

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

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BILL 5

LLS NO. 23-0162.03 Jacob Baus x2173

INTERIM COMMITTEE BILL

**Legislative Oversight Committee Concerning the Treatment of Persons
with Behavioral Health Disorders in the Criminal and Juvenile Justice
Systems**

BILL TOPIC: "Use Of Restrictive Practices In Prisons"

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REGULATE THE USE OF RESTRICTIVE**
102 **PRACTICES ON INDIVIDUALS IN CORRECTIONAL FACILITIES.**

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/>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. The bill prohibits the use of a clinical restraint on an individual, unless:

- The use is to prevent the individual from committing imminent and serious harm to the individual's self or

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

another person, based on immediately present evidence and circumstances;

- All less restrictive interventions have been exhausted; and
- The clinical restraint is ordered by a licensed psychiatrist or licensed psychologist.

The bill requires facilities that utilize clinical restraints to implement procedures to ensure frequent and consistent monitoring for the individual subjected to the clinical restraint and uniform documentation procedures concerning the use of the clinical restraint.

The bill limits the amount of time an individual may be subjected to a clinical restraint per each restraint episode and within a calendar year.

The bill prohibits the use of an involuntary chemical restraint on an individual, unless:

- The individual is determined to be dangerous to the individual's self or another person and the treatment is in the individual's medical interest;
- All less restrictive alternative interventions have been exhausted; and
- The clinical restraint is administered after exhaustion of procedural requirements that ensure a hearing, opportunity for review, and right to counsel.

The bill requires the department of corrections (department) to submit an annual report to the judiciary committees of the senate and house of representatives with data concerning the use of clinical restraints and involuntary chemical restraints in the preceding calendar year.

The bill requires the department to include specific data concerning the placement of individuals in settings with heightened restrictions in its annual administrative segregation report.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 17-1-167 as
3 follows:

4 **17-1-167. Use of restraints for state inmates - criteria -**
5 **documentation - intake assessment - rules - report - definitions.**

6 (1) (a) SUBJECT TO THE PROVISIONS OF THIS SECTION, A FACILITY SHALL
7 NOT USE A CLINICAL RESTRAINT ON AN INDIVIDUAL, UNLESS:

8 (I) THE USE IS TO PREVENT THE INDIVIDUAL FROM COMMITTING
9 IMMINENT AND SERIOUS HARM TO THE INDIVIDUAL'S SELF OR ANOTHER

1 PERSON, BASED ON IMMEDIATELY PRESENT EVIDENCE AND
2 CIRCUMSTANCES;

3 (II) THE FACILITY HAS EXHAUSTED ALL LESS RESTRICTIVE
4 ALTERNATIVE INTERVENTIONS; AND

5 (III) THE RESTRAINT IS ORDERED BY A LICENSED PSYCHIATRIST OR
6 LICENSED PSYCHOLOGIST.

7 (b) A FACILITY SHALL NOT USE A CLINICAL RESTRAINT ON AN
8 INDIVIDUAL FOR LONGER THAN IS NECESSARY TO PREVENT THE
9 INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS HARM TO THE
10 INDIVIDUAL'S SELF OR ANOTHER PERSON.

11 (c) A LICENSED PSYCHIATRIST, LICENSED PSYCHOLOGIST,
12 QUALIFIED HEALTH-CARE PROVIDER, OR ANY PERSON EMPLOYED BY THE
13 FACILITY SHALL TERMINATE THE ORDER WHEN THE BEHAVIORS
14 NECESSITATING THE CLINICAL RESTRAINT ARE NO LONGER EVIDENT AND
15 THE CRITERIA OUTLINED BY THE CLINICAL RESTRAINT ORDER ARE
16 SATISFIED OR, IF THE TIME LIMITATIONS PURSUANT TO SUBSECTION (2)(c)
17 OR (3)(f) OF THIS SECTION ARE REACHED, WHICHEVER OCCURS FIRST.

18 (2) (a) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON
19 MAY USE A CLINICAL AMBULATORY RESTRAINT ON AN INDIVIDUAL; EXCEPT
20 THAT THE RESTRAINT MUST NOT BE CONSTRUCTED OF METAL OR HARD
21 PLASTIC OR HAVE A BELLY CHAIN OR PADLOCK.

22 (b) (I) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON
23 SHALL NOT USE A CLINICAL AMBULATORY RESTRAINT ON AN INDIVIDUAL
24 FOR MORE THAN:

25 (A) TWELVE HOURS PER EPISODE; AND

26 (B) TWO HUNDRED FORTY HOURS TOTAL ACROSS ALL EPISODES IN
27 ONE YEAR.

1 (II) THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON
2 SHALL NOT RESTART THE TIME CALCULATION TO START A NEW EPISODE IF
3 THE INDIVIDUAL IS TEMPORARILY RELEASED FROM A CLINICAL
4 AMBULATORY RESTRAINT NOT FOR THE PURPOSE OF TERMINATING THE
5 CLINICAL AMBULATORY RESTRAINT ORDER. THE TIME AN INDIVIDUAL IS
6 TEMPORARILY RELEASED FROM A CLINICAL AMBULATORY RESTRAINT NOT
7 FOR A PURPOSE OF TERMINATING THE CLINICAL AMBULATORY RESTRAINT
8 ORDER SUSPENDS THE CALCULATION OF TIME PURSUANT TO SUBSECTION
9 (2)(c)(I) OF THIS SECTION.

10 (c)(I) AN INITIAL CLINICAL AMBULATORY RESTRAINT ORDER MUST
11 NOT EXCEED TWO HOURS. A LICENSED PSYCHIATRIST OR LICENSED
12 PSYCHOLOGIST SHALL ASSESS THE INDIVIDUAL SUBJECTED TO THE
13 RESTRAINT TO DETERMINE WHETHER TO TERMINATE OR CONTINUE THE
14 ORDER AT LEAST ONCE EVERY HOUR.

15 (II) IF THE LICENSED PSYCHIATRIST OR LICENSED PSYCHOLOGIST
16 CONTINUES THE INITIAL CLINICAL AMBULATORY RESTRAINT ORDER, THE
17 LICENSED PSYCHIATRIST OR LICENSED PSYCHOLOGIST SHALL ASSESS THE
18 INDIVIDUAL SUBJECT TO THE RESTRAINT TO DETERMINE WHETHER TO
19 TERMINATE OR CONTINUE THE ORDER AT LEAST ONCE EVERY HOUR.

20 (III) AT EACH ASSESSMENT PURSUANT TO SUBSECTIONS (2)(d)(I)
21 AND (2)(d)(II) OF THIS SECTION, THE LICENSED PSYCHIATRIST OR LICENSED
22 PSYCHOLOGIST SHALL:

23 (A) MAKE A NEW DETERMINATION WHETHER THE ORDER TO
24 CONTINUE RESTRAINT IS NECESSARY TO PREVENT THE INDIVIDUAL FROM
25 COMMITTING IMMINENT AND SERIOUS HARM TO THE INDIVIDUAL'S SELF OR
26 ANOTHER PERSON, BASED ON THE IMMEDIATELY PRESENT EVIDENCE AND
27 CIRCUMSTANCES;

1 (B) DETERMINE WHETHER A LESS RESTRICTIVE ALTERNATIVE
2 INTERVENTION IS MORE APPROPRIATE THAN THE USE OF A CLINICAL
3 AMBULATORY RESTRAINT; AND

4 (C) MODIFY THE ORDER TO REFLECT SPECIFIC BEHAVIORAL
5 CRITERIA THE INDIVIDUAL MUST EXHIBIT IN ORDER FOR THE RESTRAINT TO
6 BE REMOVED, AS APPROPRIATE.

7 (3) (a) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON
8 SHALL NOT USE A CLINICAL FOUR-POINT RESTRAINT ON AN INDIVIDUAL;
9 EXCEPT THAT A QUALIFIED FACILITY MAY USE A CLINICAL FOUR-POINT
10 RESTRAINT ON AN INDIVIDUAL.

11 (b) A QUALIFIED FACILITY SHALL NOT USE A CLINICAL FOUR-POINT
12 RESTRAINT CONSTRUCTED OF METAL OR HARD PLASTIC, OR HAS A BELLY
13 CHAIN OR PADLOCK. A QUALIFIED FACILITY SHALL USE A CLINICAL
14 FOUR-POINT RESTRAINT ON A BED WITH A MATTRESS.

15 (c) A QUALIFIED FACILITY SHALL NOT USE A HELMET OR DIAPER ON
16 AN INDIVIDUAL SUBJECTED TO A CLINICAL FOUR-POINT RESTRAINT.

17 (d) A QUALIFIED FACILITY SHALL NOT RESTRAIN AN INDIVIDUAL
18 SUBJECT TO A CLINICAL FOUR-POINT RESTRAINT IN A PRONE POSITION. A
19 QUALIFIED FACILITY SHALL CONSIDER THE INDIVIDUAL'S PREEXISTING
20 MEDICAL CONDITIONS OR PHYSICAL DISABILITIES OR LIMITATIONS THAT
21 MAY INCREASE THE RISK OF INJURY TO THE INDIVIDUAL DURING A
22 CLINICAL RESTRAINT EPISODE AND RESTRAIN THE INDIVIDUAL IN A
23 MANNER THAT MINIMIZES THE INDIVIDUAL'S DISCOMFORT AND RISK OF
24 INJURY OR COMPLICATION. THE QUALIFIED FACILITY SHALL NOTIFY THE
25 INDIVIDUAL SUBJECTED TO THE CLINICAL FOUR-POINT RESTRAINT THAT
26 THE INDIVIDUAL MAY REQUEST REPOSITIONING AT ANY TIME TO MINIMIZE
27 DISCOMFORT; EXCEPT THAT PRONE POSITIONING MUST NEVER BE

1 PERMITTED.

2 (e) AT LEAST EVERY TWO HOURS, A QUALIFIED FACILITY SHALL
3 RELEASE AN INDIVIDUAL SUBJECTED TO A CLINICAL FOUR-POINT
4 RESTRAINT TO PROVIDE NOT LESS THAN TEN MINUTES FOR THE PERSON TO
5 MOVE FREELY.

6 (f) (I) A QUALIFIED FACILITY SHALL NOT USE A CLINICAL
7 FOUR-POINT RESTRAINT ON AN INDIVIDUAL FOR MORE THAN:

8 (A) FOUR HOURS PER EPISODE; AND

9 (B) TWO HUNDRED FORTY HOURS IN ONE YEAR.

10 (II) THE QUALIFIED FACILITY SHALL NOT RESTART THE TIME
11 CALCULATION TO START A NEW EPISODE IF THE INDIVIDUAL IS
12 TEMPORARILY RELEASED FROM A CLINICAL FOUR-POINT RESTRAINT NOT
13 FOR THE PURPOSE OF TERMINATING THE CLINICAL FOUR-POINT RESTRAINT
14 ORDER. THE TIME AN INDIVIDUAL IS TEMPORARILY RELEASED FROM A
15 CLINICAL RESTRAINT FOR THE PURPOSE OF TERMINATING THE CLINICAL
16 FOUR-POINT RESTRAINT ORDER SUSPENDS THE CALCULATION OF TIME
17 PURSUANT TO SUBSECTION (3)(f)(I) OF THIS SECTION.

18 (g) (I) AN INITIAL ORDER FOR CLINICAL FOUR-POINT RESTRAINT
19 MUST NOT EXCEED THIRTY MINUTES. A LICENSED PSYCHIATRIST OR
20 LICENSED PSYCHOLOGIST SHALL ASSESS THE INDIVIDUAL SUBJECT TO THE
21 CLINICAL FOUR-POINT RESTRAINT TO DETERMINE WHETHER TO TERMINATE
22 OR CONTINUE THE ORDER AT LEAST ONCE DURING THE INITIAL
23 THIRTY-MINUTE PERIOD.

24 (II) IF THE LICENSED PSYCHIATRIST OR LICENSED PSYCHOLOGIST
25 CONTINUES THE INITIAL ORDER, A LICENSED PSYCHIATRIST OR LICENSED
26 PSYCHOLOGIST SHALL ASSESS THE INDIVIDUAL SUBJECT TO THE CLINICAL
27 FOUR-POINT RESTRAINT TO DETERMINE WHETHER TO TERMINATE OR

1 CONTINUE THE ORDER AT LEAST ONCE EVERY HOUR.

2 (III) AT EACH ASSESSMENT PURSUANT TO SUBSECTIONS (3)(g)(I)
3 AND (3)(g)(II) OF THIS SECTION, THE LICENSED PSYCHIATRIST OR LICENSED
4 PSYCHOLOGIST SHALL:

5 (A) MAKE A NEW DETERMINATION WHETHER THE ORDER TO
6 CONTINUE RESTRAINT IS NECESSARY TO PREVENT THE INDIVIDUAL FROM
7 COMMITTING IMMINENT AND SERIOUS HARM TO THE INDIVIDUAL'S SELF OR
8 ANOTHER PERSON, BASED ON THE IMMEDIATELY PRESENT EVIDENCE AND
9 CIRCUMSTANCES;

10 (B) DETERMINE WHETHER A LESS RESTRICTIVE ALTERNATIVE
11 INTERVENTION IS MORE APPROPRIATE THAN THE USE OF A CLINICAL
12 FOUR-POINT RESTRAINT; AND

13 (C) MODIFY THE ORDER TO REFLECT SPECIFIC BEHAVIORAL
14 CRITERIA THE INDIVIDUAL MUST EXHIBIT IN ORDER FOR THE RESTRAINT TO
15 BE REMOVED, AS APPROPRIATE.

16 (4) AT LEAST EVERY FIFTEEN MINUTES, A QUALIFIED HEALTH-CARE
17 PROVIDER SHALL EXAMINE THE INDIVIDUAL SUBJECTED TO A CLINICAL
18 RESTRAINT, AT A MINIMUM:

19 (I) TO ENSURE THE INDIVIDUAL'S CIRCULATION IS UNRESTRICTED,
20 BREATHING IS NOT COMPROMISED, AND OTHER PHYSICAL NEEDS ARE
21 SATISFIED;

22 (II) TO ENSURE THE INDIVIDUAL IS PROPERLY POSITIONED IN THE
23 RESTRAINT;

24 (III) TO OFFER THE INDIVIDUAL FLUIDS AND TOILET ACCESS, AND
25 TO PROVIDE FLUIDS AND TOILET ACCESS IF REQUESTED BY THE
26 INDIVIDUAL;

27 (IV) TO MONITOR THE EFFECT OF MEDICATION ON THE INDIVIDUAL,

1 IF APPLICABLE; AND

2 (V) TO MONITOR WHETHER THE INDIVIDUAL IS EXHIBITING
3 BEHAVIORS REQUIRING THE CONTINUATION OR TERMINATION OF THE
4 CLINICAL RESTRAINT ORDER.

5 (5) AT ALL TIMES AN INDIVIDUAL IS SUBJECTED TO A CLINICAL
6 RESTRAINT, THE INDIVIDUAL MUST BE ABLE TO COMMUNICATE TO ANY
7 EMPLOYEE, QUALIFIED HEALTH-CARE PROVIDER, LICENSED PSYCHIATRIST,
8 OR LICENSED PSYCHOLOGIST WHO IS RESPONSIBLE FOR MONITORING THE
9 INDIVIDUAL DURING THE CLINICAL RESTRAINT EPISODE.

10 (6) (a) A FACILITY SHALL ENSURE THAT THE USE OF RESTRAINT IS
11 DOCUMENTED AND MAINTAINED IN THE RECORD OF THE INDIVIDUAL WHO
12 WAS RESTRAINED. AT A MINIMUM, THE FACILITY SHALL DOCUMENT:

13 (I) THE ORDER FOR CLINICAL RESTRAINT, THE DATE AND TIME OF
14 THE ORDER, AND THE SIGNATURE OF THE LICENSED PSYCHIATRIST OR
15 LICENSED PSYCHOLOGIST WHO ISSUED THE CLINICAL RESTRAINT ORDER.
16 IF THE ORDER IS AUTHORIZED BY TELEPHONE, THE ORDER MUST BE
17 TRANSCRIBED AND SIGNED AT THE TIME OF ISSUANCE BY A PERSON WITH
18 AUTHORITY TO ACCEPT ORDERS, AND THE ORDERING LICENSED
19 PSYCHIATRIST OR LICENSED PSYCHOLOGIST SHALL SIGN THE ORDER AS
20 SOON AS PRACTICABLE.

21 (II) A CLEAR EXPLANATION OF THE CLINICAL BASIS FOR USE OF THE
22 CLINICAL RESTRAINT, INCLUDING THE LESS INTRUSIVE INTERVENTIONS
23 THAT WERE EMPLOYED AND FAILED, AND EVIDENCE OF THE IMMEDIATE
24 CIRCUMSTANCES JUSTIFYING THE BELIEF THAT THE USE OF RESTRAINT WAS
25 TO PREVENT THE INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS
26 HARM TO THE INDIVIDUAL'S SELF OR ANOTHER PERSON;

27 (III) THE SPECIFIC BEHAVIORAL CRITERIA THE INDIVIDUAL MUST

1 EXHIBIT IN ORDER FOR THE CLINICAL RESTRAINT EPISODE TO BE
2 TERMINATED;

3 (IV) ANY MODIFICATIONS TO THE ORDER, AND THE TIME AND
4 DATE, AND SIGNATURE OF THE LICENSED PSYCHIATRIST OR LICENSED
5 PSYCHOLOGIST WHO MODIFIES THE ORDER;

6 (V) THE DATE AND TIME OF AN ASSESSMENT PERFORMED
7 PURSUANT TO SUBSECTIONS (2)(d) AND (3)(f) OF THIS SECTION, AND THE
8 SIGNATURE OF THE QUALIFIED HEALTH-CARE PROFESSIONAL WHO
9 PERFORMED THE ASSESSMENT, AND FINDINGS JUSTIFYING THE
10 TERMINATION OR CONTINUATION OF THE ORDER MADE PURSUANT TO THE
11 ASSESSMENT;

12 (VI) THE DATE AND TIME OF AN ORDER MODIFICATION, THE DATE
13 AND TIME OF THE MODIFICATION, AND THE SIGNATURE OF THE LICENSED
14 PSYCHIATRIST OR LICENSED PSYCHOLOGIST WHO ISSUED THE CLINICAL
15 RESTRAINT ORDER. IF THE ORDER IS MODIFIED BY TELEPHONE, THE
16 MODIFICATION MUST BE TRANSCRIBED AND SIGNED AT THE TIME OF
17 ISSUANCE BY A PERSON WITH AUTHORITY TO ACCEPT MODIFICATION, AND
18 THE ORDERING LICENSED PSYCHIATRIST OR LICENSED PSYCHOLOGIST
19 SHALL SIGN THE ORDER AS SOON AS PRACTICABLE.

20 (VII) THE DATE AND TIME OF EXAMINATIONS PURSUANT TO
21 SUBSECTION (4) OF THIS SECTION, THE SIGNATURE OF THE QUALIFIED
22 HEALTH-CARE PROVIDER WHO PERFORMED THE EXAMINATION, AND ANY
23 RELEVANT OBSERVATIONS FROM THE EXAMINATION; AND

24 (VIII) THE DATE AND TIME OF THE TERMINATION OF THE ORDER,
25 THE SIGNATURE OF THE PERSON WHO TERMINATED THE ORDER, THE
26 OBSERVATIONS, AND EVIDENCE THAT THE INDIVIDUAL EXHIBITED
27 BEHAVIOR JUSTIFYING THE TERMINATION OF THE ORDER.

1 (b) THE FACILITY SHALL ENSURE THE DOCUMENTATION AND
2 RETENTION REQUIRED PURSUANT TO THIS SECTION IS CONDUCTED
3 PURSUANT TO ALL APPLICABLE STATE AND FEDERAL LAWS REGARDING THE
4 CONFIDENTIALITY OF THE INDIVIDUAL'S INFORMATION AND SHALL ENSURE
5 AN INDIVIDUAL MAY ACCESS THE INFORMATION OR DEMAND RELEASE OF
6 THE INFORMATION TO A THIRD PARTY.

7 (7)(a) A CORRECTIONAL FACILITY, PRIVATE CONTRACT PRISON, OR
8 QUALIFIED FACILITY THAT IS AUTHORIZED TO USE A CLINICAL RESTRAINT
9 PURSUANT TO THIS SECTION SHALL ENSURE THAT A QUALIFIED
10 HEALTH-CARE PROVIDER, LICENSED PSYCHIATRIST, OR LICENSED
11 PSYCHOLOGIST PERFORMS A BEHAVIOR MANAGEMENT ASSESSMENT ON
12 EVERY INDIVIDUAL'S INTAKE TO THE FACILITY, FOR THE PURPOSE OF
13 EXAMINING WHETHER THE INDIVIDUAL IS LIKELY TO EXHIBIT BEHAVIORS
14 THAT MAY RESULT IN THE USE OF CLINICAL RESTRAINT. THE QUALIFIED
15 HEALTH-CARE PROVIDER, LICENSED PSYCHIATRIST, OR LICENSED
16 PSYCHOLOGIST SHALL DOCUMENT AND MAINTAIN FINDINGS FROM THE
17 ASSESSMENT IN THE INDIVIDUAL'S MEDICAL RECORD. THE FACILITY SHALL
18 NOT USE THE FINDINGS OF THE BEHAVIOR MANAGEMENT ASSESSMENT AS
19 STANDING ORDERS FOR USING A CLINICAL RESTRAINT ON THE INDIVIDUAL.

20 (b) IF A BEHAVIORAL MANAGEMENT ASSESSMENT CONCLUDES
21 THAT THE INDIVIDUAL IS AT INCREASED RISK FOR BEHAVIORS THAT MAY
22 RESULT IN THE USE OF A CLINICAL RESTRAINT, A LICENSED PSYCHIATRIST
23 OR LICENSED PSYCHOLOGIST SHALL DEVELOP AND IMPLEMENT, WITH INPUT
24 FROM THE INDIVIDUAL, A BEHAVIORAL MANAGEMENT PLAN FOR THE
25 PURPOSE OF UTILIZING INDIVIDUAL-SPECIFIC AND LESS RESTRICTIVE
26 INTERVENTIONS TO PREVENT OR REDUCE USE OF CLINICAL RESTRAINTS.

27 (8) (a) SUBJECT TO THE PROVISIONS OF THIS SECTION, A

1 CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON SHALL NOT USE
2 AN INVOLUNTARY CHEMICAL RESTRAINT ON AN INDIVIDUAL, UNLESS:

3 (I) THE INDIVIDUAL IS DETERMINED TO BE DANGEROUS TO THE
4 INDIVIDUAL'S SELF OR ANOTHER PERSON, AND THE TREATMENT IS IN THE
5 INDIVIDUAL'S MEDICAL INTEREST;

6 (II) THE FACILITY HAS EXHAUSTED ALL LESS RESTRICTIVE
7 ALTERNATIVE INTERVENTIONS; AND

8 (III) THE INVOLUNTARY CHEMICAL RESTRAINT IS ADMINISTERED
9 AFTER EXHAUSTION OF PROCEDURAL REQUIREMENTS ESTABLISHED
10 PURSUANT TO THIS SECTION.

11 (b) NOTWITHSTANDING SECTION 17-1-111, THE DEPARTMENT
12 SHALL PROMULGATE RULES ESTABLISHING A PROCESS FOR DETERMINING
13 WHETHER TO USE, AND HOW TO USE, AN INVOLUNTARY CHEMICAL
14 RESTRAINT ON AN INDIVIDUAL. THE PROCESS MUST BE CONSISTENT WITH
15 SECTIONS 24-4-105 AND 24-4-106.

16 (c) THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT FACILITY
17 SHALL CONVENE AN INVOLUNTARY MEDICATION COMMITTEE, COMPRISED
18 OF FOUR MEMBERS, TO SERVE AS THE AGENCY PRESIDING AT THE HEARING.
19 THE FOUR MEMBERS ARE A LICENSED PSYCHIATRIST, A LICENSED
20 PSYCHOLOGIST, A LICENSED MENTAL HEALTH PROFESSIONAL, AND THE
21 SUPERINTENDENT OF THE FACILITY OR THE SUPERINTENDENT'S DESIGNEE.
22 THE USE OF AN INVOLUNTARY CHEMICAL RESTRAINT ON AN INDIVIDUAL
23 IS PROHIBITED, UNLESS A MAJORITY OF ALL COMMITTEE MEMBERS
24 APPROVE THE USE.

25 (d) THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT FACILITY
26 SHALL ASCERTAIN WHETHER THE INDIVIDUAL HAS RETAINED COUNSEL,
27 AND, IF THE INDIVIDUAL HAS NOT, SHALL APPOINT AN ATTORNEY TO

1 REPRESENT THE PERSON WITHOUT COST TO THE INDIVIDUAL WITHIN THREE
2 DAYS AFTER THE NOTICE OF HEARING PROVIDED TO THE INDIVIDUAL
3 UNLESS THE INDIVIDUAL WAIVES COUNSEL. AN INDIVIDUAL'S WAIVER OF
4 COUNSEL MUST BE KNOWING, INTELLIGENT, AND VOLUNTARY. THE
5 DEPARTMENT SHALL PAY, OUT OF APPROPRIATIONS MADE BY THE GENERAL
6 ASSEMBLY, SUMS DIRECTLY TO APPOINTED COUNSEL ON BEHALF OF THE
7 STATE. THE DEPARTMENT MAY MAKE LUMP-SUM GRANTS TO AND
8 CONTRACT WITH ATTORNEYS TO REPRESENT INDIVIDUALS PURSUANT TO
9 THIS SECTION.

10 (e) AN ORDER FOR AN INVOLUNTARY CHEMICAL RESTRAINT MUST
11 NOT:

12 (I) BE FOR LONGER THAN NINETY DAYS FROM THE DATE OF THE
13 ORDER; AND

14 (II) PERMIT THE USE OF MORE THAN FIVE DIFFERENT MEDICATIONS
15 DURING THE NINETY DAY PERIOD. THIS DOES NOT LIMIT THE AMOUNT OF
16 DOSES OF THE MEDICATIONS TO BE ADMINISTERED, AS MEDICALLY
17 APPROPRIATE.

18 (f) A FACILITY SHALL ENSURE THAT THE USE OF INVOLUNTARY
19 CHEMICAL RESTRAINT IS DOCUMENTED AND MAINTAINED IN THE RECORD
20 OF THE INDIVIDUAL. AT A MINIMUM, THE FACILITY SHALL DOCUMENT:

21 (I) THE ORDER FOR INVOLUNTARY CHEMICAL RESTRAINT;

22 (II) THE DATE AND TIME OF THE ORDER; AND

23 (III) A CLEAR EXPLANATION OF THE CLINICAL BASIS FOR USE OF
24 THE INVOLUNTARY CHEMICAL RESTRAINT, INCLUDING THE LESS INTRUSIVE
25 INTERVENTIONS THAT WERE EMPLOYED AND FAILED AND EVIDENCE OF THE
26 IMMEDIATE CIRCUMSTANCES JUSTIFYING THE BELIEF THAT THE
27 INDIVIDUAL IS DETERMINED TO BE DANGEROUS TO THE INDIVIDUAL'S SELF

1 OR ANOTHER PERSON AND THAT THE TREATMENT IS IN THE INDIVIDUAL'S
2 MEDICAL INTEREST.

3 (g) THE FACILITY SHALL ENSURE THE DOCUMENTATION AND
4 MAINTENANCE REQUIRED PURSUANT TO THIS SECTION IS CONDUCTED
5 PURSUANT TO ALL APPLICABLE STATE AND FEDERAL LAWS REGARDING THE
6 CONFIDENTIALITY OF THE INFORMATION.

7 (9) (a) ON OR BEFORE MARCH 1, 2024, AND ON OR BEFORE MARCH
8 1 EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OF THE
9 DEPARTMENT SHALL SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF
10 THE SENATE AND HOUSE AND REPRESENTATIVES, OR ANY SUCCESSOR
11 COMMITTEES, CONCERNING THE USE OF CLINICAL RESTRAINTS AND
12 INVOLUNTARY CHEMICAL RESTRAINTS IN THE PRECEDING CALENDAR
13 YEAR. AT A MINIMUM, THE REPORT MUST INCLUDE:

14 (I) THE TOTAL NUMBER OF CLINICAL AMBULATORY RESTRAINT
15 EPISODES AND CLINICAL FOUR-POINT RESTRAINT EPISODES;

16 (II) THE TOTAL NUMBER OF INVOLUNTARY CHEMICAL RESTRAINT
17 ORDERS ISSUED;

18 (III) THE AVERAGE AMOUNT OF TIME OF CLINICAL AMBULATORY
19 RESTRAINT EPISODES AND CLINICAL FOUR-POINT RESTRAINT EPISODES;

20 (IV) THE AVERAGE DURATION OF INVOLUNTARY CHEMICAL
21 RESTRAINT ORDERS ISSUED;

22 (V) THE LONGEST CLINICAL AMBULATORY RESTRAINT EPISODE
23 AND THE LONGEST CLINICAL FOUR-POINT RESTRAINT EPISODE;

24 (VI) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
25 RESTRAINT EPISODES THAT EXCEEDED TWO HOURS, AND THE PERCENTAGE
26 OF TOTAL CLINICAL FOUR-POINT RESTRAINT EPISODES THAT EXCEEDED
27 TWO HOURS;

1 (VII) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
2 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
3 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
4 DISABILITY AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
5 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
6 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
7 DISABILITY;

8 (VIII) THE PERCENTAGE OF TOTAL INVOLUNTARY CHEMICAL
9 RESTRAINT ORDERS THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
10 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
11 DISABILITY AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
12 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
13 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
14 DISABILITY;

15 (IX) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
16 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL WHO WAS
17 SUBJECTED TO THE RESTRAINT FOR A SECOND OR SUBSEQUENT EPISODE
18 WITHIN THE YEAR AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
19 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL WHO WAS
20 SUBJECTED TO THE RESTRAINT FOR A SECOND OR SUBSEQUENT EPISODE
21 WITHIN THE YEAR;

22 (X) THE PERCENTAGE OF TOTAL INVOLUNTARY CHEMICAL
23 RESTRAINT ORDERS THAT INVOLVED AN INDIVIDUAL WHO WAS SUBJECTED
24 TO A SECOND OR SUBSEQUENT ORDER WITHIN THE YEAR; AND

25 (XI) THE TOTAL NUMBER OF INVOLUNTARY CHEMICAL RESTRAINTS
26 THAT EXCEEDED NINETY DAYS IN VIOLATION OF SUBSECTION (8)(b)(III) OF
27 THIS SECTION.

1 (b) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
2 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS
3 SUBSECTION (9) CONTINUES INDEFINITELY.

4 (c) THE DEPARTMENT SHALL ENSURE THE REPORT REQUIRED IN
5 THIS SUBSECTION (9) DOES NOT DISCLOSE ANY INFORMATION IN VIOLATION
6 OF APPLICABLE STATE AND FEDERAL LAWS REGARDING THE
7 CONFIDENTIALITY OF INDIVIDUALS' INFORMATION.

8 (10) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "CLINICAL AMBULATORY RESTRAINT" MEANS A DEVICE USED
11 TO INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT, BUT
12 STILL PERMITS THE ABILITY OF THE INDIVIDUAL TO WALK AND MOVE
13 WHILE SUBJECTED TO THE DEVICE.

14 (b) "CLINICAL FOUR-POINT RESTRAINT" MEANS A DEVICE USED TO
15 INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT BY
16 SECURING THE INDIVIDUAL'S ARMS AND LEGS.

17 (c) "CLINICAL RESTRAINT" MEANS A DEVICE USED TO
18 INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT.
19 "CLINICAL RESTRAINT" INCLUDES CLINICAL AMBULATORY RESTRAINT AND
20 CLINICAL FOUR-POINT RESTRAINT.

21 (d) "CORRECTIONAL FACILITY" HAS THE SAME MEANING AS SET
22 FORTH IN SECTION 17-1-102 (1.7).

23 (e) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS,
24 CREATED AND EXISTING PURSUANT TO SECTION 24-1-128.5.

25 (f) "FACILITY" MEANS A CORRECTIONAL FACILITY AND A PRIVATE
26 CONTRACT PRISON.

27 (g) "INVOLUNTARY CHEMICAL RESTRAINT" MEANS GIVING AN

1 INDIVIDUAL MEDICATION INVOLUNTARILY FOR THE PURPOSE OF
2 RESTRAINING THAT INDIVIDUAL; EXCEPT THAT "INVOLUNTARY CHEMICAL
3 RESTRAINT" DOES NOT INCLUDE THE INVOLUNTARY ADMINISTRATION OF
4 MEDICATION OR ADMINISTRATION OF MEDICATION FOR VOLUNTARY
5 LIFE-SAVING MEDICAL PROCEDURES.

6 (h) "PRIVATE CONTRACT PRISON" HAS THE SAME MEANING AS SET
7 FORTH IN SECTION 17-1-102 (7.3).

8 (i) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

9 (j) "QUALIFIED FACILITY" MEANS:

10 (I) A CORRECTIONAL FACILITY INFIRMARY;

11 (II) THE SAN CARLOS CORRECTIONAL FACILITY; AND

12 (III) THE DENVER WOMEN'S CORRECTIONAL FACILITY.

13 (k) "QUALIFIED HEALTH-CARE PROVIDER" MEANS A LICENSED
14 PHYSICIAN, A LICENSED ADVANCED PRACTICE REGISTERED NURSE, OR
15 LICENSED REGISTERED NURSE.

16 **SECTION 2.** In Colorado Revised Statutes, 17-1-113.9, **amend**
17 (1) as follows:

18 **17-1-113.9. Use of administrative segregation for state inmates**
19 **- reporting.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or
20 before January 1, 2012, and each January 1 thereafter, the executive
21 director shall provide a written report to the judiciary committees of the
22 senate and house of representatives, or any successor committees,
23 concerning the status of administrative segregation; reclassification
24 efforts for ~~offenders~~ INDIVIDUALS DIAGNOSED with ~~mental~~ BEHAVIORAL
25 health disorders or intellectual and developmental disabilities, including
26 duration of stay, reason for placement, and number and percentage
27 discharged; and any internal reform efforts since July 1, 2011. THE

1 REPORT MUST INCLUDE DATA CONCERNING THE PLACEMENT OF
2 INDIVIDUALS IN ALL SETTINGS WITH HEIGHTENED RESTRICTIONS,
3 INCLUDING THE TOTAL NUMBER OF PLACEMENTS IN EACH SETTING, THE
4 TOTAL NUMBER OF PLACEMENTS IN EACH SETTING INVOLVING AN
5 INDIVIDUAL DIAGNOSED WITH A BEHAVIORAL HEALTH DISORDER OR
6 INTELLECTUAL OR DEVELOPMENTAL DISABILITY, THE AVERAGE DURATION
7 OF STAY OF AN INDIVIDUAL IN EACH SETTING, THE REASONS FOR
8 PLACEMENT IN EACH SETTING, AND THE TOTAL NUMBER OF INDIVIDUALS
9 DISCHARGED FROM EACH SETTING.

10 **SECTION 3. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety.