

## Senate Amendments to House Bill No. 196

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

18           **SECTION 1.**   **Title.**   Sections 1 through 9 of this act may be  
19 cited as the "Dignity for Incarcerated Women Act."

20           **SECTION 2.**   **Legislative findings and purpose.**   The  
21 Legislature of the State of Mississippi finds that:

22                   (a)   The number of incarcerated women in the State of  
23 Mississippi has increased by a third (1/3) since 2001 and at one  
24 point in 2008 the rate had grown by forty-four percent (44%);

25                   (b)   Nationally, the number of children under age  
26 eighteen (18) with a mother in prison more than doubled since  
27 1991;

28                   (c)   Children who grow up with parents in prison are six  
29 (6) to seven (7) times more likely to become incarcerated  
30 themselves;

31                   (d)   Prisoners who maintain close contact with their  
32 family members while incarcerated have better post-release  
33 outcomes and lower recidivism rates;

34 (e) Children of inmates who are able to visit their  
35 imprisoned parents have increased cognitive skills, improved  
36 academic self-esteem, greater self-control and change schools much  
37 less often;

38 (f) To mitigate the collateral impact on families and  
39 children, the Department of Corrections should consider the  
40 location of family;

41 (g) Nationally, approximately two thousand (2,000)  
42 women give birth while incarcerated each year;

43 (h) Prenatal care significantly improves outcomes for  
44 pregnant women and infants;

45 (i) Participation in post-delivery mother-infant  
46 residency or nursery programs is associated with lower recidivism  
47 rates, reduced risk of babies entering foster care, and improved  
48 odds that mothers and their babies will remain together after the  
49 mother's period of incarceration;

50 (j) Use of restrictive housing and restraints on  
51 incarcerated pregnant women may be extremely dangerous to the  
52 health of mothers, fetuses and infants; and

53 (k) Nationally, eighty-six percent (86%) of women in  
54 prison were victims of sexual assault prior to entering the prison  
55 system.

56 **SECTION 3. Definitions.** (a) "Restraints" means any  
57 physical or mechanical device used to restrict or control the  
58 movement of a prisoner's body, limbs, or both.

59 (b) "Body cavity searches" means invasive searches on  
60 inmates, conducted by facility employees in search of contraband.

61 (c) "Flight risk" means an inmate who has shown the  
62 desire to escape the facility.

63 (d) "Restrictive housing" means any type of detention  
64 that involves:

65 (i) Removal from the general inmate population,  
66 whether voluntary or involuntary; and

67 (ii) Inability to leave a room or cell for the  
68 vast majority of the day.

69 (e) "Postpartum recovery" means the eight-week period,  
70 or longer as determined by the healthcare professional responsible  
71 for the health and safety of the prisoner.

72 (f) "Menstrual hygiene products" means products that  
73 women use during their menstrual cycle. This includes tampons,  
74 sanitary napkins and menstrual cups.

75 (g) "Indigent" means an inmate who has less than an  
76 average of Sixteen Dollars (\$16.00) in her prison account.

77 (h) "Correctional facility employee" refers to anyone  
78 who is employed by the facility or the Department of Corrections.

79 (i) "State of undress" refers to a state where a female  
80 is partially or fully naked, either in the shower, toilet areas, a  
81 medical examination room or having a body cavity search conducted.

82 **SECTION 4. Care for incarcerated women related to pregnancy**

83 **and childbirth.** (1) Upon notification and/or diagnosis of an  
84 inmate's pregnancy, and for the duration of the pregnancy, and for

85 thirty (30) days following the inmate's delivery, the Department  
86 of Corrections and/or a correctional facility employee shall not  
87 apply the following restraints on the pregnant inmate unless a  
88 correctional facility employee has a reasonable belief that the  
89 inmate will harm herself, the fetus, or any other person, or pose  
90 a substantial flight risk:

91 (a) Leg restraints.

92 (b) Handcuffs or other wrist restraints, except to  
93 restrain the inmate's wrists in front of her.

94 (c) No restraints connected to other inmates.

95 (2) No restraints shall be used on any pregnant inmate while  
96 in labor or during delivery unless a correctional facility  
97 employee has a reasonable belief that the inmate will harm  
98 herself, the fetus, or any other person, or pose a substantial  
99 flight risk. In such case, the correctional facility employee  
100 ordering use of restraints on any female inmate while in labor or  
101 during delivery shall submit a written report to the warden of the  
102 facility within seventy-two (72) hours following the use of  
103 restraints, containing the justification for restraining the  
104 female inmate during labor and delivery.

105 (3) No facility employee of the Department of Corrections,  
106 other than a certified healthcare professional, shall conduct  
107 invasive body cavity searches of pregnant inmates unless the  
108 correctional facility employee has a reasonable belief that the  
109 female inmate is concealing contraband. In such case, the  
110 correctional facility employee shall submit a written report to

111 the warden of the facility within seventy-two (72) hours following  
112 the invasive search, containing the justification for the invasive  
113 search and what contraband, if any was recovered.

114 (4) The Department of Corrections shall ensure that pregnant  
115 inmates be provided sufficient food and dietary supplements as  
116 ordered by a physician, physician staff member, or a facility  
117 nutritionist to meet general accepted prenatal nutritional  
118 guidelines for pregnant women.

119 (5) The Department of Corrections shall not place any  
120 pregnant inmate, or any female inmate who has given birth within  
121 the previous thirty (30) days, in restrictive housing unless a  
122 correctional facility employee has a reasonable belief that the  
123 inmate will harm herself, the fetus or any other person, or pose a  
124 substantial flight risk. In such case, the correctional facility  
125 employee authorizing the placement of the inmate in restrictive  
126 housing shall submit a written report to the warden of the  
127 facility within seventy-two (72) hours following the transfer,  
128 containing the justification for confining the female inmate in  
129 restrictive housing.

130 (6) The Department of Corrections shall not assign any  
131 pregnant inmate to any bed that is elevated more than three (3)  
132 feet from the floor of the facility.

133 (7) The warden of the facility shall compile a monthly  
134 summary of all written reports received pursuant to Section (4)  
135 subsections (2), (3) and (5) of this act and under Section 5 (1)

136 of this act. The warden shall submit the summary to the  
137 Commissioner of the Department of Corrections each month.

138 **SECTION 5. Inmate postpartum recovery.** (1) No restraints  
139 shall be used on any female inmate who has given birth within the  
140 last thirty (30) days and is in postpartum recovery, unless the  
141 Department of Corrections has a reasonable belief that the female  
142 inmate will harm herself, her newborn, or any other person, or  
143 pose a substantial flight risk. In such case, the facility  
144 employee ordering use of restraints on any inmate while in  
145 postpartum recovery shall submit a written report to the warden of  
146 the facility within seventy-two (72) hours following the use of  
147 restraints, containing the justification for restraining the  
148 female inmate during postpartum recovery.

149 (2) Following the delivery of a newborn, by an inmate, the  
150 Department of Corrections shall permit the newborn to remain with  
151 the mother for seventy-two (72) hours unless the medical provider  
152 has a reasonable belief that remaining with the mother poses a  
153 health or safety risk to the newborn.

154 (3) During that time, the Department of Corrections shall  
155 make available the necessary nutritional and hygiene products,  
156 including diapers, to care for the newborn.

157 (4) If the female inmate qualifies as indigent, such  
158 products shall be provided without cost to the inmate.

159 **SECTION 6. Family considerations in inmate placement and**  
160 **visitation.** (1) To the greatest extent practicable, after  
161 accounting for security and capacity factors, the Department of

162 Corrections shall place inmates who are parents of minor children  
163 within two hundred fifty (250) miles of their permanent address of  
164 record.

165 (2) The Department of Corrections shall promulgate  
166 regulations authorizing visitation of inmates who are parents of  
167 minor children with low or minimum security classifications by  
168 minor dependents, with the minimum following requirements:

169 (a) Opportunities for dependent children under the age  
170 of eighteen (18) to visit their incarcerated parent at least twice  
171 per week unless a correctional facility employee has a reasonable  
172 belief that the dependent child:

173 (i) May be harmed during visitation; or

174 (ii) Poses a security risk due to a gang  
175 affiliation, prior conviction or past violation of facility  
176 contraband policy.

177 (b) Eliminating restrictions on the number of dependent  
178 children under the age of eighteen (18) that may be permitted  
179 visitation privileges.

180 (c) Authorizing contact visits for inmates who are  
181 parents of minor children.

182 **SECTION 7. Inspections by employees of the Department of**  
183 **Corrections.** (1) To the greatest extent practicable, and  
184 consistent with safety and order, the Commissioner of the  
185 Department of Corrections shall issue regulations that limit  
186 inspections by male correctional officers where a female inmate is  
187 in a state of undress.

188           Nothing in this section shall limit the ability of a male  
189           correctional officer from conducting inspections where a female  
190           may be in a state of undress if no female correctional officers  
191           are available.

192           (2) In such case that a male correctional officer deems it  
193           is appropriate to conduct an inspection or search while the female  
194           inmate is in a clear state of undress in an area such as the  
195           shower, the medical examination room, toilet areas or where a  
196           female inmate is having a body cavity search, the male  
197           correctional officer shall submit a written report to the warden  
198           of the facility within seventy-two (72) hours following the  
199           inspection or search, containing the justification for a male  
200           correctional officer to inspect the female inmate while in a state  
201           of undress.

202           **SECTION 8. Access to feminine hygiene products.** The  
203           Department of Corrections shall ensure that sufficient personal  
204           hygiene products are available at each facility for all  
205           incarcerated women.

206           **SECTION 9. Training and technical assistance.** (1) The  
207           Department of Corrections shall develop and provide to all  
208           correctional facility employees and correctional officers who have  
209           contact with pregnant inmates training related to the physical and  
210           mental health of pregnant inmates and fetuses, including the  
211           following:

212           (a) General care of pregnant women;



213 (b) The impact of restraints on pregnant inmates and  
214 fetuses;

215 (c) The impact of being placed in restrictive housing  
216 on pregnant inmates; and

217 (d) The impact of invasive searches on pregnant  
218 inmates.

219 (2) The Department of Corrections shall develop and provide  
220 educational programming for pregnant inmates related to:

221 (a) Prenatal care;

222 (b) Pregnancy-specific hygiene;

223 (c) Parenting skills;

224 (d) The impact of alcohol and drugs on the fetus; and

225 (e) General health of child.

226 **SECTION 10.** This act shall take effect and be in force from  
227 and after July 1, 2021, and shall stand repealed on June 30, 2021.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE "DIGNITY FOR INCARCERATED WOMEN ACT"; TO  
2 DEFINE CERTAIN TERMS AS USED UNDER THE ACT; TO PROVIDE THAT WHEN  
3 AN INCARCERATED INMATE IS GIVING BIRTH, THE USE OF RESTRAINTS  
4 SHALL BE LIMITED; TO REQUIRE CERTAIN CARE AND TREATMENT FOR WOMEN  
5 RELATED TO PREGNANCY AND CHILDBIRTH; TO REQUIRE CERTAIN CARE  
6 DURING INMATE POSTPARTUM RECOVERY; TO URGE THE DEPARTMENT OF  
7 CORRECTIONS TO PLACE MOTHERS WHO ARE PARENTS OF A MINOR CHILD  
8 WITHIN A CERTAIN DISTANCE FROM THE MOTHER'S PERMANENT ADDRESS; TO  
9 PROVIDE CERTAIN STANDARDS WHERE A FEMALE IS IN THE STATE OF  
10 UNDRRESS; TO PROVIDE THAT INCARCERATED WOMEN SHALL HAVE ACCESS TO  
11 FEMININE HYGIENE PRODUCTS AND TO PROVIDE SUCH PRODUCTS AT NO COST  
12 IF AN INMATE IS DETERMINED TO BE INDIGENT; TO REQUIRE THE  
13 DEPARTMENT OF CORRECTIONS TO DEVELOP AND PROVIDE TO ITS CORRECTION  
14 STAFF TRAINING RELATED TO THE PHYSICAL AND MENTAL HEALTH OF  
15 PREGNANT INMATES IF SUCH STAFF HAVE CONTACT WITH PREGNANT INMATES;  
16 AND FOR RELATED PURPOSES.

SS36\HB196A.J

Eugene S. Clarke  
Secretary of the Senate