

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

REVISED

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

LLS NO. 23-0252.01 Jacob Baus x2173

SENATE BILL 23-039

SENATE SPONSORSHIP

Buckner, Bridges, Coleman, Cutter, Danielson, Fenberg, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Marchman, Moreno, Mullica, Priola, Sullivan, Winter F.

HOUSE SPONSORSHIP

Amabile,

Senate Committees

Judiciary
Appropriations

House Committees

Public & Behavioral Health & Human Services
Appropriations

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.**

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.

HOUSE
Amended 2nd Reading
April 19, 2023

SENATE
Amended 3rd Reading
March 24, 2023

SENATE
Amended 2nd Reading
March 23, 2023

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.

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;

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; and

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

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

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

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

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

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

23 **19-3-202. Right to counsel and jury trial.** (1) At the first
24 appearance of a respondent parent, guardian, or legal custodian, the court
25 shall fully advise the respondent of ~~his or her~~ THE RESPONDENT'S legal
26 rights, including the right to a jury trial, the right to be represented by
27 counsel at every stage of the proceedings, and the right to seek the

1 appointment of counsel through the office of respondent parents' counsel
2 established in section 13-92-103, ~~C.R.S.~~, if the respondent is unable to
3 financially secure counsel on ~~his or her~~ THE RESPONDENT'S own. THE
4 COURT SHALL APPOINT COUNSEL FOR A RESPONDENT WHO IS
5 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE
6 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF
7 CORRECTIONS, OR A JAIL; HELD IN FEDERAL CUSTODY; OR INVOLUNTARILY
8 COMMITTED, UNLESS THE COURT DETERMINES THE RESPONDENT IS ABLE
9 TO FINANCIALLY SECURE COUNSEL ON THE RESPONDENT'S OWN OR THE
10 RESPONDENT CHOOSES TO PROCEED WITHOUT COUNSEL. The court shall
11 fully explain to the respondent the informational notice of rights and
12 remedies for families prepared pursuant to section 19-3-212 and shall
13 recommend that the respondent discuss such notice with ~~his or her~~ THE
14 RESPONDENT'S counsel. Further, the court shall advise the respondent of
15 the minimum and maximum time frames for the dependency and neglect
16 process, including the minimum and maximum time frames for
17 adjudication, disposition, and termination of parental rights for a child
18 who is under six years of age at the time the petition is filed in a county
19 designated pursuant to section 19-1-123. Nothing in this section limits the
20 power of the court to appoint counsel prior to the filing of a petition for
21 good cause.

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

24 **19-3-502. Petition form and content - limitations on claims in**
25 **dependency or neglect actions.** (5.5) (a) A PERSON NAMED A
26 RESPONDENT IS A PARTY TO THE PROCEEDINGS AND HAS THE RIGHT AND
27 RESPONSIBILITY TO ATTEND AND FULLY PARTICIPATE IN ALL PROCEEDINGS

1 RELATED TO THE RESPONDENT. A RESPONDENT'S FAILURE TO APPEAR FOR
2 A HEARING DOES NOT CONSTITUTE A VIOLATION OF THE RESPONDENT'S
3 DUE PROCESS RIGHTS AND NOTHING IN THIS SECTION PROHIBITS THE COURT
4 FROM PROCEEDING IF A RESPONDENT FAILS TO APPEAR. == ==

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

1 INFORM THE LITIGATION COORDINATOR.

2 (II) IF THE PERSONAL ATTENDANCE WRIT ISSUED BY THE COURT
3 PURSUANT TO SUBSECTION (5.5)(b)(I) OF THIS SECTION IS NOT HONORED,
4 THE COURT MUST PERMIT THE RESPONDENT TO ATTEND AND PARTICIPATE
5 IN A HEARING THROUGH AUDIO-VISUAL COMMUNICATION TECHNOLOGY.

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

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

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

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

27 **SECTION 5.** In Colorado Revised Statutes, 19-3-507, **add** (1)(d)

1 ___ as follows:

2 **19-3-507. Dispositional hearing - rules.** (1) (d) (I) IF A CHILD IS
3 ELIGIBLE FOR SERVICES PURSUANT TO SECTION 19-3-208, AND THE CHILD'S
4 PARENT IS INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY,
5 A PRIVATE CORRECTIONAL FACILITY UNDER CONTRACT WITH THE
6 DEPARTMENT OF CORRECTIONS, OR A JAIL, THEN PRIOR TO ANY
7 DISPOSITIONAL HEARING, THE COUNTY DEPARTMENT, UPON KNOWLEDGE
8 OF THE INCARCERATION, SHALL MAKE REASONABLE EFFORTS TO INVOLVE
9 THE PARENT WHO IS INCARCERATED IN PLANNING THE SERVICES FOR THE
10 CHILD, OR DOCUMENT THE CASEWORKER'S EFFORTS TO INCLUDE THE
11 PARENT WHO IS INCARCERATED IN THE PLANNING. REASONABLE EFFORTS
12 INCLUDE:

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

17 (B) OPPORTUNITIES FOR MEANINGFUL ___ FAMILY TIME BETWEEN
18 THE CHILD AND PARENT. IF IN-PERSON FAMILY TIME IS NOT REASONABLY
19 PRACTICABLE, THE CASEWORKER SHALL COMMUNICATE WITH THE
20 FACILITY OR JAIL REGARDING THE FACILITY'S OR JAIL'S ABILITY TO
21 FACILITATE FAMILY TIME BETWEEN THE CHILD AND PARENT THROUGH
22 AUDIO-VISUAL COMMUNICATION TECHNOLOGY AND ARRANGE FOR
23 AVAILABLE VIRTUAL FAMILY TIME. ___ THE COURT SHALL CONSIDER THE
24 PREFERENCES OF THE CHILD AND PARENT WHEN DETERMINING WHETHER
25 IN-PERSON FAMILY TIME SHOULD OCCUR. NOTHING IN THIS SUBSECTION
26 (1)(d) REQUIRES THE COURT TO ORDER FAMILY TIME IF A PROTECTION
27 ORDER PROHIBITS CONTACT BETWEEN THE CHILD AND THE PARENT, OR IF

1 THE COURT DETERMINES THAT FAMILY TIME WOULD JEOPARDIZE THE
2 CHILD'S MENTAL, EMOTIONAL, OR PHYSICAL HEALTH. THE COURT SHALL
3 NOT DETERMINE THAT FAMILY TIME IS NOT IN THE CHILD'S BEST INTERESTS
4 BASED SOLELY ON THE FACT THAT IN-PERSON FAMILY TIME WOULD OCCUR
5 IN A FACILITY OR JAIL; AND

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

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

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

11 **19-3-508. Neglected or dependent child - disposition -**
12 **concurrent planning - definition.** (1) When a child has been
13 adjudicated to be neglected or dependent, the court may enter a decree of
14 disposition the same day, but in any event it shall do so within forty-five
15 days unless the court finds that the best interests of the child will be
16 served by granting a delay. In a county designated pursuant to section
17 19-1-123, if the child is under six years of age at the time a petition is
18 filed in accordance with section 19-3-501 (2), the court shall enter a
19 decree of disposition within thirty days after the adjudication and shall not
20 grant a delay unless good cause is shown and unless the court finds that
21 the best interests of the child will be served by granting the delay. It is the
22 intent of the general assembly that the dispositional hearing be held on the
23 same day as the adjudicatory hearing, whenever possible. If a delay is
24 granted, the court shall set forth the reasons why a delay is necessary and
25 the minimum amount of time needed to resolve the reasons for the delay
26 and shall schedule the hearing at the earliest possible time following the
27 delay. When the proposed disposition is termination of the parent-child

1 legal relationship, the hearing on termination must not be held on the
2 same date as the adjudication, and the time limits set forth above for
3 dispositional hearings do not apply. When the proposed disposition is
4 termination of the parent-child legal relationship, the court may continue
5 the dispositional hearing to the earliest available date for a hearing in
6 accordance with the provisions of subsection (3)(a) of this section and
7 part 6 of this article 3. When the decree does not terminate the
8 parent-child legal relationship, the court shall approve an appropriate
9 treatment plan that must include but not be limited to one or more of the
10 following provisions of subsections (1)(a) to (1)(d) of this section:

11 (e)(I) Except where the proposed disposition is termination of the
12 parent-child legal relationship, THE CASEWORKER ASSIGNED TO THE CASE
13 SHALL SUBMIT AN APPROPRIATE TREATMENT PLAN AND the court shall
14 approve an appropriate treatment plan involving the child named and each
15 respondent named and served in the action. IF A CHILD'S PARENT IS
16 INCARCERATED IN A DEPARTMENT OF CORRECTIONS FACILITY, A PRIVATE
17 CORRECTIONAL FACILITY UNDER CONTRACT WITH THE DEPARTMENT OF
18 CORRECTIONS, OR A JAIL, THE CASEWORKER ASSIGNED TO THE CASE, UPON
19 KNOWLEDGE OF THE INCARCERATION, SHALL INCLUDE INFORMATION IN
20 THE REPORT THAT DETAILS THE SERVICES AND TREATMENT AVAILABLE TO
21 A PARENT AT THE FACILITY OR JAIL WHERE THE PARENT IS INCARCERATED
22 OR THE CASEWORKER'S EFFORTS TO OBTAIN THAT INFORMATION. THE
23 COUNTY DEPARTMENT SHALL COMMUNICATE WITH THE FACILITY OR JAIL
24 WHERE THE PARENT IS INCARCERATED REGARDING THE REQUIREMENTS OF
25 THE COURT-ORDERED TREATMENT PLAN. However, the court may find that
26 an appropriate treatment plan cannot be devised as to a particular
27 respondent because the child has been abandoned as set forth in section

1 19-3-604 (1)(a) and the parents cannot be located, or because the child
2 has been adjudicated as neglected or dependent based upon section
3 19-3-102 (2), or due to the unfitness of the parents as set forth in section
4 19-3-604 (1)(b). When the court finds that an appropriate treatment plan
5 cannot be devised, the court shall conduct a permanency hearing as set
6 forth in section 19-3-702 (1), unless a motion for termination of parental
7 rights has been filed within thirty days after the court's finding. ___

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

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

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

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

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

11

==

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

14 **19-3-702. Permanency hearing.** (4) (e) If the court finds that
15 there is not a substantial probability that the child or youth will be
16 returned to a parent or legal guardian within six months and the child or
17 youth appears to be adoptable and meets the criteria for adoption in
18 section 19-5-203, the court may order the county department of human or
19 social services to show cause why it should not file a motion to terminate
20 the parent-child legal relationship pursuant to part 6 of this article 3.
21 Cause may include, but is not limited to, any of the following conditions:

22 (III) The child's foster parents are unable to adopt the child
23 because of exceptional circumstances that do not include an
24 unwillingness to accept legal responsibility for the child. The foster
25 parents must be willing and capable of providing the child with a stable
26 and permanent environment, and it must be shown that removal of the
27 child from the physical custody of his or her foster parents would be

1 seriously detrimental to the emotional well-being of the child. ~~or~~
2 (IV) The criteria for termination in section 19-3-604 have not yet
3 been met; OR

4 (V) IF THE PARENT:

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

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

11 (7) (a) IF A CHILD'S PARENT IS INCARCERATED IN A DEPARTMENT
12 OF CORRECTIONS FACILITY, A PRIVATE CORRECTIONAL FACILITY UNDER
13 CONTRACT WITH THE DEPARTMENT OF CORRECTIONS, OR A JAIL, AND THE
14 PARENT HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP WITH
15 THE CHILD WHILE INCARCERATED, THE COURT SHALL MAKE FINDINGS
16 REGARDING WHETHER A PERMANENT PLACEMENT FOR THE CHILD EXISTS
17 THAT PERMITS THE PARENT TO MAINTAIN A RELATIONSHIP WITH THE
18 CHILD, INCLUDING GUARDIANSHIP OR ALLOCATION OF PARENTAL
19 RESPONSIBILITIES, GIVING PRIMARY CONSIDERATION TO THE CHILD'S
20 MENTAL, PHYSICAL, AND EMOTIONAL NEEDS. IF THE PROPOSED
21 PERMANENT PLACEMENT WOULD REQUIRE THE CHILD TO TRANSFER TO
22 ANOTHER PLACEMENT, THE COURT SHALL CONSIDER THE FACTORS IN
23 SUBSECTION (6) OF THIS SECTION IN MAKING ITS DETERMINATION.

24 (b) IN MAKING A DETERMINATION WHETHER THE PARENT WHO IS
25 INCARCERATED HAS MAINTAINED A MEANINGFUL AND SAFE RELATIONSHIP
26 WITH THE CHILD, THE COURT SHALL GIVE PRIMARY CONSIDERATION TO THE
27 CHILD'S MENTAL, EMOTIONAL, AND PHYSICAL NEEDS, AND WHETHER THE

1 INVOLVEMENT OF THE PARENT WHO IS INCARCERATED IN THE CHILD'S LIFE
2 SERVES THE CHILD'S BEST INTERESTS. THE COURT SHALL NOT FIND THAT
3 THE PARENT'S INCARCERATION IS THE SOLE REASON THAT A RELATIONSHIP
4 WITH THE PARENT IS NOT IN THE CHILD'S BEST INTERESTS, AND SHALL
5 CONSIDER THE PARENT'S EFFORTS TO COMPLY WITH THE TREATMENT PLAN
6 UNDER THE CIRCUMSTANCES OF INCARCERATION.

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

9 **16-11-102. Presentence or probation investigation.** (1.2) EACH
10 PRESENTENCE REPORT MUST INCLUDE INFORMATION INDICATING WHETHER
11 THE PERSON IS A RESPONDENT IN AN OPEN DEPENDENCY AND NEGLECT
12 PROCEEDING PURSUANT TO ARTICLE 3 OF TITLE 19.

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

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

24 **17-42-105. Incarcerated parents - notification to court -**
25 **mittimus - family services coordinator - report - policies.**
26 (1) (a) PURSUANT TO SECTION 19-3-502 (5.5)(c), A REPRESENTATIVE OF
27 THE FACILITY WHERE THE RESPONDENT IS INCARCERATED SHALL, WHEN

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

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

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

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

25 (b) NOTIFY THE COUNTY DEPARTMENT OF HUMAN SERVICES
26 WHERE THE DEPENDENCY AND NEGLECT CASE IS FILED OF THE LOCATION
27 OF THE PARENT'S CORRECTIONAL FACILITY AND THE CONTACT

1 INFORMATION FOR THE DESIGNATED INDIVIDUAL WITHIN THE LEGAL
2 SERVICES UNIT NOT LATER THAN FOURTEEN DAYS AFTER THE PARENT'S
3 ARRIVAL AT THE FACILITY.

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

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

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

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

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

27 (5) (a) ON OR BEFORE MARCH 1, 2024, AND ON OR BEFORE MARCH

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

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

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

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

24 (6) THE DEPARTMENT SHALL ENSURE THAT DEPARTMENTAL
25 POLICIES:

26 (a) FACILITATE COMMUNICATION AND FAMILY TIME BETWEEN
27 CHILDREN AND THEIR PARENTS WHO ARE INCARCERATED IN A

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

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

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

21 **30-10-528. Incarcerated parents - family services coordinator.**
22 **EACH SHERIFF SHALL DESIGNATE AT LEAST ONE INDIVIDUAL TO SERVE AS**
23 **A COMMUNICATION LIAISON BETWEEN THE COUNTY JAIL AND COUNTY**
24 **DEPARTMENTS OF HUMAN SERVICES CONCERNING CHILDREN SUBJECT TO**
25 **AN OPEN DEPENDENCY AND NEGLECT CASE WHOSE PARENTS ARE**
26 **INCARCERATED IN THE JAIL FOR THE PURPOSE OF IMPROVING**
27 **COMMUNICATION AND ENSURING OPPORTUNITIES FOR FAMILY TIME.**

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

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

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

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

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

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

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

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

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

22 (3) For the 2023-24 state fiscal year, the general assembly
23 anticipates that the department of human services will receive \$4,481 in
24 federal funds for use by the division of child welfare to implement this
25 act, which amount is subject to the "(I)" notation as defined in the annual
26 general appropriation act for the same fiscal year. The appropriation in
27 subsection (2) of this section is based on the assumption that the division

1 will receive this amount of federal funds to be used as follows:
2 (a) \$1,404 for administration; and
3 (b) \$3,077 for Colorado TRAILS.
4 (4) For the 2023-24 state fiscal year, \$7,425 is appropriated to the
5 judicial department for use by the trial courts. This appropriation is from
6 the general fund, and is based on an assumption that the department will
7 require an additional 0.1 FTE. To implement this act, the office may use
8 this appropriation for trial court programs.

9 **SECTION 13. Effective date.** This act takes effect January 1,
10 2024.

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