

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0135.01 Brita Darling

SENATE BILL 11-049

SENATE SPONSORSHIP

Williams S.,

HOUSE SPONSORSHIP

Ryden,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF PRONE RESTRAINTS ON 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://www.leg.state.co.us/billsummaries>.)

The bill amends the "Protection of Persons from Restraint Act" (the act) to include the definition of "prone restraint". The bill prohibits an employee or contractor of certain entities, including but not limited to state and local government agencies and school districts, from using a prone restraint on a person. The prohibition on the use of a prone restraint applies to the department of corrections, law enforcement agencies, the juvenile probation department, or a county department 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.

social services performing duties relating to abuse and neglect, which entities are otherwise exempted from the act. The term "prone restraint" does not include the use of reasonable and appropriate physical force by a peace officer necessary to arrest a person or to prevent that person's escape or by a guard, peace officer, or employee of a detention center to prevent escape.

The bill also prohibits the use of a prone restraint on a person with a developmental disability who is receiving care and treatment.

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

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

5 **26-1-136.5. Prohibition against the use of prone restraints.**

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

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

20 (b) NOTWITHSTANDING THE PROHIBITION CONTAINED IN
21 PARAGRAPH (a) OF THIS SUBSECTION (2), THE USE OF A PRONE RESTRAINT

1 IS NOT PROHIBITED:

2 (I) WHEN USED IN A LICENSED OR CERTIFIED HOSPITAL IN THE
3 CONTEXT OF PROVIDING MEDICAL OR DENTAL SERVICES THAT ARE
4 PROVIDED WITH THE CONSENT OF THE PERSON OR THE PERSON'S
5 GUARDIAN; OR

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

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

11 **26-20-102. Definitions.** As used in this article, unless the context
12 otherwise requires:

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

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

23 **26-20-103. Basis for use of restraint.** (7) NOTWITHSTANDING
24 ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, PURSUANT TO THE
25 PROVISIONS OF SECTION 26-1-136.5, THE DEPARTMENT OF HUMAN
26 SERVICES, INCLUDING ANY DIVISION THEREOF, A COUNTY DEPARTMENT, AS
27 DEFINED IN SECTION 26-1-103, A STATE DESIGNATED AGENCY, AS DEFINED

1 IN SECTION 26-1-103, AND A PERSON EMPLOYED BY OR UNDER CONTRACT
2 WITH SUCH A DEPARTMENT OR AGENCY IS PROHIBITED FROM USING A
3 PRONE RESTRAINT ON A PERSON.

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

6 **27-10.5-115. Right to humane care and treatment.**
7 (5.5) EXCEPT AS AUTHORIZED PURSUANT TO THE PROVISIONS OF SECTION
8 26-1-136.5, C.R.S., THE USE OF A PRONE RESTRAINT, AS DEFINED IN
9 SECTION 26-1-136.5, C.R.S., ON A PERSON WITH A DEVELOPMENTAL
10 DISABILITY IS PROHIBITED.

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