

COLORADO COURT OF APPEALS
2 East 14th Avenue
Denver, CO 80203

District Court, Adams County
Case No. 2025CV031717

Appellants:

E. L., by and through their parent and next friend SCARLET RAMIREZ; D.L., by and through their parent and next friend SCARLET RAMIREZ; and ASHLEE TRUJILLO;

v.

Appellees:

ADAMS COUNTY SHERIFF GENE CLAPS, in his individual and official capacities, BOARD OF COUNTY COMMISSIONERS OF ADAMS COUNTY; AND ADAMS COUNTY JAIL DIVISION CHIEF WILLIAM DUNNING, in his individual and official capacities.

Attorneys for Amicus Curiae

Office of Respondent Parents' Counsel:

Kelli S. Nagel, Reg. No. 46613
Colorado Office of Respondent Parents' Counsel
1300 Broadway, Suite 340
Denver, CO 80203
Tel: (303) 731-8770
Email: knagel@coloradoorpc.org

▲ COURT USE ONLY ▲

Case No. 2026 CA 570

**BRIEF OF AMICUS CURIAE OFFICE OF RESPONDENT PARENTS' COUNSEL IN
SUPPORT OF APPELLANTS**

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

1. The brief complies with the applicable word limit set forth in C.A.R. 29. **It contains 4223 words.**
2. The brief complies with C.A.R. 28, including compliance with rule 28(a)(2) and (3).

The undersigned acknowledges that the brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.



Kelli S. Nagel, Bar No. 46613
Attorney for Amicus Curiae
Office of Respondent Parents' Counsel

TABLE OF CONTENTS

TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES.....	iv
IDENTITY OF AMICI-CURIAE AND INTEREST IN THE CASE.....	1
SUMMARY OF THE ARGUMENT	2
ARGUMENT	3
I. Incarcerated Colorado parents have a fundamental, constitutional right to meaningful family time with their children.	3
II. The Colorado legislature has repeatedly expressed its intent to require in- person family contact for children and their incarcerated parents absent specific articulable safety concerns.....	8
a. Legislative Intent and History.....	8
b. Colorado Department of Human Services Rulemaking.....	10
c. Colorado Sheriffs Departments.....	11
III. Maintaining in-person family time for incarcerated parents and their children reduces separation trauma, increases carceral institution security, and reduces recidivism.....	13
a. Separation Trauma.....	13
b. Increased Institutional Security and Lower Recidivism.....	15
CONCLUSION	20

TABLE OF AUTHORITIES

U.S. CONSTITUTION

U.S. CONST. amend. V	12
U.S. CONST. amend. XIV	12

U.S. SUPREME COURT CASES

<i>Diernfeld v. People</i> , 323 P.2d 628 (1958)	4, 20
<i>Pierce v. Society of Sisters</i> , 268 U.S. 510 (1925)	3
<i>Prince v. Massachusetts</i> , 321 U.S. 158 (1944)	3
<i>Santosky v. Kramer</i> , 455 U.S. 745 (1982)	3, 7, 9
<i>Skinner v. Oklahoma</i> , 316 U.S. 535 (1942)	3
<i>Troxel v. Granville</i> , 530 U.S. 57 (2000)	1, 3, 7

STATE COURT CASES

<i>People ex rel. D.G.</i> , 140 P.3d 299 (Colo. App. 2006)	5, 7
<i>People In Interest of A.A.</i> , 2020 COA 154.	5, 6, 7
<i>People In Interest of E.S.</i> , 2021 COA 79	6, 7, 11

STATE STATUTES AND REGULATIONS

§ 2-3-1901.5, C.R.S.	9
---------------------------	---

§ 13-92-101(1)(a), C.R.S.	1
§ 18-1-402, C.R.S.	12
§ 19-1-102(1)(b), C.R.S.	4
§ 19-1-103(93), C.R.S.....	5
§19-1-103(119), C.R.S.....	4
§ 19-3-102, C.R.S.	4
§ 19-3-208(2)(b)(IV), C.R.S.	5, 6
§ 19-3-604, C.R.S.	4
§ 19-3-702(4)(e)(V), C.R.S.....	4
§ 30-10-528, C.R.S	11
12 C.C.R. § 2509-4:7.301.22	10
12 C.C.R. § 2509-4:7.301.24	10
12 C.C.R. § 2509-4:7.304.64	10, 11, 17

OTHER AUTHORITIES

Charlene Wear Simmons, Ph.D., <i>Children of Incarcerated Parents</i> , CALIFORNIA RESEARCH BUREAU, March 2000, https://cahealthadvocates.org/wp- content/uploads/2007/11/V7N2.pdf	13
Chesa Boudin et al., <i>Prison Visitation Policies: A Fifty-State Survey</i> . 32 YALE L. & POL’Y REV. 149 (2013).....	16

CHILDREN’S BUREAU, CHILD WELFARE INFORMATION GATEWAY, CHILD WELFARE PRACTICE WITH FAMILIES AFFECTED BY PARENTAL INCARCERATION (Oct. 2015), https://coloradocwts.com/wp-content/uploads/2022/03/Child-Welfare-practice-with-families-affected-by-parental-incarceration-Children_s-Bureau.pdf	13, 14, 16
COLO. DEP’T OF CORRECTIONS, ADMIN. REGUL. 750-05, REDUCE CHILD AND INCARCERATED PARENT SEPARATION, http://drive.google.com/file/d/1XJ_1CpOjBDhVYvEOz7HDI-h_eP1TVpZr/view	19
COLO. DEP’T OF CORRECTIONS, COLO. DEP’T OF CORRECTIONS PERFORMANCE PLAN FY2026-27, https://operations.colorado.gov/performance-management/department-performance-plans/corrections	2
COLO. DEP’T OF CORRECTIONS, <i>Visitation Rules and Procedures</i> , https://cdoc.colorado.gov/resources-faq/faq/visit-an-incarcerated-individual/visitation-rules-and-procedures	18
Joshua C. Cochran & Daniel P. Mears, <i>Social Isolation and Inmate Behavior: A Conceptual Framework for Theorizing Prison Visitation and Guiding and Assessing Research</i> , 41 J. CRIM. JUST. 252 (2013).....	16, 18

LEGISLATIVE COUNCIL STAFF, COLO. JAIL STANDARDS COMMISSION, REPORT TO THE LEGIS. OVERSIGHT COMM. CONCERNING COLO. JAIL STANDARDS (Nov. 15, 2023), https://content.leg.colorado.gov/sites/default/files/jail_standards_commission_fin al_report.pdf	9
LINDSEY CRAMER ET AL., URBAN INSTITUTE, PARENT-CHILD VISITING PRACTICES IN PRISONS AND JAILS: A SYNTHESIS OF RESEARCH AND PRACTICE (April 2017).....	14
Martin H. Teicher, <i>Childhood Trauma and the Enduring Consequences of Forcibly Separating Children from Parents at the United States Border</i> , BMC MEDICINE (Aug. 22, 2018), https://content.leg.colorado.gov/sites/default/files/2026- 02/standards-for-colorado-jails-accessible.pdf	13
Niyankor Ajuaj, <i>Opinion: People Incarcerated in Colorado Prisons Should Have a Right to Visitations with Loved Ones</i> , THE COLORADO SUN (April 10, 2025), https://coloradosun.com/2025/04/10/opinion-colorado-prison-visitation-right- legislation/	16
ORPC Internal Data, ORPC Contractor Survey, (analyzed Jan. 29, 2026).....	17
S.B. 23-039, 75 th Gen. Assemb., 1 st Reg. Sess. (Colo. 2023).....	passim

IDENTITY OF AMICUS CURIAE AND INTEREST IN THE CASE

The Colorado Office of Respondent Parents' Counsel (ORPC) is an independent state agency established because Colorado legislature understood that “[r]espondent parents’ counsel play a critical role in helping achieve the best outcomes for children involved in dependency and neglect proceedings by providing effective legal representation for parents in dependency and neglect proceedings . . .” § 13-92-101(1)(a), C.R.S.

“[T]he interest of parents in the care, custody, and control of their children...is perhaps the oldest of the fundamental liberty interests recognized by [the Supreme Court of the United States].” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Such a deeply rooted fundamental right must be protected by a legal system that is fairly implemented and is one in which the laws, regulations, and rules of that system are strictly followed by the government who created it.

To further the fairness of the child welfare system, the ORPC provides court-appointed counsel for parents involved in dependency and neglect cases, including to parents who are incarcerated. Since its creation in 2016, the ORPC’s contracted attorneys and advocates have represented more than 2,000 incarcerated parents across the State of Colorado. Decisions related to family time, especially for families impacted by incarceration, directly affect the clients that the ORPC serves. For example, research clearly demonstrates that in-person visitation and contact between

children and their incarcerated parents helps reduce the trauma and psychological harms of parental incarceration. Research also shows this in-person contact incentivizes positive behaviors within carceral institutions and reduces overall recidivism. For these reasons, the ORPC has an interest in the outcome of this case.

SUMMARY OF THE ARGUMENT

Under both federal and Colorado law, parents have a right to in-person family time with their children. This includes incarcerated parents. To further the constitutionally protected fundamental right to parent, Colorado SB 23-039 was passed to ensure that parents and children can maintain meaningful and engaging relationships despite a parent being incarcerated. In response to this legislation, the Colorado Department of Corrections (DOC), an agency with over 6,000 employees, has successfully implemented in-person and face-to-face family time for parents and children.¹ In contrast, Adams County, and other county jails, that house predominantly lower-level offenders pre-trial have failed at implementing the legislation and, instead, have created a blanket policy disallowing any in-person contact for families. Given Adams County's unwillingness to protect the fundamental right to parent, this court should reverse the lower court's denial of injunctive relief and remand the case with instructions to the trial court to

¹ COLO. DEP'T OF CORRECTIONS, COLO. DEP'T OF CORRECTIONS PERFORMANCE PLAN FY2026-27, <https://operations.colorado.gov/performance-management/department-performance-plans/corrections>.

immediately enjoin Adams County from utilizing its unconstitutional blanket order.

ARGUMENT

I. INCARCERATED COLORADO PARENTS HAVE A FUNDAMENTAL CONSTITUTIONAL RIGHT TO MEANINGFUL FAMILY TIME WITH THEIR CHILDREN.

The fundamental rights to parent and to family association is protected under the Fourteenth Amendment of the United States Constitution. Indeed, the Supreme Court has repeatedly reaffirmed the right to family association. *See, e.g., Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925) (protecting the private realm of family life from state intrusion; *Skinner v. Oklahoma*, 316 U.S. 535, 542 (1942) (describing the right to family association as “one of the basic civil rights of man”); *Prince v. Massachusetts*, 321 U.S. 158, 167 (1944) (affirming that there is a “realm of family life under which the state cannot enter” without substantial justification). Under the Fourteenth Amendment, parents have the right to oversee the “care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S. 57, 57 (2000). Indeed, the Supreme Court has made clear that the right of a parent to direct and participate in the upbringing of their child is “perhaps the oldest of the fundamental liberty interests.” *Troxel*, 530 U.S. at 65. This right “does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State.” *Santosky v. Kramer*, 455 U.S. 745,

753 (1982). And, neither a criminal conviction nor incarceration divests a parent of their fundamental right to direct their child’s upbringing. *Diernfeld v. People*, 323 P.2d 628, 631 (1958). Importantly, in Colorado incarceration is not a basis in itself for adjudication or termination of parental rights. See §§ 19-3-102; 19-3-604; 19-3-702(4)(e)(V), C.R.S.; see also *Diernfeld*, 323 P.2d at 631-32.

A critical goal of the Colorado Children’s Code, “is to preserve and strengthen family ties whenever possible...” § 19-1-102(1)(b), C.R.S. Colorado law strongly protects in-person visitation, also known as family time, for children and their parents during a dependency and neglect case.² Central to parenting and the care, custody, and management of a child is a parent’s time with the child. In a dependency and neglect case, this is achieved through court ordered family time. Additionally, under the Colorado Children’s Code, parents maintain certain residual rights even after their child has been adjudicated dependent or neglected. §19-1-103(119), C.R.S. Residual parental rights and responsibilities

means those rights and responsibilities remaining with the parent after legal custody...[has] been vested in another person, agency, or institution, including, but not necessarily limited to, the responsibility for support, the right to consent to adoption, *the right to reasonable parenting time unless restricted by the court*, and the right to determine the child’s religious affiliation.

² Though case law frequently refers to in-person contact between parents and children as visitation, Colorado dependency and neglect courts typically call visitation “family time.” Both terms are used throughout this brief, but they refer to the same parent and child contact.

§ 19-1-103(93), C.R.S. (emphasis added).

In addition to statutory protections, Colorado appellate courts have made clear that “absent safety concerns, a parent is entitled to face-to-face visitation, and correspondence between parents and children does not constitute visitation.”

People ex rel. D.G., 140 P.3d 299, 302 (Colo. App. 2006). In *D.G.*, a mother was denied visitation with her children while she was placed in a community corrections program. *Id.* In its legal analysis, the division of the Court of Appeals noted that “the term visitation contemplates face-to-face encounters between parents and children.” *Id.* at 305. And, because there were no “concern[s] about the children’s physical health and safety, but rather...[just] the department’s generalized belief that the children could be emotionally harmed,” the Court of Appeals reversed the termination of Mother’s parental rights. *Id.* at 302.

Likewise, Colorado courts have continuously recognized that, in the context of a dependency and neglect case, family time must be tailored to the needs of the specific case and family. *People In Interest of A.A.*, 2020 COA 154 ¶ 17.

(“Visitation services for parents and children in out-of-home placement must be provided in accordance with individual case plans.”) Additionally, counties are required to facilitate parent and child visitation as part of the reasonable efforts requirement to reunify families. § 19-3-208(2)(b)(IV), C.R.S. When a county Department of Human Services (Department) fails to provide sufficient family

time for parents and children, the county fails to “exercise reasonable efforts to reunify the family.” *A.A. at ¶ 1*.

In the case of *People In Interest of E.S.*, the Colorado Court of Appeals recognized that “providing visitation services for parents with children in out-of-home placement is one of the actions a Department *must* take to satisfy the standard” of reasonable efforts. 2021 COA 79 at ¶ 1 (emphasis added). In that case, the Department had a “blanket policy” prohibiting family time for all parents with outstanding warrants. *Id.* Because of that, Respondent Father, who had active warrants, was not allowed to see his children. *Id.* Overturning the termination of Father’s parental rights, the Colorado Court of Appeals ruled “that the Department’s blanket policy violates section 19-3-208 because it creates a general prohibition on visitation services without any consideration of the children’s health and safety or whether visitation is necessary and appropriate under the treatment plan.” *Id.* at ¶ 22 . The court further recognized that “absent health and safety concerns, a juvenile court may not approve a treatment plan that does not provide for face-to-face visitation.” *Id.* at ¶ 23. Thus, Colorado has long understood that face-to-face, in-person visitation is vital to the parent-child relationship and essential to reasonable efforts that are required to reunify parents and children. Because of that, any denial of that family time must be directly tied to the health, safety, and well-being of the child. *See A.A., at ¶ 27 ; see also E.S., at ¶ 22.*

Together, these cases demonstrate that a parent's right to in-person time with their child is a fundamental, constitutional right which cannot be denied without due process of law. *Santosky*, 455 U.S. at 753; *Troxel*, 530 U.S. at 65; *D.G.*, 140 P.3d at 302; *A.A.*, at ¶ 1; and *E.S.*, at ¶¶ 1-10. As such, the right to visitation is guaranteed under the United States Constitution and well-established Colorado law, unless a court makes a finding that visitation would be a threat to the child's safety. Thus, county jails and prisons, such as Adams County, may not unilaterally have a "blanket policy" keeping parents from their children simply because the parent is incarcerated. *E.S.*, at ¶ 2. As such, this Court should reverse the lower court's denial of injunctive relief and remand the case with instructions to the trial court to immediately enjoin Adams County from utilizing its unconstitutional blanket order.

II. THE COLORADO LEGISLATURE HAS REPEATEDLY EXPRESSED ITS INTENT TO REQUIRE IN-PERSON FAMILY CONTACT FOR CHILDREN AND THEIR INCARCERATED PARENTS ABSENT SPECIFIC ARTICULABLE SAFETY CONCERNS.

a. Legislative Intent and History

To protect the rights of incarcerated parents, children, and families, the Colorado legislature passed Senate Bill (S.B.) 23-039, titled “Reduce Child and Incarcerated Parent Separation.” The bill went into effect on January 1, 2024. S.B. 23-039, 75th Gen. Assemb., 1st Reg. Sess. (Colo. 2023). The Colorado legislature enacted S.B. 23-039 because “measures are necessary to reduce the trauma of family separation caused by incarceration and to promote strong and healthy family relationships for the benefit of children, their parents, and society.” *Id.* at § 1(2). In passing this legislation, the legislature highlighted the broad impact incarceration has on Colorado children, finding that, “more than ninety-two thousand...of Colorado children at some time during their childhood have a parent or guardian who was or is incarcerated.” *Id.* at § 1(1)(a).

SB 23-039 also recognizes that when a parent is incarcerated, children face many negative repercussions. For example, “[h]aving a parent who is incarcerated hinders a child’s academic achievement.” *Id.* at § 1(1)(d). The legislature also highlighted that incarceration disparately impacts certain Colorado communities, specifically “incarceration of a parent disproportionately affects children of color

and exacerbates the number of children living in poverty.” *Id.* at § 1(1)(c).

Protecting the parent-child relationship, including when a parent is incarcerated, provides broad benefits to not just those families but to Colorado as a whole.

Indeed, as the General Assembly found, “[p]reserving children’s relationships with parents who are incarcerated benefits society by reducing recidivism rates and facilitating successful returns to our communities.” *Id.* at § 1(1)(e).

The General Assembly continued its strong support for families maintaining contact during incarceration, passing H.B. 25-1013 in 2025. This recent legislation provides the right to visitation in general for people incarcerated in the Department of Corrections. In 2023, the Colorado Jail Standards Commission issued recommended standards for jails, including providing sufficient space for in-person visits by friends and families and a minimum of two personal visits being allowed each week.³

³ LEGISLATIVE COUNCIL STAFF, COLO. JAIL STANDARDS COMMISSION, REPORT TO THE LEGIS. OVERSIGHT COMM. CONCERNING COLO. JAIL STANDARDS 1, 45 (Nov. 15, 2023),

<https://content.leg.colorado.gov/sites/default/files/2026-02/standards-for-colorado-jails-accessible.pdf>.

Additionally, § 2-3-1901.5, C.R.S., enacted in 2024, requires all county jails to comply with the standards adopted by the Legislative Oversight Committee beginning on July 1, 2026. The standards for Colorado Jails are available at <https://content.leg.colorado.gov/sites/default/files/2026-02/standards-for-colorado-jails-accessible.pdf>.

b. Colorado Department of Human Services Rulemaking

After passage of S.B. 23-039, the Colorado Department of Human Services created statutorily required rules to facilitate communication and family time between children and their parents who are incarcerated. See 12 C.C.R. §§ 2509-4:7.301.22, 7.301.24, 7.304.64. These rules are required to consider the benefits to the child of maintaining contact with their parent and the parent's willingness to maintain a meaningful relationship. Further, if a parent who is party to a dependency and neglect case becomes incarcerated, then the Department must "coordinate and facilitate available services with the Family Services Coordinator or other designated communications liaison of the facility where the parent is incarcerated." 12 C.C.R. § 2509-4:7.301.22(B)(3). The new rules also emphasize that in-person family time is still a priority even if a parent is incarcerated.

Specifically, under the rules the Department and caseworkers are required to

[c]ontact the parent who is incarcerated and the Family Services Coordinator or other designated communications liaison of the facility to determine what options are available for *in-person family time*, to *make reasonable efforts to support in-person family time*, and to make reasonable efforts to facilitate family time through audio-visual communication and/or other emerging available technology when in-person family time is not reasonably practicable.

12 C.C.R. § 2509-4:7.304.64(I) (emphasis added).

In this case, the Department and Adams County Sheriff have not demonstrated that "in-person family time is not reasonably practicable." *Id.* Accordingly, this

Court should reverse the lower court's denial of injunctive relief and remand the case with instructions to the trial court to immediately enjoin Adams County from utilizing its unconstitutional blanket order.

c. Colorado Sheriffs' Departments

County jails and sheriffs' departments are required to assist in giving effect to the ability of parents to visit their children face-to-face. Specifically, the law requires each County sheriff to designate one individual responsible for communicating between the jail and county department of human services "for the purpose of improving communication and ensuring opportunities for family time." § 30-10-528, C.R.S. "The act [also] requires each sheriff to designate one individual responsible for communicating between the jail and the county department of human services concerning children subject to an open dependency and neglect case whose parents are incarcerated in the jail." *Id.* As such, the act contemplates the collaboration between the court, sheriff's department, and county jail where the parent is incarcerated. When a county jail, like Adams County jail, enacts a "blanket policy" prohibiting in-person family time for children and their incarcerated parents it is a direct violation of *E.S.* and state law. See *E.S.* ¶ 22; 12 C.C.R. § 2509-4:7.304.64(I).

Moreover, it is commonly known that individuals incarcerated in county jails are often pre-trial and have not yet been found guilty of any crime. These parents

are presumed innocent of all their charges under both the United States Constitution and Colorado law, and yet Adams County and other jails throughout Colorado are denying parents their statutory and constitutional right to contact with their children. U.S. CONST. amend. V, XIV; § 18-1-402, C.R.S. Parents held in county jail post-trial are typically either awaiting sentencing, serving jail sentences for misdemeanor convictions, awaiting release on community-based sentences, or awaiting transfer to the Colorado Department of Corrections (DOC). These parents in Adams County jail and other Colorado jails are also being denied access and in-person family time with their children. In stark contrast, Colorado DOC holds exclusively those serving sentences for felony criminal convictions. And despite housing higher level inmates than county jails with therefore increased security risks, DOC nevertheless consistently provides in-person family time for incarcerated parents and their children. Because the DOC has proven that in person visitation is not only viable, but beneficial, and yet Adams County and other jails refuse to do so, this Court should issue an order to reverse the lower court's denial of injunctive relief and remand the case with instructions to the trial court to immediately enjoin Adams County from utilizing its unconstitutional blanket order.

III. MAINTAINING IN-PERSON FAMILY TIME FOR INCARCERATED PARENTS AND THEIR CHILDREN REDUCES SEPARATION TRAUMA, INCREASES CARCERAL INSTITUTION SECURITY, AND REDUCES RECIDIVISM.

a. Separation Trauma

The separation of a child from their parent is “one of the most profound traumas that a child can experience” because it removes children from a vital emotional environment that supports their ongoing development.⁴ This leads to mental health challenges including distress, anxiety, depression, anger, and feelings of guilt.⁵ Additionally, the abrupt removal of a parent from a child’s life due to incarceration can initiate an intergenerational cycle of incarceration, especially when negative behavioral impacts lead to increased childhood contact with the criminal justice system.⁶ However, proactively providing parents and children with contact and family time can help to strengthen parent-child relationships. Maintaining such

⁴ Martin H. Teicher, *Childhood Trauma and the Enduring Consequences of Forcibly Separating Children from Parents at the United States Border*, BMC MEDICINE 1, 2 (Aug. 22, 2018), https://pmc.ncbi.nlm.nih.gov/articles/PMC6103973/pdf/12916_2018_Article_1147.pdf

⁵ Charlene Wear Simmons, Ph.D., *Children of Incarcerated Parents*, CALIFORNIA RESEARCH BUREAU, 1, 4 (March 2000), <https://cahealthadvocates.org/wp-content/uploads/2007/11/V7N2.pdf>.

⁶ CHILDREN’S BUREAU, CHILD WELFARE INFORMATION GATEWAY, CHILD WELFARE PRACTICE WITH FAMILIES AFFECTED BY PARENTAL INCARCERATION 1, 5 (Oct. 2015), https://coloradocwts.com/wp-content/uploads/2022/03/Child-Welfare-practice-with-families-affected-by-parental-incarceration-Children_s-Bureau.pdf.

contact also helps prevent the termination of parental rights.⁷ Such contact also has positive contributions to a child’s mental health because “[t]hese contacts provide children with opportunities to maintain positive relationships with their parents, alleviate fears about their parents’ well-being, and help them deal with the reality of their parents’ situations.”⁸ Frequent in-person family time also has positive effects on behavior. “Studies of children in the general foster care population have found a number of benefits for children when they have regular, frequent contact with their parents, including lower rates of depression and fewer externalizing behaviors.”⁹ In-person parent and child visits increases children’s feelings of attachment to their parent, reduce their stress and anxiety, and reassure them that their mom or dad still cares about them.¹⁰

This data is supported by individual experiences. Since 2020, the ORPC has contracted with parent advocates to provide case management and support to other parents experiencing dependency and neglect cases. Parent advocates are uniquely skilled in their role through their own lived experience. The criteria to become a parent advocate includes that the individual was formerly a parent in a dependency

⁷ *Id.* at 8.

⁸ *Id.* at 10.

⁹ CHILDREN’S BUREAU, CHILD WELFARE INFORMATION GATEWAY, *supra* note 6, at 10.

¹⁰ LINDSEY CRAMER ET AL., URBAN INSTITUTE, PARENT-CHILD VISITING PRACTICES IN PRISONS AND JAILS: A SYNTHESIS OF RESEARCH AND PRACTICE 1, 8 (April 2017).

and neglect case, that they completed their case, and that their case has been closed for at least one year. Several of the ORPC parent advocates were previously incarcerated and many of them work to support currently incarcerated parent clients.

The ORPC parent advocates note the separational trauma that incarceration caused for their children and themselves, and their current clients and children. One parent advocate went without seeing his child for the first two years of his child's life. During that time there was no in-person visitation, virtual visitation, phone calls, or even photos exchanged. In reflecting on the day that he finally got to see his child, he said "I went to pick her up, and she pulled away from me. She did not know who I was." Another parent advocate recognizes that the impacts of separational trauma still impact her and her child today even though it has been seven years since they were reunited. Separation trauma is also often generational. One parent advocate was removed from her mother's custody and placed in foster care when her own parent became incarcerated. Both parent advocates expressed the immense motivation that their children provided them to change their lives and seek goals of rehabilitation.

b. Increased Institutional Security and Lower Recidivism

In-person visitation or family time has positive impacts on both inmates and institutions. Extensive research demonstrates that family time reduces overall

inmate recidivism by 25%.¹¹ Parents who receive more visits from their children have lower rates of recidivism after release.¹² In-person visitation positively contributes to the morale of those who are incarcerated and their loved ones within the community.¹³

Even more relevant to the blanket policy in this case, a fifty-state survey conducted by Yale University found “that frequent, high quality visitation can reduce prison violence, maintain family bonds, break the intergenerational cycle of incarceration, and smooth the reentry process.”¹⁴ Inmate visitation also reduces behavioral write ups and assists individuals in acclimating to the carceral environment.¹⁵ In other words, promoting in-person visitation increases security for the jails and helps reduce their need in future generations.

Despite these benefits, the ORPC parent advocates working with incarcerated parent clients have expressed a wide range of visitation challenges for children and their incarcerated parents. Since SB 23-039 was enacted parents incarcerated in

¹¹ Niyankor Ajuaj, *Opinion: People Incarcerated in Colorado Prisons Should Have a Right to Visitations with Loved Ones*, THE COLORADO SUN (April 10, 2025), <https://coloradosun.com/2025/04/10/opinion-colorado-prison-visitation-right-legislation/>

¹² Joshua C. Cochran & Daniel P. Mears, *Social Isolation and Inmate Behavior: A Conceptual Framework for Theorizing Prison Visitation and Guiding and Assessing Research*, 41 J. CRIM. JUST. 252, 258 (2013).

¹³ CHILDREN’S BUREAU, CHILD WELFARE INFORMATION GATEWAY, *supra* note 7.

¹⁴ Chesa Boudin et al., *Prison Visitation Policies: A Fifty-State Survey*. 32 YALE L. & POL’Y REV. 149, 151 (2013).

¹⁵ *Id.* at 152.

county jails throughout the state of Colorado, including Adams County, are not receiving in-person visitation or family time with their children. Arapahoe County Department of Human Services refuses to bring children for in-person visitation expressing concerns about caseworker safety. This is contrary to the intent of S.B. 23-039 and is a direct violation of Colorado Department of Human Services rulemaking which states the Department and caseworkers are required to “make reasonable efforts to support in-person family time....and document the efforts to coordinate and facilitate in-person family time....” 12 C.C.R. § 2509-4:7.304.64.

The ORPC parent advocates also report that some parents in county jails are receiving virtual visitation, but even that is often sporadic, limited, and unreliable. For example, while a parent in an urban Colorado county may receive thirty minutes of virtual visitation each week, other parents continue to receive no contact at all. And these experiences witnessed by parent advocates are supported by the ORPC data. The ORPC surveys its contractors on an annual basis. While the passage of S.B. 23-039 has reduced the incidents of no in-person family time for incarcerated parents involved in dependency cases from 80% to 50%, that still means that- despite legislation, case law, and the constitutional right to parent, parents are not receiving in-person visitation half of the time.¹⁶ This is true even though parents held in jails are often held pretrial and have not been convicted of

¹⁶ ORPC Internal Data, ORPC Contractor Survey, (analyzed Jan. 29, 2026).

the crime for which they are held. Such parents are still much less likely to see their children in-person than parents incarcerated in DOC and do not see their children in-person at all 50% of the time.

As noted above, unlike Adams County and other Colorado county jails, Colorado DOC, routinely facilitates in-person and face-to-face visitation for parents, children, and families. DOC recognizes the importance of in-person visitation and “is committed to...the principle that maintaining family and community ties is vital for residents’ successful rehabilitation and safe return to society.”¹⁷ This policy matches research that shows that individuals who maintain family ties are more likely to have stable housing, support, employment, and are less likely to commit new crimes upon release from incarceration.¹⁸ Moreover, DOC recognizes “the profound impact of familial and community support in the rehabilitation process.”¹⁹ DOC Administrative Regulation 750-05 addresses the importance of parent and child bonds. This administrative regulation exists “to encourage and preserve children’s relationships with parents who are incarcerated

¹⁷ COLO. DEP’T OF CORRECTIONS, *Visitation Rules and Procedures*, <https://cdoc.colorado.gov/resources-faq/faq/visit-an-incarcerated-individual/visitation-rules-and-procedures>

¹⁸ Cochran & Mears, *supra* note 12.

¹⁹ COLO. DEP’T OF CORRECTIONS, *Visitation Rules and Procedures*, *supra* note 17.

in the DOC by facilitating opportunities for offenders to communicate and visit with their children.”²⁰

The ORPC parent advocates report the successful efforts DOC has made to provide in-person, face-to-face visitation for parents and children with dependency and neglect cases and the effects it has on reducing trauma and leading to the successful closure of cases. For example, one advocate worked with a Mother who had regular visits with her children at a DOC facility. The facility even provided books and games for her and other parents and children to meaningfully engage with one another. Another parent advocate described a county Department transporting a young child several hours once a month for visitation with an incarcerated father. During the weeks that in-person visitation did not take place, the parent and child met through virtual visits.

Put simply, while Adams County and other county jails are prohibiting in-person parent-child contact, the Colorado DOC is successfully implementing in-person contact for incarcerated parents and their children throughout the state of Colorado. This is despite being considerably larger, less nimble, having more red tape as a state agency, and housing much higher-level offenders with far more serious security needs.

²⁰ COLO. DEP’T OF CORRECTIONS, ADMIN. REGUL. 750-05, REDUCE CHILD AND INCARCERATED PARENT SEPARATION, http://drive.google.com/file/d/1XJ_1CpOjBDhVYvEOz7HDI-h_eP1TVpZr/view.

CONCLUSION

The fundamental right to parent is protected under the Fourteenth Amendment of the United States Constitution. And, neither a criminal conviction nor incarceration divests a parent of their fundamental right to direct their child's upbringing. *Diernfeld*, 323 P.2d at 631. Amicus the ORPC urges this Court to reverse the lower court's denial of injunctive relief and remand the case with instructions to the trial court to immediately enjoin Adams County from utilizing its unconstitutional blanket order.

Respectfully submitted,



Kelli S. Nagel, Bar No. 46613
Attorney for Amicus Curiae
Office of Respondent Parents' Counsel

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of July 2026, a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE AMICUS BRIEF** was served via e-filing on:

Attorneys for Plaintiffs:

Kevin S. Hannon #16015
Yohania Santana #58560
Nelson Boyle #39525
SINGLETON SCHREIBER, LLP
1641 N. Downing Street
Denver, CO 80218
khannon@singletonschreiber.com

Dan Meyer #56686
SPERO JUSTICE CENTER
1312 17th St. Suite 642
Denver, CO 80202
dan.meyer@sperojustice.org

David G. Maxted
Hannah G. Dodson
MAXTED LAW LLC
1543 Champa Street Suite 400
Denver, CO 80202
dave@maxtedlaw.com
hannah@maxtedlaw.com

Hong Le (25PHV8607)
Jean Strout (25PHV8606)
National Center for Youth Law
428 13th St. FL 5, Oakland, CA 94612 (510) 920-3542
hle@youthlaw.org
jstrout@youthlaw.org

Alexandra M. Jordan
Leslie A. Bailey
PUBLIC JUSTICE
475 14th Street, Suite 610 Oakland, CA 94612
(510) 622-8150
ajordan@publicjustice.net
lbailey@publicjustice.net

Elizabeth Rossi
Matthew Garcia
CIVIL RIGHTS CORPS
1601 Connecticut Ave. NW, Suite 800
(202) 844-4975
elizabeth@civilrightscorps.org
matthewgarcia@civilrightscorps.org

Attorneys for Defendants Adams County Sheriff Gene Claps, Adams County
Board of County Commissioners and Adams County Jail Division Chief William
Dunning:

Kerri A Booth, #42562
Assistant Adams County Attorney
Michael A. Sink, #36064
Assistant Adams County Attorney
Adams County Attorney's Office
4430 S. Adams County Pkwy, Suite C5000B
Brighton, CO 80601
kbooth@adamscountyco.gov
msink@adamscountyco.gov

Attorneys for Defendant Homewav, LLC:

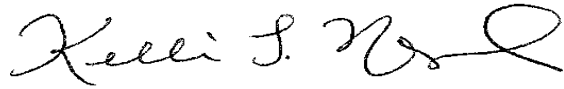
Reza D. Rismani, #31184
Grant A. Biggs, #59143 Freeman Mathis & Gary, LLP
6400 S. Fiddlers Green Cir., Ste. 1900
Greenwood Village, CO 80111
reza.rismani@fmglaw.com
grant.biggs@fmglaw.com

Attorneys for Amicus Curiae ACLU:

Kim Dvorchak #26795 National Association of Counsel for Children 899 N.
Logan Str., Ste.208 Denver, CO 80203 (720) 420-9785

Kim.Dvorchak@NACCchildlaw.org

Amy F. Robertson, #25890
FOX & ROBERTSON, PC
1550 Wewatta St., Suite 200
Denver, CO 80202
arob@foxrob.com



Kelli S. Nagel, Bar No. 46613
Attorney for Amicus Curiae
Office of Respondent Parents' Counsel