

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0464.02 Jane Ritter x4342

HOUSE BILL 16-1328

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A BILL FOR AN ACT

101 **CONCERNING STATUTORY PROVISIONS RELATED TO THE USE OF**
102 **SECLUSION ON INDIVIDUALS, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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://www.leg.state.co.us/bills summaries>.)

The bill strengthens the safety provisions for the use of restraint and seclusion on individuals, particularly youths, who are being detained by a state or local agency. Language is added to clarify that restraint or seclusion must never be used as a punishment, sanction, or part of a treatment plan, or for retaliation, or for protection, except in the case of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 6, 2016

SENATE
Amended 2nd Reading
May 5, 2016

HOUSE
3rd Reading Unamended
May 4, 2016

HOUSE
Amended 2nd Reading
May 3, 2016

demonstrated emergencies.

The division of youth corrections (division) within the state department of human services (department) may place a youth in emergency seclusion for a maximum of no more than 4 consecutive hours in a calendar day unless a prescribed protocol is followed for an extended emergency situation. If the emergency situation continues and the youth is in seclusion for 8 total hours in a 2-calendar-day period, the division must obtain a court order to continue the seclusion.

The division may confine a youth for a period of time not to exceed 2 hours, not including sleeping hours, in a calendar day for the completion of administrative functions, provided that the confinement is part of a routine practice that is applicable to substantial portions of the population and is not imposed in response to the behavior of one or more youth.

If an agency uses seclusion:

- ! The room or area used for seclusion must have at least 60 square feet of floor space, be clean, have adequate lighting, heating, and, by January 1, 2020, be suicide resistant;
- ! The individual in seclusion must have access to water, toilet facilities, and toilet paper;
- ! Staff shall adhere to strict timeline protocols for youth in seclusion for emergency situations;
- ! Scheduled status reports must be made to the facility director;
- ! Within 12 hours, the facility shall notify the youth's parent, guardian, or legal custodian of the fact of and need for the seclusion; and
- ! If the emergency requiring seclusion continues beyond 4 hours, the division may only continue the seclusion if it obtains written approval after a licensed physician has consulted with a qualified mental health professional who has met with the youth.

A division facility that utilizes seclusion is required to have staff undergo at least 40 hours of initial training and at least 16 hours of annual training thereafter, especially on the use and effect of seclusion on youth.

Additional reporting requirements are imposed in the bill. The division is required to keep specific documentation on file for each individual placed in seclusion. The division shall make a compilation report of the documentation to the youth seclusion working group (working group), created in the bill. Similarly, any facility that operates for the purpose of detaining youth shall report quarterly to the public health and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees, on its use of seclusion.

The working group is created to study the issues surrounding the

use and effect of seclusion on youth.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 26-20-101 as
3 follows:

4 **26-20-101. Short title.** ~~This~~ THE SHORT TITLE OF THIS article ~~shall~~
5 ~~be known and may be cited as~~ IS the "Protection of ~~Persons~~ INDIVIDUALS
6 from Restraint AND SECLUSION Act".

7 **SECTION 2.** In Colorado Revised Statutes, 26-20-102, **amend**
8 (6) introductory portion, (6) (c), (6) (d), and (7); **repeal** (6) (e); and **add**
9 (2.5), (3.5), (5.7), (8), and (9) as follows:

10 **26-20-102. Definitions.** As used in this article, unless the context
11 otherwise requires:

12 (2.5) "DIVISION OF YOUTH CORRECTIONS" MEANS THE DIVISION OF
13 YOUTH CORRECTIONS WITHIN THE STATE DEPARTMENT CREATED
14 PURSUANT TO SECTION 19-2-203, C.R.S.

15 (3.5) "INDIVIDUAL" ENCOMPASSES BOTH ADULTS AND YOUTHS,
16 UNLESS THE CONTEXT SPECIFICALLY STATES ONE OR THE OTHER.

17 (5.7) "QUALIFIED MENTAL HEALTH PROFESSIONAL" MEANS AN
18 INDIVIDUAL WHO IS A LICENSED PSYCHOLOGIST, A LICENSED
19 PSYCHIATRIST, A LICENSED CLINICAL SOCIAL WORKER, A PSYCHOLOGIST
20 CANDIDATE FOR LICENSURE, A LICENSED MARRIAGE AND FAMILY
21 THERAPIST, OR A MASTERS-LEVEL MENTAL HEALTH THERAPIST WHO IS
22 UNDER THE SUPERVISION OF A LICENSED MENTAL HEALTH PROFESSIONAL.

23 (6) "Restraint" means any method or device used to involuntarily
24 limit freedom of movement, including ~~but not limited to~~ bodily physical
25 force, mechanical devices, or chemicals. "Restraint" includes a chemical

1 restraint, a mechanical restraint, a AND physical restraint. and seclusion.

2 "Restraint" does not include:

3 (c) The holding of an individual for less than five minutes by a
4 staff person for protection of the individual or other persons; OR

5 (d) Placement of an inpatient or resident in his or her room for the
6 night. or

7 (e) The use of time-out as may be defined by written policies,
8 rules, or procedures of an agency.

9 (7) "Seclusion" means the placement of a person AN INDIVIDUAL
10 alone in a room OR AREA from which egress is involuntarily prevented,
11 EXCEPT DURING NORMAL SLEEPING HOURS.

12 (8) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF
13 HUMAN SERVICES.

14 (9) "YOUTH" MEANS AN INDIVIDUAL WHO IS LESS THAN
15 TWENTY-ONE YEARS OF AGE.

16 **SECTION 3.** In Colorado Revised Statutes, amend 26-20-103 as
17 follows:

18 **26-20-103. Basis for use of restraint or seclusion.** (1) Subject
19 to the provisions of this article, an agency may only use restraint OR
20 SECLUSION ON AN INDIVIDUAL:

21 (a) In cases of emergency, AS DEFINED IN SECTION 26-20-102 (3);
22 and

23 (b) (I) After the failure of less restrictive alternatives; or

24 (II) After a determination that such alternatives would be
25 inappropriate or ineffective under the circumstances.

26 (1.5) RESTRAINT AND SECLUSION MUST NEVER BE USED:

27 (a) AS A PUNISHMENT OR DISCIPLINARY SANCTION;

1 (b) AS PART OF A TREATMENT PLAN OR BEHAVIOR MODIFICATION
2 PLAN;

3 (c) FOR THE PURPOSE OF RETALIATION BY STAFF; OR

4 (d) FOR THE PURPOSE OF PROTECTION, UNLESS:

5 (I) THE RESTRAINT OR SECLUSION IS ORDERED BY THE COURT; OR

6 (II) IN AN EMERGENCY, AS PROVIDED FOR IN SUBSECTION (1) OF
7 THIS SECTION.

8 (2) An agency that uses restraint OR SECLUSION pursuant to the
9 provisions of subsection (1) of this section shall use such restraint OR
10 SECLUSION:

11 (a) ~~FOR~~ ONLY FOR the purpose of preventing the continuation or
12 renewal of an emergency;

13 (b) ~~FOR~~ ONLY FOR the period of time necessary to accomplish its
14 purpose; and

15 (c) In the case of physical restraint, ~~using~~ ONLY IF no more force
16 than is necessary to limit the individual's freedom of movement IS USED.

17 (3) In addition to the circumstances described in subsection (1) of
18 this section, a facility, as defined in section 27-65-102 (7), C.R.S., that is
19 designated by the executive director of the STATE department of human
20 services to provide treatment pursuant to section 27-65-105, 27-65-106,
21 27-65-107, or 27-65-109, C.R.S., to ~~a person~~ AN INDIVIDUAL with mental
22 illness, as defined in section 27-65-102 (14), C.R.S., may use seclusion
23 to restrain ~~a person~~ AN INDIVIDUAL with a mental illness when the
24 seclusion is necessary to eliminate a continuous and serious disruption of
25 the treatment environment.

26 (4) (a) The general assembly recognizes that skilled nursing and
27 nursing care facilities that participate in federal medicaid programs are

1 subject to federal statutes and regulations concerning the use of restraint
2 in such facilities that afford protections from restraint in a manner
3 consistent with the purposes and policies set forth in this article.

4 (b) If the use of restraint OR SECLUSION in skilled nursing and
5 nursing care facilities licensed under state law is in accordance with the
6 federal statutes and regulations governing the medicare program set forth
7 in 42 U.S.C. sec. 1395i-3(c) and 42 CFR part 483, subpart B and the
8 medicaid program set forth in 42 U.S.C. sec. 1396r(c) and 42 CFR part
9 483, subpart B and with the rules of the department of public health and
10 environment relating to the licensing of these facilities, there shall be IS
11 a conclusive presumption that such use of restraint OR SECLUSION is in
12 accordance with the provisions of this article.

13 (5) (a) The general assembly recognizes that article 10.5 of title
14 27, C.R.S., AND ARTICLE 10 OF TITLE 25.5, C.R.S., and the rules
15 promulgated pursuant to the authority AUTHORITIES set forth in that article
16 THOSE ARTICLES, address the use of restraint on a person AN INDIVIDUAL
17 with a developmental disability.

18 (b) If any provision of this article concerning the use of restraint
19 OR SECLUSION conflicts with any provision concerning the use of restraint
20 OR SECLUSION stated in article 10.5 of title 27, C.R.S., ARTICLE 10 OF
21 TITLE 25.5, C.R.S., or any regulation RULE adopted pursuant thereto, the
22 provision of article 10.5 of title 27, C.R.S., ARTICLE 10 OF TITLE 25.5,
23 C.R.S., or the regulation RULE adopted pursuant thereto shall prevail
24 PREVAILS.

25 (6) The provisions of this article shall DO not apply to any agency
26 while engaged in transporting a person AN INDIVIDUAL from one facility
27 or location to another facility or location when it is within the scope of

1 that agency's powers and authority to effect such transportation.

2 **SECTION 4.** In Colorado Revised Statutes, **add 26-20-104.5** as
3 follows:

4 **26-20-104.5. Duties relating to use of seclusion by division of**
5 **youth corrections.** (1) NOTWITHSTANDING THE PROVISIONS OF SECTION
6 26-20-103 TO THE CONTRARY, IF THE DIVISION OF YOUTH CORRECTIONS
7 HOLDS A YOUTH IN SECLUSION IN ANY SECURE STATE-OPERATED OR
8 STATE-OWNED FACILITY:

9 (a) A STAFF MEMBER SHALL CHECK THE YOUTH'S SAFETY AT
10 VARYING INTERVALS, BUT AT LEAST EVERY FIFTEEN MINUTES;

11 (b) WITHIN ONE HOUR AFTER THE BEGINNING OF THE YOUTH'S
12 SECLUSION PERIOD, AND EVERY HOUR THEREAFTER, A STAFF MEMBER
13 SHALL NOTIFY THE FACILITY DIRECTOR OR HIS OR HER DESIGNEE OF THE
14 SECLUSION AND RECEIVE HIS OR HER WRITTEN APPROVAL OF THE
15 SECLUSION; AND

16 (c) WITHIN TWELVE HOURS AFTER THE BEGINNING OF THE YOUTH'S
17 SECLUSION PERIOD, THE DIVISION OF YOUTH CORRECTIONS SHALL NOTIFY
18 THE YOUTH'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN AND INFORM
19 THAT PERSON THAT THE YOUTH IS OR WAS IN SECLUSION AND THE REASON
20 FOR HIS OR HER SECLUSION.

21 (2) (a) A YOUTH PLACED IN SECLUSION BECAUSE OF AN ONGOING
22 EMERGENCY MUST NOT BE HELD IN SECLUSION BEYOND FOUR
23 CONSECUTIVE HOURS, UNLESS THE REQUIREMENTS OF PARAGRAPH (b) OF
24 THIS SUBSECTION (2) ARE SATISFIED.

25 (b) IF AN EMERGENCY SITUATION OCCURS THAT CONTINUES
26 BEYOND FOUR CONSECUTIVE HOURS, THE DIVISION OF YOUTH
27 CORRECTIONS MAY NOT CONTINUE THE USE OF SECLUSION FOR THAT

1 YOUTH UNLESS THE FOLLOWING CRITERIA ARE MET AND DOCUMENTED:

2 (I) A QUALIFIED MENTAL HEALTH PROFESSIONAL, OR, IF SUCH
3 PROFESSIONAL IS NOT AVAILABLE, THE FACILITY DIRECTOR OR HIS OR HER
4 DESIGNEE, DETERMINES THAT REFERRAL OF THE YOUTH IN SECLUSION TO
5 A MENTAL HEALTH FACILITY IS NOT WARRANTED; AND

6 (II) THE DIRECTOR OF THE DIVISION OF YOUTH CORRECTIONS, OR
7 HIS OR HER DESIGNEE, APPROVES AT OR BEFORE THE CONCLUSION OF FOUR
8 HOURS, AND EVERY HOUR THEREAFTER, THE CONTINUED USE OF
9 SECLUSION.

10 (c) A YOUTH MAY NOT BE HELD IN SECLUSION UNDER ANY
11 CIRCUMSTANCES FOR MORE THAN EIGHT TOTAL HOURS IN TWO
12 CONSECUTIVE CALENDAR DAYS WITHOUT A WRITTEN COURT ORDER.

13 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
14 THE DIVISION OF YOUTH CORRECTIONS MAY PLACE A YOUTH ALONE IN A
15 ROOM OR AREA FROM WHICH EGRESS IS INVOLUNTARILY PREVENTED IF
16 SUCH CONFINEMENT IS PART OF A ROUTINE PRACTICE THAT IS APPLICABLE
17 TO SUBSTANTIAL PORTIONS OF THE POPULATION. SUCH CONFINEMENT
18 MUST BE IMPOSED ONLY FOR THE COMPLETION OF ADMINISTRATIVE TASKS
19 AND SHOULD LAST NO LONGER THAN NECESSARY TO ACHIEVE THE TASK
20 SAFELY AND EFFECTIVELY.

21 **SECTION 5.** In Colorado Revised Statutes, **amend 26-20-105** as
22 follows:

23 **26-20-105. Staff training concerning the use of restraint and**
24 **seclusion - adults and youth.** (1) ~~All agencies~~ AN AGENCY THAT
25 UTILIZES RESTRAINT OR SECLUSION shall ensure that ALL staff INVOLVED
26 IN utilizing restraint OR SECLUSION in ITS facilities or programs are trained
27 in the appropriate use of restraint AND SECLUSION.

1 (1.5) THE DIVISION OF YOUTH CORRECTIONS SHALL ENSURE THAT
2 ALL STAFF INVOLVED IN UTILIZING RESTRAINT AND SECLUSION ARE
3 TRAINED IN:

4 (a) THE HEALTH AND BEHAVIORAL EFFECTS OF RESTRAINT AND
5 SECLUSION ON YOUTH, INCLUDING THOSE WITH MENTAL ILLNESS OR
6 DEVELOPMENTAL DISABILITIES;

7 (b) EFFECTIVE DE-ESCALATION TECHNIQUES FOR YOUTH IN CRISIS,
8 INCLUDING THOSE WITH MENTAL ILLNESS OR DEVELOPMENTAL
9 DISABILITIES;

10 (c) THE VALUE OF POSITIVE OVER NEGATIVE REINFORCEMENT IN
11 DEALING WITH YOUTH; AND

12 (d) METHODS FOR IMPLEMENTING POSITIVE BEHAVIOR INCENTIVES.

13 (2) All agencies THAT UTILIZE RESTRAINT OR SECLUSION shall
14 ensure that staff are trained to explain, where possible, the use of restraint
15 OR SECLUSION to the individual who is to be restrained OR SECLUDED and
16 to the individual's family if appropriate.

17 **SECTION 6.** In Colorado Revised Statutes, **amend** 26-20-106 as
18 follows:

19 **26-20-106. Documentation requirements for restraint and**
20 **seclusion - adults and youth.** (1) Each agency shall ensure that ~~an~~
21 ~~appropriate notation of~~ the use of restraint OR SECLUSION is documented
22 in the record of the individual WHO WAS restrained OR SECLUDED. Each
23 agency that is authorized to promulgate rules or adopt ordinances shall
24 promulgate rules or adopt ordinances applicable to the agencies within
25 their respective jurisdictions specifying the documentation requirements
26 for purposes of this section.

27 (2) THE DIVISION OF YOUTH CORRECTIONS SHALL MAINTAIN THE

1 FOLLOWING DOCUMENTATION EACH TIME A YOUTH IS PLACED IN
2 SECLUSION AS A RESULT OF AN EMERGENCY IN ANY SECURE
3 STATE-OPERATED OR STATE-OWNED FACILITY:

4 (a) THE DATE OF THE OCCURRENCE;

5 (b) THE RACE, AGE, AND GENDER OF THE INDIVIDUAL;

6 (c) THE REASON OR REASONS FOR SECLUSION, INCLUDING A
7 DESCRIPTION OF THE EMERGENCY AND THE SPECIFIC FACTS THAT
8 DEMONSTRATE THAT THE YOUTH POSED A SERIOUS, PROBABLE, AND
9 IMMINENT THREAT OF BODILY HARM TO HIMSELF, HERSELF, OR OTHERS,
10 AND THAT THERE WAS A PRESENT ABILITY TO EFFECT SUCH BODILY HARM;

11 (d) A DESCRIPTION OF DE-ESCALATION MEASURES TAKEN BY STAFF
12 AND THE RESPONSE, IF ANY, OF THE YOUTH IN SECLUSION TO THOSE
13 MEASURES;

14 (e) AN EXPLANATION OF WHY LESS RESTRICTIVE ALTERNATIVES
15 WERE UNSUCCESSFUL;

16 (f) THE TOTAL TIME IN SECLUSION;

17 (g) ANY INCIDENTS OF SELF-HARM OR SUICIDE THAT OCCURRED
18 WHILE THE YOUTH WAS IN SECLUSION;

19 (h) WITH RESPECT TO THE INTERACTIONS REQUIRED BY SECTION
20 26-20-104.5, DOCUMENTATION OF THE JUSTIFICATION FOR KEEPING THE
21 YOUTH IN SECLUSION AND SPECIFIC FACTS TO DEMONSTRATE THAT THE
22 EMERGENCY WAS ONGOING;

23 (i) THE FACILITY DIRECTOR OR HIS OR HER DESIGNEE'S APPROVAL
24 OF CONTINUED SECLUSION AT INTERVALS AS REQUIRED BY SECTION
25 26-20-104.5;

26 (j) DOCUMENTATION OF NOTIFICATION WITHIN TWELVE HOURS TO
27 THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN OF THE YOUTH IN

1 SECLUSION AS REQUIRED BY SECTION 26-20-104.5; AND

2 (k) THE WRITTEN APPROVAL BY THE DIRECTOR OF THE DIVISION OF
3 YOUTH CORRECTIONS FOR ANY SECLUSION THAT RESULTS FROM AN
4 EMERGENCY THAT EXTENDS BEYOND FOUR CONSECUTIVE HOURS, AS
5 REQUIRED BY SECTION 26-20-104.5. THIS WRITTEN APPROVAL MUST
6 INCLUDE DOCUMENTATION OF SPECIFIC FACTS TO DEMONSTRATE THAT THE
7 EMERGENCY WAS ONGOING AND SPECIFIC REASONS WHY A REFERRAL TO
8 A MENTAL HEALTH FACILITY WAS NOT WARRANTED.

9 (3) THE DIVISION OF YOUTH CORRECTIONS SHALL MAINTAIN THE
10 FOLLOWING DOCUMENTATION EACH TIME ONE OR MORE YOUTHS ARE
11 PLACED IN CONFINEMENT FOR ADMINISTRATIVE REASONS PURSUANT TO
12 SECTION 26-20-104.5 (3) IN A SECURE STATE-OPERATED OR STATE-OWNED
13 FACILITY:

14 (a) THE NUMBER OF YOUTH CONFINED;

15 (b) THE LENGTH OF TIME THE YOUTH OR YOUTHS WERE CONFINED;

16 AND

17 (c) THE REASON OR REASONS FOR THE CONFINEMENT.

18 (4) (a) ON OR BEFORE JANUARY 1, 2017, AND ON OR BEFORE JULY
19 1, 2017, AND EVERY JANUARY 1 AND JULY 1 THEREAFTER, THE DIVISION
20 OF YOUTH CORRECTIONS SHALL REPORT ON ITS USE OF SECLUSION IN ANY
21 SECURE STATE-OPERATED OR STATE-OWNED FACILITY TO THE YOUTH
22 SECLUSION WORKING GROUP ESTABLISHED IN SECTION 26-20-111. THE
23 JANUARY _____ REPORT MUST INCLUDE INFORMATION FROM MARCH 1
24 THROUGH AUGUST 31, AND THE JULY _____ REPORT MUST INCLUDE
25 INFORMATION FROM SEPTEMBER 1 THROUGH THE LAST DAY OF FEBRUARY.
26 THE REPORTS MUST INCLUDE THE FOLLOWING:

27 (I) AN INCIDENT REPORT ON ANY USE OF SECLUSION ON A YOUTH

1 DUE TO AN EMERGENCY FOR MORE THAN FOUR CONSECUTIVE HOURS, OR
2 FOR MORE THAN EIGHT TOTAL HOURS IN TWO CONSECUTIVE CALENDAR
3 DAYS. EACH INCIDENT REPORT MUST INCLUDE LENGTH OF SECLUSION,
4 SPECIFIC FACTS THAT DEMONSTRATE THAT THE EMERGENCY WAS
5 ONGOING, ANY INCIDENTS OF SELF-HARM WHILE IN SECLUSION, THE
6 REASONS WHY ATTEMPTS TO PROCESS THE YOUTH OUT OF SECLUSION
7 WERE UNSUCCESSFUL, AND ANY CORRECTIVE MEASURES TAKEN TO
8 PREVENT LENGTHY OR REPEAT PERIODS OF SECLUSION IN THE FUTURE. TO
9 PROTECT THE PRIVACY OF THE YOUTH, THE DIVISION OF YOUTH
10 CORRECTIONS SHALL REDACT ALL PRIVATE MEDICAL OR MENTAL HEALTH
11 INFORMATION AND PERSONAL IDENTIFYING INFORMATION, INCLUDING, IF
12 NECESSARY, THE FACILITY AT WHICH THE SECLUSION OCCURRED.

13 (II) A REPORT THAT LISTS THE FOLLOWING AGGREGATE
14 INFORMATION, BOTH AS COMBINED TOTALS AND TOTALS BY FACILITY FOR
15 ALL SECURE STATE-OPERATED OR STATE-OWNED FACILITIES:

16 (A) THE TOTAL NUMBER OF YOUTH HELD IN SECLUSION DUE TO AN
17 EMERGENCY;

18 (B) THE TOTAL NUMBER OF INCIDENTS OF SECLUSION DUE TO AN
19 EMERGENCY;

20 (C) THE AVERAGE TIME IN SECLUSION PER INCIDENT; AND

21 (D) AN AGGREGATE SUMMARY OF RACE, AGE, AND GENDER OF
22 YOUTH HELD IN SECLUSION; AND

23 == ==

24 (5) REPORTS PREPARED PURSUANT TO THIS SECTION MUST
25 MAINTAIN THE CONFIDENTIALITY OF ALL YOUTH. THE REPORTS MADE
26 PURSUANT TO THIS SECTION ARE AVAILABLE TO THE PUBLIC UPON
27 REQUEST.

1 (6) PRIOR TO JANUARY 1, 2018, THE DIVISION OF YOUTH
2 CORRECTIONS SHALL MEET THE REQUIREMENTS OF THIS SECTION TO THE
3 EXTENT THAT IT IS ABLE USING ITS CURRENT REPORTING MECHANISMS.
4 THE DIVISION OF YOUTH CORRECTIONS SHALL FULLY COMPLY WITH ALL
5 REQUIREMENTS OF THIS SECTION ON OR BEFORE JANUARY 1, 2018.

6 **SECTION 7.** In Colorado Revised Statutes, **amend** 26-20-107 as
7 follows:

8 **26-20-107. Review of the use of restraint and seclusion.** Each
9 AN agency THAT UTILIZES RESTRAINT OR SECLUSION shall ensure that a
10 review process is established for the appropriate use of restraint OR
11 SECLUSION.

12 **SECTION 8.** In Colorado Revised Statutes, **amend** 26-20-108 as
13 follows:

14 **26-20-108. Rules.** Each AN agency that is authorized to
15 promulgate rules or adopt ordinances shall promulgate rules or adopt
16 ordinances applicable to the agencies within their respective jurisdictions
17 that establish procedures for the use of restraint AND SECLUSION
18 consistent with the provisions of this article. Any agency that has rules or
19 ordinances in existence on April 22, 1999, is not required to promulgate
20 additional rules or adopt additional ordinances unless that agency's
21 existing rules or ordinances do not meet the minimum requirements of
22 this article.

23 **SECTION 9.** In Colorado Revised Statutes, **add** 26-20-110 as
24 follows:

25 **26-20-110. Youth seclusion working group - membership -**
26 **purpose - repeal.** (1) THERE IS ESTABLISHED WITHIN THE DIVISION OF
27 YOUTH CORRECTIONS A YOUTH SECLUSION WORKING GROUP, REFERRED TO

1 IN THIS SECTION AS THE "WORKING GROUP". THE WORKING GROUP
2 CONSISTS OF:

3 (a) THE DIRECTOR OF THE OFFICE OF CHILDREN, YOUTH, AND
4 FAMILIES IN THE DIVISION OF CHILD WELFARE WITHIN THE STATE
5 DEPARTMENT, OR HIS OR HER DESIGNEE. THE DIRECTOR SHALL CONVENE
6 THE WORKING GROUP AND SERVE AS CHAIR.

7 (b) THE DIRECTOR OF THE DIVISION OF YOUTH CORRECTIONS, OR
8 HIS OR HER DESIGNEE;

9 (c) THE DIRECTOR OF BEHAVIORAL HEALTH WITHIN THE DIVISION
10 OF YOUTH CORRECTIONS, OR HIS OR HER DESIGNEE;

11 (d) THE DIRECTOR OF THE OFFICE OF BEHAVIORAL HEALTH WITHIN
12 THE STATE DEPARTMENT, OR HIS OR HER DESIGNEE;

13 (e) AN EMPLOYEE OF THE DIVISION OF YOUTH CORRECTIONS WHO
14 IS A REPRESENTATIVE OF AN ORGANIZATION IN COLORADO THAT EXISTS
15 FOR THE PURPOSE OF DEALING WITH THE STATE AS AN EMPLOYER
16 CONCERNING ISSUES OF MUTUAL CONCERN BETWEEN EMPLOYEES AND THE
17 STATE, AS APPOINTED BY THE GOVERNOR;

18 (f) TWO REPRESENTATIVES FROM NONPROFIT ADVOCACY GROUPS
19 THAT WORK TO RESTRICT SECLUSION FOR YOUTH OR THAT REPRESENT
20 CHILDREN WITHIN THE CUSTODY OF THE DIVISION OF YOUTH CORRECTIONS,
21 ONE WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF
22 REPRESENTATIVES AND ONE WHO IS APPOINTED BY THE PRESIDENT OF THE
23 SENATE; AND

24 (g) TWO EXPERTS INDEPENDENT FROM THE DIVISION OF YOUTH
25 CORRECTIONS WITH EXPERTISE IN ADOLESCENT DEVELOPMENT,
26 ADOLESCENT BRAIN DEVELOPMENT, TRAUMA-INFORMED CARE OF
27 JUVENILES, POSITIVE BEHAVIOR INCENTIVES IN A JUVENILE CORRECTIONAL

1 SETTING, EVIDENCE-BASED DE-ESCALATION TECHNIQUES, OR THE
2 NEGATIVE EFFECTS OF SECLUSION ON THE ADOLESCENT BRAIN. THE
3 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT
4 ONE EXPERT AND THE MINORITY LEADER OF THE SENATE SHALL APPOINT
5 THE OTHER EXPERT.

6 (2) THE WORKING GROUP SHALL ADVISE THE DIVISION OF YOUTH
7 CORRECTIONS ON POLICIES, PROCEDURES, AND BEST PRACTICES RELATED
8 TO SECLUSION AND ALTERNATIVES TO SUCH SECLUSION.

9 (3) THE WORKING GROUP SHALL MONITOR THE DIVISION OF YOUTH
10 CORRECTIONS' USE OF CONFINEMENT FOR ADMINISTRATIVE PURPOSES. THE
11 DIVISION OF YOUTH CORRECTIONS SHALL SHARE WITH THE WORKING
12 GROUP, ON AN ONGOING BASIS, AVAILABLE DATA REGARDING TIME SPENT
13 IN CONFINEMENT BY YOUTH FOR ADMINISTRATIVE REASONS, AS DESCRIBED
14 IN SECTION 26-20-104.5 (3), IN ANY SECURE STATE-OPERATED AND
15 STATE-OWNED FACILITY. IF NECESSARY, THE WORKING GROUP MAY MAKE
16 RECOMMENDATIONS TO THE DIVISION OF YOUTH CORRECTIONS AND THE
17 PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
18 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
19 THE SENATE, OR ANY SUCCESSOR COMMITTEES, ABOUT THE USE OF
20 CONFINEMENT FOR ADMINISTRATIVE PURPOSES.

21 (4) THE WORKING GROUP MAY REQUEST, ON A SEMIANNUAL BASIS,
22 INFORMATION AND DATA FROM THE STATE DEPARTMENT ON THE STATUS
23 OF THE DIVISION OF YOUTH CORRECTIONS' WORK RELATED TO THE
24 SECLUSION OF YOUTH IN THEIR CARE AND CUSTODY.

25 (5) THE CHAIR OF THE WORKING GROUP SHALL CONVENE THE
26 WORKING GROUP'S FIRST MEETING NO LATER THAN AUGUST 1, 2016. THE
27 WORKING GROUP MUST MEET AT LEAST SEMI-ANNUALLY THEREAFTER. THE

1 CHAIR SHALL SCHEDULE AND CONVENE SUBSEQUENT MEETINGS.

2 (6) THE CHAIR SHALL PROVIDE THE WORKING GROUP WITH
3 SEMIANNUAL UPDATES ON THE DIVISION OF YOUTH CORRECTIONS' POLICIES
4 RELATED TO SECLUSION AND ALTERNATIVES TO SECLUSION.

5 (7) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

6 (b) PRIOR TO THE REPEAL, THE WORKING GROUP SHALL BE
7 REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

8 **SECTION 10.** In Colorado Revised Statutes, 2-3-1203, **add** (3)
9 (kk) (V) as follows:

10 **2-3-1203. Sunset review of advisory committees.** (3) The
11 following dates are the dates on which the statutory authorization for the
12 designated advisory committee is scheduled for repeal:

13 (kk) September 1, 2024:

14 (V) THE YOUTH SECLUSION WORKING GROUP IN THE DIVISION OF
15 YOUTH CORRECTIONS CREATED IN SECTION 26-20-110, C.R.S.;

16 **SECTION 11. Appropriation.** (1) For the 2016-17 state fiscal
17 year, \$4,900 is appropriated to the department of human services. This
18 appropriation is from the general fund. To implement this act, the
19 department may use this appropriation for the purchase of legal services:

20 (2) For the 2016-17 state fiscal year, \$4,900 is appropriated to the
21 department of law. This appropriation is from reappropriated funds
22 received from the department of human services in subsection (1) of this
23 section. To implement this act, the department of law may use this
24 appropriation to provide legal services for the department of human
25 services.

26 **SECTION 12. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.