

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 26-0122.01 Owen Hatch x2698

SENATE BILL 26-014

SENATE SPONSORSHIP

Amabile, Coleman, Cutter, Gonzales J., Kipp, Snyder, Wallace

HOUSE SPONSORSHIP

Rydin and Soper,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO THE AFFIRMATIVE DEFENSE OF NOT
102 GUILTY BY REASON OF INSANITY.

Bill Summary

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

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. Current law requires the defense to furnish a copy of any report of examination of the defendant that is made at the instance of the defense to the prosecution in a reasonable amount of time in advance of trial. The bill requires a copy of the report to also be

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.

HOUSE
Amended 2nd Reading
March 30, 2026

SENATE
3rd Reading Unamended
February 10, 2026

SENATE
Amended 2nd Reading
February 9, 2026

furnished to the court who, upon receipt of the copy, shall provide a copy to the department of human services.

The bill authorizes community placement of a defendant for treatment and rehabilitation.

The bill clarifies the legal standard for a defendant's conditional or unconditional release from the department.

The bill makes technical corrections.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-8-108, **amend** (2)
3 as follows:

4 **16-8-108. Examination at instance of defendant.**

5 (2) A copy of any report of examination of the defendant made at
6 the instance of the defense ~~shall~~ **MUST** be furnished to THE COURT AND the
7 prosecution IN a reasonable time in advance of trial. UPON RECEIPT OF THE
8 REPORT OF EXAMINATION, THE COURT SHALL PROVIDE A COPY OF THE
9 REPORT TO THE DEPARTMENT OF HUMAN SERVICES.

10 **SECTION 2.** In Colorado Revised Statutes, 16-8-115, **amend**
11 (1)(a)(I) and **add** (1)(b.5) as follows:

12 **16-8-115. Release from commitment after verdict of not guilty**
13 **by reason of insanity or not guilty by reason of impaired mental**
14 **condition - definitions.**

15 (1) (a) (I) Upon an initial commitment following a finding of not
16 guilty by reason of insanity pursuant to section 16-8-105.5 (4)(b), or upon
17 delaying final entry of the finding of not guilty by reason of insanity
18 pursuant to ~~section 16-8-5-105.5 (4)(a)~~ SECTION 16-8-105.5 (4)(a), the
19 court shall schedule an initial release hearing no later than one hundred
20 twenty days after the initial commitment. The court shall order the
21 department of human services to complete a release examination no later
22 than thirty days prior to the initial release hearing. The defendant may

1 request an additional release examination by a medical expert in mental
2 health disorders of the defendant's choosing pursuant to section 16-8-108.
3 The court may continue the hearing beyond one hundred and twenty days
4 upon a finding of good cause or if necessary to conduct a second
5 evaluation of the defendant.

6 (b.5) AT ANY UNCONDITIONAL RELEASE HEARING FOR A
7 DEFENDANT WHO IS ON ANY CONDITIONAL RELEASE, IF ANY EVIDENCE IS
8 INTRODUCED THAT SHOWS THE DEFENDANT IS INELIGIBLE FOR
9 UNCONDITIONAL RELEASE, THE DEFENDANT HAS THE BURDEN OF PROVING
10 BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT MEETS THE
11 APPLICABLE TEST FOR UNCONDITIONAL RELEASE PURSUANT TO SECTION
12 16-8-120. IF THE COURT FINDS THE DEFENDANT ELIGIBLE FOR
13 UNCONDITIONAL RELEASE, THE COURT SHALL ORDER THE UNCONDITIONAL
14 RELEASE OF THE DEFENDANT. IF THE COURT FINDS THE DEFENDANT
15 INELIGIBLE FOR UNCONDITIONAL RELEASE, THE COURT SHALL ORDER
16 CONTINUED CONDITIONAL RELEASE AND MAY IMPOSE OR MODIFY SUCH
17 TERMS AND CONDITIONS AS THE COURT DETERMINES ARE IN THE BEST
18 INTEREST OF THE DEFENDANT AND THE COMMUNITY AND SHALL NOTIFY
19 THE DISTRICT ATTORNEY OF THE ORDER.

20 **SECTION 3.** In Colorado Revised Statutes, **amend** 16-8-117 as
21 follows:

22 **16-8-117. Advisement on matters to be determined.**

23 When a determination is ~~to be~~ made as to a defendant's eligibility
24 for CONDITIONAL OR UNCONDITIONAL release, the court shall explain to
25 the defendant the nature and consequences of the proceeding and the
26 rights of the defendant pursuant to this section, including the defendant's
27 right to a jury trial upon the question of eligibility for CONDITIONAL OR

1 UNCONDITIONAL release. The defendant ~~if the defendant wishes to contest~~
2 ~~the question,~~ may request a hearing that must be granted as a matter of
3 right. At the hearing, the defendant and the prosecuting attorney are
4 entitled to be present in person, to examine any reports of examination or
5 other matter to be considered by the court as bearing upon the
6 determination, to introduce evidence, summon witnesses, cross-examine
7 witnesses for the other side or the court, and to make opening and closing
8 statements and argument. The court may examine or cross-examine any
9 witness called by the defendant or prosecuting attorney and may summon
10 and examine witnesses on its own motion.

11 **SECTION 4.** In Colorado Revised Statutes, 16-8-118, **amend** (1)
12 introductory portion, (1)(a), (2)(a) introductory portion, (2)(a.5), (2)(b),
13 (2)(c), and (2)(d)(I) as follows:

14 **16-8-118. Temporary removal and community placement for**
15 **treatment and rehabilitation.**

16 (1) The chief officer of the institution where a defendant has been
17 committed ~~under~~ PURSUANT TO this article 8 or article 8.5 of this title 16,
18 or the chief officer's designee, may authorize treatment and rehabilitation
19 activities involving COMMUNITY PLACEMENT OF THE DEFENDANT OR
20 temporary physical removal of the defendant from the institution where
21 the defendant has been placed, if prior to the authorization the following
22 procedures are carried out:

23 (a) The chief officer, or the chief officer's designee, shall give
24 written notice by certified mail, with return receipt requested, to the
25 committing court and the district attorney that on or after thirty-five days
26 from the date of mailing the notice, the chief officer, or the chief officer's
27 designee, will authorize treatment and rehabilitation activities involving

1 COMMUNITY PLACEMENT OF THE DEFENDANT OR temporary physical
2 removal of the defendant from the institution, unless THE CHIEF OFFICER,
3 OR THE CHIEF OFFICER'S DESIGNEE, RECEIVES written objections to the
4 authorization ~~are received by the chief officer, or the chief officer's~~
5 ~~designee~~, within thirty-five days ~~from~~ AFTER the date of mailing the
6 notice.

7 (2) (a) A court shall order ~~any~~ A defendant who receives treatment
8 and rehabilitation activities involving COMMUNITY PLACEMENT OF THE
9 DEFENDANT OR temporary physical removal of the defendant from the
10 institution to register with the local law enforcement agency of the
11 jurisdiction ~~in which~~ WHERE the defendant resides if the court finds that:

12 (a.5) A court may order ~~any~~ A defendant who receives treatment
13 and rehabilitation activities involving COMMUNITY PLACEMENT OF THE
14 DEFENDANT OR temporary physical removal of the defendant from the
15 institution to register with the local law enforcement agency of the
16 jurisdiction where the defendant resides if the court finds that the chief
17 officer of the institution where the defendant has been committed, or the
18 chief officer's designee, recommends registration based on information
19 obtained from the defendant during the course of treatment that indicates
20 the defendant has committed an offense involving unlawful sexual
21 behavior.

22 (b) Prior to COMMUNITY PLACEMENT OR temporary physical
23 removal from the institution of ~~any~~ A defendant who is required to
24 register pursuant to this subsection (2), the department of human services
25 shall obtain from the defendant the address where the defendant plans to
26 reside and the department shall notify the local law enforcement agency
27 of the jurisdiction where the defendant plans to reside and the Colorado

1 bureau of investigation as provided in section 16-8-115 (4)(c).

2 (c) ~~Any~~ A defendant required to register pursuant to this
3 subsection (2) shall register as provided in section 16-8-115 (4). The local
4 law enforcement agency shall transmit any registrations received pursuant
5 to this subsection (2) to the Colorado bureau of investigation within three
6 business days ~~following~~ AFTER receipt. The Colorado bureau of
7 investigation shall include any registration information received pursuant
8 to this section in the central registry established pursuant to section
9 16-22-110 and shall specify that the information applies to a defendant
10 required to register as a condition of COMMUNITY PLACEMENT OR
11 temporary physical removal from an institution. The forms completed by
12 ~~defendants~~ A DEFENDANT required to register pursuant to this subsection
13 (2) ~~shall be~~ ARE confidential and ~~shall not be~~ ARE NOT open to inspection
14 except as otherwise provided in section 16-8-115 (3)(e) for information
15 pertaining to persons granted conditional release and except as provided
16 for release of information to the public pursuant to sections 16-22-110 (6)
17 and 16-22-112.

18 (d) (I) ~~Any~~ A defendant required to register pursuant to this
19 subsection (2), upon completion of a period of not less than twenty years
20 ~~from~~ AFTER the date the defendant begins receiving treatment and
21 rehabilitation activities involving COMMUNITY PLACEMENT OF THE
22 DEFENDANT OR temporary physical removal of the defendant from the
23 institution, may petition the district court for an order that discontinues
24 the requirement for ~~such~~ registration and removes the defendant's name
25 from the central registry established pursuant to section 16-22-110. The
26 court may issue ~~such~~ AN order only if the court makes written findings of
27 fact that the defendant has neither been convicted nor found not guilty by

1 reason of insanity of an offense involving unlawful sexual behavior
2 subsequent to ~~such~~ THE COMMUNITY PLACEMENT OR temporary removal
3 and that the defendant would not pose an undue threat to the community
4 if allowed to live in the community without registration.

5 **SECTION 5.** In Colorado Revised Statutes, 16-8-120, **add** (5) as
6 follows:

7 **16-8-120. Applicable tests for release.**

8 (5) AS TO A PERSON CHARGED WITH A CRIME ALLEGEDLY
9 COMMITTED ON OR AFTER JULY 1, 2026:

10 (a) THE STANDARD FOR UNCONDITIONAL RELEASE FROM
11 COMMITMENT IS: THE DEFENDANT HAS NO ABNORMAL MENTAL CONDITION
12 THAT WOULD BE LIKELY TO CAUSE THE DEFENDANT TO BE DANGEROUS TO
13 THE DEFENDANT'S SELF OR OTHERS OR TO THE COMMUNITY IN THE
14 REASONABLY FORESEEABLE FUTURE, AND THE DEFENDANT IS CAPABLE OF
15 DISTINGUISHING RIGHT FROM WRONG AND HAS SUBSTANTIAL CAPACITY TO
16 CONFORM THE DEFENDANT'S CONDUCT TO REQUIREMENTS OF LAW.

17 (b) THE STANDARD FOR CONDITIONAL RELEASE FROM
18 COMMITMENT IS: WITHOUT THE IMPOSITION OF AND COMPLIANCE WITH
19 CONDITIONS, THE DEFENDANT IS INELIGIBLE FOR RELEASE, BUT WITH THE
20 IMPOSITION OF AND COMPLIANCE WITH CONDITIONS, THE DEFENDANT HAS
21 NO ABNORMAL MENTAL CONDITION THAT WOULD BE LIKELY TO CAUSE THE
22 DEFENDANT TO BE DANGEROUS TO THE DEFENDANT'S SELF OR OTHERS OR
23 TO THE COMMUNITY IN THE REASONABLY FORESEEABLE FUTURE, AND THE
24 DEFENDANT IS CAPABLE OF DISTINGUISHING RIGHT FROM WRONG AND HAS
25 SUBSTANTIAL CAPACITY TO CONFORM THE DEFENDANT'S CONDUCT TO THE
26 REQUIREMENTS OF LAW.

27 **SECTION 6. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.