

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

REREVISED

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

LLS NO. 21-0785.01 Yelana Love x2295

SENATE BILL 21-193

SENATE SPONSORSHIP

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Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF A PREGNANT PERSON'S RIGHTS**
102 **DURING THE PERINATAL PERIOD, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

The bill:

- Requires each carrier offering medical malpractice insurance in the state to cover the insured for providing care during the entire course of a person's vaginal birth after a previous caesarian birth;

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

HOUSE
Amended 3rd Reading
May 28, 2021

HOUSE
Amended 2nd Reading
May 27, 2021

SENATE
3rd Reading Unamended
May 12, 2021

SENATE
Amended 2nd Reading
May 11, 2021

- Extends the statute of limitations from 2 years to 3 years for actions alleging lack of informed consent in cases related to a pregnant person;
- Repeals language that gives no force or effect to an advanced directive of a person who is pregnant while the person's fetus is viable;
- Requires annual reporting to the legislature on the use of restraints on a pregnant person within each jail, private contract prison, and correctional facility;
- Establishes requirements for each facility that incarcerates or has custody of people with the capacity for pregnancy;
- Requires the Colorado civil rights commission to receive reports from people alleging maternity care that is not organized for, and provided to, a person who is pregnant or in the postpartum period in a manner that is culturally congruent; maintains the person's dignity, privacy, and confidentiality; ensures freedom from harm and mistreatment; and enables informed choices and continuous support; and
- Requires each health facility that provides services related to labor and childbirth to demonstrate to the department of public health and environment that the health facility has a policy that meets certain requirements.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-4-106.5 as
 3 follows:

4 **10-4-106.5. Medical malpractice insurers - requirement to**
 5 **provide information to the department of public health and**
 6 **environment.** UPON REQUEST BY THE DEPARTMENT OF PUBLIC HEALTH
 7 AND ENVIRONMENT PURSUANT TO SECTION 25-52-104 (5)(e), AN INSURER
 8 OFFERING A POLICY OF MEDICAL MALPRACTICE INSURANCE SHALL PROVIDE
 9 THE DEPARTMENT WITH INFORMATION REGARDING THE INSURER'S
 10 POLICIES RELATED TO LABOR AND DELIVERY SERVICES.

11 == ==

12 **SECTION 2.** In Colorado Revised Statutes, 15-18-104, **repeal** (2)

1 as follows:

2 **15-18-104. Declaration as to medical treatment.** (2) ~~In the case~~
3 ~~of a declaration of a qualified patient known to the attending physician to~~
4 ~~be pregnant, a medical evaluation shall be made as to whether the fetus~~
5 ~~is viable. If the fetus is viable, the declaration shall be given no force or~~
6 ~~effect until the patient is no longer pregnant.~~

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

9 **17-1-113.7. Prohibition against the use of restraints on**
10 **pregnant inmates in the custody of correctional facilities and private**
11 **contract prisons - report.** (2) (b) The correctional facility, private
12 contract prison, or medical facility staff authorizing the use of restraints
13 on a pregnant inmate during labor or delivery of the child shall make a
14 written record of the use of the restraints, which record shall include, at
15 a minimum, the type of restraint used, the circumstances that necessitated
16 the use of the restraint, and the length of time the restraint was used. The
17 staff of the correctional facility or private contract prison shall retain the
18 record for a minimum of five years and shall make the record available
19 for public inspection with individually identifying information redacted
20 from the record unless the inmate who is the subject of the record gives
21 prior written consent for the public release of the record. The written
22 record of the use of restraint shall not constitute a medical record under
23 state or federal law. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), NO
24 LATER THAN FEBRUARY 15, 2022, AND EACH FEBRUARY 15 THEREAFTER,
25 THE WARDEN OF THE PRIVATE CONTRACT PRISON AND THE EXECUTIVE
26 DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL SUBMIT THE
27 RECORDS CREATED PURSUANT TO THIS SUBSECTION (2)(b) IN THE PRIOR

1 CALENDAR YEAR TO THE JUDICIARY COMMITTEES OF THE SENATE AND
2 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES.

3 **SECTION 4.** In Colorado Revised Statutes, **add** 17-1-114.5 as
4 follows:

5 **17-1-114.5. Incarceration of a person in custody with the**
6 **capacity for pregnancy - report.** (1) A CORRECTIONAL FACILITY OR
7 PRIVATE CONTRACT PRISON INCARCERATING A PERSON WHO IS CAPABLE
8 OF PREGNANCY SHALL:

9 (a) TRAIN THE FACILITY'S STAFF TO ENSURE THAT A PREGNANT
10 PERSON RECEIVES SAFE AND RESPECTFUL TREATMENT;

11 (b) DEVELOP ADMINISTRATIVE POLICIES TO ENSURE A
12 TRAUMA-INFORMED STANDARD OF CARE IS INTEGRATED WITH CURRENT
13 PRACTICES TO PROMOTE THE HEALTH AND SAFETY OF A PREGNANT
14 PERSON;

15 (c) PROVIDE EACH PREGNANT PERSON, DURING THE PERSON'S
16 PREGNANCY AND THROUGH THE PERSON'S POSTPARTUM PERIOD, WITH
17 ACCESS TO:

18 (I) PERINATAL HEALTH-CARE PROVIDERS WITH PERINATAL
19 EXPERIENCE; AND

20 (II) HEALTHY FOODS AND INFORMATION ON NUTRITION,
21 RECOMMENDED ACTIVITY LEVELS, SAFETY MEASURES, AND SUPPLIES,
22 INCLUDING MENSTRUAL PRODUCTS AS REQUIRED IN SECTION 17-1-113.6,
23 AND BREAST PUMPS APPROVED BY THE EXECUTIVE DIRECTOR OR THE
24 EXECUTIVE DIRECTOR'S DESIGNEE;

25 (d) PROVIDE COUNSELING AND TREATMENT FOR PREGNANT PEOPLE
26 WHO HAVE SUFFERED FROM:

27 (I) A DIAGNOSED BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE

- 1 USE DISORDER;
- 2 (II) TRAUMA OR VIOLENCE, INCLUDING DOMESTIC VIOLENCE;
- 3 (III) HUMAN IMMUNODEFICIENCY VIRUS;
- 4 (IV) SEXUAL ABUSE;
- 5 (V) PREGNANCY LOSS OR INFANT LOSS; OR
- 6 (VI) CHRONIC CONDITIONS;
- 7 (e) PROVIDE EVIDENCE-BASED PREGNANCY AND CHILDBIRTH
- 8 EDUCATION, PARENTING SUPPORT, AND OTHER RELEVANT FORMS OF
- 9 HEALTH LITERACY;
- 10 (f) DEVELOP ADMINISTRATIVE POLICIES TO IDENTIFY AND OFFER
- 11 OPPORTUNITIES FOR POSTPARTUM PERSONS TO MAINTAIN CONTACT WITH
- 12 THE PERSON'S NEWBORN CHILD TO PROMOTE BONDING, INCLUDING
- 13 ENHANCED VISITATION POLICIES, ACCESS TO PRISON NURSERY PROGRAMS,
- 14 AND BREASTFEEDING SUPPORT, WHEN APPROPRIATE;
- 15 (g) IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL
- 16 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
- 17 AS AMENDED, PUB.L. 104-191, TRANSFER HEALTH RECORDS TO
- 18 COMMUNITY PROVIDERS IF A PREGNANT PERSON EXITS THE CRIMINAL
- 19 JUSTICE SYSTEM DURING THE PERSON'S PREGNANCY OR DURING THE
- 20 PERSON'S POSTPARTUM PERIOD;
- 21 (h) CONNECT A PERSON EXITING THE CRIMINAL JUSTICE SYSTEM
- 22 DURING THE PERSON'S PREGNANCY OR POSTPARTUM PERIOD TO
- 23 COMMUNITY-BASED RESOURCES, SUCH AS REFERRALS TO HEALTH-CARE
- 24 PROVIDERS, SUBSTANCE USE DISORDER TREATMENT, AND SOCIAL SERVICES
- 25 THAT ADDRESS SOCIAL DETERMINANTS OF MATERNAL HEALTH;
- 26 (i) ESTABLISH PARTNERSHIPS WITH LOCAL PUBLIC ENTITIES,
- 27 PRIVATE COMMUNITY ENTITIES, COMMUNITY-BASED ORGANIZATIONS,

1 INDIAN TRIBES AND TRIBAL ORGANIZATIONS AS DEFINED IN THE FEDERAL
2 "INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT", 25
3 U.S.C. SEC. 5304, AS AMENDED, OR URBAN INDIAN ORGANIZATIONS AS
4 DEFINED IN THE FEDERAL "INDIAN HEALTH CARE IMPROVEMENT ACT", 25
5 U.S.C. SEC. 1603, AS AMENDED; AND

6 (j) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), BY
7 FEBRUARY 15, 2022, AND BY FEBRUARY 15 EACH YEAR THEREAFTER,
8 REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF
9 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, ON THE NUMBER
10 OF BIRTHS BY PREGNANT PEOPLE WHO ARE IN THE CUSTODY OF THE
11 FACILITY, INCLUDING THE LOCATION OF THE BIRTHS, THAT OCCURRED IN
12 THE PRIOR CALENDAR YEAR.

13 **SECTION 5.** In Colorado Revised Statutes, **add** 17-26-104.4 as
14 follows:

15 **17-26-104.4. Incarceration of a person with the capacity for**
16 **pregnancy - report - definition.** (1) A FACILITY INCARCERATING A
17 PERSON WHO IS CAPABLE OF PREGNANCY, WHETHER OPERATED BY A
18 GOVERNMENTAL ENTITY OR A PRIVATE CONTRACTOR, SHALL:

19 (a) TRAIN THE FACILITY'S STAFF TO ENSURE THAT A PREGNANT
20 PERSON RECEIVES SAFE AND RESPECTFUL TREATMENT;

21 (b) DEVELOP ADMINISTRATIVE POLICIES TO ENSURE A
22 TRAUMA-INFORMED STANDARD OF CARE IS INTEGRATED WITH CURRENT
23 PRACTICES TO PROMOTE THE HEALTH AND SAFETY OF A PREGNANT
24 PERSON;

25 (c) PROVIDE EACH PREGNANT PERSON, DURING THE PERSON'S
26 PREGNANCY AND THROUGH THE PERSON'S POSTPARTUM PERIOD, WITH
27 ACCESS TO:

1 (I) PERINATAL HEALTH-CARE PROVIDERS WITH PERINATAL
2 EXPERIENCE; AND

3 (II) HEALTHY FOODS AND INFORMATION ON NUTRITION,
4 RECOMMENDED ACTIVITY LEVELS, SAFETY MEASURES, AND SUPPLIES,
5 INCLUDING MENSTRUAL PRODUCTS AS REQUIRED IN SECTION 17-26-104.3,
6 AND BREAST PUMPS APPROVED BY THE SHERIFF OR THE SHERIFF'S
7 DESIGNEE;

8 (d) PROVIDE TREATMENT FOR PREGNANT PEOPLE WHO HAVE
9 SUFFERED FROM:

10 (I) A DIAGNOSED BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE
11 USE DISORDER;

12

13 (II) HUMAN IMMUNODEFICIENCY VIRUS; OR

14

15 (III) CHRONIC CONDITIONS;

16 (e) PROVIDE EDUCATIONAL INFORMATION MATERIALS FOR
17 PREGNANT PEOPLE WHO HAVE SUFFERED FROM:

18 (I) TRAUMA OR VIOLENCE, INCLUDING DOMESTIC VIOLENCE;

19 (II) SEXUAL ABUSE; OR

20 (III) PREGNANT LOSS OR INFANT LOSS;

21 (f) PROVIDE EVIDENCE-BASED PREGNANCY AND CHILDBIRTH
22 EDUCATION, PARENTING SUPPORT, AND OTHER RELEVANT FORMS OF
23 HEALTH LITERACY;

24 (g) DEVELOP ADMINISTRATIVE POLICIES TO IDENTIFY AND OFFER
25 OPPORTUNITIES FOR POSTPARTUM PERSONS TO MAINTAIN CONTACT WITH
26 THE PERSON'S NEWBORN CHILD TO PROMOTE BONDING, INCLUDING
27 ENHANCED VISITATION POLICIES, ACCESS TO PRISON NURSERY PROGRAMS,

1 AND BREASTFEEDING SUPPORT, WHEN APPROPRIATE;

2 (h) IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL
3 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
4 AS AMENDED, PUB.L. 104-191, TRANSFER HEALTH RECORDS TO
5 COMMUNITY PROVIDERS IF A PREGNANT PERSON EXITS THE CRIMINAL
6 JUSTICE SYSTEM DURING THE PERSON'S PREGNANCY OR DURING THE
7 PERSON'S POSTPARTUM PERIOD;

8 (i) CONNECT A PERSON EXITING THE CRIMINAL JUSTICE SYSTEM
9 DURING THE PERSON'S PREGNANCY OR POSTPARTUM PERIOD TO
10 COMMUNITY-BASED RESOURCES, SUCH AS REFERRALS TO HEALTH-CARE
11 PROVIDERS, SUBSTANCE USE DISORDER TREATMENT, AND SOCIAL SERVICES
12 THAT ADDRESS SOCIAL DETERMINANTS OF MATERNAL HEALTH;

13 (j) ESTABLISH PARTNERSHIPS WITH LOCAL PUBLIC ENTITIES,
14 PRIVATE COMMUNITY ENTITIES, COMMUNITY-BASED ORGANIZATIONS,
15 INDIAN TRIBES AND TRIBAL ORGANIZATIONS AS DEFINED IN THE FEDERAL
16 "INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT", 25
17 U.S.C. SEC. 5304, AS AMENDED, OR URBAN INDIAN ORGANIZATIONS AS
18 DEFINED IN THE FEDERAL "INDIAN HEALTH CARE IMPROVEMENT ACT", 25
19 U.S.C. SEC. 1603, AS AMENDED; AND

20 (k) BY FEBRUARY 15, 2022, AND BY FEBRUARY 15 EACH YEAR
21 THEREAFTER, REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND
22 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, ON THE
23 NUMBER OF BIRTHS BY PREGNANT PEOPLE WHO ARE IN THE CUSTODY OF
24 THE FACILITY, INCLUDING THE LOCATION OF THE BIRTHS, THAT OCCURRED
25 IN THE PRIOR CALENDAR YEAR.

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

- 1 (a) A LOCAL JAIL, AS DEFINED IN SECTION 17-1-102 (7);
- 2 (b) A MULTIJURISDICTIONAL JAIL, AS DESCRIBED IN SECTION
- 3 17-26.5-101; OR
- 4 (c) A MUNICIPAL JAIL, AS AUTHORIZED IN SECTION 31-15-401
- 5 (1)(j).

6 **SECTION 6.** In Colorado Revised Statutes, 17-26-104.7, **amend**

7 (2)(b) as follows:

8 **17-26-104.7. Prohibition against the use of restraints on**

9 **pregnant persons in custody.** (2) (b) The county jail or medical facility

10 staff authorizing the use of restraints on a pregnant ~~woman~~ PERSON during

11 labor or delivery of the child shall make a written record of the use of the

12 restraints, which record shall include, at a minimum, the type of restraint

13 used, the circumstances that necessitated the use of the restraint, and the

14 length of time the restraint was used. The sheriff shall retain the record

15 for a minimum of five years and shall make the record available for

16 public inspection with individually identifying information redacted from

17 the record unless the ~~woman~~ PERSON who is the subject of the record

18 gives prior written consent for the public release of the record. The

19 written record of the use of restraint shall not constitute a medical record

20 under state or federal law. NO LATER THAN FEBRUARY 15, 2022, AND

21 EACH FEBRUARY 15 THEREAFTER, THE SHERIFF SHALL SUBMIT THE

22 RECORDS CREATED PURSUANT TO THIS SUBSECTION (2)(b) IN THE PRIOR

23 CALENDAR YEAR TO THE JUDICIARY COMMITTEES OF THE SENATE AND

24 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES.

25 **SECTION 7.** In Colorado Revised Statutes, 24-34-305, **add**

26 (1)(k) as follows:

27 **24-34-305. Powers and duties of commission.** (1) The

1 commission has the following powers and duties:

2 (k) TO RECEIVE REPORTS FROM PEOPLE ALLEGING MATERNITY
3 CARE THAT IS NOT ORGANIZED FOR, AND PROVIDED TO, A PERSON WHO IS
4 PREGNANT OR IN THE POSTPARTUM PERIOD IN A MANNER THAT IS
5 CULTURALLY CONGRUENT; MAINTAINS THE PERSON'S DIGNITY, PRIVACY,
6 AND CONFIDENTIALITY; ENSURES FREEDOM FROM HARM AND
7 MISTREATMENT; AND ENABLES INFORMED CHOICES AND CONTINUOUS
8 SUPPORT.

9 **SECTION 8.** In Colorado Revised Statutes, **add** 25-3-126 as
10 follows:

11 **25-3-126. Health facilities - requirements related to labor and**
12 **childbirth - rules - definitions.** (1) EXCEPT AS PROVIDED IN SUBSECTION
13 (2) OF THIS SECTION, ON AND AFTER JANUARY 1, 2022, A HEALTH FACILITY
14 THAT PROVIDES SERVICES RELATED TO LABOR AND CHILDBIRTH SHALL
15 DEMONSTRATE TO THE DEPARTMENT, IN THE FORM AND MANNER
16 DETERMINED BY THE DEPARTMENT BY RULE, THAT THE HEALTH FACILITY
17 HAS A POLICY THAT:

18 (a) ALLOWS EVERY BIRTHING PERSON TO HAVE A COMPANION OR
19 DOULA WITH THE PERSON DURING BIRTH IN ADDITION TO A PARTNER OR
20 SPOUSE;

21 (b) PRIORITIZES NEWBORNS BONDING WITH THEIR FAMILIES IN
22 ORDER TO FACILITATE THE PHYSIOLOGIC POSTPARTUM PROCESS;

23 (c) WILL NOT EXCLUDE FROM CARE ANY PERSON EXPERIENCING
24 PHYSIOLOGIC BIRTH OR INTERRUPT THE PROCESS OF PHYSIOLOGIC BIRTH
25 WITHOUT THE INFORMED CONSENT OF THE BIRTHING PERSON; ■

26 (d) DETAILS THE FACILITY'S PROCESS RELATED TO RECEIVING A
27 PREGNANT PERSON'S PATIENT INFORMATION FROM ANY PROVIDER

1 REGULATED UNDER TITLE 12 WHO HAS PROVIDED CARE FOR THE PREGNANT
2 PERSON; AND

3 (e) ESTABLISHES A PROCESS TO TRANSFER AND RECEIVE PREGNANT
4 PERSONS ACROSS THE FACILITY'S LEVELS OF CARE WITHIN THE FACILITY'S
5 CAPACITY AND CAPABILITY.

6 (2) FOR LABOR AND CHILDBIRTH SERVICES PROVIDED TO A
7 BIRTHING PERSON WHO IS IN CUSTODY, A HEALTH FACILITY SHALL
8 DEMONSTRATE TO THE DEPARTMENT, IN THE FORM AND MANNER
9 DETERMINED BY THE DEPARTMENT BY RULE, THAT THE HEALTH FACILITY
10 HAS A POLICY THAT:

11 (a) PRIORITIZES NEWBORNS BONDING WITH THEIR FAMILIES IN
12 ORDER TO FACILITATE THE PHYSIOLOGIC POSTPARTUM PROCESS, UNLESS:

13 (I) THE PARENT OR LEGAL GUARDIAN OF THE NEWBORN CONSENTS
14 TO MEDICAL TREATMENT;

15 (II) THE NEWBORN IS RELEASED TO A LEGAL GUARDIAN; OR

16 (III) THE BIRTHING PERSON IS RELEASED FROM LABOR AND
17 DELIVERY; AND

18 (b) WILL NOT EXCLUDE FROM CARE ANY PERSON EXPERIENCING
19 PHYSIOLOGIC BIRTH OR INTERRUPT THE PROCESS OF PHYSIOLOGIC BIRTH
20 WITHOUT THE INFORMED CONSENT OF THE BIRTHING PERSON.

21 (3) AS USED IN THIS SECTION:

22 (a) "DOULA" MEANS A PERSON WHO PROVIDES PHYSICAL,
23 EMOTIONAL, AND INFORMATIONAL SUPPORT TO A PREGNANT PERSON
24 BEFORE, DURING, AND AFTER PREGNANCY.

25 (b) "PHYSIOLOGIC BIRTH" MEANS LABOR AND BIRTH POWERED BY
26 THE INNATE HUMAN CAPACITY OF A PREGNANT PERSON AND THE
27 PREGNANT PERSON'S FETUS, WHICH INCLUDES ENDOGENOUS HORMONE

1 SYSTEMS.

2 (c) "PHYSIOLOGIC POSTPARTUM PROCESS" MEANS THE BIOLOGIC
3 PROCESS THAT HAPPENS TO BOTH THE NEWBORN AND BIRTHING PERSON
4 AFTER DELIVERY DUE TO ENDOGENOUS HORMONE SYSTEMS.

5 **SECTION 9.** In Colorado Revised Statutes, **add** 26-1-136.8 as
6 follows:

7 **26-1-136.8. Custody of a person with the capacity for**
8 **pregnancy.** (1) A STATE DEPARTMENT FACILITY THAT HAS IN ITS
9 CUSTODY A PERSON WHO IS CAPABLE OF PREGNANCY SHALL:

10 (a) TRAIN THE FACILITY'S STAFF TO ENSURE THAT A PREGNANT
11 PERSON RECEIVES SAFE AND RESPECTFUL TREATMENT;

12 (b) DEVELOP ADMINISTRATIVE POLICIES TO ENSURE A
13 TRAUMA-INFORMED STANDARD OF CARE IS INTEGRATED WITH CURRENT
14 PRACTICES TO PROMOTE THE HEALTH AND SAFETY OF A PREGNANT
15 PERSON;

16 (c) PROVIDE EACH PREGNANT PERSON, DURING THE PERSON'S
17 PREGNANCY AND THROUGH THE PERSON'S POSTPARTUM PERIOD, WITH
18 ACCESS TO:

19 (I) PERINATAL HEALTH-CARE PROVIDERS WITH PERINATAL
20 EXPERIENCE; AND

21 (II) HEALTHY FOODS AND INFORMATION ON NUTRITION,
22 RECOMMENDED ACTIVITY LEVELS, SAFETY MEASURES, AND SUPPLIES,
23 INCLUDING MENSTRUAL PRODUCTS AS REQUIRED IN SECTION 26-1-136.5,
24 AND BREAST PUMPS APPROVED BY THE EXECUTIVE DIRECTOR OR THE
25 EXECUTIVE DIRECTOR'S DESIGNEE;

26 (d) PROVIDE COUNSELING AND TREATMENT FOR PREGNANT PEOPLE
27 WHO HAVE SUFFERED FROM:

1 (I) A DIAGNOSED BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE
2 USE DISORDER;

3 (II) TRAUMA OR VIOLENCE, INCLUDING DOMESTIC VIOLENCE;

4 (III) HUMAN IMMUNODEFICIENCY VIRUS;

5 (IV) SEXUAL ABUSE;

6 (V) PREGNANCY LOSS OR INFANT LOSS; OR

7 (VI) CHRONIC CONDITIONS;

8 (e) PROVIDE EVIDENCE-BASED PREGNANCY AND CHILDBIRTH
9 EDUCATION, PARENTING SUPPORT, AND OTHER RELEVANT FORMS OF
10 HEALTH LITERACY;

11 (f) DEVELOP ADMINISTRATIVE POLICIES TO IDENTIFY AND OFFER
12 OPPORTUNITIES FOR POSTPARTUM PERSONS TO MAINTAIN CONTACT WITH
13 THE PERSON'S NEWBORN CHILD TO PROMOTE BONDING, INCLUDING
14 ENHANCED VISITATION POLICIES, ACCESS TO FACILITY NURSERY
15 PROGRAMS, AND BREASTFEEDING SUPPORT, WHEN APPROPRIATE;

16 (g) IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL
17 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
18 AS AMENDED, PUB.L. 104-191, TRANSFER HEALTH RECORDS TO
19 COMMUNITY PROVIDERS IF A PREGNANT PERSON EXITS THE FACILITY
20 DURING THE PERSON'S PREGNANCY OR DURING THE PERSON'S POSTPARTUM
21 PERIOD;

22 (h) CONNECT A PERSON EXITING THE FACILITY DURING THE
23 PERSON'S PREGNANCY OR POSTPARTUM PERIOD TO COMMUNITY-BASED
24 RESOURCES, SUCH AS REFERRALS TO HEALTH-CARE PROVIDERS,
25 SUBSTANCE USE DISORDER TREATMENT, AND SOCIAL SERVICES THAT
26 ADDRESS SOCIAL DETERMINANTS OF MATERNAL HEALTH;

27 (i) ESTABLISH PARTNERSHIPS WITH LOCAL PUBLIC ENTITIES,

1 PRIVATE COMMUNITY ENTITIES, COMMUNITY-BASED ORGANIZATIONS,
2 INDIAN TRIBES AND TRIBAL ORGANIZATIONS AS DEFINED IN THE FEDERAL
3 "INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT", 25
4 U.S.C. SEC. 5304, AS AMENDED, OR URBAN INDIAN ORGANIZATIONS AS
5 DEFINED IN THE FEDERAL "INDIAN HEALTH CARE IMPROVEMENT ACT", 25
6 U.S.C. SEC. 1603, AS AMENDED; AND

7 (j) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), BY
8 FEBRUARY 15, 2022, AND BY FEBRUARY 15 EACH YEAR THEREAFTER,
9 REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF
10 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, ON THE NUMBER
11 OF BIRTHS BY PREGNANT PEOPLE WHO ARE IN THE CUSTODY OF THE
12 FACILITY, INCLUDING THE LOCATION OF THE BIRTHS, THAT OCCURRED IN
13 THE PRIOR CALENDAR YEAR.

14 **SECTION 10.** In Colorado Revised Statutes, **add** 31-15-406 as
15 follows:

16 **31-15-406. Incarceration of a person with the capacity for**
17 **pregnancy.** A MUNICIPALITY THAT CHOOSES TO ESTABLISH AND OPERATE
18 A JAIL, AS AUTHORIZED IN SECTION 31-15-401 (1)(j), SHALL COMPLY WITH
19 THE PROVISIONS OF SECTION 17-26-104.4 CONCERNING THE
20 REQUIREMENTS OF A FACILITY THAT INCARCERATES PERSONS WHO ARE
21 CAPABLE OF PREGNANCY.

22 **SECTION 11. Appropriation.** (1) For the 2021-22 state fiscal
23 year, \$148,783 is appropriated to the department of corrections for use by
24 institutions. This appropriation is from the general fund. To implement
25 this act, the department may use this appropriation as follows:

26 (a) \$33,332 for operating expenses related to the superintendents
27 subprogram;

1 (b) \$100,926 for personal services related to the mental health
2 subprogram, which amount is based on an assumption that the department
3 will require an additional 1.3 FTE;

4 (c) \$13,250 for operating expenses related to the mental health
5 subprogram;

6 (d) \$675 for operating expenses related to the communications
7 subprogram; and

8 (e) \$600 for operating expenses related to the information systems
9 subprogram.

10 (2) For the 2021-22 state fiscal year, \$50,215 is appropriated to
11 the department of public health and environment for use by the health
12 facilities and emergency medical services division. This appropriation is
13 from the general fund and is based on an assumption that the division will
14 require an additional 0.6 FTE. To implement this act, the department may
15 use this appropriation for administration and operations.

16 **SECTION 12. Act subject to petition - effective date.**

17 (1) Except as otherwise provided in subsection (2) of this section, this act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2022 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.

26 (2) Section 1 of this act takes effect only if section 25-52-104
27 (5)(e), as enacted in section 5 of Senate Bill 21-194, becomes law and

- 1 takes effect either upon the effective date of this act or Senate Bill
- 2 21-194, whichever is later.