

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0252.01 Jacob Baus x2173

**SENATE BILL 23-039**

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**SENATE SPONSORSHIP**

**Buckner,**

**HOUSE SPONSORSHIP**

**Amabile,**

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO REDUCE FAMILY SEPARATION CAUSED BY**  
102 **A PARENT'S DETENTION.**

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**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://leg.colorado.gov>.)*

The bill requires the department of human services to promulgate rules that facilitate communication and family time between children and their parents who are incarcerated.

The bill requires the court and the prison or jail where the parent is incarcerated to facilitate the parent's attendance and participation in proceedings for the parent's dependency and neglect case.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.*

Under current law, after an order of adjudication in a dependency and neglect case, the court holds a dispositional hearing. The bill requires, except in instances when the proposed disposition is termination of the parent-child legal relationship, if a child's parent is incarcerated, that the court approve a treatment plan for the parent that specifies how the parent may participate in future meetings and hearings, including services and treatments available to the parent at the prison or jail, and opportunities for meaningful, in-person family time at the prison unless the family time does not serve the best interests of the child.

Under current law, the court may terminate the parent-child legal relationship based on statutorily created circumstances. The bill eliminates the parent's incarceration and related conditions as a basis for terminating the parent-child relationship.

Under current law, if the court finds that there is not a substantial probability that the child will be returned to a parent or legal guardian within 6 months and the child satisfies criteria for adoption, the court may require the county department of human services to show cause why it should not file a motion to terminate the parent-child legal relationship. The bill states that such cause may exist if the parent is incarcerated, detained by the United States department of homeland security, or deported, and if the parent has maintained a meaningful and safe relationship with the child while incarcerated, detained, or deported.

The bill requires the department of corrections to create and submit an annual report to the judiciary committees of the senate and house of representatives concerning parents who are incarcerated, and make the report publically available.

The bill requires the department of corrections to develop opportunities and promulgate policies to facilitate continued relationships between children and their parents who are incarcerated.

The bill requires the department of corrections to designate a family services coordinator, who is responsible for duties related to children and their parents who are incarcerated.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds that:

4 (a) At least seven percent, or more than ninety-two thousand, of  
5 Colorado children at some time during their childhood have a parent or  
6 guardian who was or is incarcerated;

7 (b) At least one in four Colorado children who are adjudicated

1 dependent or neglected have a parent or guardian who was incarcerated  
2 at some time during dependency and neglect proceedings;

3 (c) The incarceration of a parent disproportionately affects  
4 children of color and exacerbates the number of children living in  
5 poverty;

6 (d) Having a parent who is incarcerated hinders a child's academic  
7 achievement. In particular, children who have mothers who are  
8 incarcerated have a greater risk of dropping out of school, and the number  
9 of children who have a mother who is incarcerated has more than doubled  
10 over the last three decades; and

11 (e) Preserving children's relationships with parents who are  
12 incarcerated benefits families by decreasing risks to children's mental  
13 health, including the potential to experience depression and anxiety, and  
14 benefits society by reducing recidivism rates and facilitating successful  
15 returns to our communities.

16 (2) Therefore, the general assembly declares that measures are  
17 necessary to reduce the trauma of family separation caused by  
18 incarceration and to promote strong and healthy family relationships for  
19 the benefit of children, their parents, and society.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 19-1-131 as  
21 follows:

22 **19-1-131. Children of parents who are incarcerated - rules.**

23 THE DEPARTMENT SHALL PROMULGATE RULES THAT FACILITATE  
24 COMMUNICATION AND FAMILY TIME BETWEEN CHILDREN AND THEIR  
25 PARENTS WHO ARE INCARCERATED IN A DEPARTMENT OF CORRECTIONS  
26 FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH  
27 THE DEPARTMENT OF CORRECTIONS, OR A JAIL. THE PURPOSE OF THE

1 RULES IS TO NORMALIZE, TO THE EXTENT POSSIBLE, THE CHILD AND  
2 PARENT RELATIONSHIP, TO AID AND ENCOURAGE HEALTHY CHILD  
3 DEVELOPMENT, AND REDUCE RECIDIVISM AND INTERGENERATIONAL  
4 INCARCERATION. THE RULES MUST CONSIDER THE BENEFITS TO THE CHILD  
5 THROUGH MAINTAINING CONTACT WITH THE CHILD'S PARENT AND THE  
6 PARENT'S WILLINGNESS AND DESIRE TO MAINTAIN A MEANINGFUL  
7 RELATIONSHIP WITH THE CHILD, AND ASSIST IN THE REUNIFICATION OF THE  
8 CHILD AND PARENT WHEN APPROPRIATE.

9 **SECTION 3.** In Colorado Revised Statutes, 19-3-202, **amend** (1)  
10 as follows:

11 **19-3-202. Right to counsel and jury trial.** (1) At the first  
12 appearance of a respondent parent, guardian, or legal custodian, the court  
13 shall fully advise the respondent of ~~his or her~~ THE RESPONDENT'S legal  
14 rights, including the right to a jury trial, the right to be represented by  
15 counsel at every stage of the proceedings, and the right to seek the  
16 appointment of counsel through the office of respondent parents' counsel  
17 established in section 13-92-103, ~~C.R.S.~~; if the respondent is unable to  
18 financially secure counsel on ~~his or her~~ THE RESPONDENT'S own. THE  
19 COURT SHALL APPOINT COUNSEL FOR A RESPONDENT WHO IS  
20 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE  
21 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF  
22 CORRECTIONS, OR A JAIL; HELD IN FEDERAL CUSTODY; OR INVOLUNTARILY  
23 COMMITTED, UNLESS THE COURT DETERMINES THE RESPONDENT IS ABLE  
24 TO FINANCIALLY SECURE COUNSEL ON THE RESPONDENT'S OWN. The court  
25 shall fully explain to the respondent the informational notice of rights and  
26 remedies for families prepared pursuant to section 19-3-212 and shall  
27 recommend that the respondent discuss such notice with ~~his or her~~ THE

1 RESPONDENT'S counsel. Further, the court shall advise the respondent of  
2 the minimum and maximum time frames for the dependency and neglect  
3 process, including the minimum and maximum time frames for  
4 adjudication, disposition, and termination of parental rights for a child  
5 who is under six years of age at the time the petition is filed in a county  
6 designated pursuant to section 19-1-123. Nothing in this section limits the  
7 power of the court to appoint counsel prior to the filing of a petition for  
8 good cause.

9           **SECTION 4.** In Colorado Revised Statutes, 19-3-502, **add** (5.5)  
10 as follows:

11           **19-3-502. Petition form and content - limitations on claims in**  
12 **dependency or neglect actions.** (5.5) (a) A PERSON NAMED A  
13 RESPONDENT IS A PARTY TO THE PROCEEDINGS AND HAS THE RIGHT TO  
14 ATTEND AND FULLY PARTICIPATE IN ALL PROCEEDINGS UNLESS THE  
15 RESPONDENT KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY WAIVES,  
16 EITHER PERSONALLY OR THROUGH COUNSEL, THE RESPONDENT'S  
17 ATTENDANCE AND PARTICIPATION, OR THE COURT FINDS IT NECESSARY TO  
18 HOLD SEPARATE HEARINGS PURSUANT TO SECTION 19-1-106.

19           (b) (I) IF THE COURT BECOMES AWARE THAT A RESPONDENT IS  
20 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE  
21 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF  
22 CORRECTIONS, OR A JAIL, THE COURT SHALL ISSUE A WRIT FOR THE  
23 RESPONDENT'S ATTENDANCE AT ALL HEARINGS, UNLESS THE COURT FINDS  
24 IT NECESSARY TO HOLD SEPARATE HEARINGS PURSUANT TO SECTION  
25 19-1-106. IF THE RESPONDENT IS REPRESENTED BY COUNSEL, COUNSEL  
26 SHALL FILE A MOTION FOR THE RESPONDENT'S PERSONAL ATTENDANCE OR  
27 ATTENDANCE THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY AT

1 THE HEARING IF COUNSEL KNOWS THE RESPONDENT IS INCARCERATED AND  
2 WANTS TO PERSONALLY ATTEND OR ATTEND THROUGH AUDIO-VISUAL  
3 COMMUNICATION TECHNOLOGY. IF THE RESPONDENT IS NOT REPRESENTED  
4 BY COUNSEL, THE COURT SHALL FILE A WRIT FOR THE RESPONDENT'S  
5 PERSONAL APPEARANCE OR APPEARANCE THROUGH AUDIO-VISUAL  
6 COMMUNICATION TECHNOLOGY.

7 (II) IF THE WRIT ISSUED BY THE COURT PURSUANT TO SUBSECTION  
8 (5.5)(b)(I) OF THIS SECTION IS NOT HONORED, THE COURT MUST PERMIT  
9 THE RESPONDENT TO ATTEND AND PARTICIPATE IN A HEARING THROUGH  
10 AUDIO-VISUAL COMMUNICATION TECHNOLOGY.

11 (c) (I) A COURT, THE COUNTY DEPARTMENT OF HUMAN SERVICES,  
12 THE SHERIFF, OR THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
13 CORRECTIONS MAY DEVELOP AND IMPLEMENT PROCEDURES TO FACILITATE  
14 THE NOTIFICATION OF PROCEEDINGS AND PERSONAL APPEARANCE OF A  
15 RESPONDENT WHO IS INCARCERATED.

16 (II) A REPRESENTATIVE OF THE FACILITY OR JAIL WHERE THE  
17 RESPONDENT IS INCARCERATED SHALL INFORM THE COURT NOT LESS THAN  
18 SEVENTY-TWO HOURS PRIOR TO THE PROCEEDING IF IT CANNOT FACILITATE  
19 TRANSPORTATION OF THE RESPONDENT TO A PROCEEDING.

20 (III) A REPRESENTATIVE OF THE FACILITY OR JAIL WHERE THE  
21 RESPONDENT IS INCARCERATED SHALL INFORM THE COURT IF THE  
22 RESPONDENT REFUSES TRANSPORTATION, AND THE CIRCUMSTANCES OF  
23 THE REFUSAL, AS SOON AS PRACTICABLE.

24 (IV) IF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED  
25 CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A HEARING  
26 PURSUANT TO THIS SUBSECTION (5.5), THE FACILITY SHALL MAKE EVERY  
27 REASONABLE EFFORT TO FACILITATE THE RESPONDENT'S PARTICIPATION

1 AT THE HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY.

2 **SECTION 5.** In Colorado Revised Statutes, 19-3-507, **add** (1)(d)  
3 and (1)(e) as follows:

4 **19-3-507. Dispositional hearing - rules.** (1) (d) IF A CHILD'S  
5 PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY,  
6 A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE  
7 DEPARTMENT OF CORRECTIONS, OR A JAIL, THEN PRIOR TO ANY  
8 DISPOSITIONAL HEARING, THE CASEWORKER ASSIGNED TO THE CASE SHALL  
9 SUBMIT TO THE COURT A REPORT THAT DETAILS THE SERVICES AND  
10 TREATMENT AVAILABLE TO A PARENT AT THE FACILITY OR JAIL WHERE THE  
11 PARENT IS INCARCERATED AND THE OPPORTUNITIES FOR FAMILY TIME AT  
12 THE FACILITY OR JAIL BETWEEN THE CHILD AND PARENT, OR THE  
13 CASEWORKER'S REASONABLE EFFORTS TO OBTAIN SUCH INFORMATION.

14 (e) (I) IF A CHILD IS ELIGIBLE FOR SERVICES PURSUANT TO SECTION  
15 19-3-208, AND THE CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT  
16 OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER  
17 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, THEN  
18 PRIOR TO ANY DISPOSITIONAL HEARING, THE COUNTY DEPARTMENT SHALL  
19 MAKE REASONABLE EFFORTS TO INVOLVE THE PARENT WHO IS  
20 INCARCERATED IN PLANNING THE SERVICES FOR THE CHILD. REASONABLE  
21 EFFORTS INCLUDE:

22 (A) IN ANY MEETING CUSTOMARILY ATTENDED BY A PARENT,  
23 PERMITTING AND FACILITATING, TO THE EXTENT REASONABLY  
24 PRACTICABLE, A PARENT'S REMOTE ATTENDANCE AND PARTICIPATION  
25 THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY; AND

26 (B) OPPORTUNITIES FOR MEANINGFUL IN-PERSON FAMILY TIME  
27 BETWEEN THE CHILD AND PARENT AT THE FACILITY OR JAIL WHERE THE

1 PARENT IS INCARCERATED. IF IN-PERSON FAMILY TIME IS NOT THE  
2 PARENT'S PREFERENCE OR IS NOT REASONABLY PRACTICABLE, THEN THE  
3 FACILITY OR JAIL SHALL FACILITATE FAMILY TIME BETWEEN THE CHILD  
4 AND PARENT THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY.  
5 NOTHING IN THIS SUBSECTION (1)(e) REQUIRES THE COURT TO ORDER  
6 FAMILY TIME IF A PROTECTION ORDER PROHIBITS CONTACT BETWEEN THE  
7 CHILD AND THE PARENT, OR IF THE COURT DETERMINES THAT FAMILY TIME  
8 WOULD JEOPARDIZE THE CHILD'S MENTAL, EMOTIONAL, OR PHYSICAL  
9 HEALTH. THE COURT SHALL NOT DETERMINE THAT FAMILY TIME IS NOT IN  
10 THE CHILD'S BEST INTERESTS BASED SOLELY ON THE FACT THAT IN-PERSON  
11 FAMILY TIME WOULD OCCUR IN A FACILITY OR JAIL.

12 (II) THE DEPARTMENT MAY PROMULGATE RULES NECESSARY TO  
13 COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION (1)(e).

14 **SECTION 6.** In Colorado Revised Statutes, 19-3-508, **add**  
15 (1)(e)(III), (1)(e)(IV), and (9) as follows:

16 **19-3-508. Neglected or dependent child - disposition -**  
17 **concurrent planning - definition.** (1) When a child has been  
18 adjudicated to be neglected or dependent, the court may enter a decree of  
19 disposition the same day, but in any event it shall do so within forty-five  
20 days unless the court finds that the best interests of the child will be  
21 served by granting a delay. In a county designated pursuant to section  
22 19-1-123, if the child is under six years of age at the time a petition is  
23 filed in accordance with section 19-3-501 (2), the court shall enter a  
24 decree of disposition within thirty days after the adjudication and shall not  
25 grant a delay unless good cause is shown and unless the court finds that  
26 the best interests of the child will be served by granting the delay. It is the  
27 intent of the general assembly that the dispositional hearing be held on the



1 same day as the adjudicatory hearing, whenever possible. If a delay is  
2 granted, the court shall set forth the reasons why a delay is necessary and  
3 the minimum amount of time needed to resolve the reasons for the delay  
4 and shall schedule the hearing at the earliest possible time following the  
5 delay. When the proposed disposition is termination of the parent-child  
6 legal relationship, the hearing on termination must not be held on the  
7 same date as the adjudication, and the time limits set forth above for  
8 dispositional hearings do not apply. When the proposed disposition is  
9 termination of the parent-child legal relationship, the court may continue  
10 the dispositional hearing to the earliest available date for a hearing in  
11 accordance with the provisions of subsection (3)(a) of this section and  
12 part 6 of this article 3. When the decree does not terminate the  
13 parent-child legal relationship, the court shall approve an appropriate  
14 treatment plan that must include but not be limited to one or more of the  
15 following provisions of subsections (1)(a) to (1)(d) of this section:

16 (e) (III) EXCEPT WHEN THE PROPOSED DISPOSITION IS  
17 TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP, IF A CHILD'S  
18 PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY,  
19 A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE  
20 DEPARTMENT OF CORRECTIONS, OR A JAIL, THE COURT SHALL APPROVE AN  
21 APPROPRIATE TREATMENT PLAN AND THE DEPARTMENT SHALL PROVIDE  
22 THE COURT-ORDERED TREATMENT PLAN TO THE FACILITY OR JAIL WHERE  
23 THE PARENT IS HELD. THE TREATMENT PLAN MUST:

24 (A) SPECIFY HOW THE PARENT MAY PARTICIPATE IN ALL MEETINGS  
25 AND HEARINGS WITH THE COURT AND COUNTY DEPARTMENT THAT A  
26 PARENT CUSTOMARILY ATTENDS;

27 (B) INCLUDE RELEVANT SERVICES AND TREATMENTS AVAILABLE

1 AT THE FACILITY OR JAIL FOR THE PARENT THAT ADDRESS THE ISSUES  
2 AFFECTING THE CHILD'S HEALTH, SAFETY, AND WELFARE THAT REQUIRE  
3 STATE INTERVENTION; AND

4 (C) INCLUDE OPPORTUNITIES FOR MEANINGFUL, IN-PERSON FAMILY  
5 TIME AT THE FACILITY OR JAIL BETWEEN THE CHILD AND PARENT, UNLESS  
6 THE COURT DENIES OR RESTRICTS FAMILY TIME PURSUANT TO SECTION  
7 19-3-217 OR THE COURT HAS ISSUED A PROTECTION ORDER PROHIBITING  
8 CONTACT BETWEEN THE CHILD AND THE PARENT. ABSENT AN ACTIVE  
9 PROTECTION ORDER, IF THE COURT DETERMINES THAT IN-PERSON FAMILY  
10 TIME DOES NOT SERVE THE CHILD'S BEST INTERESTS OR IS NOT THE  
11 PARENT'S PREFERENCE, IT SHALL CONSIDER WHETHER FAMILY TIME BY  
12 TELEPHONE OR AUDIO-VISUAL COMMUNICATION TECHNOLOGY SERVES THE  
13 CHILD'S BEST INTERESTS.

14 (IV) (A) IF, AFTER THE DISPOSITIONAL HEARING, THE CHILD'S  
15 PARENT BECOMES CONTINUOUSLY INCARCERATED IN A DEPARTMENT OF  
16 CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER  
17 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL FOR MORE  
18 THAN TWENTY-EIGHT DAYS, THEN THE CASEWORKER ASSIGNED TO THE  
19 CASE SHALL SUBMIT TO THE COURT, LESS THAN THIRTY-FIVE DAYS AFTER  
20 DISCOVERING THE INCARCERATION, A REPORT REQUIRED PURSUANT TO  
21 SECTION 19-3-507 (1)(d) AND AN AMENDED TREATMENT PLAN INCLUDING  
22 THE REQUIREMENTS PURSUANT TO SUBSECTION (1)(e)(III) OF THIS  
23 SECTION. IF A PARENT IS RELOCATED TO A DIFFERENT FACILITY OR JAIL OR  
24 RECEIVES A NEW SENTENCE, THE CASEWORKER SHALL SUBMIT TO THE  
25 COURT, LESS THAN THIRTY-FIVE DAYS AFTER DISCOVERING THE  
26 RELOCATION OR NEW SENTENCE, A REPORT REQUIRED PURSUANT TO  
27 SECTION 19-3-507 (1)(d) AND AN AMENDED TREATMENT PLAN INCLUDING

1 THE REQUIREMENTS PURSUANT TO SUBSECTION (1)(e)(III) OF THIS  
2 SECTION.

3 (B) NOTWITHSTANDING SUBSECTION (1)(e)(IV)(A) OF THIS  
4 SECTION, THE CASEWORKER OF THE COUNTY DEPARTMENT ASSIGNED TO  
5 THE CASE IS NOT REQUIRED TO SUBMIT A REPORT AND AMENDED  
6 TREATMENT PLAN PURSUANT TO SUBSECTION (1)(e)(IV)(A) OF THIS  
7 SECTION, IF THE PARENT IS RELEASED FROM INCARCERATION PRIOR TO THE  
8 THIRTY-FIVE DAY SUBMISSION DEADLINE.

9 (9) (a) IF A CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT  
10 OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER  
11 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, AND HAS  
12 MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD  
13 WHILE INCARCERATED, THE COURT SHALL CONSIDER A PERMANENT  
14 PLACEMENT THAT PERMITS THE PARENT TO MAINTAIN A RELATIONSHIP  
15 WITH THE CHILD, INCLUDING GUARDIANSHIP OR ALLOCATION OF PARENTAL  
16 RESPONSIBILITIES. IF THE PROPOSED PERMANENT PLACEMENT WOULD  
17 REQUIRE THE PARENT TO TRANSFER TO ANOTHER DEPARTMENT OF  
18 CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER  
19 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, THE  
20 COURT SHALL CONSIDER THE FACTORS IN SECTION 19-3-702 (6) IN MAKING  
21 ITS DETERMINATION.

22 (b) WHEN DETERMINING WHETHER A PARENT WHO IS  
23 INCARCERATED HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP  
24 WITH THE CHILD PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION, THE  
25 COURT SHALL CONSIDER:

26 (I) WHETHER THE PARENT WHO IS INCARCERATED HAS ACTED OUT  
27 OF CONCERN FOR THE CHILD, INCLUDING COMMUNICATING WITH THE

1 CHILD;

2 (II) WHETHER THE PARENT WHO IS INCARCERATED HAS MADE AN  
3 EFFORT TO COMPLY WITH THE PARENT'S TREATMENT PLAN;

4 (III) ANY INFORMATION PROVIDED BY INDIVIDUALS OR AGENCIES  
5 IN A REASONABLE POSITION TO ASSIST THE COURT IN ITS DECISION;

6 (IV) LIMITATIONS BEYOND THE CONTROL OF THE PARENT WHO IS  
7 INCARCERATED TO ACCESS FAMILY SUPPORT PROGRAMS, THERAPEUTIC  
8 SERVICES, FAMILY TIME OPPORTUNITIES, TELEPHONE, MAIL, OR ATTORNEY  
9 REPRESENTATION, OR TO ATTEND AND MEANINGFULLY PARTICIPATE IN  
10 COURT PROCEEDINGS; AND

11 (V) WHETHER THE INVOLVEMENT OF THE PARENT WHO IS  
12 INCARCERATED IN THE CHILD'S LIFE SERVES THE CHILD'S BEST INTERESTS.  
13 THE COURT SHALL NOT FIND THAT THE PARENT'S INCARCERATION IS THE  
14 SOLE REASON THAT A RELATIONSHIP WITH THE PARENT IS NOT IN THE  
15 CHILD'S BEST INTERESTS.

16 **SECTION 7.** In Colorado Revised Statutes, 19-3-604, **repeal**  
17 (1)(b)(III); and **add** (1.5) as follows:

18 **19-3-604. Criteria for termination.** (1) The court may order a  
19 termination of the parent-child legal relationship upon the finding by clear  
20 and convincing evidence of any one of the following:

21 (b) That the child is adjudicated dependent or neglected and the  
22 court finds that an appropriate treatment plan cannot be devised to  
23 address the unfitness of the parent or parents. In making such a  
24 determination, the court shall find one of the following as the basis for  
25 unfitness:

26 (III) ~~Long-term confinement of the parent of such duration that~~  
27 ~~the parent is not eligible for parole for at least six years after the date the~~

1 ~~child was adjudicated dependent or neglected or, in a county designated~~  
2 ~~pursuant to section 19-1-123, if the child is under six years of age at the~~  
3 ~~time a petition is filed in accordance with section 19-3-501 (2), the~~  
4 ~~long-term confinement of the parent of such duration that the parent is not~~  
5 ~~eligible for parole for at least thirty-six months after the date the child~~  
6 ~~was adjudicated dependent or neglected and the court has found by clear~~  
7 ~~and convincing evidence that no appropriate treatment plan can be~~  
8 ~~devised to address the unfitness of the parent or parents;~~

9 (1.5) IN DETERMINING WHETHER THE TREATMENT PLAN APPROVED  
10 BY THE COURT HAS NOT BEEN REASONABLY COMPLIED WITH BY THE  
11 PARENT PURSUANT TO SUBSECTION (1)(c)(I) OF THIS SECTION, IF THE  
12 PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY,  
13 A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE  
14 DEPARTMENT OF CORRECTIONS, OR A JAIL, THE COURT SHALL ALSO  
15 CONSIDER WHETHER LIMITATIONS CAUSED BY INCARCERATION INHIBITED  
16 THE PARENT'S ABILITY TO COMPLY WITH THE TREATMENT PLAN. SUCH  
17 LIMITATIONS MAY INCLUDE ACCESS TO COMMUNICATION WITH THE COURT  
18 OR COUNTY DEPARTMENT, ACCESS TO COURT-ORDERED TREATMENT OR  
19 SERVICES, OR ACCESS TO FAMILY TIME OR COMMUNICATION WITH THE  
20 CHILD.

21 **SECTION 8.** In Colorado Revised Statutes, 19-3-702, **amend**  
22 (4)(e)(III) and (4)(e)(IV); and **add** (4)(e)(V) as follows:

23 **19-3-702. Permanency hearing.** (4) (e) If the court finds that  
24 there is not a substantial probability that the child or youth will be  
25 returned to a parent or legal guardian within six months and the child or  
26 youth appears to be adoptable and meets the criteria for adoption in  
27 section 19-5-203, the court may order the county department of human or

1 social services to show cause why it should not file a motion to terminate  
2 the parent-child legal relationship pursuant to part 6 of this article 3.  
3 Cause may include, but is not limited to, any of the following conditions:

4 (III) The child's foster parents are unable to adopt the child  
5 because of exceptional circumstances that do not include an  
6 unwillingness to accept legal responsibility for the child. The foster  
7 parents must be willing and capable of providing the child with a stable  
8 and permanent environment, and it must be shown that removal of the  
9 child from the physical custody of his or her foster parents would be  
10 seriously detrimental to the emotional well-being of the child. ~~or~~

11 (IV) The criteria for termination in section 19-3-604 have not yet  
12 been met; OR

13 (V) IF THE PARENT:

14 (A) IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS  
15 FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH  
16 THE DEPARTMENT OF CORRECTIONS, OR A JAIL; DETAINED BY THE UNITED  
17 STATES DEPARTMENT OF HOMELAND SECURITY; OR DEPORTED; AND

18 (B) HAS A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD  
19 OR YOUTH WHILE INCARCERATED, DETAINED, OR DEPORTED. WHEN  
20 DETERMINING WHETHER A PARENT WHO IS INCARCERATED HAS  
21 MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD OR  
22 YOUTH, THE COURT SHALL CONSIDER THE FACTORS DESCRIBED IN SECTION  
23 19-3-508 (9)(b).

24 **SECTION 9.** In Colorado Revised Statutes, 16-11-102, **amend**  
25 (4); and **add** (1.2) as follows:

26 **16-11-102. Presentence or probation investigation.** (1.2) EACH  
27 PRESENTENCE REPORT MUST INCLUDE INFORMATION INDICATING WHETHER

1 THE PERSON IS A RESPONDENT IN AN OPEN DEPENDENCY AND NEGLECT  
2 PROCEEDING PURSUANT TO ARTICLE 3 OF TITLE 19.

3 (4) The court, with the concurrence of the defendant and the  
4 prosecuting attorney, may dispense with the presentence examination and  
5 report; except that the information required by section 18-1.3-603 (2)  
6 ~~C.R.S.~~ AND SUBSECTION (1.2) OF THIS SECTION and a victim impact  
7 statement ~~shall~~ MUST be made in every case. The amount of restitution  
8 ~~shall~~ MUST be ordered pursuant to section 18-1.3-603 ~~C.R.S.~~, and article  
9 18.5 of this ~~title~~ TITLE 16 and endorsed upon the mittimus. THE  
10 INFORMATION REQUIRED PURSUANT TO SUBSECTION (1.2) OF THIS SECTION  
11 MUST BE INCLUDED ON THE MITTIMUS.

12 **SECTION 10.** In Colorado Revised Statutes, **add** 17-42-105 as  
13 follows:

14 **17-42-105. Incarcerated parents - notification to court -**  
15 **mittimus - family services coordinator - report - policies.**

16 (1) (a) PURSUANT TO SECTION 19-3-502 (5.5)(c), A REPRESENTATIVE OF  
17 THE FACILITY WHERE THE RESPONDENT IS INCARCERATED SHALL INFORM  
18 THE COURT NOT LESS THAN SEVENTY-TWO HOURS PRIOR TO A  
19 DEPENDENCY AND NEGLECT PROCEEDING IF IT CANNOT FACILITATE  
20 TRANSPORTATION OF THE RESPONDENT TO A PROCEEDING. A  
21 REPRESENTATIVE OF THE FACILITY WHERE THE RESPONDENT IS  
22 INCARCERATED SHALL INFORM THE COURT IF THE RESPONDENT REFUSES  
23 TRANSPORTATION AND THE CIRCUMSTANCES OF THE REFUSAL AS SOON AS  
24 PRACTICABLE.

25 (b) IF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED  
26 CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A HEARING  
27 PURSUANT TO SECTION 19-3-502 (5.5), THE FACILITY SHALL MAKE EVERY

1 REASONABLE EFFORT TO FACILITATE THE RESPONDENT'S PARTICIPATION  
2 AT THE HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY.

3 (2) IF A PERSON'S MITTIMUS CONTAINS INFORMATION INDICATING  
4 THAT THE PERSON IS A PARENT TO A CHILD AND IS A PARTY TO AN OPEN  
5 DEPENDENCY AND NEGLECT PROCEEDING PURSUANT TO ARTICLE 3 OF  
6 TITLE 19, THE DEPARTMENT SHALL:

7 (a) CONSIDER PLACING THE PERSON IN A CORRECTIONAL FACILITY  
8 THAT FACILITATES OPPORTUNITIES FOR FAMILY TIME AT THE FACILITY  
9 BETWEEN THE CHILD AND PARENT, UNLESS THE COURT DETERMINES THAT  
10 FAMILY TIME DOES NOT SERVE THE CHILD'S BEST INTERESTS, OR A  
11 PROTECTION ORDER PROHIBITS CONTACT BETWEEN THE CHILD AND THE  
12 PARENT; AND

13 (b) NOTIFY THE COUNTY DEPARTMENT OF HUMAN SERVICES  
14 WHERE THE DEPENDENCY AND NEGLECT CASE IS FILED OF THE LOCATION  
15 OF THE PARENT'S CORRECTIONAL FACILITY AND THE CONTACT  
16 INFORMATION FOR THE PARENT'S CASE MANAGER AT THE FACILITY NOT  
17 LATER THAN FOURTEEN DAYS AFTER THE PARENT'S ARRIVAL AT THE  
18 FACILITY.

19 (3) THE DEPARTMENT SHALL DEVELOP OPPORTUNITIES THAT  
20 FACILITATE CONTINUED RELATIONSHIPS BETWEEN CHILDREN AND THEIR  
21 PARENTS WHO ARE INCARCERATED. THE OPPORTUNITIES MUST BE  
22 DESIGNED TO MITIGATE TRAUMA FOR A CHILD WHO HAS A PARENT WHO IS  
23 INCARCERATED. THE OPPORTUNITIES MUST INCLUDE:

24 (a) REGULARLY SCHEDULED EVENTS AT THE FACILITY THAT ARE  
25 CHILD-FOCUSED AND ARE PUBLICIZED PRIOR TO THE EVENT;

26 (b) FACILITATING ACCESS TO TREATMENT AND SERVICES TO  
27 COMPLETE ANY TREATMENT PLAN FOR A PARENT WHO IS A PARTY TO A



1 PENDING DEPENDENCY AND NEGLECT PROCEEDING; AND

2 (c) FACILITATING OPPORTUNITIES FOR A PARENT TO PARTICIPATE  
3 IN THE PARENT'S CHILD'S LIFE THROUGH AUDIO-VISUAL COMMUNICATION  
4 TECHNOLOGY, INCLUDING SCHOOL CONFERENCES, MEDICAL  
5 CONSULTATIONS, AND CELEBRATIONS.

6 (4) THE DEPARTMENT SHALL DESIGNATE AT LEAST ONE  
7 EMPLOYMENT POSITION FOR A FAMILY SERVICES COORDINATOR WHO MUST  
8 REPORT TO THE EXECUTIVE DIRECTOR. THE COORDINATOR'S DUTIES  
9 INCLUDE THE COORDINATION AND SUPERVISION OF THE OPPORTUNITIES  
10 DESCRIBED IN SUBSECTION (3) OF THIS SECTION, AND SERVING AS A  
11 LIAISON BETWEEN THE DEPARTMENT, SHERIFFS, STATE AND COUNTY  
12 DEPARTMENTS OF HUMAN SERVICES, AND AGENCIES CONCERNING  
13 MATTERS RELATED TO CHILDREN AND THEIR PARENTS WHO ARE  
14 INCARCERATED.

15 (5) (a) ON OR BEFORE MARCH 1, 2024, AND ON OR BEFORE MARCH  
16 1 EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OF THE  
17 DEPARTMENT SHALL SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF  
18 THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR  
19 COMMITTEES, CONCERNING PARENTS WHO ARE INCARCERATED. THE  
20 DEPARTMENT SHALL COOPERATE WITH THE STATE DEPARTMENT OF HUMAN  
21 SERVICES, COUNTY DEPARTMENTS OF HUMAN SERVICES, AND SHERIFFS AS  
22 NECESSARY TO IDENTIFY THE INFORMATION REQUIRED FOR THE REPORT.  
23 AT A MINIMUM, THE REPORT MUST SPECIFY PERSONS INCARCERATED IN  
24 DEPARTMENT FACILITIES, PRIVATE CORRECTIONAL FACILITIES UNDER  
25 CONTRACT WITH THE DEPARTMENT, AND JAILS, DURING THE PRECEDING  
26 CALENDAR YEAR WHO WERE A PARTY TO AN OPEN DEPENDENCY AND  
27 NEGLECT PROCEEDING, IN TOTAL AND DISAGGREGATED BY RACE OR

1 ETHNICITY, SEX, ANY KNOWN DISABILITY, AND AGE.

2 (b) ON OR BEFORE MARCH 1, 2024, AND ON OR BEFORE MARCH 1  
3 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL MAKE THE REPORT  
4 PUBLICLY AVAILABLE ON ITS WEBSITE.

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

9 (d) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136  
10 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS  
11 SUBSECTION (5) CONTINUES INDEFINITELY.

12 (6) THE DEPARTMENT SHALL PROMULGATE POLICIES THAT:

13 (a) FACILITATE COMMUNICATION AND FAMILY TIME BETWEEN  
14 CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED IN A  
15 DEPARTMENT FACILITY OR A PRIVATE CORRECTIONAL FACILITY UNDER  
16 CONTRACT WITH THE DEPARTMENT. THE POLICIES MUST INCLUDE THE  
17 PROVISION OF ACCESS TO A TELEPHONE AND AUDIO-VISUAL  
18 COMMUNICATION TECHNOLOGY AND ACCESS TO PHYSICAL SPACE AND  
19 RESOURCES FOR IN-PERSON FAMILY TIME. THE PURPOSE OF THE POLICIES  
20 IS TO NORMALIZE, TO THE EXTENT POSSIBLE, THE CHILD AND PARENT  
21 RELATIONSHIP, TO AID AND ENCOURAGE HEALTHY CHILD DEVELOPMENT,  
22 AND REDUCE RECIDIVISM AND INTERGENERATIONAL INCARCERATION. THE  
23 POLICIES MUST CONSIDER THE BENEFITS TO THE CHILD THROUGH  
24 MAINTAINING CONTACT WITH THE CHILD'S PARENT AND THE PARENT'S  
25 WILLINGNESS AND DESIRE TO MAINTAIN A MEANINGFUL RELATIONSHIP  
26 WITH THE CHILD, AND ASSIST IN THE REUNIFICATION OF THE CHILD AND  
27 PARENT, WHEN APPROPRIATE; AND

1 (b) ARE NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS  
2 SECTION.

3 **SECTION 11. Effective date.** This act takes effect January 1,  
4 2024.

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