

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0510.04 Alana Rosen x2606

HOUSE BILL 23-1187

HOUSE SPONSORSHIP

Bacon and Amabile, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Herod, Jodeh, Joseph, Lindsay, Lindstedt, Mabrey, Michaelson Jenet, Ricks, Sharbini, Sirota, Story, Titone, Vigil, Weissman, Willford, Woodrow

SENATE SPONSORSHIP

Gonzales and Fields, Buckner, Coleman, Cutter, Danielson, Exum, Jaquez Lewis, Kolker, Marchman, Moreno, Priola, Rodriguez, Winter F.

House Committees
Judiciary

Senate Committees
Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ALTERNATIVES IN THE CRIMINAL JUSTICE SYSTEM FOR**
102 **PREGNANT 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>.)

In determining bond or alternative sentences for a pregnant or postpartum defendant (defendant), the bill requires the court to consider whether the defendant poses a substantial risk to the public and whether that substantial risk outweighs the risks of incarceration.

If a defendant is arrested or in custody at a county jail or correctional facility, the defendant may request a pregnancy test following

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.

SENATE
3rd Reading Unamended
April 24, 2023

SENATE
Amended 2nd Reading
April 21, 2023

HOUSE
3rd Reading Unamended
March 3, 2023

HOUSE
Amended 2nd Reading
March 2, 2023

admission to the county jail or correctional facility. A sheriff or department of corrections staffperson shall provide a pregnancy test to the defendant within 24 hours after the request. Requesting the test, taking the test, and results of the test are confidential medical information and must not to be disclosed, except when the defendant receives medical care.

The bill allows a court to consider the following forms of alternative sentencing for the defendant:

- A diversion;
- A deferred judgment and sentence;
- A stay of execution (stay); or
- An unaccompanied furlough (furlough).

If the defendant is convicted of a new crime or violates substantive conditions imposed by a court while a stay or furlough is imposed, the court may add conditions, issue warrants, end the stay or furlough, or continue the stay or furlough.

On or before December 1, 2024, and on or before each December 1 thereafter, the judicial branch is required to submit an annual report to the judiciary committees of the house of representatives and the senate, or their successor committees, with information on, among other things, the total number of defendants who were sentenced or released.

The bill applies to pregnant or postpartum juveniles (juvenile). In determining commitment, bond, or alternative sentences for a juvenile, the bill requires the court to consider whether the juvenile poses a substantial risk to the public and whether that substantial risk outweighs the risks of commitment. The bill allows the following forms of alternative sentencing for the juvenile:

- A diversion;
- A deferred judgment and sentence;
- A stay; or
- A furlough.

On or before December 1, 2024, and on or before each December 1 thereafter, the department of human services is required to submit an annual report to the judiciary committees of the house of representatives and the senate, or their successor committees, with information on, among other things, the total number of juveniles who were sentenced or released.

Current law requires a court to admit in a criminal proceeding information that is reported by mandatory reporters related to a defendant's substance use discovered in the course of medical care related to pregnancy. The bill eliminates the requirement.

1 **SECTION 1.** In Colorado Revised Statutes, **add** 18-1.3-103.7 as
2 follows:

3 **18-1.3-103.7. Alternative options for pregnant and postpartum**
4 **people - legislative declaration - definitions.** (1) (a) THE GENERAL
5 ASSEMBLY FINDS AND DECLARES THAT:

6 (I) THERE IS AN INCREASING FEMALE POPULATION IN PRISONS AND
7 JAILS;

8 (II) WHILE NO SYSTEM IS PERFECT IN RESPONDING TO THE MEDICAL
9 CONDITIONS OF PREGNANCY, CORRECTIONAL FACILITIES AND COUNTY
10 JAILS ARE PARTICULARLY ILL-EQUIPPED TO DO SO;

11 (III) DURING CRIMINAL CASES INVOLVING A PREGNANT OR
12 POSTPARTUM DEFENDANT, THE PHYSICAL AND MENTAL HEALTH NEEDS OF
13 THE PREGNANT DEFENDANT OR THE POSTPARTUM DEFENDANT AND
14 NEWBORN MUST BE CONSIDERED AT ALL STAGES OF THE PROCEEDING AS
15 A MATTER OF COMMUNITY HEALTH AND SAFETY;

16 (IV) TIMELY ATTENTION TO MEDICAL CONDITIONS AND MENTAL
17 HEALTH DURING THE PERINATAL PERIOD CAN IMPROVE HEALTH AND
18 WELFARE FOR MULTIPLE GENERATIONS OF A FAMILY UNIT;

19 (V) PREGNANCY IS A TIME-SENSITIVE PROCESS THAT HAS MANY
20 POTENTIAL OUTCOMES AND VARIATIONS. A PREGNANT PERSON MAY FEEL
21 HEALTHY AND EXPERIENCE NO COMPLICATIONS. A PREGNANT PERSON MAY
22 ALSO EXPERIENCE SUDDEN, HARMFUL MEDICAL CONDITIONS, SUCH AS
23 PREECLAMPSIA OR PLACENTAL ABRUPTION, OR DEVELOP COMPLEX
24 MEDICAL CONDITIONS THAT RESULT IN THE EARLY TERMINATION OF A
25 PREGNANCY OR THREATEN THE LIFE OF THE PREGNANT PERSON, SUCH AS
26 AN ECTOPIC PREGNANCY. AT ANY STAGE OF THE PERINATAL PERIOD,
27 SITUATIONS CAN OCCUR THAT CAUSE LONG-TERM PHYSICAL AND MENTAL

1 HEALTH TRAUMA FOR THE PREGNANT PERSON.

2 (VI) CRIMINAL PROCEEDINGS ARE NOT RESPONSIVE TO THE
3 TIMELINE OR COMPLEXITY OF THE PERINATAL PERIOD;

4 (VII) WHEN A SUBSTANCE USE DISORDER INTERSECTS WITH A
5 PREGNANCY, IT IS BEST HANDLED AS A HEALTH CONDITION. INCREASING
6 THE TIME A PREGNANT PERSON WITH A SUBSTANCE USE DISORDER IS IN A
7 CORRECTIONAL FACILITY OR COUNTY JAIL IS COUNTER TO PUBLIC HEALTH
8 AND MAY DRIVE THE PREGNANT PERSON AWAY FROM MEDICAL CARE AND
9 SUPPORT SERVICES.

10 (VIII) THE END OF THE PREGNANCY DOES NOT IMMEDIATELY
11 TERMINATE THE EFFECTS OF THE PREGNANCY ON THE PERSON WHO WAS
12 PREGNANT;

13 (IX) THE POSTPARTUM PERIOD IS AN ESSENTIAL TIME FRAME FOR
14 BOTH THE PERSON WHO GAVE BIRTH AND THE NEWBORN. IT IS AN
15 OPPORTUNITY FOR THE NEWBORN:

16 (A) TO DEVELOP HEALTHY PHYSIOLOGIC RESPONSES; AND

17 (B) TO BENEFIT FROM THE ATTACHMENT AND BONDING THAT
18 OCCURS DURING THIS PERIOD;

19 (X) BONDING BETWEEN A NEWBORN AND PARENT DURING THE
20 POSTPARTUM PERIOD CAN IMPROVE CONDITIONS FOR OTHER CHILDREN
21 AND CARE PROVIDERS IN THE SAME FAMILY UNIT AND PREVENT CHILD
22 ABUSE AND NEGLECT; AND

23 (XI) BONDING BETWEEN A NEWBORN AND A PARENT CAN IMPROVE
24 THE OVERALL HEALTH OF THE NEWBORN AND THE PARENT AND MAY
25 PREVENT OR REDUCE LONG-TERM HEALTH RISKS THAT MAY BE INCREASED
26 BY SEPARATING THE NEWBORN FROM THE PARENT. FOR EXAMPLE:

27 (A) A POSTPARTUM PERSON WHO DOES NOT BREASTFEED OR

1 CHESTFEED A NEWBORN MAY HAVE AN INCREASED LIKELIHOOD OF
2 PREMENOPAUSAL BREAST CANCER, OVARIAN CANCER, OR TYPE 2
3 DIABETES;

4 (B) A NEWBORN WHO IS NOT BREASTFED OR CHESTFED MAY HAVE
5 AN INCREASED LIKELIHOOD OF CHILDHOOD OBESITY, ASTHMA, TYPE 1 OR
6 TYPE 2 DIABETES, LEUKEMIA, OR SUDDEN INFANT DEATH SYNDROME; AND

7 (C) A CHILD WHO IS SEPARATED FROM ANY PARENT MAY
8 EXPERIENCE STRESS HORMONES, WHICH MAY LEAD TO DIFFICULTY
9 SLEEPING, DEVELOPMENTAL REGRESSION, HEART DISEASE, HYPERTENSION,
10 OBESITY, DIABETES, OR DECREASED LIFE SPAN. A NEWBORN WHO IS
11 SEPARATED FROM A PARENT MAY ALSO EXPERIENCE PERMANENT
12 ARCHITECTURAL CHANGES IN THE BRAIN, INCLUDING A LOWER
13 INTELLIGENCE QUOTIENT OR AN INCREASED LIKELIHOOD OF DEPRESSION,
14 SUICIDAL IDEATION, OR ADDICTION TO ALCOHOL OR GAMBLING.

15 (b) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT ALL
16 ALTERNATIVES TO PROSECUTION, COMMITMENT, AND INCARCERATION OF
17 A PREGNANT OR POSTPARTUM PERSON MUST BE CONSIDERED, INCLUDING
18 A STAY OF CRIMINAL PROCEEDINGS OR SENTENCING TO REDUCE THE
19 LIKELIHOOD OF NEGATIVE HEALTH AND SOCIAL OUTCOMES FOR THE
20 PARENT, NEWBORN CHILD, AND COMMUNITY.

21 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A PERSON
22 WHO COERCES OR EXTORTS A PREGNANT OR POSTPARTUM PERSON IN THE
23 COMMISSION OF CRIMES SHOULD BE SUBJECT TO BEING INVESTIGATED AND,
24 AS APPROPRIATE, PROSECUTED FOR A CRIMINAL ACT PURSUANT TO THIS
25 TITLE 18.

26 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

1 (a) "NEWBORN" MEANS A PERSON WHO HAS BEEN BORN AND WHO
2 IS LESS THAN ONE YEAR OLD.

3 (b) "POSTPARTUM PERIOD" MEANS A PERIOD OF ONE YEAR AFTER
4 THE END OF A PREGNANCY, REGARDLESS OF WHETHER THE PREGNANCY
5 ENDS WITH A LIVE BIRTH.

6 (c) "PREGNANT OR POSTPARTUM DEFENDANT" MEANS A PERSON
7 WHO IS PREGNANT OR IN A POSTPARTUM PERIOD WHO HAS BEEN ACCUSED
8 OR CONVICTED OF A CRIME.

9 (d) "STAY OF EXECUTION" MEANS DELAYING THE IMPOSITION OF
10 A SENTENCE OR THE INCARCERATION PORTION OF THE SENTENCE FOR A
11 PREGNANT OR POSTPARTUM DEFENDANT _____ AFTER THE SENTENCE IS
12 ANNOUNCED BY A COURT.

13 _____

14 (3)(a) THERE IS A REBUTTABLE PRESUMPTION AGAINST DETENTION
15 AND INCARCERATION OF A PREGNANT OR POSTPARTUM DEFENDANT IF THE
16 DEFENDANT PROVIDES THE COURT AND DISTRICT ATTORNEY WITH NOTICE
17 OF THE DEFENDANT'S STATUS AS A PREGNANT OR POSTPARTUM
18 DEFENDANT AT EACH APPLICABLE STAGE OF THE PROCEEDINGS. SUBJECT
19 TO SUBSECTION (5) OF THIS SECTION AND IF THE COURT DECIDES TO
20 DETAIN OR INCARCERATE THE PREGNANT OR POSTPARTUM DEFENDANT
21 AFTER WEIGHING THE APPLICABLE LEGAL STANDARDS AND
22 CONSIDERATIONS SET FORTH IN SUBSECTIONS (3)(a)(I) TO (3)(a)(VI) OF
23 THIS SECTION, THE COURT SHALL MAKE SPECIFIC FINDINGS ON THE RECORD
24 THAT THE RISK TO PUBLIC SAFETY OR ANY OTHER FACTOR THE COURT IS
25 REQUIRED TO CONSIDER IS SUBSTANTIAL ENOUGH TO OUTWEIGH THE RISK
26 OF INCARCERATION. THE COURT SHALL APPLY THE REBUTTABLE
27 PRESUMPTION DESCRIBED IN THIS SUBSECTION (3)(a) TO A PREGNANT OR

1 POSTPARTUM DEFENDANT IN DETERMINING WHETHER TO:

2 (I) ISSUE BOND PURSUANT TO ARTICLE 4 OF TITLE 16;

3 (II) ACCEPT A DIVERSION AGREEMENT PURSUANT TO SECTION
4 18-1.3-101;

5 (III) ACCEPT OR CONTINUE A DEFERRED JUDGMENT PURSUANT TO
6 SECTION 18-1.3-102;

7 (IV) IMPOSE A SENTENCE PURSUANT TO SECTION 18-1-102.5,
8 INCLUDING WHETHER TO GRANT PROBATION PURSUANT TO PART 2 OF THIS
9 ARTICLE 1.3;

10 (V) IMPOSE AN ALTERNATIVE SENTENCE PURSUANT TO SECTION
11 18-1.3-104 OR 18-1.3-106; OR

12 (VI) GRANT A STAY OF EXECUTION PURSUANT TO THIS SECTION.

13 (b) A COURT SHALL NOT USE A PREGNANT OR POSTPARTUM
14 DEFENDANT'S PREGNANCY OR POSTPARTUM PERIOD AS A BASIS FOR
15 IMPOSING A GREATER RESTRICTION ON THE DEFENDANT'S LIBERTY THAN
16 A SIMILARLY SITUATED DEFENDANT WHO IS NOT PREGNANT OR
17 POSTPARTUM, INCLUDING WHEN A PREGNANT OR POSTPARTUM DEFENDANT
18 HAS A SUBSTANCE USE DISORDER.

19 (4) (a) A PERSON WHO MAY BE PREGNANT OR POSTPARTUM WHO
20 IS ARRESTED OR IN CUSTODY IN A COUNTY JAIL OR CORRECTIONAL
21 FACILITY MAY REQUEST A PREGNANCY TEST UPON OR FOLLOWING
22 ADMISSION TO THE COUNTY JAIL OR CORRECTIONAL FACILITY. STAFF AT
23 THE COUNTY JAIL OR CORRECTIONAL FACILITY SHALL PROVIDE A
24 PREGNANCY TEST UPON REQUEST AND ALLOW THE PERSON TO TAKE THE
25 PREGNANCY TEST WITHIN TWENTY-FOUR HOURS AFTER THE REQUEST.

26 (b) REQUESTING A PREGNANCY TEST, TAKING A PREGNANCY TEST,
27 AND THE RESULTS OF A PREGNANCY TEST ARE CONFIDENTIAL MEDICAL

1 INFORMATION. THIS CONFIDENTIAL MEDICAL INFORMATION MUST NOT BE
2 DISCLOSED TO OUTSIDE PARTIES UNLESS THE INFORMATION IS REQUIRED
3 FOR THE PERSON TO RECEIVE MEDICAL CARE OR TO ALLOW STAFF AT THE
4 COUNTY JAIL OR CORRECTIONAL FACILITY TO PROVIDE NECESSARY CARE.

5 (c) IF A PERSON IS REPRESENTED BY AN ATTORNEY IN A CRIMINAL
6 PROCEEDING AND THE COUNTY JAIL OR CORRECTIONAL FACILITY HAS A
7 SIGNED MEDICAL RELEASE FROM THE PERSON, THE COUNTY JAIL OR
8 CORRECTIONAL FACILITY SHALL GIVE NOTICE TO THE PERSON'S ATTORNEY
9 WITHIN FORTY-EIGHT HOURS, EXCLUDING STATE HOLIDAYS AND
10 WEEKENDS, CONCERNING THE PERSON'S REQUEST FOR A PREGNANCY TEST
11 PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

12 (5) (a) A PREGNANT OR POSTPARTUM DEFENDANT MAY RAISE THE
13 ISSUE OF THE DEFENDANT'S PREGNANCY OR POSTPARTUM PERIOD AT ANY
14 TIME DURING CRIMINAL PROCEEDINGS OR WHILE SERVING A SENTENCE. IF
15 THE PREGNANCY OR POSTPARTUM PERIOD IS RAISED, THE PREGNANT OR
16 POSTPARTUM DEFENDANT SHALL PROVIDE NOTICE TO THE DISTRICT
17 ATTORNEY BY PROVIDING EVIDENCE OF THE PREGNANCY OR THE START OF
18 THE POSTPARTUM PERIOD WITH A LIMITED WAIVER OF PRIVILEGE. A
19 POSITIVE PREGNANCY TEST OR MEDICAL RECORD CONFIRMING PREGNANCY
20 OR THE END OF PREGNANCY, OR A BIRTH CERTIFICATE OF A NEWBORN, IS
21 PRIMA FACIE EVIDENCE OF PREGNANCY OR THE START OF THE POSTPARTUM
22 PERIOD.

23 (b) IF THE PROSECUTION CONTESTS THAT THE DEFENDANT IS
24 PREGNANT OR IN A POSTPARTUM STATE, THE COURT SHALL HOLD A
25 HEARING TO MAKE A DETERMINATION AS SOON AS PRACTICABLE, BUT NO
26 LATER THAN FOURTEEN DAYS AFTER THE ISSUE IS RAISED, UNLESS THE
27 DEFENDANT REQUESTS THE HEARING BE HELD LATER THAN FOURTEEN

1 DAYS AFTER THE ISSUE IS RAISED. IF THE DEFENDANT REQUESTS A LATER
2 HEARING, THE COURT SHALL MAKE THE DETERMINATION WITHIN THE
3 TIMELINE REQUESTED. THE COURT SHALL HOLD THE HEARING
4 IMMEDIATELY IF THE CIRCUMSTANCES OF THE DEFENDANT OR THE
5 DEFENDANT'S NEWBORN REQUIRE IT. THE DEFENDANT SHALL PROVE, BY
6 A PREPONDERANCE OF THE EVIDENCE, THAT THE DEFENDANT IS A
7 PREGNANT OR POSTPARTUM DEFENDANT.

8 (c) THE COURT SHALL PROTECT MEDICAL INFORMATION PROVIDED
9 TO THE COURT AS CONFIDENTIAL MEDICAL INFORMATION. A DEFENDANT'S
10 WAIVER OF MEDICAL PRIVILEGE TO PRESENT MEDICAL EVIDENCE OF
11 PREGNANCY OR THE END OF A PREGNANCY IN COURT IS LIMITED TO
12 INFORMATION RELEVANT TO DETERMINE WHETHER THE DEFENDANT IS OR
13 WAS PREGNANT AND WHETHER THE PREGNANCY HAS ENDED.

14 (6) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A
15 COURT SHALL NOT:

16 (I) SET OR RELEASE THE PREGNANT OR POSTPARTUM DEFENDANT
17 ON BOND IF THE PREGNANT OR POSTPARTUM DEFENDANT IS INELIGIBLE FOR
18 BOND;

19 (II) ACCEPT AN AGREEMENT OR IMPOSE AN ALTERNATIVE
20 SENTENCE IF THE PREGNANT OR POSTPARTUM DEFENDANT IS INELIGIBLE
21 FOR A DIVERSION PROGRAM, DEFERRED JUDGMENT, PROBATIONARY
22 SENTENCE, OR ANOTHER FORM OF ALTERNATIVE SENTENCE; OR

23 (III) APPLY THE REBUTTABLE PRESUMPTION PURSUANT TO THIS
24 SECTION IF A PREGNANT OR POSTPARTUM DEFENDANT WAS CONVICTED OF
25 A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2).

26 (b) THE COURT SHALL IMPOSE ANY MANDATORY SENTENCE
27 REQUIRED BY LAW ON A PREGNANT OR POSTPARTUM DEFENDANT, BUT THE

1 COURT MAY GRANT A STAY OF EXECUTION _____ AS SET FORTH IN
2 SUBSECTION (7) OF THIS SECTION.

3 (7) (a) ANY PREGNANT OR POSTPARTUM DEFENDANT MAY
4 REQUEST A STAY OF EXECUTION ___ BY FILING A WRITTEN REQUEST TO THE
5 COURT IF THE PREGNANT OR POSTPARTUM DEFENDANT IS DETAINED OR
6 INCARCERATED IN A COUNTY JAIL OR CORRECTIONAL FACILITY FOR ANY
7 PERIOD OF TIME THROUGH THE END OF THE PREGNANCY OR THE
8 POSTPARTUM PERIOD.

9 (b) THE COURT SHALL HOLD A HEARING TO DETERMINE THE
10 MATTER AS SOON AS PRACTICABLE, BUT NO LATER THAN FOURTEEN DAYS
11 AFTER THE PREGNANT OR POSTPARTUM DEFENDANT REQUESTS A STAY OF
12 EXECUTION, UNLESS THE PREGNANT OR POSTPARTUM DEFENDANT
13 REQUESTS A LATER HEARING. IF THE PREGNANT OR POSTPARTUM
14 DEFENDANT REQUESTS A LATER HEARING, THE COURT SHALL MAKE THE
15 DETERMINATION WITHIN THE TIMELINE REQUESTED. THE COURT SHALL
16 HOLD THE HEARING IMMEDIATELY IF THE CIRCUMSTANCES OF THE
17 PREGNANT OR POSTPARTUM DEFENDANT OR NEWBORN REQUIRE IT. THE
18 DEFENDANT SHALL PROVE, BY A PREPONDERANCE OF THE EVIDENCE, THAT
19 THE DEFENDANT IS A PREGNANT OR POSTPARTUM DEFENDANT.

20 (c) IN RULING UPON THE PREGNANT OR POSTPARTUM DEFENDANT'S
21 REQUEST PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION, THE COURT
22 SHALL APPLY THE REBUTTABLE PRESUMPTION SET FORTH IN SUBSECTION
23 (3)(a) OF THIS SECTION.

24 (d) THE DISTRICT ATTORNEY AND THE COURT SHALL COMPLY WITH
25 THE REQUIREMENTS OF THE "VICTIM RIGHTS ACT" PURSUANT TO PART 3
26 OF ARTICLE 4.1 OF TITLE 24 IN ANY PROCEEDING CONDUCTED PURSUANT
27 TO THIS SECTION.

1 (e) FOLLOWING THE HEARING CONDUCTED PURSUANT TO
2 SUBSECTION (7)(b) OF THIS SECTION, THE COURT MAY ORDER A STAY OF
3 EXECUTION OF THE SENTENCE FOR ANY PERIOD OF TIME THROUGH THE END
4 OF THE PREGNANCY OR THE POSTPARTUM PERIOD. THE COURT SHALL
5 ORDER A DATE, TIME, AND PLACE FOR THE DEFENDANT TO APPEAR TO
6 SERVE THE SENTENCE UPON COMPLETION OF THE STAY OF EXECUTION.

7 (f) IF THE COURT GRANTS A STAY OF EXECUTION PURSUANT TO
8 SUBSECTION (7)(e) OF THIS SECTION, THE COURT SHALL ORDER THE BOND
9 AND THE CONDITIONS OF THE BOND TO REMAIN IN EFFECT UNTIL THE DATE
10 THE PREGNANT OR POSTPARTUM DEFENDANT IS ORDERED TO START
11 SERVING THE DEFENDANT'S SENTENCE.

12 (g) NOTWITHSTANDING THIS SECTION, A PREGNANT OR
13 POSTPARTUM DEFENDANT WHO IS INELIGIBLE FOR BAIL PURSUANT TO
14 SECTION 16-4-101 OR 16-4-201.5 IS NOT ELIGIBLE FOR A STAY OF
15 EXECUTION.

16 ==

17 (h) IF THE PREGNANT OR POSTPARTUM DEFENDANT IS CHARGED
18 WITH A NEW VIOLATION OR THE COURT RECEIVES A VERIFIED MOTION
19 FROM THE DISTRICT ATTORNEY OR AN AGENCY RESPONSIBLE FOR
20 SUPERVISING THE PREGNANT OR POSTPARTUM DEFENDANT THAT
21 ESTABLISHES A PRIMA FACIE CASE THAT THE PREGNANT OR POSTPARTUM
22 DEFENDANT HAS VIOLATED THE CONDITIONS OF THE STAY OF EXECUTION
23 == AND PRESENTS A SUBSTANTIAL RISK TO PUBLIC SAFETY, THE COURT
24 SHALL SET A HEARING AND REQUIRE THE PREGNANT OR POSTPARTUM
25 DEFENDANT TO APPEAR. AFTER THE HEARING, THE COURT MAY END THE
26 STAY OF EXECUTION, ADD NEW CONDITIONS, ISSUE A WARRANT, OR
27 CONTINUE THE STAY OF EXECUTION.

1 (8) IF A DEFENDANT, WHO IS SENTENCED TO INCARCERATION,
2 LEARNS THAT THE DEFENDANT IS PREGNANT FOLLOWING THE SENTENCING
3 HEARING, OR A POSTPARTUM DEFENDANT EXPERIENCES CHANGES TO THE
4 DEFENDANT'S POSTPARTUM CONDITION FOLLOWING THE SENTENCING
5 HEARING, THIS SECTION DOES NOT PRECLUDE THE PREGNANT OR
6 POSTPARTUM DEFENDANT FROM REQUESTING RECONSIDERATION OF THE
7 SENTENCE PURSUANT TO RULE 35 (b) OF THE RULES OF CRIMINAL
8 PROCEDURE. DURING THE RECONSIDERATION HEARING, THIS SECTION
9 APPLIES.

10

11 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-25-136 as
12 follows:

13 **13-25-136. Criminal actions - prenatal drug and alcohol**
14 **screening - admissibility of evidence.** A court shall not admit in a
15 criminal proceeding information relating to substance use ~~not otherwise~~
16 ~~required to be reported pursuant to section 19-3-304,~~ obtained as part of
17 a screening or test performed to determine pregnancy or to provide
18 prenatal or postpartum care, up to one year postpartum, or if a pregnant
19 or parenting ~~woman~~ PERSON discloses substance use during pregnancy
20 while seeking or participating in behavioral health treatment. This section
21 does not prohibit prosecution of any claim or action related to such
22 substance use based on evidence obtained through methods other than
23 those described in this section.


24 **SECTION 3.** In Colorado Revised Statutes, 16-4-103, **add** (7) as
25 follows:

26 **16-4-103. Setting and selection type of bond - criteria.** (7) AT
27 THE FIRST APPEARANCE OF A PREGNANT OR POSTPARTUM DEFENDANT WHO

1 HAS COMPLIED WITH THE NOTICE REQUIREMENT SET FORTH IN SECTION
2 18-1.3-103.7, TO SET BOND, THE COURT OR PERSON DESIGNATED BY THE
3 COURT TO SET BOND SHALL CONSIDER THE DEFENDANT'S PREGNANCY OR
4 POSTPARTUM STATUS WHEN SETTING BOND PURSUANT TO THE
5 RESTRICTIONS SET FORTH IN SECTION 19 OF ARTICLE II OF THE STATE
6 CONSTITUTION AND SECTION 16-4-101.

7 **SECTION 4.** In Colorado Revised Statutes, 17-27-103, **add**
8 (5)(d) as follows:

9 **17-27-103. Community corrections boards - establishment -**
10 **duties.** (5) (d) A COMMUNITY CORRECTIONS BOARD SHALL EXPEDITE A
11 DECISION TO ACCEPT AN OFFENDER WHO IS A PREGNANT OR POSTPARTUM
12 DEFENDANT, AS DEFINED IN SECTION 18-1.3-103.7, IF THE PREGNANT OR
13 POSTPARTUM DEFENDANT DID NOT RAISE THE ISSUE OF THE PREGNANCY
14 OR POSTPARTUM PERIOD PRIOR TO A REQUEST FOR COMMUNITY
15 CORRECTIONS PLACEMENT.

16 
17 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-101, **amend**
18 (3)(b) as follows:

19 **18-1.3-101. Pretrial diversion - appropriation - repeal.**
20 (3) **Guidelines for eligibility.** Each district attorney that uses state
21 money for a diversion program pursuant to this section shall adopt
22 policies and guidelines delineating eligibility criteria for pretrial
23 diversion, including types and levels of offenses so long as those offenses
24 are consistent with subsections (5) to (7) of this section, and may agree
25 to diversion in any case in which there exists sufficient admissible
26 evidence to support a conviction. In determining whether an individual
27 is appropriate for diversion, the district attorney shall consider:

1 (b) Any special characteristics or circumstances of the defendant,
2 which may include whether the defendant has a mental health or other
3 behavioral health disorder OR WHETHER THE DEFENDANT IS A PREGNANT
4 OR POSTPARTUM DEFENDANT, AS DEFINED IN SECTION 18-1.3-103.7;

5 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-203, **amend**
6 (2) introductory portion; and **add** (2)(o) as follows:

7 **18-1.3-203. Criteria for granting probation.** (2) The following
8 factors, or the converse thereof ~~where~~ **WHEN** appropriate, while not
9 controlling the discretion of the court, ~~shall~~ **MUST** be accorded weight in
10 making determinations called for by subsection (1) of this section:

11 (o) THE DEFENDANT IS A PREGNANT OR POSTPARTUM DEFENDANT,
12 IF THE DEFENDANT COMPLIED WITH THE NOTICE REQUIREMENT SET FORTH
13 IN SECTION 18-1.3-103.7.

14 **SECTION 7.** In Colorado Revised Statutes, **add** 19-2.5-1118.5
15 as follows:

16 **19-2.5-1118.5. Sentencing - alternative options for pregnant**
17 **and postpartum juveniles - legislative declaration - definitions.**

18 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

19 **(I)** WHILE NO SYSTEM IS PERFECT IN RESPONDING TO THE MEDICAL
20 CONDITIONS OF PREGNANCY, JUVENILE **FACILITIES** ARE PARTICULARLY
21 ILL-EQUIPPED TO DO SO;

22 **(II)** DURING JUVENILE DELINQUENCY CASES INVOLVING A
23 PREGNANT OR POSTPARTUM JUVENILE, THE PHYSICAL AND MENTAL
24 HEALTH NEEDS OF THE PREGNANT JUVENILE OR POSTPARTUM JUVENILE
25 AND NEWBORN MUST BE CONSIDERED AT ALL STAGES OF THE PROCEEDING
26 AS A MATTER OF COMMUNITY HEALTH AND SAFETY;
27

1 (III) TIMELY ATTENTION TO MEDICAL CONDITIONS AND MENTAL
2 HEALTH DURING THE PERINATAL PERIOD CAN IMPROVE HEALTH AND
3 WELFARE FOR MULTIPLE GENERATIONS OF A FAMILY UNIT;

4 (IV) PREGNANCY IS A TIME-SENSITIVE PROCESS THAT HAS MANY
5 POTENTIAL OUTCOMES AND VARIATIONS. A PREGNANT PERSON MAY FEEL
6 HEALTHY AND EXPERIENCE NO COMPLICATIONS. A PREGNANT PERSON MAY
7 ALSO EXPERIENCE SUDDEN, HARMFUL MEDICAL CONDITIONS, SUCH AS
8 PREECLAMPSIA OR PLACENTAL ABRUPTION, OR DEVELOP COMPLEX
9 MEDICAL CONDITIONS THAT RESULT IN THE EARLY TERMINATION OF A
10 PREGNANCY OR THREATEN THE LIFE OF THE PREGNANT PERSON, SUCH AS
11 AN ECTOPIC PREGNANCY. AT ANY STAGE OF THE PERINATAL PERIOD,
12 SITUATIONS CAN OCCUR THAT CAUSE LONG-TERM PHYSICAL AND MENTAL
13 HEALTH TRAUMA FOR THE PREGNANT PERSON.

14 (V) ADJUDICATORY PROCEEDINGS ARE NOT RESPONSIVE TO THE
15 TIMELINE OR COMPLEXITY OF THE PERINATAL PERIOD;

16 (VI) WHEN A SUBSTANCE USE DISORDER INTERSECTS WITH A
17 PREGNANCY, IT IS BEST HANDLED AS A HEALTH CONDITION. INCREASING
18 THE TIME A PREGNANT PERSON WITH A SUBSTANCE USE DISORDER IS IN A
19 JUVENILE FACILITY IS COUNTER TO PUBLIC HEALTH AND MAY DRIVE THE
20 PREGNANT PERSON AWAY FROM MEDICAL CARE AND SUPPORT SERVICES.

21 (VII) THE END OF PREGNANCY DOES NOT IMMEDIATELY
22 TERMINATE THE EFFECTS OF THE PREGNANCY ON THE PERSON WHO WAS
23 PREGNANT;

24 (VIII) THE POSTPARTUM PERIOD IS AN ESSENTIAL TIME FRAME FOR
25 BOTH THE PERSON WHO GAVE BIRTH AND THE NEWBORN. IT IS AN
26 OPPORTUNITY FOR THE NEWBORN:

27 (A) TO DEVELOP HEALTHY PHYSIOLOGIC RESPONSES; AND

1 (B) TO BENEFIT FROM THE ATTACHMENT AND BONDING THAT
2 OCCURS DURING THIS PERIOD;

3 (IX) BONDING BETWEEN A NEWBORN AND PARENT DURING THE
4 POSTPARTUM PERIOD CAN IMPROVE CONDITIONS FOR OTHER CHILDREN
5 AND CARE PROVIDERS IN THE SAME FAMILY UNIT AND PREVENT CHILD
6 ABUSE AND NEGLECT; AND

7 (X) BONDING BETWEEN A NEWBORN AND A PARENT CAN IMPROVE
8 THE OVERALL HEALTH OF THE NEWBORN AND THE PARENT AND MAY
9 PREVENT OR REDUCE LONG-TERM HEALTH RISKS THAT MAY BE INCREASED
10 BY SEPARATING THE NEWBORN FROM THE PARENT. FOR EXAMPLE:

11 (A) A POSTPARTUM PERSON WHO DOES NOT BREASTFEED OR
12 CHESTFEED A NEWBORN MAY HAVE AN INCREASED LIKELIHOOD OF
13 PREMENOPAUSAL BREAST CANCER, OVARIAN CANCER, OR TYPE 2
14 DIABETES;

15 (B) A NEWBORN WHO IS NOT BREASTFED OR CHESTFED MAY HAVE
16 AN INCREASED LIKELIHOOD OF CHILDHOOD OBESITY, ASTHMA, TYPE 1 OR
17 TYPE 2 DIABETES, LEUKEMIA, OR SUDDEN INFANT DEATH SYNDROME; AND

18 (C) A CHILD WHO IS SEPARATED FROM ANY PARENT MAY
19 EXPERIENCE STRESS HORMONES, WHICH MAY LEAD TO DIFFICULTY
20 SLEEPING, DEVELOPMENTAL REGRESSION, HEART DISEASE, HYPERTENSION,
21 OBESITY, DIABETES, OR DECREASED LIFE SPAN. A NEWBORN WHO IS
22 SEPARATED FROM A PARENT MAY ALSO EXPERIENCE PERMANENT
23 ARCHITECTURAL CHANGES IN THE BRAIN, INCLUDING A LOWER
24 INTELLIGENCE QUOTIENT OR AN INCREASED LIKELIHOOD OF DEPRESSION,
25 SUICIDAL IDEATION, OR ADDICTION TO ALCOHOL OR GAMBLING.

26 (b) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT ALL
27 ALTERNATIVES TO JUVENILE PROCEEDINGS, ADJUDICATION, AND

1 COMMITMENT OF A PREGNANT OR POSTPARTUM JUVENILE MUST BE
2 CONSIDERED, INCLUDING A STAY OF CRIMINAL PROCEEDINGS OR
3 SENTENCING TO REDUCE THE LIKELIHOOD OF NEGATIVE HEALTH AND
4 SOCIAL OUTCOMES FOR THE PARENT, NEWBORN CHILD, AND COMMUNITY.

5 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A PERSON
6 WHO COERCES OR EXTORTS A PREGNANT OR POSTPARTUM PERSON IN THE
7 COMMISSION OF CRIMES SHOULD BE SUBJECT TO BEING INVESTIGATED AND,
8 AS APPROPRIATE, PROSECUTED FOR A CRIMINAL ACT PURSUANT TO TITLE
9 18.

10 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "JUVENILE" MEANS A PERSON WHO IS UNDER EIGHTEEN YEARS
13 OF AGE WHEN THE DELINQUENT ACT IS COMMITTED AND UNDER
14 TWENTY-ONE YEARS OF AGE AT THE TIME OF SENTENCING.

15 (b) "NEWBORN" MEANS A PERSON WHO HAS BEEN BORN AND WHO
16 IS LESS THAN ONE YEAR OLD.

17 (c) "POSTPARTUM PERIOD" MEANS A PERIOD OF ONE YEAR AFTER
18 THE END OF A PREGNANCY, REGARDLESS OF WHETHER THE PREGNANCY
19 ENDS WITH A LIVE BIRTH.

20 (d) "PREGNANT OR POSTPARTUM JUVENILE" MEANS A JUVENILE
21 WHO IS PREGNANT OR IN A POSTPARTUM PERIOD WHO HAS BEEN ACCUSED
22 OF A DELINQUENT ACT.

23 (e) "STAY OF EXECUTION" MEANS DELAYING THE IMPOSITION OF
24 A SENTENCE OR THE COMMITMENT PORTION OF THE SENTENCE FOR A
25 PREGNANT OR POSTPARTUM JUVENILE ___ AFTER IT IS ANNOUNCED BY A
26 COURT.

27 ___

1 (3)(a) THERE IS A REBUTTABLE PRESUMPTION AGAINST DETENTION
2 AND COMMITMENT OF A PREGNANT OR POSTPARTUM JUVENILE IF THE
3 JUVENILE PROVIDES THE COURT AND DISTRICT ATTORNEY WITH NOTICE OF
4 THE JUVENILE'S STATUS AS A PREGNANT OR POSTPARTUM JUVENILE AT
5 EACH APPLICABLE STAGE OF THE PROCEEDINGS. SUBJECT TO SUBSECTION
6 (5) OF THIS SECTION AND IF THE COURT DECIDES TO DETAIN OR COMMIT
7 THE PREGNANT OR POSTPARTUM JUVENILE AFTER WEIGHING THE
8 APPLICABLE LEGAL STANDARDS AND CONSIDERATIONS SET FORTH IN
9 SUBSECTIONS (3)(a)(I) TO (3)(a)(VI) OF THIS SECTION, THE COURT SHALL
10 MAKE SPECIFIC FINDINGS ON THE RECORD THAT THE RISK TO PUBLIC
11 SAFETY OR ANY OTHER FACTOR THE COURT IS REQUIRED TO CONSIDER IS
12 SUBSTANTIAL ENOUGH TO OUTWEIGH THE RISK OF DETENTION OR
13 COMMITMENT. THE COURT SHALL APPLY THE REBUTTABLE _____
14 PRESUMPTION DESCRIBED IN THIS SUBSECTION (3)(a) TO A PREGNANT OR
15 POSTPARTUM JUVENILE IN DETERMINING WHETHER TO:

- 16 (I) ISSUE BOND PURSUANT TO SECTION 19-2.5-306;
- 17 (II) ACCEPT ENTRY INTO THE JUVENILE DIVERSION PROGRAM
18 PURSUANT TO SECTION 19-2.5-402;
- 19 (III) ACCEPT OR CONTINUE DEFERRED JUDGMENTS PURSUANT TO
20 SECTION 18-1.3-102;
- 21 (IV) IMPOSE A SENTENCE PURSUANT TO SECTION 19-2.5-1103,
22 INCLUDING WHETHER TO GRANT JUVENILE PROBATION PURSUANT TO
23 SECTION 19-2.5-1106;
- 24 (V) IMPOSE AN ALTERNATIVE SENTENCE PURSUANT TO SECTION
25 19-2.5-1113; OR
- 26 (VI) GRANT A STAY OF EXECUTION PURSUANT TO THIS SECTION.
- 27 (b) A COURT SHALL NOT USE A PREGNANT OR POSTPARTUM

1 JUVENILE'S PREGNANCY OR POSTPARTUM PERIOD AS A BASIS FOR IMPOSING
2 A GREATER RESTRICTION ON THE JUVENILE'S LIBERTY THAN A SIMILARLY
3 SITUATED JUVENILE WHO IS NOT PREGNANT OR POSTPARTUM, INCLUDING
4 CIRCUMSTANCES IN WHICH A PREGNANT OR POSTPARTUM JUVENILE HAS A
5 SUBSTANCE USE DISORDER.

6 (4) (a) A JUVENILE WHO MAY BE PREGNANT WHO IS ARRESTED OR
7 IN CUSTODY IN A JUVENILE FACILITY MAY REQUEST A PREGNANCY TEST
8 UPON OR FOLLOWING ADMISSION TO THE JUVENILE FACILITY. STAFF AT THE
9 JUVENILE FACILITY SHALL PROVIDE A PREGNANCY TEST UPON REQUEST
10 AND ALLOW THE JUVENILE TO TAKE THE PREGNANCY TEST WITHIN
11 TWENTY-FOUR HOURS AFTER THE REQUEST.

12 (b) REQUESTING A PREGNANCY TEST, TAKING A PREGNANCY TEST,
13 AND THE RESULTS OF A PREGNANCY TEST ARE CONFIDENTIAL MEDICAL
14 INFORMATION. THIS CONFIDENTIAL MEDICAL INFORMATION MUST NOT BE
15 DISCLOSED TO OUTSIDE PARTIES UNLESS THE INFORMATION IS REQUIRED
16 FOR THE JUVENILE TO RECEIVE MEDICAL CARE OR TO ALLOW STAFF AT THE
17 JUVENILE FACILITY TO PROVIDE NECESSARY CARE.

18 (c) IF A JUVENILE IS REPRESENTED BY AN ATTORNEY IN A CRIMINAL
19 PROCEEDING AND THE JUVENILE FACILITY HAS A SIGNED MEDICAL RELEASE
20 FROM THE JUVENILE, THE JUVENILE FACILITY SHALL NOTIFY THE
21 JUVENILE'S ATTORNEY WITHIN FORTY-EIGHT HOURS, EXCLUDING STATE
22 HOLIDAYS AND WEEKENDS, CONCERNING THE JUVENILE'S REQUEST FOR A
23 PREGNANCY TEST PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

24 (5) (a) A PREGNANT OR POSTPARTUM JUVENILE MAY RAISE THAT
25 THE JUVENILE IS PREGNANT OR POSTPARTUM AT ANY TIME DURING
26 ADJUDICATORY PROCEEDINGS OR WHILE SERVING A SENTENCE. IF THE
27 PREGNANCY OR POSTPARTUM PERIOD IS RAISED, THE PREGNANT OR

1 POSTPARTUM JUVENILE SHALL PROVIDE NOTICE TO THE DISTRICT
2 ATTORNEY BY PROVIDING EVIDENCE OF THE PREGNANCY OR THE START OF
3 THE POSTPARTUM PERIOD WITH A LIMITED WAIVER OF PRIVILEGE. A
4 POSITIVE PREGNANCY TEST OR MEDICAL RECORD CONFIRMING PREGNANCY
5 OR THE END OF PREGNANCY, OR A BIRTH CERTIFICATE OF A NEWBORN, IS
6 PRIMA FACIE EVIDENCE OF PREGNANCY OR THE START OF THE POSTPARTUM
7 PERIOD.

8 (b) IF THE PROSECUTION CONTESTS THAT THE JUVENILE IS
9 PREGNANT OR POSTPARTUM, THE COURT SHALL HOLD A HEARING TO MAKE
10 A DETERMINATION AS SOON AS PRACTICABLE, BUT NO LATER THAN
11 FOURTEEN DAYS AFTER THE ISSUE IS RAISED, UNLESS THE JUVENILE
12 REQUESTS THE HEARING BE HELD LATER THAN FOURTEEN DAYS AFTER THE
13 ISSUE IS RAISED. IF THE JUVENILE REQUESTS A LATER HEARING, THE COURT
14 SHALL MAKE THE DETERMINATION WITHIN THE TIMELINE AS REQUESTED.
15 THE COURT SHALL HOLD THE HEARING IMMEDIATELY IF THE
16 CIRCUMSTANCES OF THE JUVENILE OR THE JUVENILE'S NEWBORN REQUIRE
17 IT. THE JUVENILE SHALL PROVE, BY A PREPONDERANCE OF THE EVIDENCE,
18 THAT THE JUVENILE IS A PREGNANT OR POSTPARTUM JUVENILE.

19 (c) THE COURT SHALL PROTECT MEDICAL INFORMATION PROVIDED
20 TO THE COURT AS CONFIDENTIAL MEDICAL INFORMATION. A JUVENILE'S
21 WAIVER OF MEDICAL PRIVILEGE TO PRESENT MEDICAL EVIDENCE OF
22 PREGNANCY OR THE END OF A PREGNANCY IN COURT IS LIMITED TO
23 INFORMATION RELEVANT TO DETERMINE WHETHER THE JUVENILE IS OR
24 WAS PREGNANT AND WHETHER THE PREGNANCY HAS ENDED.

25 (6) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A
26 COURT SHALL NOT:

27 (I) SET OR RELEASE THE PREGNANT OR POSTPARTUM JUVENILE ON

1 BOND IF THE PREGNANT OR POSTPARTUM JUVENILE IS INELIGIBLE FOR
2 BOND;

3 (II) ACCEPT OR IMPOSE AN ALTERNATIVE SENTENCE IF THE
4 PREGNANT OR POSTPARTUM JUVENILE IS INELIGIBLE FOR A DIVERSION
5 PROGRAM, DEFERRED JUDGMENT, PROBATIONARY SENTENCE, OR ANOTHER
6 FORM OF ALTERNATIVE SENTENCE; OR

7 (III) APPLY THE REBUTTABLE PRESUMPTION PURSUANT TO THIS
8 SECTION IF A PREGNANT OR POSTPARTUM JUVENILE WAS ADJUDICATED OF
9 A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2).

10 (b) THE COURT SHALL IMPOSE ANY MANDATORY SENTENCE
11 REQUIRED BY LAW ON A PREGNANT OR POSTPARTUM JUVENILE, BUT THE
12 COURT MAY GRANT A STAY OF EXECUTION _____ AS SET FORTH IN
13 SUBSECTION (7) OF THIS SECTION.

14 (7) (a) ANY PREGNANT OR POSTPARTUM JUVENILE MAY REQUEST
15 A STAY OF EXECUTION ___ BY FILING A WRITTEN REQUEST TO THE COURT
16 IF THE PREGNANT OR POSTPARTUM JUVENILE IS DETAINED OR COMMITTED
17 IN A JUVENILE FACILITY FOR ANY PERIOD OF TIME THROUGH THE END OF
18 THE PREGNANCY OR THE POSTPARTUM PERIOD.

19 (b) THE COURT SHALL HOLD A HEARING TO DETERMINE THE
20 MATTER AS SOON AS PRACTICABLE, BUT NO LATER THAN FOURTEEN DAYS
21 AFTER THE PREGNANT OR POSTPARTUM JUVENILE REQUESTS A STAY OF
22 EXECUTION, UNLESS THE PREGNANT OR POSTPARTUM JUVENILE REQUESTS
23 A LATER HEARING. IF THE PREGNANT OR POSTPARTUM JUVENILE REQUESTS
24 A LATER HEARING, THE COURT SHALL MAKE THE DETERMINATION WITHIN
25 THE TIMELINE REQUESTED. THE COURT SHALL HOLD THE HEARING
26 IMMEDIATELY IF THE CIRCUMSTANCES OF THE PREGNANT OR POSTPARTUM
27 JUVENILE OR NEWBORN REQUIRE IT. THE JUVENILE SHALL PROVE, BY A

1 PREPONDERANCE OF THE EVIDENCE, THAT THE JUVENILE IS A PREGNANT OR
2 POSTPARTUM JUVENILE.

3 (c) IN RULING UPON THE PREGNANT OR POSTPARTUM JUVENILE'S
4 REQUEST PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION, THE COURT
5 SHALL APPLY THE REBUTTABLE PRESUMPTION SET FORTH IN SUBSECTION
6 (3)(a) OF THIS SECTION.

7 (d) THE DISTRICT ATTORNEY AND THE COURT SHALL COMPLY WITH
8 THE REQUIREMENTS OF THE "VICTIM RIGHTS ACT" PURSUANT TO PART 3
9 OF ARTICLE 4.1 OF TITLE 24 IN ANY PROCEEDING CONDUCTED PURSUANT
10 TO THIS SECTION.

11 (e) FOLLOWING THE HEARING CONDUCTED PURSUANT TO
12 SUBSECTION (7)(b) OF THIS SECTION, THE COURT MAY ORDER A STAY OF
13 EXECUTION OF THE SENTENCE FOR ANY PERIOD OF TIME THROUGH THE END
14 OF THE PREGNANCY OR THE POSTPARTUM PERIOD. THE COURT SHALL
15 ORDER A DATE, TIME, AND PLACE FOR THE JUVENILE TO APPEAR TO SERVE
16 THE SENTENCE UPON COMPLETION OF THE STAY OF EXECUTION.

17 (f) IF THE COURT GRANTS A STAY OF EXECUTION PURSUANT TO
18 SUBSECTION (7)(e) OF THIS SECTION, THE COURT SHALL ORDER THE BOND
19 AND THE CONDITIONS OF THE BOND TO REMAIN IN EFFECT UNTIL THE DATE
20 THE PREGNANT OR POSTPARTUM JUVENILE IS ORDERED TO START SERVING
21 THE JUVENILE'S SENTENCE.

22 (g) NOTWITHSTANDING THIS SECTION, A PREGNANT OR
23 POSTPARTUM JUVENILE WHO IS INELIGIBLE FOR BAIL PURSUANT TO
24 SECTION 19-2.5-306 IS NOT ELIGIBLE FOR A STAY OF EXECUTION.

25
26 (h) IF THE PREGNANT OR POSTPARTUM JUVENILE IS CHARGED WITH
27 A NEW VIOLATION OR THE COURT RECEIVES A VERIFIED MOTION FROM THE

1 DISTRICT ATTORNEY OR ANY AGENCY RESPONSIBLE FOR SUPERVISING THE
2 PREGNANT OR POSTPARTUM JUVENILE THAT ESTABLISHES A PRIMA FACIE
3 CASE THAT THE PREGNANT OR POSTPARTUM JUVENILE HAS VIOLATED THE
4 CONDITIONS OF THE STAY OF EXECUTION _____ AND PRESENTS A
5 SUBSTANTIAL RISK TO PUBLIC SAFETY, THE COURT SHALL SET A HEARING
6 AND REQUIRE THE PREGNANT OR POSTPARTUM JUVENILE TO APPEAR.
7 AFTER THE HEARING, THE COURT MAY END THE STAY OF EXECUTION, ADD
8 NEW CONDITIONS, ISSUE A WARRANT, OR CONTINUE THE STAY OF
9 EXECUTION.

10 (8) IF A JUVENILE, WHO IS SENTENCED TO DETENTION OR
11 COMMITMENT, LEARNS THAT THE JUVENILE IS PREGNANT FOLLOWING THE
12 SENTENCING HEARING, OR A POSTPARTUM JUVENILE EXPERIENCES
13 CHANGES TO THE JUVENILE'S POSTPARTUM CONDITION FOLLOWING THE
14 SENTENCING HEARING, THIS SECTION DOES NOT PRECLUDE THE PREGNANT
15 OR POSTPARTUM JUVENILE FROM REQUESTING RECONSIDERATION OF THE
16 SENTENCE PURSUANT TO RULE 35 (b) OF THE RULES OF CRIMINAL
17 PROCEDURE. DURING THE RECONSIDERATION HEARING, THIS SECTION
18 APPLIES.

19 
20 **SECTION 8.** In Colorado Revised Statutes, 19-2.5-306, **amend**
21 (4)(a) as follows:

22 **19-2.5-306. Conditions of release - personal recognizance**
23 **bond.** (4) (a) In determining the conditions of release for the juvenile, the
24 judge or magistrate fixing the same shall consider the criteria set forth in
25 section 16-4-103. IF THE JUVENILE IS A PREGNANT OR POSTPARTUM
26 JUVENILE WHO HAS COMPLIED WITH THE NOTICE REQUIREMENT SET FORTH
27 IN SECTION 19-2.5-1118.5, THE JUDGE OR MAGISTRATE SHALL CONSIDER

1 THE JUVENILE'S PREGNANCY OR POSTPARTUM STATUS IN DETERMINING THE
2 CONDITIONS OF RELEASE.

3 **SECTION 9.** In Colorado Revised Statutes, 24-4.1-302, **add**
4 (2)(x) as follows:

5 **24-4.1-302. Definitions.** As used in this part 3, and for no other
6 purpose, including the expansion of the rights of any defendant:

7 (2) "Critical stages" means the following stages of the criminal
8 justice process:

9 (x) A HEARING HELD PURSUANT TO SECTION 18-1.3-103.7 OR
10 19-2.5-1118.5.

11 **SECTION 10.** In Colorado Revised Statutes, 24-4.1-302.5,
12 **amend** (1)(d)(IX) and (1)(d)(X); and **add** (1)(d)(XI) as follows:

13 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
14 order to preserve and protect a victim's rights to justice and due process,
15 each victim of a crime has the following rights:

16 (d) The right to be heard at any court proceeding:

17 (IX) Involving a hearing as described in section 24-31-902 (2)(c);

18 **or**

19 (X) Involving a hearing held pursuant to section 24-72-706,
20 24-72-709, or 24-72-710; OR

21 (XI) INVOLVING A HEARING HELD PURSUANT TO SECTION
22 18-1.3-103.7 OR 19-2.5-1118.5.

23 **SECTION 11. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2024 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.