

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0153.02 Jane Ritter x4342

HOUSE BILL 23-1012

HOUSE SPONSORSHIP

Amabile,

SENATE SPONSORSHIP

Rodriguez, Simpson

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ISSUES RELATED TO JUVENILE COMPETENCY TO**
102 **PROCEED, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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/>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. The bill addresses issues related to a determination of juvenile competency to proceed (competency) and restoration of competency (restoration). The bill allows:

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

- The district attorney, defense attorney, guardian ad litem, department of human services, a competency evaluator, a restoration treatment provider, and the court, without written consent of the juvenile or further order of the court, to access competency evaluations and restoration evaluations, including all second evaluations; information and documents related to competency evaluations; the competency evaluator, for the purpose of discussing the competency evaluation; and the providers of court-ordered restoration services for the purpose of discussing such services;
- Parties to exchange names, addresses, reports, and statements of physicians or psychologists who examined or treated the juvenile for competency;
- The court or any party to raise, at any time, the issue of a need for a restoration evaluation of the juvenile's competency; and
- A juvenile to be examined by a competency evaluator of the juvenile's own choice and to request a second evaluation in response to a court-ordered competency evaluation or a court-ordered restoration evaluation.

If the court determines that the juvenile is incompetent to proceed and unlikely to be restored to competency in the reasonably foreseeable future, a time frame is set forth for the dismissal of charges based on the severity and type of charge.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2.5-102, **repeal**
 3 (8), (25), and (44) as follows:

4 **19-2.5-102. Definitions.** In addition to the terms defined in
 5 section 19-1-103, as used in this article 2.5, unless the context otherwise
 6 requires:

7 (8) ~~"Competent to proceed" means that a juvenile has sufficient~~
 8 ~~present ability to consult with the juvenile's attorney with a reasonable~~
 9 ~~degree of rational understanding in order to assist in the defense and that~~
 10 ~~the juvenile has a rational as well as a factual understanding of the~~
 11 ~~proceedings.~~

1 (25) "~~Incompetent to proceed~~" means that, based on an intellectual
2 ~~or developmental disability, mental health disorder, or lack of mental~~
3 ~~capacity, a juvenile does not have sufficient present ability to consult with~~
4 ~~the juvenile's attorney with a reasonable degree of rational understanding~~
5 ~~in order to assist in the defense or that the juvenile does not have a~~
6 ~~rational as well as a factual understanding of the proceedings taking~~
7 ~~place.~~

8 (44) "~~Restoration to competency hearing~~" means a hearing to
9 ~~determine whether a juvenile who has previously been determined to be~~
10 ~~incompetent to proceed has achieved or is restored to competency.~~

11 **SECTION 2.** In Colorado Revised Statutes, **add** 19-2.5-701.5 as
12 follows:

13 **19-2.5-701.5. Definitions.** AS USED IN THIS PART 7, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "COMPETENCY EVALUATION" MEANS AN EVALUATION
16 CONDUCTED BY A COMPETENCY EVALUATOR THAT MEETS THE
17 REQUIREMENTS DESCRIBED IN SECTION 19-2.5-703 (4). "COMPETENCY
18 EVALUATION" INCLUDES BOTH COURT-ORDERED EVALUATIONS
19 PERFORMED BY THE DEPARTMENT AND SECOND EVALUATIONS.

20 (2) "COMPETENCY EVALUATOR" MEANS AN INDIVIDUAL WITH THE
21 QUALIFICATIONS DESCRIBED IN SECTION 19-2.5-703 (4)(b).

22 (3) "COMPETENCY HEARING" MEANS AN INITIAL HEARING TO
23 DETERMINE WHETHER A JUVENILE IS COMPETENT TO PROCEED.

24 (4) "COMPETENT TO PROCEED" MEANS THAT A JUVENILE HAS THE
25 SUFFICIENT PRESENT ABILITY TO CONSULT WITH THE JUVENILE'S
26 ATTORNEY, WITH A REASONABLE DEGREE OF RATIONAL UNDERSTANDING,
27 TO ASSIST THE ATTORNEY IN THE JUVENILE'S DEFENSE, AND THAT THE

1 JUVENILE HAS A RATIONAL AS WELL AS FACTUAL UNDERSTANDING OF THE
2 PROCEEDINGS.

3 (5) "INCOMPETENT TO PROCEED" MEANS THAT, BASED ON AN
4 INTELLECTUAL OR DEVELOPMENTAL DISABILITY, MENTAL HEALTH
5 DISORDER, OR LACK OF MENTAL CAPACITY, A JUVENILE DOES NOT HAVE
6 SUFFICIENT PRESENT ABILITY TO CONSULT WITH THE JUVENILE'S
7 ATTORNEY WITH A REASONABLE DEGREE OF RATIONAL UNDERSTANDING
8 IN ORDER TO ASSIST THE ATTORNEY IN THE JUVENILE'S DEFENSE OR THAT
9 THE JUVENILE DOES NOT HAVE A RATIONAL AS WELL AS A FACTUAL
10 UNDERSTANDING OF THE PROCEEDINGS.

11 (6) "RESTORATION EVALUATION" MEANS AN EVALUATION
12 CONDUCTED BY A COMPETENCY EVALUATOR TO DETERMINE IF THE
13 JUVENILE HAS BECOME COMPETENT TO PROCEED OR WILL BE ABLE TO BE
14 RESTORED TO COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.
15 "RESTORATION EVALUATION" INCLUDES BOTH COURT-ORDERED
16 EVALUATIONS BY THE DEPARTMENT AND SECOND EVALUATIONS.

17 (7) "RESTORATION PROGRESS REVIEW HEARING" MEANS A
18 HEARING IN WHICH THE JUVENILE'S PROGRESS IN RESTORATION TO
19 COMPETENCY EDUCATION AND OTHER APPLICABLE SERVICES IS REVIEWED,
20 BASED ON RESTORATION EDUCATION, TREATMENT RECORDS, AND ANY
21 PRIOR COMPETENCY EVALUATION REPORTS.

22 (8) "RESTORATION TO COMPETENCY HEARING" MEANS A HEARING
23 TO DETERMINE WHETHER A JUVENILE WHO HAS PREVIOUSLY BEEN
24 DETERMINED TO BE INCOMPETENT TO PROCEED IS NOW COMPETENT TO
25 PROCEED.

26 (9) "SECOND EVALUATION" MEANS AN EVALUATION IN RESPONSE
27 TO A COURT-ORDERED COMPETENCY EVALUATION OR COURT-ORDERED

1 RESTORATION EVALUATION REQUESTED BY THE JUVENILE THAT IS
2 PERFORMED BY A COMPETENCY EVALUATOR AND THAT IS NOT PERFORMED
3 BY, UNDER THE DIRECTION OF, OR PAID FOR BY THE DEPARTMENT.

4 **SECTION 3.** In Colorado Revised Statutes, 19-2.5-702, **amend**
5 (2) as follows:

6 **19-2.5-702. Incompetent to proceed - effect - how and when**
7 **raised.** (2) A juvenile must not be tried or sentenced if the juvenile is
8 incompetent to proceed, as defined in ~~section 19-2.5-102~~ SECTION
9 19-2.5-701.5, at that stage of the proceedings. Juveniles, like adults, are
10 presumed competent to proceed, as defined in ~~section 19-2.5-102~~ SECTION
11 19-2.5-701.5, until such time as they are found incompetent to proceed
12 through a decision by the court. A determination of competency must
13 include an evaluation of intellectual and developmental disabilities,
14 mental health disorders, and mental capacity. Age alone is not
15 determinative of incompetence without a finding that the juvenile actually
16 lacks the relevant capacities for competence.

17 **SECTION 4.** In Colorado Revised Statutes, 19-2.5-703, **amend**
18 (4)(c) as follows:

19 **19-2.5-703. Determination of incompetency to proceed.**
20 (4) (c) The competency evaluation must, at a minimum, include an
21 opinion regarding whether the juvenile is incompetent to proceed as
22 defined in ~~section 19-2.5-102~~ SECTION 19-2.5-701.5. If the evaluation
23 concludes the juvenile is incompetent to proceed, the evaluation must
24 include a recommendation as to whether there is a likelihood that the
25 juvenile may achieve or be restored to competency IN THE REASONABLY
26 FORESEEABLE FUTURE and identify appropriate services to restore the
27 juvenile to competency.

1 **SECTION 5.** In Colorado Revised Statutes, **add** 19-2.5-703.5 as
2 follows:

3 **19-2.5-703.5. Waiver of privilege - exchange of information -**
4 **admissibility of statements.** (1) WHEN THE COURT DETERMINES THAT A
5 JUVENILE IS INCOMPETENT TO PROCEED, ANY CLAIM OF CONFIDENTIALITY
6 OR PRIVILEGE BY THE JUVENILE OR THE JUVENILE'S PARENT OR LEGAL
7 GUARDIAN IS DEEMED WAIVED WITHIN THE CASE TO ALLOW THE COURT
8 AND PARTIES TO DETERMINE ISSUES RELATED TO THE JUVENILE'S
9 COMPETENCY, RESTORATION, AND ANY MANAGEMENT PLAN DEVELOPED
10 BY THE COURT PURSUANT TO SECTION 19-2.5-704 (3). THE DISTRICT
11 ATTORNEY, DEFENSE ATTORNEY, GUARDIAN AD LITEM, THE DEPARTMENT,
12 ANY COMPETENCY EVALUATORS, ANY RESTORATION TREATMENT
13 PROVIDERS, AND THE COURT ARE GRANTED ACCESS, WITHOUT WRITTEN
14 CONSENT OF THE JUVENILE OR FURTHER ORDER OF THE COURT, TO:

15 (a) COMPETENCY EVALUATIONS AND RESTORATION EVALUATIONS,
16 INCLUDING ALL SECOND EVALUATIONS;

17 (b) INFORMATION AND DOCUMENTS RELATED TO COMPETENCY
18 EVALUATIONS THAT ARE CREATED, OBTAINED, REVIEWED, OR RELIED ON
19 BY A COMPETENCY EVALUATOR PERFORMING A COURT-ORDERED
20 COMPETENCY EVALUATION;

21 (c) INFORMATION AND DOCUMENTS RELATING TO COMPETENCY
22 RESTORATION THAT ARE CREATED, OBTAINED, REVIEWED, OR RELIED ON
23 BY A COMPETENCY PROVIDER PERFORMING COURT-ORDERED RESTORATION
24 SERVICES;

25 (d) THE COMPETENCY EVALUATOR, FOR THE PURPOSE OF
26 DISCUSSING THE COMPETENCY EVALUATION; AND

27 (e) THE PROVIDERS OF COURT-ORDERED RESTORATION SERVICES

1 FOR THE PURPOSE OF DISCUSSING SUCH SERVICES.

2 (2) UPON A REQUEST BY EITHER PARTY OR THE COURT FOR
3 INFORMATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE
4 COMPETENCY EVALUATOR OR RESTORATION SERVICES PROVIDER SHALL
5 PROVIDE THE INFORMATION TO THE PARTY OR COURT FOR USE IN
6 PREPARING FOR A COMPETENCY HEARING, RESTORATION PROGRESS
7 REVIEW HEARING, RESTORATION TO COMPETENCY HEARING, OR HEARING
8 REGARDING A MANAGEMENT PLAN PURSUANT TO SECTION 19-2.5-704 (3)
9 AND FOR USE IN ANY SUCH HEARING.

10 (3) A COMPETENCY EVALUATOR OR RESTORATION SERVICES
11 PROVIDER ASSIGNED PURSUANT TO A COURT ORDER ISSUED PURSUANT TO
12 THIS ARTICLE 2.5 SHALL PROVIDE PROCEDURAL INFORMATION TO THE
13 DISTRICT ATTORNEY, DEFENSE ATTORNEY, GUARDIAN AD LITEM, THE
14 DEPARTMENT, ANY COMPETENCY EVALUATORS, ANY RESTORATION
15 TREATMENT PROVIDERS, AND THE COURT CONCERNING:

- 16 (a) THE JUVENILE'S LOCATION;
- 17 (b) THE JUVENILE'S HOSPITAL OR FACILITY ADMISSION STATUS;
- 18 (c) THE STATUS OF EVALUATION PROCEDURES;
- 19 (d) THE STATUS OF RESTORATION SERVICES PROCEDURES; AND
- 20 (e) ANY OTHER PROCEDURAL INFORMATION RELEVANT TO THE
21 JUVENILE'S COMPETENCY, RESTORATION, OR MANAGEMENT PLAN.

22 (4) NOTHING IN THIS SECTION LIMITS THE COURT'S ABILITY TO
23 ORDER, IN ADDITION TO THE INFORMATION SET FORTH IN SUBSECTIONS (1)
24 AND (3) OF THIS SECTION, ADDITIONAL INFORMATION BE PROVIDED TO THE
25 DISTRICT ATTORNEY, DEFENSE ATTORNEY, THE GUARDIAN AD LITEM, THE
26 DEPARTMENT, ANY COMPETENCY EVALUATOR, ANY RESTORATION
27 TREATMENT PROVIDER, AND THE COURT, UNLESS IT IS OTHERWISE

1 PROTECTED FROM DISCLOSURE BY OTHER LAW. NOTHING IN THIS SECTION
2 LIMITS THE INFORMATION THAT IS AVAILABLE WITH THE WRITTEN
3 CONSENT OF THE JUVENILE.

4 (5) THE COURT SHALL ORDER THE PARTIES TO EXCHANGE THE
5 NAMES, ADDRESSES, REPORTS, AND STATEMENTS OF EACH PHYSICIAN OR
6 PSYCHOLOGIST WHO EXAMINED OR TREATED THE JUVENILE FOR
7 COMPETENCY.

8 (6) EVIDENCE OBTAINED DURING A COMPETENCY EVALUATION OR
9 DURING COMPETENCY RESTORATION SERVICES THAT IS RELATED TO THE
10 JUVENILE'S COMPETENCY OR INCOMPETENCY IS ONLY ADMISSIBLE TO
11 DETERMINE THE JUVENILE'S COMPETENCY, INCOMPETENCY, OR TO
12 DETERMINE ORDERS RELATED TO RESTORATION, RESTORATION SERVICES,
13 OR A MANAGEMENT PLAN AND IS NOT ADMISSIBLE ON THE ISSUES RAISED
14 BY A PLEA OF NOT GUILTY.

15 **SECTION 6.** In Colorado Revised Statutes, 19-2.5-704, **amend**
16 (2)(a) and (3)(a); and **add** (2)(c) and (2.5) as follows:

17 **19-2.5-704. Procedure after determination of competency or**
18 **incompetency.** (2) (a) If the court finally determines pursuant to section
19 19-2.5-703 that the juvenile is incompetent to proceed but may be
20 restored to competency IN THE REASONABLY FORESEEABLE FUTURE, the
21 court shall stay the proceedings and order that the juvenile receive
22 services designed to restore the juvenile to competency, based upon
23 recommendations in the competency evaluation, unless the court makes
24 specific findings that the recommended services in the competency
25 evaluation are not justified. The court shall order that the restoration
26 services ordered are provided in the least-restrictive environment, taking
27 into account the public safety and the best interests of the juvenile, and

1 that the provision of the services and the juvenile's participation in those
2 services occur in a timely manner. The court shall ~~review the provision~~
3 ~~of and the juvenile's participation in the services and the juvenile's~~
4 ~~progress toward competency~~ HOLD A RESTORATION PROGRESS REVIEW
5 HEARING at least every ninety-one days until competency is restored,
6 unless the juvenile is in custody, in which event the court shall ~~review the~~
7 ~~case~~ HOLD A RESTORATION PROGRESS REVIEW HEARING every thirty-five
8 days to ensure the prompt provision of services in the least-restrictive
9 environment. The court shall not maintain jurisdiction longer than the
10 maximum possible sentence for the ~~original~~ MOST SERIOUS offense, unless
11 the court makes specific findings of good cause to retain jurisdiction.
12 However, the juvenile court's jurisdiction shall not extend beyond the
13 juvenile's twenty-first birthday.

14 (c) THE COURT OR A PARTY MAY RAISE, AT ANY TIME, THE NEED
15 FOR A RESTORATION EVALUATION OF A JUVENILE'S COMPETENCY. IF
16 RAISED, THE COURT SHALL ORDER A RESTORATION EVALUATION ONLY
17 WHEN THERE IS CREDIBLE INFORMATION THAT THE JUVENILE'S
18 CIRCUMSTANCES HAVE CHANGED, THE COURT CANNOT FAIRLY DETERMINE
19 WHETHER THE JUVENILE HAS BEEN RESTORED TO COMPETENCY OR WILL BE
20 ABLE TO BE RESTORED TO COMPETENCY IN THE REASONABLY
21 FORESEEABLE FUTURE, AND THE CAUSE FOR A RESTORATION EVALUATION
22 OUTWEIGHS THE NEGATIVE IMPACT OF A RESTORATION EVALUATION UPON
23 THE JUVENILE AND ANY DELAY THAT WILL BE CAUSED BY A RESTORATION
24 EVALUATION. THE COURT MAY HOLD A HEARING TO DETERMINE IF A
25 RESTORATION EVALUATION MUST BE ORDERED. IF THE COURT ORDERS A
26 RESTORATION EVALUATION, SUCH EVALUATION MUST MEET THE
27 REQUIREMENTS OF SECTION 19-2.5-703 (4).

1 (2.5) (a) IF THE COURT FINDS A JUVENILE IS INCOMPETENT TO
2 PROCEED AND THE JUVENILE HAS BEEN INCOMPETENT TO PROCEED FOR A
3 PERIOD OF TIME THAT EXCEEDS THE TIME LIMITS SET FORTH IN THIS
4 SUBSECTION (2.5), THE COURT SHALL ENTER A FINDING THAT THE
5 JUVENILE IS UNRESTORABLE TO COMPETENCY AND SHALL DETERMINE
6 WHETHER A MANAGEMENT PLAN FOR THE JUVENILE IS NECESSARY
7 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION. THE TIME LIMITS ARE
8 AS FOLLOWS:

9 (I) IF THE HIGHEST CHARGED ACT CONSTITUTES A MISDEMEANOR,
10 A MISDEMEANOR DRUG OFFENSE, A PETTY OFFENSE, OR A TRAFFIC
11 OFFENSE, AND THE JUVENILE IS NOT RESTORED TO COMPETENCY AFTER A
12 PERIOD OF SIX MONTHS, THE COURT SHALL FIND THE JUVENILE
13 UNRESTORABLE TO COMPETENCY;

14 (II) IF THE HIGHEST CHARGED ACT CONSTITUTES A CLASS 4, 5, OR
15 6 FELONY, OR A LEVEL 3 OR 4 DRUG FELONY, AND THE JUVENILE IS NOT
16 RESTORED TO COMPETENCY AFTER A PERIOD OF ONE YEAR, THE COURT
17 SHALL FIND THE JUVENILE UNRESTORABLE TO COMPETENCY;

18 (III) IF THE HIGHEST CHARGED ACT CONSTITUTES A CLASS 3
19 FELONY OR A LEVEL 1 OR 2 DRUG FELONY, EXCEPT FOR A CHARGE THAT
20 CONSTITUTES AN ACT THAT ALLEGES THE JUVENILE IS AN AGGRAVATED
21 JUVENILE OFFENDER PURSUANT TO SECTION 19-2.5-1125 (4), AND THE
22 JUVENILE IS NOT RESTORED TO COMPETENCY AFTER A PERIOD OF TWO
23 YEARS, THE COURT SHALL FIND THE JUVENILE UNRESTORABLE TO
24 COMPETENCY; OR

25 (IV) IF THE HIGHEST CHARGED ACT CONSTITUTES A CLASS 1 OR 2
26 FELONY OR FOR A CHARGE THAT CONSTITUTES AN ACT THAT ALLEGES THE
27 JUVENILE IS AN AGGRAVATED JUVENILE OFFENDER PURSUANT TO SECTION

1 19-2.5-1125 (4) AND THE JUVENILE IS NOT RESTORED TO COMPETENCY
2 AFTER A PERIOD OF FIVE YEARS, THE COURT SHALL FIND THE JUVENILE
3 UNRESTORABLE TO COMPETENCY.

4 (b) UPON A MOTION FROM THE PROSECUTING ATTORNEY FILED
5 PRIOR TO THE EXPIRATION OF THE TIME LIMITS SET FORTH IN SUBSECTION
6 (2.5)(a) OF THIS SECTION, THE COURT MAY EXTEND THE TIME LIMITS SET
7 FORTH IN SUBSECTION (2.5)(a) OF THIS SECTION FOR AN ADDITIONAL
8 THREE MONTHS IF THE COURT, AFTER A HEARING, MAKES FACTUAL
9 FINDINGS THAT:

10 (I) THE JUVENILE HAS FAILED TO ATTEND OR SUBSTANTIALLY
11 COOPERATE WITH RESTORATION TREATMENT;

12 (II) THERE IS A REASONABLE LIKELIHOOD OF RESTORATION IN THE
13 FORESEEABLE FUTURE IF THE JUVENILE COOPERATES WITH RESTORATION
14 TREATMENT; AND

15 (III) THE JUVENILE'S LACK OF COOPERATION IS NOT THE RESULT OF
16 AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, MENTAL OR
17 BEHAVIORAL HEALTH DISORDER, OR A LACK OF MENTAL CAPACITY.

18 (c) NOTHING IN THIS SUBSECTION (2.5) PRECLUDES A COURT FROM
19 DETERMINING A JUVENILE IS UNLIKELY TO BE RESTORED TO COMPETENCY
20 IN THE REASONABLY FORESEEABLE FUTURE AND ENTERING AN ORDER
21 THAT THE JUVENILE IS UNRESTORABLE TO COMPETENCY PURSUANT TO
22 SUBSECTION (3)(a) OF THIS SECTION THROUGH A COMPETENCY HEARING
23 OR RESTORATION TO COMPETENCY HEARING CONDUCTED AT ANY TIME
24 PRIOR TO THE EXPIRATION OF THE TIME LIMITS SET FORTH IN SUBSECTION
25 (2.5)(a) OF THIS SECTION, BASED UPON THE AVAILABLE EVIDENCE.

26 (3) (a) If the court finally determines pursuant to section
27 19-2.5-703 OR 19-2.5-703.5 that the juvenile is incompetent to proceed

1 and cannot be restored to competency IN THE REASONABLY FORESEEABLE
2 FUTURE, the court shall ENTER AN ORDER FINDING THE JUVENILE
3 UNRESTORABLE TO COMPETENCY AND SHALL determine whether a
4 management plan for the juvenile is necessary, taking into account the
5 public safety and the best interests of the juvenile. If the court determines
6 a management plan is necessary, the court shall develop the management
7 plan after ordering that the juvenile be placed in the least-restrictive
8 environment, taking into account the public safety and best interests of
9 the juvenile. If the court determines a management plan is unnecessary,
10 the court may continue any treatment or plan already in place for the
11 juvenile. The management plan must, at a minimum, address treatment
12 for the juvenile, identify the party or parties responsible for the juvenile,
13 and specify appropriate behavior management tools, if they are not
14 otherwise part of the juvenile's treatment.

15 **SECTION 7.** In Colorado Revised Statutes, 19-2.5-705, **amend**
16 (1) as follows:

17 **19-2.5-705. Restoration to competency hearing.** (1) The court
18 may order a restoration to competency hearing, as defined in ~~section~~
19 ~~19-2.5-102~~ SECTION 19-2.5-701.5, at any time on its own motion, on
20 motion of the prosecuting attorney, or on motion of the juvenile. The
21 court shall order a restoration of competency hearing if a competency
22 evaluator with the qualifications described in section 19-2.5-703 (4)(b)
23 files a report certifying that the juvenile is competent to proceed.

24 **SECTION 8.** In Colorado Revised Statutes, **add** 19-2.5-707 as
25 follows:

26 **19-2.5-707. Evaluation at the request of the juvenile.** A
27 JUVENILE HAS THE RIGHT TO REQUEST A SECOND EVALUATION IN

1 RESPONSE TO A COURT-ORDERED COMPETENCY EVALUATION OR A
2 COURT-ORDERED RESTORATION EVALUATION WITHIN SEVEN DAYS AFTER
3 THE RECEIPT OF AN EVALUATION. IF A JUVENILE WANTS A SECOND
4 EVALUATION TO BE CONDUCTED BY A COMPETENCY EVALUATOR OF THE
5 JUVENILE'S CHOICE IN CONNECTION WITH A PROCEEDING HELD PURSUANT
6 TO THIS ARTICLE 2.5, THE COURT, UPON TIMELY MOTION, SHALL ORDER
7 THAT THE COMPETENCY EVALUATOR BE GIVEN REASONABLE OPPORTUNITY
8 TO CONDUCT THE SECOND EVALUATION PRIOR TO ANY COMPETENCY OR
9 RESTORATION HEARING.

10 **SECTION 9. Appropriation.** (1) For the 2023-24 state fiscal
11 year, \$120,000 is appropriated to the judicial department. This
12 appropriation is from the general fund. To implement this act, the
13 department may use this appropriation as follows:

14 (a) \$100,800 for use by the office of the state public defender for
15 mandated costs; and

16 (b) \$19,200 for use by the office of the alternate defense counsel
17 for mandated costs.

18 **SECTION 10. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly; except
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V
22 of the state constitution against this act or an item, section, or part of this
23 act within such period, then the act, item, section, or part will not take
24 effect unless approved by the people at the general election to be held in
25 November 2024 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.