

FAMILY TIME/FAMILY CONNECTION RESOURCE

Highlights of two legislative changes for 2023 regarding family time, formerly known as visitation or parenting time, and incarcerated parent family time and case participation.



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HB23-1027 – Parent and Family Time Bill. Changes the term “visitation” to “family time” throughout Title 19 and defines family time as any form of contact or engagement between parents, legal custodians, guardians, siblings, and children or youth for the purposes of preserving and strengthening family ties. This language change was effective as of June 1, 2023 and the remainder of the bill will be effective January 1, 2024.

Additional changes:

- A **family time plan** must be put on the record at the first hearing that occurs after the emergency/shelter hearing or no later than 30 days after removal.
- Family time cannot be used as a sanction against parents or youth.
- **Presumption** that family time be supervised by informal supports identified by the family and that it occur in the community, in a home-like environment, or other agreed upon location unless the youth's safety, mental, emotional or physical health requires professional supervision, or there are no willing natural supports.
- Parent, child, and youth's preferences must be considered when determining supervision, location, and timing of family time.
- Restrictions of family time may **ONLY** occur if necessary to protect the child/youth's safety or mental, emotional, or physical health.

Family Time Plan Requirements

- Frequency and length.
- Persons who may be present.
- Whether family time must be supervised.
- Opportunities to communicate.

Additional family time considerations for youth placed out of home in C.R.S. 19-3-217 (1.5)

- Maximum time possible.
- Include parents in the care of the child/youth when in the child/youth's best interests.
- Encourage parental attendance/participation in the child/youth's life such as school, extracurricular activities, and medical appointments when in the best interests of the child.

SB23-039 – Reduce Child and Incarcerated Parent Separation. Ensures all incarcerated parents involved in a D&N case will have court appointed counsel and addresses the involvement of incarcerated parents in their D&N cases in a variety of ways. Specifies that a person named a respondent is a party to the proceedings and has the right and responsibility to attend and fully participate in all proceedings related to the respondent. A respondent's failure to appear for a hearing does not constitute violation of the respondent's due process rights and nothing in this section prohibits the court from proceeding if a respondent fails to appear. The bill will go into effect January 1, 2024.



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Additional changes:

- The court must issue writs for parents that are incarcerated to attend all hearings either in person or through audio-visual communication in 19-3-502 (b).
- Long-term confinement has been removed as a stand-alone criteria for termination under 19-3-604.
- A good-cause criteria has been added in 19-3-702 for a parent who is incarcerated and has a meaningful and safe relationship with the child or youth while incarcerated.
- If a parent has maintained a meaningful and safe relationship with the child while incarcerated, the court is required to make findings regarding whether a permanent placement exists that permits the parent to maintain a relationship with the child/youth, including guardianship or APR, and giving primary consideration to the child's mental, physical, and emotional needs. If this requires a change in placement, the court must consider factors laid out in 19-3-702 (6).

Meaningful and Safe Relationship

In making a determination whether a parent who is incarcerated has maintained a meaningful and safe relationship with the child, the court shall give primary consideration to the child's mental, emotional, and physical needs, and whether the involvement of the parent who is incarcerated in the child's life serves the child's best interests. The court shall not find that the parent's incarceration is the sole reason that a relationship with the parent is not in the child's best interests and shall consider the parent's efforts to comply with the treatment plan under the circumstances of incarceration.

Treatment Planning

- DHS shall make reasonable efforts to involve the incarcerated parent in planning services for the child. This includes:
 - Permitting and facilitating a parent's remote attendance and participation.
 - Opportunities for meaningful family time between the child and parent.
- Caseworkers must include information detailing the services and treatment options available to a parent at the facility or jail in their FSP.

Family Time

- If in-person family time is not reasonably practicable, the caseworker shall communicate with the facility or jail about the ability to use audio-visual technology for family time.
- The court shall consider the preferences of the child and parent when determining whether in-person family time should occur.
- The Court cannot determine that family time is not in the BIC based solely on the fact that in-person family time would occur in a facility or jail.

- Each presentence investigation report must include information indicating whether the person is a respondent in an open D&N proceeding.
- Requirements and guidance for facilities around communication, transportation, and placement of the parent through Title 17 and Title 30 additions.