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SENATE BILL 23-039

BY SENATOR(S) Buckner, Bridges, Coleman, Cutter, Danielson, Exum, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Marchman, Moreno, Mullica, Priola, Sullivan, Winter F., Fenberg;
also REPRESENTATIVE(S) Amabile, Armagost, Bacon, Bird, Bradley, Brown, deGruy Kennedy, Dickson, English, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Joseph, Lieder, Lindsay, Mabrey, Marshall, McCormick, Michaelson Jenet, Parenti, Ricks, Sirota, Snyder, Story, Titone, Valdez, Velasco, Vigil, Weinberg, Willford, McCluskie.

CONCERNING MEASURES TO REDUCE FAMILY SEPARATION CAUSED BY A PARENT'S DETENTION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) At least one in four Colorado children who are adjudicated dependent or neglected have a parent or guardian who was incarcerated at some time during dependency and neglect proceedings;

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

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

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

(f) The focus of dependency and neglect cases should be the physical, mental, and emotional needs of the child. Accordingly, decisions to terminate parental rights should be based on the needs of the child, and not solely on the status of the parent as incarcerated or the length of the sentence.

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

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

19-1-131. Children of parents who are incarcerated - rules. THE DEPARTMENT SHALL PROMULGATE RULES THAT FACILITATE COMMUNICATION AND FAMILY TIME BETWEEN CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL. THE PURPOSE OF THE RULES IS TO NORMALIZE, TO THE EXTENT POSSIBLE, THE CHILD AND PARENT

RELATIONSHIP, TO AID AND ENCOURAGE HEALTHY CHILD DEVELOPMENT, AND REDUCE RECIDIVISM AND INTERGENERATIONAL INCARCERATION. THE RULES MUST CONSIDER THE BENEFITS TO THE CHILD THROUGH MAINTAINING CONTACT WITH THE CHILD'S PARENT AND THE PARENT'S WILLINGNESS AND DESIRE TO MAINTAIN A MEANINGFUL RELATIONSHIP WITH THE CHILD, AND ASSIST IN THE REUNIFICATION OF THE CHILD AND PARENT WHEN APPROPRIATE. THE RULES MUST CONSIDER THE IMPACT OF RULES PROMULGATED PURSUANT TO THIS SECTION ON DEPARTMENT OF CORRECTIONS FACILITIES, PRIVATE CORRECTIONAL FACILITIES UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, JAILS, AND COUNTY DEPARTMENTS THAT MUST IMPLEMENT THE RULES. THE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO ASSESS THE EFFICACY OF THE RULES PROMULGATED PURSUANT TO THIS SECTION.

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

19-3-202. Right to counsel and jury trial. (1) At the first appearance of a respondent parent, guardian, or legal custodian, the court shall fully advise the respondent of ~~his or her~~ THE RESPONDENT'S legal rights, including the right to a jury trial, the right to be represented by counsel at every stage of the proceedings, and the right to seek the appointment of counsel through the office of respondent parents' counsel established in section 13-92-103, ~~C.R.S.~~, if the respondent is unable to financially secure counsel on ~~his or her~~ THE RESPONDENT'S own. THE COURT SHALL APPOINT COUNSEL FOR A RESPONDENT WHO IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL; HELD IN FEDERAL CUSTODY; OR INVOLUNTARILY COMMITTED, UNLESS THE COURT DETERMINES THE RESPONDENT IS ABLE TO FINANCIALLY SECURE COUNSEL ON THE RESPONDENT'S OWN OR THE RESPONDENT CHOOSES TO PROCEED WITHOUT COUNSEL. The court shall fully explain to the respondent the informational notice of rights and remedies for families prepared pursuant to section 19-3-212 and shall recommend that the respondent discuss such notice with ~~his or her~~ THE RESPONDENT'S counsel. Further, the court shall advise the respondent of the minimum and maximum time frames for the dependency and neglect process, including the minimum and maximum time frames for adjudication, disposition, and termination of parental rights for a child who is under six years of age at the time the petition is filed in a county designated pursuant to section 19-1-123.

Nothing in this section limits the power of the court to appoint counsel prior to the filing of a petition for good cause.

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

19-3-502. Petition form and content - limitations on claims in dependency or neglect actions. (5.5) (a) A PERSON NAMED A RESPONDENT IS A PARTY TO THE PROCEEDINGS AND HAS THE RIGHT AND RESPONSIBILITY TO ATTEND AND FULLY PARTICIPATE IN ALL PROCEEDINGS RELATED TO THE RESPONDENT. A RESPONDENT'S FAILURE TO APPEAR FOR A HEARING DOES NOT CONSTITUTE A VIOLATION OF THE RESPONDENT'S DUE PROCESS RIGHTS AND NOTHING IN THIS SECTION PROHIBITS THE COURT FROM PROCEEDING IF A RESPONDENT FAILS TO APPEAR.

(b) (I) IF THE COURT BECOMES AWARE THAT A RESPONDENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, THE COURT SHALL ISSUE A WRIT FOR THE RESPONDENT'S PERSONAL ATTENDANCE OR ATTENDANCE THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY AT ALL HEARINGS, UNLESS THE COURT FINDS IT NECESSARY TO HOLD SEPARATE HEARINGS PURSUANT TO SECTION 19-1-106. IF THE RESPONDENT IS REPRESENTED BY COUNSEL, COUNSEL SHALL FILE A MOTION FOR THE RESPONDENT'S PERSONAL ATTENDANCE OR ATTENDANCE THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY AT THE HEARING IF COUNSEL KNOWS THE RESPONDENT IS INCARCERATED AND WANTS TO PERSONALLY ATTEND A CONTESTED HEARING OR ATTEND ANY HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY. IF THE RESPONDENT IS NOT REPRESENTED BY COUNSEL, THE COURT SHALL FILE A WRIT FOR THE RESPONDENT'S PERSONAL APPEARANCE OR APPEARANCE THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY. IF A WRIT FOR APPEARANCE THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY IS ISSUED, THE COURT SHALL INCLUDE INFORMATION ON THE WRIT CONCERNING THE MANNER BY WHICH THE RESPONDENT MAY APPEAR AND SHALL ENSURE THE WRIT IS PROVIDED TO THE LITIGATION COORDINATOR AT THE FACILITY OR JAIL WHERE THE RESPONDENT IS INCARCERATED. IF THE RESPONDENT IS REPRESENTED BY COUNSEL, THE COURT MAY ORDER THE COUNSEL TO INFORM THE LITIGATION COORDINATOR.

(II) IF THE PERSONAL ATTENDANCE WRIT ISSUED BY THE COURT

PURSUANT TO SUBSECTION (5.5)(b)(I) OF THIS SECTION IS NOT HONORED, THE COURT MUST PERMIT THE RESPONDENT TO ATTEND AND PARTICIPATE IN A HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY.

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

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

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

(IV) IF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A HEARING PURSUANT TO THIS SUBSECTION (5.5), THE FACILITY SHALL MAKE EVERY REASONABLE EFFORT TO FACILITATE THE RESPONDENT'S PARTICIPATION AT THE HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY, SO LONG AS THE REQUIREMENTS PURSUANT TO SUBSECTION (5.5)(b)(I) OF THIS SECTION ARE SATISFIED.

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

19-3-507. Dispositional hearing - rules. (1) (f) (I) IF A CHILD IS ELIGIBLE FOR SERVICES PURSUANT TO SECTION 19-3-208, AND THE CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, THEN PRIOR TO ANY DISPOSITIONAL HEARING, THE COUNTY DEPARTMENT, UPON KNOWLEDGE OF THE INCARCERATION, SHALL MAKE REASONABLE EFFORTS TO INVOLVE THE PARENT WHO IS INCARCERATED IN PLANNING THE SERVICES FOR THE CHILD, OR DOCUMENT

THE CASEWORKER'S EFFORTS TO INCLUDE THE PARENT WHO IS INCARCERATED IN THE PLANNING. REASONABLE EFFORTS INCLUDE:

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

(B) OPPORTUNITIES FOR MEANINGFUL FAMILY TIME BETWEEN THE CHILD AND PARENT. IF IN-PERSON FAMILY TIME IS NOT REASONABLY PRACTICABLE, THE CASEWORKER SHALL COMMUNICATE WITH THE FACILITY OR JAIL REGARDING THE FACILITY'S OR JAIL'S ABILITY TO FACILITATE FAMILY TIME BETWEEN THE CHILD AND PARENT THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY AND ARRANGE FOR AVAILABLE VIRTUAL FAMILY TIME. THE COURT SHALL CONSIDER THE PREFERENCES OF THE CHILD AND PARENT WHEN DETERMINING WHETHER IN-PERSON FAMILY TIME SHOULD OCCUR. NOTHING IN THIS SUBSECTION (1)(f) REQUIRES THE COURT TO ORDER FAMILY TIME IF A PROTECTION ORDER PROHIBITS CONTACT BETWEEN THE CHILD AND THE PARENT, OR IF THE COURT DETERMINES THAT FAMILY TIME WOULD JEOPARDIZE THE CHILD'S MENTAL, EMOTIONAL, OR PHYSICAL HEALTH. THE COURT SHALL NOT DETERMINE THAT FAMILY TIME IS NOT IN THE CHILD'S BEST INTERESTS BASED SOLELY ON THE FACT THAT IN-PERSON FAMILY TIME WOULD OCCUR IN A FACILITY OR JAIL; AND

(C) COMMUNICATING WITH THE FACILITY'S OR JAIL'S DESIGNEE.

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

SECTION 6. In Colorado Revised Statutes, 19-3-508, **amend** (1)(e)(I); and **add** (1)(e)(III) as follows:

19-3-508. Neglected or dependent child - disposition - concurrent planning - definition. (1) When a child has been adjudicated to be neglected or dependent, the court may enter a decree of disposition the same day, but in any event it shall do so within forty-five days unless the court finds that the best interests of the child will be served by granting a delay. In a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the court shall enter a decree of disposition within

thirty days after the adjudication and shall not grant a delay unless good cause is shown and unless the court finds that the best interests of the child will be served by granting the delay. It is the intent of the general assembly that the dispositional hearing be held on the same day as the adjudicatory hearing, whenever possible. If a delay is granted, the court shall set forth the reasons why a delay is necessary and the minimum amount of time needed to resolve the reasons for the delay and shall schedule the hearing at the earliest possible time following the delay. When the proposed disposition is termination of the parent-child legal relationship, the hearing on termination must not be held on the same date as the adjudication, and the time limits set forth above for dispositional hearings do not apply. When the proposed disposition is termination of the parent-child legal relationship, the court may continue the dispositional hearing to the earliest available date for a hearing in accordance with the provisions of subsection (3)(a) of this section and part 6 of this article 3. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan that must include but not be limited to one or more of the following provisions of subsections (1)(a) to (1)(d) of this section:

(e) (I) Except where the proposed disposition is termination of the parent-child legal relationship, THE CASEWORKER ASSIGNED TO THE CASE SHALL SUBMIT AN APPROPRIATE TREATMENT PLAN AND the court shall approve an appropriate treatment plan involving the child named and each respondent named and served in the action. IF A CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, THE CASEWORKER ASSIGNED TO THE CASE, UPON KNOWLEDGE OF THE INCARCERATION, SHALL INCLUDE INFORMATION IN THE REPORT THAT DETAILS THE SERVICES AND TREATMENT AVAILABLE TO A PARENT AT THE FACILITY OR JAIL WHERE THE PARENT IS INCARCERATED OR THE CASEWORKER'S EFFORTS TO OBTAIN THAT INFORMATION. THE COUNTY DEPARTMENT SHALL COMMUNICATE WITH THE FACILITY OR JAIL WHERE THE PARENT IS INCARCERATED REGARDING THE REQUIREMENTS OF THE COURT-ORDERED TREATMENT PLAN. However, the court may find that an appropriate treatment plan cannot be devised as to a particular respondent because the child has been abandoned as set forth in section 19-3-604 (1)(a) and the parents cannot be located, or because the child has been adjudicated as neglected or dependent based upon section 19-3-102 (2), or due to the unfitness of the parents as set forth in section 19-3-604 (1)(b). When the court finds that an appropriate treatment plan cannot be devised, the court

shall conduct a permanency hearing as set forth in section 19-3-702 (1), unless a motion for termination of parental rights has been filed within thirty days after the court's finding.

(III) IF, AFTER THE DISPOSITIONAL HEARING, THE CHILD'S PARENT BECOMES CONTINUOUSLY INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL FOR MORE THAN THIRTY-FIVE DAYS, THEN THE CASEWORKER ASSIGNED TO THE CASE, UPON KNOWLEDGE OF INCARCERATION, SHALL PROVIDE INFORMATION THAT DETAILS THE SERVICES AND TREATMENT AVAILABLE TO A PARENT AT THE FACILITY OR JAIL WHERE THE PARENT IS INCARCERATED OR THE CASEWORKER'S EFFORTS TO OBTAIN THE INFORMATION AT THE NEXT SCHEDULED COURT HEARING.

SECTION 7. In Colorado Revised Statutes, 19-3-604, **repeal** (1)(b)(III) as follows:

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

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

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

SECTION 8. In Colorado Revised Statutes, 19-3-702, **amend** (4)(e)(III) and (4)(e)(IV); and **add** (4)(e)(V) and (7) as follows:

19-3-702. Permanency hearing. (4) (e) If the court finds that there is not a substantial probability that the child or youth will be returned to a parent or legal guardian within six months and the child or youth appears to be adoptable and meets the criteria for adoption in section 19-5-203, the court may order the county department of human or social services to show cause why it should not file a motion to terminate the parent-child legal relationship pursuant to part 6 of this article 3. Cause may include, but is not limited to, any of the following conditions:

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

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

(V) IF THE PARENT:

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

(B) HAS A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD OR YOUTH WHILE INCARCERATED, DETAINED, OR DEPORTED.

(7) (a) IF A CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, AND THE PARENT HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD WHILE INCARCERATED, THE COURT SHALL MAKE FINDINGS REGARDING WHETHER A PERMANENT PLACEMENT FOR THE CHILD EXISTS THAT PERMITS THE PARENT TO MAINTAIN A RELATIONSHIP WITH THE CHILD, INCLUDING GUARDIANSHIP OR ALLOCATION OF PARENTAL RESPONSIBILITIES, GIVING PRIMARY CONSIDERATION TO THE CHILD'S MENTAL, PHYSICAL, AND EMOTIONAL NEEDS. IF THE PROPOSED PERMANENT PLACEMENT WOULD

REQUIRE THE CHILD TO TRANSFER TO ANOTHER PLACEMENT, THE COURT SHALL CONSIDER THE FACTORS IN SUBSECTION (6) OF THIS SECTION IN MAKING ITS DETERMINATION.

(b) IN MAKING A DETERMINATION WHETHER THE PARENT WHO IS INCARCERATED HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP WITH THE CHILD, THE COURT SHALL GIVE PRIMARY CONSIDERATION TO THE CHILD'S MENTAL, EMOTIONAL, AND PHYSICAL NEEDS, AND WHETHER THE INVOLVEMENT OF THE PARENT WHO IS INCARCERATED IN THE CHILD'S LIFE SERVES THE CHILD'S BEST INTERESTS. THE COURT SHALL NOT FIND THAT THE PARENT'S INCARCERATION IS THE SOLE REASON THAT A RELATIONSHIP WITH THE PARENT IS NOT IN THE CHILD'S BEST INTERESTS, AND SHALL CONSIDER THE PARENT'S EFFORTS TO COMPLY WITH THE TREATMENT PLAN UNDER THE CIRCUMSTANCES OF INCARCERATION.

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

16-11-102. Presentence or probation investigation. (1.2) EACH PRESENTENCE REPORT MUST INCLUDE INFORMATION INDICATING WHETHER THE PERSON IS A RESPONDENT IN AN OPEN DEPENDENCY AND NEGLECT PROCEEDING PURSUANT TO ARTICLE 3 OF TITLE 19.

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

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

17-42-105. Incarcerated parents - notification to court - mittimus - family services coordinator - report - policies. (1)(a) PURSUANT TO SECTION 19-3-502 (5.5)(c), A REPRESENTATIVE OF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED SHALL, WHEN

POSSIBLE, INFORM THE COURT NOT LESS THAN SEVENTY-TWO HOURS PRIOR TO A DEPENDENCY AND NEGLECT PROCEEDING IF IT CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A PROCEEDING. A REPRESENTATIVE OF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED SHALL INFORM THE COURT IF THE RESPONDENT REFUSES TRANSPORTATION AND THE CIRCUMSTANCES OF THE REFUSAL AS SOON AS PRACTICABLE.

(b) IF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A HEARING PURSUANT TO SECTION 19-3-502 (5.5), THE FACILITY SHALL MAKE EVERY REASONABLE EFFORT TO FACILITATE THE RESPONDENT'S PARTICIPATION AT THE HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY, SO LONG AS THE REQUIREMENTS PURSUANT TO SECTION 19-3-502 (5.5)(b)(I) ARE SATISFIED.

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

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

(b) NOTIFY THE COUNTY DEPARTMENT OF HUMAN SERVICES WHERE THE DEPENDENCY AND NEGLECT CASE IS FILED OF THE LOCATION OF THE PARENT'S CORRECTIONAL FACILITY AND THE CONTACT INFORMATION FOR THE DESIGNATED INDIVIDUAL WITHIN THE LEGAL SERVICES UNIT NOT LATER THAN FOURTEEN DAYS AFTER THE PARENT'S ARRIVAL AT THE FACILITY.

(3) THE DEPARTMENT SHALL ENSURE CHILDREN AND PARENTS HAVE ACCESS TO OPPORTUNITIES THAT FACILITATE CONTINUED RELATIONSHIPS BETWEEN CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED, REGARDLESS OF WHETHER THEY ARE A RESPONDENT IN A DEPENDENCY AND NEGLECT PROCEEDING. THE OPPORTUNITIES MUST INCLUDE:

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

(b) FACILITATING ACCESS TO TREATMENT AND SERVICES TO COMPLETE ANY TREATMENT PLAN FOR A PARENT WHO IS A PARTY TO A PENDING DEPENDENCY AND NEGLECT PROCEEDING; AND

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

(4) THE DEPARTMENT SHALL DESIGNATE AT LEAST ONE INDIVIDUAL WITHIN THE LEGAL SERVICES UNIT TO ASSIST IN FAMILY SERVICES COORDINATION. THE INDIVIDUAL'S DUTIES INCLUDE THE COORDINATION AND SUPERVISION OF THE OPPORTUNITIES DESCRIBED IN SUBSECTION (3) OF THIS SECTION, AND SERVING AS A LIAISON BETWEEN THE DEPARTMENT, SHERIFFS, STATE AND COUNTY DEPARTMENTS OF HUMAN SERVICES, AND AGENCIES CONCERNING MATTERS RELATED TO CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED.

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

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

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

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

(6) THE DEPARTMENT SHALL ENSURE THAT DEPARTMENTAL POLICIES:

(a) FACILITATE COMMUNICATION AND FAMILY TIME BETWEEN CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED IN A DEPARTMENT FACILITY OR A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT, REGARDLESS OF WHETHER THEY ARE A RESPONDENT IN A DEPENDENCY AND NEGLECT PROCEEDING. THE POLICIES MUST INCLUDE THE PROVISION OF ACCESS TO A TELEPHONE AND AUDIO-VISUAL COMMUNICATION TECHNOLOGY AND ACCESS TO PHYSICAL SPACE AND RESOURCES FOR IN-PERSON FAMILY TIME. THE PURPOSE OF THE POLICIES IS TO NORMALIZE, TO THE EXTENT POSSIBLE, THE CHILD AND PARENT RELATIONSHIP, TO AID AND ENCOURAGE HEALTHY CHILD DEVELOPMENT, AND REDUCE RECIDIVISM AND INTERGENERATIONAL INCARCERATION. THE POLICIES MUST CONSIDER THE BENEFITS TO THE CHILD THROUGH MAINTAINING CONTACT WITH THE CHILD'S PARENT AND THE PARENT'S WILLINGNESS AND DESIRE TO MAINTAIN A MEANINGFUL RELATIONSHIP WITH THE CHILD, AND ASSIST IN THE REUNIFICATION OF THE CHILD AND PARENT, WHEN APPROPRIATE. THE POLICIES MUST PRIORITIZE ACCESS TO SERVICES PROVIDED BY THE DEPARTMENT FOR PARENTS WITH OPEN DEPENDENCY AND NEGLECT CASES; AND

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

SECTION 11. In Colorado Revised Statutes, **add 30-10-528** as follows:

30-10-528. Incarcerated parents - family services coordinator. EACH SHERIFF SHALL DESIGNATE AT LEAST ONE INDIVIDUAL TO SERVE AS A COMMUNICATION LIAISON BETWEEN THE COUNTY JAIL AND COUNTY

DEPARTMENTS OF HUMAN SERVICES CONCERNING CHILDREN SUBJECT TO AN OPEN DEPENDENCY AND NEGLECT CASE WHOSE PARENTS ARE INCARCERATED IN THE JAIL FOR THE PURPOSE OF IMPROVING COMMUNICATION AND ENSURING OPPORTUNITIES FOR FAMILY TIME.

SECTION 12. Appropriation. (1) For the 2023-24 state fiscal year, \$31,110 is appropriated to the department of corrections. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$2,050 for use by institutions for start-up costs related to the superintendents subprogram;

(b) \$26,385 for use by support services for personal services related to the business operations subprogram, which amount is based on an assumption that the program will require an additional 0.4 FTE;

(c) \$2,250 for use by support services for operating expenses related to the business operations subprogram;

(d) \$225 for use by support services for operating expenses related to the communications subprogram; and

(e) \$200 for use by support services for operating expenses related to the information systems subprogram.

(2) For the 2023-24 state fiscal year, \$15,111 is appropriated to the department of human services for use by the division of child welfare. This appropriation is from the general fund. To implement this act, the division may use this appropriation as follows:

(a) \$9,396 for administration; and

(b) \$5,715 for Colorado TRAILS.

(3) For the 2023-24 state fiscal year, the general assembly anticipates that the department of human services will receive \$4,481 in federal funds for use by the division of child welfare to implement this act, which amount is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year. The appropriation in

subsection (2) of this section is based on the assumption that the division will receive this amount of federal funds to be used as follows:

(a) \$1,404 for administration; and

(b) \$3,077 for Colorado TRAILS.

(4) For the 2023-24 state fiscal year, \$7,425 is appropriated to the judicial department for use by the trial courts. This appropriation is from the general fund, and is based on an assumption that the department will require an additional 0.1 FTE. To implement this act, the office may use this appropriation for trial court programs.

SECTION 13. Effective date. This act takes effect January 1, 2024.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO