

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 30, 2018  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB18-252 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:  
3 "SECTION 1. In Colorado Revised Statutes, **amend** 16-8.5-101  
4 as follows:  
5 **16-8.5-101. Definitions.** As used in this ~~article~~ ARTICLE 8.5,  
6 unless the context otherwise requires:  
7 (1) "AVAILABLE BED" MEANS AN INPATIENT BED THAT IS  
8 UNOCCUPIED WHEN THE DEPARTMENT'S BEDS THAT ARE DEDICATED TO  
9 RESTORATION SERVICES ARE LESS THAN NINETY PERCENT FILLED.  
10 (2) "COLLATERAL MATERIALS" MEANS THE RELEVANT POLICE OR  
11 OTHER INCIDENT REPORTS AND THE CHARGING DOCUMENTS, EITHER THE  
12 CRIMINAL COMPLAINT OR INDICTMENT.  
13 ~~(1)~~ (3) "Competency evaluation" includes both court-ordered  
14 competency evaluations and second evaluations.  
15 ~~(2)~~ (4) "Competency evaluator" means a licensed physician who  
16 is a psychiatrist or a licensed psychologist, each of whom is trained in  
17 forensic competency assessments, or a psychiatrist who is in forensic  
18 training and practicing under the supervision of a psychiatrist with  
19 expertise in forensic psychiatry, or a psychologist who is in forensic  
20 training and is practicing under the supervision of a licensed psychologist  
21 with expertise in forensic psychology.  
22 ~~(3)~~ (5) "Competency hearing" means a hearing to determine  
23 whether a defendant is competent to proceed.  
24 ~~(4)~~ (6) "Competent to proceed" means that the defendant does not

1 have a mental disability or developmental disability that prevents the  
2 defendant from having sufficient present ability to consult with ~~the~~  
3 ~~defendant's~~ HIS OR HER lawyer with a reasonable degree of rational  
4 understanding in order to assist in the defense or prevents the defendant  
5 from having a rational and factual understanding of the criminal  
6 proceedings.

7 (5) (7) "Court-ordered competency evaluation" means a  
8 court-ordered examination of a defendant either before, during, or after  
9 trial, directed to developing information relevant to a determination of the  
10 defendant's competency to proceed at a particular stage of the criminal  
11 proceeding, that is performed by a competency evaluator and includes  
12 evaluations concerning restoration to competency.

13 (6) (8) "Court-ordered report" means a report of an evaluation,  
14 conducted by or under the direction of the department, that is the statutory  
15 obligation of the department to prepare when requested to do so by the  
16 court.

17 (7) (9) "Criminal proceedings" means trial, sentencing, execution,  
18 and any pretrial matter that is not susceptible of fair determination  
19 without the personal participation of the defendant.

20 (8) (10) "Department" means the department of human services.

21 (9) (11) "Developmental disability" means a disability that has  
22 manifested before the person reaches twenty-two years of age, that  
23 constitutes a substantial disability to the affected individual, and is  
24 attributable to ~~mental retardation~~ AN INTELLECTUAL DISABILITY or other  
25 neurological conditions when such conditions result in impairment of  
26 general intellectual functioning or adaptive behavior similar to that of a  
27 person with ~~mental retardation~~ AN INTELLECTUAL DISABILITY. Unless  
28 otherwise specifically stated, the federal definition of "developmental  
29 disability", 42 U.S.C. sec. 15001 et seq., ~~shall~~ DOES not apply.

30 (10) (12) "Executive director" means the executive director of the  
31 department of human services.

32 (11) (13) "Incompetent to proceed" means that, as a result of a  
33 mental disability or developmental disability, the defendant does not have  
34 sufficient present ability to consult with ~~the defendant's~~ HIS OR HER lawyer  
35 with a reasonable degree of rational understanding in order to assist in the  
36 defense, or that, as a result of a mental disability or developmental  
37 disability, the defendant does not have a rational and factual  
38 understanding of the criminal proceedings.

39 (14) "INPATIENT" MEANS IN THE CUSTODY OF THE DEPARTMENT,  
40 EITHER IN A MENTAL HEALTH HOSPITAL OR IN A FULL-TIME, JAIL-BASED  
41 RESTORATION PROGRAM DEVELOPED BY THE DEPARTMENT.

1           ~~(12)~~ (15) "Mental disability" means a substantial disorder of  
2 thought, mood, perception, or cognitive ability that results in marked  
3 functional disability, significantly interfering with adaptive behavior.  
4 "Mental disability" does not include acute intoxication from alcohol or  
5 other substances, or any condition manifested only by antisocial behavior,  
6 or any substance abuse impairment resulting from recent use or  
7 withdrawal. However, substance abuse that results in a long-term,  
8 substantial disorder of thought, mood, or cognitive ability may constitute  
9 a mental disability.

10           (16) "OUTPATIENT" MEANS ANY LOCATION OUTSIDE OF THE  
11 CUSTODY OF THE DEPARTMENT WHERE THE DEFENDANT CAN ACCESS  
12 RESTORATION SERVICES. "OUTPATIENT" MAY INCLUDE A JAIL OR OTHER  
13 DETENTION FACILITY WHERE THE DEFENDANT IS IN CUSTODY OR ANY  
14 OTHER OUT-OF-CUSTODY RESTORATION LOCATION.

15           ~~(13)~~ (17) "Restoration hearing" means a hearing to determine  
16 whether a defendant who has previously been determined to be  
17 incompetent to proceed has become competent to proceed.

18           ~~(14)~~ (18) "Second evaluation" means an evaluation requested by  
19 the court, the district attorney, or the defendant that is performed by a  
20 competency evaluator and that is not performed by or under the direction  
21 of, or paid for by, the department.

22           **SECTION 2.** In Colorado Revised Statutes, 16-8.5-103, **amend**  
23 (1), (3), and (4) as follows:

24           **16-8.5-103. Determination of competency to proceed.**

25 (1) Whenever the question of a defendant's competency to proceed is  
26 raised, by either party or on the court's own motion, the court may make  
27 a preliminary finding of competency or incompetency ~~TO PROCEED~~, which  
28 ~~shall be~~ IS a final determination unless a party to the case objects within  
29 ~~fourteen~~ SEVEN days after the court's preliminary finding.

30           (3) Within ~~fourteen~~ SEVEN days after receipt of the court-ordered  
31 report, either party may request a hearing or a second evaluation.

32           (4) If a party requests a second evaluation, any pending requests  
33 for a hearing ~~shall~~ MUST be continued until the receipt of the second  
34 evaluation report. The report of the expert conducting the second  
35 evaluation ~~shall~~ MUST be completed and filed with the court within  
36 ~~sixty-three~~ FORTY-TWO days after the court order allowing the second  
37 evaluation, unless the time period is extended by the court for good cause.  
38 If the second evaluation is requested by the court, it ~~shall~~ MUST be paid  
39 for by the court.

40           **SECTION 3.** In Colorado Revised Statutes, 16-8.5-105, **amend**  
41 (1) and (5); and **add** (6) as follows:

1           **16-8.5-105. Competency evaluations and reports.**

2 (1) (a) (I) The court shall order that the COMPETENCY evaluation be  
3 conducted on an ~~outpatient~~ OUT-OF-CUSTODY basis or, if the defendant is  
4 in custody, at the place where the defendant is in custody, ~~The defendant~~  
5 ~~shall be released on bond if otherwise eligible for bond~~ EXCEPT AS  
6 PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION. IF THE DEPARTMENT  
7 CONDUCTS THE EVALUATION ON AN IN-CUSTODY BASIS, THE DEPARTMENT  
8 SHALL BEGIN THE EVALUATION NO LATER THAN SEVEN DAYS AFTER THE  
9 DEPARTMENT'S RECEIPT OF A COURT ORDER DIRECTING THE EVALUATION  
10 AND THE RECEIPT OF COLLATERAL MATERIALS. THE DEPARTMENT SHALL  
11 COMPLETE THE IN-CUSTODY EVALUATION NO LATER THAN FORTY-FIVE  
12 DAYS AFTER THE RECEIPT OF SUCH DOCUMENTS, UNLESS THE COURT  
13 EXTENDS THE TIMELINE FOR GOOD CAUSE SHOWN.

14           (II) THE DEFENDANT MUST HAVE BOND SET UNLESS HE OR SHE IS  
15 INELIGIBLE FOR BOND PURSUANT TO THE PROVISIONS OF SECTION  
16 16-4-101. THE COURT SHALL DETERMINE THE TYPE OF BOND AND THE  
17 CONDITIONS OF RELEASE AFTER CONSIDERATION OF THE FACTORS  
18 ENUMERATED IN ARTICLE 4 OF THIS TITLE 16, WHICH INCLUDE  
19 CONSIDERATION OF THE INFORMATION RECEIVED FROM ANY PRETRIAL  
20 SERVICES PROGRAM PURSUANT TO THE PROVISIONS OF SECTION 16-4-106.  
21 A REQUEST FOR A COMPETENCY EVALUATION IS NOT A BARRIER TO  
22 RELEASE ON BOND, INCLUDING A PERSONAL RECOGNIZANCE BOND, WITH  
23 APPROPRIATE AND LEAST RESTRICTIVE CONDITIONS. AS A CONDITION OF  
24 ANY BOND, THE COURT SHALL INCLUDE A CONDITION REQUIRING THE  
25 DEFENDANT'S COOPERATION WITH THE COMPETENCY EVALUATION ON AN  
26 OUTPATIENT AND OUT-OF-CUSTODY BASIS.

27           (III) NOTHING IN THIS SUBSECTION (1)(a) LIMITS THE  
28 AVAILABILITY OF A COURT-ORDERED EVALUATION FOR A PERSON WITH A  
29 MENTAL HEALTH DISORDER PURSUANT TO SECTION 27-65-106 OR INVOKES  
30 THE EMERGENCY PROCEDURE SET FORTH IN SECTION 27-65-105.

31           (b) Notwithstanding the provisions of ~~paragraph (a) of this~~  
32 ~~subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, the court may order  
33 the defendant placed in the DEPARTMENT'S custody ~~of the Colorado~~  
34 ~~mental health institute at Pueblo~~ for the time necessary to conduct the  
35 INPATIENT COMPETENCY evaluation if:

36           ~~(F) The court finds the defendant may be a danger to self or others~~  
37 ~~as defined in section 27-65-102, C.R.S.;~~

38           ~~(H) The court finds that an inadequate competency evaluation and~~  
39 ~~report has been completed or two or more conflicting competency~~  
40 ~~evaluations and reports have been completed;~~

41           ~~(HH) The court finds that an observation period is necessary to~~

1 determine if the defendant is competent to stand trial;  
2 (IV) ~~The court receives a recommendation from the Colorado~~  
3 ~~mental health institute at Pueblo court services evaluator that conducting~~  
4 ~~the evaluation at the Colorado mental health institute at Pueblo is~~  
5 ~~appropriate because the evaluator conducting the evaluation for the~~  
6 ~~Colorado mental health institute at Pueblo determines that the defendant~~  
7 ~~has been uncooperative or the defendant has clinical needs that warrant~~  
8 ~~transfer to the Colorado mental health institute at Pueblo; or~~  
9 (V) ~~The court receives written approval for the evaluation to be~~  
10 ~~conducted at the Colorado mental health institute at Pueblo from the~~  
11 ~~executive director of the department of human services, or his or her~~  
12 ~~designee.~~  
13 (I) THE DEPARTMENT PROVIDES A RECOMMENDATION TO THE  
14 COURT, AFTER CONSULTATION WITH THE DEFENDANT, THAT CONDUCTING  
15 THE COMPETENCY EVALUATION ON AN INPATIENT BASIS IS CLINICALLY  
16 APPROPRIATE; OR  
17 (II) EXTRAORDINARY CIRCUMSTANCES RELATING TO THE CASE OR  
18 THE DEFENDANT MAKE CONDUCTING THE COMPETENCY EVALUATION ON  
19 AN INPATIENT BASIS NECESSARY AND APPROPRIATE.  
20 (b.3) UPON ENTRY OF A COURT ORDER PURSUANT TO SUBSECTION  
21 (1)(b) OF THIS SECTION, THE DEPARTMENT HAS THE SAME AUTHORITY  
22 WITH RESPECT TO CUSTODY AS PROVIDED FOR IN SECTION 16-8-105.5 (4).  
23 (b.5) WHEN THE COURT ORDERS AN INPATIENT EVALUATION, THE  
24 COURT SHALL ADVISE THE DEFENDANT THAT RESTORATION SERVICES MAY  
25 COMMENCE IMMEDIATELY IF THE EVALUATION CONCLUDES THE  
26 DEFENDANT IS INCOMPETENT TO PROCEED, UNLESS EITHER PARTY OBJECTS  
27 AT THE TIME OF THE ADVISEMENT, OR WITHIN SEVENTY-TWO HOURS AFTER  
28 THE RECEIPT OF THE WRITTEN EVALUATION SUBMITTED TO THE COURT.  
29 THE COURT SHALL RECORD ANY OBJECTION TO THE ORDER OF  
30 COMMITMENT TO THE DEPARTMENT.  
31 (c) ~~The court, when setting bond pursuant to section 16-4-103, if~~  
32 ~~the defendant is eligible for bond, and after receiving any information~~  
33 ~~pursuant to section 16-4-106, shall not consider the need for the~~  
34 ~~defendant to receive an evaluation pursuant to this article.~~  
35 (d) If a defendant is in THE DEPARTMENT'S custody ~~at the Colorado~~  
36 ~~mental health institute at Pueblo~~ for purposes of the COMPETENCY  
37 evaluation ordered pursuant to this ~~article~~ ARTICLE 8.5 and the defendant  
38 has completed the ~~evaluation and must be returned to~~ COMPETENCY  
39 EVALUATION AND THE EVALUATOR HAS CONCLUDED THAT THE  
40 DEFENDANT IS COMPETENT TO PROCEED, THE DEPARTMENT MAY RETURN  
41 THE DEFENDANT TO a county jail OR TO THE COMMUNITY, AS DETERMINED

1 BY THE DEFENDANT'S BOND STATUS. IF THE EVALUATOR HAS CONCLUDED  
2 THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND THAT INPATIENT  
3 RESTORATION SERVICES ARE NOT CLINICALLY APPROPRIATE, AND  
4 OUTPATIENT RESTORATION SERVICES ARE AVAILABLE TO THE DEFENDANT  
5 IN THE COUNTY JAIL OR IN THE COMMUNITY, THE DEPARTMENT MAY  
6 RETURN THE DEFENDANT TO A COUNTY JAIL OR TO THE COMMUNITY. IF  
7 THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE COUNTY JAIL, the  
8 ~~county~~ sheriff in the jurisdiction where the defendant must return shall  
9 ~~make all reasonable efforts to take custody of the defendant as soon as~~  
10 ~~practicable once the defendant's evaluation is completed~~ TAKE CUSTODY  
11 OF THE DEFENDANT WITHIN SEVENTY-TWO HOURS AFTER RECEIVING  
12 NOTIFICATION FROM THE DEPARTMENT THAT THE DEFENDANT'S  
13 COMPETENCY EVALUATION IS COMPLETE. AT THE TIME THE DEPARTMENT  
14 NOTIFIES THE SHERIFF, THE DEPARTMENT SHALL ALSO NOTIFY THE COURT  
15 THAT THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE CUSTODY  
16 OF THE JAIL.

17 (e) Nothing in this section ~~shall restrict~~ RESTRICTS the right of the  
18 defendant to procure ~~an~~ A COMPETENCY evaluation as provided in ~~section~~  
19 ~~16-8.5-107~~ SECTION 16-8.5-106.

20 (5) The ~~report of evaluation shall~~ COMPETENCY EVALUATION  
21 REPORT MUST include but need not be limited to:

22 (a) The name of each physician, psychologist, or other expert who  
23 examined the defendant; ~~and~~

24 (b) A description of the nature, content, extent, and results of the  
25 COMPETENCY evaluation and any tests conducted, ~~and~~ WHICH MUST  
26 INCLUDE, BUT NEED NOT BE LIMITED TO, THE INFORMATION REVIEWED AND  
27 RELIED UPON IN CONDUCTING THE COMPETENCY EVALUATION AND  
28 SPECIFIC TESTS CONDUCTED BY THE COMPETENCY EVALUATOR;

29 (c) A diagnosis and prognosis of the defendant's mental disability  
30 or developmental disability; ~~and~~

31 (d) An opinion as to whether the defendant suffers from a mental  
32 disability or developmental disability; ~~and~~

33 (e) An opinion as to whether the defendant is competent to  
34 proceed;

35 (f) IF THE OPINION OF THE COMPETENCY EVALUATOR IS THAT THE  
36 DEFENDANT IS INCOMPETENT TO PROCEED:

37 (I) AN OPINION AS TO WHETHER THERE IS A SUBSTANTIAL  
38 PROBABILITY THAT THE DEFENDANT, WITH RESTORATION SERVICES, WILL  
39 ATTAIN COMPETENCY WITHIN THE TIME ALLOWED PURSUANT TO SECTION  
40 16-8.5-116;

41 (II) A RECOMMENDATION AS TO WHETHER INPATIENT

1 RESTORATION SERVICES ARE CLINICALLY APPROPRIATE TO RESTORE THE  
2 DEFENDANT TO COMPETENCY. IF INPATIENT RESTORATION SERVICES ARE  
3 NOT CLINICALLY APPROPRIATE, THE DEPARTMENT MUST DETAIL THE  
4 OUTPATIENT AND OUT-OF-CUSTODY RESTORATION SERVICES AVAILABLE  
5 TO THE DEFENDANT.

6 (g) IF AVAILABLE, A DESCRIPTION OF ALL COMPETENCY  
7 EVALUATIONS OR RESTORATION SERVICES THAT WERE PREVIOUSLY  
8 PROVIDED TO THE DEFENDANT; AND

9 (h) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE  
10 DEFENDANT MEETS THE CRITERIA FOR CERTIFICATION PURSUANT TO  
11 ARTICLE 65 OF TITLE 27 OR WHETHER THE DEFENDANT IS ELIGIBLE FOR  
12 SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR ARTICLE 10.5 OF  
13 TITLE 27.

14 (6) (a) IF THE COMPETENCY EVALUATION CONCLUDES THAT THE  
15 DEFENDANT IS INCOMPETENT TO PROCEED, THE DEPARTMENT MAY  
16 INITIATE RESTORATION SERVICES UNLESS EITHER PARTY OBJECTS WITHIN  
17 SEVENTY-TWO HOURS AFTER THE RECEIPT OF THE COMPETENCY  
18 EVALUATION REPORT OR HAS OBJECTED AT THE TIME OF THE ORDER FOR  
19 A COMPETENCY EVALUATION PURSUANT TO SUBSECTION (1)(b.5) OF THIS  
20 SECTION. ANY OBJECTION MUST BE PROVIDED TO THE DEPARTMENT ON A  
21 FORTHWITH BASIS.

22 (b) IF EITHER PARTY OBJECTS, RESTORATION SERVICES WILL NOT  
23 COMMENCE AND THE DEPARTMENT MAY RETURN THE DEFENDANT TO THE  
24 COUNTY JAIL OR TO THE COMMUNITY, DEPENDING UPON THE DEFENDANT'S  
25 BOND STATUS. IF THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE  
26 COUNTY JAIL, THE SHERIFF IN THE JURISDICTION WHERE THE DEFENDANT  
27 MUST RETURN SHALL TAKE CUSTODY OF THE DEFENDANT WITHIN  
28 SEVENTY-TWO HOURS AFTER RECEIVING NOTIFICATION FROM THE  
29 DEPARTMENT. AT THE TIME THE DEPARTMENT NOTIFIES THE SHERIFF, THE  
30 DEPARTMENT SHALL ALSO NOTIFY THE COURT THAT THE DEPARTMENT IS  
31 RETURNING THE DEFENDANT TO THE CUSTODY OF THE JAIL.

32 **SECTION 4.** In Colorado Revised Statutes, 16-8.5-111, **amend**  
33 **(2); and add (3) as follows:**

34 **16-8.5-111. Procedure after determination of competency or**  
35 **incompetency.** (2) If the final determination made pursuant to section  
36 16-8.5-103 is that the defendant is incompetent to proceed, the court has  
37 the following options:

38 (a) (I) If the defendant is on bond or summons, the court shall  
39 ~~consider whether~~ ORDER THAT restoration to competency ~~should occur~~  
40 TAKE PLACE on an outpatient and out-of-custody basis, UNLESS THE  
41 DEPARTMENT RECOMMENDS INPATIENT RESTORATION SERVICES PURSUANT

1 TO SECTION 16-8.5-105 (5)(f)(II).

2 (II) If the defendant is in custody, the court may release the  
3 defendant on bond ~~upon compliance with the standards and procedures~~  
4 ~~for such release prescribed by statute and by~~ CONSISTENT WITH ARTICLE  
5 4 OF THIS TITLE 16 AND the Colorado rules of criminal procedure. As a  
6 condition of SUCH bond, the court ~~may~~ SHALL ORDER THAT THE  
7 RESTORATION TAKE PLACE ON AN OUTPATIENT AND OUT-OF-CUSTODY  
8 BASIS. THE COURT MAY require the defendant to obtain any OUTPATIENT  
9 treatment or habilitation services that are available to the defendant, such  
10 as ~~inpatient or~~ outpatient treatment at a community mental health center  
11 or in any other appropriate OUTPATIENT treatment setting, as determined  
12 by the court. Nothing in this section authorizes the court to order  
13 community mental health centers or other providers to provide treatment  
14 for persons not otherwise eligible for these services. ~~At any hearing to~~  
15 ~~determine eligibility for release on bond, the court shall consider any~~  
16 ~~effect the defendant's incompetency may have on the court's ability to~~  
17 ~~ensure the defendant's presence for hearing or trial. There is a~~  
18 ~~presumption that the defendant's incompetency will inhibit the defendant's~~  
19 ~~ability to ensure his or her presence for trial. Pursuant to section~~  
20 ~~27-60-105, the office of behavioral health is the entity responsible for the~~  
21 ~~oversight of restoration education and coordination of services necessary~~  
22 ~~to competency restoration~~ THE INDIVIDUAL AGENCY RESPONSIBLE FOR  
23 PROVIDING OUTPATIENT RESTORATION SERVICES FOR THE DEFENDANT  
24 SHALL NOTIFY THE COURT WITHIN TWENTY-EIGHT DAYS AFTER BEGINNING  
25 OR ATTEMPTING TO BEGIN RESTORATION SERVICES IF THE DEFENDANT IS  
26 UNCOOPERATIVE WITH ACCEPTING RESTORATION SERVICES. PURSUANT TO  
27 SECTION 27-60-105, THE DEPARTMENT IS THE ENTITY RESPONSIBLE FOR  
28 THE DEVELOPMENT OF RESTORATION CURRICULA AND NECESSARY  
29 TRAINING TO CREATE OUTPATIENT RESTORATION SERVICES IN ANY  
30 SETTING.

31 (b) ~~If the court finds that the defendant is not eligible for release~~  
32 ~~from custody, the court may commit the defendant to the custody of the~~  
33 ~~department, in which case the executive director has the same powers~~  
34 ~~with respect to commitment as the executive director has following a~~  
35 ~~commitment under section 16-8-105.5 (4). At such time as the department~~  
36 ~~recommends to the court that the defendant is restored to competency, the~~  
37 ~~defendant may be returned to custody of the county jail or to previous~~  
38 ~~bond status~~ IF THE DEFENDANT IS NOT RELEASED FROM CUSTODY, THE  
39 COURT SHALL ORDER THE DEPARTMENT TO PROVIDE RESTORATION  
40 SERVICES AT THE PLACE WHERE THE DEFENDANT IS IN CUSTODY, IF THE  
41 DEPARTMENT HAS RECOMMENDED OUTPATIENT RESTORATION SERVICES



1 AND IF THE DEPARTMENT HAS NO AVAILABLE BEDS FOR INPATIENT  
2 RESTORATION SERVICES. THE DEPARTMENT SHALL BEGIN OUTPATIENT  
3 RESTORATION SERVICES AS SOON AS PRACTICABLE AFTER THE COURT'S  
4 ORDER. A JAIL WHERE A DEFENDANT IS RECEIVING OUTPATIENT  
5 RESTORATION SERVICES SHALL PROVIDE THE RESTORATION AGENCY WITH  
6 FACE-TO-FACE ACCESS IN A PRIVATE SETTING TO FACILITATE RESTORATION  
7 SERVICES.

8 (c) THE COURT MAY ORDER INPATIENT RESTORATION SERVICES  
9 UNDER ONE OF THE FOLLOWING EXCEPTIONS:

10 (I) THE COURT MAY COMMIT THE DEFENDANT TO THE CUSTODY OF  
11 THE DEPARTMENT IF THE DEPARTMENT HAS RECOMMENDED THAT  
12 RESTORATION SERVICES BE PROVIDED ON AN INPATIENT BASIS PURSUANT  
13 TO SECTION 16-8.5-105 (5)(f)(II); OR

14 (II) IF THE COURT HAS ORDERED OUTPATIENT RESTORATION  
15 SERVICES AND THE DEPARTMENT REPORTS THAT IT IS UNABLE TO PROVIDE  
16 RESTORATION SERVICES ON AN OUTPATIENT BASIS, THE COURT MAY  
17 COMMIT THE DEFENDANT TO THE CUSTODY OF THE DEPARTMENT FOR  
18 INPATIENT RESTORATION SERVICES UNTIL SUCH TIME AS THE DEPARTMENT  
19 IS ABLE TO PROVIDE OUTPATIENT RESTORATION SERVICES, AT WHICH POINT  
20 THE DEPARTMENT MAY DISCHARGE THE DEFENDANT AND BEGIN OR  
21 RESUME PROVIDING SERVICES ON AN OUTPATIENT BASIS, SUBJECT TO THE  
22 PROVISIONS OF SECTION 16-8.5-116.

23 (III) THE COURT SHALL COMMIT THE DEFENDANT TO THE CUSTODY  
24 OF THE DEPARTMENT FOR INPATIENT RESTORATION SERVICES IF THE  
25 DEFENDANT HAS BEEN RECEIVING OUTPATIENT AND IN-CUSTODY  
26 RESTORATION SERVICES AND HAS NOT BEEN RESTORED TO COMPETENCY  
27 IN ONE HUNDRED AND FIFTY DAYS, UNLESS THE COURT EXTENDS THE  
28 TIMELINE FOR GOOD CAUSE SHOWN. THE TIMELINE MUST EXCLUDE TIME  
29 DURING WHICH THE DEFENDANT REFUSES TO ACCEPT SERVICES OR  
30 TREATMENT, PROVIDED THAT SUCH REFUSAL IS NOT THE RESULT OF A  
31 DEVELOPMENTAL DISABILITY OR MENTAL DISABILITY.

32 (d) IF THE COURT COMMITS THE DEFENDANT TO THE CUSTODY OF  
33 THE DEPARTMENT, THE EXECUTIVE DIRECTOR HAS THE SAME POWERS WITH  
34 RESPECT TO A COMMITMENT PROVIDED FOR IN SECTION 16-8-105.5 (4).

35 (e) IF A COURT HAS ORDERED INPATIENT RESTORATION SERVICES  
36 AND THE DEPARTMENT DOES NOT HAVE AN AVAILABLE BED FOR THE  
37 DEFENDANT, AND THE DEPARTMENT SO ADVISES THE COURT, THE  
38 DEPARTMENT SHALL PROVIDE RESTORATION SERVICES ON AN OUTPATIENT  
39 BASIS AS SOON AS PRACTICABLE UNTIL THE DEPARTMENT CAN OFFER  
40 ADMISSION TO THE DEFENDANT.

41 (f) IF A DEFENDANT IS RECEIVING INPATIENT RESTORATION

1 SERVICES AND THE EXECUTIVE DIRECTOR CONCLUDES THAT A LESS  
2 RESTRICTIVE FACILITY WOULD BE MORE CLINICALLY APPROPRIATE, THE  
3 EXECUTIVE DIRECTOR, WITH PROPER NOTICE TO THE COURT, AND  
4 CONSISTENT WITH THE PROVISIONS OF PART 3 OF ARTICLE 4.1 OF TITLE 24,  
5 HAS THE AUTHORITY TO MOVE THE DEFENDANT TO A LESS RESTRICTIVE  
6 FACILITY IF, IN THE EXECUTIVE DIRECTOR'S OPINION, THE DEFENDANT IS  
7 NOT YET RESTORED TO COMPETENCY BUT HE OR SHE COULD BE PROPERLY  
8 RESTORED TO COMPETENCY IN A LESS RESTRICTIVE FACILITY.

9 (g) AT SUCH TIME AS THE DEPARTMENT RECOMMENDS TO THE  
10 COURT THAT THE DEFENDANT IS RESTORED TO COMPETENCY, THE  
11 DEFENDANT MAY BE RETURNED TO THE CUSTODY OF THE COUNTY JAIL, IF  
12 THE DEFENDANT IS NOT ON BOND OR SUMMONS, OR TO PREVIOUS BOND  
13 STATUS. IF THE RECOMMENDATION IS TO RETURN THE DEFENDANT TO THE  
14 CUSTODY OF THE COUNTY JAIL, THE DEPARTMENT SHALL NOTIFY THE  
15 SHERIFF IN THE JURISDICTION WHERE THE DEFENDANT IS TO BE RETURNED,  
16 AND THE SHERIFF SHALL TAKE CUSTODY OF THE DEFENDANT WITHIN  
17 SEVENTY-TWO HOURS AFTER RECEIVING SUCH NOTIFICATION. AT THE TIME  
18 THE DEPARTMENT NOTIFIES THE SHERIFF, THE DEPARTMENT SHALL ALSO  
19 NOTIFY THE COURT THAT THE DEPARTMENT IS RETURNING THE DEFENDANT  
20 TO THE CUSTODY OF THE JAIL.

21 (3) FOR A DEFENDANT WHO IS RECEIVING OUTPATIENT AND  
22 IN-CUSTODY RESTORATION SERVICES, THE COURT SHALL REVIEW THE CASE  
23 EVERY THIRTY DAYS TO ASSESS THE CLINICAL STATUS OF THE DEFENDANT  
24 AND HIS OR HER PROGRESS TOWARD RESTORATION. AT THAT TIME, THE  
25 COURT SHALL ALSO REVIEW THE INDIVIDUAL CIRCUMSTANCES OF THE  
26 DEFENDANT TO DETERMINE IF HE OR SHE SHOULD BE RELEASED ON BOND  
27 WITH APPROPRIATE CONDITIONS PURSUANT TO THE PROVISIONS OF THIS  
28 SECTION AND SECTION 4 OF THIS ARTICLE 16.

29 **SECTION 5.** In Colorado Revised Statutes, 16-8.5-113, **amend**  
30 (2) and (3) as follows:

31 **16-8.5-113. Restoration to competency.** (2) Within ~~fourteen~~  
32 SEVEN days after receipt of a report from the department or other  
33 court-approved provider of restoration services certifying that the  
34 defendant is competent to proceed, either party may request a hearing or  
35 a second evaluation. The court shall determine whether to allow the  
36 second evaluation or proceed to a hearing on competency. If the second  
37 evaluation is requested by the court or by an indigent defendant, it ~~shall~~  
38 MUST be paid for by the court.

39 (3) If a second evaluation is allowed, any pending requests for a  
40 hearing ~~shall~~ MUST be continued until receipt of the second evaluation  
41 report. The report of the expert conducting the second evaluation report

1 ~~shall~~ MUST be completed and filed with the court within ~~sixty-three~~  
2 FORTY-TWO days after the court order allowing the second evaluation,  
3 unless the time period is extended by the court after a finding of good  
4 cause.

5 **SECTION 6.** In Colorado Revised Statutes, 16-8.5-114, **amend**  
6 (2) as follows:

7 **16-8.5-114. Procedure after hearing concerning restoration to**  
8 **competency.** (2) If, after the hearing held pursuant to section 16-8.5-113,  
9 the court determines that the defendant remains incompetent to proceed,  
10 the court may continue or modify any orders entered at the time of the  
11 original determination of incompetency and may commit or recommit the  
12 defendant or enter any new order necessary to facilitate the defendant's  
13 restoration to mental competency, CONSISTENT WITH THE REQUIREMENTS  
14 OF SECTION 16-8.5-111.

15 **SECTION 7.** In Colorado Revised Statutes, **repeal and reenact,**  
16 **with amendments,** 16-8.5-116 as follows:

17 **16-8.5-116. Certification - reviews - termination of**  
18 **proceedings - rules.** (1) SUBJECT TO THE TIME PERIODS SET FORTH IN  
19 SUBSECTIONS (3), (4), AND (5) OF THIS SECTION, WHICHEVER IS SHORTEST,  
20 A DEFENDANT COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR  
21 OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF  
22 INCOMPETENCY TO PROCEED MUST NOT REMAIN CONFINED FOR A PERIOD  
23 IN EXCESS OF THE MAXIMUM TERM OF CONFINEMENT THAT COULD BE  
24 IMPOSED FOR THE MOST SERIOUS OFFENSE WITH WHICH THE DEFENDANT  
25 IS CHARGED, LESS ANY TIME CREDITS THE DEFENDANT WOULD BE  
26 ENTITLED TO PURSUANT TO ARTICLE 22.5 OF TITLE 17 AND SECTION  
27 17-26-109. AT THE END OF SUCH TIME PERIOD, THE COURT SHALL DISMISS  
28 THE CHARGES, AND CERTIFICATION PROCEEDINGS OR PROVISION OF  
29 SERVICES, IF ANY, MUST BE GOVERNED BY ARTICLE 65 OR 10.5 OF TITLE 27.

30 (2) AT LEAST EVERY THREE MONTHS, THE COURT SHALL REVIEW  
31 THE CASE OF A DEFENDANT WHO HAS BEEN DETERMINED TO BE  
32 INCOMPETENT TO PROCEED WITH REGARD TO THE PROBABILITY THAT THE  
33 DEFENDANT WILL EVENTUALLY BE RESTORED TO COMPETENCY AND WITH  
34 REGARD TO THE JUSTIFICATION FOR CERTIFICATION OR CONFINEMENT. THE  
35 REVIEW MAY BE HELD IN CONJUNCTION WITH A RESTORATION HEARING  
36 HELD PURSUANT TO SECTION 16-8.5-113. PRIOR TO EACH REVIEW, THE  
37 INDIVIDUAL OR ENTITY EVALUATING THE DEFENDANT SHALL PROVIDE THE  
38 COURT WITH A CURRENT REPORT REGARDING:

39 (a) THE DEFENDANT'S COMPETENCY;

40 (b) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE  
41 DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE TIME

1 PERIODS SET FORTH IN THIS SECTION; AND  
2 (c) WHETHER THE DEFENDANT MEETS THE REQUIREMENTS FOR  
3 CERTIFICATION SET FORTH IN ARTICLE 65 OF TITLE 27 OR IS ELIGIBLE FOR  
4 SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27.  
5 (3) IF THE DEFENDANT IS CHARGED WITH A MISDEMEANOR, A  
6 MISDEMEANOR DRUG OFFENSE, OR A PETTY OFFENSE, EXCEPT FOR THOSE  
7 OFFENSES ENUMERATED IN SECTION 24-4.1-302 (1), AND HAS BEEN  
8 COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR OTHERWISE  
9 CONFINED AS A RESULT OF A DETERMINATION OF INCOMPETENCY TO  
10 PROCEED, THE FOLLOWING PROVISIONS APPLY:  
11 (a) (I) IF THE DEFENDANT HAS RECEIVED COMPETENCY  
12 RESTORATION SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR  
13 AN AGGREGATE TIME OF THREE MONTHS, EXCLUDING TIME RESULTING  
14 FROM A REFUSAL BY THE DEFENDANT TO ACCEPT SERVICES OR  
15 TREATMENT, THE COURT SHALL HOLD A REVIEW HEARING. IF THE COURT  
16 DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THE DEFENDANT  
17 REMAINS INCOMPETENT TO PROCEED AND THERE IS NOT A SUBSTANTIAL  
18 PROBABILITY THE DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN  
19 THE NEXT THREE MONTHS, THE COURT SHALL DISMISS THE CHARGES  
20 AGAINST THE DEFENDANT, SUBJECT TO THE PROVISIONS OF SUBSECTION (6)  
21 OF THIS SECTION.  
22 (II) IF, HOWEVER, THE COURT FINDS THAT THERE IS A SUBSTANTIAL  
23 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY  
24 WITHIN THE NEXT THREE MONTHS, RESTORATION SERVICES MAY  
25 CONTINUE, AND THE COURT SHALL CONTINUE TO REVIEW THE CASE AS  
26 PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION.  
27 (b) IF THE DEFENDANT HAS RECEIVED COMPETENCY RESTORATION  
28 SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN  
29 AGGREGATE TIME OF SIX MONTHS, EXCLUDING TIME RESULTING FROM A  
30 REFUSAL BY THE DEFENDANT TO ACCEPT SERVICES OR TREATMENT, AND  
31 THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THE  
32 DEFENDANT IS NOT RESTORED TO COMPETENCY, THE COURT SHALL DISMISS  
33 THE CHARGES AGAINST THE DEFENDANT, SUBJECT TO THE PROVISIONS OF  
34 SUBSECTION (6) OF THIS SECTION.  
35 (4) IF THE DEFENDANT IS CHARGED WITH A CLASS 5 OR CLASS 6  
36 FELONY, EXCEPT FOR THOSE OFFENSES ENUMERATED IN SECTION  
37 24-4.1-302 (1); WITH A CLASS 3 OR CLASS 4 DRUG FELONY; OR WITH ANY  
38 MISDEMEANOR OFFENSE THAT IS NOT INCLUDED IN SUBSECTION (3)(a) OF  
39 THIS SECTION, AND HAS BEEN COMMITTED TO THE CUSTODY OF THE  
40 DEPARTMENT OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION  
41 OF INCOMPETENCY TO PROCEED, THE FOLLOWING PROVISIONS APPLY:

1 (a) (I) IF THE DEFENDANT HAS RECEIVED COMPETENCY  
2 RESTORATION SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR  
3 AN AGGREGATE TIME OF ONE YEAR, EXCLUDING TIME RESULTING FROM A  
4 REFUSAL BY THE DEFENDANT TO ACCEPT SERVICES OR TREATMENT, THE  
5 COURT SHALL HOLD A REVIEW HEARING. IF THE COURT DETERMINES,  
6 BASED ON AVAILABLE EVIDENCE, THAT THE DEFENDANT REMAINS  
7 INCOMPETENT TO PROCEED AND THERE IS NOT A SUBSTANTIAL  
8 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY  
9 WITHIN THE NEXT SIX MONTHS, THEN THE COURT SHALL DISMISS THE  
10 CHARGES AGAINST THE DEFENDANT, SUBJECT TO THE PROVISIONS OF  
11 SUBSECTION (6) OF THIS SECTION.

12 (II) IF, HOWEVER, THE COURT FINDS THAT THERE IS A SUBSTANTIAL  
13 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY  
14 WITHIN THE NEXT SIX MONTHS, RESTORATION SERVICES MAY CONTINUE  
15 AND THE COURT SHALL CONTINUE TO REVIEW THE CASE AS PROVIDED FOR  
16 IN SUBSECTION (2) OF THIS SECTION.

17 (b) IF THE DEFENDANT HAS RECEIVED COMPETENCY RESTORATION  
18 SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN  
19 AGGREGATE TIME OF EIGHTEEN MONTHS, EXCLUDING TIME RESULTING  
20 FROM A REFUSAL BY THE DEFENDANT TO ACCEPT SERVICES OR  
21 TREATMENT, AND THE COURT DETERMINES, BASED ON AVAILABLE  
22 EVIDENCE, THAT THE DEFENDANT IS NOT RESTORED TO COMPETENCY,  
23 THEN THE COURT SHALL DISMISS THE CHARGES AGAINST THE DEFENDANT,  
24 SUBJECT TO THE PROVISIONS OF SUBSECTION (6) OF THIS SECTION.

25 (5) IF THE DEFENDANT IS CHARGED WITH ANY OTHER FELONY  
26 OFFENSE, EXCEPT A CLASS 1, CLASS 2, OR CLASS 3 FELONY; A SEX OFFENSE  
27 AS DEFINED IN SECTION 18-1.3-1003 (5); A CRIME OF VIOLENCE AS DEFINED  
28 IN SECTION 18-1.3-406 (2); OR A CLASS 1 OR CLASS 2 DRUG FELONY, AND  
29 HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR  
30 OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF  
31 INCOMPETENCY TO PROCEED, THE FOLLOWING PROVISIONS APPLY:

32 (a) (I) IF THE DEFENDANT HAS RECEIVED COMPETENCY  
33 RESTORATION SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR  
34 AN AGGREGATE TIME OF THREE YEARS, EXCLUDING TIME RESULTING FROM  
35 A REFUSAL BY THE DEFENDANT TO ACCEPT SERVICES OR TREATMENT, THE  
36 COURT SHALL HOLD A REVIEW HEARING. IF THE COURT DETERMINES,  
37 BASED ON AVAILABLE EVIDENCE, THAT THE DEFENDANT REMAINS  
38 INCOMPETENT TO PROCEED AND THERE IS NOT A SUBSTANTIAL  
39 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY  
40 WITHIN THE NEXT YEAR, THEN THE COURT SHALL DISMISS THE CHARGES  
41 AGAINST THE DEFENDANT, SUBJECT TO THE PROVISIONS OF SUBSECTION (6)

1 OF THIS SECTION.

2 (II) IF, HOWEVER, THE COURT FINDS THAT THERE IS A SUBSTANTIAL  
3 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY  
4 WITHIN THE NEXT YEAR, RESTORATION SERVICES MAY CONTINUE AND THE  
5 COURT SHALL CONTINUE TO REVIEW THE CASE AS PROVIDED FOR IN  
6 SUBSECTION (2) OF THIS SECTION.

7 (b) IF THE DEFENDANT HAS RECEIVED COMPETENCY RESTORATION  
8 SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN  
9 AGGREGATE TIME OF FOUR YEARS, EXCLUDING TIME RESULTING FROM A  
10 REFUSAL BY THE DEFENDANT TO ACCEPT SERVICES OR TREATMENT, AND  
11 THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THE  
12 DEFENDANT IS NOT RESTORED TO COMPETENCY, THEN THE COURT SHALL  
13 DISMISS THE CHARGES AGAINST THE DEFENDANT, SUBJECT TO THE  
14 PROVISIONS OF SUBSECTION (6) OF THIS SECTION, UNLESS ANY PARTY  
15 OBJECTS TO DISMISSAL.

16 (c) IF A PARTY OBJECTS TO DISMISSAL OF CHARGES PURSUANT TO  
17 SUBSECTION (5)(b) OF THIS SECTION, THE COURT SHALL SET THE MATTER  
18 FOR A HEARING. UPON COMPLETION OF THE HEARING, THE COURT SHALL  
19 DISMISS THE CHARGES UNLESS THE COURT DETERMINES THAT THERE IS A  
20 COMPELLING PUBLIC INTEREST IN CONTINUING THE PROSECUTION AND  
21 THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL ATTAIN  
22 COMPETENCY IN THE FORESEEABLE FUTURE. IF THE COURT DECLINES TO  
23 DISMISS THE CHARGES, THE COURT SHALL ADDRESS THE APPROPRIATENESS  
24 OF CONTINUED CONFINEMENT AND MAY ALTER OR REDUCE BOND IF  
25 APPROPRIATE PURSUANT TO ARTICLE 4 OF TITLE 16 OR THE DECISION TO  
26 COMMIT THE DEFENDANT TO THE DEPARTMENT PURSUANT TO SECTION  
27 16-8.5-111.

28 (6) PRIOR TO THE DISMISSAL OF CHARGES PURSUANT TO  
29 SUBSECTION (3), (4), OR (5) OF THIS SECTION, THE COURT SHALL IDENTIFY  
30 WHETHER THE DEFENDANT MEETS THE REQUIREMENTS FOR CERTIFICATION  
31 PURSUANT TO ARTICLE 65 OF TITLE 27 OR FOR THE PROVISION OF SERVICES  
32 PURSUANT TO ARTICLE 10.5 OF TITLE 27. IF THE COURT FINDS THE  
33 REQUIREMENTS FOR EITHER ARE MET, THE COURT MAY STAY THE  
34 DISMISSAL FOR TWENTY-ONE DAYS AND NOTIFY THE DEPARTMENT AND  
35 COUNTY ATTORNEY IN THE RELEVANT JURISDICTION OF THE PENDING  
36 DISMISSAL SO AS TO PROVIDE THE DEPARTMENT AND THE COUNTY  
37 ATTORNEY WITH THE OPPORTUNITY TO PURSUE CERTIFICATION  
38 PROCEEDINGS OR THE PROVISION OF SERVICES.

39 (7) NOTWITHSTANDING THE TIME PERIODS PROVIDED IN  
40 SUBSECTIONS (3), (4), AND (5) OF THIS SECTION, FOR ANY OFFENSE FOR  
41 WHICH THE DEFENDANT REMAINS CONFINED AS A RESULT OF A

1 DETERMINATION OF INCOMPETENCY TO PROCEED FOR A PERIOD OF TIME IN  
2 EXCESS OF ONE YEAR, IF THE COURT DETERMINES, BASED ON AVAILABLE  
3 EVIDENCE, THAT THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE  
4 DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE  
5 FORESEEABLE FUTURE, THE COURT MAY ORDER THE DEFENDANT'S  
6 RELEASE FROM COMMITMENT PURSUANT TO THIS ARTICLE 8.5 THROUGH  
7 ONE OR MORE OF THE FOLLOWING MEANS:

8 (a) UPON MOTION OF THE DISTRICT ATTORNEY, THE DEFENDANT,  
9 OR, ON ITS OWN MOTION, THE COURT MAY TERMINATE THE CRIMINAL  
10 PROCEEDING, THE COMMITMENT, OR THE RESTORATION SERVICES ORDER;

11 (b) THE COURT MAY COMMENCE CERTIFICATION PROCEEDINGS  
12 PURSUANT TO THE PROVISIONS OF ARTICLE 65 OF TITLE 27 IF THE  
13 DEFENDANT MEETS THE REQUIREMENTS FOR CERTIFICATION PURSUANT TO  
14 SAID ARTICLE 65; OR

15 (c) IN THE CASE OF A DEFENDANT WHO HAS BEEN FOUND ELIGIBLE  
16 FOR SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27 DUE TO AN  
17 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, THE COURT OR A PARTY  
18 MAY INITIATE AN ACTION TO RESTRICT THE RIGHTS OF THE DEFENDANT  
19 PURSUANT TO ARTICLE 10.5 OF TITLE 27.

20 (8) IN EACH CASE, THE COURT SHALL ENTER A WRITTEN DECISION  
21 OUTLINING WHY THE COURT DID OR DID NOT TERMINATE THE CRIMINAL  
22 PROCEEDING.

23 (9) IF CHARGES AGAINST A DEFENDANT ARE DISMISSED PURSUANT  
24 TO THIS SECTION, SUCH CHARGES ARE NOT ELIGIBLE FOR SEALING  
25 PURSUANT TO SECTION 24-73-702.5.

26 (10) THE DEPARTMENT SHALL PROMULGATE SUCH RULES AS  
27 NECESSARY TO CONSISTENTLY ENFORCE THE PROVISIONS OF THIS ARTICLE  
28 8.5.

29 **SECTION 8.** In Colorado Revised Statutes, 13-1-137, **amend**  
30 (1)(d) and (1)(e); and **add** (1)(f) as follows:

31 **13-1-137. Reporting of data concerning juvenile proceedings**  
32 **and determinations of competency to proceed.** (1) Notwithstanding  
33 section 24-1-136 (11)(a)(I), the judicial branch shall report annually to the  
34 judiciary committees of the house of representatives and senate, or to any  
35 successor committees, information concerning:

36 (d) The status of recommended reviews to juvenile court rules,  
37 forms, and chief justice directives regarding the representation of children  
38 in juvenile delinquency courts; **and**

39 (e) The number of juvenile delinquency cases that involved a  
40 detention hearing, the number of juveniles who were released after the  
41 detention hearing, and the number of juveniles who remained in detention

1 after the detention hearing; AND

2 (f) THE PROCESS OF TRAINING JUDICIAL OFFICERS CONCERNING  
3 DETERMINATIONS OF COMPETENCY TO PROCEED FOR JUVENILES AND  
4 ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES TO RESTORE  
5 COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE  
6 65 OF TITLE 27.

7 **SECTION 9.** In Colorado Revised Statutes, 20-1-111, **add** (4)(c)  
8 as follows:

9 **20-1-111. District attorneys may cooperate or contract -**  
10 **contents.** (4) (c) THE GENERAL ASSEMBLY SHALL MAKE AN  
11 APPROPRIATION TO THE DEPARTMENT OF LAW FOR STATE FISCAL YEAR  
12 2018-19 FOR ALLOCATION TO THE STATEWIDE ORGANIZATION  
13 REPRESENTING DISTRICT ATTORNEYS, FOR THE PUBLIC PURPOSE OF  
14 PROVIDING PROSECUTION TRAINING CONCERNING DETERMINATIONS OF  
15 COMPETENCY TO PROCEED FOR JUVENILES AND ADULTS, COMPETENCY  
16 EVALUATION REPORTS, SERVICES TO RESTORE COMPETENCY, AND  
17 CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

18 **SECTION 10.** In Colorado Revised Statutes, 21-1-104, **amend**  
19 (4)(d) and (4)(e); and **add** (4)(f) as follows:

20 **21-1-104. Duties of public defender.** (4) Notwithstanding  
21 section 24-1-136 (1)(a)(I), pursuant to section 2-7-203, the state public  
22 defender shall report annually to the judiciary committees of the house of  
23 representatives and senate, or to any successor committees, information  
24 concerning:

25 (d) The average length of time attorneys are assigned to juvenile  
26 court; ~~and~~

27 (e) The outcome of efforts to reduce juvenile court rotations and  
28 increase opportunities for promotional advancement in salaries for  
29 attorneys in juvenile court; AND

30 (f) THE PROCESS OF TRAINING JUDICIAL OFFICERS CONCERNING  
31 DETERMINATIONS OF COMPETENCY TO PROCEED FOR JUVENILES AND  
32 ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES TO RESTORE  
33 COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE  
34 65 OF TITLE 27.

35 **SECTION 11.** In Colorado Revised Statutes, 21-2-104, **amend**  
36 (3)(d) and (3)(e); and **add** (3)(f) as follows:

37 **21-2-104. Duties of alternate defense counsel and contract**  
38 **attorneys.**

39 (3) Pursuant to section 2-7-203, C.R.S., the office of alternate  
40 defense counsel shall report annually to the judiciary committees of the  
41 house of representatives and senate, or to any successor committees,



1 information concerning:  
2 (d) The average length of time attorneys are assigned to juvenile  
3 court; and  
4 (e) The outcome of efforts to reduce juvenile court rotations and  
5 increase opportunities for promotional advancement in salaries for  
6 attorneys in juvenile court; AND  
7 (f) THE PROCESS OF TRAINING JUDICIAL OFFICERS CONCERNING  
8 DETERMINATIONS OF COMPETENCY TO PROCEED FOR JUVENILES AND  
9 ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES TO RESTORE  
10 COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE  
11 65 OF TITLE 27.  
12 **SECTION 12. Effective date.** This act takes effect February 1,  
13 2019.  
14 **SECTION 13. Safety clause.** The general assembly hereby finds,  
15 determines, and declares that this act is necessary for the immediate  
16 preservation of the public peace, health, and safety."

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