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HOUSE BILL 26-1134

BY REPRESENTATIVE(S) Mabrey and Velasco, Bacon, Carter, Clifford, Garcia, Gilchrist, Zokaie, Boesenecker, Brown, Camacho, English, Espenoza, Froelich, Goldstein, Jackson, Joseph, Lieder, Lindsay, McCormick, Nguyen, Phillips, Rutinel, Sirota, Story, Woodrow; also SENATOR(S) Amabile and Weissman, Coleman, Gonzales J., Hinrichsen, Roberts, Wallace, Exum, Jodeh, Kipp, Marchman, Mullica, Sullivan.

CONCERNING MEASURES TO ENSURE THAT MUNICIPAL COURT DEFENDANTS ARE SUBJECT TO CONDITIONS SIMILAR TO STATE COURT DEFENDANTS.

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

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

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

(3.5) (a) All Colorado courts, including municipal courts, shall make any criminal court proceeding conducted in open court available for remote

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

public viewing and listening in real time, at no ~~cost to the public~~ CHARGE, through an online platform, which may include a participatory web conferencing platform, and post prominently on the court's website the links for remote observation, unless:

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

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

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

(4) THE REQUIREMENTS OF THIS SECTION SUPERSEDE ANY STATUTE, JUDICIAL GUIDANCE, OR CHIEF JUSTICE DIRECTIVE LIMITING REMOTE PUBLIC OBSERVATION OF CRIMINAL COURTS, INCLUDING CHIEF JUSTICE DIRECTIVE 23-02 ADOPTED BEFORE THE EFFECTIVE DATE OF HOUSE BILL 26-1134. The supreme court may prescribe rules of procedure pursuant to section 13-2-109 to implement this section, BUT THE RULES MUST NOT NARROW OR CONFLICT WITH THE REQUIREMENTS OF THIS SECTION.

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

13-10-103. Applicability.

This article 10 applies to and governs the operation of municipal courts in the cities and towns of this state. Except for the provisions relating to the method of salary payment for municipal judges; the incarceration of children pursuant to sections 19-2.5-305 and 19-2.5-1511; the appearance of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense as required by section 13-10-111; the failure to appear pursuant to section 13-10-127; the right to a trial by jury for petty offenses pursuant to section 16-10-109; relief from improperly entered guilty pleas pursuant to section 18-1-410.6; the prosecution of an alleged act of domestic violence, as defined in section

18-6-800.3; making a criminal court proceeding conducted in open court available for remote public viewing and listening in real time; rules of procedure ~~promulgated~~ ADOPTED by the supreme court; and appellate procedure; THE SENTENCING LIMITATION IN SECTION 13-10-113 (1.5); AND THE RIGHT TO COUNSEL FOR CERTAIN INDIGENT DEFENDANTS PURSUANT TO SECTION 13-10-114.5, this article 10 may be superseded by charter or ordinance enacted by a home rule city.

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

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

(2) Once a municipal court receives notice that ~~the~~ A defendant is being held solely on the basis of a municipal hold, the municipal court shall hold a hearing within forty-eight hours after the receipt of ~~such a~~ THE notice. The county sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall make the in-custody defendant available to appear in a timely manner before a municipal judge for a hearing required by this subsection (2) at the date and time mutually agreed to by the county sheriff and municipal court. This subsection (2) ~~must not be construed to~~ DOES NOT require the county sheriff OR MUNICIPAL JAIL ADMINISTRATOR to transport the in-custody defendant to the municipal court. It is not a violation of this section if a bond hearing is not held within forty-eight hours when the delay is caused by circumstances in which the defendant refuses to attend court, is unable to attend court due to drug or alcohol use, a serious medical or behavioral health emergency, or when the delay is caused by an emergency that requires the court to close. When ~~the~~ A defendant is unable to attend court, the sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall provide the court AND MUNICIPAL PUBLIC DEFENDER'S OFFICE, IF ONE EXISTS, with a list of people subject to this section who did not timely attend court, the date of the person's arrest, and the location where the person is in custody. The sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall document the length of the delay, the reason for the delay, and the efforts to abate the emergency. As soon as the emergency has sufficiently abated, the sheriff OR MUNICIPAL JAIL ADMINISTRATOR shall make the in-custody defendant available to appear before the municipal court at the next scheduled bond hearing. Use of audiovisual conferencing technology is permissible to expedite the hearing. When high-speed internet access is unavailable, making audiovisual conferencing impossible, the court may conduct the hearing telephonically.

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

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

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

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

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

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

(IV) PRIOR TO THE HEARING REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION, ANY PRETRIAL SERVICES AGENCY OPERATING IN THAT MUNICIPALITY, OR ANY OTHER AGENCY THAT REPORTS TO THE COURT, THAT HAS CONDUCTED A PRETRIAL RELEASE ASSESSMENT OR GATHERED

INFORMATION FOR THE COURT'S CONSIDERATION AT THE HEARING SHALL PROVIDE THE PROSECUTING ATTORNEY AND THE DEFENDANT'S ATTORNEY ALL INFORMATION PROVIDED TO THE COURT REGARDING THE DEFENDANT IN CUSTODY, WHICH MUST INCLUDE, IF PROVIDED TO THE COURT, THE ARREST WARRANT, THE PROBABLE CAUSE STATEMENT, AND THE DEFENDANT'S CRIMINAL HISTORY.

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

13-10-112. Powers and procedures.

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

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

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

13-10-113. Fines and penalties.

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

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

13-10-114.5. Representation by counsel - independent indigent defense - definitions.

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

(2) ~~If the defendant remains in custody, the appointment of counsel continues until the defendant is released from custody. If the defendant is~~

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

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

(3.5) IF A DEFENDANT IS IN CUSTODY, CANNOT POST BAIL OR IS NOT ALLOWED TO POST BAIL, AND HAS A MUNICIPAL HOLD BUT HAS NOT YET APPEARED BEFORE THE MUNICIPAL COURT, INDIGENT DEFENSE COUNSEL FOR THE HOLDING MUNICIPALITY MAY AUTOMATICALLY ELECT TO REPRESENT THE DEFENDANT IN THE MUNICIPAL CASE AND SHALL NOTIFY THE MUNICIPAL

COURT EITHER VERBALLY OR IN WRITING OF THE REPRESENTATION. IF A MUNICIPAL COURT RECEIVES NOTICE, INCLUDING FROM AN INCARCERATED DEFENDANT, JAIL, OR CORRECTIONAL FACILITY, THAT A DEFENDANT IS IN CUSTODY WHO CANNOT POST BAIL OR IS NOT ALLOWED TO POST BAIL AND WHO HAS A MUNICIPAL HOLD, THE HOLDING MUNICIPAL COURT SHALL APPOINT INDIGENT DEFENSE COUNSEL TO REPRESENT THE DEFENDANT WHILE THE DEFENDANT IS IN CUSTODY.

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

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

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

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

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

(II) Each contracted indigent defense attorney is periodically evaluated by an independent entity for competency and independence. The

municipality shall evaluate each newly hired defense attorney as soon as practicable but no later than one year after ~~he or she~~ THE DEFENSE ATTORNEY is hired. Otherwise, the municipality shall evaluate each defense attorney at least every three years. An independent entity that evaluates defense attorneys pursuant to this ~~subsection (3)(c)(II)~~ SUBSECTION (4)(c)(II) shall provide evaluation results and any recommendations for corrective action in writing to the municipality. For the purpose of this ~~subsection (3)~~ SUBSECTION (4), "independent entity" means:

(A) The office of alternate defense counsel;

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

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

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

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

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

(D) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (4)(c)(III), THIS SUBSECTION (4)(c)(III) DOES NOT PROHIBIT A CONTRACT THAT PROVIDES A FLAT FEE FOR INITIAL IN-CUSTODY APPEARANCES, SO LONG

AS THE FEE RESULTS IN THE SAME OR HIGHER HOURLY COMPENSATION THAN WOULD BE PAID BY THE STATE OF COLORADO TO ATTORNEYS AND OTHER INTERDISCIPLINARY TEAM MEMBERS UNDER CONTRACT WITH THE OFFICE OF ALTERNATE DEFENSE COUNSEL CREATED IN SECTION 21-2-101.

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

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

(III) The terms and procedures for the members of a local or regional independent indigent defense commission ~~must be~~ ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) ARE determined by the municipality or municipalities that ~~establish~~ ESTABLISHED the independent indigent defense commission.

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

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

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

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

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

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

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

(5) The office of alternate defense counsel may, but is not required to, evaluate the performance of attorneys providing indigent defense in municipal courts at the request of any municipality, as described in ~~section~~

~~13-10-114.5 (3)(c)(H)~~ SECTION 13-10-114.5 (4)(c)(II). The office of alternate defense counsel shall not perform any such evaluations without sufficient funding for personnel to perform such evaluations.

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

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

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

SECTION 9. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO