

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0257.01 Shelby Ross x4510

HOUSE BILL 22-1256

HOUSE SPONSORSHIP

Amabile and McCluskie, Pelton

SENATE SPONSORSHIP

Moreno and Gardner,

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO CIVIL INVOLUNTARY COMMITMENT
102 STATUTES FOR PERSONS WITH MENTAL HEALTH DISORDERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law sets forth emergency procedures to transport a person for a screening and to detain a person for a 72-hour treatment and evaluation if the person appears to have a mental health disorder, and as a result of the mental health disorder, appears to be an imminent danger to the person's self or others, or appears to be gravely disabled. Current law also sets forth procedures to certify a person for short-term or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

long-term care and treatment if the person has a mental health disorder, and as a result of the mental health disorder, is a danger to the person's self or others, or is gravely disabled. The bill modifies these procedures by:

- Transferring duties of the executive director of the department of human services to the commissioner (commissioner) of the behavioral health administration (BHA);
- Limiting who can take a person into protective custody and transport the person to an outpatient mental health facility, a facility designated by the commissioner of the BHA (designated facility), or an emergency medical services facility (EMS facility) if the person has probable cause to believe a person is experiencing a behavioral health crisis;
- Requiring the facility where the person is transported to require an application, in writing, stating the circumstances and specific facts under which the person's condition was called to the attention of a certified peace officer or emergency medical services provider;
- Requiring an intervening professional to screen the person immediately or within 8 hours after the person's arrival at the facility to determine if the person meets the criteria for an emergency mental health hold;
- Establishing certain rights for a person being transported, which must be explained prior to transporting the person;
- Requiring a petition for certification for long-term treatment and care to be filed with the court at least 30 days prior to the expiration of the extended certification and requiring the petition to include a recommendation as to whether the certification should take place on an inpatient or outpatient basis;
- Effective July 1, 2023:
 - Subjecting a person who files a malicious or false petition for an evaluation of a respondent to criminal prosecution;
 - Authorizing a certified peace officer to transport a person to an emergency medical services facility (EMS facility), even if a warrant has been issued for the person's arrest, if the certified peace officer believes it is in the best interest of the person;
 - Authorizing an intervening professional or certified peace officer to initiate an emergency mental health hold at the time of screening the respondent;
 - Authorizing a secure transportation provider to take a respondent into custody and transport the person

to an EMS facility or designated facility for an emergency mental health hold;

- Expanding the list of professionals who may terminate the emergency mental health hold;
- Requiring the evaluation to be completed using a standardized form approved by the commissioner;
- Expanding who can initiate a certification to include an advanced practice registered nurse with training in psychiatric nursing and prescriptive authority;
- Requiring an EMS facility to immediately notify the BHA if a person is evaluated and the evaluating professional determines that the person continues to meet the criteria for an emergency mental health hold and the initial emergency mental health hold is set to expire before an appropriate placement is located;
- Requiring the BHA to support the EMS facility in locating an appropriate placement option. If an appropriate placement option cannot be located, the bill authorizes the EMS facility to place the person under a second emergency mental health hold and requires the court to immediately appoint an attorney.
- Authorizing a designated facility to place the person under a second emergency mental health hold if the person has been recently transferred from an EMS facility to the designated facility and the designated facility is unable to complete the evaluation before the initial emergency mental health hold is set to expire; and
- Requiring the facility to provide the person with a discharge summary and a copy of the completed evaluation; facilitate a follow-up appointment within 7 calendar days after discharge; attempt to follow up with the person 48 hours after discharge; and encourage the person to designate a family member, friend, or lay person to participate in the person's discharge planning.
- Effective January 1, 2025:
 - Authorizing the court to certify a respondent for not more than 3 months for short-term treatment and place the respondent in the BHA's custody without the need for an emergency mental health hold upon a petition of certain individuals;
 - Requiring the court to commit the respondent to the

custody of the BHA if the court finds that grounds for certification for short-term treatment have been established;

- Authorizing the judge or magistrate who certified the respondent for short-term treatment to sign the notice of certification;
- Requiring the notification of certification to include a recommendation whether the certification should take place on an inpatient or outpatient basis;
- Authorizing the BHA to delegate physical custody of the respondent to a designated facility;
- Requiring an extended certification to be filed with the court at least 30 days prior to the expiration of the original certification;
- Establishing requirements for a short-term or long-term certification on an outpatient basis; and
- Requiring the outpatient treatment provider, in collaboration with the BHA, to develop a treatment plan for the respondent and requiring the BHA to create a one-step grievance process for the respondent related to the respondent's treatment plan or provider.

The bill establishes a right to an attorney for a person certified for short-term or long-term care and treatment, regardless of income.

The bill establishes certain rights for a person transported or detained for an emergency mental health hold or certified on an outpatient basis. The bill modifies current rights for a person certified for short-term or long-term care and treatment on an inpatient basis. The bill grants a person whose rights are wrongfully denied or violated a private right of action against the facility.

Beginning January 1, 2025, the bill requires the BHA to annually submit a report to the general assembly on the outcomes and effectiveness of the involuntary commitment system, disaggregated by region, including any recommendations to improve the system and outcomes for persons involuntarily committed or certified.

The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend with**
3 **relocated provisions** article 65 of title 27 as follows:

4 **ARTICLE 65**

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**Care and Treatment of Persons
with Mental Health Disorders**

27-65-101. Legislative declaration. (1) The general assembly declares that ~~subject to available appropriations,~~ the purposes of this article 65 are:

(a) To secure for each person with a mental health disorder such care and treatment suited to ~~his or her~~ THE PERSON'S needs and to ensure that the care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

(b) To deprive a person of ~~his or her~~ THE PERSON'S liberty for purposes of care or treatment only when less restrictive alternatives are unavailable and only when ~~his or her~~ THE PERSON'S safety or the safety of others is endangered;

(c) To provide the fullest possible measure of privacy, dignity, and other rights to persons undergoing care and treatment for a mental health disorder;

(d) To encourage the use of voluntary, rather than coercive, measures to provide care and treatment for mental health disorders and to provide the care and treatment in the least restrictive setting;

(e) To provide appropriate information to family members concerning the location and fact of admission of a person with a mental health disorder to inpatient or residential care and treatment;

(f) To encourage the appropriate participation of family members in the care and treatment of a person with a mental health disorder and, when appropriate, to provide information to family members in order to facilitate that participation; and

(g) To facilitate the recovery and resiliency of each person who

1 receives care and treatment pursuant to this article 65.

2 (2) To carry out these purposes, ~~subject to available~~
3 ~~appropriations~~, the provisions of this ~~article shall~~ ARTICLE 65 MUST be
4 liberally construed.

5 **27-65-102. Definitions.** As used in this article 65, unless the
6 context otherwise requires:

7 (1) "Acute treatment unit" means a facility or a distinct part of a
8 facility for short-term psychiatric care, which may include treatment for
9 substance use disorders, that provides a total, twenty-four-hour,
10 therapeutically planned and professionally staffed environment for
11 persons who do not require inpatient hospitalization but need more
12 intense and individual services than are available on an outpatient basis,
13 such as crisis management and stabilization services.

14 (2) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
15 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
16 27-60-203.

17 (3) "BEHAVIORAL HEALTH CRISIS" MEANS A SIGNIFICANT
18 DISRUPTION IN A PERSON'S MENTAL OR EMOTIONAL STABILITY OR
19 FUNCTIONING RESULTING IN AN URGENT NEED FOR IMMEDIATE
20 ASSESSMENT AND TREATMENT TO PREVENT A SERIOUS DETERIORATION IN
21 THE PERSON'S MENTAL OR PHYSICAL HEALTH.

22 (4) "BEHAVIORAL HEALTH CRISIS RESPONSE TEAM" MEANS A
23 MOBILE TEAM THAT RESPONDS TO PEOPLE IN THE COMMUNITY WHO ARE IN
24 A BEHAVIORAL HEALTH CRISIS AND INCLUDES AT LEAST ONE LICENSED OR
25 BACHELOR-DEGREE-LEVEL BEHAVIORAL HEALTH WORKER. A
26 "BEHAVIORAL HEALTH CRISIS RESPONSE TEAM" INCLUDES, BUT IS NOT
27 LIMITED TO, A CO-RESPONDER MODEL, MOBILE CRISIS RESPONSE UNIT, OR

1 A COMMUNITY RESPONSE TEAM.

2 ~~(1.5)~~ (5) "Behavioral health entity" means a facility or provider
3 organization engaged in providing community-based health services,
4 which may include behavioral health disorder services, alcohol use
5 disorder services, or substance use disorder services, including crisis
6 stabilization, acute or ongoing treatment, or community mental health
7 center services as described in section 27-66-101 (2) and (3), but does not
8 include:

9 (a) Residential child care facilities as defined in section 26-6-102
10 (33); or

11 (b) Services provided by a licensed or certified mental health-care
12 provider under the provider's individual professional practice act on the
13 provider's own premises.

14 ~~(2)~~ (6) "Certified peace officer" means any certified peace officer
15 as described in section 16-2.5-102. ~~C.R.S.~~

16 (7) "COMMISSIONER" MEANS THE COMMISSIONER OF THE
17 BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
18 27-60-203.

19 ~~(3)~~ (8) "Court" means any district court of the state of Colorado
20 and the probate court in the city and county of Denver.

21 ~~(4)~~ (9) "Court-ordered evaluation" means an evaluation ordered
22 by a court pursuant to section 27-65-106.

23 ~~(4.5)~~ (10) "Danger to THE PERSON'S self or others" means:

24 (a) ~~With respect to an individual, that the individual~~ A PERSON
25 poses a substantial risk of physical harm to ~~himself or herself~~ THE
26 PERSON'S SELF as manifested by evidence of recent threats of or attempts
27 at suicide or serious bodily harm to ~~himself or herself~~ THE PERSON'S SELF;

1 or

2 (b) ~~With respect to other persons, that the individual~~ A PERSON
3 poses a substantial risk of physical harm to another person or persons, as
4 manifested by evidence of recent homicidal or other violent behavior by
5 the person in question, or by evidence that others are placed in reasonable
6 fear of violent behavior and serious physical harm to them, as evidenced
7 by a recent overt act, attempt, or threat to do serious physical harm by the
8 person in question.

9 ~~(5)~~ (11) "Department" means the department of human services.

10 ~~(5.5)~~ (12) "Emergency medical services facility" means a facility
11 ~~licensed pursuant to part 1 of article 3 of title 25 or certified pursuant to~~
12 ~~section 25-1.5-103, or any other licensed and certified facility that~~
13 ~~provides emergency medical services~~ GENERAL HOSPITAL WITH AN
14 EMERGENCY DEPARTMENT OR A FREESTANDING EMERGENCY
15 DEPARTMENT, AS DEFINED IN SECTION 25-1.5-114 (5). An emergency
16 medical services facility is not required to be, but may elect to become,
17 a facility designated or approved by the ~~executive director for a~~
18 ~~seventy-two-hour treatment and evaluation pursuant to section 27-65-105~~
19 COMMISSIONER.

20 (13) "EMERGENCY MEDICAL SERVICES PROVIDER" HAS THE SAME
21 MEANING AS SET FORTH IN SECTION 25-3.5-103 (8).

22 ~~(6)~~ (14) "Executive director" means the executive director of the
23 department of human services.

24 ~~(7)~~ (15) "Facility" means a public hospital or a licensed private
25 hospital, ~~clinic~~, behavioral health entity, community mental health center
26 or clinic, acute treatment unit, ~~institution~~, or residential child care facility
27 that provides treatment for persons with mental health disorders.

1 ~~(8)~~ (16) "Family member" means a spouse, PARTNER IN A CIVIL
2 UNION, AS DEFINED IN SECTION 14-15-103 (5), parent, adult child, or adult
3 sibling of a person with a mental health disorder.

4 ~~(9)~~ (17) "Gravely disabled" means a condition in which a person,
5 as a result of a mental health disorder, is incapable of making informed
6 decisions about or providing for ~~his or her~~ THE PERSON'S essential needs
7 without significant supervision and assistance from other people. As a
8 result of being incapable of making these informed decisions, a person
9 who is gravely disabled is at risk of substantial bodily harm, dangerous
10 worsening of any concomitant serious physical illness, significant
11 psychiatric deterioration, or mismanagement of ~~his or her~~ THE PERSON'S
12 essential needs that could result in substantial bodily harm. A person of
13 any age may be "gravely disabled", but ~~such~~ THE term does not include a
14 person whose decision-making capabilities are limited solely by ~~his or her~~
15 THE PERSON'S developmental disability.

16 ~~(10)~~ (18) "Hospitalization" means twenty-four-hour out-of-home
17 placement for treatment in a facility for a person with a mental health
18 disorder.

19 ~~(11)~~ (19) "Independent professional person" means a professional
20 person ~~as defined in subsection (17) of this section~~, who evaluates a
21 minor's condition as an independent decision-maker and whose
22 recommendations are based on the standard of what is in the best interest
23 of the minor. The professional person may be associated with the
24 admitting ~~mental health~~ facility if ~~he or she~~ THE PROFESSIONAL PERSON is
25 free to independently evaluate the minor's condition and need for
26 treatment and has the authority to refuse admission to any minor who
27 does not satisfy the statutory standards specified in ~~section 27-65-103 (3)~~

1 SECTION 27-65-104 (2).

2 ~~(11.3)~~ (20) "Intervening professional" means a person described
3 ~~in section 27-65-105 (1)(a)(II) who may effect a seventy-two-hour hold~~
4 ~~under the provisions outlined in section 27-65-105~~ WHO IS ONE OF THE
5 FOLLOWING:

6 (a) A PROFESSIONAL PERSON;

7 (b) A PHYSICIAN ASSISTANT LICENSED PURSUANT TO SECTION
8 12-240-113;

9 (c) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN
10 SECTION 12-255-104 (1);

11 (d) A REGISTERED PROFESSIONAL NURSE, AS DEFINED IN SECTION
12 12-255-104 (11);

13 (e) A CLINICAL SOCIAL WORKER LICENSED PURSUANT TO PART 4 OF
14 ARTICLE 245 OF TITLE 12;

15 (f) A MARRIAGE AND FAMILY THERAPIST LICENSED PURSUANT TO
16 PART 5 OF ARTICLE 245 OF TITLE 12;

17 (g) A PROFESSIONAL COUNSELOR LICENSED PURSUANT TO PART 6
18 OF ARTICLE 245 OF TITLE 12; OR

19 (h) AN ADDICTION COUNSELOR LICENSED PURSUANT TO PART 8 OF
20 ARTICLE 245 OF TITLE 12.

21 (21) "LAY PERSON" MEANS A PERSON IDENTIFIED BY ANOTHER
22 PERSON WHO IS DETAINED ON AN INVOLUNTARY EMERGENCY MENTAL
23 HEALTH HOLD PURSUANT TO SECTION 27-65-106, CERTIFIED FOR
24 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108 OR
25 27-65-109, OR CERTIFIED FOR LONG-TERM CARE AND TREATMENT
26 PURSUANT TO SECTION 27-65-110 WHO IS AUTHORIZED TO PARTICIPATE IN
27 ACTIVITIES RELATED TO THE PERSON'S INVOLUNTARY EMERGENCY

1 MENTAL HEALTH HOLD, SHORT-TERM TREATMENT, OR LONG-TERM
2 TREATMENT, INCLUDING COURT APPEARANCES, DISCHARGE PLANNING,
3 AND GRIEVANCES. THE PERSON MAY RESCIND THE LAY PERSON'S
4 AUTHORIZATION AT ANY TIME.

5 ~~(11.5)~~ (22) "Mental health disorder" includes one or more
6 substantial disorders of the cognitive, volitional, or emotional processes
7 that grossly impairs judgment or capacity to recognize reality or to control
8 behavior. An intellectual or developmental disability is insufficient to
9 either justify or exclude a finding of a mental health disorder pursuant to
10 the provisions of this article 65.

11 ~~(12)~~ (23) "Minor" means a person under eighteen years of age;
12 except that the term does not include a person who is fifteen years of age
13 or older who is living separately and apart from ~~his or her~~ THE PERSON'S
14 parent or legal guardian and is managing ~~his or her~~ THE PERSON'S OWN
15 financial affairs, regardless of ~~his or her~~ THE PERSON'S source of income,
16 or who is married and living separately and apart from ~~his or her~~ THE
17 PERSON'S parent or legal guardian.

18 ~~(13)~~ (24) "Patient representative" means a person designated by
19 a mental health facility to process patient complaints or grievances or to
20 represent patients who are minors pursuant to ~~section 27-65-103 (5)~~
21 SECTION 27-65-104 (4).

22 ~~(14) Repealed.~~

23 ~~(15)~~ (25) "Petitioner" means any person who files any petition in
24 any proceeding in the interest of any person who allegedly has a mental
25 health disorder or is allegedly gravely disabled.

26 ~~(16)~~ (26) "Physician" means a person licensed to practice
27 medicine in this state.

1 ~~(17)~~ (27) (a) "Professional person" means a person licensed to
2 practice medicine in this state, a psychologist ~~certified~~ LICENSED to
3 practice in this state, or a person licensed and in good standing to practice
4 medicine in another state or a psychologist ~~certified~~ LICENSED to practice
5 and in good standing in another state who is providing medical or clinical
6 services at a treatment facility in this state that is operated by the armed
7 forces of the United States, the United States public health service, or the
8 United States department of veterans affairs.

9 (b) "PROFESSIONAL PERSON" ALSO MEANS AN ADVANCED
10 PRACTICE REGISTERED NURSE, AS DEFINED IN SECTION 12-255-104 (1),
11 WITH PRESCRIPTIVE AUTHORITY PURSUANT TO SECTION 12-255-112 AND
12 TRAINING IN PSYCHIATRIC NURSING.

13 ~~(18)~~ (28) "Residential child care facility" ~~means a facility licensed~~
14 ~~by the state department of human services pursuant to article 6 of title 26,~~
15 ~~C.R.S., to provide group care and treatment for children as such facility~~
16 ~~is defined~~ HAS THE SAME MEANING AS SET FORTH in section 26-6-102
17 (33). ~~C.R.S.~~ A residential child care facility may be eligible for
18 designation by the ~~executive director of the department of human services~~
19 COMMISSIONER pursuant to this ~~article~~ ARTICLE 65.

20 ~~(19)~~ (29) "Respondent" means either a person alleged in a petition
21 filed pursuant to this article 65 to have a mental health disorder or be
22 gravely disabled or a person certified pursuant to the provisions of this
23 article 65.

24 ~~(20)~~ (30) "Screening" means a review of all petitions; to consist
25 of an interview with the petitioner and, whenever possible, the
26 respondent; an assessment of the problem; an explanation of the petition
27 to the respondent; and a determination of whether the respondent needs

1 and, if so, will accept on a voluntary basis, A comprehensive evaluation,
2 treatment, referral, and other appropriate services, either on an inpatient
3 or an outpatient basis.

4 (31) "SECURE TRANSPORTATION PROVIDER" MEANS A PROVIDER
5 LICENSED PURSUANT TO SECTION 25-3.5-310 TO PROVIDE PUBLIC OR
6 PRIVATE SECURE TRANSPORTATION SERVICES.

7 **27-65-103. Voluntary applications for mental health services.**

8 (1) Nothing in this article 65 in any way limits the right of any person to
9 make A voluntary application at any time to any public or private agency
10 or professional person for mental health services, either by direct
11 application in person or by referral from any other public or private
12 agency or professional person. Subject to section 15-14-316 (4), a ward,
13 as defined in section 15-14-102 (15), may be admitted to A hospital or
14 institutional care and treatment for a mental health disorder ~~by consent of~~
15 WITH the ~~guardian~~ GUARDIAN'S CONSENT for ~~so~~ AS long as the ward
16 agrees to such care and treatment. ~~Within ten days after any such~~
17 ~~admission,~~ The guardian shall IMMEDIATELY notify in writing the court
18 that appointed the guardian of the admission.

19 ~~(9)~~ (2) For the purpose of this ~~article~~ ARTICLE 65, the treatment by
20 prayer in the practice of the religion of any church ~~which~~ THAT teaches
21 reliance on spiritual means alone for healing ~~shall be~~ IS considered a form
22 of treatment.

23 ~~(10)~~ (3) The medical and legal status of all voluntary patients
24 receiving treatment for mental health disorders in inpatient or custodial
25 facilities must be reviewed at least once every six months.

26 ~~(11)~~ (4) Voluntary patients ~~shall be~~ ARE afforded all the rights and
27 privileges customarily granted by hospitals to their patients.

1 or older or a MINOR'S parent or legal guardian, ~~of a minor~~ on the minor's
2 behalf, may make A voluntary application for hospitalization. AN
3 application for hospitalization on behalf of a minor who is under fifteen
4 years of age and who is a ward of the department of ~~human services~~ shall
5 MUST not be made unless a guardian ad litem has been appointed for the
6 minor or a petition for the same has been filed with the court by the
7 agency having custody of the minor; except that such an application for
8 hospitalization may be made under emergency circumstances requiring
9 immediate hospitalization, in which case the agency shall file a petition
10 for appointment of a guardian ad litem within seventy-two hours after
11 application for admission is made, and the court shall IMMEDIATELY
12 appoint a guardian ad litem. ~~forthwith.~~ Procedures for hospitalization of
13 ~~such~~ A minor may proceed pursuant to this section once a petition for
14 appointment of a guardian ad litem has been filed, if necessary. Whenever
15 ~~such~~ AN application for hospitalization is made, an independent
16 professional person shall interview the minor and conduct a careful
17 investigation into the minor's background, using all available sources,
18 including, but not limited to, the MINOR'S parents or legal guardian, ~~and~~
19 the MINOR'S school, and any other social SERVICE agencies. Prior to
20 admitting a minor for hospitalization, the independent professional person
21 shall make the following findings:

22 (a) That the minor has a mental health disorder and is in need of
23 hospitalization;

24 (b) That a less restrictive treatment alternative is inappropriate or
25 unavailable; and

26 (c) That hospitalization is likely to be beneficial.

27 (3) **[Formerly 27-65-103 (4)]** An interview and investigation by

1 an independent professional person ~~shall not be~~ IS NOT required for a
2 minor who is fifteen years of age or older and who, upon the
3 recommendation of ~~his or her~~ THE MINOR'S treating professional person,
4 seeks voluntary hospitalization with the consent of ~~his or her~~ THE MINOR'S
5 parent or legal guardian. In order to assure that the minor's consent to
6 such hospitalization is voluntary, the minor shall be advised, at or before
7 the time of admission, of ~~his or her~~ THE MINOR'S right to refuse to sign the
8 admission consent form and ~~his or her~~ THE MINOR'S right to revoke ~~his or~~
9 ~~her~~ THE MINOR'S consent at a later date. If a minor admitted pursuant to
10 this ~~subsection (4)~~ SUBSECTION (3) subsequently revokes ~~his or her~~ THE
11 MINOR'S consent after admission, a review of ~~his or her~~ THE MINOR'S need
12 for hospitalization pursuant to ~~subsection (5)~~ SUBSECTION (4) of this
13 section ~~shall~~ MUST be initiated immediately.

14 (4) [Formerly 27-65-103 (5)] (a) The need for continuing
15 hospitalization of all voluntary MINOR patients ~~who are minors shall~~ MUST
16 be formally reviewed at least every two months. Review pursuant to this
17 ~~subsection (5) shall~~ SUBSECTION (4) MUST fulfill the requirement specified
18 in section 19-1-115 (8) C.R.S., when the minor is fifteen years of age or
19 older and consenting to hospitalization.

20 (b) The review ~~shall~~ MUST be conducted by an independent
21 professional person who is not a member of the minor's treating team; or,
22 if the minor, ~~his or her~~ THE MINOR'S physician, and the minor's parent or
23 LEGAL guardian do not object to the need for continued hospitalization,
24 the review required pursuant to this ~~subsection (5)~~ SUBSECTION (4) may
25 be conducted internally by the hospital staff.

26 (c) The independent professional person shall determine whether
27 the minor continues to meet the criteria specified in ~~subsection (3)~~

1 SUBSECTION (2) of this section and whether continued hospitalization is
2 appropriate and shall, ~~at least~~ AT A MINIMUM, conduct an investigation
3 pursuant to ~~subsection (3)~~ SUBSECTION (2) of this section.

4 (d) Ten days prior to the review, the patient representative at the
5 mental health facility shall notify the minor of the date of the review and
6 shall assist the minor in articulating to the independent professional
7 person ~~his or her~~ THE MINOR'S wishes concerning continued
8 hospitalization.

9 (e) Nothing in this section ~~shall be construed to limit~~ LIMITS a
10 minor's right to seek release from the facility pursuant to any other
11 ~~provisions under the~~ PROVISION OF law.

12 (5) [Formerly 27-65-103 (6)] Every six months the review
13 required pursuant to ~~subsection (5)~~ SUBSECTION (4) of this section shall
14 be conducted by an independent professional person who is not a member
15 of the minor's treating team and who has not previously reviewed the
16 ~~child~~ MINOR pursuant to ~~subsection (5)~~ SUBSECTION (4) of this section.

17 (6) [Formerly 27-65-103 (7)] (a) When a minor does not consent
18 to or objects to continued hospitalization, the need for such continued
19 hospitalization ~~shall~~ MUST, within ten days, be reviewed pursuant to
20 ~~subsection (5)~~ SUBSECTION (4) of this section by an independent
21 professional person who is not a member of the minor's treating team and
22 who has not previously reviewed the ~~child~~ MINOR pursuant to this
23 ~~subsection (7)~~ SUBSECTION (6). The minor shall be informed of the results
24 of ~~such~~ THE review within three days ~~of~~ AFTER THE REVIEW'S completion.
25 ~~of such review~~. If the conclusion reached by ~~such~~ THE professional person
26 is that the minor no longer meets the standards for hospitalization
27 specified in ~~subsection (3)~~ SUBSECTION (2) of this section, the minor shall

1 MUST be discharged.

2 (b) If, twenty-four hours after being informed of the results of the
3 review specified in ~~paragraph (a) of this subsection (7)~~ SUBSECTION (6)(a)
4 OF THIS SECTION, a minor continues to affirm the objection to
5 hospitalization, ~~the minor shall be advised by~~ the director of the facility
6 or ~~his or her~~ THE DIRECTOR'S duly appointed representative SHALL ADVISE
7 THE MINOR that the minor has the right to retain and consult with an
8 attorney at any time and that the director or ~~his or her~~ THE DIRECTOR'S
9 duly appointed representative shall file, within three days after the request
10 of the minor, a statement requesting an attorney for the minor or, if the
11 minor is under fifteen years of age, a guardian ad litem. The minor; ~~his or~~
12 ~~her~~ THE MINOR'S attorney, if any; and ~~his or her~~ THE MINOR'S parent, legal
13 guardian, or guardian ad litem, if any, shall ~~also~~ be given written notice
14 that a hearing upon the recommendation for continued hospitalization
15 may be had before the court or a jury upon written request directed to the
16 court pursuant to ~~paragraph (d) of this subsection (7)~~ SUBSECTION (6)(d)
17 OF THIS SECTION.

18 (c) Whenever the statement requesting an attorney is filed with the
19 court, the court shall ascertain whether the minor has retained counsel,
20 and, if ~~he or she~~ THE MINOR has not, the court shall, within three days,
21 appoint an attorney to represent the minor, or if the minor is under fifteen
22 years of age, a guardian ad litem. Upon receipt of a petition filed by the
23 guardian ad litem, the court shall appoint an attorney to represent the
24 minor under fifteen years of age.

25 (d) (I) The minor or ~~his or her~~ THE MINOR'S attorney or guardian
26 ad litem may, at any time after the minor has continued to affirm ~~his or~~
27 ~~her~~ THE MINOR'S objection to hospitalization pursuant to ~~subsection (7)(b)~~

1 SUBSECTION (6)(b) of this section, file a written request that the
2 recommendation for continued hospitalization be reviewed by the court
3 or that the treatment be on an outpatient basis. If review is requested, the
4 court shall hear the matter within ten days after the request, and the court
5 shall give notice OF THE TIME AND PLACE OF THE HEARING to the minor;
6 ~~his or her~~ THE MINOR'S attorney, if any; ~~his or her~~ THE MINOR'S parents or
7 legal guardian; ~~his or her~~ THE MINOR'S guardian ad litem, if any; the
8 independent professional person; and the minor's treating team. ~~of the~~
9 ~~time and place of the hearing~~. The hearing must be held in accordance
10 with ~~section 27-65-111~~ SECTION 27-65-113; except that the court or jury
11 shall determine that the minor is in need of care and treatment if the court
12 or jury makes the following findings:

13 (A) That the minor has a mental health disorder and is in need of
14 hospitalization;

15 (B) That a less restrictive treatment alternative is inappropriate or
16 unavailable; and

17 (C) That hospitalization is likely to be beneficial.

18 (II) At the conclusion of the hearing, the court may enter an order
19 confirming the recommendation for continued hospitalization, discharge
20 the minor, or enter any other appropriate order.

21 (e) For purposes of this ~~subsection (7)~~ SUBSECTION (6), "objects
22 to hospitalization" means that a minor, with the necessary assistance of
23 hospital staff, has written ~~his or her~~ THE MINOR'S objections to continued
24 hospitalization and has been given an opportunity to affirm or disaffirm
25 such objections forty-eight hours after the objections are first written.

26 (f) A minor may not again object to hospitalization pursuant to
27 this ~~subsection (7)~~ SUBSECTION (6) until ninety days after conclusion of

1 proceedings pursuant to this ~~subsection (7)~~ SUBSECTION (6).

2 (g) In addition to the rights specified ~~under section 27-65-117~~ IN
3 SECTION 27-65-119 for persons receiving evaluation, care, or treatment,
4 a written notice specifying the rights of minor children under this section
5 ~~shall~~ MUST be given to each minor upon admission to hospitalization.

6 (7) [Formerly 27-65-103 (8)] A minor who no longer meets the
7 standards for hospitalization specified in ~~subsection (3)~~ SUBSECTION (2)
8 of this section ~~shall~~ MUST be discharged.

9 **27-65-105. [Formerly 27-65-104] Rights of respondents.** Unless
10 specifically stated in an order by the court, a respondent ~~shall~~ DOES not
11 forfeit any legal right or suffer legal disability by reason of the provisions
12 of this ~~article~~ ARTICLE 65.

13 **27-65-106. Emergency mental health hold - screening -**
14 **court-ordered evaluation - discharge summary - respondent's rights**
15 **- report.** (1) [Formerly 27-65-105 (1)] Emergency procedure may be
16 invoked under one of the following conditions:

17 (a) (I) When any person appears to have a mental health disorder
18 and, as a result of such mental health disorder, appears to be an imminent
19 danger to others or to ~~himself or herself~~ THE PERSON'S SELF or appears to
20 be gravely disabled, then an intervening professional ~~as specified in~~
21 ~~subsection (1)(a)(II) of this section~~ OR CERTIFIED PEACE OFFICER, upon
22 probable cause and with such assistance as may be required, may take the
23 person into custody, or cause the person to be taken into custody, and
24 placed in a facility designated or approved by the executive director for
25 a seventy-two-hour treatment and evaluation. If such a facility is not
26 available, the person may be taken to an emergency medical services
27 facility.

1 (I.5) When any person appears to have a mental health disorder
2 and, as a result of such mental health disorder, is in need of immediate
3 evaluation for treatment in order to prevent physical or psychiatric harm
4 to others or to ~~himself or herself~~ THE PERSON'S SELF, then an intervening
5 professional ~~as specified in subsection (1)(a)(II) of this section~~ OR
6 CERTIFIED PEACE OFFICER, upon probable cause and with such assistance
7 as may be required, may immediately transport the person to an outpatient
8 mental health facility or other clinically appropriate facility designated or
9 approved by the executive director. If such a facility is not available, the
10 person may be taken to an emergency medical services facility.

11 ~~(H) The following persons may act as intervening professionals~~
12 ~~to effect a seventy-two-hour hold, as provided in subsections (1)(a)(I) and~~
13 ~~(1)(a)(I.5) of this section:~~

14 ~~(A) A certified peace officer;~~

15 ~~(B) A professional person;~~

16 ~~(C) A registered professional nurse as defined in section~~
17 ~~12-255-104 (11) who by reason of postgraduate education and additional~~
18 ~~nursing preparation has gained knowledge, judgment, and skill in~~
19 ~~psychiatric or mental health nursing;~~

20 ~~(D) A licensed marriage and family therapist, licensed~~
21 ~~professional counselor, or addiction counselor licensed under part 5, 6, or~~
22 ~~8 of article 245 of title 12 who, by reason of postgraduate education and~~
23 ~~additional preparation, has gained knowledge, judgment, and skill in~~
24 ~~psychiatric or clinical mental health therapy, forensic psychotherapy, or~~
25 ~~the evaluation of mental health disorders; or~~

26 ~~(E) A licensed clinical social worker licensed under the provisions~~
27 ~~of part 4 of article 245 of title 12.~~

1 (b) Upon an affidavit sworn to or affirmed before a judge that
2 relates sufficient facts to establish that a person appears to have a mental
3 health disorder and, as a result of the mental health disorder, appears to
4 be an imminent danger to others or to ~~himself or herself~~ THE PERSON'S
5 SELF or appears to be gravely disabled, the court may order the person
6 described in the affidavit to be taken into custody and placed in a facility
7 designated or approved by the executive director for a seventy-two-hour
8 treatment and evaluation. Whenever in this article 65 a facility is to be
9 designated or approved by the executive director, hospitals, if available,
10 must be approved or designated in each county before other facilities are
11 approved or designated. Whenever in this article 65 a facility is to be
12 designated or approved by the executive director as a facility for a stated
13 purpose and the facility to be designated or approved is a private facility,
14 the consent of the private facility to the enforcement of standards set by
15 the executive director is a prerequisite to the designation or approval.

16 (c) Upon an affidavit sworn to or affirmed before a judge that
17 relates sufficient facts to establish that a person appears to have a mental
18 health disorder and, as a result of the mental health disorder, is in need of
19 immediate evaluation for treatment to prevent physical or psychiatric
20 harm to others or to ~~himself or herself~~ THE PERSON'S SELF, the court may
21 order the person described in the affidavit to be transported to an
22 outpatient mental health facility or other clinically appropriate facility
23 designated or approved by the executive director.

24 (d) **[Formerly 27-65-106 (2)]** Any individual may petition the
25 court in the county in which the respondent resides or is physically
26 present alleging that there is a person who appears to have a mental health
27 disorder and, as a result of the mental health disorder, appears to be a

1 danger to others or to ~~himself or herself~~ THE PERSON'S SELF or appears to
2 be gravely disabled and requesting an evaluation of the person's
3 condition.

4 (2) [Formerly 27-65-105 (2)] When a person is taken into custody
5 pursuant to subsection (1) of this section, ~~he or she~~ THE PERSON must not
6 be detained in a jail, lockup, or other place used for the confinement of
7 persons charged with or convicted of penal offenses.

8 (3) [Formerly 27-65-105 (3)] When a person is taken into
9 emergency custody by an intervening professional OR CERTIFIED PEACE
10 OFFICER pursuant to subsection (1) of this section and is presented to an
11 emergency medical services facility or a facility that is designated or
12 approved by the executive director, the facility shall require an
13 application in writing, stating the circumstances under which the person's
14 condition was called to the attention of the intervening professional OR
15 CERTIFIED PEACE OFFICER and further stating sufficient facts, obtained
16 from the intervening professional's OR CERTIFIED PEACE OFFICER'S
17 personal observations or obtained from others whom ~~he or she~~ THE
18 INTERVENING PROFESSIONAL OR CERTIFIED PEACE OFFICER reasonably
19 believes to be reliable, to establish that the person has a mental health
20 disorder and, as a result of the mental health disorder, is an imminent
21 danger to others or to ~~himself or herself~~ THE PERSON'S SELF, is gravely
22 disabled, or is in need of immediate evaluation for treatment. The
23 application must indicate when the person was taken into custody and
24 who brought the person's condition to the attention of the intervening
25 professional OR CERTIFIED PEACE OFFICER. A copy of the application must
26 be furnished to the person being evaluated, and the application must be
27 retained in accordance with ~~the provisions of section 27-65-121 (4)~~

1 SECTION 27-65-123 (4).

2 (4) (a) [Formerly 27-65-106 (3)] The petition for a court-ordered
3 evaluation must contain the following:

4 (I) The name and address of the petitioner and ~~his or her~~ THE
5 PETITIONER'S interest in the case;

6 (II) The name of the person for whom evaluation is sought who
7 ~~shall be~~ IS designated as the respondent, and, if known to the petitioner,
8 the address, age, sex, marital status, and occupation of the respondent;

9 (III) Allegations of fact indicating that the respondent may have
10 a mental health disorder and, as a result of the mental health disorder, be
11 a danger to others or to ~~himself or herself~~ THE RESPONDENT'S SELF or be
12 gravely disabled and showing reasonable grounds to warrant an
13 evaluation;

14 (IV) The name and address of every person known or believed by
15 the petitioner to be legally responsible for the care, support, and
16 maintenance of the respondent, if available;

17 (V) The name, address, and telephone number of the attorney, if
18 any, who has most recently represented the respondent. If there is no
19 attorney, there shall be a statement as to whether, to the best knowledge
20 of the petitioner, the respondent meets the criteria established by the legal
21 aid agency operating in the county or city and county for it to represent
22 a client.

23 (b) [Formerly 27-65-106 (4)] Upon receipt of a petition satisfying
24 the requirements of ~~subsection (3)~~ SUBSECTION (4)(a) of this section, the
25 court shall designate a facility, approved by the executive director, ~~or a~~
26 AN INTERVENING professional, ~~person~~, OR A CERTIFIED PEACE OFFICER to
27 provide screening of the respondent to determine whether there is

1 probable cause to believe the allegations.

2 (c) [Formerly 27-65-106 (5)] Following screening, the facility, ~~or~~
3 INTERVENING professional, ~~person,~~ OR CERTIFIED PEACE OFFICER
4 designated by the court shall file ~~his or her~~ A report with the court. The
5 report must include a recommendation as to whether there is probable
6 cause to believe that the respondent has a mental health disorder and, as
7 a result of the mental health disorder, is a danger to others or to ~~himself~~
8 ~~or herself~~ THE RESPONDENT'S SELF or is gravely disabled and whether the
9 respondent will voluntarily receive evaluation or treatment. The screening
10 report submitted to the court PURSUANT TO THIS SUBSECTION (4)(c) is
11 confidential in accordance with ~~section 27-65-121~~ SECTION 27-65-123
12 and must be furnished to the respondent or ~~his or her~~ THE RESPONDENT'S
13 attorney or personal representative.

14 (d) [Formerly 27-65-106 (6)] Whenever it appears, by petition and
15 screening pursuant to this section, to the satisfaction of the court that
16 probable cause exists to believe that the respondent has a mental health
17 disorder and, as a result of the mental health disorder, is a danger to
18 others or to ~~himself or herself~~ THE RESPONDENT'S SELF or is gravely
19 disabled and that efforts have been made to secure the cooperation of the
20 respondent, who has refused or failed to accept evaluation voluntarily, the
21 court shall issue an order for evaluation authorizing a certified peace
22 officer OR SECURE TRANSPORTATION PROVIDER to take the respondent into
23 custody and ~~place him or her~~ TRANSPORT THE RESPONDENT ~~in~~ TO a facility
24 designated by the executive director for seventy-two-hour treatment and
25 evaluation. At the time of taking the respondent into custody, a copy of
26 the petition and the order for evaluation must be given to the respondent
27 and promptly thereafter to any one person designated by the respondent

1 and to the person in charge of the seventy-two-hour treatment and
2 evaluation facility named in the order or ~~his or her~~ THE PERSON'S
3 designee.

4 (5) [Formerly 27-65-105 (4)] If the seventy-two-hour treatment
5 and evaluation facility admits the person, it may detain ~~him or her~~ THE
6 PERSON for evaluation and treatment for a period not to exceed
7 seventy-two hours excluding Saturdays, Sundays, and holidays if
8 evaluation and treatment services are not available on those days. For the
9 purposes of this ~~subsection (4)~~ SUBSECTION (5), evaluation and treatment
10 services are not deemed to be available merely because a professional
11 person is on call during weekends or holidays. If, in the opinion of the
12 professional person in charge of the evaluation, the person can be
13 properly cared for without being detained, ~~he or she~~ THE PERSON shall be
14 provided services on a voluntary basis.

15 (6) [Formerly 27-65-105 (5)] Each person admitted to a
16 seventy-two-hour treatment and evaluation facility under the provisions
17 of this ~~article~~ ARTICLE 65 shall receive an evaluation as soon as possible
18 after ~~he or she~~ THE PERSON is admitted and shall receive such treatment
19 and care as ~~his or her~~ THE PERSON'S condition requires for the full period
20 that ~~he or she~~ THE PERSON is held. The person ~~shall~~ MUST be released
21 before seventy-two hours have elapsed if, in the opinion of the
22 professional person in charge of the evaluation, the person no longer
23 requires evaluation or treatment. Persons who have been detained for
24 seventy-two-hour evaluation and treatment shall be released, referred for
25 further care and treatment on a voluntary basis, or certified for treatment
26 pursuant to ~~section 27-65-107~~ SECTION 27-65-109.

27 (7) to (8) **Reserved.**

1 (9) [Formerly 27-65-105 (7)] (a) On or before July 1, 2019, and
2 each July 1 thereafter, each emergency medical services facility that has
3 treated a person pursuant to this section shall provide an annual report to
4 the department that includes only aggregate and nonidentifying
5 information concerning persons who were treated at an emergency
6 medical services facility pursuant to this section. The report must comply
7 with ~~the provisions of~~ section 24-1-136 (9) and is exempt from the
8 ~~provisions of~~ section 24-1-136 (11)(a)(I). The report must contain the
9 following:

- 10 (I) The names and counties of the facilities;
- 11 (II) The total number of persons treated pursuant to this section,
12 including a summary of demographic information;
- 13 (III) A summary regarding the different reasons for which persons
14 were treated pursuant to this section; and
- 15 (IV) A summary of the disposition of persons transferred to a
16 designated facility.

17 (b) (I) Any information aggregated and provided to the
18 department pursuant to this ~~subsection (7)~~ SUBSECTION (9) is privileged
19 and confidential. Such information must not be made available to the
20 public except in an aggregate format that cannot be used to identify an
21 individual facility. The information is not subject to civil subpoena and
22 is not discoverable or admissible in any civil, criminal, or administrative
23 proceeding against an emergency medical services facility or health-care
24 professional. The information must be used only to assess statewide
25 behavioral health services needs and to plan for sufficient levels of
26 statewide behavioral health services. In the collection of data to
27 accomplish the requirements of this ~~subsection (7)~~ SUBSECTION (9), the

1 department shall protect the confidentiality of patient records, in
2 accordance with state and federal laws, and shall not disclose any public
3 identifying or proprietary information of any hospital, hospital
4 administrator, health-care professional, or employee of a health-care
5 facility.

6 (II) ~~Subsection (7)(b)(I)~~ SUBSECTION (9)(b)(I) of this section does
7 not apply to information that is otherwise available from a source outside
8 of the data collection activities required pursuant to ~~subsection (7)(a)~~
9 SUBSECTION (9)(a) of this section.

10 **27-65-107. Emergency transportation - application - screening**

11 **- respondent's rights.** (1) WHEN A CERTIFIED PEACE OFFICER OR
12 EMERGENCY MEDICAL SERVICES PROVIDER HAS PROBABLE CAUSE TO
13 BELIEVE A PERSON IS EXPERIENCING A BEHAVIORAL HEALTH CRISIS OR IS
14 GRAVELY DISABLED AND, AS A RESULT, WITHOUT PROFESSIONAL
15 INTERVENTION THE PERSON MAY BE A DANGER TO THE PERSON'S SELF OR
16 OTHERS, THEN THE CERTIFIED PEACE OFFICER OR EMERGENCY MEDICAL
17 SERVICES PROVIDER MAY TAKE THE PERSON INTO PROTECTIVE CUSTODY
18 AND TRANSPORT THE PERSON TO AN OUTPATIENT MENTAL HEALTH
19 FACILITY OR A FACILITY DESIGNATED BY THE COMMISSIONER OR OTHER
20 CLINICALLY APPROPRIATE FACILITY DESIGNATED BY THE COMMISSIONER.
21 IF SUCH A SERVICE IS NOT AVAILABLE, THE PERSON MAY BE TAKEN TO AN
22 EMERGENCY MEDICAL SERVICES FACILITY.

23 (2) WHEN A PERSON IS TRANSPORTED AGAINST THE PERSON'S WILL
24 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE FACILITY SHALL
25 REQUIRE AN APPLICATION, IN WRITING, STATING THE CIRCUMSTANCES
26 UNDER WHICH THE PERSON'S CONDITION WAS CALLED TO THE ATTENTION
27 OF THE CERTIFIED PEACE OFFICER OR EMERGENCY MEDICAL SERVICES

1 PROVIDER AND FURTHER STATING SUFFICIENT FACTS, OBTAINED FROM
2 PERSONAL OBSERVATIONS OR OBTAINED FROM OTHERS WHOM THE
3 CERTIFIED PEACE OFFICER OR EMERGENCY MEDICAL SERVICES PROVIDER
4 REASONABLY BELIEVES TO BE RELIABLE, TO ESTABLISH THAT THE PERSON
5 IS EXPERIENCING A BEHAVIORAL HEALTH CRISIS OR IS GRAVELY DISABLED
6 AND, AS A RESULT, IT IS BELIEVED THAT WITHOUT PROFESSIONAL
7 INTERVENTION THE PERSON MAY BE A DANGER TO THE PERSON'S SELF OR
8 OTHERS. THE APPLICATION MUST INDICATE THE NAME OF THE PERSON AND
9 THE TIME THE PERSON WAS TRANSPORTED. A COPY OF THE APPLICATION
10 MUST BE FURNISHED TO THE PERSON BEING TRANSPORTED.

11 (3) ONCE THE PERSON IS PRESENTED TO THE FACILITY, AN
12 INTERVENING PROFESSIONAL SHALL SCREEN THE PERSON IMMEDIATELY.
13 IF AN INTERVENING PROFESSIONAL IS NOT IMMEDIATELY AVAILABLE, THE
14 PERSON MUST BE SCREENED WITHIN EIGHT HOURS AFTER THE PERSON'S
15 ARRIVAL AT THE FACILITY TO DETERMINE IF THE PERSON MEETS CRITERIA
16 FOR AN EMERGENCY MENTAL HEALTH HOLD PURSUANT TO SECTION
17 27-65-106. ONCE THE SCREENING IS COMPLETED AND IF THE PERSON
18 MEETS THE CRITERIA, THE INTERVENING PROFESSIONAL SHALL FIRST
19 PURSUE VOLUNTARY TREATMENT AND EVALUATION. IF THE PERSON
20 REFUSES OR THE INTERVENING PROFESSIONAL HAS REASONABLE GROUNDS
21 TO BELIEVE THE PERSON WILL NOT REMAIN VOLUNTARILY, THE
22 INTERVENING PROFESSIONAL MAY PLACE THE PERSON UNDER AN
23 EMERGENCY MENTAL HEALTH HOLD PURSUANT TO SECTION 27-65-106.

24 (4) (a) A PERSON DETAINED PURSUANT TO THIS SECTION HAS THE
25 FOLLOWING RIGHTS WHILE BEING DETAINED, WHICH MUST BE EXPLAINED
26 TO THE PERSON BEFORE BEING TRANSPORTED TO A RECEIVING FACILITY:

27 (I) TO NOT BE DETAINED FOR LONGER THAN FOURTEEN HOURS, TO

1 NOT BE TRANSPORTED FOR LONGER THAN SIX HOURS, AND TO RECEIVE AN
2 EVALUATION WITHIN EIGHT HOURS AFTER BEING PRESENTED TO THE
3 RECEIVING FACILITY;

4 (II) TO REQUEST A PHONE CALL TO AN INTERESTED PARTY PRIOR
5 TO BEING TRANSPORTED. IF THE CERTIFIED PEACE OFFICER OR EMERGENCY
6 MEDICAL SERVICES PROVIDER BELIEVES ACCESS TO A PHONE POSES A
7 PHYSICAL DANGER TO THE PERSON OR SOMEONE ELSE, THE RECEIVING
8 FACILITY SHALL MAKE THE CALL ON THE PERSON'S BEHALF IMMEDIATELY
9 UPON ARRIVAL AT THE RECEIVING FACILITY.

10 (III) TO WEAR THE PERSON'S OWN CLOTHES AND KEEP AND USE
11 PERSONAL POSSESSIONS THAT THE PERSON HAD IN THE PERSON'S
12 POSSESSION AT THE TIME OF DETAINMENT, INCLUDING A CELL PHONE;

13 (IV) TO HAVE APPROPRIATE ACCESS TO ADEQUATE WATER AND
14 FOOD AND TO HAVE THE PERSON'S NUTRITIONAL NEEDS MET IN A MANNER
15 THAT IS CONSISTENT WITH RECOGNIZED DIETARY PRACTICES;

16 (V) TO BE TREATED FAIRLY, WITH RESPECT AND RECOGNITION OF
17 THE PERSON'S DIGNITY AND INDIVIDUALITY; AND

18 (VI) TO FILE A GRIEVANCE WITH THE BEHAVIORAL HEALTH
19 ADMINISTRATION OR THE OFFICE OF THE OMBUDSMAN FOR BEHAVIORAL
20 HEALTH ACCESS TO CARE ESTABLISHED PURSUANT TO PART 3 OF ARTICLE
21 80 OF TITLE 27.

22 (b) A PERSON'S RIGHTS PURSUANT TO SUBSECTION (4)(a) OF THIS
23 SECTION MAY ONLY BE DENIED IF ACCESS TO THE ITEM, PROGRAM, OR
24 SERVICE WOULD ENDANGER THE SAFETY OF THE PERSON OR ANOTHER
25 PERSON IN CLOSE PROXIMITY AND MAY ONLY BE DENIED BY A PERSON
26 INVOLVED IN THE PERSON'S CARE OR TRANSPORTATION. DENIAL OF ANY
27 RIGHT MUST BE ENTERED INTO THE PERSON'S TREATMENT RECORD OR

1 BEHAVIORAL HEALTH ADMINISTRATION-APPROVED FORM. INFORMATION
2 PERTAINING TO A DENIAL OF RIGHTS CONTAINED IN THE PERSON'S
3 TREATMENT RECORD MUST BE MADE AVAILABLE, UPON REQUEST, TO THE
4 PERSON, THE PERSON'S ATTORNEY, OR THE PERSON'S LAY PERSON.

5 **27-65-108. Court-ordered certification for short-term**
6 **treatment.** (1) THE COURT MAY CERTIFY A RESPONDENT FOR NOT MORE
7 THAN THREE MONTHS FOR SHORT-TERM TREATMENT AND PLACE THE
8 RESPONDENT IN THE CUSTODY OF THE BEHAVIORAL HEALTH
9 ADMINISTRATION WITHOUT THE NEED FOR AN EMERGENCY MENTAL
10 HEALTH HOLD UPON A PETITION OF THE RESPONDENT'S SPOUSE OR LEGAL
11 GUARDIAN, A RELATIVE WHO INTERACTS WITH THE RESPONDENT
12 REGULARLY, A PROFESSIONAL PERSON, OR ANY OTHER RESPONSIBLE
13 PERSON.

14 (2) THE PETITION MUST ALLEGE THAT THE RESPONDENT HAS A
15 MENTAL HEALTH DISORDER AND, AS A RESULT OF THE MENTAL HEALTH
16 DISORDER, APPEARS TO BE A DANGER TO THE PERSON'S SELF OR OTHERS OR
17 IS GRAVELY DISABLED. THE PETITION MUST BE ACCOMPANIED BY A
18 CERTIFICATE OF A PROFESSIONAL PERSON WHO HAS EVALUATED THE
19 RESPONDENT WITHIN FIVE DAYS BEFORE SUBMISSION OF THE PETITION,
20 UNLESS THE RESPONDENT WHOSE CERTIFICATION IS SOUGHT HAS REFUSED
21 TO SUBMIT TO AN EVALUATION, IN WHICH CASE THE FACT OF REFUSAL
22 MUST BE ALLEGED IN THE PETITION, OR THAT THE RESPONDENT CANNOT
23 BE EVALUATED DUE TO THE RESPONDENT'S CONDITION. A REFUSAL TO
24 UNDERGO TREATMENT DOES NOT CONSTITUTE EVIDENCE OF LACK OF
25 JUDGMENT REGARDING THE NEED FOR TREATMENT. THE CERTIFICATE
26 MUST SET FORTH FINDINGS FROM THE PROFESSIONAL PERSON IN SUPPORT
27 OF THE PETITION'S ALLEGATIONS. THE PETITIONER SHALL DISCLOSE ANY

1 PERSONAL OR FINANCIAL RELATIONSHIP THE PETITIONER HAS WITH THE
2 PROFESSIONAL PERSON.

3 (3) A COURT SHALL NOT ACCEPT A PETITION SUBMITTED PURSUANT
4 TO SUBSECTION (2) OF THIS SECTION UNLESS THE RESPONDENT'S REFUSAL
5 TO BE CERTIFIED TO ACCESSIBLE AND AFFORDABLE VOLUNTARY
6 TREATMENT IS DOCUMENTED. THE DOCUMENTATION MAY INCLUDE, BUT
7 IS NOT LIMITED TO, NOTATIONS IN THE RESPONDENT'S TREATMENT OR LAW
8 ENFORCEMENT RECORDS OR STATEMENTS BY A PROFESSIONAL PERSON,
9 INCLUDING IF THE PROFESSIONAL PERSON BELIEVES REASONABLE
10 GROUNDS EXIST THAT THE RESPONDENT WILL NOT REMAIN IN A
11 VOLUNTARY TREATMENT PROGRAM.

12 (4) (a) UPON FILING THE PETITION DESCRIBED IN SUBSECTION (2) OF
13 THIS SECTION, THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO
14 REPRESENT THE RESPONDENT. WITHIN TEN DAYS AFTER RECEIPT OF THE
15 PETITION, THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY
16 REQUEST A JURY TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.
17 THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS
18 CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE
19 ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH ALL
20 PLEADINGS UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT MAY
21 ONLY WAIVE THE RIGHT TO AN ATTORNEY WHEN THE RESPONDENT MAKES
22 A KNOWING AND INTELLIGENT WAIVER IN FRONT OF THE COURT. THE
23 RESPONDENT SHALL CONSENT IN WRITING TO THE PETITION FOR
24 CERTIFICATION NO LATER THAN TEN DAYS AFTER THE PETITION IS FILED.

25 (b) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT
26 ANY TIME, FILE A WRITTEN REQUEST TO CONTEST THE PETITION. IF A
27 RESPONDENT CONTESTS THE PETITION DESCRIBED IN SUBSECTION (2) OF

1 THIS SECTION, THE COURT SHALL FIX A DATE FOR A HEARING NO LATER
2 THAN TEN DAYS AFTER THE DATE THE PETITION WAS FILED. A COPY OF THE
3 PETITION AND THE NOTICE OF THE HEARING, INCLUDING THE DATE FIXED
4 BY THE COURT, MUST BE PERSONALLY SERVED ON THE PETITIONER, THE
5 RESPONDENT, THE RESPONDENT'S PARENT OR LEGAL GUARDIAN IF THE
6 RESPONDENT IS A MINOR, THE BEHAVIORAL HEALTH ADMINISTRATION, THE
7 RESPONDENT'S ATTORNEY, AND ANY OTHER PERSON THE COURT BELIEVES
8 ADVISABLE.

9 (c) AT THE HEARING, THE COURT SHALL HEAR ALL RELEVANT
10 EVIDENCE, INCLUDING THE TESTIMONY OF AT LEAST ONE PROFESSIONAL
11 PERSON WHO HAS EVALUATED THE RESPONDENT. THE RESPONDENT SHALL
12 BE PRESENT UNLESS THE COURT BELIEVES THAT THE RESPONDENT'S
13 PRESENCE IS LIKELY TO BE INJURIOUS TO THE RESPONDENT OR IF THE
14 RESPONDENT REFUSES TO ATTEND, IN WHICH CASE THE COURT SHALL
15 APPOINT A GUARDIAN AD LITEM TO REPRESENT THE RESPONDENT
16 THROUGHOUT THE PROCEEDING. IF THE RESPONDENT REFUSES TO BE
17 EVALUATED BY A PROFESSIONAL PERSON, THE RESPONDENT MUST BE
18 GIVEN AN OPPORTUNITY TO BE EVALUATED BY A COURT-APPOINTED
19 PROVIDER. IF THE RESPONDENT REFUSES TO BE EVALUATED BY A
20 COURT-APPOINTED PROVIDER AND THERE IS PROBABLE CAUSE TO BELIEVE
21 THAT THE ALLEGATIONS OF THE PETITION ARE TRUE OR IF THE COURT
22 BELIEVES THAT MORE EVIDENCE IS NECESSARY, THE COURT MAY ORDER A
23 PROFESSIONAL PERSON TO EVALUATE THE RESPONDENT OR MAY ORDER A
24 CERTIFIED PEACE OFFICER OR SECURE TRANSPORTATION PROVIDER TO
25 TRANSPORT THE RESPONDENT TO A FACILITY DESIGNATED BY THE
26 COMMISSIONER FOR AN EVALUATION PURSUANT TO SECTION 27-65-106. IN
27 SUCH EVENT, THE COURT SHALL SCHEDULE AN ADDITIONAL HEARING FOR

1 FINAL DETERMINATION OF CERTIFICATION FOR SHORT-TERM TREATMENT
2 NO LATER THAN FIVE DAYS AFTER THE FIRST HEARING.

3 (d) IF, AFTER HEARING ALL RELEVANT EVIDENCE, INCLUDING THE
4 RESULTS OF ANY EVALUATION, THE COURT FINDS THAT GROUNDS FOR
5 CERTIFICATION FOR SHORT-TERM TREATMENT HAVE BEEN ESTABLISHED BY
6 CLEAR AND CONVINCING EVIDENCE AND THE COURT DETERMINES THAT
7 THE BEHAVIORAL HEALTH ADMINISTRATION IS ABLE TO PROVIDE
8 ADEQUATE AND APPROPRIATE TREATMENT FOR THE RESPONDENT AND
9 THAT THE TREATMENT IS LIKELY TO BE BENEFICIAL FOR THE RESPONDENT'S
10 RECOVERY, THE COURT SHALL COMMIT THE RESPONDENT TO THE
11 BEHAVIORAL HEALTH ADMINISTRATION. THE COURT SHALL ORDER THE
12 RESPONDENT TO BE PLACED IN THE CUSTODY OF THE BEHAVIORAL HEALTH
13 ADMINISTRATION, AND THE BHA MAY DELEGATE PHYSICAL CUSTODY OF
14 THE RESPONDENT TO A FACILITY DESIGNATED BY THE COMMISSIONER AND
15 THE REQUIREMENT FOR THE PROVISION OF SERVICES AND CARE
16 COORDINATION.

17 (5) UPON THE COURT'S COMMITMENT OF THE RESPONDENT TO THE
18 BEHAVIORAL HEALTH ADMINISTRATION, THE COURT MAY ORDER A
19 CERTIFIED PEACE OFFICER OR SECURE TRANSPORTATION PROVIDER TO
20 TRANSPORT THE RESPONDENT TO A FACILITY DESIGNATED BY THE
21 COMMISSIONER.

22 (6) ANY PERSON WHO FILES A MALICIOUS OR FALSE PETITION FOR
23 CERTIFICATION FOR SHORT-TERM TREATMENT AGAINST A RESPONDENT IS
24 SUBJECT TO CRIMINAL PROSECUTION.

25 **27-65-109. Certification for short-term treatment - procedure.**

26 (1) [Formerly 27-65-107 (1)] If a person detained for seventy-two hours
27 pursuant to the provisions of section 27-65-105 or a respondent under

1 court order for evaluation pursuant to section 27-65-106 has received an
2 evaluation, ~~he or she~~ THE PERSON may be certified for not more than three
3 months ~~of~~ FOR short-term treatment under the following conditions:

4 (a) The professional staff of the agency or facility providing
5 seventy-two-hour treatment and evaluation has analyzed the person's
6 condition and has found the person has a mental health disorder and, as
7 a result of the mental health disorder, is a danger to others or to ~~himself~~
8 ~~or herself~~ THE PERSON'S SELF or is gravely disabled;

9 (b) The person has been advised of the availability of, but has not
10 accepted, voluntary treatment; but, if reasonable grounds exist to believe
11 that the person will not remain in a voluntary treatment program, ~~his or~~
12 ~~her~~ THE PERSON'S acceptance of voluntary treatment ~~shall~~ DOES not
13 preclude certification; AND

14 (c) The facility ~~which~~ THAT will provide short-term treatment has
15 been designated or approved by the executive director to provide such
16 treatment.

17 (2) **[Formerly 27-65-107 (2)]** The notice of certification must be
18 signed by a professional person on the staff of the evaluation facility who
19 participated in the evaluation and must:

20 (a) State facts sufficient to establish reasonable grounds to believe
21 that the person has a mental health disorder and, as a result of the mental
22 health disorder, is a danger to others or to ~~himself or herself~~ THE PERSON'S
23 SELF or is gravely disabled; ~~The certification must~~

24 (b) Be filed with the court within forty-eight hours, excluding
25 Saturdays, Sundays, and court holidays, of the date of certification; ~~The~~
26 ~~certification must~~ AND

27 (c) Be filed with the court in the county in which the respondent

1 resided or was physically present immediately prior to being taken into
2 custody.

3 (3) **[Formerly 27-65-107 (3)]** Within twenty-four hours ~~of~~ AFTER
4 certification, copies of the certification ~~shall~~ MUST be personally delivered
5 to the respondent, and a copy ~~shall~~ MUST be kept by the evaluation facility
6 as part of the ~~person's~~ RESPONDENT'S record. The respondent ~~shall~~ MUST
7 also be asked to designate one other person whom ~~he or she~~ THE
8 RESPONDENT wishes informed regarding certification. If ~~he or she~~ THE
9 RESPONDENT is incapable of making such a designation at the time the
10 certification is delivered, ~~he or she shall~~ THE RESPONDENT MUST be asked
11 to designate such person as soon as ~~he or she~~ THE RESPONDENT is capable.
12 In addition to the copy of the certification, the respondent ~~shall~~ MUST be
13 given a written notice that a hearing upon ~~his or her~~ THE RESPONDENT'S
14 certification for short-term treatment may be had before the court or a jury
15 upon written request directed to the court pursuant to subsection (6) of
16 this section.

17 (4) **[Formerly 27-65-107 (4)]** Upon certification of the
18 respondent, the facility designated for short-term treatment ~~shall have~~ HAS
19 custody of the respondent.

20 (5) **[Formerly 27-65-107 (5)]** Whenever a certification is filed
21 with the court BY A PROFESSIONAL PERSON, the court ~~if it has not already~~
22 ~~done so under section 27-65-106 (10)~~, shall ~~forthwith~~ IMMEDIATELY
23 appoint an attorney to represent the respondent. ~~The court shall determine~~
24 ~~whether the respondent is able to afford an attorney. If the respondent~~
25 ~~cannot afford counsel, the court shall appoint either counsel from the~~
26 ~~legal services program operating in that jurisdiction or private counsel to~~
27 ~~represent the respondent.~~ THE RESPONDENT HAS THE RIGHT TO AN

1 ATTORNEY FOR ALL PROCEEDINGS CONDUCTED PURSUANT TO THIS
2 SECTION, INCLUDING ANY APPEALS. The attorney representing the
3 respondent ~~shall~~ MUST be provided with a copy of the certification
4 immediately upon ~~his or her~~ THE ATTORNEY'S appointment. ~~Waiver of~~
5 ~~counsel must be knowingly and intelligently made in writing and filed~~
6 ~~with the court by the respondent. In the event that a respondent who is~~
7 ~~able to afford an attorney fails to pay the appointed counsel, such counsel,~~
8 ~~upon application to the court and after appropriate notice and hearing,~~
9 ~~may obtain a judgment for reasonable attorney fees against the respondent~~
10 ~~or person making request for such counsel or both the respondent and~~
11 ~~such person~~ THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE
12 RESPONDENT MAKES A KNOWING AND INTELLIGENT WAIVER IN FRONT OF
13 THE COURT.

14 (6) [Formerly 27-65-107 (6)] The respondent for short-term
15 treatment or ~~his or her~~ THE RESPONDENT'S attorney may at any time file
16 a written request that the certification for short-term treatment or the
17 treatment be reviewed by the court or that the treatment be on an
18 outpatient basis. If review is requested, the court shall hear the matter
19 within ten days after the request, and the court shall give notice to the
20 respondent and ~~his or her~~ THE RESPONDENT'S attorney and the certifying
21 and treating professional person of the time and place thereof. The
22 hearing ~~shall~~ MUST be held in accordance with ~~section 27-65-111~~ SECTION
23 27-65-113. At the conclusion of the hearing, the court may enter or
24 confirm the certification for short-term treatment, discharge the
25 respondent, or enter any other appropriate order, subject to available
26 appropriations.

27 (7) [Formerly 27-65-107 (7)] Records and papers in proceedings

1 under this section ~~and section 27-65-108 shall~~ MUST be maintained
2 separately by the clerks of the several courts. Upon the release of any
3 respondent in accordance with ~~the provisions of section 27-65-110~~
4 SECTION 27-65-112, the facility shall notify the clerk of the court within
5 five days ~~of~~ AFTER the release, and the clerk shall forthwith seal the
6 record in the case and omit the name of the respondent from the index of
7 cases in ~~such~~ THE court until and unless the respondent becomes subject
8 to an order of long-term care and treatment pursuant to ~~section 27-65-109~~
9 SECTION 27-65-110 or until and unless the court orders them opened for
10 good cause shown. In the event a petition is filed pursuant to ~~section~~
11 ~~27-65-109, such~~ SECTION 27-65-110, THE certification record may be
12 opened and become a part of the record in the long-term care and
13 treatment case and the name of the respondent indexed.

14 (8) [Formerly 27-65-107 (8)] Whenever it appears to the court, by
15 reason of a report by the treating professional person or any other report
16 satisfactory to the court, that a respondent detained for evaluation and
17 treatment or certified for treatment should be transferred to another
18 facility for treatment and the safety of the respondent or the public
19 requires that the respondent be transported by A secure transportation ~~as~~
20 ~~defined in section 25-3.5-103 (11.4)~~ PROVIDER, or a sheriff, the court may
21 issue an order directing the sheriff or the sheriff's designee, to deliver the
22 respondent to the designated facility.

23 (9) A RESPONDENT CERTIFIED FOR SHORT-TERM TREATMENT MAY
24 BE DISCHARGED UPON THE SIGNATURE OF THE TREATING MEDICAL
25 PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A
26 RESPONDENT CERTIFIED FOR SHORT-TERM TREATMENT ON AN OUTPATIENT
27 BASIS MAY BE DISCHARGED UPON THE SIGNATURE OF THE APPROVED

1 PROFESSIONAL PERSON OVERSEEING THE RESPONDENT'S TREATMENT, AND
2 THE PROFESSIONAL PERSON SHALL NOTIFY THE BHA PRIOR TO THE
3 DISCHARGE. A FACILITY OR PROGRAM SHALL MAKE THE RESPONDENT'S
4 DISCHARGE SUMMARY AVAILABLE TO THE RESPONDENT, THE
5 RESPONDENT'S ATTORNEY, AND THE RESPONDENT'S LEGAL GUARDIAN, IF
6 APPLICABLE, WITHIN SEVEN DAYS AFTER DISCHARGE, IF REQUESTED. A
7 FACILITY OR PROGRAM THAT IS TRANSFERRING A RESPONDENT TO A
8 DIFFERENT TREATMENT FACILITY OR TO AN OUTPATIENT PROVIDER SHALL
9 PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR PROVIDER
10 ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS PRIOR TO
11 THE TRANSFER.

12 (10) **[Formerly 27-65-108]** If the professional person in charge of
13 the evaluation and treatment believes that a period longer than three
14 months is necessary for treatment of the respondent, ~~he or she~~ THE
15 PROFESSIONAL PERSON shall file with the court an extended certification.
16 ~~No~~ Extended certification for treatment ~~shall be~~ IS NOT for a period of
17 more than three months. The respondent ~~shall be~~ IS entitled to a hearing
18 on the extended certification under the same conditions as in an original
19 certification. The attorney initially representing the respondent shall
20 continue to represent ~~that person~~ THE RESPONDENT, unless the court
21 appoints another attorney.

22 **27-65-110. Long-term care and treatment of persons with**
23 **mental health disorders - procedure.** (1) **[Formerly 27-65-109**
24 **(1)]** Whenever a respondent has received ~~short-term treatment for five~~
25 ~~consecutive months pursuant to the provisions of sections 27-65-107 and~~
26 ~~27-65-108~~ AN EXTENDED CERTIFICATION FOR TREATMENT PURSUANT
27 SECTION 27-65-109 (10), the professional person in charge of the

1 ~~evaluation and treatment~~ CERTIFICATION FOR SHORT-TERM TREATMENT OR
2 THE BEHAVIORAL HEALTH ADMINISTRATION may file a petition with the
3 court AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE
4 EXTENDED CERTIFICATION for long-term care and treatment of the
5 respondent under the following conditions:

6 (a) The professional staff of the agency or facility providing
7 short-term treatment has analyzed the respondent's condition and has
8 found that the respondent has a mental health disorder and, as a result of
9 the mental health disorder, is a danger to ~~others or to himself or herself~~
10 THE RESPONDENT'S SELF OR OTHERS or is gravely disabled;

11 (b) The respondent has been advised of the availability of, but has
12 not accepted, voluntary treatment; but, if reasonable grounds exist to
13 believe that the respondent will not remain in a voluntary treatment
14 program, ~~his or her~~ THE RESPONDENT'S acceptance of voluntary treatment
15 ~~shall~~ DOES not preclude an order pursuant to this section; AND

16 (c) The facility that will provide long-term care and treatment has
17 been designated ~~or approved by the executive director~~ BY THE
18 COMMISSIONER to provide the care and treatment.

19 (2) **[Formerly 27-65-109 (2)]** Every petition for long-term care
20 and treatment ~~shall~~ MUST include a request for a hearing before the court
21 prior to the expiration of six months ~~from~~ AFTER the date of original
22 certification AND PROVIDE A RECOMMENDATION AS TO WHETHER THE
23 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT SHOULD TAKE
24 PLACE ON AN INPATIENT OR OUTPATIENT BASIS. A copy of the petition
25 ~~shall~~ MUST be delivered personally to the respondent for whom long-term
26 care and treatment is sought and ~~mailed to his or her~~ ELECTRONICALLY
27 DELIVERED TO THE RESPONDENT'S attorney of record simultaneously with

1 the filing. ~~thereof.~~

2 (3) [Formerly 27-65-109 (3)] Within ten days after receipt of the
3 petition, the respondent or ~~his or her~~ THE RESPONDENT'S attorney may
4 request A HEARING BEFORE THE COURT OR a jury trial by filing a written
5 request ~~therefor~~ with the court.

6 (4) [Formerly 27-65-109 (4)] The court or jury shall determine
7 whether the conditions of subsection (1) of this section are met and
8 whether the respondent has a mental health disorder and, as a result of the
9 mental health disorder, is a danger to ~~others or to himself or herself~~ THE
10 RESPONDENT'S SELF OR OTHERS or is gravely disabled. The court shall
11 ~~thereupon~~ issue an order of long-term care and treatment for a term not
12 to exceed six months, ~~or it shall~~ discharge the respondent for whom
13 long-term care and treatment was sought, or ~~it shall~~ enter any other
14 appropriate order. ~~subject to available appropriations.~~ An order for
15 long-term care and treatment must grant custody of the respondent to the
16 ~~department~~ BEHAVIORAL HEALTH ADMINISTRATION for placement with an
17 agency or facility designated by the ~~executive director~~ COMMISSIONER to
18 provide long-term care and treatment. THE BEHAVIORAL HEALTH
19 ADMINISTRATION MAY DELEGATE THE PHYSICAL CUSTODY OF THE
20 RESPONDENT TO A FACILITY DESIGNATED BY THE COMMISSIONER AND THE
21 REQUIREMENT FOR THE PROVISION OF SERVICES AND CARE COORDINATION.
22 When a petition contains a request that a specific legal disability be
23 imposed or that a specific legal right be deprived, the court may order the
24 disability imposed or the right deprived if the court or a jury has
25 determined that the respondent has a mental health disorder or is gravely
26 disabled and that, ~~by reason thereof~~ AS A RESULT, the ~~person~~ RESPONDENT
27 is unable to competently exercise ~~said~~ THE SPECIFIC LEGAL right or

1 perform the function ~~as to~~ FOR which the disability is sought to be
2 imposed. Any interested person may ask leave of the court to intervene
3 as a copetitioner for the purpose of seeking the imposition of a legal
4 disability or the deprivation of a legal right.

5 (5) [Formerly 27-65-109 (5)] An original order of long-term care
6 and treatment or any extension of such order expires on the date
7 specified, unless further extended as provided in this subsection (5). If an
8 extension is being sought, the professional person in charge of the
9 evaluation and treatment shall certify to the court at least thirty days prior
10 to the expiration date of the order in force that an extension of the order
11 is necessary for the care and treatment of the respondent subject to the
12 order in force, and a copy of the certification must be SIMULTANEOUSLY
13 delivered to the respondent and ~~simultaneously mailed to his or her~~
14 ELECTRONICALLY DELIVERED TO THE RESPONDENT'S attorney of record.
15 At least twenty days before the expiration of the order, the court shall
16 give written notice to the respondent and ~~his or her~~ THE RESPONDENT'S
17 attorney of record that a hearing upon the extension may be had before
18 the court or a jury upon written request to the court within ten days after
19 receipt of the notice. If a hearing is not requested by the respondent
20 within such time, the court may proceed ex parte. If a hearing is timely
21 requested, ~~it~~ THE HEARING must be held before the expiration date of the
22 order in force. If the court or jury finds that the conditions of subsection
23 (1) of this section continue to be met and that the respondent has a mental
24 health disorder and, as a result of the mental health disorder, is a danger
25 to others or to ~~himself or herself~~ THE RESPONDENT'S SELF or is gravely
26 disabled, the court shall issue an extension of the order. Any extension
27 must not exceed six months, but there may be as many extensions as the

1 court orders pursuant to this section.

2 (6) A RESPONDENT CERTIFIED FOR LONG-TERM CARE AND
3 TREATMENT MAY BE DISCHARGED FROM THE FACILITY UPON THE
4 SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL
5 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE BHA
6 PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE THE
7 RESPONDENT'S DISCHARGE SUMMARY AVAILABLE TO THE RESPONDENT,
8 THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY PERSON, AND THE
9 RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN ONE WEEK AFTER
10 DISCHARGE, IF REQUESTED. A FACILITY THAT IS TRANSFERRING A
11 RESPONDENT TO A DIFFERENT FACILITY OR TO AN OUTPATIENT PROGRAM
12 SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR PROVIDER
13 ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS PRIOR TO
14 THE TRANSFER.

15 **27-65-111. Certification on an outpatient basis - short-term**
16 **and long-term care.** (1) ANY RESPONDENT COMMITTED TO THE CUSTODY
17 OF THE BEHAVIORAL HEALTH ADMINISTRATION PURSUANT TO SECTION
18 27-65-108, 27-65-109, OR 27-65-110 MAY BE PROVIDED TREATMENT ON
19 AN OUTPATIENT BASIS. THE OUTPATIENT TREATMENT PROVIDER, IN
20 COLLABORATION WITH THE BHA, SHALL DEVELOP A TREATMENT PLAN FOR
21 THE RESPONDENT RECEIVING TREATMENT ON AN OUTPATIENT BASIS WITH
22 THE GOAL OF THE RESPONDENT FINDING AND SUSTAINING RECOVERY. THE
23 TREATMENT PLAN MUST INCLUDE MEASURES TO KEEP THE RESPONDENT OR
24 OTHERS SAFE, AS INFORMED BY THE RESPONDENT'S NEED FOR
25 CERTIFICATION. THE TREATMENT PLAN MAY INCLUDE, BUT IS NOT LIMITED
26 TO:

27 (a) INTENSIVE CASE MANAGEMENT;

- 1 (b) ASSERTIVE COMMUNITY TREATMENT;
- 2 (c) PEER RECOVERY SERVICES;
- 3 (d) INDIVIDUAL OR GROUP THERAPY;
- 4 (e) DAY OR PARTIAL-DAY PROGRAMMING ACTIVITIES;
- 5 (f) INTENSIVE OUTPATIENT PROGRAMS;
- 6 (g) EDUCATIONAL AND VOCATIONAL TRAINING OR ACTIVITIES; AND
- 7 (h) HOUSING AND TRANSPORTATION ASSISTANCE.

8 (2) THE BEHAVIORAL HEALTH ADMINISTRATION SHALL CREATE A
9 ONE-STEP GRIEVANCE PROCESS FOR THE RESPONDENT RELATED TO THE
10 RESPONDENT'S TREATMENT PLAN OR PROVIDER. THE RESPONDENT, THE
11 RESPONDENT'S LEGAL GUARDIAN, THE RESPONDENT'S PATIENT
12 REPRESENTATIVE OR THE RESPONDENT'S LAY PERSON, OR ANY PARTY AT
13 ANY COURT HEARING MAY CONTEST A RESPONDENT'S TREATMENT
14 REGIMEN, INCLUDING COURT-ORDERED MEDICATIONS, AT ANY COURT
15 HEARING RELATED TO THE RESPONDENT'S CERTIFICATION FOR TREATMENT.

16 (3) THE FACILITY RESPONSIBLE FOR PROVIDING SERVICES TO A
17 RESPONDENT ON A CERTIFICATION ON AN OUTPATIENT BASIS SHALL
18 PROACTIVELY REACH OUT TO THE RESPONDENT TO ENGAGE THE
19 RESPONDENT IN TREATMENT. IF THE RESPONDENT REFUSES TREATMENT OR
20 COURT-ORDERED MEDICATION AND IS DECOMPENSATING
21 PSYCHIATRICALY, THE COURT MAY ORDER A CERTIFIED PEACE OFFICER OR
22 SECURE TRANSPORTATION PROVIDER TO TRANSPORT THE RESPONDENT TO
23 AN APPROPRIATE, LEAST RESTRICTIVE DESIGNATED FACILITY IN
24 COLLABORATION WITH THE BEHAVIORAL HEALTH ADMINISTRATION AND
25 THE PROVIDER HOLDING THE CERTIFICATION. THE RESPONDENT DOES NOT
26 NEED TO BE IMMINENTLY DANGEROUS TO THE RESPONDENT'S SELF OR
27 OTHERS FOR THE PROVIDER TO REQUEST, AND THE COURT TO ORDER,

1 TRANSPORTATION TO A FACILITY FOR THE RESPONDENT TO RECEIVE
2 TREATMENT AND COURT-ORDERED MEDICATIONS. THE FACILITY
3 RESPONSIBLE FOR PROVIDING SERVICES TO A RESPONDENT ON A
4 CERTIFICATION ON AN OUTPATIENT BASIS SHALL PROVIDE THE COURT
5 INFORMATION ON THE FACILITY'S PROACTIVE OUTREACH TO THE
6 RESPONDENT AND THE PROFESSIONAL PERSON'S AND PSYCHIATRIC
7 ADVANCED PRACTICE REGISTERED NURSE'S BASIS FOR MEDICAL OPINION.

8 (4) IF A RESPONDENT IS PLACED IN A MORE RESTRICTIVE SETTING,
9 THE RESPONDENT HAS THE RIGHT TO JUDICIAL REVIEW WITHIN TEN DAYS
10 AFTER FILING A WRITTEN REQUEST.

11 (5) (a) IN ADDITION TO ANY OTHER LIMITATION ON LIABILITY, A
12 PERSON PROVIDING CARE TO A RESPONDENT PLACED ON SHORT-TERM OR
13 LONG-TERM CERTIFICATION ON AN OUTPATIENT BASIS IS ONLY LIABLE FOR
14 HARM SUBSEQUENTLY CAUSED BY OR TO A RESPONDENT WHO:

15 (I) HAS BEEN TERMINATED FROM CERTIFICATION DESPITE MEETING
16 STATUTORY CRITERIA FOR CERTIFICATION PURSUANT TO SECTION
17 27-65-108, 27-65-109, OR 27-65-110; OR

18 (II) PROVIDED SERVICES TO THE RESPONDENT NOT WITHIN THE
19 SCOPE OF THE PERSON'S PROFESSIONAL LICENSE, OR WAS RECKLESS OR
20 GROSSLY NEGLIGENT IN PROVIDING SERVICES.

21 (b) A PROVIDER IS NOT LIABLE IF A RESPONDENT'S CERTIFICATION
22 IS TERMINATED, DESPITE MEETING CRITERIA FOR CERTIFICATION, IF THE
23 PROVIDER IS UNABLE TO LOCATE THE RESPONDENT DESPITE PROACTIVE
24 AND REASONABLE OUTREACH.

25 (6) A RESPONDENT SUBJECT TO A SHORT-TERM OR LONG-TERM
26 CERTIFICATION ON AN OUTPATIENT BASIS HAS THE FOLLOWING RIGHTS, IN
27 ADDITION TO THOSE ENUMERATED IN SECTION 27-65-119:

1 (a) TO REQUEST A CHANGE TO VOLUNTARY STATUS. A CHANGE TO
2 VOLUNTARY STATUS MAY BE DENIED BY THE SUPERVISING PROFESSIONAL
3 PERSON OR ADVANCED PRACTICE REGISTERED NURSE WITH TRAINING IN
4 PSYCHIATRIC NURSING RESPONSIBLE FOR THE RESPONDENT'S TREATMENT
5 IF THE PROFESSIONAL PERSON OR ADVANCED PRACTICE REGISTERED NURSE
6 WITH TRAINING IN PSYCHIATRIC NURSING DETERMINES REASONABLE
7 GROUNDS EXIST TO BELIEVE THAT THE RESPONDENT WILL NOT REMAIN IN
8 A VOLUNTARY TREATMENT PROGRAM.

9 (b) TO BE TREATED FAIRLY, WITH RESPECT AND RECOGNITION OF
10 THE RESPONDENT'S DIGNITY AND INDIVIDUALITY, BY ALL EMPLOYEES OF
11 THE TREATMENT FACILITY WITH WHOM THE RESPONDENT COMES IN
12 CONTACT;

13 (c) TO APPROPRIATE TREATMENT, WHICH MUST BE ADMINISTERED
14 SKILLFULLY, SAFELY, AND HUMANELY. A RESPONDENT SHALL RECEIVE
15 TREATMENT SUITED TO THE RESPONDENT'S NEEDS THAT MUST BE
16 DETERMINED IN COLLABORATION WITH THE RESPONDENT.

17 (d) TO NOT BE DISCRIMINATED AGAINST ON THE BASIS OF AGE,
18 RACE, ETHNICITY, RELIGION, CULTURE, SPOKEN LANGUAGE, PHYSICAL OR
19 MENTAL DISABILITY, SOCIOECONOMIC STATUS, SEX, SEXUAL ORIENTATION,
20 GENDER IDENTITY, OR GENDER EXPRESSION;

21 (e) TO RETAIN AND CONSULT WITH AN ATTORNEY AT ANY TIME;

22 (f) WITHIN FORTY-EIGHT HOURS AFTER THE RESPONDENT'S
23 REQUEST, TO SEE AND RECEIVE THE SERVICES OF A PATIENT
24 REPRESENTATIVE, INCLUDING A PEER SPECIALIST, WHO HAS NO DIRECT OR
25 INDIRECT CLINICAL, ADMINISTRATIVE, OR FINANCIAL RESPONSIBILITY FOR
26 THE RESPONDENT;

27 (g) TO HAVE THE RESPONDENT'S BEHAVIORAL HEALTH ORDERS FOR

1 SCOPE OF TREATMENT OR PSYCHIATRIC ADVANCE DIRECTIVE REVIEWED
2 AND CONSIDERED BY THE COURT AS THE PREFERRED TREATMENT OPTION
3 FOR INVOLUNTARY ADMINISTRATION OF MEDICATIONS UNLESS, BY CLEAR
4 AND CONVINCING EVIDENCE, THE RESPONDENT'S DIRECTIVE DOES NOT
5 QUALIFY AS EFFECTIVE PARTICIPATION IN BEHAVIORAL HEALTH
6 DECISION-MAKING;

7 (h) TO HAVE THE RESPONDENT'S INFORMATION AND RECORDS
8 DISCLOSED TO ADULT FAMILY MEMBERS AND A LAY PERSON PURSUANT TO
9 SECTION 27-65-123;

10 (i) TO HAVE ACCESS TO A REPRESENTATIVE WITHIN THE FACILITY
11 WHO PROVIDES ASSISTANCE TO FILE A GRIEVANCE; AND

12 (j) TO HAVE THE RIGHT TO FILE A MOTION WITH THE COURT AT ANY
13 TIME TO CONTEST THE CERTIFICATION.

14 **27-65-112. [Formerly 27-65-110] Termination of short-term**
15 **and long-term treatment - escape.** (1) An original OR EXTENDED
16 certification for short-term treatment ~~under section 27-65-107, or an~~
17 ~~extended certification under section 27-65-108~~ or an order for long-term
18 care and treatment or any extension thereof ~~shall terminate~~ TERMINATES
19 as soon as, in the opinion of the professional person in charge of
20 treatment of the respondent, the respondent has received sufficient benefit
21 from such treatment for ~~him or her~~ THE RESPONDENT to leave. Whenever
22 a certification or extended certification is terminated ~~under~~ PURSUANT TO
23 this section, the professional person in charge of providing treatment shall
24 ~~so~~ notify the court in writing within five days ~~of~~ AFTER such termination.
25 ~~Such~~ THE professional person may also prescribe day care, night care, or
26 any other similar mode of treatment prior to termination.

27 (2) Before termination, an escaped respondent may be returned to

1 the facility by order of the court without a hearing or by the
2 superintendent or director of ~~such~~ THE facility without order of court.
3 After termination, a respondent may be returned to the ~~institution~~
4 FACILITY only in accordance with ~~the provisions of this article~~ ARTICLE
5 65.

6 **27-65-113. [Formerly 27-65-111] Hearing procedures -**
7 **jurisdiction.** (1) Hearings before the court pursuant to ~~section~~
8 ~~27-65-107, 27-65-108, or 27-65-109~~ SECTION 27-65-108, 27-65-109, OR
9 27-65-110 are conducted in the same manner as other civil proceedings
10 before the court. The burden of proof is on the person or facility seeking
11 to detain the respondent. The court or jury shall determine that the
12 respondent is in need of care and treatment only if the court or jury finds
13 by clear and convincing evidence that the ~~person~~ RESPONDENT has a
14 mental health disorder and, as a result of the mental health disorder, is a
15 danger to ~~others or to himself or herself~~ THE RESPONDENT'S SELF OR
16 OTHERS or is gravely disabled.

17 (2) The court, after consultation with respondent's counsel to
18 obtain counsel's recommendations, may appoint a professional person to
19 examine the respondent for whom short-term treatment or long-term care
20 and treatment is sought and to testify at the hearing before the court as to
21 the results of ~~his or her~~ THE PROFESSIONAL PERSON'S examination. The
22 court-appointed professional person shall act solely in an advisory
23 capacity, and no presumption ~~shall attach to his or her~~ IS ATTACHED TO
24 THE PROFESSIONAL PERSON'S findings.

25 (3) Every respondent subject to an order for short-term treatment
26 or long-term care and treatment ~~shall~~ MUST be advised of ~~his or her~~ THE
27 RESPONDENT'S right to appeal the order by the court at the conclusion of

1 any hearing AND, as a result, ~~of which such an~~ THE order may be entered.

2 (4) The court in which the petition is filed under section
3 27-65-106 or the certification is filed ~~under section 27-65-107 shall be~~
4 PURSUANT TO SECTION 27-65-109 IS the court of original jurisdiction and
5 of continuing jurisdiction for any further proceedings ~~under this article~~
6 PURSUANT TO THIS ARTICLE 65. When the convenience of the parties and
7 the ends of justice would be promoted by a change in the court having
8 jurisdiction, the court may order a transfer of the proceeding to another
9 county. Until further order of the transferee court, if any, it ~~shall be~~ IS the
10 court of continuing jurisdiction.

11 (5) (a) In the event that a respondent or a person found not guilty
12 by reason of impaired mental condition pursuant to section 16-8-103.5
13 (5), ~~C.R.S.~~, or by reason of insanity pursuant to section 16-8-105 (4) or
14 16-8-105.5, ~~C.R.S.~~, refuses to accept medication, the court having
15 jurisdiction of the action pursuant to subsection (4) of this section, the
16 court committing the person or defendant to the custody of the department
17 pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, ~~C.R.S.~~,
18 or the court of the jurisdiction in which the designated facility treating the
19 respondent or person is located ~~shall have~~ HAS jurisdiction and venue to
20 accept a petition by a treating physician and to enter an order requiring
21 that the respondent or person accept such treatment or, in the alternative,
22 that the medication be forcibly administered to ~~him or her~~ THE
23 RESPONDENT OR PERSON. The court of the jurisdiction in which the
24 designated facility is located shall not exercise its jurisdiction without the
25 permission of the court that committed the person to the custody of the
26 department. Upon the filing of such a petition, the court shall appoint an
27 attorney, if one has not been appointed, to represent the respondent or

1 person and hear the matter within ten days.

2 (b) In any case brought ~~under paragraph (a) of this subsection (5)~~
3 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION in a court for the
4 county in which the treating facility is located, the county where the
5 proceeding was initiated pursuant to subsection (4) of this section or the
6 court committing the person to the custody of the department pursuant to
7 section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, ~~€R.S.~~, shall either
8 reimburse the county in which the proceeding pursuant to this subsection
9 (5) was filed and in which the proceeding was held for the reasonable
10 costs incurred in conducting the proceeding or conduct the proceeding
11 itself using its own personnel and resources, including its own district or
12 county attorney, as the case may be.

13 (c) In the case of a defendant who is found incompetent to
14 proceed pursuant to section 16-8.5-103 ~~€R.S.~~, and who refuses to accept
15 medication, the jurisdiction for the petition for involuntary treatment
16 procedures ~~shall be~~ IS as set forth in section 16-8.5-112. ~~€R.S.~~

17 (6) All ADVERSARIAL proceedings ~~under this article~~ PURSUANT TO
18 THIS ARTICLE 65, including proceedings to impose a legal disability
19 pursuant to section 27-65-127, ~~shall~~ MUST be conducted by the district
20 attorney of the county where the proceeding is held or by a qualified
21 attorney acting for the district attorney appointed by the district court for
22 that purpose; except that, in any county or in any city and county having
23 a population exceeding fifty thousand persons, the proceedings ~~shall~~
24 MUST be conducted by the county attorney or by a qualified attorney
25 acting for the county attorney appointed by the district court. In any case
26 in which there has been a change of venue to a county other than the
27 county of residence of the respondent or the county in which the

1 certification proceeding was commenced, the county from which the
2 proceeding was transferred shall either reimburse the county to which the
3 proceeding was transferred and in which the proceeding was held for the
4 reasonable costs incurred in conducting the proceeding or conduct the
5 proceeding itself using its own personnel and resources, including its own
6 district or county attorney, as the case may be.

7 (7) Upon request of a LEGAL guardian appointed pursuant to
8 article 14 of title 15, ~~C.R.S.~~, the LEGAL guardian may intervene in any
9 proceeding ~~under this article~~ BROUGHT PURSUANT TO THIS ARTICLE 65
10 concerning ~~his or her~~ THE LEGAL GUARDIAN'S ward and, through counsel,
11 may present evidence and represent to the court the views of the LEGAL
12 guardian concerning the appropriate disposition of the case.

13 (8) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT
14 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW
15 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S
16 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE
17 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

18 **27-65-114. [Formerly 27-65-112] Appeals.** Appellate review of
19 any order of short-term treatment or long-term care and treatment may be
20 had as provided in the Colorado appellate rules. ~~Such AN appeal shall~~
21 ~~MUST~~ be advanced upon the calendar of the appellate court and ~~shall~~
22 ~~MUST~~ be decided at the earliest practicable time. Pending disposition by
23 the appellate court, ~~it~~ THE COURT may make such order as ~~it~~ THE COURT
24 may consider proper in the premises relating to the care and custody of
25 the respondent.

26 **27-65-115. [Formerly 27-65-113] Habeas corpus.** Any person
27 detained pursuant to this ~~article shall be~~ ARTICLE 65 IS entitled to an order

1 in the nature of habeas corpus upon proper petition to any court generally
2 empowered to issue orders in the nature of habeas corpus.

3 **27-65-116. [Formerly 27-65-114] Restoration of rights.** Any
4 person who, by reason of a judicial decree entered by a court of this state
5 prior to July 1, 1975, is adjudicated as a person with a mental illness ~~shall~~
6 ~~be~~ IS deemed to have been restored to legal capacity and competency.

7 **27-65-117. [Formerly 27-65-115] Discrimination - definition.**
8 No person who has received AN evaluation or treatment ~~under any~~
9 ~~provisions of this article shall be~~ PURSUANT TO THIS ARTICLE 65 MAY BE
10 discriminated against ~~because of such status~~ FOR RECEIVING AN
11 EVALUATION OR TREATMENT. For purposes of this section,
12 "discrimination" means giving any undue weight to the fact of
13 hospitalization or outpatient care and treatment unrelated to a person's
14 present capacity to meet standards applicable to all persons. Any person
15 who suffers injury by reason of a violation of this section ~~shall have~~ HAS
16 a civil cause of action.

17 **27-65-118. [Formerly 27-65-116] Right to treatment - rules.**
18 (1) (a) Any person receiving AN evaluation or treatment ~~under any of the~~
19 ~~provisions of this article~~ PURSUANT TO THIS ARTICLE 65 is entitled to
20 medical and psychiatric care and treatment, with regard to services listed
21 in section 27-66-101 and services listed in rules authorized by section
22 27-66-102, suited to meet ~~his or her~~ THE PERSON'S individual needs,
23 delivered in such a way as to keep ~~him or her~~ THE PERSON in the least
24 restrictive environment, and delivered in such a way as to include the
25 opportunity for participation of family members in ~~his or her~~ THE
26 PERSON'S program of care and treatment, when appropriate. ~~all subject to~~
27 ~~available appropriations.~~ Nothing in this ~~paragraph (a)~~ shall create

1 SUBSECTION (1)(a) CREATES any right with respect to any person other
2 than the person receiving AN evaluation, care, or treatment. The
3 professional person and the agency or facility providing AN evaluation,
4 care, or treatment shall keep records detailing all care and treatment
5 received by ~~such~~ THE person, and ~~such~~ THE records ~~shall~~ MUST be made
6 available, upon ~~that~~ THE person's written authorization, to ~~his or her~~ THE
7 PERSON'S attorney or ~~his or her~~ THE PERSON'S personal physician. ~~Such~~
8 THE records ~~shall be~~ ARE permanent records and MUST BE retained in
9 accordance with ~~the provisions of section 27-65-121 (4)~~ SECTION
10 27-65-123 (4).

11 (b) Any person receiving AN evaluation or treatment ~~under any of~~
12 ~~the provisions of this article is entitled to~~ PURSUANT TO THIS ARTICLE 65
13 MAY petition the court pursuant to ~~the provisions of~~ section 13-45-102,
14 C.R.S., ~~subject to available appropriations,~~ for release to a less restrictive
15 setting within or without a treating facility or release from a treating
16 facility when adequate medical and psychiatric care and treatment ~~is~~ ARE
17 not administered.

18 (2) The ~~department~~ BEHAVIORAL HEALTH ADMINISTRATION shall
19 ~~adopt regulations~~ PROMULGATE RULES to assure that each agency or
20 facility providing AN evaluation, care, or treatment ~~shall require~~ REQUIRES
21 the following:

22 (a) Consent for specific therapies and major medical treatment in
23 the nature of surgery. The nature of the consent, by whom it is given, and
24 under what conditions, ~~shall be~~ IS determined by rules of the ~~department~~
25 BEHAVIORAL HEALTH ADMINISTRATION.

26 (b) The order of a physician for any treatment or specific therapy
27 based on appropriate medical examinations;

1 (c) Notation in the patient's treatment record of periodic
2 examinations, evaluations, orders for treatment, and specific therapies,
3 signed by personnel involved;

4 (d) Conduct according to the guidelines contained in the
5 regulations of the federal government and the ~~department~~ BEHAVIORAL
6 HEALTH ADMINISTRATION with regard to clinical investigations, research,
7 experimentation, and testing of any kind; and

8 (e) Documentation of the findings, conclusions, and decisions in
9 any administrative review of a decision to release or withhold the
10 information requested by a family member OR LAY PERSON pursuant to
11 ~~section 27-65-121 (1)(g) or (1)(h)~~ SECTION 27-65-123 (1)(g) OR (1)(h) and
12 documentation of any information given to a family member OR LAY
13 PERSON.

14 **27-65-119. [Formerly 27-65-117] Rights of persons receiving**
15 **care or treatment.** (1) Each person receiving evaluation, care, or
16 treatment ~~under~~ PURSUANT TO any provision of this ~~article~~ ARTICLE 65 has
17 the following rights and shall be advised of such rights by the facility:

18 (a) To receive and send sealed correspondence. No incoming or
19 outgoing correspondence shall be opened, delayed, held, or censored by
20 the personnel of the facility.

21 (b) To have access to letter-writing materials, including postage,
22 and to have staff members of the facility assist ~~him or her~~ THE PERSON if
23 THE PERSON IS unable to write, prepare, and mail correspondence;

24 (c) To have ready access to telephones, both to make and to
25 receive calls in privacy;

26 (d) To have frequent and convenient opportunities to meet with
27 visitors. Each person may see ~~his or her~~ THE PERSON'S attorney,

1 ~~clergyman~~, CLERGYPERSON, or physician at any time.

2 (e) To wear ~~his or her~~ THE PERSON'S own clothes, keep and use ~~his~~
3 ~~or her~~ THE PERSON'S own personal possessions, and keep and be allowed
4 to spend a reasonable sum of ~~his or her~~ THE PERSON'S own money.

5 (2) A person's rights under subsection (1) of this section may be
6 denied for good cause only by the professional person providing
7 treatment. Denial of any right ~~shall~~ MUST in all cases be entered into the
8 person's treatment record. Information pertaining to a denial of rights
9 contained in the person's treatment record ~~shall~~ MUST be made available,
10 upon request, to the person, or ~~his or her~~ THE PERSON'S attorney.

11 (3) No person admitted to or in a facility shall be fingerprinted
12 unless required by other provisions of law.

13 (4) A person may be photographed upon admission for
14 identification and the administrative purposes of the facility. The
15 photographs ~~shall be~~ ARE confidential and ~~shall~~ MUST not be released by
16 the facility except pursuant to court order. No other nonmedical
17 photographs ~~shall~~ MAY be taken or used without appropriate consent or
18 authorization.

19 (5) Any person receiving evaluation or treatment ~~under~~ PURSUANT
20 TO any of the provisions of this ~~article~~ ARTICLE 65 is entitled to a written
21 copy of all ~~his or her~~ THE PERSON'S rights enumerated in this section, and
22 a minor child shall receive written notice of ~~his or her~~ THE MINOR'S rights
23 as provided in ~~section 27-65-103 (7)(g)~~ SECTION 27-65-104 (6)(g). A list
24 of ~~such~~ rights ~~shall~~ MUST be prominently posted in all evaluation and
25 treatment facilities.

26 **27-65-120. [Formerly 27-65-118] Administration or monitoring**
27 **of medications to persons receiving treatment.** The executive director

1 COMMISSIONER has the power to direct the administration or monitoring
2 of medications in conformity with part 3 of article 1.5 of title 25 ~~C.R.S.~~;
3 to persons receiving treatment in facilities ~~created~~ DESIGNATED pursuant
4 to this ~~article~~ ARTICLE 65.

5 **27-65-121. [Formerly 27-65-119] Employment of persons in a**
6 **facility - rules.** The ~~department~~ BEHAVIORAL HEALTH ADMINISTRATION
7 shall adopt rules governing the employment and compensation ~~therefor~~
8 ~~of~~ FOR THE ADMINISTRATION OF CARE OR TREATMENT TO persons
9 receiving care or treatment ~~under any provision of this article~~ PURSUANT
10 TO THIS ARTICLE 65. The ~~department~~ BEHAVIORAL HEALTH
11 ADMINISTRATION shall establish standards for reasonable compensation
12 for such employment.

13 **27-65-122. [Formerly 27-65-120] Voting in public elections.**
14 Any person receiving evaluation, care, or treatment ~~under~~ PURSUANT TO
15 this ~~article shall~~ ARTICLE 65 MUST be given the opportunity to exercise ~~his~~
16 ~~or her~~ THE PERSON'S right to register and to vote in primary and general
17 elections. The agency or facility providing evaluation, care, or treatment
18 shall assist ~~such persons~~ THE PERSON, upon ~~their~~ THE PERSON'S request,
19 to obtain voter registration forms and mail ballots and to comply with any
20 other prerequisite for voting.

21 **27-65-123. [Formerly 27-65-121] Records.** (1) Except as
22 provided in subsection (2) of this section, all information obtained and
23 records prepared in the course of providing any services ~~pursuant to this~~
24 ~~article 65~~ to ~~individuals~~ ANY PERSON pursuant to any provision of this
25 article 65 are confidential and privileged matter. The information and
26 records may be disclosed only:

27 (a) In communications between qualified professional personnel

1 in the provision of services or appropriate referrals;

2 (b) When the recipient of services designates persons to whom
3 information or records may be released; but, if a recipient of services is
4 a ward or conservatee and ~~his or her~~ THE WARD'S OR CONSERVATEE'S
5 guardian or conservator designates, in writing, persons to whom records
6 or information may be disclosed, the designation ~~shall be~~ IS valid in lieu
7 of the designation by the recipient; except that nothing in this section
8 ~~shall be construed to compel~~ COMPELS a physician, psychologist, social
9 worker, nurse, attorney, or other professional personnel to reveal
10 information that has been given to ~~him or her~~ THE PERSON in confidence
11 by members of a patient's family or other informants;

12 (c) To the extent necessary to make claims on behalf of a recipient
13 of aid, insurance, or medical assistance to which ~~he or she~~ THE RECIPIENT
14 may be entitled;

15 (d) If the ~~department~~ BEHAVIORAL HEALTH ADMINISTRATION has
16 promulgated rules for the conduct of research. Such rules ~~shall~~ MUST
17 include, but ARE not ~~be~~ limited to, the requirement that all researchers
18 must sign an oath of confidentiality. All identifying information
19 concerning individual patients, including names, addresses, telephone
20 numbers, and social security numbers, ~~shall~~ MUST not be disclosed for
21 research purposes.

22 (e) To the courts, as necessary ~~to~~ FOR the administration of ~~the~~
23 ~~provisions of this article~~ ARTICLE 65;

24 (f) To persons authorized by an order of court after notice and
25 opportunity for hearing to the person to whom the record or information
26 pertains and the custodian of the record or information pursuant to the
27 Colorado rules of civil procedure;

1 (g) To ~~adult~~ family members upon admission of a person with a
2 mental health disorder for inpatient or residential care and treatment. The
3 only information that may be released pursuant to this subsection (1)(g)
4 is the location and fact of admission of the person with a mental health
5 disorder who is receiving care and treatment. The disclosure of location
6 is governed by the procedures in ~~section 27-65-122~~ SECTION 27-65-124
7 and is subject to review pursuant to ~~section 27-65-122~~ SECTION
8 27-65-124.

9 (h) To ~~adult~~ family members OR A LAY PERSON actively
10 participating in the care and treatment of a person with a mental health
11 disorder, regardless of the length of the participation. The information
12 released pursuant to this subsection (1)(h) is limited to one or more of the
13 following: The diagnosis, the prognosis, the need for hospitalization and
14 anticipated length of stay, the discharge plan, the medication administered
15 and side effects of the medication, and the short-term and long-term
16 treatment goals. The disclosure is governed by the procedures in ~~section~~
17 ~~27-65-122 (2)~~ SECTION 27-65-124 (2) and is subject to review pursuant to
18 ~~section 27-65-122~~ SECTION 27-65-124.

19 (i) In accordance with state and federal law to the agency
20 designated pursuant to the federal "Protection and Advocacy for
21 Individuals with Mental Illness Act", 42 U.S.C. sec. 10801 et seq., as the
22 governor's protection and advocacy system for Colorado.

23 (2) Nothing in ~~paragraph (g) or (h) of subsection (1)~~ SUBSECTION
24 (1)(g) OR (1)(h) of this section ~~shall be deemed to preclude~~ PRECLUDES
25 the release of information to a parent concerning ~~his or her~~ THE PARENT'S
26 minor child.

27 (3) (a) Nothing in this ~~article shall be construed as rendering~~

1 ARTICLE 65 RENDERS privileged or confidential any information, except
2 written medical records and information that is privileged ~~under~~
3 PURSUANT TO section 13-90-107, ~~C.R.S.~~, concerning observed behavior
4 that constitutes a criminal offense committed upon the premises of any
5 facility providing services ~~under this article~~ PURSUANT TO THIS ARTICLE
6 65 or any criminal offense committed against any person while
7 performing or receiving services ~~under this article~~ PURSUANT TO THIS
8 ARTICLE 65.

9 (b) ~~The provisions of~~ Subsection (1) of this section ~~shall~~ DOES not
10 apply to physicians or psychologists eligible to testify concerning a
11 criminal defendant's mental condition pursuant to section 16-8-103.6.
12 ~~C.R.S.~~

13 (4) (a) All facilities shall maintain and retain permanent records,
14 including all applications as required pursuant to ~~section 27-65-105 (3)~~
15 SECTION 27-65-106 (3).

16 (b) Outpatient or ambulatory care facilities shall retain all records
17 for a minimum of seven years after discharge from the facility for persons
18 who were eighteen years of age or older when admitted to the facility, or
19 until twenty-five years of age for persons who were under eighteen years
20 of age when admitted to the facility.

21 (c) Inpatient or hospital care facilities shall retain all records for
22 a minimum of ten years after discharge from the facility for persons who
23 were eighteen years of age or older when admitted to the facility, or until
24 twenty-eight years of age for persons who were under eighteen years of
25 age when admitted to the facility.

26 (5) Nothing in this section ~~shall be construed to prohibit or limit~~
27 PROHIBITS OR LIMITS the sharing of information by a state institution of

1 higher education police department to authorized university
2 administrators pursuant to section 23-5-141. ~~C.R.S.~~

3 **27-65-124. [Formerly 27-65-122] Request for release of**
4 **information - procedures - review of a decision concerning release of**
5 **information.** (1) When a family member requests the location and fact
6 of admission of a person with a mental health disorder pursuant to ~~section~~
7 ~~27-65-121 (1)(g)~~ SECTION 27-65-123 (1)(g), the treating professional
8 person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee, who must be
9 a professional person, shall decide whether to release or withhold such
10 information. The location must be released unless the treating
11 professional person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee
12 determines, after an interview with the person with a mental health
13 disorder, that release of the information to a particular family member
14 would not be in the best interests of the person with a mental health
15 disorder. Any decision to withhold information requested pursuant to
16 ~~section 27-65-121 (1)(g)~~ SECTION 27-65-123 (1)(g) is subject to
17 administrative review pursuant to this section upon request of a family
18 member or the person with a mental health disorder. The treating facility
19 shall make a record of the information given to a family member pursuant
20 to this subsection (1). For the purposes of this subsection (1), an adult
21 person having a similar relationship to a person with a mental health
22 disorder as a spouse, LAY PERSON, parent, child, or sibling of a person
23 with a mental health disorder may also request the location and fact of
24 admission concerning a person with a mental health disorder.

25 (2) (a) When a family member requests information pursuant to
26 ~~section 27-65-121 (1)(h)~~ SECTION 27-65-123 (1)(h) concerning a person
27 with a mental health disorder, the treating professional person or ~~his or~~

1 ~~her~~ THE PROFESSIONAL PERSON'S designee, shall determine whether the
2 person with a mental health disorder is capable of making a rational
3 decision in weighing ~~his or her~~ THE PERSON'S confidentiality interests and
4 the care and treatment interests implicated by the release of information.
5 The treating professional person or ~~his or her~~ THE PROFESSIONAL
6 PERSON'S designee shall then determine whether the person with a mental
7 health disorder consents or objects to the release of information.
8 Information must be released or withheld in the following circumstances:

9 (I) If the treating professional person or ~~his or her~~ THE
10 PROFESSIONAL PERSON'S designee makes a finding that the person with a
11 mental health disorder is capable of making a rational decision
12 concerning ~~his or her~~ THE PERSON'S interests and the person with a mental
13 health disorder consents to the release of information, the treating
14 professional person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee
15 shall order the release of the information unless ~~he or she~~ THE
16 PROFESSIONAL PERSON OR THE PROFESSIONAL PERSON'S DESIGNEE
17 determines that the release would not be in the best interests of the person
18 with a mental health disorder.

19 (II) If the treating professional person or ~~his or her~~ THE
20 PROFESSIONAL PERSON'S designee makes a finding that the person with a
21 mental health disorder is capable of making a rational decision
22 concerning ~~his or her~~ THE PERSON'S interests and the person with a mental
23 health disorder objects to the release of information, the treating
24 professional person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee
25 shall not order the release of the information.

26 (III) If the treating professional person or ~~his or her~~ THE
27 PROFESSIONAL PERSON'S designee makes a finding that the person with a

1 mental health disorder is not capable of making a rational decision
2 concerning ~~his or her~~ THE PERSON'S interests, the treating professional
3 person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee may order the
4 release of the information if ~~he or she~~ THE PROFESSIONAL PERSON OR THE
5 PROFESSIONAL PERSON'S DESIGNEE determines that the release would be
6 in the best interests of the person with a mental health disorder.

7 (IV) Any determination as to capacity pursuant to this subsection
8 (2)(a) must be used only for the limited purpose of this subsection (2)(a).

9 (b) A decision by a treating professional person or ~~his or her~~ THE
10 PROFESSIONAL PERSON'S designee concerning the capability of a person
11 with a mental health disorder pursuant to subsection (2)(a)(III) of this
12 section is subject to administrative review upon the request of the person
13 with a mental health disorder. A decision by a treating professional
14 person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee to order the
15 release or withholding of information pursuant to subsection (2)(a)(III)
16 of this section is subject to administrative review upon the request of
17 either a family member or the person with a mental health disorder.

18 (c) The director of the treating facility shall make a record of any
19 information given to a family member pursuant to subsection (2)(a) of
20 this section and ~~section 27-65-121(1)(h)~~ SECTION 27-65-123 (1)(h).

21 (3) When administrative review is requested ~~either~~ pursuant to
22 subsection (1) or ~~subsection~~ (2)(b) of this section, the director of the
23 facility providing care and treatment to the person with a mental health
24 disorder shall cause an objective and impartial review of the decision to
25 withhold or release information. The director of the facility shall conduct
26 the review, if ~~he or she~~ THE DIRECTOR is a professional person. If the
27 director is not available or if the director cannot provide an objective and

1 impartial review, the review ~~shall~~ MUST be conducted by a professional
2 person designated by the director of the facility. The review must include,
3 but need not be limited to, an interview with the person with a mental
4 health disorder. The facility providing care and treatment shall document
5 the review of the decision.

6 (4) If a person with a mental health disorder objects to the release
7 or withholding of information, the person with a mental health disorder
8 and ~~his or her~~ THE PERSON'S attorney, if any, must be provided with
9 information concerning the procedures for administrative review of a
10 decision to release or withhold information. The person with a mental
11 health disorder must be informed of any information proposed to be
12 withheld or released and to whom and be given a reasonable opportunity
13 to initiate the administrative review process before information
14 concerning ~~his or her~~ THE PERSON'S care and treatment is released.

15 (5) A family member whose request for information is denied
16 ~~shall~~ MUST be provided with information concerning the procedures for
17 administrative review of a decision to release or withhold information.

18 (6) A person with a mental health disorder may file a written
19 request for review by the court of a decision made upon administrative
20 review to release information to a family member requested pursuant to
21 ~~section 27-65-121 (1)(h)~~ SECTION 27-65-123 (1)(h) and proposed to be
22 released pursuant to subsection (2) of this section. If judicial review is
23 requested, the court shall hear the matter within ten days after the request,
24 and the court shall give notice to the person with a mental health disorder
25 and ~~his or her~~ THE PERSON'S attorney, the treating professional person, and
26 the person who made the decision upon administrative review of the time
27 and place of the hearing. The hearing must be conducted in the same

1 manner as other civil proceedings before the court.

2 (7) In order to allow a person with a mental health disorder an
3 opportunity to seek judicial review, the treating facility or the treating
4 professional person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee
5 shall not release information requested pursuant to ~~section 27-65-121~~
6 ~~(1)(h)~~ SECTION 27-65-123 (1)(h) until five days after the determination
7 upon administrative review of the director or ~~his or her~~ THE DIRECTOR'S
8 designee is received by the person with a mental health disorder, and,
9 once judicial review is requested, the treating facility or the treating
10 professional person or ~~his or her~~ THE PROFESSIONAL PERSON'S designee
11 shall not release information except by court order. However, if the
12 person with a mental health disorder indicates an intention not to appeal
13 a determination upon administrative review that is adverse to ~~him or her~~
14 THE PERSON concerning the release of information, the information may
15 be released less than five days after the determination upon review is
16 received by the person with a mental health disorder.

17 (8) This section provides for the release of information only and
18 ~~shall not be~~ IS NOT deemed to authorize the release of the written medical
19 record without authorization by the patient or as otherwise provided by
20 law.

21 (9) For purposes of this section, the treating professional person's
22 designee shall be a professional person.

23 **27-65-125. [Formerly 27-65-123] Treatment in federal**
24 **facilities.** (1) If a person is certified ~~under the provisions of this article~~
25 PURSUANT TO THIS ARTICLE 65 and is eligible for hospital care or
26 treatment by an agency of the United States, and if a certificate of
27 notification from ~~said~~ THE agency showing that facilities are available and

1 that the person is eligible for care or treatment ~~therein~~, is received, the
2 court may order ~~him or her~~ THE PERSON to be placed in the custody of the
3 agency for hospitalization. When any person is admitted pursuant to an
4 order of court to any hospital or institution operated by any agency of the
5 United States within or ~~without~~ OUTSIDE this state, the person ~~shall be~~ IS
6 subject to the rules and regulations of the agency. The chief officer of any
7 hospital or institution operated by an agency ~~and~~ in which the person is
8 so hospitalized shall, with respect to the person, be vested with the same
9 powers as the chief officer of the Colorado mental health institute at
10 Pueblo with respect to detention, custody, transfer, conditional release, or
11 discharge of patients. Jurisdiction ~~shall be~~ IS retained in the appropriate
12 courts of this state to inquire into the mental condition of ~~persons~~ A
13 PERSON so hospitalized and to determine the necessity for continuance of
14 ~~their~~ THE PERSON'S hospitalization.

15 (2) An order of a court of competent jurisdiction of another state,
16 territory, or the District of Columbia authorizing hospitalization of a
17 person to any agency of the United States ~~shall have~~ HAS the same effect
18 as to ~~said~~ THE person while in this state as in the jurisdiction in which the
19 court entering the order is situated; the courts of the state or district
20 issuing the order ~~shall be deemed to have retained~~ RETAIN jurisdiction of
21 the person so hospitalized for the purpose of inquiring into ~~his or her~~ THE
22 PERSON'S mental condition and ~~of~~ FOR determining the necessity for
23 continuance of ~~his or her~~ THE PERSON'S hospitalization. Consent is ~~hereby~~
24 given to the application of the law of the state or district in which the
25 court issuing the order for hospitalization is located, with respect to the
26 authority of the chief officer of any hospital or institution operated in this
27 state by any agency of the United States to retain custody, ~~to~~ transfer, ~~to~~

1 conditionally release, or to discharge the person hospitalized.

2 **27-65-126. [Formerly 27-65-124] Transfer of persons into and**
3 **out of Colorado - reciprocal agreements.** The transfer of persons A
4 PERSON hospitalized voluntarily ~~under the provisions of this article~~
5 PURSUANT TO THIS ARTICLE 65 out of Colorado or under the laws of
6 another jurisdiction into Colorado ~~shall be~~ ARE governed by the
7 provisions of the interstate compact on mental health.

8 **27-65-127. Imposition of legal disability - deprivation of legal**
9 **right - restoration.** (1) (a) When an interested person wishes to obtain
10 a determination as to the imposition of a legal disability or the deprivation
11 of a legal right for a person who has a mental health disorder and who is
12 a danger to ~~himself or herself~~ or THE PERSON'S SELF OR others, is gravely
13 disabled, or is insane, as defined in section 16-8-101, and who is not then
14 subject to proceedings pursuant to this article 65 or part 3 or part 4 of
15 article 14 of title 15, the interested person may petition the court for a
16 specific finding as to the legal disability or deprivation of a legal right.
17 Actions commenced pursuant to this subsection (1) may include but are
18 not limited to actions to determine contractual rights and rights with
19 regard to the operation of motor vehicles.

20 (b) The petition ~~shall~~ MUST set forth the disability to be imposed
21 or the legal right to be deprived and the reasons. ~~therefor.~~

22 (2) The court may impose a legal disability or may deprive a
23 ~~person~~ RESPONDENT of a legal right only upon finding both of the
24 following:

25 (a) That the respondent is a person with a mental health disorder
26 and is a danger to ~~himself or herself~~ THE RESPONDENT'S SELF or others, IS
27 gravely disabled, or insane, as defined in section 16-8-101; AND

1 (b) That the requested disability or deprivation is both necessary
2 and desirable.

3 (3) To have a legal disability removed or a legal right restored,
4 any interested person may file a petition with the court ~~which~~ THAT made
5 the original finding. No legal disability ~~shall~~ MAY be imposed nor a legal
6 right be deprived for a period of more than six months without a review
7 hearing by the court at the end of six months, at which TIME the findings
8 specified in subsection (2) of this section ~~shall~~ MUST be reaffirmed to
9 justify continuance of the disability or deprivation. A copy of the petition
10 ~~shall~~ MUST be served on the person who filed the original petition, on the
11 person whose rights are affected if ~~he or she~~ THE PERSON is not the
12 petitioner, and upon the facility where the person whose rights are
13 affected resides, if any.

14 (4) Whenever any proceedings are instituted or conducted
15 pursuant to this section, the following procedures ~~shall~~ apply:

16 (a) Upon the filing of a petition, the court shall appoint an
17 ~~attorney-at-law~~ ATTORNEY to represent the respondent. The respondent
18 may replace ~~said~~ THE attorney with an attorney of the respondent's own
19 ~~selection~~ CHOOSING at any time. Attorney fees for an indigent respondent
20 ~~shall be~~ ARE paid by the court.

21 (b) The court, upon request of an indigent respondent or ~~his or her~~
22 THE RESPONDENT'S attorney, shall appoint, at the court's expense, one or
23 more professional persons of the respondent's ~~selection~~ CHOOSING to
24 assist the respondent in the preparation of ~~his or her~~ THE RESPONDENT'S
25 case.

26 (c) Upon demand made at least five days prior to the date of
27 hearing, the respondent ~~shall have~~ HAS the right to a trial of all issues by

1 a jury of six.

2 (d) At all times the burden ~~shall be~~ IS upon the person seeking
3 imposition of a disability or deprivation of a legal right or opposing
4 removal of a disability or deprivation to prove all essential elements by
5 clear and convincing evidence.

6 (e) Pending a hearing, the court may issue an order temporarily
7 imposing a disability or depriving the respondent of a legal right for a
8 period of not more than ten days in conformity with the standards for
9 issuance of ex parte temporary restraining orders in civil cases, but no
10 individual habilitation or rehabilitation plan ~~shall be~~ IS required prior to
11 the issuance of ~~such~~ THE order.

12 (f) Except as otherwise provided in this subsection (4), all
13 proceedings ~~shall~~ MUST be held in conformance with the Colorado rules
14 of civil procedure, but no costs ~~shall~~ MAY be assessed against the
15 respondent.

16 ~~(5) Any person who, by reason of a judicial decree or order~~
17 ~~entered by a court of this state prior to July 1, 1979, is under the~~
18 ~~imposition of a legal disability or has been deprived of a legal right~~
19 ~~pursuant to this section as it existed prior to July 1, 1979, shall be released~~
20 ~~from such decree or order on December 31, 1979.~~

21 **27-65-128. Administration - rules.** The ~~department~~ BEHAVIORAL
22 HEALTH ADMINISTRATION shall ~~make such~~ PROMULGATE ANY rules as will
23 NECESSARY TO consistently enforce the provisions of this ~~article~~ ARTICLE
24 65, INCLUDING RULES TO ESTABLISH TIERED DESIGNATION FOR FACILITIES.
25 THE BEHAVIORAL HEALTH ADMINISTRATION SHALL PROACTIVELY TRAIN
26 PROVIDERS, FACILITIES, COUNTIES, JUDGES, AND MAGISTRATES ON THE
27 PROCEDURES UNDER THIS ARTICLE 65, INCLUDING TRAINING FOR

1 INTERVENING PROFESSIONALS AND CERTIFIED PEACE OFFICERS.

2 **27-65-129. Payment for counsel.** In order to provide legal
3 representation to persons eligible ~~therefor as provided in~~ FOR AN
4 ATTORNEY PURSUANT TO ~~this article~~ ARTICLE 65, the judicial department
5 ~~is authorized to~~ SHALL pay, out of ~~appropriations made therefor~~ MONEY
6 APPROPRIATED by the general assembly, sums directly to THE appointed
7 ~~counsel~~ ATTORNEY on a case-by-case basis or, on behalf of the state, to
8 ~~make~~ SHALL PAY lump-sum grants to and contract with individual
9 attorneys, legal partnerships, legal professional corporations, public
10 interest law firms, or nonprofit legal services corporations.

11 **27-65-130. Advisory board - created - service standards and**
12 **rules.** (1) ~~[Formerly 27-65-131]~~ (a) An advisory board, referred to IN
13 THIS SECTION as the "board", ~~in this section,~~ to the ~~department~~
14 BEHAVIORAL HEALTH ADMINISTRATION is established for the purpose of
15 assisting and advising the ~~executive director~~ COMMISSIONER in
16 accordance with ~~section 27-65-130~~ SUBSECTION (2) OF THIS SECTION in
17 the development of service standards and rules. The board consists of ~~not~~
18 ~~less~~ NO FEWER than eleven ~~nor~~ BUT NOT more than fifteen members
19 appointed by the governor, AS FOLLOWS:

20 (I) ~~The board includes~~ One representative ~~each~~ from the ~~office of~~
21 ~~behavioral health,~~ the department of human services;

22 (II) ONE REPRESENTATIVE FROM THE BEHAVIORAL HEALTH
23 ADMINISTRATION;

24 (III) ONE REPRESENTATIVE FROM the department of public health
25 and environment;

26 (IV) ONE REPRESENTATIVE FROM the university of Colorado
27 health sciences center; ~~and~~

1 (V) ONE REPRESENTATIVE FROM a leading professional association
2 of psychiatrists in this state; ~~at least~~

3 (VI) One member representing proprietary skilled health-care
4 facilities;

5 (VII) One member representing nonprofit health-care facilities;

6 (VIII) One member representing the Colorado bar association;

7 (IX) One member representing consumers of services for persons
8 with mental health disorders;

9 (X) One member representing families of persons with mental
10 health disorders;

11 (XI) One member representing children's health-care facilities;
12 and

13 (XII) Other persons from both the private and the public sectors
14 who are recognized or known to be interested and informed in the area of
15 the board's purpose and function.

16 (b) In making appointments to the board, the governor is
17 encouraged to include representation by at least one member who is a
18 person with a disability, as defined in section 24-34-301 (2.5), a family
19 member of a person with a disability, or a member of an advocacy group
20 for persons with disabilities, provided that the other requirements of this
21 section are met.

22 (2) **[Formerly 27-65-130]** The advisory board ~~created by section~~
23 ~~27-65-131~~ is responsible for recommending standards and rules relevant
24 to the provisions of this article 65 for the programs of mental health
25 services to those patients in any health-care facility that has either
26 separate facilities for the care, treatment, and rehabilitation of persons
27 with mental health disorders or those health-care facilities that have as

1 ~~their~~ THE HEALTH-CARE FACILITY'S only purpose the care and treatment
2 of such persons.

3 **27-65-131. Data report.** (1) BEGINNING JANUARY 1, 2025, AND
4 EACH JANUARY 1 THEREAFTER, THE BEHAVIORAL HEALTH
5 ADMINISTRATION SHALL ANNUALLY SUBMIT A REPORT TO THE GENERAL
6 ASSEMBLY ON THE OUTCOMES AND EFFECTIVENESS OF THE INVOLUNTARY
7 COMMITMENT SYSTEM DESCRIBED IN THIS ARTICLE 65, DISAGGREGATED
8 BY REGION, INCLUDING ANY RECOMMENDATIONS TO IMPROVE THE SYSTEM
9 AND OUTCOMES FOR PERSONS INVOLUNTARY COMMITTED OR CERTIFIED
10 PURSUANT TO THIS ARTICLE 65. THE REPORT MUST INCLUDE AGGREGATED
11 AND DISAGGREGATED NONIDENTIFYING INDIVIDUAL-LEVEL DATA. AT A
12 MINIMUM, THE REPORT MUST INCLUDE:

13 (a) THE NUMBER OF SEVENTY-TWO-HOUR EMERGENCY MENTAL
14 HEALTH HOLDS THAT OCCURRED IN THE STATE AND THE NUMBER OF
15 PEOPLE PLACED ON A SEVENTY-TWO-HOUR EMERGENCY MENTAL HEALTH
16 HOLD, INCLUDING:

17 (I) A SUMMARY OF THE REASON EACH PERSON WAS PLACED ON AN
18 EMERGENCY MENTAL HEALTH HOLD;

19 (II) DEMOGRAPHIC INFORMATION OF EACH PERSON PLACED ON AN
20 EMERGENCY MENTAL HEALTH HOLD;

21 (III) DISPOSITION OF EACH PERSON PLACED ON AN EMERGENCY
22 MENTAL HEALTH HOLD;

23 (IV) HOW OFTEN A FACILITY WAS REQUIRED TO ASK FOR
24 ASSISTANCE FROM THE BEHAVIORAL HEALTH ADMINISTRATION TO FIND
25 PLACEMENT FOR THE PERSON PURSUANT TO SECTION 27-65-106 AND IF
26 PLACEMENT WAS FOUND, THE AVERAGE LENGTH OF TIME A PERSON HAD TO
27 WAIT FOR THE PLACEMENT AND THE CHALLENGES ENCOUNTERED IN

1 FINDING A PLACEMENT;

2 (V) HOW MANY SECOND EMERGENCY MENTAL HEALTH HOLDS
3 WERE PLACED PURSUANT TO SECTION 27-65-106 DUE TO A LACK OF
4 APPROPRIATE PLACEMENT OPTIONS; AND

5 (VI) HOW EACH EMERGENCY MENTAL HEALTH HOLD ORIGINATED,
6 WHETHER BY A CERTIFIED PEACE OFFICER; INTERVENING PROFESSIONAL,
7 INCLUDING SPECIFIC PROFESSIONAL TYPE; OR A COURT ORDER;

8 (b) THE NUMBER AND CHARACTERISTICS OF EACH CERTIFICATION
9 FOR SHORT-TERM TREATMENT, INCLUDING AN EXTENSION OF SHORT-TERM
10 TREATMENT, AND LONG-TERM CARE AND TREATMENT THAT OCCURRED IN
11 THE STATE, INCLUDING:

12 (I) THE NUMBER OF INPATIENT VERSUS OUTPATIENT
13 CERTIFICATIONS;

14 (II) THE REASON FOR INITIATING EACH CERTIFICATION;

15 (III) THE NUMBER OF CERTIFICATIONS INITIATED BY A COURT
16 ORDER, PROFESSIONAL PERSON, OR CERTIFIED PEACE OFFICER;

17 (IV) THE AVERAGE LENGTH OF EACH CERTIFICATION;

18 (V) THE DEMOGRAPHICS OF EACH INDIVIDUAL ON A CERTIFICATION
19 FOR SHORT-TERM TREATMENT;

20 (VI) THE SERVICES PROVIDED;

21 (VII) THE SERVICES NEEDED THAT WERE NOT AVAILABLE; AND

22 (VIII) ANY IDENTIFIED BARRIERS PREVENTING THE PROVISION OF
23 NEEDED SERVICES;

24 (c) THE OUTCOME OF EACH CERTIFICATION FOR SHORT-TERM
25 TREATMENT AND CERTIFICATION FOR LONG-TERM CARE AND TREATMENT;

26 (d) THE REASON EACH CERTIFICATION WAS DISCONTINUED,
27 DISAGGREGATED BY THOSE SUCCESSFULLY DISCHARGED, VOLUNTARILY

1 DISCHARGED, TRANSFERRED, NOT LOCATED, WITH TREATMENT
2 COMPLIANCE CONCERNS, UNABLE TO TRANSFER TO ANOTHER FACILITY OR
3 PROVIDER, FOR LACK OF PAYMENT TO TREATMENT PROVIDERS, AND FOR
4 ANY OTHER REASONS;

5 (e) THE PERSON'S HOUSING AND EMPLOYMENT STATUS WHEN
6 CERTIFICATION WAS DISCONTINUED;

7 (f) WHAT SERVICES WERE PROVIDED VERSUS WHAT SERVICES
8 WERE MOST FREQUENTLY NEEDED BY PEOPLE CERTIFIED ON AN
9 OUTPATIENT BASIS;

10 (g) BARRIERS AND OPPORTUNITIES WITH LOCAL PROVIDERS, THE
11 JUDICIAL BRANCH, AND LAW ENFORCEMENT; AND

12 (h) HOW MANY INDIVIDUALS WERE PLACED IN THE CUSTODY OF
13 THE BEHAVIORAL HEALTH ADMINISTRATION ON A CERTIFICATION FOR
14 SHORT-TERM TREATMENT WHO WERE CONCURRENTLY INVOLVED IN THE
15 CRIMINAL JUSTICE SYSTEM, INCLUDING THE OUTCOMES OF EACH PERSON
16 AND ANY BARRIERS AND OPPORTUNITIES THAT MAY EXIST TO BETTER
17 SERVE THE POPULATION.

18 **SECTION 2.** In Colorado Revised Statutes, **amend as added by**
19 **House Bill 21-____** 27-65-106 as follows:

20 **27-65-106. Emergency mental health hold - screening -**
21 **court-ordered evaluation - discharge summary - respondent's rights.**

22 (1) [~~Formerly 27-65-105 (1)~~] ~~Emergency procedure~~ AN EMERGENCY
23 MENTAL HEALTH HOLD may be invoked under one of the following
24 conditions:

25 (a) (I) When ~~any~~ A CERTIFIED PEACE OFFICER HAS PROBABLE
26 CAUSE TO BELIEVE A person ~~appears to have~~ HAS a mental health disorder
27 and, as a result of ~~such~~ THE mental health disorder, ~~appears to be~~ IS an

1 imminent danger to THE PERSON'S SELF OR others ~~the person's self~~ or
2 ~~appears to be~~ IS gravely disabled, THE CERTIFIED PEACE OFFICER MAY
3 TAKE THE PERSON INTO PROTECTIVE CUSTODY AND TRANSPORT THE
4 PERSON TO AN EMERGENCY MEDICAL SERVICES FACILITY OR A FACILITY
5 DESIGNATED BY THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH
6 HOLD. THE CERTIFIED PEACE OFFICER MAY REQUEST ASSISTANCE FROM A
7 BEHAVIORAL HEALTH CRISIS RESPONSE TEAM FOR ASSISTANCE IN
8 DETAINING AND TRANSPORTING THE PERSON; OR ~~then an intervening~~
9 ~~professional, or certified officer, upon probable cause and with such~~
10 ~~assistance as may be required, may take the person into custody, or cause~~
11 ~~the person to be taken into custody, and placed in a facility designated or~~
12 ~~approved by the executive director for a seventy-two-hour treatment and~~
13 ~~evaluation. If such a facility is not available, the person may be taken to~~
14 ~~an emergency medical services facility.~~

15 ~~(1.5) When any person appears to have a mental health disorder~~
16 ~~and, as a result of such mental health disorder, is in need of immediate~~
17 ~~evaluation for treatment in order to prevent physical or psychiatric harm~~
18 ~~to others or to the person's self, then an intervening professional, or~~
19 ~~certified peace officer, upon probable cause and with such assistance as~~
20 ~~may be required, may immediately transport the person to an outpatient~~
21 ~~mental health facility or other clinically appropriate facility designated or~~
22 ~~approved by the executive director. If such a facility is not available, the~~
23 ~~person may be taken to an emergency medical services facility.~~

24 ~~(b) Upon an affidavit sworn to or affirmed before a judge that~~
25 ~~relates sufficient facts to establish that a person appears to have a mental~~
26 ~~health disorder and, as a result of the mental health disorder, appears to~~
27 ~~be an imminent danger to others or to the person's self or appears to be~~

1 ~~gravely disabled, the court may order the person described in the affidavit~~
2 ~~to be taken into custody and placed in a facility designated or approved~~
3 ~~by the executive director for a seventy-two-hour treatment and evaluation.~~
4 ~~Whenever in this article 65 a facility is to be designated or approved by~~
5 ~~the executive director, hospitals, if available, must be approved or~~
6 ~~designated in each county before other facilities are approved or~~
7 ~~designated. Whenever in this article 65 a facility is to be designated or~~
8 ~~approved by the executive director as a facility for a stated purpose and~~
9 ~~the facility to be designated or approved is a private facility, the consent~~
10 ~~of the private facility to the enforcement of standards set by the executive~~
11 ~~director is a prerequisite to the designation or approval.~~

12 ~~(c) Upon an affidavit sworn to or affirmed before a judge that~~
13 ~~relates sufficient facts to establish that a person appears to have a mental~~
14 ~~health disorder and, as a result of the mental health disorder, is in need of~~
15 ~~immediate evaluation for treatment to prevent physical or psychiatric~~
16 ~~harm to others or to the person's self, the court may order the person~~
17 ~~described in the affidavit to be transported to an outpatient mental health~~
18 ~~facility or other clinically appropriate facility designated or approved by~~
19 ~~the executive director.~~

20 (II) WHEN AN INTERVENING PROFESSIONAL REASONABLY BELIEVES
21 THAT A PERSON APPEARS TO HAVE A MENTAL HEALTH DISORDER AND, AS
22 A RESULT OF THE MENTAL HEALTH DISORDER, APPEARS TO BE AN
23 IMMINENT DANGER TO THE PERSON'S SELF OR OTHERS OR APPEARS TO BE
24 GRAVELY DISABLED, THE INTERVENING PROFESSIONAL MAY CAUSE THE
25 PERSON TO BE TAKEN INTO PROTECTIVE CUSTODY AND TRANSPORTED TO
26 AN EMERGENCY MEDICAL SERVICES FACILITY OR A FACILITY DESIGNATED
27 BY THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH HOLD. THE

1 INTERVENING PROFESSIONAL MAY REQUEST ASSISTANCE FROM A
2 CERTIFIED PEACE OFFICER, EMERGENCY MEDICAL SERVICES PROVIDER, A
3 SECURE TRANSPORTATION PROVIDER, OR A BEHAVIORAL HEALTH CRISIS
4 RESPONSE TEAM FOR ASSISTANCE IN DETAINING AND TRANSPORTING THE
5 PERSON.

6 ~~(d) (b) (I) individual may petition~~ WHEN A PERSON PETITIONS the
7 court in the county in which the respondent resides or is physically
8 present REQUESTING AN EVALUATION OF THE RESPONDENT'S CONDITION
9 AND alleging that ~~there is a person who~~ THE RESPONDENT appears to have
10 a mental health disorder and, as a result of the mental health disorder,
11 appears to be a danger to THE RESPONDENT'S SELF OR others ~~or to the~~
12 ~~person's self~~ or appears to be gravely disabled. ~~and requesting an~~
13 ~~evaluation of the person's condition.~~

14 (II) ANY PERSON WHO FILES A MALICIOUS OR FALSE PETITION FOR
15 AN EVALUATION OF A RESPONDENT PURSUANT TO THIS SECTION IS SUBJECT
16 TO CRIMINAL PROSECUTION.

17 (2) When a person is taken into custody pursuant to subsection (1)
18 of this section, the person must not be detained in a jail, lockup, or other
19 place used for the confinement of persons charged with or convicted of
20 penal offenses. UNLESS OTHERWISE REQUIRED BY LAW, A CERTIFIED
21 PEACE OFFICER MAY TRANSPORT THE PERSON TO AN EMERGENCY MEDICAL
22 SERVICES FACILITY OR FACILITY DESIGNATED BY THE COMMISSIONER EVEN
23 IF A WARRANT HAS BEEN ISSUED FOR THE PERSON'S ARREST IF THE
24 CERTIFIED PEACE OFFICER BELIEVES IT IS IN THE BEST INTEREST OF THE
25 PERSON. THE PERSON MUST NOT BE HELD ON AN EMERGENCY MENTAL
26 HEALTH HOLD FOR LONGER THAN SEVENTY-TWO HOURS AFTER THE HOLD
27 IS PLACED OR ORDERED, UNLESS OTHERWISE AUTHORIZED BY OTHER

1 FEDERAL OR STATE LAWS, INCLUDING THE FEDERAL "EMERGENCY
2 MEDICAL TREATMENT AND LABOR ACT", 42 U.S.C. SEC. 1395dd.

3 (3) When a person is ~~taken into emergency custody by an~~
4 ~~intervening professional or certified police officer~~ PLACED ON AN
5 EMERGENCY MENTAL HEALTH HOLD pursuant to subsection (1) of this
6 section and is presented to an emergency medical services facility or a
7 facility ~~that is~~ designated ~~or approved~~ by the ~~executive director~~
8 COMMISSIONER, the facility shall require ~~an~~ A BEHAVIORAL HEALTH
9 ADMINISTRATION-APPROVED application in writing, stating the
10 circumstances under which the person's condition was called to the
11 attention of the intervening professional or certified peace officer and
12 further stating sufficient facts, obtained from the intervening
13 professional's or certified peace officer's personal observations or
14 obtained from others whom the intervening professional or certified peace
15 officer reasonably believes to be reliable, to establish that the person has
16 a mental health disorder and, as a result of the mental health disorder, is
17 an imminent danger to THE PERSON'S SELF OR others or ~~the person's self~~
18 ~~is gravely disabled. or is in need of immediate evaluation for treatment.~~
19 The application must indicate when the person was taken into custody and
20 who brought the person's condition to the attention of the intervening
21 professional OR CERTIFIED PEACE OFFICER. A copy of the application must
22 be furnished to the person being evaluated, and the application must be
23 retained in accordance with ~~the provisions of section 27-65-121 (4)~~
24 SECTION 27-65-123 (4).

25 (4) (a) The petition for a court-ordered evaluation FILED
26 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION must contain the
27 following:

1 (I) The name and address of the petitioner and the petitioner's
2 interest in the case;

3 (II) The name of the ~~person~~ RESPONDENT for whom evaluation is
4 sought, ~~who is designated as the respondent~~, and, if known to the
5 petitioner, the address, age, ~~sex~~ GENDER, marital status, ~~and~~ occupation,
6 ~~of the respondent~~, AND ANY ANIMALS OR DEPENDENT CHILDREN IN THE
7 RESPONDENT'S CARE;

8 (III) Allegations of fact indicating that the respondent may have
9 a mental health disorder and, as a result of the mental health disorder, be
10 a danger to THE RESPONDENT'S SELF OR others ~~the respondent's self~~ or be
11 gravely disabled and showing reasonable grounds to warrant an
12 evaluation;

13 (IV) The name and address of every person known or believed by
14 the petitioner to be legally responsible for the care, support, and
15 maintenance of the respondent, if available; AND

16 (V) The name, address, and telephone number of the attorney, if
17 any, who has most recently represented the respondent. ~~If there is no~~
18 ~~attorney, there shall be a statement as to whether, to the best knowledge~~
19 ~~of the petitioner, the respondent meets the criteria established by the legal~~
20 ~~aid agency operating in the county or city and county for it to represent~~
21 ~~a client.~~

22 (b) Upon receipt of a petition satisfying the requirements of
23 subsection (4)(a) of this section, IF THE COURT IS NOT SATISFIED THAT
24 PROBABLE CAUSE EXISTS TO ISSUE AN ORDER FOR AN EVALUATION, the
25 court shall ~~designate~~ IDENTIFY a facility ~~approved~~ DESIGNATED by the
26 ~~executive director~~ COMMISSIONER, an intervening professional, or
27 certified peace officer to provide screening of the respondent to determine

1 whether ~~there is~~ probable cause EXISTS to believe the allegations.

2 (c) Following THE screening DESCRIBED IN SUBSECTION (4)(b) OF
3 THIS SECTION, the facility, intervening professional, or certified peace
4 officer designated by the court shall file a report with the court AND MAY
5 INITIATE AN EMERGENCY MENTAL HEALTH HOLD AT THE TIME OF
6 SCREENING. The report must include a recommendation as to whether
7 ~~there is~~ probable cause EXISTS to believe that the respondent has a mental
8 health disorder and, as a result of the mental health disorder, is a danger
9 to THE RESPONDENT'S SELF OR others ~~the respondent's self~~ or is gravely
10 disabled and whether the respondent will voluntarily receive evaluation
11 or treatment. The screening report submitted to the court pursuant to this
12 subsection (4)(c) is confidential in accordance with section 27-65-123 and
13 must be furnished to the respondent or the respondent's attorney or
14 personal representative.

15 (d) Whenever it appears, by petition and screening pursuant to this
16 section, to the satisfaction of the court that probable cause exists to
17 believe that the respondent has a mental health disorder and, as a result
18 of the mental health disorder, is a danger to THE RESPONDENT'S SELF OR
19 others ~~the respondent's self~~ or is gravely disabled and that efforts have
20 been made to secure the cooperation of the respondent ~~who~~ BUT THE
21 RESPONDENT has refused or failed to accept evaluation voluntarily, the
22 court shall issue an order for evaluation authorizing a certified peace
23 officer or secure transportation provider to take the respondent into
24 custody and transport the respondent to a facility designated by the
25 ~~executive director~~ COMMISSIONER for ~~seventy-two-hour treatment and~~
26 ~~evaluation~~ AN EMERGENCY MENTAL HEALTH HOLD. At the time of taking
27 the respondent IS TAKEN into custody, a copy of the petition and the order

1 for evaluation must be given to the respondent and promptly thereafter to
2 ~~any~~ THE one LAY person designated by the respondent and to the person
3 in charge of the ~~seventy-two-hour treatment and evaluation~~ facility named
4 in the order or the person's designee. IF THE RESPONDENT REFUSES TO
5 ACCEPT A COPY OF THE PETITION AND THE ORDER FOR EVALUATION, SUCH
6 REFUSAL MUST BE DOCUMENTED IN THE PETITION AND THE ORDER FOR
7 EVALUATION.

8 (5) ~~If the seventy-two-hour treatment and evaluation facility~~
9 ~~admits the person, it~~ WHEN A PERSON IS TRANSPORTED TO AN EMERGENCY
10 MEDICAL SERVICES FACILITY OR A FACILITY DESIGNATED BY THE
11 COMMISSIONER, THE FACILITY may detain the person under an emergency
12 mental health hold for evaluation ~~and treatment~~ for a period not to exceed
13 seventy-two hours ~~excluding Saturdays, Sundays, and holidays if~~
14 ~~evaluation and treatment services are not available on those days. For the~~
15 ~~purposes of this subsection (4), evaluation and treatment services are not~~
16 ~~deemed to be available merely because a professional person is on call~~
17 ~~during weekends or holidays~~ FROM THE TIME THE EMERGENCY MENTAL
18 HEALTH HOLD WAS PLACED OR ORDERED. If, in the opinion of the
19 ~~professional~~ person in charge of the evaluation, the person can be
20 properly cared for without being detained, the person shall be provided
21 services on a voluntary basis. IF THE PERSON IN CHARGE OF THE
22 EVALUATION DETERMINES THE PERSON SHOULD BE RELEASED, THE PERSON
23 MAY TERMINATE THE EMERGENCY MENTAL HEALTH HOLD. DURING THE
24 EVALUATION, PROFESSIONAL LIABILITY REMAINS WITH THE PERSON IN
25 CHARGE OF THE EVALUATION.

26 (6) (a) Each person ~~admitted to a seventy-two-hour treatment and~~
27 ~~evaluation facility under the provisions of this article shall~~ DETAINED FOR

1 AN EMERGENCY MENTAL HEALTH HOLD PURSUANT TO THIS SECTION SHALL
2 receive an evaluation as soon as possible after the person is ~~admitted~~
3 PRESENTED TO THE FACILITY and shall receive such treatment and care as
4 the person's condition requires for the full period that the person is held.
5 ~~The person shall be released before seventy-two hours have elapsed if, in~~
6 ~~the opinion of the professional person in charge of the evaluation, the~~
7 ~~person no longer requires evaluation or treatment. Persons who have been~~
8 ~~detained for seventy-two-hour evaluation and treatment shall~~ THE
9 EVALUATION MUST STATE WHETHER THE PERSON SHOULD be released,
10 referred for further care and treatment on a voluntary basis, or certified
11 for SHORT-TERM treatment pursuant to section 27-65-109.

12 (b) EACH EVALUATION MUST BE COMPLETED USING A
13 STANDARDIZED FORM APPROVED BY THE COMMISSIONER AND MAY BE
14 COMPLETED BY A PROFESSIONAL PERSON; A LICENSED ADVANCED
15 PRACTICE REGISTERED NURSE WITH TRAINING IN PSYCHIATRIC NURSING;
16 OR A LICENSED PHYSICIAN ASSISTANT, A LICENSED CLINICAL SOCIAL
17 WORKER, A LICENSED PROFESSIONAL COUNSELOR, OR A LICENSED
18 MARRIAGE AND FAMILY THERAPIST WHO HAS TWO YEARS OF EXPERIENCE
19 IN BEHAVIORAL HEALTH SAFETY AND RISK ASSESSMENT WORKING IN A
20 HEALTH-CARE SETTING.

21 (c) IF THE PERSON CONDUCTING AN EVALUATION PURSUANT TO
22 SUBSECTION (6)(a) OF THIS SECTION IS NOT A PROFESSIONAL PERSON AND
23 THE EVALUATING PERSON RECOMMENDS THE DETAINED PERSON BE
24 CERTIFIED FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
25 27-65-109, THE EVALUATING PERSON SHALL NOTIFY THE FACILITY OF THE
26 RECOMMENDATION. A CERTIFICATION MAY ONLY BE INITIATED BY A
27 PROFESSIONAL PERSON OR THROUGH A COURT ORDER ISSUED PURSUANT

1 TO SECTION 27-65-108.

2 (7) (a) IF A PERSON IS EVALUATED AT AN EMERGENCY MEDICAL
3 SERVICES FACILITY AND THE EVALUATING PROFESSIONAL DETERMINES
4 THAT THE PERSON CONTINUES TO MEET THE CRITERIA FOR AN EMERGENCY
5 MENTAL HEALTH HOLD PURSUANT TO SUBSECTION (1) OF THIS SECTION
6 AND THE INITIAL EMERGENCY MENTAL HEALTH HOLD IS EXPECTED TO
7 EXPIRE BEFORE AN APPROPRIATE PLACEMENT IS LOCATED, THE
8 EMERGENCY MEDICAL SERVICES FACILITY SHALL IMMEDIATELY NOTIFY
9 THE BEHAVIORAL HEALTH ADMINISTRATION. ONCE NOTIFIED, THE BHA
10 SHALL SUPPORT THE EMERGENCY MEDICAL SERVICES FACILITY IN
11 LOCATING AN APPROPRIATE PLACEMENT OPTION ON AN INPATIENT OR
12 OUTPATIENT BASIS, WHICHEVER IS CLINICALLY APPROPRIATE.

13 (b) IF AN APPROPRIATE PLACEMENT OPTION CANNOT BE LOCATED
14 PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION AND THE PERSON
15 CONTINUES TO MEET THE CRITERIA FOR AN EMERGENCY MENTAL HEALTH
16 HOLD PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE EMERGENCY
17 MEDICAL SERVICES FACILITY MAY PLACE THE PERSON UNDER A SECOND
18 EMERGENCY MENTAL HEALTH HOLD AND THE FACILITY SHALL
19 IMMEDIATELY NOTIFY THE BHA, THE PERSON'S LAY PERSON, AND THE
20 COURT, AND THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO
21 REPRESENT THE PERSON. IF THE PERSON HAS BEEN RECENTLY
22 TRANSFERRED FROM AN EMERGENCY MEDICAL SERVICES FACILITY TO A
23 FACILITY DESIGNATED BY THE COMMISSIONER AND THE DESIGNATED
24 FACILITY IS ABLE TO DEMONSTRATE THAT THE FACILITY IS UNABLE TO
25 COMPLETE THE EVALUATION BEFORE THE INITIAL EMERGENCY MENTAL
26 HEALTH HOLD IS SET TO EXPIRE, THE DESIGNATED FACILITY MAY PLACE
27 THE PERSON UNDER A SECOND EMERGENCY MENTAL HEALTH HOLD AND

1 SHALL IMMEDIATELY NOTIFY THE BHA AND LAY PERSON.

2 (c) THE BHA SHALL MAINTAIN DATA ON THE CHARACTERISTICS OF
3 EACH PERSON PLACED ON A SECOND EMERGENCY MENTAL HEALTH HOLD
4 PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION. THE BHA MAY
5 CONTRACT WITH ENTITIES COORDINATING CARE OR WITH PROVIDERS
6 SERVING WITHIN THE SAFETY NET SYSTEM DEVELOPED PURSUANT TO
7 SECTION 27-63-105 TO MEET THE REQUIREMENTS OF THIS SUBSECTION (7).

8 (8) (a) THE FACILITY SHALL PROVIDE EACH PERSON DETAINED OR
9 EVALUATED FOR AN EMERGENCY MENTAL HEALTH HOLD A DISCHARGE
10 SUMMARY AND COPY OF THE COMPLETED EVALUATION. THE DISCHARGE
11 SUMMARY MUST BE COMPLETED FOR EVERY PERSON, REGARDLESS OF THE
12 PERSON'S DISCHARGE STATUS, BEFORE THE PERSON IS RELEASED AND MUST
13 BE SIGNED BY THE DETAINED PERSON OR THE PERSON'S PARENT OR LEGAL
14 GUARDIAN, IF APPLICABLE; THE EVALUATING PERSON, WHEN POSSIBLE;
15 AND THE CLINICAL SUPERVISOR OR PROGRAM DIRECTOR. IF THE DETAINED
16 PERSON REFUSES TO SIGN THE DISCHARGE SUMMARY, THE REFUSAL MUST
17 BE DOCUMENTED IN THE PERSON'S MEDICAL RECORD. AT A MINIMUM, THE
18 DISCHARGE SUMMARY MUST INCLUDE:

19 (I) A CONTINUING CARE PLAN, WHICH AT A MINIMUM MUST
20 INCLUDE:

21 (A) A CLINICALLY APPROPRIATE SUPPLY OF MEDICATIONS FOR THE
22 PERSON UNTIL THE PERSON CAN ACCESS ANOTHER PROVIDER OR
23 FOLLOW-UP APPOINTMENT;

24 (B) A SAFETY PLAN FOR THE PERSON AND, IF APPLICABLE, THE
25 PERSON'S LAY PERSON;

26 (C) NOTIFICATION TO THE PERSON'S PRIMARY CARE PROVIDER, IF
27 APPLICABLE;

1 (D) A REFERRAL TO APPROPRIATE SERVICES IN THE COMMUNITY IF
2 THE PERSON IS DISCHARGED WITHOUT FOOD, HOUSING, OR ECONOMIC
3 SECURITY;

4 (E) THE PHONE NUMBER TO CALL OR TEXT THE COLORADO CRISIS
5 SERVICES HOTLINE AND INFORMATION ON THE AVAILABILITY OF PEER
6 SUPPORT SERVICES; AND

7 (F) INFORMATION ON HOW TO ESTABLISH A PSYCHIATRIC ADVANCE
8 DIRECTIVE IF ONE IS NOT PRESENTED;

9 (II) MEDICATIONS THAT WERE CHANGED DURING THE EMERGENCY
10 MENTAL HEALTH HOLD, INCLUDING ANY MEDICATIONS THAT THE PERSON
11 WAS TAKING OR THAT WERE PREVIOUSLY PRESCRIBED UPON ADMISSION,
12 AND WHICH MEDICATIONS, IF ANY, WERE CHANGED OR DISCONTINUED AT
13 THE TIME OF DISCHARGE;

14 (III) A LIST OF ANY SCREENING OR DIAGNOSTIC TESTS CONDUCTED
15 DURING THE EMERGENCY MENTAL HEALTH HOLD;

16 (IV) A SUMMARY OF THERAPEUTIC TREATMENTS PROVIDED
17 DURING THE EMERGENCY MENTAL HEALTH HOLD;

18 (V) ANY LABORATORY WORK, INCLUDING BLOOD SAMPLES OR
19 IMAGING THAT WAS COMPLETED OR ATTEMPTED;

20 (VI) THE PERSON'S VITAL SIGNS UPON DISCHARGE FROM THE
21 EMERGENCY MENTAL HEALTH HOLD;

22 (VII) A COPY OF ANY PSYCHIATRIC ADVANCE DIRECTIVE
23 PRESENTED TO THE FACILITY, IF APPLICABLE; AND

24 (VIII) HOW TO CONTACT THE DISCHARGING FACILITY IF NEEDED.

25 (b) THE FACILITY SHALL DOCUMENT IN THE PERSON'S MEDICAL
26 RECORD WHETHER THE PERSON ACCEPTED THE DISCHARGE SUMMARY. THE
27 FACILITY SHALL PROVIDE THE DISCHARGE SUMMARY TO THE PERSON'S

1 PARENT OR LEGAL GUARDIAN IF THE PERSON IS UNDER EIGHTEEN YEARS OF
2 AGE, AND TO THE PERSON'S LAY PERSON, WHEN POSSIBLE.

3 (c) UPON DISCHARGE, THE FACILITY SHALL DISCUSS WITH THE
4 PERSON, THE PERSON'S PARENT OR LEGAL GUARDIAN, OR THE PERSON'S
5 LAY PERSON THE STATEWIDE CARE COORDINATION INFRASTRUCTURE
6 ESTABLISHED IN SECTION 27-60-204 TO FACILITATE A FOLLOW-UP
7 APPOINTMENT FOR THE PERSON WITHIN SEVEN CALENDAR DAYS AFTER THE
8 DISCHARGE.

9 (d) THE FACILITY SHALL, AT A MINIMUM, ATTEMPT TO FOLLOW UP
10 WITH THE PERSON, THE PERSON'S PARENT OR LEGAL GUARDIAN, OR THE
11 PERSON'S LAY PERSON AT LEAST FORTY-EIGHT HOURS AFTER DISCHARGE.
12 THE FACILITY IS ENCOURAGED TO UTILIZE PEER SUPPORT PROFESSIONALS,
13 AS DEFINED IN SECTION 27-60-108 (2)(b), WHEN PERFORMING FOLLOW-UP
14 CARE WITH INDIVIDUALS AND IN DEVELOPING A CONTINUING CARE PLAN
15 PURSUANT TO SUBSECTION (8)(a)(I) OF THIS SECTION. THE FACILITY MAY
16 FACILITATE FOLLOW-UP CARE THROUGH CONTRACTS WITH
17 COMMUNITY-BASED BEHAVIORAL HEALTH PROVIDERS OR THE COLORADO
18 BEHAVIORAL HEALTH CRISIS HOTLINE.

19 (e) THE FACILITY SHALL ENCOURAGE THE PERSON TO DESIGNATE
20 A FAMILY MEMBER, FRIEND, OR OTHER PERSON AS A LAY PERSON TO
21 PARTICIPATE IN THE PERSON'S DISCHARGE PLANNING AND SHALL NOTIFY
22 THE PERSON THAT THE PERSON IS ABLE TO RESCIND THE AUTHORIZATION
23 OF A LAY PERSON AT ANY TIME. IF THE PERSON DESIGNATES A LAY PERSON
24 AND HAS PROVIDED NECESSARY AUTHORIZATION, THE FACILITY SHALL
25 ATTEMPT TO INVOLVE THE LAY PERSON IN THE PERSON'S DISCHARGE
26 PLANNING. THE FACILITY SHALL NOTIFY THE LAY PERSON THAT THE
27 PERSON IS BEING DISCHARGED OR TRANSFERRED.

1 (9) (a) On or before ~~July 1, 2019~~ JULY 1, 2023, and each July 1
2 thereafter, each emergency medical services facility that has ~~treated~~
3 EVALUATED a person pursuant to this section shall provide an annual
4 report to the ~~department~~ BEHAVIORAL HEALTH ADMINISTRATION that
5 includes only aggregate and nonidentifying information concerning
6 persons who were treated at an emergency medical services facility
7 pursuant to this section. The report must comply with section 24-1-136
8 (9) and is exempt from section 24-1-136 (11)(a)(I). The report must
9 contain the following:

10 (I) The names and counties of the facilities;

11 (II) The total number of persons treated pursuant to this section,
12 including a summary of demographic information;

13 (III) A summary regarding the different reasons for which persons
14 were treated pursuant to this section; and

15 (IV) A summary of the disposition of persons transferred to a
16 designated facility.

17 (b) (I) Any information aggregated and provided to the
18 ~~department~~ BEHAVIORAL HEALTH ADMINISTRATION pursuant to this
19 subsection (9) is privileged and confidential. Such information must not
20 be made available to the public except in an aggregate format that cannot
21 be used to identify an individual facility. The information is not subject
22 to civil subpoena and is not discoverable or admissible in any civil,
23 criminal, or administrative proceeding against an emergency medical
24 services facility or health-care professional. The information must be used
25 only to assess statewide behavioral health services needs and to plan for
26 sufficient levels of statewide behavioral health services. In ~~the collection~~
27 ~~of data to accomplish~~ COLLECTING THE DATA PURSUANT TO the

1 requirements of this subsection (9), the ~~department~~ BEHAVIORAL HEALTH
2 ADMINISTRATION shall protect the confidentiality of patient records, in
3 accordance with state and federal laws, and shall not disclose any public
4 identifying or proprietary information of any hospital, hospital
5 administrator, health-care professional, or employee of a health-care
6 facility.

7 (II) Subsection (9)(b)(I) of this section does not apply to
8 information that is otherwise available from a source outside of the data
9 collection activities required pursuant to ~~subsection (7)(a)~~ SUBSECTION
10 (9)(a) of this section.

11 (10) (a) A PERSON DETAINED FOR AN EMERGENCY MENTAL HEALTH
12 HOLD PURSUANT TO THIS SECTION HAS THE FOLLOWING RIGHTS:

13 (I) TO BE TOLD VERBALLY AND IN WRITING THE REASON FOR THE
14 PERSON'S DETAINMENT AND THE LIMITATIONS OF THE PERSON'S
15 DETAINMENT, INCLUDING A DESCRIPTION OF THE PERSON'S RIGHT TO
16 REFUSE MEDICATION AND THAT THE DETAINMENT DOES NOT MEAN ALL
17 TREATMENT DURING DETAINMENT IS MANDATORY;

18 (II) TO REQUEST A CHANGE TO VOLUNTARY STATUS;

19 (III) TO BE TREATED FAIRLY, WITH RESPECT AND RECOGNITION OF
20 THE PERSON'S DIGNITY AND INDIVIDUALITY, BY ALL EMPLOYEES OF THE
21 FACILITY WITH WHOM THE PERSON COMES IN CONTACT;

22 (IV) TO NOT BE DISCRIMINATED AGAINST ON THE BASIS OF AGE,
23 RACE, ETHNICITY, RELIGION, CULTURE, SPOKEN LANGUAGE, PHYSICAL OR
24 MENTAL DISABILITY, SOCIOECONOMIC STATUS, SEX, SEXUAL ORIENTATION,
25 GENDER IDENTITY, OR GENDER EXPRESSION;

26 (V) TO RETAIN AND CONSULT WITH AN ATTORNEY AT ANY TIME;

27 (VI) TO CONTINUE THE PRACTICE OF RELIGION;

1 (VII) WITHIN TWENTY-FOUR HOURS AFTER THE PERSON'S
2 REQUEST, TO SEE AND RECEIVE THE SERVICES OF A PATIENT
3 REPRESENTATIVE WHO HAS NO DIRECT OR INDIRECT CLINICAL,
4 ADMINISTRATIVE, OR FINANCIAL RESPONSIBILITY FOR THE PERSON;

5 (VIII) TO HAVE REASONABLE ACCESS TO TELEPHONES OR OTHER
6 COMMUNICATION DEVICES AND TO MAKE AND TO RECEIVE CALLS OR
7 COMMUNICATIONS IN PRIVATE. FACILITY STAFF SHALL NOT OPEN, DELAY,
8 INTERCEPT, READ, OR CENSOR MAIL OR OTHER COMMUNICATIONS OR USE
9 MAIL OR OTHER COMMUNICATIONS AS A METHOD TO ENFORCE
10 COMPLIANCE WITH FACILITY STAFF.

11 (IX) TO WEAR THE PERSON'S OWN CLOTHES, KEEP AND USE THE
12 PERSON'S OWN PERSONAL POSSESSIONS, INCLUDING THE PERSON'S CELL
13 PHONE, AND KEEP AND BE ALLOWED TO SPEND A REASONABLE SUM OF THE
14 PERSON'S OWN MONEY;

15 (X) TO HAVE THE PERSON'S INFORMATION AND RECORDS
16 DISCLOSED TO FAMILY MEMBERS AND A LAY PERSON PURSUANT TO
17 SECTION 27-65-123;

18 (XI) TO HAVE THE PERSON'S TREATMENT RECORDS REMAIN
19 CONFIDENTIAL, EXCEPT AS REQUIRED BY LAW;

20 (XII) TO NOT BE FINGERPRINTED, UNLESS REQUIRED BY LAW;

21 (XIII) TO NOT BE PHOTOGRAPHED, EXCEPT UPON ADMISSION FOR
22 IDENTIFICATION AND ADMINISTRATIVE PURPOSES. ANY PHOTOGRAPHS
23 MUST BE CONFIDENTIAL AND MUST NOT BE RELEASED BY THE FACILITY
24 EXCEPT PURSUANT TO A COURT ORDER. NONMEDICAL PHOTOGRAPHS MUST
25 NOT BE TAKEN OR USED WITHOUT APPROPRIATE CONSENT OR
26 AUTHORIZATION.

27 (XIV) TO HAVE APPROPRIATE ACCESS TO ADEQUATE WATER,

1 HYGIENE PRODUCTS, AND FOOD AND TO HAVE THE PERSON'S NUTRITIONAL
2 NEEDS MET IN A MANNER THAT IS CONSISTENT WITH RECOGNIZED DIETARY
3 PRACTICES;

4 (XV) TO HAVE PERSONAL PRIVACY TO THE EXTENT POSSIBLE
5 DURING THE COURSE OF TREATMENT; AND

6 (XVI) TO HAVE THE ABILITY TO MEET WITH VISITORS IN
7 ACCORDANCE WITH THE FACILITY'S CURRENT VISITOR GUIDELINES.

8 (b) A PERSON'S RIGHTS UNDER THIS SUBSECTION (10) MAY ONLY
9 BE DENIED IF ACCESS TO THE ITEM, PROGRAM, OR SERVICE WOULD
10 ENDANGER THE SAFETY OF THE PERSON OR ANOTHER PERSON IN CLOSE
11 PROXIMITY AND MAY ONLY BE DENIED BY A PERSON INVOLVED IN THE
12 PERSON'S CARE. DENIAL OF ANY RIGHT MUST BE ENTERED INTO THE
13 PERSON'S TREATMENT RECORD AND MUST BE MADE AVAILABLE, UPON
14 REQUEST, TO THE PERSON, THE PERSON'S LEGAL GUARDIAN, OR THE
15 PERSON'S ATTORNEY.

16 (c) A FACILITY SHALL NOT INTENTIONALLY RETALIATE OR
17 DISCRIMINATE AGAINST A DETAINED PERSON OR EMPLOYEE FOR
18 CONTACTING OR PROVIDING INFORMATION TO ANY OFFICIAL OR TO AN
19 EMPLOYEE OF ANY STATE PROTECTION AND ADVOCACY AGENCY OR FOR
20 INITIATING, PARTICIPATING IN, OR TESTIFYING IN A GRIEVANCE PROCEDURE
21 OR IN AN ACTION FOR ANY REMEDY AUTHORIZED PURSUANT TO THIS
22 SECTION. ANY FACILITY THAT VIOLATES THIS SUBSECTION (10) COMMITS
23 AN UNCLASSIFIED MISDEMEANOR AND SHALL BE FINED NOT MORE THAN
24 ONE THOUSAND DOLLARS.

25 (d) ANY PERSON WHOSE RIGHTS ARE DENIED OR VIOLATED
26 PURSUANT TO THIS SECTION HAS A PRIVATE RIGHT OF ACTION AGAINST THE
27 FACILITY THAT DENIED OR VIOLATED THE RIGHTS IN QUESTION, INCLUDING

1 THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE. THE PERSON
2 MAY RECOVER ANY ACTUAL AND EXEMPLARY DAMAGES OF NOT LESS
3 THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION AND ANY COSTS AND
4 REASONABLE ATTORNEY FEES INCURRED BY THE PERSON.

5 **SECTION 3.** In Colorado Revised Statutes, 27-65-109, **amend**
6 **as added by House Bill 22-_____** (1), (2), (3), (4), (6), (7), (8), and (10)
7 as follows:

8 **27-65-109. Certification for short-term treatment - procedure.**

9 (1) If A person ~~detained pursuant to section 27-65-106 has received an~~
10 ~~evaluation, the person~~ may be certified for not more than three months for
11 short-term treatment under the following conditions:

12 (a) (I) The professional staff of the ~~agency or facility providing~~
13 ~~seventy-two-hour treatment and evaluation has analyzed the person's~~
14 ~~condition~~ DETAINING THE PERSON ON AN EMERGENCY MENTAL HEALTH
15 HOLD HAS EVALUATED THE PERSON and has found the person has a mental
16 health disorder and, as a result of the mental health disorder, is a danger
17 to ~~others or to~~ the person's self or others or is gravely disabled; OR

18 (II) THE COURT CERTIFIED THE PERSON FOR SHORT-TERM
19 TREATMENT PURSUANT TO SECTION 27-65-108;

20 (b) The person has been advised of the availability of, but has not
21 accepted, voluntary treatment; but, if reasonable grounds exist to believe
22 that the person will not remain in a voluntary treatment program, the
23 person's acceptance of voluntary treatment does not preclude certification;
24 **and**

25 (c) The facility OR COMMUNITY PROVIDER that will provide
26 short-term treatment has been designated ~~or approved by the executive~~
27 ~~director~~ BY THE COMMISSIONER to provide such treatment; AND

1 (d) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE
2 PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE
3 PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE CERTIFICATION
4 FOR SHORT-TERM TREATMENT.

5 (2) The notice of certification must be signed by a professional
6 person ~~on the staff of the evaluation facility~~ who participated in the
7 evaluation ~~and~~ OR THE JUDGE OR MAGISTRATE WHO CERTIFIED THE
8 RESPONDENT FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
9 27-65-108. THE NOTICE OF CERTIFICATION must:

10 (a) State facts sufficient to establish reasonable grounds to believe
11 that the ~~person~~ RESPONDENT has a mental health disorder and, as a result
12 of the mental health disorder, is a danger to ~~others or to the person's self~~
13 THE RESPONDENT'S SELF OR OTHERS or is gravely disabled;

14 (b) Be filed with the court within forty-eight hours ~~excluding~~
15 ~~Saturdays, Sundays, and court holidays,~~ of AFTER the date of certification;
16 ~~and~~

17 (c) Be filed with the court in the county in which the respondent
18 resided or was physically present immediately prior to being taken into
19 custody; AND

20 (d) PROVIDE RECOMMENDATIONS IF THE CERTIFICATION SHOULD
21 TAKE PLACE ON AN INPATIENT OR OUTPATIENT BASIS.

22 (3) Within twenty-four hours after certification, copies of the
23 certification must be personally delivered to the respondent, THE
24 BEHAVIORAL HEALTH ADMINISTRATION, and a copy must be kept by the
25 ~~evaluation~~ EVALUATING facility as part of the respondent's record, IF
26 APPLICABLE. The FACILITY OR COURT SHALL ASK THE respondent ~~must~~
27 ~~also be asked~~ to designate ~~one other person~~ A LAY PERSON whom the

1 respondent wishes TO BE informed regarding certification. If the
2 respondent is incapable of making such a designation at the time the
3 certification is delivered, ~~he or she~~ THE RESPONDENT must be asked to
4 designate ~~such~~ A LAY person as soon as the respondent is capable. In
5 addition to the copy of the certification, the respondent must be given a
6 written notice that a hearing upon the respondent's certification for
7 short-term treatment may be had before the court or a jury upon written
8 request directed to the court pursuant to subsection (6) of this section.

9 (4) Upon certification of the respondent, the ~~facility designated for~~
10 ~~short-term treatment has~~ BEHAVIORAL HEALTH ADMINISTRATION HAS
11 custody of the respondent. THE BHA MAY DELEGATE PHYSICAL CUSTODY
12 OF THE RESPONDENT TO A FACILITY DESIGNATED BY THE COMMISSIONER
13 AND THE REQUIREMENT FOR THE PROVISION OF SERVICES AND CARE
14 COORDINATION.

15 (6) The respondent ~~for short-term treatment~~ or the respondent's
16 attorney may at any time file a written request that the certification for
17 short-term treatment or the treatment be reviewed by the court or that the
18 treatment be on an outpatient basis. If review is requested, the court shall
19 hear the matter within ten days after the request, and the court shall give
20 notice to the respondent and the respondent's attorney and the ~~certifying~~
21 ~~and treating professional person~~ BEHAVIORAL HEALTH ADMINISTRATION
22 of the time and place ~~thereof~~ OF THE HEARING. The hearing must be held
23 in accordance with section 27-65-113. At the conclusion of the hearing,
24 the court may enter or confirm the certification for short-term treatment,
25 discharge the respondent, or enter any other appropriate order. ~~subject to~~
26 ~~available appropriations.~~

27 (7) Records and papers in proceedings ~~under~~ PURSUANT TO this

1 section must be maintained separately by the clerks of the several courts.
2 Upon the release of any respondent in accordance with section 27-65-112,
3 the facility shall notify the clerk of the court within five days after the
4 release, and the clerk shall ~~forthwith~~ IMMEDIATELY seal the record in the
5 case and omit the name of the respondent from the index of cases in the
6 court until and unless the respondent becomes subject to an order of
7 CERTIFICATION FOR long-term care and treatment pursuant to section
8 27-65-110 or until and unless the court orders ~~them~~ THE RECORDS opened
9 for good cause shown. In the event a petition is filed pursuant to section
10 27-65-110, the certification record may be opened and become a part of
11 the record in the long-term care and treatment case and the name of the
12 respondent indexed.

13 (8) Whenever it appears to the court, by reason of a report by the
14 treating professional person OR THE BEHAVIORAL HEALTH
15 ADMINISTRATION or any other report satisfactory to the court, that a
16 respondent detained for evaluation and treatment or certified for
17 SHORT-TERM treatment should be transferred to another facility for
18 treatment and the safety of the respondent or the public requires that the
19 respondent be transported by a secure transportation provider or a ~~sheriff~~
20 A CERTIFIED PEACE OFFICER, the court may issue an order directing ~~the~~
21 ~~sheriff or the sheriff's~~ A CERTIFIED PEACE OFFICER, THE CERTIFIED PEACE
22 OFFICER'S designee, OR SECURE TRANSPORTATION PROVIDER to deliver the
23 respondent to the designated facility.

24 (10) If the professional person in charge of the evaluation and
25 treatment believes that a period longer than three months is necessary ~~for~~
26 ~~treatment of~~ TO TREAT the respondent, the professional person shall file
27 with the court an extended certification AT LEAST THIRTY DAYS PRIOR TO

1 THE EXPIRATION DATE OF THE ORIGINAL CERTIFICATION. An extended
2 certification for treatment ~~is~~ MUST NOT BE for a period of more than three
3 months. The respondent is entitled to a hearing on the extended
4 certification under the same conditions as an original certification. The
5 attorney initially representing the respondent shall continue to represent
6 the respondent, unless the court appoints another attorney.

7 **SECTION 4.** In Colorado Revised Statutes, **amend as added by**
8 **House Bill 22-____** 27-65-112 as follows:

9 **27-65-112. Termination of certification for short-term and**
10 **long-term treatment.** (1) An original or extended certification for
11 short-term treatment ISSUED PURSUANT TO SECTION 27-65-109, or an order
12 OR EXTENSION FOR CERTIFICATION for long-term care and treatment ~~or any~~
13 ~~extension thereof~~ PURSUANT TO SECTION 27-65-110 terminates as soon as
14 ~~in the opinion of~~ the professional person in charge of treatment of the
15 respondent AND THE BEHAVIORAL HEALTH ADMINISTRATION DETERMINE
16 the respondent has received sufficient benefit from ~~such~~ THE treatment for
17 the respondent to ~~leave~~ END VOLUNTARY TREATMENT. Whenever a
18 certification or extended certification is terminated pursuant to this
19 section, the professional person in charge of providing treatment shall ~~so~~
20 notify the court in writing within five days after THE termination. ~~The~~
21 ~~professional person may also prescribe day care, night care, or any other~~
22 ~~similar mode of treatment prior to termination.~~

23 (2) Before termination, ~~an escaped~~ A respondent WHO LEAVES A
24 FACILITY may be returned to the facility by order of the court without a
25 hearing or by the superintendent or director of the facility without ~~order~~
26 ~~of~~ A court ORDER. After termination, a respondent may be returned to the
27 facility only in accordance with this article 65.

1 **SECTION 5.** In Colorado Revised Statutes, **amend as added by**
2 **House Bill 22-____** 27-65-119 as follows:

3 **27-65-119. [Formerly 27-65-117] Rights of respondents**
4 **certified for short-term treatment or long-term care and treatment.**

5 (1) Each ~~person receiving evaluation, care or treatment pursuant to any~~
6 ~~provision of this article~~ RESPONDENT CERTIFIED FOR SHORT-TERM
7 TREATMENT OR LONG-TERM CARE AND TREATMENT ON AN INPATIENT
8 BASIS PURSUANT TO SECTIONS 27-65-108, 27-65-109, AND 27-65-110 has
9 the following rights and shall be advised of such rights by the facility:

10 (a) TO BE TREATED FAIRLY, WITH RESPECT AND RECOGNITION OF
11 THE RESPONDENT'S DIGNITY AND INDIVIDUALITY, BY ALL EMPLOYEES OF
12 THE FACILITY WITH WHOM THE RESPONDENT COMES IN CONTACT;

13 (b) TO NOT BE DISCRIMINATED AGAINST ON THE BASIS OF AGE,
14 RACE, ETHNICITY, RELIGION, CULTURE, SPOKEN LANGUAGE, PHYSICAL OR
15 MENTAL DISABILITY, SOCIOECONOMIC STATUS, SEX, SEXUAL ORIENTATION,
16 GENDER IDENTITY, OR GENDER EXPRESSION;

17 (c) TO RETAIN AND CONSULT WITH AN ATTORNEY AT ANY TIME;

18 (d) TO MEET WITH OR CALL A PERSONAL CLINICIAN, SPIRITUAL
19 ADVISOR, COUNSELOR, CRISIS HOTLINE, FAMILY MEMBER, WORKPLACE,
20 CHILD CARE PROVIDER, OR SCHOOL AT ALL REASONABLE TIMES;

21 (e) TO CONTINUE THE PRACTICE OF RELIGION;

22 (f) WITHIN TWENTY-FOUR HOURS AFTER THE RESPONDENT'S
23 REQUEST, TO SEE AND RECEIVE THE SERVICES OF A PATIENT
24 REPRESENTATIVE WHO HAS NO DIRECT OR INDIRECT CLINICAL,
25 ADMINISTRATIVE, OR FINANCIAL RESPONSIBILITY FOR THE PERSON;

26 ~~(a) (g) To receive and send sealed correspondence, No incoming~~
27 ~~or outgoing correspondence shall be opened, delayed, held, or censored~~

1 ~~by the personnel of the facility~~ AS WELL AS TO BE GIVEN THE ASSISTANCE
2 OF FACILITY STAFF IF THE RESPONDENT IS UNABLE TO WRITE, PREPARE, OR
3 MAIL CORRESPONDENCE. FACILITY STAFF SHALL NOT OPEN, DELAY,
4 INTERCEPT, READ, OR CENSOR MAIL OR OTHER COMMUNICATIONS OR USE
5 MAIL OR OTHER COMMUNICATIONS AS A METHOD TO ENFORCE
6 COMPLIANCE WITH FACILITY STAFF;

7 (h) TO HAVE THE RESPONDENT'S BEHAVIORAL HEALTH ORDERS FOR
8 SCOPE OF TREATMENT OR PSYCHIATRIC ADVANCE DIRECTIVE REVIEWED
9 AND CONSIDERED BY THE COURT AS THE PREFERRED TREATMENT OPTION
10 FOR INVOLUNTARY ADMINISTRATION OF MEDICATIONS UNLESS, BY CLEAR
11 AND CONVINCING EVIDENCE, THE RESPONDENT'S DIRECTIVE DOES NOT
12 QUALIFY AS EFFECTIVE PARTICIPATION IN BEHAVIORAL HEALTH
13 DECISION-MAKING;

14 (i) TO HAVE REASONABLE ACCESS TO TELEPHONES OR OTHER
15 COMMUNICATION DEVICES AND TO MAKE AND RECEIVE CALLS OR
16 COMMUNICATIONS IN PRIVATE;

17 ~~(d)~~ (j) To have frequent and convenient opportunities to meet with
18 visitors; ~~Each person may~~

19 (k) To see ~~the person's~~ THE RESPONDENT'S attorney, clergy person,
20 or physician at any time;

21 ~~(e)~~ (l) To wear ~~the person's~~ THE RESPONDENT'S own clothes, keep
22 and use ~~his or her~~ THE RESPONDENT'S own personal possessions,
23 INCLUDING THE PERSON'S CELL PHONE, and keep and be allowed to spend
24 a reasonable sum of ~~the person's~~ THE RESPONDENT'S own money;

25 (m) TO HAVE THE RESPONDENT'S INFORMATION AND RECORDS
26 DISCLOSED TO FAMILY MEMBERS AND A LAY PERSON PURSUANT TO
27 SECTION 27-65-123;

1 (n) TO HAVE THE RESPONDENT'S TREATMENT RECORDS REMAIN
2 CONFIDENTIAL, EXCEPT AS REQUIRED BY LAW;

3 (o) TO HAVE APPROPRIATE ACCESS TO ADEQUATE WATER, HYGIENE
4 PRODUCTS, AND FOOD AND TO HAVE THE RESPONDENT'S NUTRITIONAL
5 NEEDS MET IN A MANNER THAT IS CONSISTENT WITH RECOGNIZED DIETARY
6 PRACTICES;

7 (p) TO HAVE PERSONAL PRIVACY TO THE EXTENT POSSIBLE DURING
8 THE COURSE OF TREATMENT; AND

9 (q) TO HAVE ACCESS TO A REPRESENTATIVE WITHIN THE FACILITY
10 WHO PROVIDES ASSISTANCE TO FILE A GRIEVANCE.

11 (2) A ~~person's~~ RESPONDENT'S rights under subsection (1) of this
12 section may be denied ~~for good cause only by the professional person~~
13 ~~providing treatment~~ IF ACCESS TO THE ITEM, PROGRAM, OR SERVICE
14 WOULD ENDANGER THE SAFETY OF THE RESPONDENT OR ANOTHER PERSON
15 IN CLOSE PROXIMITY AND MAY ONLY BE DENIED BY A PERSON INVOLVED
16 IN THE RESPONDENT'S CARE. Denial of any right ~~must in all cases~~ MUST be
17 entered into the ~~person's~~ RESPONDENT'S treatment record. Information
18 pertaining to a denial of rights contained in the ~~person's~~ RESPONDENT'S
19 treatment record must be made available, upon request, to the ~~person~~
20 RESPONDENT, THE RESPONDENT'S LEGAL GUARDIAN, or ~~the person's~~ THE
21 RESPONDENT'S attorney.

22 (3) ~~No person~~ A RESPONDENT admitted to or in a facility ~~shall~~
23 MUST NOT be fingerprinted unless required by other provisions of law.

24 (4) A ~~person~~ RESPONDENT may be photographed upon admission
25 for identification and the administrative purposes of the facility. The
26 photographs are confidential and must not be released by the facility
27 except pursuant to court order. ~~No other~~ Nonmedical photographs may

1 SHALL NOT be taken or used without appropriate consent or authorization.

2 (5) Any ~~person~~ RESPONDENT receiving evaluation or treatment
3 under any of the provisions of this article 65 is entitled to a written copy
4 AND VERBAL DESCRIPTION IN A LANGUAGE OR MODALITY ACCESSIBLE TO
5 THE PERSON of all the ~~person's~~ rights enumerated in this section, and a
6 minor child ~~shall~~ MUST receive written notice of the minor's rights as
7 provided in section 27-65-104 (6)(g). A list of the rights must be
8 prominently posted in all evaluation and treatment facilities IN THE
9 PREDOMINANT LANGUAGES OF THE COMMUNITY AND EXPLAINED IN A
10 LANGUAGE OR MODALITY ACCESSIBLE TO THE RESPONDENT. THE FACILITY
11 SHALL ASSIST THE RESPONDENT IN EXERCISING THE RIGHTS ENUMERATED
12 IN THIS SECTION.

13 (6) A FACILITY SHALL NOT INTENTIONALLY RETALIATE OR
14 DISCRIMINATE AGAINST A PERSON OR EMPLOYEE FOR CONTACTING OR
15 PROVIDING INFORMATION TO ANY OFFICIAL OR TO AN EMPLOYEE OF ANY
16 STATE PROTECTION AND ADVOCACY AGENCY, OR FOR INITIATING,
17 PARTICIPATING IN, OR TESTIFYING IN A GRIEVANCE PROCEDURE OR IN AN
18 ACTION FOR ANY REMEDY AUTHORIZED PURSUANT TO THIS SECTION. ANY
19 FACILITY THAT VIOLATES THIS SUBSECTION (6) COMMITS AN UNCLASSIFIED
20 MISDEMEANOR AND SHALL BE FINED NOT MORE THAN ONE THOUSAND
21 DOLLARS.

22 (7) ANY RESPONDENT WHOSE RIGHTS ARE DENIED OR VIOLATED
23 PURSUANT TO THIS SECTION HAS A PRIVATE RIGHT OF ACTION AGAINST THE
24 FACILITY THAT DENIED OR VIOLATED THE RIGHTS IN QUESTION, INCLUDING
25 THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE. THE
26 RESPONDENT MAY RECOVER ANY ACTUAL AND EXEMPLARY DAMAGES OF
27 NOT LESS THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION AND ANY

1 COSTS AND REASONABLE ATTORNEY FEES INCURRED.

2 **SECTION 6.** In Colorado Revised Statutes, 7-60-132, **amend**
3 (1)(a) as follows:

4 **7-60-132. Dissolution by decree of court.** (1) On application by
5 or for a partner, the court shall decree a dissolution if:

6 (a) A partner has been determined by the court to be mentally
7 incompetent to such a degree that the partner is incapable of performing
8 the partner's part of the partnership contract or a court of competent
9 jurisdiction has made such a finding pursuant to part 3 or part 4 of article
10 14 of title 15 or ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4) or
11 27-65-127; ~~C.R.S.;~~

12 **SECTION 7.** In Colorado Revised Statutes, 12-215-115, **amend**
13 (7) as follows:

14 **12-215-115. Discipline of licensees - suspension, revocation,**
15 **denial, and probation - grounds - definitions.** (7) In the event any
16 person holding a license to practice chiropractic in this state is determined
17 to be mentally incompetent or insane by a court of competent jurisdiction
18 and a court enters, pursuant to part 3 or 4 of article 14 of title 15 or
19 ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4) or 27-65-127, an order
20 specifically finding that the mental incompetency or insanity is of such a
21 degree that the person holding a license is incapable of continuing to
22 practice chiropractic, ~~his or her~~ THE PERSON'S license shall automatically
23 be suspended by the board, and, anything in this article 215 to the
24 contrary notwithstanding, the suspension ~~shall~~ MUST continue until the
25 licensee is found by the court to be competent to practice chiropractic.

26 **SECTION 8.** In Colorado Revised Statutes, 12-240-125, **amend**
27 (7) as follows:

1 **12-240-125. Disciplinary action by board - rules.** (7) If any
2 licensee is determined to be mentally incompetent or insane by a court of
3 competent jurisdiction and a court enters, pursuant to part 3 or 4 of article
4 14 of title 15 or ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4) or
5 27-65-127, an order specifically finding that the mental incompetency or
6 insanity is of such a degree that the licensee is incapable of continuing to
7 practice medicine, practice as a physician assistant, or practice as an
8 anesthesiologist assistant, the board shall automatically suspend ~~his or her~~
9 THE LICENSEE'S license, and, anything in this article 240 to the contrary
10 notwithstanding, the suspension must continue until the licensee is found
11 by the court to be competent to practice medicine, practice as a physician
12 assistant, or practice as an anesthesiologist assistant.

13 **SECTION 9.** In Colorado Revised Statutes, 12-245-203.5,
14 **amend** (1) as follows:

15 **12-245-203.5. Minors - consent for outpatient psychotherapy**
16 **services - immunity - definition.** (1) As used in this section, unless the
17 context otherwise requires, "mental health professional" includes a
18 professional person as defined in section 27-65-102 ~~(+7)~~ (27)(a); a mental
19 health professional licensed pursuant to part 3, 4, 5, 6, or 8 of this article
20 245; a licensed professional counselor candidate; a psychologist
21 candidate; or a school social worker licensed by the department of
22 education.

23 **SECTION 10.** In Colorado Revised Statutes, 12-245-216, **amend**
24 (2) and (4)(b) as follows:

25 **12-245-216. Mandatory disclosure of information to clients.**
26 (2) If the client is a ~~child~~ MINOR who is consenting to mental health
27 services pursuant to ~~section 27-65-103~~ SECTION 27-65-104, disclosure

1 ~~shall~~ MUST be made to the ~~child~~ MINOR. If the client is a ~~child~~ MINOR
2 whose parent or legal guardian is consenting to mental health services,
3 disclosure ~~shall~~ MUST be made to the MINOR'S parent or legal guardian.

4 (4) The disclosure of information required by subsection (1) of
5 this section is not required when psychotherapy is being administered in
6 any of the following circumstances:

7 (b) Pursuant to a court order or involuntary procedures pursuant
8 to ~~sections 27-65-105 to 27-65-109~~ SECTIONS 27-65-106 TO 27-65-110;

9 **SECTION 11.** In Colorado Revised Statutes, 12-255-119, **amend**
10 (7) as follows:

11 **12-255-119. Disciplinary procedures of the board - inquiry**
12 **and hearings panels - mental and physical examinations - definitions**
13 **- rules.** (7) In case any nurse is determined to be mentally incompetent
14 or insane by a court of competent jurisdiction and a court enters, pursuant
15 to part 3 or 4 of article 14 of title 15 or ~~section 27-65-109 (4)~~ SECTION
16 27-65-110 (4) or 27-65-127, an order specifically finding that the mental
17 incompetency or insanity is of such a degree that the nurse is incapable
18 of continuing the practice of nursing, the ~~nurse's license~~ BOARD shall
19 automatically ~~be suspended by the board~~ SUSPEND THE NURSE'S LICENSE,
20 and, notwithstanding any provision of this part 1 to the contrary, the
21 suspension ~~shall~~ MUST continue until the nurse is found by the court to be
22 competent to continue the practice of nursing.

23 **SECTION 12.** In Colorado Revised Statutes, 12-290-113, **amend**
24 (8) as follows:

25 **12-290-113. Disciplinary action by board.** (8) If a person
26 holding a license to practice podiatry in this state is determined to be
27 mentally incompetent or insane by a court of competent jurisdiction and

1 a court enters, pursuant to part 3 or 4 of article 14 of title 15 or ~~section~~
2 ~~27-65-109 (4)~~ SECTION 27-65-110 (4) or 27-65-127, an order specifically
3 finding that the mental incompetency or insanity is of such a degree that
4 the person holding a license is incapable of continuing to practice
5 podiatry, the ~~license~~ BOARD shall automatically ~~be suspended by the board~~
6 SUSPEND THE LICENSE, and, anything in this article 290 to the contrary
7 notwithstanding, the suspension ~~shall~~ MUST continue until the licensee is
8 found by the court to be competent to practice podiatry.

9 **SECTION 13.** In Colorado Revised Statutes, 12-315-112, **amend**
10 (1)(v) as follows:

11 **12-315-112. Discipline of licensees.** (1) Upon receipt of a signed
12 complaint by a complainant or upon its own motion, the board may
13 proceed to a hearing in conformity with section 12-315-113. After a
14 hearing, and by a concurrence of a majority of members, the board may
15 take disciplinary or other action as authorized in section 12-20-404
16 against an applicant or a licensed veterinarian for any of the following
17 reasons:

18 (v) A determination that the individual is mentally incompetent by
19 a court of competent jurisdiction and the court has entered, pursuant to
20 part 3 or 4 of article 14 of title 15 or ~~section 27-65-109 (4)~~ SECTION
21 27-65-110 (4) or 27-65-127, an order specifically finding that the mental
22 incompetency is of such a degree that the individual is incapable of
23 continuing to practice veterinary medicine;

24 **SECTION 14.** In Colorado Revised Statutes, 13-5-142, **amend**
25 (1)(c) and (3)(b)(III) as follows:

26 **13-5-142. National instant criminal background check system**
27 **- reporting.** (1) On and after March 20, 2013, the state court

1 administrator shall send electronically the following information to the
2 Colorado bureau of investigation created pursuant to section 24-33.5-401,
3 referred to in this section as the "bureau":

4 (c) The name of each person with respect to whom the court has
5 entered an order for involuntary certification for short-term treatment of
6 a mental health disorder pursuant to ~~section 27-65-107~~ SECTION
7 27-65-109, for extended certification for treatment of a mental health
8 disorder pursuant to ~~section 27-65-108~~ SECTION 27-65-109 (10), or for
9 long-term care and treatment of a mental health disorder pursuant to
10 ~~section 27-65-109~~ SECTION 27-65-110.

11 (3) The state court administrator shall take all necessary steps to
12 cancel a record made by the state court administrator in the national
13 instant criminal background check system if:

14 (b) No less than three years before the date of the written request:

15 (III) The record in the case was sealed pursuant to ~~section~~
16 ~~27-65-107 (7)~~ SECTION 27-65-109 (7), or the court entered an order
17 discharging the person from certification in the nature of habeas corpus
18 pursuant to ~~section 27-65-113~~ SECTION 27-65-115, if the record in the
19 national instant criminal background check system is based on a court
20 order for involuntary certification for short-term treatment of a mental
21 health disorder.

22 **SECTION 15.** In Colorado Revised Statutes, 13-5-142.5, **amend**
23 (2)(a)(III) as follows:

24 **13-5-142.5. National instant criminal background check**
25 **system - judicial process for awarding relief from federal**
26 **prohibitions - legislative declaration. (2) Eligibility.** A person may
27 petition for relief pursuant to this section if:

1 (a) (III) The court has entered an order for the person's involuntary
2 certification for short-term treatment of a mental health disorder pursuant
3 to ~~section 27-65-107~~ SECTION 27-65-109, for extended certification for
4 treatment of a mental health disorder pursuant to ~~section 27-65-108~~
5 SECTION 27-65-109 (10), or for long-term care and treatment of a mental
6 health disorder pursuant to ~~section 27-65-109~~ SECTION 27-65-110; and

7 **SECTION 16.** In Colorado Revised Statutes, **amend** 13-5-142.8
8 as follows:

9 **13-5-142.8. Notice by professional persons.** Under sections
10 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and 13-5-142.5 (2), an order for
11 involuntary certification for short-term treatment of a mental health
12 disorder pursuant to ~~section 27-65-107~~ shall SECTION 27-65-109 MUST
13 also include a notice filed by a professional person pursuant to ~~section~~
14 ~~27-65-107~~ SECTION 27-65-109, and an order for extended certification for
15 treatment of mental health disorder pursuant to ~~section 27-65-108~~ shall
16 SECTION 27-65-109 (10) MUST also include a notice filed by a professional
17 person pursuant to ~~section 27-65-108~~ SECTION 27-65-109 (10).

18 **SECTION 17.** In Colorado Revised Statutes, 13-9-123, **amend**
19 (1)(c) and (3)(b)(III) as follows:

20 **13-9-123. National instant criminal background check system**
21 **- reporting.** (1) On and after March 20, 2013, the state court
22 administrator shall send electronically the following information to the
23 Colorado bureau of investigation created pursuant to section 24-33.5-401,
24 referred to in this section as the "bureau":

25 (c) The name of each person with respect to whom the court has
26 entered an order for involuntary certification for short-term treatment of
27 a mental health disorder pursuant to ~~section 27-65-107~~ SECTION

1 27-65-109, for extended certification for treatment of a mental health
2 disorder pursuant to ~~section 27-65-108~~ SECTION 27-65-109 (10), or for
3 long-term care and treatment of a mental health disorder pursuant to
4 ~~section 27-65-109~~ SECTION 27-65-110.

5 (3) The state court administrator shall take all necessary steps to
6 cancel a record made by the state court administrator in the national
7 instant criminal background check system if:

8 (b) No less than three years before the date of the written request:

9 (III) The record in the case was sealed pursuant to ~~section~~
10 ~~27-65-107 (7)~~ SECTION 27-65-109 (7), or the court entered an order
11 discharging the person from certification in the nature of habeas corpus
12 pursuant to ~~section 27-65-113~~ SECTION 27-65-115, if the record in the
13 national instant criminal background check system is based on a court
14 order for involuntary certification for short-term treatment of a mental
15 health disorder.

16 **SECTION 18.** In Colorado Revised Statutes, 13-9-124, **amend**
17 (2)(a)(III) as follows:

18 **13-9-124. National instant criminal background check system**
19 **- judicial process for awarding relief from federal prohibitions -**
20 **legislative declaration. (2) Eligibility.** A person may petition for relief
21 pursuant to this section if:

22 (a) (III) The court has entered an order for the person's involuntary
23 certification for short-term treatment of a mental health disorder pursuant
24 to ~~section 27-65-107~~ SECTION 27-65-109, for extended certification for
25 treatment of a mental health disorder pursuant to ~~section 27-65-108~~
26 SECTION 27-65-109 (10), or for long-term care and treatment of a mental
27 health disorder pursuant to ~~section 27-65-109~~ SECTION 27-65-110; and

1 **SECTION 19.** In Colorado Revised Statutes, 13-14.5-105,
2 **amend** (8)(a) as follows:

3 **13-14.5-105. Hearings on petition - grounds for order issuance.**
4 (8) (a) Before issuing an extreme risk protection order, the court shall
5 consider whether the respondent meets the standard for a court-ordered
6 evaluation for persons with mental health disorders pursuant to section
7 27-65-106. If the court determines that the respondent meets the standard,
8 then, in addition to issuing an extreme risk protection order, the court
9 shall order mental health treatment and evaluation authorized pursuant to
10 ~~section 27-65-106 (6)~~ SECTION 27-65-106 (4)(d).

11 **SECTION 20.** In Colorado Revised Statutes, 13-20-401, **amend**
12 (2) as follows:

13 **13-20-401. Definitions.** As used in this part 4, unless the context
14 otherwise requires:

15 (2) "Patient" means the person upon whom a proposed
16 electroconvulsive treatment is to be performed; except that nothing in this
17 part 4 supersedes the provisions of article 65 of title 27 or any rule
18 adopted by the ~~department of human services~~ BEHAVIORAL HEALTH
19 ADMINISTRATION pursuant to ~~section 27-65-116 (2)~~ SECTION 27-65-118
20 (2) with regard to the care and treatment of any person unable to exercise
21 written informed consent or of a person with a mental health disorder.

22 **SECTION 21.** In Colorado Revised Statutes, 15-18.7-201,
23 **amend** (9)(b) as follows:

24 **15-18.7-201. Definitions.** As used in this part 2, unless the
25 context otherwise requires:

26 (9) "Health-care provider" means:
27 (b) A professional person, as defined in section 27-65-102 (~~17~~)

1 (27)(a);

2 **SECTION 22.** In Colorado Revised Statutes, 15-18.7-202,
3 **amend** (5), (6), and (7) as follows:

4 **15-18.7-202. Behavioral health orders for scope of treatment**
5 **- form contents - effect.** (5) A behavioral health orders form may be
6 admissible in a hearing pursuant to ~~section 27-65-111~~ SECTION 27-65-113
7 for the purpose of establishing the adult's behavioral health treatment,
8 medication, and alternative treatment history, decisions, and preferences
9 to be made on behalf of the adult during an involuntary emergency
10 procedure, certification, or commitment authorized pursuant to state law.

11 (6) Nothing in this part 2 means that an adult who has executed a
12 behavioral health orders form has waived the right to a hearing before the
13 court or jury pursuant to ~~section 27-65-111~~ SECTION 27-65-113.

14 (7) Nothing in this part 2 means that an adult who has executed a
15 behavioral health orders form has consented to a petition for involuntary
16 administration of medication authority pursuant to ~~section 27-65-111~~ (5)
17 SECTION 27-65-113 (5).

18 **SECTION 23.** In Colorado Revised Statutes, 16-8.5-105, **amend**
19 (1)(a)(IV) and (6) as follows:

20 **16-8.5-105. Evaluations, locations, time frames, and report.**
21 (1) (a) (IV) Nothing in this subsection (1)(a) limits the availability of a
22 court-ordered evaluation for a person with a mental health disorder
23 pursuant to ~~section 27-65-106~~ or invokes the **emergency** procedure FOR
24 AN EMERGENCY MENTAL HEALTH HOLD set forth in ~~section 27-65-105~~
25 SECTION 27-65-106.

26 (6) Whenever a competency evaluation is ordered upon the
27 request of either party, the court may notify the county attorney or district

1 attorney required to conduct proceedings pursuant to ~~section 27-65-111~~
2 ~~(6)~~ SECTION 27-65-113 (6) for the county in which the charges are
3 pending and the court liaison hired pursuant to part 2 of article 11.9 of
4 this title 16 of all court dates for return of the report on competency to
5 ensure that all parties are on notice of the expected need for coordinated
6 services and planning with consideration of possible civil certification.

7 **SECTION 24.** In Colorado Revised Statutes, 16-8.5-111, **amend**
8 (2)(a) as follows:

9 **16-8.5-111. Procedure after determination of competency or**
10 **incompetency.** (2) If the final determination made pursuant to section
11 16-8.5-103 is that the defendant is incompetent to proceed, the court has
12 the following options:

13 (a) If the defendant is charged with an offense as outlined in
14 section 16-8.5-116 (7) and the competency evaluation has determined that
15 the defendant meets the standard for civil certification pursuant to article
16 65 of title 27, the court may forgo any order of restoration and
17 immediately order that proceedings be initiated by the county attorney or
18 district attorney required to conduct proceedings pursuant to ~~section~~
19 ~~27-65-111~~ (6) SECTION 27-65-113 (6) for the civil certification of the
20 defendant and dismiss the charges without prejudice in the interest of
21 justice once civil certification proceedings have been initiated.

22 **SECTION 25.** In Colorado Revised Statutes, 16-8.5-116, **amend**
23 (5), (6)(b), and (10) as follows:

24 **16-8.5-116. Certification - reviews - termination of**
25 **proceedings - rules.** (5) The court shall forward a copy of each report
26 and summary received pursuant to subsections (2), (3), and (4) of this
27 section to the county attorney or district attorney required to conduct

1 proceedings pursuant to ~~section 27-65-111 (6)~~ SECTION 27-65-113 (6) for
2 the county in which the case is pending and to the court liaison.

3 (6) Notwithstanding the time periods provided in subsections (7),
4 (8), and (9) of this section and to ensure compliance with relevant
5 constitutional principles, for any offense for which the defendant remains
6 confined as a result of a determination of incompetency to proceed if the
7 court determines, based on available evidence, that there is not a
8 substantial probability that the defendant will be restored to competency
9 within the reasonably foreseeable future, the court may order the
10 defendant's release from commitment pursuant to this article 8.5 through
11 one or more of the following means:

12 (b) The court may, in coordination with the county attorney or
13 district attorney required to conduct proceedings pursuant to ~~section~~
14 ~~27-65-111 (6)~~ SECTION 27-65-113 (6) for the county in which the
15 defendant is charged, order the commencement of certification
16 proceedings pursuant to the provisions of article 65 of title 27 if the
17 defendant meets the requirements for certification pursuant to article 65
18 of title 27;

19 (10) Prior to the dismissal of charges pursuant to subsection (1),
20 (6), (7), (8), or (9) of this section, the court shall identify whether the
21 defendant meets the requirements for certification pursuant to article 65
22 of title 27, or for the provision of services pursuant to article 10.5 of title
23 27, or whether the defendant will agree to a voluntary commitment. If the
24 court finds the requirements for certification or provision of services are
25 met or the defendant does not agree to a voluntary commitment, the court
26 may stay the dismissal for twenty-one days and notify the department and
27 county attorney or district attorney required to conduct proceedings

1 pursuant to ~~section 27-65-111 (6)~~ 27-65-113 (6) in the relevant
2 jurisdiction of the pending dismissal so as to provide the department and
3 the county attorney or district attorney with the opportunity to pursue
4 certification proceedings or the provision of necessary services.

5 **SECTION 26.** In Colorado Revised Statutes, 18-1.3-204, **amend**
6 (2)(a)(II) as follows:

7 **18-1.3-204. Conditions of probation - interstate compact**
8 **probation transfer cash fund - creation.** (2) (a) When granting
9 probation, the court may, as a condition of probation, require that the
10 defendant:

11 (II) Undergo available medical or psychiatric treatment and
12 remain in a specified institution if required for that purpose. In any case
13 where inpatient psychiatric treatment is indicated, the court shall proceed
14 in accordance with article 65 of title 27 ~~C.R.S.~~, and require the defendant
15 to comply with the recommendation of the professional person in charge
16 of the evaluation required pursuant to section ~~27-65-105~~ or 27-65-106.
17 ~~C.R.S.~~

18 **SECTION 27.** In Colorado Revised Statutes, 18-6.5-102, **amend**
19 (11)(e) as follows:

20 **18-6.5-102. Definitions.** As used in this article 6.5, unless the
21 context otherwise requires:

22 (11) "Person with a disability" means any person who:

23 (e) ~~Is a person with~~ HAS a mental health disorder, as ~~the term is~~
24 defined in section 27-65-102; ~~(11.5);~~

25 **SECTION 28.** In Colorado Revised Statutes, 19-1-115, **amend**
26 (8)(a) as follows:

27 **19-1-115. Legal custody - guardianship - placement out of the**

1 **home - petition for review for need of placement.** (8) (a) Whenever it
2 appears necessary that the placement of a child out of the home will be
3 for longer than ninety days, the placement is voluntary and not
4 court-ordered, and the placement involves the direct expenditure of funds
5 appropriated by the general assembly to the department of human
6 services, a petition for review of need for placement shall be filed by the
7 department or agency with which the child has been placed before the
8 expiration of ninety days in the placement. A decree providing for
9 voluntary placement of a child with an agency in which public ~~moneys~~
10 ~~are~~ MONEY IS expended ~~shall~~ MUST be renewable in circumstances ~~where~~
11 WHEN there is documentation that the child has an emotional, a physical,
12 or an intellectual disability that necessitates care and treatment for a
13 longer duration than ninety days as provided pursuant to this ~~paragraph~~
14 ~~(a)~~ SUBSECTION (8)(a). The court shall not transfer or require
15 relinquishment of legal custody of, or otherwise terminate the parental
16 rights with respect to, a child who has an emotional, a physical, or an
17 intellectual disability and who was voluntarily placed out of the home for
18 the purposes of obtaining special treatment or care solely because the
19 parent or legal guardian is unable to provide the treatment or care.
20 Whenever a child fifteen years of age or older consents to placement in
21 a mental health facility pursuant to ~~section 27-65-103, C.R.S., SECTION~~
22 ~~27-65-104, the review under section 27-65-103 (5), C.R.S., shall~~
23 PURSUANT TO SECTION 27-65-104 (4) MUST be conducted in lieu of and
24 ~~shall~~ MUST fulfill the requirements for review under this ~~paragraph (a)~~
25 SUBSECTION (8)(a).

26 **SECTION 29.** In Colorado Revised Statutes, 19-2.5-102, **amend**
27 (34) as follows:

1 **19-2.5-102. Definitions.** In addition to the terms defined in
2 section 19-1-103, as used in this article 2.5, unless the context otherwise
3 requires:

4 (34) "Mental health hospital placement prescreening" means a
5 face-to-face mental health examination conducted by a mental health
6 professional to determine whether a child should be placed in a facility
7 for evaluation pursuant to section ~~27-65-105~~ or 27-65-106. The
8 prescreening may include consultation with other mental health
9 professionals and review of all available records on the child.

10 **SECTION 30.** In Colorado Revised Statutes, 19-2.5-305, **amend**
11 **as it exists until July 1, 2024,** (3)(b)(I); and **amend** (3)(b)(II), (3)(b)(III),
12 and (3)(b)(IV) as follows:

13 **19-2.5-305. Detention and shelter - hearing - time limits -**
14 **findings - review - confinement with adult offenders - restrictions.**

15 (3) (b) (I) If it appears that a juvenile being held in detention or
16 temporary shelter may have an intellectual and developmental disability,
17 as described in article 10.5 of title 27, the court or detention personnel
18 shall refer the juvenile to the nearest community-centered board for an
19 eligibility determination. If it appears that a juvenile being held in a
20 detention or temporary shelter facility pursuant to this article 2.5 may
21 have a mental health disorder, as provided in ~~sections 27-65-105 and~~
22 SECTION 27-65-106, the intake personnel or other appropriate personnel
23 shall contact a mental health professional to do a mental health hospital
24 placement prescreening on the juvenile. The court must be notified of the
25 contact and may take appropriate action. If a mental health hospital
26 placement prescreening is requested, it must be conducted in an
27 appropriate place accessible to the juvenile and the mental health

1 professional. A request for a mental health hospital placement
2 prescreening must not extend the time within which a detention hearing
3 must be held pursuant to this section. If a detention hearing has been set
4 but has not yet occurred, the mental health hospital placement
5 prescreening must be conducted prior to the hearing; except that the
6 prescreening must not extend the time within which a detention hearing
7 must be held.

8 (II) If a juvenile has been ordered detained pending an
9 adjudication, disposition, or other court hearing, and the juvenile
10 subsequently appears to have a mental health disorder, as described in
11 section ~~27-65-105~~ or 27-65-106, the intake personnel or other appropriate
12 personnel shall contact the court with a recommendation for a mental
13 health hospital placement prescreening. A mental health hospital
14 placement prescreening must be conducted at any appropriate place
15 accessible to the juvenile and the mental health professional within
16 twenty-four hours ~~of~~ AFTER the request, excluding Saturdays, Sundays,
17 and legal holidays.

18 (III) When the mental health professional finds, as a result of the
19 prescreening, that the juvenile may have a mental health disorder, the
20 mental health professional shall recommend to the court that the juvenile
21 be evaluated pursuant to section ~~27-65-105~~ or 27-65-106.

22 (IV) Nothing in this subsection (3)(b) precludes the use of
23 ~~emergency~~ procedures FOR AN EMERGENCY MENTAL HEALTH HOLD
24 pursuant to ~~section 27-65-105 (1)~~ SECTION 27-65-106 (1)(a).

25 **SECTION 31.** In Colorado Revised Statutes, 19-2.5-305, **amend**
26 **as it will become effective July 1, 2024,** (3)(b)(I) as follows:

27 **19-2.5-305. Detention and shelter - hearing - time limits -**

1 **findings - review - confinement with adult offenders - restrictions.**

2 (3) (b) (I) If it appears that a juvenile being held in detention or
3 temporary shelter may have an intellectual and developmental disability,
4 as described in article 10.5 of title 27, the court or detention personnel
5 shall refer the juvenile to the nearest case management agency, as defined
6 in section 25.5-6-1702, for an eligibility determination. If it appears that
7 a juvenile being held in a detention or temporary shelter facility pursuant
8 to this article 2.5 may have a mental health disorder, as provided in
9 ~~sections 27-65-105 and~~ SECTION 27-65-106, the intake personnel or other
10 appropriate personnel shall contact a mental health professional to do a
11 mental health hospital placement prescreening on the juvenile. The court
12 must be notified of the contact and may take appropriate action. If a
13 mental health hospital placement prescreening is requested, it must be
14 conducted in an appropriate place accessible to the juvenile and the
15 mental health professional. A request for a mental health hospital
16 placement prescreening must not extend the time within which a
17 detention hearing must be held pursuant to this section. If a detention
18 hearing has been set but has not yet occurred, the mental health hospital
19 placement prescreening must be conducted prior to the hearing; except
20 that the prescreening must not extend the time within which a detention
21 hearing must be held.

22 **SECTION 32.** In Colorado Revised Statutes, 19-2.5-1114,
23 **amend** (1) as follows:

24 **19-2.5-1114. Sentencing - placement based on special needs of**
25 **the juvenile.** (1) Except as otherwise required by section 19-2.5-1127 for
26 an aggravated juvenile offender, the court may order that the juvenile be
27 examined or treated by a physician, surgeon, psychiatrist, or psychologist

1 or that the juvenile receive other special care and may place the juvenile
2 in a hospital or other suitable facility for such purposes; except that a
3 juvenile may not be placed in a mental health facility operated by the
4 department of human services until the juvenile has received a mental
5 health placement prescreening resulting in a recommendation that the
6 juvenile be placed in a facility for an evaluation pursuant to section
7 ~~27-65-105~~ or 27-65-106, or a hearing has been held by the court after
8 notice to all parties, including the department of human services. An
9 order for a ~~seventy-two-hour treatment and evaluation~~ EMERGENCY
10 MENTAL HEALTH HOLD must not be entered unless a hearing is held and
11 evidence indicates that the prescreening report is inadequate, incomplete,
12 or incorrect and that competent professional evidence is presented by a
13 mental health professional that indicates that the juvenile has a behavioral
14 or mental health disorder. The court shall make, prior to the hearing,
15 orders regarding temporary custody of the juvenile as are deemed
16 appropriate.

17 **SECTION 33.** In Colorado Revised Statutes, 19-2.5-1525,
18 **amend** (3)(b)(III) as follows:

19 **19-2.5-1525. Juveniles committed to department of human**
20 **services - evaluation and placement.** (3) (b) (III) If the evaluation
21 report states that the juvenile has a mental health disorder, as described
22 in ~~sections 27-65-105~~ and SECTION 27-65-106, the department of human
23 services shall initiate proceedings pursuant to article 65 of title 27 and
24 notify the court.

25 **SECTION 34.** In Colorado Revised Statutes, 19-2.5-1532,
26 **amend** (3)(a) as follows:

27 **19-2.5-1532. Juveniles committed to department of human**

1 **services - transfers.** (3) (a) A juvenile committed to the department of
2 human services may be transferred temporarily to any state treatment
3 facility for persons with behavioral or mental health disorders or
4 intellectual and developmental disabilities for purposes of diagnosis,
5 evaluation, and emergency treatment; except that a juvenile may not be
6 transferred to a state treatment facility for persons with mental health
7 disorders until the juvenile has received a mental health hospital
8 placement prescreening resulting in a recommendation that the juvenile
9 be placed in a facility for evaluation pursuant to section ~~27-65-105~~ or
10 27-65-106. A juvenile committed to the department of human services as
11 an aggravated juvenile offender pursuant to section 19-2.5-1127 or
12 violent juvenile offender pursuant to section 19-2.5-1126 (1)(c) must not
13 be transferred until the treatment facility has a secure setting in which to
14 house the juvenile. The period of temporary transfer pursuant to this
15 subsection (3)(a) must not exceed sixty days.

16 **SECTION 35.** In Colorado Revised Statutes, 19-3-401, **amend**
17 (3)(c)(II) and (3)(c)(III) as follows:

18 **19-3-401. Taking children into custody.** (3) (c) The court orders
19 required by subsections (3)(a) and (3)(b) of this section are not required
20 in the following circumstances:

21 (II) When the newborn child's only identifiable birth parent has
22 been determined by a physician, registered nurse, or qualified mental
23 health professional to meet the criteria specified in ~~section 27-65-105~~
24 SECTION 27-65-106 for custody, treatment, and evaluation of a mental
25 health disorder or grave disability;

26 (III) When both of the newborn child's birth parents have been
27 determined by a physician, registered nurse, or qualified mental health

1 professional to meet the criteria specified in ~~section 27-65-105~~ SECTION
2 27-65-106 for custody, treatment, and evaluation of a mental health
3 disorder or grave disability; or

4 **SECTION 36.** In Colorado Revised Statutes, 19-3-403, **amend**
5 **as it exists until July 1, 2024,** (4)(a); and **amend** (4)(b), (4)(c), and (4)(d)
6 as follows:

7 **19-3-403. Temporary custody - hearing - time limits -**
8 **restriction - rules.** (4) (a) If it appears that any child being held in a
9 shelter facility may have an intellectual and developmental disability, as
10 provided in article 10.5 of title 27, the court shall refer the child to the
11 nearest community-centered board for an eligibility determination. If it
12 appears that any child being held in a shelter facility pursuant to the
13 provisions of this article 3 may have a mental health disorder, as provided
14 in ~~sections 27-65-105 and~~ SECTION 27-65-106, the intake personnel or
15 other appropriate personnel shall contact a mental health professional to
16 do a mental health disorder prescreening on the child. The court shall be
17 notified of the contact and may take appropriate action. If a mental health
18 disorder prescreening is requested, it ~~shall~~ MUST be conducted in an
19 appropriate place accessible to the child and the mental health
20 professional. A request for a mental health disorder prescreening must not
21 extend the time within which a hearing is to be held pursuant to this
22 section. If a hearing has been set but has not yet occurred, the mental
23 health disorder prescreening ~~shall~~ MUST be conducted prior to the hearing;
24 except that the prescreening must not extend the time within which a
25 hearing is to be held pursuant to this section.

26 (b) If a child has been ordered detained pending an adjudication,
27 disposition, or other court hearing and the child subsequently appears to

1 have a mental health disorder, as provided in section ~~27-65-105~~ or
2 27-65-106, the intake personnel or other appropriate personnel shall
3 contact the court with a recommendation for a mental health disorder
4 prescreening. A mental health disorder prescreening ~~shall~~ MUST be
5 conducted at any appropriate place accessible to the child and the mental
6 health professional within twenty-four hours ~~of~~ AFTER the request,
7 excluding Saturdays, Sundays, and legal holidays.

8 (c) If the mental health professional finds, as a result of the
9 prescreening, that the child may have a mental health disorder, the mental
10 health professional shall recommend to the court that the child be
11 evaluated pursuant to section ~~27-65-105~~ or 27-65-106, and the court shall
12 proceed as provided in section 19-3-506.

13 (d) Nothing in this subsection (4) precludes the use of ~~emergency~~
14 procedures FOR AN EMERGENCY MENTAL HEALTH HOLD pursuant to
15 ~~section 27-65-105~~ SECTION 27-65-106.

16 **SECTION 37.** In Colorado Revised Statutes, 19-3-403, **amend**
17 **as it will become effective July 1, 2024,** (4)(a) as follows:

18 **19-3-403. Temporary custody - hearing - time limits -**
19 **restriction - rules.** (4) (a) If it appears that any child being held in a
20 shelter facility may have an intellectual and developmental disability, as
21 provided in article 10.5 of title 27, the court shall refer the child to the
22 nearest case management agency, as defined in section 25.5-6-1702, for
23 an eligibility determination. If it appears that any child being held in a
24 shelter facility pursuant to this article 3 may have a mental health
25 disorder, as provided in ~~sections 27-65-105~~ and SECTION 27-65-106, the
26 intake personnel or other appropriate personnel shall contact a mental
27 health professional to do a mental health disorder prescreening on the

1 child. The court must be notified of the contact and may take appropriate
2 action. If a mental health disorder prescreening is requested, it must be
3 conducted in an appropriate place accessible to the child and the mental
4 health professional. A request for a mental health disorder prescreening
5 must not extend the time within which a hearing is to be held pursuant to
6 this section. If a hearing has been set but has not yet occurred, the mental
7 health disorder prescreening must be conducted prior to the hearing;
8 except that the prescreening must not extend the time within which a
9 hearing is to be held pursuant to this section.

10 **SECTION 38.** In Colorado Revised Statutes, 19-3-506, **amend**
11 (1)(b), (1)(c), and (3)(a) as follows:

12 **19-3-506. Child with a mental health disorder or an**
13 **intellectual and developmental disability - procedure.** (1) (b) If it
14 appears from the evidence presented at an adjudicatory hearing or
15 otherwise that a child may have a mental health disorder, as defined in
16 ~~sections 27-65-105 and 27-65-106~~ SECTION 27-65-102, and the child has
17 not had a mental health disorder prescreening pursuant to section
18 19-3-403 (4), the court shall order a prescreening to determine whether
19 the child requires further evaluation. The prescreening ~~shall~~ **MUST** be
20 conducted as expeditiously as possible, and a prescreening report must be
21 provided to the court within twenty-four hours ~~of~~ **AFTER** the prescreening,
22 excluding Saturdays, Sundays, and legal holidays.

23 (c) If the mental health professional finds, based upon a
24 prescreening done pursuant to this section or section 19-3-403 (4), that
25 the child may have a mental health disorder, as defined in section
26 27-65-102, the court shall review the prescreening report within
27 twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and

1 order the child placed for an evaluation at a facility designated by the
2 ~~executive director~~ COMMISSIONER of the ~~department of human services~~
3 BEHAVIORAL HEALTH ADMINISTRATION for a ~~seventy-two-hour treatment~~
4 ~~and evaluation~~ EMERGENCY MENTAL HEALTH HOLD pursuant to section
5 ~~27-65-105~~ or 27-65-106. On and after January 1, 1986, if the child to be
6 placed is in a detention facility, the designated facility shall admit the
7 child within twenty-four hours after the court orders an evaluation,
8 excluding Saturdays, Sundays, and legal holidays.

9 (3) (a) When the evaluation conducted pursuant to subsection (1)
10 of this section states that the child has a mental health disorder, as defined
11 in section 27-65-102, the court shall treat the evaluation report as a
12 certification under ~~section 27-65-107~~ SECTION 27-65-109 and shall
13 proceed pursuant to article 65 of title 27, assuming all of the powers
14 granted to a court in such proceedings.

15 **SECTION 39.** In Colorado Revised Statutes, 19-3-508, **amend**
16 (1)(d)(I) and (3) as follows:

17 **19-3-508. Neglected or dependent child - disposition -**
18 **concurrent planning.** (1) When a child has been adjudicated to be
19 neglected or dependent, the court may enter a decree of disposition the
20 same day, but in any event it shall do so within forty-five days unless the
21 court finds that the best interests of the child will be served by granting
22 a delay. In a county designated pursuant to section 19-1-123, if the child
23 is under six years of age at the time a petition is filed in accordance with
24 section 19-3-501 (2), the court shall enter a decree of disposition within
25 thirty days after the adjudication and shall not grant a delay unless good
26 cause is shown and unless the court finds that the best interests of the
27 child will be served by granting the delay. It is the intent of the general

1 assembly that the dispositional hearing be held on the same day as the
2 adjudicatory hearing, whenever possible. If a delay is granted, the court
3 shall set forth the reasons why a delay is necessary and the minimum
4 amount of time needed to resolve the reasons for the delay and shall
5 schedule the hearing at the earliest possible time following the delay.
6 When the proposed disposition is termination of the parent-child legal
7 relationship, the hearing on termination must not be held on the same date
8 as the adjudication, and the time limits set forth above for dispositional
9 hearings do not apply. When the proposed disposition is termination of
10 the parent-child legal relationship, the court may continue the
11 dispositional hearing to the earliest available date for a hearing in
12 accordance with the provisions of subsection (3)(a) of this section and
13 part 6 of this article 3. When the decree does not terminate the
14 parent-child legal relationship, the court shall approve an appropriate
15 treatment plan that must include but not be limited to one or more of the
16 following provisions of subsections (1)(a) to (1)(d) of this section:

17 (d) (I) The court may order that the child be examined or treated
18 by a physician, surgeon, psychiatrist, or psychologist or that ~~he or she~~ THE
19 CHILD receive other special care and may place the child in a hospital or
20 other suitable facility for such purposes; except that the child may not be
21 placed in a mental health facility operated by the department of human
22 services until the child has received a behavioral or mental health disorder
23 prescreening resulting in a recommendation that the child be placed in a
24 facility for evaluation pursuant to ~~section 27-65-105 or~~ SECTION
25 27-65-106, or a hearing has been held by the court after notice to all
26 parties, including the department of human services. An order for a
27 ~~seventy-two-hour treatment and evaluation~~ AN EMERGENCY MENTAL

1 HEALTH HOLD must not be entered unless a hearing is held and evidence
2 indicates that the prescreening report is inadequate, incomplete, or
3 incorrect and that competent professional evidence is presented by a
4 mental health professional that indicates that a behavioral or mental
5 health disorder is present in the child. The court shall make, prior to the
6 hearing, such orders regarding temporary custody of the child as are
7 deemed appropriate. described in ~~section 27-65-105~~ SECTION 27-65-106
8 or a voluntary application for mental health services pursuant to section
9 27-65-103 OR 27-65-104. The arrangements for care must be completed
10 through the crisis response system or prearranged partnerships with other
11 crisis intervention services.

12 (3) (a) On or before January 1, 2018, all walk-in centers
13 throughout the state's crisis response system must be appropriately
14 designated by the ~~executive director~~ COMMISSIONER OF THE BEHAVIORAL
15 HEALTH ADMINISTRATION for a ~~seventy-two-hour treatment and~~
16 ~~evaluation~~ AN EMERGENCY MENTAL HEALTH HOLD, adequately prepared,
17 and properly staffed to accept an individual through the emergency
18 mental health procedure outlined in ~~section 27-65-105~~ SECTION 27-65-106
19 or a voluntary application for mental health services pursuant to section
20 27-65-103 OR 27-65-104. Priority for individuals receiving emergency
21 placement pursuant to ~~section 27-65-105~~ SECTION 27-65-106 is on
22 treating high-acuity individuals in the least restrictive environment
23 without the use of law enforcement.

24 (b) Increasing the ability of walk-in centers to accept individuals
25 through the emergency mental health procedure outlined in ~~section~~
26 ~~27-65-105~~ SECTION 27-65-106 or a voluntary application for mental
27 health services pursuant to section 27-65-103 OR 27-65-104 may include,

1 but is not limited to, purchasing, installing, and using telehealth
2 operations for mobile crisis evaluations in partnership with hospitals,
3 clinics, law enforcement agencies, and other appropriate service
4 providers.

5 **SECTION 40.** In Colorado Revised Statutes, 24-10-106, **amend**
6 (1)(i) and (1)(j); and **add** (1)(k) as follows:

7 **24-10-106. Immunity and partial waiver.** (1) A public entity
8 shall be immune from liability in all claims for injury which lie in tort or
9 could lie in tort regardless of whether that may be the type of action or the
10 form of relief chosen by the claimant except as provided otherwise in this
11 section. Sovereign immunity is waived by a public entity in an action for
12 injuries resulting from:

13 (i) An action brought pursuant to section 13-21-128; ~~or~~

14 (j) An action brought pursuant to part 12 of article 20 of title 13,
15 whether the conduct alleged occurred before, on, or after January 1, 2022;
16 OR

17 (k) AN ACTION BROUGHT PURSUANT TO SECTION 27-65-106 OR
18 27-65-119, WHETHER THE CONDUCT ALLEGED OCCURRED BEFORE, ON, OR
19 AFTER JULY 1, 2023.

20 **SECTION 41.** In Colorado Revised Statutes, 27-60-104.5,
21 **amend** (3)(e)(I) as follows:

22 **27-60-104.5. Behavioral health capacity tracking system -**
23 **legislative declaration - definitions - rules.** (3) Pursuant to subsection
24 (8) of this section, the state department shall implement a behavioral
25 health capacity tracking system, which must include the following:

26 (e) Capacity reporting for the following facilities and treatment
27 providers statewide:

1 (I) Facilities that provide evaluation and treatment to individuals
2 held under an emergency commitment pursuant to section 27-81-111, an
3 involuntary commitment pursuant to section 27-81-112, or a civil
4 commitment pursuant to ~~section 27-65-105~~ SECTION 27-65-106, including
5 crisis stabilization units, acute treatment units, community mental health
6 centers, and hospitals, including state mental health institutes;

7 **SECTION 42.** In Colorado Revised Statutes, 27-62-101, **amend**
8 (1)(a), (5), and (6)(a) as follows:

9 **27-62-101. Definitions.** As used in this article 62, unless the
10 context otherwise requires:

11 (1) "At risk of out-of-home placement" means a child or youth
12 who is eligible for medical assistance pursuant to articles 4, 5, and 6 of
13 title 25.5 and the child or youth:

14 (a) Has been diagnosed as having a mental health disorder, as
15 defined in section 27-65-102, (~~11.5~~); or a behavioral health disorder; and

16 (5) "Mental health professional" means an individual licensed as
17 a mental health professional pursuant to article 245 of title 12 or a
18 professional person, as defined in section 27-65-102 (~~17~~) (27)(a).

19 (6) "Out-of-home placement" means a child or youth who is
20 eligible for medical assistance pursuant to articles 4, 5, and 6 of title 25.5
21 and the child or youth:

22 (a) Has been diagnosed as having a mental health disorder, as
23 defined in section 27-65-102, (~~11.5~~); or a behavioral health disorder; and

24 **SECTION 43.** In Colorado Revised Statutes, 27-66.5-102,
25 **amend** (3)(a)(I), (3)(a)(II), (3)(a)(III), and (3)(a)(VI) as follows:

26 **27-66.5-102. Definitions.** As used in this article 66.5, unless the
27 context otherwise requires:

- 1 (3) "High-risk individual" means a person who:
- 2 (a) Has a significant mental health or substance use disorder, as
- 3 evidenced by:
- 4 (I) An emergency ~~procedure for a seventy-two-hour~~ MENTAL
- 5 HEALTH hold pursuant to ~~section 27-65-105~~ SECTION 27-65-106;
- 6 (II) A certification for short-term treatment or extended short-term
- 7 treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION
- 8 27-65-109;
- 9 (III) Long-term care and treatment pursuant to ~~section 27-65-109~~
- 10 SECTION 27-65-110;
- 11 (VI) Receiving voluntary behavioral health services pursuant to
- 12 section 27-65-103, ~~27-65-104~~, 27-81-109, or 27-81-110; and

13 **SECTION 44.** In Colorado Revised Statutes, 27-67-103, **amend**

14 (2)(a) as follows:

15 **27-67-103. Definitions.** As used in this article 67, unless the

16 context otherwise requires:

17 (2) "Child or youth at risk of out-of-home placement" means a

18 child or youth who, although not otherwise categorically eligible for

19 medicaid, meets the following criteria:

20 (a) The child or youth has been diagnosed as having a mental

21 health disorder, as defined in section 27-65-102; ~~(11.5);~~

22 **SECTION 45.** In Colorado Revised Statutes, 27-80-302, **amend**

23 (1)(a) as follows:

24 **27-80-302. Definitions.** As used in this part 3, unless the context

25 otherwise requires:

26 (1) "Health-care provider" or "provider" means:

27 (a) A professional person, as defined in section 27-65-102 ~~(17)~~

1 (27)(a);

2 **SECTION 46.** In Colorado Revised Statutes, 27-80-303, **amend**
3 (3)(c) as follows:

4 **27-80-303. Office of ombudsman for behavioral health access**
5 **to care - creation - appointment of ombudsman - duties.** (3) The
6 ombudsman shall:

7 (c) Receive and assist consumers and providers in reporting
8 concerns and filing complaints with appropriate regulatory or oversight
9 agencies relating to inappropriate care, ~~an emergency~~ A procedure ~~under~~
10 ~~section 27-65-105~~ FOR AN EMERGENCY MENTAL HEALTH HOLD PURSUANT
11 TO SECTION 27-65-106, a certification for short-term treatment ~~under~~
12 ~~section 27-65-107~~ PURSUANT TO SECTION 27-65-109, or a certification for
13 long-term care and treatment ~~under section 27-65-109~~ PURSUANT TO
14 SECTION 27-65-110;

15 **SECTION 47.** In Colorado Revised Statutes, 27-80-306, **amend**
16 (4) as follows:

17 **27-80-306. Annual report.** (4) The ombudsman shall not include
18 in the report required by this section any personally identifying
19 information about an individual consumer or health-care provider or
20 identifying information about a health-care facility licensed pursuant to
21 section 25-1.5-103 or an emergency medical services facility, as defined
22 in section 27-65-102. ~~(5.5).~~

23 **SECTION 48.** In Colorado Revised Statutes, 30-28-115, **amend**
24 (2)(b.5) as follows:

25 **30-28-115. Public welfare to be promoted - legislative**
26 **declaration - construction.** (2) (b.5) The general assembly declares that
27 the establishment of state-licensed group homes for the exclusive use of

1 persons with behavioral or mental health disorders, as ~~that term is defined~~
2 in section 27-65-102, is a matter of statewide concern and that a
3 state-licensed group home for eight persons with behavioral or mental
4 health disorders is a residential use of property for zoning purposes, as
5 defined in section 31-23-301 (4). A group home for persons with
6 behavioral or mental health disorders established pursuant to this
7 subsection (2)(b.5) must not be located within seven hundred fifty feet of
8 another such group home or of another group home as described in
9 subsections (2)(a) and (2)(b) of this section, unless otherwise provided for
10 by the county. A person must not be placed in a group home without
11 being screened by either a professional person, as defined in section
12 27-65-102, ~~(17)~~ (27)(a), or any other ~~such~~ mental health professional
13 designated by the director of a facility, which facility is approved by the
14 ~~executive director~~ COMMISSIONER of the ~~department of human services~~
15 ~~pursuant to section 27-90-102~~ BEHAVIORAL HEALTH ADMINISTRATION.
16 Persons determined to be not guilty by reason of insanity to a violent
17 offense must not be placed in such group homes, and any person who has
18 been convicted of a felony involving a violent offense is not eligible for
19 placement in such group homes. ~~The provisions of~~ This subsection
20 (2)(b.5) must be implemented, where appropriate, by the rules of the
21 department of public health and environment concerning residential
22 treatment facilities for persons with behavioral or mental health disorders.
23 Nothing in this subsection (2)(b.5) exempts such group homes from
24 compliance with any state, county, or municipal health, safety, and fire
25 codes.

26 **SECTION 49.** In Colorado Revised Statutes, 31-23-303, **amend**
27 (2)(b.5) as follows:

1 **31-23-303. Legislative declaration.** (2) (b.5) The general
2 assembly declares that the establishment of state-licensed group homes
3 for the exclusive use of persons with behavioral or mental health
4 disorders, as ~~that term is~~ defined in section 27-65-102, is a matter of
5 statewide concern and that a state-licensed group home for eight persons
6 with behavioral or mental health disorders is a residential use of property
7 for zoning purposes, as defined in section 31-23-301 (4). A group home
8 for persons with behavioral or mental health disorders established
9 pursuant to this subsection (2)(b.5) must not be located within seven
10 hundred fifty feet of another such group home, unless otherwise provided
11 for by the municipality. A person must not be placed in a group home
12 without being screened by either a professional person, as defined in
13 section 27-65-102 ~~(+7)~~ (27)(a), or any other such mental health
14 professional designated by the director of a facility approved by the
15 ~~executive director~~ COMMISSIONER of the ~~department of human services~~
16 ~~pursuant to section 27-90-102~~ BEHAVIORAL HEALTH ADMINISTRATION.
17 Persons determined to be not guilty by reason of insanity to a violent
18 offense must not be placed in such group homes, and any person who has
19 been convicted of a felony involving a violent offense is not be eligible
20 for placement in such group homes. ~~The provisions of~~ This subsection
21 (2)(b.5) must be implemented, where appropriate, by the rules of the
22 department of public health and environment concerning residential
23 treatment facilities for persons with behavioral or mental health disorders.
24 Nothing in this subsection (2)(b.5) exempts such group homes from
25 compliance with any state, county, or municipal health, safety, and fire
26 codes.

27 **SECTION 50.** In Colorado Revised Statutes, 42-2-116, **amend**

1 (5) as follows:

2 **42-2-116. Restricted license.** (5) The department is authorized
3 after examination to issue a restricted license to a person with a
4 behavioral or mental health disorder or an intellectual and developmental
5 disability, containing such restrictions as may be imposed upon said
6 person by a court pursuant to part 3 or part 4 of article 14 of title 15 or
7 ~~section 27-65-109 (4)~~ SECTION 27-65-110 (4) or 27-65-127.

8 **SECTION 51.** In Colorado Revised Statutes, 42-2-125, **amend**
9 (1)(h) as follows:

10 **42-2-125. Mandatory revocation of license and permit.** (1) The
11 department shall immediately revoke the license or permit of any driver
12 or minor driver upon receiving a record showing that the driver has:

13 (h) Been determined to be mentally incompetent by a court of
14 competent jurisdiction and for whom a court has entered, pursuant to part
15 3 or part 4 of article 14 of title 15 ~~C.R.S.~~, or ~~section 27-65-109 (4)~~
16 SECTION 27-65-110(4) or 27-65-127, ~~C.R.S.~~, an order specifically finding
17 that the mental incompetency is of such a degree that the person is
18 incapable of safely operating a motor vehicle;

19 **SECTION 52.** In Colorado Revised Statutes, **repeal of**
20 **nonrelocated provisions in this act**, 27-65-102 (14), 27-65-105 (6),
21 27-65-106 (1), 27-65-106 (7), 27-65-106 (8), 27-65-106 (9), 27-65-106
22 (10), 27-65-117 (1)(b), 27-65-117 (1)(c), 27-65-125, and 27-65-126.

23 **SECTION 53. Act subject to petition - effective date.** Sections
24 2, 5, and 40 of this act take effect July 1, 2023, sections 27-65-108 and
25 27-65-111, as enacted in section 1 of this act, and sections 3 and 4 of this
26 act take effect January 1, 2025, and the remainder of this act takes effect
27 at 12:01 a.m. on the day following the expiration of the ninety-day period

1 after final adjournment of the general assembly; except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2022 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor; except that
8 sections 2, 5, and 40 of this act take effect July 1, 2023, sections
9 27-65-108 and 27-65-111, as enacted in section 1 of this act, and sections
10 3 and 4 of this act take effect January 1, 2025.