

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 24-1459

BY REPRESENTATIVE(S) Herod and Garcia, Amabile, Boesenecker, Brown, Duran, Epps, Froelich, Hamrick, Jodeh, Kipp, Lindstedt, Mabrey, Marvin, McCormick, Ortiz, Parenti, Rutinel, Sirota, Story, Valdez, Velasco, Vigil, Weissman, Young;

also SENATOR(S) Buckner and Gonzales, Bridges, Cutter, Danielson, Exum, Fields, Ginal, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Michaelson Jenet, Priola, Rodriguez, Sullivan.

CONCERNING PROTECTIONS FOR BIRTHING PERSONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 17-1-113.7, **amend** (1); and **repeal** (2)(a) as follows:

17-1-113.7. Prohibition against the use of restraints on pregnant inmates in the custody of correctional facilities and private contract prisons - report - definition. (1) The staff of a correctional facility or private contract prison, when restraining a female inmate, shall use the least restrictive restraints necessary to ensure safety if the staff of the correctional facility or private contract prison have ~~actual knowledge~~ or a reasonable belief that the inmate is pregnant. ~~The requirement that staff use the least~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~restrictive restraints necessary to ensure safety shall continue during postpartum recovery and transport to or from a correctional facility and private contract prison~~ FOR THE USE OF RESTRAINTS DURING LABOR, DELIVERY, AND POSTPARTUM RECOVERY, THE STAFF SHALL COMPLY WITH THE "PROTECTION OF INDIVIDUALS FROM RESTRAINT AND SECLUSION ACT", ARTICLE 20 OF TITLE 26.

~~(2) (a) (I) Staff of a correctional facility, private contract prison, or medical facility shall not use restraints of any kind on a pregnant inmate during labor and delivery of the child, except that staff may use restraints if:~~

~~(A) The medical staff determine that restraints are medically necessary for safe childbirth;~~

~~(B) The prison staff or medical staff determine that the inmate presents an immediate and serious risk of harm to herself, to other patients, or to medical staff; or~~

~~(C) The warden or his or her designee determines that the inmate poses a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.~~

~~(H) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, under no circumstances shall staff use leg shackles or waist restraints on an inmate during labor and delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth.~~

SECTION 2. In Colorado Revised Statutes, 17-26-104.7, **amend** (1); and **repeal** (2)(a) as follows:

17-26-104.7. Prohibition against the use of restraints on pregnant persons in custody - definition. (1) The staff of a county jail, in restraining a woman who is committed, detained, or confined to the county jail, shall use the least restrictive restraints necessary to ensure safety if the staff of the county jail have actual knowledge or a reasonable belief that the woman is pregnant. ~~The requirement that staff use the least restrictive restraints necessary to ensure safety shall continue during postpartum recovery and transport to or from the county jail~~ FOR THE USE

OF RESTRAINTS DURING LABOR, DELIVERY, AND POSTPARTUM RECOVERY, THE STAFF SHALL COMPLY WITH THE "PROTECTION OF INDIVIDUALS FROM RESTRAINT AND SECLUSION ACT", ARTICLE 20 OF TITLE 26.

~~(2) (a) (I) The county jail staff or medical facility staff shall not use restraints of any kind on the woman during labor and delivery of the child; except that staff may use restraints if:~~

~~(A) The medical staff determine that restraints are medically necessary for safe childbirth;~~

~~(B) The county jail staff or medical staff determine that the woman presents an immediate and serious risk of harm to herself, to other patients, or to medical staff; or~~

~~(C) The sheriff or his or her designee determines that the woman poses a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.~~

~~(H) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, under no circumstances shall staff use leg shackles or waist restraints on a woman during labor and delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth.~~

SECTION 3. In Colorado Revised Statutes, 17-1-114.5, **add** (1)(f.5) as follows:

17-1-114.5. Incarceration of a person in custody with the capacity for pregnancy - report. (1) A correctional facility or private contract prison incarcerating a person who is capable of pregnancy shall:

(f.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED FOR THE NEWBORN'S NOURISHMENT;

SECTION 4. In Colorado Revised Statutes, 17-26-104.4, **add** (1)(g.5) as follows:

17-26-104.4. Incarceration of a person with the capacity for pregnancy - report - definition. (1) A facility incarcerating a person who is capable of pregnancy, whether operated by a governmental entity or a private contractor, shall:

(g.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED FOR THE NEWBORN'S NOURISHMENT;

SECTION 5. In Colorado Revised Statutes, 26-1-136.8, **add** (1)(f.5) as follows:

26-1-136.8. Custody of a person with the capacity for pregnancy. (1) A state department facility that has in its custody a person who is capable of pregnancy shall:

(f.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED FOR THE NEWBORN'S NOURISHMENT;

SECTION 6. In Colorado Revised Statutes, 25-3-126, **amend** (1)(d) and (1)(e); and **add** (1)(f) as follows:

25-3-126. Health facilities - requirements related to labor and childbirth - rules - definitions. (1) Except as provided in subsection (2) of this section, on and after January 1, 2022, a health facility that provides services related to labor and childbirth shall demonstrate to the department, in the form and manner determined by the department by rule, that the health facility has a policy that:

(d) Details the facility's process related to receiving a pregnant person's patient information from any provider regulated under title 12 who has provided care for the pregnant person; **and**

(e) Establishes ~~a process~~ PROCESSES to transfer and receive pregnant persons across ~~the facility's~~ levels of care OF LICENSED FACILITIES within the facility's capacity and capability; **AND**

(f) ESTABLISHES A PROCESS TO RECEIVE INDIVIDUALS WHO ARE PREGNANT, UNDERGOING PHYSIOLOGIC BIRTH, OR IN THE PHYSIOLOGIC POSTPARTUM PROCESS FROM LOCATIONS OTHER THAN LICENSED FACILITIES, INCLUDING A PROCESS TO RECEIVE VERBAL AND WRITTEN INFORMATION FROM INDIVIDUALS WITH RELEVANT INFORMATION, INCLUDING BUT NOT LIMITED TO FAMILY MEMBERS, DOULAS, OR A HEALTH-CARE PROVIDER REGULATED UNDER TITLE 12.

SECTION 7. In Colorado Revised Statutes, 26-20-102, **amend** (1)(b)(I); and **add** (1)(a)(VII) as follows:

26-20-102. Definitions. As used in this article 20, unless the context otherwise requires:

(1) (a) "Agency" means:

(VII) A COUNTY JAIL, AS DESCRIBED IN SECTION 17-26-101, FOR RESTRAINTS ON A PREGNANT PERSON IN LABOR, DELIVERY, OR POSTPARTUM RECOVERY.

(b) "Agency" does not include:

(I) The department of corrections or any public or private entity that has entered into a contract for services with such department, EXCEPT FOR RESTRAINTS ON A PREGNANT PERSON IN LABOR, DELIVERY, OR POSTPARTUM RECOVERY;

SECTION 8. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO