

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0256.01 Shelby Ross x4510

SENATE BILL 26-149

---

SENATE SPONSORSHIP

Amabile and Simpson,

HOUSE SPONSORSHIP

Caldwell and McCluskie,

---

Senate Committees  
Judiciary

House Committees

---

A BILL FOR AN ACT

101 CONCERNING PATHWAYS FOR INDIVIDUALS WITH MENTAL HEALTH  
102 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>.)*

Under current law, if a defendant is found incompetent to proceed and the defendant will not be restored to competency in the foreseeable future, the court is required to dismiss charges against the defendant and the defendant, in limited circumstances, may be referred for certification for short-term treatment through a civil court process. The bill maintains the requirement for the court to dismiss the charges against a defendant

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.*

if the defendant's highest charged offense is certain misdemeanor offenses and maintains certification for short-term treatment as an option for the defendant. However, the bill authorizes the district attorney or county attorney (prosecution) to notify the court that the prosecution seeks civil commitment or an enhanced protective placement of a defendant if the prosecution can prove by clear and convincing evidence that the defendant:

- Has a mental disability or developmental disability;
- Committed an act of homicide, crime of violence, or felony that constitutes unlawful sexual behavior; and
- Poses a substantial risk of serious harm to others.

If the prosecution seeks civil commitment or an enhanced protective placement, the court is required to stay the order dismissing the defendant's case, set a trial within 91 days after the date the written notice was filed, and order the office of forensic and mental health (OCFMH) in the department of human services (CDHS) to identify an appropriate provider and placement for the defendant in the event a civil commitment or enhanced protective placement is granted. If the court finds the prosecution has not met its burden, the court is required to deny the prosecution's request to civilly commit the defendant or order an enhanced protective placement of the defendant. If the court finds the prosecution has met its burden, the court is required to make a finding of the defendant's primary diagnosis that constitutes the mental disability or developmental disability. The court shall order the defendant civilly committed to CDHS unless the defendant's primary diagnosis is an intellectual and developmental disability (IDD) or a neurocognitive disorder, in which case, the court shall order an enhanced protective placement of the defendant to the department of health care policy and financing (HCPF).

After ordering a civil commitment or enhanced protective placement, the court has 70 days to review and approve a placement for the defendant, place the defendant, transfer jurisdiction to the appropriate civil court, and dismiss the defendant's criminal case. If an appropriate placement is not identified by OCFMH within the specified time frames, the court is required to place the defendant in the physical care and custody of a state hospital; except that, if the defendant's primary diagnosis includes an IDD or a neurocognitive disorder, the court shall not place the defendant in a state hospital unless placement in a regional center or skilled nursing facility is unavailable or inappropriate.

Upon receiving jurisdiction of a civil commitment or enhanced protective placement, the bill requires the civil court to supervise the civil commitment or enhanced protective placement by notifying the county attorney, appointing an attorney to represent the respondent, and setting a review hearing. At the hearing, the respondent has the right to request modification of the terms of the civil commitment or enhanced protective

placement and the right to periodic review, including whether the respondent qualifies for termination of the civil commitment or enhanced protective placement. The court is required to ensure the respondent is placed in the least-restrictive setting adequate to protect the victims and community. The court shall not modify the civil commitment or enhanced protective placement and place the respondent into a state hospital unless the court has exhausted all reasonable attempts to find an alternative and no other less-restrictive placements are adequate to protect the victims and the community. The provider charged with the physical care and custody of the respondent is required to submit a report to the court and the parties annually by the date the respondent was civilly committed or ordered into enhanced protective placement unless a substantially similar examination was ordered by the court within the previous 12 months.

The bill requires the court to terminate the respondent's civil commitment or enhanced protective placement if the respondent no longer poses a substantial risk of serious harm to others or the respondent does not have the applicable disorder or disability that is likely to cause the respondent to be a danger to the respondent's self or a danger to others and the respondent has demonstrated sufficient capacity and willingness to conform their conduct to the requirements of the law. If the respondent does not meet the criteria for termination, the respondent is not entitled to another termination trial within one year after the conclusion of the previous trial.

The court shall convert a civil commitment to an enhanced protective placement if the respondent does not meet the criteria for termination but the respondent has a mental health disorder that is an IDD or a neurocognitive disorder, without having any other mental health disorder that is not an IDD or a neurocognitive disorder, and that substantially contributes to whether the respondent is a danger to the respondent's self or a danger to others, or is gravely disabled. If the defendant does not meet the criteria for termination and has co-occurring mental health disorders that include an IDD or a neurocognitive disorder, the court may, upon the recommendation of OCFMH, convert the civil commitment to an enhanced protective placement.

The court shall convert an enhanced protective placement to a civil commitment if the respondent does not meet the criteria for termination and the respondent no longer has an IDD or a neurocognitive disorder that substantially contributes to whether the respondent is a danger to the respondent's self or a danger to others, or is gravely disabled. If the defendant does not meet the criteria for termination and has co-occurring mental health disorders that do not include an IDD or a neurocognitive disorder, the court may, upon the recommendation of OCFMH, convert the enhanced protective placement to a civil commitment.

Under current law, an emergency mental health hold (M1 hold) may be initiated against a person for not more than 72 hours if the person

appears to have a mental health disorder and as a result of the mental health disorder, appears to be a danger to the person's self or others, or appears to be gravely disabled. A person detained for an M1 hold and transported to an emergency medical services facility or facility designated by the commissioner (facility) of the behavioral health administration (BHA) and is required to receive an evaluation as soon as possible after the person presents to the facility. Rather than being transported to a facility, the bill authorizes a person who has an M1 hold initiated against them while in confinement to receive an evaluation at the person's place of confinement. If the person is released from confinement, the person responsible for the confinement is required to coordinate with the BHA to transfer the person to a facility.

Under current law, if a person under an M1 hold meets the criteria for certification for short-term treatment, the person may be certified for not more than 3 months. Rather than requiring an M1 hold as a prerequisite to short-term certification, the bill authorizes a person to be certified if the person:

- Has a persistent mental health disorder; or
- Has a mental health disorder and, as a result of the mental health disorder, the person is unwilling or unable to comply with voluntary treatment, or reasonable grounds exist to believe that the person will not remain in a voluntary treatment program and is a danger to the person's self, a danger to others, or gravely disabled.

A person may not be certified for short-term treatment or long-term care and treatment if the person has an IDD or neurocognitive disorder without any other mental health disorder that is not an IDD or neurocognitive disorder and that substantially contributes to whether the respondent is a danger to the respondent's self or a danger to others, or is gravely disabled. If a respondent is certified, the court shall order OCFMH to provide care coordination and make diligent efforts to find a provider for the respondent that is willing to hold the certification. The respondent may be certified for long-term care and treatment if the respondent continues to meet the criteria and standards for certification for short-term treatment. The court shall terminate the certification if the respondent no longer meets the criteria for certification.

A court may order the short-term or long-term protective placement of a person who:

- Has a neurocognitive disorder;
- Is unwilling or unable to comply with voluntary treatment, or reasonable grounds exist to believe that the person will not remain in a voluntary treatment program; and
- Is a danger to the person's self, a danger to others, or gravely disabled.

The bill aligns the provisions for short-term and long-term

protective placement with certifications for short-term treatment and long-term care with treatment.

HCPF, in collaboration with the BHA, is responsible for finding an appropriate provider and placement for a person subject to a short-term or long-term protective placement. A protective placement may be terminated upon the signature of the treating medical professional and the medical director of the facility if, after a reasonable observation and treatment period, the treating medical professional determines the respondent no longer meets the criteria for protective placement.

The bill makes conforming amendments.

---

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

**SECTION 1.** In Colorado Revised Statutes, **amend with relocated provisions** article 8.5 of title 16 as follows:

**16-8.5-101. Definitions.**

As used in this article 8.5, unless the context otherwise requires:

(1) "CIVIL PROCEEDING" MEANS:

(a) FILING A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR 27-65-109;

(b) A CIVIL PROCEEDING TO IMPOSE A LEGAL DISABILITY PURSUANT TO ARTICLE 10 OF TITLE 25.5; AND

(c) A CIVIL PROCEEDING FOR A PROTECTIVE PLACEMENT PURSUANT TO PART 5 OF ARTICLE 10 OF TITLE 25.5.

~~(1)~~ (2) "Collateral materials" means the relevant police incident reports and the charging documents, either the criminal information or indictment.

~~(2)~~ (3) "Competency evaluation" includes both court-ordered competency evaluations and second evaluations.

~~(3)~~ (4) "Competency evaluator" means a licensed physician who is a psychiatrist or a licensed psychologist, each of whom is trained in forensic competency assessments, or a psychiatrist who is in forensic

1 training and practicing under the supervision of a psychiatrist with  
2 expertise in forensic psychiatry, or a psychologist who is in forensic  
3 training and is practicing under the supervision of a licensed psychologist  
4 with expertise in forensic psychology.

5 (4) (5) "Competency hearing" means a hearing to determine  
6 whether a defendant is competent to proceed.

7 (5) (6) "Competent to proceed" means that the defendant does not  
8 have a mental disability or developmental disability that prevents the  
9 defendant from having sufficient present ability to consult with the  
10 defendant's lawyer with a reasonable degree of rational understanding in  
11 order to assist in the defense or THAT prevents the defendant from having  
12 a rational and factual understanding of the criminal proceedings.

13 (7) "COUNTY ATTORNEY" MEANS A COUNTY ATTORNEY OR A  
14 QUALIFIED ATTORNEY ACTING FOR A COUNTY ATTORNEY APPOINTED BY  
15 THE DISTRICT COURT OR, IN ANY COUNTY OR CITY AND COUNTY WITH A  
16 POPULATION EQUAL TO OR LESS THAN FIFTY THOUSAND PEOPLE, THE  
17 DISTRICT ATTORNEY OR QUALIFIED ATTORNEY ACTING FOR THE DISTRICT  
18 ATTORNEY APPOINTED BY THE DISTRICT COURT.

19 (6) (8) "Court-ordered competency evaluation" means a  
20 court-ordered examination of a defendant either before, during, or after  
21 trial, directed to developing information relevant to a determination of the  
22 defendant's competency to proceed at a particular stage of the criminal  
23 proceeding, that is performed by a competency evaluator and includes  
24 evaluations concerning restoration to competency.

25 (7) (9) "Court-ordered report" means a report of an evaluation,  
26 conducted by or under the direction of ~~the department~~ CDHS, that is the  
27 statutory obligation of ~~the department~~ CDHS to prepare when requested

1 to do so by the court.

2 ~~(8)~~ (10) "Criminal proceedings" means trial, sentencing,  
3 satisfaction of the sentence, execution, and any pretrial matter that is not  
4 susceptible of fair determination without the personal participation of the  
5 defendant.

6 ~~(9)~~ (11) "Department" OR "CDHS" means the department of  
7 human services.

8 ~~(10)~~ (12) "Developmental disability" means a disability that has  
9 manifested before the person reaches twenty-two years ~~of age~~ OLD,  
10 constitutes a substantial disability to the affected ~~individual~~ PERSON, and  
11 is attributable to an intellectual disability or other neurological conditions  
12 when ~~such~~ THE conditions result in impairment of general intellectual  
13 functioning or adaptive behavior similar to that of a person with an  
14 intellectual disability. Unless otherwise specifically stated, the federal  
15 definition of "developmental disability", 42 U.S.C. sec. 15002 (8), ~~shall~~  
16 DOES not apply.

17 ~~(11)~~ (13) "Executive director" means the executive director of the  
18 department of human services.

19 (14) "GUARDIAN" MEANS A GUARDIAN APPOINTED FOR THE  
20 DEFENDANT PURSUANT TO ARTICLE 14 OF TITLE 15 OR A TEMPORARY  
21 EMERGENCY GUARDIAN APPOINTED PURSUANT TO THIS ARTICLE 8.5,  
22 ARTICLE 65 OF TITLE 27, OR ARTICLE 10 OF TITLE 25.5.

23 ~~(12)~~ (15) "Incompetent to proceed" means that, as a result of a  
24 mental disability or developmental disability, the defendant does not have  
25 sufficient present ability to consult with the defendant's lawyer with a  
26 reasonable degree of rational understanding in order to assist in the  
27 defense, or that, as a result of a mental disability or developmental

1 disability, the defendant does not have a rational and factual  
2 understanding of the criminal proceedings.

3 ~~(13)~~ (16) "In-custody" means in prison, in a jail, or in any other  
4 locked detention facility that does not meet the definition of "inpatient".

5 ~~(14)~~ (17) "Inpatient" means in the custody of ~~the department~~  
6 CDHS, either in a hospital or in a full-time, jail-based restoration program  
7 developed by ~~the department~~ CDHS.

8 ~~(15)~~ (18) "Mental disability" means a substantial disorder of  
9 thought, mood, perception, or cognitive ability that results in marked  
10 functional disability, significantly interfering with adaptive behavior.  
11 "Mental disability" does not include acute intoxication from alcohol or  
12 other substances, or any condition manifested only by antisocial behavior,  
13 or any substance abuse impairment resulting from recent use or  
14 withdrawal. However, substance abuse that results in a long-term,  
15 substantial disorder of thought, mood, or cognitive ability may constitute  
16 a mental disability.

17 (19) "OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH" OR  
18 "OCFMH" MEANS THE OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH IN  
19 THE DEPARTMENT OF HUMAN SERVICES.

20 ~~(16)~~ (20) "Outpatient" means a location outside of the custody of  
21 ~~the department~~ CDHS. "Outpatient" does not include a jail, prison, or  
22 other detention facility where the defendant is in-custody.

23 (21) "RESTORABLE" MEANS THERE IS A SUBSTANTIAL PROBABILITY  
24 THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN  
25 COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

26 (22) "RESTORABILITY" MEANS THE LEGAL QUESTION OF WHETHER  
27 A DEFENDANT IS RESTORABLE OR UNRESTORABLE.

1           (23) "RESTORABILITY HEARING" MEANS A HEARING TO DETERMINE  
2 WHETHER A DEFENDANT WHO IS INCOMPETENT TO PROCEED IS  
3 RESTORABLE OR UNRESTORABLE.

4           ~~(17)~~ (24) "Restoration hearing" means a hearing to determine  
5 whether a defendant who has previously been determined to be  
6 incompetent to proceed has become competent to proceed.

7           ~~(18)~~ (25) "Second evaluation" means ~~an~~ A COMPETENCY  
8 evaluation requested by the court, the district attorney, or the defendant  
9 that is performed by a competency evaluator and that is not performed by  
10 or under the direction of, or paid for by, ~~the department~~ CDHS.

11           ~~(19)~~ (26) "Tier 1" means a defendant:

12           (a) Who has been ordered to receive inpatient restorative  
13 treatment;

14           (b) For whom a competency evaluator has determined either that  
15 the defendant:

16           (I) Appears to have a mental health disorder and, as a result of the  
17 mental health disorder, appears to be a danger to THE DEFENDANT'S SELF,  
18 A DANGER TO others, or ~~to himself or herself or appears to be~~ gravely  
19 disabled; or

20           (II) Has a mental health disorder; and

21           (c) For whom, as a result of the determination made pursuant to  
22 ~~subsection (19)(b)~~ SUBSECTION (26)(b) of this section, delaying inpatient  
23 hospitalization beyond seven days would cause harm to the defendant or  
24 others.

25           ~~(20)~~ (27) "Tier 2" means a defendant who has been ordered to  
26 receive inpatient restorative treatment and who does not meet the criteria  
27 to be a tier 1 defendant.

1 (28) "UNRESTORABLE" MEANS THERE IS NOT A SUBSTANTIAL  
2 PROBABILITY THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL  
3 ATTAIN COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

4 (29) "VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO  
5 PARTICIPATE" MEANS THE DEFENDANT HAS NOT ATTENDED RESTORATION  
6 SERVICES OR THE DEFENDANT REFUSES TO TAKE PRESCRIBED  
7 MEDICATIONS, ESPECIALLY WHEN THE DEFENDANT INTENDS TO AVOID OR  
8 DELAY THE COURT CASE FROM PROCEEDING. "VOLITIONAL LACK OF  
9 COOPERATION OR UNWILLINGNESS TO PARTICIPATE" DOES NOT INCLUDE  
10 ACTS THAT PRIMARILY RESULT FROM THE BONA FIDE MEDICAL OR MENTAL  
11 HEALTH DISORDER FOR WHICH THE DEFENDANT IS INCOMPETENT OR A  
12 DEFENDANT'S ATTEMPT TO RAISE A BONA FIDE GOOD FAITH CONCERN  
13 ABOUT MEDICATION SIDE EFFECTS AND RISKS.

14 **16-8.5-102. Competency to proceed - how and when raised.**

15 (1) While a defendant is incompetent to proceed, the defendant  
16 must not be tried or sentenced, nor shall the court consider or decide  
17 pretrial matters that are not susceptible of fair determination without the  
18 personal participation of the defendant. However, a determination that a  
19 defendant is incompetent to proceed does not preclude ~~the furtherance of~~  
20 ~~the~~ ADDITIONAL proceedings by the court to consider and decide matters,  
21 including a preliminary hearing and motions, that are susceptible of fair  
22 determination prior to trial and without the personal participation of the  
23 defendant. Those proceedings may be later reopened if, in the discretion  
24 of the court, substantial new evidence is discovered after and as a result  
25 of the defendant's restoration to competency.

26 (2) The question of a defendant's competency to proceed must be  
27 raised in only one of the following manners:

1 (a) If the judge has reason to believe that the defendant is  
2 incompetent to proceed, the judge shall suspend the proceeding and  
3 determine the competency or incompetency of the defendant pursuant to  
4 section 16-8.5-103;

5 (b) If either the defense or the prosecution has reason to believe  
6 that the defendant is incompetent to proceed, either party may file a  
7 motion in advance of the commencement of the particular proceeding. A  
8 motion to determine competency ~~shall~~ MUST be in writing and contain a  
9 certificate of counsel stating that the motion is based on a good faith  
10 doubt that the defendant is competent to proceed. The motion must set  
11 forth the specific facts that have formed the basis for the motion. The  
12 court ~~must~~ SHALL seal the motion. If the motion is made by the  
13 prosecution, the prosecution shall provide the defense a copy of the  
14 motion. If the motion is made by the defense, the defense shall provide  
15 the prosecution notice of the filing of the motion at the time of filing, and  
16 if the defense requests a hearing, the defense shall provide the motion to  
17 the prosecution at the time the hearing is requested. The motion may be  
18 filed after the commencement of the proceeding if, for good cause shown,  
19 the defendant's mental disability or developmental disability was not  
20 known or apparent before the commencement of the proceeding.

21 ~~(c) Repealed.~~

22 ~~(d)~~ (c) By the public defender liaison, as described in section  
23 21-1-104 (6), or an attorney representing the offender in a parole  
24 proceeding.

25 (3) [Formerly 16-8.5-109 (1)] When a determination is to be made  
26 as to a defendant's competency THE ISSUE OF WHETHER A DEFENDANT IS  
27 INCOMPETENT to proceed IS RAISED, the court shall explain to the

1 defendant the nature and consequences of the proceeding and the  
2 DEFENDANT'S rights ~~of the defendant under~~ PURSUANT TO this section.  
3 ~~The defendant,~~ If the defendant wishes to contest the question, THE  
4 DEFENDANT may request a competency hearing that the court shall grant  
5 as a matter of right.

6 ~~(3)~~ (4) Notwithstanding ~~any provision of~~ this article 8.5 to the  
7 contrary, the question of whether a convicted person is mentally  
8 incompetent to be executed must be raised and determined pursuant to  
9 part 14 of article 1.3 of title 18.

10 ~~(4)~~ (5) If a defendant is eligible for referral to the bridges  
11 wraparound care program pursuant article 8.6 of this title 16, the court  
12 may ask the parties whether the defendant should be referred for  
13 participation in the program. With the agreement of the parties, the court  
14 may delay making determinations regarding the defendant's competency  
15 to allow a bridges wraparound care coordinator to conduct an initial  
16 intake of the defendant pursuant to section 16-8.6-108 to determine  
17 whether the bridges wraparound care program is appropriate for the  
18 defendant.

19 **16-8.5-103. Determination of competency to proceed.**

20 (1) (a) Whenever the question of a defendant's competency to  
21 proceed is raised, by either party or on the court's own motion, the court  
22 may make a preliminary finding of competency or incompetency to  
23 proceed, which is a final determination unless a party to the case objects  
24 within seven days after the court's preliminary finding.

25 (b) On or before the date when a court orders that a defendant be  
26 evaluated for competency, a bridges court liaison for the district hired or  
27 contracted pursuant to article 95 of title 13 may be assigned to the

1 defendant.

2 (2) If either party objects to the court's preliminary finding, or if  
3 the court determines that it has insufficient information to make a  
4 preliminary finding, the court shall order that the defendant be evaluated  
5 for competency by the department CDHS and that the department CDHS  
6 prepare a court-ordered report.

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

9 ~~(4) If a party requests a second evaluation, any pending requests~~  
10 ~~for a hearing must be continued until the receipt of the second evaluation~~  
11 ~~report. The report of the expert conducting the second evaluation must be~~  
12 ~~completed and filed with the court within thirty-five days after the court~~  
13 ~~order allowing the second evaluation, unless the time period is extended~~  
14 ~~by the court for good cause. The court shall provide the second evaluation~~  
15 ~~to the parties and the department. The department shall use the second~~  
16 ~~evaluation to ensure that the department complies with its responsibilities,~~  
17 ~~including reviewing and summarizing prior competency opinions as~~  
18 ~~required by section 16-8.5-105 (5)(f). If the second evaluation is~~  
19 ~~requested by the court, it must be paid for by the court.~~

20 ~~(5) (3) If neither party requests a hearing PURSUANT TO SECTION~~  
21 ~~16-8.5-108 or a second evaluation PURSUANT TO SECTION 16-8.5-111,~~  
22 ~~within the applicable time frame, the court shall enter a final~~  
23 ~~determination, based on the information then available to the court,~~  
24 ~~whether the defendant is or is not competent to proceed.~~

25 ~~(6) If a party makes a timely request for a hearing, the hearing~~  
26 ~~shall be held within thirty-five days after the request for a hearing or, if~~  
27 ~~applicable, within thirty-five days after the filing of the second evaluation~~

1 report, unless the time is extended by the court after a finding of good  
2 cause.

3 ~~(7) At any hearing held pursuant to this section, the party asserting~~  
4 ~~the incompetency of the defendant shall have the burden of submitting~~  
5 ~~evidence and the burden of proof by a preponderance of the evidence.~~

6 (8) (4) If the question of the defendant's incompetency to proceed  
7 is raised after a jury is impaneled to try the issues raised by a plea of not  
8 guilty and the court determines that the defendant is incompetent to  
9 proceed or orders a court-ordered competency evaluation, the court may  
10 declare a mistrial. Declaration of a mistrial under these circumstances  
11 does not constitute jeopardy, nor does it prohibit the trial or sentencing of  
12 the defendant for the same offense after the defendant has been found  
13 restored to competency.

14 (9) (5) In all proceedings ~~under~~ BROUGHT PURSUANT TO this  
15 article 8.5, when competency has been raised by the parole board  
16 pursuant to ~~section 16-8.5-102 (2)(d)~~ SECTION 17-22.5-403.5 (4)(f), the  
17 court shall pay for any evaluation to determine competency pursuant to  
18 this section, and the COMPETENCY evaluation must be conducted at the  
19 place where the defendant is in custody.

20 **16-8.5-104. Defendant's waiver of privilege.**

21 (1) When a defendant raises the issue of competency to proceed,  
22 or when the court determines that the defendant is incompetent to  
23 proceed, any claim by the defendant to confidentiality or privilege is  
24 deemed waived in the case in which competency is raised and for records  
25 or information from any prior criminal case in which the defendant raised  
26 the issue of competency or in which the court determined that the  
27 defendant was incompetent to proceed. The district attorney, the defense

1 attorney, the bridges court liaison, and the court are granted access,  
2 without written consent of the defendant or further order of the court, to:

3 (a) Reports of competency evaluations, including second  
4 evaluations;

5 (b) Information and documents relating to the competency  
6 evaluation that are created by, obtained by, reviewed by, or relied on by  
7 ~~an~~ A COMPETENCY evaluator; ~~performing a court-ordered evaluation;~~ and

8 (c) The COMPETENCY evaluator, for the purpose of discussing the  
9 competency evaluation.

10 (2) Upon a request by either party or the court for the information  
11 described in subsection (1) of this section, the COMPETENCY evaluator or  
12 treatment provider shall provide the information for use in preparing for  
13 a COMPETENCY hearing, ~~on competency~~ RESTORABILITY HEARING, or  
14 restoration HEARING and for use during ~~such a~~ THE hearing.

15 (3) ~~An evaluator or a facility providing competency evaluation or~~  
16 ~~restoration treatment services~~ THE OFFICE OF CIVIL AND FORENSIC MENTAL  
17 HEALTH, A COMPETENCY EVALUATOR, OR A RESTORATION SERVICE  
18 PROVIDER THAT IS PERFORMING WORK pursuant to a court order issued  
19 pursuant to this article 8.5 shall provide ~~procedural~~ information to the  
20 court, bridges court liaison, district attorney, or defense counsel  
21 concerning the defendant's location, the defendant's hospital or facility  
22 admission status, the status of ANY COMPETENCY evaluation procedures,  
23 and ~~other procedural information relevant to the case~~ THE STATUS OF ANY  
24 RESTORATION TREATMENT AND SERVICES.

25 (4) ~~Nothing in~~ This section ~~limits~~ DOES NOT LIMIT the court's  
26 ability to order that information, in addition to the information described  
27 in subsections (1) and (3) of this section, be provided to the COMPETENCY

1 evaluator, or to either party to the case, nor does it limit the information  
2 that is available after the written consent of the defendant.

3 ~~(4.5)~~ (5) The court may, upon the request of either party, issue an  
4 order to assist a party in accessing, receiving copies of, or discussing with  
5 ~~an~~ A COMPETENCY evaluator or treatment provider information or records  
6 that the party has the right to access pursuant to the defendant's waiver of  
7 privilege. If a party requests ~~such~~ an order, the court shall allow the  
8 opposing party to make any legal objection, including whether the  
9 requested information is within the scope of the defendant's waiver of  
10 privilege, and SHALL consider any requests for protective orders prior to  
11 issuing the court order. This section does not limit the court's ability to  
12 order information be provided to a party with the written consent of the  
13 defendant.

14 ~~(5)~~ (6) The court shall order both the prosecutor and the defendant  
15 or the defendant's counsel to exchange the names, addresses, reports, and  
16 statements of each physician or psychologist who has examined or treated  
17 the defendant for competency.

18 ~~(6)~~ (7) Statements made by the defendant in the course of any  
19 COMPETENCY evaluation must be protected in accordance with ~~section~~  
20 ~~16-8.5-108~~ SECTION 16-8.5-107.

21 **16-8.5-105. Competency evaluations, locations, time frames,**  
22 **and report.**

23 (1) (a) (I) The court shall order that the competency evaluation be  
24 conducted on an outpatient basis or, if the defendant is unable to post the  
25 monetary condition of bond or is ineligible to be released on bond, at the  
26 place where the defendant is in-custody, except as provided in subsection  
27 (1)(b) of this section. WHEN THE COURT ORDERS A COMPETENCY

1 EVALUATION, THE COURT SHALL ALSO ORDER THE APPROPRIATE PARTY TO  
2 TRANSMIT THE COLLATERAL MATERIALS TO CDHS WITHIN TWENTY-FOUR  
3 HOURS AFTER THE ORDER FOR A COMPETENCY EVALUATION, WITH A  
4 CERTIFICATE OF SERVICE OF THE COLLATERAL MATERIALS PROVIDED TO  
5 THE COURT AND OTHER NECESSARY PARTIES.

6 (II) If ~~the department~~ CDHS conducts the COMPETENCY  
7 evaluation on an in-custody basis, ~~the department~~ CDHS shall begin the  
8 COMPETENCY evaluation as soon as practicable, BUT NO LATER THAN TWO  
9 BUSINESS DAYS, after ~~the department's receipt of a~~ RECEIVING THE  
10 COLLATERAL MATERIALS AND court order directing the COMPETENCY  
11 evaluation ~~If the evaluation is conducted on an in-custody basis, the~~  
12 ~~department shall complete the evaluation no later than twenty-one days~~  
13 ~~after receipt of the order and the collateral materials~~ BE COMPLETED.

14 (III) If CDHS CONDUCTS the COMPETENCY evaluation is  
15 ~~conducted~~ on an out-of-custody basis, ~~the department~~ CDHS shall  
16 complete the COMPETENCY evaluation within forty-two days after receipt  
17 of the order and THE collateral materials, unless the court extends the time  
18 upon a showing of good cause. THE COURT SHALL DETERMINE THE TYPE  
19 OF BOND AND THE CONDITIONS OF RELEASE AFTER CONSIDERATION OF THE  
20 PRESUMPTIONS AND FACTORS ENUMERATED IN ARTICLE 4 OF THIS TITLE 16,  
21 WHICH INCLUDE CONSIDERATION OF THE INFORMATION RECEIVED FROM  
22 ANY PRETRIAL SERVICES PROGRAM PURSUANT TO SECTION 16-4-106 AND  
23 ANY INFORMATION PROVIDED BY THE BRIDGES COURT LIAISON HIRED OR  
24 CONTRACTED PURSUANT TO ARTICLE 95 OF TITLE 13. AS A CONDITION OF  
25 ANY BOND, THE COURT SHALL REQUIRE THE DEFENDANT'S COOPERATION  
26 WITH THE COMPETENCY EVALUATION ON AN OUTPATIENT BASIS. IN  
27 SETTING THE BOND, THE COURT SHALL NOT CONSIDER THE NEED FOR THE

1 DEFENDANT TO RECEIVE AN EVALUATION PURSUANT TO THIS ARTICLE 8.5  
2 AS A FACTOR IN DETERMINING ANY MONETARY CONDITION OF BOND.

3 ~~(H) At the time any evaluation is ordered, the court shall order that~~  
4 ~~the collateral materials be transmitted to the department within~~  
5 ~~twenty-four hours after the order by the appropriate party with a~~  
6 ~~certificate of service of the materials provided to the court and other~~  
7 ~~necessary parties by the party ordered to transmit the collateral materials.~~

8 (HH) The court shall determine the type of bond and the conditions  
9 of release after consideration of the presumptions and factors enumerated  
10 in article 4 of this title 16, which include consideration of the information  
11 received from any pretrial services program pursuant to section 16-4-106  
12 and any information provided by the bridges court liaison hired or  
13 contracted pursuant to article 95 of title 13. As a condition of any bond,  
14 the court shall require the defendant's cooperation with the competency  
15 evaluation on an outpatient and out-of-custody basis. In setting the bond,  
16 the court shall not consider the need for the defendant to receive an  
17 evaluation pursuant to this article 8.5 as a factor in determining any  
18 monetary condition of bond.

19 (IV) ~~Nothing in~~ This subsection (1)(a) ~~limits the availability of~~  
20 DOES NOT LIMIT A PERSON'S ABILITY TO SEEK a court-ordered evaluation  
21 for a person with a mental health disorder or ~~invokes~~ TO INITIATE the  
22 procedure for an emergency mental health hold ~~set forth in~~ PURSUANT TO  
23 section 27-65-106.

24 (b) (I) Notwithstanding ~~the provisions of~~ subsection (1)(a) of this  
25 section, the court may order the defendant placed in ~~the department's~~  
26 CDHS'S custody for the time necessary to conduct ~~the~~ AN inpatient  
27 competency evaluation if:

1           ~~(F)~~ (A) ~~The department~~ CDHS provides a recommendation to the  
2 court, after ~~consultation~~ CONSULTING with the defendant and ~~review of~~  
3 REVIEWING any clinical or collateral materials, that conducting the  
4 competency evaluation on an inpatient basis is clinically appropriate;

5           ~~(H)~~ (B) The court finds that the competency evaluation and report  
6 provided by ~~the department~~ CDHS is insufficient because it does not meet  
7 statutory requirements pursuant to subsection (5) of this section or that  
8 two or more conflicting competency evaluations and reports have been  
9 completed; or

10           ~~(HH)~~ (C) Extraordinary circumstances relating to the case or the  
11 defendant make conducting the competency evaluation on an inpatient  
12 basis necessary and appropriate.

13           ~~(IV) and (V) (Deleted by amendment, L. 2019.)~~

14           ~~(b.3)~~ (II) Upon entry of a court order pursuant to ~~subsection (1)(b)~~  
15 SUBSECTION (1)(b)(I) of this section, ~~the department~~ CDHS has the same  
16 authority with respect to custody as provided for in section 16-8-105.5  
17 (4).

18           ~~(b.5)~~ (III) When the court orders an inpatient COMPETENCY  
19 evaluation, the court shall advise the defendant that restoration services  
20 may commence immediately if the COMPETENCY evaluation ~~concludes~~  
21 OPINES that the defendant is incompetent to proceed, unless either party  
22 objects at the time of the advisement, or within seventy-two hours after  
23 ~~the~~ receipt of the written REPORT OF THE COMPETENCY evaluation  
24 submitted to the court. The court shall record any objection to the order  
25 of commitment to ~~the department~~ CDHS.

26           ~~(b.6) If the evaluator concludes that the defendant is incompetent~~  
27 ~~to proceed and that inpatient restoration services are not clinically~~

1 ~~appropriate, the department shall detail the outpatient and out-of-custody~~  
2 ~~restoration services available to the defendant.~~

3 (b.7) (IV) When the court orders an inpatient COMPETENCY  
4 evaluation, the defendant must be offered admission to the hospital or  
5 other inpatient program within fourteen days after receipt of the court  
6 order and collateral materials. The court shall review the case in  
7 twenty-one days to determine if transportation to the hospital or program  
8 has been completed or if further orders are necessary.

9 (c) ~~(Deleted by amendment, L. 2019.)~~

10 (c) [Formerly 16-8.5-105 (1)(b.6)] If the COMPETENCY evaluator  
11 ~~concludes~~ OPINES that the defendant is incompetent to proceed and that  
12 inpatient restoration services are not clinically appropriate, ~~the department~~  
13 CDHS shall detail the outpatient ~~and out-of-custody~~ restoration services  
14 available to the defendant.

15 (d) (I) If a defendant is in ~~the department's~~ CDHS's custody for  
16 purposes of the competency evaluation ordered pursuant to this article 8.5  
17 and the defendant has completed the competency evaluation and the  
18 COMPETENCY evaluator has ~~concluded~~ OPINED that:

19 (A) The defendant is competent to proceed, ~~the department~~ CDHS  
20 may return the defendant to a county jail or to the community, as  
21 determined by the defendant's bond status; ~~If the evaluator has concluded~~  
22 ~~that~~

23 (B) The defendant is incompetent to proceed and that inpatient  
24 restoration services are not clinically appropriate, and outpatient  
25 restoration services are available to the defendant in the community, ~~the~~  
26 ~~department~~ CDHS shall notify the court and the bridges court liaison, and  
27 ~~the department~~ CDHS shall develop a discharge plan and a plan for

1 community-based restoration services in coordination with the community  
2 restoration services provider. THE DISCHARGE PLAN AND PLAN FOR  
3 COMMUNITY-BASED RESTORATION SERVICES MAY INCLUDE A COMPONENT  
4 OF MENTAL HEALTH TREATMENT AND ONGOING CLINICAL SUPPORT.

5 (II) The court shall hold a hearing within seven days after  
6 receiving the notice PURSUANT TO SUBSECTION (1)(d)(I)(B) OF THIS  
7 SECTION, at which ~~the department~~ CDHS shall provide to the court the  
8 plan for community-based restoration services, and the court may enter  
9 any appropriate orders regarding the custody of the defendant and the  
10 defendant's bond status. ~~The department~~ THE COURT MAY INCLUDE IN THE  
11 ORDER A REQUIREMENT FOR THE DEFENDANT TO PARTICIPATE IN MENTAL  
12 HEALTH TREATMENT AS PART OF THE COMMUNITY-BASED RESTORATION  
13 SERVICES. CDHS shall advise the defendant of the date and time of the  
14 court hearing. If ~~the department~~ CDHS is returning the defendant to a  
15 county jail, the county sheriff in the jurisdiction where the defendant must  
16 return shall take custody of the defendant within seventy-two hours after  
17 receiving notification from ~~the department~~ CDHS that the defendant's  
18 COMPETENCY evaluation is completed. At the time ~~the department~~ CDHS  
19 notifies the sheriff, ~~the department~~ CDHS shall also notify the court and  
20 the bridges court liaison that ~~the department~~ CDHS is returning the  
21 defendant to the custody of the jail.

22 (e) ~~Nothing in~~ This section ~~restricts~~ DOES NOT RESTRICT the right  
23 of the defendant to procure a competency evaluation ~~as provided in~~  
24 ~~section 16-8.5-106~~ AT THE DEFENDANT'S REQUEST PURSUANT TO SECTION  
25 16-8.5-111 (1).

26 (2) The defendant ~~shall~~ MUST cooperate with the competency  
27 evaluator and with other personnel providing ancillary services such as

1 testing and radiological services. Statements made by the defendant in the  
2 course of the COMPETENCY evaluation ~~shall be~~ ARE protected as provided  
3 in ~~section 16-8.5-108~~ SECTION 16-8.5-107. If the defendant does not  
4 cooperate with the competency evaluator and other personnel providing  
5 ancillary services and the lack of cooperation is not the result of a  
6 developmental disability or a mental disability, the fact of the defendant's  
7 noncooperation with the competency evaluator and other personnel  
8 providing ancillary services may be admissible in the defendant's  
9 competency or restoration hearing to rebut any evidence introduced by the  
10 defendant with regard to the defendant's competency.

11 (3) To aid in forming an opinion ~~as to the competency~~ of the  
12 ~~defendant~~ DEFENDANT'S COMPETENCY, it is permissible in the course of  
13 ~~an~~ A COMPETENCY evaluation ~~under~~ PURSUANT TO this section to use THE  
14 DEFENDANT'S confessions and admissions ~~of the defendant~~ and any other  
15 evidence of the circumstances surrounding the commission of the offense,  
16 as well as the DEFENDANT'S medical and social history, ~~of the defendant~~  
17 in questioning the defendant. When the defendant is noncooperative with  
18 the competency evaluator or personnel providing ancillary services, THE  
19 COMPETENCY EVALUATOR MAY RENDER an opinion of the DEFENDANT'S  
20 competency ~~of the defendant may be rendered by the competency~~  
21 ~~evaluator~~ based upon confessions, admissions, and any other evidence of  
22 the circumstances surrounding the commission of the offense, as well as  
23 the DEFENDANT'S known medical and social history, ~~of the defendant~~, and  
24 the opinion may be admissible into evidence at the defendant's  
25 competency or restoration hearing.

26 (4) THE COMPETENCY EVALUATOR SHALL PREPARE a written report  
27 of the COMPETENCY evaluation, ~~must be prepared and the department~~

1 CDHS shall electronically deliver the report to the court clerk who  
2 ordered it. The clerk shall provide a copy of the report to the prosecuting  
3 attorney, the bridges court liaison, and the defense counsel using an  
4 e-filing system. Without reducing any other timelines set forth in this  
5 article 8.5, the competency evaluator shall provide the written report to  
6 the court within fourteen days after finishing meeting, or attempting to  
7 meet, with the defendant to evaluate the defendant's competency.

8 (5) The competency evaluation and report must include, but ~~need~~  
9 ~~not be~~ ARE NOT limited to:

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

12 (b) A description of the nature, content, extent, and results of the  
13 competency evaluation and any tests conducted, which must include, but  
14 ~~need not be~~ IS NOT limited to, the information reviewed and relied upon  
15 in conducting the competency evaluation and specific tests conducted by  
16 the competency evaluator;

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

19 ~~(d)~~ (c) An THE COMPETENCY EVALUATOR'S opinion as to whether  
20 the defendant currently suffers from a mental disability or developmental  
21 disability, OR BOTH. If the opinion of ~~the competency evaluator~~ is that the  
22 defendant suffers from a mental disability or developmental disability,  
23 then the report must include an opinion as to the diagnosis and the  
24 prognosis of the defendant's mental disability or developmental disability.

25 ~~(e)~~ (d) An THE COMPETENCY EVALUATOR'S opinion as to whether  
26 the defendant is competent to proceed or incompetent to proceed. If the  
27 opinion of ~~the competency evaluator~~ is that the defendant is incompetent

1 to proceed, then the report must include:

2 (I) (A) ~~An~~ THE COMPETENCY EVALUATOR'S opinion as to whether  
3 ~~there is a substantial probability that the defendant, with restoration~~  
4 ~~services, will attain competency within the reasonably foreseeable future;~~  
5 ~~and~~ THE DEFENDANT IS RESTORABLE OR UNRESTORABLE. AS PART OF  
6 FORMING THE OPINION, THE COMPETENCY EVALUATOR SHALL USE DUE  
7 DILIGENCE IN REVIEWING AND SUMMARIZING ANY PRIOR COMPETENCY  
8 OPINIONS REGARDING THE DEFENDANT. IF THE OPINION REGARDING  
9 RESTORABILITY DIFFERS FROM OPINIONS IN PAST EVALUATIONS OF THE  
10 DEFENDANT, THE COMPETENCY EVALUATOR SHALL EXPLAIN THE BASIS  
11 FOR THE COMPETENCY EVALUATOR'S DIFFERING OPINIONS.

12 (B) AN OPINION AS TO WHETHER THE DEFENDANT POSES A  
13 SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, AS DEFINED IN SECTION  
14 27-65-102, IF THE OPINION IS THAT THE DEFENDANT IS UNRESTORABLE  
15 AND THE DEFENDANT IS EITHER CHARGED WITH HOMICIDE PURSUANT TO  
16 PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE SUBJECT TO THE  
17 "VICTIM RIGHTS ACT", SECTION 18-1.3-406; OR A FELONY THAT  
18 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
19 16-22-102; OR THE DISTRICT ATTORNEY PROVIDED NOTICE THAT THE  
20 DISTRICT ATTORNEY IS AWARE OF AN UNCHARGED ACT COMMITTED BY  
21 THE DEFENDANT THAT QUALIFIES AS AN ACT PURSUANT TO SECTION  
22 16-8.5-118 (5)(b).

23 ~~(B)~~ (C) If possible, when the defendant is diagnosed with a  
24 moderate to severe intellectual ~~or~~ AND developmental disability, acquired  
25 or traumatic brain injury, or dementia, which either alone or together with  
26 a co-occurring mental ~~illness~~ DISABILITY affects the defendant's ability to  
27 gain or maintain competency, ~~the evaluator shall provide an opinion as to~~

1 ~~whether there is a substantial probability that the defendant with~~  
2 ~~restoration services will attain competency within the reasonably~~  
3 ~~foreseeable future. When the opinion is that there is a substantial~~  
4 ~~probability of attaining competency~~ THE DEFENDANT IS RESTORABLE, the  
5 COMPETENCY evaluator shall specifically state whether the COMPETENCY  
6 evaluator believes there are unique or different services outside the  
7 standard competency restoration curriculum developed by ~~the department~~  
8 CDHS that the defendant may need in order to be restored to competency  
9 within the reasonably foreseeable future.

10 (II) ~~An~~ IF THE COMPETENCY EVALUATOR'S OPINION PURSUANT TO  
11 SUBSECTION (5)(d)(I)(A) OF THIS SECTION IS THAT THE DEFENDANT IS  
12 RESTORABLE, AN opinion as to whether inpatient restoration services are  
13 clinically appropriate to restore the defendant to competency.

14 ~~(f) An opinion as to whether there is a substantial probability that~~  
15 ~~the defendant, with restoration services, will attain competency within the~~  
16 ~~reasonably foreseeable future. As part of forming their opinion, the~~  
17 ~~competency evaluator shall use due diligence in the review and summary~~  
18 ~~of any prior competency opinions regarding the defendant. If the~~  
19 ~~competency evaluator's opinion regarding restorability differs from~~  
20 ~~opinions in past evaluations of the defendant, the competency evaluator~~  
21 ~~shall explain the basis for their different opinion.~~

22 ~~(g)~~ (e) The competency evaluator's opinion as to whether the  
23 defendant meets the criteria for a ~~tier-I~~ TIER 1 or ~~tier-II~~ TIER 2 designation;  
24 as defined in section 16-8.5-101 (19) and (20); and

25 ~~(h)~~ (f) The competency evaluator's opinion and the information  
26 and factors considered in making determinations as to whether the  
27 defendant:

1 (I) Meets the criteria for an emergency mental health hold  
2 pursuant to section 27-65-106;

3 (II) Meets the criteria for a certification for short-term treatment  
4 pursuant to section 27-65-108.5 or 27-65-109 and, if the defendant meets  
5 ~~such~~ THE criteria, whether the COMPETENCY evaluator believes the  
6 defendant could be treated on an outpatient basis pursuant to section  
7 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A  
8 MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, in assessing  
9 whether the defendant ~~with a pending criminal charge~~ is a danger to self  
10 ~~or~~ THE DEFENDANT'S SELF, A DANGER TO others, or is gravely disabled, if  
11 ~~the person is incarcerated~~ AS THOSE TERMS ARE DEFINED IN SECTION  
12 27-65-102, the COURT, competency evaluator, or professional person, as  
13 defined in section 27-65-102, ~~and the court~~ shall not rely on the fact that  
14 the defendant is incarcerated or is an inpatient in a medical facility to  
15 establish that the defendant is not a danger to self, or to others, or is not  
16 OR gravely disabled. If it is the COMPETENCY evaluator's opinion that the  
17 defendant meets criteria for certification for short-term treatment pursuant  
18 to section 27-65-108.5 or 27-65-109, the COMPETENCY evaluator is not  
19 required to request a petition for certification for short-term treatment of  
20 the defendant. ~~in a court with jurisdiction pursuant to section 16-8.5-111~~  
21 (3):

22 (III) Has an intellectual and developmental disability, as defined  
23 in section 25.5-10-202, and if the defendant does have ~~such a~~ AN  
24 INTELLECTUAL AND DEVELOPMENTAL disability:

25 (A) Whether the defendant ALSO HAS A MENTAL HEALTH  
26 DISORDER AND, IF THE DEFENDANT DOES HAVE A CO-OCCURRING  
27 INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND A MENTAL HEALTH

1 DISORDER, THE PRIMARY DIAGNOSIS, IF DETERMINABLE; AND

2 (B) WHETHER THE DEFENDANT may be eligible for any additional  
3 services pursuant to article 10 of title 25.5 or article 10.5 of title 27, OR  
4 MEETS THE CRITERIA FOR A CIVIL PROCEEDING OR IMPOSITION OF A LEGAL  
5 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
6 25.5-10-216; OR

7 (IV) HAS A NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION  
8 25.5-10-501, AND IF THE DEFENDANT DOES HAVE A NEUROCOGNITIVE  
9 DISORDER, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH  
10 DISORDER, AND WHETHER THE DEFENDANT MEETS THE CRITERIA FOR  
11 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502. IF THE  
12 COMPETENCY EVALUATOR'S OPINION IS THAT THE DEFENDANT MEETS THE  
13 CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY EVALUATOR IS  
14 NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE PLACEMENT.

15 (g) WHEN THE COMPETENCY EVALUATOR HAS REASON TO BELIEVE  
16 THE DEFENDANT HAS A NEUROCOGNITIVE DISORDER OR AN INTELLECTUAL  
17 AND DEVELOPMENTAL DISABILITY THAT MAY QUALIFY AS A MENTAL  
18 HEALTH DISORDER:

19 (I) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER  
20 DIAGNOSTIC TESTING EXISTS BEYOND WHAT THE COMPETENCY  
21 EVALUATOR CAN PERFORM, SUCH AS NEUROPSYCHOLOGICAL TESTING,  
22 IMAGING OF THE BRAIN, OR OTHER SPECIALIZED TESTING, THAT COULD  
23 ASSIST THE COMPETENCY EVALUATOR IN PROVIDING AN OPINION AS TO  
24 WHETHER THE DEFENDANT IS INCOMPETENT TO PROCEED OR RESTORABLE;  
25 AND

26 (II) THE COMPETENCY EVALUATOR'S OPINION AS TO THE  
27 DEFENDANT'S PRIMARY DIAGNOSIS AND PROGNOSIS.

1 (6) Whenever a competency evaluation is ordered upon the  
2 request of either party, the court ~~may~~ SHALL notify the county attorney or  
3 district attorney required to conduct proceedings pursuant to ~~section~~  
4 ~~27-65-113 (6)~~ SECTION 27-65-113.5 for the county in which the charges  
5 are pending, and the bridges court liaison hired or contracted pursuant to  
6 article 95 of title 13, of all court dates for return of the COMPETENCY  
7 EVALUATION report. ~~on competency to ensure that all parties are on notice~~  
8 ~~of the expected need for coordinated services and planning with~~  
9 ~~consideration of possible civil certification.~~

10 (7) Each court shall allow for any competency evaluation  
11 conducted pursuant to ~~the provisions of this section or section 16-8.5-106~~  
12 THIS ARTICLE 8.5 to be submitted to the court through electronic means.

13 (8) A competency evaluator is not liable for damages in any civil  
14 action for failure to warn or protect a specific person or persons,  
15 including those identifiable by their association with a specific location  
16 or entity, against the violent behavior of a defendant being evaluated by  
17 the competency evaluator, and ~~any~~ THE competency evaluator must not  
18 be held civilly liable for failure to predict ~~such~~ violent behavior, except  
19 ~~where~~ WHEN the defendant has communicated to the competency  
20 evaluator a serious threat of imminent physical violence against a specific  
21 person or persons, including those identifiable by their association with  
22 a specific location or entity.

23 (9) WHEN THE COMPETENCY EVALUATOR OPINES THAT THE  
24 DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING, THE  
25 COMPETENCY EVALUATOR SHALL COOPERATE WITH THE PARTIES IN A CIVIL  
26 PROCEEDING THAT IS FILED.

27 **16-8.5-106. [Formerly 16-8.5-112] Petition for involuntary**

1       **administration of medication - venue for collateral hearing.**

2           (1) If a defendant committed to the custody of ~~the department~~  
3       CDHS for A COMPETENCY evaluation, or for restoration treatment, meets  
4       the constitutional requirements for the administration of involuntary  
5       medication, the defendant's treating physician may petition the court for  
6       an order requiring that the defendant accept the treatment or,  
7       alternatively, that the medication be forcibly administered to the  
8       defendant. ~~The department~~ CDHS shall, prior to the hearing on the  
9       petition, deliver a copy of the petition to the court that committed the  
10      defendant to the custody of ~~the department~~ CDHS, the prosecuting  
11      attorney, and the defendant's legal representation in the criminal case, if  
12      such LEGAL representation exists, and to the defendant directly if the  
13      defendant does not have legal representation. A physician shall assess and  
14      document the defendant's mental status prior to the administration of  
15      medication.

16          (2) ~~A petition for involuntary treatment must be heard in~~ The  
17      court of the jurisdiction where the defendant is located ~~The department~~  
18      SHALL HEAR A PETITION FOR INVOLUNTARY TREATMENT. CDHS shall  
19      promptly deliver a copy of the order granting or denying the petition to  
20      the court that committed the defendant to the custody of ~~the department~~  
21      CDHS, the prosecuting attorney, and the defendant's legal representation  
22      in the criminal case, if such LEGAL representation exists, and to the  
23      defendant directly if the defendant does not have legal representation.

24          (3) ~~If the committing court elects to transfer venue for medication~~  
25      ~~hearings to the court of the jurisdiction where the defendant is located~~ IF  
26      A HEARING FOR ADMINISTRATION OF INVOLUNTARY MEDICATION IS HEARD  
27      IN A DIFFERENT COUNTY THAN THE COUNTY WHERE THE COMMITTING

1 COURT IS LOCATED, the committing county shall reimburse the county  
2 where the proceeding is heard for the reasonable costs incurred in  
3 conducting the proceeding. Alternatively, the district attorney OR COUNTY  
4 ATTORNEY for the committing county ~~or in any county or any city and~~  
5 ~~county having a population exceeding fifty thousand people, the county~~  
6 ~~attorney for the committing county,~~ may prosecute the proceeding as the  
7 proponent of the physician's petition.

8 (4) If a defendant committed to the custody of ~~the department~~  
9 CDHS for evaluation or for restoration treatment is ordered by a court to  
10 accept treatment as set forth in subsection (1) of this section and is  
11 subsequently returned to jail for pending court proceedings, the county  
12 jail may require the defendant to continue to receive the same  
13 court-ordered treatment that was administered by ~~the department~~ CDHS  
14 before the defendant was discharged from inpatient care, or, alternatively,  
15 appropriate medical personnel provided by the jail may forcibly  
16 administer ~~such~~ THE court-ordered medication to the defendant.

17 **16-8.5-107. [Formerly 16-8.5-108 (1)] Use of defendant's**  
18 **statements.**

19 (1) ~~(a)~~ Except as otherwise provided in this ~~subsection (1)~~  
20 SECTION, evidence acquired directly or indirectly for the first time from  
21 a communication derived from the defendant's mental processes during  
22 the course of a competency evaluation or involuntary medication  
23 proceeding is not admissible against the defendant on the issues raised by  
24 a plea of not guilty, or, if the offense occurred before July 1, 1995, a plea  
25 of not guilty by reason of impaired mental condition. ~~Such~~ THE evidence  
26 may be admissible at trial to rebut evidence introduced by the defendant  
27 of the defendant's mental condition to show ~~incapacity of the defendant~~

1 THE DEFENDANT'S INCAPACITY to form a culpable mental state; and, in  
2 ~~such~~ THAT case, the evidence may only be considered by the trier of fact  
3 as bearing upon the question of capacity to form a culpable mental state,  
4 and the jury shall be so instructed at the request of either party.

5 (b) (2) Evidence acquired directly or indirectly for the first time  
6 from a communication derived from the defendant's mental processes  
7 during the course of a competency evaluation or involuntary medication  
8 proceeding is admissible at any sentencing hearing held pursuant to  
9 section 18-1.3-1201 for an offense charged prior to July 1, 2020, or  
10 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,  
11 2020, or pursuant to section 18-1.4-102 only to prove the existence or  
12 absence of any mitigating factor.

13 (c) (3) If the defendant testifies on the defendant's own behalf  
14 upon the trial of the issues raised by the plea of not guilty or, for offenses  
15 that occurred before July 1, 1995, a plea of not guilty by reason of  
16 impaired mental condition, or at a sentencing hearing held pursuant to  
17 section 18-1.3-1201 for an offense charged prior to July 1, 2020, or  
18 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,  
19 2020, or pursuant to section 18-1.4-102, this section does not bar any  
20 evidence used to impeach or rebut the defendant's testimony.

21 **16-8.5-108. General hearing procedures and evidence.**

22 (1) (a) A PARTY MUST REQUEST A COMPETENCY HEARING,  
23 RESTORABILITY HEARING, OR RESTORATION HEARING WITHIN FOURTEEN  
24 DAYS AFTER RECEIVING THE INITIAL COURT-ORDERED COMPETENCY  
25 EVALUATION REPORT; EXCEPT THAT, IF A PARTY REQUESTS A SECOND  
26 EVALUATION PURSUANT TO SECTION 16-8.5-111, A PARTY MUST REQUEST  
27 THE COMPETENCY HEARING, RESTORABILITY HEARING, OR RESTORATION

1 HEARING WITHIN FOURTEEN DAYS AFTER RECEIVING THE SECOND  
2 EVALUATION REPORT.

3 (b) (I) A REQUEST FOR A COMPETENCY HEARING IS GOVERNED BY  
4 SECTION 16-8.5-109.

5 (II) A REQUEST FOR A RESTORABILITY HEARING IS GOVERNED BY  
6 SECTION 16-8.5-113.

7 (III) A REQUEST FOR A RESTORATION HEARING IS GOVERNED BY  
8 SECTION 16-8.5-114.

9 (IV) A REQUEST FOR A COMBINED RESTORABILITY AND  
10 RESTORATION HEARING IS GOVERNED BY SECTIONS 16-8.5-113 AND  
11 16-8.5-114.

12 (c) THE COURT SHALL GIVE THE NONMOVING PARTY AN  
13 OPPORTUNITY TO OBJECT AND SHALL GRANT OR DENY THE REQUEST FOR  
14 A COMPETENCY HEARING, RESTORABILITY HEARING, OR RESTORATION  
15 HEARING IN ACCORDANCE WITH THE APPLICABLE GOVERNING STATUTES  
16 WITHIN FOURTEEN DAYS AFTER THE REQUEST.

17 (d) THE COMPETENCY HEARING, RESTORABILITY HEARING, OR  
18 RESTORATION HEARING MUST BE HELD WITHIN THIRTY-FIVE DAYS AFTER  
19 THE COURT'S ORDER GRANTING THE REQUEST, UNLESS THE TIME IS  
20 EXTENDED BY THE COURT AFTER A FINDING OF GOOD CAUSE.

21 (2) (a) **[Formerly 16-8.5-110]** ~~In any~~ AT A COMPETENCY hearing,  
22 ~~at which the competency of the defendant is an issue~~ RESTORABILITY  
23 HEARING, OR RESTORATION HEARING, witnesses not specially trained in  
24 psychiatry or psychology and not testifying as expert witnesses may  
25 testify as to ~~the witness's~~ THEIR observation of the defendant's actions and  
26 conduct and as to conversations that ~~the witness~~ THEY had with the  
27 defendant bearing upon the defendant's mental condition. Any ~~such~~

1 witnesses, as part of ~~the witness's~~ THEIR testimony, must be permitted to  
2 give opinions or conclusions concerning the competency of the defendant.

3 (b) **[Formerly 16-8.5-109 (3)]** The court may examine or  
4 cross-examine ~~any witness~~ WITNESSES called by the defendant or  
5 prosecuting attorney ~~at a competency hearing~~ and may summon and  
6 examine witnesses on the court's own motion.

7 (3) **[Formerly 16-8.5-109 (2)]** At a competency hearing,  
8 RESTORABILITY HEARING, OR RESTORATION HEARING, the defendant and  
9 the prosecuting attorney are entitled:

- 10 (a) To be present in person;
- 11 (b) To examine any reports of the competency evaluation or other  
12 matter to be considered by the court as bearing upon the determination;
- 13 (c) To introduce evidence, summon witnesses, cross-examine  
14 opposing witnesses or witnesses called by the court; and
- 15 (d) To make opening and closing statements and arguments.

16 (4) **[Formerly 16-8.5-108 (2)]** ~~In any~~ AT A COMPETENCY hearing,  
17 ~~concerning competency to proceed or restoration to competency~~  
18 RESTORABILITY HEARING, OR RESTORATION HEARING, competency  
19 evaluators and other experts may testify as to the conclusions reached  
20 from their examination of hospital records, laboratory reports, X rays,  
21 electroencephalograms, and psychological test results if the material that  
22 the COMPETENCY evaluators or experts examined in reaching their  
23 conclusions is produced at the time of the hearing. ~~Nothing in~~ This  
24 section ~~prevents~~ DOES NOT PREVENT the parties from obtaining the  
25 information authorized by PURSUANT TO section 16-8.5-104 prior to the  
26 hearing.

27 (5) **[Formerly 16-8.5-114 (3)]** Evidence of any determination as

1 to the defendant's competency, ~~or incompetency~~ RESTORABILITY, OR  
2 RESTORATION is not admissible on the issues raised by a plea of not  
3 guilty, not guilty by reason of insanity, or, for offenses that occurred  
4 before July 1, 1995, the affirmative defense of impaired mental condition.

5 **16-8.5-109. Competency hearing - procedure after**  
6 **determination of competency or incompetency - mandatory dismissal**  
7 **- refile of charges.**

8 (1) **Competency hearing.**

9 (a) IF A PARTY MAKES A TIMELY REQUEST FOR A COMPETENCY  
10 HEARING PURSUANT TO SECTION 16-8.5-108, THE COURT SHALL GRANT  
11 THE REQUEST FOR A COMPETENCY HEARING.

12 (b) ~~[Formerly 16-8.5-103 (7)] At any~~ A COMPETENCY hearing,  
13 ~~held pursuant to this section,~~ the party asserting the incompetency of the  
14 defendant ~~shall have~~ HAS the burden of submitting evidence and the  
15 burden of proof by a preponderance of the evidence.

16 (2) ~~[Formerly 16-8.5-111 (1)]~~ **Competent to proceed.** If the final  
17 determination made pursuant to section 16-8.5-103 is that the defendant  
18 is competent to proceed, the ~~judge~~ COURT shall order that the suspended  
19 proceeding continue or, if a mistrial was declared, shall reset the case for  
20 trial at the earliest possible date.

21 (3) ~~[Formerly 16-8.5-111 (1.5)]~~ **Referral to wraparound care**  
22 **program or restoration services.** If the final determination made  
23 pursuant to section 16-8.5-103 is that the defendant is incompetent to  
24 proceed and the defendant is eligible for referral to the bridges  
25 wraparound care program pursuant to article 8.6 of this title 16, the court  
26 may ask the parties whether the defendant should be referred for  
27 participation in the program. With the agreement of the parties, the court

1 may delay ordering restoration services for the defendant to allow a  
2 bridges wraparound care coordinator to conduct an initial intake of the  
3 defendant pursuant to section 16-8.6-108 to determine whether the  
4 bridges wraparound care program is appropriate for the defendant, or,  
5 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, the court may  
6 order restoration services pursuant to ~~subsection (2) of this section~~  
7 SECTION 16-8.5-110.

8 (4) [Formerly 16-8.5-111 (1.6)] **Mandatory dismissal of certain**  
9 **charges after finding of incompetency.**

10 (a) THE COURT SHALL DISMISS THE CHARGES AGAINST THE  
11 DEFENDANT IN ACCORDANCE WITH SECTION 16-8.5-116 if the final  
12 determination made pursuant to section 16-8.5-103 is that the defendant  
13 is incompetent to proceed and if a defendant's highest charged offense is  
14 a class 2 misdemeanor; a petty offense; a drug misdemeanor; ~~or a traffic~~  
15 ~~offense, the court shall dismiss the charges against the defendant unless~~  
16 ~~the district attorney objects prior to the entry of the order to dismiss and~~  
17 ~~makes a prima facie showing that the defendant is a danger to the~~  
18 ~~defendant's self or others or is gravely disabled and there is a reasonable~~  
19 ~~belief that the defendant will be certified for treatment and receive the~~  
20 ~~necessary services pursuant to article 65 of title 27~~ INFRACTION; A  
21 MISDEMEANOR TRAFFIC OFFENSE; AN OFFENSE THAT CONSTITUTES AN  
22 UNCLASSIFIED MISDEMEANOR WITHOUT SPECIFICATION PURSUANT TO  
23 SECTION 18-1.3-504; OR AN OFFENSE THAT CONSTITUTES A DENOMINATED  
24 MISDEMEANOR AND NO PENALTY IS FIXED IN STATUTE PURSUANT TO  
25 SECTION 18-1.3-505, BUT NOT A MISDEMEANOR PURSUANT TO PART 13 OF  
26 ARTICLE 4 OF TITLE 42 OR ANY OFFENSE CHARGED PURSUANT TO SECTION  
27 42-4-1402 (2)(c).

1 (b) If the district attorney makes the prima facie showing pursuant  
2 to subsection (1.6)(a) of this section, the court shall proceed pursuant to  
3 subsection ~~(3)~~ of this section or section 16-8.5-116.5 (7) and, upon  
4 completion of the certification process, the court shall dismiss the charges  
5 against the defendant.

6 (c) ~~If the court does not refer the defendant for certification~~  
7 ~~pursuant to subsection (3) of this section or section 16-8.5-116.5 (7), the~~  
8 ~~court may refer the defendant to voluntarily participate and receive~~  
9 ~~services in the court liaison program pursuant to article 95 of title 13.~~

10 **16-8.5-110. Restoration services - inpatient and outpatient.**

11 (1) [Formerly 16-8.5-111 (2)] **Order for restoration services.** If  
12 the final determination made pursuant to section 16-8.5-103 is that the  
13 defendant is incompetent to proceed, ~~and~~ UNLESS the court finds ~~there is~~  
14 ~~substantial probability that~~ AFTER A RESTORABILITY HEARING HELD  
15 PURSUANT TO SECTION 16-8.5-113 THAT the defendant ~~with restoration~~  
16 ~~services, will attain competency in the reasonably foreseeable future~~ IS  
17 UNRESTORABLE, the court has the following requirements and options:

18 (a) If the defendant is out of custody or will be released soon, the  
19 court shall order ~~the~~ restoration services take place on an outpatient basis,  
20 unless the recommendation from ~~the department~~ CDHS is that inpatient  
21 restoration services are clinically appropriate, and:

22 (I) The court shall order that the defendant participate in  
23 restoration services as a condition of any bond;

24 (II) The court may appoint a bridges court liaison HIRED OR  
25 CONTRACTED PURSUANT TO ARTICLE 95 OF TITLE 13 or may order that the  
26 defendant cooperate with pretrial services, if available, and the court may  
27 order pretrial services or a bridges court liaison, or both, to work with the

1 defendant, ~~the department~~ CDHS, and the restoration services provider  
2 under contract with ~~the department~~ CDHS to assist in securing  
3 appropriate support and care management services for the defendant,  
4 which may include housing resources; and

5 (III) The court shall conduct a nonappearance review fourteen  
6 days after the defendant's release from custody to ensure the defendant  
7 has been released. If the defendant is not released by the date of the  
8 nonappearance review, the court shall set a hearing to determine whether  
9 the defendant will be released or to enter an order pursuant to ~~subsection~~  
10 ~~(2)(c)~~ SUBSECTION (1)(c) of this section.

11 (b) If the ~~court determines the defendant is incompetent to~~  
12 ~~proceed and~~ DEFENDANT is in-custody on a CLASS 1 misdemeanor, ~~petty~~  
13 ~~offense, or traffic offense~~ A MISDEMEANOR DESCRIBED IN PART 13 OF  
14 ARTICLE 4 OF TITLE 42, OR AN OFFENSE CHARGED PURSUANT TO SECTION  
15 42-4-1402 (2)(c), the court ~~must~~ SHALL set a hearing on bond within  
16 seven days after the court's final determination that the defendant is  
17 incompetent to proceed. At the bond hearing, there is a presumption that  
18 the court ~~shall~~ order a personal recognizance bond and enter an order for  
19 restoration services pursuant to ~~subsection (2)(a)~~ SUBSECTION (1)(a) of  
20 this section. In order to deny the defendant a personal recognizance bond  
21 and enter an order to commit the defendant for inpatient restoration  
22 services pursuant to ~~subsection (2)(c)~~ SUBSECTION (1)(c) of this section,  
23 the court ~~shall~~ MUST make findings of fact that extraordinary  
24 circumstances exist to overcome the presumption of release by clear and  
25 convincing evidence. If the court denies a personal recognizance bond,  
26 the court ~~must~~ SHALL notify ~~the department~~ CDHS of the specific findings  
27 the court made to deny the personal recognizance bond. The judicial

1 department shall develop a form for a court to use to notify ~~the~~  
2 ~~department~~ CDHS of the court's findings that are required by this  
3 ~~subsection (2)(b)~~ SUBSECTION (1)(b).

4 (c) If the court finds that the defendant is not eligible for release  
5 from custody or not able to post the monetary condition of bond, or the  
6 court approves a recommendation from ~~the department~~ CDHS that  
7 inpatient restoration services are clinically appropriate, the court shall  
8 commit the defendant to the custody of ~~the department~~ CDHS and order  
9 inpatient restoration services.

10 (2) [Formerly 16-8.5-111 (7)] **Outpatient restoration services.**

11 (a) If the defendant is out of custody and the court has ordered  
12 OUTPATIENT restoration services pursuant to ~~subsection (2)(a)~~  
13 SUBSECTION (1)(a) of this section:

14 (I) Pursuant to section 27-60-105, ~~the department~~ CDHS is the  
15 entity responsible for the coordination of all competency restoration  
16 services, including the oversight of restoration education; AND

17 (II) The restoration services provider under contract with ~~the~~  
18 ~~department~~ CDHS shall notify the court, ~~the department~~ CDHS, the  
19 bridges court liaison, and any other designated agency within twenty-one  
20 days after the court's order if restoration services have not started and  
21 include a description of the efforts that have been made to engage the  
22 defendant in services. ~~and~~

23 ~~(III) If the department determines that the department is unable,~~  
24 ~~within a reasonable time, to provide restoration services on an outpatient~~  
25 ~~basis, the department shall notify the court within fourteen days after the~~  
26 ~~department's determination, at which point the court shall review the case~~  
27 ~~and determine what interim mental health services the department or a~~

1 ~~community provider can provide to the defendant. If a bridges court~~  
2 ~~liaison is appointed, the department shall report to the bridges court~~  
3 ~~liaison every twenty-eight days concerning the availability of restoration~~  
4 ~~services on an outpatient basis to the defendant.~~

5 (b) If, in the process of coordinating outpatient restoration  
6 services for a defendant, ~~the department~~ CDHS determines that the  
7 defendant meets the standard for a certification for short-term treatment  
8 pursuant to section 27-65-108.5 and that initiating a petition for an  
9 outpatient certification is appropriate, ~~the department~~ CDHS may request,  
10 in writing, that the court refer the matter for filing of a petition for  
11 short-term treatment pursuant to SECTION 27-65-108.5 in a court with  
12 jurisdiction and authorize ~~the department~~ CDHS to file the petition. After  
13 receiving a written request, the court shall hear and consider any  
14 objections from the defendant prior to ruling on the request.

15 (c) If ~~the department~~ CDHS determines that ~~the department~~ IT is  
16 unable, within a reasonable time, to provide restoration services on an  
17 outpatient basis, ~~the department~~ CDHS shall notify the court within  
18 fourteen days after the ~~department's~~ ITS determination, at which point the  
19 court shall review the case and determine what interim mental health  
20 services ~~the department~~ CDHS or a community provider can provide to  
21 the defendant. If a bridges court liaison is appointed, ~~the department~~  
22 CDHS shall report to the bridges court liaison every twenty-eight days  
23 concerning the availability of restoration services on an outpatient basis  
24 to the defendant.

25 (3) **[Formerly 16-8.5-111 (8)] Inpatient restoration services.**

26 (a) If the court commits the defendant to the custody of ~~the~~  
27 ~~department~~ CDHS and orders inpatient restoration services:

1 (I) The executive director shall designate a state facility or  
2 facilities where the defendant is held for care and psychiatric treatment  
3 and receives restoration services, and THE EXECUTIVE DIRECTOR may  
4 EFFECTUATE THE DEFENDANT'S transfer ~~the defendant~~ from one facility to  
5 another if, in the opinion of the EXECUTIVE director, doing so is in the  
6 best interest of proper care, custody, and treatment of the defendant or the  
7 protection of the public or the personnel of the facilities in question. ~~The~~  
8 ~~department~~ CDHS shall provide restoration services at an appropriate  
9 inpatient program. ~~The department~~ CDHS shall notify the court, the  
10 bridges court liaison, the prosecuting attorney, and the defense attorney  
11 when the defendant is placed or moved to a different program.

12 (II) ~~The department~~ CDHS shall admit tier 1 defendants for  
13 INPATIENT restoration services within seven days after receipt of the court  
14 order and collateral materials;

15 (III) ~~The department~~ CDHS shall admit tier 2 defendants for  
16 INPATIENT restoration services within twenty-eight days after receipt of  
17 the court order and collateral materials and shall advise the court and the  
18 bridges court liaison, if applicable, every twenty-eight days after the  
19 initial twenty-eight-day period regarding the availability of an inpatient  
20 bed and when admission will be offered to the defendant.

21 (b) If a defendant is receiving inpatient restoration services and  
22 the executive director concludes that:

23 (I) A less-restrictive facility would be more clinically appropriate,  
24 the executive director, with proper notice to the court and consistent with  
25 the provisions of part 3 of article 4.1 of title 24, may move the defendant  
26 to a less-restrictive facility if, in the executive director's opinion, the  
27 defendant is not yet restored to competency but could be properly restored

1 to competency in a less-restrictive facility. If the defendant is not released  
2 from custody, the court shall order ~~the department~~ CDHS to provide  
3 inpatient services at a location determined by ~~the department~~ CDHS.

4 (II) Outpatient restoration services would be more clinically  
5 appropriate, ~~the department~~ CDHS shall

6 ~~(A)~~ notify the court; ~~and~~ request that the defendant be considered  
7 for release on a nonmonetary bond if the defendant is not currently  
8 released on bond; and

9 ~~(B)~~ provide ~~to the court~~ information TO THE COURT regarding the  
10 appropriate outpatient restoration services, developed in conjunction with  
11 the bridges court liaison, when assigned, and the reasons why the  
12 defendant could be properly restored to competency on an outpatient  
13 basis.

14 (c) If the defendant posts bond or the court orders outpatient  
15 restoration services in lieu of continued inpatient services, or if ~~the~~  
16 ~~department~~ CDHS believes that the defendant is restored to competency  
17 and the defendant is to be released to the community rather than jail upon  
18 discharge, ~~the department~~ CDHS shall:

19 (I) Assist the defendant with any necessary transportation;

20 (II) Provide the necessary case and medication information for the  
21 defendant to the bridges court liaison and the community agency that will  
22 provide continued restoration, if applicable, or services;

23 (III) Notify the court and the bridges court liaison that the  
24 defendant was released and the defendant's community bond status; and

25 (IV) Coordinate with the court; pretrial services, if applicable; and  
26 the bridges court liaison to ensure the defendant receives written notice  
27 of the defendant's next court appearance and bond conditions.

1 (d) If the defendant is discharged from ~~the department's~~ CDHS's  
2 custody after receiving inpatient restoration services and the defendant is  
3 to be returned to the custody of the county jail, ~~the department~~ CDHS  
4 shall:

5 (I) Notify the sheriff of the jurisdiction where the defendant is to  
6 be returned;

7 (II) Notify the court and the bridges court liaison that ~~the~~  
8 ~~department~~ CDHS is returning the defendant to the custody of the county  
9 jail; and

10 (III) Work with the sheriff, the bridges court liaison, and any  
11 behavioral health providers in the county jail to ensure that the county jail  
12 has the necessary information to prevent any decompensation by the  
13 defendant while the defendant is in the county jail, which must include  
14 medication information when clinically appropriate.

15 **16-8.5-111. Second evaluation.**

16 (1) [Formerly 16-8.5-106 (1)] If a defendant wishes to be  
17 examined by a competency evaluator of ~~his or her~~ THE DEFENDANT'S OWN  
18 choice in connection with any proceeding under this ~~article~~ ARTICLE 8.5,  
19 the court, upon timely motion, shall ~~order that~~ ENTER ANY ORDERS  
20 NECESSARY FOR the competency evaluator chosen by the defendant TO be  
21 given reasonable opportunity to conduct ~~the~~ A second evaluation. ~~in~~  
22 ~~accordance with sections 16-8.5-103 and 16-8.5-111.~~

23 (2) EITHER PARTY HAS THE RIGHT TO REQUEST A SECOND  
24 EVALUATION, AND THE COURT SHALL GRANT THE REQUEST. THE SECOND  
25 EVALUATION REPORT MUST INCLUDE THE COMPETENCY EVALUATOR'S  
26 OPINION, IF APPLICABLE, REGARDING:

27 (a) WHETHER THE DEFENDANT IS COMPETENT TO PROCEED OR

1 INCOMPETENT TO PROCEED;

2 (b) WHETHER THE DEFENDANT IS RESTORABLE; AND

3 (c) IF THE DEFENDANT IS RECEIVING RESTORATION TREATMENT  
4 SERVICES, WHETHER THE DEFENDANT HAS BEEN RESTORED TO  
5 COMPETENCY.

6 (3) IF A RESTORATION HEARING IS COMBINED WITH A  
7 RESTORABILITY HEARING, EITHER PARTY MAY REQUEST A SECOND  
8 EVALUATION THAT ADDRESSES BOTH RESTORATION AND RESTORABILITY  
9 RATHER THAN A SECOND EVALUATION FOR EACH ISSUE.

10 (4) [Formerly 16-8.5-103 (4)] If a party requests a second  
11 evaluation, THE COURT SHALL CONTINUE any pending requests for a  
12 hearing ~~must be continued~~ until the receipt of the second evaluation  
13 report. The COMPETENCY EVALUATOR SHALL COMPLETE AND FILE THE  
14 report ~~of the expert conducting the second evaluation must be completed~~  
15 ~~and filed~~ with the court within thirty-five days after the court order  
16 allowing the second evaluation, unless the time period is extended by the  
17 court for good cause. The court shall provide the second evaluation to  
18 CDHS AND the parties. ~~and the department. The department~~ CDHS shall  
19 use the second evaluation to ensure that ~~the department~~ CDHS complies  
20 with its responsibilities, including reviewing and summarizing prior  
21 competency opinions ~~as required by section 16-8.5-105 (5)(f) MADE~~  
22 PURSUANT TO SECTION 16-8.5-105 (5)(d)(I)(A). If the COURT REQUESTS  
23 THE second evaluation, ~~is requested by the court,~~ it must be paid for by  
24 the court.

25 (5) [Formerly 16-8.5-107] ~~In all proceedings brought pursuant to~~  
26 ~~this article 8.5, the court shall appoint a competency evaluator or an~~  
27 ~~attorney for the defendant at the state's expense upon motion of the~~

1 defendant with proof that the defendant is indigent and without money to  
2 employ a competency evaluator or attorney to which the defendant is  
3 entitled pursuant to this article 8.5. The court shall pay for a second  
4 evaluation if a second evaluation is requested by an indigent defendant.

5 (6) ONCE THE COURT RECEIVES THE SECONDEVALUATION REPORT,  
6 EITHER PARTY HAS THE RIGHT TO REQUEST A COMPETENCY HEARING,  
7 RESTORABILITY HEARING, OR RESTORATION HEARING, AS APPLICABLE,  
8 PURSUANT TO SECTION 16-8.5-108 (1).

9 **16-8.5-112. [Formerly 16-8.5-116] Review hearing to determine**  
10 **competency - report.**

11 (1) ~~Repealed/(Deleted by amendment, L. 2024).~~

12 (2)(a) (1) (a) Within ninety-one days after the entry of the court's  
13 order of commitment or order to receive outpatient restoration SERVICES,  
14 the court shall SET A HEARING TO review the case of a defendant who has  
15 been determined to be incompetent to proceed with regard to ~~the~~  
16 ~~probability that~~ WHETHER the defendant will be restored to competency  
17 ~~within the reasonably foreseeable future~~ IS RESTORABLE OR  
18 UNRESTORABLE and with regard to the justification for certification,  
19 confinement, or continued restoration treatment. The review HEARING  
20 may be held in conjunction with a RESTORABILITY HEARING HELD  
21 PURSUANT TO SECTION 16-8.5-113 OR A restoration hearing held pursuant  
22 to ~~section 16-8.5-113~~ SECTION 16-8.5-114. However, if at the review  
23 hearing there is a request by the defendant for a restoration hearing  
24 pursuant to ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall set the  
25 restoration hearing within thirty-five days after the request pursuant to the  
26 provisions of ~~section 16-8.5-113~~ SECTION 16-8.5-114.

27 (b) At least ten days before each review HEARING, the individual

1 ~~or entity evaluating the defendant~~ COMPETENCY EVALUATOR shall provide  
2 the court with a report ~~describing~~ THAT INCLUDES:

3 (I) ~~An~~ THE COMPETENCY EVALUATOR'S opinion regarding the  
4 defendant's competency;

5 (II) IF THE COMPETENCY EVALUATOR OPINES THAT THE  
6 DEFENDANT REMAINS INCOMPETENT, whether ~~there is a substantial~~  
7 ~~probability that the defendant will be restored to competency within the~~  
8 ~~reasonably foreseeable future~~ IS RESTORABLE OR UNRESTORABLE;

9 (III) IF THE COMPETENCY EVALUATOR OPINES THAT THE  
10 DEFENDANT IS RESTORABLE, whether there is a substantial probability that  
11 the defendant will be restored to competency within the time periods  
12 established ~~by this section~~ IN SECTION 16-8.5-116;

13 (IV) Whether the defendant meets the criteria for an emergency  
14 mental health hold pursuant to section 27-65-106;

15 ~~(IV.3) Whether the defendant meets the criteria for a certification~~  
16 ~~for short-term treatment pursuant to section 27-65-108.5 or 27-65-109~~  
17 ~~and, if the defendant meets such criteria, whether the evaluator believes~~  
18 ~~the defendant could be treated on an outpatient basis pursuant to section~~  
19 ~~27-65-111. In assessing whether a defendant with a pending criminal~~  
20 ~~charge is a danger to self or others or is gravely disabled, if the person is~~  
21 ~~incarcerated, the evaluator shall not rely on the fact that the defendant is~~  
22 ~~incarcerated or is an inpatient in a medical facility to establish the~~  
23 ~~defendant is not a danger to self or others or is not gravely disabled.~~

24 ~~(IV.5) Whether the defendant has an intellectual and~~  
25 ~~developmental disability, as defined in section 25.5-10-202, and if the~~  
26 ~~defendant does have such a disability, whether the defendant may be~~  
27 ~~eligible for any additional services pursuant to article 10 of title 25.5 or~~

1 ~~article 10.5 of title 27.~~

2 (V) WHETHER THE DEFENDANT MEETS THE CRITERIA FOR A  
3 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
4 27-65-108.5 OR 27-65-109 AND, IF THE DEFENDANT MEETS THE CRITERIA,  
5 WHETHER THE COMPETENCY EVALUATOR BELIEVES THE DEFENDANT  
6 COULD BE TREATED ON AN OUTPATIENT BASIS PURSUANT TO SECTION  
7 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A  
8 MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, IN ASSESSING  
9 WHETHER THE DEFENDANT IS A DANGER TO THE DEFENDANT'S SELF, A  
10 DANGER TO OTHERS, OR GRAVELY DISABLED, AS THOSE TERMS ARE  
11 DEFINED IN SECTION 27-65-102, THE COURT, COMPETENCY EVALUATOR,  
12 OR PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102, SHALL NOT  
13 RELY ON THE FACT THAT THE DEFENDANT IS INCARCERATED OR IS  
14 INPATIENT IN A MEDICAL FACILITY TO ESTABLISH THAT THE DEFENDANT IS  
15 NOT A DANGER TO THE DEFENDANT'S SELF, A DANGER TO OTHERS, OR  
16 GRAVELY DISABLED. IF IT IS THE COMPETENCY EVALUATOR'S OPINION  
17 THAT THE DEFENDANT MEETS CRITERIA FOR CERTIFICATION FOR  
18 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR  
19 27-65-109, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO REQUEST  
20 A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT OF THE  
21 DEFENDANT.

22 (VI) WHETHER THE DEFENDANT HAS AN INTELLECTUAL AND  
23 DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-10-202, AND  
24 IF THE DEFENDANT DOES HAVE AN INTELLECTUAL AND DEVELOPMENTAL  
25 DISABILITY, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH  
26 DISORDER, AND WHETHER THE DEFENDANT MAY BE ELIGIBLE FOR ANY  
27 ADDITIONAL SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR

1 ARTICLE 10.5 OF TITLE 27, OR MEETS THE CRITERIA FOR A CIVIL  
2 PROCEEDING FOR IMPOSITION OF A LEGAL DISABILITY PURSUANT TO  
3 SECTION 25.5-10-216. IF THE COMPETENCY EVALUATOR'S OPINION IS THAT  
4 THE DEFENDANT MEETS THE CRITERIA, THE COMPETENCY EVALUATOR IS  
5 NOT REQUIRED TO PETITION THE COURT FOR IMPOSITION OF A LEGAL  
6 DISABILITY.

7 (VII) WHETHER THE DEFENDANT HAS A NEUROCOGNITIVE  
8 DISORDER, AS DEFINED IN SECTION 25.5-10-501, AND, IF THE DEFENDANT  
9 DOES HAVE A NEUROCOGNITIVE DISORDER, WHETHER THE DEFENDANT  
10 MEETS THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
11 25.5-10-502. IF THE OPINION IS THAT THE DEFENDANT MEETS THE  
12 CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY EVALUATOR IS  
13 NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE PLACEMENT.

14 ~~(V)~~ (VIII) A DESCRIPTION OF any and all efforts made for  
15 restoration through medication, therapy, education, or other services and  
16 the outcome of those efforts in relation to restoring the defendant to  
17 competency;

18 ~~(VI) Repealed.~~

19 ~~(VII)~~ (IX) If the defendant has failed to cooperate with treatment,  
20 whether the incompetency and mental DISABILITY or intellectual and  
21 developmental disability ~~contributes to~~ IS THE PRIMARY REASON FOR the  
22 defendant's refusal or inability to cooperate with restoration; ~~or prevents~~  
23 ~~the ability of the defendant to cooperate with restoration;~~ and

24 ~~(VIII)~~ (X) A summary of the observations of the defendant by the  
25 ~~treating~~ TREATMENT staff at the facility or other location where inpatient  
26 services were delivered.

27 (c) At least ten days before each review HEARING, the ~~department~~

1 ~~treating~~ CDHS TREATMENT team shall provide to the court an additional  
2 report that summarizes:

3 (I) What restorative education ~~has~~ SERVICES HAVE been provided  
4 TO THE DEFENDANT and the frequency of ~~that~~ THE education SERVICES;

5 (II) What medication has been administered TO THE DEFENDANT,  
6 including voluntary or involuntary medications;

7 (III) What release plans have been made for the defendant after  
8 release, including a discussion of the support from THE DEFENDANT'S  
9 family members;

10 (IV) Whether or not the defendant would agree to voluntary  
11 admission to the hospital for certification pursuant to article 65 of title 27;

12 (V) The opinion of the ~~treating~~ TREATMENT team on the  
13 defendant's mental health functioning and ability to function on an  
14 outpatient basis for restoration services; ~~and~~

15 (VI) IF THE DEFENDANT IS CONTINUING TO RECEIVE INPATIENT  
16 RESTORATION SERVICES, whether the defendant, based on observations of  
17 the defendant's behavior in the facility, presents a substantial risk to the  
18 physical safety of the defendant's self, of another person, or of the  
19 community if released for community restoration; AND

20 (VII) ~~Repeated:~~ WHETHER THE DEFENDANT POSES A SUBSTANTIAL  
21 RISK OF SERIOUS HARM TO OTHERS, AS DEFINED IN SECTION 27-65-102, IF:

22 (A) THE DEFENDANT IS CHARGED WITH HOMICIDE PURSUANT TO  
23 PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE SUBJECT TO THE  
24 "VICTIM RIGHTS ACT", SECTION 18-1.3-406; OR A FELONY THAT  
25 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
26 16-22-102; OR

27 (B) THE PROSECUTION REQUESTED AN OPINION REGARDING

1 WHETHER THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM  
2 TO OTHERS BECAUSE THE PROSECUTION IS AWARE OF AN UNCHARGED ACT  
3 COMMITTED BY THE DEFENDANT THAT QUALIFIES AS AN ACT PURSUANT TO  
4 SECTION 16-8.5-118 (5)(b). IF THE PROSECUTION REQUESTS AN OPINION  
5 PURSUANT TO THIS SUBSECTION (1)(c)(VII)(B), THE PROSECUTION SHALL  
6 DISCLOSE THE UNCHARGED ACTS TO THE DEFENDANT.

7 ~~(3)~~ (2) After the initial review HEARING CONDUCTED pursuant to  
8 ~~subsection (2)(a)~~ SUBSECTION (1)(a) of this section, the court shall review  
9 the case of the defendant every ninety-one days. At least ten days before  
10 each review, the ~~individual or entity evaluating the defendant~~  
11 COMPETENCY EVALUATOR shall provide the court with an updated  
12 COMPETENCY EVALUATION report as described in ~~subsection (2)(b)~~  
13 SUBSECTION (1)(b) of this section and the treatment staff shall provide an  
14 updated summary of observations as described in ~~subsection (2)(c)~~  
15 SUBSECTION (1)(c) of this section.

16 ~~(4) Repealed.~~

17 ~~(5)~~ (3) The court shall forward a copy of each report and summary  
18 received pursuant to ~~subsections (2) and (3)~~ SUBSECTIONS (1) AND (2) of  
19 this section to the county attorney or district attorney required to conduct  
20 proceedings pursuant to ~~section 27-65-113 (6)~~ SECTION 27-65-113.5 for  
21 the county in which the case is pending and, when a bridges court liaison  
22 is appointed, to the bridges court liaison.

23 ~~(6) to (15) Repealed.~~

24 **16-8.5-113. Restorability hearing - burdens of proof -**  
25 **determination - dismissal.**

26 (1) (a) THE COURT MAY, UPON MOTION OF A PARTY AND UPON A  
27 SHOWING OF GOOD CAUSE, SET A RESTORABILITY HEARING WITHIN THE

1 TIME FRAME SET FORTH IN SECTION 16-8.5-108 (1)(d).

2 (b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION  
3 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND A  
4 COMPETENCY EVALUATOR OPINES THAT THE DEFENDANT IS  
5 UNRESTORABLE, AND EITHER A RESTORABILITY HEARING HAS NOT BEEN  
6 HELD OR ONE HUNDRED EIGHTY-TWO DAYS HAVE PASSED SINCE THE  
7 DEFENDANT BEGAN RECEIVING RESTORATION SERVICES AFTER A FINDING  
8 OF RESTORABILITY, THE COURT SHALL, UPON MOTION OF A PARTY, SET A  
9 RESTORABILITY HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION  
10 16-8.5-108 (1)(d). A RESTORABILITY HEARING MAY BE COMBINED WITH A  
11 RESTORATION HEARING, IF APPROPRIATE.

12 (c) IF THE COURT RECEIVES THE COMPETENCY EVALUATOR'S  
13 OPINION THAT THE DEFENDANT IS UNRESTORABLE PRIOR TO ENTERING AN  
14 INITIAL ORDER FOR RESTORATION SERVICES AND A PARTY REQUESTS A  
15 RESTORABILITY HEARING, THE COURT MAY ORDER RESTORATION SERVICES  
16 BEGIN PRIOR TO THE RESTORABILITY HEARING OR MAY FORGO ORDERING  
17 RESTORATION SERVICES UNTIL THE COURT MAKES A FINDING ABOUT  
18 WHETHER THE DEFENDANT IS RESTORABLE FOLLOWING THE  
19 RESTORABILITY HEARING.

20 (2) AT ANY RESTORABILITY HEARING CONDUCTED PURSUANT TO  
21 THIS SECTION:

22 (a) THE DEFENDANT HAS THE BURDEN OF PROVING BY A  
23 PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS  
24 UNRESTORABLE IF ANY CHARGE IN ANY OF THE DEFENDANT'S PENDING  
25 CRIMINAL CASES IN THE STATE OF COLORADO INCLUDE A CRIME SUBJECT  
26 TO THE "VICTIM RIGHTS ACT", SECTION 24-4.1-302 (1); UNLAWFUL  
27 SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INDECENT

1 EXPOSURE, AS DESCRIBED IN SECTION 18-7-302; AND

2 (b) THE PROSECUTION HAS THE BURDEN OF PROVING BY A  
3 PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS RESTORABLE  
4 IF THE DEFENDANT DOES NOT HAVE A PENDING CRIMINAL CASE IN THE  
5 STATE OF COLORADO THAT INCLUDES A CHARGE OF A CRIME SUBJECT TO  
6 THE "VICTIM RIGHTS ACT", SECTION 24-4.1-302 (1); UNLAWFUL SEXUAL  
7 CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INDECENT EXPOSURE,  
8 AS DESCRIBED IN SECTION 18-7-302.

9 (3) WHEN DETERMINING WHETHER THE DEFENDANT IS  
10 RESTORABLE OR UNRESTORABLE, THE COURT SHALL CONSIDER ALL  
11 RELEVANT INFORMATION, INCLUDING, BUT NOT LIMITED TO:

12 (a) ANY DIAGNOSED MENTAL CONDITION GIVING RISE TO THE  
13 DEFENDANT'S INCOMPETENCY, INCLUDING A DEVELOPMENTAL DISABILITY;  
14 AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN  
15 SECTION 25.5-10-202; A NEUROCOGNITIVE DISORDER, AS DEFINED IN  
16 SECTION 25.5-10-501; AN ACQUIRED TRAUMATIC BRAIN INJURY; OR  
17 DEMENTIA, AND WHETHER THE DIAGNOSED MENTAL CONDITION CAN BE  
18 TREATED, MITIGATED, OR MANAGED IN A WAY THAT WOULD ALLOW THE  
19 DEFENDANT TO PROGRESS TOWARD BECOMING COMPETENT TO PROCEED;

20 (b) THE NATURE AND SEVERITY OF THE DEFENDANT'S  
21 INCOMPETENCY AND WHETHER THE DEFENDANT'S LEVEL OF COMPETENCY  
22 CAN BE IMPROVED THROUGH ANY SERVICES THE COURT MAY LAWFULLY  
23 ORDER, INCLUDING SERVICES THAT ARE IN ADDITION TO RESTORATION  
24 SERVICES;

25 (c) THE EXPERIENCES, OBSERVATIONS, AND OPINIONS OF  
26 QUALIFIED EXPERTS, INCLUDING MEDICAL PROFESSIONALS, TREATMENT  
27 PROVIDERS, AND RESTORATION SPECIALISTS;

1 (d) THE EXPERIENCES, OBSERVATIONS, AND OPINIONS OF LAY  
2 PERSONS WHO ARE FAMILIAR WITH THE DEFENDANT, INCLUDING FAMILY  
3 MEMBERS, FRIENDS, ASSOCIATES, AND ANY OTHER INDIVIDUAL WITH  
4 WHOM THE DEFENDANT HAS HAD SIGNIFICANT INTERACTIONS;

5 (e) THE DEFENDANT'S MEDICAL HISTORY, CRIMINAL HISTORY,  
6 COMPETENCY AND RESTORATION HISTORY, AND CIVIL COMMITMENT  
7 HISTORY;

8 (f) THE FACTS AND CONTEXT OF CURRENT AND PAST CHARGES  
9 AGAINST THE DEFENDANT AS EVIDENCED BY POLICE REPORTS, VIDEO OR  
10 AUDIO RECORDINGS, PHYSICAL EVIDENCE, WITNESS OR VICTIM  
11 STATEMENTS, AND ANY OTHER RELIABLE SOURCES;

12 (g) ANY RELEVANT STATEMENTS MADE BY THE DEFENDANT  
13 DURING THE RESTORATION PROCESS; OR

14 (h) THE DEFENDANT'S LEVEL OF EFFORT AND ENGAGEMENT,  
15 INCLUDING ANY VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS  
16 TO PARTICIPATE.

17 (4) (a) AT THE CONCLUSION OF A RESTORABILITY HEARING SET  
18 PURSUANT TO THIS SECTION:

19 (I) IF THE COURT FINDS THAT THE DEFENDANT HAS NOT MET THE  
20 BURDEN OF PROVING THE DEFENDANT IS UNRESTORABLE PURSUANT TO  
21 SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL FIND THE  
22 DEFENDANT RESTORABLE AND ORDER APPROPRIATE RESTORATION  
23 SERVICES AND SET A REVIEW HEARING PURSUANT TO SECTION 16-8.5-112.

24 (II) IF THE COURT FINDS THAT THE DEFENDANT HAS MET THE  
25 BURDEN OF PROVING THEY ARE UNRESTORABLE PURSUANT TO SUBSECTION  
26 (2)(a) OF THIS SECTION, THE COURT SHALL FIND THE DEFENDANT  
27 UNRESTORABLE.

1 (III) IF THE COURT FINDS THAT THE PROSECUTION HAS NOT MET  
2 THE BURDEN OF PROVING THE DEFENDANT IS RESTORABLE PURSUANT TO  
3 SUBSECTION (2)(b) OF THIS SECTION, THE COURT SHALL FIND THE  
4 DEFENDANT UNRESTORABLE.

5 (IV) IF THE COURT FINDS THAT THE PROSECUTION HAS MET THE  
6 BURDEN OF PROVING THE DEFENDANT IS RESTORABLE PURSUANT TO  
7 SUBSECTION (2)(b) OF THIS SECTION, THE COURT SHALL FIND THE  
8 DEFENDANT RESTORABLE AND ORDER APPROPRIATE RESTORATION  
9 SERVICES AND SET A REVIEW HEARING PURSUANT TO SECTION 16-8.5-112.

10 (b) IF THE COURT FINDS THE DEFENDANT IS UNRESTORABLE  
11 PURSUANT TO SUBSECTION (4)(a)(II) OR (4)(a)(III) OF THIS SECTION, THE  
12 COURT SHALL ORDER THE DISMISSAL OF THE CRIMINAL PROCEEDINGS  
13 AGAINST THE DEFENDANT AND STAY THE ORDER AND PROCEED IN  
14 ACCORDANCE WITH SECTION 16-8.5-117, UNLESS THE PROSECUTION  
15 REQUESTS A CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT,  
16 IN WHICH CASE THE COURT SHALL PROCEED IN ACCORDANCE WITH  
17 SECTION 16-8.5-118.

18 (5) [Formerly 16-8.5-111 (6)(a)] ~~(a) Nothing in This article 8.5~~  
19 ~~prohibits~~ DOES NOT PROHIBIT the court from finding that the defendant is  
20 restorable ~~to competency in the reasonably foreseeable future~~ based on  
21 the defendant's volitional lack of cooperation or unwillingness to  
22 participate in restoration services and treatment if THE COURT FINDS THAT  
23 the defendant could be ~~restored to competency in the reasonably~~  
24 ~~foreseeable future~~ RESTORABLE if the defendant cooperated and  
25 participated in the restoration services and treatment.

26 **16-8.5-114. Restoration hearing - burdens of proof -**  
27 **determination.**

1           (1) (a) [**Formerly 16-8.5-113 (1)**] The court may, ~~order~~ UPON A  
2 MOTION OF A PARTY AND UPON A SHOWING OF GOOD CAUSE, SET a  
3 restoration hearing ~~at any time on its own motion, on motion of the~~  
4 ~~prosecuting attorney, or on motion of the defendant, except that the court~~  
5 ~~shall order a restoration hearing when required pursuant to section~~  
6 ~~16-8.5-111(4)(a) or (4)(b)~~ WITHIN THE TIME FRAME SET FORTH IN SECTION  
7 16-8.5-108 (1)(a). FOR THE PURPOSES OF THIS SUBSECTION (1)(a), GOOD  
8 CAUSE INCLUDES IF A DEFENDANT IS APPROACHING THE MAXIMUM TIME  
9 PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION  
10 16-8.5-116. A RESTORATION HEARING MAY BE COMBINED WITH A  
11 RESTORABILITY HEARING, IF APPROPRIATE.

12           (b) THE COURT SHALL SET A RESTORATION HEARING WITHIN THE  
13 TIME FRAME SET FORTH IN SECTION 16-8.5-108 (1)(d) UPON MOTION OF A  
14 PARTY IF:

15           (I) THE COURT HAS ORDERED CDHS TO PROVIDE AN INCOMPETENT  
16 DEFENDANT RESTORATION SERVICES PURSUANT TO SECTION 16-8.5-110  
17 AND THE DEFENDANT IS RECEIVING RESTORATION SERVICES;

18           (II) THE COURT RECEIVES A COMPETENCY EVALUATOR'S OPINION  
19 THAT THE DEFENDANT IS COMPETENT TO PROCEED; AND

20           (III) A RESTORATION HEARING HAS NOT BEEN HELD OR ONE  
21 HUNDRED EIGHTY-TWO DAYS HAVE PASSED AFTER A FINDING AT A  
22 RESTORATION HEARING THAT THE DEFENDANT REMAINS INCOMPETENT TO  
23 PROCEED AND THE DEFENDANT HAS CONTINUED TO RECEIVE RESTORATION  
24 SERVICES.

25           (2) [**Formerly 16-8.5-113 (2)**] ~~Within fourteen days after receipt~~  
26 ~~of a report from the department or other court-approved competency~~  
27 ~~evaluator certifying that the defendant is competent to proceed; Either~~

1 party may request a RESTORATION hearing or a second evaluation ~~The~~  
2 ~~court shall determine whether to allow the second evaluation or proceed~~  
3 ~~to a hearing on competency. If the second evaluation is requested by the~~  
4 ~~court or by an indigent defendant, the evaluation must be paid for by the~~  
5 ~~court~~ PURSUANT TO SECTION 16-8.5-111.

6 (3) [Formerly 16-8.5-113 (4)] If neither party requests a  
7 RESTORATION hearing ~~or second evaluation~~ within the time frame set  
8 forth in ~~subsection (2) of this section~~ SECTION 16-8.5-108 (1)(a), the court  
9 shall enter a final determination, based on the information then available  
10 to the court, whether the defendant is or is not competent to proceed.

11 (4) [Formerly 16-8.5-113 (6)] At the RESTORATION hearing, the  
12 party asserting that the defendant is competent has the burden of proof by  
13 a preponderance of the evidence and the burden of submitting evidence.  
14 At the RESTORATION hearing, the court shall determine whether the  
15 defendant is restored to competency.

16 (5) [Formerly 16-8.5-111 (9)] When ~~the department~~ CDHS  
17 submits a report to the court that ~~the department's~~ CDHS'S position is that  
18 the defendant is restored to competency, the defendant may be returned  
19 to the custody of the county jail. The sheriff shall return the defendant to  
20 the custody of the county jail within seventy-two hours after receipt of ~~the~~  
21 ~~department's~~ CDHS'S notice.

22 **16-8.5-115. Procedure after restoration hearing.**

23 (1) [Formerly 16-8.5-114 (1)] If a defendant is found to be  
24 restored to competency after the RESTORATION hearing held pursuant to  
25 ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall resume the  
26 criminal proceedings or order the sentence carried out. The court shall  
27 credit any time the defendant spent in confinement while committed

1 pursuant to ~~section 16-8.5-111~~ SECTION 16-8.5-110 against any term of  
2 imprisonment imposed after restoration to competency.

3 (2) [Formerly 16-8.5-114 (2)] If, after the RESTORATION hearing  
4 held pursuant to ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court  
5 determines that the defendant remains incompetent to proceed, the court  
6 may continue or modify any orders entered at the time of the original  
7 determination of incompetency and may commit or recommit the  
8 defendant TO CDHS'S CUSTODY or enter any new order necessary to  
9 facilitate the defendant's restoration to ~~mental~~ competency, consistent  
10 with the requirements of ~~section 16-8.5-111~~ SECTION 16-8.5-110.

11 **16-8.5-116. Dismissal of charges after reaching maximum time**  
12 **permitted to restore defendant - exceptions - rules.**

13 (1) [Formerly 16-8.5-116.5 (2)] At a review hearing held  
14 PURSUANT TO SECTION 16-8.5-112 concerning the defendant's competency  
15 to proceed, the court shall dismiss the charges against the defendant and  
16 release the defendant from confinement ~~pursuant to subsection (7) of this~~  
17 ~~section~~ if:

18 (a) The defendant's highest charged offense is a class 1  
19 misdemeanor; ANY MISDEMEANOR THAT CONSTITUTES A FIRST OFFENSE  
20 PURSUANT TO PART 13 OF ARTICLE 4 OF TITLE 42; or ~~is~~ a level 4 drug  
21 felony, and the defendant has been in ~~the department's~~ CDHS'S custody  
22 for restoration services or has been confined in a jail or other detention  
23 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
24 restoration for an aggregate time of six months; and

25 (b) The court determines, based on available evidence, that the  
26 defendant remains incompetent to proceed.

27 (2) [Formerly 16-8.5-116.5 (3)] At a review hearing held

1 PURSUANT TO SECTION 16-8.5-112 concerning the defendant's competency  
2 to proceed, the court shall dismiss the charges against the defendant  
3 PURSUANT TO SUBSECTION (5) OF THIS SECTION and release the defendant  
4 from confinement ~~pursuant to subsection (7) of this section~~ if:

5 (a) The defendant's highest charged offense is a class 5 or class 6  
6 felony; ANY MISDEMEANOR THAT CONSTITUTES A SECOND OR SUBSEQUENT  
7 OFFENSE PURSUANT TO PART 13 OF ARTICLE 4 OF TITLE 42; ANY OFFENSE  
8 CHARGED PURSUANT TO SECTION 42-4-1402 (2)(c); or a level 3 drug  
9 felony and the defendant has been in ~~the department's~~ CDHS's custody  
10 for restoration services or has been confined in a jail or other detention  
11 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
12 restoration for an aggregate period of one year; and

13 (b) The court determines, based on available evidence, that the  
14 defendant remains incompetent to proceed.

15 (3) **[Formerly 16-8.5-116.5 (4)]** At a review hearing held  
16 PURSUANT TO SECTION 16-8.5-112 concerning the defendant's competency  
17 to proceed, the court shall dismiss the charges against the defendant  
18 PURSUANT TO SUBSECTION (5) OF THIS SECTION and release the defendant  
19 from confinement ~~pursuant to subsection (7) of this section~~, if:

20 (a) The defendant's highest charged offense is a class 4 felony and  
21 the defendant has been in ~~the department's~~ CDHS's custody for  
22 restoration services or has been confined in a jail or other detention  
23 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
24 restoration for an aggregate period of two years; and

25 (b) The court determines, based on available evidence, that the  
26 defendant remains incompetent to proceed.

27 (4) **[Formerly 16-8.5-116.5 (5)]** ~~Subsections (2), (3), and (4)~~

1 SUBSECTIONS (1), (2), AND (3) of this section do not apply if the defendant  
2 is charged with a class 1, 2, or 3 felony offense; a sex offense, as defined  
3 in section 18-1.3-1003 (5); a crime of violence, as defined in section  
4 18-1.3-406 (2); or a level 1 or level 2 drug felony.

5 (5) [Formerly 16-8.5-116.5 (6)] The court shall dismiss the  
6 defendant's case if:

7 (a) The defendant is found incompetent to proceed;

8 (b) The charges against the defendant have not been dismissed  
9 pursuant to this section; and

10 (c) The defendant's presentence confinement credit, including any  
11 time period the defendant was committed for inpatient restoration, or  
12 confined in jail or another detention facility awaiting inpatient restoration  
13 services, exceeds the maximum sentence for the defendant's highest  
14 charged offense.

15 ~~(6) to (15) Repealed.~~ IF THE CONDITIONS ALLOWING THE COURT TO  
16 STAY A DISMISSAL APPLY, THE COURT SHALL STAY A DISMISSAL ORDERED  
17 PURSUANT TO THIS SECTION IN ACCORDANCE WITH SECTION 16-8.5-117 OR  
18 16-8.5-118.

19 (7) [Formerly 16-8.5-116.5 (13)] When the defendant is charged  
20 with an offense in municipal court and the defendant is found  
21 incompetent to proceed, or when civil commitment proceedings are  
22 initiated pursuant to article 65 of title 27, the municipal court shall  
23 dismiss the case.

24 (8) [Formerly 16-8.5-116.5 (14)] If a defendant is in custody and  
25 ~~the department~~ CDHS does not comply with the time limits set forth in  
26 ~~section 16-8.5-111 the defendant is subject to the time limits set forth in~~  
27 ~~subsections (2), (3), and (4) of this section~~ SECTION 16-8.5-110, and,

1 based upon the best available evidence, the defendant will not be admitted  
2 to an inpatient facility to begin restoration SERVICES within the time limits  
3 described in ~~the applicable subsection~~ SUBSECTIONS (1), (2), OR (3) OF  
4 THIS SECTION, the court may release the defendant or dismiss the case in  
5 lieu of the defendant remaining in custody on a wait list for restoration  
6 services.

7 (9) [Formerly 16-8.5-116.5 (15)] When a defendant is in custody  
8 and is found incompetent to proceed, at every subsequent review  
9 HEARING of the defendant's case, the court shall make a finding on the  
10 record regarding the expiration of applicable time limits set forth in this  
11 section.

12 (10) [Formerly 16-8.5-116.5 (16)] If a defendant files a motion  
13 alleging the court is required to dismiss the case because a time limit in  
14 this section has expired, the defendant is entitled to a timely hearing and  
15 ruling on the motion.

16 **16-8.5-117. Initiation of civil proceeding - appointment of**  
17 **bridges court liaison or guardian - extension - dismissal.**

18 (1) IF THE COURT DETERMINES THERE IS A SUBSTANTIAL  
19 PROBABILITY THAT THE DEFENDANT WILL BE FOUND UNRESTORABLE  
20 PURSUANT TO SECTION 16-8.5-113, THE DEFENDANT WILL REACH THE  
21 MAXIMUM TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO  
22 SECTION 16-8.5-116, OR THE COURT WILL ORDER THE INITIATION OF A  
23 CIVIL PROCEEDING PURSUANT TO THIS SECTION:

24 (a) THE COURT SHALL APPOINT A BRIDGES COURT LIAISON TO  
25 PROVIDE SERVICES AUTHORIZED IN ARTICLE 95 OF TITLE 13, WHICH MAY  
26 INCLUDE:

27 (I) ASSISTING WITH CASE PLANNING AND COORDINATING SERVICES

1 FOR THE DEFENDANT, INCLUDING COORDINATING WITH GOVERNMENTAL  
2 ENTITIES OR COMMUNITY-BASED ORGANIZATIONS THAT ARE CAPABLE OF  
3 PROVIDING RESOURCES TO THE DEFENDANT;

4 (II) IF THE DEFENDANT DOES NOT OBJECT, FACILITATING  
5 PSYCHOLOGICAL ASSESSMENTS OF THE DEFENDANT TO HELP DETERMINE  
6 APPROPRIATE LEVELS OF CARE;

7 (III) PROVIDING THE COURT WITH AN INDIVIDUALIZED RELEASE  
8 PLAN DEVELOPED IN CONJUNCTION WITH ANY NECESSARY COMMUNITY  
9 PROVIDERS AND ASSISTING WITH THE REINTEGRATION OF THE DEFENDANT  
10 INTO THE COMMUNITY WITH APPROPRIATE SERVICES; OR

11 (IV) COORDINATING WITH THE OFFICE OF PUBLIC GUARDIANSHIP  
12 OR AN APPOINTED TEMPORARY EMERGENCY GUARDIAN FOR THE PURPOSE  
13 OF PROVIDING LONG-TERM CONTINUUM OF CARE FOR THE DEFENDANT.

14 (b) THE COURT MAY APPOINT A TEMPORARY EMERGENCY  
15 GUARDIAN TO THE DEFENDANT PURSUANT TO SECTION 15-14-312 (1).

16 (2) THE COURT MAY ENTER LAWFUL ORDERS REQUESTED BY THE  
17 DEFENDANT, THE APPOINTED BRIDGES COURT LIAISON, OR THE APPOINTED  
18 TEMPORARY EMERGENCY GUARDIAN TO ASSIST OR FACILITATE THE WORK  
19 OF THE BRIDGES COURT LIAISON OR THE APPOINTED TEMPORARY  
20 EMERGENCY GUARDIAN.

21 (3) (a) IF THE COURT HAS MADE A FINAL DETERMINATION THAT  
22 THE DEFENDANT IS INCOMPETENT TO PROCEED, THE COURT MAY ORDER  
23 THE COUNTY ATTORNEY OR THE APPOINTED TEMPORARY EMERGENCY  
24 GUARDIAN TO INITIATE A CIVIL PROCEEDING AGAINST THE DEFENDANT  
25 WHILE THE CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT ARE  
26 ONGOING IF:

27 (I) A COMPETENCY EVALUATOR, OR A PROFESSIONAL PERSON OR

1 INTERVENING PROFESSIONAL, AS THOSE TERMS ARE DEFINED IN SECTION  
2 27-65-102, WHO IS ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND  
3 WHO HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
4 DEFENDANT, OPINES THAT THE DEFENDANT MEETS THE CRITERIA FOR  
5 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND  
6 TREATMENT PURSUANT TO SECTION 27-65-108.3, FOR PROTECTIVE  
7 PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR FOR IMPOSITION OF  
8 A LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO  
9 SECTION 25.5-10-216; AND

10 (II) ONE OF THE FOLLOWING INDIVIDUALS REQUESTS THE COURT  
11 TO INITIATE A CIVIL PROCEEDING:

12 (A) THE DISTRICT ATTORNEY;

13 (B) THE COUNTY ATTORNEY;

14 (C) A GUARDIAN, IF ONE IS APPOINTED;

15 (D) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
16 WHO OPINED THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL  
17 PROCEEDING IF THE PROFESSIONAL PERSON'S OR INTERVENING  
18 PROFESSIONAL'S OPINION IS NOT THE RESULT OF WORK PERFORMED AS  
19 PART OF EMPLOYMENT OR A CONTRACT WITH THE BEHAVIORAL HEALTH  
20 ADMINISTRATION IN CDHS OR WITH OCFMH; OR

21 (E) A REPRESENTATIVE DESIGNATED BY THE BEHAVIORAL HEALTH  
22 ADMINISTRATION IN CDHS OR WITH OCFMH TO MAKE A REQUEST.

23 (b) NOTWITHSTANDING SUBSECTION (3)(a)(II) OF THIS SECTION, IF  
24 ANY OF THE DEFENDANT'S CHARGES INCLUDE A FELONY, THE COURT MAY,  
25 WITH THE CONSENT OF THE DISTRICT ATTORNEY, ORDER THE COUNTY  
26 ATTORNEY TO INITIATE A CIVIL PROCEEDING.

27 (4) (a) (I) DURING THE PENDENCY OF THE CRIMINAL CASE, THE

1 DEFENDANT, THE DEFENDANT'S ATTORNEY IN THE CRIMINAL CASE, AND  
2 THE PROSECUTING ATTORNEY IN THE CRIMINAL CASE MAY ACCESS THE  
3 FOLLOWING INFORMATION AND RECORDS THAT RELATE TO A CIVIL  
4 PROCEEDING INITIATED AGAINST THE DEFENDANT:

5 (A) WHETHER A CIVIL PROCEEDING IS PENDING AGAINST THE  
6 DEFENDANT AND, IF SO, THE DATE AND TIME OF THE CIVIL PROCEEDING  
7 AND THE FINAL DISPOSITION OF THE CIVIL PROCEEDING, REGARDLESS OF  
8 WHETHER THE CIVIL PROCEEDING IS CONFIDENTIAL OR CLOSED TO THE  
9 PROSECUTING ATTORNEY OR THE DEFENDANT'S ATTORNEY IN THE  
10 CRIMINAL CASE; AND

11 (B) WHETHER THE COURT PREVIOUSLY ORDERED CERTIFICATION  
12 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR  
13 27-65-109, CERTIFICATION FOR LONG-TERM CARE AND TREATMENT  
14 PURSUANT TO SECTION 27-65-110, PROTECTIVE PLACEMENT PURSUANT TO  
15 SECTION 25.5-10-502, OR IMPOSITION OF A LEGAL DISABILITY OR REMOVAL  
16 OF A LEGAL RIGHT PURSUANT TO SECTION 25.5-10-216;

17 (II) ANY INFORMATION ACCESSED PURSUANT TO SUBSECTION  
18 (4)(a)(I) OF THIS SECTION IS CONFIDENTIAL UNLESS THE DISCLOSURE IS  
19 OTHERWISE AUTHORIZED BY LAW.

20 (b) IF A PETITION FOR A CIVIL PROCEEDING IS FILED AGAINST THE  
21 DEFENDANT AS A RESULT OF THE COURT'S ORDER PURSUANT TO  
22 SUBSECTION (3)(a) OF THIS SECTION:

23 (I) THE PETITIONER SHALL FILE A NOTICE IN THE DEFENDANT'S  
24 CRIMINAL CASE; AND

25 (II) THE BEHAVIORAL HEALTH ADMINISTRATION IN CDHS SHALL,  
26 EITHER DIRECTLY OR THROUGH CONTRACT, PROVIDE CARE COORDINATION  
27 SERVICES PURSUANT TO SECTION 27-65-108.

1 (5) THE COURT SHALL ORDER THE COUNTY ATTORNEY OR THE  
2 APPOINTED TEMPORARY EMERGENCY GUARDIAN TO INITIATE A CIVIL  
3 PROCEEDING AGAINST THE DEFENDANT AND STAY THE ORDER DISMISSING  
4 THE DEFENDANT'S CRIMINAL CASE FOR THIRTY-FIVE DAYS IF:

5 (a) THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO  
6 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116, OR, IF THE  
7 DEFENDANT IS INCOMPETENT, THE DISTRICT ATTORNEY VOLUNTARILY  
8 MOVES TO DISMISS THE CASE AND THE COURT REQUESTS THE COUNTY  
9 ATTORNEY OR THE APPOINTED TEMPORARY EMERGENCY GUARDIAN TO  
10 INITIATE A CIVIL PROCEEDING;

11 (b) A COMPETENCY EVALUATOR, OR A PROFESSIONAL PERSON OR  
12 INTERVENING PROFESSIONAL, AS THOSE TERMS ARE DEFINED IN SECTION  
13 27-65-102, WHO IS ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND  
14 WHO HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
15 DEFENDANT OPINES THAT THE DEFENDANT MEETS THE CRITERIA FOR  
16 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND  
17 TREATMENT PURSUANT TO SECTION 27-65-108.3, FOR PROTECTIVE  
18 PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A  
19 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
20 25.5-10-216; AND

21 (c) ONE OF THE FOLLOWING INDIVIDUALS REQUESTS THE COURT TO  
22 INITIATE A CIVIL PROCEEDING:

23 (I) THE DISTRICT ATTORNEY;

24 (II) THE COUNTY ATTORNEY;

25 (III) THE APPOINTED TEMPORARY EMERGENCY GUARDIAN;

26 (IV) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
27 WHO OPINED PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION THAT

1 THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING IF THE  
2 PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S OPINION IS NOT  
3 THE RESULT OF WORK PERFORMED AS PART OF EMPLOYMENT OR A  
4 CONTRACT WITH THE BEHAVIORAL HEALTH ADMINISTRATION IN CDHS OR  
5 WITH OCFMH; OR

6 (V) A REPRESENTATIVE DESIGNATED BY THE BEHAVIORAL HEALTH  
7 ADMINISTRATION IN CDHS OR WITH OCFMH TO MAKE A REQUEST.

8 (6) (a) THE COURT SHALL GRANT AN UNLIMITED NUMBER OF  
9 THIRTY-FIVE-DAY EXTENSIONS TO STAY THE ORDER DISMISSING THE  
10 DEFENDANT'S CASE IF THE DEFENDANT CONSENTS TO THE EXTENSION.

11 (b) IF THE DEFENDANT DOES NOT CONSENT TO AN EXTENSION TO  
12 STAY THE ORDER, THE COURT SHALL GRANT NO MORE THAN FOUR  
13 ADDITIONAL EXTENSIONS, SO LONG AS THE TOTAL EXTENSIONS DO NOT  
14 EXCEED ONE HUNDRED SEVENTY-FIVE DAYS, IF:

15 (I) THE PROSECUTING ATTORNEY REQUESTS AN EXTENSION,  
16 REGARDLESS OF WHETHER THE DEFENDANT CONSENTS TO THE EXTENSION;

17 (II) THE COURT FINDS GOOD CAUSE; AND

18 (III) THE DEFENDANT IS CHARGED WITH AN ACT THAT  
19 CONSTITUTES HOMICIDE PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18;  
20 A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2); OR A  
21 FELONY THAT CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN  
22 SECTION 16-22-102.

23 (c) IF THE DEFENDANT DOES NOT CONSENT TO AN EXTENSION TO  
24 STAY THE ORDER, THE COURT SHALL GRANT NO MORE THAN ONE  
25 ADDITIONAL EXTENSION, SO LONG AS THE EXTENSION DOES NOT EXCEED  
26 SEVENTY DAYS, IF:

27 (I) THE PROSECUTING ATTORNEY REQUESTS AN EXTENSION,

1 REGARDLESS OF WHETHER THE DEFENDANT CONSENTS TO THE EXTENSION;

2 (II) THE COURT FINDS GOOD CAUSE; AND

3 (III) THE DEFENDANT IS NOT CHARGED WITH A CRIME OF  
4 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), OR A FELONY THAT  
5 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
6 16-22-102.

7 (d) FOR THE PURPOSE OF THIS SUBSECTION (6), GOOD CAUSE DOES  
8 NOT INCLUDE REFUSAL OR FAILURE TO TIMELY FILE A PETITION FOR A CIVIL  
9 PROCEEDING PURSUANT TO SUBSECTION (3) OF THIS SECTION.

10 (e) AN EXTENSION GRANTED PURSUANT TO SUBSECTION (6)(b) OR  
11 (6)(c) OF THIS SECTION IS IN ADDITION TO THE INITIAL STAY AUTHORIZED  
12 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

13 (f) AFTER A STAY OF DISMISSAL ENDS PURSUANT TO THIS  
14 SUBSECTION (6), THE COURT SHALL DISMISS THE DEFENDANT'S CRIMINAL  
15 CASE UNLESS THE STAY REMAINS IN EFFECT PURSUANT TO SECTION  
16 16-8.5-118. AFTER THE DEFENDANT'S CASE IS DISMISSED, THE COURT  
17 SHALL NOTIFY CDHS OF THE DISMISSAL, IN WRITING, AND THE REASON  
18 FOR THE DISMISSAL.

19 (7) PRIOR TO ORDERING THE COUNTY ATTORNEY OR THE  
20 APPOINTED TEMPORARY EMERGENCY GUARDIAN TO INITIATE A CIVIL  
21 PROCEEDING PURSUANT TO SUBSECTION (3) OR (5) OF THIS SECTION, THE  
22 COURT SHALL CONSIDER ANY OBJECTIONS FROM THE DEFENDANT.

23 (8) IF THE COURT ORDERS THE COUNTY ATTORNEY OR THE  
24 APPOINTED TEMPORARY EMERGENCY GUARDIAN TO INITIATE A CIVIL  
25 PROCEEDING PURSUANT TO SUBSECTION (3) OR (5) OF THIS SECTION, THE  
26 COURT SHALL SERVE THE COUNTY ATTORNEY OR THE APPOINTED  
27 TEMPORARY EMERGENCY GUARDIAN WITH A WRITTEN ORDER THAT:

1 (a) STATES THE FACTUAL AND LEGAL BASIS FOR THE ORDER;

2 (b) SETS A DEADLINE FOR THE COUNTY ATTORNEY OR THE  
3 APPOINTED TEMPORARY EMERGENCY GUARDIAN TO INITIATE A CIVIL  
4 PROCEEDING NO LATER THAN TWENTY-ONE DAYS AFTER THE COURT'S  
5 ORDER;

6 (c) IDENTIFIES THE SPECIFIC CIVIL PROCEEDINGS THE COURT  
7 INTENDS THE COUNTY ATTORNEY OR THE APPOINTED TEMPORARY  
8 EMERGENCY GUARDIAN TO INITIATE; AND

9 (d) INCLUDES ANY ORDERS THE COURT ISSUED PURSUANT TO THIS  
10 SECTION.

11 (9) THE COUNTY ATTORNEY OR THE APPOINTED TEMPORARY  
12 EMERGENCY GUARDIAN MAY OBJECT TO THE ORDER TO INITIATE A CIVIL  
13 PROCEEDING WITHIN SEVEN DAYS AFTER RECEIVING THE COURT ORDER  
14 SERVED PURSUANT TO SUBSECTION (8) OF THIS SECTION AND MAY  
15 REQUEST A HEARING. IF THE COUNTY ATTORNEY OR THE APPOINTED  
16 TEMPORARY EMERGENCY GUARDIAN FILES AN OBJECTION, THE COURT  
17 SHALL SET A HEARING FORTHWITH AND RULE ON THE COUNTY ATTORNEY'S  
18 OR THE APPOINTED TEMPORARY EMERGENCY GUARDIAN'S OBJECTION BY  
19 EITHER VACATING, MODIFYING, OR AFFIRMING THE COURT'S ORDER TO  
20 INITIATE A CIVIL PROCEEDING.

21 (10) IF THE COURT ORDERS THE COUNTY ATTORNEY OR THE  
22 APPOINTED TEMPORARY EMERGENCY GUARDIAN TO INITIATE A CIVIL  
23 PROCEEDING AGAINST THE DEFENDANT:

24 (a) THE COURT MAY, UPON THE COURT'S OWN MOTION, FORGO AN  
25 ORDER FOR RESTORATION SERVICES AND DISMISS THE CHARGES AGAINST  
26 THE DEFENDANT WITHOUT PREJUDICE IF THE DEFENDANT'S HIGHEST  
27 CHARGED OFFENSE IS A MISDEMEANOR THAT IS NOT SUBJECT TO DISMISSAL

1 PURSUANT TO SECTION 16-8.5-109 (4).

2 (b) THE DISTRICT ATTORNEY AND OCFMH SHALL TRANSMIT ALL  
3 NECESSARY INFORMATION TO THE COUNTY ATTORNEY OR THE APPOINTED  
4 TEMPORARY EMERGENCY GUARDIAN, INCLUDING THE DEFENDANT'S  
5 MEDICAL RECORDS, COMPETENCY EVALUATIONS, MATERIALS USED DURING  
6 THE COMPETENCY PROCESS, AND RESTORATION RECORDS.

7 (11) IF THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO  
8 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116; THE COURT  
9 DOES NOT ORDER THE COUNTY ATTORNEY OR THE APPOINTED TEMPORARY  
10 EMERGENCY GUARDIAN TO INITIATE A CIVIL PROCEEDING; AND THE CASE  
11 IS NOT STAYED PURSUANT TO SECTION 16-8.5-118, THE COURT SHALL  
12 DISMISS THE CASE.

13 **16-8.5-118. Civil commitment and enhanced protective**  
14 **placement for incompetent and unrestorable defendants.**

15 (1) (a) IF THE DEFENDANT IS UNRESTORABLE PURSUANT TO  
16 SECTION 16-8.5-113 OR THE DEFENDANT HAS REACHED THE MAXIMUM  
17 TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION  
18 16-8.5-116, THE PROSECUTION MAY NOTIFY THE COURT THAT THE  
19 PROSECUTION SEEKS CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
20 PLACEMENT OF THE DEFENDANT PURSUANT TO THIS SECTION.

21 (b) IF THE PROSECUTION VERBALLY NOTIFIES THE COURT  
22 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE COURT SHALL  
23 ORDER THE PROSECUTION TO FILE WRITTEN NOTICE WITHIN SEVEN DAYS  
24 AFTER THE VERBAL NOTIFICATION AND PROVIDE THE NOTICE TO THE  
25 PARTIES, OCFMH, AND THE COUNTY ATTORNEY. THE NOTICE MUST  
26 INCLUDE THE ACTS UPON WHICH THE PROSECUTION INTENDS TO RELY UPON  
27 AT TRIAL THAT THE PROSECUTION ALLEGES SATISFY SUBSECTION (5)(b) OF

1 THIS SECTION. THE PROSECUTION SHALL NOT ALLEGE ACTS FOR WHICH THE  
2 DEFENDANT HAS BEEN ACQUITTED.

3 (c) UPON THE PROSECUTION PROVIDING WRITTEN NOTICE TO THE  
4 COURT PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, THE COURT  
5 SHALL:

6 (I) STAY THE ORDER DISMISSING THE DEFENDANT'S CRIMINAL  
7 CASE;

8 (II) SET A TRIAL WITHIN NINETY-ONE DAYS AFTER THE DATE THE  
9 WRITTEN NOTICE WAS FILED OR, WITH BOTH PARTIES' CONSENT, ANY DATE  
10 AGREEABLE TO THE PARTIES;

11 (III) ORDER OCFMH TO IDENTIFY AN APPROPRIATE PROVIDER AND  
12 PLACEMENT FOR THE DEFENDANT IN THE EVENT A CIVIL COMMITMENT OR  
13 AN ENHANCED PROTECTIVE PLACEMENT IS GRANTED AND TO KEEP THE  
14 COURT INFORMED IN WRITING OF AVAILABLE PLACEMENT OPTIONS; AND

15 (IV) APPOINT A BRIDGES COURT LIAISON PURSUANT TO SECTION  
16 16-8.5-117 (1), IF A BRIDGES COURT LIAISON HAS NOT ALREADY BEEN  
17 APPOINTED.

18 (2) AT ANY TIME FOLLOWING THE PROSECUTION'S WRITTEN NOTICE  
19 PROVIDED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION AND UPON  
20 REQUEST OF THE DEFENDANT, THE BRIDGES COURT LIAISON, OR OCFMH,  
21 THE COURT MAY APPOINT A TEMPORARY EMERGENCY GUARDIAN  
22 PURSUANT TO SECTION 16-8.5-117 (1).

23 (3) THE COURT MAY CONTINUE THE TRIAL FOR GOOD CAUSE  
24 SHOWN; EXCEPT THAT THE COURT SHALL COMMENCE THE TRIAL WITHIN  
25 ONE HUNDRED EIGHTY-TWO DAYS AFTER THE DATE THE PROSECUTION  
26 GIVES NOTICE PURSUANT TO SUBSECTION (1) OF THIS SECTION AND  
27 CONCLUDE THE TRIAL WITHIN A REASONABLE TIME. DELAYS

1 ATTRIBUTABLE TO THE DEFENDANT, INCLUDING A REQUEST FOR A  
2 CONTINUANCE OF THE TRIAL, MUST BE EXCLUDED FROM THE TIME LIMITS  
3 SET FORTH IN THIS SUBSECTION (3). IF THE TRIAL IS NOT COMMENCED  
4 WITHIN THE TIME LIMITS SET FORTH IN THIS SUBSECTION (3), THE COURT  
5 SHALL END THE STAY AND DISMISS THE CASE AGAINST THE DEFENDANT IF  
6 THE DEFENDANT FILED A MOTION TO DISMISS PRIOR TO THE  
7 COMMENCEMENT OF THE TRIAL. IF THE DEFENDANT FAILED TO FILE A  
8 MOTION TO DISMISS PRIOR TO COMMENCEMENT OF THE TRIAL, THE FAILURE  
9 TO FILE A MOTION TO DISMISS IS A WAIVER OF THE DEFENDANT'S RIGHTS  
10 PURSUANT TO THIS SUBSECTION (3).

11 (4) (a) THE TRIAL MUST BE CIVIL IN NATURE BUT CONDUCTED IN  
12 ACCORDANCE WITH THE COLORADO RULES OF EVIDENCE. A DISTRICT  
13 COURT JUDGE OR, WITH THE CONSENT OF BOTH PARTIES, A COUNTY COURT  
14 JUDGE OR A MAGISTRATE ASSIGNED BY THE CHIEF JUDGE OF THE JUDICIAL  
15 DISTRICT SHALL SERVE AS THE FINDER OF FACT.

16 (b) (I) UPON SETTING THE TRIAL, THE COURT SHALL ORDER, IN  
17 WRITING, THE EXCHANGE OF RELEVANT DISCOVERY FOR THE PURPOSE OF  
18 ENSURING A FAIR AND EXPEDITIOUS TRIAL FOR BOTH PARTIES, INCLUDING,  
19 AT A MINIMUM, THE TIMELY DISCLOSURE OF THE WITNESSES AND  
20 EVIDENCE THE PARTIES INTEND TO RELY UPON AT TRIAL.

21 (II) THE COURT MAY ORDER THE PARTIES TO COMPLY WITH  
22 RELEVANT PROVISIONS OF RULE 16 OF THE COLORADO RULES OF CRIMINAL  
23 PROCEDURE, BUT ONLY TO THE EXTENT REASONABLE FOR THE CIVIL TRIAL  
24 AND IN FURTHERANCE OF THE LIMITED PURPOSE OF THIS SECTION.

25 (c) THE PARTIES MAY ISSUE SUBPOENAS PURSUANT TO RULE 17 OF  
26 THE COLORADO RULES OF CRIMINAL PROCEDURE TO COMPEL THE  
27 ATTENDANCE OF WITNESSES AT TRIAL.

1           (5) AT TRIAL, THE PROSECUTION SHALL PROVE BY CLEAR AND  
2 CONVINCING EVIDENCE THAT THE DEFENDANT:

3           (a) HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY;

4           (b) COMMITTED AN ACT THAT, IN THE ABSENCE OF ANY MENTAL  
5 DISABILITY OR DEVELOPMENTAL DISABILITY, WOULD CONSTITUTE  
6 HOMICIDE PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF  
7 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2); OR A FELONY THAT  
8 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
9 16-22-102; AND

10          (c) POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS.

11          (6) (a) WHEN DETERMINING WHETHER THE PROSECUTION HAS MET  
12 ITS BURDEN PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION:

13           (I) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT  
14 SHALL NOT CONSIDER, A DEFENSE BASED ON A MENTAL DISABILITY OR  
15 DEVELOPMENTAL DISABILITY, INCLUDING A MENTAL DISEASE OR DEFECT,  
16 AS DEFINED IN SECTION 16-8-102, INCLUDING, BUT NOT LIMITED TO, A  
17 DEFENSE RAISED PURSUANT TO ARTICLE 8 OF TITLE 16 OR ANY DEFENSE  
18 THAT IS AN ELEMENT-NEGATING TRAVERSE BASED ON A MENTAL DISEASE  
19 OR DEFECT;

20           (II) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT  
21 SHALL NOT CONSIDER, A DEFENSE OF INTOXICATION, AS DEFINED IN  
22 SECTION 18-1-804, EXCEPT FOR INTOXICATION THAT IS NOT SELF-INDUCED  
23 PURSUANT TO SECTION 18-1-804 (3); AND

24           (III) THE DEFENDANT IS PERMITTED TO RAISE OTHER DEFENSES  
25 THAT ARE NOT BASED ON A MENTAL DISABILITY OR DEVELOPMENTAL  
26 DISABILITY, INCLUDING AFFIRMATIVE DEFENSES, EXCEPT AS PROVIDED IN  
27 THIS SUBSECTION (6).

1 (b) WHEN DETERMINING WHETHER TO PERMIT A DEFENDANT TO  
2 RAISE A DEFENSE PURSUANT TO THIS SUBSECTION (6), THE COURT SHALL  
3 CONSIDER THE NEED TO ENSURE FAIRNESS AND DUE PROCESS TO BOTH  
4 PARTIES WITHOUT FRUSTRATING THE INTENDED FUNCTIONING AND  
5 LIMITED PURPOSE OF THE CIVIL PROCEEDING.

6 (c) THE PROSECUTION SHALL NOT ALLEGE, AND THE COURT SHALL  
7 NOT CONSIDER, AN ACT OR SERIES OF ACTS FOR WHICH THE DEFENDANT  
8 WAS CHARGED AND ACQUITTED AS THE QUALIFYING ACTS PURSUANT TO  
9 THIS SUBSECTION (6)(c), BUT THE COURT MAY ADMIT EVIDENCE OF AN ACT  
10 OR A SERIES OF ACTS FOR WHICH THE DEFENDANT WAS CHARGED AND  
11 ACQUITTED IF OTHERWISE ADMISSIBLE PURSUANT TO THE COLORADO  
12 RULES OF EVIDENCE.

13 (7) (a) PRIOR TO TRIAL, THE COURT SHALL REQUIRE THE  
14 DEFENDANT TO STATE WHETHER THE DEFENDANT CONTESTS THAT THE  
15 DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY.

16 (b) IF THE DEFENDANT DOES NOT CONTEST THAT THE DEFENDANT  
17 HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT  
18 SHALL TREAT THIS FACT AS PROVEN AND SHALL NOT REQUIRE THE  
19 PROSECUTION TO PRODUCE ANY EVIDENCE TO PROVE THE FACT AT TRIAL.

20 (c) (I) IF THE DEFENDANT CONTESTS THAT THE DEFENDANT HAS A  
21 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT SHALL  
22 REVIEW THE RECORD AND DETERMINE IF THE DEFENDANT OR DEFENSE  
23 COUNSEL RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR  
24 FAILED TO OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT.

25 (II) IF THE COURT FINDS THE DEFENDANT OR DEFENSE COUNSEL  
26 RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR FAILED TO  
27 OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT, THE COURT

1 SHALL FIND THE DEFENDANT HAS PREVIOUSLY STIPULATED THAT THE  
2 DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY.  
3 IF THE COURT MAKES A FINDING, THE COURT SHALL FIND THE DEFENDANT  
4 HAS STIPULATED THAT THE DEFENDANT HAS A MENTAL DISABILITY OR  
5 DEVELOPMENTAL DISABILITY AND FIND IN FAVOR OF THE PROSECUTION AT  
6 TRIAL WITH REGARD TO SUBSECTION (5)(a) OF THIS SECTION.

7 (III) IF THE COURT FINDS THAT THE PROSECUTION OR COURT  
8 RAISED THE ISSUE OF COMPETENCY OVER THE DEFENDANT'S OBJECTION  
9 AND THE DEFENDANT CONSISTENTLY MAINTAINED AN OBJECTION BY  
10 ARGUING THE DEFENDANT IS COMPETENT TO PROCEED, THE PROSECUTION  
11 HAS THE BURDEN TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT  
12 THE DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL  
13 DISABILITY PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

14 (d) AT TRIAL, THE COURT:

15 (I) SHALL ADMIT ANY COMPETENCY REPORTS AND ANY  
16 TRANSCRIPTS OF PRIOR COMPETENCY OR RESTORABILITY HEARINGS SO  
17 LONG AS THE COMPETENCY EVALUATOR WHO COMPLETED THE REPORT IS  
18 AVAILABLE FOR CROSS-EXAMINATION;

19 (II) MAY TAKE JUDICIAL NOTICE OF ANY PRIOR FINDING THAT THE  
20 DEFENDANT IS INCOMPETENT TO PROCEED AND THE STANDARD OF PROOF  
21 TO WHICH THE PRIOR FINDING WAS MADE; AND

22 (III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE  
23 COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY  
24 EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION  
25 OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR  
26 DEVELOPMENTAL DISABILITY.

27 (8) AT TRIAL, WHEN DETERMINING WHETHER THE DEFENDANT

1     POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, IF THE  
2     DEFENDANT IS IN CUSTODY OR AT THE STATE HOSPITAL, THE COURT SHALL  
3     ASSESS THE DEFENDANT AS IF THE DEFENDANT WERE IN THE COMMUNITY.  
4     THE COURT SHALL NOT FIND THE DEFENDANT DOES NOT POSE A  
5     SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS MERELY BECAUSE THE  
6     DEFENDANT IS IN CUSTODY OR AT THE STATE HOSPITAL.

7             (9) (a) IF THE COURT FINDS THAT THE REQUIREMENTS OF  
8     SUBSECTION (5) OF THIS SECTION HAVE BEEN MET, THE COURT SHALL  
9     PROCEED IN ACCORDANCE WITH SUBSECTION (10) OF THIS SECTION.

10            (b) IF THE COURT FINDS ONE OR MORE OF THE REQUIREMENTS IN  
11     SUBSECTION (5) OF THIS SECTION HAVE NOT BEEN MET, THE COURT SHALL  
12     DENY THE PROSECUTION'S REQUEST TO CIVILLY COMMIT THE DEFENDANT  
13     OR ORDER THE ENHANCED PROTECTIVE PLACEMENT OF THE DEFENDANT  
14     AND DISMISS THE CASE; EXCEPT THAT THE COURT MAY CONSIDER  
15     WHETHER TO ORDER OTHER CIVIL PROCEEDINGS PURSUANT TO SECTION  
16     16-8.5-117.

17            (10) (a) IF THE COURT MAKES A FINDING PURSUANT TO  
18     SUBSECTION (7)(c)(II) OF THIS SECTION THAT THE DEFENDANT HAS A  
19     MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT SHALL  
20     MAKE A FINDING OF THE PRIMARY DIAGNOSIS THAT CONSTITUTES THE  
21     MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY. THE COURT SHALL  
22     ORDER THE DEFENDANT CIVILLY COMMITTED TO THE LEGAL CUSTODY OF  
23     CDHS AND SUPERVISED PURSUANT TO SECTION 27-65-108.1, UNLESS THE  
24     DEFENDANT'S PRIMARY DIAGNOSIS IS AN INTELLECTUAL AND  
25     DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE  
26     TERMS ARE DEFINED IN SECTION 25.5-10-501, IN WHICH CASE, THE COURT  
27     SHALL ORDER AN ENHANCED PROTECTIVE PLACEMENT AND LEGAL

1 CUSTODY OF THE DEFENDANT TO THE DEPARTMENT OF HEALTH CARE  
2 POLICY AND FINANCING AND SUPERVISED PURSUANT TO SECTION  
3 25.5-10-507. AT ANY TIME PRIOR TO TRANSFERRING JURISDICTION TO A  
4 CIVIL COURT, THE COURT MAY, UPON A RECOMMENDATION FROM OCFMH,  
5 CHANGE THE DESIGNATION OF THE PRIMARY DIAGNOSIS AND CONVERT THE  
6 ORDER TO CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT, AS  
7 APPROPRIATE, BASED ON THE DETERMINATION OF OCFMH.

8 (b) THE COURT SHALL ISSUE ITS FINDINGS AND ORDERS PURSUANT  
9 TO THIS SECTION IN WRITING. WHEN THE COURT TRANSFERS JURISDICTION  
10 TO A CIVIL COURT PURSUANT TO SECTION 27-65-113 OR 25.5-10-509, THE  
11 COURT SHALL SEND THE CIVIL COURT RECEIVING JURISDICTION ALL THE  
12 WRITTEN FINDINGS AND ORDERS ENTERED PURSUANT TO THIS SECTION.

13 (c) AFTER ORDERING A CIVIL COMMITMENT OR ENHANCED  
14 PROTECTIVE PLACEMENT OF THE DEFENDANT, THE COURT HAS SEVENTY  
15 DAYS TO REVIEW AND APPROVE A PLACEMENT FOR THE DEFENDANT, PLACE  
16 THE DEFENDANT, AND TRANSFER JURISDICTION TO THE APPROPRIATE CIVIL  
17 COURT; EXCEPT THAT THE COURT MAY EXTEND THE TIME LIMIT WITH THE  
18 AGREEMENT OF THE DEFENDANT. THE COURT SHALL ORDER THE  
19 PLACEMENT AND TRANSFER JURISDICTION AS SOON AS PRACTICABLE.

20 (d) THE COURT SHALL ALLOW OCFMH, THE PARTIES, AND ANY  
21 APPOINTED TEMPORARY EMERGENCY GUARDIAN TO BE HEARD REGARDING  
22 THE DEFENDANT'S PLACEMENT. IN DETERMINING THE DEFENDANT'S  
23 PLACEMENT:

24 (I) IF THE COURT FIND MULTIPLE PROVIDERS TO BE APPROPRIATE  
25 FOR THE DEFENDANT, THE VICTIMS, AND THE COMMUNITY, THE COURT  
26 SHALL ORDER THE DEFENDANT BE PLACED IN THE LEAST-RESTRICTIVE  
27 SETTING THAT IS ADEQUATE TO PROTECT THE VICTIMS AND THE

1 COMMUNITY AND TO PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE  
2 APPROPRIATE LEVEL OF CARE FOR, TREATMENT FOR, AND SUPERVISION OF  
3 THE DEFENDANT. IF MORE THAN ONE EQUALLY RESTRICTIVE PLACEMENT  
4 IS AVAILABLE AND APPROPRIATE, THE COURT SHALL ORDER THE  
5 DEFENDANT BE PLACED INTO A SETTING THAT IS BEST SUITED FOR THE  
6 DEFENDANT'S TREATMENT NEEDS AND SUPERVISION, AS DETERMINED BY  
7 OCFMH;

8 (II) THE COURT SHALL GIVE DEFERENCE TO OCFMH'S  
9 RECOMMENDATION ON ANY ISSUE RELATED TO THE DEFENDANT'S PRIMARY  
10 DIAGNOSIS. THE COURT SHALL GIVE DEFERENCE TO OCFMH AND THE  
11 OPINION OF A MEDICAL PROFESSIONAL ON THE APPROPRIATENESS OF THE  
12 PROVIDER AND PLACEMENT FOR THE DEFENDANT, BUT DEFERENCE MUST  
13 NOT BE GIVEN TO OCFMH OR A MEDICAL PROFESSIONAL AS TO WHETHER  
14 THE PLACEMENT SUFFICIENTLY PROTECTS ANY VICTIMS AND THE  
15 COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS  
16 POSED BY THE DEFENDANT.

17 (III) THE COURT SHALL REVIEW ANY PLACEMENT PROPOSED BY  
18 OCFMH TO ENSURE IT IS APPROPRIATE AND SUFFICIENTLY PROTECTS ANY  
19 VICTIMS AND THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS  
20 HARM TO OTHERS POSED BY THE DEFENDANT. THE COURT SHALL NOT  
21 PERMIT A DEFENDANT TO BE PLACED INTO A COMMUNITY-BASED SETTING  
22 UNLESS THE COURT FINDS THE RISK OF HARM POSED BY THE DEFENDANT  
23 TO THE VICTIMS AND THE COMMUNITY CAN BE REASONABLY MITIGATED  
24 IN THE COMMUNITY-BASED SETTING AND UNTIL AFTER PROVIDING VICTIMS  
25 WITH NOTICE AND AN OPPORTUNITY TO BE HEARD.

26 (e) WHEN CONSIDERING THE APPROPRIATENESS OF THE  
27 PLACEMENT FOR THE DEFENDANT, VICTIMS, AND THE COMMUNITY, THE

1 COURT SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES,  
2 INCLUDING:

3 (I) THE DEFENDANT'S STATEMENTS AND WHETHER THE DEFENDANT  
4 LACKS INSIGHT INTO THE DEFENDANT'S MENTAL DISABILITY OR  
5 DEVELOPMENTAL DISABILITY;

6 (II) THE DEFENDANT'S CLINICAL DIAGNOSIS AND PROGNOSIS,  
7 INCLUDING ANY OPINIONS THAT THE DEFENDANT AND THE DEFENDANT'S  
8 CURRENT MENTAL STATE AND BEHAVIORS POSE RISKS TO OTHERS;

9 (III) THE DEFENDANT'S REFUSAL TO VOLUNTARILY SEEK AND  
10 COMPLY WITH A TREATMENT PLAN IN THE RECENT PAST, INCLUDING IN THE  
11 DEFENDANT'S MOST RECENT PERIOD OF BEING IN THE COMMUNITY;

12 (IV) RECENT OVERT ACTS BY THE DEFENDANT TO THREATEN,  
13 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE DEFENDANT'S SELF OR  
14 OTHERS;

15 (V) ANY PREVIOUS PATTERNS OF DECOMPENSATION OR  
16 DETERIORATION THAT RESULTED IN THE DEFENDANT'S HOSPITALIZATION,  
17 ARREST, OR CERTIFICATION FOR SHORT-TERM TREATMENT AND THAT  
18 DEMONSTRATE A RISK OF LIKELY FUTURE DECOMPENSATION;

19 (VI) WHEN THE DEFENDANT WAS LAST OUT OF CUSTODY AND  
20 WHETHER THE DEFENDANT WAS FOUND IN A CONDITION IN WHICH THE  
21 DEFENDANT WAS NOT ABLE TO CARE FOR THE DEFENDANT'S OWN BASIC  
22 NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM; AND

23 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
24 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (10)(e)(II) TO (10)(e)(VI)  
25 OF THIS SECTION SUCH THAT THE CIRCUMSTANCES ARE PRESENT IN A  
26 MANNER THAT REQUIRES INPATIENT TREATMENT OR THAT THE  
27 CIRCUMSTANCES ARE ABSENT IN A MANNER THAT ALLOWS FOR

1 COMMUNITY-BASED PLACEMENT.

2 (f) (I) IF OCFMH HAS IDENTIFIED AN APPROPRIATE PROVIDER  
3 THAT WILL ACCEPT PLACEMENT OF THE DEFENDANT, OCFMH SHALL  
4 IMMEDIATELY INFORM THE COURT AND THE PARTIES, AND THE COURT  
5 SHALL:

6 (A) SET A REVIEW HEARING TO REVIEW THE APPROPRIATENESS OF  
7 THE PLACEMENT AS SOON AS PRACTICABLE WHILE ENSURING THE PARTIES,  
8 THE APPOINTED TEMPORARY EMERGENCY GUARDIAN, AND VICTIMS ARE  
9 GIVEN SUFFICIENT NOTICE AND OPPORTUNITY TO PREPARE AND APPEAR;

10 (B) PLACE THE DEFENDANT INTO THE PHYSICAL CARE AND  
11 CUSTODY OF THE PLACEMENT, IF APPROPRIATE FOR THE DEFENDANT,  
12 VICTIMS, AND THE COMMUNITY;

13 (C) ENTER AN ORDER TO TRANSPORT THE DEFENDANT TO THE  
14 PLACEMENT PURSUANT TO SUBSECTION (12) OF THIS SECTION;

15 (D) SET A REVIEW HEARING TO ENSURE THE DEFENDANT HAS BEEN  
16 TRANSPORTED TO THE PLACEMENT; AND

17 (E) DISMISS THE DEFENDANT'S CASE.

18 (II) IF, BY THE CONCLUSION OF THE TRIAL, OCFMH HAS NOT  
19 IDENTIFIED AN APPROPRIATE PROVIDER THAT WILL ACCEPT PLACEMENT OF  
20 THE DEFENDANT, THE COURT SHALL SET A REVIEW HEARING WITHIN  
21 THIRTY-FIVE DAYS AFTER THE CONCLUSION OF THE TRIAL AND ORDER  
22 OCFMH, IN CONSULTATION WITH THE BEHAVIORAL HEALTH  
23 ADMINISTRATION IN CDHS, TO IDENTIFY, PRIOR TO THE REVIEW HEARING,  
24 AT LEAST ONE APPROPRIATE PROVIDER THAT IS WILLING TO IMMEDIATELY  
25 ACCEPT PLACEMENT OF THE DEFENDANT.

26 (III) AT THE REVIEW HEARING, THE COURT SHALL REVIEW  
27 WHETHER A PLACEMENT HAS BEEN IDENTIFIED BY OCFMH AND WHETHER

1 IT IS APPROPRIATE PURSUANT TO SUBSECTION (10)(d)(III) OF THIS  
2 SECTION. IF THE COURT HAS NOT IDENTIFIED AN APPROPRIATE PLACEMENT,  
3 THE COURT MAY CONTINUE THE MATTER FOR AN ADDITIONAL REVIEW  
4 HEARING WITHIN THE TIME FRAME SET FORTH IN SUBSECTION (10)(c) OF  
5 THIS SECTION.

6 (IV) IF AN APPROPRIATE PLACEMENT IS NOT IDENTIFIED BY  
7 OCFMH WITHIN THE TIME FRAME SET FORTH IN SUBSECTION (10)(c) OF  
8 THIS SECTION, THE COURT SHALL PLACE THE DEFENDANT IN THE PHYSICAL  
9 CARE AND CUSTODY OF THE STATE HOSPITAL; EXCEPT THAT, IF THE  
10 DEFENDANT'S PRIMARY DIAGNOSIS INCLUDES AN INTELLECTUAL AND  
11 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE  
12 TERMS ARE DEFINED IN SECTION 25.5-10-501, THE COURT SHALL NOT  
13 PLACE THE DEFENDANT IN THE STATE HOSPITAL UNLESS PLACEMENT IN A  
14 REGIONAL CENTER, AS DEFINED IN SECTION 25.5-10-501, OR A SKILLED  
15 NURSING FACILITY IS UNAVAILABLE OR INAPPROPRIATE.

16 (11) IN ADDITION TO ANY ORDERS MADE PURSUANT TO THIS  
17 SECTION, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO MITIGATE  
18 THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY, INCLUDING  
19 ORDERING A PROVIDER THAT HAS ACCEPTED PHYSICAL CUSTODY OF THE  
20 DEFENDANT TO TAKE REASONABLE AND PRACTICABLE PROTECTIVE  
21 MEASURES TO PREVENT THE DEFENDANT FROM CONTACTING ANY VICTIMS;  
22 EXCEPT THAT THE COURT SHALL NOT ORDER THE DEFENDANT TO COMPLY  
23 WITH ANY CONDITIONS THAT ARE NOT NECESSARY TO MITIGATE THE  
24 DEFENDANT'S RISK OR WITH WHICH THE DEFENDANT CANNOT COMPLY.

25 (12) AFTER THE COURT ORDERS THE PLACEMENT OF THE  
26 DEFENDANT:

27 (a) THE COURT SHALL, UNLESS OTHER APPROPRIATE

1 TRANSPORTATION HAS BEEN APPROVED BY THE COURT, ORDER THE  
2 SHERIFF TO SECURELY TRANSPORT THE DEFENDANT TO THE ORDERED  
3 PLACEMENT AS SOON AS PRACTICABLE. THE COURT SHALL SET ANY  
4 REVIEW HEARINGS NECESSARY TO ENSURE THE DEFENDANT IS  
5 TRANSPORTED TO THE INITIAL PLACEMENT. THE COURT MAY DELAY  
6 TRANSPORTATION IF A BED AT A PLACEMENT IS NOT AVAILABLE BUT WILL  
7 BE AVAILABLE WITHIN THE NEXT THIRTY DAYS.

8 (b) THE COURT, THE DISTRICT ATTORNEY, AND OCFMH SHALL  
9 TRANSMIT ALL NECESSARY INFORMATION, INCLUDING THE DEFENDANT'S  
10 MEDICAL RECORDS, COMPETENCY EVALUATIONS, MATERIALS USED DURING  
11 THE COMPETENCY PROCESS, AND RESTORATION RECORDS, TO THE COUNTY  
12 ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER FOR  
13 PLACEMENT. THE DISTRICT ATTORNEY AND OCFMH SHALL PROVIDE  
14 ADDITIONAL NECESSARY INFORMATION UPON REQUEST OF THE COUNTY  
15 ATTORNEY.

16 (13) AFTER THE DEFENDANT HAS BEEN TRANSPORTED TO THE  
17 PLACEMENT ORDERED BY THE COURT, THE COURT SHALL:

18 (a) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT TO A CIVIL  
19 COURT WITH JURISDICTION PURSUANT TO SECTION 27-65-113 OR  
20 TRANSFER JURISDICTION OF THE ENHANCED PROTECTIVE PLACEMENT TO  
21 A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-507;

22 (b) NOTIFY CDHS AND THE COUNTY ATTORNEY; AND

23 (c) DISMISS THE CRIMINAL CASE AGAINST THE DEFENDANT. THE  
24 COURT SHALL NOTE IN THE COURT'S FINAL ORDER DISMISSING THE CASE  
25 THAT THE CHARGES MAY BE REFILED, BUT THE PROSECUTION IS NOT  
26 PRECLUDED FROM REFILEING MERELY BECAUSE THE COURT DID NOT STATE  
27 SO IN THE ORDER.

1           (14) SUBJECT TO THE APPLICABLE STATUTE OF LIMITATIONS,  
2 INCLUDING ANY APPLICABLE TOLLING PROVISIONS, THE DISTRICT  
3 ATTORNEY MAY REFILE THE CHARGES DISMISSED PURSUANT TO THIS  
4 SECTION AT A LATER TIME IF THE DISTRICT ATTORNEY HAS REASON TO  
5 BELIEVE THE DEFENDANT HAS SINCE ATTAINED COMPETENCY.

6           (15) IF, AT THE TIME THE DISTRICT ATTORNEY SEEKS CIVIL  
7 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO THIS  
8 SECTION, THE DEFENDANT IS ALREADY CIVILLY COMMITTED OR ORDERED  
9 TO AN ENHANCED PROTECTIVE PLACEMENT IN ANOTHER CASE, THE COURT  
10 SHALL:

11           (a) TAKE JUDICIAL NOTICE OF THE PRIOR CIVIL COMMITMENT OR  
12 ENHANCED PROTECTIVE PLACEMENT IN LIEU OF CONDUCTING AN  
13 ADDITIONAL TRIAL;

14           (b) ORDER A CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
15 PLACEMENT OF THE DEFENDANT IN THIS CASE, COMMIT THE DEFENDANT  
16 TO THE LEGAL CUSTODY OF CDHS, ORDER THE DEFENDANT INTO THE  
17 DEFENDANT'S CURRENT PLACEMENT, AND TRANSFER JURISDICTION TO  
18 CIVIL COURT WITH JURISDICTION OVER THE EXISTING CIVIL COMMITMENT  
19 OR ENHANCED PROTECTIVE PLACEMENT;

20           (c) NOTIFY THE CIVIL COURT WITH JURISDICTION OVER THE  
21 EXISTING CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT AND  
22 APPROPRIATE COUNTY ATTORNEY OF THE ADDITIONAL COMMITMENT  
23 ORDER;

24           (d) ORDER THE DISTRICT ATTORNEY AND OCFMH TO TRANSMIT  
25 ALL NECESSARY INFORMATION TO THE COUNTY ATTORNEY, INCLUDING  
26 THE DEFENDANT'S MEDICAL RECORDS, COMPETENCY EVALUATIONS,  
27 MATERIALS USED DURING THE COMPETENCY PROCESS, AND RESTORATION

1 RECORDS. THE DISTRICT ATTORNEY AND OCFMH SHALL PROVIDE  
2 ADDITIONAL NECESSARY INFORMATION UPON REQUEST OF THE COUNTY  
3 ATTORNEY.

4 (e) DISMISS THE CRIMINAL CASE AGAINST THE DEFENDANT.

5 **16-8.5-119. Dismissal procedures.**

6 (1) IF, AFTER ALL APPLICABLE STAYS ARE LIFTED, THE COURT  
7 DISMISSES A DEFENDANT'S CRIMINAL CASE IN WHICH THE DEFENDANT IS  
8 INCOMPETENT TO PROCEED AT THE TIME OF DISMISSAL:

9 (a) THE COURT SHALL ENTER A WRITTEN ORDER WITH THE COURT'S  
10 LEGAL AND FACTUAL BASIS FOR THE DISMISSAL AND PROVIDE THE  
11 WRITTEN ORDER TO THE PARTIES AND CDHS;

12 (b) THE COURT MAY ORDER THE BRIDGES COURT LIAISON TO ASSIST  
13 WITH THE DEFENDANT'S CASE MANAGEMENT PLANNING AND  
14 COORDINATION OF SERVICES, INCLUDING COORDINATING WITH  
15 GOVERNMENTAL ENTITIES OR COMMUNITY-BASED ORGANIZATIONS THAT  
16 ARE CAPABLE OF PROVIDING RESOURCES TO THE DEFENDANT UPON  
17 DISMISSAL OF CHARGES;

18 (c) THE CHARGES ARE NOT ELIGIBLE FOR SEALING PURSUANT TO  
19 SECTION 24-72-705; AND

20 (d) THE COURT SHALL REQUIRE CDHS TO ENSURE THAT CASE  
21 MANAGEMENT SERVICES AND SUPPORTS ARE MADE AVAILABLE TO A  
22 DEFENDANT RELEASED FROM CDHS'S CUSTODY PURSUANT TO THIS  
23 ARTICLE 8.5 AFTER THE DEFENDANT'S CRIMINAL CASE IS DISMISSED.

24 (2) SUBJECT TO THE APPLICABLE STATUTE OF LIMITATIONS,  
25 INCLUDING ANY APPLICABLE TOLLING PROVISIONS, THE DISTRICT  
26 ATTORNEY MAY REFILE THE CHARGES DISMISSED PURSUANT TO THIS  
27 SECTION AT A LATER TIME IF THE DISTRICT ATTORNEY HAS REASON TO

1 BELIEVE THE DEFENDANT HAS SINCE ATTAINED COMPETENCY. THE COURT  
2 SHALL NOTE IN THE COURT'S FINAL ORDER DISMISSING THE CASE THAT THE  
3 CHARGES MAY BE REFILED, BUT THE PROSECUTION IS NOT PRECLUDED  
4 FROM REILING MERELY BECAUSE THE COURT DID NOT STATE SO IN THE  
5 ORDER.

6 **16-8.5-120. [Formerly 16-8.5-117] Escape - return to**  
7 **institution.**

8 If a defendant committed to the custody of the executive director  
9 for a competency evaluation or for restoration to competency escapes  
10 from the institution or hospital, the chief officer of the institution or  
11 hospital shall apply to the district court for the county in which the  
12 institution or hospital is located for a warrant of arrest directed to the  
13 sheriff of the county, commanding the sheriff to take all necessary legal  
14 action to effect the arrest of the defendant and to return the defendant  
15 promptly to the institution or hospital. The fact of an escape becomes a  
16 part of the official record of the defendant and must be certified to the  
17 committing court as part of the record in any proceeding to determine  
18 whether the defendant is eligible for release on bond or from custody.

19 **16-8.5-121. [Formerly 16-8.5-118] Temporary removal for**  
20 **treatment and rehabilitation.**

21 The chief officer of an institution where a defendant has been  
22 committed pursuant to this article 8.5 may authorize treatment and  
23 rehabilitation activities involving temporary physical removal of the  
24 defendant from the institution where the defendant has been placed in  
25 accordance with the procedures and requirements of section 16-8-118.

26 **16-8.5-122. [Formerly 16-8.5-120] Competency evaluation**  
27 **monitoring system - users - rules.**

1           (1) ~~The department~~ CDHS, with assistance from the judicial  
2 department, shall develop an electronic system to track the status of  
3 defendants in the criminal justice system for whom a competency  
4 evaluation or competency restoration has been ordered. The system must  
5 contain information on the following:

- 6           (a) The date the court ordered the COMPETENCY evaluation;
- 7           (b) The dates of and locations where the COMPETENCY evaluation  
8 was started and completed;
- 9           (c) The date of and location where the defendant entered  
10 restoration services;
- 11           (d) The dates and results of court reviews of competency;
- 12           (e) Inpatient bed space;
- 13           (f) Community restoration capacity; and
- 14           (g) Financial estimates of costs of each inpatient and outpatient  
15 program to identify inefficiencies.

16           (2) ~~The department~~ CDHS shall establish who has access to enter  
17 information into the electronic system and who may have read-only  
18 access to the electronic system.

19           **16-8.5-123. [Formerly 16-8.5-122] Forensic evaluator training.**

20           ~~By February 1, 2020,~~ The department shall create a partnership  
21 with an accredited institution of higher education in the state to develop  
22 and provide rigorous training in forensic evaluation. ~~On or before January~~  
23 ~~1, 2021,~~ Newly hired competency evaluators ~~must~~ SHALL complete a  
24 training that addresses competency, sanity, report writing, expert  
25 testimony, and other skills crucial for forensic evaluators; except that  
26 competency evaluators who are forensic psychiatrists certified or  
27 certification-eligible by the American board of psychiatry and neurology

1 and forensic psychologists who are certified or certification-eligible by  
2 the American board of forensic psychology may be exempt from any  
3 training requirements as outlined in this section through an exemption  
4 process to be developed by ~~the department~~ CDHS. The state ~~will~~ SHALL  
5 manage an oversight program ~~that will~~ TO provide support and ensure  
6 quality of forensic evaluators.

7 **16-8.5-124. Transparency requirements.**

8 (1) ~~The department~~ CDHS shall ~~post~~ publicly ~~POST~~ on ~~the office~~  
9 ~~of civil and forensic mental health's~~ OCFMH's website:

10 (a) All policies and procedures related to competency evaluations,  
11 restoration services, management of the competency wait list, and  
12 admission policies regarding inpatient restoration services, including  
13 services for jail-based restoration and private hospital beds;

14 (b) The number of beds currently available and occupied for  
15 jail-based restoration services;

16 (c) The number of beds currently available and occupied in private  
17 hospitals for inpatient restoration services;

18 (d) The number of beds currently available in each state-run  
19 hospital and occupied by adult civil patients, adult restoration patients,  
20 and adult not guilty by reason of insanity commitments;

21 (e) The number of beds currently available in each state-run  
22 hospital and occupied by juvenile patients;

23 (f) The number of individuals on the competency restoration wait  
24 list;

25 (g) The length of competency wait list times and an explanation  
26 of the methodology used to calculate the wait times; and

27 (h) Any projected dates for the opening of new beds and a

1 description of what type of beds will become available.

2 **16-8.5-125. [Formerly 16-8.5-116.5 (11)] Rules.**

3 The department shall ~~promulgate such~~ ADOPT rules as necessary  
4 to EFFECTIVELY AND consistently enforce the provisions of this article 8.5.

5 **SECTION 2.** In Colorado Revised Statutes, 27-65-102, **amend**  
6 (10), (11), and (22); and **add** (10.2), (23.5), (24.5), and (32) as follows:

7 **27-65-102. Definitions.**

8 As used in this article 65, unless the context otherwise requires:

9 (10) "Danger to ~~the person's self or others~~" means

10 ~~(a) A person poses a substantial risk of physical harm to the~~  
11 ~~person's self as manifested by evidence of recent threats of or attempts at~~  
12 ~~suicide or serious bodily harm to the person's self; or~~

13 ~~(b) a person poses a substantial risk of physical harm to another~~  
14 ~~person or persons, as manifested by evidence of recent homicidal or other~~  
15 ~~violent behavior by the person in question, or by evidence that others are~~  
16 ~~placed in reasonable fear of violent behavior and serious physical harm~~  
17 ~~to them, as evidenced by a recent overt act, attempt, or threat to do serious~~  
18 ~~physical harm by the person in question~~ COMMITTING AN ACT, INCLUDING  
19 A CRIMINAL ACT, THAT CAUSES PHYSICAL OR PSYCHOLOGICAL HARM TO  
20 ANYONE OTHER THAN THE PERSON'S SELF, INCLUDING TO SPECIFIC  
21 INDIVIDUALS OR THE COMMUNITY IN GENERAL.

22 (10.2) "DANGER TO THE PERSON'S SELF", OR SIMILAR  
23 TERMINOLOGY, MEANS A PERSON POSES A SUBSTANTIAL RISK OF PHYSICAL  
24 HARM TO THE PERSON'S SELF AS MANIFESTED BY EVIDENCE OF RECENT  
25 THREATS OR ATTEMPTS AT SUICIDE OR SERIOUS BODILY HARM TO THE  
26 PERSON'S SELF.

27 (11) "Department" OR "CDHS" means the department of human

1 services.

2 (22) "Mental health disorder" ~~includes~~ MEANS one or more  
3 substantial disorders of the cognitive, volitional, or emotional processes  
4 that grossly impairs judgment or capacity to recognize reality or to control  
5 behavior ~~An intellectual or developmental disability is insufficient to~~  
6 ~~either justify or exclude a finding of a mental health disorder pursuant to~~  
7 ~~the provisions of this article 65~~ AND INCLUDES A MENTAL DISABILITY OR  
8 DEVELOPMENTAL DISABILITY, AS THOSE TERMS ARE DEFINED IN SECTION  
9 16-8.5-101, WHICH HAS LED A COURT TO FIND THE PERSON WITH THE  
10 DISABILITY INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE  
11 16.

12 (23.5) "OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH" OR  
13 "OCFMH" MEANS THE OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH IN  
14 THE DEPARTMENT OF HUMAN SERVICES.

15 (24.5) "PERSISTENT MENTAL HEALTH DISORDER" MEANS A PERSON  
16 WHO HAS A MENTAL HEALTH DISORDER AND:

17 (a) THE PERSON HAS HAD ANY COMBINATION OF AT LEAST THREE  
18 EMERGENCY MENTAL HEALTH HOLDS OR CERTIFICATIONS FOR  
19 SHORT-TERM TREATMENT ORDERED AGAINST THE PERSON OR PERIODS OF  
20 INCOMPETENCY IN A CRIMINAL CASE AT THREE SEPARATE TIMES WITHIN  
21 THE PAST THREE YEARS;

22 (b) EVEN IF THERE IS NOT AN IMMINENT EMERGENCY, IF THE  
23 MENTAL HEALTH DISORDER IS NOT TREATED THROUGH CERTIFICATION FOR  
24 SHORT-TERM TREATMENT, THERE IS A SUBSTANTIAL PROBABILITY THE  
25 MENTAL HEALTH DISORDER WILL RESULT IN ADDITIONAL EMERGENCY  
26 MENTAL HEALTH HOLDS, CERTIFICATIONS FOR SHORT-TERM TREATMENT,  
27 OR CRIMINAL CONDUCT AGAINST OTHER INDIVIDUALS WITHIN THE NEXT

1 YEAR; AND

2 (c) THE MENTAL HEALTH DISORDER PRESENTLY SUBSTANTIALLY  
3 IMPAIRS THE PERSON'S CAPACITY TO MAKE AN INFORMED TREATMENT  
4 DECISION OR FOLLOW THROUGH WITH A SUSTAINED TREATMENT PLAN  
5 WITHOUT BEING CERTIFIED FOR SHORT-TERM TREATMENT.

6 (32) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" MEANS AN  
7 APPRECIABLE AND CONSIDERABLE RISK THAT THE PERSON WILL COMMIT  
8 A CRIMINAL ACT NOW OR IN THE REASONABLY FORESEEABLE FUTURE THAT  
9 CAUSES SERIOUS BODILY INJURY, AS DEFINED IN SECTION 18-1-901, TO  
10 ANOTHER PERSON, OR SIGNIFICANT OR IRREVERSIBLE PSYCHOLOGICAL  
11 HARM TO ANOTHER PERSON, INCLUDING TO A SPECIFIC INDIVIDUAL OR THE  
12 COMMUNITY IN GENERAL.

13 **SECTION 3.** In Colorado Revised Statutes, 27-65-104, **amend**  
14 (6)(d)(I) introductory portion as follows:

15 **27-65-104. Voluntary applications for mental health services**  
16 **- treatment of minors - definition.**

17 (6) (d) (I) The minor or the minor's attorney or guardian ad litem  
18 may, at any time after the minor has continued to affirm the minor's  
19 objection to hospitalization pursuant to subsection (6)(b) of this section,  
20 file a written request that the recommendation for continued  
21 hospitalization be reviewed by the court or that the treatment be on an  
22 outpatient basis. If review is requested, the court shall hear the matter  
23 within ten days after the request, and the court shall give notice of the  
24 time and place of the hearing to the minor; the minor's attorney, if any;  
25 the minor's parents or legal guardian; the minor's guardian ad litem, if  
26 any; the independent professional person; and the minor's treating team.  
27 The hearing must be held in accordance with ~~section 27-65-113~~ SECTION

1 27-65-113.1; except that the court or jury shall determine that the minor  
2 is in need of care and treatment if the court or jury makes the following  
3 findings:

4 **SECTION 4.** In Colorado Revised Statutes, 27-65-106, **amend**  
5 (1) introductory portion, (1)(a), (1)(b)(I), (2), (3), (4)(a)(III), (4)(c), (4)(d),  
6 (6)(a), (8)(d)(I), and (10)(b); and **add** (7)(a.5) and (10)(e) as follows:

7 **27-65-106. Emergency mental health hold - screening -**  
8 **court-ordered evaluation - discharge instructions - respondent's**  
9 **rights.**

10 (1) An emergency mental health hold may be ~~invoked~~ INITIATED  
11 under one of the following conditions:

12 (a) (I) When a certified peace officer has probable cause to  
13 believe a person has a mental health disorder and, as a result of the mental  
14 health disorder, is an imminent danger to the person's self, ~~or~~ AN  
15 IMMINENT DANGER TO others, or ~~is~~ gravely disabled, the certified peace  
16 officer may take the person into protective custody and transport the  
17 person to a facility designated by the commissioner for an emergency  
18 mental health hold. If ~~such~~ a facility is not available, the certified peace  
19 officer may transport the person to an emergency medical services  
20 facility. The certified peace officer may request assistance from a  
21 behavioral health crisis response team for assistance in detaining and  
22 transporting the person or an emergency medical services provider in  
23 transporting the person; or

24 (II) When an intervening professional reasonably believes that a  
25 person appears to have a mental health disorder and, as a result of the  
26 mental health disorder, appears to be an imminent danger to the person's  
27 self, ~~or~~ AN IMMINENT DANGER TO others, or ~~appears to be~~ gravely

1 disabled, the intervening professional may cause the person to be taken  
2 into protective custody and transported to a facility designated by the  
3 commissioner for an emergency mental health hold. If ~~such~~ a facility is  
4 not available, the certified peace officer may transport the person to an  
5 emergency medical services facility. The intervening professional may  
6 request assistance from a certified peace officer, a secure transportation  
7 provider, or a behavioral health crisis response team for assistance in  
8 detaining and transporting the person, or assistance from an emergency  
9 medical services provider in transporting the person.

10 (b) (I) When a person petitions the court in the county in which  
11 the respondent resides or is physically present requesting an evaluation of  
12 the respondent's condition and alleging that the respondent HAS A  
13 PERSISTENT MENTAL HEALTH DISORDER OR appears to have a mental  
14 health disorder and, as a result of the mental health disorder, appears to  
15 be a danger to the respondent's self, ~~or~~ A DANGER TO others, or ~~appears to~~  
16 ~~be~~ gravely disabled.

17 (2) (a) When a person is taken into custody pursuant to subsection  
18 (1) of this section, the person must not be detained in a jail, lockup, or  
19 other place used for the confinement of persons charged with or convicted  
20 of penal offenses. Unless otherwise required by law, a certified peace  
21 officer may transport the person to an emergency medical services facility  
22 or facility designated by the commissioner even if a warrant has been  
23 issued for the person's arrest if the certified peace officer believes it is in  
24 the best interest of the person. The person must not be held on an  
25 emergency mental health hold for longer than seventy-two hours after the  
26 hold is placed or ordered. Nothing in this section prohibits an emergency  
27 medical services facility from involuntarily holding the person in order to

1 stabilize the person as required pursuant to the federal "Emergency  
2 Medical Treatment and Labor Act", 42 U.S.C. sec. 1395dd, or if the  
3 treating professional determines that the individual's PERSON'S physical  
4 or mental health disorder impairs the person's ability to make an informed  
5 decision to refuse care and the provider determines that further care is  
6 indicated.

7 (b) THIS SECTION DOES NOT PRECLUDE:

8 (I) A COURT FROM ORDERING AN EVALUATION OF A PERSON WHEN  
9 THE PERSON IS CONFINED IF THE PERSON IS LAWFULLY CONFINED IN JAIL,  
10 LOCKUP, OR ANOTHER PLACE USED FOR CONFINING INDIVIDUALS CHARGED  
11 WITH, OR CONVICTED OF, A PENAL OFFENSE FOR ANY OTHER LAWFUL  
12 REASON;

13 (II) A COURT FROM ORDERING THE DETAINED PERSON TO BE  
14 TRANSPORTED TO AN EMERGENCY MEDICAL SERVICES FACILITY OR A  
15 FACILITY DESIGNATED BY THE COMMISSIONER; OR

16 (III) A PERSON OR ENTITY THAT HAS CARE AND CUSTODY OF A  
17 DETAINED PERSON FROM TRANSPORTING THE DETAINED PERSON TO AN  
18 EMERGENCY MEDICAL SERVICES FACILITY OR FACILITY DESIGNATED BY  
19 THE COMMISSIONER.

20 (3) When a person is placed on an emergency mental health hold  
21 pursuant to subsection (1) of this section and is presented to an  
22 emergency medical services facility or a facility designated by the  
23 commissioner, the facility shall require a BHA-approved application in  
24 writing, stating the circumstances under which the person's condition was  
25 called to the attention of the intervening professional or certified peace  
26 officer and further stating sufficient facts, obtained from the intervening  
27 professional's or certified peace officer's personal observations or

1 obtained from others whom the intervening professional or certified peace  
2 officer reasonably believes to be reliable, to establish that the person has  
3 a mental health disorder and, as a result of the mental health disorder, is  
4 an imminent danger to the person's self, ~~or~~ A DANGER TO others, or ~~is~~  
5 gravely disabled. The application must indicate when the person was  
6 taken into custody and who brought the person's condition to the attention  
7 of the intervening professional or certified peace officer. A copy of the  
8 application must be furnished to the person being evaluated, and the  
9 application must be retained in accordance with section 27-65-123 (4).

10 (4) (a) The petition for a court-ordered evaluation filed pursuant  
11 to subsection (1)(b) of this section must contain the following:

12 (III) Allegations of fact indicating that the respondent may have  
13 a mental health disorder and, as a result of the mental health disorder,  
14 MAY be a danger to the respondent's self, ~~or~~ A DANGER TO others, or ~~be~~  
15 gravely disabled and showing reasonable grounds to warrant an  
16 evaluation;

17 (c) Following the screening described in subsection (4)(b) of this  
18 section, the facility, intervening professional, or certified peace officer  
19 designated by the court shall file a report with the court and may initiate  
20 an emergency mental health hold at the time of screening. The report  
21 must include a recommendation as to whether probable cause exists to  
22 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,  
23 OR has a mental health disorder and, as a result of the mental health  
24 disorder, is a danger to the respondent's self, ~~or~~ A DANGER TO others, or  
25 ~~is~~ gravely disabled, and whether the respondent will voluntarily receive  
26 evaluation or treatment. The screening report submitted to the court  
27 pursuant to this subsection (4)(c) is confidential in accordance with

1 section 27-65-123 and must be furnished to the respondent or the  
2 respondent's attorney or personal representative.

3 (d) Whenever it appears, by petition and screening pursuant to this  
4 section, to the satisfaction of the court that probable cause exists to  
5 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,  
6 OR has a mental health disorder and, as a result of the mental health  
7 disorder, is a danger to the respondent's self, ~~OR~~ A DANGER TO others, or  
8 ~~is~~ gravely disabled, and that efforts have been made to secure the  
9 cooperation of the respondent but the respondent has refused or failed to  
10 accept AN evaluation voluntarily, the court shall issue an order for AN  
11 evaluation authorizing a certified peace officer or secure transportation  
12 provider to take the respondent into custody and transport the respondent  
13 to a facility designated by the commissioner for an emergency mental  
14 health hold. At the time the respondent is taken into custody, a copy of the  
15 petition and the order for AN evaluation must be given to the respondent  
16 and promptly thereafter to the one lay person designated by the  
17 respondent and to the person in charge of the facility named in the order  
18 or the respondent's designee. If the respondent refuses to accept a copy of  
19 the petition and the order for AN evaluation, ~~such~~ THE refusal must be  
20 documented in the petition and the order for THE evaluation.

21 (6) (a) Each person detained for an emergency mental health hold  
22 pursuant to this section shall receive an evaluation as soon as possible  
23 after the person ~~is presented~~ PRESENTS to the facility, OR AS SOON AS  
24 POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE  
25 PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, LOCKUP, OR ANOTHER  
26 PLACE USED FOR CONFINING A PERSON CHARGED WITH OR CONVICTED OF  
27 A PENAL OFFENSE, and shall receive such treatment and care as the

1 person's condition requires for the full period that the person is held. The  
2 evaluation must include an assessment to determine if the person  
3 continues to meet the criteria for an emergency mental health hold and  
4 requires further mental health care in a facility designated by the  
5 commissioner. The evaluation must state whether the person should be  
6 released, referred for further care and treatment on a voluntary basis, or  
7 certified for short-term treatment pursuant to section 27-65-109.

8 (7) (a.5) A PERSON WHO IS LAWFULLY CONFINED FOR A CRIMINAL  
9 CHARGE IN JAIL, LOCKUP, OR ANOTHER PLACE USED TO CONFINE A PERSON  
10 CHARGED WITH OR CONVICTED OF A PENAL OFFENSE MAY BE PLACED ONLY  
11 IN A SECURE PLACEMENT OR MAY BE CARED FOR IN THE PERSON'S PLACE  
12 OF CONFINEMENT WHILE THE PERSON IS LAWFULLY DETAINED. IF A PERSON  
13 PLACED UNDER AN EMERGENCY MENTAL HEALTH HOLD IS RELEASED FROM  
14 CONFINEMENT, THE PERSON OR ENTITY RESPONSIBLE FOR THE PERSON'S  
15 CONFINEMENT SHALL COORDINATE WITH THE BHA TO TRANSFER THE  
16 PERSON TO AN EMERGENCY MEDICAL SERVICES FACILITY OR A FACILITY  
17 DESIGNATED BY THE COMMISSIONER.

18 (8) (d) (I) The facility shall, at a minimum, attempt to follow up  
19 with the person, the person's parent or legal guardian, or the person's lay  
20 person at least ~~forty-eight~~ SEVENTY-TWO hours after discharge. The  
21 facility is encouraged to utilize peer support professionals, as defined in  
22 section 27-60-108 (2)(b), when performing follow-up care with  
23 individuals and in developing a continuing care plan pursuant to  
24 subsection (8)(a)(I) of this section. The facility may facilitate follow-up  
25 care through contracts with community-based behavioral health providers  
26 or the 988 crisis hotline operated pursuant to section 27-64-103. If the  
27 facility facilitates follow-up care through a third-party contract, the

1 facility shall obtain authorization from the person to provide follow-up  
2 care.

3 (10) (b) A person's rights ~~under~~ PURSUANT TO this subsection (10)  
4 may only be denied if access to the item, program, or service causes the  
5 person to destabilize or creates a danger to the person's self or A DANGER  
6 TO others, as determined by a ~~licensed~~ LICENSED provider involved in the  
7 person's care. Denial of any right must be entered into the person's  
8 treatment record and must be made available, upon request, to the person,  
9 the person's legal guardian, or the person's attorney.

10 (e) NOTWITHSTANDING SUBSECTION (10)(b) OF THIS SECTION, A  
11 PERSON'S RIGHTS PURSUANT TO THIS SUBSECTION (10) MAY BE RESTRICTED  
12 IN ANY MANNER ALLOWED BY LAW IF THE PERSON IS LAWFULLY CONFINED  
13 FOR A CRIMINAL CHARGE IN JAIL, LOCKUP, OR ANOTHER PLACE USED TO  
14 CONFINE INDIVIDUALS CHARGED WITH OR CONVICTED OF A PENAL  
15 OFFENSE.

16 **SECTION 5.** In Colorado Revised Statutes, 27-65-107, **amend**  
17 (1), (2), (4)(a)(IV), and (4)(b) as follows:

18 **27-65-107. Emergency transportation - application - screening**  
19 **- respondent's rights.**

20 (1) (a) ~~When~~ IF a certified peace officer or emergency medical  
21 services provider has probable cause to believe a person is experiencing  
22 a behavioral health crisis ~~or is~~ AND, WITHOUT PROFESSIONAL  
23 INTERVENTION, MAY BE A DANGER TO THE PERSON'S SELF, A DANGER TO  
24 OTHERS, OR gravely disabled, ~~and, as a result, without professional~~  
25 ~~intervention the person may be a danger to the person's self or others, then~~  
26 the certified peace officer or emergency medical services provider may  
27 take the person into protective custody and transport the person to an

1 outpatient mental health facility or a facility designated by the  
2 commissioner or other clinically appropriate facility designated by the  
3 commissioner. If ~~such a service~~ A FACILITY is not available, the person  
4 may be taken to an emergency medical services facility.

5 (b) ~~An individual~~ A PERSON may not be transported pursuant to  
6 this subsection (1) if an intervening professional has assessed the person  
7 during the same emergency event and determined the ~~individual~~ PERSON  
8 does not meet the criteria for an emergency mental health hold pursuant  
9 to section 27-65-106.

10 (c) If a behavioral health crisis response team is known to be  
11 available in a timely manner, the certified peace officer or emergency  
12 medical services provider shall access the behavioral health crisis  
13 response team prior to INVOLUNTARILY transporting ~~an individual~~  
14 ~~involuntarily~~ A PERSON pursuant to this subsection (1).

15 (2) When a person is transported against the person's will pursuant  
16 to subsection (1) of this section, the facility shall require an application,  
17 in writing, stating the circumstances under which the person's condition  
18 was called to the attention of the certified peace officer or emergency  
19 medical services provider and further stating sufficient facts, obtained  
20 from personal observations or obtained from others whom the certified  
21 peace officer or emergency medical services provider reasonably believes  
22 to be reliable, to establish that the person is experiencing a behavioral  
23 health crisis or is gravely disabled and, as a result, it is believed that  
24 without professional intervention the person may be a danger to the  
25 person's self or A DANGER TO others. The application must indicate the  
26 name of the person and the time the person was transported. A copy of the  
27 application must be furnished to the person being transported.

1 (4) (a) A person detained pursuant to this section has the  
2 following rights while being detained, which must be explained to the  
3 person before being transported to a receiving facility:

4 (IV) To keep and use the person's cell phone, unless access to the  
5 cell phone causes the person to destabilize or creates a danger to the  
6 person's self or A DANGER TO others, as determined by a provider, facility  
7 staff member, or security personnel involved in the person's care;

8 (b) A person's rights pursuant to subsection (4)(a) of this section  
9 may only be denied if access to the item, program, or service causes the  
10 person to destabilize or creates a danger to the person's self or A DANGER  
11 TO others, as determined by a licensed provider involved in the person's  
12 care or transportation. Denial of any right must be entered into the  
13 person's treatment record or BHA-approved form. Information pertaining  
14 to a denial of rights contained in the person's treatment record must be  
15 made available, upon request, to the person, the person's attorney, or the  
16 person's lay person.

17 **SECTION 6.** In Colorado Revised Statutes, **amend** 27-65-108 as  
18 follows:

19 **27-65-108. Care coordination for persons certified or in need**  
20 **of ongoing treatment.**

21 (1) A facility designated by the commissioner shall notify and  
22 engage the BHA prior to terminating or transferring a person certified  
23 pursuant to section 27-65-108.5, 27-65-109, 27-65-110, or 27-65-111.  
24 The BHA ~~may~~ SHALL provide care coordination services to support a  
25 person whose certification is terminated but who is in need of ongoing  
26 treatment and services.

27 (2) The BHA shall, directly or through a contract, provide care

1 coordination services to a person certified pursuant to section  
2 27-65-108.5, 27-65-109, 27-65-110, or 27-65-111 and determined by the  
3 designated facility and the BHA to need care coordination services.

4 **SECTION 7.** In Colorado Revised Statutes, **add** 27-65-108.1 as  
5 follows:

6 **27-65-108.1. Court supervision of incompetent and**  
7 **unrestorable person ordered into civil commitment.**

8 (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF  
9 A CIVIL COMMITMENT PURSUANT TO SECTION 16-8.5-118 TO A CIVIL COURT  
10 WITH JURISDICTION PURSUANT TO SECTION 27-65-113, THE CIVIL COURT  
11 HAS EXCLUSIVE JURISDICTION OVER THE CIVIL COMMITMENT.

12 (2) UPON RECEIVING JURISDICTION OF A CIVIL COMMITMENT, THE  
13 CIVIL COURT SHALL:

14 (a) NOTIFY THE COUNTY ATTORNEY;

15 (b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND  
16 PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO  
17 THE RESPONDENT'S ATTORNEY; AND

18 (c) SET A REVIEW HEARING AND ORDER THE RESPONDENT  
19 BROUGHT BEFORE THE COURT.

20 (3) AT THE REVIEW HEARING, THE COURT SHALL:

21 (a) ENSURE THE RESPONDENT IS REPRESENTED BY COUNSEL; AND

22 (b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

23 (I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS  
24 WAIVED BY THE RESPONDENT;

25 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED  
26 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT  
27 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD

1 PURSUANT TO THIS ARTICLE 65, INCLUDING ANY APPEALS;  
2 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE  
3 CIVIL COMMITMENT; AND  
4 (IV) THE RIGHT TO PERIODIC REVIEW OF THE CIVIL COMMITMENT  
5 AND THE RIGHT TO CONTEST, INCLUDING BY TRIAL, WHETHER THE  
6 RESPONDENT QUALIFIES FOR TERMINATION OF CIVIL COMMITMENT.  
7 (4) AT ANY TIME DURING THE CIVIL COMMITMENT, THE COURT  
8 MAY:  
9 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE CIVIL  
10 COMMITMENT UPON REQUEST OF THE PARTIES AFTER GIVING THE PARTIES  
11 AN OPPORTUNITY TO OBJECT AND BE HEARD;  
12 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER  
13 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT  
14 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE  
15 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED  
16 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;  
17 (c) ORDER OCFMH TO PROVIDE TO THE COURT:  
18 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS  
19 THE CRITERIA FOR TERMINATION OF CIVIL COMMITMENT PURSUANT TO  
20 SECTION 27-65-108.2; AND  
21 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN  
22 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
23 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501,  
24 WITHOUT HAVING ANY OTHER MENTAL HEALTH DISORDER THAT IS NOT AN  
25 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
26 DISORDER AND THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
27 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO

1 OTHERS, OR IS GRAVELY DISABLED.

2 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE  
3 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE  
4 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE  
5 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR  
6 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY  
7 THE PLACEMENT;

8 (e) ORDER, AS NECESSARY, APPROPRIATE ENTITIES, INCLUDING THE  
9 SHERIFF, TO BRING THE RESPONDENT BEFORE THE COURT OR TAKE THE  
10 RESPONDENT TO THE PLACEMENT WHERE PHYSICAL CUSTODY OF THE  
11 RESPONDENT HAS BEEN ORDERED;

12 (f) APPOINT A LEGAL GUARDIAN PURSUANT TO ARTICLE 14 OF  
13 TITLE 15; OR

14 (g) ISSUE ORDERS AS NECESSARY TO EFFECTUATE AND ENFORCE  
15 THE COURT'S POWERS AND RESPONSIBILITIES PURSUANT TO THIS SECTION,  
16 INCLUDING AUTHORIZATION FOR THE REASONABLE USE OF FORCE,  
17 WARRANTS FOR THE ARREST OF THE RESPONDENT, OR CONTEMPT  
18 PROCEEDINGS AGAINST A NONCOMPLIANT INDIVIDUAL OR ENTITY.

19 (5) (a) THE COURT SHALL ENSURE THE RESPONDENT IS PLACED IN  
20 THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM  
21 AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE,  
22 THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
23 RESPONDENT.

24 (b) PRIOR TO MODIFYING THE CIVIL COMMITMENT TO CHANGE THE  
25 RESPONDENT'S PROVIDER OR PLACEMENT, THE COURT SHALL REVIEW THE  
26 APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT,  
27 INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS

1 AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY  
2 PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS  
3 HARM TO OTHERS POSED BY THE RESPONDENT.

4 (c) UPON REQUEST, THE COURT SHALL PERMIT OCFMH, THE  
5 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO  
6 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY  
7 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE  
8 COURT'S DECISION.

9 (d) WHEN DECIDING WHETHER TO APPROVE THE NEW PROVIDER OR  
10 PLACEMENT, THE COURT SHALL GIVE DUE DEFERENCE TO OCFMH AND  
11 THE OPINION OF ANY MEDICAL PROFESSIONAL ON THE APPROPRIATENESS  
12 OF THE PROVIDER AND PLACEMENT FOR THE RESPONDENT, VICTIMS, AND  
13 COMMUNITY, BUT DEFERENCE MUST NOT BE GIVEN TO OCFMH OR A  
14 MEDICAL PROFESSIONAL AS TO WHETHER THE PLACEMENT SUFFICIENTLY  
15 PROTECTS ANY VICTIMS AND THE COMMUNITY FROM THE SUBSTANTIAL  
16 RISK OF SERIOUS HARM TO OTHERS POSED BY THE RESPONDENT. WHEN  
17 CONSIDERING THE APPROPRIATENESS OF THE PLACEMENT FOR THE  
18 RESPONDENT, VICTIMS, AND COMMUNITY, THE COURT SHALL CONSIDER  
19 THE TOTALITY OF THE CIRCUMSTANCES, INCLUDING:

20 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE  
21 RESPONDENT'S MENTAL HEALTH DISORDER;

22 (II) THE CLINICAL DIAGNOSIS AND CLINICAL PERSPECTIVE ON THE  
23 RESPONDENT'S CURRENT MENTAL STATE AND PROGNOSIS;

24 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED  
25 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH A TREATMENT PLAN IN  
26 THE REASONABLY FORESEEABLE FUTURE;

27 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,

1 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR  
2 OTHERS;

3 (V) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
4 THE RESPONDENT'S HOSPITALIZATION, ARREST, OR CERTIFICATION FOR  
5 SHORT-TERM TREATMENT;

6 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION  
7 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S  
8 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL  
9 HARM; AND

10 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
11 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF  
12 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS  
13 WILL REOCCUR WITHOUT INPATIENT TREATMENT.

14 (e) THE COURT SHALL NOT MODIFY THE CIVIL COMMITMENT TO  
15 PLACE THE RESPONDENT INTO A STATE HOSPITAL UNLESS THE COURT HAS  
16 EXHAUSTED ALL REASONABLE ATTEMPTS TO FIND AN ALTERNATIVE AND  
17 NO OTHER LESS-RESTRICTIVE PLACEMENTS ARE ADEQUATE TO PROTECT  
18 THE VICTIM AND THE COMMUNITY.

19 (f) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE  
20 PLACED INTO A COMMUNITY-BASED SETTING FOR THE FIRST TIME SINCE  
21 BEING CIVILLY COMMITTED UNLESS:

22 (I) ANY VICTIMS HAVE BEEN NOTIFIED OF A CRITICAL STAGE, AS  
23 DEFINED IN SECTION 24-4.1-302 (2)(q.3), AND GIVEN THE OPPORTUNITY TO  
24 BE HEARD; AND

25 (II) THE DISTRICT ATTORNEY IN THE CASE THAT SOUGHT CIVIL  
26 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT HAS BEEN NOTIFIED  
27 AND GIVEN AN OPPORTUNITY TO OBJECT AND BE HEARD.

1 (g) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR  
2 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO  
3 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,  
4 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND  
5 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM  
6 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER  
7 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT  
8 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE  
9 RESPONDENT CANNOT COMPLY.

10 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED  
11 WITHIN CDHS, THE EXECUTIVE DIRECTOR OF CDHS SHALL DESIGNATE  
12 THE STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR CARE AND  
13 TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE FACILITY TO  
14 ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT IS  
15 APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE, CUSTODY,  
16 AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION OF THE  
17 PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

18 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,  
19 CDHS SHALL:

20 (I) ENSURE THE RESPONDENT IS PLACED IN THE  
21 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND  
22 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE  
23 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
24 RESPONDENT; AND

25 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED  
26 SETTING FOR THE FIRST TIME SINCE THE RESPONDENT WAS CIVILLY  
27 COMMITTED WITHOUT PRIOR APPROVAL OF THE COURT PURSUANT TO

1 SUBSECTION (5) OF THIS SECTION.

2 (7) TERMINATION OF THE CIVIL COMMITMENT IS GOVERNED BY  
3 SECTION 27-65-108.2.

4 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND  
5 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT  
6 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS CIVILLY  
7 COMMITTED UNLESS A SUBSTANTIALLY SIMILAR EXAMINATION WAS  
8 ORDERED BY THE COURT WITHIN THE PREVIOUS TWELVE MONTHS. THE  
9 REPORT MUST INCLUDE:

10 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT:

11 (I) MEETS THE CRITERIA FOR SHORT-TERM CERTIFICATION  
12 PURSUANT TO SECTION 27-65-108.3 (1) OR SHORT-TERM PROTECTIVE  
13 PLACEMENT PURSUANT TO SECTION 25.5-10-503 (1);

14 (II) CONTINUES TO MEET THE CRITERIA FOR CIVIL COMMITMENT  
15 PURSUANT TO SECTION 16-8.5-118;

16 (III) MEETS THE CRITERIA FOR ENHANCED PROTECTIVE  
17 PLACEMENT PURSUANT TO SECTION 16-8.5-118;

18 (IV) IS APPROPRIATELY PLACED; AND

19 (V) MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL  
20 COMMITMENT PURSUANT TO SECTION 27-65-108.2;

21 (b) A SUMMARY OF THE MATERIALS REVIEWED, ASSESSMENTS  
22 CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED;

23 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE  
24 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

25 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO  
26 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S  
27 PROGRESS;

1 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH  
2 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS  
3 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE  
4 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

5 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO  
6 OTHERS;

7 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE  
8 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED  
9 TREATMENT AND MANAGEMENT OF INDIVIDUALS CIVILLY COMMITTED;

10 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS  
11 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC  
12 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A  
13 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF CDHS;

14 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE  
15 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND

16 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION  
17 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

18 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE  
19 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE  
20 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR  
21 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO  
22 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED  
23 NECESSARY FOR THE COURT'S SUPERVISION OF THE CIVIL COMMITMENT.

24 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,  
25 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST  
26 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND  
27 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE

1 CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT,  
2 CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM  
3 PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF  
4 THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-108.2. THE  
5 RESPONDENT SHALL COOPERATE WITH ANY EXAMINATIONS ORDERED  
6 PURSUANT TO THIS SUBSECTION (10)(a).

7 (b) STATEMENTS MADE BY THE RESPONDENT DURING AN  
8 EXAMINATION CONDUCTED PURSUANT TO THIS SUBSECTION (10) MUST NOT  
9 BE USED IN ANY CRIMINAL PROSECUTION.

10 **SECTION 8.** In Colorado Revised Statutes, **add** 27-65-108.2 as  
11 follows:

12 **27-65-108.2. Termination of civil commitment.**

13 (1) THE COURT SHALL TERMINATE A RESPONDENT'S CIVIL  
14 COMMITMENT ORDERED PURSUANT TO SECTION 27-65-108.1 IF THE  
15 RESPONDENT:

16 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO  
17 OTHERS; OR

18 (b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY  
19 TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF  
20 OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED  
21 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S  
22 CONDUCT TO THE REQUIREMENTS OF THE LAW.

23 (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE  
24 AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT  
25 MEETS THE STANDARD FOR TERMINATION FROM CIVIL COMMITMENT  
26 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PROVIDER OR THE  
27 PROVIDER'S DESIGNEE SHALL REPORT THE DETERMINATION TO THE COURT

1 THAT PLACED THE RESPONDENT INTO THE PROVIDER'S CARE AND CUSTODY,  
2 THE COUNTY ATTORNEY, AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
3 SOUGHT CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT  
4 PURSUANT TO SECTION 16-8.5-118. THE COURT SHALL FURNISH A COPY OF  
5 THE REPORT TO THE RESPONDENT AND THE RESPONDENT'S COUNSEL.

6 (3) (a) WITHIN THIRTY-FIVE DAYS AFTER RECEIVING THE REPORT  
7 DESCRIBED IN SUBSECTION (2) OF THIS SECTION, UNLESS THE RESPONDENT  
8 IS NOT ENTITLED TO A TERMINATION HEARING PURSUANT TO SUBSECTION  
9 (5) OF THIS SECTION, THE COURT SHALL BRING THE RESPONDENT BEFORE  
10 THE COURT, ENSURE THE RESPONDENT AND THE RESPONDENT'S COUNSEL  
11 RECEIVED A COPY OF THE REPORT, AND ADVISE THE RESPONDENT OF THE  
12 RIGHT TO DEMAND A TRIAL BY THE COURT OR THE RIGHT TO DEMAND, IN  
13 WRITING, A JURY TRIAL OF NOT MORE THAN SIX INDIVIDUALS TO  
14 DETERMINE WHETHER THE RESPONDENT MEETS THE CRITERIA FOR  
15 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

16 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE  
17 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN THIRTY-FIVE DAYS  
18 AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE  
19 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN SEVENTY-TWO DAYS  
20 AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS  
21 EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (3)(b). IF THE  
22 COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED  
23 PURSUANT TO THIS SUBSECTION (3)(b), THE COURT SHALL TERMINATE THE  
24 CIVIL COMMITMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S  
25 CARE AND CUSTODY.

26 (c) AFTER SETTING THE TRIAL, THE COURT SHALL PROMPTLY  
27 NOTIFY THE DISTRICT ATTORNEY WHO ORIGINALLY SOUGHT CIVIL

1 COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO  
2 SECTION 16-8.5-118.

3 (4) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT  
4 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION  
5 OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS  
6 SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A  
7 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE  
8 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
9 SECTION.

10 (b) IF THE TRIER OF FACT FINDS, BY A PREPONDERANCE OF THE  
11 EVIDENCE, THAT THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION  
12 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL ORDER  
13 THE RESPONDENT RELEASED FROM THE PROVIDER'S CARE AND CUSTODY  
14 AND TERMINATE THE RESPONDENT'S CIVIL COMMITMENT. IF THE TRIER OF  
15 FACT FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE  
16 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT  
17 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE  
18 CIVIL COMMITMENT AND MAY ENTER OR MODIFY ANY ORDERS TO ASSIST  
19 IN PROGRESSING THE TREATMENT OF THE RESPONDENT OR THAT ARE  
20 NECESSARY TO PROTECT THE PUBLIC.

21 (5) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET  
22 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
23 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION  
24 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL  
25 FOR TERMINATION.

26 (6) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR  
27 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A

1 MENTAL HEALTH DISORDER THAT IS AN INTELLECTUAL AND  
2 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE  
3 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT HAVING ANY  
4 OTHER MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND  
5 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT  
6 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A  
7 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS  
8 GRAVELY DISABLED, THE COURT SHALL CONVERT THE CIVIL COMMITMENT  
9 TO AN ENHANCED PROTECTIVE PLACEMENT AND MAY MODIFY THE TERMS  
10 OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH  
11 SECTION 25.5-10-507.

12 (7) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR  
13 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS  
14 CO-OCCURRING MENTAL HEALTH DISORDERS THAT INCLUDE AN  
15 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE  
16 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, THE  
17 COURT MAY, UPON THE RECOMMENDATION OF OCFMH, CONVERT A CIVIL  
18 COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT AND MODIFY  
19 THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE  
20 WITH SECTION 25.5-10-507.

21 **SECTION 9.** In Colorado Revised Statutes, **add** 27-65-108.3 as  
22 follows:

23 **27-65-108.3. Criteria and standards for certification for**  
24 **short-term treatment and certification for long-term care and**  
25 **treatment.**

26 (1)(a) A PERSON MAY BE CERTIFIED FOR SHORT-TERM TREATMENT  
27 PURSUANT TO SECTION 27-65-108.5 OR 27-65-109, OR CERTIFIED FOR

1 LONG-TERM CARE AND TREATMENT PURSUANT TO SECTION 27-65-110, IF,  
2 BY CLEAR AND CONVINCING EVIDENCE, THE PERSON:

3 (I) HAS A PERSISTENT MENTAL HEALTH DISORDER; OR

4 (II) HAS A MENTAL HEALTH DISORDER AND, AS A RESULT OF THE  
5 MENTAL HEALTH DISORDER, THE PERSON IS UNWILLING OR UNABLE TO  
6 COMPLY WITH VOLUNTARY TREATMENT, OR REASONABLE GROUNDS EXIST  
7 TO BELIEVE THAT THE PERSON WILL NOT REMAIN IN A VOLUNTARY  
8 TREATMENT PROGRAM, AND THE PERSON IS A DANGER TO THE PERSON'S  
9 SELF, A DANGER TO OTHERS, OR GRAVELY DISABLED.

10 (b) THE PROVISIONS OF PART 5 OF ARTICLE 10 OF TITLE 25.5 APPLY  
11 AND THIS ARTICLE 65 DOES NOT APPLY IF A PERSON HAS AN INTELLECTUAL  
12 AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS  
13 THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT ANY OTHER  
14 MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND  
15 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT  
16 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A  
17 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS  
18 GRAVELY DISABLED.

19 (2) WHEN EVALUATING A PERSON TO DETERMINE WHETHER THE  
20 PERSON MEETS THE CRITERIA PURSUANT TO SUBSECTION (1) OF THIS  
21 SECTION, THE COURT, EVALUATOR, OR INTERVENING PROFESSIONAL SHALL  
22 TAKE INTO CONSIDERATION:

23 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S  
24 OWN MENTAL HEALTH DISORDER;

25 (b) CLINICAL DIAGNOSIS AND CLINICAL PERSPECTIVE ON THE  
26 PERSON'S CURRENT MENTAL STATE AND PROGNOSIS;

27 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND

1 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE  
2 FUTURE;

3 (d) RECENT OVERT ACTS BY THE PERSON TO THREATEN, CAUSE, OR  
4 ATTEMPT TO CAUSE HARM TO THE PERSON'S SELF OR OTHERS;

5 (e) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
6 THE PERSON'S HOSPITALIZATION, ARREST, OR CERTIFICATION FOR  
7 SHORT-TERM TREATMENT;

8 (f) WHETHER THE PERSON WAS FOUND IN A CONDITION WHERE THE  
9 PERSON WAS NOT ABLE TO CARE FOR THE PERSON'S OWN BASIC NEEDS IN  
10 ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM; AND

11 (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
12 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS  
13 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL  
14 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

15 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE  
16 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, HAS A  
17 PERSISTENT MENTAL HEALTH DISORDER, OR POSES A SUBSTANTIAL RISK OF  
18 SERIOUS HARM TO OTHERS, THE COURT, EVALUATOR, OR INTERVENING  
19 PROFESSIONAL SHALL, WHENEVER POSSIBLE, USE ALL REASONABLE  
20 EFFORTS TO LEARN ABOUT PRIOR RELEVANT BEHAVIORS AND PRIOR  
21 DIAGNOSES THROUGH AVAILABLE AND RELIABLE SOURCES, INCLUDING THE  
22 PERSON'S PRIOR MEDICAL AND MENTAL HEALTH RECORDS, POLICE  
23 REPORTS, AND INFORMATION FROM RELIABLE INDIVIDUALS WHO HAVE A  
24 RELATIONSHIP OR REGULAR SUBSTANTIAL INTERACTIONS WITH THE  
25 PERSON.

26 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS A PERSON  
27 WHO IS INCARCERATED OR IN INPATIENT TREATMENT AS IF THE PERSON

1 WERE IN THE COMMUNITY WHEN EVALUATING WHETHER THE PERSON  
2 MEETS THE CRITERIA PURSUANT TO SUBSECTION (1) OF THIS SECTION.

3 **SECTION 10.** In Colorado Revised Statutes, 27-65-108.5,  
4 **amend** (1) introductory portion, (1)(b), (1)(d), (2), (3), (7), and (8);  
5 **repeal** (9), (10), and (11); and **add** (2.5), (2.6), (2.7), and (7.5) as follows:

6 **27-65-108.5. Court-ordered certification for short-term**  
7 **treatment for incompetent defendants in a criminal matter - contents**  
8 **of petition - procedure to contest petition - commitment to behavioral**  
9 **health administration - definition.**

10 (1) Upon petition of A COUNTY ATTORNEY, AN APPOINTED LEGAL  
11 GUARDIAN, the district attorney, AN INTERVENING PROFESSIONAL ACTING  
12 WITHIN THE SCOPE OF THEIR AUTHORITY, a professional person, a  
13 representative of the BHA, or a representative of ~~the office of civil and~~  
14 ~~forensic mental health~~ OCFMH, a court ~~may~~ SHALL certify a person for  
15 short-term treatment for not more than three months under the following  
16 conditions:

17 (b) The court hearing the criminal matter referred the matter for  
18 filing of a petition pursuant to ~~section 16-8.5-111 or 16-8.5-116.5~~  
19 SECTION 16-8.5-117;

20 (d) ~~The facility or community provider that will provide~~  
21 ~~short-term treatment has been designated or approved by the~~  
22 ~~commissioner to provide such treatment~~ PERSON MEETS THE CRITERIA FOR  
23 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
24 27-65-108.3 (1); and

25 (2) The petition filed pursuant to subsection (1) of this section  
26 must:

27 (a) State sufficient facts to establish reasonable grounds that the

1     respondent ~~has a mental health disorder and, as a result of the mental~~  
2     ~~health disorder, is a danger to the respondent's self or others or is gravely~~  
3     ~~disabled~~ MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM  
4     TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

5             (b) Be accompanied by a report of the competency evaluator or  
6     professional person who has evaluated the respondent within ~~fifty-six~~  
7     NINETY-ONE days before ~~submission of~~ SUBMITTING the petition, unless  
8     the respondent whose certification is sought has refused to submit to an  
9     evaluation or the respondent cannot be evaluated due to the respondent's  
10    condition;

11            (c) Be filed within fourteen days after the initiating party received  
12    the court order from the criminal court initiating the process; AND

13            ~~(d) Be filed with the court in the county where the respondent~~  
14    ~~resided or was physically present immediately prior to the filing of the~~  
15    ~~petition; except that if the person was arrested for the prior case and held~~  
16    ~~in custody, the petition may be filed in the county where the respondent~~  
17    ~~resided or was physically present immediately prior to the respondent's~~  
18    ~~arrest; and~~

19            ~~(e)~~ (d) Provide recommendations if any certification should occur  
20    on an inpatient or outpatient basis.

21            (2.5) (a) AN EMERGENCY MENTAL HEALTH HOLD ORDERED  
22    PURSUANT TO SECTION 27-65-106 IS NOT A PREREQUISITE TO INITIATE A  
23    CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO THIS SECTION.

24            (b) A RESPONDENT IS NOT REQUIRED TO BE UNDER THE CARE OF AN  
25    APPROPRIATE PROVIDER WHO IS WILLING TO HOLD A CERTIFICATION FOR  
26    SHORT-TERM TREATMENT IN ORDER TO INITIATE A CERTIFICATION  
27    PURSUANT TO THIS SECTION.

1           (2.6) (a) UPON RECEIPT OF A PETITION FILED PURSUANT TO THIS  
2 SECTION, THE COURT SHALL SCHEDULE A FIRST APPEARANCE IMMEDIATELY  
3 AND ENTER ANY ORDERS NECESSARY TO HAVE THE RESPONDENT BROUGHT  
4 BEFORE THE COURT.

5           (b) NOTWITHSTANDING SUBSECTION (2.6)(a) OF THIS SECTION, THE  
6 COURT MAY GRANT THE PETITION WITHOUT A HEARING AND MAY ACCEPT  
7 A WRITTEN WAIVER STIPULATING TO THE CERTIFICATION FOR SHORT-TERM  
8 TREATMENT SIGNED BY THE RESPONDENT IF:

9           (I) THE RESPONDENT HAD THE ASSISTANCE OF COUNSEL WHEN  
10 SIGNING THE WAIVER;

11           (II) THE RESPONDENT'S COUNSEL ATTESTS THAT THE RESPONDENT  
12 HAS BEEN ADVISED OF THE RESPONDENT'S RIGHTS TO CONTEST THE  
13 CERTIFICATION FOR SHORT-TERM TREATMENT;

14           (III) THE RESPONDENT HAS BEEN AFFORDED THE ABILITY TO  
15 DESIGNATE ONE OTHER INDIVIDUAL WHOM THE RESPONDENT WANTS TO BE  
16 INFORMED OF THE PROCEEDINGS AND WHO, IF ANYONE, THE RESPONDENT  
17 DESIGNATED; AND

18           (IV) THE RESPONDENT IS ALREADY UNDER THE CARE OF A  
19 PROVIDER WHO WILL HOLD THE CERTIFICATION IF THE PETITION IS  
20 GRANTED.

21           (c) IF THE COURT RECEIVED A WRITTEN WAIVER PURSUANT TO  
22 SUBSECTION (2.6)(b) OF THIS SECTION, THE COURT IS NOT REQUIRED TO  
23 HAVE THE RESPONDENT APPEAR BEFORE THE COURT PRIOR TO ORDERING  
24 CERTIFICATION FOR SHORT-TERM TREATMENT.

25           (d) AT ANY TIME AFTER THE FILING OF THE PETITION, THE COURT  
26 MAY ORDER OCFMH TO LOCATE AN APPROPRIATE PROVIDER AND  
27 PLACEMENT FOR THE RESPONDENT.

1 (2.7) AT THE RESPONDENT'S FIRST APPEARANCE, THE COURT  
2 SHALL:

3 (a) UNLESS WAIVED BY THE RESPONDENT'S COUNSEL, ADVISE THE  
4 RESPONDENT OF THE CONTENTS OF THE PETITION, THE CONSEQUENCES OF  
5 THE PETITION, UNLESS COUNSEL IS PRESENT, AND THE RESPONDENT'S  
6 RIGHTS;

7 (b) ASK THE RESPONDENT TO DESIGNATE A PERSON WHOM THE  
8 RESPONDENT WANTS TO BE INFORMED OF THE PROCEEDINGS. IF THE  
9 RESPONDENT IS INCAPABLE OF MAKING A DESIGNATION, THE COURT MAY  
10 LATER ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE  
11 RESPONDENT IS CAPABLE.

12 (c) CALL ON THE RESPONDENT TO ADMIT OR CONTEST THE  
13 PETITION. THE COURT SHALL ALLOW THE RESPONDENT REASONABLE TIME  
14 TO INVESTIGATE THE PETITION AND DECIDE WHETHER TO ADMIT OR  
15 CONTEST THE PETITION. IF THE RESPONDENT IS UNABLE OR REFUSES TO  
16 STATE WHETHER THE RESPONDENT ADMITS OR CONTESTS THE PETITION,  
17 THE COURT SHALL ENTER A FINDING THAT THE RESPONDENT IS  
18 CONTESTING THE PETITION.

19 (3) Within twenty-four hours after certification, copies of the  
20 certification must be personally delivered to the respondent, the BHA or  
21 ~~the office of civil and forensic mental health~~ OCFMH, AND ANY KNOWN  
22 PROVIDER OR FACILITY THAT HAS CUSTODY OF THE RESPONDENT. The  
23 department shall retain a copy as part of the respondent's record. If the  
24 criminal case is pending, or not yet dismissed, THE PETITIONING PARTY  
25 SHALL GIVE notice of the filing of the petition ~~should be given by the~~  
26 ~~petitioning party~~ to the criminal court, ~~which~~ AND THE COURT shall  
27 provide ~~such~~ THE notice to the prosecuting and defense attorneys in the

1 criminal case and any attorney appointed pursuant to ~~section 27-65-113~~.  
2 ~~The court shall ask the respondent to designate one other person whom~~  
3 ~~the respondent wants to be informed regarding the petition. If the~~  
4 ~~respondent is incapable of making such a designation at the time the~~  
5 ~~petition is delivered, the court may ask the respondent to designate such~~  
6 ~~person as soon as the respondent is capable~~ SECTION 27-65-113.5.

7 (7) (a) ~~The respondent may knowingly and voluntarily consent in~~  
8 ~~writing to the petition~~ IF THE RESPONDENT IS CERTIFIED FOR SHORT-TERM  
9 TREATMENT, UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN  
10 IDENTIFIED AND IS WILLING TO HOLD THE CERTIFICATION, THE COURT  
11 SHALL ORDER OCFMH TO PROVIDE CARE COORDINATION AND MAKE  
12 DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT.

13 (b) THE DEPARTMENT MAY RECEIVE AND POSSESS ALL  
14 INFORMATION RELEVANT TO THE PROCEEDINGS PURSUANT TO THIS  
15 SECTION, INCLUDING COMPETENCY EVALUATIONS, ANY MEDICAL AND  
16 MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN  
17 FOUND IN PROCEEDINGS PURSUANT TO THIS SECTION OR PURSUANT TO  
18 ARTICLE 8.5 OF TITLE 16, AND RELEVANT CRIMINAL JUSTICE RECORDS,  
19 INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

20 (c) THE COURT MAY ORDER:

21 (I) THE PETITIONER AND ANY DISTRICT ATTORNEY RESPONSIBLE  
22 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS  
23 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT  
24 RECORDS TO OCFMH WITHIN SEVEN DAYS AFTER THE COURT'S ORDER;  
25 AND

26 (II) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE  
27 RESPONDENT IN ANY PROCEEDING TO SEND MATERIALS TO OCFMH, WITH

1 THE RESPONDENT'S CONSENT, TO ASSIST IN CARE COORDINATION.

2 (d) OCFMH MAY, AS NECESSARY, SHARE INFORMATION WITH  
3 POTENTIALLY APPROPRIATE CARE PROVIDERS AND THE PARTIES, AND  
4 SHALL KEEP THE COURT APPRISED IN WRITING OF EFFORTS TO FIND AN  
5 APPROPRIATE PROVIDER FOR THE RESPONDENT.

6 (7.5) IF THE COURT CERTIFIES THE RESPONDENT FOR SHORT-TERM  
7 TREATMENT AND THE COURT FINDS THAT INPATIENT TREATMENT IS  
8 NECESSARY PURSUANT TO SECTION 27-65-118 (1)(a), BUT AN INPATIENT  
9 CARE PROVIDER HAS NOT BEEN LOCATED THAT WILL ACCEPT THE  
10 RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN EXHAUSTED,  
11 THE COURT SHALL NOTIFY OCFMH AND CERTIFY THE RESPONDENT FOR  
12 OUTPATIENT TREATMENT.

13 (8) The respondent or the respondent's attorney may, at any time,  
14 file a written request for the court to review short-term certification or  
15 request that inpatient certification be changed to outpatient treatment. If  
16 the review is requested, the court shall hear the matter within fourteen  
17 days after the request, and the court shall give notice to the respondent,  
18 the respondent's attorney, the department, and the community or facility  
19 provider who is or will provide treatment. The hearing must be held in  
20 accordance with ~~section 27-65-113~~ SECTION 27-65-113.1. At the  
21 conclusion of the hearing, the court may enter or confirm the certification  
22 for short-term treatment, discharge the respondent, or enter any other  
23 appropriate order.

24 (9) ~~Section 27-65-109 (7) to (10) applies to proceedings held~~  
25 ~~pursuant to this section.~~

26 (10) ~~In assessing whether the respondent with a pending criminal~~  
27 ~~charge is a danger to self or others or is gravely disabled, if the person is~~

1 incarcerated, the professional person and court shall not rely upon the fact  
2 that the person is incarcerated to establish that the respondent is not a  
3 danger to self or others or is not gravely disabled.

4 (11) ~~An emergency mental health hold pursuant to section~~  
5 ~~27-65-106 is not a prerequisite to a proceeding pursuant to this section.~~

6 **SECTION 11.** In Colorado Revised Statutes, **amend with**  
7 **relocated provisions** 27-65-109 as follows:

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

9 (1) IF A PERSON IS IN A FACILITY DUE TO AN EMERGENCY MENTAL  
10 HEALTH HOLD PURSUANT TO SECTION 27-65-106, THE PERSON may be  
11 certified for not more than three months for short-term treatment under  
12 the following conditions:

13 (a) The professional staff of the facility detaining the person on  
14 an emergency mental health hold has evaluated the person and has found  
15 the person ~~has a mental health disorder and, as a result of the mental~~  
16 ~~health disorder, is a danger to the person's self or others or is gravely~~  
17 ~~disabled~~ MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM  
18 TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

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

23 (c) (b) The facility or community provider that will provide  
24 short-term treatment has been designated by the commissioner to provide  
25 such treatment; and

26 (d) (c) The person, the person's legal guardian, and the person's  
27 lay person, if applicable, have been advised of the person's right to an

1 attorney and to contest the certification for short-term treatment.

2 (2) The notice of certification must be signed by a professional  
3 person who participated in the evaluation CONDUCTED PURSUANT TO  
4 SUBSECTION (1) OF THIS SECTION. The notice of certification must:

5 (a) State facts sufficient to establish reasonable grounds to believe  
6 that the respondent ~~has a mental health disorder and, as a result of the~~  
7 ~~mental health disorder, is a danger to the respondent's self or others or is~~  
8 ~~gravely disabled~~ MEETS THE CRITERIA FOR CERTIFICATION FOR  
9 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

10 (b) Be filed with the court within forty-eight hours, excluding  
11 Saturdays, Sundays, and court holidays, after the date of certification;

12 (c) Be filed with the court in the county in which the respondent  
13 resided or was physically present immediately prior to being taken into  
14 custody; and

15 (d) Provide recommendations if the certification should take place  
16 on an inpatient or outpatient basis.

17 ~~(3) Within twenty-four hours after certification, copies of the~~  
18 ~~certification must be personally delivered to the respondent, the BHA,~~  
19 ~~and a copy must be kept by the evaluating facility as part of the~~  
20 ~~respondent's record, if applicable. The facility or court shall ask the~~  
21 ~~respondent to designate a lay person whom the respondent wishes to be~~  
22 ~~informed regarding certification. If the respondent is incapable of making~~  
23 ~~such a designation at the time the certification is delivered, the respondent~~  
24 ~~must be asked to designate a lay person as soon as the respondent is~~  
25 ~~capable. In addition to the copy of the certification, the respondent must~~  
26 ~~be given a written notice that a hearing upon the respondent's certification~~  
27 ~~for short-term treatment may be had before the court or a jury upon~~

1 written request directed to the court pursuant to subsection (6) of this  
2 section.

3 (4) Upon certification of the respondent, the facility designated for  
4 short-term treatment has custody of the respondent.

5 (5) Whenever a certification is filed with the court by a  
6 professional person, the court shall immediately appoint an attorney to  
7 represent the respondent. The respondent has the right to an attorney for  
8 all proceedings conducted pursuant to this section, including any appeals.  
9 The attorney representing the respondent must be provided with a copy  
10 of the certification immediately upon the attorney's appointment. The  
11 respondent may only waive counsel when the respondent makes a  
12 knowing and intelligent waiver in front of the court.

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

23 (7) Records and papers in proceedings pursuant to this section  
24 must be maintained separately by the clerks of the several courts. Upon  
25 the release of any respondent in accordance with section 27-65-112, the  
26 facility shall notify the clerk of the court within five days after the release,  
27 and the clerk shall immediately seal the record in the case and omit the

1 name of the respondent from the index of cases in the court until and  
2 unless the respondent becomes subject to an order of certification for  
3 long-term care and treatment pursuant to section 27-65-110 or until and  
4 unless the court orders the records opened for good cause shown. In the  
5 event a petition is filed pursuant to section 27-65-110, the certification  
6 record may be opened and become a part of the record in the long-term  
7 care and treatment case and the name of the respondent indexed.

8 (8) Whenever it appears to the court, by reason of a report by the  
9 treating professional person or the BHA or any other report satisfactory  
10 to the court, that a respondent detained for evaluation and treatment or  
11 certified for short-term treatment should be transferred to another facility  
12 for treatment and the safety of the respondent or the public requires that  
13 the respondent be transported by a secure transportation provider or a law  
14 enforcement agency, the court may issue an order directing the law  
15 enforcement agency where the respondent resides or secure transportation  
16 provider to deliver the respondent to the designated facility.

17 (9) A respondent certified for short-term treatment may be  
18 discharged upon the signature of the treating medical professional and the  
19 medical director of the facility. A respondent certified for short-term  
20 treatment on an outpatient basis may be discharged upon the signature of  
21 the approved professional person overseeing the respondent's treatment,  
22 and the professional person shall notify the BHA prior to the discharge.  
23 A facility or program shall make the respondent's discharge instructions  
24 available to the respondent, the respondent's attorney, and the  
25 respondent's legal guardian, if applicable, within seven days after  
26 discharge, if requested. A facility or program that is transferring a  
27 respondent to a different treatment facility or to an outpatient provider

1 shall provide all treatment records to the facility or provider accepting the  
2 respondent at least twenty-four hours prior to the transfer.

3 ~~(10) If the professional person in charge of the evaluation and~~  
4 ~~treatment believes that a period longer than three months is necessary to~~  
5 ~~treat the respondent, the professional person shall file with the court an~~  
6 ~~extended certification at least thirty days prior to the expiration date of the~~  
7 ~~original certification. An extended certification for treatment must not be~~  
8 ~~for a period of more than three months. The respondent is entitled to a~~  
9 ~~hearing on the extended certification under the same conditions as an~~  
10 ~~original certification. The attorney initially representing the respondent~~  
11 ~~shall continue to represent the respondent, unless the court appoints~~  
12 ~~another attorney.~~

13 (3) IF A PERSON IS NOT IN A FACILITY FOR AN EMERGENCY MENTAL  
14 HEALTH HOLD PURSUANT TO SECTION 27-65-106, THE PERSON MAY BE  
15 CERTIFIED FOR SHORT-TERM TREATMENT FOR NOT MORE THAN THREE  
16 MONTHS IF A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
17 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY OPINES THAT THE PERSON  
18 MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT  
19 PURSUANT TO SECTION 27-65-108.3 (1) AND THE PROFESSIONAL PERSON  
20 OR INTERVENING PROFESSIONAL:

21 (a) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
22 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST  
23 THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE  
24 CERTIFICATION; OR

25 (b) HAS EVALUATED THE PERSON PURSUANT TO THIS ARTICLE 65  
26 OR ARTICLE 8 OR 8.5 OF TITLE 16 WITHIN THE PAST NINETY-ONE DAYS.

27 (4) (a) THE COUNTY ATTORNEY OR APPOINTED TEMPORARY

1 EMERGENCY GUARDIAN MAY FILE A PETITION FOR CERTIFICATION FOR  
2 SHORT-TERM TREATMENT. UPON REQUEST OF THE COUNTY ATTORNEY OR  
3 THE APPOINTED TEMPORARY EMERGENCY GUARDIAN, THE PROFESSIONAL  
4 PERSON OR INTERVENING PROFESSIONAL SHALL PROVIDE ALL RELEVANT  
5 INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL MEDICAL  
6 INFORMATION, TO THE COUNTY ATTORNEY AND THE APPOINTED  
7 TEMPORARY EMERGENCY GUARDIAN TO ASSIST IN FILING THE PETITION.  
8 THE PETITION MUST:

9 (I) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS  
10 THAT THE RESPONDENT MEETS THE CRITERIA FOR CERTIFICATION FOR  
11 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

12 (II) BE ACCOMPANIED BY AN AFFIDAVIT FROM THE PROFESSIONAL  
13 PERSON OR INTERVENING PROFESSIONAL WITH AN ESTABLISHED  
14 TREATMENT RELATIONSHIP WITH THE RESPONDENT OR AN EVALUATOR  
15 CONDUCTING THE EVALUATION OF THE RESPONDENT PURSUANT TO THIS  
16 ARTICLE 65 OR ARTICLE 8 OR 8.5 OF TITLE 16; AND

17 (III) RECOMMEND WHETHER THE CERTIFICATION SHOULD OCCUR  
18 ON AN INPATIENT OR OUTPATIENT BASIS.

19 (b) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
20 MAY DISCUSS ALL RELEVANT INFORMATION WITH THE PARTIES UNTIL THE  
21 PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 HAVE CONCLUDED.

22 (5) (a) THE COURT MAY ACCEPT A WRITTEN WAIVER FROM THE  
23 RESPONDENT STIPULATING TO THE CERTIFICATION IF:

24 (I) THE RESPONDENT SIGNED THE WAIVER WITH THE ASSISTANCE  
25 OF COUNSEL;

26 (II) THE RESPONDENT'S COUNSEL ADVISED THE RESPONDENT OF  
27 THE RESPONDENT'S RIGHT TO CONTEST THE CERTIFICATION FOR

1 SHORT-TERM TREATMENT; AND

2 (III) THE RESPONDENT HAS BEEN AFFORDED THE ABILITY TO  
3 DESIGNATE A PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED OF  
4 THE PROCEEDINGS.

5 (b) IF THE COURT RECEIVES A WRITTEN WAIVER PURSUANT TO  
6 SUBSECTION (5)(a) OF THIS SECTION, THE COURT IS NOT REQUIRED TO  
7 HAVE THE RESPONDENT APPEAR BEFORE THE COURT PRIOR TO ORDERING  
8 THE CERTIFICATION FOR SHORT-TERM TREATMENT.

9 (6) (a) AN EMERGENCY MENTAL HEALTH HOLD INITIATED  
10 PURSUANT TO SECTION 27-65-106 IS NOT A PREREQUISITE TO INITIATING  
11 A CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO THIS  
12 SECTION.

13 (b) THE RESPONDENT BEING UNDER THE CARE OF AN APPROPRIATE  
14 PROVIDER WHO IS WILLING TO HOLD A CERTIFICATION FOR SHORT-TERM  
15 TREATMENT IS NOT A PREREQUISITE TO INITIATING A CERTIFICATION FOR  
16 SHORT-TERM TREATMENT PURSUANT TO THIS SECTION.

17 (7) [Formerly 27-65-109 (3)] Within twenty-four hours after  
18 certification, copies of the certification must be personally delivered to  
19 the respondent, the BHA, AND OCFMH, and a copy must be kept by ANY  
20 KNOWN PROVIDER, THE FACILITY THAT HAS CUSTODY OF THE RESPONDENT,  
21 AND the evaluating facility as part of the respondent's record, if  
22 applicable. The facility or court shall ask the respondent to designate a lay  
23 person whom the respondent wishes to be informed regarding  
24 certification. If the respondent is incapable of making such a designation  
25 at the time the certification is delivered, the respondent must be asked to  
26 designate a lay person as soon as the respondent is capable. In addition to  
27 the copy of the certification, the respondent must be given a written

1 notice that a hearing upon the respondent's certification for short-term  
2 treatment may be had before the court or a jury upon written request  
3 directed to the court pursuant to ~~subsection (6)~~ SUBSECTION (11) of this  
4 section.

5 (8) [Formerly 27-65-109 (5)] Whenever a PETITION OR NOTICE OF  
6 certification is filed with the court by a professional person PURSUANT TO  
7 THIS SECTION, the court shall immediately appoint an attorney to represent  
8 the respondent. The respondent has the right to an attorney for all  
9 proceedings conducted pursuant to this section, including any appeals.  
10 The attorney representing the respondent must be provided with a copy  
11 of the certification immediately upon the attorney's appointment. The  
12 respondent may only waive counsel when the respondent makes a  
13 knowing and intelligent waiver in front of the court.

14 (9) (a) AFTER THE NOTICE OR PETITION FOR CERTIFICATION FOR  
15 SHORT-TERM TREATMENT IS FILED, THE COURT SHALL SCHEDULE A FIRST  
16 APPEARANCE IMMEDIATELY AND ENTER ANY ORDERS NECESSARY TO HAVE  
17 THE RESPONDENT BROUGHT BEFORE THE COURT.

18 (b) NOTWITHSTANDING SUBSECTION (9)(a) OF THIS SECTION, THE  
19 COURT MAY CONTINUE THE NOTICE OF CERTIFICATION PURSUANT TO  
20 SUBSECTION (2) OF THIS SECTION OR GRANT THE PETITION PURSUANT TO  
21 SUBSECTION (4) OF THIS SECTION WITHOUT A HEARING AND MAY ACCEPT  
22 A WRITTEN WAIVER FROM THE RESPONDENT STIPULATING TO THE  
23 CERTIFICATION IF:

24 (I) THE RESPONDENT SIGNED THE WAIVER WITH THE ASSISTANCE  
25 OF COUNSEL;

26 (II) THE RESPONDENT'S COUNSEL ADVISED THE RESPONDENT OF  
27 THE RESPONDENT'S RIGHT TO CONTEST THE CERTIFICATION FOR

1 SHORT-TERM TREATMENT;

2 (III) THE RESPONDENT HAS BEEN AFFORDED THE ABILITY TO  
3 DESIGNATE A PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED OF  
4 THE PROCEEDINGS; AND

5 (IV) THE PETITIONER IS ALREADY UNDER THE CARE OF A PROVIDER  
6 WHO WILL HOLD THE CERTIFICATION IF THE PETITION IS GRANTED.

7 (c) IF THE COURT RECEIVES A WRITTEN WAIVER PURSUANT TO  
8 SUBSECTION (9)(b) OF THIS SECTION, THE COURT IS NOT REQUIRED TO  
9 HAVE THE RESPONDENT APPEAR BEFORE THE COURT PRIOR TO ORDERING  
10 THE CERTIFICATION FOR SHORT-TERM TREATMENT.

11 (10) AT THE RESPONDENT'S FIRST APPEARANCE, THE COURT SHALL:

12 (a) ADVISE THE RESPONDENT OF THE CONTENTS OF THE NOTICE OF  
13 CERTIFICATION OR PETITION;

14 (b) ASK THE RESPONDENT TO DESIGNATE A PERSON WHOM THE  
15 RESPONDENT WANTS TO BE INFORMED OF THE PROCEEDINGS. IF THE  
16 RESPONDENT IS INCAPABLE OF MAKING A DESIGNATION, THE COURT MAY  
17 LATER ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE  
18 RESPONDENT IS CAPABLE.

19 (c) ASK WHETHER THE RESPONDENT CONTESTS THE PETITION OR  
20 CERTIFICATION CURRENTLY IN PLACE PURSUANT TO A NOTICE OF  
21 CERTIFICATION OR THE PETITION. THE COURT SHALL ALLOW THE  
22 RESPONDENT REASONABLE TIME TO INVESTIGATE WHETHER TO CONTEST  
23 THE PETITION OR CONTINUE THE CERTIFICATION. IF THE RESPONDENT IS  
24 UNABLE OR REFUSES TO STATE WHETHER THE RESPONDENT CONTESTS THE  
25 PETITION, THE COURT SHALL ENTER A FINDING THAT THE RESPONDENT IS  
26 CONTESTING THE PETITION.

27 (11) **[Formerly 27-65-109 (6)]** The respondent or the respondent's

1 attorney may at any time file a written request that ~~the certification for~~  
2 ~~short-term treatment or the treatment be reviewed by the court or that the~~  
3 ~~treatment be on an outpatient basis. If review is requested~~ CONTESTS THE  
4 PETITION OR CERTIFICATION, SEEKS REVIEW OF THE CERTIFICATION, OR  
5 SEEKS TO TERMINATE INPATIENT TREATMENT AND CONTINUE TREATMENT  
6 ON AN OUTPATIENT BASIS. The court shall hear the matter within ten days  
7 after the request, and the court shall give notice to the respondent and the  
8 respondent's attorney and the certifying and treating professional person  
9 of the time and place of the hearing. The hearing must be held in  
10 accordance with ~~section 27-65-113~~ SECTION 27-65-113.1. At the  
11 conclusion of the hearing, the court may enter or confirm the certification  
12 for short-term treatment, discharge the respondent, or enter any other  
13 appropriate order.

14 (12) UPON CERTIFICATION OF THE RESPONDENT, THE FACILITY  
15 DESIGNATED FOR SHORT-TERM TREATMENT HAS CARE AND PHYSICAL  
16 CUSTODY OF THE RESPONDENT.

17 (13) **[Formerly 27-65-109 (8)]** Whenever it appears to the court,  
18 by reason of a report by the treating professional person, OCFMH, or the  
19 BHA or any other report satisfactory to the court, that a respondent  
20 detained for evaluation and treatment or certified for short-term treatment  
21 should be transferred to another facility for treatment and the safety of the  
22 respondent or the public requires that the respondent be transported by a  
23 secure transportation provider or a law enforcement agency, the court  
24 may issue an order directing the law enforcement agency where the  
25 respondent resides or secure transportation provider to deliver the  
26 respondent to the designated facility.

27 (14) (a) OCFMH IS RESPONSIBLE FOR FINDING AN APPROPRIATE

1 PROVIDER AND PLACEMENT FOR THE RESPONDENT IF THE RESPONDENT IS  
2 CERTIFIED AND NOT ALREADY PLACED. THE COURT MAY ORDER OCFMH  
3 TO INVESTIGATE PLACEMENT, INCLUDING PRIOR TO A HEARING TO  
4 DETERMINE IF THE RESPONDENT MEETS THE CRITERIA TO BE CERTIFIED FOR  
5 SHORT-TERM TREATMENT.

6 (b) UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN  
7 IDENTIFIED AND IS WILLING TO HOLD THE CERTIFICATION, THE COURT  
8 SHALL ORDER OCFMH TO PROVIDE CARE COORDINATION AND MAKE  
9 DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT. OCFMH  
10 MAY SHARE, AS NECESSARY, INFORMATION WITH POTENTIALLY SUITABLE  
11 CARE PROVIDERS. OCFMH SHALL KEEP THE COURT INFORMED, IN  
12 WRITING, OF EFFORTS MADE TO FIND A SUITABLE PROVIDER FOR THE  
13 RESPONDENT.

14 (c) THE DEPARTMENT MAY RECEIVE AND POSSESS ALL  
15 INFORMATION RELEVANT TO THE PROCEEDINGS PURSUANT TO THIS  
16 SECTION, INCLUDING COMPETENCY AND MENTAL HEALTH EVALUATIONS;  
17 ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR  
18 PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS PURSUANT TO THIS SECTION  
19 OR PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL  
20 JUSTICE RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE  
21 RESPONDENT. THE DEPARTMENT MAY SHARE AND DISCUSS THE RELEVANT  
22 INFORMATION WITH THE PARTIES TO THE PROCEEDINGS.

23 (15) IF THE COURT FINDS THAT THE RESPONDENT MEETS THE  
24 CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT AND THAT  
25 INPATIENT CARE IS NECESSARY BUT NO INPATIENT CARE PROVIDER WILL  
26 ACCEPT THE RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN  
27 EXHAUSTED, THE COURT SHALL NOTIFY OCFMH OF THE FINDING AND

1 CERTIFY THE RESPONDENT FOR OUTPATIENT CARE.

2 (16) [Formerly 27-65-109 (9)] IN ACCORDANCE WITH THE  
3 PROCEDURES DESCRIBED IN SECTION 27-65-112, a respondent certified for  
4 short-term treatment may be discharged upon the signature of the treating  
5 medical professional and the medical director of the facility. A  
6 respondent certified for short-term treatment on an outpatient basis may  
7 be discharged upon the signature of the approved professional person  
8 overseeing the respondent's treatment, and the professional person shall  
9 notify the BHA prior to the discharge. A facility or program shall make  
10 the respondent's discharge instructions available to the respondent, the  
11 respondent's attorney, and the respondent's legal guardian, if applicable,  
12 within seven days after discharge, if requested. A facility or program that  
13 is transferring a respondent to a different treatment facility or to an  
14 outpatient provider shall provide all treatment records to the facility or  
15 provider accepting the respondent at least twenty-four hours prior to the  
16 transfer.

17 (17) [Formerly 27-65-109 (10)] If the professional person in  
18 charge of the evaluation and treatment believes that a period longer than  
19 three months is necessary to treat the respondent, the professional person  
20 shall file with the court an extended certification at least thirty days prior  
21 to the expiration date of the original certification. An extended  
22 certification for treatment must not be for a period of more than three  
23 months. The respondent is entitled to a hearing on the extended  
24 certification under the same conditions as an original certification. The  
25 attorney initially representing the respondent shall continue to represent  
26 the respondent, unless the court appoints another attorney.

27 **SECTION 12.** In Colorado Revised Statutes, 27-65-110, **amend**

1 (1), (4), and (5) as follows:

2 **27-65-110. Certification for long-term care and treatment -**  
3 **procedure.**

4 (1) Whenever a respondent has received an extended certification  
5 for treatment pursuant to ~~section 27-65-109(10)~~ SECTION 27-65-109 (17),  
6 including as it is applied to court-ordered certification pursuant to section  
7 27-65-108.5, ~~(9)~~, the professional person in charge of the certification for  
8 short-term treatment or the BHA may file a petition with the court at least  
9 thirty days prior to the expiration date of the extended certification for  
10 long-term care and treatment of the respondent under the following  
11 conditions:

12 (a) The professional staff of the agency or facility providing  
13 short-term treatment has analyzed the respondent's condition and has  
14 found that the respondent ~~has a mental health disorder and, as a result of~~  
15 ~~the mental health disorder, is a danger to the respondent's self or others~~  
16 ~~or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS  
17 FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
18 27-65-108.3 (1); AND

19 (b) ~~The respondent has been advised of the availability of, but has~~  
20 ~~not accepted, voluntary treatment; but, if reasonable grounds exist to~~  
21 ~~believe that the respondent will not remain in a voluntary treatment~~  
22 ~~program, the respondent's acceptance of voluntary treatment does not~~  
23 ~~preclude an order pursuant to this section; and~~

24 (c) (b) The facility that will provide long-term care and treatment  
25 has been designated by the commissioner to provide the care and  
26 treatment.

27 (4) The court or jury shall determine whether the conditions of

1 subsection (1) of this section are met and whether the respondent ~~has a~~  
2 ~~mental health disorder and, as a result of the mental health disorder, is a~~  
3 ~~danger to the respondent's self or others or is gravely disabled~~ CONTINUES  
4 TO MEET THE CRITERIA AND STANDARDS FOR CERTIFICATION FOR  
5 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1). The  
6 court shall issue an order of long-term care and treatment for a term not  
7 to exceed six months, discharge the respondent for whom long-term care  
8 and treatment was sought, or enter any other appropriate order. An order  
9 for long-term care and treatment must grant custody of the respondent to  
10 the BHA for placement with an agency or facility designated by the  
11 commissioner to provide long-term care and treatment. The BHA may  
12 delegate the physical custody of the respondent to a facility designated by  
13 the commissioner and the requirement for the provision of services and  
14 care coordination. When a petition contains a request that a specific legal  
15 disability be imposed or that a specific legal right be deprived, the court  
16 may order the disability imposed or the right deprived if the court or a  
17 jury has determined that the respondent has a mental health disorder or is  
18 gravely disabled and that, as a result, the respondent is unable to  
19 competently exercise the specific legal right or perform the function for  
20 which the disability is sought to be imposed. Any interested person may  
21 ask leave of the court to intervene as a copetitioner for the purpose of  
22 seeking the imposition of a legal disability or the deprivation of a legal  
23 right.

24 (5) An original order of long-term care and treatment or any  
25 extension of such order expires on the date specified, unless further  
26 extended as provided in this subsection (5). If an extension is being  
27 sought, the professional person in charge of the evaluation and treatment

1 shall certify to the court at least thirty days prior to the expiration date of  
2 the order in force that an extension of the order is necessary for the care  
3 and treatment of the respondent subject to the order in force, and a copy  
4 of the certification must be simultaneously delivered to the respondent  
5 and electronically delivered to the respondent's attorney of record. At  
6 least twenty days before the expiration of the order, the court shall give  
7 written notice to the respondent and the respondent's attorney of record  
8 that a hearing upon the extension may be had before the court or a jury  
9 upon written request to the court within ten days after receipt of the  
10 notice. If a hearing is not requested by the respondent within such time,  
11 the court may proceed ex parte. If a hearing is timely requested, the  
12 hearing must be held before the expiration date of the order in force. If  
13 the court or jury finds that the conditions of subsection (1) of this section  
14 continue to be met and that the respondent has a mental health disorder  
15 and, as a result of the mental health disorder, is a danger to THE  
16 RESPONDENT'S SELF, A DANGER TO others, or ~~to the respondent's self~~ or is  
17 gravely disabled, the court shall issue an extension of the order. Any  
18 extension must not exceed six months, but there may be as many  
19 extensions as the court orders pursuant to this section.

20 **SECTION 13.** In Colorado Revised Statutes, 27-65-111, **amend**  
21 (3), (6) introductory portion, (6)(a), and (6)(j) as follows:

22 **27-65-111. Certification on an outpatient basis - civil**  
23 **commitment - short-term and long-term treatment.**

24 (3) The facility responsible for providing services to a respondent  
25 on a certification on an outpatient basis shall proactively reach out to the  
26 respondent to engage the respondent in treatment. If the respondent  
27 refuses treatment or court-ordered medication and is decompensating

1 psychiatrically, the court may order a certified peace officer or secure  
2 transportation provider to transport the respondent to an appropriate,  
3 least-restrictive designated facility in collaboration with the BHA and the  
4 provider holding the certification. The respondent does not need to be  
5 ~~imminently dangerous~~ AN IMMINENT DANGER to the respondent's self or  
6 AN IMMINENT DANGER TO others for the provider to request, and the court  
7 to order, transportation to a facility for the respondent to receive treatment  
8 and court-ordered medications. The facility responsible for providing  
9 services to a respondent on a certification on an outpatient basis shall  
10 provide the court information on the facility's proactive outreach to the  
11 respondent and the professional person's and psychiatric advanced  
12 practice registered nurse's basis for medical opinion.

13 (6) A respondent subject to a CERTIFICATION FOR short-term ~~or~~  
14 TREATMENT, CERTIFICATION FOR long-term ~~certification~~ CARE AND  
15 TREATMENT, OR CIVIL COMMITMENT PURSUANT TO SECTION 27-65-108.1  
16 on an outpatient basis has the following rights, in addition to those  
17 enumerated in section 27-65-119:

18 (a) To request a change to voluntary status. A change to voluntary  
19 status may be denied by the supervising professional person or advanced  
20 practice registered nurse with training in psychiatric nursing responsible  
21 for the respondent's treatment if the professional person or advanced  
22 practice registered nurse with training in psychiatric nursing determines  
23 reasonable grounds exist to believe that the respondent will not remain in  
24 a voluntary treatment program. THIS SUBSECTION (6)(a) DOES NOT APPLY  
25 TO A RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION  
26 27-65-108.1.

27 (j) To have the right to file a motion with the court at any time to

1 contest the certification. THIS SUBSECTION (6)(j) DOES NOT APPLY TO A  
2 RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION  
3 27-65-108.1.

4 **SECTION 14.** In Colorado Revised Statutes, 27-65-112, **amend**  
5 (1) as follows:

6 **27-65-112. Termination of certification for short-term and**  
7 **long-term treatment.**

8 (1) (a) An original or extended certification for short-term  
9 treatment issued pursuant to section 27-65-108.5 or 27-65-109, or an  
10 order or extension for certification for long-term care and treatment  
11 pursuant to section 27-65-110, terminates ~~as soon as~~ WHEN the  
12 professional person in charge of treatment of the respondent and the  
13 BHA, AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD,  
14 determine the respondent ~~has received sufficient benefit from the~~  
15 ~~treatment for the respondent to end involuntary treatment~~ NO LONGER  
16 MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT  
17 PURSUANT TO SECTION 27-65-108.3 (1).

18 (b) ~~Whenever a certification or extended certification is~~  
19 ~~terminated pursuant to this section~~ AT LEAST TWENTY-FOUR HOURS  
20 BEFORE TERMINATING A CERTIFICATION, the professional person in charge  
21 of providing treatment shall notify the ~~court in writing within five days~~  
22 ~~after the termination~~ INDIVIDUAL OR ENTITY THAT FILED THE PETITION FOR  
23 CERTIFICATION FOR SHORT-TERM TREATMENT, IF A PETITION WAS FILED.  
24 THE INDIVIDUAL OR ENTITY THAT FILED THE PETITION MAY, WITHIN  
25 TWENTY-FOUR HOURS AFTER RECEIVING THE NOTICE, PETITION THE COURT  
26 TO INTERVENE. THE COURT MAY, IF SATISFIED BY THE PETITION TO  
27 INTERVENE, STAY THE TERMINATION, HOLD AN EMERGENCY HEARING AS

1 SOON AS PRACTICABLE, AND IF THE COURT FINDS THE RESPONDENT STILL  
2 MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT  
3 PURSUANT TO SECTION 27-65-108.3 (1), EXTEND THE CERTIFICATION FOR  
4 A MINIMUM PERIOD OF TIME NOT TO EXCEED FOURTEEN DAYS.

5 (c) IF A PETITION TO INTERVENE IS NOT FILED, OR IF THE PETITION  
6 WAS DENIED, THE PROFESSIONAL PERSON IN CHARGE OF PROVIDING  
7 TREATMENT SHALL NOTIFY THE COURT IN WRITING WITHIN FIVE DAYS  
8 AFTER THE TERMINATION.

9 **SECTION 15.** In Colorado Revised Statutes, **amend** 27-65-113  
10 as follows:

11 **27-65-113. Jurisdiction - transfer.**

12 ~~(1) Hearings before the court pursuant to section 27-65-108.5,~~  
13 ~~27-65-109, or 27-65-110 are conducted in the same manner as other civil~~  
14 ~~proceedings before the court. The burden of proof is on the person or~~  
15 ~~facility seeking to detain the respondent. The court or jury shall determine~~  
16 ~~that the respondent is in need of care and treatment only if the court or~~  
17 ~~jury finds by clear and convincing evidence that the respondent has a~~  
18 ~~mental health disorder and, as a result of the mental health disorder, is a~~  
19 ~~danger to the respondent's self or others or is gravely disabled.~~

20 ~~(2) The court, after consultation with respondent's counsel to~~  
21 ~~obtain counsel's recommendations, may appoint a professional person to~~  
22 ~~examine the respondent for whom short-term treatment or long-term care~~  
23 ~~and treatment is sought and to testify at the hearing before the court as to~~  
24 ~~the results of the professional person's examination. The court-appointed~~  
25 ~~professional person shall act solely in an advisory capacity, and no~~  
26 ~~presumption is attached to the professional person's findings.~~

27 ~~(3) Every respondent subject to an order for short-term treatment~~

1 or long-term care and treatment must be advised of the respondent's right  
2 to appeal the order by the court at the conclusion of any hearing and, as  
3 a result, the order may be entered.

4 (4) (1) (a) The court in which ~~the~~ A petition is filed under section  
5 ~~27-65-106 or the~~ OR certification is filed pursuant to ~~section 27-65-109~~  
6 THIS ARTICLE 65, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS  
7 PURSUANT TO THIS ARTICLE 65 THAT RECEIVES A COURT ORDER  
8 TRANSFERRING JURISDICTION OF A CIVIL COMMITMENT PURSUANT TO  
9 SECTION 16-8.5-118, is the court of original jurisdiction and of continuing  
10 jurisdiction for any further proceedings pursuant to this article 65.

11 (b) When the convenience of the parties and the ends of justice  
12 would be promoted by a change in the court having jurisdiction, the court  
13 may order a transfer of the proceeding to another county. Until further  
14 order of the transferee court, if any, it is the court of continuing  
15 jurisdiction. IF MULTIPLE CRIMINAL COURTS REFER A MATTER FOR  
16 PROCEEDING PURSUANT TO SECTION 27-65-108.1 OR 27-65-108.5, ANY  
17 COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING TO ANOTHER  
18 COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS INTO ONE  
19 PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT PROMOTES THE  
20 CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

21 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),  
22 ANY PETITION, CERTIFICATION, TRANSFER OF JURISDICTION OF A CIVIL  
23 COMMITMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED WHERE THE  
24 RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR TREATMENT.

25 (b) A REQUEST FOR APPOINTMENT OF AN ATTORNEY OR FOR  
26 PROCEEDINGS PURSUANT TO SECTION ~~27-65-104~~ REGARDING VOLUNTARY  
27 TREATMENT OF A MINOR TO WHICH THE MINOR OBJECTS MAY BE FILED IN

1 THE JURISDICTION WHERE THE MINOR IS HOSPITALIZED.

2 (c) A PETITION OR REQUEST FOR A PROCEEDING REGARDING AN  
3 EMERGENCY MENTAL HEALTH HOLD ORDERED PURSUANT TO SECTION  
4 27-65-106 OR CERTIFICATION FOR SHORT-TERM TREATMENT ORDERED  
5 PURSUANT TO SECTION 27-65-109 MAY BE FILED IN THE JURISDICTION  
6 WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY PRESENT AND  
7 TRANSPORTED FOR AN EMERGENCY MENTAL HEALTH HOLD, OR IS  
8 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

9 (d) A PETITION OR REQUEST FOR A PROCEEDING REGARDING  
10 CERTIFICATION FOR SHORT-TERM TREATMENT FOR INCOMPETENT  
11 DEFENDANTS IN A CRIMINAL MATTER PURSUANT TO SECTION 27-65-108.5  
12 OR A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-108.1 MAY BE  
13 FILED IN THE JURISDICTION WHERE THE RESPONDENT RESIDES, WAS  
14 PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF THE  
15 PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE  
16 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

17 ~~(5)(a)~~ (3) (a) In the event that a respondent or a person found not  
18 guilty by reason of impaired mental condition pursuant to section  
19 16-8-103.5 (5), or by reason of insanity pursuant to section 16-8-105 (4)  
20 or 16-8-105.5, refuses to accept medication, the court having jurisdiction  
21 of the action pursuant to ~~subsection (4)~~ SUBSECTION (1) of this section;  
22 the court committing the person or defendant to the custody of the  
23 department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or  
24 16-8-105.5; or the court of the jurisdiction in which the designated facility  
25 treating the respondent or person is located has jurisdiction and venue to  
26 accept a petition by a treating physician and to enter an order requiring  
27 that the respondent or person accept ~~such~~ THE treatment or, in the

1 alternative, that the medication be forcibly administered to the respondent  
2 or person. The court of the jurisdiction in which the designated facility is  
3 located shall not exercise its jurisdiction without the permission of the  
4 court that committed the person to the custody of the department. Upon  
5 the filing of ~~such a~~ THE petition, the court shall appoint an attorney, if one  
6 has not been appointed, to represent the respondent or person and hear the  
7 matter within ten days.

8 (b) In any case brought pursuant to ~~subsection (5)(a)~~ SUBSECTION  
9 (3)(a) of this section in a court for the county in which the treating facility  
10 is located, the county where the proceeding was initiated pursuant to  
11 ~~subsection (4)~~ SUBSECTION (1) of this section or the court committing the  
12 person to the custody of the department pursuant to section 16-8-103.5  
13 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in  
14 which the proceeding pursuant to this ~~subsection (5)~~ SUBSECTION (3) was  
15 filed and in which the proceeding was held for the reasonable costs  
16 incurred in conducting the proceeding or conduct the proceeding itself  
17 using its own personnel and resources, including its own district or county  
18 attorney, as the case may be.

19 (c) In the case of a defendant who is found incompetent to  
20 proceed pursuant to section 16-8.5-103 and who refuses to accept  
21 medication, the jurisdiction for the petition for involuntary treatment  
22 procedures is as set forth in ~~section 16-8.5-112~~ SECTION 16-8.5-106.

23 ~~(6) (4) All adversarial proceedings pursuant to this article 65,~~  
24 ~~including proceedings to impose a legal disability pursuant to section~~  
25 ~~27-65-127, must be conducted by the district attorney of the county where~~  
26 ~~the proceeding is held or by a qualified attorney acting for the district~~  
27 ~~attorney appointed by the district court for that purpose; except that, in~~

1 ~~any county or in any city and county having a population exceeding fifty~~  
2 ~~thousand persons, the proceedings must be conducted by the county~~  
3 ~~attorney or by a qualified attorney acting for the county attorney~~  
4 ~~appointed by the district court.~~ In any case in which there has been a  
5 change of venue to a county other than the county of residence of the  
6 respondent or the county in which the certification proceeding was  
7 commenced, the county from which the proceeding was transferred shall  
8 either reimburse the county to which the proceeding was transferred and  
9 in which the proceeding was held for the reasonable costs incurred in  
10 conducting the proceeding or conduct the proceeding itself using its own  
11 personnel and resources, including its own district or county attorney, as  
12 the case may be.

13 (5) IF A CIVIL PROCEEDING WAS INITIATED PURSUANT TO THIS  
14 ARTICLE 65 OR TRANSFERRED PURSUANT TO SECTION 16-8.5-118 BUT THE  
15 PROCEEDING IS NO LONGER PROPER BECAUSE THE COURT DETERMINED  
16 THAT THE RESPONDENT HAS AN INTELLECTUAL AND DEVELOPMENTAL  
17 DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE TERMS ARE  
18 DEFINED IN SECTION 25.5-10-501, WITHOUT ANY OTHER MENTAL HEALTH  
19 DISORDER, THE COURT MAY MAINTAIN JURISDICTION BY ORDERING THE  
20 CASE TO PROCEED PURSUANT TO ARTICLE 10 OF TITLE 25.5.

21 ~~(7) Upon request of a legal guardian appointed pursuant to article~~  
22 ~~14 of title 15, the legal guardian may intervene in any proceeding brought~~  
23 ~~pursuant to this article 65 concerning the legal guardian's ward and,~~  
24 ~~through counsel, may present evidence and represent to the court the~~  
25 ~~views of the legal guardian concerning the appropriate disposition of the~~  
26 ~~case.~~

27 (8) ~~A lay person may submit an affidavit to the court concerning~~

1 ~~the lay person's relationship to the respondent, how long the lay person~~  
2 ~~has known the respondent, the lay person's physical address, and the lay~~  
3 ~~person's views concerning the appropriate disposition of the respondent's~~  
4 ~~case.~~

5 **SECTION 16.** In Colorado Revised Statutes, **add** 27-65-113.1  
6 and 27-65-113.5 as follows:

7 **27-65-113.1. Hearing procedures.**

8 (1) A HEARING HELD PURSUANT TO SECTION 27-65-108.1,  
9 27-65-108.2, 27-65-108.5, 27-65-109, OR 27-65-110 MUST BE CONDUCTED  
10 IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE THE COURT.

11 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S  
12 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT  
13 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A  
14 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND  
15 TREATMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO THE RESULTS  
16 OF THE PROFESSIONAL PERSON'S EXAMINATION. THE COURT-APPOINTED  
17 PROFESSIONAL PERSON SHALL ACT SOLELY IN AN ADVISORY CAPACITY,  
18 AND NO PRESUMPTION IS ATTACHED TO THE PROFESSIONAL PERSON'S  
19 FINDINGS.

20 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT  
21 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY  
22 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65 CONCERNING THE  
23 LEGAL GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT  
24 EVIDENCE AND REPRESENT TO THE COURT THE VIEWS OF THE LEGAL  
25 GUARDIAN CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

26 (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT  
27 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW

1 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S  
2 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE  
3 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

4 **27-65-113.5. County attorney and district attorney**  
5 **responsibilities.**

6 (1) THE COUNTY ATTORNEY OR DISTRICT ATTORNEY IN A COUNTY  
7 OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR LESS THAN  
8 FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING AS THE  
9 COUNTY OR DISTRICT ATTORNEY'S DESIGNEE WHO IS APPROVED BY THE  
10 DISTRICT COURT, HAS THE FOLLOWING POWERS AND RESPONSIBILITIES:

11 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN  
12 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 OR  
13 TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION  
14 16-8.5-118;

15 (b) TO ASSIST PROFESSIONAL PERSONS, INTERVENING  
16 PROFESSIONALS, CERTIFIED PEACE OFFICERS, REPRESENTATIVES OF THE  
17 BHA, REPRESENTATIVES OF OCFMH, AND INDIVIDUALS ENTITLED TO  
18 MAKE REQUESTS TO DETAIN OR RESTRICT THE RIGHTS OF A RESPONDENT  
19 THROUGH AN EMERGENCY MENTAL HEALTH HOLD, EVALUATIONS,  
20 CERTIFICATIONS, OR COMMITMENTS ORDERED PURSUANT TO THIS ARTICLE  
21 65 BY MAKING FILINGS TO THE COURT, INCLUDING ELECTRONICALLY  
22 INITIATING AND FILING MATERIALS WITH THE COURT SYSTEM;

23 (c) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION  
24 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT  
25 TO THIS ARTICLE 65; AND

26 (d) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS  
27 BROUGHT PURSUANT TO THIS ARTICLE 65 TO INTERESTED PARTIES AS

1 ALLOWABLE BY LAW.

2 **SECTION 17.** In Colorado Revised Statutes, **amend** 27-65-114  
3 as follows:

4 **27-65-114. Appeals.**

5 (1) Appellate review of any order ~~of~~ FOR CERTIFICATION FOR  
6 short-term treatment or long-term care and treatment OR FOR CIVIL  
7 COMMITMENT may be had as provided in the Colorado appellate rules. An  
8 appeal must be advanced upon the calendar of the appellate court and  
9 must be decided at the earliest practicable time. Pending disposition by  
10 the appellate court, the court may make such order as the court may  
11 consider proper in the premises relating to the care and custody of the  
12 respondent.

13 (2) THE COURT SHALL ADVISE A RESPONDENT SUBJECT TO AN  
14 ORDER FOR CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM  
15 CARE AND TREATMENT OR FOR CIVIL COMMITMENT OF THE RESPONDENT'S  
16 RIGHT TO APPEAL THE ORDER AT THE CONCLUSION OF ANY HEARING.

17 **SECTION 18.** In Colorado Revised Statutes, 27-65-118, **amend**  
18 (1)(a) as follows:

19 **27-65-118. Right to treatment - rules.**

20 (1) (a) Any person receiving an evaluation or treatment pursuant  
21 to this article 65 is entitled to medical and psychiatric care and treatment,  
22 with regard to services listed in section 27-50-301 and services listed in  
23 rules authorized by section 27-66-102, suited to meet the person's  
24 individual needs, delivered in such a way as to keep the person in the  
25 least-restrictive environment, and delivered in such a way as to include  
26 the opportunity for participation of family members in the person's  
27 program of care and treatment, when appropriate. ~~Nothing in~~ A PERSON

1 RECEIVING AN EVALUATION OR TREATMENT PURSUANT TO THIS ARTICLE  
2 65 MUST NOT BE DENIED CARE OR DISCHARGED DUE TO AN INABILITY TO  
3 PAY. This subsection (1)(a) ~~creates~~ DOES NOT CREATE any right with  
4 respect to any person other than the person receiving an evaluation, care,  
5 or treatment. The professional person and the agency or facility providing  
6 an evaluation, care, or treatment shall keep records detailing all care and  
7 treatment received by the person, and the records must be made available,  
8 upon the person's written authorization, to the person's attorney or the  
9 person's personal physician. The records are permanent records and must  
10 be retained in accordance with section 27-65-123 (4).

11 **SECTION 19.** In Colorado Revised Statutes, 27-65-123, **add** (7),  
12 (8), (9), and (10) as follows:

13 **27-65-123. Records.**

14 (7) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO  
15 THIS ARTICLE 65 MUST BE MAINTAINED SEPARATELY BY THE CLERKS OF  
16 THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST  
17 NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS  
18 SECTION.

19 (b) UPON THE TERMINATION OF A CERTIFICATION PURSUANT TO  
20 SECTION 27-65-112 OR THE TERMINATION OF CIVIL COMMITMENT  
21 PURSUANT TO SECTION 27-65-108.2, THE CLERK OF THE COURT SHALL  
22 IMMEDIATELY SEAL THE RECORD IN THE CASE AND OMIT THE  
23 RESPONDENT'S NAME FROM THE INDEX OF CASES IN THE COURT UNTIL AND  
24 UNLESS THE RESPONDENT BECOMES SUBJECT TO AN ORDER OF  
25 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT PURSUANT TO  
26 SECTION 27-65-110 AND UNLESS THE COURT ORDERS THE RECORDS  
27 OPENED FOR GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED

1 PURSUANT TO SECTION 27-65-110 OR 27-65-108.1, THE CERTIFICATION  
2 RECORD MAY BE OPENED AND BECOME PART OF THE RECORD IN THE  
3 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT CASE AND THE  
4 NAME OF THE RESPONDENT INDEXED.

5 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION,  
6 WHILE A MATTER IS PENDING OR AFTER IT IS SEALED, THE COURT MAY  
7 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND  
8 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING  
9 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE  
10 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A  
11 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID  
12 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE  
13 CLERK SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE AND PROVIDE  
14 THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR AUTHORIZED  
15 REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

16 (8) WHEN A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES  
17 IN THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD AS  
18 DESCRIBED IN SECTION 27-65-106, THE COURT, COUNTY ATTORNEY, OR  
19 DISTRICT ATTORNEY CONDUCTING ANY SUBSEQUENT PROCEEDINGS  
20 PURSUANT TO THIS ARTICLE 65, AND THE PROVIDER WHO CONDUCTS AN  
21 EVALUATION OR PROVIDES CARE, MAY, WITHOUT COURT AUTHORIZATION,  
22 PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY WITH THE FOLLOWING  
23 LIMITED INFORMATION:

24 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE  
25 RESPONDENT MET THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM  
26 TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

27 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN

1 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE  
2 RESPONDENT; AND

3 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR  
4 A CERTIFICATION FOR SHORT-TERM TREATMENT.

5 (9) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY  
6 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT  
7 PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT, A PROFESSIONAL  
8 PERSON, OR AN INTERVENING PROFESSIONAL WITH LAWFUL POSSESSION OF  
9 RECORDS FROM MAINTAINING AND USING THE RECORDS, UNLESS  
10 PROHIBITED BY LAW.

11 (10) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A  
12 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT,  
13 A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK  
14 TO UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED  
15 TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING  
16 COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS  
17 BROUGHT PURSUANT TO THIS ARTICLE 65.

18 **SECTION 20.** In Colorado Revised Statutes, 27-65-131, **amend**  
19 (1) introductory portion, (1)(g), and (1)(h); and **add** (1)(i) as follows:

20 **27-65-131. Data report.**

21 (1) ~~Beginning January 1, 2025, and each~~ ON OR BEFORE January  
22 1 ~~thereafter~~ OF EACH YEAR, the BHA shall ~~annually~~ submit a report to the  
23 general assembly on the outcomes and effectiveness of the involuntary  
24 commitment system described in this article 65, disaggregated by region,  
25 including any recommendations to improve the system and outcomes for  
26 persons involuntarily committed or certified pursuant to this article 65.  
27 The report must include aggregated and disaggregated nonidentifying

1 individual-level data. At a minimum, the report must include:

2 (g) Barriers and opportunities with local providers, the judicial  
3 branch, and law enforcement; ~~and~~

4 (h) How many individuals were placed in the custody of the BHA  
5 on a certification for short-term treatment who were concurrently  
6 involved in the criminal justice system, including the outcomes of each  
7 person and any barriers and opportunities that may exist to better serve  
8 the population; AND

9 (i) HOW MANY INDIVIDUALS WHO MET THE CRITERIA FOR  
10 SHORT-TERM CERTIFICATION REQUIRED INPATIENT PLACEMENT, CARE, OR  
11 TREATMENT BUT WERE NOT PROVIDED INPATIENT PLACEMENT, CARE, OR  
12 TREATMENT BECAUSE IT WAS NOT AVAILABLE.

13 **SECTION 21.** In Colorado Revised Statutes, **add** part 5 to article  
14 10 of title 25.5 as follows:

15 PART 5

16 PROTECTIVE PLACEMENT AND

17 ENHANCED PROTECTIVE PLACEMENT

18 **25.5-10-501. Definitions.**

19 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE  
20 REQUIRES:

21 (1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS  
22 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION  
23 27-60-203.

24 (2) "DANGER TO OTHERS" HAS THE MEANING SET FORTH IN  
25 SECTION 27-65-102.

26 (3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,  
27 HAS THE MEANING SET FORTH IN SECTION 27-65-102.

1 (4) "DEPARTMENT OF HEALTH CARE POLICY AND FINANCING" OR  
2 "HCPF" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND  
3 FINANCING CREATED IN SECTION 24-1-119.5.

4 (5) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE  
5 MEANING SET FORTH IN SECTION 25.5-10-202.

6 (6) "INTERVENING PROFESSIONAL" HAS THE MEANING SET FORTH  
7 IN SECTION 27-65-102.

8 (7) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN  
9 SECTION 27-65-102.

10 (8) "NEUROCOGNITIVE DISORDER" MEANS A SUBSTANTIAL AND  
11 PERSISTENT DISORDER OF THE COGNITIVE OR NEUROLOGICAL PROCESSES  
12 THAT GROSSLY IMPAIRS JUDGMENT, MEMORY, OR CAPACITY TO RECOGNIZE  
13 REALITY OR TO CONTROL BEHAVIOR, GENERAL INTELLECTUAL  
14 FUNCTIONING, OR ADAPTIVE BEHAVIOR THAT IS ATTRIBUTABLE TO A  
15 NEUROLOGICAL OR COGNITIVE DISORDER OR RELATED CONDITION,  
16 INCLUDING, BUT NOT LIMITED TO, A TRAUMATIC BRAIN INJURY, A  
17 DEGENERATIVE DISORDER, OR DEMENTIA. "NEUROCOGNITIVE DISORDER"  
18 DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

19 (9) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN  
20 SECTION 27-65-102.

21 (10) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM  
22 OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT  
23 PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND  
24 DEVELOPMENTAL DISABILITIES.

25 (11) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE  
26 MEANING SET FORTH IN SECTION 27-65-102.

27 **25.5-10-502. Criteria and standards for protective placement.**

1 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A  
2 PERSON, IF, BY CLEAR AND CONVINCING EVIDENCE, THE PERSON:

- 3 (a) HAS A NEUROCOGNITIVE DISORDER;
- 4 (b) IS UNWILLING OR UNABLE TO COMPLY WITH VOLUNTARY  
5 TREATMENT OR REASONABLE GROUNDS EXIST TO BELIEVE THAT THE  
6 PERSON WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND
- 7 (c) IS A DANGER TO THE PERSON'S SELF OR A DANGER TO OTHERS.

8 (2) WHEN EVALUATING A PERSON TO DETERMINE WHETHER THE  
9 PERSON MEETS THE CRITERIA PURSUANT TO SUBSECTION (1) OF THIS  
10 SECTION, THE COURT, EVALUATOR, INTERVENING PROFESSIONAL, OR  
11 PROFESSIONAL PERSON SHALL TAKE INTO CONSIDERATION:

- 12 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S  
13 OWN NEUROCOGNITIVE DISORDER;
- 14 (b) CLINICAL DIAGNOSIS AND CLINICAL PERSPECTIVE ON THE  
15 PERSON'S CURRENT MENTAL STATE AND PROGNOSIS;
- 16 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND  
17 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE  
18 FUTURE;
- 19 (d) RECENT OVERT ACTS BY THE PERSON TO THREATEN, CAUSE, OR  
20 ATTEMPT TO CAUSE HARM TO THE PERSON'S SELF OR OTHERS;
- 21 (e) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
22 THE PERSON'S HOSPITALIZATION, ARREST, CERTIFICATION FOR  
23 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;
- 24 (f) WHETHER THE PERSON WAS FOUND IN A CONDITION WHERE THE  
25 PERSON WAS NOT ABLE TO CARE FOR THE PERSON'S OWN BASIC NEEDS IN  
26 ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM; AND
- 27 (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE

1 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS  
2 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL  
3 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

4 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE  
5 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, OR POSES  
6 A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, THE COURT,  
7 EVALUATOR, OR INTERVENING PROFESSIONAL SHALL, WHENEVER  
8 POSSIBLE, USE ALL REASONABLE EFFORTS TO LEARN ABOUT PRIOR  
9 RELEVANT BEHAVIORS AND PRIOR DIAGNOSES THROUGH AVAILABLE AND  
10 RELIABLE SOURCES, INCLUDING THE PERSON'S PRIOR MEDICAL AND  
11 MENTAL HEALTH RECORDS, POLICE REPORTS, AND INFORMATION FROM  
12 RELIABLE INDIVIDUALS WHO HAVE A RELATIONSHIP OR REGULAR  
13 SUBSTANTIAL INTERACTIONS WITH THE PERSON.

14 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS AN  
15 INCARCERATED PERSON AS IF THE PERSON WERE IN THE COMMUNITY WHEN  
16 EVALUATING WHETHER THE PERSON MEETS THE CRITERIA PURSUANT TO  
17 SUBSECTION (1) OF THIS SECTION.

18 **25.5-10-503. Short-term protective placement - procedure.**

19 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A  
20 PERSON FOR NOT MORE THAN THREE MONTHS IF A PROFESSIONAL PERSON  
21 OR INTERVENING PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR  
22 AUTHORITY OPINES THAT THE PERSON MEETS THE CRITERIA FOR  
23 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502(1) AND THE  
24 PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL:

25 (a) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
26 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST  
27 THREE MONTHS, WHICH CONTACT FORMS THE BASIS FOR REQUESTING THE

1 PROTECTIVE PLACEMENT; OR

2 (b) HAS EVALUATED THE PERSON PURSUANT TO THIS ARTICLE 10,  
3 ARTICLE 65 OF TITLE 27, OR ARTICLE 8 OR 8.5 OF TITLE 16 WITHIN THE  
4 PAST NINETY-ONE DAYS.

5 (2)(a) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
6 SHALL PROVIDE ALL RELEVANT INFORMATION, INCLUDING OTHERWISE  
7 CONFIDENTIAL MEDICAL INFORMATION, TO THE COUNTY ATTORNEY TO  
8 ASSIST IN FILING A PETITION FOR PROTECTIVE PLACEMENT.

9 (b) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
10 MAY DISCUSS ALL RELEVANT INFORMATION WITH THE PARTIES UNTIL THE  
11 PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 HAVE CONCLUDED.

12 (c) THE COUNTY ATTORNEY OR APPOINTED LEGAL GUARDIAN MAY  
13 FILE A PETITION FOR PROTECTIVE PLACEMENT USING THE INFORMATION  
14 RECEIVED FROM THE PROFESSIONAL PERSON OR INTERVENING  
15 PROFESSIONAL PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. THE  
16 PETITION MUST:

17 (I) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS  
18 THAT THE PERSON MEETS THE CRITERIA FOR PROTECTIVE PLACEMENT  
19 PURSUANT TO SECTION 25.5-10-502 (1);

20 (II) BE ACCOMPANIED BY AN AFFIDAVIT FROM THE PROFESSIONAL  
21 PERSON OR INTERVENING PROFESSIONAL WITH AN ESTABLISHED  
22 TREATMENT RELATIONSHIP WITH THE PERSON OR AN EVALUATOR  
23 CONDUCTING THE EVALUATION OF THE PERSON PURSUANT TO THIS  
24 ARTICLE 10, ARTICLE 65 OF TITLE 27, OR ARTICLE 8 OR 8.5 OF TITLE 16;  
25 AND

26 (III) RECOMMEND WHETHER THE PROTECTIVE PLACEMENT SHOULD  
27 OCCUR ON AN INPATIENT OR OUTPATIENT BASIS.

1           (3) THE RESPONDENT BEING UNDER THE CARE OF A SUITABLE  
2 PROVIDER WHO IS WILLING TO ACCEPT THE PROTECTIVE PLACEMENT IS NOT  
3 A PREREQUISITE TO INITIATING A PROTECTIVE PLACEMENT PURSUANT TO  
4 THIS SECTION.

5           (4) WITHIN TWENTY-FOUR HOURS AFTER THE PETITION IS FILED,  
6 COPIES OF THE PETITION MUST BE PERSONALLY DELIVERED TO THE  
7 RESPONDENT, HCPF, THE BHA, AND OCFMH, AND A COPY MUST BE KEPT  
8 BY ANY KNOWN PROVIDER, THE FACILITY THAT HAS CUSTODY OF THE  
9 RESPONDENT, AND THE EVALUATING FACILITY AS PART OF THE  
10 RESPONDENT'S RECORD, IF APPLICABLE. THE FACILITY OR COURT SHALL  
11 ASK THE RESPONDENT TO DESIGNATE A LAY PERSON WHOM THE  
12 RESPONDENT WISHES TO BE INFORMED REGARDING THE PROTECTIVE  
13 PLACEMENT. IF THE RESPONDENT IS INCAPABLE OF MAKING A  
14 DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE RESPONDENT  
15 MUST BE ASKED TO DESIGNATE A LAY PERSON AS SOON AS THE  
16 RESPONDENT IS CAPABLE. IN ADDITION TO THE COPY OF THE PETITION, THE  
17 RESPONDENT MUST BE GIVEN A WRITTEN NOTICE THAT A HEARING UPON  
18 THE RESPONDENT'S PROTECTIVE PLACEMENT MAY BE HAD BEFORE THE  
19 COURT OR A JURY UPON WRITTEN REQUEST DIRECTED TO THE COURT  
20 PURSUANT TO SUBSECTION(8) OF THIS SECTION.

21           (5) WHENEVER A PETITION IS FILED WITH THE COURT PURSUANT TO  
22 THIS SECTION, THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO  
23 REPRESENT THE RESPONDENT. THE RESPONDENT HAS THE RIGHT TO AN  
24 ATTORNEY FOR ALL PROCEEDINGS CONDUCTED PURSUANT TO THIS  
25 SECTION, INCLUDING ANY APPEALS. THE ATTORNEY REPRESENTING THE  
26 RESPONDENT MUST BE PROVIDED WITH A COPY OF THE PETITION  
27 IMMEDIATELY UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT

1 MAY ONLY WAIVE COUNSEL WHEN THE RESPONDENT MAKES A KNOWING  
2 AND INTELLIGENT WAIVER IN FRONT OF THE COURT.

3 (6) AFTER THE PETITION FOR PROTECTIVE PLACEMENT IS FILED,  
4 THE COURT SHALL SCHEDULE A FIRST APPEARANCE AND ENTER ANY  
5 ORDERS NECESSARY TO HAVE THE RESPONDENT BROUGHT BEFORE THE  
6 COURT.

7 (7) AT THE RESPONDENT'S FIRST APPEARANCE, THE COURT SHALL:

8 (a) ADVISE THE RESPONDENT OF THE CONTENTS OF THE PETITION;

9 (b) ASK THE RESPONDENT TO DESIGNATE A PERSON WHOM THE  
10 RESPONDENT WANTS TO BE INFORMED OF THE PROCEEDINGS. IF THE  
11 RESPONDENT IS INCAPABLE OF MAKING A DESIGNATION, THE COURT MAY  
12 LATER ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE  
13 RESPONDENT IS CAPABLE.

14 (c) ASK WHETHER THE RESPONDENT CONTESTS THE PETITION. THE  
15 COURT SHALL ALLOW THE RESPONDENT REASONABLE TIME TO  
16 INVESTIGATE WHETHER TO CONTEST THE PETITION. IF THE RESPONDENT IS  
17 UNABLE OR REFUSES TO STATE WHETHER THE RESPONDENT CONTESTS THE  
18 PETITION, THE COURT SHALL ENTER A FINDING THAT THE RESPONDENT IS  
19 CONTESTING THE PETITION.

20 (8) THE RESPONDENT MAY AT ANY TIME FILE A WRITTEN REQUEST  
21 CONTESTING THE PETITION OR PROTECTIVE PLACEMENT, SEEKING REVIEW  
22 OF THE PROTECTIVE PLACEMENT, OR SEEKING TERMINATION OF INPATIENT  
23 TREATMENT AND THAT TREATMENT CONTINUE ON AN OUTPATIENT BASIS.  
24 THE COURT SHALL HEAR THE MATTER WITHIN TEN DAYS AFTER THE  
25 REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT AND  
26 THE RESPONDENT'S ATTORNEY AND THE TREATING PROFESSIONAL PERSON  
27 OF THE TIME AND PLACE OF THE HEARING. THE HEARING MUST BE HELD IN

1 ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION OF THE  
2 HEARING, THE COURT MAY ENTER OR CONFIRM THE ORDER FOR  
3 PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY  
4 OTHER APPROPRIATE ORDER.

5 (9) (a) THE DEPARTMENT OF HEALTH CARE POLICY AND  
6 FINANCING, IN COLLABORATION WITH THE BHA, IS RESPONSIBLE FOR  
7 FINDING AN APPROPRIATE PROVIDER AND PLACEMENT FOR THE  
8 RESPONDENT. THE COURT MAY ORDER HCPF AND THE BHA TO  
9 INVESTIGATE PLACEMENT, INCLUDING PRIOR TO A HEARING TO DETERMINE  
10 IF THE RESPONDENT MEETS THE CRITERIA FOR PROTECTIVE PLACEMENT.

11 (b) UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN  
12 IDENTIFIED AND IS WILLING TO ACCEPT THE PROTECTIVE PLACEMENT, THE  
13 COURT SHALL ORDER HCPF AND THE BHA TO PROVIDE CARE  
14 COORDINATION AND MAKE DILIGENT EFFORTS TO FIND A PROVIDER FOR  
15 THE RESPONDENT. HCPF AND THE BHA MAY SHARE, AS NECESSARY,  
16 INFORMATION WITH POTENTIALLY APPROPRIATE CARE PROVIDERS AND  
17 PARTIES. HCPF AND THE BHA SHALL KEEP THE COURT INFORMED, IN  
18 WRITING, OF EFFORTS MADE TO FIND AN APPROPRIATE PROVIDER FOR THE  
19 RESPONDENT.

20 (c) UPON ORDERING A PROTECTIVE PLACEMENT OF THE  
21 RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT HAS  
22 CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

23 (d) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT IN  
24 A PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO ANOTHER  
25 PROVIDER FOR TREATMENT AND THE SAFETY OF THE RESPONDENT OR THE  
26 PUBLIC REQUIRES THAT THE RESPONDENT BE TRANSPORTED BY A SECURE  
27 TRANSPORTATION PROVIDER OR A LAW ENFORCEMENT AGENCY, THE

1 COURT MAY ISSUE AN ORDER DIRECTING THE LAW ENFORCEMENT AGENCY  
2 WHERE THE RESPONDENT RESIDES OR SECURE TRANSPORTATION PROVIDER  
3 TO DELIVER THE RESPONDENT TO THE DESIGNATED PROVIDER.

4 (e) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
5 AND THE BHA MAY RECEIVE AND POSSESS ALL INFORMATION RELEVANT  
6 TO THE PROCEEDINGS PURSUANT TO THIS SECTION, INCLUDING ANY  
7 EVALUATIONS; ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH  
8 A WAIVER OR PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS PURSUANT TO  
9 THIS PART 5, ARTICLE 65 OF TITLE 27, OR ARTICLE 8 OR 8.5 OF TITLE 16;  
10 AND RELEVANT CRIMINAL JUSTICE RECORDS, INCLUDING ANY CRIMINAL  
11 HISTORY OF THE RESPONDENT.

12 (10) IF THE COURT FINDS THAT THE RESPONDENT MEETS THE  
13 CRITERIA FOR PROTECTIVE PLACEMENT AND THAT RESIDENTIAL CARE IS  
14 NECESSARY, BUT NO RESIDENTIAL CARE PROVIDER, INCLUDING A SKILLED  
15 NURSING FACILITY OR REGIONAL CENTER, IS WILLING AND ABLE TO ACCEPT  
16 THE RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN  
17 EXHAUSTED, THE COURT SHALL NOTIFY HCPF OF THE FINDING, REFER THE  
18 RESPONDENT FOR COMMUNITY-BASED SERVICES, AND DISMISS THE  
19 PETITION.

20 (11) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN  
21 SECTION 25.5-10-506, A PROTECTIVE PLACEMENT MAY BE TERMINATED  
22 UPON THE SIGNATURE OF THE TREATING MEDICAL PROFESSIONAL AND THE  
23 MEDICAL DIRECTOR OF THE FACILITY. A RESPONDENT UNDER AN ORDERED  
24 PROTECTIVE PLACEMENT ON AN OUTPATIENT BASIS MAY BE DISCHARGED  
25 UPON THE SIGNATURE OF THE APPROVED PROFESSIONAL PERSON  
26 OVERSEEING THE RESPONDENT'S TREATMENT, AND THE PROFESSIONAL  
27 PERSON SHALL NOTIFY HCPF AND THE BHA PRIOR TO THE DISCHARGE. A

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

9 (12) IF THE PROFESSIONAL PERSON IN CHARGE OF THE  
10 RESPONDENT'S EVALUATION AND TREATMENT BELIEVES THAT A PERIOD  
11 LONGER THAN THREE MONTHS IS NECESSARY TO TREAT THE RESPONDENT,  
12 THE PROFESSIONAL PERSON SHALL FILE WITH THE COURT A REQUEST FOR  
13 AN EXTENDED PROTECTIVE PLACEMENT AT LEAST THIRTY DAYS PRIOR TO  
14 THE EXPIRATION DATE OF THE ORIGINAL PROTECTIVE PLACEMENT. AN  
15 EXTENDED PROTECTIVE PLACEMENT FOR TREATMENT MUST NOT BE FOR A  
16 PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS ENTITLED TO  
17 A HEARING ON THE EXTENDED PROTECTIVE PLACEMENT UNDER THE SAME  
18 CONDITIONS AS AN ORIGINAL PROTECTIVE PLACEMENT. THE ATTORNEY  
19 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO  
20 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER  
21 ATTORNEY.

22 **25.5-10-504. Long-term protective placement of persons with**  
23 **a neurocognitive disorder - procedure.**

24 (1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE  
25 PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL  
26 PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE  
27 APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A

1 PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE  
2 EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A  
3 LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE  
4 FOLLOWING CONDITIONS:

5 (a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY  
6 PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE  
7 RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO  
8 MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
9 25.5-10-502 (1); AND

10 (b) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, IN  
11 COLLABORATION WITH THE BHA, HAS IDENTIFIED A PROVIDER OR  
12 PLACEMENT TO PROVIDE CARE AND TREATMENT OF THE RESPONDENT.

13 (2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST  
14 INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE  
15 EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR  
16 A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO  
17 WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE  
18 ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST  
19 BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM  
20 PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO  
21 THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE  
22 FILING.

23 (3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE  
24 RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY  
25 TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.

26 (4) THE COURT OR JURY SHALL DETERMINE WHETHER THE  
27 CONDITIONS OF SUBSECTION (1) OF THIS SECTION ARE MET AND WHETHER

1 THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR  
2 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE  
3 COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT  
4 FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT  
5 FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER  
6 ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE  
7 PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE BHA FOR  
8 PLACEMENT WITH AN AGENCY OR FACILITY THAT IS APPROPRIATE TO  
9 PROVIDE LONG-TERM PROTECTIVE PLACEMENT. THE BHA, IN  
10 COOPERATION WITH HCPF MAY DELEGATE THE PHYSICAL CUSTODY OF  
11 THE RESPONDENT TO ANY FACILITY OR PROVIDER APPROPRIATE TO CARE  
12 FOR THE RESPONDENT AND THE REQUIREMENT FOR THE PROVISION OF  
13 SERVICES AND CARE COORDINATION. WHEN A PETITION CONTAINS A  
14 REQUEST THAT A SPECIFIC LEGAL DISABILITY BE IMPOSED OR THAT A  
15 SPECIFIC LEGAL RIGHT BE DEPRIVED, THE COURT MAY ORDER THE  
16 DISABILITY IMPOSED OR THE RIGHT DEPRIVED IF THE COURT OR A JURY HAS  
17 DETERMINED THAT THE RESPONDENT MEETS THE CRITERIA AND  
18 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
19 25.5-10-502 (1) AND THAT, AS A RESULT, THE RESPONDENT IS UNABLE TO  
20 COMPETENTLY EXERCISE THE SPECIFIC LEGAL RIGHT OR PERFORM THE  
21 FUNCTION FOR WHICH THE DISABILITY IS SOUGHT TO BE IMPOSED. ANY  
22 INTERESTED PERSON MAY ASK LEAVE OF THE COURT TO INTERVENE AS A  
23 COPETITIONER FOR THE PURPOSE OF SEEKING THE IMPOSITION OF A LEGAL  
24 DISABILITY OR THE DEPRIVATION OF A LEGAL RIGHT.

25 (5) AN ORIGINAL ORDER OF LONG-TERM PROTECTIVE PLACEMENT  
26 AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED,  
27 UNLESS FURTHER EXTENDED AS PROVIDED IN THIS SUBSECTION (5). IF AN

1 EXTENSION IS BEING SOUGHT, THE PROFESSIONAL PERSON IN CHARGE OF  
2 THE EVALUATION AND TREATMENT SHALL CERTIFY TO THE COURT AT  
3 LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORDER IN  
4 FORCE THAT AN EXTENSION OF THE ORDER IS NECESSARY FOR THE  
5 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN  
6 FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED  
7 TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE  
8 RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE  
9 THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE  
10 TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY OF RECORD THAT  
11 A HEARING UPON THE EXTENSION MAY BE HAD BEFORE THE COURT OR A  
12 JURY UPON WRITTEN REQUEST TO THE COURT WITHIN TEN DAYS AFTER  
13 RECEIPT OF THE NOTICE. IF A HEARING IS NOT TIMELY REQUESTED BY THE  
14 RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS  
15 TIMELY REQUESTED, THE HEARING MUST BE HELD BEFORE THE EXPIRATION  
16 DATE OF THE ORDER IN FORCE. IF THE COURT OR JURY FINDS THAT THE  
17 CONDITIONS OF SUBSECTION (1) OF THIS SECTION CONTINUE TO BE MET  
18 AND THAT THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND  
19 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
20 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER.  
21 ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS  
22 MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

23 (6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE  
24 PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON  
25 THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL  
26 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE BHA  
27 AND HCPF PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL

1 MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE  
2 RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY  
3 PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN  
4 ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS  
5 TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN  
6 OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE  
7 FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST  
8 TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

9 **25.5-10-505. Protective placement on an outpatient basis or**  
10 **host home - short-term and long-term treatment.**

11 (1) A RESPONDENT IN A PROTECTIVE PLACEMENT PURSUANT TO  
12 SECTION 25.5-10-503 OR 25.5-10-504 MAY BE TREATED ON AN  
13 OUTPATIENT BASIS. THE OUTPATIENT TREATMENT PROVIDER SHALL  
14 DEVELOP A TREATMENT PLAN FOR THE RESPONDENT RECEIVING  
15 TREATMENT ON AN OUTPATIENT BASIS WITH THE GOAL OF THE  
16 RESPONDENT FINDING AND SUSTAINING STABILITY. THE TREATMENT PLAN  
17 MUST INCLUDE MEASURES TO KEEP THE RESPONDENT OR THE COMMUNITY  
18 SAFE, AS INFORMED BY THE RESPONDENT'S NEED FOR PROTECTIVE  
19 PLACEMENT. THE TREATMENT PLAN MAY INCLUDE, BUT IS NOT LIMITED  
20 TO:

- 21 (a) CASE MANAGEMENT;
- 22 (b) DAY OR PARTIAL-DAY PROGRAMMING ACTIVITIES;
- 23 (c) OUTPATIENT PROGRAMS INCLUDING TREATMENT;
- 24 (d) EDUCATIONAL AND VOCATIONAL TRAINING OR ACTIVITIES; AND
- 25 (e) HOUSING AND TRANSPORTATION ASSISTANCE.

26 (2) AT A COURT HEARING, THE RESPONDENT, THE RESPONDENT'S  
27 LEGAL GUARDIAN, THE RESPONDENT'S PATIENT REPRESENTATIVE, THE

1 RESPONDENT'S LAY PERSON, OR ANY PARTY MAY CONTEST A  
2 RESPONDENT'S TREATMENT REGIMEN OR PROTECTIVE PLACEMENT  
3 REQUIREMENTS.

4 (3) THE FACILITY OR PROVIDER RESPONSIBLE FOR PROVIDING  
5 SERVICES TO A RESPONDENT IN A PROTECTIVE PLACEMENT ON AN  
6 OUTPATIENT BASIS SHALL PROACTIVELY REACH OUT TO THE RESPONDENT  
7 TO ENGAGE THE RESPONDENT IN TREATMENT OR PROGRAMMING. THE  
8 FACILITY OR PROVIDER RESPONSIBLE FOR PROVIDING SERVICES TO A  
9 RESPONDENT IN A PROTECTIVE PLACEMENT ON AN OUTPATIENT BASIS  
10 SHALL PROVIDE THE COURT WITH INFORMATION ON THE FACILITY'S  
11 PROACTIVE OUTREACH TO THE RESPONDENT.

12 (4) IF A RESPONDENT IS PLACED IN A MORE RESTRICTIVE SETTING,  
13 THE RESPONDENT HAS THE RIGHT TO JUDICIAL REVIEW OF THE PLACEMENT  
14 WITHIN TEN DAYS AFTER FILING A WRITTEN REQUEST FOR JUDICIAL  
15 REVIEW.

16 (5) (a) IN ADDITION TO ANY OTHER LIMITATION ON LIABILITY, A  
17 PERSON PROVIDING CARE TO A RESPONDENT PLACED ON SHORT-TERM OR  
18 LONG-TERM PROTECTIVE PLACEMENT ON AN OUTPATIENT BASIS IS ONLY  
19 LIABLE FOR HARM SUBSEQUENTLY CAUSED:

20 (I) BY OR TO A RESPONDENT WHO HAS BEEN TERMINATED FROM  
21 PROTECTIVE PLACEMENT DESPITE MEETING STATUTORY CRITERIA FOR  
22 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1); OR

23 (II) BY SERVICES PROVIDED TO THE RESPONDENT NOT WITHIN THE  
24 SCOPE OF THE PERSON'S PROFESSIONAL LICENSE, OR IF THE PERSON WAS  
25 RECKLESS OR GROSSLY NEGLIGENT IN PROVIDING SERVICES.

26 (b) A PROVIDER IS NOT LIABLE IF A RESPONDENT'S PROTECTIVE  
27 PLACEMENT IS TERMINATED, DESPITE MEETING CRITERIA FOR PROTECTIVE

1 PLACEMENT, IF THE PROVIDER IS UNABLE TO LOCATE THE RESPONDENT  
2 DESPITE PROACTIVE AND REASONABLE OUTREACH.

3 (6) A RESPONDENT SUBJECT TO A SHORT-TERM OR LONG-TERM  
4 PROTECTIVE PLACEMENT ON AN OUTPATIENT BASIS HAS THE FOLLOWING  
5 RIGHTS, IN ADDITION TO THOSE ENUMERATED IN SECTION 25.5-10-514:

6 (a) TO REQUEST A CHANGE TO VOLUNTARY STATUS. A CHANGE TO  
7 VOLUNTARY STATUS MAY BE DENIED BY THE SUPERVISING PROFESSIONAL  
8 PERSON RESPONSIBLE FOR THE RESPONDENT'S TREATMENT IF THE  
9 PROFESSIONAL PERSON DETERMINES REASONABLE GROUNDS EXIST TO  
10 BELIEVE THAT THE RESPONDENT WILL NOT REMAIN IN A VOLUNTARY  
11 TREATMENT PROGRAM.

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

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

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

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

25 (f) WITHIN FORTY-EIGHT HOURS AFTER THE RESPONDENT'S  
26 REQUEST, TO SEE AND RECEIVE THE SERVICES OF A PATIENT  
27 REPRESENTATIVE WHO HAS NO DIRECT OR INDIRECT CLINICAL,

1 ADMINISTRATIVE, OR FINANCIAL RESPONSIBILITY FOR THE RESPONDENT;

2 (g) TO HAVE THE RESPONDENT'S TREATMENT ORDERS FOR SCOPE  
3 OF TREATMENT REVIEWED AND CONSIDERED BY THE COURT;

4 (h) TO HAVE THE RESPONDENT'S INFORMATION AND RECORDS  
5 DISCLOSED TO ADULT FAMILY MEMBERS AND A LAY PERSON PURSUANT TO  
6 SECTION 25.5-10-515;

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

9 (j) TO HAVE THE RIGHT TO FILE A MOTION WITH THE COURT AT ANY  
10 TIME TO CONTEST THE PROTECTIVE PLACEMENT.

11 **25.5-10-506. Termination of protective placement - short-term**  
12 **and long-term placement.**

13 (1) A PROTECTIVE PLACEMENT TERMINATES WHEN THE  
14 PROFESSIONAL PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT  
15 AND HCPF, AFTER A REASONABLE OBSERVATION AND TREATMENT  
16 PERIOD, DETERMINE THE RESPONDENT NO LONGER MEETS THE CRITERIA  
17 FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1).

18 (2) AT LEAST TWENTY-FOUR HOURS BEFORE TERMINATING A  
19 PROTECTIVE PLACEMENT, THE PROFESSIONAL PERSON IN CHARGE OF  
20 PROVIDING TREATMENT SHALL NOTIFY THE INDIVIDUAL OR ENTITY THAT  
21 FILED THE PETITION FOR PROTECTIVE PLACEMENT. THE INDIVIDUAL OR  
22 ENTITY THAT FILED THE PETITION MAY, WITHIN TWENTY-FOUR HOURS  
23 AFTER RECEIVING THE NOTICE, PETITION THE COURT TO INTERVENE. THE  
24 COURT MAY, IF SATISFIED BY THE PETITION TO INTERVENE, STAY THE  
25 TERMINATION, HOLD AN EMERGENCY HEARING AS SOON AS PRACTICABLE,  
26 AND IF THE COURT FINDS THE RESPONDENT STILL MEETS THE CRITERIA FOR  
27 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1), EXTEND

1 THE PROTECTIVE PLACEMENT FOR A MINIMUM PERIOD OF TIME NOT TO  
2 EXCEED FOURTEEN DAYS.

3 (3) IF A PETITION TO INTERVENE IS NOT FILED, OR IF THE PETITION  
4 WAS DENIED, THE PROFESSIONAL PERSON IN CHARGE OF PROVIDING  
5 TREATMENT SHALL NOTIFY THE COURT IN WRITING WITHIN FIVE DAYS  
6 AFTER THE TERMINATION.

7 **25.5-10-507. Court supervision of incompetent and**  
8 **unrestorable persons ordered into an enhanced protective placement.**

9 (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF  
10 AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118  
11 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509,  
12 THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED  
13 PROTECTIVE PLACEMENT.

14 (2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE  
15 PLACEMENT, THE COURT SHALL:

16 (a) NOTIFY THE COUNTY ATTORNEY;

17 (b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND  
18 PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO  
19 THE RESPONDENT'S ATTORNEY; AND

20 (c) SET A REVIEW HEARING AND ORDER THE RESPONDENT  
21 BROUGHT BEFORE THE COURT.

22 (3) AT THE REVIEW HEARING, THE COURT SHALL:

23 (a) ENSURE THE RESPONDENT IS REPRESENTED BY COUNSEL; AND

24 (b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

25 (I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS  
26 WAIVED BY THE RESPONDENT;

27 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED

1 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT  
2 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD  
3 PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;

4 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE  
5 ENHANCED PROTECTIVE PLACEMENT; AND

6 (IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED  
7 PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY  
8 TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE  
9 ENHANCED PROTECTIVE PLACEMENT.

10 (4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT,  
11 THE COURT MAY:

12 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED  
13 PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING  
14 THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;

15 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER  
16 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT  
17 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE  
18 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED  
19 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;

20 (c) ORDER OCFMH TO PROVIDE TO THE COURT:

21 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS  
22 THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE  
23 PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

24 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN  
25 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
26 DISORDER WITHOUT HAVING ANY OTHER MENTAL HEALTH DISORDER THAT  
27 IS NOT AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR

1 NEUROCOGNITIVE DISORDER AND THAT SUBSTANTIALLY CONTRIBUTES TO  
2 WHETHER THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR  
3 A DANGER TO OTHERS, OR IS GRAVELY DISABLED;

4 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE  
5 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE  
6 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE  
7 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR  
8 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY  
9 THE PLACEMENT;

10 (e) ORDER, AS NECESSARY, APPROPRIATE ENTITIES, INCLUDING THE  
11 SHERIFF, TO BRING THE RESPONDENT BEFORE THE COURT OR TAKE THE  
12 RESPONDENT TO THE PLACEMENT WHERE PHYSICAL CUSTODY OF THE  
13 RESPONDENT HAS BEEN ORDERED;

14 (f) APPOINT A LEGAL GUARDIAN PURSUANT TO ARTICLE 14 OF  
15 TITLE 15; OR

16 (g) ISSUE ORDERS AS NECESSARY TO EFFECTUATE AND ENFORCE  
17 THE COURT'S POWERS AND RESPONSIBILITIES PURSUANT TO THIS SECTION,  
18 INCLUDING AUTHORIZATION FOR THE REASONABLE USE OF FORCE,  
19 WARRANTS FOR THE ARREST OF THE RESPONDENT, OR CONTEMPT  
20 PROCEEDINGS AGAINST A NONCOMPLIANT INDIVIDUAL OR ENTITY.

21 (5) (a) THE COURT SHALL ENSURE THE RESPONDENT IS PLACED IN  
22 THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM  
23 AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE,  
24 THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
25 RESPONDENT.

26 (b) PRIOR TO MODIFYING THE ENHANCED PROTECTIVE PLACEMENT  
27 TO CHANGE THE RESPONDENT'S PROVIDER OR PLACEMENT, THE COURT

1 SHALL REVIEW THE APPROPRIATENESS OF THE PROPOSED PROVIDER OR  
2 PLACEMENT, INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S  
3 DIAGNOSIS AND TREATMENT NEEDS AND WHETHER THE PLACEMENT  
4 SUFFICIENTLY PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK  
5 OF SERIOUS HARM TO OTHERS POSED BY THE RESPONDENT.

6 (c) UPON REQUEST, THE COURT SHALL PERMIT OCFMH, THE  
7 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO  
8 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY  
9 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE  
10 COURT'S DECISION.

11 (d) WHEN DECIDING WHETHER TO APPROVE THE NEW PROVIDER OR  
12 PLACEMENT, THE COURT SHALL GIVE DEFERENCE TO OCFMH AND THE  
13 OPINION OF ANY MEDICAL PROFESSIONAL ON THE APPROPRIATENESS OF  
14 THE PROVIDER AND PLACEMENT FOR THE RESPONDENT, BUT DEFERENCE  
15 MUST NOT BE GIVEN TO OCFMH OR A MEDICAL PROFESSIONAL AS TO  
16 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS ANY VICTIMS AND THE  
17 COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS  
18 POSED BY THE RESPONDENT. WHEN CONSIDERING THE APPROPRIATENESS  
19 OF THE PLACEMENT FOR THE RESPONDENT, VICTIMS, AND THE COMMUNITY,  
20 THE COURT SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES,  
21 INCLUDING:

22 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE  
23 RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND  
24 DEVELOPMENTAL DISABILITY;

25 (II) THE CLINICAL DIAGNOSIS AND CLINICAL PERSPECTIVE ON THE  
26 RESPONDENT'S CURRENT MENTAL STATE AND PROGNOSIS;

27 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED

1 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH TREATMENT AND  
2 SERVICES IN THE REASONABLY FORESEEABLE FUTURE;

3 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,  
4 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR  
5 OTHERS;

6 (V) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
7 THE RESPONDENT'S HOSPITALIZATION, ARREST, CERTIFICATION FOR  
8 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

9 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION  
10 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S  
11 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL  
12 HARM; AND

13 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
14 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF  
15 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS  
16 WILL REOCCUR WITHOUT INPATIENT TREATMENT.

17 (e) THE COURT SHALL NOT MODIFY THE ENHANCED PROTECTIVE  
18 PLACEMENT TO PLACE THE RESPONDENT INTO A STATE HOSPITAL UNLESS  
19 THE COURT HAS EXHAUSTED ALL REASONABLE ATTEMPTS TO FIND AN  
20 ALTERNATIVE, INCLUDING IN A REGIONAL CENTER OR SKILLED NURSING  
21 FACILITY, AND NO OTHER LESS-RESTRICTIVE PLACEMENTS ARE ADEQUATE  
22 TO PROTECT THE VICTIM AND THE COMMUNITY. IF THE RESPONDENT IS  
23 PLACED IN A STATE HOSPITAL, THE RESPONDENT SHALL BE TRANSFERRED  
24 TO A REGIONAL CENTER, SKILLED NURSING FACILITY, OR OTHER  
25 APPROPRIATE COMMUNITY PLACEMENT AS SOON AS APPROPRIATE AND  
26 POSSIBLE.

27 (f) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE

1 PLACED INTO A COMMUNITY-BASED SETTING FOR THE FIRST TIME SINCE  
2 BEING IN AN ENHANCED PROTECTIVE PLACEMENT UNLESS:

3 (I) THE VICTIMS HAVE BEEN NOTIFIED OF A CRITICAL STAGE, AS  
4 DEFINED IN SECTION 24-4.1-302 (2)(q.3), AND GIVEN THE OPPORTUNITY TO  
5 BE HEARD; AND

6 (II) THE DISTRICT ATTORNEY IN THE CASE THAT SOUGHT CIVIL  
7 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT HAS BEEN NOTIFIED  
8 AND GIVEN AN OPPORTUNITY TO OBJECT AND BE HEARD.

9 (g) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR  
10 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO  
11 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,  
12 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND  
13 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM  
14 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER  
15 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT  
16 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE  
17 RESPONDENT CANNOT COMPLY.

18 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED  
19 WITHIN HCPF, THE EXECUTIVE DIRECTOR OF HCPF SHALL DESIGNATE THE  
20 STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR CARE AND  
21 TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE FACILITY TO  
22 ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT IS  
23 APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE, CUSTODY,  
24 AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION OF THE  
25 PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

26 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,  
27 HCPF SHALL:

1 (I) ENSURE THE RESPONDENT IS PLACED IN THE  
2 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND  
3 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE  
4 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
5 RESPONDENT; AND

6 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED  
7 SETTING FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO  
8 AN ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE  
9 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

10 (7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS  
11 GOVERNED BY SECTION 25.5-10-508.

12 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND  
13 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT  
14 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS  
15 ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A  
16 SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE  
17 PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

18 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT:

19 (I) MEETS THE CRITERIA FOR SHORT-TERM CERTIFICATION  
20 PURSUANT TO SECTION 27-65-108.3 (1) OR SHORT-TERM PROTECTIVE  
21 PLACEMENT PURSUANT TO SECTION 25.5-10-503 (1);

22 (II) CONTINUES TO MEET THE CRITERIA FOR ENHANCED  
23 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118;

24 (III) MEETS THE CRITERIA FOR CIVIL COMMITMENT PURSUANT TO  
25 SECTION 16-8.5-118;

26 (IV) IS APPROPRIATELY PLACED; AND

27 (V) MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED

- 1 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508;
- 2 (b) A SUMMARY OF THE MATERIALS REVIEWED, ASSESSMENTS  
3 CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED;
- 4 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE  
5 RESPONDENT'S SYMPTOMS ARE IN REMISSION;
- 6 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO  
7 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S  
8 PROGRESS;
- 9 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH  
10 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS  
11 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE  
12 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;
- 13 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO  
14 OTHERS;
- 15 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE  
16 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED  
17 TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED  
18 PROTECTIVE PLACEMENT;
- 19 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS  
20 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC  
21 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A  
22 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR;
- 23 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE  
24 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND
- 25 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION  
26 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.
- 27 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE

1 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE  
2 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR  
3 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO  
4 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED  
5 NECESSARY FOR THE COURT'S SUPERVISION OF THE ENHANCED PROTECTIVE  
6 PLACEMENT.

7 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,  
8 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST  
9 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND  
10 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE  
11 ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM  
12 TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE  
13 CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT  
14 PURSUANT TO SECTION 25.5-10-508. THE RESPONDENT SHALL COOPERATE  
15 WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION  
16 (10)(a).

17 (b) STATEMENTS MADE BY THE RESPONDENT DURING AN  
18 EXAMINATION CONDUCTED PURSUANT TO THIS SUBSECTION (10) MUST NOT  
19 BE USED IN ANY CRIMINAL PROSECUTION.

20 **25.5-10-508. Termination of enhanced protective placement.**

21 (1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED  
22 PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507  
23 WHEN THE RESPONDENT:

24 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO  
25 OTHERS; OR

26 (b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR  
27 INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO

1 CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR  
2 A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED  
3 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S  
4 CONDUCT TO THE REQUIREMENTS OF THE LAW.

5 (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE  
6 AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT  
7 MEETS THE STANDARD FOR TERMINATION FROM ENHANCED PROTECTIVE  
8 PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE  
9 PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE  
10 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE  
11 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE  
12 DISTRICT ATTORNEY WHO ORIGINALLY REQUESTED A CIVIL COMMITMENT  
13 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
14 16-8.5-118. THE COURT SHALL FURNISH A COPY OF THE REPORT TO THE  
15 RESPONDENT AND THE RESPONDENT'S COUNSEL.

16 (3) (a) WITHIN THIRTY-FIVE DAYS AFTER RECEIVING THE REPORT  
17 DESCRIBED IN SUBSECTION (2) OF THIS SECTION, UNLESS THE RESPONDENT  
18 IS NOT ENTITLED TO A TERMINATION TRIAL PURSUANT TO SUBSECTION (5)  
19 OF THIS SECTION, THE COURT SHALL BRING THE RESPONDENT BEFORE THE  
20 COURT, ENSURE THE RESPONDENT AND THE RESPONDENT'S COUNSEL  
21 RECEIVED A COPY OF THE REPORT, AND ADVISE THE RESPONDENT OF THE  
22 RIGHT TO DEMAND A TRIAL BY THE COURT OR THE RIGHT TO DEMAND, IN  
23 WRITING, A JURY TRIAL OF NOT MORE THAN SIX INDIVIDUALS TO  
24 DETERMINE WHETHER THE RESPONDENT MEETS THE CRITERIA FOR  
25 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

26 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE  
27 COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE

1 DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL  
2 SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A  
3 DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME  
4 LIMITATIONS IN THIS SUBSECTION (3)(b). IF THE COURT DOES NOT BEGIN  
5 THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION  
6 (3)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE  
7 PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE  
8 AND CUSTODY.

9 (c) AFTER SETTING THE TRIAL, THE COURT SHALL PROMPTLY  
10 NOTIFY THE DISTRICT ATTORNEY WHO ORIGINALLY SOUGHT CIVIL  
11 COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO  
12 SECTION 16-8.5-118.

13 (4) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT  
14 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION  
15 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1)  
16 OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A  
17 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE  
18 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
19 SECTION.

20 (b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE  
21 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
22 SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE  
23 PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S  
24 ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE  
25 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT  
26 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE  
27 ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY

1 ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT  
2 OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

3 (5) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET  
4 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
5 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION  
6 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL  
7 FOR TERMINATION.

8 (6) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR  
9 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO  
10 LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A  
11 NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY  
12 DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE  
13 DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL  
14 CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL  
15 COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT  
16 IN ACCORDANCE WITH SECTION 27-65-108.1.

17 (7) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR  
18 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A  
19 CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN  
20 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE  
21 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
22 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
23 OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE  
24 RECOMMENDATION OF OCFMH, CONVERT THE ENHANCED PROTECTIVE  
25 PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE  
26 CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-108.1.

27 **25.5-10-509. Jurisdiction - transfer.**

1           (1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO  
2 THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS  
3 PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING  
4 JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF  
5 ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY  
6 FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

7           (b) WHEN THE CONVENIENCE OF THE PARTIES AND THE ENDS OF  
8 JUSTICE WOULD BE PROMOTED BY A CHANGE IN THE COURT HAVING  
9 JURISDICTION, THE COURT MAY ORDER A TRANSFER OF THE PROCEEDING  
10 TO ANOTHER COUNTY. UNTIL FURTHER ORDER OF THE TRANSFEREE COURT,  
11 IF ANY, IT IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE  
12 CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS  
13 PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING  
14 TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS  
15 INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT  
16 PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

17           (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),  
18 ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED  
19 PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED  
20 WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR  
21 TREATMENT.

22           (b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT  
23 PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION  
24 WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS  
25 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

26           (c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN  
27 INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION

1 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE  
2 PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT  
3 RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF  
4 THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE  
5 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

6 (3) IN ANY CASE IN WHICH THERE HAS BEEN A CHANGE OF VENUE  
7 TO A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE  
8 RESPONDENT OR THE COUNTY IN WHICH THE PROCEEDING WAS  
9 COMMENCED, THE COUNTY FROM WHICH THE PROCEEDING WAS  
10 TRANSFERRED SHALL EITHER REIMBURSE THE COUNTY TO WHICH THE  
11 PROCEEDING WAS TRANSFERRED AND IN WHICH THE PROCEEDING WAS  
12 HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE  
13 PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN  
14 PERSONNEL AND RESOURCES, INCLUDING ITS OWN DISTRICT OR COUNTY  
15 ATTORNEY, AS THE CASE MAY BE.

16 (4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10  
17 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE  
18 ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT  
19 DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR  
20 A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN  
21 ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR  
22 NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION  
23 AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

24 **25.5-10-510. Hearing procedures.**

25 (1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE  
26 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE  
27 THE COURT.

1           (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S  
2 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT  
3 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A  
4 PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO  
5 THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE  
6 COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN  
7 ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE  
8 PROFESSIONAL PERSON'S FINDINGS.

9           (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT  
10 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY  
11 PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL  
12 GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND  
13 REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN  
14 CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

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

20           **25.5-10-511. County attorney and district attorney**  
21 **responsibilities.**

22           (1) THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY IN A  
23 COUNTY OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR  
24 LESS THAN FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING  
25 AS THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S DESIGNEE WHO IS  
26 APPROVED BY THE DISTRICT COURT, HAS THE FOLLOWING POWERS AND  
27 RESPONSIBILITIES:

1 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN  
2 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED  
3 FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

4 (b) TO ASSIST PROFESSIONAL PERSONS, INTERVENING  
5 PROFESSIONALS, CERTIFIED PEACE OFFICERS, REPRESENTATIVES OF THE  
6 BHA, REPRESENTATIVES OF OCFMH, AND INDIVIDUALS ENTITLED TO  
7 MAKE REQUESTS TO DETAIN OR RESTRICT THE RIGHTS OF A RESPONDENT  
8 THROUGH EVALUATIONS OR PLACEMENTS ORDERED PURSUANT TO THIS  
9 PART 5 BY MAKING FILINGS TO THE COURT, INCLUDING ELECTRONICALLY  
10 INITIATING AND FILING MATERIALS WITH THE COURT SYSTEM;

11 (c) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION  
12 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT  
13 TO THIS PART 5; AND

14 (d) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS  
15 BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS  
16 ALLOWABLE BY LAW.

17 **25.5-10-512. Appeals.**

18 (1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE  
19 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS  
20 PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE  
21 ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE  
22 DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY  
23 THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT  
24 MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND  
25 CUSTODY OF THE RESPONDENT.

26 (2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE  
27 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF

1 THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE  
2 CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE  
3 ENTERED.

4 **25.5-10-513. Habeas corpus.**

5 ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS ENTITLED TO  
6 AN ORDER IN THE NATURE OF HABEAS CORPUS UPON PROPER PETITION TO  
7 ANY COURT GENERALLY EMPOWERED TO ISSUE ORDERS IN THE NATURE OF  
8 HABEAS CORPUS.

9 **25.5-10-514. Rights of respondents ordered into enhanced**  
10 **protective placement or protective placement.**

11 (1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS  
12 PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED  
13 PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN  
14 INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10,  
15 INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220,  
16 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227,  
17 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

18 (2) A RESPONDENT PLACED IN THE CUSTODY OF OCFMH AT A  
19 STATE HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO  
20 PROCEEDINGS PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE  
21 RIGHTS PROVIDED IN SECTIONS 27-65-105, 27-65-108, 27-65-117,  
22 27-65-118, 27-65-119, 27-65-122, AND 27-65-124.

23 **25.5-10-515. Records - rules.**

24 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL  
25 INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF  
26 PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION  
27 OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION

1 AND RECORDS MAY BE DISCLOSED ONLY:

2 (a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS,  
3 FACILITY PERSONNEL, OR STATE AGENCIES IN THE PROVISION OF SERVICES  
4 OR APPROPRIATE REFERRALS;

5 (b) WHEN THE RECIPIENT OF SERVICES DESIGNATES PERSONS TO  
6 WHOM INFORMATION OR RECORDS MAY BE RELEASED, BUT, IF A RECIPIENT  
7 OF SERVICES IS A WARD OR CONSERVATEE AND THE WARD'S OR  
8 CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING,  
9 PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE  
10 DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT;  
11 EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN,  
12 PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER  
13 PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN  
14 GIVEN TO THE PERSON IN CONFIDENCE BY MEMBERS OF A PATIENT'S  
15 FAMILY OR OTHER INFORMANTS;

16 (c) TO THE EXTENT NECESSARY TO MAKE CLAIMS ON BEHALF OF A  
17 RECIPIENT OF AID, INSURANCE, OR MEDICAL ASSISTANCE TO WHICH THE  
18 RECIPIENT MAY BE ENTITLED;

19 (d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH.  
20 THE RULES MUST INCLUDE, BUT ARE NOT LIMITED TO, THE REQUIREMENT  
21 THAT ALL RESEARCHERS MUST SIGN AN OATH OF CONFIDENTIALITY. ALL  
22 IDENTIFYING INFORMATION CONCERNING INDIVIDUAL PATIENTS,  
23 INCLUDING NAMES, ADDRESSES, TELEPHONE NUMBERS, AND SOCIAL  
24 SECURITY NUMBERS, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

25 (e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF  
26 THIS PART 5;

27 (f) TO PERSONS AUTHORIZED BY AN ORDER OF COURT AFTER

1 NOTICE AND OPPORTUNITY FOR HEARING TO THE PERSON TO WHOM THE  
2 RECORD OR INFORMATION PERTAINS AND THE CUSTODIAN OF THE RECORD  
3 OR INFORMATION PURSUANT TO THE COLORADO RULES OF CIVIL  
4 PROCEDURE;

5 (g) TO FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A  
6 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL  
7 DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

8 (h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY  
9 PARTICIPATING IN THE CARE AND TREATMENT OF A PERSON WITH A  
10 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL  
11 DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE  
12 INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS LIMITED  
13 TO ONE OR MORE OF THE FOLLOWING: THE DIAGNOSIS, THE PROGNOSIS,  
14 THE NEED FOR HOSPITALIZATION AND ANTICIPATED LENGTH OF STAY, THE  
15 DISCHARGE PLAN, THE MEDICATION ADMINISTERED AND SIDE EFFECTS OF  
16 THE MEDICATION, AND THE SHORT-TERM AND LONG-TERM TREATMENT  
17 GOALS.

18 (i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE  
19 AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND  
20 ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C.  
21 SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY  
22 SYSTEM FOR COLORADO.

23 (2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT  
24 PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE  
25 PARENT'S MINOR CHILD.

26 (3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION  
27 PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND

1 INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107,  
2 CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL  
3 OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING  
4 SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE  
5 COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING  
6 SERVICES PURSUANT TO THIS PART 5.

7 (b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO  
8 PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A  
9 CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION  
10 16-8-103.6.

11 (c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF  
12 NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL  
13 DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE  
14 PERSON.

15 (4) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO  
16 THIS PART 5 MUST BE MAINTAINED SEPARATELY BY THE CLERK OF THE  
17 SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST NOT BE  
18 MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS SECTION.

19 (b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT  
20 PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN  
21 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508,  
22 THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE  
23 CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN  
24 THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN  
25 ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION  
26 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR  
27 GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO

1 SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND  
2 BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE  
3 PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

4 (c) NOTWITHSTANDING SUBSECTION (4)(b) OF THIS SECTION,  
5 WHILE A MATTER IS PENDING OR AFTER A CASE IS SEALED, THE COURT MAY  
6 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND  
7 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING  
8 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE  
9 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A  
10 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID  
11 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE  
12 CLERK OF THE COURT SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE  
13 AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR  
14 AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

15 (5) IF A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES IN  
16 THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD, THE COURT,  
17 COUNTY ATTORNEY, OR DISTRICT ATTORNEY CONDUCTING ANY  
18 SUBSEQUENT PROCEEDINGS PURSUANT TO THIS PART 5 AND THE PROVIDER  
19 WHO CONDUCTS AN EVALUATION OR PROVIDES CARE MAY, WITHOUT  
20 COURT AUTHORIZATION, PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY  
21 WITH THE FOLLOWING LIMITED INFORMATION:

22 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE  
23 RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE  
24 PLACEMENT PURSUANT TO SECTION 25.5-10-503;

25 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN  
26 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE  
27 RESPONDENT; AND

1 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR  
2 SHORT-TERM PROTECTIVE PLACEMENT.

3 (6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY  
4 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT  
5 PURSUANT TO THIS PART 5, HCPF, A PROFESSIONAL PERSON, OR AN  
6 INTERVENING PROFESSIONAL WITH LAWFUL POSSESSION OF RECORDS FROM  
7 MAINTAINING AND USING THE RECORDS, UNLESS PROHIBITED BY LAW.

8 (7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A  
9 PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, A PROFESSIONAL  
10 PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE  
11 RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE  
12 RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING COMPETENCY  
13 PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT  
14 PURSUANT TO THIS PART 5.

15 **25.5-10-516. Payment for counsel.**

16 IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS  
17 ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL  
18 DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL  
19 ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A  
20 CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM  
21 GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL  
22 PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST  
23 LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

24 **SECTION 22.** In Colorado Revised Statutes, 13-94-105, **add**  
25 (1.6) as follows:

26 **13-94-105. Office of public guardianship - director - duties -**  
27 **memorandum of understanding - annual report - repeal.**

1 (1.6) THE OFFICE MAY ESTABLISH, MAINTAIN, AND ADJUST  
2 STAFFING LEVELS, INCLUDING GUARDIANS, CASE AIDES, AND  
3 ADMINISTRATIVE SUPPORT, AS NECESSARY TO:

4 (a) SCREEN AND ACCEPT REFERRALS ARISING FROM COMPETENCY  
5 PROCEEDINGS UNDER ARTICLE 8.5 OF TITLE 16;

6 (b) PROVIDE TEMPORARY EMERGENCY PUBLIC GUARDIANSHIP  
7 SERVICES PURSUANT TO SECTION 15-14-312 (6), ARTICLE 8.5 OF TITLE 16,  
8 ARTICLE 10 OF TITLE 25.5, AND ARTICLE 65 OF TITLE 27 FOR INDIGENT  
9 INDIVIDUALS FOUND INCOMPETENT TO PROCEED;

10 (c) IDENTIFY AND SUPPORT TIMELY TRANSITIONS TO CIVIL  
11 PLACEMENT, TREATMENT, AND SERVICES IN ORDER TO PREVENT  
12 UNNECESSARY INCARCERATION OR HOSPITALIZATION; AND

13 (d) SUPPORT LONG-TERM GUARDIANSHIP SERVICES WHEN  
14 NECESSARY.

15 **SECTION 23.** In Colorado Revised Statutes, 15-14-312, **add** (6)  
16 as follows:

17 **15-14-312. Emergency guardian.**

18 (6) IN ADDITION TO A COURT WITH JURISDICTION TO HEAR  
19 PROCEEDINGS PURSUANT TO THIS TITLE 15, A CRIMINAL COURT MAY  
20 APPOINT AN EMERGENCY GUARDIAN AS AUTHORIZED PURSUANT TO  
21 SECTION 16-8.5-117 OR 16-8.5-118, OR A CIVIL COURT SUPERVISING A  
22 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-108.1 OR AN ENHANCED  
23 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 MAY  
24 APPOINT AN EMERGENCY GUARDIAN.

25 **SECTION 24.** In Colorado Revised Statutes, 24-4.1-302, **add**  
26 (2)(q.1), (2)(q.2), and (2)(q.3) as follows:

27 **24-4.1-302. Definitions.**

1 As used in this part 3, and for no other purpose, including the  
2 expansion of the rights of any defendant:

3 (2) "Critical stages" means the following stages of the criminal  
4 justice process:

5 (q.1) A TRIAL FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
6 PLACEMENT PURSUANT TO SECTION 16-8.5-118;

7 (q.2) A HEARING TO TERMINATE A CIVIL COMMITMENT PURSUANT  
8 TO SECTION 27-65-108.2 OR AN ENHANCED PROTECTIVE PLACEMENT  
9 PURSUANT TO SECTION 25.5-10-508;

10 (q.3) THE TRANSFER, RELEASE, OR ESCAPE OF A PERSON UNDER A  
11 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-108.1 OR AN ENHANCED  
12 PROTECTIVE PLACEMENT UNDER COURT SUPERVISION PURSUANT TO  
13 SECTION 25.5-10-507 WHEN THE CRIMINAL CASE INITIATING THE CIVIL  
14 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT INVOLVED A  
15 VICTIM.

16 **SECTION 25.** In Colorado Revised Statutes, 24-4.1-302.5,  
17 **amend** (1)(b); and **add** (1)(j.6) as follows:

18 **24-4.1-302.5. Rights afforded to victims - definitions.**

19 (1) In order to preserve and protect a victim's rights to justice and  
20 due process, each victim of a crime has the following rights:

21 (b) The right to be informed of and be present by appearing in  
22 person, by phone, virtually by audio or video, or similar technology for  
23 all critical stages of the criminal justice process as specified in section  
24 24-4.1-302 (2); except that the victim shall have the right to be informed  
25 of, without being present for, the critical stages described in section  
26 24-4.1-302 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p),  
27 (2)(q), **(2)(q.3)**, (2)(r), and (2)(u);

1           (j.6) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR CHANGES  
2 TO MATERIAL TERMS OF A CIVIL COMMITMENT PURSUANT TO SECTION  
3 27-65-108.1 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO  
4 SECTION 25.5-10-507 ON BEHALF OF A PERSON IN A CIVIL COMMITMENT OR  
5 PROTECTIVE PLACEMENT IN A CRIMINAL CASE INVOLVING THE VICTIM, AND  
6 THE RIGHT TO BE PRESENT BY APPEARING IN PERSON, BY PHONE, OR  
7 VIRTUALLY BY VIDEO OR AUDIO, OR SIMILAR TECHNOLOGY, AND HEARD AT  
8 ANY HEARING DURING WHICH A COURT CONSIDERS THE REQUEST. AS USED  
9 IN THIS SUBSECTION (1)(j.6), "REQUEST FOR CHANGES TO MATERIAL  
10 TERMS" INCLUDES ANY REQUEST TO BE RELEASED FROM AN INPATIENT  
11 SETTING TO AN OUTPATIENT SETTING OR TO BE MOVED INTO A  
12 LESS-SECURE SETTING.

13           **SECTION 26.** In Colorado Revised Statutes, 24-4.1-303, **add**  
14 (11)(b.8), (14.6), and (14.8) as follows:

15           **24-4.1-303. Procedures for ensuring rights of victims of**  
16 **crimes.**

17           (11) The district attorney shall inform a victim of the following:

18           (b.8) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302  
19 (2)(q.1);

20           (14.6) ANY FACILITY OR PROVIDER THAT HAS THE CARE AND  
21 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING  
22 PURSUANT TO A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE  
23 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OR SUPERVISION OF A CIVIL  
24 COMMITMENT PURSUANT TO SECTION 27-65-108.1 OR ENHANCED  
25 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 THAT  
26 RESULTED FROM A CRIMINAL CASE INVOLVING A VICTIM SHALL NOTIFY THE  
27 APPLICABLE COUNTY ATTORNEY OF THE FOLLOWING:

- 1 (a) THE INSTITUTION IN WHICH THE PERSON RESIDES;
- 2 (b) ANY RELEASE OF THE PERSON ON FURLOUGH OR OTHER
- 3 PROGRAM, IN ADVANCE OF THE RELEASE;
- 4 (c) ANY OTHER TRANSFER OR RELEASE FROM AN INPATIENT
- 5 SETTING;
- 6 (d) ANY ESCAPE BY THE PERSON AND ANY SUBSEQUENT
- 7 RECAPTURE OF THE PERSON; AND
- 8 (e) THE DEATH OF THE PERSON WHILE IN CUSTODY OR WHILE
- 9 UNDER THE JURISDICTION OF THE STATE.

10 (14.8) THE COUNTY ATTORNEY SHALL INFORM A VICTIM OF THE

11 FOLLOWING:

- 12 (a) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302
- 13 (2)(q.1), (2)(q.2), AND (2)(q.3);
- 14 (b) ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL
- 15 COMMITMENT DESCRIBED IN SECTION 24-4.1-302.5 (2)(j.6); AND
- 16 (c) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.6)
- 17 OF THIS SECTION FROM A FACILITY OR A PROVIDER WHO HAS THE CARE AND
- 18 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING
- 19 PURSUANT TO A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-108.1
- 20 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
- 21 25.5-10-507.

22 **SECTION 27.** In Colorado Revised Statutes, 13-5-142, **amend**

23 (1)(c) and (3)(b)(III) as follows:

24 **13-5-142. National instant criminal background check system**

25 **- reporting.**

26 (1) On and after March 20, 2013, the state court administrator

27 shall send electronically the following information to the Colorado bureau

1 of investigation created pursuant to section 24-33.5-401, referred to in  
2 this section as the "bureau":

3 (c) The name of each person with respect to whom the court has  
4 entered an order for ~~involuntary~~ certification for short-term treatment of  
5 a mental health disorder pursuant to section 27-65-108.5 or 27-65-109,  
6 for extended certification for treatment of a mental health disorder  
7 pursuant to ~~section 27-65-109 (10)~~ SECTION 27-65-109 (17), or for  
8 long-term care and treatment of a mental health disorder pursuant to  
9 section 27-65-110.

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

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

14 (III) The record in the case was sealed pursuant to ~~section~~  
15 ~~27-65-109 (7)~~ SECTION 27-65-123 (7) OR 25.5-10-515 (4), or the court  
16 entered an order discharging the person from certification in the nature of  
17 habeas corpus pursuant to section 27-65-115, if the record in the national  
18 instant criminal background check system is based on a court order for  
19 involuntary certification for short-term treatment of a mental health  
20 disorder.

21 **SECTION 28.** In Colorado Revised Statutes, 13-5-142.5, **amend**  
22 (2)(a)(III) as follows:

23 **13-5-142.5. National instant criminal background check**  
24 **system - judicial process for awarding relief from federal**  
25 **prohibitions - legislative declaration.**

26 (2) **Eligibility.** A person may petition for relief pursuant to this  
27 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 27-65-108.5 or 27-65-109, for extended certification for  
4 treatment of a mental health disorder pursuant to ~~section 27-65-109 (10)~~  
5 SECTION 27-65-109 (17), or for long-term care and treatment of a mental  
6 health disorder pursuant to section 27-65-110; and

7 **SECTION 29.** In Colorado Revised Statutes, **amend** 13-5-142.8  
8 as follows:

9 **13-5-142.8. Notice by professional persons.**

10 Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and  
11 13-5-142.5 (2), an order for involuntary certification for short-term  
12 treatment of a mental health disorder pursuant to section 27-65-108.5 or  
13 27-65-109 must also include a notice filed by a professional person  
14 pursuant to section 27-65-108.5 or 27-65-109, and an order for extended  
15 certification for treatment of a mental health disorder pursuant to ~~section~~  
16 ~~27-65-109 (10)~~ SECTION 27-65-109 (17) must also include a notice filed  
17 by a professional person pursuant to ~~section 27-65-109 (10)~~ SECTION  
18 27-65-109 (17).

19 **SECTION 30.** In Colorado Revised Statutes, 13-9-123, **amend**  
20 (1)(c) and (3)(b)(III) as follows:

21 **13-9-123. National instant criminal background check system**  
22 **- reporting.**

23 (1) On and after March 20, 2013, the state court administrator  
24 shall send electronically the following information to the Colorado bureau  
25 of investigation created pursuant to section 24-33.5-401, referred to in  
26 this section as the "bureau":

27 (c) The name of each person with respect to whom the court has

1 entered an order for involuntary certification for short-term treatment of  
2 a mental health disorder pursuant to section 27-65-108.5 or 27-65-109,  
3 for extended certification for treatment of a mental health disorder  
4 pursuant to ~~section 27-65-109 (10)~~ SECTION 27-65-109 (17), or for  
5 long-term care and treatment of a mental health disorder pursuant to  
6 section 27-65-110.

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

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

11 (III) The record in the case was sealed pursuant to ~~section~~  
12 ~~27-65-109 (7)~~ SECTION 27-65-123 (7), or the court entered an order  
13 discharging the person from certification in the nature of habeas corpus  
14 pursuant to section 27-65-115, if the record in the national instant  
15 criminal background check system is based on a court order for  
16 involuntary certification for short-term treatment of a mental health  
17 disorder.

18 **SECTION 31.** In Colorado Revised Statutes, 13-9-124, **amend**  
19 (2)(a)(III) as follows:

20 **13-9-124. National instant criminal background check system**  
21 **- judicial process for awarding relief from federal prohibitions -**  
22 **legislative declaration.**

23 (2) **Eligibility.** A person may petition for relief pursuant to this  
24 section if:

25 (a) (III) The court has entered an order for the person's involuntary  
26 certification for short-term treatment of a mental health disorder pursuant  
27 to section 27-65-108.5 or 27-65-109, for extended certification for

1 treatment of a mental health disorder pursuant to ~~section 27-65-109 (10)~~  
2 SECTION 27-65-109 (17), or for long-term care and treatment of a mental  
3 health disorder pursuant to section 27-65-110; and

4 **SECTION 32.** In Colorado Revised Statutes, 15-18.7-202,  
5 **amend** (7) as follows:

6 **15-18.7-202. Behavioral health orders for scope of treatment**  
7 **- form contents - effect.**

8 (7) Nothing in this part 2 means that an adult who has executed a  
9 behavioral health orders form has consented to a petition for involuntary  
10 administration of medication authority pursuant to ~~section 27-65-113 (5)~~  
11 SECTION 27-65-113 (3).

12 **SECTION 33.** In Colorado Revised Statutes, 16-5-401, **amend**  
13 (2.5)(b) as follows:

14 **16-5-401. Limitation for commencing criminal proceedings,**  
15 **civil infraction proceedings, and juvenile delinquency proceedings -**  
16 **definitions.**

17 (2.5) (b) The time limitations imposed by this section are tolled  
18 beginning when a defendant's case is dismissed without prejudice for the  
19 purpose of facilitating certification for short-term treatment pursuant to  
20 ~~section 16-8.5-111 (3)~~ SECTION 16-8.5-109 until either the defendant's  
21 criminal case is refiled or six months has passed since the case was  
22 dismissed, whichever is earlier.

23 **SECTION 34.** In Colorado Revised Statutes, 16-8.6-103, **amend**  
24 (2)(b) as follows:

25 **16-8.6-103. Bridges wraparound care program - established.**

26 (2) The purpose of the bridges wraparound care program is to:

27 (b) Serve eligible individuals whose cases have been dismissed

1 pursuant to ~~section 16-8.5-111 (1.6)~~ SECTION 16-8.5-109 (4) but who are  
2 voluntarily willing to participate in the bridges wraparound care program;

3 **SECTION 35.** In Colorado Revised Statutes, 16-10-404, **amend**  
4 (1)(b) as follows:

5 **16-10-404. Use of a court facility dog - definitions.**

6 (1) As used in this section, unless the context otherwise requires:

7 (b) "Criminal proceeding" or "criminal proceedings" has the same  
8 meaning as set forth in section 16-8.5-101. ~~(8)~~.

9 **SECTION 36.** In Colorado Revised Statutes, 17-22.5-403.5,  
10 **amend** (4)(f) as follows:

11 **17-22.5-403.5. Special needs parole.**

12 (4) (f) If, prior to or during any parole revocation hearing,  
13 including hearings for offenders granted parole pursuant to subsection (5)  
14 of this section, the department or a member of the parole board has a  
15 substantial and good faith reason to believe that the offender is  
16 incompetent to proceed, as defined in section 16-8.5-101, ~~(12)~~; the parole  
17 board shall suspend all proceedings and notify the public defender liaison  
18 described in section 21-1-104 (6). THE COURT SHALL APPOINT the office  
19 of state public defender ~~shall be appointed by the court~~ to represent the  
20 inmate, and THE OFFICE OF STATE PUBLIC DEFENDER shall file a written  
21 motion with the trial court that imposed the sentence to determine  
22 competency. The motion must contain a certificate of counsel stating that  
23 the motion is based on a good faith belief that the inmate is incompetent  
24 to proceed. The motion must set forth the specific facts that have formed  
25 the basis for the motion. The court shall seal the motion. The court shall  
26 follow all the relevant procedures in article 8.5 of title 16 regarding the  
27 determination of competency. The presence of the inmate is not required

1 unless there is good cause shown.

2 **SECTION 37.** In Colorado Revised Statutes, 17-26-118, **amend**  
3 (3)(i) as follows:

4 **17-26-118. Criminal justice data collection - definitions.**

5 (3) The keeper of each jail facility shall keep and maintain a daily  
6 record of the following data:

7 (i) The number of confined inmates awaiting a competency  
8 evaluation, ~~as defined in section 16-8.5-101 (2);~~ a competency hearing,  
9 ~~as defined in section 16-8.5-101 (4);~~ or a restoration hearing, as THOSE  
10 TERMS ARE defined in section 16-8.5-101; ~~(17);~~

11 **SECTION 38.** In Colorado Revised Statutes, 22-31-129, **amend**  
12 (1) introductory portion and (1)(g) as follows:

13 **22-31-129. Vacancies.**

14 (1) A school director office ~~shall be~~ IS deemed to be vacant upon  
15 the occurrence of any one of the following events prior to the expiration  
16 of the term of office:

17 (g) If a court of competent jurisdiction determines that the person  
18 duly elected or appointed is insane or otherwise mentally incompetent,  
19 but only after the right to appeal has been waived or otherwise exhausted,  
20 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or  
21 ~~section 27-65-109 (4) or 27-65-127, C.R.S.~~ SECTION 27-65-123 (7) OR  
22 25.5-10-515 (4), an order specifically finding that the insanity or mental  
23 incompetency is of such a degree that the person is incapable of serving  
24 as a school director;

25 **SECTION 39.** In Colorado Revised Statutes, 22-60.5-107,  
26 **amend** (2)(a) as follows:

27 **22-60.5-107. Grounds for denying, annulling, suspending, or**

1 **revoking license, certificate, endorsement, or authorization -**  
2 **definitions.**

3 (2) Any license, certificate, endorsement, or authorization may be  
4 denied, annulled, suspended, or revoked in the manner prescribed in  
5 section 22-60.5-108, notwithstanding the provisions of subsection (1) of  
6 this section:

7 (a) When the holder has been determined to be mentally  
8 incompetent by a court of competent jurisdiction and a court has entered,  
9 pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-65-109~~  
10 ~~(4) or 27-65-127, C.R.S. SECTION 27-65-123 (7) OR 25.5-10-515 (4), an~~  
11 order specifically finding that the mental incompetency is of such a  
12 degree that the holder is incapable of continuing to perform ~~his or her~~  
13 THEIR job; except that the license, certificate, endorsement, or  
14 authorization held by a person who has been determined to be mentally  
15 incompetent and for whom such an order has been entered ~~shall~~ MUST be  
16 revoked or suspended by operation of law without a hearing,  
17 notwithstanding the provisions of section 22-60.5-108;

18 **SECTION 40.** In Colorado Revised Statutes, 24-72-705, **amend**  
19 (1)(g) as follows:

20 **24-72-705. Sealing criminal justice records other than**  
21 **convictions - simplified process - applicability.**

22 (1) (g) Charges that are dismissed pursuant to ~~section 16-8.5-116~~  
23 SECTION 16-8.5-109 (4), 16-8.5-113, OR 16-8.5-116 are not eligible for  
24 sealing.

25 **SECTION 41.** In Colorado Revised Statutes, 26-1-107, **amend**  
26 (6)(h) as follows:

27 **26-1-107. State board of human services - reimbursement for**

1 **expenses - rules.**

2 (6) The state board shall:

3 (h) Adopt rules concerning standards for the level of training,  
4 education, and experience that a psychiatrist or psychologist ~~shall have to~~  
5 MUST be qualified IN ORDER to perform competency evaluations in  
6 criminal cases pursuant to section 16-8-106 and article 8.5 of title 16,  
7 ~~C.R.S.~~, and standards for conducting and reporting competency  
8 evaluations in criminal cases. ~~Prior to adopting the rules, the state board~~  
9 ~~shall consider recommendations from the competency evaluation advisory~~  
10 ~~board created in section 16-8.5-119, C.R.S.~~

11 **SECTION 42.** In Colorado Revised Statutes, 27-60-105, **amend**  
12 (2) and (6) as follows:

13 **27-60-105. Outpatient restoration to competency services -**  
14 **jail-based behavioral health services - responsible entity - duties -**  
15 **report - legislative declaration.**

16 (2) The state department serves as a central organizing structure  
17 and responsible entity for the provision of competency restoration  
18 education services and coordination of competency restoration services  
19 ordered by the court pursuant to ~~section 16-8.5-111 (2)~~ SECTION  
20 16-8.5-110(1) or 19-2.5-704 (2), and the behavioral health administration  
21 serves as the central organizing structure and responsible entity for  
22 jail-based behavioral health services pursuant to section 27-60-106.

23 (6) In addition to subsection (4) of this section and subject to  
24 available appropriations, the state department shall require any county jail  
25 to assist in the provision of interim mental health services for individuals  
26 who have been court-ordered for inpatient competency restoration and  
27 who are waiting admission for an inpatient bed. This section does not toll

1 or otherwise modify the time frames for the state department to offer  
2 inpatient admission pursuant to the provisions of ~~section 16-8.5-111~~  
3 SECTION 16-8.5-110.

4 **SECTION 43.** In Colorado Revised Statutes, 27-71-103, **amend**  
5 (2)(c)(II) as follows:

6 **27-71-103. Mental health residential facilities - additional**  
7 **beds.**

8 (2) (c) The state department, in collaboration with the behavioral  
9 health administration and the department of health care policy and  
10 financing, shall establish criteria for admissions and discharge planning,  
11 quality assurance monitoring, appropriate length of stay, and compliance  
12 with applicable federal law. For the mental health residential facilities  
13 created pursuant to this section, admission criteria for facilities must  
14 include:

15 (II) For treatment beds that do not serve individuals covered under  
16 a home- and community-based waiver, offering priority placement to  
17 individuals under a certification for short-term or extended short-term  
18 treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION  
19 27-65-108.5 OR 27-65-109, and long-term care and treatment pursuant to  
20 ~~section 27-65-109~~ SECTION 27-65-110 on an outpatient basis.

21 **SECTION 44.** In Colorado Revised Statutes, 27-94-107, **amend**  
22 (2) as follows:

23 **27-94-107. Renovation for additional beds.**

24 (2) Initially, the beds may be used for persons needing  
25 competency services. When the wait list for INPATIENT competency  
26 RESTORATION services ~~provided pursuant to section 16-8.5-111~~ FOR  
27 DEFENDANTS NOT ADMITTED WITHIN THE TIME LIMITS SET FORTH IN

1 SECTION 16-8.5-110 (3)(a)(II) OR (3)(a)(III) is eliminated or trending so  
2 that it can be reasonably expected to be eliminated within one year, the  
3 department of human services shall implement a plan to transition the  
4 beds created in subsection (1) of this section to serve civil patients and  
5 immediately notify the joint budget committee of the general assembly.  
6 Within one year after the notification to the joint budget committee, all  
7 beds created pursuant to subsection (1) of this section must serve civil  
8 patients.

9 **SECTION 45. Repeal of nonrelocated provisions in this act.**

10 In Colorado Revised Statutes, **repeal** the following provisions that are not  
11 relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113  
12 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

13 **SECTION 46. Safety clause.** The general assembly finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, or safety or for appropriations for  
16 the support and maintenance of the departments of the state and state  
17 institutions.