

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 16, 2011

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB11-049 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

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

6 **26-1-136.5. Prohibition against the use of prone restraints.**

7 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
8 REQUIRES, "PRONE RESTRAINT" MEANS A METHOD OR DEVICE USED TO  
9 INVOLUNTARILY RESTRICT THE FREEDOM OF MOVEMENT OF A PERSON  
10 WHILE THE PERSON IS SECURED IN A FACE-DOWN POSITION, INCLUDING BUT  
11 NOT LIMITED TO BODILY PHYSICAL FORCE, MECHANICAL DEVICES, OR  
12 CHEMICALS. "PRONE RESTRAINT" DOES NOT INCLUDE THE BRIEF,  
13 TEMPORARY FACE-DOWN POSITIONING OF A PERSON BY TRAINED  
14 PERSONNEL USING BODILY FORCE TO GAIN CONTROL OF THE PERSON IN  
15 ORDER TO PREVENT HARM TO THE PERSON OR TO OTHERS.

16 (2) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
17 CONTRARY, THE STATE DEPARTMENT, INCLUDING ANY DIVISION THEREOF,  
18 A COUNTY DEPARTMENT, A STATE DESIGNATED AGENCY, AND A PERSON  
19 EMPLOYED BY OR UNDER CONTRACT WITH SUCH A DEPARTMENT OR  
20 AGENCY IS PROHIBITED FROM USING A PRONE RESTRAINT ON A PERSON.

21 (b) NOTWITHSTANDING THE PROHIBITION CONTAINED IN  
22 PARAGRAPH (a) OF THIS SUBSECTION (2), THE USE OF A PRONE RESTRAINT  
23 IS NOT PROHIBITED:

24 (I) WHEN USED IN A LICENSED OR CERTIFIED HOSPITAL IN THE  
25 CONTEXT OF PROVIDING MEDICAL OR DENTAL SERVICES THAT ARE

1 PROVIDED WITH THE CONSENT OF THE PERSON OR THE PERSON'S  
2 GUARDIAN; OR

3 (II) WHEN USED AS PART OF A PROTECTIVE DEVICE OR ADAPTIVE  
4 DEVICE FOR PROVIDING PHYSICAL SUPPORT, PREVENTION OF INJURY TO THE  
5 PERSON, OR VOLUNTARY OR LIFE-SAVING MEDICAL PROCEDURES.

6 **SECTION 2.** 26-20-102, Colorado Revised Statutes, is amended  
7 BY THE ADDITION OF A NEW SUBSECTION to read:

8 **26-20-102. Definitions.** As used in this article, unless the context  
9 otherwise requires:

10 (5.5) "PRONE RESTRAINT" MEANS A METHOD OR DEVICE USED TO  
11 INVOLUNTARILY RESTRICT THE FREEDOM OF MOVEMENT OF A PERSON  
12 WHILE THE PERSON IS SECURED IN A FACE-DOWN POSITION, INCLUDING BUT  
13 NOT LIMITED TO BODILY PHYSICAL FORCE, MECHANICAL DEVICES, OR  
14 CHEMICALS. "PRONE RESTRAINT" DOES NOT INCLUDE THE BRIEF,  
15 TEMPORARY FACE-DOWN POSITIONING OF A PERSON BY TRAINED  
16 PERSONNEL USING BODILY FORCE TO GAIN CONTROL OF THE PERSON IN  
17 ORDER TO PREVENT HARM TO THE PERSON OR TO OTHERS.

18 **SECTION 3.** 26-20-103, Colorado Revised Statutes, is amended  
19 BY THE ADDITION OF A NEW SUBSECTION to read:

20 **26-20-103. Basis for use of restraint.** (7) NOTWITHSTANDING  
21 ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, PURSUANT TO THE  
22 PROVISIONS OF SECTION 26-1-136.5, THE DEPARTMENT OF HUMAN  
23 SERVICES, INCLUDING ANY DIVISION THEREOF, A COUNTY DEPARTMENT, AS  
24 DEFINED IN SECTION 26-1-103, A STATE DESIGNATED AGENCY, AS DEFINED  
25 IN SECTION 26-1-103, AND A PERSON EMPLOYED BY OR UNDER CONTRACT  
26 WITH SUCH A DEPARTMENT OR AGENCY IS PROHIBITED FROM USING A  
27 PRONE RESTRAINT ON A PERSON.

28 **SECTION 4.** 27-10.5-115, Colorado Revised Statutes, is  
29 amended BY THE ADDITION OF A NEW SUBSECTION to read:

30 **27-10.5-115. Right to humane care and treatment.**  
31 (5.5) EXCEPT AS AUTHORIZED PURSUANT TO THE PROVISIONS OF SECTION  
32 26-1-136.5, C.R.S., THE USE OF A PRONE RESTRAINT, AS DEFINED IN  
33 SECTION 26-1-136.5, C.R.S., ON A PERSON WITH A DEVELOPMENTAL  
34 DISABILITY IS PROHIBITED.

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

38 Page 1, line 101, after "OF" insert "PRONE".

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