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Seventy-fifth General Assembly
STATE OF COLORADO

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BILL 5

LLS NO. 25-0116.01 Conrad Imel x2313

INTERIM COMMITTEE BILL

**Legislative Oversight Committee Concerning the Treatment of Persons
with Behavioral Health Disorders in the Criminal and Juvenile Justice
Systems**

BILL TOPIC: Competency in Crim Justice System Services & Bail

A BILL FOR AN ACT

101 **CONCERNING PERSONS WHO MAY BE INCOMPETENT TO STAND TRIAL,**
102 **AND, IN CONNECTION THEREWITH, PERMITTING CERTAIN**
103 **SERVICES FOR PERSONS WHO ARE INCOMPETENT TO PROCEED,**
104 **COLLECTING RESIDENCY INFORMATION ABOUT PERSONS WHO**
105 **ARE INCOMPETENT TO PROCEED, AND REQUIRING BOND SETTING**
106 **FOR PERSONS WHO MAY BE INCOMPETENT TO PROCEED.**

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

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. Under existing law, when criminal charges are dismissed against a person receiving inpatient restoration services from the department of human services (DHS), DHS must stop providing services to the person. The bill permits DHS to continue to provide services for up to 90 days after the person's case is dismissed because the person is incompetent to proceed. DHS is permitted to enter into an agreement with an organization to provide permanent supportive housing for a person whose case is dismissed because the person is incompetent to proceed or the person has successfully completed a bridges wraparound care program, and for a person who has been referred to the bridges wraparound care program.

The bill requires DHS to collect information for each person whose charges are dismissed following a determination by the court that the person is incompetent to proceed or following satisfactory completion of a bridges wraparound care program, or who has been referred to the bridges wraparound care program, concerning where the person lives or intends to live following the dismissal or referral. DHS shall share that information with the division of housing in the department of local affairs.

The bill requires the judicial department to develop a form for a court to use to notify DHS of the court's specific findings when the court denies a personal recognizance bond and orders inpatient restoration services for a defendant who is in custody for a misdemeanor, petty offense, or traffic offense, and who the court determines is incompetent to proceed but there is a substantial probability that the defendant, with restoration services, will attain competency in the reasonably foreseeable future.

The bill states that a defendant's competency status does not affect the defendant's eligibility for release on bond and is not a basis for a no-bond hold or mental health stay. A court shall not consider competency status as a factor in setting or modifying a monetary condition of bond. The bill requires a court to convert an order for in-custody or inpatient evaluation or restoration to an order for out-of-custody and outpatient evaluation or restoration if the defendant is released on bond while awaiting an in-custody or inpatient evaluation or restoration.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 27-60-105.5 as
3 follows:

4 **27-60-105.5. Post-dismissal services for persons receiving**

1 **inpatient restoration services - continuation of services after dismissal**
2 **- supportive housing - post-dismissal living information collection -**

3 **definition.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
4 OTHERWISE REQUIRES, "BRIDGES WRAPAROUND CARE PROGRAM" MEANS
5 THE BRIDGES WRAPAROUND CARE PROGRAM CREATED IN SECTION
6 16-8.6-103.

7 (2) IF THE CHARGES AGAINST A PERSON WHO IS RECEIVING
8 INPATIENT RESTORATION SERVICES, AS DESCRIBED IN ARTICLE 8.5 OF TITLE
9 16, ARE DISMISSED PURSUANT TO SECTION 16-8.5-111 OR 16-8.5-116.5
10 FOLLOWING A DETERMINATION BY THE COURT THAT THE PERSON IS
11 INCOMPETENT TO PROCEED, THE STATE DEPARTMENT MAY CONTINUE TO
12 PROVIDE SERVICES TO THE PERSON FOR UP TO NINETY DAYS AFTER THE
13 CHARGES ARE DISMISSED. A PERSON IS NOT REQUIRED TO BE IN CUSTODY
14 TO RECEIVE SERVICES FROM THE STATE DEPARTMENT PURSUANT TO THIS
15 SUBSECTION (2) AFTER CHARGES ARE DISMISSED, AND A COURT SHALL NOT
16 ORDER A PERSON TO REMAIN IN CUSTODY AS A CONDITION OF CONTINUING
17 TO RECEIVE SERVICES FROM THE STATE DEPARTMENT.

18 (3) THE STATE DEPARTMENT MAY ENTER INTO AN AGREEMENT
19 WITH AN ORGANIZATION TO PROVIDE PERMANENT SUPPORTIVE HOUSING
20 FOR PERSONS WHOSE CHARGES ARE DISMISSED PURSUANT TO SECTION
21 16-8.5-111 OR 16-8.5-116.5 FOLLOWING A DETERMINATION BY THE COURT
22 THAT THE PERSON IS INCOMPETENT TO PROCEED OR PURSUANT TO SECTION
23 16-8.6-110 FOLLOWING SATISFACTORY COMPLETION OF A BRIDGES
24 WRAPAROUND CARE PROGRAM, OR FOR PERSONS WHO HAVE BEEN
25 REFERRED TO THE BRIDGES WRAPAROUND CARE PROGRAM.

26 (4) (a) THE STATE DEPARTMENT SHALL COLLECT INFORMATION
27 CONCERNING WHERE A PERSON LIVES OR INTENDS TO LIVE AFTER:

1 (I) THE CHARGES AGAINST THE PERSON ARE DISMISSED PURSUANT
2 TO SECTION 16-8.5-111 OR 16-8.5-116.5 FOLLOWING A DETERMINATION BY
3 THE COURT THAT THE PERSON IS INCOMPETENT TO PROCEED;

4 (II) THE CHARGES AGAINST THE PERSON ARE DISMISSED PURSUANT
5 TO SECTION 16-8.6-110 FOLLOWING SATISFACTORY COMPLETION OF THE
6 BRIDGES WRAPAROUND CARE PROGRAM; OR

7 (III) THE PERSON HAS BEEN REFERRED TO THE BRIDGES
8 WRAPAROUND CARE PROGRAM.

9 (b) THE STATE DEPARTMENT SHALL SHARE THE INFORMATION
10 COLLECTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION WITH THE
11 DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS ON A
12 SCHEDULE AGREED UPON BY THE DEPARTMENTS, BUT AT LEAST
13 QUARTERLY.

14 (c) THE STATE DEPARTMENT SHALL WORK WITH THE OFFICE OF
15 BRIDGES OF COLORADO ESTABLISHED PURSUANT TO SECTION 13-95-103
16 TO COLLECT THE INFORMATION DESCRIBED IN SUBSECTION (4)(a) OF THIS
17 SECTION, AND THE OFFICE OF BRIDGES OF COLORADO SHALL PROVIDE THE
18 INFORMATION TO THE STATE DEPARTMENT.

19 **SECTION 2.** In Colorado Revised Statutes, 13-95-105, **add** (4)
20 as follows:

21 **13-95-105. Bridges of Colorado - programs - administration.**

22 (4) THE OFFICE SHALL PROVIDE INFORMATION TO THE STATE DEPARTMENT
23 OF HUMAN SERVICES ABOUT WHERE PERSONS WHO HAVE BEEN REFERRED
24 TO THE BRIDGES WRAPAROUND CARE PROGRAM LIVE OR INTEND TO LIVE,
25 AS DESCRIBED IN SECTION 27-60-105.5 (4).

26 **SECTION 3.** In Colorado Revised Statutes, 16-8.5-105, **amend**
27 (1)(a)(III) as follows:

1 **16-8.5-105. Evaluations, locations, time frames, and report.**

2 (1) (a) (III) The court shall determine the type of bond and the conditions
3 of release after consideration of the presumptions and factors enumerated
4 in article 4 of this title 16, which include consideration of the information
5 received from any pretrial services program pursuant to section 16-4-106
6 and any information provided by the bridges court liaison hired or
7 contracted pursuant to article 95 of title 13. As a condition of any bond,
8 the court shall require the defendant's cooperation with the competency
9 evaluation on an outpatient and out-of-custody basis. A COURT SHALL
10 ENSURE THAT THE DEFENDANT'S RIGHT TO HAVE BOND SET IS NOT
11 INTERRUPTED WHILE THE DEFENDANT AWAITS COMPETENCY EVALUATION.
12 EXCEPT AS PERMITTED IN SUBSECTION (1)(b) OF THIS SECTION, THE
13 DEFENDANT'S STATUS RELATED TO COMPETENCY, INCLUDING AN ORDER
14 FOR IN-CUSTODY OR INPATIENT EVALUATION, DOES NOT AFFECT THE
15 DEFENDANT'S ELIGIBILITY FOR RELEASE ON BOND AND IS NOT A BASIS FOR
16 A NO-BOND HOLD OR MENTAL HEALTH STAY. In setting the bond, the court
17 shall not consider the need for the defendant to receive an evaluation
18 pursuant to this article 8.5 as a factor in determining ~~any~~ A monetary
19 condition of bond; EXCEPT THAT THE COURT MAY REMOVE OR REDUCE A
20 MONETARY CONDITION OF BOND TO ALLOW THE DEFENDANT TO ACCESS AN
21 OUT-OF-CUSTODY COMPETENCY EVALUATION AND ANY OTHER NECESSARY
22 MENTAL HEALTH SERVICES. IF THE DEFENDANT IS RELEASED ON BOND
23 WHILE AWAITING AN IN-CUSTODY OR INPATIENT EVALUATION, THE COURT
24 SHALL CONVERT THE ORDER FOR IN-CUSTODY OR INPATIENT EVALUATION
25 TO AN ORDER FOR OUT-OF-CUSTODY AND OUTPATIENT EVALUATION.

26 **SECTION 4.** In Colorado Revised Statutes, 16-8.5-111, **amend**
27 (2)(b); and **add** (2.5) as follows:

1 **16-8.5-111. Procedure after determination of competency or**
2 **incompetency - bond determinations. (2) Restoration services**
3 **ordered.** If the final determination made pursuant to section 16-8.5-103
4 is that the defendant is incompetent to proceed and the court finds there
5 is substantial probability that the defendant, with restoration services, will
6 attain competency in the reasonably foreseeable future, the court has the
7 following requirements and options:

8 (b) If the court determines the defendant is incompetent to
9 proceed and is in custody on a misdemeanor, petty offense, or traffic
10 offense, the court ~~shall~~ MUST set a hearing on bond within seven days
11 after the court's final determination that the defendant is incompetent to
12 proceed. At the bond hearing, there is a presumption that the court shall
13 order a personal recognizance bond and enter an order for restoration
14 services pursuant to subsection (2)(a) of this section. In order to deny the
15 defendant a personal recognizance bond and enter an order to commit the
16 defendant for inpatient restoration services pursuant to subsection (2)(c)
17 of this section, the court shall make findings of fact that extraordinary
18 circumstances exist to overcome the presumption of release by clear and
19 convincing evidence. If the court denies a personal recognizance bond,
20 the court ~~shall~~ MUST notify the department of the specific findings the
21 court made to deny the personal recognizance bond. THE JUDICIAL
22 DEPARTMENT SHALL DEVELOP A FORM FOR A COURT TO USE TO NOTIFY THE
23 DEPARTMENT OF THE COURT'S FINDINGS THAT ARE REQUIRED BY THIS
24 SUBSECTION (2)(b).

25 (2.5) ARTICLE II, SECTION 19 OF THE COLORADO CONSTITUTION,
26 ARTICLE 4 OF THIS TITLE 16, AND THE COLORADO RULES OF CRIMINAL
27 PROCEDURE DETERMINE ELIGIBILITY FOR BAIL AND THE FACTORS

1 CONSIDERED IN SETTING MONETARY CONDITIONS OF RELEASE. A COURT
2 SHALL ENSURE THAT A DEFENDANT'S RIGHT TO HAVE BOND SET IS NOT
3 INTERRUPTED WHILE THE DEFENDANT AWAITS COMPETENCY EVALUATION,
4 COMPETENCY DETERMINATION, OR COMPETENCY RESTORATION. EXCEPT
5 AS PERMITTED IN SECTION 16-8.5-105 (1)(b), A DEFENDANT'S STATUS
6 RELATED TO COMPETENCY, INCLUDING AN ORDER FOR IN-CUSTODY OR
7 INPATIENT EVALUATION, DOES NOT AFFECT THE DEFENDANT'S ELIGIBILITY
8 FOR RELEASE ON BOND AND IS NOT A BASIS FOR A NO-BOND HOLD OR
9 MENTAL HEALTH STAY. A COURT SHALL NOT CONSIDER COMPETENCY
10 STATUS AS A FACTOR IN SETTING OR MODIFYING A MONETARY CONDITION
11 OF BOND; EXCEPT THAT THE COURT MAY REMOVE OR REDUCE A
12 MONETARY CONDITION OF BOND TO ALLOW A DEFENDANT TO ACCESS AN
13 OUT-OF-CUSTODY COMPETENCY EVALUATION, RESTORATION SERVICES,
14 AND ANY OTHER NECESSARY MENTAL HEALTH SERVICES. IF A DEFENDANT
15 IS RELEASED ON BOND WHILE AWAITING AN IN-CUSTODY OR INPATIENT
16 RESTORATION, THE COURT SHALL CONVERT THE ORDER FOR IN-CUSTODY
17 OR INPATIENT RESTORATION TO AN ORDER FOR OUT-OF-CUSTODY AND
18 OUTPATIENT RESTORATION.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2026 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.