

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

**PREAMENDED**

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

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  
Appropriations

**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, AND, IN CONNECTION THEREWITH,**  
103            **MAKING AN APPROPRIATION.**

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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

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.

proceedings for the parent's dependency and neglect case.

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 publicly 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;

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

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

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

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

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

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

23 **19-1-131. Children of parents who are incarcerated - rules.**

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

1 THE DEPARTMENT OF CORRECTIONS, OR A JAIL. THE PURPOSE OF THE  
2 RULES IS TO NORMALIZE, TO THE EXTENT POSSIBLE, THE CHILD AND  
3 PARENT RELATIONSHIP, TO AID AND ENCOURAGE HEALTHY CHILD  
4 DEVELOPMENT, AND REDUCE RECIDIVISM AND INTERGENERATIONAL  
5 INCARCERATION. THE RULES MUST CONSIDER THE BENEFITS TO THE CHILD  
6 THROUGH MAINTAINING CONTACT WITH THE CHILD'S PARENT AND THE  
7 PARENT'S WILLINGNESS AND DESIRE TO MAINTAIN A MEANINGFUL  
8 RELATIONSHIP WITH THE CHILD, AND ASSIST IN THE REUNIFICATION OF THE  
9 CHILD AND PARENT WHEN APPROPRIATE. THE RULES MUST CONSIDER THE  
10 IMPACT OF RULES PROMULGATED PURSUANT TO THIS SECTION ON  
11 DEPARTMENT OF CORRECTIONS FACILITIES, PRIVATE CORRECTIONAL  
12 FACILITIES UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS,  
13 JAILS, AND COUNTY DEPARTMENTS THAT MUST IMPLEMENT THE RULES.  
14 THE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO ASSESS THE  
15 EFFICACY OF THE RULES PROMULGATED PURSUANT TO THIS SECTION.

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

18 **19-3-202. Right to counsel and jury trial.** (1) At the first  
19 appearance of a respondent parent, guardian, or legal custodian, the court  
20 shall fully advise the respondent of ~~his or her~~ THE RESPONDENT'S legal  
21 rights, including the right to a jury trial, the right to be represented by  
22 counsel at every stage of the proceedings, and the right to seek the  
23 appointment of counsel through the office of respondent parents' counsel  
24 established in section 13-92-103, ~~C.R.S.~~, if the respondent is unable to  
25 financially secure counsel on ~~his or her~~ THE RESPONDENT'S own. THE  
26 COURT SHALL APPOINT COUNSEL FOR A RESPONDENT WHO IS  
27 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE

1 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF  
2 CORRECTIONS, OR A JAIL; HELD IN FEDERAL CUSTODY; OR INVOLUNTARILY  
3 COMMITTED, UNLESS THE COURT DETERMINES THE RESPONDENT IS ABLE  
4 TO FINANCIALLY SECURE COUNSEL ON THE RESPONDENT'S OWN OR THE  
5 RESPONDENT CHOOSES TO PROCEED WITHOUT COUNSEL. The court shall  
6 fully explain to the respondent the informational notice of rights and  
7 remedies for families prepared pursuant to section 19-3-212 and shall  
8 recommend that the respondent discuss such notice with ~~his or her~~ THE  
9 RESPONDENT'S counsel. Further, the court shall advise the respondent of  
10 the minimum and maximum time frames for the dependency and neglect  
11 process, including the minimum and maximum time frames for  
12 adjudication, disposition, and termination of parental rights for a child  
13 who is under six years of age at the time the petition is filed in a county  
14 designated pursuant to section 19-1-123. Nothing in this section limits the  
15 power of the court to appoint counsel prior to the filing of a petition for  
16 good cause.

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

19 **19-3-502. Petition form and content - limitations on claims in**  
20 **dependency or neglect actions.** (5.5) (a) A PERSON NAMED A  
21 RESPONDENT IS A PARTY TO THE PROCEEDINGS AND HAS THE RIGHT TO  
22 ATTEND AND FULLY PARTICIPATE IN ALL PROCEEDINGS UNLESS THE  
23 RESPONDENT KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY WAIVES,  
24 EITHER PERSONALLY OR THROUGH COUNSEL, THE RESPONDENT'S  
25 ATTENDANCE AND PARTICIPATION, OR THE COURT FINDS IT NECESSARY TO  
26 HOLD SEPARATE HEARINGS PURSUANT TO SECTION 19-1-106. IF A  
27 RESPONDENT VOLUNTARILY WAIVES THE RESPONDENT'S ATTENDANCE AND

1 PARTICIPATION, THE RESPONDENT WAIVES THE RESPONDENT'S ABILITY TO  
2 CLAIM THAT THE RESPONDENT'S RIGHT TO ATTEND AND FULLY  
3 PARTICIPATE IN ALL PROCEEDINGS WAS VIOLATED. IF THE RESPONDENT IS  
4 REPRESENTED BY COUNSEL, COUNSEL SHALL MAKE DILIGENT EFFORTS TO  
5 PROVIDE NOTICE TO THE RESPONDENT OF ALL HEARINGS. IF A PARENT  
6 FAILS TO APPEAR, THE COURT SHALL MAKE FINDINGS ABOUT THE REASON  
7 FOR THE ABSENCE AND MAKE A RECORD REGARDING THE ABSENCE.  
8 NOTHING IN THIS SECTION PROHIBITS THE COURT FROM PROCEEDING IF A  
9 RESPONDENT FAILS TO APPEAR.

10 (b) (I) IF THE COURT BECOMES AWARE THAT A RESPONDENT IS  
11 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE  
12 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF  
13 CORRECTIONS, OR A JAIL, THE COURT SHALL ISSUE A WRIT FOR THE  
14 RESPONDENT'S PERSONAL ATTENDANCE OR ATTENDANCE THROUGH  
15 AUDIO-VISUAL COMMUNICATION TECHNOLOGY AT ALL HEARINGS, UNLESS  
16 THE COURT FINDS IT NECESSARY TO HOLD SEPARATE HEARINGS PURSUANT  
17 TO SECTION 19-1-106. IF THE RESPONDENT IS REPRESENTED BY COUNSEL,  
18 COUNSEL SHALL FILE A MOTION FOR THE RESPONDENT'S PERSONAL  
19 ATTENDANCE OR ATTENDANCE THROUGH AUDIO-VISUAL COMMUNICATION  
20 TECHNOLOGY AT THE HEARING IF COUNSEL KNOWS THE RESPONDENT IS  
21 INCARCERATED AND WANTS TO PERSONALLY ATTEND A CONTESTED  
22 HEARING OR ATTEND ANY HEARING THROUGH AUDIO-VISUAL  
23 COMMUNICATION TECHNOLOGY. IF THE RESPONDENT IS NOT REPRESENTED  
24 BY COUNSEL, THE COURT SHALL FILE A WRIT FOR THE RESPONDENT'S  
25 PERSONAL APPEARANCE OR APPEARANCE THROUGH AUDIO-VISUAL  
26 COMMUNICATION TECHNOLOGY. IF A WRIT FOR APPEARANCE THROUGH  
27 AUDIO-VISUAL COMMUNICATION TECHNOLOGY IS ISSUED, THE COURT

1 SHALL INCLUDE INFORMATION ON THE WRIT CONCERNING THE MANNER BY  
2 WHICH THE RESPONDENT MAY APPEAR AND SHALL ENSURE THE WRIT IS  
3 PROVIDED TO THE LITIGATION COORDINATOR AT THE FACILITY OR JAIL  
4 WHERE THE RESPONDENT IS INCARCERATED. IF THE RESPONDENT IS  
5 REPRESENTED BY COUNSEL, THE COURT MAY ORDER THE COUNSEL TO  
6 INFORM THE LITIGATION COORDINATOR.

7 (II) IF THE PERSONAL ATTENDANCE WRIT ISSUED BY THE COURT  
8 PURSUANT TO SUBSECTION (5.5)(b)(I) OF THIS SECTION IS NOT HONORED,  
9 THE COURT MUST PERMIT THE RESPONDENT TO ATTEND AND PARTICIPATE  
10 IN A HEARING THROUGH 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, WHEN POSSIBLE, INFORM THE  
18 COURT NOT LESS THAN SEVENTY-TWO HOURS PRIOR TO THE PROCEEDING  
19 IF IT CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A  
20 PROCEEDING.

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

25 (IV) IF THE FACILITY WHERE THE RESPONDENT IS INCARCERATED  
26 CANNOT FACILITATE TRANSPORTATION OF THE RESPONDENT TO A HEARING  
27 PURSUANT TO THIS SUBSECTION (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 SO LONG AS THE REQUIREMENTS PURSUANT TO SUBSECTION (5.5)(b)(I) OF  
4 THIS SECTION ARE SATISFIED.

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

7 **19-3-507. Dispositional hearing - rules.** (1) (d) (I) IF A CHILD IS  
8 ELIGIBLE FOR SERVICES PURSUANT TO SECTION 19-3-208, AND THE CHILD'S  
9 PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY,  
10 A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE  
11 DEPARTMENT OF CORRECTIONS, OR A JAIL, THEN PRIOR TO ANY  
12 DISPOSITIONAL HEARING, THE COUNTY DEPARTMENT, UPON KNOWLEDGE  
13 OF THE INCARCERATION, SHALL MAKE REASONABLE EFFORTS TO INVOLVE  
14 THE PARENT WHO IS INCARCERATED IN PLANNING THE SERVICES FOR THE  
15 CHILD, OR DOCUMENT THE CASEWORKER'S EFFORTS TO INCLUDE THE  
16 PARENT WHO IS INCARCERATED IN THE PLANNING. REASONABLE EFFORTS  
17 INCLUDE:

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

22 (B) OPPORTUNITIES FOR MEANINGFUL     FAMILY TIME BETWEEN  
23 THE CHILD AND PARENT. IF IN-PERSON FAMILY TIME IS NOT REASONABLY  
24 PRACTICABLE, THE CASEWORKER SHALL COMMUNICATE WITH THE  
25 FACILITY OR JAIL REGARDING THE FACILITY'S OR JAIL'S ABILITY TO  
26 FACILITATE FAMILY TIME BETWEEN THE CHILD AND PARENT THROUGH  
27 AUDIO-VISUAL COMMUNICATION TECHNOLOGY AND ARRANGE FOR



1 AVAILABLE VIRTUAL FAMILY TIME. THE COURT SHALL CONSIDER THE  
2 PREFERENCES OF THE CHILD AND PARENT WHEN DETERMINING WHETHER  
3 IN-PERSON FAMILY TIME SHOULD OCCUR. NOTHING IN THIS SUBSECTION  
4 (1)(e) REQUIRES THE COURT TO ORDER FAMILY TIME IF A PROTECTION  
5 ORDER PROHIBITS CONTACT BETWEEN THE CHILD AND THE PARENT, OR IF  
6 THE COURT DETERMINES THAT FAMILY TIME WOULD JEOPARDIZE THE  
7 CHILD'S MENTAL, EMOTIONAL, OR PHYSICAL HEALTH. THE COURT SHALL  
8 NOT DETERMINE THAT FAMILY TIME IS NOT IN THE CHILD'S BEST INTERESTS  
9 BASED SOLELY ON THE FACT THAT IN-PERSON FAMILY TIME WOULD OCCUR  
10 IN A FACILITY OR JAIL; AND

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

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

14 **SECTION 6.** In Colorado Revised Statutes, 19-3-508, amend  
15 (1)(e)(I); and add (1)(e)(III) 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) (I) Except where the proposed disposition is termination of the  
17 parent-child legal relationship, THE CASEWORKER ASSIGNED TO THE CASE  
18 SHALL SUBMIT AN APPROPRIATE TREATMENT PLAN AND the court shall  
19 approve an appropriate treatment plan involving the child named and each  
20 respondent named and served in the action. IF A CHILD'S PARENT IS  
21 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE  
22 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF  
23 CORRECTIONS, OR A JAIL, THE CASEWORKER ASSIGNED TO THE CASE, UPON  
24 KNOWLEDGE OF THE INCARCERATION, SHALL INCLUDE INFORMATION IN  
25 THE REPORT THAT DETAILS THE SERVICES AND TREATMENT AVAILABLE TO  
26 A PARENT AT THE FACILITY OR JAIL WHERE THE PARENT IS INCARCERATED  
27 OR THE CASEWORKER'S EFFORTS TO OBTAIN THAT INFORMATION. THE

1 COUNTY DEPARTMENT SHALL COMMUNICATE WITH THE FACILITY OR JAIL  
2 WHERE THE PARENT IS INCARCERATED REGARDING THE REQUIREMENTS OF  
3 THE COURT-ORDERED TREATMENT PLAN. However, the court may find that  
4 an appropriate treatment plan cannot be devised as to a particular  
5 respondent because the child has been abandoned as set forth in section  
6 19-3-604 (1)(a) and the parents cannot be located, or because the child  
7 has been adjudicated as neglected or dependent based upon section  
8 19-3-102 (2), or due to the unfitness of the parents as set forth in section  
9 19-3-604 (1)(b). When the court finds that an appropriate treatment plan  
10 cannot be devised, the court shall conduct a permanency hearing as set  
11 forth in section 19-3-702 (1), unless a motion for termination of parental  
12 rights has been filed within thirty days after the court's finding. \_\_\_

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

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

25 **19-3-604. Criteria for termination.** (1) The court may order a  
26 termination of the parent-child legal relationship upon the finding by clear  
27 and convincing evidence of any one of the following:

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

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

16

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

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

27 (III) The child's foster parents are unable to adopt the child

1 because of exceptional circumstances that do not include an  
2 unwillingness to accept legal responsibility for the child. The foster  
3 parents must be willing and capable of providing the child with a stable  
4 and permanent environment, and it must be shown that removal of the  
5 child from the physical custody of his or her foster parents would be  
6 seriously detrimental to the emotional well-being of the child. ~~or~~

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

9 (V) IF THE PARENT:

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

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

16 (7) (a) IF A CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT  
17 OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER  
18 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, AND THE  
19 PARENT HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP WITH  
20 THE CHILD WHILE INCARCERATED, THE COURT SHALL MAKE FINDINGS  
21 REGARDING WHETHER A PERMANENT PLACEMENT FOR THE CHILD EXISTS  
22 THAT PERMITS THE PARENT TO MAINTAIN A RELATIONSHIP WITH THE  
23 CHILD, INCLUDING GUARDIANSHIP OR ALLOCATION OF PARENTAL  
24 RESPONSIBILITIES, GIVING PRIMARY CONSIDERATION TO THE CHILD'S  
25 MENTAL, PHYSICAL, AND EMOTIONAL NEEDS. IF THE PROPOSED  
26 PERMANENT PLACEMENT WOULD REQUIRE THE CHILD TO TRANSFER TO  
27 ANOTHER PLACEMENT, THE COURT SHALL CONSIDER THE FACTORS IN

1 SUBSECTION (6) OF THIS SECTION IN MAKING ITS DETERMINATION.  
2 (b) IN MAKING A DETERMINATION WHETHER THE PARENT WHO IS  
3 INCARCERATED HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP  
4 WITH THE CHILD, THE COURT SHALL GIVE PRIMARY CONSIDERATION TO THE  
5 CHILD'S MENTAL, EMOTIONAL, AND PHYSICAL NEEDS, AND WHETHER THE  
6 INVOLVEMENT OF THE PARENT WHO IS INCARCERATED IN THE CHILD'S LIFE  
7 SERVES THE CHILD'S BEST INTERESTS. THE COURT SHALL NOT FIND THAT  
8 THE PARENT'S INCARCERATION IS THE SOLE REASON THAT A RELATIONSHIP  
9 WITH THE PARENT IS NOT IN THE CHILD'S BEST INTERESTS, AND SHALL  
10 CONSIDER THE PARENT'S EFFORTS TO COMPLY WITH THE TREATMENT PLAN  
11 UNDER THE CIRCUMSTANCES OF INCARCERATION.

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

14 **16-11-102. Presentence or probation investigation.** (1.2) EACH  
15 PRESENTENCE REPORT MUST INCLUDE INFORMATION INDICATING WHETHER  
16 THE PERSON IS A RESPONDENT IN AN OPEN DEPENDENCY AND NEGLECT  
17 PROCEEDING PURSUANT TO ARTICLE 3 OF TITLE 19.

18 (4) The court, with the concurrence of the defendant and the  
19 prosecuting attorney, may dispense with the presentence examination and  
20 report; except that the information required by section 18-1.3-603 (2)  
21 ~~C.R.S.~~ AND SUBSECTION (1.2) OF THIS SECTION and a victim impact  
22 statement ~~shall~~ MUST be made in every case. The amount of restitution  
23 ~~shall~~ MUST be ordered pursuant to section 18-1.3-603 ~~C.R.S.~~, and article  
24 18.5 of this ~~title~~ TITLE 16 and endorsed upon the mittimus. THE  
25 INFORMATION REQUIRED PURSUANT TO SUBSECTION (1.2) OF THIS SECTION  
26 MUST BE INCLUDED ON THE MITTIMUS.

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

1 follows:

2 **17-42-105. Incarcerated parents - notification to court -**  
3 **mittimus - family services coordinator - report - policies.**

4 (1) (a) PURSUANT TO SECTION 19-3-502 (5.5)(c), A REPRESENTATIVE OF  
5 THE FACILITY WHERE THE RESPONDENT IS INCARCERATED SHALL, WHEN  
6 POSSIBLE, INFORM THE COURT NOT LESS THAN SEVENTY-TWO HOURS PRIOR  
7 TO A DEPENDENCY AND NEGLECT PROCEEDING IF IT CANNOT FACILITATE  
8 TRANSPORTATION OF THE RESPONDENT TO A PROCEEDING. A  
9 REPRESENTATIVE OF THE FACILITY WHERE THE RESPONDENT IS  
10 INCARCERATED SHALL INFORM THE COURT IF THE RESPONDENT REFUSES  
11 TRANSPORTATION AND THE CIRCUMSTANCES OF THE REFUSAL AS SOON AS  
12 PRACTICABLE.

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

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

24 (a) CONSIDER PLACING THE PERSON IN A CORRECTIONAL FACILITY  
25 THAT FACILITATES OPPORTUNITIES FOR FAMILY TIME AT THE FACILITY  
26 BETWEEN THE CHILD AND PARENT, UNLESS THE COURT DETERMINES THAT  
27 FAMILY TIME DOES NOT SERVE THE CHILD'S BEST INTERESTS, OR A

1 PROTECTION ORDER PROHIBITS CONTACT BETWEEN THE CHILD AND THE  
2 PARENT; AND

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

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

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

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

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

24 (4) THE DEPARTMENT SHALL DESIGNATE AT LEAST ONE  
25 INDIVIDUAL WITHIN THE LEGAL SERVICES UNIT TO ASSIST IN FAMILY  
26 SERVICES COORDINATION. THE INDIVIDUAL'S DUTIES INCLUDE THE  
27 COORDINATION AND SUPERVISION OF THE OPPORTUNITIES DESCRIBED IN



1 SUBSECTION (3) OF THIS SECTION, AND SERVING AS A LIAISON BETWEEN  
2 THE DEPARTMENT, SHERIFFS, STATE AND COUNTY DEPARTMENTS OF  
3 HUMAN SERVICES, AND AGENCIES CONCERNING MATTERS RELATED TO  
4 CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED.

5 (5) (a) ON OR BEFORE MARCH 1, 2024, AND ON OR BEFORE MARCH  
6 1 EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OF THE  
7 DEPARTMENT SHALL SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF  
8 THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR  
9 COMMITTEES, CONCERNING PARENTS WHO ARE INCARCERATED. THE  
10 DEPARTMENT SHALL COOPERATE WITH THE STATE DEPARTMENT OF HUMAN  
11 SERVICES, COUNTY DEPARTMENTS OF HUMAN SERVICES, AND SHERIFFS AS  
12 NECESSARY TO IDENTIFY THE INFORMATION REQUIRED FOR THE REPORT.  
13 AT A MINIMUM, THE REPORT MUST SPECIFY PERSONS INCARCERATED IN  
14 DEPARTMENT FACILITIES, PRIVATE CORRECTIONAL FACILITIES UNDER  
15 CONTRACT WITH THE DEPARTMENT, AND JAILS, DURING THE PRECEDING  
16 CALENDAR YEAR WHO WERE A PARTY TO AN OPEN DEPENDENCY AND  
17 NEGLECT PROCEEDING, IN TOTAL AND DISAGGREGATED BY RACE OR  
18 ETHNICITY, SEX, ANY KNOWN DISABILITY, AND AGE.

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

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

26 (d) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136  
27 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS

1 SUBSECTION (5) CONTINUES INDEFINITELY.

2 (6) THE DEPARTMENT SHALL ENSURE THAT DEPARTMENTAL  
3 POLICIES:

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

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

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

26 30-10-528. Incarcerated parents - family services coordinator.  
27 EACH SHERIFF SHALL DESIGNATE AT LEAST ONE INDIVIDUAL TO SERVE AS

1 A COMMUNICATION LIAISON BETWEEN THE COUNTY JAIL AND COUNTY  
2 DEPARTMENTS OF HUMAN SERVICES CONCERNING CHILDREN SUBJECT TO  
3 AN OPEN DEPENDENCY AND NEGLECT CASE WHOSE PARENTS ARE  
4 INCARCERATED IN THE JAIL FOR THE PURPOSE OF IMPROVING  
5 COMMUNICATION AND ENSURING OPPORTUNITIES FOR FAMILY TIME.

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

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

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

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

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

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

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

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

26 (b) \$5,715 for Colorado trails.

27 (3) For the 2023-24 state fiscal year, the general assembly

1 anticipates that the department of human services will receive \$4,481 in  
2 federal funds for use by the division of child welfare to implement this  
3 act, which amount is subject to the "(I)" notation as defined in the annual  
4 general appropriation act for the same fiscal year. The appropriation in  
5 subsection (2) of this section is based on the assumption that the division  
6 will receive this amount of federal funds to be used as follows:

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

8 (b) \$3,077 for Colorado trails.

9 (4) For the 2023-24 state fiscal year, \$7,425 is appropriated to the  
10 judicial department for use by the office of the respondent parents'  
11 counsel. This appropriation is from the general fund, and is based on an  
12 assumption that the office will require an additional 0.1 FTE. To  
13 implement this act, the office may use this appropriation for personal  
14 services.

15 **SECTION 13. Effective date.** This act takes effect January 1,  
16 2024.

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