

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-1166.01 Yelana Love x2295

HOUSE BILL 24-1459

HOUSE SPONSORSHIP

Herod,

SENATE SPONSORSHIP

Buckner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR BIRTHING PERSONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law prohibits the use of restraints on a pregnant person in custody with certain exceptions. The bill prohibits the use of restraints on an inmate during labor, delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth, without any exceptions.

The bill also requires a correctional facility or private contract prison to develop administrative policies, including a system for milk storage, to ensure a newborn can receive the milk that the newborn's

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

postpartum parent has pumped for the newborn's nourishment.

The bill requires each health-care facility that provides labor and delivery services to establish a policy creating a process for the facility to receive individuals who are pregnant, undergoing physiologic birth, or in the physiologic postpartum process from locations other than licensed facilities.

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

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

4 **17-1-113.7. Prohibition against the use of restraints on**
5 **pregnant inmates in the custody of correctional facilities and private**
6 **contract prisons - report - definition.** (1) The staff of a correctional
7 facility or private contract prison, when restraining a female inmate, shall
8 use the least restrictive restraints necessary to ensure safety if the staff of
9 the correctional facility or private contract prison have ~~actual knowledge~~
10 ~~or~~ a reasonable belief that the inmate is pregnant. The requirement that
11 staff use the least restrictive restraints necessary to ensure safety shall
12 continue during postpartum recovery and transport to or from a
13 correctional facility and private contract prison, EXCEPT AS PROVIDED IN
14 SUBSECTION (2)(a) OF THIS SECTION.

15 (2) (a) (I) Staff of a correctional facility, private contract prison,
16 or medical facility shall not use restraints of any kind on ~~a pregnant~~
17 ~~inmate during labor and delivery of the child; except that staff may use~~
18 ~~restraints if:~~ AN INMATE DURING LABOR, DELIVERY OF THE CHILD,
19 POSTPARTUM RECOVERY WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO
20 OR FROM A MEDICAL FACILITY FOR CHILDBIRTH.

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

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

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

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

12 (II) AS USED IN THIS SUBSECTION (2)(a):

13 (A) "LABOR" INCLUDES CONTRACTIONS, OFTEN EXPERIENCED AS
14 LABOR PAINS, WHICH CAN PRECEDE BIRTH BY HOURS OR DAYS. "LABOR"
15 DOES NOT REQUIRE A MEDICAL DIAGNOSIS.

16 (B) "POSTPARTUM RECOVERY" MEANS THE AMOUNT OF TIME AN
17 INDIVIDUAL NEEDS TO PHYSICALLY RECOVER FROM BIRTH BASED ON THE
18 RECOMMENDATION OF THE INDIVIDUAL'S MEDICAL PROVIDER.

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

21 **17-26-104.7. Prohibition against the use of restraints on**
22 **pregnant persons in custody - definition.** (1) The staff of a county jail,
23 in restraining a woman who is committed, detained, or confined to the
24 county jail, shall use the least restrictive restraints necessary to ensure
25 safety if the staff of the county jail have ~~actual knowledge~~ or a reasonable
26 belief that the woman is pregnant. The requirement that staff use the least
27 restrictive restraints necessary to ensure safety shall continue during

1 postpartum recovery and transport to or from the county jail, EXCEPT AS
2 PROVIDED IN SUBSECTION (2)(a) OF THIS SECTION.

3 (2) (a) (I) ~~The County jail staff or medical facility staff shall not~~
4 ~~use restraints of any kind on the woman during labor and delivery of the~~
5 ~~child; except that staff may use restraints if:~~ A WOMAN DURING LABOR,
6 DELIVERY OF THE CHILD, POSTPARTUM RECOVERY WHILE IN A MEDICAL
7 FACILITY, OR TRANSPORT TO OR FROM A MEDICAL FACILITY FOR
8 CHILDBIRTH.

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

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

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

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

22 (II) AS USED IN THIS SUBSECTION (2)(a):

23 (A) "LABOR" INCLUDES CONTRACTIONS, OFTEN EXPERIENCED AS
24 LABOR PAINS, WHICH CAN PRECEDE BIRTH BY HOURS OR DAYS. "LABOR"
25 DOES NOT REQUIRE A MEDICAL DIAGNOSIS.

26 (B) "POSTPARTUM RECOVERY" MEANS THE AMOUNT OF TIME AN
27 INDIVIDUAL NEEDS TO PHYSICALLY RECOVER FROM BIRTH BASED ON THE

1 RECOMMENDATION OF THE INDIVIDUAL'S MEDICAL PROVIDER.

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

4 17-1-114.5. Incarceration of a person in custody with the
5 capacity for pregnancy - report. (1) A correctional facility or private
6 contract prison incarcerating a person who is capable of pregnancy shall:

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

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

13 17-26-104.4. Incarceration of a person with the capacity for
14 pregnancy - report - definition. (1) A facility incarcerating a person
15 who is capable of pregnancy, whether operated by a governmental entity
16 or a private contractor, shall:

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

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

23 26-1-136.8. Custody of a person with the capacity for
24 pregnancy. (1) A state department facility that has in its custody a
25 person who is capable of pregnancy shall:

26 (f.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM
27 FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE

1 HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED
2 FOR THE NEWBORN'S NOURISHMENT;

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

5 25-3-126. Health facilities - requirements related to labor and
6 childbirth - rules - definitions. (1) Except as provided in subsection (2)
7 of this section, on and after January 1, 2022, a health facility that provides
8 services related to labor and childbirth shall demonstrate to the
9 department, in the form and manner determined by the department by
10 rule, that the health facility has a policy that:

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

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

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

24 SECTION 7. Safety clause. The general assembly finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.