

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 10-1012.01 Brita Darling

SENATE BILL 10-193

SENATE SPONSORSHIP

Hudak,

HOUSE SPONSORSHIP

Levy,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE SAFE TREATMENT OF PREGNANT PERSONS IN**
102 **CUSTODY.**

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://www.leg.state.co.us/billsummaries>.)

The bill addresses the use of restraints on pregnant women in custody or confined in prisons, city and county jails, juvenile detention facilities, or department of human services facilities.

The bill requires that the least restrictive restraint necessary to ensure safety be used on a woman in her second or third trimester of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
May 5, 2010

SENATE
Amended 2nd Reading
May 4, 2010

pregnancy.

Staff shall not use restraints of any kind on a pregnant woman during labor and delivery of the child, postpartum recovery, or transport to or from a medical facility for childbirth unless medical staff determines that restraints are necessary for safe childbirth, the woman poses an immediate and serious risk of harm to herself or medical staff, or the woman poses a substantial risk of escape that cannot be reasonably reduced by another method. In any event, however, the staff will not use leg shackles or waist restraints. Staff shall make a record of any restraint used on a woman during labor or delivery, postpartum recovery, or transport to or from a medical facility for childbirth. Staff shall maintain the record for a minimum of 5 years and make it available to the public with personally identifying information removed.

The bill entitles a woman to have a member of the medical staff present at any strip search conducted upon the woman's return to confinement after childbirth.

Staff shall inform a pregnant woman of the provisions of the statute relating to the use of restraints and any post-childbirth strip search at the time of the initial intake or determination of the pregnancy, at the onset of labor, and upon return to confinement after childbirth.

The bill requires that staff receive adequate training concerning the provisions of the bill.

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

2 **SECTION 1.** Part 1 of article 1 of title 17, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **17-1-113.7. Prohibition against the use of restraints on**
6 **pregnant inmates in correctional facilities and private contract**
7 **prisons.** (1) THE STAFF OF A CORRECTIONAL FACILITY OR PRIVATE
8 CONTRACT PRISON, WHEN RESTRAINING A FEMALE INMATE, SHALL USE THE
9 LEAST RESTRICTIVE RESTRAINTS NECESSARY TO ENSURE SAFETY IF THE
10 STAFF OF THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON
11 HAVE ACTUAL KNOWLEDGE OR A REASONABLE BELIEF THAT THE INMATE
12 IS PREGNANT.

13 (2) (a) (I) STAFF OF A CORRECTIONAL FACILITY, PRIVATE

1 CONTRACT PRISON, OR MEDICAL FACILITY SHALL NOT USE RESTRAINTS OF
2 ANY KIND ON A PREGNANT INMATE DURING LABOR AND DELIVERY OF THE
3 CHILD, POSTPARTUM RECOVERY WHILE IN A MEDICAL FACILITY, OR
4 TRANSPORT TO OR FROM A MEDICAL FACILITY FOR CHILDBIRTH; EXCEPT
5 THAT STAFF MAY USE RESTRAINTS IF:

6 (A) THE MEDICAL STAFF DETERMINE THAT RESTRAINTS ARE
7 MEDICALLY NECESSARY FOR SAFE CHILDBIRTH;

8 (B) THE PRISON STAFF OR MEDICAL STAFF DETERMINE THAT THE
9 INMATE PRESENTS AN IMMEDIATE AND SERIOUS RISK OF HARM TO HERSELF,
10 TO OTHER PATIENTS, OR TO MEDICAL STAFF; OR

11 (C) THE WARDEN OR HIS OR HER DESIGNEE DETERMINES THAT THE
12 INMATE POSES A SUBSTANTIAL RISK OF ESCAPE THAT CANNOT
13 REASONABLY BE REDUCED BY THE USE OF OTHER EXISTING MEANS.

14 (II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF
15 THIS PARAGRAPH (a) TO THE CONTRARY, UNDER NO CIRCUMSTANCES
16 SHALL STAFF USE LEG SHACKLES OR WAIST RESTRAINTS ON AN INMATE
17 DURING LABOR AND DELIVERY OF THE CHILD, POSTPARTUM RECOVERY
18 WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO OR FROM A MEDICAL
19 FACILITY FOR CHILDBIRTH.

20 (b) THE CORRECTIONAL FACILITY, PRIVATE CONTRACT PRISON, OR
21 MEDICAL FACILITY STAFF AUTHORIZING THE USE OF RESTRAINTS ON A
22 PREGNANT INMATE DURING LABOR OR DELIVERY OF THE CHILD,
23 POSTPARTUM RECOVERY WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO
24 OR FROM A MEDICAL FACILITY FOR CHILDBIRTH SHALL MAKE A WRITTEN
25 RECORD OF THE USE OF THE RESTRAINTS, WHICH RECORD SHALL INCLUDE,
26 AT A MINIMUM, THE TYPE OF RESTRAINT USED, THE CIRCUMSTANCES THAT
27 NECESSITATED THE USE OF THE RESTRAINT, AND THE LENGTH OF TIME THE

1 RESTRAINT WAS USED. THE STAFF OF THE CORRECTIONAL FACILITY OR
2 PRIVATE CONTRACT PRISON SHALL RETAIN THE RECORD FOR A MINIMUM
3 OF FIVE YEARS AND SHALL MAKE THE RECORD AVAILABLE FOR PUBLIC
4 INSPECTION WITH INDIVIDUALLY IDENTIFYING INFORMATION REDACTED
5 FROM THE RECORD UNLESS THE INMATE WHO IS THE SUBJECT OF THE
6 RECORD GIVES PRIOR WRITTEN CONSENT FOR THE PUBLIC RELEASE OF THE
7 RECORD. THE WRITTEN RECORD OF THE USE OF RESTRAINT SHALL NOT
8 CONSTITUTE A MEDICAL RECORD UNDER STATE OR FEDERAL LAW.

9 (3) UPON RETURN TO A CORRECTIONAL FACILITY OR PRIVATE
10 CONTRACT PRISON AFTER CHILDBIRTH, THE INMATE SHALL BE ENTITLED TO
11 HAVE A MEMBER OF THE CORRECTIONAL FACILITY'S OR PRIVATE CONTRACT
12 PRISON'S MEDICAL STAFF PRESENT DURING ANY STRIP SEARCH TO ENSURE
13 THAT THE STRIP SEARCH IS CONDUCTED IN A MANNER THAT NEITHER
14 INCREASES THE INMATE'S RISK OF INFECTION NOR CAUSES THE INMATE
15 UNNECESSARY PAIN OR DISCOMFORT.

16 (4) THE STAFF OF A CORRECTIONAL FACILITY OR PRIVATE
17 CONTRACT PRISON SHALL INFORM A PREGNANT INMATE OF THE PROVISIONS
18 OF THIS SECTION CONCERNING THE USE OF RESTRAINTS AND THE PRESENCE
19 OF MEDICAL STAFF DURING A STRIP SEARCH, IN WRITING AND IN THE
20 INMATE'S PRIMARY LANGUAGE, DURING THE INTAKE PROCESS OR WHEN
21 THE PREGNANCY IS DETERMINED AND SHALL REMIND THE INMATE OF
22 THESE PROVISIONS, ORALLY, AT THE ONSET OF LABOR AND UPON THE
23 INMATE'S RETURN TO THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT
24 PRISON.

25 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
26 CORRECTIONS SHALL ENSURE THAT THE STAFF OF THE DEPARTMENT OF
27 CORRECTIONS AND OF PRIVATE CONTRACT PRISONS RECEIVE ADEQUATE

1 TRAINING CONCERNING THE PROVISIONS OF THIS SECTION.

2 **SECTION 2.** Part 1 of article 26 of title 17, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **17-26-104.7. Prohibition against the use of restraints on**
6 **pregnant women in custody.** (1) THE STAFF OF A COUNTY JAIL, IN
7 RESTRAINING A WOMAN WHO IS COMMITTED, DETAINED, OR CONFINED TO
8 THE COUNTY JAIL, SHALL USE THE LEAST RESTRICTIVE RESTRAINTS
9 NECESSARY TO ENSURE SAFETY IF THE STAFF OF THE COUNTY JAIL HAVE
10 ACTUAL KNOWLEDGE OR A REASONABLE BELIEF THAT THE WOMAN IS
11 PREGNANT.

12 (2) (a) (I) THE COUNTY JAIL STAFF OR MEDICAL FACILITY STAFF
13 SHALL NOT USE RESTRAINTS OF ANY KIND ON THE WOMAN DURING LABOR
14 AND DELIVERY OF THE CHILD, POSTPARTUM RECOVERY WHILE IN A
15 MEDICAL FACILITY, OR TRANSPORT TO OR FROM A MEDICAL FACILITY FOR
16 CHILDBIRTH; EXCEPT THAT STAFF MAY USE RESTRAINTS IF:

17 (A) THE MEDICAL STAFF DETERMINE THAT RESTRAINTS ARE
18 MEDICALLY NECESSARY FOR SAFE CHILDBIRTH;

19 (B) THE COUNTY JAIL STAFF OR MEDICAL STAFF DETERMINE THAT
20 THE WOMAN PRESENTS AN IMMEDIATE AND SERIOUS RISK OF HARM TO
21 HERSELF, TO OTHER PATIENTS, OR TO MEDICAL STAFF; OR

22 (C) THE SHERIFF OR HIS OR HER DESIGNEE DETERMINES THAT THE
23 WOMAN POSES A SUBSTANTIAL RISK OF ESCAPE THAT CANNOT
24 REASONABLY BE REDUCED BY THE USE OF OTHER EXISTING MEANS.

25 (II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF
26 THIS PARAGRAPH (a) TO THE CONTRARY, UNDER NO CIRCUMSTANCES
27 SHALL STAFF USE LEG SHACKLES OR WAIST RESTRAINTS ON A WOMAN

1 DURING LABOR AND DELIVERY OF THE CHILD, POSTPARTUM RECOVERY
2 WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO OR FROM A MEDICAL
3 FACILITY FOR CHILDBIRTH.

4 (b) THE COUNTY JAIL OR MEDICAL FACILITY STAFF AUTHORIZING
5 THE USE OF RESTRAINTS ON A PREGNANT WOMAN DURING LABOR OR
6 DELIVERY OF THE CHILD, POSTPARTUM RECOVERY WHILE IN A MEDICAL
7 FACILITY, OR TRANSPORT TO OR FROM A MEDICAL FACILITY FOR
8 CHILDBIRTH SHALL MAKE A WRITTEN RECORD OF THE USE OF THE
9 RESTRAINTS, WHICH RECORD SHALL INCLUDE, AT A MINIMUM, THE TYPE OF
10 RESTRAINT USED, THE CIRCUMSTANCES THAT NECESSITATED THE USE OF
11 THE RESTRAINT, AND THE LENGTH OF TIME THE RESTRAINT WAS USED.
12 THE SHERIFF SHALL RETAIN THE RECORD FOR A MINIMUM OF FIVE YEARS
13 AND SHALL MAKE THE RECORD AVAILABLE FOR PUBLIC INSPECTION WITH
14 INDIVIDUALLY IDENTIFYING INFORMATION REDACTED FROM THE RECORD
15 UNLESS THE WOMAN WHO IS THE SUBJECT OF THE RECORD GIVES PRIOR
16 WRITTEN CONSENT FOR THE PUBLIC RELEASE OF THE RECORD. THE
17 WRITTEN RECORD OF THE USE OF RESTRAINT SHALL NOT CONSTITUTE A
18 MEDICAL RECORD UNDER STATE OR FEDERAL LAW.

19 (3) UPON RETURN TO A COUNTY JAIL AFTER CHILDBIRTH, THE
20 WOMAN SHALL BE ENTITLED TO HAVE A MEMBER OF THE COUNTY JAIL'S OR
21 COUNTY'S MEDICAL STAFF PRESENT DURING ANY STRIP SEARCH TO ENSURE
22 THAT THE STRIP SEARCH IS CONDUCTED IN A MANNER THAT NEITHER
23 INCREASES THE WOMAN'S RISK OF INFECTION NOR CAUSES THE WOMAN
24 UNNECESSARY PAIN OR DISCOMFORT.

25 (4) THE STAFF OF A COUNTY JAIL SHALL INFORM A PREGNANT
26 WOMAN COMMITTED, DETAINED, OR CONFINED IN A COUNTY JAIL OF THE
27 PROVISIONS OF THIS SECTION CONCERNING THE USE OF RESTRAINTS AND

1 THE PRESENCE OF MEDICAL STAFF DURING A STRIP SEARCH, IN WRITING
2 AND IN THE WOMAN'S PRIMARY LANGUAGE, DURING THE INTAKE PROCESS
3 OR UPON DETERMINATION OF THE PREGNANCY AND SHALL REMIND THE
4 WOMAN OF THESE PROVISIONS, ORALLY, AT THE ONSET OF LABOR AND
5 UPON THE WOMAN'S RETURN TO THE COUNTY JAIL.

6 (5) EACH SHERIFF SHALL ENSURE THAT STAFF OF THE COUNTY JAIL
7 RECEIVE ADEQUATE TRAINING CONCERNING THE PROVISIONS OF THIS
8 SECTION.

9 **SECTION 3.** Part 9 of article 2 of title 19, Colorado Revised
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
11 read:

12 **19-2-924.7. Juveniles committed to the department of human**
13 **services - prohibition against the use of restraints on pregnant**
14 **juveniles.** (1) THE STAFF OF THE DEPARTMENT OF HUMAN SERVICES, IN
15 RESTRAINING A FEMALE JUVENILE COMMITTED TO THE DEPARTMENT OF
16 HUMAN SERVICES OR DETAINED IN A JUVENILE FACILITY, SHALL USE THE
17 LEAST RESTRICTIVE RESTRAINTS NECESSARY TO ENSURE SAFETY IF THE
18 STAFF HAVE ACTUAL KNOWLEDGE OR A REASONABLE BELIEF THAT THE
19 JUVENILE IS PREGNANT.

20 (2) (a) (I) STAFF OF THE DEPARTMENT OF HUMAN SERVICES OR
21 MEDICAL FACILITY STAFF SHALL NOT USE RESTRAINTS OF ANY KIND ON A
22 PREGNANT JUVENILE DURING LABOR AND DELIVERY OF THE CHILD,
23 POSTPARTUM RECOVERY WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO
24 OR FROM A MEDICAL FACILITY FOR CHILDBIRTH; EXCEPT THAT STAFF MAY
25 USE RESTRAINTS IF:

26 (A) THE MEDICAL STAFF DETERMINE THAT RESTRAINTS ARE
27 MEDICALLY NECESSARY FOR SAFE CHILDBIRTH;

1 (B) THE STAFF OF THE DEPARTMENT OF HUMAN SERVICES OR
2 MEDICAL STAFF DETERMINE THAT THE JUVENILE PRESENTS AN IMMEDIATE
3 AND SERIOUS RISK OF HARM TO HERSELF, TO OTHER PATIENTS, OR TO
4 MEDICAL STAFF; OR

5 (C) THE STAFF OF THE DEPARTMENT OF HUMAN SERVICES
6 DETERMINE THAT THE JUVENILE POSES A SUBSTANTIAL RISK OF ESCAPE
7 THAT CANNOT REASONABLY BE REDUCED BY THE USE OF OTHER EXISTING
8 MEANS.

9 (II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF
10 THIS PARAGRAPH (a) TO THE CONTRARY, UNDER NO CIRCUMSTANCES
11 SHALL STAFF USE LEG SHACKLES OR WAIST RESTRAINTS ON A JUVENILE
12 DURING LABOR AND DELIVERY OF THE CHILD, POSTPARTUM RECOVERY
13 WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO OR FROM A MEDICAL
14 FACILITY FOR CHILDBIRTH.

15 (b) THE STAFF OF THE DEPARTMENT OF HUMAN SERVICES OR
16 MEDICAL FACILITY AUTHORIZING THE USE OF RESTRAINTS ON A PREGNANT
17 JUVENILE DURING LABOR OR DELIVERY OF THE CHILD, POSTPARTUM
18 RECOVERY WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO OR FROM A
19 MEDICAL FACILITY FOR CHILDBIRTH SHALL MAKE A WRITTEN RECORD OF
20 THE USE OF RESTRAINTS, WHICH RECORD SHALL INCLUDE, AT A MINIMUM,
21 THE TYPE OF RESTRAINT USED, THE CIRCUMSTANCES THAT NECESSITATED
22 THE USE OF THE RESTRAINT, AND THE LENGTH OF TIME THE RESTRAINT
23 WAS USED. THE DEPARTMENT OF HUMAN SERVICES STAFF SHALL RETAIN
24 THE RECORD FOR A MINIMUM OF FIVE YEARS AND SHALL MAKE THE
25 RECORD AVAILABLE FOR PUBLIC INSPECTION WITH INDIVIDUALLY
26 IDENTIFYING INFORMATION REDACTED FROM THE RECORD UNLESS THE
27 JUVENILE WHO IS THE SUBJECT OF THE RECORD GIVES PRIOR WRITTEN

1 CONSENT FOR THE PUBLIC RELEASE OF THE RECORD. THE WRITTEN
2 RECORD OF THE USE OF RESTRAINT SHALL NOT CONSTITUTE A MEDICAL
3 RECORD UNDER STATE OR FEDERAL LAW.

4 (3) UPON RETURN TO A DEPARTMENT OF HUMAN SERVICES
5 FACILITY AFTER CHILDBIRTH, THE JUVENILE SHALL BE ENTITLED TO HAVE
6 A MEMBER OF THE DEPARTMENT OF HUMAN SERVICES' MEDICAL STAFF
7 PRESENT DURING ANY STRIP SEARCH TO ENSURE THAT THE STRIP SEARCH
8 IS CONDUCTED IN A MANNER THAT NEITHER INCREASES THE JUVENILE'S
9 RISK OF INFECTION NOR CAUSES THE JUVENILE ANY UNNECESSARY PAIN OR
10 DISCOMFORT.

11 (4) THE STAFF OF THE DEPARTMENT OF HUMAN SERVICES SHALL
12 INFORM A PREGNANT JUVENILE COMMITTED TO THE DEPARTMENT OF
13 HUMAN SERVICES OF THE PROVISIONS OF THIS SECTION CONCERNING THE
14 USE OF RESTRAINTS AND THE PRESENCE OF MEDICAL STAFF DURING A STRIP
15 SEARCH, IN WRITING AND IN THE JUVENILE'S PRIMARY LANGUAGE, DURING
16 THE INTAKE PROCESS OR UPON DETERMINATION OF THE PREGNANCY AND
17 SHALL REMIND THE JUVENILE OF THESE PROVISIONS, ORALLY, AT THE
18 ONSET OF LABOR AND UPON THE JUVENILE'S RETURN TO THE COUNTY JAIL.

19 (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN
20 SERVICES SHALL ENSURE THAT THE STAFF OF THE DEPARTMENT OF HUMAN
21 SERVICES RECEIVE ADEQUATE TRAINING CONCERNING THE PROVISIONS OF
22 THIS SECTION.

23 **SECTION 4.** Part 1 of article 1 of title 26, Colorado Revised
24 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
25 read:

26 **26-1-137. Persons committed to or placed in a department of**
27 **human services facility - prohibition against the use of restraints on**

1 **pregnant women.** (1) AS USED IN THIS SECTION, "FACILITY STAFF"
2 MEANS THE STAFF OF A STATE DEPARTMENT FACILITY OR FACILITY
3 SUPERVISED BY THE EXECUTIVE DIRECTOR.

4 (2) FACILITY STAFF, IN RESTRAINING A WOMAN WHO IS COMMITTED
5 TO OR PLACED PURSUANT TO THIS TITLE OR TITLE 27, C.R.S., IN A STATE
6 DEPARTMENT FACILITY OR A FACILITY SUPERVISED BY THE EXECUTIVE
7 DIRECTOR, SHALL USE THE LEAST RESTRICTIVE RESTRAINT NECESSARY TO
8 ENSURE SAFETY IF THE FACILITY STAFF HAVE ACTUAL KNOWLEDGE OR A
9 REASONABLE BELIEF THAT THE WOMAN IS PREGNANT.

10 (3) (a) (I) FACILITY STAFF OR MEDICAL STAFF SHALL NOT USE
11 RESTRAINTS OF ANY KIND ON A PREGNANT WOMAN DURING LABOR AND
12 DELIVERY OF THE CHILD, POSTPARTUM RECOVERY WHILE IN A MEDICAL
13 FACILITY, OR TRANSPORT TO OR FROM A MEDICAL FACILITY FOR
14 CHILDBIRTH; EXCEPT THAT STAFF MAY USE RESTRAINTS IF:

15 (A) THE MEDICAL STAFF DETERMINE THAT RESTRAINTS ARE
16 MEDICALLY NECESSARY FOR SAFE CHILDBIRTH;

17 (B) THE FACILITY STAFF OR MEDICAL STAFF DETERMINE THAT THE
18 WOMAN PRESENTS AN IMMEDIATE AND SERIOUS RISK OF HARM TO
19 HERSELF, TO OTHER PATIENTS, OR TO MEDICAL STAFF; OR

20 (C) THE FACILITY STAFF DETERMINE THAT THE WOMAN POSES A
21 SUBSTANTIAL RISK OF ESCAPE THAT CANNOT REASONABLY BE REDUCED BY
22 THE USE OF OTHER EXISTING MEANS.

23 (II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF
24 THIS PARAGRAPH (a) TO THE CONTRARY, UNDER NO CIRCUMSTANCES
25 SHALL STAFF USE LEG SHACKLES OR WAIST RESTRAINTS ON A PREGNANT
26 WOMAN DURING LABOR AND DELIVERY OF THE CHILD, POSTPARTUM
27 RECOVERY WHILE IN A MEDICAL FACILITY, OR TRANSPORT TO OR FROM A

1 MEDICAL FACILITY FOR CHILDBIRTH.

2 (b) THE FACILITY OR MEDICAL STAFF AUTHORIZING THE USE OF
3 RESTRAINTS ON A PREGNANT WOMAN DURING LABOR OR DELIVERY OF THE
4 CHILD, POSTPARTUM RECOVERY WHILE IN A MEDICAL FACILITY, OR
5 TRANSPORT TO OR FROM A MEDICAL FACILITY FOR CHILDBIRTH SHALL
6 MAKE A WRITTEN RECORD OF THE USE OF RESTRAINTS, WHICH RECORD
7 SHALL INCLUDE, AT A MINIMUM, THE TYPE OF RESTRAINT USED, THE
8 CIRCUMSTANCES THAT NECESSITATED THE USE OF THE RESTRAINT, AND
9 THE LENGTH OF TIME THE RESTRAINT WAS USED. THE STATE DEPARTMENT
10 SHALL RETAIN THE RECORD FOR A MINIMUM OF FIVE YEARS AND SHALL
11 MAKE THE RECORD AVAILABLE FOR PUBLIC INSPECTION WITH
12 INDIVIDUALLY IDENTIFYING INFORMATION REDACTED FROM THE RECORD
13 UNLESS THE WOMAN WHO IS THE SUBJECT OF THE RECORD GIVES PRIOR
14 WRITTEN CONSENT FOR THE PUBLIC RELEASE OF THE RECORD. THE
15 WRITTEN RECORD OF THE USE OF RESTRAINT SHALL NOT CONSTITUTE A
16 MEDICAL RECORD UNDER STATE OR FEDERAL LAW.

17 (4) AFTER CHILDBIRTH AND UPON RETURN TO A STATE
18 DEPARTMENT FACILITY OR A FACILITY SUPERVISED BY THE EXECUTIVE
19 DIRECTOR, THE WOMAN SHALL BE ENTITLED TO HAVE A MEMBER OF THE
20 STATE DEPARTMENT'S MEDICAL STAFF PRESENT DURING ANY STRIP SEARCH
21 TO ENSURE THAT THE STRIP SEARCH IS CONDUCTED IN A MANNER THAT
22 NEITHER INCREASES THE WOMAN'S RISK OF INFECTION NOR CAUSES THE
23 WOMAN ANY UNNECESSARY PAIN OR DISCOMFORT.

24 (5) THE FACILITY STAFF SHALL INFORM A PREGNANT WOMAN
25 COMMITTED TO OR PLACED IN A STATE DEPARTMENT FACILITY OR A
26 FACILITY SUPERVISED BY THE EXECUTIVE DIRECTOR OF THE PROVISIONS OF
27 THIS SECTION CONCERNING THE USE OF RESTRAINTS AND THE PRESENCE OF

1 MEDICAL STAFF DURING A STRIP SEARCH, IN WRITING AND IN THE WOMAN'S
2 PRIMARY LANGUAGE, DURING THE INTAKE PROCESS OR UPON
3 DETERMINATION OF THE PREGNANCY AND SHALL REMIND THE WOMAN OF
4 THESE PROVISIONS, ORALLY, AT THE ONSET OF LABOR AND UPON RETURN
5 TO THE STATE DEPARTMENT OR STATE-DEPARTMENT-SUPERVISED
6 FACILITY.

7 (6) THE EXECUTIVE DIRECTOR SHALL ENSURE THAT FACILITY
8 STAFF RECEIVE ADEQUATE TRAINING CONCERNING THE PROVISIONS OF
9 THIS SECTION.

10 **SECTION 5.** Part 4 of article 15 of title 31, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **31-15-403. Prohibition against the use of restraints on**
14 **pregnant women in custody.** A MUNICIPALITY THAT CHOOSES TO
15 ESTABLISH AND OPERATE A JAIL, AS AUTHORIZED IN SECTION 31-15-401
16 (1) (j), SHALL COMPLY WITH THE PROVISIONS OF SECTION 17-26-106.5,
17 C.R.S., CONCERNING THE USE OF RESTRAINTS ON PREGNANT WOMEN IN
18 CUSTODY.

19 **SECTION 6. No appropriation.** The general assembly has
20 determined that this act can be implemented within existing
21 appropriations, and therefore no separate appropriation of state moneys
22 is necessary to carry out the purposes of this act.

23 **SECTION 7. Act subject to petition - specified effective date.**
24 This act shall take effect January 1, 2011; except that, if a referendum
25 petition is filed pursuant to section 1 (3) of article V of the state
26 constitution against this act or an item, section, or part of this act within
27 the ninety-day period after final adjournment of the general assembly,

1 then the act, item, section, or part shall not take effect unless approved by
2 the people at the general election to be held in November 2010 and shall
3 take effect on January 1, 2011, or on the date of the official declaration
4 of the vote thereon by the governor, whichever is later.