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Biden administration to end arrest and detention of most pregnant migrant women

Rubia Mabel Morales-Alfaro, an asylum seeker from El Salvador, miscarried in January 2018 after being placed behind bars in a privately run immigration detention center in California while in custody of U.S. Immigration and Customs Enforcement. Morales-Alfaro was one of several dozen women who miscarried after being placed in immigration detention centers under a Trump-era policy that critics said was aimed at deterring undocumented pregnant women from coming to the U.S. But under a new Biden administration policy, ICE will for the most part no longer arrest and detain pregnant women, postpartum women and women who are nursing. The policy also calls for pregnant women currently being held in immigration detention to be released while they await the outcome of asylum or immigration cases. The change, which is the latest reversal of several of the Trump administration's restrictive immigration and border policies, was quickly applauded by immigrant advocates. "This policy change will have a direct impact on saving lives" because federal immigration detention centers are not equipped to provide care to pregnant women, said Joy Bertrand, a Phoenix lawyer. She filed a lawsuit in April on behalf of Morales-Alfaro against the United States and CoreCivic, the Nashville-based private prison contractor that runs the Otay Mesa, California, facility where Morales-Alfaro was detained. U.S. Rep. Raúl Grijalva, D-Ariz., also praised the Biden administration's new policy, which states that pregnant women should only be held in detention under extraordinary circumstances and requires they be housed in facilities where they can receive the specific care they need. "Pregnant and nursing women do not belong in detention, and I'm pleased the Biden Administration has taken this first step to prevent their unnecessary detention and reverse a terrible Trump-era policy," Grijalva said in a written statement. "This is an extremely vulnerable population, and we must do everything possible to avoid the stressors and negligent treatment associated with incarceration. The accounts we received of the treatment of pregnant women in custody were horrific, and we must ensure the changes made with this directive are permanent and not easily undone by future administrations." In 2016, under the Obama administration ICE issued a policy advising against the detention of pregnant women, "with the rationale that incarceration creates serious health risks for expectant mothers, and detention facilities are not equipped to serve those unique needs," according to the lawsuit. But in December 2017, ICE acting director Thomas Homan ended the policy advising against detaining pregnant women to comply with Trump's executive order calling for stricter immigration enforcement. The number of times federal immigration authorities detained pregnant women jumped 80% the year after the Trump administration ended the Obama-era ICE policy against detaining pregnant migrants, a 2020 report by the Government Accountability Office found. The GAO inquiry was requested by Grijalva and other Democratic members of Congress after a 24-year-old Honduran woman in ICE custody went into premature labor and delivered a stillborn baby in February 2019 at the Port Isabel immigration detention center in Texas. In fiscal year 2017, there were at least 28 miscarriages by pregnant women in ICE custody, according to the lawsuit citing data from a Human Rights First 2019 report. Bertrand said the actual number is likely higher because ICE does not report statistics of miscarriages or stillbirths involving women in custody that happen at hospitals. Morales-Alfaro learned she was pregnant while traveling from El Salvador to the United States. After entering the U.S. near San Diego, she was apprehended by the Border Patrol and placed in a Customs and Border Protection facility, according to the lawsuit. According to the lawsuit, an unidentified CBP officer kicked Morales-Alfaro in the belly and back. When she told the officer she was pregnant, the officer replied, "That's not my problem." After two or three days at the CBP facility, where the temperature was kept very cold, Morales-Alfaro was transferred to the Otay Mesa Detention Center in December 2017, according to the lawsuit. She miscarried around Jan. 15, 2018. The lawsuit cited inadequate conditions at the Otay Mesa Detention Center, including inadequate medical care, nutritionless and inedible food and cold temperatures, which made sleep impossible. ICE officials did not immediately respond to a request to comment on the policy change or the lawsuit. Amanda Gilchrist, a CoreCivic spokesperson, disputed the lawsuit's claims. "While CoreCivic did not provide healthcare at the time Morales-Alfaro was at Otay Mesa Detention Center (OMDC), the company vehemently denies the allegations in this complaint and denies that anything that occurred when she was housed at the facility had anything to do with issues relating to her health," Gilchrist said in a statement. The lawsuit seeks monetary damages in an amount to be determined by a jury, Bertrand said. She called the Biden administration's policy change advising against detaining pregnant women a good step, "but it does not undo the damage that has already been done."