JARED POLIS
GOVERNOR

136 STATE CAPITOL
DENVER, COLORADO 80203

TEL 303-866-2471
FAX 303-866-2003

D 2020 034

EXECUTIVE ORDER

Ordering the Temporary Suspension of Certain Regulatory Statutes Concerning Juvenile Justice, Regional Centers, and Behavioral Health Due to the Presence of COVID-19

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.* (Act), I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order ordering the temporary suspension of certain regulatory statutes concerning juvenile justice, regional centers, and behavioral health due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

We must take action to minimize the duration of this epidemic and the disruption to our daily lives. The virus that causes COVID-19 is spread primarily by close contact between people and through respiratory droplets when an infected person coughs or sneezes. Public health experts recommend we practice "social distancing," or maintaining a physical distance of six (6) feet or more from other people, as a way to slow the spread of COVID-19.

The potential spread of COVID-19 in State facilities poses a significant threat to individuals and staff in those facilities, as well as the communities to which those individuals will return.

This Executive Order temporarily suspends certain regulatory statutes related to the Colorado Department of Human Services (CDHS), including Division of Youth Services centers, and public and private behavioral health facilities, to enable CDHS to respond to the pandemic and undertake efforts to prevent or contain the spread of COVID-19 in CDHS facilities.

II. Directives

A. I temporarily suspend the provisions in C.R.S. §§ 26-20-103(1) and 26-20-104.5 regarding the use of seclusion, as defined in C.R.S. § 26-20-102(7), in secure facilities operated by the Division of Youth Services, provided that such measures are used solely to comply with the Centers for Disease Control and Prevention (CDC) Interim Guidance on Management of Correctional and Detention Facilities, which recommends that medical isolation and quarantine occur in a single room with a door that closes.

B. I temporarily suspend the authority given to the juvenile parole board in C.R.S. §§ 19-2-1002(1) and (3)(a) to grant, deny, or defer parole for any juvenile committed to CDHS, except juveniles committed to CDHS as Aggravated Juvenile Offenders as described in C.R.S. § 19-2-516(4), or Violent Juvenile Offenders as described in C.R.S. § 19-2-516(3). I direct CDHS to assess each juvenile not sentenced as an Aggravated Juvenile Offender or Violent Juvenile Offender for his or her risk to public safety. If, after that assessment, CDHS determines the juvenile is eligible for release, CDHS will release the juvenile from custody directly to Juvenile Parole with supervision and services. Pursuant to C.R.S. § 19-2-1002(1), the juvenile parole board shall maintain its authority to suspend, revoke, or specify or modify the conditions of any parole for any juvenile committed to CDHS as provided in C.R.S. §§ 19-2-601 and 19-2-907 who was previously granted parole by the juvenile parole board prior to the date of this Executive Order.

C. I temporarily suspend CDHS's obligation pursuant to C.R.S. § 19-2-402(1) to provide detention services for temporary care of juveniles, to comply with CDC's Interim Guidance on Management of Correctional and Detention Facilities and to prevent introducing new juveniles who may have COVID-19 into the State's detained population. I direct CDHS to identify the criteria that would justify the acceptance of a juvenile into a detention facility during the COVID-19 crisis.

D. I temporarily suspend CDHS's obligation pursuant to C.R.S. § 19-2-205(2)(b) to receive juveniles committed to the custody of CDHS, to comply with CDC's Interim Guidance on Management of Correctional and Detention Facilities and to prevent introducing new juveniles who may have COVID-19 into the State's detained and committed populations. I direct CDHS to identify the criteria that would justify the acceptance of a juvenile.

Juveniles committed to CDHS that are being held in a jail or detention facility not operated by CDHS shall remain in such facility until otherwise directed by CDHS.

E. Nothing in this Executive Order supersedes the rights provided to victims through C.R.S § 24-4.1-301 *et seq.*, the Colorado Victim Rights Act.

F. I temporarily suspend the provision in C.R.S. § 27-65-117(1)(e) that each person receiving evaluation, care, or treatment for a mental health disorder in a public or private behavioral health facility has the right and shall be advised of the right to wear his or her own clothes, to permit the facility to provide new or clean clothing to individuals during a period of isolation due to COVID-19. I encourage public and private behavioral health facilities to allow individuals receiving evaluation, care, or treatment for a mental health disorder to wear their own clothes following the period of isolation due to COVID-19.

G. I temporarily suspend the provision in C.R.S. § 27-65-117(1)(d) that each person receiving evaluation, care, or treatment for a mental health disorder in a public or private behavioral health facility has the right and shall be advised of the right to have frequent and convenient opportunities to meet with visitors, including the ability to see his or her attorney, clergy, or physician at any time, to enable these facilities to prevent the spread of COVID-19 in the event an individual or staff member at a facility shows symptoms or tests positive for COVID-19. I encourage public and private behavioral health facilities to provide methods for individuals to interact electronically with visitors, attorneys, clergy, and physicians.

H. I temporarily suspend the requirements in C.R.S. §§ 27-10.5-110.5 and 25.5-10-223(4) and (5) that individuals in State-operated Regional Centers established by C.R.S. § 27-10.5-301 must be afforded reasonable and frequent opportunities to meet with visitors and have suitable opportunities for interaction with persons of their choice, to enable State-operated Regional Centers to prevent the spread of COVID-19 in the event that an individual, staff member, or visitor at the Regional Center shows symptoms or tests positive for COVID-19. Each person receiving services in State-operated Regional Centers shall be able to communicate freely and privately with others of the person's own choosing, and have reasonable access to telephones or electronic devices that facilitate video conferencing to make and receive calls in privacy.

III. Duration

This Executive Order shall expire thirty (30) days from April 11, 2020, unless extended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this eleventh day of April, 2020.

Jared Polis
Governor