Birth Equity Bills

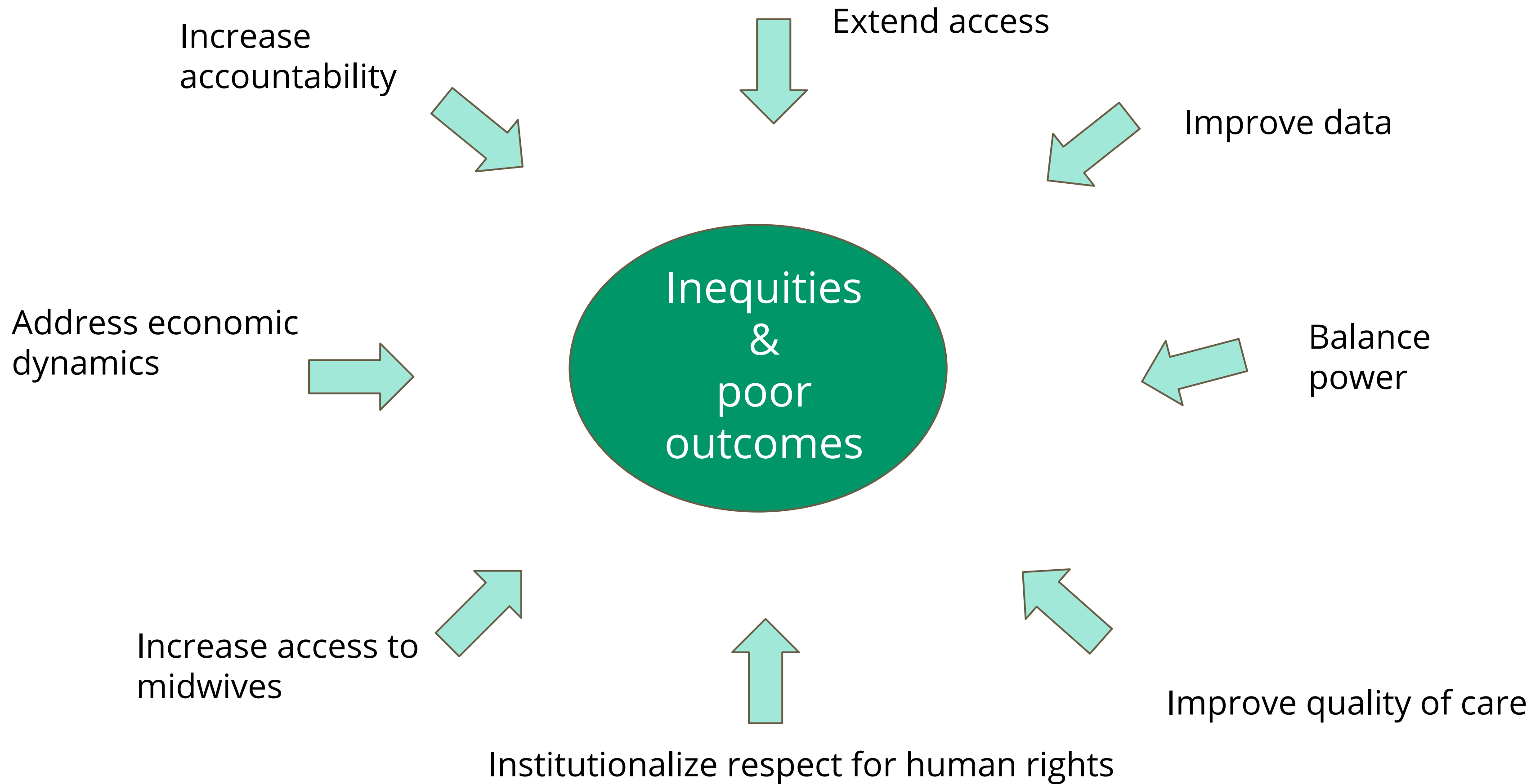
Sponsors: Senator Buckner, Representative Herod

Stakeholder Meeting
March 30, 2021

Why we need these bills:

- **77% of maternal mortalities in Colorado are preventable**
- Colorado’s Black families experience a higher rate of maternal mortality than the national average.
- Infant mortality is the worst for Indigenous Coloradans.
- Maternal mortality is significantly higher for Coloradans who are resource starved

Solutions must address power imbalances that contribute to the problem, including racism.



The nature of this problem requires multi-pronged solutions.

The Federal Momnibus

The Federal Momnibus is an ambitious 12 Bill package taking a multipronged approach to inequities in birth outcomes.

Our bill is ambitious like the Momnibus and seeks to build on the opportunities the Momnibus would create through new funding streams and new reports.

https://www.elephantcircle.net/s/Side-by-Side-with-Momnibus-n2tr.pdf

Human Rights - SB21-193

- Human Rights is a Health Outcome
- 6 Sections about prisons, jails, DHS facililities
- 5 Sections about other human rights

https://www.elephantcircle.net/circle/birthequity2021

Care for Incarcerated Pregnant People (Sec. 4-7, 10-11)

All facilities would demonstrate basic care for people who are pregnant while in the care of those facilities. Would also increase reporting related to the use of shackles and place and number of birth. C.R.S. § 17-1-113.7, § 17-1-114.5, § 17-26-104.4, § 17-26-104.7, § 26-1-136.8, § 31-15-406

Key Points

- These are basic standards and human rights.
- Facilities do not make care for pregnant people a priority.
- Diana Sanchez gave birth in Denver County Jail with no assistance in 2019.

No discriminatory malpractice insurance (Section 1)

The Division of Insurance would require insurance malpractice plans to cover care for vaginal birth after cesarean via C.R.S. §10-4-106.5

Key Points

- Existing policies limit VBAC, which leads to more c-sections and increases risks and costs in present and future pregnancies
- Existing system deflects risks and costs from providers and companies and centers risks and costs onto pregnant people

Extend the Statute of Limitations (Section 2)

Change the amount of time people have to file a lawsuit for lack of informed consent related to birth, from two years to three years via C.R.S. § 13-80-102.5.

Key Points

- Failure to listen to and respect the needs of birthing people contributes to inequities - accountability is needed.
- Finding a lawyer and filing a case can be even harder and take longer when you're postpartum after a traumatic birth.

Advanced Directives (Section 3)

Remove the exclusion of pregnant people in Colorado’s advance directives law so that their medical decision-making will be honored if they become incapacitated via C.R.S. 15-18-104.

Key Points

- Existing law institutionalizes dismissal of pregnant people’s medical decision-making - a human rights violation.
- Honoring that pregnant people have the same rights as all adults balances power.

Collect information about disrespectful care (Section 8)

The Civil Rights Division would have a new duty to track reports of disrespectful maternity care via C.R.S. § 24-34-305

Key Talking Points

- The UN recognizes disrespect and mistreatment during childbirth as a human rights violation and expects countries to be responsible even for private facilities.
- Improve data about mistreatment, improve accountability and quality

Licensed facility requirements (Section 9)

CDPHE would require licensed facilities to demonstrate policies that institutionalize respect for human rights, improve quality, & balance power. C.R.S. § 25-3-126

Key Points

Hospitals just need to have a policy for these - this doesn't dictate clinical care.

1. Allow a companion or doula - support people reduce harm, improve quality, guard against mistreatment and discrimination.
2. Provide that newborns remain with their family - immediate postpartum connection reduces harm and improves quality.
3. No excluding or interrupting physiologic birth without informed consent - people face barriers to vaginal birth despite health benefits and experience coerced or forced interventions..
4. Accept transfers without discrimination - marginalized people are turning to community birth to address inequities. Integration improves outcomes.

Equity, Data and Systems - SB21-194

- 7 Sections (section 5 is just definitions)
- 4 agencies: CDPHE, DOI, Office of Professions and Regulations at DORA, Health Care Policy and Finance (HCPF)
- Would lead to new recommendations from CDPHE and a report from the Health Equity Commission

https://www.elephantcircle.net/circle/birthequity2021

Equitable reimbursement and no discrimination (Section 1)

Division of Insurance would require plans to have policies prohibiting discrimination against provider type and promoting high-quality, high-value, prevention and wellness via C.R.S. § 10-16-104.

Key Points

- Less than 20% of Colorado births are attended by midwives despite the data showing midwifery care is optimal.
- Economic incentives in payment work against midwifery, quality, value, prevention and wellness

Medicaid reimbursement equity (Section 7)

Require Medicaid to have policies prohibiting discrimination against provider type and promoting high-quality, high-value, prevention and wellness via C.R.S. § 25.5-4-424.

Key Points

- Less than 20% of Colorado births are attended by midwives despite the data showing midwifery care is optimal.
- Economic incentives in payment work against midwifery, quality, value, prevention and wellness

Transfers and Interprofessional Collaboration (Section 2)

DORA would require licensed providers to demonstrate that they use best-practices for transfer from community to hospital birth and interprofessional collaboration via C.R.S. § 12-30-116.

Key Points

- Marginalized people are turning to midwifery and community birth to avoid harm and address inequities.
- People are being denied transfer when it is early and preventative, increasing risk.
- This is especially dangerous for people already at risk, like Black women.

Vital Statistics (Section 3)

Revise the birth certificate worksheet to include a requirement to report intended place of birth at onset of labor via C.R.S. § 25-2-112

Key Points

- Birth certificate data already includes place of birth and provider type, but there is no way to tell if someone starts labor in a different place or with a different provider type.
- This data will increase understanding about transfers from community to hospital.

Implementation Science Report (Section 4)

Have the Health Equity Commission issue a report on use of research evidence in policies related to the perinatal period in Colorado via C.R.S. § 25-4-2206.

Key Points

- This report will address the gap between evidence and policy.
- Why are less than 20% of birth attended by midwives?
- Why do inequities persist?
- Why do systems fail to listen to data?

Data review (Section 6)

Empower CDPHE to review existing maternal health data, and data collection processes and quality measures and make recommendations to improve such processes and measures with particular attention to race/ethnicity and other data via C.R.S. § 25-52-104

Key Points

- The Momnibus would require better data collection and reporting. Colorado should prepare to full add to those efforts.
- Data to allow understanding about inequities in inadequate.

Extend Medicaid Coverage Postpartum (Sec. 8&9)

The American Recovery Plan provides funding for states who opt-in and extend coverage to one year postpartum. Colorado should take advantage of the match and opt-in as soon as possible.

Key Points

- 77% for maternal mortality in Colorado is preventable.
- The second most common time period for maternal mortality is 45 days to one year. Medicaid currently covers up to 60 days after birth.
- Access to providers postpartum can save lives.