

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

BILL D

LLS NO. 23-0162.03 Jacob Baus x2173

HOUSE BILL

HOUSE SPONSORSHIP

Amabile and Benavidez,

SENATE SPONSORSHIP

Fields and Rodriguez,

House Committees

Senate Committees

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
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 mental health provider.

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 medication 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 involuntary medication 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 medication 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 MENTAL HEALTH
6 PROVIDER.

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 MENTAL HEALTH PROVIDER, MENTAL HEALTH
12 CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY THE
13 DEPARTMENT, QUALIFIED HEALTH-CARE PROVIDER, OR ANY PERSON
14 EMPLOYED BY THE FACILITY SHALL TERMINATE THE ORDER WHEN THE
15 BEHAVIORS NECESSITATING THE CLINICAL RESTRAINT ARE NO LONGER
16 EVIDENT AND THE CRITERIA OUTLINED BY THE CLINICAL RESTRAINT ORDER
17 ARE SATISFIED OR, IF THE TIME LIMITATIONS PURSUANT TO SUBSECTION
18 (2)(c) OR (3)(f) OF THIS SECTION ARE REACHED, WHICHEVER OCCURS
19 FIRST.

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

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

27 (A) TWELVE HOURS PER EPISODE; AND

1 (B) TWO HUNDRED FORTY HOURS TOTAL ACROSS ALL EPISODES IN
2 ONE YEAR.

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

12 (c)(I) AN INITIAL CLINICAL AMBULATORY RESTRAINT ORDER MUST
13 NOT EXCEED TWO HOURS. A LICENSED MENTAL HEALTH PROVIDER, OR
14 MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR
15 DESIGNATED BY THE DEPARTMENT, SHALL ASSESS THE INDIVIDUAL
16 SUBJECTED TO THE RESTRAINT TO DETERMINE WHETHER TO TERMINATE OR
17 CONTINUE THE ORDER AT LEAST ONCE EVERY HOUR.

18 (II) IF THE LICENSED MENTAL HEALTH PROVIDER, OR MENTAL
19 HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY
20 THE DEPARTMENT, CONTINUES THE INITIAL CLINICAL AMBULATORY
21 RESTRAINT ORDER, THE LICENSED MENTAL HEALTH PROVIDER, OR MENTAL
22 HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY
23 THE DEPARTMENT, SHALL ASSESS THE INDIVIDUAL SUBJECT TO THE
24 RESTRAINT TO DETERMINE WHETHER TO TERMINATE OR CONTINUE THE
25 ORDER AT LEAST ONCE EVERY HOUR.

26 (III) AT EACH ASSESSMENT PURSUANT TO SUBSECTIONS (2)(c)(I)
27 AND (2)(c)(II) OF THIS SECTION, THE LICENSED MENTAL HEALTH

1 PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT
2 RULE OR DESIGNATED BY THE DEPARTMENT, SHALL:

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

8 (B) DETERMINE WHETHER A LESS RESTRICTIVE ALTERNATIVE
9 INTERVENTION IS MORE APPROPRIATE THAN THE USE OF A CLINICAL
10 AMBULATORY RESTRAINT; AND

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

14 (IV) AN ASSESSMENT PURSUANT TO SUBSECTIONS (2)(c)(I) OR
15 (2)(c)(II) OF THIS SECTION MAY BE PERFORMED USING AUDIO-VIDEO
16 COMMUNICATION TECHNOLOGY.

17 (3) (a) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON
18 SHALL NOT USE A CLINICAL FOUR-POINT RESTRAINT ON AN INDIVIDUAL;
19 EXCEPT THAT A QUALIFIED FACILITY MAY USE A CLINICAL FOUR-POINT
20 RESTRAINT ON AN INDIVIDUAL.

21 (b) A QUALIFIED FACILITY SHALL NOT USE A CLINICAL FOUR-POINT
22 RESTRAINT CONSTRUCTED OF METAL OR HARD PLASTIC, OR HAS A BELLY
23 CHAIN OR PADLOCK. A QUALIFIED FACILITY SHALL USE A CLINICAL
24 FOUR-POINT RESTRAINT ON A BED WITH A MATTRESS.

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

27 (d) A QUALIFIED FACILITY SHALL NOT RESTRAIN AN INDIVIDUAL

1 SUBJECT TO A CLINICAL FOUR-POINT RESTRAINT IN A PRONE POSITION. A
2 QUALIFIED FACILITY SHALL CONSIDER THE INDIVIDUAL'S PREEXISTING
3 MEDICAL CONDITIONS OR PHYSICAL DISABILITIES OR LIMITATIONS THAT
4 MAY INCREASE THE RISK OF INJURY TO THE INDIVIDUAL DURING A
5 CLINICAL RESTRAINT EPISODE AND RESTRAIN THE INDIVIDUAL IN A
6 MANNER THAT MINIMIZES THE INDIVIDUAL'S DISCOMFORT AND RISK OF
7 INJURY OR COMPLICATION. THE QUALIFIED FACILITY SHALL NOTIFY THE
8 INDIVIDUAL SUBJECTED TO THE CLINICAL FOUR-POINT RESTRAINT THAT
9 THE INDIVIDUAL MAY REQUEST REPOSITIONING AT ANY TIME TO MINIMIZE
10 DISCOMFORT; EXCEPT THAT PRONE POSITIONING MUST NEVER BE
11 PERMITTED.

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

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

18 (A) FOUR HOURS PER EPISODE; AND

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

20 (II) THE QUALIFIED FACILITY SHALL NOT RESTART THE TIME
21 CALCULATION TO START A NEW EPISODE IF THE INDIVIDUAL IS
22 TEMPORARILY RELEASED FROM A CLINICAL FOUR-POINT RESTRAINT NOT
23 FOR THE PURPOSE OF TERMINATING THE CLINICAL FOUR-POINT RESTRAINT
24 ORDER. THE TIME AN INDIVIDUAL IS TEMPORARILY RELEASED FROM A
25 CLINICAL RESTRAINT FOR THE PURPOSE OF TERMINATING THE CLINICAL
26 FOUR-POINT RESTRAINT ORDER SUSPENDS THE CALCULATION OF TIME
27 PURSUANT TO SUBSECTION (3)(f)(I) OF THIS SECTION.

1 (g) (I) AN INITIAL ORDER FOR CLINICAL FOUR-POINT RESTRAINT
2 MUST NOT EXCEED THIRTY MINUTES. A LICENSED MENTAL HEALTH
3 PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT
4 RULE OR DESIGNATED BY THE DEPARTMENT, SHALL ASSESS THE
5 INDIVIDUAL SUBJECT TO THE CLINICAL FOUR-POINT RESTRAINT TO
6 DETERMINE WHETHER TO TERMINATE OR CONTINUE THE ORDER AT LEAST
7 ONCE DURING THE INITIAL THIRTY-MINUTE PERIOD.

8 (II) IF THE LICENSED MENTAL HEALTH PROVIDER, OR MENTAL
9 HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR DESIGNATED BY
10 THE DEPARTMENT, CONTINUES THE INITIAL ORDER, A LICENSED MENTAL
11 HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
12 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, SHALL ASSESS
13 THE INDIVIDUAL SUBJECT TO THE CLINICAL FOUR-POINT RESTRAINT TO
14 DETERMINE WHETHER TO TERMINATE OR CONTINUE THE ORDER AT LEAST
15 ONCE EVERY HOUR.

16 (III) AT EACH ASSESSMENT PURSUANT TO SUBSECTIONS (3)(g)(I)
17 AND (3)(g)(II) OF THIS SECTION, THE LICENSED MENTAL HEALTH
18 PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT
19 RULE OR DESIGNATED BY THE DEPARTMENT, SHALL:

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

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

1 (C) MODIFY THE ORDER TO REFLECT SPECIFIC BEHAVIORAL
2 CRITERIA THE INDIVIDUAL MUST EXHIBIT IN ORDER FOR THE RESTRAINT TO
3 BE REMOVED, AS APPROPRIATE.

4 (IV) AN ASSESSMENT PURSUANT TO SUBSECTIONS (3)(g)(I) OR
5 (3)(g)(II) OF THIS SECTION MAY BE PERFORMED USING AUDIO-VIDEO
6 COMMUNICATION TECHNOLOGY.

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

10 (a) TO ENSURE THE INDIVIDUAL'S CIRCULATION IS UNRESTRICTED,
11 BREATHING IS NOT COMPROMISED, AND OTHER PHYSICAL NEEDS ARE
12 SATISFIED;

13 (b) TO ENSURE THE INDIVIDUAL IS PROPERLY POSITIONED IN THE
14 RESTRAINT;

15 (c) TO OFFER THE INDIVIDUAL FLUIDS AND TOILET ACCESS, AND TO
16 PROVIDE FLUIDS AND TOILET ACCESS IF REQUESTED BY THE INDIVIDUAL;

17 (d) TO MONITOR THE EFFECT OF MEDICATION ON THE INDIVIDUAL,
18 IF APPLICABLE; AND

19 (e) TO MONITOR WHETHER THE INDIVIDUAL IS EXHIBITING
20 BEHAVIORS REQUIRING THE CONTINUATION OR TERMINATION OF THE
21 CLINICAL RESTRAINT ORDER.

22 (5) AT ALL TIMES AN INDIVIDUAL IS SUBJECTED TO A CLINICAL
23 RESTRAINT, THE INDIVIDUAL MUST BE ABLE TO COMMUNICATE TO ANY
24 EMPLOYEE, QUALIFIED HEALTH-CARE PROVIDER, LICENSED MENTAL
25 HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
26 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, WHO IS
27 RESPONSIBLE FOR MONITORING THE INDIVIDUAL DURING THE CLINICAL

1 RESTRAINT EPISODE.

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

5 (I) THE ORDER FOR CLINICAL RESTRAINT, THE DATE AND TIME OF
6 THE ORDER, AND THE SIGNATURE OF THE LICENSED MENTAL HEALTH
7 PROVIDER WHO ISSUED THE CLINICAL RESTRAINT ORDER. IF THE ORDER IS
8 AUTHORIZED BY TELEPHONE, THE ORDER MUST BE TRANSCRIBED AND
9 SIGNED AT THE TIME OF ISSUANCE BY A PERSON WITH AUTHORITY TO
10 ACCEPT ORDERS, AND THE ORDERING LICENSED MENTAL HEALTH
11 PROVIDER SHALL SIGN THE ORDER AS SOON AS PRACTICABLE.

12 (II) A CLEAR EXPLANATION OF THE CLINICAL BASIS FOR USE OF THE
13 CLINICAL RESTRAINT, INCLUDING THE LESS INTRUSIVE INTERVENTIONS
14 THAT WERE EMPLOYED AND FAILED, AND EVIDENCE OF THE IMMEDIATE
15 CIRCUMSTANCES JUSTIFYING THE BELIEF THAT THE USE OF RESTRAINT WAS
16 TO PREVENT THE INDIVIDUAL FROM COMMITTING IMMINENT AND SERIOUS
17 HARM TO THE INDIVIDUAL'S SELF OR ANOTHER PERSON;

18 (III) THE SPECIFIC BEHAVIORAL CRITERIA THE INDIVIDUAL MUST
19 EXHIBIT IN ORDER FOR THE CLINICAL RESTRAINT EPISODE TO BE
20 TERMINATED;

21 (IV) ANY MODIFICATIONS TO THE ORDER, AND THE TIME AND
22 DATE, AND SIGNATURE OF THE LICENSED MENTAL HEALTH PROVIDER, OR
23 MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR
24 DESIGNATED BY THE DEPARTMENT, WHO MODIFIES THE ORDER;

25 (V) THE DATE AND TIME OF AN ASSESSMENT PERFORMED
26 PURSUANT TO SUBSECTIONS (2)(d) AND (3)(f) OF THIS SECTION, AND THE
27 SIGNATURE OF THE QUALIFIED HEALTH-CARE PROFESSIONAL WHO

1 PERFORMED THE ASSESSMENT, AND FINDINGS JUSTIFYING THE
2 TERMINATION OR CONTINUATION OF THE ORDER MADE PURSUANT TO THE
3 ASSESSMENT;

4 (VI) THE DATE AND TIME OF AN ORDER MODIFICATION, THE DATE
5 AND TIME OF THE MODIFICATION, AND THE SIGNATURE OF THE LICENSED
6 MENTAL HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
7 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, WHO ISSUED
8 THE CLINICAL RESTRAINT ORDER. IF THE ORDER IS MODIFIED BY
9 TELEPHONE, THE MODIFICATION MUST BE TRANSCRIBED AND SIGNED AT
10 THE TIME OF ISSUANCE BY A PERSON WITH AUTHORITY TO ACCEPT
11 MODIFICATION, AND THE ORDERING LICENSED MENTAL HEALTH PROVIDER,
12 OR MENTAL HEALTH CLINICIAN AS DEFINED BY DEPARTMENT RULE OR
13 DESIGNATED BY THE DEPARTMENT, SHALL SIGN THE ORDER AS SOON AS
14 PRACTICABLE.

15 (VII) THE DATE AND TIME OF EXAMINATIONS PURSUANT TO
16 SUBSECTION (4) OF THIS SECTION, THE SIGNATURE OF THE QUALIFIED
17 HEALTH-CARE PROVIDER WHO PERFORMED THE EXAMINATION, AND ANY
18 RELEVANT OBSERVATIONS FROM THE EXAMINATION; AND

19 (VIII) THE DATE AND TIME OF THE TERMINATION OF THE ORDER,
20 THE SIGNATURE OF THE PERSON WHO TERMINATED THE ORDER, THE
21 OBSERVATIONS, AND EVIDENCE THAT THE INDIVIDUAL EXHIBITED
22 BEHAVIOR JUSTIFYING THE TERMINATION OF THE ORDER.

23 (b) THE FACILITY SHALL ENSURE THE DOCUMENTATION AND
24 RETENTION REQUIRED PURSUANT TO THIS SECTION IS CONDUCTED
25 PURSUANT TO ALL APPLICABLE STATE AND FEDERAL LAWS REGARDING THE
26 CONFIDENTIALITY OF THE INDIVIDUAL'S INFORMATION AND SHALL ENSURE
27 AN INDIVIDUAL MAY ACCESS THE INFORMATION OR DEMAND RELEASE OF

1 THE INFORMATION TO A THIRD PARTY.

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

18 (b) IF A BEHAVIORAL MANAGEMENT ASSESSMENT CONCLUDES
19 THAT THE INDIVIDUAL IS AT INCREASED RISK FOR BEHAVIORS THAT MAY
20 RESULT IN THE USE OF A CLINICAL RESTRAINT, A LICENSED MENTAL
21 HEALTH PROVIDER, OR MENTAL HEALTH CLINICIAN AS DEFINED BY
22 DEPARTMENT RULE OR DESIGNATED BY THE DEPARTMENT, SHALL DEVELOP
23 AND IMPLEMENT, WITH INPUT FROM THE INDIVIDUAL, A BEHAVIORAL
24 MANAGEMENT PLAN FOR THE PURPOSE OF UTILIZING INDIVIDUAL-SPECIFIC
25 AND LESS RESTRICTIVE INTERVENTIONS TO PREVENT OR REDUCE USE OF
26 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 MEDICATION 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 MEDICATION IS ADMINISTERED AFTER
9 EXHAUSTION OF PROCEDURAL REQUIREMENTS ESTABLISHED PURSUANT TO
10 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 MEDICATION ON AN
14 INDIVIDUAL. THE PROCESS MUST BE CONSISTENT WITH SECTIONS 24-4-105
15 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 PROVIDER, AND THE
21 SUPERINTENDENT OF THE FACILITY OR THE SUPERINTENDENT'S DESIGNEE.
22 THE USE OF AN INVOLUNTARY MEDICATION ON AN INDIVIDUAL IS
23 PROHIBITED, UNLESS A MAJORITY OF ALL COMMITTEE MEMBERS APPROVE
24 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 REFER THE INDIVIDUAL TO AN

1 OFFICE OF STATE PUBLIC DEFENDER LIAISON TO THE DEPARTMENT TO
2 REPRESENT THE PERSON WITHOUT COST TO THE INDIVIDUAL WITHIN THREE
3 DAYS AFTER THE NOTICE OF HEARING PROVIDED TO THE INDIVIDUAL
4 UNLESS THE INDIVIDUAL WAIVES COUNSEL. AN INDIVIDUAL'S WAIVER OF
5 COUNSEL MUST BE KNOWING, INTELLIGENT, AND VOLUNTARY.

6 (e) AN ORDER FOR AN INVOLUNTARY MEDICATION MUST NOT:

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

9 (II) PERMIT THE USE OF MORE THAN FIVE DIFFERENT MEDICATIONS
10 DURING THE NINETY DAY PERIOD. THIS DOES NOT LIMIT THE AMOUNT OF
11 DOSES OF THE MEDICATIONS TO BE ADMINISTERED, AS MEDICALLY
12 APPROPRIATE.

13 (f) A FACILITY SHALL ENSURE THAT THE USE OF INVOLUNTARY
14 MEDICATION IS DOCUMENTED AND MAINTAINED IN THE RECORD OF THE
15 INDIVIDUAL. AT A MINIMUM, THE FACILITY SHALL DOCUMENT:

16 (I) THE ORDER FOR INVOLUNTARY MEDICATION;

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

18 (III) A CLEAR EXPLANATION OF THE CLINICAL BASIS FOR USE OF
19 THE INVOLUNTARY MEDICATION, INCLUDING THE LESS INTRUSIVE
20 INTERVENTIONS THAT WERE EMPLOYED AND FAILED AND EVIDENCE OF THE
21 IMMEDIATE CIRCUMSTANCES JUSTIFYING THE BELIEF THAT THE
22 INDIVIDUAL IS DETERMINED TO BE DANGEROUS TO THE INDIVIDUAL'S SELF
23 OR ANOTHER PERSON AND THAT THE TREATMENT IS IN THE INDIVIDUAL'S
24 MEDICAL INTEREST.

25 (g) THE FACILITY SHALL ENSURE THE DOCUMENTATION AND
26 MAINTENANCE REQUIRED PURSUANT TO THIS SECTION IS CONDUCTED
27 PURSUANT TO ALL APPLICABLE STATE AND FEDERAL LAWS REGARDING THE

1 CONFIDENTIALITY OF THE INFORMATION.

2 (9) (a) ON OR BEFORE MARCH 1, 2024, AND ON OR BEFORE MARCH
3 1 EACH YEAR THEREAFTER, THE EXECUTIVE DIRECTOR OF THE
4 DEPARTMENT SHALL SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF
5 THE SENATE AND HOUSE AND REPRESENTATIVES, OR ANY SUCCESSOR
6 COMMITTEES, CONCERNING THE USE OF CLINICAL RESTRAINTS AND
7 INVOLUNTARY MEDICATION IN THE PRECEDING CALENDAR YEAR. AT A
8 MINIMUM, THE REPORT MUST INCLUDE:

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

11 (II) THE TOTAL NUMBER OF INVOLUNTARY MEDICATION ORDERS
12 ISSUED;

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

15 (IV) THE AVERAGE DURATION OF INVOLUNTARY MEDICATION
16 ORDERS ISSUED;

17 (V) THE LONGEST CLINICAL AMBULATORY RESTRAINT EPISODE
18 AND THE LONGEST CLINICAL FOUR-POINT RESTRAINT EPISODE;

19 (VI) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
20 RESTRAINT EPISODES THAT EXCEEDED TWO HOURS, AND THE PERCENTAGE
21 OF TOTAL CLINICAL FOUR-POINT RESTRAINT EPISODES THAT EXCEEDED
22 TWO HOURS;

23 (VII) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
24 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
25 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
26 DISABILITY AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
27 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A

1 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
2 DISABILITY;

3 (VIII) THE PERCENTAGE OF TOTAL INVOLUNTARY MEDICATION
4 ORDERS THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A BEHAVIORAL
5 HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL DISABILITY
6 AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT RESTRAINT
7 EPISODES THAT INVOLVED AN INDIVIDUAL DIAGNOSED WITH A
8 BEHAVIORAL HEALTH DISORDER OR INTELLECTUAL OR DEVELOPMENTAL
9 DISABILITY;

10 (IX) THE PERCENTAGE OF TOTAL CLINICAL AMBULATORY
11 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL WHO WAS
12 SUBJECTED TO THE RESTRAINT FOR A SECOND OR SUBSEQUENT EPISODE
13 WITHIN THE YEAR AND THE PERCENTAGE OF TOTAL CLINICAL FOUR-POINT
14 RESTRAINT EPISODES THAT INVOLVED AN INDIVIDUAL WHO WAS
15 SUBJECTED TO THE RESTRAINT FOR A SECOND OR SUBSEQUENT EPISODE
16 WITHIN THE YEAR;

17 (X) THE PERCENTAGE OF TOTAL INVOLUNTARY MEDICATION
18 ORDERS THAT INVOLVED AN INDIVIDUAL WHO WAS SUBJECTED TO A
19 SECOND OR SUBSEQUENT ORDER WITHIN THE YEAR; AND

20 (XI) THE TOTAL NUMBER OF INVOLUNTARY MEDICATION THAT
21 EXCEEDED NINETY DAYS IN VIOLATION OF SUBSECTION (8)(b)(III) OF THIS
22 SECTION.

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

26 (c) THE DEPARTMENT SHALL ENSURE THE REPORT REQUIRED IN
27 THIS SUBSECTION (9) DOES NOT DISCLOSE ANY INFORMATION IN VIOLATION

1 OF APPLICABLE STATE AND FEDERAL LAWS REGARDING THE
2 CONFIDENTIALITY OF INDIVIDUALS' INFORMATION.

3 (10) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

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

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

12 (c) "CLINICAL RESTRAINT" MEANS A DEVICE USED TO
13 INVOLUNTARILY LIMIT AN INDIVIDUAL'S FREEDOM OF MOVEMENT.
14 "CLINICAL RESTRAINT" INCLUDES CLINICAL AMBULATORY RESTRAINT AND
15 CLINICAL FOUR-POINT RESTRAINT.

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

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

20 (f) "FACILITY" MEANS A CORRECTIONAL FACILITY AND A PRIVATE
21 CONTRACT PRISON.

22 (g) "INVOLUNTARY MEDICATION" MEANS GIVING AN INDIVIDUAL
23 MEDICATION INVOLUNTARILY FOR THE PURPOSE OF RESTRAINING THAT
24 INDIVIDUAL; EXCEPT THAT "INVOLUNTARY MEDICATION" DOES NOT
25 INCLUDE THE INVOLUNTARY ADMINISTRATION OF MEDICATION OR
26 ADMINISTRATION OF MEDICATION FOR VOLUNTARY LIFE-SAVING MEDICAL
27 PROCEDURES.

1 (h) "LICENSED MENTAL HEALTH PROVIDER" HAS THE SAME
2 MEANING AS DEFINED AT SECTION 27-60-108 (2)(a).

3 (i) "PRIVATE CONTRACT PRISON" HAS THE SAME MEANING AS SET
4 FORTH IN SECTION 17-1-102 (7.3).

5 (j) "PRONE POSITION" MEANS A FACE-DOWN POSITION.

6 (k) "QUALIFIED FACILITY" MEANS:

7 (I) A CORRECTIONAL FACILITY INFIRMARY;

8 (II) THE SAN CARLOS CORRECTIONAL FACILITY; AND

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

10 (l) "QUALIFIED HEALTH-CARE PROVIDER" MEANS A LICENSED
11 PHYSICIAN, A LICENSED ADVANCED PRACTICE REGISTERED NURSE, OR
12 LICENSED REGISTERED NURSE.

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

15 **17-1-113.9. Use of administrative segregation for state inmates**
16 **- reporting.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or
17 before January 1, 2012, and each January 1 thereafter, the executive
18 director shall provide a written report to the judiciary committees of the
19 senate and house of representatives, or any successor committees,
20 concerning the status of administrative segregation; reclassification
21 efforts for ~~offenders~~ INDIVIDUALS DIAGNOSED with ~~mental~~ BEHAVIORAL
22 health disorders or intellectual and developmental disabilities, including
23 duration of stay, reason for placement, and number and percentage
24 discharged; and any internal reform efforts since July 1, 2011. THE
25 REPORT MUST INCLUDE DATA CONCERNING THE PLACEMENT OF
26 INDIVIDUALS IN ALL SETTINGS WITH HEIGHTENED RESTRICTIONS,
27 INCLUDING THE TOTAL NUMBER OF PLACEMENTS IN EACH SETTING, THE

1 TOTAL NUMBER OF PLACEMENTS IN EACH SETTING INVOLVING AN
2 INDIVIDUAL DIAGNOSED WITH A BEHAVIORAL HEALTH DISORDER OR
3 INTELLECTUAL OR DEVELOPMENTAL DISABILITY, THE AVERAGE DURATION
4 OF STAY OF AN INDIVIDUAL IN EACH SETTING, THE REASONS FOR
5 PLACEMENT IN EACH SETTING, AND THE TOTAL NUMBER OF INDIVIDUALS
6 DISCHARGED FROM EACH SETTING.

7 **SECTION 3.** In Colorado Revised Statutes, 21-1-104, **amend** (6)
8 as follows:

9 **21-1-104. Duties of public defender - report.** (6) The office of
10 state public defender shall provide one or more public defender liaisons
11 to the department of corrections and the state board of parole to assist
12 inmates or inmate liaisons with legal matters related to detainers, bonds,
13 holds, warrants, competency, special needs parole applications,
14 INVOLUNTARY MEDICATION PROCEEDINGS PURSUANT TO SECTION
15 17-1-167 (8), and commutation applications. The office of state public
16 defender, in consultation with the state board of parole and the
17 department of corrections, shall develop any necessary policies and
18 procedures for implementation of this subsection (6).

19 **SECTION 4. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety.