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An Act

HOUSE BILL 26-1039

BY REPRESENTATIVE(S) Carter and Ricks, Richardson, Bacon, Brown, Clifford, English, Espenosa, Jackson, Lindsay, Mabrey, Nguyen; also SENATOR(S) Jodeh and Weissman, Amabile, Benavidez, Cutter, Exum, Gonzales J., Hinrichsen, Kipp, Marchman, Wallace, Coleman.

CONCERNING REQUIREMENTS FOR MUNICIPAL JAILS.

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

SECTION 1. In Colorado Revised Statutes, **amend** 2-3-1901.5 as follows:

2-3-1901.5. Jail standards compliance.

Each county jail shall comply with the standards adopted by the legislative oversight committee pursuant to section 2-3-1901 (2). ~~beginning July 1, 2026.~~ EACH MUNICIPAL JAIL, AS DESCRIBED IN SECTION 31-15-401, SHALL COMPLY WITH THE STANDARDS ADOPTED BY THE COMMITTEE, BEGINNING JULY 1, 2027. The committee shall post the standards on its website. If the committee revises a jail standard, each county jail AND MUNICIPAL JAIL shall comply with the revised standard no later than one year after the revision is adopted, or earlier if specified by the committee

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.

when adopting the revision. A county jail OR MUNICIPAL JAIL does not have to comply with a standard or revised standard if it receives a variance from the standard pursuant to section 30-10-530 (5)(g).

SECTION 2. In Colorado Revised Statutes, **add** 17-26-101.5 as follows:

17-26-101.5. Jail operated by city.

A MUNICIPAL JAIL, AS DESCRIBED IN SECTION 31-15-401, OPERATED BY A CITY GOVERNMENT MUST COMPLY WITH ALL PROVISIONS IN THIS ARTICLE 26 AND MUST BE MAINTAINED AT THE EXPENSE OF THE CITY. A CITY MAY ACCEPT AND EXPEND FUNDS TO MAINTAIN A MUNICIPAL JAIL. NOTHING IN THIS ARTICLE 26 COMPELS THE ERECTION OF A JAIL IN A CITY.

SECTION 3. In Colorado Revised Statutes, **amend** 17-26-104.7 as follows:

17-26-104.7. Prohibition against the use of restraints on pregnant persons in custody.

(1) (a) The staff of a county OR MUNICIPAL jail, in restraining a ~~woman~~ PERSON who is committed, detained, or confined to ~~the~~ A county OR MUNICIPAL jail, shall use the least restrictive restraints necessary to ensure safety if the staff of the county OR MUNICIPAL jail have a reasonable belief that the ~~woman~~ PERSON is pregnant. For the use of restraints during labor, delivery, and postpartum recovery IN A COUNTY JAIL, the staff shall comply with the "Protection of Individuals from Restraint and Seclusion Act", article 20 of title 26. DESPITE THE RELEASE REQUIREMENT IN SUBSECTION (1)(b) OF THIS SECTION, IF LABOR, DELIVERY, OR POSTPARTUM RECOVERY OCCURS AT A MUNICIPAL JAIL FOR A PREGNANT PERSON CHARGED WITH A VIOLATION OF A MUNICIPAL ORDINANCE, USE OF RESTRAINTS IS PROHIBITED DURING THE LABOR, DELIVERY, AND POSTPARTUM RECOVERY.

(b) THE KEEPER OF THE MUNICIPAL JAIL SHALL RELEASE A PREGNANT PERSON CHARGED WITH A VIOLATION OF A MUNICIPAL ORDINANCE FROM CUSTODY IF THE STAFF OF THE MUNICIPAL JAIL HAVE A REASONABLE BELIEF THE PERSON IS IN LABOR, UNLESS REMAINING IN CUSTODY IS NECESSARY FOR THE HEALTH OR WELFARE OF THE PREGNANT PERSON. THE KEEPER OF THE JAIL SHALL OFFER THE PERSON TRANSPORTATION TO THE HOSPITAL AND

RELEASE THE PERSON ON AN UNSECURED PERSONAL RECOGNIZANCE BOND WITH NO OTHER CONDITIONS RETURNABLE TO THE MUNICIPAL COURT.

(2) (a) Repealed.

(b) The county OR MUNICIPAL jail or medical facility staff authorizing the use of restraints on a pregnant person during labor or delivery of the child shall make a written record of the use of the restraints, which record ~~shall~~ MUST include, at a minimum, the type of restraint used, the circumstances that necessitated the use of the restraint, and the length of time the restraint was used. NOTWITHSTANDING THE RELEASE REQUIREMENT DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION, IF LABOR, DELIVERY, OR POSTPARTUM RECOVERY OCCURS AT A MUNICIPAL JAIL FOR THE HEALTH OR WELFARE OF THE PREGNANT PERSON, THE MUNICIPAL JAIL STAFF SHALL MAKE A WRITTEN RECORD, WHICH MUST INCLUDE, AT A MINIMUM, WHETHER LABOR, DELIVERY, OR POSTPARTUM RECOVERY OCCURRED AT THE MUNICIPAL JAIL, THE REASON THE PREGNANT PERSON WAS NOT RELEASED FROM CUSTODY DURING LABOR, AND THE DATE AND TIME LABOR OCCURRED. The sheriff OR, FOR A MUNICIPAL JAIL, THE KEEPER OF THE MUNICIPAL JAIL shall retain the record for a minimum of five years and shall make the record available for public inspection with individually identifying information redacted from the record unless the person who is the subject of the record gives prior written consent for the public release of the record. The written record of the use of restraint ~~shall~~ DOES not constitute a medical record under state or federal law. No later than ~~February 15, 2022~~ FEBRUARY 15, 2027, and each February 15 thereafter, the sheriff OR KEEPER OF THE MUNICIPAL JAIL shall submit the records created pursuant to this subsection (2)(b) in the prior calendar year to the judiciary committees of the senate and house of representatives, or their successor committees.

(3) Upon return to a county jail after childbirth, the ~~woman shall be~~ PERSON WHO GAVE BIRTH IS entitled to have a member of the county jail's or county's medical staff present during any strip search.

(4) When a ~~woman's~~ PERSON'S pregnancy is determined, the staff of a county OR MUNICIPAL jail shall inform a THE pregnant ~~woman~~ PERSON committed, detained, or confined in a county OR MUNICIPAL jail in writing in a language and in a manner understandable to the ~~woman~~ PREGNANT PERSON of the provisions of this section concerning the use of restraints,

and the presence of medical staff during a strip search, AND, FOR PEOPLE IN LABOR AND IN CUSTODY OF THE MUNICIPAL JAIL, THE RIGHT TO BE RELEASED.

(5) Each sheriff shall ensure that staff of the county jail receive adequate training concerning the provisions of this section. EACH KEEPER OF A MUNICIPAL JAIL FROM A CITY WITH A MUNICIPAL JAIL SHALL ENSURE THAT STAFF OF THE MUNICIPAL JAIL RECEIVE ADEQUATE TRAINING CONCERNING THE PROVISIONS OF THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 17-26-118, **amend** (1)(f) as follows:

17-26-118. Criminal justice data collection - definitions.

(1) As used in this section, unless the context otherwise requires:

(f) (I) "Jail facility" means any building, structure, enclosure, institution, or place, whether permanent or temporary, fixed or mobile, where persons are or may be lawfully held in custody or confined, that is operated by a county, CITY, or city and county.

(II) "JAIL FACILITY" DOES NOT MEAN A HOLDING CELL AT A COURT FACILITY, POLICE STATION, OR REFORM SCHOOL OPERATED BY A MUNICIPALITY.

SECTION 5. In Colorado Revised Statutes, **add** 17-26-126.5 as follows:

17-26-126.5. Council members to examine city jail.

IF A CITY HAS A MUNICIPAL JAIL THAT IS MAINTAINED AND OPERATED BY THE CITY GOVERNMENT, THE GOVERNING BODY MEMBERS SHALL, AS OFTEN AS THEY DEEM NECESSARY BUT AT LEAST ONCE A YEAR, PERSONALLY EXAMINE THE MUNICIPAL JAIL. THE GOVERNING BODY MEMBERS SHALL EXAMINE THE JAIL'S MANAGEMENT AND SUFFICIENCY AND CORRECT ALL IRREGULARITIES AND IMPROPRIETIES FOUND DURING THEIR EXAMINATION.

SECTION 6. In Colorado Revised Statutes, 24-31-118, **amend** (1)(a), (1)(c), (1)(d), and (2) as follows:

24-31-118. Jail standard assessments - repeal.

(1) (a) The attorney general, in collaboration with the advisory committee, pursuant to section 30-10-530 (5)(d), may conduct assessments of each county jail AND MUNICIPAL JAIL to identify gaps and deficiencies based on the jail standards.

(c) An elected sheriff OR A KEEPER OF A MUNICIPAL JAIL may request that the attorney general conduct a special assessment of a jail that the sheriff OR KEEPER OF THE MUNICIPAL JAIL oversees to determine whether the jail meets the jail standards. The attorney general may conduct the special assessment if the attorney general has sufficient appropriations to cover the costs. The attorney general may request an appropriation during the figure setting process to conduct special assessments.

(d) The attorney general may enter into a memorandum of understanding, collaborate, or enter into an agreement with a county sheriff OR KEEPER OF A MUNICIPAL JAIL, except for a county sheriff OR KEEPER OF A MUNICIPAL JAIL whose jail is being evaluated, or establish some other peer review group structure to assist in conducting the assessments and reports described in ~~section 24-31-118 (1) and (2)~~ THIS SUBSECTION (1) AND SUBSECTION (2) OF THIS SECTION.

(2) The attorney general's office shall create a report for each of the jails assessed by the attorney general's office and provide the report to the sheriff OR KEEPER OF A MUNICIPAL JAIL whose jail was assessed; the oversight committee; the board of county commissioners in the county where the jail is located OR, FOR A MUNICIPAL JAIL, THE GOVERNING BODY IN THE CITY WHERE THE JAIL IS LOCATED; the county sheriffs of Colorado; and the governor. The report may include methodology, relevant data, recommendations, and technical assistance to meet the jail standards. A report produced pursuant to this section is not subject to the "Colorado Open Records Act", PART 2 OF ARTICLE 72 OF THIS TITLE 24. The attorney general may release a report at the attorney general's discretion, and a county sheriff OR KEEPER OF THE MUNICIPAL JAIL may release a report relating to the county sheriff's OR KEEPER OF THE MUNICIPAL JAIL'S jail after consent from the attorney general's office.

SECTION 7. In Colorado Revised Statutes, 26-20-102, **amend** (1)(a)(VII); and **add** (1)(a)(VIII) 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; OR

(VIII) A MUNICIPAL JAIL, AS DESCRIBED IN SECTION 17-26-101.5, FOR RESTRAINTS ON A PREGNANT PERSON IN LABOR, DELIVERY, OR POSTPARTUM RECOVERY.

SECTION 8. In Colorado Revised Statutes, 31-15-401, **amend** (1)(j) as follows:

31-15-401. General police powers - definition.

(1) In relation to the general police power, the governing bodies of municipalities have the following powers:

(j) (I) To establish and erect MUNICIPAL jails, correction centers, and reform schools for ~~the reformation and confinement of loiterers and disorderly persons and persons convicted of violating any~~ A municipal ordinance, to make rules and regulations for the government of ~~the same~~ MUNICIPAL JAILS, CORRECTION CENTERS, AND REFORM SCHOOLS, and to appoint necessary officers and assistants therefor;

(II) AS USED IN THIS SUBSECTION (1)(j), UNLESS THE CONTEXT OTHERWISE REQUIRES, "MUNICIPAL JAIL" MEANS A CITY OR TOWN JAIL, DETENTION FACILITY, CORRECTIONAL CENTER, OR OTHER PENAL INSTITUTION THAT IS OPERATED BY A MUNICIPALITY AND THAT IS USED TO DETAIN PERSONS FACING CRIMINAL CHARGES AND PERSONS CONVICTED OF CRIMES. A MUNICIPAL JAIL DOES NOT INCLUDE HOLDING CELLS AT COURT FACILITIES, POLICE STATIONS, OR REFORM SCHOOLS.

SECTION 9. In Colorado Revised Statutes, 30-10-530, **amend** (2)(a)(IV) and (2)(a)(V); and **add** (2)(a)(VI) as follows:

30-10-530. Jail standards advisory committee - creation - duties

- cash fund - definition - repeal.

(2) (a) The jail standards advisory committee consists of:

(IV) One physical or behavioral health professional with experience working in a jail appointed by the legislative oversight committee for Colorado jail standards created in section 2-3-1901; ~~and~~

(V) One person representing a statewide organization that advocates on behalf of people experiencing incarceration appointed by the legislative oversight committee for Colorado jail standards created in section 2-3-1901; AND

(VI) ONE NONVOTING MEMBER WHO REPRESENTS A MUNICIPALITY, APPOINTED BY A STATEWIDE ORGANIZATION REPRESENTING THE INTERESTS OF MUNICIPALITIES, OR ITS SUCCESSOR ORGANIZATION.

SECTION 10. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO