

Pregnant women held indefinitely in Alabama jail for drug use

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According to research done by National Advocates for Pregnant Women (NAPW), an Alabama county has locked up more than 150 pregnant women and new mothers since 2010 for using drugs during pregnancy. The state's chemical endangerment laws were written to protect children from exposure to drugs; they have been used for years to punish pregnant women. Mandatory stipulations for rehabilitation have caused many women to remain in jail for months, endangering both their unborn children and their own health.

Twenty-three-year-old Ashley Banks was released from Etowah Detention Center on August 25 after being arrested in May with a small amount of cannabis in her possession. She confessed to police that she had used the drug two days prior, just before she discovered she was pregnant. She was placed in an overcrowded cell and told she could have a bottom bunk—the only allowance made for her high-risk pregnancy. The bottom bunk was assigned to two women, though, and Banks ended up sleeping on the floor.

About six weeks after her arrest, Banks began bleeding vaginally. A deputy escorted her to nearby Gadsden Region Medical Center, where she was diagnosed with subchorionic hematoma. The condition causes blood to pool between the amniotic sac and the wall of the uterus and can lead to miscarriage—vaginal bleeding is associated with an even greater risk. For five weeks, Banks continued to bleed. She told reporters with AL.com that she was often hungry and experienced fainting spells.

Two separate specialists evaluated Banks for signs of drug addiction, with each determining that she was not an addict and therefore would not qualify for in-patient rehabilitation. Alabama's chemical endangerment laws condition release upon payment of a \$10,000 bond and mandatory drug rehabilitation. Despite raising the \$10,000, she could not bond out without agreeing to rehabilitation. And because she did not have an addiction, she did not qualify for the treatment. She remained at Etowah Detention Center, sleeping on the floor and trying to maintain an at-risk pregnancy, until a judge released her to a community

corrections program on August 25.

Dr. Carolyn Sufrin researches and reports on the effects of incarceration upon pregnancy at Johns Hopkins University School of Medicine. In an affidavit recommending Banks' release, she advised:

"The stress and conditions in jail and prisons, including lack of consistent access to standard prenatal care and mental health care, poor diets, poor sanitation, infestations with bugs and vermin, poor ventilation, tension, noise, lack of privacy, lack of family and community contact, can be detrimental to physical and mental health which can result in poor pregnancy outcomes for both the mother and the baby."

Emma Roth, an attorney for National Advocates for Pregnant Women (NAPW), estimates that Banks was one of about 12 pregnant women held in Etowah on chemical endangerment charges in August.

Hali Burns has been held at Etowah for two months. She was detained six days after her second child was born because she tested positive for methamphetamine and Subutex. Burns has a prescription for Subutex, which is used to treat opioid dependency during pregnancy. Her attorney says that sinus medication caused a false positive for methamphetamine—at least four different legal drugs are known to do so. Burns was arrested in the Neonatal Intensive Care Unit (NICU) as she visited her six-day-old son.

"When she first got in jail, she was right out of the hospital," Burns' boyfriend, Craig Battles, told AL.com. "She didn't even have panties or pads and she had just had a baby. She was stuffing paper towels or toilet paper in her pants to stop the bleeding."

Battles attempted to bring underwear and pads to the jail for Burns but jail staff turned him away, saying those items were not allowed.

Burns' attorney, Morgan Cunningham, argued during her August 18 hearing that bond is meant to protect the public and ensure that defendants will appear at trial. Mandatory rehab, Morgan said, served neither purpose.

"I have reckless murder cases where defendants have been

released on bond,” Cunningham told the judge. “Requiring her to go to rehab is not constitutional.”

Etowah County Deputy District Attorney Carol Griffith said the bond conditions protect Burns’ children from the harm caused by parental drug abuse. She pointed out that Burns had already gone through drug court and had recently failed a drug test administered inside the jail. She had been scheduled to go to rehab, but had to remain in jail after testing positive, according to court documents.

Griffith then asserted, “That is further evidence that this is an individual who desperately needs the help we are offering here today.”

The judge then echoed Griffith’s ironically absurd argument in the ruling: “It is undisputed that the petitioner needs substance abuse treatment; she would have been placed in said treatment facility on August 18, 2022 but for her positive drug tests the day prior.”

Burns was sent back to the jail where she had been given drugs in the first place.

“There is a problem with the jail,” said Martin Weinberg, another attorney for Burns. “The jail is not a safe place for her.”

Etowah County Detention Center has a well-documented history of inmate mistreatment. In 2018, the *World Socialist Web Site* reported that the Etowah County Sheriff had been pocketing money earmarked for feeding the inmates. The cells are overcrowded, largely due to drug-related offenses. The same jail staff that denies a bleeding woman panties and pads somehow manages to allow drugs to filter into the facility.

According to Emma Roth, “Bond is not meant to help defendants, nor is it meant to punish defendants.”

The cases of both Burns and Banks underscore the fact that Alabama’s chemical endangerment bond requirements are designed to punish defendants. Enacted in 2006, chemical endangerment laws were initially intended to give prosecutors more leverage against defendants in drug-related crimes by making it illegal to expose children to drugs or their production.

The Alabama Supreme Court’s ruling in *Ex Parte Hicks* in 2014 effectively extended the law’s reach to pregnant women. It upheld the conviction of Sarah Hicks, a mother whose healthy child had tested positive for cocaine after birth. In the ruling, the judges stated that fetuses counted “unambiguously” as children under Alabama law, writing:

“The use of the word ‘child’ in the chemical-endangerment statute includes all children, born and unborn, and furthers Alabama’s policy of protecting life from the earliest stages of development.”

In reality, the law protects nothing but the state’s attack on democratic rights. The irony cannot be missed: Ashley

Banks was arrested for smoking marijuana before she even realized she was pregnant. In order to “affirm Alabama’s policy of protecting life,” she was sent to a jail where she was given starvation rations and forced to lie on concrete floor as she bled. The bond stipulations that were supposedly written to help women like Burns access rehabilitation allowed her to be denied a scheduled stay in a rehabilitation facility in favor of sending her back to the jail where she accessed drugs to begin with.

The Alabama Supreme Court’s recognition of a fetus as a child under the chemical endangerment statute was loudly protested by NAPW and other organizations, who saw it correctly as the beginning of the end of guaranteed abortion rights. It presaged the more recent “fetal personhood” and “heartbeat laws” passed in conservative states.

No one should be fooled by the moralistic posturing of lawmakers who champion these statutes. Nothing about Burns’ or Banks’ treatment in Etowah Detention Center affirms a policy of protecting life. Burns and Banks are but two women among many who have, along with their children, been endangered by Alabama’s fetal protection laws.

At the same time, no one should entertain any hope that the Democrats will work to abolish such laws. It was obvious in 2010, and again in 2014, that Republicans meant to overturn *Roe*. Instead of acting to protect abortion rights while they had a Senate majority, the Democrats disregarded the obvious threat and in some cases even mocked those who were alarmed by the anti-abortion movement’s efforts to use the courts to override popular support for abortion rights.

The peril extends far beyond abortion rights. These laws erode any right to privacy once recognized in the United States, giving the government more ammunition against journalists like Julian Assange or whistle blowers such as Chelsea Manning and Edward Snowden.

The overturning of *Roe v. Wade*, like the January 6 coup attempt, underscores and demonstrates the consequences of the collapse of American democracy. The pretenses fall away more and more rapidly. There is no time to waste on reform or attempts to push the Democrats slightly leftwards. Laws like Alabama’s chemical endangerment statutes are declarations of class war on workers. Democratic rights can only be furthered by taking up the fight for socialism.



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