

## CHAPTER 246

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 23-1187**

BY REPRESENTATIVE(S) Bacon and Amabile, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Herod, Jodeh, Joseph, Lindsay, Lindstedt, Mabrey, Michaelson Jenet, Ricks, Sharbini, Sirota, Story, Titone, Vigil, Weissman, Willford, Woodrow, Bird, Gonzales-Gutierrez, Hamrick, Kipp, Lieder, Martinez, Parenti, Snyder, Velasco, Young, McCluskie;  
also SENATOR(S) Gonzales and Fields, Buckner, Coleman, Cutter, Danielson, Exum, Jaquez Lewis, Kolker, Marchman, Moreno, Priola, Rodriguez, Winter F.

**AN ACT****CONCERNING ALTERNATIVES IN THE CRIMINAL JUSTICE SYSTEM FOR PREGNANT PERSONS.**

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

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

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

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

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

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

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

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

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

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

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

(A) TO DEVELOP HEALTHY PHYSIOLOGIC RESPONSES; AND

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

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

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

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

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

(C) A CHILD WHO IS SEPARATED FROM ANY PARENT MAY EXPERIENCE STRESS HORMONES, WHICH MAY LEAD TO DIFFICULTY SLEEPING, DEVELOPMENTAL

REGRESSION, HEART DISEASE, HYPERTENSION, OBESITY, DIABETES, OR DECREASED LIFE SPAN. A NEWBORN WHO IS SEPARATED FROM A PARENT MAY ALSO EXPERIENCE PERMANENT ARCHITECTURAL CHANGES IN THE BRAIN, INCLUDING A LOWER INTELLIGENCE QUOTIENT OR AN INCREASED LIKELIHOOD OF DEPRESSION, SUICIDAL IDEATION, OR ADDICTION TO ALCOHOL OR GAMBLING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) REQUESTING A PREGNANCY TEST, TAKING A PREGNANCY TEST, AND THE RESULTS OF A PREGNANCY TEST ARE CONFIDENTIAL MEDICAL INFORMATION. THIS CONFIDENTIAL MEDICAL INFORMATION MUST NOT BE DISCLOSED TO OUTSIDE PARTIES UNLESS THE INFORMATION IS REQUIRED FOR THE PERSON TO RECEIVE MEDICAL CARE OR TO ALLOW STAFF AT THE COUNTY JAIL OR CORRECTIONAL FACILITY TO PROVIDE NECESSARY CARE.

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

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

(b) IF THE PROSECUTION CONTESTS THAT THE DEFENDANT IS PREGNANT OR IN A POSTPARTUM STATE, THE COURT SHALL HOLD A HEARING TO MAKE A DETERMINATION AS SOON AS PRACTICABLE, BUT NO LATER THAN FOURTEEN DAYS

AFTER THE ISSUE IS RAISED, UNLESS THE DEFENDANT REQUESTS THE HEARING BE HELD LATER THAN FOURTEEN DAYS AFTER THE ISSUE IS RAISED. IF THE DEFENDANT REQUESTS A LATER HEARING, THE COURT SHALL MAKE THE DETERMINATION WITHIN THE TIMELINE REQUESTED. THE COURT SHALL HOLD THE HEARING IMMEDIATELY IF THE CIRCUMSTANCES OF THE DEFENDANT OR THE DEFENDANT'S NEWBORN REQUIRE IT. THE DEFENDANT SHALL PROVE, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE DEFENDANT IS A PREGNANT OR POSTPARTUM DEFENDANT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**13-25-136. Criminal actions - prenatal drug and alcohol screening - admissibility of evidence.** A court shall not admit in a criminal proceeding information relating to substance use ~~not otherwise required to be reported pursuant to section 19-3-304~~, obtained as part of a screening or test performed to determine pregnancy or to provide prenatal or postpartum care, up to one year postpartum, or if a pregnant or parenting ~~woman~~ PERSON discloses substance use during pregnancy while seeking or participating in behavioral health treatment. This section does not

prohibit prosecution of any claim or action related to such substance use based on evidence obtained through methods other than those described in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) TO DEVELOP HEALTHY PHYSIOLOGIC RESPONSES; AND

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

(IX) BONDING BETWEEN A NEWBORN AND PARENT DURING THE POSTPARTUM



PERIOD CAN IMPROVE CONDITIONS FOR OTHER CHILDREN AND CARE PROVIDERS IN THE SAME FAMILY UNIT AND PREVENT CHILD ABUSE AND NEGLECT; AND

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

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

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

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

(b) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT ALL ALTERNATIVES TO JUVENILE PROCEEDINGS, ADJUDICATION, AND COMMITMENT OF A PREGNANT OR POSTPARTUM JUVENILE MUST BE CONSIDERED, INCLUDING A STAY OF CRIMINAL PROCEEDINGS OR SENTENCING TO REDUCE THE LIKELIHOOD OF NEGATIVE HEALTH AND SOCIAL OUTCOMES FOR THE PARENT, NEWBORN CHILD, AND COMMUNITY.

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

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

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

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

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

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

(e) "STAY OF EXECUTION" MEANS DELAYING THE IMPOSITION OF A SENTENCE OR

THE COMMITMENT PORTION OF THE SENTENCE FOR A PREGNANT OR POSTPARTUM JUVENILE AFTER IT IS ANNOUNCED BY A COURT.

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

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

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

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

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

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

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

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

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

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

(c) IF A JUVENILE IS REPRESENTED BY AN ATTORNEY IN A CRIMINAL PROCEEDING

AND THE JUVENILE FACILITY HAS A SIGNED MEDICAL RELEASE FROM THE JUVENILE, THE JUVENILE FACILITY SHALL NOTIFY THE JUVENILE'S ATTORNEY WITHIN FORTY-EIGHT HOURS, EXCLUDING STATE HOLIDAYS AND WEEKENDS, CONCERNING THE JUVENILE'S REQUEST FOR A PREGNANCY TEST PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

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

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

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

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

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

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

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

(b) THE COURT SHALL IMPOSE ANY MANDATORY SENTENCE REQUIRED BY LAW ON

A PREGNANT OR POSTPARTUM JUVENILE, BUT THE COURT MAY GRANT A STAY OF EXECUTION AS SET FORTH IN SUBSECTION (7) OF THIS SECTION.

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

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

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

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

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

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

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

(h) IF THE PREGNANT OR POSTPARTUM JUVENILE IS CHARGED WITH A NEW VIOLATION OR THE COURT RECEIVES A VERIFIED MOTION FROM THE DISTRICT ATTORNEY OR ANY AGENCY RESPONSIBLE FOR SUPERVISING THE PREGNANT OR POSTPARTUM JUVENILE THAT ESTABLISHES A PRIMA FACIE CASE THAT THE PREGNANT OR POSTPARTUM JUVENILE HAS VIOLATED THE CONDITIONS OF THE STAY OF EXECUTION AND PRESENTS A SUBSTANTIAL RISK TO PUBLIC SAFETY, THE COURT SHALL SET A HEARING AND REQUIRE THE PREGNANT OR POSTPARTUM JUVENILE TO

APPEAR. AFTER THE HEARING, THE COURT MAY END THE STAY OF EXECUTION, ADD NEW CONDITIONS, ISSUE A WARRANT, OR CONTINUE THE STAY OF EXECUTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 11. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final

adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 23, 2023