

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 24-1166.01 Yelana Love x2295

HOUSE BILL 24-1459

HOUSE SPONSORSHIP

Herod,

SENATE SPONSORSHIP

Buckner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR BIRTHING 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>.)

Current law prohibits the use of restraints on a pregnant person in custody with certain exceptions. The bill prohibits the use of restraints on an inmate during labor, delivery of the child, postpartum recovery while in a medical facility, or transport to or from a medical facility for childbirth, without any exceptions.

The bill also requires a correctional facility or private contract prison to develop administrative policies, including a system for milk storage, to ensure a newborn can receive the milk that the newborn's

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
Amended 2nd Reading
April 29, 2024

postpartum parent has pumped for the newborn's nourishment.

The bill requires each health-care facility that provides labor and delivery services to establish a policy creating a process for the facility to receive individuals who are pregnant, undergoing physiologic birth, or in the physiologic postpartum process from locations other than licensed facilities.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-1-113.7, **amend**
3 **(1); and repeal (2)(a) as follows:**

4 **17-1-113.7. Prohibition against the use of restraints on**
5 **pregnant inmates in the custody of correctional facilities and private**
6 **contract prisons - report - definition.** (1) The staff of a correctional
7 facility or private contract prison, when restraining a female inmate, shall
8 use the least restrictive restraints necessary to ensure safety if the staff of
9 the correctional facility or private contract prison have ~~actual knowledge~~
10 ~~or a reasonable belief that the inmate is pregnant. The requirement that~~
11 ~~staff use the least restrictive restraints necessary to ensure safety shall~~
12 ~~continue during postpartum recovery and transport to or from a~~
13 ~~correctional facility and private contract prison~~ FOR THE USE OF
14 RESTRAINTS DURING LABOR, DELIVERY, AND POSTPARTUM RECOVERY, THE
15 STAFF SHALL COMPLY WITH THE "PROTECTION OF INDIVIDUALS FROM
16 RESTRAINT AND SECLUSION ACT", ARTICLE 20 OF TITLE 26.

17 ~~(2) (a) (I) Staff of a correctional facility, private contract prison,~~
18 ~~or medical facility shall not use restraints of any kind on a pregnant~~
19 ~~inmate during labor and delivery of the child; except that staff may use~~
20 ~~restraints if:~~

21 ~~(A) The medical staff determine that restraints are medically~~
22 ~~necessary for safe childbirth;~~

1 ~~(B) The prison staff or medical staff determine that the inmate~~
2 ~~presents an immediate and serious risk of harm to herself, to other~~
3 ~~patients, or to medical staff; or~~

4 ~~(C) The warden or his or her designee determines that the inmate~~
5 ~~poses a substantial risk of escape that cannot reasonably be reduced by~~
6 ~~the use of other existing means.~~

7 ~~(H) Notwithstanding any provision of subparagraph (I) of this~~
8 ~~paragraph (a) to the contrary, under no circumstances shall staff use leg~~
9 ~~shackles or waist restraints on an inmate during labor and delivery of the~~
10 ~~child, postpartum recovery while in a medical facility, or transport to or~~
11 ~~from a medical facility for childbirth.~~

12

13 **SECTION 2.** In Colorado Revised Statutes, 17-26-104.7, **amend**
14 **(1); and repeal (2)(a) as follows:**

15 **17-26-104.7. Prohibition against the use of restraints on**
16 **pregnant persons in custody - definition.** (1) The staff of a county jail,
17 in restraining a woman who is committed, detained, or confined to the
18 county jail, shall use the least restrictive restraints necessary to ensure
19 safety if the staff of the county jail have actual knowledge or a reasonable
20 belief that the woman is pregnant. ~~The requirement that staff use the~~
21 ~~least restrictive restraints necessary to ensure safety shall continue during~~
22 ~~postpartum recovery and transport to or from the county jail~~ FOR THE USE
23 OF RESTRAINTS DURING LABOR, DELIVERY, AND POSTPARTUM RECOVERY,
24 THE STAFF SHALL COMPLY WITH THE "PROTECTION OF INDIVIDUALS FROM
25 RESTRAINT AND SECLUSION ACT", ARTICLE 20 OF TITLE 26.

26 ~~(2) (a) (I) The county jail staff or medical facility staff shall not~~
27 ~~use restraints of any kind on the woman during labor and delivery of the~~

1 ~~child; except that staff may use restraints if:~~

2 ~~(A) The medical staff determine that restraints are medically~~
3 ~~necessary for safe childbirth;~~

4 ~~(B) The county jail staff or medical staff determine that the~~
5 ~~woman presents an immediate and serious risk of harm to herself, to other~~
6 ~~patients, or to medical staff; or~~

7 ~~(C) The sheriff or his or her designee determines that the woman~~
8 ~~poses a substantial risk of escape that cannot reasonably be reduced by~~
9 ~~the use of other existing means.~~

10 ~~(H) Notwithstanding any provision of subparagraph (I) of this~~
11 ~~paragraph (a) to the contrary, under no circumstances shall staff use leg~~
12 ~~shackles or waist restraints on a woman during labor and delivery of the~~
13 ~~child, postpartum recovery while in a medical facility, or transport to or~~
14 ~~from a medical facility for childbirth.~~

15

16 **SECTION 3.** In Colorado Revised Statutes, 17-1-114.5, **add**
17 **(1)(f.5)** as follows:

18 **17-1-114.5. Incarceration of a person in custody with the**
19 **capacity for pregnancy - report.** (1) A correctional facility or private
20 contract prison incarcerating a person who is capable of pregnancy shall:

21 (f.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM
22 FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE
23 HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED
24 FOR THE NEWBORN'S NOURISHMENT;

25 **SECTION 4.** In Colorado Revised Statutes, 17-26-104.4, **add**
26 **(1)(g.5)** as follows:

27 **17-26-104.4. Incarceration of a person with the capacity for**

1 **pregnancy - report - definition.** (1) A facility incarcerating a person
2 who is capable of pregnancy, whether operated by a governmental entity
3 or a private contractor, shall:

4 (g.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM
5 FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE
6 HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED
7 FOR THE NEWBORN'S NOURISHMENT;

8 **SECTION 5.** In Colorado Revised Statutes, 26-1-136.8, **add**
9 (1)(f.5) as follows:

10 **26-1-136.8. Custody of a person with the capacity for**
11 **pregnancy.** (1) A state department facility that has in its custody a
12 person who is capable of pregnancy shall:

13 (f.5) DEVELOP ADMINISTRATIVE POLICIES, INCLUDING A SYSTEM
14 FOR HUMAN MILK STORAGE, TO ENSURE A NEWBORN CAN RECEIVE THE
15 HUMAN MILK THAT THE NEWBORN'S POSTPARTUM PARENT HAS PUMPED
16 FOR THE NEWBORN'S NOURISHMENT;

17 **SECTION 6.** In Colorado Revised Statutes, 25-3-126, **amend**
18 (1)(d) and (1)(e); and **add** (1)(f) as follows:

19 **25-3-126. Health facilities - requirements related to labor and**
20 **childbirth - rules - definitions.** (1) Except as provided in subsection (2)
21 of this section, on and after January 1, 2022, a health facility that provides
22 services related to labor and childbirth shall demonstrate to the
23 department, in the form and manner determined by the department by
24 rule, that the health facility has a policy that:

25 (d) Details the facility's process related to receiving a pregnant
26 person's patient information from any provider regulated under title 12
27 who has provided care for the pregnant person; ~~and~~

1 (e) Establishes ~~a process~~ PROCESSES to transfer and receive
2 pregnant persons across ~~the facility's~~ levels of care OF LICENSED
3 FACILITIES within the facility's capacity and capability; AND

4 (f) ESTABLISHES A PROCESS TO RECEIVE INDIVIDUALS WHO ARE
5 PREGNANT, UNDERGOING PHYSIOLOGIC BIRTH, OR IN THE PHYSIOLOGIC
6 POSTPARTUM PROCESS FROM LOCATIONS OTHER THAN LICENSED
7 FACILITIES, INCLUDING A PROCESS TO RECEIVE VERBAL AND WRITTEN
8 INFORMATION FROM INDIVIDUALS WITH RELEVANT INFORMATION,
9 INCLUDING BUT NOT LIMITED TO FAMILY MEMBERS, DOULAS, OR A
10 HEALTH-CARE PROVIDER REGULATED UNDER TITLE 12.

11 **SECTION 7.** In Colorado Revised Statutes, 26-20-102, **amend**
12 **(1)(b)(I); and add (1)(a)(VII) as follows:**

13 **26-20-102. Definitions.** As used in this article 20, unless the
14 context otherwise requires:

15 (1) (a) "Agency" means:

16 (VII) A COUNTY JAIL, AS DESCRIBED IN SECTION 17-26-101, FOR
17 RESTRAINTS ON A PREGNANT PERSON IN LABOR, DELIVERY, OR
18 POSTPARTUM RECOVERY.

19 (b) "Agency" does not include:

20 (I) The department of corrections or any public or private entity
21 that has entered into a contract for services with such department, EXCEPT
22 FOR RESTRAINTS ON A PREGNANT PERSON IN LABOR, DELIVERY, OR
23 POSTPARTUM RECOVERY;

24 **SECTION 8. Safety clause.** The general assembly finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.