Pregnant, Postpartum, and Nursing Immigrants Suffer Medical Neglect in Detention

Pregnant women in ICE custody are being denied prenatal and other essential health care, suffering miscarriages alone without timely medical treatment, and waiting weeks to be seen by hospital or medical staff, only to ultimately have their appointments canceled or postponed. The Department of Homeland Security (DHS) reports that between January 1, 2025 and February 16, 2026, Immigration and Customs Enforcement (ICE) deported 363 pregnant, postpartum, and nursing immigrants.

The Stop Shackling and Detaining Pregnant Women Act

The "Stop Shackling and Detaining Pregnant Women Act" (H.R. 4664 / S. 916), led by Representative Sylvia R. Garcia and Senator Patty Murray, codifies the presumption of release to prevent pregnant individuals from being detained in most cases. It safeguards the health, well-being, and safety of pregnant, postpartum, and nursing individuals in ICE custody by ensuring access to adequate health care and increasing transparency and oversight. The bill:

- Prohibits the shackling of pregnant women in custody at any time during pregnancy, labor, and postpartum recovery
- Requires detention facilities to provide adequate medical care, such as: access to routine and specialized prenatal care, access to comprehensive counseling, postpartum follow-up services, pregnancy tests, lactation services, and abortion services
- Strengthens accountability and congressional oversight by requiring DHS to issue quarterly public reports on the detention of pregnant adults and youth in DHS custody, including audits and reports to Congress

The protections not only apply to ICE, but to any Department of Homeland Security (DHS) component, including Customs and Border Protection, and extends to both adults and people under 18 in custody. The bill also requires DHS gives detainees written notices of their rights in a language they understand, bars non-medical staff from being present during pelvic exams, labor, delivery, or related treatment unless medical staff request it, and prohibits administering medical treatment against an individual's will.

The Act provides that detention facilities must also maintain a standing arrangement with the nearest maternity hospital and a plan for emergency transport. The House version of the bill (H.R. 4664), applies similar standards to the Federal Bureau of Prisons and U.S. Marshals custody and includes a civil action provision allowing individuals harmed by violations to sue for damages.

The History of Detention of Pregnant Immigrants

In 2016, ICE issued a memo establishing a "presumption of release" for immigrants who were pregnant, postpartum, or nursing, meaning that they would generally avoid detaining such individuals. In December 2017, the first Trump administration ended the previous presumption of release for pregnant individuals. Consequently, the number of pregnant detainees grew by 52%. Later, the Biden administration reestablished the presumption of release, which brought the number of pregnant detainees back down. The second Trump administration has not formally reversed the Biden-era directive, and an ICE directive stating that the agency generally should not arrest or detain pregnant, postpartum, or nursing individuals remains online. However, in practice, the administration has effectively ended the presumption of release, leading to the detention and deportation of hundreds of pregnant individuals.

Since the fall of 2019, DHS has provided Congress semiannual reports documenting the medical care and circumstances of pregnant, postpartum, and lactating individuals in ICE custody. These reports include statistics on their health status at the time of booking, the medical conditions and services provided during detention, and the number of individuals released, all based on ICE's medical recordkeeping systems. This reporting requirement was rescinded, making it harder to hold the agency and administration accountable. The lack of oversight has contributed to widespread medical neglect, the use of shackling and solitary confinement, and inadequate food and water. Though clear data on pregnancies in detention remains sparse, in the first fourteen months of the second Trump administration, DHS reported sixteen miscarriages within ICE detention facilities.

Why Preventing the Shackling of Detained Pregnant Women is Essential

A 2026 report from the Women's Refugee Commission and Physicians for Human Rights documents many cases of ICE requiring pregnant individuals to perform manual labor despite telling staff they are pregnant. In some cases, mothers have been deported without their infants, creating significant risks to maternal, fetal, and infant health. Some people have been deported without ever receiving medical records from their time in detention, making it difficult for physicians to provide effective continuous care. Many ICE detention facilities continue to fall short in providing sufficient medical care, particularly for pregnant, postpartum, and nursing individuals with heightened medical needs. Overcrowding, inadequate food and water, and limited access to emergency medical care further magnify the challenges pregnant, postpartum, and nursing individuals face in detention.

CWS urges Congress to pass the Stop Shackling and Detaining Pregnant Women Act. At a time when pregnant, postpartum, and nursing individuals face increasing attacks on their rights and well-being, policies that uphold their dignity and ensure they receive the protections they deserve are crucial. Without action, the Trump administration will continue putting pregnant, postpartum, and nursing individuals at greater risk of medical neglect and further eroding the protections they need.