

CHAPTER 279

HEALTH CARE POLICY AND FINANCING

SENATE BILL 23-288

BY SENATOR(S) Fields and Buckner, Coleman, Cutter, Danielson, Exum, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Mullica, Priola, Roberts, Rodriguez, Sullivan, Winter F., Zenzinger;
also REPRESENTATIVE(S) English and Joseph, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Kipp, Lindsay, Lukens, Mabrey, Marshall, McCormick, McLachlan, Michaelson Jenet, Parenti, Sirota, Story, Titone, Valdez, Velasco, Weissman, Willford, Woodrow, Young, McCluskie.

AN ACT

CONCERNING MEASURES TO DETERMINE COVERAGE FOR DOULA SERVICES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) There is strong evidence of positive maternal and infant outcomes associated with doula services;

(b) Doula care is associated with a reduction in the number of low birth weight babies, preterm births, cesarean sections, labor inductions, and other medical interventions, and is associated with increased rates of breast-feeding;

(c) Most pregnant persons who utilize doula services have positive outcomes, and the association between doula support and positive perinatal outcomes is even stronger for low-income people, people of color, and people who experience cultural or language barriers to accessing pregnancy care. However, individuals and families who could benefit the most from doula services may have the least access to it, financially and culturally.

(d) The United States has the highest rate of maternal mortality among developed countries, with 1,205 deaths due to maternal causes in 2021;

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.

(e) It is estimated that more than 80 percent of the maternal mortalities in the United States are preventable;

(f) Data from the Centers for Disease Control and Prevention shows that nationally, Black pregnant persons are two to three times more likely to die from pregnancy-related causes than White pregnant persons. There are between 69 and 70 deaths per 100,000 live births for Black pregnant persons, compared to between 26 and 27 deaths per 100,000 live births for White pregnant persons, and 28 deaths per 100,000 live births for Hispanic pregnant persons.

(g) High rates of maternal mortality among Black pregnant persons span income and education levels; moreover, risk factors such as a lack of access to prenatal care and physical health conditions do not fully explain the racial disparity in maternal mortality;

(h) A growing body of evidence indicates that stress from racism can result in conditions such as hypertension and preeclampsia that contribute to poor maternal health outcomes among Black pregnant persons;

(i) In the United States, one in three births is a cesarean section, which costs about 50 percent more than vaginal births. Studies suggest that having a doula reduces the need for a cesarean section by 25 percent.

(j) Currently, 11 states provide medicaid reimbursement for doula services. Studies in Oregon, Minnesota, and Wisconsin have shown that when pregnant individuals use a doula, it can save the state money.

(2) Therefore, the general assembly finds that providing doula services for medicaid recipients in Colorado would significantly improve health outcomes for pregnant and postpartum individuals and would help lower the maternal mortality rate in the state.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-4-506 as follows:

25.5-4-506. Coverage for doula services - stakeholder process - federal authorization - scholarship program - training - report - definitions - repeal.

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

(a) "DOULA" MEANS A TRAINED BIRTH COMPANION WHO PROVIDES PERSONAL, NONMEDICAL SUPPORT TO PREGNANT AND POSTPARTUM PEOPLE AND THEIR FAMILIES PRIOR TO CHILDBIRTH, DURING LABOR AND DELIVERY, AND DURING THE POSTPARTUM PERIOD.

(b) "MATERNITY ADVISORY COMMITTEE" MEANS THE COMMITTEE FACILITATED BY THE STATE DEPARTMENT COMPOSED PREDOMINANTLY OF BLACK, INDIGENOUS, AND OTHER PEOPLE OF COLOR WITH MATERNITY CARE EXPERIENCE AS RECIPIENTS.

(2) NO LATER THAN SEPTEMBER 1, 2023, THE STATE DEPARTMENT SHALL INITIATE A STAKEHOLDER PROCESS TO PROMOTE THE EXPANSION AND UTILIZATION OF DOULA SERVICES FOR PREGNANT AND POSTPARTUM RECIPIENTS IN THE STATE. IN CONDUCTING THE STAKEHOLDER PROCESS, THE STATE DEPARTMENT SHALL:

(a) DESIGN AN OUTREACH STRATEGY THAT INCLUDES BEST PRACTICES IN COMMUNITY ENGAGEMENT, INCLUDING, BUT NOT LIMITED TO:

(I) ENGAGING TRUSTED COMMUNITY PARTNERS TO SUPPORT THE WORK;

(II) REIMBURSEMENT OF PARTICIPATION COSTS FOR INDIVIDUALS WHO ARE NOT OTHERWISE PAID TO PARTICIPATE;

(III) REIMBURSEMENT OF CHILD CARE COSTS FOR INDIVIDUALS WHO PARTICIPATE; AND

(IV) TRANSLATION SERVICES AND MEETING TIMES THAT ALLOW DIVERSE AND INCLUSIVE PARTICIPATION;

(b) SOLICIT FEEDBACK RELATED TO:

(I) AN APPROVED DOULA CERTIFICATION PROCESS THAT INCORPORATES NATIONAL AND LOCAL TRAINING PROGRAMS;

(II) A BILLING PROCESS FOR DOULA SERVICES;

(III) WAYS TO RECRUIT DOULAS AND INTEGRATE THEM INTO HOSPITAL DELIVERIES;

(IV) SUPPORT NEEDED TO BUILD AND RETAIN A DOULA WORKFORCE;

(V) COMMUNITY OUTREACH TO DETERMINE HOW TO BEST PROMOTE DOULA SERVICES; AND

(VI) THE DOULA SCHOLARSHIP PROGRAM CREATED IN SUBSECTION (7) OF THIS SECTION.

(3) STAKEHOLDERS MUST BE DIVERSE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS, SEXUAL ORIENTATION, AND GENDER, AND MUST REPRESENT OTHER POPULATIONS THAT EXPERIENCE GREATER HEALTH DISPARITIES AND INEQUITIES. THE STATE DEPARTMENT MAY INCLUDE THE FOLLOWING IN THE STAKEHOLDER PROCESS:

(a) DOULAS AND POTENTIAL DOULAS WHO MAY SERVE RECIPIENTS WHO INCLUDE, BUT ARE NOT LIMITED TO, BLACK, INDIGENOUS, AND OTHER PEOPLE OF COLOR, REFUGEES, NON-ENGLISH SPEAKERS, PEOPLE LIVING IN RURAL AREAS, AND PEOPLE WHO WERE RECENTLY INCARCERATED;

(b) INDIVIDUALS INDIRECTLY INVOLVED IN THE DELIVERY OF DOULA SERVICES, INCLUDING, BUT NOT LIMITED TO, CLINICAL PROVIDERS, HOSPITALS, MANAGED CARE ENTITIES, AND STATE PARTNERS, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DEPARTMENT OF HUMAN SERVICES, DEPARTMENT OF EARLY CHILDHOOD, AND DEPARTMENT OF REGULATORY AGENCIES;

(c) REPRESENTATIVES FROM THE DIVISION OF INSURANCE WITH SUBJECT MATTER EXPERTISE; AND

- (d) REPRESENTATIVES FROM THE MATERNITY ADVISORY COMMITTEE;
- (e) CONSUMER ADVOCATES; AND
- (f) EXPERTS ON PERINATAL CARE AND QUALITY.

(4) FOR STATE FISCAL YEAR 2024-25, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY AS PART OF THE STATE DEPARTMENT'S "SMART ACT" PRESENTATION REQUIRED BY SECTION 2-7-203. THE REPORT MUST INCLUDE FINDINGS AND RECOMMENDATIONS FROM THE STAKEHOLDER PROCESS AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE STATE DEPARTMENT SHALL WORK WITH THE MATERNITY ADVISORY COMMITTEE TO CREATE THE REPORT.

(5) IN CARRYING OUT THE STAKEHOLDER PROCESS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE STATE DEPARTMENT IS EXEMPT FROM THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24.

(6) NOT LATER THAN JULY 1, 2024, THE STATE DEPARTMENT SHALL SEEK FEDERAL AUTHORIZATION TO PROVIDE DOULA SERVICES FOR PREGNANT AND POSTPARTUM PEOPLE TO IMPROVE HEALTH OUTCOMES OF PREGNANT AND POSTPARTUM PEOPLE WHO FACE A DISPROPORTIONATELY GREATER RISK OF POOR BIRTH OUTCOMES.

(7) (a) NOT LATER THAN JULY 1, 2024, THE STATE DEPARTMENT SHALL CREATE A DOULA SCHOLARSHIP PROGRAM THAT GRANTS FUNDS TO INDIVIDUALS WITHOUT SUFFICIENT FINANCIAL RESOURCES TO COMPLETE DOULA TRAINING AND CERTIFICATION PROGRAMS NECESSARY TO PROVIDE DOULA SERVICES.

(b) IN DESIGNING THE DOULA SCHOLARSHIP PROGRAM, THE STATE DEPARTMENT SHALL SOLICIT INPUT FROM GROUPS IDENTIFIED IN SUBSECTION (3) OF THIS SECTION.

(c) THE STATE DEPARTMENT SHALL DEFINE ELIGIBILITY CRITERIA FOR THE DOULA SCHOLARSHIP PROGRAM THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(I) PROOF OF FINANCIAL HARDSHIP;

(II) PROOF OF STATE RESIDENCY; AND

(III) A STATEMENT OF INTENT TO SERVE AS A DOULA PROVIDER IN COLORADO FOR PREGNANT AND POSTPARTUM RECIPIENTS.

(d) THE STATE DEPARTMENT SHALL DEFINE CRITERIA FOR ORGANIZATIONS TO CONDUCT TRAINING AND CERTIFICATION PROGRAMS FOR DOULAS THAT INCLUDE, BUT ARE NOT LIMITED TO:

(I) AN APPROVED CERTIFICATION PROCESS FOR DOULAS;

(II) AN EQUITABLE APPROACH TO DOULA RECRUITMENT AND TRAINING; AND

(III) AN APPROVED BUDGET TO PROVIDE FREE TRAINING TO ATTENDEES.

(e) THE STATE DEPARTMENT MAY REQUIRE INDIVIDUALS WHO RECEIVE SCHOLARSHIP MONEY PURSUANT TO THE DOULA SCHOLARSHIP PROGRAM DESCRIBED IN THIS SUBSECTION (7) TO SUBMIT TO THE STATE DEPARTMENT, NOT LATER THAN SIX MONTHS AFTER THE INDIVIDUAL'S COMPLETION OF DOULA TRAINING OR CERTIFICATION, DOCUMENTATION THAT THE INDIVIDUAL IS SERVING AS A DOULA FOR RECIPIENTS OR IS WORKING TOWARD ENROLLMENT AS A DOULA FOR RECIPIENTS. IF AN INDIVIDUAL DOES NOT COMPLETE THE DOCUMENTATION, THE STATE DEPARTMENT MAY SEEK REPAYMENT OF THE FUNDS AWARDED TO THE INDIVIDUAL THROUGH THE DOULA SCHOLARSHIP PROGRAM.

(f) (I) ANY MONEY APPROPRIATED TO THE DOULA SCHOLARSHIP PROGRAM AND NOT EXPENDED PRIOR TO JULY 1, 2024, IS FURTHER APPROPRIATED TO THE STATE DEPARTMENT THROUGH JUNE 30, 2025, TO BE USED FOR THE SAME PURPOSE.

(II) THIS SUBSECTION (7)(f) IS REPEALED, EFFECTIVE JULY 1, 2026.

(g) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE STATE DEPARTMENT SHALL REPORT ANNUALLY BEGINNING IN 2025 TO THE GENERAL ASSEMBLY AS PART OF THE STATE DEPARTMENT'S "SMART ACT" PRESENTATION, AS REQUIRED BY SECTION 2-7-203, ON THE UTILIZATION AND OUTCOMES OF THE DOULA SCHOLARSHIP PROGRAM.

SECTION 3. In Colorado Revised Statutes, **add** 10-16-155.5 as follows:

10-16-155.5. Actuarial review of doula services - report - definition. (1) THE DIVISION SHALL CONTRACT WITH AN INDEPENDENT ENTITY TO CONDUCT AN ACTUARIAL REVIEW OF THE POTENTIAL HEALTH-CARE COSTS AND BENEFITS OF INCLUDING COVERAGE FOR DOULA SERVICES FOR PREGNANT AND POSTPARTUM PERSONS COVERED BY HEALTH BENEFIT PLANS.

(2) THE DIVISION SHALL PRESENT THE RESULTS FROM THE ACTUARIAL REVIEW CONDUCTED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO THE GENERAL ASSEMBLY AS PART OF THE DIVISION'S "SMART ACT" PRESENTATION REQUIRED BY SECTION 2-7-203 DURING STATE FISCAL YEAR 2024-25.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "DOULA" MEANS A TRAINED BIRTH COMPANION WHO PROVIDES PERSONAL, NONMEDICAL SUPPORT TO PREGNANT AND POSTPARTUM PEOPLE AND THEIR FAMILIES PRIOR TO CHILDBIRTH, DURING LABOR AND DELIVERY, AND DURING THE POSTPARTUM PERIOD.

SECTION 4. Appropriation. (1) For the 2023-24 state fiscal year, \$100,000 is appropriated to the department of health care policy and financing for use by the other medical services division. This appropriation is from the general fund. To implement this act, the division may use this appropriation for the doula scholarship program.

(2) For the 2023-24 state fiscal year, \$100,000 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the division may use this appropriation for personal services.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 30, 2023