



Ohio Administrative Code

Rule 5120-9-57 Prison nursery program and infants born during confinement.

Effective: January 6, 2023

(A) The "prison nursery program" is a program of the department of rehabilitation and correction that permits certain incarcerated women and the children born to them while incarcerated to reside together while the mother serves her sentence.

(B) Pregnant inmates received into the department of rehabilitation and correction may apply to participate in the prison nursery program.

(C) An inmate may be eligible to participate in the program if:

(1) She is pregnant at the time she is delivered into the custody of the department of rehabilitation and correction,

(2) She is subject to a prison term of not more than thirty-six months,

(3) She has never been convicted of a violent crime or any type of child abuse, or child endangerment,

(4) She and her child meet established medical and mental health criteria,

(5) She is the legal custodian of the child,

(6) No one else has been granted custody or shared parenting privileges, and

(7) She meets any other criteria established by the department of rehabilitation and correction.

(D) In order to participate, each eligible inmate selected for the program must sign an agreement to the conditions of participation. Each inmate must agree to do all of the following:



- (1) Comply with any programmatic requirements established by the department such as child development, parenting skills, education, domestic violence counseling, job or vocational counseling, and alcohol or other drug counseling.
 - (2) If eligible, have the child participate in the medicaid program or a health insurance program.
 - (3) Accept the normal risks of child-rearing.
 - (4) Abide by any court decisions regarding the allocation of parental rights and responsibilities with respect to the child.
 - (5) Assign to the department any rights to child support from any person or governmental entity in accordance with sections 5120.652 and 5120.654 of the Revised Code.
- (E) In the event the inmate's participation in the program is terminated before release, each inmate selected for the program shall specify with whom the child should be placed pending approval of the department of job and family services. The process is described in this rule and rule 5101:2-42-60 of the Administrative Code.
- (F) The inmate's participation in the program may be terminated at the sole discretion of the department if:
- (1) The inmate fails to comply with the conditions of participation agreement entered into under division (A) of section 5120.652 of the Revised Code.
 - (2) Either the inmate or child becomes seriously ill, cannot meet medical criteria established for the program by the department of rehabilitation and correction, or otherwise cannot safely participate in the program.
 - (3) A court issues an order that designates a person other than the inmate as the child's residential parent and legal custodian.
 - (4) A juvenile court, in an action brought pursuant to division (A)(2) of section 2151.23 of the



Revised Code, grants custody of the child to a person other than the inmate.

(5) An order is issued pursuant to section 3109.04 of the Revised Code granting shared parenting of the child.

(6) An order of disposition regarding the child is issued pursuant to division (A)(2), (A)(3), or (A)(4) of section 2151.353 of the Revised Code granting temporary, permanent, or legal custody of the child to a person, other than the inmate, or a public children services agency or private child placing agency.

(7) The inmate is released from imprisonment.

(G) The department shall establish a nursery advisory board to advise the department concerning the prison nursery program.

(H) The managing officer of each institution in which a prison nursery program is established shall:

(1) Create and maintain a prison nursery program fund to pay expenses associated with the prison nursery program. This fund shall be maintained as a part of the industrial and entertainment fund as referenced in section 5120.131 of the Revised Code. Funds so maintained may be expended on general program expenses for the benefit of all participants in the program. Records of this fund shall be kept to allow accounting of the amounts deposited in and spent from the prison nursery program fund.

(2) Create and maintain an individual nursery account for each inmate participating in the prison nursery program to help pay for the support provided to the inmate and child pursuant to the program. Such funds shall be received and maintained in the inmate's personal account as referenced in section 5120.13 of the Revised Code. Such funds may be expended by the inmate at her discretion for any allowable expense.

(I) For all infants born to inmates who are ineligible for the prison nursery program, Ohio children services boards or county departments of human services which have assumed the administration of children services functions prescribed by Chapter 5153. of the Revised Code are responsible for



investigating and recommending placement arrangements or arranging placements for infants born to inmates. The rules governing these functions are promulgated by the Ohio department of job and family services (rules 5101:2-42-60 and 5101:2-42-61 of the Administrative Code).

(J) Each institution under the jurisdiction of the director of the department of rehabilitation and correction in which female inmates are housed shall establish procedures for providing assistance in the placement of infants who are born to inmates ineligible for the prison nursery program. Such procedures shall include provisions for the coordination of services with hospitals and state and local children services agencies.

(K) Each institution shall comply with the following procedures:

(1) Each inmate shall receive a medical examination during the admissions process, and the examiner shall note observed symptoms of pregnancy or statements by the inmate concerning her pregnancy and the expected delivery date.

(2) An institutional case manager/parenting coordinator shall be notified as soon as practical of the inmate's pregnancy and her expected delivery date. If it is possible that the inmate will remain incarcerated as of the expected delivery date, the case manager/parenting coordinator shall interview the inmate to determine:

(a) The state and county of residence at the time that the inmate was sentenced to confinement in the department; and

(b) The county(s) having jurisdiction of the criminal case in which the inmate was convicted and sentenced to the department; and

(c) The inmate's preferred plan concerning the placement of the infant (relatives, friends, public or private agency, etc.).

(3) The case manager/parenting coordinator shall, as soon as practical thereafter, notify the public childrens services agency in the Ohio county in which the inmate was a resident at the time she was sentenced and provide the following information to the agency:



- (a) Name of inmate;
- (b) Social security number;
- (c) Prior address;
- (d) Committing county;
- (e) Name and address of child's father;
- (f) Financial resources (self/spouse/parents);
- (g) Parole hearing date or release date of inmate;
- (h) Expected delivery date;
- (i) Baby placement choice and alternative placement;
- (j) Name and phone number of referring case manager/parenting coordinator; and
- (k) Return address of institution.

In the event that the inmate was not an Ohio resident at the time that she was sentenced, the case manager/parenting coordinator shall provide the same notification to the public childrens services agency in the county having jurisdiction of the case in which the inmate was last convicted and sentenced.

(4) The case manager/parenting coordinator will inform the inmate of the approval or rejection by the responsible childrens services agency of the inmate's placement plan. The case manager/parenting coordinator will immediately inform the responsible agency of any change in circumstances reported by the inmate. All communications with the responsible agency will be documented.



(5) When ordered by the department's medical staff, the inmate shall be transferred to a hospital designated by the department. The case manager/parenting coordinator or other person designated by the managing officer of the institution shall notify the hospital of the agency identified in paragraph (K)(3) of this rule and shall take such other action necessary to effectuate the purpose of this rule.

(6) In the event that the agency identified in paragraph (K)(3) of this rule communicates its inability to assume custody and care of an infant, the case manager/parenting coordinator shall request intervention by the public childrens services agency in the county in which the child is hospitalized.