Addressing Incarcerated Women's Pregnancy and Childbirth Needs

To address pregnant women in federal prisons' needs, this bill would:

- Establish minimum standards for healthcare for pregnant women, fetuses and newborns in federal custody;
- Prohibit the use of restraints on and restrictive housing for federal prisoners who are pregnant or eight or fewer weeks postpartum; and
- Require reporting on the use of restraints and restrictive housing on any inmate when she is pregnant, in labor, or recovering from childbirth to the Dept. of Justice (DOJ) agency director, who would be required to submit a summary of these reports to the House and Senate Judiciary Committees on an annual basis.

Training and Technical Assistance

To help ensure that state, local, and federal prisons comply with standards established in this bill, this legislation would:

- Require DOJ, in consultation with healthcare professionals, to develop training programs and guidelines for federal correctional officers and U.S. marshals; and
- Direct the DOJ, in consultation with the Secretary of Health and Human Services, to fund training and technical assistance to state and local corrections and law enforcement agencies to ensure that restraints and restrictive housing are used in accordance with state laws.

Incentives for States

To encourage states to adopt minimum standards of care for pregnant or postpartum inmates in their custody, this bill would:

- Provide competitive grant funding to states with laws addressing the treatment of incarcerated women that the Attorney General (AG) determines to meet or exceed federal standards established in this legislation; and
- Give states that have enacted or implemented services or pilot programs addressing incarcerated pregnant women's needs preference in grant funding.

Data Collection

This bill would require DOJ to collect data on women's mental and physical health in federal, state, tribal, and local corrections. This data collection would focus on pregnancy and the postpartum period.

Legal Recourse for Pregnant Inmates

Finally, this bill would allow pregnant women in federal custody to file suit in federal court for grievances concerning prison concerns without exhausting administrative remedies first.

Impact

Incarcerated pregnant women; pregnancy and postnatal care for incarcerated pregnant women; federal prisons; state prisons; and local jails.

Cost of House Bill H.R. 7718

The Congressional Budget Office (CBO) estimates that this bill would increase the number of suits, some of which would result in settlements paid from the Judgment Fund, that inmates file against the Bureau of Prisons. However, while the number and magnitude of those settlements is uncertain, the CBO estimates that payments from the fund will be insignificant in any year.

More Information

In-Depth: Sponsoring Rep. Karen Bass (D-CA) introduced this legislation to provide a national standard of care to address pregnancy-related needs of incarcerated women during pregnancy, labor, delivery and postpartum periods:

“Our prison system was not created with women in mind and as a result continually fails to provide basic necessities to tens of thousands of individuals who are incarcerated every single day. Especially amid a pandemic, it is incumbent upon Congress to ensure that we are not inadvertently matching petty crimes with death sentences. I’m proud to be introducing this bipartisan bill to make sure that we are mindful and responsible for the health and wellness of pregnant women in prison. That means an appropriate diet, it means access to appropriate medical assistance, and it certainly means stopping the shackling of pregnant inmates. Although it’s beyond the scope of this bill, it is important that we not normalize the incarceration of pregnant women. In fact, we should examine whether incarcerating pregnant women at all is the best way to address public safety.”

Lead Republican cosponsor Rep. Guy Reschenthaler (R-PA) adds:

“I’m proud to join Reps. Bass, Lesko, and Clark in introducing this bipartisan legislation to protect the health and wellness of pregnant and postpartum women in prison. By providing incarcerated women with access to pregnancy-related health care and services, we can ensure better outcomes for both mothers and babies. I look forward to advancing the Pregnant Women in Custody Act and urge my colleagues to support this common sense legislation.”

Families Against Mandatory Minimums (FAMM) supports this legislation:

“This bill would restore dignity and respect to women prisoners during childbirth, one of the most vulnerable moments in a persons’ life, by severely limiting the use of restraints and restrictive housing on women who are pregnant, in labor, or in postpartum recovery while also improving standards of healthcare for this population.”

This legislation passed the House Judiciary Committee with the support of 35 bipartisan cosponsors, including 29 Democrats and six Republicans.

Last Congress, Rep. Bass introduced this legislation with the support of 84 bipartisan House cosponsors, including 67 Democrats and 17 Republicans, and it didn’t receive a committee vote. Its Senate companion, sponsored by Sen. Rand Paul (R-KY) with one cosponsor, Sen. Kirsten Gillibrand (D-NY), also didn’t receive a vote.

Of Note: In a July 2019 hearing, the House Judiciary Committee on Crime held a hearing examining the unique ways in which women become trapped in the U.S. prison system, abuse faced by incarcerated women, and the challenges that women face after release.

According to the ACLU, the shackling of pregnant prisoners and over-incarceration of pregnant women are issues of major concern. The ACLU says, “Unfortunately, shackling pregnant women during active labor and childbirth is all too common in our nation’s prisons and jails.”

In 2002, the most recent year for which data is available, the Bureau of Justice Statistics (BJS) found that 5% of women in local jails were pregnant when admitted, 4% of women in state prisons were pregnant upon admission, and 3% of women in federal prisons were pregnant upon admission. These numbers were roughly consistent with data from a 2017 study of 22 U.S. state prison systems and all U.S. federal

prisons conducted by the American Journal of Public Health. That study found 470 pregnant federal prisoners, comprising 3% of women in federal prisons; 3,950 pregnant state prisoners, comprising 4% of women in state prisons; and 5,060 pregnant local prisoners, comprising 5% of women in local jails.

Although all U.S. prisons and jails are required to provide prenatal care under the Eighth Amendment, no federal standards have been set to ensure that women actually receive the care they need. The ACLU contends that incarcerated women have constitutionally protected rights to obtain appropriate medical care that is often violated when they receive inadequate (or non-existent) pregnancy or postpartum care.

What is House Bill H.R. 4996?

This bill, known as the Helping Medicaid Offer Maternity Services (MOMS) Act of 2019, would allow states to provide one year of postpartum coverage under Medicaid and the Children's Health Insurance Program (CHIP). Under current law, states can provide 60 day of postpartum coverage. To incentivize extension, this bill would provide a one-year, five percentage point Federal Medical Assistance Percentage (FMAP) enhancement, thereby increasing federal funding for Medicaid in states that implement the postpartum coverage extension.

Additionally, this bill would require the Medicaid and CHIP Payment and Access Commission to report on specified information relating to coverage of doula services under state Medicaid programs. This would include coverage barriers and recommendations for improvement.

Impact

New moms; Medicaid; Medicaid coverage for postpartum moms.

Cost of House Bill H.R. 4996

A CBO cost estimate is unavailable.

More Information

In-Depth: Sponsoring Rep. Robin Kelly (D-IL) introduced this bill to address the United States' maternal mortality crisis:

“Incentivizing postpartum Medicaid expansion is a critical first step in preventing maternal deaths by ensuring new moms can see their doctor. I’m proud that my colleagues, on both sides of the aisle, came together to put an end to the sad reality of American moms dying while growing their families. We can’t allow the perfect to be the enemy of the good. This is a good, bipartisan first step, but it must be the first of many.”

Every Mother Counts is among a number of maternal health organizations supporting this legislation. Its members write:

“Every Mother Counts writes to express our support for the bipartisan Helping Medicaid Offer Maternity Services Act (H.R. 4996). Every Mother Counts is a non-profit organization seeking to make pregnancy and childbirth safe for every mother, everywhere, by working to achieve quality, respectful, and equitable maternity care for all. We appreciate your leadership in ensuring that the U.S. maternal healthcare crisis receives the attention required to improve the health and healthcare experiences of women and infants across the country, and to eliminate the extreme health disparities affecting communities of color and Indigenous communities.”

While it supports federal legislation to expand postpartum coverage under Medicaid, the Center on Budget and Policy Priorities (CBPP) notes that the Centers for Medicare & Medicaid Services (CMS) and states already have the ability to expand access to postpartum care under Medicaid without federal legislative action.

This legislation passed the House Committee on Energy and Commerce with the support of 36 bipartisan cosponsors, including 26 Democrats and 10 Republicans. It has been endorsed by many leading health

and family advocates, including the American College of Obstetricians and Gynecologists (ACOG), Blue Cross Blue Shield Association, and Black Women's Health Imperative.

Of Note: Maternal mortality outcomes in the U.S. have deteriorated in recent years, to the point that it was more dangerous to have a baby in 2018 than it was in 1985. Maternal mortality risk is higher among Black mothers, with Black women dying due to maternity-related causes at 3-4 times the rate of white women.

According to the Centers for Disease Control and Prevention (CDC), 700-900 American moms die due to pregnancy or birth-related complications; statistics compiled by the American College of Obstetricians and Gynecologists (ACOG) suggest that more than half of these deaths are preventable by improved access to healthcare.

Currently, the majority of pregnancy-related deaths in the U.S. occur after the day of delivery, and nearly a quarter of deaths happen more than six weeks postpartum. However, Medicaid currently only covers women for two months after their babies' births.

An increasing volume of literature indicates benefits to having Medicaid coverage for one year postpartum. With over 40% of births in the U.S. covered by Medicaid, expanding postpartum coverage under Medicaid to a year could affect many mothers.

The Commonwealth Fund observes that Medicaid is well-positioned to provide postpartum care:

“Medicaid is well positioned to provide this kind of coverage and care. It has broad reach — it covered around 42 percent of births in the United States in 2018. And it is making a difference: in Medicaid expansion states, maternal mortality dropped by 1.6 deaths per 100,000 women. Extending Medicaid coverage for pregnant women in every state for a full year after birth is a first step to eliminating disparities and improving outcomes. We are already seeing the effects of increasing coverage on health

outcomes, with decreasing maternal mortality rates in Medicaid expansion states. The impact could be even greater if all Medicaid-covered pregnant women were able to keep their coverage for a longer period, a move that would support the transformation of maternity care.”

To date, 36 states and the District of Columbia have adopted expanded eligibility for Medicaid under the Affordable Care Act (ACA), allowing low-income women to continue their pregnancy-related Medicaid coverage after the 60-day postpartum period. This includes multiple states in which legislative action to extend Medicaid coverage has been taken. However, in the 14 states that haven’t adopted the ACA’s Medicaid expansion, postpartum women need to requalify for Medicaid as parents to stay on the program.

Writing for *The Incidental Economist*, Urban Institute researchers Stacy McMorrow, Genevieve M. Kenney, Emily M. Johnston, and Jennifer Haley found that expanding Medicaid coverage for postpartum women would benefit at least 200,000 low-income uninsured citizen new mothers:

“Extending postpartum Medicaid coverage has the potential to help at least 200,000 low-income uninsured citizen new mothers gain coverage. Others with higher incomes and some noncitizen mothers could also benefit, especially in states that currently provide more generous pregnancy-related coverage through Medicaid or the Children’s Health Insurance Program. A postpartum extension would allow new mothers to maintain continuity of care in the year following delivery, access critical health services as they recover from pregnancy and delivery, and potentially transition to other sources of coverage on a more flexible timeline. A postpartum Medicaid extension would only benefit women in the first year after pregnancy, however, leaving other low-income mothers and fathers at risk of uninsurance, particularly in non- expansion states. Evidence from the ACA Medicaid expansion suggests that a more comprehensive expansion has the potential to increase coverage, access to care, and financial well-being among both new mothers and other parents.”

Protecting the Health and Wellness of Babies and Pregnant Women in Custody Act

Official Title

To address the health needs of incarcerated women related to pregnancy and childbirth, and for other purposes.