
WEST VIRGINIA CODE CHAPTER 25
ARTICLE 1B

WV Legislature

§25-1B-1. Authorization; definitions.

(a) The Division of Corrections may establish a correctional center nursery in one or more of the correctional centers for women operated by the division. The program would allow eligible inmates and children born to them while in the custody of the division to reside together in the institution. In establishing this program, neither the inmate's participation in the program nor any provision of this article shall affect, modify or interfere with the inmate's custodial rights to the child nor does it establish legal custody of the child with the division.

(b) As used in this article:

(1) "Correctional Center Nursery Program" means the program authorized by this article.

(2) "Public assistance" means all forms of assistance, including monetary assistance from any public source paid either to the mother or child or any other person on behalf of the child.

(3) "Support" means the payment of money, including interest:

(A) For a child or spouse ordered by a court of competent jurisdiction, whether the payment is ordered in an emergency, temporary, permanent or modified order, the amount of unpaid support shall bear simple interest from the date it accrued, at a rate of \$10 upon \$100 per annum, and proportionately for a greater or lesser sum, or for a longer or shorter time;

(B) To third parties on behalf of a child or spouse, including, but not limited to, payments to medical, dental or educational providers, payments to insurers for health and hospitalization insurance, payments of residential rent or mortgage payments, payments on an automobile or payments for day care; or

(C) For a mother, ordered by a court of competent jurisdiction, for the necessary expenses incurred by or for the mother in connection with her confinement or of other expenses in connection with the pregnancy of the mother.

(4) "Support order" means an award of support by order of a court of competent jurisdiction.

§25-1B-2. Eligible inmates.

An inmate is eligible to participate in the Correctional Center Nursery Program if she is pregnant at the time she is delivered into the custody of the Division of Corrections; she gives birth on or after the date the program is implemented; and she and the child meet any other criteria established by the division. Placement into the nursery program shall be by internal classification of the division. A sentencing court is without jurisdiction to order a placement of an inmate into the nursery program.

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§25-1B-3. Terms of participation.

To participate in the Correctional Center Nursery Program, each eligible inmate selected by the division shall agree in writing to:

- (1) Comply with any educational, counseling or other requirements established for the program by the Division of Corrections;
- (2) If eligible, have the child participate in the Medicaid program or a health insurance program;
- (3) Accept the normal risks of child bearing;
- (4) Abide by any court decisions regarding the allocation of parental rights and responsibilities with respect to the child;
- (5) Assign to the division any rights to support from any other person; and
- (6) Specify with whom the child is to be placed in the event the inmate's participation in the program is terminated for a reason other than release from imprisonment.

§25-1B-4. Termination of inmate's participation in program.

An inmate's participation in the Correctional Center Nursery Program may be terminated by the division if one of the following occurs:

- (a) The inmate fails to comply with the agreement entered into under section three of this article;
- (b) The inmate's child becomes seriously ill, cannot meet medical criteria established by the division for the program or otherwise cannot safely participate in the program;
- (c) A court of competent jurisdiction issues an order that designates a person other than the inmate as the child's custodial parent and legal custodian;
- (d) A court of competent jurisdiction grants custody of the child to a person other than the inmate;
- (e) An order is issued granting shared parenting of the child;
- (f) An order regarding the child is issued granting temporary, permanent, or legal custody of the child to a person other than the inmate, or to a public children services agency or private child placing agency; or
- (g) The inmate is released from imprisonment.

§25-1B-5. Collection of child support.

(a) The rights to support assigned by any inmate shall constitute an obligation of the person who is responsible for providing the support to the division for the support provided the inmate and child pursuant to the Correctional Center Nursery Program. The Bureau of Child Support Enforcement shall collect support payments made pursuant to the assignment and forward them to the division.

(b) The division 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 Center Nursery Program; and

(2) Money or other property assigned or donated to establish and maintain the Correctional Center Nursery Program.

(c) Ten percent of the moneys described in this section shall be placed in the mandatory savings account of the mother for whom the money was received. The remaining moneys shall be used for items not covered by other program funds.

§25-1B-6. Program support; Correctional Center Nursery Fund.

The division shall obtain sufficient resources to initiate and maintain the Correctional Center Nursery Program if the program is established. The division may accept gifts, grants, property, funds, money, interest on investment of the fund, materials, labor, supplies or services from the United States of America or from any governmental unit or any person, foundation, firm or corporation to support the program. All moneys collected shall be deposited in a special revenue account, designated the Correctional Center Nursery Fund, which is hereby created. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code: Provided, That for the fiscal year ending June 30, 2008, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature. If there are sufficient moneys in the fund, they shall be invested by the West Virginia Investment Management Board in accordance with the provisions of article six, chapter twelve of this code.

§25-1B-7. Voluntary regulation.

Notwithstanding any other provision of this code to the contrary, neither the Correctional Center Nursery Program nor the division, with respect to the program, is subject to any regulation, licensing or oversight by the Office of Health Facility Licensure and Certification unless the division and the Office of Health Facility Licensure and Certification agree to voluntary regulation, licensing or oversight.

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