

An Act relative to the well-being of new mothers and infants

H.3939/S.2398, Representative James O'Day and Senator Joan Lovely

The Science:

Perinatal mood and anxiety disorders (PMADs) are the most common complication of pregnancy and childbirth, affecting 1 in 5 women in the U.S. each year. The most severe of these disorders is postpartum psychosis, which occurs in 2 out of every 1000 births. While rare, postpartum psychosis is extremely serious and requires psychiatric treatment. This illness can cause cognitive impairment, including distorted judgment and an inability to make decisions, in addition to hallucinations, delusions, and disorientation. Psychotic symptoms may appear suddenly, and it is common for these symptoms to present in a fluctuating state of “waxing and waning” (i.e., appearing lucid at one moment and displaying psychotic symptoms the next). Postpartum psychosis is temporary and is treatable with medication, hospitalization, and/or therapy.

The Policy:

PMADs are extremely common and can have long-lasting (and sometimes, tragic and irreversible) effects on families and entire communities. All perinatal individuals deserve to understand what PMADs are, how to identify them, and where and how to get help when needed. This will ensure that PMADs—including postpartum psychosis—can be identified and treated before a psychotic episode results in loss of life or other serious criminal conduct. Additionally, the UK, Australia, Canada, and 21 European countries have laws ensuring new mothers experiencing postpartum psychosis who commit violent acts receive psychiatric treatment instead of criminal punishment. Individuals who become criminally involved as a result of postpartum psychosis—a temporary illness that arises only in very specific circumstances—do not run a high risk of recidivism, and require genuine treatment and rehabilitation options rather than incarceration.

What this bill does:

- ☑ Creates a centralized, comprehensive digital resource center on PMADs for use by patients and providers, and requires providers and organizations that serve perinatal individuals to provide information to their patients and clients on how to access the resource center.
- ☑ Ensures that any defendant who gave birth within 12 months prior to the alleged crime is screened for perinatal psychiatric complications, and that any person suffering from mental illness related to a perinatal psychiatric complication who is committed to a facility after being found not guilty by reason of mental illness is given a treatment plan made in consultation with an expert in reproductive psychiatry.
- ☑ Allows a resentencing hearing where, at the time of the offense, a defendant was suffering from a serious perinatal psychiatric complication and the mental illness was not considered in trial or sentencing.
- ☑ Provides that perinatal psychiatric complications shall be considered as mitigating circumstances in cases where life imprisonment without the possibility of parole is authorized.