



## 2021 Birth Equity Bill Package Final Summary

To protect human rights and address discrimination, mistreatment, harm, poor outcomes, and inequities in outcomes during the perinatal period --

Colorado passed three bills in the 2021 session.<sup>i,ii,iii,iv,v</sup>

- 1) **Protection of Pregnant People in the Perinatal Period, SB 193** established basic human rights standards in perinatal care for all people, including those who are incarcerated.
- 2) **Maternal Health Providers, SB 194** aligned perinatal care data and systems for equity.
- 3) **Sunset Direct Entry Midwives, SB 101** continued the Direct-Entry Midwifery program.

### Key Provisions

#### Human Rights approach to Perinatal Care (SB 193)

- Insurers offering malpractice insurance must provide information about their labor and delivery policies to CDPHE upon request.
- Pregnant people are now treated the same as all other medical decision makers in the advance directives law.
- The Colorado Civil Rights Division will receive reports when maternity care fails to:
  - Be culturally congruent
  - Maintain dignity, privacy, or confidentiality
  - Ensure freedom from harm and mistreatment
  - Provide informed choices or continuous support
- Facilities that incarcerate people (jails, correctional facilities, private contract prisons, Department of Human Services facilities) must meet minimum standards for the care of pregnant people including:
  - Reporting on exceptional use of restraints
  - Reporting the place and numbers of births
  - Training staff on safe and respectful treatment
  - Providing perinatal care services
  - Providing nutrition, safety measures, menstrual products, breast pumps, education on pregnancy and birth
  - Counseling for particularly vulnerable populations
  - Policies that are trauma-informed, prioritize newborn bonding, support physiologic birth and informed consent
- Facilities where people give birth must demonstrate to CDPHE policies that:
  - Allow every birthing person to have a support person (companion or doula) with them in addition to a partner or spouse
  - Prioritize newborns bonding with their families
  - Do not exclude from care or interrupt anyone experiencing physiologic birth without informed consent from the birthing person

- Have a process for receiving patient information from any provider regulated by Title 12 (this includes CPMs and CNMs)
- Create a plan for receiving and transferring patients across levels of care
- Makes an appropriation for implementation

### **Aligning Data & Systems for Equity (SB 194)**

- Public & private health insurance plans must reimburse providers in a manner that
  - promotes high-quality, cost-effective, and evidence-based care
  - promotes high-value evidence-based payment models
  - prevents risk in subsequent pregnancies
- Providers who regularly provide care during labor and birth must facilitate patient transfers across levels of care and in coordination with other providers to ensure patients don't lose access to care.
- The birth certificate worksheet will collect information on intended place of birth.
- CDPHE and the maternal mortality review committee have expanded data collection and reporting duties including:
  - Incorporating input and feedback from people who are directly impacted with a focus on racial and ethnic minority groups, and non-profits and community-based groups
  - making recommendations to improve collection and public reporting of data related to perinatal health - with a focus on
    - data from storytelling
    - race/ethnicity/disability data
    - uptake of trainings on bias/discrimination
    - data on incidents of mistreatment
  - Studying the use of research evidence in Colorado policies related to the perinatal period.
- Extends Medicaid coverage postpartum so that people who are qualified during pregnancy will maintain coverage for 12 months after birth.
- Makes an appropriation for implementation.

### **Direct-Entry Midwifery Continues (SB 101)**

- Continues the program until 2028 when the next sunset will occur
- Provides for DEM practice in birth centers
- Includes Group B Strep prophylaxis in the authorities
- Makes some technical clarifications

### **Amendments/places the final bills differ from the version that was introduced:**

#### ***Human Rights approach to Perinatal Care (SB 193 amendments):***

- Facing opposition from COPIC and other medical interests the provision to increase the statute of limitations for informed consent violations was removed.
- Facing fear of malpractice insurance industry reprisal, the provision to require policies to cover vaginal births after cesarean (VBAC) was changed to require disclosure of policies to CDPHE as part of CDPHE's expanded data collection regarding perinatal care.
- The language around transfers from home and birth center was changed to focus on two processes 1) receiving information about patients and 2) patients moving across levels of care.
- Facilities where people in custody labor and give birth are not, under this legislation, required to allow support people in the room, and the requirement to prioritize newborn bonding is

narrowed in three ways (the legal guardian consents to newborn care, or the newborn or the birthing person is released from the hospital).

***Aligning Data & Systems for Equity (SB 194 amendments):***

- Public & private insurance reimbursement language was amended to remove the phrase “that does not discriminate” because that phrase was confusing to stakeholders and its removal allowed insurance plans to better identify payment priorities.
- Language about transfers was clarified for the benefit of stakeholders who were new to understanding the problem.
- The use of research evidence report was moved from the purview of the Health Equity Committee to the Maternal Mortality Review Committee at the request of CDPHE (with the Health Equity Committee being added as a named recipient of the MMRC report).
- An implementation date for extending Medicaid was added, July 1, 2022 (the intention being that coverage will be retroactive for those who fall off at the end of the public health emergency in Spring of 2022, but before the extension begins in July of 2022).

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<sup>i</sup>Jamila Taylor et. al. Eliminating Racial Disparities in Maternal and Infant Mortality, Center for American Progress, May 2, 2019. Available at: <https://www.americanprogress.org/issues/women/reports/2019/05/02/469186/eliminating-racial-disparities-maternal-infant-mortality/>

<sup>ii</sup> Vedam, Saraswathi et al., *The Giving Voice to Mothers Study: Inequity and Mistreatment during Pregnancy and Childbirth in the United States*. 16 *Reproductive Health*. 77 (2019).

<sup>iii</sup> Colorado Midwifery Integration Report Card at <https://www.birthplacelab.org/wp-content/uploads/2018/02/Colorado.pdf>

<sup>iv</sup> CDC, Cesarean delivery rate by state, at [https://www.cdc.gov/nchs/pressroom/sosmap/cesarean\\_births/cesareans.htm](https://www.cdc.gov/nchs/pressroom/sosmap/cesarean_births/cesareans.htm)

<sup>v</sup> UNFPA ICM, WHO: "The state of the world's midwifery 2014: A universal pathway. A women's right to health". 2014, New York: United Nations Population Fund <https://www.unfpa.org/sowmy> (87% of service need can be delivered by midwives, when educated to international standards).