

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 23-0510.04 Alana Rosen x2606

HOUSE BILL 23-1187

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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.

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 UNTIL 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) NOTWITHSTANDING THIS SECTION, A PREGNANT OR
2 POSTPARTUM DEFENDANT WHO IS INELIGIBLE FOR BAIL PURSUANT TO
3 SECTION 16-4-101 OR 16-4-201.5 IS NOT ELIGIBLE FOR A STAY OF
4 EXECUTION.

5 ==
6 (f) IF THE PREGNANT OR POSTPARTUM DEFENDANT IS CHARGED
7 WITH A NEW VIOLATION OR THE COURT RECEIVES A VERIFIED MOTION
8 FROM THE DISTRICT ATTORNEY OR AN AGENCY RESPONSIBLE FOR
9 SUPERVISING THE PREGNANT OR POSTPARTUM DEFENDANT THAT
10 ESTABLISHES A PRIMA FACIE CASE THAT THE PREGNANT OR POSTPARTUM
11 DEFENDANT HAS VIOLATED THE CONDITIONS OF THE STAY OF EXECUTION
12 == AND PRESENTS A SUBSTANTIAL RISK TO PUBLIC SAFETY, THE COURT
13 SHALL SET A HEARING AND REQUIRE THE PREGNANT OR POSTPARTUM
14 DEFENDANT TO APPEAR. AFTER THE HEARING, THE COURT MAY END THE
15 STAY OF EXECUTION, ADD NEW CONDITIONS, ISSUE A WARRANT, OR
16 CONTINUE THE STAY OF EXECUTION.

17 (8) IF A DEFENDANT, WHO IS SENTENCED TO INCARCERATION,
18 LEARNS THAT THE DEFENDANT IS PREGNANT FOLLOWING THE SENTENCING
19 HEARING, OR A POSTPARTUM DEFENDANT EXPERIENCES CHANGES TO THE
20 DEFENDANT'S POSTPARTUM CONDITION FOLLOWING THE SENTENCING
21 HEARING, THIS SECTION DOES NOT PRECLUDE THE PREGNANT OR
22 POSTPARTUM DEFENDANT FROM REQUESTING RECONSIDERATION OF THE
23 SENTENCE PURSUANT TO RULE 35 (b) OF THE RULES OF CRIMINAL
24 PROCEDURE. DURING THE RECONSIDERATION HEARING, THIS SECTION
25 APPLIES.

26 ■ ■
27 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-25-136 as

1 follows:

2 **13-25-136. Criminal actions - prenatal drug and alcohol**
3 **screening - admissibility of evidence.** A court shall not admit in a
4 criminal proceeding information relating to substance use ~~not otherwise~~
5 ~~required to be reported pursuant to section 19-3-304~~, obtained as part of
6 a screening or test performed to determine pregnancy or to provide
7 prenatal or postpartum care, up to one year postpartum, or if a pregnant
8 or parenting ~~woman~~ PERSON discloses substance use during pregnancy
9 while seeking or participating in behavioral health treatment. This section
10 does not prohibit prosecution of any claim or action related to such
11 substance use based on evidence obtained through methods other than
12 those described in this section.

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

15 **16-4-103. Setting and selection type of bond - criteria.** (7) AT
16 THE FIRST APPEARANCE OF A PREGNANT OR POSTPARTUM DEFENDANT WHO
17 HAS COMPLIED WITH THE NOTICE REQUIREMENT SET FORTH IN SECTION
18 18-1.3-103.7, TO SET BOND, THE COURT OR PERSON DESIGNATED BY THE
19 COURT TO SET BOND SHALL CONSIDER THE DEFENDANT'S PREGNANCY OR
20 POSTPARTUM STATUS WHEN SETTING BOND PURSUANT TO THE
21 RESTRICTIONS SET FORTH IN SECTION 19 OF ARTICLE II OF THE STATE
22 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

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

8 **18-1.3-101. Pretrial diversion - appropriation - repeal.**

9 (3) **Guidelines for eligibility.** Each district attorney that uses state
10 money for a diversion program pursuant to this section shall adopt
11 policies and guidelines delineating eligibility criteria for pretrial
12 diversion, including types and levels of offenses so long as those offenses
13 are consistent with subsections (5) to (7) of this section, and may agree
14 to diversion in any case in which there exists sufficient admissible
15 evidence to support a conviction. In determining whether an individual
16 is appropriate for diversion, the district attorney shall consider:

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

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

23 **18-1.3-203. Criteria for granting probation.** (2) The following
24 factors, or the converse thereof ~~where~~ **WHEN** appropriate, while not
25 controlling the discretion of the court, ~~shall~~ **MUST** be accorded weight in
26 making determinations called for by subsection (1) of this section:

27 (o) **THE DEFENDANT IS A PREGNANT OR POSTPARTUM DEFENDANT,**

1 IF THE DEFENDANT COMPLIED WITH THE NOTICE REQUIREMENT SET FORTH
2 IN SECTION 18-1.3-103.7.

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

5 **19-2.5-1118.5. Sentencing - alternative options for pregnant**
6 **and postpartum juveniles - legislative declaration - definitions.**

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

8

9 (I) WHILE NO SYSTEM IS PERFECT IN RESPONDING TO THE MEDICAL
10 CONDITIONS OF PREGNANCY, JUVENILE FACILITIES ARE PARTICULARLY
11 ILL-EQUIPPED TO DO SO;

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

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

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

1 SITUATIONS CAN OCCUR THAT CAUSE LONG-TERM PHYSICAL AND MENTAL
2 HEALTH TRAUMA FOR THE PREGNANT PERSON.

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

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

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

13 (VIII) 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 (IX) 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 (X) 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 JUVENILE PROCEEDINGS, ADJUDICATION, AND
17 COMMITMENT OF A PREGNANT OR POSTPARTUM JUVENILE MUST BE
18 CONSIDERED, INCLUDING A STAY OF CRIMINAL PROCEEDINGS OR
19 SENTENCING TO REDUCE THE LIKELIHOOD OF NEGATIVE HEALTH AND
20 SOCIAL OUTCOMES FOR THE 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 TITLE
25 18.

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

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

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

6 (c) "POSTPARTUM PERIOD" MEANS A PERIOD OF ONE YEAR AFTER
7 THE END OF A PREGNANCY, REGARDLESS OF WHETHER THE PREGNANCY
8 ENDS WITH A LIVE BIRTH.

9 (d) "PREGNANT OR POSTPARTUM JUVENILE" MEANS A JUVENILE
10 WHO IS PREGNANT OR IN A POSTPARTUM PERIOD WHO HAS BEEN ACCUSED
11 OF A DELINQUENT ACT.

12 (e) "STAY OF EXECUTION" MEANS DELAYING THE IMPOSITION OF
13 A SENTENCE OR THE COMMITMENT PORTION OF THE SENTENCE FOR A
14 PREGNANT OR POSTPARTUM JUVENILE UNTIL AFTER IT IS ANNOUNCED BY
15 A COURT.

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

1 SUBSTANTIAL ENOUGH TO OUTWEIGH THE RISK OF DETENTION OR
2 COMMITMENT. THE COURT SHALL APPLY THE REBUTTABLE _____

3 PRESUMPTION DESCRIBED IN THIS SUBSECTION (3)(a) TO A PREGNANT OR
4 POSTPARTUM JUVENILE IN DETERMINING WHETHER TO:

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

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

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

10 (IV) IMPOSE A SENTENCE PURSUANT TO SECTION 19-2.5-1103,
11 INCLUDING WHETHER TO GRANT JUVENILE PROBATION PURSUANT TO
12 SECTION 19-2.5-1106;

13 (V) IMPOSE AN ALTERNATIVE SENTENCE PURSUANT TO SECTION
14 19-2.5-1113; OR

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

16 (b) A COURT SHALL NOT USE A PREGNANT OR POSTPARTUM
17 JUVENILE'S PREGNANCY OR POSTPARTUM PERIOD AS A BASIS FOR IMPOSING
18 A GREATER RESTRICTION ON THE JUVENILE'S LIBERTY THAN A SIMILARLY
19 SITUATED JUVENILE WHO IS NOT PREGNANT OR POSTPARTUM, INCLUDING
20 CIRCUMSTANCES IN WHICH A PREGNANT OR POSTPARTUM JUVENILE HAS A
21 SUBSTANCE USE DISORDER.

22 (4) (a) A JUVENILE WHO MAY BE PREGNANT WHO IS ARRESTED OR
23 IN CUSTODY IN A JUVENILE FACILITY MAY REQUEST A PREGNANCY TEST
24 UPON OR FOLLOWING ADMISSION TO THE JUVENILE FACILITY. STAFF AT THE
25 JUVENILE FACILITY SHALL PROVIDE A PREGNANCY TEST UPON REQUEST
26 AND ALLOW THE JUVENILE TO TAKE THE PREGNANCY TEST WITHIN
27 TWENTY-FOUR HOURS AFTER THE REQUEST.

1 (b) REQUESTING A PREGNANCY TEST, TAKING A PREGNANCY TEST,
2 AND THE RESULTS OF A PREGNANCY TEST ARE CONFIDENTIAL MEDICAL
3 INFORMATION. THIS CONFIDENTIAL MEDICAL INFORMATION MUST NOT BE
4 DISCLOSED TO OUTSIDE PARTIES UNLESS THE INFORMATION IS REQUIRED
5 FOR THE JUVENILE TO RECEIVE MEDICAL CARE OR TO ALLOW STAFF AT THE
6 JUVENILE FACILITY TO PROVIDE NECESSARY CARE.

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

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

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

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

8 (c) THE COURT SHALL PROTECT MEDICAL INFORMATION PROVIDED
9 TO THE COURT AS CONFIDENTIAL MEDICAL INFORMATION. A JUVENILE'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 JUVENILE 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 JUVENILE ON
17 BOND IF THE PREGNANT OR POSTPARTUM JUVENILE IS INELIGIBLE FOR
18 BOND;

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

23 (III) APPLY THE REBUTTABLE PRESUMPTION PURSUANT TO THIS
24 SECTION IF A PREGNANT OR POSTPARTUM JUVENILE WAS ADJUDICATED 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 JUVENILE, 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 JUVENILE MAY REQUEST
4 A STAY OF EXECUTION ___ BY FILING A WRITTEN REQUEST TO THE COURT
5 IF THE PREGNANT OR POSTPARTUM JUVENILE IS DETAINED OR COMMITTED
6 IN A JUVENILE FACILITY FOR ANY PERIOD OF TIME THROUGH THE END OF
7 THE PREGNANCY OR THE POSTPARTUM PERIOD.

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

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

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

27 (e) NOTWITHSTANDING THIS SECTION, A PREGNANT OR

1 POSTPARTUM JUVENILE WHO IS INELIGIBLE FOR BAIL PURSUANT TO
2 SECTION 19-2.5-306 IS NOT ELIGIBLE FOR A STAY OF EXECUTION.

3
4 (f) IF THE PREGNANT OR POSTPARTUM JUVENILE IS CHARGED WITH
5 A NEW VIOLATION OR THE COURT RECEIVES A VERIFIED MOTION FROM THE
6 DISTRICT ATTORNEY OR ANY AGENCY RESPONSIBLE FOR SUPERVISING THE
7 PREGNANT OR POSTPARTUM JUVENILE THAT ESTABLISHES A PRIMA FACIE
8 CASE THAT THE PREGNANT OR POSTPARTUM JUVENILE HAS VIOLATED THE
9 CONDITIONS OF THE STAY OF EXECUTION _____ AND PRESENTS A
10 SUBSTANTIAL RISK TO PUBLIC SAFETY, THE COURT SHALL SET A HEARING
11 AND REQUIRE THE PREGNANT OR POSTPARTUM JUVENILE TO APPEAR.
12 AFTER THE HEARING, THE COURT MAY END THE STAY OF EXECUTION, ADD
13 NEW CONDITIONS, ISSUE A WARRANT, OR CONTINUE THE STAY OF
14 EXECUTION.

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

24
25 **SECTION 8.** In Colorado Revised Statutes, 19-2.5-306, **amend**
26 (4)(a) as follows:
27 **19-2.5-306. Conditions of release - personal recognizance**

1 **bond.** (4) (a) In determining the conditions of release for the juvenile, the
2 judge or magistrate fixing the same shall consider the criteria set forth in
3 section 16-4-103. IF THE JUVENILE IS A PREGNANT OR POSTPARTUM
4 JUVENILE WHO HAS COMPLIED WITH THE NOTICE REQUIREMENT SET FORTH
5 IN SECTION 19-2.5-1118.5, THE JUDGE OR MAGISTRATE SHALL CONSIDER
6 THE JUVENILE'S PREGNANCY OR POSTPARTUM STATUS IN DETERMINING THE
7 CONDITIONS OF RELEASE.

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

10 **24-4.1-302. Definitions.** As used in this part 3, and for no other
11 purpose, including the expansion of the rights of any defendant:

12 (2) "Critical stages" means the following stages of the criminal
13 justice process:

14 (x) A HEARING HELD PURSUANT TO SECTION 18-1.3-103.7 OR
15 19-2.5-1118.5.

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

18 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
19 order to preserve and protect a victim's rights to justice and due process,
20 each victim of a crime has the following rights:

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

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

23 **or**

24 (X) Involving a hearing held pursuant to section 24-72-706,
25 24-72-709, or 24-72-710; OR

26 (XI) INVOLVING A HEARING HELD PURSUANT TO SECTION
27 18-1.3-103.7 OR 19-2.5-1118.5.

1 **SECTION 11. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.