

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

January 31, 2023
Date

Committee on Judiciary.

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

HB23-1013 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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

3 "SECTION 1. In Colorado Revised Statutes, **add** 17-1-167 as
4 follows:

5 **17-1-167. Use of restraints for state inmates - criteria -**
6 **documentation - intake assessment - report - rules - definitions.**

7 (1) (a) SUBJECT TO THE PROVISIONS OF THIS SECTION, A FACILITY OR
8 QUALIFIED FACILITY SHALL NOT USE A CLINICAL RESTRAINT ON AN
9 INDIVIDUAL, UNLESS:

10 (I) (A) THE USE IS TO PREVENT THE INDIVIDUAL FROM
11 COMMITTING IMMINENT AND SERIOUS HARM TO THE INDIVIDUAL'S SELF OR
12 ANOTHER PERSON, BASED ON IMMEDIATELY PRESENT EVIDENCE AND
13 CIRCUMSTANCES; OR

14 (B) THE FACILITY OR QUALIFIED FACILITY HAS EXHAUSTED ALL
15 LESS-RESTRICTIVE ALTERNATIVE INTERVENTIONS AND THERE ARE NO
16 IMMEDIATELY PRESENT CIRCUMSTANCES AND EVIDENCE THAT THE USE IS
17 TO PREVENT THE INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS
18 HARM TO THE INDIVIDUAL'S SELF OR ANOTHER PERSON; AND

19 (II) THE RESTRAINT IS ORDERED BY A LICENSED OR
20 LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER.

21 (b) A FACILITY OR QUALIFIED FACILITY SHALL NOT USE A CLINICAL
22 RESTRAINT ON AN INDIVIDUAL FOR LONGER THAN IS NECESSARY TO
23 PREVENT THE INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS
24 HARM TO THE INDIVIDUAL'S SELF OR ANOTHER PERSON.

25 (c) A LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER,
26 MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR
27 DESIGNATED BY THE DEPARTMENT, OR QUALIFIED HEALTH-CARE PROVIDER

1 SHALL TERMINATE THE ORDER WHEN THE BEHAVIORS REQUIRING THE
2 CLINICAL RESTRAINT ARE NO LONGER EVIDENT AND THE CRITERIA THE
3 INDIVIDUAL MUST EXHIBIT FOR THE RESTRAINT TO BE REMOVED AS
4 OUTLINED BY THE CLINICAL RESTRAINT ORDER ARE SATISFIED OR, IF THE
5 TIME LIMITATIONS PURSUANT TO SUBSECTION (2)(c) OR (3)(f) OF THIS
6 SECTION ARE REACHED, WHICHEVER OCCURS FIRST.

7 (d) ANY PERSON EMPLOYED BY THE FACILITY OR QUALIFIED
8 FACILITY MAY RECOMMEND THE ORDER BE TERMINATED BY NOTIFYING A
9 LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, MENTAL
10 HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY
11 THE DEPARTMENT, OR QUALIFIED HEALTH-CARE PROVIDER THAT THE
12 BEHAVIORS REQUIRING THE CLINICAL RESTRAINT ARE NO LONGER
13 EVIDENT.

14 (2)(a) A FACILITY MAY USE A CLINICAL AMBULATORY RESTRAINT
15 ON AN INDIVIDUAL; EXCEPT THAT THE RESTRAINT MUST NOT BE
16 CONSTRUCTED OF METAL OR HARD PLASTIC OR HAVE A BELLY CHAIN OR
17 PADLOCK.

18 (b) (I) A FACILITY SHALL NOT USE A CLINICAL AMBULATORY
19 RESTRAINT ON AN INDIVIDUAL FOR MORE THAN:

20 (A) TWELVE HOURS PER EPISODE, UNLESS THE BEHAVIORS
21 REQUIRING THE CLINICAL AMBULATORY RESTRAINT ARE STILL EVIDENT,
22 THE CRITERIA THE INDIVIDUAL MUST EXHIBIT FOR THE RESTRAINT TO BE
23 REMOVED AS OUTLINED BY THE CLINICAL RESTRAINT ORDER ARE NOT
24 SATISFIED, AND THE NEW ORDER IS APPROVED BY A MENTAL HEALTH
25 ADMINISTRATOR; AND

26 (B) TWO HUNDRED FORTY HOURS TOTAL ACROSS ALL EPISODES IN
27 ONE YEAR, EXCEPT A CLINICAL AMBULATORY RESTRAINT MAY BE
28 ORDERED TO EXCEED TWO HUNDRED FORTY HOURS ACROSS ALL EPISODES
29 IN ONE YEAR IF THE USE OF THE CLINICAL AMBULATORY RESTRAINT IN
30 EXCESS OF TWO HUNDRED FORTY HOURS IS NECESSARY TO PREVENT THE
31 INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS HARM TO THE
32 INDIVIDUAL'S SELF OR ANOTHER PERSON BASED ON IMMEDIATELY PRESENT
33 EVIDENCE AND CIRCUMSTANCES, WHETHER THE BEHAVIORS REQUIRING
34 THE CLINICAL AMBULATORY RESTRAINT ARE STILL EVIDENT, WHETHER THE
35 CRITERIA THE INDIVIDUAL MUST EXHIBIT FOR THE RESTRAINT TO BE
36 REMOVED AS OUTLINED BY THE CLINICAL RESTRAINT ORDER ARE NOT
37 SATISFIED, AND WHETHER THE CLINICAL AMBULATORY RESTRAINT IS
38 ORDERED BY THE MENTAL HEALTH ADMINISTRATOR AND APPROVED BY
39 THE CHIEF OF BEHAVIORAL HEALTH.

40 (II) THE FACILITY SHALL NOT RESTART THE TIME CALCULATION TO
41 START A NEW EPISODE IF THE INDIVIDUAL IS TEMPORARILY RELEASED
42 FROM A CLINICAL AMBULATORY RESTRAINT WITHOUT THE INTENT TO
43 TERMINATE THE CLINICAL AMBULATORY RESTRAINT ORDER. THE TIME AN

1 INDIVIDUAL IS TEMPORARILY RELEASED FROM A CLINICAL AMBULATORY
2 RESTRAINT WITHOUT THE INTENT TO TERMINATE THE CLINICAL
3 AMBULATORY RESTRAINT ORDER SUSPENDS THE CALCULATION OF TIME
4 PURSUANT TO SUBSECTION (2)(c)(I) OF THIS SECTION.

5 (c)(I) AN INITIAL CLINICAL AMBULATORY RESTRAINT ORDER MUST
6 NOT EXCEED TWO HOURS. A LICENSED OR LICENSE-ELIGIBLE MENTAL
7 HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
8 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, SHALL ASSESS
9 THE INDIVIDUAL SUBJECTED TO THE RESTRAINT TO DETERMINE WHETHER
10 TO TERMINATE OR CONTINUE THE ORDER AT THE EXPIRATION OF THE
11 INITIAL TWO-HOUR PERIOD, EXCEPT DURING OVERNIGHT HOURS. THE
12 FACILITY SHALL NOT RESTART THE TIME CALCULATION TO START A NEW
13 EPISODE DURING OVERNIGHT HOURS. THE TIME AN INDIVIDUAL IS
14 SUBJECTED TO THE CLINICAL AMBULATORY RESTRAINT IMMEDIATELY
15 PRECEDING OVERNIGHT HOURS IS INCLUDED IN THE TOTAL CALCULATION
16 OF TIME FOR AN EPISODE SUSPENDED BY OVERNIGHT HOURS.

17 (II) IF THE LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH
18 PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT
19 RULE OR DESIGNATED BY THE DEPARTMENT, CONTINUES THE INITIAL
20 CLINICAL AMBULATORY RESTRAINT ORDER, THE LICENSED OR
21 LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, OR MENTAL HEALTH
22 CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY THE
23 DEPARTMENT, SHALL ASSESS THE INDIVIDUAL SUBJECT TO THE RESTRAINT
24 AT INTERVALS OF TIME DETERMINED BY THE INDIVIDUAL'S BEHAVIOR, BUT
25 NOT TO EXCEED FOUR HOURS, EXCEPT DURING OVERNIGHT HOURS. THE
26 FACILITY SHALL NOT RESTART THE TIME CALCULATION TO START A NEW
27 EPISODE DURING OVERNIGHT HOURS. THE TIME AN INDIVIDUAL IS
28 SUBJECTED TO THE CLINICAL AMBULATORY RESTRAINT IMMEDIATELY
29 PRECEDING OVERNIGHT HOURS IS INCLUDED IN THE TOTAL CALCULATION
30 OF TIME FOR AN EPISODE SUSPENDED BY OVERNIGHT HOURS.

31 (III) AT EACH ASSESSMENT PURSUANT TO SUBSECTIONS (2)(c)(I)
32 AND (2)(c)(II) OF THIS SECTION, THE LICENSED OR LICENSE-ELIGIBLE
33 MENTAL HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
34 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, SHALL:

35 (A) MAKE A NEW DETERMINATION WHETHER THE ORDER TO
36 CONTINUE RESTRAINT IS NECESSARY TO PREVENT THE INDIVIDUAL FROM
37 COMMITTING IMMINENT AND SERIOUS HARM TO THE INDIVIDUAL'S SELF OR
38 ANOTHER PERSON, BASED ON THE IMMEDIATELY PRESENT EVIDENCE AND
39 CIRCUMSTANCES;

40 (B) DETERMINE WHETHER A LESS-RESTRICTIVE ALTERNATIVE
41 INTERVENTION IS MORE APPROPRIATE THAN THE USE OF A CLINICAL
42 AMBULATORY RESTRAINT; AND

43 (C) MODIFY THE ORDER TO REFLECT SPECIFIC BEHAVIORAL

1 CRITERIA THE INDIVIDUAL MUST EXHIBIT FOR THE RESTRAINT TO BE
2 REMOVED, AS APPROPRIATE.

3 (IV) AN ASSESSMENT PURSUANT TO SUBSECTION (2)(c)(I) OR
4 (2)(c)(II) OF THIS SECTION MAY BE PERFORMED USING AUDIO-VIDEO
5 COMMUNICATION TECHNOLOGY.

6 (3) (a) ONLY A QUALIFIED FACILITY MAY USE A CLINICAL
7 FOUR-POINT RESTRAINT ON AN INDIVIDUAL.

8 (b) A QUALIFIED FACILITY SHALL NOT USE A CLINICAL FOUR-POINT
9 RESTRAINT CONSTRUCTED OF METAL OR HARD PLASTIC OR THAT HAS A
10 BELLY CHAIN OR PADLOCK. A QUALIFIED FACILITY SHALL USE A CLINICAL
11 FOUR-POINT RESTRAINT ON A BED WITH A MATTRESS.

12 (c) A QUALIFIED FACILITY SHALL NOT USE A HELMET OR DIAPER ON
13 AN INDIVIDUAL SUBJECTED TO A CLINICAL FOUR-POINT RESTRAINT, UNLESS
14 THE INDIVIDUAL IS USING FECES IN AN ASSAULTIVE MANNER OR
15 GENERALLY WEARS A DIAPER.

16 (d) A QUALIFIED FACILITY SHALL NOT RESTRAIN AN INDIVIDUAL
17 SUBJECT TO A CLINICAL FOUR-POINT RESTRAINT IN A PRONE POSITION. A
18 QUALIFIED FACILITY SHALL CONSIDER THE INDIVIDUAL'S PREEXISTING
19 MEDICAL CONDITIONS OR PHYSICAL DISABILITIES OR LIMITATIONS THAT
20 MAY INCREASE THE RISK OF INJURY TO THE INDIVIDUAL DURING A
21 CLINICAL RESTRAINT EPISODE AND RESTRAIN THE INDIVIDUAL IN A
22 MANNER THAT MINIMIZES THE INDIVIDUAL'S DISCOMFORT AND RISK OF
23 INJURY OR COMPLICATION.

24 (e) AT LEAST EVERY TWO HOURS, A QUALIFIED FACILITY SHALL
25 RELEASE AN INDIVIDUAL SUBJECTED TO A CLINICAL FOUR-POINT
26 RESTRAINT TO PROVIDE NOT LESS THAN TEN MINUTES FOR THE PERSON TO
27 MOVE FREELY. THE QUALIFIED FACILITY MAY USE A CLINICAL
28 AMBULATORY RESTRAINT DURING THIS TIME PERIOD IF THE USE OF THE
29 CLINICAL AMBULATORY RESTRAINT IS NECESSARY TO PREVENT THE
30 INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS HARM TO THE
31 INDIVIDUAL'S SELF OR ANOTHER PERSON BASED ON IMMEDIATELY PRESENT
32 EVIDENCE AND CIRCUMSTANCES.

33 (f) (I) A QUALIFIED FACILITY SHALL NOT USE A CLINICAL
34 FOUR-POINT RESTRAINT ON AN INDIVIDUAL FOR MORE THAN:

35 (A) FOUR HOURS PER EPISODE, UNLESS THE BEHAVIORS REQUIRING
36 THE CLINICAL FOUR-POINT RESTRAINT ARE STILL EVIDENT, THE CRITERIA
37 THE INDIVIDUAL MUST EXHIBIT FOR THE RESTRAINT TO BE REMOVED AS
38 OUTLINED BY THE CLINICAL RESTRAINT ORDER ARE NOT SATISFIED, AND
39 THE NEW ORDER IS APPROVED BY A MENTAL HEALTH ADMINISTRATOR;
40 AND

41 (B) TWO HUNDRED FORTY HOURS IN ONE YEAR, EXCEPT ANY
42 CLINICAL FOUR-POINT RESTRAINT MAY BE ORDERED TO EXCEED TWO
43 HUNDRED FORTY HOURS ACROSS ALL EPISODES IN ONE YEAR IF THE USE OF

1 THE CLINICAL FOUR-POINT RESTRAINT IN EXCESS OF TWO HUNDRED FORTY
2 HOURS IS NECESSARY TO PREVENT THE INDIVIDUAL FROM COMMITTING
3 IMMINENT AND SERIOUS HARM TO THE INDIVIDUAL'S SELF OR ANOTHER
4 PERSON BASED ON IMMEDIATELY PRESENT EVIDENCE AND
5 CIRCUMSTANCES, THE BEHAVIORS REQUIRING THE CLINICAL FOUR-POINT
6 RESTRAINT ARE STILL EVIDENT, THE CRITERIA THE INDIVIDUAL MUST
7 EXHIBIT FOR THE RESTRAINT TO BE REMOVED AS OUTLINED BY THE
8 CLINICAL RESTRAINT ORDER ARE NOT SATISFIED, AND THE CLINICAL
9 FOUR-POINT RESTRAINT IS ORDERED BY THE MENTAL HEALTH
10 ADMINISTRATOR AND APPROVED BY THE CHIEF OF BEHAVIORAL HEALTH.

11 (II) THE QUALIFIED FACILITY SHALL NOT RESTART THE TIME
12 CALCULATION TO START A NEW EPISODE IF THE INDIVIDUAL IS
13 TEMPORARILY RELEASED FROM A CLINICAL FOUR-POINT RESTRAINT
14 WITHOUT THE INTENT TO TERMINATE THE CLINICAL FOUR-POINT
15 RESTRAINT ORDER. THE TIME AN INDIVIDUAL IS TEMPORARILY RELEASED
16 FROM A CLINICAL RESTRAINT WITHOUT THE INTENT TO TERMINATE THE
17 CLINICAL FOUR-POINT RESTRAINT ORDER SUSPENDS THE CALCULATION OF
18 TIME PURSUANT TO SUBSECTION (3)(f)(I) OF THIS SECTION.

19 (g) (I) AN INITIAL ORDER FOR CLINICAL FOUR-POINT RESTRAINT
20 MUST NOT EXCEED TWO HOURS. A LICENSED OR LICENSE-ELIGIBLE MENTAL
21 HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
22 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, SHALL ASSESS
23 THE INDIVIDUAL SUBJECT TO THE CLINICAL FOUR-POINT RESTRAINT TO
24 DETERMINE WHETHER TO TERMINATE OR CONTINUE THE ORDER AT THE
25 EXPIRATION OF THE INITIAL TWO-HOUR PERIOD, EXCEPT DURING
26 OVERNIGHT HOURS. THE QUALIFIED FACILITY SHALL NOT RESTART THE
27 TIME CALCULATION TO START A NEW EPISODE DURING OVERNIGHT HOURS.
28 THE TIME AN INDIVIDUAL IS SUBJECTED TO THE CLINICAL AMBULATORY
29 RESTRAINT IMMEDIATELY PRECEDING OVERNIGHT HOURS IS INCLUDED IN
30 THE TOTAL CALCULATION OF TIME FOR AN EPISODE SUSPENDED BY
31 OVERNIGHT HOURS.

32 (II) IF THE LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH
33 PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT
34 RULE OR DESIGNATED BY THE DEPARTMENT, CONTINUES THE INITIAL
35 ORDER, A LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, OR
36 MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR
37 DESIGNATED BY THE DEPARTMENT, SHALL ASSESS THE INDIVIDUAL
38 SUBJECT TO THE CLINICAL FOUR-POINT RESTRAINT TO DETERMINE
39 WHETHER TO TERMINATE OR CONTINUE THE ORDER AT INTERVALS OF TIME
40 DETERMINED BY THE INDIVIDUAL'S BEHAVIOR, BUT NOT TO EXCEED TWO
41 HOURS, EXCEPT DURING OVERNIGHT HOURS. THE QUALIFIED FACILITY
42 SHALL NOT RESTART THE TIME CALCULATION TO START A NEW EPISODE
43 DURING OVERNIGHT HOURS. THE TIME AN INDIVIDUAL IS SUBJECTED TO

1 THE CLINICAL AMBULATORY RESTRAINT IMMEDIATELY PRECEDING
2 OVERNIGHT HOURS IS INCLUDED IN THE TOTAL CALCULATION OF TIME FOR
3 AN EPISODE SUSPENDED BY OVERNIGHT HOURS.

4 (III) AT EACH ASSESSMENT PURSUANT TO SUBSECTIONS (3)(g)(I)
5 AND (3)(g)(II) OF THIS SECTION, THE LICENSED OR LICENSE-ELIGIBLE
6 MENTAL HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
7 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, SHALL:

8 (A) MAKE A NEW DETERMINATION REGARDING WHETHER THE
9 ORDER TO CONTINUE RESTRAINT IS NECESSARY TO PREVENT THE
10 INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS HARM TO THE
11 INDIVIDUAL'S SELF OR ANOTHER PERSON, BASED ON THE IMMEDIATELY
12 PRESENT EVIDENCE AND CIRCUMSTANCES;

13 (B) DETERMINE WHETHER A LESS-RESTRICTIVE ALTERNATIVE
14 INTERVENTION IS MORE APPROPRIATE THAN THE USE OF A CLINICAL
15 FOUR-POINT RESTRAINT; AND

16 (C) MODIFY THE ORDER TO REFLECT SPECIFIC BEHAVIORAL
17 CRITERIA THE INDIVIDUAL MUST EXHIBIT FOR THE RESTRAINT TO BE
18 REMOVED, AS APPROPRIATE.

19 (IV) AN ASSESSMENT PURSUANT TO SUBSECTION (3)(g)(I) OR
20 (3)(g)(II) OF THIS SECTION MAY BE PERFORMED USING AUDIO-VIDEO
21 COMMUNICATION TECHNOLOGY.

22 (4) AT LEAST EVERY FIFTEEN MINUTES, A TRAINED OR QUALIFIED
23 HEALTH-CARE PROVIDER SHALL EXAMINE THE INDIVIDUAL SUBJECTED TO
24 A CLINICAL RESTRAINT, AT A MINIMUM:

25 (a) TO ENSURE THE INDIVIDUAL'S CIRCULATION IS UNRESTRICTED,
26 BREATHING IS NOT COMPROMISED, AND OTHER PHYSICAL NEEDS ARE
27 SATISFIED, AND TO NOTIFY A SECOND QUALIFIED HEALTH-CARE PROVIDER
28 TO ASSIST WITH ANY CONCERNS;

29 (b) TO ENSURE THE INDIVIDUAL IS PROPERLY POSITIONED IN THE
30 RESTRAINT;

31 (c) TO OFFER THE INDIVIDUAL FLUIDS AND TOILET ACCESS, AND TO
32 PROVIDE FLUIDS AND TOILET ACCESS IF REQUESTED BY THE INDIVIDUAL;

33 (d) TO MONITOR THE EFFECT OF MEDICATION ON THE INDIVIDUAL,
34 IF APPLICABLE, AND TO NOTIFY A SECOND QUALIFIED HEALTH-CARE
35 PROVIDER TO ASSIST WITH ANY CONCERNS; AND

36 (e) TO MONITOR WHETHER THE INDIVIDUAL IS EXHIBITING
37 BEHAVIORS REQUIRING THE CONTINUATION OR TERMINATION OF THE
38 CLINICAL RESTRAINT ORDER.

39 (5) AT ALL TIMES AN INDIVIDUAL IS SUBJECTED TO A CLINICAL
40 RESTRAINT, THE INDIVIDUAL MUST BE ABLE TO COMMUNICATE TO ANY
41 EMPLOYEE, QUALIFIED HEALTH-CARE PROVIDER, LICENSED OR
42 LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, OR MENTAL HEALTH
43 CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY THE

1 DEPARTMENT, WHO IS RESPONSIBLE FOR MONITORING THE INDIVIDUAL
2 DURING THE CLINICAL RESTRAINT EPISODE.

3 (6) (a) A FACILITY OR QUALIFIED FACILITY SHALL ENSURE THAT
4 THE USE OF RESTRAINT IS DOCUMENTED AND MAINTAINED IN THE
5 ELECTRONIC HEALTH RECORD OF THE INDIVIDUAL WHO WAS RESTRAINED.
6 AT A MINIMUM, THE FACILITY OR QUALIFIED FACILITY SHALL DOCUMENT:

7 (I) THE ORDER FOR CLINICAL RESTRAINT, THE DATE AND TIME OF
8 THE ORDER, AND THE SIGNATURE OF THE LICENSED OR LICENSE-ELIGIBLE
9 MENTAL HEALTH PROVIDER WHO ISSUED THE CLINICAL RESTRAINT ORDER.
10 IF THE ORDER IS AUTHORIZED BY TELEPHONE, THE ORDER MUST BE
11 TRANSCRIBED AND SIGNED AT THE TIME OF ISSUANCE BY A PERSON WITH
12 AUTHORITY TO ACCEPT ORDERS. THE ORDERING LICENSED OR LICENSE-
13 ELIGIBLE MENTAL HEALTH PROVIDER SHALL SIGN THE ORDER AS SOON AS
14 PRACTICABLE.

15 (II) A CLEAR EXPLANATION OF THE CLINICAL BASIS FOR USE OF THE
16 CLINICAL RESTRAINT, INCLUDING THE LESS-INTRUSIVE INTERVENTIONS
17 THAT WERE EMPLOYED AND FAILED, AND EVIDENCE OF THE IMMEDIATE
18 CIRCUMSTANCES JUSTIFYING THE BELIEF THAT THE USE OF RESTRAINT WAS
19 TO PREVENT THE INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS
20 HARM TO THE INDIVIDUAL'S SELF OR ANOTHER PERSON;

21 (III) THE SPECIFIC BEHAVIORAL CRITERIA THE INDIVIDUAL MUST
22 EXHIBIT FOR THE CLINICAL RESTRAINT EPISODE TO BE TERMINATED;

23 (IV) ANY MODIFICATIONS TO THE ORDER, AND THE TIME AND
24 DATE, AND THE SIGNATURE OF THE LICENSED OR LICENSE-ELIGIBLE
25 MENTAL HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
26 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, WHO MODIFIES
27 THE ORDER;

28 (V) THE DATE AND TIME OF AN ASSESSMENT PERFORMED
29 PURSUANT TO SUBSECTIONS (2)(c) AND (3)(f) OF THIS SECTION, AND THE
30 SIGNATURE OF THE QUALIFIED HEALTH-CARE PROFESSIONAL WHO
31 PERFORMED THE ASSESSMENT, AND FINDINGS JUSTIFYING THE
32 TERMINATION OR CONTINUATION OF THE ORDER MADE PURSUANT TO THE
33 ASSESSMENT;

34 (VI) THE DATE AND TIME OF AN ORDER MODIFICATION, THE DATE
35 AND TIME OF THE MODIFICATION, AND THE SIGNATURE OF THE LICENSED
36 OR LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, OR MENTAL HEALTH
37 CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY THE
38 DEPARTMENT, WHO ISSUED THE CLINICAL RESTRAINT ORDER. IF THE ORDER
39 IS MODIFIED BY TELEPHONE, THE MODIFICATION MUST BE TRANSCRIBED
40 AND SIGNED AT THE TIME OF ISSUANCE BY A PERSON WITH AUTHORITY TO
41 ACCEPT THE MODIFICATION. THE ORDERING LICENSED OR
42 LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, OR MENTAL HEALTH
43 CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY THE

1 DEPARTMENT, SHALL SIGN THE ORDER AS SOON AS PRACTICABLE.

2 (VII) THE DATE AND TIME OF EXAMINATIONS PURSUANT TO
3 SUBSECTION (4) OF THIS SECTION, THE SIGNATURE OF THE QUALIFIED
4 HEALTH-CARE PROVIDER WHO PERFORMED THE EXAMINATION, AND ANY
5 RELEVANT OBSERVATIONS FROM THE EXAMINATION; AND

6 (VIII) THE DATE AND TIME OF THE TERMINATION OF THE ORDER,
7 THE SIGNATURE OF THE PERSON WHO TERMINATED THE ORDER, THE
8 OBSERVATIONS, AND EVIDENCE THAT THE INDIVIDUAL EXHIBITED
9 BEHAVIOR JUSTIFYING THE TERMINATION OF THE ORDER.

10 (b) THE FACILITY OR QUALIFIED FACILITY SHALL ENSURE THE
11 DOCUMENTATION AND RETENTION REQUIRED PURSUANT TO THIS SECTION
12 ARE CONDUCTED PURSUANT TO ALL APPLICABLE STATE AND FEDERAL
13 LAWS REGARDING THE CONFIDENTIALITY OF THE INDIVIDUAL'S
14 INFORMATION AND SHALL ENSURE AN INDIVIDUAL MAY ACCESS THE
15 INFORMATION OR DEMAND RELEASE OF THE INFORMATION TO A THIRD
16 PARTY.

17 (7) A FACILITY OR QUALIFIED FACILITY SHALL PERFORM AN
18 EVALUATION UPON EVERY INDIVIDUAL'S INTAKE TO THE RESPECTIVE
19 FACILITY FOR THE PURPOSE OF ASSESSING THE INDIVIDUAL'S RISK OF
20 SELF-HARM BEHAVIORS AND WHETHER THE INDIVIDUAL HAS BEEN
21 PREVIOUSLY SUBJECTED TO CLINICAL FOUR-POINT RESTRAINTS. A
22 LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, MENTAL
23 HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY
24 THE DEPARTMENT, QUALIFIED HEALTH-CARE PROVIDER, OR MENTAL
25 HEALTH ADMINISTRATOR SHALL INITIATE APPROPRIATE SAFETY PLANNING
26 TO ADDRESS CONCERNS AND ATTEMPT TO AVOID THE USE OF CLINICAL
27 RESTRAINTS, IF POSSIBLE.

28 (8) (a) SUBJECT TO THE PROVISIONS OF THIS SECTION, A FACILITY
29 OR QUALIFIED FACILITY SHALL NOT USE AN INVOLUNTARY MEDICATION ON
30 AN INDIVIDUAL UNLESS:

31 (I) THE INDIVIDUAL IS DETERMINED TO BE DANGEROUS TO THE
32 INDIVIDUAL'S SELF OR ANOTHER PERSON, AND THE TREATMENT IS IN THE
33 INDIVIDUAL'S MEDICAL INTEREST;

34 (II) THE FACILITY OR QUALIFIED FACILITY HAS EXHAUSTED ALL
35 LESS-RESTRICTIVE ALTERNATIVE INTERVENTIONS;

36 (III) THE INVOLUNTARY MEDICATION IS ADMINISTERED AFTER
37 EXHAUSTION OF PROCEDURAL REQUIREMENTS ESTABLISHED PURSUANT TO
38 THIS SECTION; AND

39 (IV) THE MAJORITY OF THE INVOLUNTARY MEDICATION
40 COMMITTEE DESCRIBED IN SUBSECTION (8)(b) OF THIS SECTION APPROVES
41 OF THE INVOLUNTARY MEDICATION.

42 (b) THE FACILITY OR QUALIFIED FACILITY SHALL CONVENE AN
43 INVOLUNTARY MEDICATION COMMITTEE, COMPRISED OF A LICENSED

1 PSYCHIATRIST, A LICENSED PSYCHOLOGIST, A LICENSED OR
2 LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER, AND THE SUPERINTENDENT
3 OF THE FACILITY OR QUALIFIED FACILITY OR THE SUPERINTENDENT'S
4 DESIGNEE.

5 (c) THE FACILITY OR QUALIFIED FACILITY SHALL ASCERTAIN
6 WHETHER THE INDIVIDUAL HAS RETAINED COUNSEL, AND, IF THE
7 INDIVIDUAL HAS NOT, SHALL REFER THE INDIVIDUAL TO THE JUDICIAL
8 DEPARTMENT TO APPOINT AN ATTORNEY TO REPRESENT THE PERSON
9 WITHOUT COST TO THE INDIVIDUAL WITHIN THREE DAYS AFTER THE NOTICE
10 OF HEARING PROVIDED TO THE INDIVIDUAL UNLESS THE INDIVIDUAL
11 WAIVES COUNSEL. AN INDIVIDUAL'S WAIVER OF COUNSEL MUST BE
12 KNOWING, INTELLIGENT, AND VOLUNTARY.

13 (d) AN ORDER FOR AN INVOLUNTARY MEDICATION MUST NOT:
14 (I) EXCEED ONE HUNDRED EIGHTY DAYS FROM THE DATE OF THE
15 ORDER; AND
16 (II) PERMIT THE USE OF MORE THAN TEN DIFFERENT PSYCHOTROPIC
17 MEDICATIONS DURING THE ONE HUNDRED EIGHTY-DAY PERIOD. THIS DOES
18 NOT LIMIT THE AMOUNT OF DOSES OF THE MEDICATIONS TO BE
19 ADMINISTERED, AS MEDICALLY APPROPRIATE.

20 (e) A FACILITY OR QUALIFIED FACILITY SHALL ENSURE THAT THE
21 USE OF INVOLUNTARY MEDICATION IS DOCUMENTED AND MAINTAINED IN
22 THE INDIVIDUAL'S ELECTRONIC HEALTH RECORD. AT A MINIMUM, THE
23 FACILITY OR QUALIFIED FACILITY SHALL DOCUMENT:
24 (I) THE ORDER FOR INVOLUNTARY MEDICATION;
25 (II) THE DATE AND TIME OF THE ORDER; AND
26 (III) A CLEAR EXPLANATION OF THE CLINICAL BASIS FOR USE OF
27 THE INVOLUNTARY MEDICATION, INCLUDING THE LESS-INTRUSIVE
28 INTERVENTIONS THAT WERE EMPLOYED AND FAILED AND EVIDENCE OF THE
29 IMMEDIATE CIRCUMSTANCES JUSTIFYING THE DETERMINATION THAT THE
30 INDIVIDUAL IS DANGEROUS TO THE INDIVIDUAL'S SELF OR ANOTHER
31 PERSON AND THAT THE TREATMENT IS IN THE INDIVIDUAL'S MEDICAL
32 INTEREST.

33 (f) THE FACILITY OR QUALIFIED FACILITY SHALL ENSURE THE
34 DOCUMENTATION AND MAINTENANCE REQUIRED PURSUANT TO THIS
35 SECTION ARE CONDUCTED PURSUANT TO ALL APPLICABLE STATE AND
36 FEDERAL LAWS REGARDING THE CONFIDENTIALITY OF THE INFORMATION.

37 (g) THIS SUBSECTION (8) DOES NOT APPLY TO EMERGENCY
38 MEDICINE ADMINISTERED PURSUANT TO DEPARTMENT POLICY.

39 (9)(a) ON OR BEFORE MARCH 1, 2025, AND ON OR BEFORE MARCH
40 1 EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OF THE
41 DEPARTMENT SHALL SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF
42 THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
43 COMMITTEES, CONCERNING THE USE OF CLINICAL RESTRAINTS AND

1 INVOLUNTARY MEDICATION IN THE PRECEDING CALENDAR YEAR. AT A
2 MINIMUM, THE REPORT MUST INCLUDE:

3 (I) THE TOTAL NUMBER OF CLINICAL AMBULATORY RESTRAINT
4 EPISODES AND CLINICAL FOUR-POINT RESTRAINT EPISODES;

5 (II) THE TOTAL NUMBER OF INVOLUNTARY MEDICATION ORDERS
6 ISSUED;

7 (III) THE AVERAGE AMOUNT OF TIME OF A CLINICAL AMBULATORY
8 RESTRAINT EPISODE AND CLINICAL FOUR-POINT RESTRAINT EPISODE;

9 (IV) THE AVERAGE DURATION OF INVOLUNTARY MEDICATION
10 ORDERS ISSUED;

11 (V) THE LONGEST CLINICAL AMBULATORY RESTRAINT EPISODE
12 AND THE LONGEST CLINICAL FOUR-POINT RESTRAINT EPISODE;

13 (VI) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
14 RESTRAINT EPISODES THAT EXCEEDED TWO HOURS, AND THE PERCENTAGE
15 OF TOTAL CLINICAL FOUR-POINT RESTRAINT EPISODES THAT EXCEEDED
16 TWO HOURS;

17 (VII) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
18 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
19 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
20 DISABILITY, AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
21 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
22 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
23 DISABILITY;

24 (VIII) THE PERCENTAGE OF TOTAL INVOLUNTARY MEDICATION
25 ORDERS THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A BEHAVIORAL
26 HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL DISABILITY,
27 AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT RESTRAINT
28 EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
29 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
30 DISABILITY;

31 (IX) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
32 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL WHO WAS
33 SUBJECTED TO THE RESTRAINT FOR A SECOND OR SUBSEQUENT EPISODE
34 WITHIN THE YEAR, AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
35 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL WHO WAS
36 SUBJECTED TO THE RESTRAINT FOR A SECOND OR SUBSEQUENT EPISODE
37 WITHIN THE YEAR;

38 (X) THE PERCENTAGE OF TOTAL INVOLUNTARY MEDICATION
39 ORDERS THAT INVOLVED AN INDIVIDUAL WHO WAS SUBJECTED TO A
40 SECOND OR SUBSEQUENT ORDER WITHIN THE YEAR; AND

41 (XI) THE TOTAL NUMBER OF INVOLUNTARY MEDICATION ORDERS
42 THAT EXCEEDED ONE HUNDRED EIGHTY DAYS IN VIOLATION OF
43 SUBSECTION (8)(d) OF THIS SECTION.

1 (b) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
2 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS
3 SUBSECTION (9) CONTINUES INDEFINITELY.

4 (c) THE DEPARTMENT SHALL ENSURE THE REPORT REQUIRED IN
5 THIS SUBSECTION (9) DOES NOT DISCLOSE ANY INFORMATION IN VIOLATION
6 OF APPLICABLE STATE AND FEDERAL LAWS REGARDING THE
7 CONFIDENTIALITY OF INDIVIDUALS' INFORMATION.

8 (10) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "CLINICAL AMBULATORY RESTRAINT" MEANS A DEVICE USED
11 TO INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT, BUT
12 STILL PERMITS THE ABILITY OF THE INDIVIDUAL TO WALK AND MOVE
13 WHILE SUBJECTED TO THE DEVICE.

14 (b) "CLINICAL FOUR-POINT RESTRAINT" MEANS A DEVICE USED TO
15 INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT BY
16 SECURING THE INDIVIDUAL'S ARMS AND LEGS.

17 (c) "CLINICAL RESTRAINT" MEANS A DEVICE USED TO
18 INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT.
19 "CLINICAL RESTRAINT" INCLUDES CLINICAL AMBULATORY RESTRAINTS
20 AND CLINICAL FOUR-POINT RESTRAINTS.

21 (d) "CORRECTIONAL FACILITY" HAS THE SAME MEANING AS SET
22 FORTH IN SECTION 17-1-102 (1.7).

23 (e) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS,
24 CREATED AND EXISTING PURSUANT TO SECTION 24-1-128.5.

25 (f) "FACILITY" MEANS A CORRECTIONAL FACILITY OR A PRIVATE
26 CONTRACT PRISON.

27 (g) "INVOLUNTARY MEDICATION" MEANS GIVING AN INDIVIDUAL
28 MEDICATION INVOLUNTARILY; EXCEPT THAT "INVOLUNTARY MEDICATION"
29 DOES NOT INCLUDE THE INVOLUNTARY ADMINISTRATION OF MEDICATION
30 OR ADMINISTRATION OF MEDICATION FOR VOLUNTARY LIFE-SAVING
31 MEDICAL PROCEDURES.

32 (h) "LICENSED OR LICENSE-ELIGIBLE MENTAL HEALTH PROVIDER"
33 HAS THE SAME MEANING AS DEFINED IN SECTION 27-60-108 (2)(a), OR
34 MEANS A PERSON WHO HAS COMPLETED THE EDUCATION REQUIREMENTS
35 TO BE A LICENSED MENTAL HEALTH PROVIDER AS DEFINED IN SECTION
36 27-60-108 (2)(a), BUT IS IN THE PROCESS OF COMPLETING THE EXPERIENCE
37 AND EXAMINATION REQUIREMENTS TO BECOMING LICENSED.

38 (i) "OVERNIGHT HOURS" MEANS AT OR AFTER TEN O'CLOCK POST
39 MERIDIEM BUT BEFORE SIX O'CLOCK ANTE MERIDIEM.

40 (j) "PRIVATE CONTRACT PRISON" HAS THE SAME MEANING AS SET
41 FORTH IN SECTION 17-1-102 (7.3).

42 (k) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

43 (l) "QUALIFIED FACILITY" MEANS:

- 1 (I) A CORRECTIONAL FACILITY INFIRMARY;
- 2 (II) THE SAN CARLOS CORRECTIONAL FACILITY; AND
- 3 (III) THE DENVER WOMEN'S CORRECTIONAL FACILITY.
- 4 (m) "QUALIFIED HEALTH-CARE PROVIDER" MEANS A LICENSED
- 5 PHYSICIAN, A LICENSED ADVANCED PRACTICE REGISTERED NURSE, OR A
- 6 LICENSED REGISTERED NURSE.

7 **SECTION 2.** In Colorado Revised Statutes, 17-1-113.9, **amend**
8 (1) as follows:

9 **17-1-113.9. Use of administrative segregation for state inmates**
10 **- reporting.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or
11 before January 1, 2012, and each January 1 thereafter, the executive
12 director shall provide a written report to the judiciary committees of the
13 senate and house of representatives, or any successor committees,
14 concerning the status of administrative segregation; reclassification
15 efforts for ~~offenders~~ INDIVIDUALS DIAGNOSED with ~~mental~~ BEHAVIORAL
16 health disorders or intellectual and developmental disabilities, including
17 duration of stay, reason for placement, and number and percentage
18 discharged; and any internal reform efforts since July 1, 2011. THE
19 REPORT MUST INCLUDE DATA CONCERNING THE PLACEMENT OF
20 INDIVIDUALS IN ALL SETTINGS WITH HEIGHTENED RESTRICTIONS,
21 INCLUDING THE TOTAL NUMBER OF PLACEMENTS IN EACH SETTING, THE
22 TOTAL NUMBER OF PLACEMENTS IN EACH SETTING INVOLVING AN
23 INDIVIDUAL DIAGNOSED WITH A BEHAVIORAL HEALTH DISORDER OR
24 INTELLECTUAL OR DEVELOPMENTAL DISABILITY, THE AVERAGE DURATION
25 OF STAY OF AN INDIVIDUAL IN EACH SETTING, THE REASONS FOR
26 PLACEMENT IN EACH SETTING, AND THE TOTAL NUMBER OF INDIVIDUALS
27 DISCHARGED FROM EACH SETTING.

28 **SECTION 3. Safety clause.** The general assembly hereby finds,
29 determines, and declares that this act is necessary for the immediate
30 preservation of the public peace, health, or safety."

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