

CHAPTER 227

CRIMINAL LAW AND PROCEDURE

SENATE BILL 19-223

BY SENATOR(S) Lee and Gardner, Bridges, Court, Crowder, Ginal, Gonzales, Moreno, Pettersen, Priola, Rodriguez, Story, Tate, Todd, Zenzinger, Garcia;
also REPRESENTATIVE(S) Weissman and Landgraf, Bird, Exum, Herod, Michaelson Jenet, Roberts, Sandridge, Snyder, Soper, Valdez A.

AN ACT

**CONCERNING ACTIONS RELATED TO COMPETENCY TO PROCEED, AND, IN CONNECTION THEREWITH,
MAKING AND REDUCING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 16-8.5-101 as follows:

16-8.5-101. Definitions. As used in this article 8.5, unless the context otherwise requires:

(1) "COLLATERAL MATERIALS" MEANS THE RELEVANT POLICE INCIDENT REPORTS AND THE CHARGING DOCUMENTS, EITHER THE CRIMINAL INFORMATION OR INDICTMENT.

~~(1)~~ (2) "Competency evaluation" includes both court-ordered competency evaluations and second evaluations.

~~(2)~~ (3) "Competency evaluator" means a licensed physician who is a psychiatrist or a licensed psychologist, each of whom is trained in forensic competency assessments, or a psychiatrist who is in forensic training and practicing under the supervision of a psychiatrist with expertise in forensic psychiatry, or a psychologist who is in forensic training and is practicing under the supervision of a licensed psychologist with expertise in forensic psychology.

~~(3)~~ (4) "Competency hearing" means a hearing to determine whether a defendant is competent to proceed.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~(4)~~ (5) "Competent to proceed" means that the defendant does not have a mental disability or developmental disability that prevents the defendant from having sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense or prevents the defendant from having a rational and factual understanding of the criminal proceedings.

~~(5)~~ (6) "Court-ordered competency evaluation" means a court-ordered examination of a defendant either before, during, or after trial, directed to developing information relevant to a determination of the defendant's competency to proceed at a particular stage of the criminal proceeding, that is performed by a competency evaluator and includes evaluations concerning restoration to competency.

~~(6)~~ (7) "Court-ordered report" means a report of an evaluation, conducted by or under the direction of the department, that is the statutory obligation of the department to prepare when requested to do so by the court.

~~(7)~~ (8) "Criminal proceedings" means trial, sentencing, satisfaction of the sentence, execution, and any pretrial matter that is not susceptible of fair determination without the personal participation of the defendant.

~~(8)~~ (9) "Department" means the department of human services.

~~(9)~~ (10) "Developmental disability" means a disability that has manifested before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected individual, and is attributable to ~~mental retardation~~ AN INTELLECTUAL DISABILITY or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with ~~mental retardation~~ AN INTELLECTUAL DISABILITY. Unless otherwise specifically stated, the federal definition of "developmental disability", 42 U.S.C. sec. 15001 et seq., shall not apply.

~~(10)~~ (11) "Executive director" means the executive director of the department of human services.

~~(11)~~ (12) "Incompetent to proceed" means that, as a result of a mental disability or developmental disability, the defendant does not have sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense, or that, as a result of a mental disability or developmental disability, the defendant does not have a rational and factual understanding of the criminal proceedings.

(13) "IN-CUSTODY" MEANS IN PRISON, IN A JAIL, OR IN ANY OTHER LOCKED DETENTION FACILITY THAT DOES NOT MEET THE DEFINITION OF INPATIENT.

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

~~(12)~~ (15) "Mental disability" means a substantial disorder of thought, mood,

perception, or cognitive ability that results in marked functional disability, significantly interfering with adaptive behavior. "Mental disability" does not include acute intoxication from alcohol or other substances, or any condition manifested only by antisocial behavior, or any substance abuse impairment resulting from recent use or withdrawal. However, substance abuse that results in a long-term, substantial disorder of thought, mood, or cognitive ability may constitute a mental disability.

(16) "OUTPATIENT" MEANS A LOCATION OUTSIDE OF THE CUSTODY OF THE DEPARTMENT. "OUTPATIENT" DOES NOT INCLUDE A JAIL, PRISON, OR OTHER DETENTION FACILITY WHERE THE DEFENDANT IS IN-CUSTODY.

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

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

(19) "TIER 1" MEANS A DEFENDANT:

(a) WHO HAS BEEN ORDERED TO RECEIVE INPATIENT RESTORATIVE TREATMENT;

(b) FOR WHOM A COMPETENCY EVALUATOR HAS DETERMINED EITHER THAT THE DEFENDANT:

(I) APPEARS TO HAVE A MENTAL HEALTH DISORDER AND, AS A RESULT OF THE MENTAL HEALTH DISORDER, APPEARS TO BE A DANGER TO OTHERS OR TO HIMSELF OR HERSELF OR APPEARS TO BE GRAVELY DISABLED; OR

(II) HAS A MENTAL HEALTH DISORDER; AND

(c) AS A RESULT OF THE DETERMINATION MADE PURSUANT TO SUBSECTION (19)(b) OF THIS SECTION, DELAYING INPATIENT HOSPITALIZATION BEYOND SEVEN DAYS WOULD CAUSE HARM TO THE DEFENDANT OR OTHERS.

(20) "TIER 2" MEANS A DEFENDANT WHO HAS BEEN ORDERED TO RECEIVE INPATIENT RESTORATIVE TREATMENT AND WHO DOES NOT MEET THE CRITERIA TO BE A TIER 1 DEFENDANT.

SECTION 2. In Colorado Revised Statutes, 16-8.5-102, **amend** (2) introductory portion and (2)(d); and **repeal** (2)(c) as follows:

16-8.5-102. Mental incompetency to proceed - how and when raised. (2) The question of a defendant's competency to proceed ~~shall~~ MUST be raised in ONLY ONE OF the following ~~manner~~ MANNERS:

(c) ~~By the affidavit of any chief officer of an institution having custody of a defendant awaiting execution; or~~

(d) By the state board of parole when a board member has a substantial and good-faith reason to believe that the offender is incompetent to proceed, as defined in ~~section 16-8.5-101 (11)~~ SECTION 16-8.5-101 (12), at a parole hearing conducted pursuant to section ~~17-22.5-403.5~~.

SECTION 3. In Colorado Revised Statutes, 16-8.5-103, **amend** (1), (3), (4), and (8) as follows:

16-8.5-103. Determination of competency to proceed. (1) (a) Whenever the question of a defendant's competency to proceed is raised, by either party or on the court's own motion, the court may make a preliminary finding of competency or incompetency TO PROCEED, which ~~shall be~~ is a final determination unless a party to the case objects within ~~fourteen~~ SEVEN days after the court's preliminary finding.

(b) ON OR BEFORE THE DATE WHEN A COURT ORDERS THAT A DEFENDANT BE EVALUATED FOR COMPETENCY, A COURT LIAISON FOR THE DISTRICT HIRED PURSUANT TO PART 2 OF ARTICLE 11.9 OF THIS TITLE 16 MAY BE ASSIGNED TO THE DEFENDANT.

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

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

(8) If the question of the defendant's incompetency to proceed is raised after a jury is impaneled to try the issues raised by a plea of not guilty and the court determines that the defendant is incompetent to proceed or orders ~~the defendant committed~~ for a court-ordered competency evaluation, the court may declare a mistrial. Declaration of a mistrial under these circumstances does not constitute jeopardy, nor does it prohibit the trial, sentencing, or execution of the defendant for the same offense after he or she has been found restored to competency.

SECTION 4. In Colorado Revised Statutes, 16-8.5-105, **amend** (1) and (5); and **add** (6), (7), and (8) as follows:

16-8.5-105. Evaluations, locations, time frames, and report. (1) (a) (I) The court shall order that the COMPETENCY evaluation be conducted on an outpatient basis or, if the defendant is ~~in custody~~ UNABLE TO POST THE MONETARY CONDITION OF BOND OR IS INELIGIBLE TO BE RELEASED ON BOND, at the place where the defendant is in custody. ~~The defendant shall be released on bond if otherwise eligible for bond~~ IN-CUSTODY, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION. IF THE DEPARTMENT CONDUCTS THE EVALUATION ON AN IN-CUSTODY BASIS, THE DEPARTMENT SHALL BEGIN THE EVALUATION AS SOON AS PRACTICABLE AFTER THE DEPARTMENT'S RECEIPT OF A COURT ORDER DIRECTING THE EVALUATION. AFTER JULY 1, 2020, IF THE EVALUATION IS CONDUCTED ON AN IN-CUSTODY BASIS,

THE DEPARTMENT SHALL COMPLETE THE EVALUATION NO LATER THAN TWENTY-ONE DAYS AFTER RECEIPT OF THE ORDER AND THE COLLATERAL MATERIALS. ON AND AFTER JULY 1, 2020, IF THE EVALUATION IS CONDUCTED ON AN OUT-OF-CUSTODY BASIS, THE DEPARTMENT SHALL COMPLETE THE EVALUATION WITHIN FORTY-TWO DAYS AFTER RECEIPT OF THE ORDER AND COLLATERAL MATERIALS, UNLESS THE COURT EXTENDS THE TIME UPON A SHOWING OF GOOD CAUSE.

(II) AT THE TIME ANY EVALUATION IS ORDERED, THE COURT SHALL ORDER THAT THE COLLATERAL MATERIALS BE TRANSMITTED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS AFTER THE ORDER BY THE APPROPRIATE PARTY WITH A CERTIFICATE OF SERVICE OF THE MATERIALS PROVIDED TO THE COURT AND OTHER NECESSARY PARTIES BY THE PARTY ORDERED TO TRANSMIT THE COLLATERAL MATERIALS.

(III) THE COURT SHALL DETERMINE THE TYPE OF BOND AND THE CONDITIONS OF RELEASE AFTER CONSIDERATION OF THE PRESUMPTIONS AND FACTORS ENUMERATED IN ARTICLE 4 OF THIS TITLE 16, WHICH INCLUDE CONSIDERATION OF THE INFORMATION RECEIVED FROM ANY PRETRIAL SERVICES PROGRAM PURSUANT TO THE PROVISIONS OF SECTION 16-4-106 AND ANY INFORMATION PROVIDED BY THE COURT LIAISON HIRED PURSUANT TO PART 2 OF ARTICLE 11.9 OF THIS TITLE 16. AS A CONDITION OF ANY BOND, THE COURT SHALL REQUIRE THE DEFENDANT'S COOPERATION WITH THE COMPETENCY EVALUATION ON AN OUTPATIENT AND OUT-OF-CUSTODY BASIS. IN SETTING THE BOND, THE COURT SHALL NOT CONSIDER THE NEED FOR THE DEFENDANT TO RECEIVE AN EVALUATION PURSUANT TO THIS ARTICLE 8.5 AS A FACTOR IN DETERMINING ANY MONETARY CONDITION OF BOND.

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

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

(I) ~~The court finds the defendant may be a danger to self or others as defined in section 27-65-102, C.R.S.~~ THE DEPARTMENT PROVIDES A RECOMMENDATION TO THE COURT, AFTER CONSULTATION WITH THE DEFENDANT AND REVIEW OF ANY CLINICAL OR COLLATERAL MATERIALS, THAT CONDUCTING THE COMPETENCY EVALUATION ON AN INPATIENT BASIS IS CLINICALLY APPROPRIATE;

(II) ~~The court finds that an inadequate competency evaluation and report has been completed or two or more conflicting competency evaluations and reports have been completed~~ THE COURT FINDS THAT AN INADEQUATE COMPETENCY EVALUATION AND REPORT HAS BEEN COMPLETED OR THAT TWO OR MORE CONFLICTING COMPETENCY EVALUATIONS AND REPORTS HAVE BEEN COMPLETED, AND THE COURT FINDS THAT AN INPATIENT EVALUATION IS NECESSARY; OR

(III) ~~The court finds that an observation period is necessary to determine if the defendant is competent to stand trial;~~ EXTRAORDINARY CIRCUMSTANCES RELATING

TO THE CASE OR THE DEFENDANT MAKE CONDUCTING THE COMPETENCY EVALUATION ON AN INPATIENT BASIS NECESSARY AND APPROPRIATE.

~~(IV) The court receives a recommendation from the Colorado mental health institute at Pueblo court services evaluator that conducting the evaluation at the Colorado mental health institute at Pueblo is appropriate because the evaluator conducting the evaluation for the Colorado mental health institute at Pueblo determines that the defendant has been uncooperative or the defendant has clinical needs that warrant transfer to the Colorado mental health institute at Pueblo; or~~

~~(V) The court receives written approval for the evaluation to be conducted at the Colorado mental health institute at Pueblo from the executive director of the department of human services, or his or her designee.~~

(b.3) UPON ENTRY OF A COURT ORDER PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, THE DEPARTMENT HAS THE SAME AUTHORITY WITH RESPECT TO CUSTODY AS PROVIDED FOR IN SECTION 16-8-105.5 (4).

(b.5) WHEN THE COURT ORDERS AN INPATIENT EVALUATION, THE COURT SHALL ADVISE THE DEFENDANT THAT RESTORATION SERVICES MAY COMMENCE IMMEDIATELY IF THE EVALUATION CONCLUDES THAT THE DEFENDANT IS INCOMPETENT TO PROCEED, UNLESS EITHER PARTY OBJECTS AT THE TIME OF THE ADVISEMENT, OR WITHIN SEVENTY-TWO HOURS AFTER THE RECEIPT OF THE WRITTEN EVALUATION SUBMITTED TO THE COURT. THE COURT SHALL RECORD ANY OBJECTION TO THE ORDER OF COMMITMENT TO THE DEPARTMENT.

(b.7) ON AND AFTER JULY 1, 2020, WHEN THE COURT ORDERS AN INPATIENT EVALUATION, THE DEFENDANT MUST BE OFFERED ADMISSION TO THE HOSPITAL OR OTHER INPATIENT PROGRAM WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE COURT ORDER AND COLLATERAL MATERIALS. THE COURT SHALL REVIEW THE CASE IN TWENTY-ONE DAYS TO DETERMINE IF TRANSPORTATION TO THE HOSPITAL OR PROGRAM HAS BEEN COMPLETED OR IF FURTHER ORDERS ARE NECESSARY.

~~(c) The court, when setting bond pursuant to section 16-4-103, if the defendant is eligible for bond, and after receiving any information pursuant to section 16-4-106, shall not consider the need for the defendant to receive an evaluation pursuant to this article.~~

(d) If a defendant is in THE DEPARTMENT'S custody ~~at the Colorado mental health institute at Pueblo~~ for purposes of the COMPETENCY evaluation ordered pursuant to this ~~article~~ ARTICLE 8.5 and the defendant has completed the COMPETENCY evaluation and ~~must be returned~~ THE EVALUATOR HAS CONCLUDED THAT THE DEFENDANT IS COMPETENT TO PROCEED, THE DEPARTMENT MAY RETURN THE DEFENDANT TO a county jail OR TO THE COMMUNITY, AS DETERMINED BY THE DEFENDANT'S BOND STATUS. IF THE EVALUATOR HAS CONCLUDED THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND THAT INPATIENT RESTORATION SERVICES ARE NOT CLINICALLY APPROPRIATE, AND OUTPATIENT RESTORATION SERVICES ARE AVAILABLE TO THE DEFENDANT IN THE COMMUNITY, THE DEPARTMENT SHALL NOTIFY THE COURT AND THE COURT LIAISON, AND THE DEPARTMENT SHALL DEVELOP A DISCHARGE PLAN AND A PLAN FOR COMMUNITY-BASED RESTORATION SERVICES IN COORDINATION WITH THE

COMMUNITY RESTORATION SERVICES PROVIDER. THE COURT SHALL HOLD A HEARING WITHIN SEVEN DAYS AFTER RECEIVING THE NOTICE, AT WHICH THE DEPARTMENT SHALL PROVIDE TO THE COURT THE PLAN FOR COMMUNITY-BASED RESTORATION SERVICES, AND THE COURT MAY ENTER ANY APPROPRIATE ORDERS REGARDING THE CUSTODY OF THE DEFENDANT AND HIS OR HER BOND STATUS. THE DEPARTMENT SHALL ADVISE THE DEFENDANT OF THE DATE AND TIME OF THE COURT HEARING. IF THE DEPARTMENT IS RETURNING THE DEFENDANT to a county jail, the county sheriff in the jurisdiction where the defendant must return shall ~~make all reasonable efforts to take custody of the defendant as soon as practicable once~~ WITHIN SEVENTY-TWO HOURS AFTER RECEIVING NOTIFICATION FROM THE DEPARTMENT THAT ~~the defendant's evaluation is completed~~. AT THE TIME THE DEPARTMENT NOTIFIES THE SHERIFF, THE DEPARTMENT SHALL ALSO NOTIFY THE COURT AND THE COURT LIAISON THAT THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE CUSTODY OF THE JAIL.

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

(5) ON AND AFTER JULY 1, 2020, the ~~report of evaluation shall~~ COMPETENCY EVALUATION AND REPORT MUST include but need not be limited to:

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

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

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

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

(e) An opinion as to whether the defendant is competent to proceed. If THE OPINION OF THE COMPETENCY EVALUATOR IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED, THEN:

(I) IF POSSIBLE, AN OPINION AS TO WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY WITHIN THE REASONABLY FORESEEABLE FUTURE; AND

(II) A RECOMMENDATION AS TO WHETHER INPATIENT RESTORATION SERVICES ARE CLINICALLY APPROPRIATE TO RESTORE THE DEFENDANT TO COMPETENCY. IF INPATIENT RESTORATION SERVICES ARE NOT CLINICALLY APPROPRIATE, THE DEPARTMENT MUST DETAIL THE OUTPATIENT AND OUT-OF-CUSTODY RESTORATION SERVICES AVAILABLE TO THE DEFENDANT. FOR EVALUATION REPORTS FILED ON OR AFTER JANUARY 1, 2021, THE RECOMMENDATIONS MUST BE BASED UPON THE

RESTORATION PLACEMENT GUIDELINE DEVELOPED PURSUANT TO SECTION 16-8.5-121, PRIOR TO ITS REPEAL.

(f) IF AVAILABLE WITHIN THE RECORDS OF THE DEPARTMENT, A DESCRIPTION OF ALL COMPETENCY EVALUATIONS OR RESTORATION SERVICES THAT WERE PREVIOUSLY PROVIDED TO THE DEFENDANT, INCLUDING A LIST OF RECENT VOLUNTARY OR INVOLUNTARY MEDICATIONS ADMINISTERED OR ADMINISTERED THROUGH A FORCED MEDICATION ORDER;

(g) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE DEFENDANT MEETS THE CRITERIA FOR A TIER I OR TIER II DESIGNATION, AS DEFINED IN SECTION 16-8.5-101(19) AND (20); AND

(h) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE DEFENDANT MEETS THE CRITERIA FOR CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27 OR WHETHER THE DEFENDANT IS ELIGIBLE FOR SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR ARTICLE 10.5 OF TITLE 27, INCLUDING THE FACTORS CONSIDERED IN MAKING EITHER DETERMINATION.

(6) WHENEVER A COMPETENCY EVALUATION IS ORDERED UPON THE REQUEST OF EITHER PARTY, THE COURT MAY NOTIFY THE COUNTY ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS PURSUANT TO SECTION 27-65-111 (6) FOR THE COUNTY IN WHICH THE CHARGES ARE PENDING AND THE COURT LIAISON HIRED PURSUANT TO PART 2 OF ARTICLE 11.9 OF THIS TITLE 16 OF ALL COURT DATES FOR RETURN OF THE REPORT ON COMPETENCY TO ENSURE THAT ALL PARTIES ARE ON NOTICE OF THE EXPECTED NEED FOR COORDINATED SERVICES AND PLANNING WITH CONSIDERATION OF POSSIBLE CIVIL COMMITMENT.

(7) EACH COURT SHALL ALLOW FOR ANY COMPETENCY EVALUATION CONDUCTED PURSUANT TO THE PROVISIONS OF SECTION 16-8.5-105 OR 16-8.5-106 TO BE SUBMITTED TO THE COURT THROUGH ELECTRONIC MEANS.

(8) A COMPETENCY EVALUATOR IS NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR FAILURE TO WARN OR PROTECT A SPECIFIC PERSON OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR ASSOCIATION WITH A SPECIFIC LOCATION OR ENTITY, AGAINST THE VIOLENT BEHAVIOR OF A DEFENDANT BEING EVALUATED BY THE COMPETENCY EVALUATOR, AND ANY COMPETENCY EVALUATOR MUST NOT BE HELD CIVILLY LIABLE FOR FAILURE TO PREDICT SUCH VIOLENT BEHAVIOR, EXCEPT WHERE THE DEFENDANT HAS COMMUNICATED TO THE COMPETENCY EVALUATOR A SERIOUS THREAT OF IMMINENT PHYSICAL VIOLENCE AGAINST A SPECIFIC PERSON OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR ASSOCIATION WITH A SPECIFIC LOCATION OR ENTITY.

SECTION 5. In Colorado Revised Statutes, 16-8.5-111, **amend** (2); and **add** (3) as follows:

16-8.5-111. Procedure after determination of competency or incompetency.

(2) If the final determination made pursuant to section 16-8.5-103 is that the defendant is incompetent to proceed, the court has the following options:

(a) IF THE DEFENDANT IS CHARGED WITH AN OFFENSE AS OUTLINED IN SECTION

16-8.5-116(7) OR (8), EXCEPT FOR AN OFFENSE ENUMERATED IN SECTION 24-4.1-302 (1), AND THE COMPETENCY EVALUATION HAS DETERMINED THAT THE DEFENDANT MEETS THE STANDARD FOR CIVIL COMMITMENT PURSUANT TO ARTICLE 65 OF TITLE 27, THE COURT MAY FORGO ANY ORDER OF RESTORATION AND IMMEDIATELY ORDER THAT PROCEEDINGS BE INITIATED BY THE COUNTY ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS PURSUANT TO SECTION 27-65-111 (6) FOR THE CIVIL COMMITMENT OF THE DEFENDANT AND DISMISS THE CHARGES WITHOUT PREJUDICE IN THE INTEREST OF JUSTICE ONCE CIVIL COMMITMENT PROCEEDINGS HAVE BEEN INITIATED.

~~(a)~~ (b) (I) If the defendant is on bond or summons, the court shall ~~consider whether~~ ORDER THAT restoration to competency ~~should occur~~ TAKE PLACE on an outpatient ~~and out-of-custody~~ basis, UNLESS THE DEPARTMENT RECOMMENDS INPATIENT RESTORATION SERVICES PURSUANT TO SECTION 16-8.5-105 (5)(e)(II).

(II) If the defendant is in custody AND THE RECOMMENDATION IS FOR OUTPATIENT RESTORATION SERVICES, the court ~~may~~ SHALL CONSIDER THE release of the defendant on bond ~~upon compliance with the standards and procedures for such release prescribed by statute and by~~ CONSISTENT WITH ARTICLE 4 OF THIS TITLE 16 AND the Colorado rules of criminal procedure. As a condition of bond, the court ~~may require the defendant to obtain any treatment or habilitation services that are available to the defendant, such as inpatient or outpatient treatment at a community mental health center or in any other appropriate treatment setting, as determined by the court. Nothing in this section authorizes the court to order community mental health centers or other providers to provide treatment for persons not otherwise eligible for these services. At any hearing to determine eligibility for release on bond, the court shall consider any effect the defendant's incompetency may have on the court's ability to ensure the defendant's presence for hearing or trial. There is a presumption that the defendant's incompetency will inhibit the defendant's ability to ensure his or her presence for trial~~ SHALL ORDER THAT THE RESTORATION TAKE PLACE ON AN OUTPATIENT BASIS. Pursuant to section 27-60-105, the DEPARTMENT THROUGH THE office of behavioral health is the entity responsible for the oversight of restoration education and coordination of ~~services necessary to~~ ALL competency restoration SERVICES. AS A CONDITION OF RELEASE FOR OUTPATIENT RESTORATION SERVICES, THE COURT MAY REQUIRE PRETRIAL SERVICES, IF AVAILABLE, TO WORK WITH THE DEPARTMENT AND THE RESTORATION SERVICES PROVIDER UNDER CONTRACT WITH THE DEPARTMENT TO ASSIST IN SECURING APPROPRIATE SUPPORT AND CARE MANAGEMENT SERVICES, WHICH MAY INCLUDE HOUSING RESOURCES. THE INDIVIDUAL AGENCY RESPONSIBLE FOR PROVIDING OUTPATIENT RESTORATION SERVICES FOR THE DEFENDANT SHALL NOTIFY THE COURT OR OTHER DESIGNATED AGENCY WITHIN TWENTY-ONE DAYS IF RESTORATION SERVICES HAVE NOT COMMENCED.

~~(b)~~ (c) If the court finds that the defendant is not eligible for release from custody OR NOT ABLE TO POST THE MONETARY CONDITION OF BOND, the court may commit the defendant to the custody of the department, in which case the executive director has the same powers with respect to commitment as the executive director has following a commitment ~~under~~ PURSUANT TO section 16-8-105.5 (4). At such time as the department recommends to the court that the defendant is restored to competency, the defendant may be returned to custody of the county jail or to previous bond status.

(d) IF THE COURT HAS ORDERED OUTPATIENT RESTORATION SERVICES AND THE DEPARTMENT DETERMINES THAT IT IS UNABLE, WITHIN A REASONABLE TIME, TO PROVIDE RESTORATION SERVICES ON AN OUTPATIENT BASIS, THE DEPARTMENT SHALL NOTIFY THE COURT WITHIN FOURTEEN DAYS AFTER ITS DETERMINATION, AT WHICH POINT THE COURT SHALL REVIEW THE CASE AND DETERMINE WHAT INTERIM MENTAL HEALTH SERVICES CAN BE PROVIDED WITHIN THE COMMUNITY BY THE DEPARTMENT OR OTHER COMMUNITY PROVIDER. THE DEPARTMENT SHALL REPORT TO THE COURT LIAISON EVERY TEN DAYS THEREAFTER CONCERNING THE AVAILABILITY OF RESTORATION SERVICES ON AN OUTPATIENT BASIS.

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

(f) (I) IF THE COURT HAS ORDERED INPATIENT RESTORATION SERVICES, THE DEPARTMENT SHALL PROVIDE RESTORATION SERVICES AT AN APPROPRIATE INPATIENT RESTORATION SERVICES PROGRAM. ON AND AFTER JULY 1, 2019, THE DEPARTMENT SHALL OFFER TIER 1 DEFENDANTS ADMISSION FOR RESTORATION SERVICES WITHIN SEVEN DAYS AFTER RECEIPT OF THE COURT ORDER AND COLLATERAL MATERIALS. ON AND AFTER JULY 1, 2021, THE DEPARTMENT SHALL OFFER ADMISSION TO TIER 2 DEFENDANTS WITHIN TWENTY-EIGHT DAYS AFTER RECEIPT OF THE COURT ORDER AND COLLATERAL MATERIALS. FOR TIER 2 DEFENDANTS, THE DEPARTMENT SHALL ADVISE THE COURT AND THE COURT LIAISON EVERY TEN DAYS AFTER THE INITIAL TWENTY-EIGHT DAY PERIOD REGARDING THE AVAILABILITY OF A BED AND WHEN ADMISSION WILL BE OFFERED.

(II) IF THE DEFENDANT IS NOT OFFERED ADMISSION AND TRANSPORTED TO THE INPATIENT RESTORATION SERVICES PROGRAM WITHIN THE TIME FRAMES PROVIDED OR IN ACCORDANCE WITH OTHER COURT ORDERS, THE COURT MAY:

(A) REVIEW THE CASE FOR CONSIDERATION OF OUTPATIENT RESTORATION SERVICES AND APPROPRIATE AND NECESSARY CASE MANAGEMENT SERVICES COORDINATED WITH THE DEPARTMENT; THE COURT LIAISON; AND PRETRIAL SERVICES, IF AVAILABLE; OR

(B) MAKE ANY OTHER ORDER DETERMINED TO BE NECESSARY IN ORDER TO SECURE THE NECESSARY RESTORATION SERVICES.

(g) IF A DEFENDANT IS RECEIVING INPATIENT RESTORATION SERVICES AND THE EXECUTIVE DIRECTOR CONCLUDES THAT A LESS RESTRICTIVE FACILITY WOULD BE MORE CLINICALLY APPROPRIATE, THE EXECUTIVE DIRECTOR, WITH PROPER NOTICE TO THE COURT, AND CONSISTENT WITH THE PROVISIONS OF PART 3 OF ARTICLE 4.1 OF TITLE 24, HAS THE AUTHORITY TO MOVE THE DEFENDANT TO A LESS RESTRICTIVE FACILITY IF, IN THE EXECUTIVE DIRECTOR'S OPINION, THE DEFENDANT IS NOT YET RESTORED TO COMPETENCY BUT HE OR SHE COULD BE PROPERLY RESTORED TO COMPETENCY IN A LESS RESTRICTIVE FACILITY. IF THE DEFENDANT IS NOT RELEASED FROM CUSTODY, THE COURT SHALL ORDER THE DEPARTMENT TO PROVIDE INPATIENT SERVICES AT A LOCATION DETERMINED BY THE DEPARTMENT.

(h) (I) IF THE DEFENDANT IS RECEIVING INPATIENT RESTORATION SERVICES AND THE EXECUTIVE DIRECTOR CONCLUDES THAT COMMUNITY-BASED RESTORATION

SERVICES WOULD BE MORE CLINICALLY APPROPRIATE, THE DEPARTMENT SHALL:

(A) NOTIFY THE COURT AND REQUEST THAT THE DEFENDANT BE CONSIDERED FOR RELEASE ON A NONMONETARY BOND IF THE DEFENDANT IS NOT CURRENTLY RELEASED ON BOND; AND

(B) PROVIDE TO THE COURT INFORMATION REGARDING THE APPROPRIATE OUTPATIENT RESTORATION SERVICES, DEVELOPED IN CONJUNCTION WITH THE COURT LIAISON, AND THE REASONS WHY THE DEFENDANT COULD BE PROPERLY RESTORED TO COMPETENCY ON AN OUTPATIENT BASIS.

(II) THE COURT SHALL RULE ON THE REQUEST WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE REQUEST FROM THE DEPARTMENT.

(3)(a) WHEN THE DEPARTMENT SUBMITS A REPORT TO THE COURT THAT IT IS THE POSITION OF THE DEPARTMENT THAT THE DEFENDANT IS RESTORED TO COMPETENCY, THE DEFENDANT MAY BE RETURNED TO THE CUSTODY OF THE COUNTY JAIL. IF THE RECOMMENDATION IS THAT THE DEFENDANT BE RETURNED TO THE CUSTODY OF THE COUNTY JAIL, THE DEPARTMENT SHALL NOTIFY THE SHERIFF OF THE JURISDICTION WHERE THE DEFENDANT IS TO BE RETURNED AND THE COURT LIAISON. WITHIN SEVENTY-TWO HOURS AFTER RECEIPT OF THE NOTICE, THE SHERIFF SHALL RETURN THE DEFENDANT TO THE JAIL. WHEN A DEFENDANT IS TRANSFERRED TO THE PHYSICAL CUSTODY OF THE SHERIFF, THE DEPARTMENT SHALL WORK WITH THE SHERIFF AND ANY BEHAVIORAL HEALTH PROVIDERS IN THE JAIL TO ENSURE THAT THE JAIL HAS THE NECESSARY INFORMATION TO PREVENT ANY DECOMPENSATION BY THE DEFENDANT WHILE THE DEFENDANT IS IN JAIL, WHICH MUST INCLUDE MEDICATION INFORMATION WHEN CLINICALLY APPROPRIATE. THE REPORT TO THE COURT MUST ALSO INCLUDE A STATEMENT THAT THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE CUSTODY OF THE COUNTY JAIL.

(b) IF THE DEFENDANT WAS RELEASED ON BOND PRIOR TO THE INPATIENT HOSPITALIZATION, THE DEFENDANT MUST BE RELEASED PURSUANT TO THE BOND WITH THE CONDITIONS IMPOSED BY THE COURT. THE DEPARTMENT SHALL ASSIST THE DEFENDANT WITH ANY AND ALL NECESSARY TRANSPORTATION AND PROVIDE THE NECESSARY CASE AND MEDICATION INFORMATION FOR THE DEFENDANT TO THE COMMUNITY AGENCY THAT WILL PROVIDE ONGOING SERVICES AND MEDICATION SUPPORT. THE DEPARTMENT SHALL NOTIFY THE COURT AND THE COURT LIAISON THAT THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE COMMUNITY ON BOND STATUS. THE DEPARTMENT, THE COURT LIAISON, AND THE COURT, INCLUDING PRETRIAL SERVICES, SHALL COORDINATE TO ENSURE THAT THE DEFENDANT IS ADVISED OF HIS OR HER NEXT COURT APPEARANCE AND ALL OF THE REQUIRED TERMS AND CONDITIONS OF THE RELEASE ON BOND.

SECTION 6. In Colorado Revised Statutes, 16-8.5-113, **amend** (2) and (3) as follows:

16-8.5-113. Restoration to competency. (2) Within fourteen days after receipt of a report from the department or other court-approved provider of restoration services certifying that the defendant is competent to proceed, either party may request a hearing or a second evaluation. The court shall determine whether to allow the second evaluation or proceed to a hearing on competency. If the second

evaluation is requested by the court or by an indigent defendant, it ~~shall~~ MUST be paid for by the court.

(3) If a second evaluation is allowed, any pending requests for a hearing ~~shall~~ MUST be continued until receipt of the second evaluation report. The report of the expert conducting the second evaluation report ~~shall~~ MUST be completed and filed with the court within ~~sixty-three~~ THIRTY-FIVE days after the court order allowing the second evaluation, unless the time period is extended by the court after a finding of good cause.

SECTION 7. In Colorado Revised Statutes, 16-8.5-114, **amend** (2) as follows:

16-8.5-114. Procedure after hearing concerning restoration to competency.

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

SECTION 8. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 16-8.5-116 as follows:

16-8.5-116. Certification - reviews - termination of proceedings - rules.

(1) SUBJECT TO THE TIME PERIODS AND LEGAL STANDARDS SET FORTH IN THIS SECTION, WHICHEVER IS SHORTEST, A DEFENDANT COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF INCOMPETENCY TO PROCEED MUST NOT REMAIN CONFINED FOR A PERIOD IN EXCESS OF THE MAXIMUM TERM OF CONFINEMENT THAT COULD BE IMPOSED FOR ONLY THE SINGLE MOST SERIOUS OFFENSE WITH WHICH THE DEFENDANT IS CHARGED, LESS FIFTY PERCENT. AT THE END OF SUCH TIME PERIOD, THE COURT SHALL DISMISS THE CHARGES, AND CERTIFICATION PROCEEDINGS OR PROVISION OF SERVICES, IF ANY, ARE GOVERNED BY ARTICLE 65 OR 10.5 OF TITLE 27.

(2) (a) WITHIN NINETY-ONE DAYS AFTER THE ENTRY OF THE COURT'S ORDER OF COMMITMENT, THE COURT SHALL REVIEW THE CASE OF A DEFENDANT WHO HAS BEEN DETERMINED TO BE INCOMPETENT TO PROCEED WITH REGARD TO THE PROBABILITY THAT THE DEFENDANT WILL EVENTUALLY BE RESTORED TO COMPETENCY AND WITH REGARD TO THE JUSTIFICATION FOR CERTIFICATION OR CONFINEMENT. THE REVIEW MAY BE HELD IN CONJUNCTION WITH A RESTORATION HEARING HELD PURSUANT TO SECTION 16-8.5-113. HOWEVER, IF AT THE REVIEW HEARING, THERE IS A REQUEST BY THE DEFENDANT FOR A RESTORATION HEARING PURSUANT TO SECTION 16-8.5-113, THE COURT SHALL SET THE RESTORATION HEARING WITHIN THIRTY-FIVE DAYS AFTER THE REQUEST PURSUANT TO THE PROVISIONS OF SECTION 16-8.5-113.

(b) ON AND AFTER JULY 1, 2020, AT LEAST TEN DAYS BEFORE EACH REVIEW, THE INDIVIDUAL OR ENTITY EVALUATING THE DEFENDANT SHALL PROVIDE THE COURT WITH A REPORT DESCRIBING:

(I) AN OPINION REGARDING THE DEFENDANT'S COMPETENCY;

(II) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE REASONABLY FORESEEABLE FUTURE;

(III) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE TIME PERIODS ESTABLISHED BY THIS SECTION;

(IV) WHETHER THE DEFENDANT MEETS THE REQUIREMENTS FOR CERTIFICATION SET FORTH IN ARTICLE 65 OF TITLE 27 OR IS ELIGIBLE FOR SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27;

(V) ANY AND ALL EFFORTS MADE FOR RESTORATION THROUGH MEDICATION, THERAPY, EDUCATION, OR OTHER SERVICES AND THE OUTCOME OF THOSE EFFORTS IN RELATION TO RESTORING THE DEFENDANT TO COMPETENCY;

(VI) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY AND REMAIN COMPETENT WITH THE USE OF MEDICATIONS OR WILL NOT REMAIN COMPETENT WITHOUT THE USE OF FORCED MEDICATION;

(VII) IF THE DEFENDANT HAS FAILED TO COOPERATE WITH TREATMENT, WHETHER THE INCOMPETENCY AND MENTAL OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY CONTRIBUTES TO THE DEFENDANT'S REFUSAL OR INABILITY TO COOPERATE WITH RESTORATION OR PREVENTS THE ABILITY OF THE DEFENDANT TO COOPERATE WITH RESTORATION; AND

(VIII) A SUMMARY OF THE OBSERVATIONS OF THE DEFENDANT BY THE TREATING STAFF AT THE FACILITY OR OTHER LOCATION WHERE INPATIENT SERVICES WERE DELIVERED.

(c) ADDITIONALLY, ON AND AFTER JULY 1, 2020, AT LEAST TEN DAYS BEFORE EACH REVIEW, THE DEPARTMENT TREATING TEAM SHALL PROVIDE TO THE COURT AN ADDITIONAL REPORT THAT SUMMARIZES:

(I) WHAT RESTORATIVE EDUCATION HAS BEEN PROVIDED AND THE FREQUENCY OF THAT EDUCATION;

(II) WHAT MEDICATION HAS BEEN ADMINISTERED, INCLUDING VOLUNTARY OR INVOLUNTARY MEDICATIONS;

(III) WHAT RELEASE PLANS HAVE BEEN MADE FOR THE DEFENDANT AFTER RELEASE, INCLUDING A DISCUSSION OF THE SUPPORT FROM FAMILY MEMBERS;

(IV) WHETHER OR NOT THE DEFENDANT WOULD AGREE TO VOLUNTARY ADMISSION TO THE HOSPITAL FOR CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27;

(V) THE OPINION OF THE TREATING TEAM ON THE DEFENDANT'S MENTAL HEALTH FUNCTIONING AND ABILITY TO FUNCTION ON AN OUTPATIENT BASIS FOR RESTORATION SERVICES; AND

(VI) WHETHER THE DEFENDANT, BASED ON OBSERVATIONS OF THE DEFENDANT'S BEHAVIOR IN THE FACILITY, PRESENTS A SUBSTANTIAL RISK TO THE PHYSICAL SAFETY OF HIMSELF OR HERSELF, OF ANOTHER PERSON, OR OF THE COMMUNITY IF RELEASED FOR COMMUNITY RESTORATION.

(3) AFTER THE INITIAL REVIEW PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL REVIEW THE CASE OF THE DEFENDANT EVERY NINETY-ONE DAYS THEREAFTER UNTIL FOUR REVIEWS HAVE BEEN CONDUCTED. AT LEAST TEN DAYS BEFORE EACH REVIEW, THE INDIVIDUAL OR ENTITY EVALUATING THE DEFENDANT SHALL PROVIDE THE COURT WITH AN UPDATED REPORT AS DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION AND THE TREATMENT STAFF SHALL PROVIDE AN UPDATED SUMMARY OF OBSERVATIONS AS DESCRIBED IN SUBSECTION (2)(c) OF THIS SECTION.

(4) AFTER THE FOURTH REVIEW, THE COURT SHALL REVIEW THE COMPETENCY OF THE DEFENDANT EVERY SIXTY-THREE DAYS UNTIL THE DEFENDANT IS RESTORED TO COMPETENCY OR THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY IN THE FORESEEABLE FUTURE AND IN THAT CASE, THE COURT SHALL DISMISS THE CASE.

(5) THE COURT SHALL FORWARD A COPY OF EACH REPORT AND SUMMARY RECEIVED PURSUANT TO SUBSECTIONS (2), (3), AND (4) OF THIS SECTION TO THE COUNTY ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS PURSUANT TO SECTION 27-65-111 (6) FOR THE COUNTY IN WHICH THE CASE IS PENDING AND TO THE COURT LIAISON.

(6) NOTWITHSTANDING THE TIME PERIODS PROVIDED IN SUBSECTIONS (7), (8), AND (9) OF THIS SECTION AND TO ENSURE COMPLIANCE WITH RELEVANT CONSTITUTIONAL PRINCIPLES, FOR ANY OFFENSE FOR WHICH THE DEFENDANT REMAINS CONFINED AS A RESULT OF A DETERMINATION OF INCOMPETENCY TO PROCEED IF THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE REASONABLY FORESEEABLE FUTURE, THE COURT MAY ORDER THE DEFENDANT'S RELEASE FROM COMMITMENT PURSUANT TO THIS ARTICLE 8.5 THROUGH ONE OR MORE OF THE FOLLOWING MEANS:

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

(b) THE COURT MAY, IN COORDINATION WITH THE COUNTY ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS PURSUANT TO SECTION 27-65-111 (6) FOR THE COUNTY IN WHICH THE DEFENDANT IS CHARGED, ORDER THE COMMENCEMENT OF CERTIFICATION PROCEEDINGS PURSUANT TO THE PROVISIONS OF ARTICLE 65 OF TITLE 27 IF THE DEFENDANT MEETS THE REQUIREMENTS FOR CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27;

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

OR

(d) ON AND AFTER JULY 1, 2020, THE DEPARTMENT SHALL ENSURE THAT CASE MANAGEMENT SERVICES AND SUPPORT ARE MADE AVAILABLE TO ANY DEFENDANT RELEASED FROM COMMITMENT PURSUANT TO THIS ARTICLE 8.5 DUE TO THE SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL NOT BE RESTORED TO COMPETENCY IN THE REASONABLE FORESEEABLE FUTURE.

(7) AT ANY REVIEW HEARING HELD CONCERNING THE DEFENDANT'S COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE CHARGES AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM CONFINEMENT, SUBJECT TO THE PROVISIONS OF SUBSECTION (10) OF THIS SECTION, IF:

(a) THE DEFENDANT:

(I) IS CHARGED WITH A MISDEMEANOR, A MISDEMEANOR DRUG OFFENSE, OR A PETTY OFFENSE, EXCEPT FOR THOSE OFFENSES ENUMERATED IN SECTION 24-4.1-302 (1);

(II) HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF INCOMPETENCY TO PROCEED;

(III) HAS RECEIVED COMPETENCY RESTORATION SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN AGGREGATE TIME OF SIX MONTHS; AND

(b) THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THE DEFENDANT REMAINS INCOMPETENT TO PROCEED.

(8) AT ANY REVIEW HEARING HELD CONCERNING THE DEFENDANT'S COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE CHARGES AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM CONFINEMENT, SUBJECT TO THE PROVISIONS OF SUBSECTION (10) OF THIS SECTION, IF:

(a) THE DEFENDANT:

(I) IS CHARGED WITH A CLASS 5 OR CLASS 6 FELONY, EXCEPT FOR THOSE OFFENSES ENUMERATED IN SECTION 24-4.1-302 (1); WITH A LEVEL 3 OR LEVEL 4 DRUG FELONY; OR WITH ANY MISDEMEANOR OFFENSE THAT IS NOT INCLUDED IN SUBSECTION (7) OF THIS SECTION;

(II) HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF INCOMPETENCY TO PROCEED; AND

(III) HAS RECEIVED COMPETENCY RESTORATION SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN AGGREGATE TIME OF ONE YEAR; AND

(b) THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THE DEFENDANT REMAINS INCOMPETENT TO PROCEED.

(9) IF THE DEFENDANT IS CHARGED WITH ANY OTHER FELONY OFFENSE EXCEPT A CLASS 1, 2, OR 3 FELONY OFFENSE; A SEX OFFENSE AS DEFINED IN SECTION

18-1.3-1003 (5); A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406 (2); OR A LEVEL 1 OR LEVEL 2 DRUG FELONY, AND HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF INCOMPETENCY TO PROCEED, THE FOLLOWING PROVISIONS APPLY:

(a) IF THE DEFENDANT HAS RECEIVED COMPETENCY RESTORATION SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN AGGREGATE TIME OF TWO YEARS AND THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THE DEFENDANT IS NOT RESTORED TO COMPETENCY, THEN THE COURT SHALL DISMISS THE CHARGES AGAINST THE DEFENDANT, SUBJECT TO THE PROVISIONS OF SUBSECTION (10) OF THIS SECTION, UNLESS ANY PARTY OBJECTS TO DISMISSAL.

(b) IF A PARTY OBJECTS TO DISMISSAL OF CHARGES PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION, THE COURT SHALL SET THE MATTER FOR A HEARING. UPON COMPLETION OF THE HEARING, THE COURT SHALL DISMISS THE CHARGES UNLESS THE COURT DETERMINES THAT THE PARTY OBJECTING TO THE DISMISSAL ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A COMPELLING PUBLIC INTEREST IN CONTINUING THE PROSECUTION AND THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL ATTAIN COMPETENCY IN THE FORESEEABLE FUTURE. IF THE COURT DECLINES TO DISMISS THE CHARGES, THE COURT SHALL ADDRESS THE APPROPRIATENESS OF CONTINUED CONFINEMENT AND MAY ALTER OR REDUCE BOND IF APPROPRIATE PURSUANT TO ARTICLE 4 OF THIS TITLE 16 OR THE DECISION TO COMMIT THE DEFENDANT TO THE DEPARTMENT PURSUANT TO SECTION 16-8.5-111.

(10) PRIOR TO THE DISMISSAL OF CHARGES PURSUANT TO SUBSECTION (1), (6), (7), (8), OR (9) OF THIS SECTION, THE COURT SHALL IDENTIFY WHETHER THE DEFENDANT MEETS THE REQUIREMENTS FOR CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27 OR, FOR THE PROVISION OF SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27, OR WHETHER THE DEFENDANT WILL AGREE TO A VOLUNTARY COMMITMENT. IF THE COURT FINDS THE REQUIREMENTS FOR CERTIFICATION OR PROVISION OF SERVICES ARE MET OR THE DEFENDANT DOES NOT AGREE TO A VOLUNTARY COMMITMENT, THE COURT MAY STAY THE DISMISSAL FOR TWENTY-ONE DAYS AND NOTIFY THE DEPARTMENT AND COUNTY ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS PURSUANT TO SECTION 27-65-111 (6) IN THE RELEVANT JURISDICTION OF THE PENDING DISMISSAL SO AS TO PROVIDE THE DEPARTMENT AND THE COUNTY ATTORNEY OR DISTRICT ATTORNEY WITH THE OPPORTUNITY TO PURSUE CERTIFICATION PROCEEDINGS OR THE PROVISION OF NECESSARY SERVICES.

(11) IN ANY CIRCUMSTANCE WHERE THE DEFENDANT'S CASE WAS DISMISSED OR THE DEFENDANT WAS RELEASED FROM CONFINEMENT, THE COURT SHALL ENTER A WRITTEN DECISION EXPLAINING WHY THE COURT DID OR DID NOT TERMINATE THE CRIMINAL PROCEEDING OR THE COMMITMENT OR RESTORATION ORDER.

(12) IF CHARGES AGAINST A DEFENDANT ARE DISMISSED PURSUANT TO THIS SECTION, SUCH CHARGES ARE NOT ELIGIBLE FOR SEALING PURSUANT TO SECTION 24-72-702.5.

(13) THE DEPARTMENT SHALL PROMULGATE SUCH RULES AS NECESSARY TO CONSISTENTLY ENFORCE THE PROVISIONS OF THIS ARTICLE 8.5.

(14) ON AND AFTER JULY 1, 2020, THE COURT MAY, AT ANY TIME OF THE

RESTORATION PROCESS, ORDER THE DEPARTMENT TO PROVIDE THE COURT WITH AN APPROPRIATE RELEASE PLAN FOR THE REINTEGRATION OF THE DEFENDANT INTO THE COMMUNITY WITH APPROPRIATE SERVICES.

SECTION 9. In Colorado Revised Statutes, **add** 16-8.5-120 as follows:

16-8.5-120. Competency evaluation monitoring system - users - rules.

(1) THE DEPARTMENT, WITH ASSISTANCE FROM THE JUDICIAL DEPARTMENT, SHALL DEVELOP AN ELECTRONIC SYSTEM TO TRACK THE STATUS OF DEFENDANTS IN THE CRIMINAL JUSTICE SYSTEM FOR WHOM A COMPETENCY EVALUATION OR COMPETENCY RESTORATION HAS BEEN ORDERED. THE SYSTEM MUST CONTAIN INFORMATION ON THE FOLLOWING:

(a) THE DATE THE COURT ORDERED THE EVALUATION;

(b) THE DATES OF AND LOCATIONS WHERE THE EVALUATION WAS STARTED AND COMPLETED;

(c) THE DATE OF AND LOCATION WHERE THE DEFENDANT ENTERED RESTORATION SERVICES;

(d) THE DATES AND RESULTS OF COURT REVIEWS OF COMPETENCY;

(e) INPATIENT BED SPACE;

(f) COMMUNITY RESTORATION CAPACITY; AND

(g) FINANCIAL ESTIMATES OF COSTS OF EACH INPATIENT AND OUTPATIENT PROGRAM TO IDENTIFY INEFFICIENCIES.

(2) THE DEPARTMENT SHALL ESTABLISH WHO HAS ACCESS TO ENTER INFORMATION INTO THE ELECTRONIC SYSTEM AND WHO MAY HAVE READ-ONLY ACCESS TO THE ELECTRONIC SYSTEM.

SECTION 10. In Colorado Revised Statutes, **add** 16-8.5-121 as follows:

16-8.5-121. Restoration services placement guideline - committee - creation - repeal. (1) BY JANUARY 1, 2020, THE DEPARTMENT SHALL CREATE A COMMITTEE OF EXPERTS IN FORENSIC SERVICES TO CREATE A PLACEMENT GUIDELINE TO BE USED BY ALL COMPETENCY EVALUATORS WHEN DETERMINING THE CORRECT CLINICAL LOCATION FOR COMPETENCY RESTORATION SERVICES TO OCCUR. THE COMMITTEE CONSISTS OF THE FOLLOWING INDIVIDUALS:

(a) THREE STATE-LICENSED FORENSIC PSYCHOLOGISTS OR PSYCHIATRISTS, ONE OF WHOM MUST BE A FORENSIC PSYCHIATRIST, CURRENTLY ABLE TO PRACTICE MEDICINE IN THE STATE WHO ARE NOT EMPLOYED BY THE DEPARTMENT;

(b) TWO STATE-LICENSED FORENSIC CLINICIANS, ONE OF WHOM MUST BE A FORENSIC PSYCHIATRIST CURRENTLY ABLE TO PRACTICE MEDICINE IN THE STATE AND ONE OF WHOM MUST BE A FORENSIC PSYCHOLOGIST LICENSED IN THE STATE, BOTH OF WHOM MUST BE EMPLOYED BY THE DEPARTMENT;

(c) TWO EXPERTS IN FORENSIC PSYCHIATRY REPRESENTING ONE OR MORE INSTITUTIONS OF HIGHER EDUCATION;

(d) ONE MEMBER WHO IS CLINICALLY TRAINED REPRESENTING THE DEPARTMENT;

(e) ONE MEMBER REPRESENTING THE JUDICIAL DEPARTMENT WHO IS DIRECTLY INVOLVED IN ORDERING AND REVIEWING COMPETENCY EVALUATIONS; AND

(f) ONE MEMBER WHO IS CLINICALLY TRAINED REPRESENTING COMMUNITY MENTAL HEALTH PROVIDERS.

(2) THE MEMBERS OF THE COMMITTEE SHALL SERVE VOLUNTARILY WITHOUT PAY OR REIMBURSEMENT FOR EXPENSES.

(3) THE PLACEMENT GUIDELINE MUST BE CREATED BY JULY 1, 2020, AND MUST BE USED BY ALL FORENSIC EVALUATORS ON AND AFTER JANUARY 1, 2021, TO ENSURE CONSISTENCY IN EVALUATIONS ACROSS THE STATE.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

SECTION 11. In Colorado Revised Statutes, **add** 16-8.5-122 as follows:

16-8.5-122. Forensic evaluator training. BY FEBRUARY 1, 2020, THE DEPARTMENT SHALL CREATE A PARTNERSHIP WITH AN ACCREDITED INSTITUTION OF HIGHER EDUCATION IN THE STATE TO DEVELOP AND PROVIDE RIGOROUS TRAINING IN FORENSIC EVALUATION. ON OR BEFORE JANUARY 1, 2021, NEWLY HIRED COMPETENCY EVALUATORS MUST COMPLETE A TRAINING THAT ADDRESSES COMPETENCY, SANITY, REPORT WRITING, EXPERT TESTIMONY, AND OTHER SKILLS CRUCIAL FOR FORENSIC EVALUATORS; EXCEPT THAT COMPETENCY EVALUATORS WHO ARE FORENSIC PSYCHIATRISTS CERTIFIED OR CERTIFICATION-ELIGIBLE BY THE AMERICAN BOARD OF PSYCHIATRY AND NEUROLOGY AND FORENSIC PSYCHOLOGISTS WHO ARE CERTIFIED OR CERTIFICATION-ELIGIBLE BY THE AMERICAN BOARD OF FORENSIC PSYCHOLOGY MAY BE EXEMPT FROM ANY TRAINING REQUIREMENTS AS OUTLINED IN THIS SECTION THROUGH AN EXEMPTION PROCESS TO BE DEVELOPED BY THE DEPARTMENT. THE STATE WILL MANAGE AN OVERSIGHT PROGRAM THAT WILL PROVIDE SUPPORT AND ENSURE QUALITY OF FORENSIC EVALUATORS.

SECTION 12. In Colorado Revised Statutes, 27-60-105, **amend** (4) introductory portion as follows:

27-60-105. Outpatient restoration to competency services - jail-based behavioral health services - responsible entity - duties - report - legislative declaration. (4) Beginning July 1, 2018 2019, the office has the following duties and responsibilities, subject to available appropriations:

SECTION 13. In Colorado Revised Statutes, **repeal** 27-65-125 as follows:

~~**27-65-125. Criminal proceedings.** Proceedings under section 27-65-105, 27-65-106, or 27-65-107 shall not be initiated or carried out involving a person charged with a criminal offense unless or until the criminal offense has been tried or dismissed; except that the judge of the court wherein the criminal action is~~

~~pending may request the district or probate court to authorize and permit such proceedings.~~

SECTION 14. In Colorado Revised Statutes, 13-1-137, **amend** (1)(d) and (1)(e); and **add** (1)(f) as follows:

13-1-137. Reporting of data concerning juvenile proceedings.

(1) Notwithstanding section 24-1-136 (11)(a)(I), the judicial branch shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:

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

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

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

SECTION 15. In Colorado Revised Statutes, 20-1-111, **add** (4)(c) as follows:

20-1-111. District attorneys may cooperate on contract - contents - appropriation. (4) (c) THE GENERAL ASSEMBLY SHALL MAKE AN APPROPRIATION TO THE DEPARTMENT OF LAW FOR STATE FISCAL YEAR 2019-20 FOR ALLOCATION TO THE STATEWIDE ORGANIZATION REPRESENTING DISTRICT ATTORNEYS FOR THE PUBLIC PURPOSE OF PROVIDING PROSECUTION TRAINING CONCERNING DETERMINATIONS OF COMPETENCY TO PROCEED FOR JUVENILES AND ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES TO RESTORE COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

SECTION 16. In Colorado Revised Statutes, 21-1-104, **amend** (4)(d) and (4)(e); and **add** (4)(f) as follows:

21-1-104. Duties of public defender - report. (4) Notwithstanding section 24-1-136 (11)(a)(I), pursuant to section 2-7-203, the state public defender shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:

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

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

(f) THE PROCESS OF TRAINING ATTORNEYS AND OTHER EMPLOYEES OF THE OFFICE

CONCERNING DETERMINATIONS OF COMPETENCY TO PROCEED FOR JUVENILES AND ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES TO RESTORE COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

SECTION 17. In Colorado Revised Statutes, 21-2-104, **amend** (3) introductory portion, (3)(d), and (3)(e); and **add** (3)(f) as follows:

21-2-104. Duties of alternate defense counsel and contract attorneys - report.
 (3) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), pursuant to section 2-7-203, C.R.S., the office of alternate defense counsel shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:

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

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

(f) THE PROCESS OF TRAINING EMPLOYEES AND CONTRACTORS CONCERNING DETERMINATIONS OF COMPETENCY TO PROCEED FOR JUVENILES AND ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES TO RESTORE COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

SECTION 18. In Colorado Revised Statutes, 17-1-102, **amend** (7.5)(a)(IV) as follows:

17-1-102. Definitions. As used in this title 17, unless the context otherwise requires:

(7.5) (a) "Special needs offender" means a person in the custody of the department:

(IV) Who, as determined by a licensed health care provider who is employed by or under contract with the department, on the basis of available evidence, not including evidence resulting from a refusal of the person to accept treatment, does not have a substantial probability of being restored to competency for the completion of any sentence and is not likely to pose a risk to public safety. As used in this subsection (7.5)(a)(IV), "competency" has the same meaning as "competent to proceed", as defined in ~~section 16-8.5-101 (4)~~ SECTION 16-8.5-101 (5).

SECTION 19. In Colorado Revised Statutes, 17-22.5-403.5, **amend** (4)(d) as follows:

17-22.5-403.5. Special needs parole. (4) (d) The state board of parole shall make a determination of whether to grant special needs parole within thirty days after receiving the referral from the department. The board may delay the decision in order to request that the department modify the special needs parole plan. If, prior to or during any parole hearing, the board or any member of the board has a substantial and good-faith reason to believe that the offender is incompetent to proceed, as defined in ~~section 16-8.5-101 (11)~~ SECTION 16-8.5-101 (12), the board

shall suspend all proceedings and notify the trial court that imposed any active sentence, and the court shall determine the competency or incompetency of the defendant pursuant to section 16-8.5-103. The court shall appoint counsel to represent the offender with respect to the determination of competency of the offender, but the presence of the offender is not required for any court proceedings unless good cause is shown.

SECTION 20. In Colorado Revised Statutes, 27-60-105, **amend** (2); and **add** (5) as follows:

27-60-105. Outpatient restoration to competency services - jail-based behavioral health services - responsible entity - duties - report - legislative declaration. (2) The office of behavioral health shall serve as a central organizing structure and responsible entity for the provision of competency restoration education services, coordination of competency restoration services ordered by the court pursuant to ~~section 19-2-1303 (2) or 16-8.5-111 (2)(a)~~ SECTION 16-8.5-111 (2)(b) OR 19-2-1303 (2), and jail-based behavioral health services pursuant to section 27-60-106.

(5) IN ADDITION TO SUBSECTION (4) OF THIS SECTION AND SUBJECT TO AVAILABLE APPROPRIATIONS, THE OFFICE SHALL REQUIRE ANY COUNTY JAIL TO ASSIST IN THE PROVISION OF INTERIM MENTAL HEALTH SERVICES FOR INDIVIDUALS WHO HAVE BEEN COURT-ORDERED FOR INPATIENT COMPETENCY RESTORATION AND WHO ARE WAITING ADMISSION FOR AN INPATIENT BED. THIS SECTION DOES NOT TOLL OR OTHERWISE MODIFY THE TIME FRAMES FOR THE DEPARTMENT TO OFFER INPATIENT ADMISSION PURSUANT TO THE PROVISIONS OF SECTION 16-8.5-111.

SECTION 21. Appropriation. (1) For the 2018-19 state fiscal year, \$10,983,000 is appropriated to the department of human services for use by the office of behavioral health. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) \$10,483,000 for fines, liquidated damages, costs, or attorney fees for non-compliance with the consent decree from the center for legal advocacy v. Barnes case; and

(b) \$500,000 for compensation for the special master pursuant to the consent decree from the center for legal advocacy v. Barnes case.

(2) Any money appropriated in this section not expended prior to July 1, 2019, is further appropriated to the office for the 2019-20 state fiscal year for the same purpose.

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

SECTION 22. Appropriation to the department of human services for the fiscal year beginning July 1, 2018. In Session Laws of Colorado 2018, section 2 of chapter 424, (HB 18-1322), **amend** Part VII (8)(D), footnote 50a, and the affected totals, as the affected totals are amended by section 1 of SB19-114 and section 11 SB19-207, as follows:

Section 2. **Appropriation.**

**PART VII
DEPARTMENT OF HUMAN SERVICES**

(8) OFFICE OF BEHAVIORAL HEALTH

(D) Integrated Behavioral Health Services

Behavioral Health Crisis Response System Services	27,893,709	23,506,902	4,386,807 ^a
Behavioral Health Crisis Response System Telephone Hotline	3,068,291	3,068,291	
Behavioral Health Crisis Response System Public Information Campaign	600,000	600,000	
Community Transition Services	4,350,523 2,200,523	4,350,523 2,200,523	

Criminal Justice			
Diversion Programs	5,561,828		5,561,828 ^a (1.3 FTE)
Jail-based Behavioral Health Services	5,297,610		5,297,610 ^b
Community-based Circle Program	1,993,511		1,993,511 ^a
Rural Co-occurring Disorder Services ^{50,50a}	4,045,884	3,000,000	1,045,884 ^a
	2,670,884	1,625,000	
Medication Consistency and Health Information Exchange ⁵¹	491,700		491,700 ^a
	<u>53,303,056</u>		
	49,778,056		

^a These amounts shall be from the Marijuana Tax Cash Fund created in Section 39-28.8-501 (1), C.R.S.

^b This amount shall be transferred from the Judicial Department, Probation and Related Services, from the Offender Treatment and Services line item appropriation.

TOTALS PART VII

(HUMAN SERVICES)	\$2,162,187,694	\$949,550,231	\$417,396,954 ^a	\$190,954,685 ^b	\$604,285,824 ^c
	<u>\$2,158,662,694</u>	<u>\$946,025,231</u>			

^a Of this amount, \$138,512,243 contains an (L) notation and \$286,510,386 contains an (I) notation and are included for informational purposes only.

^b Of this amount, \$1,340,200 contains an (I) notation and is included for informational purposes only.

^c Of this amount, \$279,781,173 contains an (I) notation and is included for informational purposes only.

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

FOOTNOTES -- The following statements are referenced to the numbered footnotes throughout section 2.

50a Department of Human Services, Office of Behavioral Health, Integrated Behavioral Health Services, Rural Co-occurring Disorder Services -- It is the General Assembly's intent that of this appropriation ~~\$3,000,000~~ \$1,625,000 General Fund be used to expand residential treatment services in one or more rural areas of Colorado for individuals with co-occurring mental health and substance use disorders. It is also the General Assembly's intent that this appropriation be used to cover initial expenses necessary to establish, license, and begin operating one or more programs that provide these services, such as building renovations, furnishing, and equipment.

SECTION 23. Appropriation to the department of human services for the fiscal year beginning July 1, 2018. In Session Laws of Colorado 2018, amend section 4 of chapter 403, (SB 18-250), as follows:

Section 4. **Appropriation.** For the 2018-19 state fiscal year, ~~\$2,564,603~~ \$1,564,603 is appropriated to the department of human services for use by the office of behavioral health. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.8 FTE. To implement this act, the office may use this appropriation as follows:

Community behavioral health administration

Personal services	\$122,117 (1.8 FTE)
Operating expenses	\$15,819

Integrated behavioral health services

Jail-based behavioral health services	\$2,426,667 \$1,426,667
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SECTION 24. Appropriation. (1) For the 2019-20 state fiscal year, \$8,141,194 is appropriated to the department of human services. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

Executive director's office

Health, life, and dental	\$167,076
Short-term disability	\$2,441
S.B. 04-257 amortization equalization disbursement	\$64,225
S.B. 04-257 supplemental amortization equalization disbursement	\$64,225
Legal services	\$139,901

Office of information technology services

Payments to OIT	\$454,539
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Office of operations

Leased space	\$72,500
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Office of behavioral health, integrated behavioral health services

Jail-based behavioral health services	\$2,250,400
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Office of behavioral health, mental health institutes, forensic services

Court services	\$1,559,148 (18.0 FTE)
Forensic community-based services	\$1,104,843 (1.0 FTE)
Outpatient competency restoration program	\$2,261,896

(2) For the 2019-20 state fiscal year, \$139,901 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section and is based on

an assumption that the department of law will require an additional 0.8 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of human services.

(3) For the 2019-20 state fiscal year, \$50,000 is appropriated to the department of law. This appropriation is from the general fund. To implement this act, the department of law may use this appropriation to allocate funds to the statewide organization representing district attorneys for the public purpose of providing prosecution training pursuant to section 20-1-111 (4)(c), C.R.S.

(4) For the 2019-20 state fiscal year, \$454,539 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section and is based on an assumption that the office of information technology will require an additional 0.9 FTE. To implement this act, the office may use this appropriation to provide information technology services for the department of human services.

(5) For the 2019-20 state fiscal year, \$750,570 is appropriated to the judicial department. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

Courts administration, centrally-administered programs

Courthouse furnishings and infrastructure maintenance	\$130,636
Judicial education and training	\$50,000

Trial courts

Trial court programs	\$499,934 (5.4 FTE)
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Office of the state public defender

Operating expenses	\$50,000
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Office of the alternate defense counsel

Training and conferences	\$20,000
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SECTION 25. Effective date. This act takes effect July 1, 2019.

SECTION 26. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 20, 2019