

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 26-0283.01 Michael Dohr x4347

HOUSE BILL 26-1134

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ENSURE THAT MUNICIPAL COURT**
102 **DEFENDANTS ARE SUBJECT TO CONDITIONS SIMILAR TO STATE**
103 **COURT DEFENDANTS.**

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>.)

The bill clarifies that municipal court defendants have a right to counsel and that municipal defense counsel have the same notice, case information, and opportunity to meet with their clients as do state-level defense counsel. Current law prohibits paying indigent municipal defense counsel on a fixed or flat-fee payment structure if the municipality

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.*

prosecutes domestic violence cases. The bill applies the prohibition to all municipalities.

All municipal court proceedings are required to be open to public observation. Virtual observation is required for all in-custody proceedings, and prompt resolution of municipal cases is required.

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

SECTION 1. In Colorado Revised Statutes, 13-1-132, **amend** (3.5)(a) introductory portion, (3.5)(a)(III), and (4); and **add** (3.5)(a)(III.5), and (3.5)(h) as follows:

13-1-132. Use of interactive audiovisual devices and communication technology in court proceedings.

(3.5) (a) All Colorado courts, including municipal courts, shall make any criminal court proceeding conducted in open court available for remote public viewing and listening in real time, at no ~~cost to the public~~ CHARGE, through an online platform, which may include a participatory web conferencing platform, and post prominently on the court's website the links for remote observation, unless:

(III) ~~Technology Staffing or internet~~ issues limit or prevent remote observation; ~~or~~

(III.5) TEMPORARY OR INTERMITTENT INTERNET OR TECHNOLOGY ISSUES LIMIT OR PREVENT REMOTE OBSERVATION; OR

(h) THE EXCEPTIONS DESCRIBED IN SUBSECTIONS (3.5)(a)(I) AND (3.5)(a)(III) OF THIS SECTION DO NOT APPLY TO COURT PROCEEDINGS IN WHICH THE DEFENDANT IS IN CUSTODY AND CHARGED WITH A MUNICIPAL VIOLATION FOR WHICH THE MUNICIPAL CODE ALLOWS A POSSIBLE SENTENCE OF INCARCERATION.

(4) THE REQUIREMENTS OF THIS SECTION SUPERSEDE ANY STATUTE, JUDICIAL GUIDANCE, OR CHIEF JUSTICE DIRECTIVE LIMITING

1 REMOTE PUBLIC OBSERVATION OF CRIMINAL COURTS, INCLUDING CHIEF
2 JUSTICE DIRECTIVE 23-02 ADOPTED BEFORE THE EFFECTIVE DATE OF THIS
3 HOUSE BILL 26-_____. The supreme court may prescribe rules of
4 procedure pursuant to section 13-2-109 to implement this section, BUT
5 THE RULES MUST NOT NARROW OR CONFLICT WITH THE REQUIREMENTS OF
6 THIS SECTION.

7 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-10-103 as
8 follows:

9 **13-10-103. Applicability.**

10 This article 10 applies to and governs the operation of municipal
11 courts in the cities and towns of this state. Except for the provisions
12 relating to the method of salary payment for municipal judges; the
13 incarceration of children pursuant to sections 19-2.5-305 and
14 19-2.5-1511; the appearance of the parent, guardian, or lawful custodian
15 of any child under eighteen years of age who is charged with a municipal
16 offense as required by section 13-10-111; the failure to appear pursuant
17 to section 13-10-127; the right to a trial by jury for petty offenses
18 pursuant to section 16-10-109; relief from improperly entered guilty pleas
19 pursuant to section 18-1-410.6; the prosecution of an alleged act of
20 domestic violence, as defined in section 18-6-800.3; making a criminal
21 court proceeding conducted in open court available for remote public
22 viewing and listening in real time; rules of procedure ~~promulgated~~
23 ADOPTED by the supreme court; ~~and~~ appellate procedure; THE SENTENCING
24 LIMITATION IN SECTION 13-10-113 (1.5); AND THE RIGHT TO COUNSEL FOR
25 CERTAIN INDIGENT DEFENDANTS PURSUANT TO SECTION 13-10-114.5, this
26 article 10 may be superseded by charter or ordinance enacted by a home
27 rule city.

1 **SECTION 3.** In Colorado Revised Statutes, 13-10-111.5, **amend**
2 (2), (3)(a) introductory portion, and (3)(a)(I); and **add** (3)(c) as follows:

3 **13-10-111.5. Notice to municipal courts of municipal holds.**

4 (2) Once a municipal court receives notice that ~~the~~ A defendant is
5 being held solely on the basis of a municipal hold, the municipal court
6 shall hold a hearing within forty-eight hours after the receipt of ~~such a~~
7 ~~THE~~ notice. The county sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall
8 make the in-custody defendant available to appear in a timely manner
9 before a municipal judge for a hearing required by this subsection (2) at
10 the date and time mutually agreed to by the county sheriff and municipal
11 court. This subsection (2) ~~must not be construed to~~ DOES NOT require the
12 county sheriff OR MUNICIPAL JAIL ADMINISTRATOR to transport the
13 in-custody defendant to the municipal court. It is not a violation of this
14 section if a bond hearing is not held within forty-eight hours when the
15 delay is caused by circumstances in which the defendant refuses to attend
16 court, is unable to attend court due to drug or alcohol use, a serious
17 medical or behavioral health emergency, or when the delay is caused by
18 an emergency that requires the court to close. When ~~the~~ A defendant is
19 unable to attend court, the sheriff OR MUNICIPAL JAIL ADMINISTRATOR
20 shall provide the court AND MUNICIPAL PUBLIC DEFENDER'S OFFICE, IF ONE
21 EXISTS, with a list of people subject to this section who did not timely
22 attend court, the date of the person's arrest, and the location where the
23 person is in custody. The sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall
24 document the length of the delay, the reason for the delay, and the efforts
25 to abate the emergency. As soon as the emergency has sufficiently abated,
26 the sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall make the in-custody
27 defendant available to appear before the municipal court at the next

1 scheduled bond hearing. Use of audiovisual conferencing technology is
2 permissible to expedite the hearing. When high-speed internet access is
3 unavailable, making audiovisual conferencing impossible, the court may
4 conduct the hearing telephonically.

5 (3) (a) At the hearing required ~~in~~ PURSUANT TO subsection (2) of
6 this section, the municipal court shall either:

7 (I) Arraign the defendant, INCLUDING ADVISEMENT, BOND
8 SETTING, AND PLEA, UNLESS THE DEFENDANT SEEKS A PLEA CONTINUANCE;
9 or

10 (c) (I) AT THE HEARING REQUIRED PURSUANT TO SUBSECTION (2)
11 OF THIS SECTION, THE DEFENDANT HAS THE RIGHT TO BE REPRESENTED BY
12 COURT-APPOINTED INDIGENT DEFENSE COUNSEL PURSUANT TO SECTION
13 13-10-114.5.

14 (II) (A) BEFORE THE HEARING REQUIRED PURSUANT TO
15 SUBSECTION (2) OF THIS SECTION, THE COURT SHALL NOTIFY INDIGENT
16 DEFENSE COUNSEL OF EACH PERSON IN CUSTODY AND PROVIDE INDIGENT
17 DEFENSE COUNSEL SUFFICIENT TIME TO PREPARE FOR AND PRESENT AT THE
18 HEARING AN INDIVIDUALIZED ARGUMENT REGARDING THE TYPE OF BOND
19 AND CONDITIONS OF RELEASE, CONSISTENT WITH THE COURT'S DOCKET
20 AND SCHEDULING PRIORITIES.

21 (B) BEFORE THE HEARING REQUIRED PURSUANT TO SUBSECTION (2)
22 OF THIS SECTION, THE SHERIFF AND JAIL PERSONNEL SHALL PROVIDE
23 INDIGENT DEFENSE COUNSEL ACCESS TO THE DEFENDANT WHO WILL BE
24 APPEARING AT THE HEARING AND SHALL ALLOW INDIGENT DEFENSE
25 COUNSEL SUFFICIENT TIME WITH THE DEFENDANT PRIOR TO THE HEARING
26 IN ORDER TO PREPARE FOR THE HEARING.

27 (III) THE MUNICIPAL COURT SHALL NOTIFY THE PROSECUTING

1 ATTORNEY OF EACH PERSON WHOSE MATTER IS SET FOR A HEARING
2 REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE
3 PROSECUTING ATTORNEY MAY APPEAR AT ALL INITIAL HEARINGS TO
4 PROVIDE THE PROSECUTING ATTORNEY'S POSITION REGARDING THE TYPE
5 OF BOND AND CONDITIONS OF RELEASE, AND THE COURT SHALL PROVIDE
6 THE PROSECUTING ATTORNEY SUFFICIENT TIME TO PREPARE FOR AND
7 PRESENT ANY RELEVANT ARGUMENT, CONSISTENT WITH THE COURT'S
8 DOCKET AND SCHEDULING PRIORITIES.

9 (IV) PRIOR TO THE HEARING REQUIRED PURSUANT TO SUBSECTION
10 (2) OF THIS SECTION, ANY PRETRIAL SERVICES AGENCY OPERATING IN THAT
11 MUNICIPALITY, OR ANY OTHER AGENCY THAT REPORTS TO THE COURT,
12 THAT HAS CONDUCTED A PRETRIAL RELEASE ASSESSMENT OR GATHERED
13 INFORMATION FOR THE COURT'S CONSIDERATION AT THE HEARING SHALL
14 PROVIDE THE PROSECUTING ATTORNEY AND THE DEFENDANT'S ATTORNEY
15 ALL INFORMATION PROVIDED TO THE COURT REGARDING THE DEFENDANT
16 IN CUSTODY, WHICH MUST INCLUDE, IF PROVIDED TO THE COURT, THE
17 ARREST WARRANT, THE PROBABLE CAUSE STATEMENT, AND THE
18 DEFENDANT'S CRIMINAL HISTORY.

19 **SECTION 4.** In Colorado Revised Statutes, 13-10-112, **add** (3)
20 and (4) as follows:

21 **13-10-112. Powers and procedures.**

22 (3) ABSENT THE FINDINGS REQUIRED PURSUANT TO COLORADO
23 LAW, EACH MUNICIPAL COURT SHALL ENSURE ALL COURT PROCEEDINGS,
24 INCLUDING COURT PROCEEDINGS FOR DEFENDANTS IN CUSTODY, ARE
25 ACCESSIBLE TO ANY MEMBER OF THE PUBLIC FOR PUBLIC OBSERVATION.

26 (4) IF A MUNICIPAL COURT RECEIVES NOTICE THAT A DEFENDANT
27 WHO HAS A CRIMINAL OR TRAFFIC MATTER PENDING BEFORE THE COURT IS

1 IN CUSTODY IN COLORADO FOR ANY REASON, THE MUNICIPAL COURT
2 SHALL MAKE DILIGENT EFFORTS TO TIMELY RESOLVE THE MUNICIPAL
3 MATTER. DILIGENT EFFORTS INCLUDE TAKING REASONABLE STEPS TO
4 PROMPTLY BRING THE DEFENDANT BEFORE THE COURT WHEN THE
5 MUNICIPAL CODE ALLOWS FOR A POSSIBLE SENTENCE OF INCARCERATION
6 IN THE PENDING MATTER. THE COURT SHALL ASSIGN INDIGENT DEFENSE
7 COUNSEL IN THE SAME MANNER AS REQUIRED BY SECTION 13-10-114.5. A
8 MUNICIPAL COURT SHALL NOT DENY A DEFENDANT THE ABILITY TO APPEAR
9 BEFORE THE MUNICIPAL COURT BECAUSE THE DEFENDANT IS IN CUSTODY
10 FOR ANOTHER, NON-MUNICIPAL MATTER. FOR A HEARING OTHER THAN A
11 TRIAL, THE COURT MAY PERMIT COUNSEL TO APPEAR ON BEHALF OF THE
12 DEFENDANT PURSUANT TO THE COLORADO MUNICIPAL COURT RULES OF
13 PROCEDURE AND PERMIT APPEARANCE THROUGH AUDIOVISUAL OR
14 TELEPHONIC MEANS, IF AVAILABLE. THIS SUBSECTION (4) DOES NOT
15 PRECLUDE A DEFENDANT FROM EXPRESSLY AGREEING TO DELAY A MATTER
16 ONCE THE DEFENDANT APPEARS BEFORE THE MUNICIPAL COURT.

17 **SECTION 5.** In Colorado Revised Statutes, 13-10-113, **amend**
18 (1.5) as follows:

19 **13-10-113. Fines and penalties.**

20 (1.5) ~~Any~~ A MUNICIPAL COURT SHALL NOT SENTENCE TO
21 INCARCERATION A person convicted of violating a municipal ordinance in
22 a municipal court ~~which~~ THAT is not of record ~~may be incarcerated for a~~
23 ~~period not to exceed ninety days or fined~~ OR FINE THE PERSON IN an
24 amount ~~not to exceed~~ THAT EXCEEDS three hundred dollars. ~~or both.~~

25 **SECTION 6.** In Colorado Revised Statutes, **amend** 13-10-114.5
26 as follows:

27 **13-10-114.5. Representation by counsel - independent indigent**

1 **defense - definitions.**

2 (1) ~~At the time of first appearance on a municipal charge, if the~~
3 ~~defendant is in custody and the charged offense includes a possible~~
4 ~~sentence of incarceration, the court shall appoint counsel to represent the~~
5 ~~defendant for purposes of the initial appearance unless, after a full~~
6 ~~advisement pursuant to C.M.C.R. 210 and section 16-7-207, C.R.S., the~~
7 ~~defendant makes a knowing, intelligent, and voluntary waiver of his or~~
8 ~~her right to counsel.~~ AT THE TIME OF A DEFENDANT'S FIRST
9 OUT-OF-CUSTODY APPEARANCE IN MUNICIPAL COURT FOR A VIOLATION
10 FOR WHICH THE MUNICIPAL CODE ALLOWS FOR A POSSIBLE SENTENCE OF
11 INCARCERATION IN THE PENDING MATTER, THE COURT SHALL ADVISE THE
12 DEFENDANT OF THE DEFENDANT'S RIGHT TO COURT-APPOINTED INDIGENT
13 DEFENSE COUNSEL. THE COURT MAY INQUIRE AND MAKE A
14 DETERMINATION AS TO INDIGENCE IMMEDIATELY UPON REQUEST OR SHALL
15 ADVISE THE DEFENDANT OF THE PROCEDURE TO APPLY FOR
16 COURT-APPOINTED INDIGENT DEFENSE COUNSEL IF THE COURT DOES NOT
17 MAKE A DETERMINATION AS TO INDIGENCE. IF THE COURT DETERMINES
18 THE DEFENDANT IS INDIGENT, THE COURT SHALL APPOINT INDIGENT
19 DEFENSE COUNSEL IN THE MUNICIPAL CASE UNLESS, AFTER BEING FULLY
20 ADVISED PURSUANT TO RULE 210 OF THE COLORADO MUNICIPAL COURT
21 RULES OF PROCEDURE AND SECTION 16-7-207, THE DEFENDANT MAKES A
22 KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF THE RIGHT TO
23 COURT-APPOINTED INDIGENT DEFENSE COUNSEL. THIS SECTION DOES NOT
24 PREVENT THE COURT FROM MAKING A DETERMINATION OF INDIGENCE IN
25 ADVANCE OF AN OUT-OF-CUSTODY HEARING OR AT THE SAME HEARING
26 WHEN THE DEFENDANT REQUESTS APPOINTMENT OF INDIGENT DEFENSE
27 COUNSEL.

1 (2) ~~If the defendant remains in custody, the appointment of~~
2 ~~counsel continues until the defendant is released from custody. If the~~
3 ~~defendant is released from custody, he or she may apply for~~
4 ~~court-appointed counsel, and the court shall appoint counsel if the court~~
5 ~~determines that the defendant is indigent and the charged offense includes~~
6 ~~a possible sentence of incarceration.~~ AN IN-CUSTODY DEFENDANT IS
7 PRESUMED INDIGENT, AND THE MUNICIPAL COURT SHALL AUTOMATICALLY
8 APPOINT INDIGENT DEFENSE COUNSEL TO REPRESENT THE DEFENDANT AT
9 AND DURING EVERY IN-CUSTODY COURT APPEARANCE FOR CASES IN WHICH
10 THE MUNICIPAL CODE ALLOWS FOR A POSSIBLE SENTENCE OF
11 INCARCERATION, REGARDLESS OF WHETHER THE DEFENDANT IS BEING
12 HELD ON THE MUNICIPAL CHARGE. THE MUNICIPAL COURT SHALL APPOINT
13 INDIGENT DEFENSE COUNSEL PURSUANT TO THIS SECTION UNLESS, AFTER
14 BEING FULLY ADVISED PURSUANT TO RULE 210 OF THE COLORADO
15 MUNICIPAL COURT RULES OF PROCEDURE AND SECTION 16-7-207, THE
16 DEFENDANT MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER
17 OF THE RIGHT TO COURT-APPOINTED INDIGENT DEFENSE COUNSEL. A
18 MUNICIPALITY THAT AUTHORIZES LAW ENFORCEMENT TO ARREST AN
19 INDIVIDUAL FOR AN ALLEGED MUNICIPAL CODE VIOLATION SHALL ENSURE
20 COURT-APPOINTED INDIGENT DEFENSE COUNSEL IS PRESENT AND
21 AVAILABLE TO REPRESENT AN IN-CUSTODY DEFENDANT AT ALL COURT
22 APPEARANCES CONSISTENT WITH THIS SECTION AND AT ALL COURT
23 APPEARANCES THAT MUST OCCUR WITHIN THE TIME FRAMES ESTABLISHED
24 IN SECTION 13-10-111.5 (2). THE RIGHT TO COURT-APPOINTED INDIGENT
25 DEFENSE COUNSEL AT THE HEARING AND THE REQUIREMENT THAT THE
26 COURT CONDUCT PROCEEDINGS BEFORE SETTING BOND AS REQUIRED BY
27 SECTION 13-10-111.5 (3) APPLY TO COURT APPEARANCES AT WHICH THE

1 MUNICIPAL COURT IS REQUIRED TO SET A PERSONAL RECOGNIZANCE BOND.

2 (3) IF A DEFENDANT REMAINS IN CUSTODY, THE APPOINTMENT OF
3 INDIGENT DEFENSE COUNSEL CONTINUES AT LEAST UNTIL THE DEFENDANT
4 IS RELEASED FROM CUSTODY. IF A DEFENDANT IS RELEASED FROM
5 CUSTODY, THE DEFENDANT MAY APPLY FOR COURT-APPOINTED INDIGENT
6 DEFENSE COUNSEL, AND THE COURT SHALL APPOINT INDIGENT DEFENSE
7 COUNSEL PURSUANT TO SUBSECTION (1) OF THIS SECTION IF THE COURT
8 DETERMINES THE DEFENDANT IS INDIGENT AND THE MUNICIPAL CODE
9 ALLOWS FOR A POSSIBLE SENTENCE OF INCARCERATION.

10 (3.5) IF A DEFENDANT IS IN CUSTODY, CANNOT POST BAIL OR IS NOT
11 ALLOWED TO POST BAIL, AND HAS A MUNICIPAL HOLD BUT HAS NOT YET
12 APPEARED BEFORE THE MUNICIPAL COURT, INDIGENT DEFENSE COUNSEL
13 FOR THE HOLDING MUNICIPALITY MAY AUTOMATICALLY ELECT TO
14 REPRESENT THE DEFENDANT IN THE MUNICIPAL CASE AND SHALL NOTIFY
15 THE MUNICIPAL COURT EITHER VERBALLY OR IN WRITING OF THE
16 REPRESENTATION. IF A MUNICIPAL COURT RECEIVES NOTICE, INCLUDING
17 FROM AN INCARCERATED DEFENDANT, JAIL, OR CORRECTIONAL FACILITY,
18 THAT A DEFENDANT IS IN CUSTODY WHO CANNOT POST BAIL OR IS NOT
19 ALLOWED TO POST BAIL AND WHO HAS A MUNICIPAL HOLD, THE HOLDING
20 MUNICIPAL COURT SHALL [REDACTED] APPOINT INDIGENT DEFENSE COUNSEL TO
21 REPRESENT THE DEFENDANT WHILE THE DEFENDANT IS IN CUSTODY. [REDACTED]

22 ~~(3)~~ (4) (a) On and after January 1, 2020, each municipality shall
23 provide independent indigent defense for each indigent defendant charged
24 with a municipal code violation for which there is a possible sentence of
25 incarceration. Independent indigent defense requires, at minimum, that a
26 nonpartisan entity independent of the municipal court and municipal
27 officials oversee or evaluate indigent defense counsel.

1 (b) (I) Because the office of alternate defense counsel created in
2 section 21-2-101 is an independent system of indigent defense overseen
3 by an independent commission, provision of indigent defense by lawyers
4 evaluated or overseen by the office of alternate defense counsel satisfies
5 the requirement described in ~~subsection (3)(a)~~ SUBSECTION (4)(a) of this
6 section.

7 (II) Because a legal aid clinic at any Colorado law school
8 accredited by the American bar association is an independent system of
9 indigent defense overseen by the dean of the law school with which it is
10 affiliated, ~~any~~ THE provision or oversight of indigent defense through a
11 legal aid clinic associated with any Colorado law school accredited by the
12 American bar association satisfies the requirement described in
13 ~~subsection (3)(a)~~ SUBSECTION (4)(a) of this section.

14 (c) To satisfy the requirement described in ~~subsection (3)(a)~~
15 SUBSECTION (4)(a) of this section, a municipality that contracts directly
16 with one or more defense attorneys to provide counsel to indigent
17 defendants shall ensure that:

18 (I) The process to select indigent defense attorneys is transparent
19 and based on merit;

20 (II) Each contracted indigent defense attorney is periodically
21 evaluated by an independent entity for competency and independence.
22 The municipality shall evaluate each newly hired defense attorney as soon
23 as practicable but no later than one year after ~~he or she~~ THE DEFENSE
24 ATTORNEY is hired. Otherwise, the municipality shall evaluate each
25 defense attorney at least every three years. An independent entity that
26 evaluates defense attorneys pursuant to this ~~subsection (3)(c)(II)~~
27 SUBSECTION (4)(c)(II) shall provide evaluation results and any

1 recommendations for corrective action in writing to the municipality. For
2 the purpose of this ~~subsection (3)~~ SUBSECTION (4), "independent entity"
3 means:

4 (A) The office of alternate defense counsel;

5 (B) An attorney or a group of attorneys, each of whom has
6 substantial experience practicing criminal defense in Colorado within the
7 preceding five years, so long as the attorney or group of attorneys is not
8 affiliated with the municipality receiving the services, including ~~any~~ A
9 municipal judge, prosecutor, or indigent defense attorney; or

10 (C) A local or regional independent indigent defense commission,
11 as described in ~~subsection (3)(d)~~ SUBSECTION (4)(d) of this section.

12 (III) (A) The contract does not use a fixed or flat-fee payment
13 structure for indigent defense services but instead uses the same
14 payment structure and THE SAME OR HIGHER rates that are paid by the state
15 of Colorado to attorneys and other interdisciplinary team members under
16 contract with the office of alternate defense counsel created in section
17 21-2-101 and that are consistent with chief justice directive 04-04, or any
18 successor chief justice directive.

19 (B) ~~This subsection (3)(c)(III) only applies to a municipality that~~
20 ~~prosecutes an act of domestic violence, as defined in section 18-6-800.3.~~

21 (C) For the purposes of this ~~subsection (3)(c)~~ SUBSECTION (4)(c),
22 "fixed or flat-fee payment structure" means a fee paid as a MAXIMUM
23 fixed amount for specified legal services, regardless of the time or effort
24 involved, but does not include an amount paid as a salary or on a salary
25 basis.

26 (D) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION
27 (4)(c)(III), THIS SUBSECTION (4)(c)(III) DOES NOT PROHIBIT A CONTRACT

1 THAT PROVIDES A FLAT FEE FOR INITIAL IN-CUSTODY APPEARANCES, SO
2 LONG AS THE FEE RESULTS IN THE SAME OR HIGHER HOURLY
3 COMPENSATION THAN WOULD BE PAID BY THE STATE OF COLORADO TO
4 ATTORNEYS AND OTHER INTERDISCIPLINARY TEAM MEMBERS UNDER
5 CONTRACT WITH THE OFFICE OF ALTERNATE DEFENSE COUNSEL CREATED
6 IN SECTION 21-2-101.

7 (d) (I) To satisfy the requirement described in ~~subsection (3)(a)~~
8 SUBSECTION (4)(a) of this section, a municipality may establish a local
9 independent indigent defense commission or coordinate with one or more
10 other municipalities to establish a regional independent indigent defense
11 commission. ~~Any~~ A local or regional independent indigent defense
12 commission in existence as of January 1, 2018, is deemed to be in
13 compliance with this ~~subsection (3)(d)~~ SUBSECTION (4)(d) and may
14 continue as established.

15 (II) Each local or regional independent indigent defense
16 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) must
17 include at least three members, each of whom is selected by the chief
18 municipal judge in consultation with the Colorado criminal defense bar,
19 the office of alternate defense counsel, or the office of the state public
20 defender. Prior to serving on a commission, any commission member who
21 is selected by a chief municipal judge must be approved by the office of
22 alternate defense counsel. The office of alternate defense counsel shall
23 approve such appointed commission members whom the office, in its
24 discretion, deems likely to promote the provision of competent and
25 independent indigent defense.

26 (III) The terms and procedures for the members of a local or
27 regional independent indigent defense commission ~~must be~~ ESTABLISHED

1 PURSUANT TO THIS SUBSECTION (4)(d) ARE determined by the municipality
2 or municipalities that ~~establish~~ ESTABLISHED the independent indigent
3 defense commission.

4 (IV) A local or regional independent indigent defense commission
5 established pursuant to this ~~subsection (3)(d)~~ SUBSECTION (4)(d) has the
6 responsibility and exclusive authority to appoint indigent defense counsel
7 for a term of at least one year or more to be served until a successor is
8 appointed. The independent indigent defense commission retains sole
9 authority to supervise the indigent defense counsel and discharge ~~him or~~
10 ~~her~~ THEM for cause.

11 (V) A local or regional independent indigent defense commission
12 ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d), through its ability to
13 supervise, appoint, and discharge the indigent defense counsel PURSUANT
14 TO SUBSECTION (4)(d)(IV) OF THIS SECTION, shall ensure that indigent
15 defendants accused of violations of municipal ordinances for which there
16 is a possible sentence of incarceration are represented independently of
17 any political considerations or private interests, that such indigent
18 defendants receive legal services that are commensurate with those
19 available to nonindigent defendants, and that municipal indigent defense
20 attorneys provide representation in accordance with the Colorado rules of
21 professional conduct and the American bar association standards relating
22 to the administration of criminal justice.

23 (VI) A local or regional independent indigent defense commission
24 ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall not interfere
25 with the discretion, judgment, and zealous advocacy of indigent defense
26 attorneys in specific cases.

27 (VII) A local or regional independent indigent defense

1 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall
2 make recommendations to its municipality or municipalities regarding the
3 provision of adequate monetary resources to provide legal services to
4 indigent defendants accused of violations of such municipal ordinances.

5 (VIII) The members of an independent indigent defense
6 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall
7 serve without compensation; except that a municipality that establishes
8 a local independent indigent defense commission or that coordinates with
9 one or more other municipalities to establish a regional independent
10 indigent defense commission shall reimburse the members of the
11 commission for actual and reasonable expenses incurred in the
12 performance of their duties.

13 **SECTION 7.** In Colorado Revised Statutes, 21-2-103, **amend** (5)
14 as follows:

15 **21-2-103. Representation of persons who are indigent.**

16 (5) The office of alternate defense counsel may, but is not
17 required to, evaluate the performance of attorneys providing indigent
18 defense in municipal courts at the request of any municipality, as
19 described in ~~section 13-10-114.5 (3)(c)(II)~~ SECTION 13-10-114.5
20 (4)(c)(II). The office of alternate defense counsel shall not perform any
21 such evaluations without sufficient funding for personnel to perform such
22 evaluations.

23 **SECTION 8.** In Colorado Revised Statutes, 21-2-108, **amend** (2)
24 as follows:

25 **21-2-108. Conflict-free defense for indigent persons in**
26 **municipal courts - fund created.**

27 (2) A municipality that wants to utilize the services of the office

1 of alternate defense counsel to evaluate the provision of defense counsel
2 to indigent defendants as described in ~~section 13-10-114.5 (3)(c)(II)(A)~~
3 SECTION 13-10-114.5 (4)(c)(II)(A) during the next calendar year shall
4 request such services on or before September 1, 2018, and on or before
5 September 1 each year thereafter.

6 **SECTION 9. Safety clause.** The general assembly finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety or for appropriations for
9 the support and maintenance of the departments of the state and state
10 institutions.