

CHAPTER 164

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 15-1131

BY REPRESENTATIVE(S) Esgar and Lee, Becker K., Duran, Fields, Moreno, Primavera, Rosenthal, Vigil, Young, Ginal, Hammer, Kagan, Kraft-Tharp, Lebsock, Melton, Pettersen, Ryden, Saine, Tate, Williams, Hullinghorst;
also SENATOR(S) Lambert, Baumgardner, Cooke, Grantham, Guzman, Hodge, Neville T., Newell, Scott, Steadman, Todd.

AN ACT

CONCERNING THE RELEASE OF INFORMATION RELATED TO CRITICAL INCIDENTS THAT OCCUR IN FACILITIES OPERATED BY THE DIVISION OF YOUTH CORRECTIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 19-1-305, **amend** (1) introductory portion as follows:

19-1-305. Operation of juvenile facilities. (1) Except as otherwise authorized by ~~section~~ SECTIONS 19-1-303 OR 19-1-304 (8), all records prepared or obtained by the department of human services in the course of carrying out its duties pursuant to article 2 of this title ~~shall be~~ ARE confidential and privileged. Said records may be disclosed only:

SECTION 2. In Colorado Revised Statutes, 19-1-304, **add** (8) as follows:

19-1-304. Juvenile delinquency records - division of youth corrections critical incident information - definitions. (8) **Division of youth corrections critical incident information.** (a) FOR THE PURPOSES OF THIS SUBSECTION (8), "CRITICAL INCIDENT" MEANS ANY OF THE FOLLOWING:

(I) AN INTENTIONAL PHYSICAL OR SEXUAL ACT OF AGGRESSION THAT:

(A) CAUSES OR ATTEMPTS TO CAUSE SERIOUS BODILY INJURY;

(B) CAUSES BODILY INJURY THAT REQUIRES ONLY FIRST AID OR LESSER ATTENTION; OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(C) CAUSES NO BODILY INJURY;

(II) UNAUTHORIZED PHYSICAL OR SEXUAL CONTACT CAUSED THROUGH RECKLESSNESS OR NEGLIGENCE, WHERE PHYSICAL OR SEXUAL HARM WAS NOT INTENDED; OR

(III) AN ATTEMPT TO HARM OR GAIN POWER BY BLOWS OR WITH WEAPONS.

(b) THE DEPARTMENT OF HUMAN SERVICES, THE DIVISION OF YOUTH CORRECTIONS, OR ANY AGENCY WITH RELEVANT INFORMATION SHALL RELEASE THE FOLLOWING INFORMATION RELATED TO ANY CRITICAL INCIDENT, OR AGGREGATE OF CRITICAL INCIDENTS, THAT OCCURRED IN A FACILITY OPERATED BY THE DIVISION OF YOUTH CORRECTIONS UPON REQUEST, SO LONG AS THE DISCLOSING AGENCY REDACTS ANY IDENTIFYING INFORMATION, ANY INFORMATION CONCERNING SECURITY PROCEDURES OR PROTOCOLS, AND ANY INFORMATION THAT WOULD JEOPARDIZE THE SAFETY OF THE COMMUNITY, YOUTH, OR STAFF:

(I) THE TYPE OF CRITICAL INCIDENT THAT OCCURRED OR A SUMMARY OF TYPES OF CRITICAL INCIDENTS THAT HAVE OCCURRED WITHIN A GIVEN TIME FRAME;

(II) A SUMMARY OF WHETHER THE NUMBER AND TYPES OF CRITICAL INCIDENTS ARE INCREASING OR DECREASING IN FREQUENCY AND SEVERITY;

(III) ON AVERAGE, HOW MANY OF THE YOUTH HAVE BEEN INVOLVED IN MULTIPLE CRITICAL INCIDENTS AND THE AVERAGE LENGTH OF DETAINMENT;

(IV) A SUMMARY OF RESPONSES TO CRITICAL INCIDENTS BY THE FACILITY INVOLVED, SUCH AS DE-ESCALATION OR TYPICAL CONSEQUENCE IMPOSED; AND

(V) A SUMMARY OF ANY CRITICAL INCIDENT THAT HAS OCCURRED.

(c) THE DIVISION OF YOUTH CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, OR ANY AGENCY WITH RELEVANT INFORMATION RELATED TO A CRITICAL INCIDENT SHALL PROVIDE REDACTED RECORDS RELATED TO THE CRITICAL INCIDENT, PROVIDED CONFIDENTIALITY IS MAINTAINED, AND MAY CHARGE A FEE IN ACCORDANCE WITH SECTION 24-72-205, C.R.S.

(d) THE DIVISION OF YOUTH CORRECTIONS MAY RELEASE TO THE PUBLIC INFORMATION AT ANY TIME TO CORRECT INACCURATE INFORMATION PERTAINING TO THE CRITICAL INCIDENT THAT WAS REPORTED IN THE NEWS MEDIA, SO LONG AS THE RELEASE OF INFORMATION BY THE DIVISION PROTECTS THE CONFIDENTIALITY OF ANY YOUTH INVOLVED; IS NOT EXPLICITLY IN CONFLICT WITH FEDERAL LAW; IS NOT CONTRARY TO THE BEST INTEREST OF THE CHILD WHO IS THE SUBJECT OF THE REPORT, OR HIS OR HER SIBLINGS; IS IN THE PUBLIC'S BEST INTEREST; AND IS CONSISTENT WITH THE FEDERAL "CHILD ABUSE PREVENTION AND TREATMENT REAUTHORIZATION ACT OF 2010", PUB.L. 111-320.

(e) EXCEPT AS OTHERWISE AUTHORIZED BY SECTION 19-1-303, ALL RECORDS PREPARED OR OBTAINED BY THE DEPARTMENT OF HUMAN SERVICES IN THE COURSE OF CARRYING OUT ITS DUTIES PURSUANT TO ARTICLE 2 OF THIS TITLE ARE

CONFIDENTIAL AND PRIVILEGED.

SECTION 3. Appropriation. (1) For the 2015-16 state fiscal year, \$14,404 is appropriated to the department of human services for use by the division of youth corrections. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.3 FTE. To implement this act, the division may use this appropriation as follows:

(a) \$14,119 for personal services related to administration, which amount is based on an assumption that the division will require an additional 0.3 FTE; and

(b) \$285 for operating expenses related to administration.

SECTION 4. Applicability. This act applies to critical incidents that occur on or after January 1, 2014.

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

Approved: May 8, 2015