

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

INTRODUCED

LLS NO. 23-0510.04 Alana Rosen x2606

HOUSE BILL 23-1187

HOUSE SPONSORSHIP

Bacon and Amabile,

SENATE SPONSORSHIP

Gonzales and Fields,

House Committees
Judiciary

Senate Committees

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.

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 - report - legislative declaration - definitions.** (1) (a) THE
5 GENERAL 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 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

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

25 (b) "POSTPARTUM PERIOD" MEANS A PERIOD OF ONE YEAR AFTER
26 THE END OF A PREGNANCY, REGARDLESS OF WHETHER THE PREGNANCY
27 ENDS WITH A LIVE BIRTH.

1 (c) "PREGNANT OR POSTPARTUM DEFENDANT" MEANS A PERSON
2 WHO IS PREGNANT OR IN A POSTPARTUM PERIOD WHO HAS BEEN ACCUSED
3 OR CONVICTED OF A CRIME.

4 (d) "STAY OF EXECUTION" MEANS DELAYING THE IMPOSITION OF
5 A SENTENCE OR THE INCARCERATION PORTION OF THE SENTENCE FOR A
6 PREGNANT OR POSTPARTUM DEFENDANT UNTIL AFTER THE SENTENCE IS
7 ANNOUNCED BY A COURT.

8 (e) "UNACCOMPANIED FURLOUGH" MEANS A PERIOD OF
9 TEMPORARY RELEASE FOR A PREGNANT OR POSTPARTUM DEFENDANT
10 FROM SERVING A SENTENCE OF INCARCERATION IN A CORRECTIONAL
11 FACILITY OR COUNTY JAIL THAT DOES NOT REQUIRE A SHERIFF OR
12 DEPARTMENT OF CORRECTIONS STAFFPERSON TO ACCOMPANY THE
13 PREGNANT OR POSTPARTUM DEFENDANT.

14 (3) (a) THERE IS A PRESUMPTION AGAINST DETENTION AND
15 INCARCERATION OF A PREGNANT OR POSTPARTUM DEFENDANT. AFTER THE
16 APPLICATION OF THE APPLICABLE LEGAL STANDARD SET FORTH IN
17 SUBSECTIONS (3)(a)(I) TO (3)(a)(VI) OF THIS SECTION, THE COURT SHALL
18 ONLY DETAIN OR INCARCERATE THE PREGNANT OR POSTPARTUM
19 DEFENDANT WHEN THE COURT MAKES SPECIFIC FINDINGS ON THE RECORD
20 THAT THE PREGNANT OR POSTPARTUM DEFENDANT POSES A SUBSTANTIAL
21 RISK TO THE PUBLIC AND THAT SUBSTANTIAL RISK TO THE PUBLIC
22 OUTWEIGHS THE RISK OF INCARCERATION. THE COURT SHALL APPLY THE
23 PRESUMPTION DESCRIBED IN THIS SUBSECTION (3)(a) TO A PREGNANT OR
24 POSTPARTUM DEFENDANT IN DETERMINING WHETHER TO:

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

26 (II) ACCEPT A DIVERSION AGREEMENT PURSUANT TO SECTION
27 18-1.3-101;

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

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

6 (V) IMPOSE AN ALTERNATIVE SENTENCE PURSUANT TO SECTION
7 18-1.3-104 OR 18-1.3-106; OR

8 (VI) GRANT AN UNACCOMPANIED FURLOUGH OR A STAY OF
9 EXECUTION PURSUANT TO THIS SECTION.

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

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

23 (b) REQUESTING A PREGNANCY TEST, TAKING A PREGNANCY TEST,
24 AND THE RESULTS OF A PREGNANCY TEST ARE CONFIDENTIAL MEDICAL
25 INFORMATION. THIS CONFIDENTIAL MEDICAL INFORMATION MUST NOT BE
26 DISCLOSED TO OUTSIDE PARTIES UNLESS THE INFORMATION IS REQUIRED
27 FOR THE PERSON TO RECEIVE MEDICAL CARE OR TO ALLOW STAFF AT THE

1 COUNTY JAIL OR CORRECTIONAL FACILITY TO PROVIDE NECESSARY CARE.

2 (c) IF A PERSON IS REPRESENTED BY AN ATTORNEY IN A CRIMINAL
3 PROCEEDING, THE COUNTY JAIL OR CORRECTIONAL FACILITY SHALL GIVE
4 NOTICE TO THE PERSON'S ATTORNEY IMMEDIATELY CONCERNING THE
5 PERSON'S REQUEST FOR A PREGNANCY TEST PURSUANT TO SUBSECTION
6 (4)(a) OF THIS SECTION.

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

18 (b) IF THE PROSECUTION CONTESTS THAT THE DEFENDANT IS
19 PREGNANT OR IN A POSTPARTUM STATE, THE COURT SHALL HOLD A
20 HEARING TO MAKE A DETERMINATION AS SOON AS PRACTICABLE, BUT NO
21 LATER THAN FOURTEEN DAYS AFTER THE ISSUE IS RAISED, UNLESS THE
22 DEFENDANT REQUESTS THE HEARING BE HELD LATER THAN FOURTEEN
23 DAYS AFTER THE ISSUE IS RAISED. IF THE DEFENDANT REQUESTS A LATER
24 HEARING, THE COURT SHALL MAKE THE DETERMINATION WITHIN THE
25 TIMELINE REQUESTED. THE COURT SHALL HOLD THE HEARING
26 IMMEDIATELY IF THE CIRCUMSTANCES OF THE DEFENDANT OR THE
27 DEFENDANT'S NEWBORN REQUIRE IT. THE DEFENDANT SHALL PROVE, BY

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

3 (c) THE COURT SHALL PROTECT MEDICAL INFORMATION PROVIDED
4 TO THE COURT AS CONFIDENTIAL MEDICAL INFORMATION. A DEFENDANT'S
5 WAIVER OF MEDICAL PRIVILEGE TO PRESENT MEDICAL EVIDENCE OF
6 PREGNANCY OR THE END OF A PREGNANCY IN COURT IS LIMITED TO
7 INFORMATION RELEVANT TO DETERMINE WHETHER THE DEFENDANT IS OR
8 WAS PREGNANT AND WHETHER THE PREGNANCY HAS ENDED.

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

11 (I) SET OR RELEASE THE PREGNANT OR POSTPARTUM DEFENDANT
12 ON BOND IF THE PREGNANT OR POSTPARTUM DEFENDANT IS INELIGIBLE FOR
13 BOND; OR

14 (II) ACCEPT AN AGREEMENT OR IMPOSE AN ALTERNATIVE
15 SENTENCE IF THE PREGNANT OR POSTPARTUM DEFENDANT IS INELIGIBLE
16 FOR A DIVERSION PROGRAM, DEFERRED JUDGMENT, PROBATIONARY
17 SENTENCE, OR ANOTHER FORM OF ALTERNATIVE SENTENCE.

18 (b) THE COURT SHALL IMPOSE ANY MANDATORY SENTENCE
19 REQUIRED BY LAW ON A PREGNANT OR POSTPARTUM DEFENDANT, BUT THE
20 COURT MAY GRANT A STAY OF EXECUTION OR UNACCOMPANIED FURLOUGH
21 AS SET FORTH IN SUBSECTION (7) OF THIS SECTION.

22 (7) (a) ANY PREGNANT OR POSTPARTUM DEFENDANT MAY
23 REQUEST A STAY OF EXECUTION OR UNACCOMPANIED FURLOUGH BY FILING
24 A WRITTEN REQUEST TO THE COURT IF THE PREGNANT OR POSTPARTUM
25 DEFENDANT IS DETAINED OR INCARCERATED IN A COUNTY JAIL OR
26 CORRECTIONAL FACILITY FOR ANY PERIOD OF TIME THROUGH THE END OF
27 THE PREGNANCY OR THE POSTPARTUM PERIOD.

1 (b) THE COURT SHALL HOLD A HEARING TO DETERMINE THE
2 MATTER AS SOON AS PRACTICABLE, BUT NO LATER THAN FOURTEEN DAYS
3 AFTER THE PREGNANT OR POSTPARTUM DEFENDANT REQUESTS A STAY OF
4 EXECUTION OR UNACCOMPANIED FURLOUGH, UNLESS THE PREGNANT OR
5 POSTPARTUM DEFENDANT REQUESTS A LATER HEARING. IF THE PREGNANT
6 OR POSTPARTUM DEFENDANT REQUESTS A LATER HEARING, THE COURT
7 SHALL MAKE THE DETERMINATION WITHIN THE TIMELINE REQUESTED. THE
8 COURT SHALL HOLD THE HEARING IMMEDIATELY IF THE CIRCUMSTANCES
9 OF THE PREGNANT OR POSTPARTUM DEFENDANT OR NEWBORN REQUIRE IT.
10 THE DEFENDANT SHALL PROVE, BY A PREPONDERANCE OF THE EVIDENCE,
11 THAT THE DEFENDANT IS A PREGNANT OR POSTPARTUM DEFENDANT.

12 (c) IN RULING UPON THE PREGNANT OR POSTPARTUM DEFENDANT'S
13 REQUEST PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION, THE COURT
14 SHALL APPLY THE PRESUMPTION SET FORTH IN SUBSECTION (3)(a) OF THIS
15 SECTION.

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

20 (e) NOTWITHSTANDING THIS SECTION, A PREGNANT OR
21 POSTPARTUM DEFENDANT WHO IS INELIGIBLE FOR BAIL PURSUANT TO
22 SECTION 16-4-101 OR 16-4-201.5 IS NOT ELIGIBLE FOR A STAY OF
23 EXECUTION OR UNACCOMPANIED FURLOUGH.

24 (f) IF THE COURT GRANTS A STAY OF EXECUTION OR
25 UNACCOMPANIED FURLOUGH, THE COURT MAY ORDER A PRETRIAL
26 SERVICES PROGRAM, AS DESCRIBED IN SECTION 16-4-106, TO SUPERVISE
27 THE PREGNANT OR POSTPARTUM DEFENDANT BY IMPOSING THE LEAST

1 RESTRICTIVE CONDITIONS NECESSARY TO ENSURE THE PREGNANT OR
2 POSTPARTUM DEFENDANT SERVES THE SENTENCE OR TO PROTECT PUBLIC
3 SAFETY DURING THE UNACCOMPANIED FURLOUGH. IF THE PREGNANT OR
4 POSTPARTUM DEFENDANT IS GRANTED A STAY OF EXECUTION OR
5 UNACCOMPANIED FURLOUGH FROM A SENTENCE OF INCARCERATION THAT
6 ALSO INCLUDES PROBATION, THE COURT MAY REQUIRE THE PREGNANT OR
7 POSTPARTUM DEFENDANT TO COMPLY WITH CONDITIONS OF PROBATION
8 DURING THE PERIOD OF THE STAY OF EXECUTION OR UNACCOMPANIED
9 FURLOUGH.

10 (g) IF THE PREGNANT OR POSTPARTUM DEFENDANT IS CHARGED
11 WITH A NEW VIOLATION OR THE COURT RECEIVES A VERIFIED MOTION
12 FROM THE DISTRICT ATTORNEY OR AN AGENCY RESPONSIBLE FOR
13 SUPERVISING THE PREGNANT OR POSTPARTUM DEFENDANT THAT
14 ESTABLISHES A PRIMA FACIE CASE THAT THE PREGNANT OR POSTPARTUM
15 DEFENDANT HAS VIOLATED THE CONDITIONS OF THE STAY OF EXECUTION
16 OR UNACCOMPANIED FURLOUGH AND PRESENTS A SUBSTANTIAL RISK TO
17 PUBLIC SAFETY, THE COURT SHALL SET A HEARING AND REQUIRE THE
18 PREGNANT OR POSTPARTUM DEFENDANT TO APPEAR. AFTER THE HEARING,
19 THE COURT MAY END THE STAY OF EXECUTION OR UNACCOMPANIED
20 FURLOUGH, ADD NEW CONDITIONS, ISSUE A WARRANT, OR CONTINUE THE
21 STAY OF EXECUTION OR UNACCOMPANIED FURLOUGH.

22 (8) THE JUDICIAL BRANCH SHALL TRACK CASES IN WHICH A
23 PREGNANT OR POSTPARTUM DEFENDANT RAISES THE ISSUE OF PREGNANCY
24 OR A POSTPARTUM PERIOD PURSUANT TO SUBSECTION (5)(a) OF THIS
25 SECTION.

26 (9) (a) ON OR BEFORE DECEMBER 1, 2024, AND ON OR BEFORE
27 EACH DECEMBER 1 THEREAFTER, THE JUDICIAL BRANCH SHALL SUBMIT AN

1 ANNUAL REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
2 REPRESENTATIVES AND THE SENATE, OR THEIR SUCCESSOR COMMITTEES,
3 SUMMARIZING THE FOLLOWING DATA:

4 (I) THE TOTAL NUMBER OF CASES FILED INVOLVING PREGNANT OR
5 POSTPARTUM DEFENDANTS;

6 (II) THE TOTAL NUMBER OF CASES RESOLVED INVOLVING
7 PREGNANT OR POSTPARTUM DEFENDANTS;

8 (III) THE PREGNANT OR POSTPARTUM DEFENDANT'S AVERAGE
9 LENGTH OF TIME SPENT IN CUSTODY WHEN THE PREGNANT OR
10 POSTPARTUM DEFENDANT IS UNABLE TO POST BOND PRIOR TO THE
11 RESOLUTION OF THE CASE;

12 (IV) THE TYPE OF RESOLUTION, INCLUDING:

13 (A) DIVERSION BY THE DISTRICT ATTORNEY BEFORE OR AFTER
14 CHARGES ARE FILED;

15 (B) DISMISSAL OF THE CASE;

16 (C) RESOLUTION WITH A DEFERRED JUDGMENT;

17 (D) RESOLUTION THROUGH A PLEA AGREEMENT OTHER THAN A
18 DEFERRED JUDGMENT;

19 (E) RESOLUTION THROUGH AN ACQUITTAL AT TRIAL; OR

20 (F) RESOLUTION THROUGH A CONVICTION AT TRIAL;

21 (V) THE NUMBER OF CASES THAT RESULT IN DEFERRED JUDGMENT
22 OR CONVICTION WITH A SENTENCE IMPOSED, INCLUDING THE NUMBER OF
23 CASES THAT ARE:

24 (A) A SENTENCE OF PROBATION WITHOUT INCARCERATION;

25 (B) A SENTENCE OF PROBATION WITH AN ALTERNATIVE
26 RESOLUTION AS DESCRIBED IN THIS SECTION;

27 (C) A SENTENCE OF PROBATION WITH A PERIOD OF INCARCERATION

1 AS A CONDITION OF PROBATION;

2 (D) A DIRECT SENTENCE TO COMMUNITY CORRECTIONS;

3 (E) A FINAL SENTENCE TO AN ALTERNATIVE INCARCERATION; AND

4 (F) A FINAL SENTENCE TO INCARCERATION; AND

5 (VI) INFORMATION ON STAYS OF EXECUTION AND

6 UNACCOMPANIED FURLOUGHS REQUESTED PURSUANT TO THIS SECTION,

7 INCLUDING:

8 (A) THE NUMBER OF STAYS OF EXECUTION OR UNACCOMPANIED

9 FURLOUGHS REQUESTED;

10 (B) THE NUMBER OF STAYS OF EXECUTION OR UNACCOMPANIED

11 FURLOUGHS GRANTED;

12 (C) THE NUMBER OF STAYS OF EXECUTION OR UNACCOMPANIED

13 FURLOUGHS WITH AN ALLEGED VIOLATION BY THE DEFENDANT OF A

14 CONDITION IMPOSED BY THE STAY OF EXECUTION OR UNACCOMPANIED

15 FURLOUGH; AND

16 (D) THE AVERAGE LENGTH OF A STAY OF EXECUTION OR

17 UNACCOMPANIED FURLOUGH.

18 (b) THE DATA DESCRIBED IN SUBSECTION (9)(a) OF THIS SECTION

19 MUST BE DISAGGREGATED BY COUNTY, RACE, GENDER IDENTITY, AND

20 OFFENSE TYPE. THE JUDICIAL BRANCH SHALL COMPLY WITH ALL STATE

21 AND FEDERAL LAWS THAT GOVERN THE JUDICIAL BRANCH WITH RESPECT

22 TO THE TREATMENT OF CONFIDENTIAL INFORMATION OR RECORDS AND THE

23 DISCLOSURE OF SUCH INFORMATION OR RECORDS, INCLUDING THE FEDERAL

24 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",

25 42 U.S.C. SEC. 1320d TO 1320d-9, AS AMENDED.

26 (c) THE REPORT MAY BE PRODUCED IN CONJUNCTION WITH THE

27 REPORT REQUIRED BY SECTION 19-2.5-1118.5 (9).

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

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

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

16 **16-4-103. Setting and selection type of bond - criteria.** (7) AT
17 THE FIRST APPEARANCE OF A PREGNANT OR POSTPARTUM DEFENDANT, AS
18 DEFINED IN SECTION 18-1.3-103.7, TO SET BOND, THE COURT OR PERSON
19 DESIGNATED BY THE COURT TO SET BOND SHALL CONSIDER THE
20 DEFENDANT'S PREGNANCY OR POSTPARTUM STATUS WHEN SETTING BOND
21 PURSUANT TO THE RESTRICTIONS SET FORTH IN SECTION 19 OF ARTICLE II
22 OF THE STATE CONSTITUTION AND SECTION 16-4-101.

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

25 **17-27-103. Community corrections boards - establishment -**
26 **duties.** (5) (d) A COMMUNITY CORRECTIONS BOARD SHALL EXPEDITE A
27 DECISION TO ACCEPT AN OFFENDER WHO IS A PREGNANT OR POSTPARTUM

1 DEFENDANT, AS DEFINED IN SECTION 18-1.3-103.7, IF THE PREGNANT OR
2 POSTPARTUM DEFENDANT DID NOT RAISE THE ISSUE OF THE PREGNANCY
3 OR POSTPARTUM PERIOD PRIOR TO A REQUEST FOR COMMUNITY
4 CORRECTIONS PLACEMENT.

5 **SECTION 5.** In Colorado Revised Statutes, 17-27.5-102, **add**
6 (3.5) as follows:

7 **17-27.5-102. Minimum standards and criteria for the**
8 **operation of intensive supervision programs.** (3.5) NOTWITHSTANDING
9 SUBSECTION (3) OF THIS SECTION, A PREGNANT OR POSTPARTUM
10 DEFENDANT, AS DEFINED IN SECTION 18-1.3-103.7, IS ELIGIBLE AT ANY
11 POINT IN THE PREGNANT OR POSTPARTUM DEFENDANT'S SENTENCE FOR
12 PLACEMENT IN AN INTENSIVE SUPERVISION PROGRAM. A PREGNANT OR
13 POSTPARTUM DEFENDANT WHO WAS PLACED IN AN INTENSIVE SUPERVISION
14 PROGRAM BUT HAS MORE THAN ONE HUNDRED EIGHTY DAYS REMAINING
15 UNTIL THE PREGNANT OR POSTPARTUM DEFENDANT'S PAROLE ELIGIBILITY
16 DATE BEFORE THE END OF THE POSTPARTUM PERIOD, AS DEFINED IN
17 SECTION 18-1.3-103.7, IS ALLOWED TO REMAIN IN THE INTENSIVE
18 SUPERVISION PROGRAM UNTIL REACHING PAROLE ELIGIBILITY. UPON
19 REACHING PAROLE ELIGIBILITY, A PREGNANT OR POSTPARTUM DEFENDANT
20 MAY BE REMOVED FROM THE INTENSIVE SUPERVISION PROGRAM.

21 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-101, **amend**
22 (3)(b) as follows:

23 **18-1.3-101. Pretrial diversion - appropriation - repeal.**
24 (3) **Guidelines for eligibility.** Each district attorney that uses state
25 money for a diversion program pursuant to this section shall adopt
26 policies and guidelines delineating eligibility criteria for pretrial
27 diversion, including types and levels of offenses so long as those offenses

1 are consistent with subsections (5) to (7) of this section, and may agree
2 to diversion in any case in which there exists sufficient admissible
3 evidence to support a conviction. In determining whether an individual
4 is appropriate for diversion, the district attorney shall consider:

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

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

11 **19-2.5-1118.5. Sentencing - alternative options for pregnant**
12 **and postpartum juveniles - report - legislative declaration -**
13 **definitions.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

14 (I) THERE IS AN INCREASING FEMALE POPULATION IN JUVENILE
15 FACILITIES;

16 (II) WHILE NO SYSTEM IS PERFECT IN RESPONDING TO THE MEDICAL
17 CONDITIONS OF PREGNANCY, JUVENILE FACILITIES, CORRECTIONAL
18 FACILITIES, AND COUNTY JAILS, IF APPLICABLE, ARE PARTICULARLY
19 ILL-EQUIPPED TO DO SO;

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

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

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

11 (VI) ADJUDICATORY PROCEEDINGS ARE NOT RESPONSIVE TO THE
12 TIMELINE OR COMPLEXITY OF THE PERINATAL PERIOD;

13 (VII) WHEN A SUBSTANCE USE DISORDER INTERSECTS WITH A
14 PREGNANCY, IT IS BEST HANDLED AS A HEALTH CONDITION. INCREASING
15 THE TIME A PREGNANT PERSON WITH A SUBSTANCE USE DISORDER IS IN A
16 JUVENILE DETENTION FACILITY, CORRECTIONAL FACILITY, OR COUNTY
17 JAIL, IF APPLICABLE, IS COUNTER TO PUBLIC HEALTH AND MAY DRIVE THE
18 PREGNANT PERSON AWAY FROM MEDICAL CARE AND SUPPORT SERVICES.

19 (VIII) THE END OF PREGNANCY DOES NOT IMMEDIATELY
20 TERMINATE THE EFFECTS OF THE PREGNANCY ON THE PERSON WHO WAS
21 PREGNANT;

22 (IX) THE POSTPARTUM PERIOD IS AN ESSENTIAL TIME FRAME FOR
23 BOTH THE PERSON WHO GAVE BIRTH AND THE NEWBORN. IT IS AN
24 OPPORTUNITY FOR THE NEWBORN:

25 (A) TO DEVELOP HEALTHY PHYSIOLOGIC RESPONSES; AND

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

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

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

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

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

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

24 (b) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT ALL
25 ALTERNATIVES TO JUVENILE PROCEEDINGS, ADJUDICATION, AND
26 COMMITMENT OF A PREGNANT OR POSTPARTUM JUVENILE MUST BE
27 CONSIDERED, INCLUDING A STAY OF CRIMINAL PROCEEDINGS OR

1 SENTENCING TO REDUCE THE LIKELIHOOD OF NEGATIVE HEALTH AND
2 SOCIAL OUTCOMES FOR THE PARENT, NEWBORN CHILD, AND COMMUNITY.

3 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

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

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

10 (c) "POSTPARTUM PERIOD" MEANS A PERIOD OF ONE YEAR AFTER
11 THE END OF A PREGNANCY, REGARDLESS OF WHETHER THE PREGNANCY
12 ENDS WITH A LIVE BIRTH.

13 (d) "PREGNANT OR POSTPARTUM JUVENILE" MEANS A JUVENILE
14 WHO IS PREGNANT OR IN A POSTPARTUM PERIOD WHO HAS BEEN ACCUSED
15 OF A DELINQUENT ACT.

16 (e) "STAY OF EXECUTION" MEANS DELAYING THE IMPOSITION OF
17 A SENTENCE OR THE COMMITMENT PORTION OF THE SENTENCE FOR A
18 PREGNANT OR POSTPARTUM JUVENILE UNTIL AFTER IT IS ANNOUNCED BY
19 A COURT.

20 (f) "UNACCOMPANIED FURLOUGH" MEANS A PERIOD OF
21 TEMPORARY RELEASE FOR A PREGNANT OR POSTPARTUM JUVENILE FROM
22 SERVING A SENTENCE OF COMMITMENT IN A JUVENILE DETENTION
23 FACILITY, CORRECTIONAL FACILITY, OR COUNTY JAIL, IF APPLICABLE, THAT
24 DOES NOT REQUIRE A JUVENILE DETENTION STAFFPERSON, A SHERIFF, OR
25 A DEPARTMENT OF CORRECTIONS STAFFPERSON TO ACCOMPANY THE
26 PREGNANT OR POSTPARTUM JUVENILE.

27 (3) (a) THERE IS A PRESUMPTION AGAINST DETENTION AND

1 COMMITMENT OF A PREGNANT OR POSTPARTUM JUVENILE. AFTER THE
2 APPLICATION OF THE APPLICABLE LEGAL STANDARD SET FORTH IN
3 SUBSECTIONS (3)(a)(I) TO (3)(a)(VI) OF THIS SECTION, THE COURT SHALL
4 ONLY DETAIN, COMMIT, OR INCARCERATE THE PREGNANT OR POSTPARTUM
5 JUVENILE WHEN THE COURT MAKES SPECIFIC FINDINGS ON THE RECORD
6 THAT THE PREGNANT OR POSTPARTUM JUVENILE POSES A SUBSTANTIAL
7 RISK TO THE PUBLIC AND THAT SUBSTANTIAL RISK TO THE PUBLIC
8 OUTWEIGHS THE RISK OF COMMITMENT OR INCARCERATION. THE COURT
9 SHALL APPLY THE PRESUMPTION DESCRIBED IN THIS SUBSECTION (3)(a) TO
10 A PREGNANT OR POSTPARTUM JUVENILE IN DETERMINING WHETHER TO:

11 (I) ISSUE BOND PURSUANT TO SECTION 19-2.5-306;

12 (II) ACCEPT ENTRY INTO THE JUVENILE DIVERSION PROGRAM
13 PURSUANT TO SECTION 19-2.5-402;

14 (III) ACCEPT OR CONTINUE DEFERRED JUDGMENTS PURSUANT TO
15 SECTION 18-1.3-102;

16 (IV) IMPOSE A SENTENCE PURSUANT TO SECTION 19-2.5-1103,
17 INCLUDING WHETHER TO GRANT JUVENILE PROBATION PURSUANT TO
18 SECTION 19-2.5-1106;

19 (V) IMPOSE AN ALTERNATIVE SENTENCE PURSUANT TO SECTION
20 19-2.5-1113; OR

21 (VI) GRANT AN UNACCOMPANIED FURLOUGH OR STAY OF
22 EXECUTION PURSUANT TO THIS SECTION.

23 (b) A COURT SHALL NOT USE A PREGNANT OR POSTPARTUM
24 JUVENILE'S PREGNANCY OR POSTPARTUM PERIOD AS A BASIS FOR IMPOSING
25 A GREATER RESTRICTION ON THE JUVENILE'S LIBERTY THAN A SIMILARLY
26 SITUATED JUVENILE WHO IS NOT PREGNANT OR POSTPARTUM, INCLUDING
27 CIRCUMSTANCES IN WHICH A PREGNANT OR POSTPARTUM JUVENILE HAS A

1 SUBSTANCE USE DISORDER.

2 (4) (a) A JUVENILE WHO MAY BE PREGNANT WHO IS ARRESTED OR
3 IN CUSTODY IN A JUVENILE DETENTION FACILITY, CORRECTIONAL FACILITY,
4 OR COUNTY JAIL, IF APPLICABLE, MAY REQUEST A PREGNANCY TEST UPON
5 OR FOLLOWING ADMISSION TO THE JUVENILE DETENTION FACILITY,
6 CORRECTIONAL FACILITY, OR COUNTY JAIL, IF APPLICABLE. STAFF AT THE
7 JUVENILE DETENTION FACILITY, CORRECTIONAL FACILITY, OR COUNTY
8 JAIL, IF APPLICABLE, SHALL PROVIDE A PREGNANCY TEST UPON REQUEST
9 AND ALLOW THE JUVENILE TO TAKE THE PREGNANCY TEST WITHIN
10 TWENTY-FOUR HOURS AFTER THE REQUEST.

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

18 (c) IF A JUVENILE IS REPRESENTED BY AN ATTORNEY IN A CRIMINAL
19 PROCEEDING, THE JUVENILE DETENTION FACILITY, CORRECTIONAL
20 FACILITY, OR COUNTY JAIL, IF APPLICABLE, SHALL NOTIFY THE JUVENILE'S
21 ATTORNEY IMMEDIATELY CONCERNING THE JUVENILE'S REQUEST FOR A
22 PREGNANCY TEST PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

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

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

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

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

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

26 (I) SET OR RELEASE THE PREGNANT OR POSTPARTUM JUVENILE ON
27 BOND IF THE PREGNANT OR POSTPARTUM JUVENILE IS INELIGIBLE FOR

1 BOND; OR

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

6 (b) THE COURT SHALL IMPOSE ANY MANDATORY SENTENCE
7 REQUIRED BY LAW ON A PREGNANT OR POSTPARTUM JUVENILE, BUT THE
8 COURT MAY GRANT A STAY OF EXECUTION OR UNACCOMPANIED FURLOUGH
9 AS SET FORTH IN SUBSECTION (7) OF THIS SECTION.

10 (7) (a) ANY PREGNANT OR POSTPARTUM JUVENILE MAY REQUEST
11 A STAY OF EXECUTION OR UNACCOMPANIED FURLOUGH BY FILING A
12 WRITTEN REQUEST TO THE COURT IF THE PREGNANT OR POSTPARTUM
13 JUVENILE IS DETAINED OR COMMITTED IN A JUVENILE DETENTION
14 FACILITY, CORRECTIONAL FACILITY, OR COUNTY JAIL, IF APPLICABLE, FOR
15 ANY PERIOD OF TIME THROUGH THE END OF THE PREGNANCY OR THE
16 POSTPARTUM PERIOD.

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

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

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

9 (e) NOTWITHSTANDING THIS SECTION, A PREGNANT OR
10 POSTPARTUM JUVENILE WHO IS INELIGIBLE FOR BAIL PURSUANT TO
11 SECTION 19-2.5-306 IS NOT ELIGIBLE FOR A STAY OF EXECUTION OR
12 UNACCOMPANIED FURLOUGH.

13 (f) IF THE COURT GRANTS A STAY OF EXECUTION OR
14 UNACCOMPANIED FURLOUGH, THE COURT MAY ORDER STAFF FROM THE
15 JUVENILE DIVERSION PROGRAM ESTABLISHED IN SECTION 19-2.5-402 TO
16 SUPERVISE THE PREGNANT OR POSTPARTUM JUVENILE BY IMPOSING THE
17 LEAST RESTRICTIVE CONDITIONS NECESSARY TO ENSURE THE PREGNANT
18 OR POSTPARTUM JUVENILE SERVES THE SENTENCE OR TO PROTECT PUBLIC
19 SAFETY DURING THE UNACCOMPANIED FURLOUGH. IF THE PREGNANT OR
20 POSTPARTUM JUVENILE IS GRANTED A STAY OF EXECUTION OR
21 UNACCOMPANIED FURLOUGH FROM A SENTENCE OF COMMITMENT THAT
22 ALSO INCLUDES PROBATION, THE COURT MAY REQUIRE THE PREGNANT OR
23 POSTPARTUM JUVENILE TO COMPLY WITH CONDITIONS OF PROBATION
24 DURING THE PERIOD OF THE STAY OF EXECUTION OR UNACCOMPANIED
25 FURLOUGH.

26 (g) 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 OR UNACCOMPANIED FURLOUGH
5 AND PRESENTS A SUBSTANTIAL RISK TO PUBLIC SAFETY, THE COURT SHALL
6 SET A HEARING AND REQUIRE THE PREGNANT OR POSTPARTUM JUVENILE
7 TO APPEAR. AFTER THE HEARING, THE COURT MAY END THE STAY OF
8 EXECUTION OR UNACCOMPANIED FURLOUGH, ADD NEW CONDITIONS, ISSUE
9 A WARRANT, OR CONTINUE THE STAY OF EXECUTION OR UNACCOMPANIED
10 FURLOUGH.

11 (8) THE STATE DEPARTMENT SHALL TRACK CASES IN WHICH A
12 PREGNANT OR POSTPARTUM JUVENILE RAISES THE ISSUE OF A PREGNANCY
13 OR POSTPARTUM PERIOD PURSUANT TO SUBSECTION (5)(a) OF THIS
14 SECTION.

15 (9) (a) ON OR BEFORE DECEMBER 1, 2024, AND ON OR BEFORE
16 EACH DECEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT
17 AN ANNUAL REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
18 REPRESENTATIVES AND THE SENATE, OR THEIR SUCCESSOR COMMITTEES,
19 SUMMARIZING THE FOLLOWING DATA:

20 (I) THE TOTAL NUMBER OF CASES FILED INVOLVING PREGNANT OR
21 POSTPARTUM JUVENILES;

22 (II) THE TOTAL NUMBER OF CASES RESOLVED INVOLVING
23 PREGNANT OR POSTPARTUM JUVENILES;

24 (III) THE PREGNANT OR POSTPARTUM JUVENILE'S AVERAGE
25 LENGTH OF TIME SPENT IN CUSTODY WHEN THE PREGNANT OR
26 POSTPARTUM JUVENILE IS UNABLE TO POST BOND PRIOR TO THE
27 RESOLUTION OF THE CASE;

- 1 (IV) THE TYPE OF RESOLUTION, INCLUDING:
- 2 (A) DIVERSION BY THE DISTRICT ATTORNEY BEFORE OR AFTER
- 3 CHARGES ARE FILED;
- 4 (B) DISMISSAL OF THE CASE;
- 5 (C) RESOLUTION WITH A DEFERRED JUDGMENT;
- 6 (D) RESOLUTION THROUGH A PLEA AGREEMENT OTHER THAN A
- 7 DEFERRED JUDGMENT;
- 8 (E) RESOLUTION THROUGH AN ACQUITTAL AT TRIAL, IF
- 9 APPLICABLE; OR
- 10 (F) RESOLUTION THROUGH AN ADJUDICATION AT TRIAL, IF
- 11 APPLICABLE;
- 12 (V) THE NUMBER OF CASES THAT RESULT IN DEFERRED JUDGMENT
- 13 OR ADJUDICATION WITH A SENTENCE IMPOSED, INCLUDING THE NUMBER OF
- 14 CASES THAT ARE:
- 15 (A) A SENTENCE OF PROBATION WITHOUT COMMITMENT;
- 16 (B) A SENTENCE OF PROBATION WITH AN ALTERNATIVE
- 17 RESOLUTION AS DESCRIBED IN THIS SECTION;
- 18 (C) A SENTENCE OF PROBATION WITH A PERIOD OF COMMITMENT
- 19 AS A CONDITION OF PROBATION;
- 20 (D) A DIRECT SENTENCE TO COMMUNITY CORRECTIONS;
- 21 (E) A FINAL SENTENCE TO AN ALTERNATIVE COMMITMENT; AND
- 22 (F) A FINAL SENTENCE TO COMMITMENT; AND
- 23 (VI) INFORMATION ON STAYS OF EXECUTION AND
- 24 UNACCOMPANIED FURLOUGHS REQUESTED PURSUANT TO THIS SECTION,
- 25 INCLUDING:
- 26 (A) THE NUMBER OF STAYS OF EXECUTION OR UNACCOMPANIED
- 27 FURLOUGHS REQUESTED;

1 (B) THE NUMBER OF STAYS OF EXECUTION OR UNACCOMPANIED
2 FURLOUGHS GRANTED;

3 (C) THE NUMBER OF STAYS OF EXECUTION OR UNACCOMPANIED
4 FURLOUGHS WITH AN ALLEGED VIOLATION BY THE JUVENILE OF A
5 CONDITION IMPOSED BY THE STAY OF EXECUTION OR UNACCOMPANIED
6 FURLOUGH; AND

7 (D) THE AVERAGE LENGTH OF A STAY OF EXECUTION OR
8 UNACCOMPANIED FURLOUGH.

9 (b) THE DATA DESCRIBED IN SUBSECTION (9)(a) OF THIS SECTION
10 MUST BE DISAGGREGATED BY COUNTY, RACE, GENDER IDENTITY, AND
11 OFFENSE TYPE. THE STATE DEPARTMENT SHALL COMPLY WITH ALL STATE
12 AND FEDERAL LAWS THAT GOVERN THE STATE DEPARTMENT WITH RESPECT
13 TO THE TREATMENT OF CONFIDENTIAL INFORMATION OR RECORDS AND THE
14 DISCLOSURE OF SUCH INFORMATION OR RECORDS, INCLUDING THE FEDERAL
15 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
16 42 U.S.C. SEC. 1320d TO 1320d-9, AS AMENDED.

17 (c) THE REPORT MAY BE PRODUCED IN CONJUNCTION WITH THE
18 REPORT REQUIRED BY SECTION 18-1.3-103.7 (9).

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

21 **19-2.5-306. Conditions of release - personal recognizance**
22 **bond.** (4) (a) In determining the conditions of release for the juvenile, the
23 judge or magistrate fixing the same shall consider the criteria set forth in
24 section 16-4-103 OR 19-2.5-1118.5.

25 **SECTION 9. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.