

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

**PREAMENDED**

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

LLS NO. 26-0256.01 Shelby Ross x4510

**SENATE BILL 26-149**

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**SENATE SPONSORSHIP**

**Amabile and Simpson,**

**HOUSE SPONSORSHIP**

**Caldwell and McCluskie,**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING PATHWAYS FOR INDIVIDUALS WITH MENTAL HEALTH**  
102 **DISORDERS.**

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**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.

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

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

4 **16-8.5-101. Definitions.**

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

6 (1) "CIVIL PROCEEDING" MEANS:

7 (a) A CIVIL PROCEEDING REGARDING CERTIFICATION FOR  
8 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109,  
9 OR 27-65-109.5;

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

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

14 ~~(1)~~ (2) "Collateral materials" means the relevant police incident  
15 reports and the charging documents, either the criminal information or  
16 indictment.

17 ~~(2)~~ (3) "Competency evaluation" includes both court-ordered  
18 competency evaluations and second evaluations.

19 ~~(3)~~ (4) "Competency evaluator" means a licensed physician who  
20 is a psychiatrist or a licensed psychologist, each of whom is trained in

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

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

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

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

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

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

1 statutory obligation of ~~the department~~ CDHS to prepare when requested  
2 to do so by the court.

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

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

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

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

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

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

1 defense, or that, as a result of a mental disability or developmental  
2 disability, the defendant does not have a rational and factual  
3 understanding of the criminal proceedings.

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

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

9 (17.5) "INPATIENT CARE AT THE DISCRETION OF CDHS OR HCPF",  
10 OR SIMILAR TERMINOLOGY, MEANS PLACEMENT AT A FACILITY:

11 (a) WHERE THE PERSON IS REQUIRED TO RESIDE AND IS NOT  
12 PERMITTED TO LEAVE UNLESS ACCOMPANIED AND SUPERVISED BY STAFF;

13 (b) THAT AGREES TO SUPERVISE THE PERSON, THAT AGREES TO  
14 TAKE APPROPRIATE MEASURES TO ENSURE THE PERSON COMPLIES WITH  
15 ANY COURT ORDERS, AND THAT HAS PROCEDURES IN PLACE THAT WOULD  
16 RESULT IN A TIMELY REPORT TO THE COURT AND AUTHORITIES IF THE  
17 PERSON ABSCONDED WITHOUT PERMISSION;

18 (c) WHERE A PROFESSIONAL PERSON, AS DEFINED IN SECTION  
19 27-65-102, WHO IS EMPLOYED BY OR CONTRACTED BY CDHS, BHA, OR  
20 HCPF, ATTESTS THAT THE FACILITY IS MEDICALLY APPROPRIATE AND  
21 SUFFICIENTLY PROTECTS VICTIMS AND THE COMMUNITY FROM THE  
22 SUBSTANTIAL RISK OF HARM POSED BY THE PERSON; AND

23 (d) THAT IS OPERATED BY, OR HAS CONTRACTED WITH, CDHS,  
24 BHA OR HCPF TO PROVIDE SERVICES FOR CDHS, BHA, OR HCPF.

25 ~~(15)~~ (18) "Mental disability" means a substantial disorder of  
26 thought, mood, perception, or cognitive ability that results in marked  
27 functional disability, significantly interfering with adaptive behavior.

1 "Mental disability" does not include acute intoxication from alcohol or  
2 other substances, or any condition manifested only by antisocial behavior,  
3 or any substance abuse impairment resulting from recent use or  
4 withdrawal. However, substance abuse that results in a long-term,  
5 substantial disorder of thought, mood, or cognitive ability may constitute  
6 a mental disability.

7  
8 ~~(16)~~ (19) "Outpatient" means a location outside of the custody of  
9 ~~the department~~ CDHS. "Outpatient" does not include a jail, prison, or  
10 other detention facility where the defendant is in-custody.

11 (20) "RESTORABLE" MEANS THERE IS A SUBSTANTIAL PROBABILITY  
12 THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN  
13 COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

14 (21) "RESTORABILITY" MEANS THE LEGAL QUESTION OF WHETHER  
15 A DEFENDANT IS RESTORABLE OR UNRESTORABLE.

16 (22) "RESTORABILITY HEARING" MEANS A HEARING TO DETERMINE  
17 WHETHER A DEFENDANT WHO IS INCOMPETENT TO PROCEED IS  
18 RESTORABLE OR UNRESTORABLE.

19 ~~(17)~~ (23) "Restoration hearing" means a hearing to determine  
20 whether a defendant who has previously been determined to be  
21 incompetent to proceed has become competent to proceed.

22 ~~(18)~~ (24) "Second evaluation" means ~~an~~ A COMPETENCY  
23 evaluation requested by the court, the district attorney, or the defendant  
24 that is performed by a competency evaluator and that is not performed by  
25 or under the direction of, or paid for by, ~~the department~~ CDHS.

26 ~~(19)~~ (25) "Tier 1" means a defendant:

27 (a) Who has been ordered to receive inpatient restorative

1 treatment;

2 (b) For whom a competency evaluator has determined either that  
3 the defendant:

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

8 (II) Has a mental health disorder; and

9 (c) For whom, as a result of the determination made pursuant to  
10 ~~subsection (19)(b)~~ SUBSECTION (25)(b) of this section, delaying inpatient  
11 hospitalization beyond seven days would cause harm to the defendant or  
12 others.

13 ~~(20)~~ (26) "Tier 2" means a defendant who has been ordered to  
14 receive inpatient restorative treatment and who does not meet the criteria  
15 to be a tier 1 defendant.

16 (27) "UNRESTORABLE" MEANS THERE IS NOT A SUBSTANTIAL  
17 PROBABILITY THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL  
18 ATTAIN COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

19 (28) "VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO  
20 PARTICIPATE" MEANS THE DEFENDANT HAS NOT ATTENDED RESTORATION  
21 SERVICES OR THE DEFENDANT REFUSES TO TAKE PRESCRIBED  
22 MEDICATIONS, ESPECIALLY WHEN THE DEFENDANT INTENDS TO AVOID OR  
23 DELAY THE COURT CASE FROM PROCEEDING. "VOLITIONAL LACK OF  
24 COOPERATION OR UNWILLINGNESS TO PARTICIPATE" DOES NOT INCLUDE  
25 ACTS THAT PRIMARILY RESULT FROM THE BONA FIDE MEDICAL OR MENTAL  
26 HEALTH DISORDER FOR WHICH THE DEFENDANT IS INCOMPETENT OR A  
27 DEFENDANT'S ATTEMPT TO RAISE A BONA FIDE GOOD FAITH CONCERN

1 ABOUT MEDICATION SIDE EFFECTS AND RISKS.

2 **16-8.5-102. Competency to proceed - how and when raised.**

3 (1) While a defendant is incompetent to proceed, the defendant  
4 must not be tried or sentenced, nor shall the court consider or decide  
5 pretrial matters that are not susceptible of fair determination without the  
6 personal participation of the defendant. However, a determination that a  
7 defendant is incompetent to proceed does not preclude ~~the furtherance of~~  
8 ~~the~~ ADDITIONAL proceedings by the court to consider and decide matters,  
9 including a preliminary hearing and motions, that are susceptible of fair  
10 determination prior to trial and without the personal participation of the  
11 defendant. Those proceedings may be later reopened if, in the discretion  
12 of the court, substantial new evidence is discovered after and as a result  
13 of the defendant's restoration to competency.

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

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

20 (b) If either the defense or the prosecution has reason to believe  
21 that the defendant is incompetent to proceed, either party may file a  
22 motion in advance of the commencement of the particular proceeding. A  
23 motion to determine competency ~~shall~~ MUST be in writing and contain a  
24 certificate of counsel stating that the motion is based on a good faith  
25 doubt that the defendant is competent to proceed. The motion must set  
26 forth the specific facts that have formed the basis for the motion. The  
27 court ~~must~~ SHALL seal the motion. If the motion is made by the

1 prosecution, the prosecution shall provide the defense a copy of the  
2 motion. If the motion is made by the defense, the defense shall provide  
3 the prosecution notice of the filing of the motion at the time of filing, and  
4 if the defense requests a hearing, the defense shall provide the motion to  
5 the prosecution at the time the hearing is requested. The motion may be  
6 filed after the commencement of the proceeding if, for good cause shown,  
7 the defendant's mental disability or developmental disability was not  
8 known or apparent before the commencement of the proceeding.

9 ~~(c) Repealed.~~

10 ~~(d)~~ (c) By the public defender liaison, as described in section  
11 21-1-104 (6), or an attorney representing the offender in a parole  
12 proceeding.

13 (3) ~~[Formerly 16-8.5-109 (1)]~~ When a determination is to be made  
14 ~~as to a defendant's competency~~ THE ISSUE OF WHETHER A DEFENDANT IS  
15 INCOMPETENT to proceed IS RAISED, the court shall explain to the  
16 defendant the nature and consequences of the proceeding and the  
17 DEFENDANT'S rights ~~of the defendant under~~ PURSUANT TO this section.  
18 ~~The defendant,~~ If the defendant wishes to contest the question, THE  
19 DEFENDANT may request a competency hearing that the court shall grant  
20 as a matter of right.

21 ~~(3)~~ (4) Notwithstanding ~~any provision~~ of this article 8.5 to the  
22 contrary, the question of whether a convicted person is mentally  
23 incompetent to be executed must be raised and determined pursuant to  
24 part 14 of article 1.3 of title 18.

25 ~~(4)~~ (5) If a defendant is eligible for referral to the bridges  
26 wraparound care program pursuant article 8.6 of this title 16, the court  
27 may ask the parties whether the defendant should be referred for

1 participation in the program. With the agreement of the parties, the court  
2 may delay making determinations regarding the defendant's competency  
3 to allow a bridges wraparound care coordinator to conduct an initial  
4 intake of the defendant pursuant to section 16-8.6-108 to determine  
5 whether the bridges wraparound care program is appropriate for the  
6 defendant.

7 **16-8.5-103. Determination of competency to proceed.**

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

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

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

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

24 ~~(4) If a party requests a second evaluation, any pending requests~~  
25 ~~for a hearing must be continued until the receipt of the second evaluation~~  
26 ~~report. The report of the expert conducting the second evaluation must be~~  
27 ~~completed and filed with the court within thirty-five days after the court~~

1 order allowing the second evaluation, unless the time period is extended  
2 by the court for good cause. The court shall provide the second evaluation  
3 to the parties and the department. The department shall use the second  
4 evaluation to ensure that the department complies with its responsibilities,  
5 including reviewing and summarizing prior competency opinions as  
6 required by section 16-8.5-105 (5)(f). If the second evaluation is  
7 requested by the court, it must be paid for by the court.

8 (5) (3) If neither party requests a hearing PURSUANT TO SECTION  
9 16-8.5-108 or a second evaluation PURSUANT TO SECTION 16-8.5-111,  
10 within the applicable time frame, the court shall enter a final  
11 determination, based on the information then available to the court,  
12 whether the defendant is or is not competent to proceed.

13 (6) If a party makes a timely request for a hearing, the hearing  
14 shall be held within thirty-five days after the request for a hearing or, if  
15 applicable, within thirty-five days after the filing of the second evaluation  
16 report, unless the time is extended by the court after a finding of good  
17 cause.

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

21 (8) (4) If the question of the defendant's incompetency to proceed  
22 is raised after a jury is impaneled to try the issues raised by a plea of not  
23 guilty and the court determines that the defendant is incompetent to  
24 proceed or orders a court-ordered competency evaluation, the court may  
25 declare a mistrial. Declaration of a mistrial under these circumstances  
26 does not constitute jeopardy, nor does it prohibit the trial or sentencing of  
27 the defendant for the same offense after the defendant has been found

1 restored to competency.

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

8 **16-8.5-104. Defendant's waiver of privilege.**

9 (1) When a defendant raises the issue of competency to proceed,  
10 or when the court determines that the defendant is incompetent to  
11 proceed, any claim by the defendant to confidentiality or privilege is  
12 deemed waived in the case in which competency is raised and for records  
13 or information from any prior criminal case in which the defendant raised  
14 the issue of competency or in which the court determined that the  
15 defendant was incompetent to proceed. The district attorney, the defense  
16 attorney, the bridges court liaison, and the court are granted access,  
17 without written consent of the defendant or further order of the court, to:

18 (a) Reports of competency evaluations, including second  
19 evaluations;

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

23 (c) The COMPETENCY evaluator, for the purpose of discussing the  
24 competency evaluation.

25 (2) Upon a request by either party or the court for the information  
26 described in subsection (1) of this section, the COMPETENCY evaluator or  
27 treatment provider shall provide the information for use in preparing for

1 a COMPETENCY hearing, ~~on competency~~ RESTORABILITY HEARING, or  
2 restoration HEARING and for use during ~~such a~~ THE hearing.

3 (3) ~~An evaluator or a facility providing competency evaluation or~~  
4 ~~restoration treatment services~~ THE DEPARTMENT, A COMPETENCY  
5 EVALUATOR, OR A RESTORATION SERVICE PROVIDER THAT IS PERFORMING  
6 WORK pursuant to a court order issued pursuant to this article 8.5 shall  
7 provide ~~procedural~~ information to the court, bridges court liaison, district  
8 attorney, or defense counsel concerning the defendant's location, the  
9 defendant's hospital or facility admission status, the status of ANY  
10 COMPETENCY evaluation procedures, and ~~other procedural information~~  
11 ~~relevant to the case~~ THE STATUS OF ANY RESTORATION TREATMENT AND  
12 SERVICES.

13 (4) ~~Nothing in~~ This section ~~limits~~ DOES NOT LIMIT the court's  
14 ability to order that information, in addition to the information described  
15 in subsections (1) and (3) of this section, be provided to the COMPETENCY  
16 evaluator, or to either party to the case, nor does it limit the information  
17 that is available after the written consent of the defendant.

18 ~~(4.5)~~ (5) The court may, upon the request of either party, issue an  
19 order to assist a party in accessing, receiving copies of, or discussing with  
20 ~~an~~ A COMPETENCY evaluator or treatment provider information or records  
21 that the party has the right to access pursuant to the defendant's waiver of  
22 privilege. If a party requests ~~such~~ an order, the court shall allow the  
23 opposing party to make any legal objection, including whether the  
24 requested information is within the scope of the defendant's waiver of  
25 privilege, and SHALL consider any requests for protective orders prior to  
26 issuing the court order. This section does not limit the court's ability to  
27 order information be provided to a party with the written consent of the

1 defendant.

2 ~~(5)~~ (6) The court shall order both the prosecutor and the defendant  
3 or the defendant's counsel to exchange the names, addresses, reports, and  
4 statements of each physician or psychologist who has examined or treated  
5 the defendant for competency.

6 ~~(6)~~ (7) Statements made by the defendant in the course of any  
7 COMPETENCY evaluation must be protected in accordance with ~~section~~  
8 ~~16-8.5-108~~ SECTION 16-8.5-107.

9 **16-8.5-105. Competency evaluations, locations, time frames,**  
10 **and report.**

11 (1) (a) (I) The court shall order that the competency evaluation be  
12 conducted on an outpatient basis or, if the defendant is unable to post the  
13 monetary condition of bond or is ineligible to be released on bond, at the  
14 place where the defendant is in-custody, except as provided in subsection  
15 (1)(b) of this section. WHEN THE COURT ORDERS A COMPETENCY  
16 EVALUATION, THE COURT SHALL ALSO ORDER THE APPROPRIATE PARTY TO  
17 TRANSMIT THE COLLATERAL MATERIALS TO CDHS WITHIN TWO BUSINESS  
18 DAYS AFTER THE ORDER FOR A COMPETENCY EVALUATION, WITH A  
19 CERTIFICATE OF SERVICE OF THE COLLATERAL MATERIALS PROVIDED TO  
20 THE COURT AND OTHER NECESSARY PARTIES.

21 (II) If ~~the department~~ CDHS conducts the COMPETENCY  
22 evaluation on an in-custody basis, ~~the department~~ CDHS shall begin the  
23 COMPETENCY evaluation as soon as practicable, BUT NO LATER THAN  
24 TWENTY-ONE BUSINESS DAYS, after ~~the department's receipt of a~~  
25 RECEIVING THE COLLATERAL MATERIALS AND court order directing the  
26 COMPETENCY evaluation ~~If the evaluation is conducted on an in-custody~~  
27 ~~basis, the department shall complete the evaluation no later than~~

1 ~~twenty-one days after receipt of the order and the collateral materials~~ BE  
2 COMPLETED.

3 (III) If CDHS CONDUCTS the COMPETENCY evaluation is  
4 ~~conducted~~ on an out-of-custody basis, ~~the department~~ CDHS shall  
5 complete the COMPETENCY evaluation within forty-two days after receipt  
6 of the order and THE collateral materials, unless the court extends the time  
7 upon a showing of good cause. THE COURT SHALL DETERMINE THE TYPE  
8 OF BOND AND THE CONDITIONS OF RELEASE AFTER CONSIDERATION OF THE  
9 PRESUMPTIONS AND FACTORS ENUMERATED IN ARTICLE 4 OF THIS TITLE 16,  
10 WHICH INCLUDE CONSIDERATION OF THE INFORMATION RECEIVED FROM  
11 ANY PRETRIAL SERVICES PROGRAM PURSUANT TO SECTION 16-4-106 AND  
12 ANY INFORMATION PROVIDED BY THE BRIDGES COURT LIAISON HIRED OR  
13 CONTRACTED PURSUANT TO ARTICLE 95 OF TITLE 13. AS A CONDITION OF  
14 ANY BOND, THE COURT SHALL REQUIRE THE DEFENDANT'S COOPERATION  
15 WITH THE COMPETENCY EVALUATION ON AN OUTPATIENT BASIS. IN  
16 SETTING THE BOND, THE COURT SHALL NOT CONSIDER THE NEED FOR THE  
17 DEFENDANT TO RECEIVE AN EVALUATION PURSUANT TO THIS ARTICLE 8.5  
18 AS A FACTOR IN DETERMINING ANY MONETARY CONDITION OF BOND.

19 ~~(II) At the time any evaluation is ordered, the court shall order that~~  
20 ~~the collateral materials be transmitted to the department within~~  
21 ~~twenty-four hours after the order by the appropriate party with a~~  
22 ~~certificate of service of the materials provided to the court and other~~  
23 ~~necessary parties by the party ordered to transmit the collateral materials.~~

24 (III) The court shall determine the type of bond and the conditions  
25 of release after consideration of the presumptions and factors enumerated  
26 in article 4 of this title 16, which include consideration of the information  
27 received from any pretrial services program pursuant to section 16-4-106

1 and any information provided by the bridges court liaison hired or  
2 contracted pursuant to article 95 of title 13. As a condition of any bond,  
3 the court shall require the defendant's cooperation with the competency  
4 evaluation on an outpatient and out-of-custody basis. In setting the bond,  
5 the court shall not consider the need for the defendant to receive an  
6 evaluation pursuant to this article 8.5 as a factor in determining any  
7 monetary condition of bond.

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

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

17 (H) (A) The department CDHS provides a recommendation to the  
18 court, after consultation CONSULTING with the defendant and review of  
19 REVIEWING any clinical or collateral materials, that conducting the  
20 competency evaluation on an inpatient basis is clinically appropriate;

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

26 (H) (C) Extraordinary circumstances relating to the case or the  
27 defendant make conducting the competency evaluation on an inpatient

1 basis necessary and appropriate.

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

3 ~~(b.3)~~ (II) Upon entry of a court order pursuant to ~~subsection (1)(b)~~  
4 SUBSECTION (1)(b)(I) of this section, ~~the department~~ CDHS has the same  
5 authority with respect to custody as provided for in section 16-8-105.5  
6 (4).

7 ~~(b.5)~~ (III) When the court orders an inpatient COMPETENCY  
8 evaluation, the court shall advise the defendant that restoration services  
9 may commence immediately if the COMPETENCY evaluation ~~concludes~~  
10 OPINES that the defendant is incompetent to proceed, unless either party  
11 objects at the time of the advisement, or within seventy-two hours after  
12 ~~the~~ receipt of the written REPORT OF THE COMPETENCY evaluation  
13 submitted to the court. The court shall record any objection to the order  
14 of commitment to ~~the department~~ CDHS.

15 ~~(b.6) If the evaluator concludes that the defendant is incompetent~~  
16 ~~to proceed and that inpatient restoration services are not clinically~~  
17 ~~appropriate, the department shall detail the outpatient and out-of-custody~~  
18 ~~restoration services available to the defendant.~~

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

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

26 (c) [Formerly 16-8.5-105 (1)(b.6)] If the COMPETENCY evaluator  
27 ~~concludes~~ OPINES that the defendant is incompetent to proceed and that

1 inpatient restoration services are not clinically appropriate, ~~the department~~  
2 CDHS shall detail the outpatient ~~and out-of-custody~~ restoration services  
3 available to the defendant.

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

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

12 (B) The defendant is incompetent to proceed and that inpatient  
13 restoration services are not clinically appropriate, and outpatient  
14 restoration services are available to the defendant in the community, ~~the~~  
15 ~~department~~ CDHS shall notify the court and the bridges court liaison, and  
16 ~~the department~~ CDHS shall develop a discharge plan and a plan for  
17 community-based restoration services in coordination with the community  
18 restoration services provider.

19 (II) The court shall hold a hearing within seven days after  
20 receiving the notice PURSUANT TO SUBSECTION (1)(d)(I)(B) OF THIS  
21 SECTION, at which ~~the department~~ CDHS shall provide to the court the  
22 plan for community-based restoration services, and the court may enter  
23 any appropriate orders regarding the custody of the defendant and the  
24 defendant's bond status. ~~The department~~ THE COURT MAY INCLUDE IN THE  
25 ORDER A REQUIREMENT FOR THE DEFENDANT TO PARTICIPATE IN MENTAL  
26 HEALTH TREATMENT AS PART OF THE COMMUNITY-BASED RESTORATION  
27 SERVICES. CDHS shall advise the defendant of the date and time of the

1 court hearing. If ~~the department~~ CDHS is returning the defendant to a  
2 county jail, the county sheriff in the jurisdiction where the defendant must  
3 return shall take custody of the defendant within seventy-two hours after  
4 receiving notification from ~~the department~~ CDHS that the defendant's  
5 COMPETENCY evaluation is completed. At the time ~~the department~~ CDHS  
6 notifies the sheriff, ~~the department~~ CDHS shall also notify the court and  
7 the bridges court liaison that ~~the department~~ CDHS is returning the  
8 defendant to the custody of the jail.

9 (e) ~~Nothing in~~ This section ~~restricts~~ DOES NOT RESTRICT the right  
10 of the defendant to procure a competency evaluation ~~as provided in~~  
11 ~~section 16-8.5-106~~ AT THE DEFENDANT'S REQUEST PURSUANT TO SECTION  
12 16-8.5-111 (1).

13 (2) The defendant ~~shall~~ MUST cooperate with the competency  
14 evaluator and with other personnel providing ancillary services such as  
15 testing and radiological services. Statements made by the defendant in the  
16 course of the COMPETENCY evaluation ~~shall be~~ ARE protected as provided  
17 in ~~section 16-8.5-108~~ SECTION 16-8.5-107. If the defendant does not  
18 cooperate with the competency evaluator and other personnel providing  
19 ancillary services and the lack of cooperation is not the result of a  
20 developmental disability or a mental disability, the fact of the defendant's  
21 noncooperation with the competency evaluator and other personnel  
22 providing ancillary services may be admissible in the defendant's  
23 competency or restoration hearing to rebut any evidence introduced by the  
24 defendant with regard to the defendant's competency.

25 (3) To aid in forming an opinion ~~as to the competency~~ of the  
26 ~~defendant~~ DEFENDANT'S COMPETENCY, it is permissible in the course of  
27 ~~an~~ A COMPETENCY evaluation ~~under~~ PURSUANT TO this section to use THE

1 DEFENDANT'S confessions and admissions ~~of the defendant~~ and any other  
2 evidence of the circumstances surrounding the commission of the offense,  
3 as well as the DEFENDANT'S medical and social history, ~~of the defendant~~  
4 in questioning the defendant. When the defendant is noncooperative with  
5 the competency evaluator or personnel providing ancillary services, THE  
6 COMPETENCY EVALUATOR MAY RENDER an opinion of the DEFENDANT'S  
7 competency ~~of the defendant may be rendered by the competency~~  
8 ~~evaluator~~ based upon confessions, admissions, and any other evidence of  
9 the circumstances surrounding the commission of the offense, as well as  
10 the DEFENDANT'S known medical and social history, ~~of the defendant~~, and  
11 the opinion may be admissible into evidence at the defendant's  
12 competency or restoration hearing.

13 (4) THE COMPETENCY EVALUATOR SHALL PREPARE a written report  
14 of the COMPETENCY evaluation, ~~must be prepared and the department~~  
15 CDHS shall electronically deliver the report to the court clerk who  
16 ordered it. The clerk shall provide a copy of the report to the prosecuting  
17 attorney, the bridges court liaison, and the defense counsel using an  
18 e-filing system. Without reducing any other timelines set forth in this  
19 article 8.5, the competency evaluator shall provide the written report to  
20 the court within fourteen days after finishing meeting, or attempting to  
21 meet, with the defendant to evaluate the defendant's competency.

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

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

26 (b) A description of the nature, content, extent, and results of the  
27 competency evaluation and any tests conducted, which must include, but

1 ~~need not be~~ IS NOT limited to, the information reviewed and relied upon  
2 in conducting the competency evaluation and specific tests conducted by  
3 the competency evaluator;

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

6 ~~(d) (c) An~~ THE COMPETENCY EVALUATOR'S opinion as to whether  
7 the defendant currently suffers from a mental disability or developmental  
8 disability, OR BOTH. If the opinion ~~of the competency evaluator~~ is that the  
9 defendant suffers from a mental disability or developmental disability,  
10 then the report must include an opinion as to the diagnosis and the  
11 prognosis of the defendant's mental disability or developmental disability.

12 ~~(e) (d) An~~ THE COMPETENCY EVALUATOR'S opinion as to whether  
13 the defendant is competent to proceed or incompetent to proceed. If the  
14 opinion ~~of the competency evaluator~~ is that the defendant is incompetent  
15 to proceed, then the report must include:

16 (I) (A) ~~An~~ THE COMPETENCY EVALUATOR'S opinion as to whether  
17 ~~there is a substantial probability that the defendant, with restoration~~  
18 ~~services, will attain competency within the reasonably foreseeable future;~~  
19 ~~and~~ THE DEFENDANT IS RESTORABLE OR UNRESTORABLE. AS PART OF  
20 FORMING THE OPINION, THE COMPETENCY EVALUATOR SHALL USE DUE  
21 DILIGENCE IN REVIEWING AND SUMMARIZING ANY PRIOR COMPETENCY  
22 OPINIONS REGARDING THE DEFENDANT. IF THE OPINION REGARDING  
23 RESTORABILITY DIFFERS FROM OPINIONS IN PAST EVALUATIONS OF THE  
24 DEFENDANT, THE COMPETENCY EVALUATOR SHALL EXPLAIN THE BASIS  
25 FOR THE COMPETENCY EVALUATOR'S DIFFERING OPINIONS.

26 (B) AN OPINION AS TO WHETHER THE DEFENDANT POSES A  
27 SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, AS DEFINED IN SECTION

1 27-65-102, IF THE OPINION IS THAT THE DEFENDANT IS UNRESTORABLE  
2 AND THE DEFENDANT IS EITHER CHARGED WITH HOMICIDE PURSUANT TO  
3 PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE, AS DEFINED IN  
4 SECTION 18-1.3-406 (2); OR A FELONY THAT CONSTITUTES UNLAWFUL  
5 SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102; OR THE DISTRICT  
6 ATTORNEY PROVIDED NOTICE THAT THE DISTRICT ATTORNEY IS AWARE OF  
7 AN ACT NOT CHARGED IN THE CURRENT CASE THAT WOULD QUALIFY  
8 PURSUANT TO SECTION 16-8.5-118 (6)(b)(II).

9 (B) (C) If possible, when the defendant is diagnosed with a  
10 moderate to severe intellectual ~~or~~ AND developmental disability, acquired  
11 or traumatic brain injury, or dementia, which either alone or together with  
12 a co-occurring mental ~~illness~~ DISABILITY affects the defendant's ability to  
13 gain or maintain competency, ~~the evaluator shall provide an opinion as to~~  
14 ~~whether there is a substantial probability that the defendant with~~  
15 ~~restoration services will attain competency within the reasonably~~  
16 ~~foreseeable future. When the opinion is that there is a substantial~~  
17 ~~probability of attaining competency~~ THE DEFENDANT IS RESTORABLE, the  
18 COMPETENCY evaluator shall specifically state whether the COMPETENCY  
19 evaluator believes there are unique or different services outside the  
20 standard competency restoration curriculum developed by ~~the department~~  
21 CDHS that the defendant may need in order to be restored to competency  
22 within the reasonably foreseeable future.

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

27 (f) ~~An opinion as to whether there is a substantial probability that~~

1 the defendant, with restoration services, will attain competency within the  
2 reasonably foreseeable future. As part of forming their opinion, the  
3 competency evaluator shall use due diligence in the review and summary  
4 of any prior competency opinions regarding the defendant. If the  
5 competency evaluator's opinion regarding restorability differs from  
6 opinions in past evaluations of the defendant, the competency evaluator  
7 shall explain the basis for their different opinion.

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

11 (h) (f) The competency evaluator's opinion and the information  
12 and factors considered in making determinations as to whether the  
13 defendant:

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

16 (II) Meets the criteria for a certification for short-term treatment  
17 pursuant to section 27-65-108.5 or 27-65-109 and, if the defendant meets  
18 such THE criteria, whether the COMPETENCY evaluator believes the  
19 defendant could be treated on an outpatient basis pursuant to section  
20 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A  
21 MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, in assessing  
22 whether the defendant with a pending criminal charge is a danger to self  
23 or THE DEFENDANT'S SELF, A DANGER TO others, or is gravely disabled, if  
24 the person is incarcerated AS THOSE TERMS ARE DEFINED IN SECTION  
25 27-65-102, the COURT, competency evaluator, or professional person, as  
26 defined in section 27-65-102, and the court shall not rely on the fact that  
27 the defendant is incarcerated or is an inpatient in a medical facility to

1 establish that the defendant is not a danger to self, or to others, or is not  
2 OR gravely disabled. If it is the COMPETENCY evaluator's opinion that the  
3 defendant meets criteria for certification for short-term treatment pursuant  
4 to section 27-65-108.5 or 27-65-109, the COMPETENCY evaluator is not  
5 required to request a petition for certification for short-term treatment of  
6 the defendant. ~~in a court with jurisdiction pursuant to section 16-8.5-111~~  
7 (3).

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

11 (A) Whether the defendant ALSO HAS A MENTAL HEALTH  
12 DISORDER AND, IF THE DEFENDANT DOES HAVE A CO-OCCURRING  
13 INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND A MENTAL HEALTH  
14 DISORDER, THE PRIMARY DIAGNOSIS, IF DETERMINABLE; AND

15 (B) WHETHER THE DEFENDANT may be eligible for any additional  
16 services pursuant to article 10 of title 25.5 or article 10.5 of title 27, OR  
17 MAY MEET THE CRITERIA FOR A CIVIL PROCEEDING OR IMPOSITION OF A  
18 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
19 25.5-10-216; OR

20 (IV) HAS A NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION  
21 25.5-10-501, AND IF THE DEFENDANT DOES HAVE A NEUROCOGNITIVE  
22 DISORDER, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH  
23 DISORDER, AND WHETHER THE DEFENDANT MAY MEET THE CRITERIA FOR  
24 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502. IF THE  
25 COMPETENCY EVALUATOR'S OPINION IS THAT THE DEFENDANT MAY MEET  
26 THE CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY  
27 EVALUATOR IS NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE

1 PLACEMENT.

2 (g) WHEN THE COMPETENCY EVALUATOR HAS REASON TO BELIEVE  
3 THE DEFENDANT HAS A NEUROCOGNITIVE DISORDER OR AN INTELLECTUAL  
4 AND DEVELOPMENTAL DISABILITY THAT MAY QUALIFY AS A MENTAL  
5 HEALTH DISORDER:

6 (I) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER  
7 DIAGNOSTIC TESTING EXISTS BEYOND WHAT THE COMPETENCY  
8 EVALUATOR CAN PERFORM THAT IS NECESSARY TO PROVIDE AN OPINION  
9 AS TO WHETHER THE DEFENDANT IS INCOMPETENT TO PROCEED OR  
10 RESTORABLE; AND

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

13 (6) Whenever a competency evaluation is ordered upon the  
14 request of either party, the court ~~may~~ SHALL notify the county attorney or  
15 district attorney required to conduct proceedings pursuant to ~~section~~  
16 ~~27-65-113 (6)~~ SECTION 27-65-113.5 for the county in which the charges  
17 are pending, and the bridges court liaison hired or contracted pursuant to  
18 article 95 of title 13, of all court dates for return of the COMPETENCY  
19 EVALUATION report. ~~on competency to ensure that all parties are on notice~~  
20 ~~of the expected need for coordinated services and planning with~~  
21 ~~consideration of possible civil certification.~~

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

25 (8) A competency evaluator is not liable for damages in any civil  
26 action for failure to warn or protect a specific person or persons,  
27 including those identifiable by their association with a specific location

1 or entity, against the violent behavior of a defendant being evaluated by  
2 the competency evaluator, and ~~any~~ THE competency evaluator must not  
3 be held civilly liable for failure to predict ~~such~~ violent behavior, except  
4 ~~where~~ WHEN the defendant has communicated to the competency  
5 evaluator a serious threat of imminent physical violence against a specific  
6 person or persons, including those identifiable by their association with  
7 a specific location or entity.

8

==

9 **16-8.5-106. [Formerly 16-8.5-112] Petition for involuntary**  
10 **administration of medication - venue for collateral hearing.**

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

25 (2) ~~A petition for involuntary treatment must be heard in~~ The  
26 court of the jurisdiction where the defendant is located ~~The department~~  
27 SHALL HEAR A PETITION FOR INVOLUNTARY TREATMENT. CDHS shall

1 promptly deliver a copy of the order granting or denying the petition to  
2 the court that committed the defendant to the custody of ~~the department~~  
3 CDHS, the prosecuting attorney, and the defendant's legal representation  
4 in the criminal case, if ~~such~~ LEGAL representation exists, and to the  
5 defendant directly if the defendant does not have legal representation.

6 (3) ~~If the committing court elects to transfer venue for medication~~  
7 ~~hearings to the court of the jurisdiction where the defendant is located~~ IF  
8 A HEARING FOR ADMINISTRATION OF INVOLUNTARY MEDICATION IS HEARD  
9 IN A DIFFERENT COUNTY THAN THE COUNTY WHERE THE COMMITTING  
10 COURT IS LOCATED, the committing county shall reimburse the county  
11 where the proceeding is heard for the reasonable costs incurred in  
12 conducting the proceeding. Alternatively, the district attorney OR COUNTY  
13 ATTORNEY for the committing county ~~or in any county or any city and~~  
14 ~~county having a population exceeding fifty thousand people, the county~~  
15 ~~attorney for the committing county,~~ may prosecute the proceeding as the  
16 proponent of the physician's petition.

17 (4) If a defendant committed to the custody of ~~the department~~  
18 CDHS for evaluation or for restoration treatment is ordered by a court to  
19 accept treatment as set forth in subsection (1) of this section and is  
20 subsequently returned to jail for pending court proceedings, the county  
21 jail may require the defendant to continue to receive the same  
22 court-ordered treatment that was administered by ~~the department~~ CDHS  
23 before the defendant was discharged from inpatient care, or, alternatively,  
24 appropriate medical personnel provided by the jail may forcibly  
25 administer ~~such~~ THE court-ordered medication to the defendant.

26 **16-8.5-107. [Formerly 16-8.5-108 (1)] Use of defendant's**  
27 **statements.**

1           (1) ~~(a)~~ Except as otherwise provided in this ~~subsection (1)~~  
2 SECTION, evidence acquired directly or indirectly for the first time from  
3 a communication derived from the defendant's mental processes during  
4 the course of a competency evaluation or involuntary medication  
5 proceeding is not admissible against the defendant on the issues raised by  
6 a plea of not guilty, or, if the offense occurred before July 1, 1995, a plea  
7 of not guilty by reason of impaired mental condition. ~~Such~~ THE evidence  
8 may be admissible at trial to rebut evidence introduced by the defendant  
9 of the defendant's mental condition to show ~~incapacity of the defendant~~  
10 THE DEFENDANT'S INCAPACITY to form a culpable mental state; and, in  
11 ~~such~~ THAT case, the evidence may only be considered by the trier of fact  
12 as bearing upon the question of capacity to form a culpable mental state,  
13 and the jury shall be so instructed at the request of either party.

14           ~~(b)~~ (2) Evidence acquired directly or indirectly for the first time  
15 from a communication derived from the defendant's mental processes  
16 during the course of a competency evaluation or involuntary medication  
17 proceeding is admissible at any sentencing hearing held pursuant to  
18 section 18-1.3-1201 for an offense charged prior to July 1, 2020, or  
19 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,  
20 2020, or pursuant to section 18-1.4-102 only to prove the existence or  
21 absence of any mitigating factor.

22           ~~(c)~~ (3) If the defendant testifies on the defendant's own behalf  
23 upon the trial of the issues raised by the plea of not guilty or, for offenses  
24 that occurred before July 1, 1995, a plea of not guilty by reason of  
25 impaired mental condition, or at a sentencing hearing held pursuant to  
26 section 18-1.3-1201 for an offense charged prior to July 1, 2020, or  
27 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,

1 2020, or pursuant to section 18-1.4-102, this section does not bar any  
2 evidence used to impeach or rebut the defendant's testimony.

3 **16-8.5-108. General hearing procedures and evidence.**

4 (1) (a) A PARTY MUST REQUEST A COMPETENCY HEARING,  
5 RESTORABILITY HEARING, OR RESTORATION HEARING WITHIN FOURTEEN  
6 DAYS AFTER RECEIVING THE INITIAL COURT-ORDERED COMPETENCY  
7 EVALUATION REPORT; EXCEPT THAT, IF A PARTY REQUESTS A SECOND  
8 EVALUATION PURSUANT TO SECTION 16-8.5-111, A PARTY MUST REQUEST  
9 THE COMPETENCY HEARING, RESTORABILITY HEARING, OR RESTORATION  
10 HEARING WITHIN FOURTEEN DAYS AFTER RECEIVING THE SECOND  
11 EVALUATION REPORT.

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

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

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

18 (IV) A REQUEST FOR A COMBINED RESTORABILITY AND  
19 RESTORATION HEARING IS GOVERNED BY SECTIONS 16-8.5-113 AND  
20 16-8.5-114.

21 (c) THE COURT SHALL GIVE THE NONMOVING PARTY AN  
22 OPPORTUNITY TO OBJECT AND SHALL GRANT OR DENY THE REQUEST FOR  
23 A COMPETENCY HEARING, RESTORABILITY HEARING, OR RESTORATION  
24 HEARING IN ACCORDANCE WITH THE APPLICABLE GOVERNING STATUTES  
25 WITHIN FOURTEEN DAYS AFTER THE REQUEST.

26 (d) THE COMPETENCY HEARING, RESTORABILITY HEARING, OR  
27 RESTORATION HEARING MUST BE HELD WITHIN THIRTY-FIVE DAYS AFTER

1 THE COURT'S ORDER GRANTING THE REQUEST, UNLESS THE TIME IS  
2 EXTENDED BY THE COURT AFTER A FINDING OF GOOD CAUSE.

3 (2) (a) **[Formerly 16-8.5-110]** ~~In any~~ AT A COMPETENCY hearing,  
4 ~~at which the competency of the defendant is an issue~~ RESTORABILITY  
5 HEARING, OR RESTORATION HEARING, witnesses not specially trained in  
6 psychiatry or psychology and not testifying as expert witnesses may  
7 testify as to ~~the witness's~~ THEIR observation of the defendant's actions and  
8 conduct and as to conversations that ~~the witness~~ THEY had with the  
9 defendant bearing upon the defendant's mental condition. Any ~~such~~  
10 witnesses, as part of ~~the witness's~~ THEIR testimony, must be permitted to  
11 give opinions or conclusions concerning the competency of the defendant.

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

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

- 19 (a) To be present in person;
- 20 (b) To examine any reports of the competency evaluation or other  
21 matter to be considered by the court as bearing upon the determination;
- 22 (c) To introduce evidence, summon witnesses, cross-examine  
23 opposing witnesses or witnesses called by the court; and
- 24 (d) To make opening and closing statements and arguments.

25 (4) **[Formerly 16-8.5-108 (2)]** ~~In any~~ AT A COMPETENCY hearing,  
26 ~~concerning competency to proceed or restoration to competency~~  
27 RESTORABILITY HEARING, OR RESTORATION HEARING, competency

1 evaluators and other experts may testify as to the conclusions reached  
2 from their examination of hospital records, laboratory reports, X rays,  
3 electroencephalograms, and psychological test results if the material that  
4 the COMPETENCY evaluators or experts examined in reaching their  
5 conclusions is produced at the time of the hearing. ~~Nothing in~~ This  
6 section ~~prevents~~ DOES NOT PREVENT the parties from obtaining the  
7 information authorized by PURSUANT TO section 16-8.5-104 prior to the  
8 hearing.

9 (5) [Formerly 16-8.5-114 (3)] Evidence of any determination as  
10 to the defendant's competency, ~~or incompetency~~ RESTORABILITY, OR  
11 RESTORATION is not admissible on the issues raised by a plea of not  
12 guilty, not guilty by reason of insanity, or, for offenses that occurred  
13 before July 1, 1995, the affirmative defense of impaired mental condition.

14 **16-8.5-109. Competency hearing - procedure after**  
15 **determination of competency or incompetency - mandatory dismissal**  
16 **- refile of charges.**

17 (1) **Competency hearing.**

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

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

25 (2) [Formerly 16-8.5-111 (1)] **Competent to proceed.** If the final  
26 determination made pursuant to section 16-8.5-103 is that the defendant  
27 is competent to proceed, the ~~judge~~ COURT shall order that the suspended

1 proceeding continue or, if a mistrial was declared, shall reset the case for  
2 trial at the earliest possible date.

3 (3) **[Formerly 16-8.5-111 (1.5)] Referral to wraparound care**  
4 **program or restoration services.** If the final determination made  
5 pursuant to section 16-8.5-103 is that the defendant is incompetent to  
6 proceed and the defendant is eligible for referral to the bridges  
7 wraparound care program pursuant to article 8.6 of this title 16, the court  
8 may ask the parties whether the defendant should be referred for  
9 participation in the program. With the agreement of the parties, the court  
10 may delay ordering restoration services for the defendant to allow a  
11 bridges wraparound care coordinator to conduct an initial intake of the  
12 defendant pursuant to section 16-8.6-108 to determine whether the  
13 bridges wraparound care program is appropriate for the defendant, or,  
14 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, the court may  
15 order restoration services pursuant to ~~subsection (2) of this section~~  
16 SECTION 16-8.5-110.

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

19 (a) THE COURT SHALL DISMISS THE CHARGES AGAINST THE  
20 DEFENDANT IN ACCORDANCE WITH SECTION 16-8.5-116 if the final  
21 determination made pursuant to section 16-8.5-103 is that the defendant  
22 is incompetent to proceed and if a defendant's highest charged offense is  
23 a class 2 misdemeanor; a petty offense; a drug misdemeanor; ~~or a traffic~~  
24 ~~offense, the court shall dismiss the charges against the defendant unless~~  
25 ~~the district attorney objects prior to the entry of the order to dismiss and~~  
26 ~~makes a prima facie showing that the defendant is a danger to the~~  
27 ~~defendant's self or others or is gravely disabled and there is a reasonable~~

1 ~~belief that the defendant will be certified for treatment and receive the~~  
2 ~~necessary services pursuant to article 65 of title 27~~ INFRACTION; A  
3 MISDEMEANOR TRAFFIC OFFENSE; AN OFFENSE THAT CONSTITUTES AN  
4 UNCLASSIFIED MISDEMEANOR WITHOUT SPECIFICATION PURSUANT TO  
5 SECTION 18-1.3-504; OR AN OFFENSE THAT CONSTITUTES A DENOMINATED  
6 MISDEMEANOR AND NO PENALTY IS FIXED IN STATUTE PURSUANT TO  
7 SECTION 18-1.3-505, BUT NOT A MISDEMEANOR PURSUANT TO PART 13 OF  
8 ARTICLE 4 OF TITLE 42 OR ANY OFFENSE CHARGED PURSUANT TO SECTION  
9 42-4-1402 (2)(c).

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

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

19 **16-8.5-110. Restoration services - inpatient and outpatient.**

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

27 (a) If the defendant is out of custody or will be released soon, the

1 court shall order ~~the~~ restoration services take place on an outpatient basis,  
2 unless the recommendation from ~~the department~~ CDHS is that inpatient  
3 restoration services are clinically appropriate, and:

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

6 (II) The court may appoint a bridges court liaison HIRED OR  
7 CONTRACTED PURSUANT TO ARTICLE 95 OF TITLE 13 or may order that the  
8 defendant cooperate with pretrial services, if available, and the court may  
9 order pretrial services or a bridges court liaison, or both, to work with the  
10 defendant, ~~the department~~ CDHS, and the restoration services provider  
11 under contract with ~~the department~~ CDHS to assist in securing  
12 appropriate support and care management services for the defendant,  
13 which may include housing resources; and

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

20 (b) If the ~~court determines the defendant is incompetent to~~  
21 ~~proceed and~~ DEFENDANT is in-custody on a CLASS 1 misdemeanor, ~~petty~~  
22 ~~offense, or traffic offense~~ A MISDEMEANOR DESCRIBED IN PART 13 OF  
23 ARTICLE 4 OF TITLE 42, OR AN OFFENSE CHARGED PURSUANT TO SECTION  
24 42-4-1402 (2)(c), the court ~~must~~ SHALL set a hearing on bond within  
25 seven days after the court's final determination that the defendant is  
26 incompetent to proceed. At the bond hearing, there is a presumption that  
27 the court shall order a personal recognizance bond and enter an order for

1 restoration services pursuant to ~~subsection (2)(a)~~ SUBSECTION (1)(a) of  
2 this section. In order to deny the defendant a personal recognizance bond  
3 and enter an order to commit the defendant for inpatient restoration  
4 services pursuant to ~~subsection (2)(c)~~ SUBSECTION (1)(c) of this section,  
5 the court ~~shall~~ MUST make findings of fact that extraordinary  
6 circumstances exist to overcome the presumption of release by clear and  
7 convincing evidence. If the court denies a personal recognizance bond,  
8 the court ~~must~~ SHALL notify ~~the department~~ CDHS of the specific findings  
9 the court made to deny the personal recognizance bond. The judicial  
10 department shall develop a form for a court to use to notify ~~the~~  
11 ~~department~~ CDHS of the court's findings that are required by this  
12 ~~subsection (2)(b)~~ SUBSECTION (1)(b).

13 (c) If the court finds that the defendant is not eligible for release  
14 from custody or not able to post the monetary condition of bond, or the  
15 court approves a recommendation from ~~the department~~ CDHS that  
16 inpatient restoration services are clinically appropriate, the court shall  
17 commit the defendant to the custody of ~~the department~~ CDHS and order  
18 inpatient restoration services.

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

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

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

26 (II) The restoration services provider under contract with ~~the~~  
27 ~~department~~ CDHS shall notify the court, ~~the department~~ CDHS, the

1 bridges court liaison, and any other designated agency within twenty-one  
2 days after the court's order if restoration services have not started and  
3 include a description of the efforts that have been made to engage the  
4 defendant in services. and

5 ~~(HH) If the department determines that the department is unable,~~  
6 ~~within a reasonable time, to provide restoration services on an outpatient~~  
7 ~~basis, the department shall notify the court within fourteen days after the~~  
8 ~~department's determination, at which point the court shall review the case~~  
9 ~~and determine what interim mental health services the department or a~~  
10 ~~community provider can provide to the defendant. If a bridges court~~  
11 ~~liaison is appointed, the department shall report to the bridges court~~  
12 ~~liaison every twenty-eight days concerning the availability of restoration~~  
13 ~~services on an outpatient basis to the defendant.~~

14 (b) If, in the process of coordinating outpatient restoration  
15 services for a defendant, ~~the department~~ CDHS determines that the  
16 defendant meets the standard for a certification for short-term treatment  
17 pursuant to section 27-65-108.5 and that initiating a petition for an  
18 outpatient certification is appropriate, ~~the department~~ CDHS may request,  
19 in writing, that the court refer the matter for filing of a petition for  
20 short-term treatment pursuant to SECTION 27-65-108.5 in a court with  
21 jurisdiction and authorize ~~the department~~ CDHS to file the petition. After  
22 receiving a written request, the court shall hear and consider any  
23 objections from the defendant prior to ruling on the request.

24 (c) If ~~the department~~ CDHS determines that ~~the department~~ IT is  
25 unable, within a reasonable time, to provide restoration services on an  
26 outpatient basis, ~~the department~~ CDHS shall notify the court within  
27 fourteen days after the ~~department's~~ ITS determination, at which point the

1 court shall review the case and determine what interim mental health  
2 services ~~the department~~ CDHS or a community provider can provide to  
3 the defendant. If a bridges court liaison is appointed, ~~the department~~  
4 CDHS shall report to the bridges court liaison every twenty-eight days  
5 concerning the availability of restoration services on an outpatient basis  
6 to the defendant.

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

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

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

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

24 (III) ~~The department~~ CDHS shall admit tier 2 defendants for  
25 INPATIENT restoration services within twenty-eight days after receipt of  
26 the court order and collateral materials and shall advise the court and the  
27 bridges court liaison, if applicable, every twenty-eight days after the

1 initial twenty-eight-day period regarding the availability of an inpatient  
2 bed and when admission will be offered to the defendant.

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

5 (I) A less-restrictive facility would be more clinically appropriate,  
6 the executive director, with proper notice to the court and consistent with  
7 the provisions of part 3 of article 4.1 of title 24, may move the defendant  
8 to a less-restrictive facility if, in the executive director's opinion, the  
9 defendant is not yet restored to competency but could be properly restored  
10 to competency in a less-restrictive facility. If the defendant is not released  
11 from custody, the court shall order ~~the department~~ CDHS to provide  
12 inpatient services at a location determined by ~~the department~~ CDHS.

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

15 (A) notify the court; and request that the defendant be considered  
16 for release on a nonmonetary bond if the defendant is not currently  
17 released on bond; and

18 (B) provide ~~to the court~~ information TO THE COURT regarding the  
19 appropriate outpatient restoration services, developed in conjunction with  
20 the bridges court liaison, when assigned, and the reasons why the  
21 defendant could be properly restored to competency on an outpatient  
22 basis.

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

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

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

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

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

10 (d) If the defendant is discharged from ~~the department's~~ CDHS's  
11 custody after receiving inpatient restoration services and the defendant is  
12 to be returned to the custody of the county jail, ~~the department~~ CDHS  
13 shall:

14 (I) Notify the sheriff of the jurisdiction where the defendant is to  
15 be returned;

16 (II) Notify the court and the bridges court liaison that ~~the~~  
17 ~~department~~ CDHS is returning the defendant to the custody of the county  
18 jail; and

19 (III) Work with the sheriff, the bridges court liaison, and any  
20 behavioral health providers in the county jail to ensure that the county jail  
21 has the necessary information to prevent any decompensation by the  
22 defendant while the defendant is in the county jail, which must include  
23 medication information when clinically appropriate.

24 **16-8.5-111. Second evaluation.**

25 (1) [Formerly 16-8.5-106 (1)] If a defendant wishes to be  
26 examined by a competency evaluator of his or her THE DEFENDANT'S OWN  
27 choice in connection with any proceeding under this ~~article~~ ARTICLE 8.5,

1 the court, upon timely motion, shall ~~order that~~ ENTER ANY ORDERS  
2 NECESSARY FOR the competency evaluator chosen by the defendant TO be  
3 given reasonable opportunity to conduct ~~the~~ A second evaluation. ~~in~~  
4 ~~accordance with sections 16-8.5-103 and 16-8.5-111.~~

5 (2) EITHER PARTY HAS THE RIGHT TO REQUEST A SECOND  
6 EVALUATION, AND THE COURT SHALL GRANT THE REQUEST. THE SECOND  
7 EVALUATION REPORT MUST INCLUDE THE COMPETENCY EVALUATOR'S  
8 OPINION, IF APPLICABLE, REGARDING:

9 (a) WHETHER THE DEFENDANT IS COMPETENT TO PROCEED OR  
10 INCOMPETENT TO PROCEED;

11 (b) WHETHER THE DEFENDANT IS RESTORABLE; AND

12 (c) IF THE DEFENDANT IS RECEIVING RESTORATION TREATMENT  
13 SERVICES, WHETHER THE DEFENDANT HAS BEEN RESTORED TO  
14 COMPETENCY.

15 (3) IF A RESTORATION HEARING IS COMBINED WITH A  
16 RESTORABILITY HEARING, EITHER PARTY MAY REQUEST A SECOND  
17 EVALUATION THAT ADDRESSES BOTH RESTORATION AND RESTORABILITY  
18 RATHER THAN A SECOND EVALUATION FOR EACH ISSUE.

19 (4) **[Formerly 16-8.5-103 (4)]** If a party requests a second  
20 evaluation, THE COURT SHALL CONTINUE any pending requests for a  
21 hearing ~~must be continued~~ until the receipt of the second evaluation  
22 report. The COMPETENCY EVALUATOR SHALL COMPLETE AND FILE THE  
23 report ~~of the expert conducting the second evaluation must be completed~~  
24 ~~and filed~~ with the court within thirty-five days after the court order  
25 allowing the second evaluation, unless the time period is extended by the  
26 court for good cause. The court shall provide the second evaluation to  
27 CDHS AND the parties. ~~and the department. The department~~ CDHS shall

1 use the second evaluation to ensure that ~~the department~~ CDHS complies  
2 with its responsibilities, including reviewing and summarizing prior  
3 competency opinions ~~as required by section 16-8.5-105 (5)(f)~~ MADE  
4 PURSUANT TO SECTION 16-8.5-105 (5)(d)(I)(A). If the COURT REQUESTS  
5 THE second evaluation, ~~is requested by the court~~, it must be paid for by  
6 the court.

7 (5) **[Formerly 16-8.5-107]** ~~In all proceedings brought pursuant to~~  
8 ~~this article 8.5, the court shall appoint a competency evaluator or an~~  
9 ~~attorney for the defendant at the state's expense upon motion of the~~  
10 ~~defendant with proof that the defendant is indigent and without money to~~  
11 ~~employ a competency evaluator or attorney to which the defendant is~~  
12 ~~entitled pursuant to this article 8.5.~~ The court shall pay for a second  
13 evaluation if a second evaluation is requested by an indigent defendant.

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

18 **16-8.5-112. [Formerly 16-8.5-116] Review hearing to determine**  
19 **competency - report.**

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

21 (2)(a) (1) (a) Within ninety-one days after the entry of the court's  
22 order of commitment or order to receive outpatient restoration SERVICES,  
23 the court shall SET A HEARING TO review the case of a defendant who has  
24 been determined to be incompetent to proceed with regard to ~~the~~  
25 ~~probability that~~ WHETHER the defendant ~~will be restored to competency~~  
26 ~~within the reasonably foreseeable future~~ IS RESTORABLE OR  
27 UNRESTORABLE and with regard to the justification for certification,

1 confinement, or continued restoration treatment. The review HEARING  
2 may be held in conjunction with a RESTORABILITY HEARING HELD  
3 PURSUANT TO SECTION 16-8.5-113 OR A restoration hearing held pursuant  
4 to ~~section 16-8.5-113~~ SECTION 16-8.5-114. However, if at the review  
5 hearing there is a request by the defendant for a restoration hearing  
6 pursuant to ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall set the  
7 restoration hearing within thirty-five days after the request pursuant to the  
8 provisions of ~~section 16-8.5-113~~ SECTION 16-8.5-114.

9 (b) At least ten days before each review HEARING, the ~~individual~~  
10 ~~or entity evaluating the defendant~~ COMPETENCY EVALUATOR shall provide  
11 the court with a report ~~describing~~ THAT INCLUDES:

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

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

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

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

24 ~~(IV.3) Whether the defendant meets the criteria for a certification~~  
25 ~~for short-term treatment pursuant to section 27-65-108.5 or 27-65-109~~  
26 ~~and, if the defendant meets such criteria, whether the evaluator believes~~  
27 ~~the defendant could be treated on an outpatient basis pursuant to section~~

1 ~~27-65-111. In assessing whether a defendant with a pending criminal~~  
2 ~~charge is a danger to self or others or is gravely disabled, if the person is~~  
3 ~~incarcerated, the evaluator shall not rely on the fact that the defendant is~~  
4 ~~incarcerated or is an inpatient in a medical facility to establish the~~  
5 ~~defendant is not a danger to self or others or is not gravely disabled.~~

6 ~~(IV.5) Whether the defendant has an intellectual and~~  
7 ~~developmental disability, as defined in section 25.5-10-202, and if the~~  
8 ~~defendant does have such a disability, whether the defendant may be~~  
9 ~~eligible for any additional services pursuant to article 10 of title 25.5 or~~  
10 ~~article 10.5 of title 27.~~

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

1 27-65-109, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO REQUEST  
2 A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT OF THE  
3 DEFENDANT.

4 (VI) WHETHER THE DEFENDANT HAS AN INTELLECTUAL AND  
5 DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-10-202, AND  
6 IF THE DEFENDANT DOES HAVE AN INTELLECTUAL AND DEVELOPMENTAL  
7 DISABILITY, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH  
8 DISORDER, AND WHETHER THE DEFENDANT MAY BE ELIGIBLE FOR ANY  
9 ADDITIONAL SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR  
10 ARTICLE 10.5 OF TITLE 27, OR MAY MEET THE CRITERIA FOR A CIVIL  
11 PROCEEDING FOR IMPOSITION OF A LEGAL DISABILITY PURSUANT TO  
12 SECTION 25.5-10-216. IF THE COMPETENCY EVALUATOR'S OPINION IS THAT  
13 THE DEFENDANT MAY MEET THE CRITERIA, THE COMPETENCY EVALUATOR  
14 IS NOT REQUIRED TO PETITION THE COURT FOR IMPOSITION OF A LEGAL  
15 DISABILITY.

16 (VII) WHETHER THE DEFENDANT HAS A NEUROCOGNITIVE  
17 DISORDER, AS DEFINED IN SECTION 25.5-10-501, AND, IF THE DEFENDANT  
18 DOES HAVE A NEUROCOGNITIVE DISORDER, WHETHER THE DEFENDANT  
19 MAY MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO  
20 SECTION 25.5-10-502. IF THE OPINION IS THAT THE DEFENDANT MAY MEET  
21 THE CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY  
22 EVALUATOR IS NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE  
23 PLACEMENT.

24 (VIII) A DESCRIPTION OF any and all efforts made for  
25 restoration through medication, therapy, education, or other services and  
26 the outcome of those efforts in relation to restoring the defendant to  
27 competency;

1           ~~(VI) Repealed.~~

2           ~~(VII) (IX) If the defendant has failed to cooperate with treatment,~~  
3           whether the incompetency and mental DISABILITY or intellectual and  
4           developmental disability ~~contributes to~~ IS THE PRIMARY REASON FOR the  
5           defendant's refusal or inability to cooperate with restoration; ~~or prevents~~  
6           ~~the ability of the defendant to cooperate with restoration; and~~

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

10           (c) At least ten days before each review HEARING, the ~~department~~  
11           ~~treating~~ CDHS TREATMENT team shall provide to the court an additional  
12           report that summarizes:

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

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

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

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

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

25           (VI) IF THE DEFENDANT IS CONTINUING TO RECEIVE INPATIENT  
26           RESTORATION SERVICES, whether the defendant, based on observations of  
27           the defendant's behavior in the facility, presents a substantial risk to the

1 physical safety of the defendant's self, of another person, or of the  
2 community if released for community restoration; AND

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

5 (A) THE DEFENDANT IS CHARGED WITH HOMICIDE PURSUANT TO  
6 PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE, AS DEFINED IN  
7 SECTION 18-1.3-406 (2); OR A FELONY THAT CONSTITUTES UNLAWFUL  
8 SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102; OR

9 (B) THE PROSECUTION REQUESTED AN OPINION REGARDING  
10 WHETHER THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM  
11 TO OTHERS BECAUSE THE PROSECUTION IS AWARE OF AN ACT NOT  
12 CHARGED IN THE CURRENT CASE THAT WOULD QUALIFY PURSUANT TO  
13 SECTION 16-8.5-118 (6)(b)(II). IF THE PROSECUTION REQUESTS AN OPINION  
14 PURSUANT TO THIS SUBSECTION (1)(c)(VII)(B), THE PROSECUTION SHALL  
15 DISCLOSE THE UNCHARGED ACTS TO THE DEFENDANT.

16 ~~(3)~~ (2) After the initial review HEARING CONDUCTED pursuant to  
17 ~~subsection (2)(a)~~ SUBSECTION (1)(a) of this section, the court shall review  
18 the case of the defendant every ninety-one days. At least ten days before  
19 each review, the ~~individual or entity evaluating the defendant~~  
20 COMPETENCY EVALUATOR shall provide the court with an updated  
21 COMPETENCY EVALUATION report as described in ~~subsection (2)(b)~~  
22 SUBSECTION (1)(b) of this section and the treatment staff shall provide an  
23 updated summary of observations as described in ~~subsection (2)(c)~~  
24 SUBSECTION (1)(c) of this section.

25 ~~(4) Repealed:~~

26 ~~(5)~~ (3) The court shall forward a copy of each report and summary  
27 received pursuant to ~~subsections (2) and (3)~~ SUBSECTIONS (1) AND (2) of

1 this section to the county attorney or district attorney required to conduct  
2 proceedings pursuant to ~~section 27-65-113 (6)~~ SECTION 27-65-113.5 for  
3 the county in which the case is pending and, when a bridges court liaison  
4 is appointed, to the bridges court liaison.

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

6 **16-8.5-113. Restorability hearing - burdens of proof -**  
7 **determination - dismissal.**

8 (1) (a) THE COURT MAY, UPON MOTION OF A PARTY AND UPON A  
9 SHOWING OF GOOD CAUSE, SET A RESTORABILITY HEARING WITHIN THE  
10 TIME FRAME SET FORTH IN SECTION 16-8.5-108 (1)(d).

11 (b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION  
12 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND A  
13 COMPETENCY EVALUATOR OPINES THAT THE DEFENDANT IS  
14 UNRESTORABLE, AND EITHER A RESTORABILITY HEARING HAS NOT BEEN  
15 HELD OR ONE HUNDRED EIGHTY-TWO DAYS HAVE PASSED SINCE THE  
16 DEFENDANT BEGAN RECEIVING RESTORATION SERVICES AFTER A FINDING  
17 OF RESTORABILITY, THE COURT SHALL, UPON MOTION OF A PARTY, SET A  
18 RESTORABILITY HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION  
19 16-8.5-108 (1)(d). A RESTORABILITY HEARING MAY BE COMBINED WITH A  
20 RESTORATION HEARING, IF APPROPRIATE.

21 (c) IF THE COURT RECEIVES THE COMPETENCY EVALUATOR'S  
22 OPINION THAT THE DEFENDANT IS UNRESTORABLE PRIOR TO ENTERING AN  
23 INITIAL ORDER FOR RESTORATION SERVICES, THE COURT SHALL SET A  
24 RESTORABILITY HEARING IN LIEU OF ORDERING RESTORATION SERVICES.

25 (2) AT ANY RESTORABILITY HEARING CONDUCTED PURSUANT TO  
26 THIS SECTION:

27 (a) THE DEFENDANT HAS THE BURDEN OF PROVING BY A

1 PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS  
2 UNRESTORABLE IF ANY CHARGE IN ANY OF THE DEFENDANT'S PENDING  
3 CRIMINAL CASES IN THE STATE OF COLORADO INCLUDE A CRIME SUBJECT  
4 TO THE "VICTIM RIGHTS ACT", SECTION 24-4.1-302 (1); UNLAWFUL  
5 SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INDECENT  
6 EXPOSURE, AS DESCRIBED IN SECTION 18-7-302; AND

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

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

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

25 (b) THE NATURE AND SEVERITY OF THE DEFENDANT'S  
26 INCOMPETENCY AND WHETHER THE DEFENDANT'S LEVEL OF COMPETENCY  
27 CAN BE IMPROVED THROUGH ANY SERVICES THE COURT MAY LAWFULLY

1 ORDER, INCLUDING SERVICES THAT ARE IN ADDITION TO RESTORATION  
2 SERVICES;

3 (c) THE EXPERIENCES, OBSERVATIONS, AND OPINIONS OF  
4 QUALIFIED EXPERTS, INCLUDING MEDICAL PROFESSIONALS, TREATMENT  
5 PROVIDERS, AND RESTORATION SPECIALISTS;

6 (d) THE EXPERIENCES, OBSERVATIONS, AND OPINIONS OF LAY  
7 PERSONS WHO ARE FAMILIAR WITH THE DEFENDANT, INCLUDING FAMILY  
8 MEMBERS, FRIENDS, ASSOCIATES, AND ANY OTHER INDIVIDUAL WITH  
9 WHOM THE DEFENDANT HAS HAD SIGNIFICANT INTERACTIONS;

10 (e) THE DEFENDANT'S MEDICAL HISTORY, CRIMINAL HISTORY,  
11 COMPETENCY AND RESTORATION HISTORY, AND CIVIL COMMITMENT  
12 HISTORY;

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

17 (g) ANY RELEVANT STATEMENTS MADE BY THE DEFENDANT  
18 DURING THE RESTORATION PROCESS; OR

19 (h) THE DEFENDANT'S LEVEL OF EFFORT AND ENGAGEMENT,  
20 INCLUDING ANY VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS  
21 TO PARTICIPATE.

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

24 (I) IF THE COURT FINDS THAT THE DEFENDANT HAS NOT MET THE  
25 BURDEN OF PROVING THE DEFENDANT IS UNRESTORABLE PURSUANT TO  
26 SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL FIND THE  
27 DEFENDANT RESTORABLE AND ORDER APPROPRIATE RESTORATION

1 SERVICES AND SET A REVIEW HEARING PURSUANT TO SECTION 16-8.5-112.

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

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

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

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

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

1 the defendant could be ~~restored to competency in the reasonably~~  
2 ~~foreseeable future~~ RESTORABLE if the defendant cooperated and  
3 participated in the restoration services and treatment.

4 **16-8.5-114. Restoration hearing - burdens of proof -**  
5 **determination.**

6 (1) (a) [~~Formerly 16-8.5-113 (1)~~] The court may, ~~order~~ UPON A  
7 MOTION OF A PARTY AND UPON A SHOWING OF GOOD CAUSE, SET a  
8 restoration hearing ~~at any time on its own motion, on motion of the~~  
9 ~~prosecuting attorney, or on motion of the defendant, except that the court~~  
10 ~~shall order a restoration hearing when required pursuant to section~~  
11 ~~16-8.5-111(4)(a) or (4)(b)~~ WITHIN THE TIME FRAME SET FORTH IN SECTION  
12 16-8.5-108 (1)(a). FOR THE PURPOSES OF THIS SUBSECTION (1)(a), GOOD  
13 CAUSE INCLUDES IF A DEFENDANT IS APPROACHING THE MAXIMUM TIME  
14 PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION  
15 16-8.5-116. A RESTORATION HEARING MAY BE COMBINED WITH A  
16 RESTORABILITY HEARING, IF APPROPRIATE.

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

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

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

25 (III) A RESTORATION HEARING HAS NOT BEEN HELD OR ONE  
26 HUNDRED EIGHTY-TWO DAYS HAVE PASSED AFTER A FINDING AT A  
27 RESTORATION HEARING THAT THE DEFENDANT REMAINS INCOMPETENT TO

1 PROCEED AND THE DEFENDANT HAS CONTINUED TO RECEIVE RESTORATION  
2 SERVICES.

3 (2) [Formerly 16-8.5-113 (2)] ~~Within fourteen days after receipt~~  
4 ~~of a report from the department or other court-approved competency~~  
5 ~~evaluator certifying that the defendant is competent to proceed;~~ Either  
6 party may request a RESTORATION hearing or a second evaluation ~~The~~  
7 ~~court shall determine whether to allow the second evaluation or proceed~~  
8 ~~to a hearing on competency. If the second evaluation is requested by the~~  
9 ~~court or by an indigent defendant, the evaluation must be paid for by the~~  
10 ~~court~~ PURSUANT TO SECTION 16-8.5-111.

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

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

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

27 **16-8.5-115. Procedure after restoration hearing.**

1 (1) [Formerly 16-8.5-114 (1)] If a defendant is found to be  
2 restored to competency after the RESTORATION hearing held pursuant to  
3 ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall resume the  
4 criminal proceedings or order the sentence carried out. The court shall  
5 credit any time the defendant spent in confinement while committed  
6 pursuant to ~~section 16-8.5-111~~ SECTION 16-8.5-110 against any term of  
7 imprisonment imposed after restoration to competency.

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

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

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

23 (a) The defendant's highest charged offense is a class 1  
24 misdemeanor; ANY MISDEMEANOR THAT CONSTITUTES A FIRST OFFENSE  
25 PURSUANT TO PART 13 OF ARTICLE 4 OF TITLE 42; or ~~is~~ a level 4 drug  
26 felony, and the defendant has been in ~~the department's~~ CDHS'S custody  
27 for restoration services or has been confined in a jail or other detention

1 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
2 restoration for an aggregate time of six months; and

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

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

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

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

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

25 (a) The defendant's highest charged offense is a class 4 felony and  
26 the defendant has been in ~~the department's~~ CDHS'S custody for  
27 restoration services or has been confined in a jail or other detention

1 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
2 restoration for an aggregate period of two years; and

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

5 (4) **[Formerly 16-8.5-116.5 (5)]** ~~Subsections (2), (3), and (4)~~  
6 ~~SUBSECTIONS (1), (2), AND (3)~~ of this section do not apply if the defendant  
7 is charged with a class 1, 2, or 3 felony offense; a sex offense, as defined  
8 in section 18-1.3-1003 (5); a crime of violence, as defined in section  
9 18-1.3-406 (2); or a level 1 or level 2 drug felony.

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

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

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

15 (c) The defendant's presentence confinement credit, including any  
16 time period the defendant was committed for inpatient restoration, or  
17 confined in jail or another detention facility awaiting inpatient restoration  
18 services, exceeds the maximum sentence for the defendant's highest  
19 charged offense.

20 ~~(6) to (15) Repealed.~~ IF THE CONDITIONS ALLOWING THE COURT TO  
21 STAY A DISMISSAL APPLY, THE COURT SHALL STAY A DISMISSAL ORDERED  
22 PURSUANT TO THIS SECTION IN ACCORDANCE WITH SECTION 16-8.5-117 OR  
23 16-8.5-118.

24 (7) **[Formerly 16-8.5-116.5 (13)]** When the defendant is charged  
25 with an offense in municipal court and the defendant is found  
26 incompetent to proceed, or when civil commitment proceedings are  
27 initiated pursuant to article 65 of title 27, the municipal court shall

1 dismiss the case.

2 (8) [Formerly 16-8.5-116.5 (14)] If a defendant is in custody and  
3 ~~the department~~ CDHS does not comply with the time limits set forth in  
4 ~~section 16-8.5-111 the defendant is subject to the time limits set forth in~~  
5 ~~subsections (2), (3), and (4) of this section~~ SECTION 16-8.5-110, and,  
6 based upon the best available evidence, the defendant will not be admitted  
7 to an inpatient facility to begin restoration SERVICES within the time limits  
8 described in ~~the applicable subsection~~ SUBSECTIONS (1), (2), OR (3) OF  
9 THIS SECTION, the court may release the defendant or dismiss the case in  
10 lieu of the defendant remaining in custody on a wait list for restoration  
11 services.

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

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

21 **16-8.5-117. Initiation of civil proceeding - appointment of**  
22 **bridges court liaison or guardian - extension - dismissal.**

23 (1) IF THE COURT DETERMINES THERE IS A SUBSTANTIAL  
24 PROBABILITY THAT THE DEFENDANT WILL BE FOUND UNRESTORABLE  
25 PURSUANT TO SECTION 16-8.5-113, THE DEFENDANT WILL REACH THE  
26 MAXIMUM TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO  
27 SECTION 16-8.5-116, OR THE COURT WILL ORDER THE INITIATION OF A

1 CIVIL PROCEEDING PURSUANT TO THIS SECTION:

2 (a) THE COURT SHALL, UNLESS THE COURT FINDS THERE IS AN  
3 ACCEPTABLE CARE COORDINATION ALTERNATIVE ALREADY IN PLACE,  
4 APPOINT A BRIDGES COURT LIAISON TO PROVIDE SERVICES AUTHORIZED IN  
5 ARTICLE 95 OF TITLE 13, WHICH MAY INCLUDE:

6 (I) ASSISTING WITH CASE PLANNING AND COORDINATING SERVICES  
7 FOR THE DEFENDANT, INCLUDING COORDINATING WITH GOVERNMENTAL  
8 ENTITIES OR COMMUNITY-BASED ORGANIZATIONS THAT ARE CAPABLE OF  
9 PROVIDING RESOURCES TO THE DEFENDANT;

10 (II) IF THE DEFENDANT DOES NOT OBJECT, FACILITATING  
11 PSYCHOLOGICAL ASSESSMENTS OF THE DEFENDANT TO HELP DETERMINE  
12 APPROPRIATE LEVELS OF CARE;

13 (III) IDENTIFYING AND INFORMING THE COURT AND PARTIES OF  
14 APPROPRIATE LONG-TERM LEVEL OF CARE RECOMMENDATIONS AND  
15 PLACEMENT AVAILABILITY;

16 (IV) PROVIDING THE COURT WITH AN INDIVIDUALIZED RELEASE  
17 PLAN DEVELOPED IN CONJUNCTION WITH ANY NECESSARY COMMUNITY  
18 PROVIDERS AND ASSISTING WITH THE REINTEGRATION OF THE DEFENDANT  
19 INTO THE COMMUNITY WITH APPROPRIATE SERVICES;    

20 (V) COORDINATING, AS NEEDED, WITH THE OFFICE OF PUBLIC  
21 GUARDIANSHIP, AN APPOINTED EMERGENCY GUARDIAN, CDHS, THE  
22 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR THE  
23 BEHAVIORAL HEALTH ADMINISTRATION FOR THE PURPOSE OF PROVIDING  
24 LONG-TERM CONTINUUM OF CARE FOR THE DEFENDANT.

25 (b) IF THE COURT DETERMINES THAT THE APPOINTMENT OF AN  
26 EMERGENCY GUARDIAN IS APPROPRIATE PURSUANT TO SECTION 15-14-312  
27 (1), THE COURT SHALL APPOINT THE OFFICE OF PUBLIC GUARDIANSHIP AS

1     THE DEFENDANT'S EMERGENCY GUARDIAN.

2           (2) THE COURT MAY ENTER LAWFUL ORDERS REQUESTED BY THE  
3     DEFENDANT, THE APPOINTED BRIDGES COURT LIAISON, OR THE APPOINTED  
4     \_\_\_ EMERGENCY GUARDIAN TO ASSIST OR FACILITATE THE WORK OF THE  
5     BRIDGES COURT LIAISON OR THE APPOINTED \_\_\_ EMERGENCY GUARDIAN.

6           (3) (a) IF THE COURT HAS MADE A FINAL DETERMINATION THAT  
7     THE DEFENDANT IS INCOMPETENT TO PROCEED, THE COURT MAY ORDER  
8     THE COUNTY ATTORNEY \_\_ TO INITIATE A CIVIL PROCEEDING AGAINST THE  
9     DEFENDANT WHILE THE CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT  
10    ARE ONGOING IF:

11           (I) 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 FOR IMPOSITION OF  
19    A LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO  
20    SECTION 25.5-10-216; AND

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

23           (A) THE DISTRICT ATTORNEY;

24           (B) THE COUNTY ATTORNEY;

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

26           (D) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
27    WHO OPINED THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL

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

5 (E) A REPRESENTATIVE DESIGNATED BY THE BEHAVIORAL HEALTH  
6 ADMINISTRATION IN CDHS OR WITH CDHS TO MAKE A REQUEST.

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

11 (4) (a) (I) DURING THE PENDENCY OF THE CRIMINAL CASE, THE  
12 DEFENDANT, THE DEFENDANT'S ATTORNEY IN THE CRIMINAL CASE, AND  
13 THE PROSECUTING ATTORNEY IN THE CRIMINAL CASE MAY ACCESS THE  
14 FOLLOWING INFORMATION AND RECORDS THAT RELATE TO A CIVIL  
15 PROCEEDING INITIATED AGAINST THE DEFENDANT:

16 (A) WHETHER A CIVIL PROCEEDING IS PENDING AGAINST THE  
17 DEFENDANT AND, IF SO, THE DATE AND TIME OF THE CIVIL PROCEEDING  
18 AND THE FINAL DISPOSITION OF THE CIVIL PROCEEDING, REGARDLESS OF  
19 WHETHER THE CIVIL PROCEEDING IS CONFIDENTIAL OR CLOSED TO THE  
20 PROSECUTING ATTORNEY OR THE DEFENDANT'S ATTORNEY IN THE  
21 CRIMINAL CASE; AND

22 (B) WHETHER THE COURT PREVIOUSLY ORDERED CERTIFICATION  
23 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5,  
24 27-65-109, OR 27-65-109.5, CERTIFICATION FOR LONG-TERM CARE AND  
25 TREATMENT PURSUANT TO SECTION 27-65-110, PROTECTIVE PLACEMENT  
26 PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A LEGAL  
27 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION

1 25.5-10-216;

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

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

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

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

13 (5) THE COURT SHALL ORDER THE COUNTY ATTORNEY        TO  
14 INITIATE A CIVIL PROCEEDING AGAINST THE DEFENDANT AND STAY THE  
15 ORDER DISMISSING THE DEFENDANT'S CRIMINAL CASE FOR THIRTY-FIVE  
16 DAYS IF:

17 (a) THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO  
18 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116, OR, IF THE  
19 DEFENDANT IS INCOMPETENT, THE DISTRICT ATTORNEY VOLUNTARILY  
20 MOVES TO DISMISS THE CASE AND        REQUESTS THE COUNTY ATTORNEY  
21 OR THE APPOINTED        EMERGENCY GUARDIAN TO INITIATE A CIVIL  
22 PROCEEDING;

23 (b) A COMPETENCY EVALUATOR, OR A PROFESSIONAL PERSON OR  
24 INTERVENING PROFESSIONAL, AS THOSE TERMS ARE DEFINED IN SECTION  
25 27-65-102, WHO IS ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND  
26 WHO HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
27 DEFENDANT OPINES THAT THE DEFENDANT MEETS THE CRITERIA FOR

1 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND  
2 TREATMENT PURSUANT TO SECTION 27-65-108.3, FOR PROTECTIVE  
3 PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A  
4 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
5 25.5-10-216; AND

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

8 (I) THE DISTRICT ATTORNEY;

9 (II) THE COUNTY ATTORNEY;

10 (III) THE APPOINTED      EMERGENCY GUARDIAN;

11 (IV) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
12 WHO OPINED PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION THAT  
13 THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING IF THE  
14 PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S OPINION IS NOT  
15 THE RESULT OF WORK PERFORMED AS PART OF EMPLOYMENT OR A  
16 CONTRACT WITH THE BEHAVIORAL HEALTH ADMINISTRATION IN CDHS OR  
17 WITH CDHS; OR

18 (V) A REPRESENTATIVE DESIGNATED BY THE BEHAVIORAL HEALTH  
19 ADMINISTRATION IN CDHS OR WITH CDHS TO MAKE A REQUEST.

20 (6) NOTWITHSTANDING SUBSECTIONS (3) AND (5) OF THIS SECTION,  
21 IF AN APPOINTED EMERGENCY GUARDIAN BELIEVES IN THEIR  
22 PROFESSIONAL JUDGMENT THAT A CIVIL PROCEEDING SHOULD BE  
23 INITIATED, THE COURT SHALL ALLOW THE EMERGENCY GUARDIAN TO  
24 INITIATE THE CIVIL PROCEEDING IN LIEU OF ORDERING THE COUNTY  
25 ATTORNEY TO INITIATE THE CIVIL PROCEEDING.

26 (7) (a) THE COURT SHALL GRANT AN UNLIMITED NUMBER OF  
27 THIRTY-FIVE-DAY EXTENSIONS TO STAY THE ORDER DISMISSING THE

1 DEFENDANT'S CASE IF THE DEFENDANT CONSENTS TO THE EXTENSION.

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

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

8 (II) THE COURT FINDS GOOD CAUSE; AND

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

14 (c) IF THE DEFENDANT DOES NOT CONSENT TO AN EXTENSION TO  
15 STAY THE ORDER, THE COURT SHALL GRANT NO MORE THAN ONE  
16 ADDITIONAL EXTENSION, SO LONG AS THE EXTENSION DOES NOT EXCEED  
17 SEVENTY DAYS, IF:

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

20 (II) THE COURT FINDS GOOD CAUSE; AND

21 (III) THE DEFENDANT IS NOT CHARGED WITH A CRIME OF  
22 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), OR A FELONY THAT  
23 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
24 16-22-102.

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

1 (e) AN EXTENSION GRANTED PURSUANT TO SUBSECTION (7)(b) OR  
2 (6)(c) OF THIS SECTION IS IN ADDITION TO THE INITIAL STAY AUTHORIZED  
3 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

4 (f) AFTER A STAY OF DISMISSAL ENDS PURSUANT TO THIS  
5 SUBSECTION (7), THE COURT SHALL DISMISS THE DEFENDANT'S CRIMINAL  
6 CASE UNLESS THE STAY REMAINS IN EFFECT PURSUANT TO SECTION  
7 16-8.5-118. AFTER THE DEFENDANT'S CASE IS DISMISSED, THE COURT  
8 SHALL NOTIFY CDHS OF THE DISMISSAL, IN WRITING, AND THE REASON  
9 FOR THE DISMISSAL.

10 (8) PRIOR TO ORDERING THE COUNTY ATTORNEY \_\_\_ TO INITIATE A  
11 CIVIL PROCEEDING PURSUANT TO SUBSECTION (3) OR (5) OF THIS SECTION,  
12 THE COURT SHALL CONSIDER ANY OBJECTIONS FROM THE DEFENDANT.

13 (9) IF THE COURT ORDERS THE COUNTY ATTORNEY \_\_\_ TO INITIATE  
14 A CIVIL PROCEEDING PURSUANT TO SUBSECTION (3) OR (5) OF THIS  
15 SECTION, THE COURT SHALL SERVE THE COUNTY ATTORNEY \_\_\_ WITH A  
16 WRITTEN ORDER THAT:

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

18 (b) SETS A DEADLINE FOR THE COUNTY ATTORNEY \_\_\_ TO INITIATE  
19 A CIVIL PROCEEDING NO LATER THAN TWENTY-ONE DAYS AFTER THE  
20 COURT'S ORDER;

21 (c) IDENTIFIES THE SPECIFIC CIVIL PROCEEDINGS THE COURT  
22 INTENDS THE COUNTY ATTORNEY \_\_\_ TO INITIATE; AND

23 (d) INCLUDES ANY ORDERS THE COURT ISSUED PURSUANT TO THIS  
24 SECTION.

25 (10) THE COUNTY ATTORNEY OR THE APPOINTED \_\_\_ EMERGENCY  
26 GUARDIAN MAY OBJECT TO THE ORDER TO INITIATE A CIVIL PROCEEDING  
27 WITHIN SEVEN DAYS AFTER RECEIVING THE COURT ORDER SERVED

1 PURSUANT TO SUBSECTION (9) OF THIS SECTION AND MAY REQUEST A  
2 HEARING. IF THE COUNTY ATTORNEY OR THE APPOINTED     EMERGENCY  
3 GUARDIAN FILES AN OBJECTION, THE COURT SHALL SET A HEARING  
4 FORTHWITH AND RULE ON THE COUNTY ATTORNEY'S OBJECTION BY EITHER  
5 VACATING, MODIFYING, OR AFFIRMING THE COURT'S ORDER TO INITIATE A  
6 CIVIL PROCEEDING.

7 (11) IF THE COURT ORDERS THE COUNTY ATTORNEY     TO INITIATE  
8 A CIVIL PROCEEDING AGAINST THE DEFENDANT:

9 (a) THE COURT MAY, UPON THE COURT'S OWN MOTION, FORGO AN  
10 ORDER FOR RESTORATION SERVICES AND DISMISS THE CHARGES AGAINST  
11 THE DEFENDANT WITHOUT PREJUDICE IF THE DEFENDANT'S HIGHEST  
12 CHARGED OFFENSE IS A MISDEMEANOR THAT IS NOT SUBJECT TO DISMISSAL  
13 PURSUANT TO SECTION 16-8.5-109 (4).

14 (b) THE DISTRICT ATTORNEY AND CDHS SHALL TRANSMIT ALL  
15 NECESSARY INFORMATION TO THE COUNTY ATTORNEY OR THE APPOINTED  
16     EMERGENCY GUARDIAN, INCLUDING THE DEFENDANT'S MEDICAL  
17 RECORDS, COMPETENCY EVALUATIONS, MATERIALS USED DURING THE  
18 COMPETENCY PROCESS, AND RESTORATION RECORDS.

19 (12) IF THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO  
20 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116; THE COURT  
21 DOES NOT ORDER THE COUNTY ATTORNEY     TO INITIATE A CIVIL  
22 PROCEEDING; AND THE CASE IS NOT STAYED PURSUANT TO SECTION  
23 16-8.5-118, THE COURT SHALL DISMISS THE CASE.

24 **16-8.5-118. Civil commitment and enhanced protective**  
25 **placement for incompetent and unrestorable defendants - report -**  
26 **repeal.**

27 (1) (a) IF THE DEFENDANT IS UNRESTORABLE PURSUANT TO

1 SECTION 16-8.5-113 OR THE DEFENDANT HAS REACHED THE MAXIMUM  
2 TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION  
3 16-8.5-116, THE PROSECUTION MAY NOTIFY THE COURT THAT THE  
4 PROSECUTION SEEKS CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
5 PLACEMENT OF THE DEFENDANT PURSUANT TO THIS SECTION.

6 (b) IF THE PROSECUTION VERBALLY NOTIFIES THE COURT  
7 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE COURT SHALL  
8 ORDER THE PROSECUTION TO FILE WRITTEN NOTICE WITHIN SEVEN DAYS  
9 AFTER THE VERBAL NOTIFICATION AND PROVIDE THE NOTICE TO THE  
10 PARTIES, CDHS, AND THE COUNTY ATTORNEY. THE NOTICE MUST INCLUDE  
11 THE ACTS UPON WHICH THE PROSECUTION INTENDS TO RELY UPON AT  
12 TRIAL THAT THE PROSECUTION ALLEGES SATISFY SUBSECTION (6)(b) OF  
13 THIS SECTION. THE PROSECUTION SHALL NOT ALLEGE ACTS FOR WHICH THE  
14 DEFENDANT HAS BEEN ACQUITTED.

15 (c) UPON THE PROSECUTION PROVIDING WRITTEN NOTICE TO THE  
16 COURT PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, THE COURT  
17 SHALL:

18 (I) STAY THE ORDER DISMISSING THE DEFENDANT'S CRIMINAL  
19 CASE;

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

23 (III) ORDER CDHS TO IDENTIFY AN APPROPRIATE PROVIDER AND  
24 PLACEMENT FOR THE DEFENDANT IN THE EVENT A CIVIL COMMITMENT OR  
25 AN ENHANCED PROTECTIVE PLACEMENT IS GRANTED AND TO KEEP THE  
26 COURT INFORMED IN WRITING OF AVAILABLE PLACEMENT OPTIONS.

27

1           (2) AT ANY TIME FOLLOWING THE PROSECUTION'S WRITTEN NOTICE  
2 PROVIDED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION AND UPON  
3 REQUEST OF THE DEFENDANT, THE BRIDGES COURT LIAISON, OR CDHS,  
4 THE COURT MAY APPOINT AN EMERGENCY GUARDIAN PURSUANT TO  
5 SECTION 16-8.5-117 (1).

6           (3) THE COURT MAY CONTINUE THE TRIAL FOR GOOD CAUSE  
7 SHOWN; EXCEPT THAT THE COURT SHALL COMMENCE THE TRIAL WITHIN  
8 ONE HUNDRED EIGHTY-TWO DAYS AFTER THE DATE THE PROSECUTION  
9 GIVES NOTICE PURSUANT TO SUBSECTION (1) OF THIS SECTION AND  
10 CONCLUDE THE TRIAL WITHIN A REASONABLE TIME. DELAYS  
11 ATTRIBUTABLE TO THE DEFENDANT, INCLUDING A REQUEST FOR A  
12 CONTINUANCE OF THE TRIAL, MUST BE EXCLUDED FROM THE TIME LIMITS  
13 SET FORTH IN THIS SUBSECTION (3). IF THE TRIAL IS NOT COMMENCED  
14 WITHIN THE TIME LIMITS SET FORTH IN THIS SUBSECTION (3), THE COURT  
15 SHALL END THE STAY AND DISMISS THE CASE AGAINST THE DEFENDANT IF  
16 THE DEFENDANT FILED A MOTION TO DISMISS PRIOR TO THE  
17 COMMENCEMENT OF THE TRIAL. IF THE DEFENDANT FAILED TO FILE A  
18 MOTION TO DISMISS PRIOR TO COMMENCEMENT OF THE TRIAL, THE FAILURE  
19 TO FILE A MOTION TO DISMISS IS A WAIVER OF THE DEFENDANT'S RIGHTS  
20 PURSUANT TO THIS SUBSECTION (3).

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

26           (b) (I) UPON SETTING THE TRIAL, THE COURT SHALL ORDER, IN  
27 WRITING, THE EXCHANGE OF RELEVANT DISCOVERY FOR THE PURPOSE OF

1 ENSURING A FAIR AND EXPEDITIOUS TRIAL FOR BOTH PARTIES, INCLUDING,  
2 AT A MINIMUM, THE TIMELY DISCLOSURE OF THE WITNESSES AND  
3 EVIDENCE THE PARTIES INTEND TO RELY UPON AT TRIAL.

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

8 (c) THE PARTIES MAY ISSUE SUBPOENAS PURSUANT TO RULE 17 OF  
9 THE COLORADO RULES OF CRIMINAL PROCEDURE TO COMPEL THE  
10 ATTENDANCE OF WITNESSES AT TRIAL.

11 (5) (a) THE DEFENDANT MAY REQUEST TO STIPULATE THAT THE  
12 COURT ORDER CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT  
13 RATHER THAN CONTESTING THE MATTER AT A TRIAL. THE COURT SHALL  
14 ALLOW THE DEFENDANT TO STIPULATE TO THE COURT ORDERING A CIVIL  
15 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT ONLY IF:

16 (I) THE COURT CONFIRMS THE DEFENDANT HAS BEEN FULLY  
17 ADVISED OF THE CONSEQUENCES AND THE RIGHTS THE DEFENDANT IS  
18 WAIVING, INCLUDING THE RIGHT TO A COURT TRIAL;

19 (II) THE STIPULATION IS IN WRITING AND STATED ON THE RECORD  
20 AT A HEARING AT WHICH THE DEFENDANT APPEARS, WITH THE CONSENT OF  
21 ANY GUARDIAN THAT HAS BEEN APPOINTED;

22 (III) THE COURT FINDS THE DEFENDANT UNDERSTANDS THE  
23 STIPULATION AND THAT THE STIPULATION IS VOLUNTARILY DESPITE THE  
24 DEFENDANT BEING INCOMPETENT TO PROCEED; AND

25 (IV) THE PARTIES ESTABLISH A FACTUAL BASIS.

26 (b) ANY STIPULATION OR ADMISSION MADE AS PART OF THE  
27 STIPULATION TO IMPOSITION OF A CIVIL COMMITMENT OR ENHANCED

1 PROTECTIVE PLACEMENT IS NOT ADMISSIBLE IN ANY FUTURE CRIMINAL  
2 PROSECUTION TO PROVE ANY ACT ALLEGED IN THE WRITTEN NOTICE  
3 SEEKING THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT.

4 (6) AT TRIAL, THE PROSECUTION SHALL PROVE BY CLEAR AND  
5 CONVINCING EVIDENCE THAT:

6 (a) THE DEFENDANT HAS A MENTAL DISABILITY OR  
7 DEVELOPMENTAL DISABILITY;

8 (b) (I) THE DEFENDANT COMMITTED AN ACT THAT, IN THE  
9 ABSENCE OF ANY MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY,  
10 WOULD CONSTITUTE:

11 (A) HOMICIDE PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18;

12 (B) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406(2);

13 OR

14 (C) A FELONY THAT CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR,  
15 AS DEFINED IN SECTION 16-22-102; AND

16 (II) THE ACT DESCRIBED IN SUBSECTION (6)(b)(I) OF THIS SECTION  
17 THAT THE DEFENDANT IS ALLEGED TO HAVE COMMITTED IS OR WAS  
18 CHARGED IN A CRIMINAL CASE IN COLORADO IN WHICH COMPETENCY WAS  
19 RAISED; AND

20 (c) THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM  
21 TO OTHERS.

22 (7) (a) WHEN DETERMINING WHETHER THE PROSECUTION HAS MET  
23 ITS BURDEN PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION:

24 (I) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT  
25 SHALL NOT CONSIDER, A DEFENSE BASED ON A MENTAL DISABILITY OR  
26 DEVELOPMENTAL DISABILITY, INCLUDING A MENTAL DISEASE OR DEFECT,  
27 AS DEFINED IN SECTION 16-8-102, INCLUDING, BUT NOT LIMITED TO, A

1 DEFENSE RAISED PURSUANT TO ARTICLE 8 OF TITLE 16 OR ANY DEFENSE  
2 THAT IS AN ELEMENT-NEGATING TRAVERSE BASED ON A MENTAL DISEASE  
3 OR DEFECT;

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

8 (III) THE DEFENDANT IS PERMITTED TO RAISE OTHER DEFENSES  
9 THAT ARE NOT BASED ON A MENTAL DISABILITY OR DEVELOPMENTAL  
10 DISABILITY, INCLUDING AFFIRMATIVE DEFENSES, EXCEPT AS PROVIDED IN  
11 THIS SUBSECTION (7).

12 (b) WHEN DETERMINING WHETHER TO PERMIT A DEFENDANT TO  
13 RAISE A DEFENSE PURSUANT TO THIS SUBSECTION (7), THE COURT SHALL  
14 CONSIDER THE NEED TO ENSURE FAIRNESS AND DUE PROCESS TO BOTH  
15 PARTIES WITHOUT FRUSTRATING THE INTENDED FUNCTIONING AND  
16 LIMITED PURPOSE OF THE CIVIL PROCEEDING.

17 (c) THE PROSECUTION SHALL NOT ALLEGE, AND THE COURT SHALL  
18 NOT CONSIDER, AN ACT OR SERIES OF ACTS FOR WHICH THE DEFENDANT  
19 WAS ACQUITTED OR CONVICTED AS THE QUALIFYING ACTS SATISFYING THE  
20 CRITERIA LISTED IN SUBSECTION (6)(b) OF THIS SECTION, BUT THE COURT  
21 MAY ADMIT EVIDENCE OF AN ACT OR A SERIES OF ACTS FOR WHICH THE  
22 DEFENDANT WAS ACQUITTED OR CONVICTED IF OTHERWISE ADMISSIBLE  
23 PURSUANT TO THE COLORADO RULES OF EVIDENCE AND RELEVANT TO THE  
24 CRITERIA LISTED IN SUBSECTION (6)(a) OR (6)(c) OF THIS SECTION.

25 (d) (I) PRIOR TO TRIAL, THE COURT SHALL FIND THAT THE  
26 PROSECUTION HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF  
27 THIS SECTION IF AN ACT ALLEGED TO SATISFY THE REQUIREMENT OF

1 SUBSECTION (6)(b)(I) OF THIS SECTION IS:

2 (A) CHARGED IN THE CURRENT CASE; OR

3 (B) CHARGED IN ANOTHER PENDING CASE IN THE SAME  
4 JURISDICTION AND COMPETENCY WAS RAISED IN THE CASE.

5 (II) PRIOR TO TRIAL, THE COURT MAY FIND THAT THE PROSECUTION  
6 HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF THIS SECTION  
7 IF:

8 (A) WITHOUT ADMITTING TO COMMITTING ANY ACTS, THE  
9 DEFENDANT STIPULATES THE DEFENDANT WAS CHARGED WITH AN ACT  
10 THAT MEETS THE REQUIREMENTS OF SUBSECTION (6)(b)(II) OF THIS  
11 SECTION; OR

12 (B) THE PROSECUTION FILES WITH THE COURT CERTIFIED COURT  
13 RECORDS FROM ANOTHER CRIMINAL CASE, CURRENT OR DISMISSED, THAT  
14 DEMONSTRATE BY CLEAR AND CONVINCING EVIDENCE THAT THE  
15 REQUIREMENTS OF SUBSECTION (6)(b)(II) OF THIS SECTION ARE SATISFIED.

16 (8) (a) PRIOR TO TRIAL, THE COURT SHALL REQUIRE THE  
17 DEFENDANT TO STATE WHETHER THE DEFENDANT CONTESTS THAT THE  
18 DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY.

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

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

1           (II) IF THE COURT FINDS THE DEFENDANT OR DEFENSE COUNSEL  
2 RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR FAILED TO  
3 OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT, THE COURT  
4 SHALL FIND THE DEFENDANT HAS PREVIOUSLY STIPULATED THAT THE  
5 DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY.  
6 IF THE COURT MAKES A FINDING, THE COURT SHALL FIND THE DEFENDANT  
7 HAS STIPULATED THAT THE DEFENDANT HAS A MENTAL DISABILITY OR  
8 DEVELOPMENTAL DISABILITY AND FIND IN FAVOR OF THE PROSECUTION AT  
9 TRIAL WITH REGARD TO SUBSECTION (6)(a) OF THIS SECTION.

10           (III) IF THE COURT FINDS THAT THE PROSECUTION OR COURT  
11 RAISED THE ISSUE OF COMPETENCY OVER THE DEFENDANT'S OBJECTION  
12 AND THE DEFENDANT CONSISTENTLY MAINTAINED AN OBJECTION BY  
13 ARGUING THE DEFENDANT IS COMPETENT TO PROCEED, THE PROSECUTION  
14 HAS THE BURDEN TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT  
15 THE DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL  
16 DISABILITY PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION.

17           (d) AT TRIAL, THE COURT:

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

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

25           (III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE  
26 COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY  
27 EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION

1 OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR  
2 DEVELOPMENTAL DISABILITY.

3 (9) AT TRIAL, WHEN DETERMINING WHETHER THE DEFENDANT  
4 POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, IF THE  
5 DEFENDANT IS IN CUSTODY OR AT THE STATE HOSPITAL, THE COURT SHALL  
6 ASSESS THE DEFENDANT AS IF THE DEFENDANT WERE IN THE COMMUNITY.  
7 THE COURT SHALL NOT FIND THE DEFENDANT DOES NOT POSE A  
8 SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS MERELY BECAUSE THE  
9 DEFENDANT IS IN CUSTODY OR AT THE STATE HOSPITAL.

10 (10) IF THE COURT FINDS THAT THE PROSECUTION DID NOT  
11 MEET ONE OR MORE OF THE REQUIREMENTS DESCRIBED IN SUBSECTION (6)  
12 OF THIS SECTION, THE COURT SHALL DENY THE PROSECUTION'S REQUEST  
13 TO CIVILLY COMMIT OR ORDER THE ENHANCED PROTECTIVE PLACEMENT  
14 OF THE DEFENDANT AND SHALL DISMISS THE DEFENDANT'S CASE; EXCEPT  
15 THAT THE COURT MAY CONSIDER WHETHER TO ORDER OTHER CIVIL  
16 PROCEEDINGS PURSUANT TO SECTION 16-8.5-117.

17 (11) (a) IF THE COURT FINDS THAT THE PROSECUTION MET THE  
18 REQUIREMENTS DESCRIBED IN SUBSECTION (6) OF THIS SECTION, THE  
19 COURT SHALL:

20 (I) ORDER THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
21 PLACEMENT OF THE DEFENDANT IN ACCORDANCE WITH SUBSECTION (12)  
22 OF THIS SECTION;

23 (II) PLACE THE DEFENDANT AND ISSUE ANY RELATED ORDERS  
24 PURSUANT TO SUBSECTION (13) OF THIS SECTION; AND

25 (III) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT OR  
26 ENHANCED PROTECTIVE PLACEMENT TO AN APPROPRIATE CIVIL COURT  
27 WITH JURISDICTION AND DISMISS THE CASE IN ACCORDANCE WITH

1 SUBSECTION (14) OF THIS SECTION.

2 (b) THE COURT HAS SEVENTY DAYS TO PLACE THE DEFENDANT AND  
3 TRANSFER JURISDICTION TO THE APPROPRIATE CIVIL COURT; EXCEPT THAT  
4 THE COURT MAY EXTEND THE TIME LIMIT WITH THE CONSENT OF THE  
5 DEFENDANT. THE COURT SHALL ORDER THE PLACEMENT AND TRANSFER  
6 JURISDICTION AS SOON AS PRACTICABLE.

7 (12) (a) IF THE COURT FINDS THAT THE PROSECUTION MET THE  
8 REQUIREMENTS DESCRIBED IN SUBSECTION (6) OF THIS SECTION OR IF THE  
9 COURT ACCEPTS THE DEFENDANT'S STIPULATION TO CIVIL COMMITMENT OR  
10 ENHANCED PROTECTIVE PLACEMENT, THE COURT SHALL MAKE A FINDING  
11 OF THE DEFENDANT'S PRIMARY DIAGNOSIS THAT CONSTITUTES THE  
12 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY. THE COURT SHALL  
13 ORDER THE DEFENDANT CIVILLY COMMITTED TO THE LEGAL CUSTODY OF  
14 CDHS AND SUPERVISED PURSUANT TO SECTION 27-65-201, UNLESS THE  
15 DEFENDANT'S PRIMARY DIAGNOSIS IS AN INTELLECTUAL AND  
16 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE  
17 TERMS ARE DEFINED IN SECTION 25.5-10-501, IN WHICH CASE, THE COURT  
18 SHALL ORDER AN ENHANCED PROTECTIVE PLACEMENT AND LEGAL  
19 CUSTODY OF THE DEFENDANT TO THE DEPARTMENT OF HEALTH CARE  
20 POLICY AND FINANCING AND SUPERVISED PURSUANT TO SECTION  
21 25.5-10-507. AT ANY TIME PRIOR TO TRANSFERRING JURISDICTION TO A  
22 CIVIL COURT, THE COURT MAY, UPON A RECOMMENDATION FROM CDHS,  
23 CHANGE THE DESIGNATION OF THE PRIMARY DIAGNOSIS AND CONVERT THE  
24 ORDER TO CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT, AS  
25 APPROPRIATE, BASED ON THE DETERMINATION OF CDHS.

26 (b) THE COURT SHALL ISSUE ITS FINDINGS AND ORDERS PURSUANT  
27 TO THIS SECTION IN WRITING. WHEN THE COURT TRANSFERS JURISDICTION

1 TO A CIVIL COURT PURSUANT TO SECTION 27-65-113 OR 25.5-10-509, THE  
2 COURT SHALL SEND THE CIVIL COURT RECEIVING JURISDICTION ALL THE  
3 WRITTEN FINDINGS AND ORDERS ENTERED PURSUANT TO THIS SECTION.

4 (13) (a) WHEN THE COURT ORDERS A CIVIL COMMITMENT OR  
5 ENHANCED PROTECTIVE PLACEMENT, IF CDHS PROPOSES PLACING THE  
6 DEFENDANT INTO INPATIENT CARE, THE COURT SHALL ORDER, WITHOUT  
7 FURTHER COURT REVIEW, THE DEFENDANT PLACED INTO INPATIENT CARE  
8 AT THE DISCRETION OF CDHS IF THE COURT ORDERED A CIVIL  
9 COMMITMENT OR AT THE DISCRETION OF HCPF IF THE COURT ORDERED AN  
10 ENHANCED PROTECTIVE PLACEMENT. IF CDHS HAS IDENTIFIED AN  
11 APPROPRIATE PROVIDER THAT DOES NOT MEET THE DEFINITION OF  
12 INPATIENT CARE BUT IS WILLING AND ABLE TO ACCEPT PLACEMENT OF THE  
13 DEFENDANT, THE COURT SHALL SET A REVIEW HEARING AS SOON AS  
14 PRACTICABLE WHILE ENSURING THE PARTIES, ANY APPOINTED EMERGENCY  
15 GUARDIAN, AND VICTIMS ARE GIVEN SUFFICIENT NOTICE AND  
16 OPPORTUNITY TO PREPARE AND APPEAR.

17 (b) WHEN THE COURT ORDERS A CIVIL COMMITMENT OR ENHANCED  
18 PROTECTIVE PLACEMENT, IF CDHS HAS NOT IDENTIFIED AN APPROPRIATE  
19 PROVIDER THAT IS WILLING TO ACCEPT PLACEMENT OF THE DEFENDANT,  
20 THE COURT SHALL:

21 (I) SET A REVIEW HEARING WITHIN THIRTY-FIVE DAYS AFTER THE  
22 ORDER FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT;  
23 AND

24 (II) PRIOR TO THE REVIEW HEARING, ORDER CDHS, IN  
25 CONSULTATION WITH THE BEHAVIORAL HEALTH ADMINISTRATION, TO  
26 IDENTIFY AT LEAST ONE APPROPRIATE PROVIDER THAT IS WILLING TO  
27 IMMEDIATELY ACCEPT PLACEMENT OF THE DEFENDANT.

1           (c) AT THE REVIEW HEARING, IF CDHS PROPOSES PLACING THE  
2           DEFENDANT INTO INPATIENT CARE, THE COURT SHALL ORDER, WITHOUT  
3           FURTHER COURT REVIEW, THE DEFENDANT PLACED INTO INPATIENT CARE  
4           AT THE DISCRETION OF CDHS IF THE COURT ORDERED A CIVIL  
5           COMMITMENT OR AT THE DISCRETION OF HCPF IF THE COURT ORDERED AN  
6           ENHANCED PROTECTIVE PLACEMENT. IF CDHS DOES NOT PROPOSE  
7           PLACING THE DEFENDANT INTO INPATIENT CARE, THE COURT SHALL  
8           REVIEW ANY PLACEMENT IDENTIFIED BY CDHS TO ENSURE IT IS  
9           APPROPRIATE AND SUFFICIENTLY PROTECTS VICTIMS AND THE COMMUNITY  
10           FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE  
11           DEFENDANT. THE COURT MAY CONTINUE THE REVIEW HEARING OR ORDER  
12           AN ADDITIONAL REVIEW HEARING WITHIN THE TIME FRAME SET FORTH IN  
13           SUBSECTION (11)(b) OF THIS SECTION.

14           (d) WHEN CONSIDERING THE APPROPRIATENESS OF THE  
15           PLACEMENT FOR THE DEFENDANT, VICTIMS, AND THE COMMUNITY, THE  
16           COURT SHALL:

17           (I) ALLOW CDHS, THE PARTIES, AND ANY APPOINTED EMERGENCY  
18           GUARDIAN TO BE HEARD REGARDING THE DEFENDANT'S PLACEMENT;

19           (II) GIVE DEFERENCE TO CDHS'S RECOMMENDATION ON ANY  
20           ISSUE RELATED TO THE DEFENDANT'S PRIMARY DIAGNOSIS;

21           (III) GIVE DEFERENCE TO CDHS AND THE OPINION OF A MEDICAL  
22           PROFESSIONAL ON THE APPROPRIATENESS OF THE PROVIDER AND  
23           PLACEMENT FOR THE DEFENDANT;

24           (IV) NOT GIVE DEFERENCE TO CDHS OR A MEDICAL  
25           PROFESSIONAL AS TO WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS  
26           VICTIMS AND THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS  
27           HARM TO OTHERS POSED BY THE DEFENDANT; AND

1           (V) CONSIDER THE TOTALITY OF THE CIRCUMSTANCES, INCLUDING:

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

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

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

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

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

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

22           (G) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
23 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (13)(d)(V)(B) TO  
24 (13)(d)(V)(F) OF THIS SECTION, SUCH THAT THE CIRCUMSTANCES ARE  
25 PRESENT IN A MANNER THAT REQUIRES INPATIENT TREATMENT OR THAT  
26 THE CIRCUMSTANCES ARE ABSENT IN A MANNER THAT ALLOWS FOR  
27 COMMUNITY-BASED PLACEMENT;

1           (H) WHETHER THE DEFENDANT OPPOSES THE PLACEMENT;

2           (I) WHETHER COMMUNITY-BASED PLACEMENT CAN BE  
3 REASONABLY ACCOMMODATED;

4           (J) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF  
5 OTHERS; AND

6           (K) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING  
7 PROFESSIONALS.

8           (e) THE COURT SHALL NOT ORDER OR PERMIT A DEFENDANT TO BE  
9 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE  
10 UNLESS THE COURT FINDS THE RISK OF HARM POSED BY THE DEFENDANT  
11 TO VICTIMS AND THE COMMUNITY CAN BE REASONABLY MITIGATED IN THE  
12 COMMUNITY-BASED SETTING AND UNTIL AFTER PROVIDING VICTIMS WITH  
13 NOTICE AND AN OPPORTUNITY TO BE HEARD.

14           (f) AFTER REVIEWING THE PROVIDERS, IF THE COURT FINDS THAT  
15 MULTIPLE PROVIDERS ARE APPROPRIATE FOR THE DEFENDANT, VICTIMS,  
16 AND THE COMMUNITY, THE COURT SHALL ORDER THE DEFENDANT BE  
17 PLACED IN THE LEAST-RESTRICTIVE SETTING THAT IS ADEQUATE TO  
18 PROTECT THE VICTIMS AND THE COMMUNITY AND TO PROVIDE, TO THE  
19 GREATEST EXTENT POSSIBLE, THE APPROPRIATE LEVEL OF CARE FOR,  
20 TREATMENT FOR, AND SUPERVISION OF THE DEFENDANT. IF MORE THAN  
21 ONE EQUALLY RESTRICTIVE PLACEMENT IS AVAILABLE AND APPROPRIATE,  
22 THE COURT SHALL ORDER THE DEFENDANT BE PLACED INTO A SETTING  
23 THAT IS BEST SUITED FOR THE DEFENDANT'S TREATMENT NEEDS AND  
24 SUPERVISION, AS DETERMINED BY CDHS.

25           (g) IF CDHS DOES NOT PROPOSE PLACING THE DEFENDANT INTO  
26 INPATIENT CARE AND CDHS HAS NOT IDENTIFIED ANY OTHER  
27 APPROPRIATE PLACEMENT WITH SUFFICIENT TIME TO REVIEW AND PLACE

1 THE DEFENDANT WITHIN THE TIME FRAME SET FORTH IN SUBSECTION  
2 (11)(b) OF THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT  
3 PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS IF THE COURT  
4 ORDERED A CIVIL COMMITMENT OR AT THE DISCRETION OF HCPF IF THE  
5 COURT ORDERED AN ENHANCED PROTECTIVE PLACEMENT.

6 (h) IN ADDITION TO ANY ORDERS ISSUED PURSUANT TO THIS  
7 SECTION, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO MITIGATE  
8 THE DEFENDANT'S RISK TO VICTIMS AND THE COMMUNITY, INCLUDING  
9 ORDERING A PROVIDER THAT HAS ACCEPTED PLACEMENT OF THE  
10 DEFENDANT TO TAKE REASONABLE AND PRACTICABLE PROTECTIVE  
11 MEASURES TO PREVENT THE DEFENDANT FROM CONTACTING ANY VICTIMS;  
12 EXCEPT THAT THE COURT SHALL NOT ORDER THE DEFENDANT TO COMPLY  
13 WITH ANY CONDITIONS THAT ARE NOT NECESSARY TO MITIGATE THE  
14 DEFENDANT'S RISK OR WITH WHICH THE DEFENDANT CANNOT COMPLY.

15 (i) AFTER THE COURT ORDERS PLACEMENT OF THE DEFENDANT:

16 (I) THE COURT, THE DISTRICT ATTORNEY, AND CDHS SHALL  
17 TRANSMIT ALL NECESSARY INFORMATION, INCLUDING THE DEFENDANT'S  
18 MEDICAL RECORDS, COMPETENCY EVALUATIONS, MATERIALS USED DURING  
19 THE COMPETENCY PROCESS, AND RESTORATION RECORDS, TO THE COUNTY  
20 ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER FOR  
21 PLACEMENT. THE DISTRICT ATTORNEY AND CDHS SHALL PROVIDE  
22 ADDITIONAL NECESSARY INFORMATION UPON REQUEST OF THE COUNTY  
23 ATTORNEY.

24 (II) THE COURT SHALL, UNLESS OTHER APPROPRIATE  
25 TRANSPORTATION HAS BEEN APPROVED BY THE COURT, ORDER THE  
26 SHERIFF TO SECURELY TRANSPORT THE DEFENDANT TO THE ORDERED  
27 PLACEMENT AS SOON AS PRACTICABLE. THE COURT SHALL SET ANY

1 REVIEW HEARINGS NECESSARY TO ENSURE THE DEFENDANT IS  
2 TRANSPORTED TO THE INITIAL PLACEMENT. THE COURT MAY DELAY  
3 TRANSPORTATION IF A BED AT A PLACEMENT IS NOT AVAILABLE BUT WILL  
4 BE AVAILABLE WITHIN THE NEXT THIRTY DAYS.

5 (14) AFTER THE DEFENDANT HAS BEEN TRANSPORTED TO THE  
6 PLACEMENT ORDERED BY THE COURT, THE COURT SHALL:

7 (a) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT TO A CIVIL  
8 COURT WITH JURISDICTION PURSUANT TO SECTION 27-65-113 OR  
9 TRANSFER JURISDICTION OF THE ENHANCED PROTECTIVE PLACEMENT TO  
10 A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-507;

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

12 (c) DISMISS THE CRIMINAL CASE AGAINST THE DEFENDANT. THE  
13 COURT SHALL NOTE IN THE COURT'S FINAL ORDER DISMISSING THE CASE  
14 THAT THE CHARGES MAY BE REFILED, BUT THE PROSECUTION IS NOT  
15 PRECLUDED FROM REILING MERELY BECAUSE THE COURT DID NOT STATE  
16 SO IN THE ORDER.

17 (15) SUBJECT TO THE APPLICABLE STATUTE OF LIMITATIONS,  
18 INCLUDING ANY APPLICABLE TOLLING PROVISIONS, THE DISTRICT  
19 ATTORNEY MAY REFILE THE CHARGES DISMISSED PURSUANT TO THIS  
20 SECTION AT A LATER TIME IF THE DISTRICT ATTORNEY HAS REASON TO  
21 BELIEVE THE DEFENDANT HAS SINCE ATTAINED COMPETENCY.

22 (16) IF, AT THE TIME THE DISTRICT ATTORNEY SEEKS CIVIL  
23 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO THIS  
24 SECTION, THE DEFENDANT IS ALREADY CIVILLY COMMITTED OR ORDERED  
25 TO AN ENHANCED PROTECTIVE PLACEMENT IN ANOTHER CASE, THE COURT  
26 SHALL:

27 (a) TAKE JUDICIAL NOTICE OF THE PRIOR CIVIL COMMITMENT OR

1 ENHANCED PROTECTIVE PLACEMENT IN LIEU OF CONDUCTING AN  
2 ADDITIONAL TRIAL;

3 (b) ORDER A CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
4 PLACEMENT OF THE DEFENDANT IN THIS CASE, COMMIT THE DEFENDANT  
5 TO THE LEGAL CUSTODY OF CDHS, ORDER THE DEFENDANT INTO THE  
6 DEFENDANT'S CURRENT PLACEMENT, AND TRANSFER JURISDICTION TO  
7 CIVIL COURT WITH JURISDICTION OVER THE EXISTING CIVIL COMMITMENT  
8 OR ENHANCED PROTECTIVE PLACEMENT;

9 (c) NOTIFY THE CIVIL COURT WITH JURISDICTION OVER THE  
10 EXISTING CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT AND  
11 APPROPRIATE COUNTY ATTORNEY OF THE ADDITIONAL COMMITMENT  
12 ORDER;

13 (d) ORDER THE DISTRICT ATTORNEY AND CDHS TO TRANSMIT ALL  
14 NECESSARY INFORMATION TO THE COUNTY ATTORNEY, INCLUDING THE  
15 DEFENDANT'S MEDICAL RECORDS, COMPETENCY EVALUATIONS, MATERIALS  
16 USED DURING THE COMPETENCY PROCESS, AND RESTORATION RECORDS.  
17 THE DISTRICT ATTORNEY AND CDHS SHALL PROVIDE ADDITIONAL  
18 NECESSARY INFORMATION UPON REQUEST OF THE COUNTY ATTORNEY.

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

20 (17) (a) NO LATER THAN JANUARY 2030, CDHS SHALL INCLUDE,  
21 AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING  
22 REQUIRED BY SECTION 2-7-203, INFORMATION CONCERNING PROTECTIVE  
23 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL  
24 COMMITMENTS SOUGHT PURSUANT TO THIS SECTION. AT A MINIMUM, THE  
25 PRESENTATION MUST INCLUDE THE FOLLOWING INFORMATION FROM JULY  
26 1, 2026, TO JULY 1, 2029:

27 (I) THE NUMBER OF PETITIONS FILED FOR PROTECTIVE

1 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL  
2 COMMITMENTS;

3 (II) THE NUMBER OF PETITIONS THAT WERE GRANTED FOR  
4 PROTECTIVE PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND  
5 CIVIL COMMITMENTS;

6 (III) THE AVERAGE LENGTH OF TIME AND LONGEST LENGTH OF  
7 TIME A PERSON WAS CERTIFIED OR PLACED UNDER A PROTECTIVE  
8 PLACEMENT, ENHANCED PROTECTIVE PLACEMENT, AND CIVIL  
9 COMMITMENT;

10 (IV) THE NUMBER OF PEOPLE WHO HAD A PLACEMENT OTHER THAN  
11 INPATIENT CARE AND THE NUMBER OF PEOPLE WHO DEFAULTED TO  
12 PLACEMENT IN INPATIENT CARE; AND

13 (V) THE AVERAGE LENGTH OF TIME AND LONGEST LENGTH OF TIME  
14 A PERSON WAS CERTIFIED OR PLACED UNDER A PROTECTIVE PLACEMENT,  
15 ENHANCED PROTECTIVE PLACEMENT, AND CIVIL COMMITMENT AND  
16 REMAINED IN JAIL.

17 (b) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
18 AND THE JUDICIAL DEPARTMENT SHALL PROVIDE ANY NECESSARY  
19 INFORMATION TO ASSIST CDHS IN ITS PRESENTATION.

20 (18) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

21 **16-8.5-119. Dismissal procedures.**

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

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

1 (b) THE COURT MAY ORDER THE BRIDGES COURT LIAISON TO ASSIST  
2 WITH THE DEFENDANT'S CASE MANAGEMENT PLANNING AND  
3 COORDINATION OF SERVICES, INCLUDING COORDINATING WITH  
4 GOVERNMENTAL ENTITIES OR COMMUNITY-BASED ORGANIZATIONS THAT  
5 ARE CAPABLE OF PROVIDING RESOURCES TO THE DEFENDANT UPON  
6 DISMISSAL OF CHARGES;

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

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

13 (2) SUBJECT TO THE APPLICABLE STATUTE OF LIMITATIONS,  
14 INCLUDING ANY APPLICABLE TOLLING PROVISIONS, THE DISTRICT  
15 ATTORNEY MAY REFILE THE CHARGES DISMISSED PURSUANT TO THIS  
16 SECTION AT A LATER TIME IF THE DISTRICT ATTORNEY HAS REASON TO  
17 BELIEVE THE DEFENDANT HAS SINCE ATTAINED COMPETENCY. THE COURT  
18 SHALL NOTE IN THE COURT'S FINAL ORDER DISMISSING THE CASE THAT THE  
19 CHARGES MAY BE REFILED, BUT THE PROSECUTION IS NOT PRECLUDED  
20 FROM REILING MERELY BECAUSE THE COURT DID NOT STATE SO IN THE  
21 ORDER.

22 **16-8.5-120. [Formerly 16-8.5-117] Escape - return to**  
23 **institution.**

24 If a defendant committed to the custody of the executive director  
25 for a competency evaluation or for restoration to competency escapes  
26 from the institution or hospital, the chief officer of the institution or  
27 hospital shall apply to the district court for the county in which the

1 institution or hospital is located for a warrant of arrest directed to the  
2 sheriff of the county, commanding the sheriff to take all necessary legal  
3 action to effect the arrest of the defendant and to return the defendant  
4 promptly to the institution or hospital. The fact of an escape becomes a  
5 part of the official record of the defendant and must be certified to the  
6 committing court as part of the record in any proceeding to determine  
7 whether the defendant is eligible for release on bond or from custody.

8 **16-8.5-121. [Formerly 16-8.5-118] Temporary removal for**  
9 **treatment and rehabilitation.**

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

15 **16-8.5-122. [Formerly 16-8.5-120] Competency evaluation**  
16 **monitoring system - users - rules.**

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

- 22 (a) The date the court ordered the COMPETENCY evaluation;
- 23 (b) The dates of and locations where the COMPETENCY evaluation  
24 was started and completed;
- 25 (c) The date of and location where the defendant entered  
26 restoration services;
- 27 (d) The dates and results of court reviews of competency;

- 1 (e) Inpatient bed space;  
2 (f) Community restoration capacity; and  
3 (g) Financial estimates of costs of each inpatient and outpatient  
4 program to identify inefficiencies.

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

8 **16-8.5-123. [Formerly 16-8.5-122] Forensic evaluator training.**

9 ~~By February 1, 2020,~~ The department shall create a partnership  
10 with an accredited institution of higher education in the state to develop  
11 and provide rigorous training in forensic evaluation. ~~On or before January~~  
12 ~~1, 2021,~~ Newly hired competency evaluators ~~must~~ SHALL complete a  
13 training that addresses competency, sanity, report writing, expert  
14 testimony, and other skills crucial for forensic evaluators; except that  
15 competency evaluators who are forensic psychiatrists certified or  
16 certification-eligible by the American board of psychiatry and neurology  
17 and forensic psychologists who are certified or certification-eligible by  
18 the American board of forensic psychology may be exempt from any  
19 training requirements as outlined in this section through an exemption  
20 process to be developed by ~~the department~~ CDHS. The state ~~will~~ SHALL  
21 manage an oversight program ~~that will~~ TO provide support and ensure  
22 quality of forensic evaluators.

23 **16-8.5-124. Transparency requirements.**

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

- 26 (a) All policies and procedures related to competency evaluations,  
27 restoration services, management of the competency wait list, and

1 admission policies regarding inpatient restoration services, including  
2 services for jail-based restoration and private hospital beds;

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

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

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

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

12 (f) The number of individuals on the competency restoration wait  
13 list;

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

16 (h) Any projected dates for the opening of new beds and a  
17 description of what type of beds will become available.

18 **16-8.5-125. [Formerly 16-8.5-116.5 (11)] Rules.**

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

21 **SECTION 2. In Colorado Revised Statutes, add 27-65-101.5 as**  
22 **follows:**

23 **27-65-101.5. Nonapplicability of article if individual has**  
24 **intellectual and developmental disability or neurocognitive disorder.**

25 **THE PROVISIONS OF PART 5 OF ARTICLE 10 OF TITLE 25.5 APPLY AND**  
26 **THIS ARTICLE 65 DOES NOT APPLY IF A PERSON HAS AN INTELLECTUAL AND**  
27 **DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE**

1 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT ANY OTHER  
2 MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND  
3 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT  
4 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A  
5 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS  
6 GRAVELY DISABLED.

7 **SECTION 3.** In Colorado Revised Statutes, 27-65-102, **amend**  
8 (10), (11), (21), and (22); and **add** (10.2), (23.5), (24.5), and (32) as  
9 follows:

10 **27-65-102. Definitions.**

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

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

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

16 (b) a person poses a substantial risk of physical harm to another  
17 person or persons, as manifested by evidence of recent homicidal or other  
18 violent behavior by the person in question, or by evidence that others are  
19 placed in reasonable fear of violent behavior and serious physical harm  
20 to them, as evidenced by a recent overt act, attempt, or threat to do serious  
21 physical harm by the person in question.

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 (21) "Lay person" means a person identified by another person  
3 who is detained on an involuntary emergency mental health hold pursuant  
4 to section 27-65-106, certified for short-term treatment pursuant to  
5 section ~~27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, or  
6 certified for long-term care and treatment pursuant to section 27-65-110  
7 who is authorized to participate in activities related to the person's  
8 involuntary emergency mental health hold, short-term treatment, or  
9 long-term treatment, including court appearances, discharge planning, and  
10 grievances. The person may rescind the lay person's authorization at any  
11 time.

12 (22) "Mental health disorder" ~~includes~~ MEANS one or more  
13 substantial disorders of the cognitive, volitional, or emotional processes  
14 that grossly impairs judgment or capacity to recognize reality or to control  
15 behavior ~~An intellectual or developmental disability is insufficient to~~  
16 ~~either justify or exclude a finding of a mental health disorder pursuant to~~  
17 ~~the provisions of this article 65~~ AND INCLUDES A MENTAL DISABILITY OR  
18 DEVELOPMENTAL DISABILITY, AS THOSE TERMS ARE DEFINED IN SECTION  
19 16-8.5-101, WHICH HAS LED A COURT TO FIND THE PERSON WITH THE  
20 DISABILITY INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE  
21 16.

22 ==

23 (24.5) "PERSISTENT MENTAL HEALTH DISORDER" MEANS A PERSON  
24 WHO HAS A MENTAL HEALTH DISORDER AND:

25 (a) THE PERSON HAS HAD ANY COMBINATION OF AT LEAST THREE  
26 EMERGENCY MENTAL HEALTH HOLDS OR CERTIFICATIONS FOR  
27 SHORT-TERM TREATMENT ORDERED AGAINST THE PERSON OR PERIODS OF

1 INCOMPETENCY IN A CRIMINAL CASE AT THREE SEPARATE TIMES WITHIN  
2 THE PAST THREE YEARS;

3 (b) EVEN IF THERE IS NOT AN IMMINENT EMERGENCY, IF THE  
4 MENTAL HEALTH DISORDER IS NOT TREATED THROUGH CERTIFICATION FOR  
5 SHORT-TERM TREATMENT, THERE IS A SUBSTANTIAL PROBABILITY THE  
6 MENTAL HEALTH DISORDER WILL RESULT IN ADDITIONAL EMERGENCY  
7 MENTAL HEALTH HOLDS, CERTIFICATIONS FOR SHORT-TERM TREATMENT,  
8 OR CRIMINAL CONDUCT AGAINST OTHER INDIVIDUALS WITHIN THE NEXT  
9 YEAR; AND

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

14 (32) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" MEANS AN  
15 APPRECIABLE AND CONSIDERABLE RISK THAT THE PERSON WILL COMMIT  
16 A CRIMINAL ACT AGAINST A PERSON NOW OR IN THE REASONABLY  
17 FORESEEABLE FUTURE THAT CAUSES SERIOUS BODILY INJURY, AS DEFINED  
18 IN SECTION 18-1-901, TO ANOTHER PERSON, OR IS LIKELY TO CAUSE  
19 SERIOUS EMOTIONAL DISTRESS TO A REASONABLE PERSON.

20 **SECTION 4.** In Colorado Revised Statutes, 27-65-104, **amend**  
21 (6)(d)(I) introductory portion as follows:

22 **27-65-104. Voluntary applications for mental health services**  
23 **- treatment of minors - definition.**

24 (6) (d) (I) The minor or the minor's attorney or guardian ad litem  
25 may, at any time after the minor has continued to affirm the minor's  
26 objection to hospitalization pursuant to subsection (6)(b) of this section,  
27 file a written request that the recommendation for continued

1 hospitalization be reviewed by the court or that the treatment be on an  
2 outpatient basis. If review is requested, the court shall hear the matter  
3 within ten days after the request, and the court shall give notice of the  
4 time and place of the hearing to the minor; the minor's attorney, if any;  
5 the minor's parents or legal guardian; the minor's guardian ad litem, if  
6 any; the independent professional person; and the minor's treating team.  
7 The hearing must be held in accordance with ~~section 27-65-113~~ SECTION  
8 27-65-113.1; except that the court or jury shall determine that the minor  
9 is in need of care and treatment if the court or jury makes the following  
10 findings:

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

14 **27-65-106. Emergency mental health hold - screening -**  
15 **court-ordered evaluation - discharge instructions - respondent's**  
16 **rights.**

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

19 (a) (I) When a certified peace officer has probable cause to  
20 believe a person has a mental health disorder and, as a result of the mental  
21 health disorder, is an imminent danger to the person's self, ~~or~~ AN  
22 IMMINENT DANGER TO others, or ~~is~~ gravely disabled, the certified peace  
23 officer may take the person into protective custody and transport the  
24 person to a facility designated by the commissioner for an emergency  
25 mental health hold. If ~~such~~ a facility is not available, the certified peace  
26 officer may transport the person to an emergency medical services  
27 facility. The certified peace officer may request assistance from a

1 behavioral health crisis response team for assistance in detaining and  
2 transporting the person or an emergency medical services provider in  
3 transporting the person; or

4 (II) When an intervening professional reasonably believes that a  
5 person appears to have a mental health disorder and, as a result of the  
6 mental health disorder, appears to be an imminent danger to the person's  
7 self, ~~or AN IMMINENT DANGER TO~~ others, or ~~appears to be~~ gravely  
8 disabled, the intervening professional may cause the person to be taken  
9 into protective custody and transported to a facility designated by the  
10 commissioner for an emergency mental health hold. If ~~such~~ a facility is  
11 not available, the certified peace officer may transport the person to an  
12 emergency medical services facility. The intervening professional may  
13 request assistance from a certified peace officer, a secure transportation  
14 provider, or a behavioral health crisis response team for assistance in  
15 detaining and transporting the person, or assistance from an emergency  
16 medical services provider in transporting the person.

17 (b) (I) When a person petitions the court in the county in which  
18 the respondent resides or is physically present requesting an evaluation of  
19 the respondent's condition and alleging that the respondent HAS A  
20 PERSISTENT MENTAL HEALTH DISORDER OR appears to have a mental  
21 health disorder and, as a result of the mental health disorder, appears to  
22 be a danger to the respondent's self, ~~or A DANGER TO~~ others, or ~~appears to~~  
23 ~~be~~ gravely disabled.

24 (2) (a) When a person is taken into custody pursuant to subsection  
25 (1) of this section, the person must not be detained in a jail, lockup, or  
26 other place used for the confinement of persons charged with or convicted  
27 of penal offenses. Unless otherwise required by law, a certified peace

1 officer may transport the person to an emergency medical services facility  
2 or facility designated by the commissioner even if a warrant has been  
3 issued for the person's arrest if the certified peace officer believes it is in  
4 the best interest of the person. The person must not be held on an  
5 emergency mental health hold for longer than seventy-two hours after the  
6 hold is placed or ordered. Nothing in this section prohibits an emergency  
7 medical services facility from involuntarily holding the person in order to  
8 stabilize the person as required pursuant to the federal "Emergency  
9 Medical Treatment and Labor Act", 42 U.S.C. sec. 1395dd, or if the  
10 treating professional determines that the individual's PERSON'S physical  
11 or mental health disorder impairs the person's ability to make an informed  
12 decision to refuse care and the provider determines that further care is  
13 indicated.

14 (b) THIS SECTION DOES NOT PRECLUDE:

15 (I) A COURT FROM ORDERING AN EVALUATION OF A PERSON WHEN  
16 THE PERSON IS CONFINED IF THE PERSON IS LAWFULLY CONFINED IN JAIL,  
17 LOCKUP, OR ANOTHER PLACE USED FOR CONFINING INDIVIDUALS CHARGED  
18 WITH, OR CONVICTED OF, A PENAL OFFENSE FOR ANY OTHER LAWFUL  
19 REASON; OR

20

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21 (II) A PERSON OR ENTITY THAT HAS CARE AND CUSTODY OF A  
22 DETAINED PERSON FROM TRANSPORTING THE DETAINED PERSON TO AN  
23 EMERGENCY MEDICAL SERVICES FACILITY OR FACILITY DESIGNATED BY  
24 THE COMMISSIONER.

25 (3) When a person is placed on an emergency mental health hold  
26 pursuant to subsection (1) of this section and is presented to an  
27 emergency medical services facility or a facility designated by the

1 commissioner, the facility shall require a BHA-approved application in  
2 writing, stating the circumstances under which the person's condition was  
3 called to the attention of the intervening professional or certified peace  
4 officer and further stating sufficient facts, obtained from the intervening  
5 professional's or certified peace officer's personal observations or  
6 obtained from others whom the intervening professional or certified peace  
7 officer reasonably believes to be reliable, to establish that the person has  
8 a mental health disorder and, as a result of the mental health disorder, is  
9 an imminent danger to the person's self, ~~or~~ A DANGER TO others, or ~~is~~  
10 gravely disabled. The application must indicate when the person was  
11 taken into custody and who brought the person's condition to the attention  
12 of the intervening professional or certified peace officer. A copy of the  
13 application must be furnished to the person being evaluated, and the  
14 application must be retained in accordance with section 27-65-123 (4).

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

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

22 (c) Following the screening described in subsection (4)(b) of this  
23 section, the facility, intervening professional, or certified peace officer  
24 designated by the court shall file a report with the court and may initiate  
25 an emergency mental health hold at the time of screening. The report  
26 must include a recommendation as to whether probable cause exists to  
27 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,

1 OR has a mental health disorder and, as a result of the mental health  
2 disorder, is a danger to the respondent's self, ~~or~~ A DANGER TO others, or  
3 ~~is~~ gravely disabled, and whether the respondent will voluntarily receive  
4 evaluation or treatment. The screening report submitted to the court  
5 pursuant to this subsection (4)(c) is confidential in accordance with  
6 section 27-65-123 and must be furnished to the respondent or the  
7 respondent's attorney or personal representative.

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

26 (6) (a) Each person detained for an emergency mental health hold  
27 pursuant to this section shall receive an evaluation as soon as possible

1 after the person ~~is presented~~ PRESENTS to the facility, OR AS SOON AS  
2 POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE  
3 PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, == and shall receive  
4 such treatment and care as the person's condition requires for the full  
5 period that the person is held. The evaluation must include an assessment  
6 to determine if the person continues to meet the criteria for an emergency  
7 mental health hold and requires further mental health care in a facility  
8 designated by the commissioner. The evaluation must state whether the  
9 person should be released, referred for further care and treatment on a  
10 voluntary basis, or certified for short-term treatment pursuant to section  
11 27-65-109.

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

21 (8) (d) (I) The facility shall, at a minimum, attempt to follow up  
22 with the person, the person's parent or legal guardian, or the person's lay  
23 person at least ~~forty-eight~~ SEVENTY-TWO hours after discharge. The  
24 facility is encouraged to utilize peer support professionals, as defined in  
25 section 27-60-108 (2)(b), when performing follow-up care with  
26 individuals and in developing a continuing care plan pursuant to  
27 subsection (8)(a)(I) of this section. The facility may facilitate follow-up

1 care through contracts with community-based behavioral health providers  
2 or the 988 crisis hotline operated pursuant to section 27-64-103. If the  
3 facility facilitates follow-up care through a third-party contract, the  
4 facility shall obtain authorization from the person to provide follow-up  
5 care.

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

13 (e) NOTWITHSTANDING SUBSECTION (10)(b) OF THIS SECTION, A  
14 PERSON'S RIGHTS PURSUANT TO THIS SUBSECTION (10) MAY BE RESTRICTED  
15 IN ANY MANNER ALLOWED BY LAW IF THE PERSON IS LAWFULLY CONFINED  
16 FOR A CRIMINAL CHARGE IN JAIL.

17 **SECTION 6.** In Colorado Revised Statutes, 27-65-107, **amend**  
18 (1), (2), (4)(a)(IV), and (4)(b) as follows:

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

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

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

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

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

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

1 application must be furnished to the person being transported.

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

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

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

18 **SECTION 7.** In Colorado Revised Statutes, **amend** 27-65-108 as  
19 follows:

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

22 (1) A facility designated by the commissioner shall notify and  
23 engage the BHA prior to terminating or transferring a person certified  
24 pursuant to section 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or  
25 27-65-111. The BHA ~~may~~ SHALL provide care coordination services to  
26 support a person whose certification is terminated but who is in need of  
27 ongoing treatment and services.

1 (2) The BHA shall, directly or through a contract, provide care  
2 coordination services to a person certified pursuant to section  
3 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or 27-65-111 and  
4 determined by the designated facility and the BHA to need care  
5 coordination services.

6

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7 **SECTION 8.** In Colorado Revised Statutes, **add** 27-65-108.3 as  
8 follows:

9 **27-65-108.3. Criteria and standards for certification for**  
10 **short-term treatment and certification for long-term care and**  
11 **treatment.**

12 (1) A RESPONDENT MAY BE CERTIFIED FOR SHORT-TERM  
13 TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109, OR  
14 27-65-109.5, OR CERTIFIED FOR LONG-TERM CARE AND TREATMENT  
15 PURSUANT TO SECTION 27-65-110, IF:

16 (a) THE RESPONDENT HAS BEEN ADVISED OF THE AVAILABILITY OF,  
17 BUT HAS NOT ACCEPTED, VOLUNTARY TREATMENT;

18 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE  
19 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,  
20 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT  
21 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM;

22 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS  
23 A MENTAL HEALTH DISORDER AND, AS A RESULT OF THE MENTAL HEALTH  
24 DISORDER, THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF, A  
25 DANGER TO OTHERS, OR GRAVELY DISABLED; OR

26 (d) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS  
27 A PERSISTENT MENTAL HEALTH DISORDER.

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

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

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

9           (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND  
10 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE  
11 FUTURE;

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

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

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

20           (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
21 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS  
22 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL  
23 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

24           (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE  
25 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, HAS A  
26 PERSISTENT MENTAL HEALTH DISORDER, OR POSES A SUBSTANTIAL RISK OF  
27 SERIOUS HARM TO OTHERS, THE COURT, EVALUATOR, OR INTERVENING

1 PROFESSIONAL SHALL, WHENEVER POSSIBLE, USE ALL REASONABLE  
2 EFFORTS TO LEARN ABOUT PRIOR RELEVANT BEHAVIORS AND PRIOR  
3 DIAGNOSES THROUGH AVAILABLE AND RELIABLE SOURCES, INCLUDING THE  
4 PERSON'S PRIOR MEDICAL AND MENTAL HEALTH RECORDS, POLICE  
5 REPORTS, AND INFORMATION FROM RELIABLE INDIVIDUALS WHO HAVE A  
6 RELATIONSHIP OR REGULAR SUBSTANTIAL INTERACTIONS WITH THE  
7 PERSON.

8 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS A PERSON  
9 WHO IS INCARCERATED OR IN INPATIENT TREATMENT AS IF THE PERSON  
10 WERE IN THE COMMUNITY WHEN EVALUATING WHETHER THE PERSON  
11 MEETS THE CRITERIA PURSUANT TO SUBSECTION (1) OF THIS SECTION.

12 **SECTION 9.** In Colorado Revised Statutes, 27-65-108.5, **amend**  
13 (1) introductory portion, (1)(b), (1)(d), (2), (3), (7), and (8); **repeal** (9),  
14 (10), and (11); and **add** (2.5), (7.1), (7.5), and (13) as follows:

15 **27-65-108.5. Court-ordered certification for short-term**  
16 **treatment for incompetent defendants in a criminal matter - contents**  
17 **of petition - procedure to contest petition - commitment to behavioral**  
18 **health administration - definition.**

19 (1) Upon petition of A COUNTY ATTORNEY, AN APPOINTED LEGAL  
20 GUARDIAN, the district attorney, AN INTERVENING PROFESSIONAL ACTING  
21 WITHIN THE SCOPE OF THEIR AUTHORITY, a professional person, a  
22 representative of the BHA, or a representative of ~~the office of civil and~~  
23 ~~forensic mental health~~ CDHS, a court ~~may~~ SHALL certify a person for  
24 short-term treatment for not more than three months under the following  
25 conditions:

26 (b) The court hearing the criminal matter referred the matter for  
27 filing of a petition pursuant to ~~section 16-8.5-111 or 16-8.5-116.5~~

1 SECTION 16-8.5-117;

2 (d) ~~The facility or community provider that will provide~~  
3 ~~short-term treatment has been designated or approved by the~~  
4 ~~commissioner to provide such treatment~~ PERSON MEETS THE CRITERIA FOR  
5 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
6 27-65-108.3 (1); and

7 (2) The petition filed pursuant to subsection (1) of this section  
8 must:

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

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

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

22 (d) ~~Be filed with the court in the county where the respondent~~  
23 ~~resided or was physically present immediately prior to the filing of the~~  
24 ~~petition; except that if the person was arrested for the prior case and held~~  
25 ~~in custody, the petition may be filed in the county where the respondent~~  
26 ~~resided or was physically present immediately prior to the respondent's~~  
27 ~~arrest; and~~

1           (e) (d) Provide recommendations if any certification should occur  
2 on an inpatient or outpatient basis.

3           (2.5) (a) AN EMERGENCY MENTAL HEALTH HOLD ORDERED  
4 PURSUANT TO SECTION 27-65-106 IS NOT A PREREQUISITE TO INITIATE A  
5 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO THIS SECTION.

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

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11           (3) Within twenty-four hours after certification, copies of the  
12 certification must be personally delivered to the respondent, the BHA or  
13 ~~the office of civil and forensic mental health~~ CDHS, AND ANY KNOWN  
14 PROVIDER OR FACILITY THAT HAS CUSTODY OF THE RESPONDENT. The  
15 department shall retain a copy as part of the respondent's record. If the  
16 criminal case is pending, or not yet dismissed, THE PETITIONING PARTY  
17 SHALL GIVE notice of the filing of the petition ~~should be given by the~~  
18 ~~petitioning party~~ to the criminal court, ~~which~~ AND THE COURT shall  
19 provide ~~such~~ THE notice to the prosecuting and defense attorneys in the  
20 criminal case and any attorney appointed pursuant to section 27-65-113  
21 SECTION 27-65-113.5. The court shall ask the respondent to designate one  
22 other person whom the respondent wants to be informed regarding the  
23 petition. If the respondent is incapable of making such a designation at  
24 the time the petition is delivered, the court may ask the respondent to  
25 designate such person as soon as the respondent is capable.

26           (7) The respondent may knowingly and voluntarily consent in  
27 writing to the petition.

1           (7.1) (a) IF THE RESPONDENT IS CERTIFIED FOR SHORT-TERM  
2 TREATMENT, UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN  
3 IDENTIFIED AND IS WILLING TO HOLD THE CERTIFICATION, THE COURT  
4 SHALL ORDER CDHS TO PROVIDE CARE COORDINATION AND MAKE  
5 DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT.

6           (b) THE DEPARTMENT MAY RECEIVE AND POSSESS ALL  
7 INFORMATION RELEVANT TO THE PROCEEDINGS PURSUANT TO THIS  
8 SECTION, INCLUDING COMPETENCY EVALUATIONS, ANY MEDICAL AND  
9 MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN  
10 FOUND IN PROCEEDINGS PURSUANT TO THIS SECTION OR PURSUANT TO  
11 ARTICLE 8.5 OF TITLE 16, AND RELEVANT CRIMINAL JUSTICE RECORDS,  
12 INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

13           (c) THE COURT MAY ORDER:

14           (I) THE PETITIONER AND ANY DISTRICT ATTORNEY RESPONSIBLE  
15 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS  
16 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT  
17 RECORDS TO CDHS WITHIN SEVEN DAYS AFTER THE COURT'S ORDER; AND

18           (II) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE  
19 RESPONDENT IN ANY PROCEEDING TO SEND MATERIALS TO CDHS, WITH  
20 THE RESPONDENT'S CONSENT, TO ASSIST IN CARE COORDINATION.

21           (d) CDHS MAY, AS NECESSARY, SHARE INFORMATION WITH  
22 POTENTIALLY APPROPRIATE CARE PROVIDERS AND THE PARTIES, AND  
23 SHALL KEEP THE COURT APPRISED IN WRITING OF EFFORTS TO FIND AN  
24 APPROPRIATE PROVIDER FOR THE RESPONDENT.

25           (7.5) IF THE COURT CERTIFIES THE RESPONDENT FOR SHORT-TERM  
26 TREATMENT AND THE COURT FINDS THAT INPATIENT TREATMENT IS  
27 NECESSARY PURSUANT TO SECTION 27-65-118 (1)(a), BUT AN INPATIENT

1 CARE PROVIDER HAS NOT BEEN LOCATED THAT WILL ACCEPT THE  
2 RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN EXHAUSTED,  
3 THE COURT SHALL NOTIFY CDHS AND CERTIFY THE RESPONDENT FOR  
4 OUTPATIENT TREATMENT.

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

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

18 (10) ~~In assessing whether the respondent with a pending criminal~~  
19 ~~charge is a danger to self or others or is gravely disabled, if the person is~~  
20 ~~incarcerated, the professional person and court shall not rely upon the fact~~  
21 ~~that the person is incarcerated to establish that the respondent is not a~~  
22 ~~danger to self or others or is not gravely disabled.~~

23 (11) ~~An emergency mental health hold pursuant to section~~  
24 ~~27-65-106 is not a prerequisite to a proceeding pursuant to this section.~~

25  
26 **SECTION 10. In Colorado Revised Statutes, 27-65-109, amend**  
27 **(1), (2) introductory portion, (2)(a), and (9); repeal (7); and add (11) as**

1 follows:

2 **27-65-109. Certification for short-term treatment - procedure.**

3 (1) A person may be certified for not more than three months for  
4 short-term treatment under the following conditions:

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

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

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

18 (d) (c) The person, the person's legal guardian, and the person's  
19 lay person, if applicable, have been advised of the person's right to an  
20 attorney and to contest the certification for short-term treatment.

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

24 (a) State facts sufficient to establish reasonable grounds to believe  
25 that the respondent has a mental health disorder and, as a result of the  
26 mental health disorder, is a danger to the respondent's self or others or is  
27 gravely disabled MEETS THE CRITERIA FOR CERTIFICATION FOR

1 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

2 (7) Records and papers in proceedings pursuant to this section  
3 must be maintained separately by the clerks of the several courts. Upon  
4 the release of any respondent in accordance with section 27-65-112, the  
5 facility shall notify the clerk of the court within five days after the release,  
6 and the clerk shall immediately seal the record in the case and omit the  
7 name of the respondent from the index of cases in the court until and  
8 unless the respondent becomes subject to an order of certification for  
9 long-term care and treatment pursuant to section 27-65-110 or until and  
10 unless the court orders the records opened for good cause shown. In the  
11 event a petition is filed pursuant to section 27-65-110, the certification  
12 record may be opened and become a part of the record in the long-term  
13 care and treatment case and the name of the respondent indexed.

14 (9) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION  
15 27-65-112, a respondent certified for short-term treatment may be  
16 discharged upon the signature of the treating medical professional and the  
17 medical director of the facility. A respondent certified for short-term  
18 treatment on an outpatient basis may be discharged upon the signature of  
19 the approved professional person overseeing the respondent's treatment,  
20 and the professional person shall notify the BHA prior to the discharge.  
21 A facility or program shall make the respondent's discharge instructions  
22 available to the respondent, the respondent's attorney, and the  
23 respondent's legal guardian, if applicable, within seven days after  
24 discharge, if requested. A facility or program that is transferring a  
25 respondent to a different treatment facility or to an outpatient provider  
26 shall provide all treatment records to the facility or provider accepting the  
27 respondent at least twenty-four hours prior to the transfer.

1           (11) THE DEPARTMENT AND THE BHA MAY RECEIVE AND POSSESS  
2           ALL INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO  
3           THIS SECTION, INCLUDING COMPETENCY AND MENTAL HEALTH  
4           EVALUATIONS; ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH  
5           A WAIVER OR PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS HELD  
6           PURSUANT TO THIS SECTION OR PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE  
7           16; AND RELEVANT CRIMINAL JUSTICE RECORDS, INCLUDING ANY  
8           CRIMINAL HISTORY OF THE RESPONDENT. THE DEPARTMENT MAY SHARE  
9           AND DISCUSS THE RELEVANT INFORMATION WITH THE PARTIES TO THE  
10           PROCEEDINGS.

11           **SECTION 11.** In Colorado Revised Statutes, **add 27-65-109.5** as  
12           follows:

13           **27-65-109.5. Certification for short-term outpatient treatment.**

14           (1) A PERSON MAY BE CERTIFIED FOR NOT MORE THAN THREE  
15           MONTHS FOR SHORT-TERM OUTPATIENT TREATMENT IF A PROFESSIONAL  
16           PERSON OR INTERVENING PROFESSIONAL ACTING WITHIN THE SCOPE OF  
17           THEIR AUTHORITY AND LICENSURE:

18           (a) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
19           PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST  
20           THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE  
21           OUTPATIENT CERTIFICATION;

22           (b) HAS EVALUATED THE PERSON WITHIN THE PAST THREE MONTHS  
23           AND OPINED THAT THE PERSON MEETS THE CRITERIA FOR CERTIFICATION  
24           FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);  
25           AND

26           (c) FILES WITH THE COURT A SIGNED OUTPATIENT CERTIFICATION.

27           (2)(a) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL

1 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE IS THE  
2 PETITIONER.

3 (b) PRIOR TO FILING THE PETITION, THE PETITIONER SHALL:

4 (I) ASK THE RESPONDENT TO DESIGNATE A LAY PERSON WHOM THE  
5 RESPONDENT WISHES TO BE INFORMED REGARDING THE OUTPATIENT  
6 CERTIFICATION;

7 (II) PROVIDE THE RESPONDENT WITH A COPY OF THE OUTPATIENT  
8 CERTIFICATION; AND

9 (III) PROVIDE THE RESPONDENT WITH THE CONTACT INFORMATION  
10 FOR THE COURT IN WHICH THE OUTPATIENT CERTIFICATION WILL BE FILED  
11 AND FOR ANY DESIGNATED PROVIDER THAT IS WILLING TO HOLD THE  
12 OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY THE  
13 COMMISSIONER TO PROVIDE TREATMENT.

14 (3) THE SIGNED OUTPATIENT CERTIFICATION MUST:

15 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS  
16 THAT THE RESPONDENT MEETS THE CRITERIA SET FORTH IN SECTION  
17 27-65-108.3;

18 (b) BE FILED WITH THE COURT WITHIN FOURTEEN DAYS,  
19 EXCLUDING SATURDAYS, SUNDAYS, AND COURT HOLIDAYS, AFTER THE  
20 INITIATING PARTY RECEIVED THE COURT ORDER FROM THE CRIMINAL  
21 COURT INITIATING THE OUTPATIENT CERTIFICATION, AND A COPY MUST BE  
22 PROVIDED TO CDHS AND THE BHA WITHIN TWENTY-FOUR HOURS AFTER  
23 FILING THE OUTPATIENT CERTIFICATION;

24 (c) PROVIDE ALL CONTACT INFORMATION THAT THE PETITIONER  
25 HAS FOR THE RESPONDENT;

26 (d) PROVIDE THE NAME AND CONTACT INFORMATION FOR THE LAY  
27 PERSON DESIGNATED BY THE RESPONDENT, OR FOR ANY FAMILY OR

1 FRIENDS OF THE RESPONDENT IF THE RESPONDENT WAS UNWILLING OR  
2 INCAPABLE OF DESIGNATING A LAY PERSON; AND

3 (e) IDENTIFY ANY DESIGNATED PROVIDER THAT IS WILLING TO  
4 HOLD THE OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY  
5 THE COMMISSIONER TO PROVIDE TREATMENT, OR INCLUDE A STATEMENT  
6 THAT A DESIGNATED PROVIDER NEEDS TO BE IDENTIFIED.

7 (4) ONCE THE BHA RECEIVES THE NOTICE OF OUTPATIENT  
8 CERTIFICATION, IF NO DESIGNATED PROVIDER HAS BEEN IDENTIFIED, THE  
9 BHA SHALL PROVIDE CARE COORDINATION PURSUANT TO SECTION  
10 27-65-108, WHICH INCLUDES MAKING DILIGENT EFFORTS TO IDENTIFY A  
11 DESIGNATED PROVIDER TO HOLD THE OUTPATIENT CERTIFICATION AND  
12 PROVIDE CARE TO THE RESPONDENT. THE BHA SHALL KEEP THE COURT,  
13 PETITIONER, AND COUNTY ATTORNEY INFORMED IN WRITING REGARDING  
14 ANY DESIGNATED PROVIDER THAT WILL HOLD THE OUTPATIENT  
15 CERTIFICATION AND PROVIDE CARE TO THE RESPONDENT.

16 (5) IF THE RESPONDENT HAS NOT DESIGNATED A LAY PERSON  
17 WHOM THE RESPONDENT WISHES TO BE INFORMED REGARDING THE  
18 OUTPATIENT CERTIFICATION, THE RESPONDENT MUST BE ASKED AND  
19 ALLOWED TO DESIGNATE A LAY PERSON AS SOON AS THE RESPONDENT IS  
20 CAPABLE AND WILLING TO DO SO.

21 (6) WHENEVER AN OUTPATIENT CERTIFICATION IS FILED WITH THE  
22 COURT BY A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL, THE  
23 COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT THE  
24 RESPONDENT. THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL  
25 PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY  
26 APPEALS. THE ATTORNEY REPRESENTING THE RESPONDENT MUST BE  
27 PROVIDED WITH A COPY OF THE OUTPATIENT CERTIFICATION AND ALL

1 SUPPORTING DOCUMENTATION IMMEDIATELY UPON THE ATTORNEY'S  
2 APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE  
3 RESPONDENT MAKES A KNOWING AND INTELLIGENT WAIVER IN FRONT OF  
4 THE COURT.

5 (7) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY AT  
6 ANY TIME FILE A WRITTEN REQUEST THAT THE CERTIFICATION FOR  
7 SHORT-TERM TREATMENT OR THE TREATMENT BE REVIEWED BY THE  
8 COURT OR THAT THE TREATMENT BE ON AN OUTPATIENT BASIS. IF A  
9 REVIEW IS REQUESTED, THE COURT SHALL HEAR THE MATTER WITHIN TEN  
10 DAYS AFTER THE REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE  
11 RESPONDENT AND THE RESPONDENT'S ATTORNEY AND THE CERTIFYING  
12 AND TREATING PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL OF  
13 THE TIME AND PLACE OF THE HEARING. THE HEARING MUST BE HELD IN  
14 ACCORDANCE WITH SECTION 27-65-113.1. AT THE CONCLUSION OF THE  
15 HEARING, THE COURT MAY ENTER OR CONFIRM THE OUTPATIENT  
16 CERTIFICATION FOR SHORT-TERM TREATMENT, DISCHARGE THE  
17 RESPONDENT, OR ENTER ANY OTHER APPROPRIATE ORDER.

18 (8) THIS SECTION DOES NOT REQUIRE A COURT APPEARANCE IF THE  
19 RESPONDENT DOES NOT CONTEST THE OUTPATIENT CERTIFICATION AND A  
20 DESIGNATED PROVIDER IS IDENTIFIED TO HOLD THE OUTPATIENT  
21 CERTIFICATION AND THE DESIGNATED PROVIDER MAKES CONTACT WITH  
22 THE RESPONDENT WITHIN SEVEN DAYS AFTER THE DESIGNATED PROVIDER  
23 BEGINS HOLDING THE OUTPATIENT CERTIFICATION.

24 (9) THE COURT SHALL SET A HEARING IF:

25 (a) THE RESPONDENT REQUESTS TO CONTEST, MODIFY, OR  
26 TERMINATE THE OUTPATIENT CERTIFICATION;

27 (b) THE OUTPATIENT CERTIFICATION WAS FILED AND A

1 DESIGNATED PROVIDER WAS NOT IDENTIFIED WITHIN SEVEN DAYS AFTER  
2 THE FILING OF THE OUTPATIENT CERTIFICATION; OR

3 (c) THE DESIGNATED PROVIDER DID NOT MAKE CONTACT WITH THE  
4 RESPONDENT WITHIN SEVEN DAYS AFTER THE DESIGNATED PROVIDER  
5 BEGAN HOLDING THE OUTPATIENT CERTIFICATION.

6 (10) THE COURT MAY SET A COURT REVIEW OR HEARING FOR GOOD  
7 CAUSE SHOWN AT ANY TIME UPON THE REQUEST OF A PARTY, THE COUNTY  
8 ATTORNEY RESPONSIBLE FOR PROCEEDINGS, OR THE COURT'S OWN  
9 MOTION.

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

19 (12) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN  
20 SECTION 27-65-112, A RESPONDENT CERTIFIED FOR SHORT-TERM  
21 TREATMENT ON AN OUTPATIENT BASIS MAY BE DISCHARGED UPON THE  
22 SIGNATURE OF THE APPROVED PROFESSIONAL PERSON OVERSEEING THE  
23 RESPONDENT'S TREATMENT, AND THE PROFESSIONAL PERSON SHALL  
24 NOTIFY THE BHA PRIOR TO THE DISCHARGE. A FACILITY OR PROGRAM  
25 SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO  
26 THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE RESPONDENT'S  
27 LEGAL GUARDIAN, IF APPLICABLE, WITHIN SEVEN DAYS AFTER DISCHARGE.

1 IF REQUESTED. A FACILITY OR PROGRAM THAT IS TRANSFERRING A  
2 RESPONDENT TO A DIFFERENT TREATMENT FACILITY OR TO AN OUTPATIENT  
3 PROVIDER SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR  
4 PROVIDER ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS  
5 PRIOR TO THE TRANSFER.

6 (13) IF THE PROFESSIONAL PERSON IN CHARGE OF THE EVALUATION  
7 AND TREATMENT BELIEVES THAT A PERIOD LONGER THAN THREE MONTHS  
8 IS NECESSARY TO TREAT THE RESPONDENT, THE PROFESSIONAL PERSON  
9 SHALL FILE WITH THE COURT AN EXTENDED CERTIFICATION AT LEAST  
10 THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL  
11 CERTIFICATION. AN EXTENDED CERTIFICATION FOR TREATMENT MUST NOT  
12 BE FOR A PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS  
13 ENTITLED TO A HEARING ON THE EXTENDED CERTIFICATION UNDER THE  
14 SAME CONDITIONS AS AN ORIGINAL CERTIFICATION. THE ATTORNEY  
15 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO  
16 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER  
17 ATTORNEY.

18 (14) THIS SECTION DOES NOT PRECLUDE ANY PROCEEDINGS OR  
19 ACTIONS PURSUANT TO SECTION 27-65-106, 27-65-108.5, OR 27-65-109.

20 **SECTION 12.** In Colorado Revised Statutes, 27-65-110, **amend**  
21 (1), (4), and (5) as follows:

22 **27-65-110. Certification for long-term care and treatment -**  
23 **procedure.**

24 (1) Whenever a respondent has received an extended certification  
25 for treatment pursuant to section 27-65-109 (10), including as it is applied  
26 to court-ordered certification pursuant to section 27-65-108.5, ~~(9)~~; the  
27 professional person in charge of the certification for short-term treatment

1 or the BHA may file a petition with the court at least thirty days prior to  
2 the expiration date of the extended certification for long-term care and  
3 treatment of the respondent under the following conditions:

4 (a) The professional staff of the agency or facility providing  
5 short-term treatment has analyzed the respondent's condition and has  
6 found that the respondent ~~has a mental health disorder and, as a result of~~  
7 ~~the mental health disorder, is a danger to the respondent's self or others~~  
8 ~~or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS  
9 FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
10 27-65-108.3 (1); AND

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

16 (c) (b) The facility that will provide long-term care and treatment  
17 has been designated by the commissioner to provide the care and  
18 treatment.

19 (4) The court or jury shall determine whether the conditions of  
20 subsection (1) of this section are met and whether the respondent ~~has a~~  
21 ~~mental health disorder and, as a result of the mental health disorder, is a~~  
22 ~~danger to the respondent's self or others or is gravely disabled~~ CONTINUES  
23 TO MEET THE CRITERIA AND STANDARDS FOR CERTIFICATION FOR  
24 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1). The  
25 court shall issue an order of long-term care and treatment for a term not  
26 to exceed six months, discharge the respondent for whom long-term care  
27 and treatment was sought, or enter any other appropriate order. An order

1 for long-term care and treatment must grant custody of the respondent to  
2 the BHA for placement with an agency or facility designated by the  
3 commissioner to provide long-term care and treatment. The BHA may  
4 delegate the physical custody of the respondent to a facility designated by  
5 the commissioner and the requirement for the provision of services and  
6 care coordination. When a petition contains a request that a specific legal  
7 disability be imposed or that a specific legal right be deprived, the court  
8 may order the disability imposed or the right deprived if the court or a  
9 jury has determined that the respondent has a mental health disorder or is  
10 gravely disabled and that, as a result, the respondent is unable to  
11 competently exercise the specific legal right or perform the function for  
12 which the disability is sought to be imposed. Any interested person may  
13 ask leave of the court to intervene as a copetitioner for the purpose of  
14 seeking the imposition of a legal disability or the deprivation of a legal  
15 right.

16 (5) An original order of long-term care and treatment or any  
17 extension of such order expires on the date specified, unless further  
18 extended as provided in this subsection (5). If an extension is being  
19 sought, the professional person in charge of the evaluation and treatment  
20 shall certify to the court at least thirty days prior to the expiration date of  
21 the order in force that an extension of the order is necessary for the care  
22 and treatment of the respondent subject to the order in force, and a copy  
23 of the certification must be simultaneously delivered to the respondent  
24 and electronically delivered to the respondent's attorney of record. At  
25 least twenty days before the expiration of the order, the court shall give  
26 written notice to the respondent and the respondent's attorney of record  
27 that a hearing upon the extension may be had before the court or a jury

1 upon written request to the court within ten days after receipt of the  
2 notice. If a hearing is not requested by the respondent within such time,  
3 the court may proceed ex parte. If a hearing is timely requested, the  
4 hearing must be held before the expiration date of the order in force. If  
5 the court or jury finds that the conditions of subsection (1) of this section  
6 continue to be met and that the respondent has a mental health disorder  
7 and, as a result of the mental health disorder, is a danger to THE  
8 RESPONDENT'S SELF, A DANGER TO others, or ~~to the respondent's self or is~~  
9 gravely disabled, the court shall issue an extension of the order. Any  
10 extension must not exceed six months, but there may be as many  
11 extensions as the court orders pursuant to this section.

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

14 **27-65-111. Certification on an outpatient basis - civil**  
15 **commitment - short-term and long-term treatment.**

16 (3) The facility responsible for providing services to a respondent  
17 on a certification on an outpatient basis shall proactively reach out to the  
18 respondent to engage the respondent in treatment. If the respondent  
19 refuses treatment or court-ordered medication and is decompensating  
20 psychiatrically, the court may order a certified peace officer or secure  
21 transportation provider to transport the respondent to an appropriate,  
22 least-restrictive designated facility in collaboration with the BHA and the  
23 provider holding the certification. The respondent does not need to be  
24 ~~imminently dangerous~~ AN IMMINENT DANGER to the respondent's self or  
25 AN IMMINENT DANGER TO others for the provider to request, and the court  
26 to order, transportation to a facility for the respondent to receive treatment  
27 and court-ordered medications. The facility responsible for providing

1 services to a respondent on a certification on an outpatient basis shall  
2 provide the court information on the facility's proactive outreach to the  
3 respondent and the professional person's and psychiatric advanced  
4 practice registered nurse's basis for medical opinion.

5 (6) A respondent subject to a CERTIFICATION FOR short-term ~~or~~  
6 TREATMENT, CERTIFICATION FOR long-term ~~certification~~ CARE AND  
7 TREATMENT, OR CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 on  
8 an outpatient basis has the following rights, in addition to those  
9 enumerated in section 27-65-119:

10 (a) To request a change to voluntary status. A change to voluntary  
11 status may be denied by the supervising professional person or advanced  
12 practice registered nurse with training in psychiatric nursing responsible  
13 for the respondent's treatment if the professional person or advanced  
14 practice registered nurse with training in psychiatric nursing determines  
15 reasonable grounds exist to believe that the respondent will not remain in  
16 a voluntary treatment program. THIS SUBSECTION (6)(a) DOES NOT APPLY  
17 TO A RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION  
18 27-65-201.

19 (j) To have the right to file a motion with the court at any time to  
20 contest the certification. THIS SUBSECTION (6)(j) DOES NOT APPLY TO A  
21 RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION  
22 27-65-201.

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

25 **27-65-112. Termination of certification for short-term and**  
26 **long-term treatment.**

27 (1) (a) An original or extended certification for short-term

1 treatment issued pursuant to section 27-65-108.5 or 27-65-109  
2 27-65-108.5, 27-65-109, OR 27-65-109.5, or an order or extension for  
3 certification for long-term care and treatment pursuant to section  
4 27-65-110, terminates as soon as WHEN the professional person in charge  
5 of treatment of the respondent and the BHA, AFTER A REASONABLE  
6 OBSERVATION AND TREATMENT PERIOD, determine the respondent has  
7 received sufficient benefit from the treatment for the respondent to end  
8 involuntary treatment. Whenever a certification or extended certification  
9 is terminated pursuant to this section, the professional person in charge  
10 of providing treatment shall notify the court in writing within five days  
11 after the termination NO LONGER MEETS THE CRITERIA FOR CERTIFICATION  
12 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1).

13 (b) THE PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S  
14 CARE SHALL NOT APPROVE THE TERMINATION OF THE CERTIFICATION  
15 UNLESS TWO PROFESSIONAL PERSONS INDEPENDENTLY EVALUATE THE  
16 RESPONDENT AND INDEPENDENTLY OPINE THAT THE RESPONDENT NO  
17 LONGER MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM  
18 TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE PROFESSIONAL  
19 PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH AND  
20 PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS  
21 REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS  
22 WITH ONLY ONE PROFESSIONAL PERSON.

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

25 **27-65-113. Jurisdiction - transfer.**

26 ~~(1) Hearings before the court pursuant to section 27-65-108.5,~~  
27 ~~27-65-109, or 27-65-110 are conducted in the same manner as other civil~~

1 proceedings before the court. The burden of proof is on the person or  
2 facility seeking to detain the respondent. The court or jury shall determine  
3 that the respondent is in need of care and treatment only if the court or  
4 jury finds by clear and convincing evidence that the respondent has a  
5 mental health disorder and, as a result of the mental health disorder, is a  
6 danger to the respondent's self or others or is gravely disabled.

7 (2) The court, after consultation with respondent's counsel to  
8 obtain counsel's recommendations, may appoint a professional person to  
9 examine the respondent for whom short-term treatment or long-term care  
10 and treatment is sought and to testify at the hearing before the court as to  
11 the results of the professional person's examination. The court-appointed  
12 professional person shall act solely in an advisory capacity, and no  
13 presumption is attached to the professional person's findings.

14 (3) Every respondent subject to an order for short-term treatment  
15 or long-term care and treatment must be advised of the respondent's right  
16 to appeal the order by the court at the conclusion of any hearing and, as  
17 a result, the order may be entered.

18 (4) (1) (a) The court in which the A petition is filed under section  
19 27-65-106 or the OR certification is filed pursuant to section 27-65-109  
20 THIS ARTICLE 65, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS  
21 PURSUANT TO THIS ARTICLE 65 THAT RECEIVES A COURT ORDER  
22 TRANSFERRING JURISDICTION OF A CIVIL COMMITMENT PURSUANT TO  
23 SECTION 16-8.5-118, is the court of original jurisdiction and of continuing  
24 jurisdiction for any further proceedings pursuant to this article 65.

25 (b) When the convenience of the parties and the ends of justice  
26 would be promoted by a change in the court having jurisdiction, the court  
27 may order a transfer of the proceeding to another county. Until further

1 order of the transferee court, if any, it is the court of continuing  
2 jurisdiction. IF MULTIPLE CRIMINAL COURTS REFER A MATTER FOR  
3 PROCEEDING PURSUANT TO SECTION 27-65-201 OR 27-65-108.5, ANY  
4 COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING TO ANOTHER  
5 COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS INTO ONE  
6 PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT PROMOTES THE  
7 CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

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

12 (b) A REQUEST FOR APPOINTMENT OF AN ATTORNEY OR FOR  
13 PROCEEDINGS PURSUANT TO SECTION 27-65-104 REGARDING VOLUNTARY  
14 TREATMENT OF A MINOR TO WHICH THE MINOR OBJECTS MAY BE FILED IN  
15 THE JURISDICTION WHERE THE MINOR IS HOSPITALIZED.

16 (c) A PETITION OR REQUEST FOR A PROCEEDING REGARDING AN  
17 EMERGENCY MENTAL HEALTH HOLD ORDERED PURSUANT TO SECTION  
18 27-65-106 OR CERTIFICATION FOR SHORT-TERM TREATMENT ORDERED  
19 PURSUANT TO SECTION 27-65-109 MAY BE FILED IN THE JURISDICTION  
20 WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY PRESENT AND  
21 TRANSPORTED FOR AN EMERGENCY MENTAL HEALTH HOLD, OR IS  
22 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

23 (d) A PETITION OR REQUEST FOR A PROCEEDING REGARDING  
24 CERTIFICATION FOR SHORT-TERM TREATMENT FOR INCOMPETENT  
25 DEFENDANTS IN A CRIMINAL MATTER PURSUANT TO SECTION 27-65-108.5  
26 OR A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 MAY BE FILED  
27 IN THE JURISDICTION WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY

1 PRESENT IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, OR IS  
2 RECEIVING INPATIENT TREATMENT OR WHERE THE CRIMINAL COURT THAT  
3 REFERRED THE MATTER IS LOCATED.

4 ~~(5)(a)~~ (3) (a) In the event that a respondent or a person found not  
5 guilty by reason of impaired mental condition pursuant to section  
6 16-8-103.5 (5), or by reason of insanity pursuant to section 16-8-105 (4)  
7 or 16-8-105.5, refuses to accept medication, the court having jurisdiction  
8 of the action pursuant to ~~subsection (4)~~ SUBSECTION (1) of this section;  
9 the court committing the person or defendant to the custody of the  
10 department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or  
11 16-8-105.5; or the court of the jurisdiction in which the designated facility  
12 treating the respondent or person is located has jurisdiction and venue to  
13 accept a petition by a treating physician and to enter an order requiring  
14 that the respondent or person accept ~~such~~ THE treatment or, in the  
15 alternative, that the medication be forcibly administered to the respondent  
16 or person. The court of the jurisdiction in which the designated facility is  
17 located shall not exercise its jurisdiction without the permission of the  
18 court that committed the person to the custody of the department. Upon  
19 the filing of ~~such a~~ THE petition, the court shall appoint an attorney, if one  
20 has not been appointed, to represent the respondent or person and hear the  
21 matter within ten days.

22 (b) In any case brought pursuant to ~~subsection (5)(a)~~ SUBSECTION  
23 (3)(a) of this section in a court for the county in which the treating facility  
24 is located, the county where the proceeding was initiated pursuant to  
25 ~~subsection (4)~~ SUBSECTION (1) of this section or the court committing the  
26 person to the custody of the department pursuant to section 16-8-103.5  
27 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in

1 which the proceeding pursuant to this ~~subsection (5)~~ SUBSECTION (3) was  
2 filed and in which the proceeding was held for the reasonable costs  
3 incurred in conducting the proceeding or conduct the proceeding itself  
4 using its own personnel and resources, including its own district or county  
5 attorney, as the case may be.

6 (c) In the case of a defendant who is found incompetent to  
7 proceed pursuant to section 16-8.5-103 and who refuses to accept  
8 medication, the jurisdiction for the petition for involuntary treatment  
9 procedures is as set forth in ~~section 16-8.5-112~~ SECTION 16-8.5-106.

10 ~~(6) (4) All adversarial proceedings pursuant to this article 65,~~  
11 ~~including proceedings to impose a legal disability pursuant to section~~  
12 ~~27-65-127, must be conducted by the district attorney of the county where~~  
13 ~~the proceeding is held or by a qualified attorney acting for the district~~  
14 ~~attorney appointed by the district court for that purpose; except that, in~~  
15 ~~any county or in any city and county having a population exceeding fifty~~  
16 ~~thousand persons, the proceedings must be conducted by the county~~  
17 ~~attorney or by a qualified attorney acting for the county attorney~~  
18 ~~appointed by the district court. In any case in which there has been a~~  
19 ~~change of venue to a county other than the county of residence of the~~  
20 ~~respondent or the county in which the certification proceeding was~~  
21 ~~commenced, the county from which the proceeding was transferred shall~~  
22 ~~either reimburse the county to which the proceeding was transferred and~~  
23 ~~in which the proceeding was held for the reasonable costs incurred in~~  
24 ~~conducting the proceeding or conduct the proceeding itself using its own~~  
25 ~~personnel and resources, including its own district or county attorney, as~~  
26 ~~the case may be.~~

27 (5) IF A CIVIL PROCEEDING WAS INITIATED PURSUANT TO THIS

1 ARTICLE 65 OR TRANSFERRED PURSUANT TO SECTION 16-8.5-118 BUT THE  
2 PROCEEDING IS NO LONGER PROPER BECAUSE THE COURT DETERMINED  
3 THAT THE RESPONDENT HAS AN INTELLECTUAL AND DEVELOPMENTAL  
4 DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE TERMS ARE  
5 DEFINED IN SECTION 25.5-10-501, WITHOUT ANY OTHER MENTAL HEALTH  
6 DISORDER, THE COURT MAY MAINTAIN JURISDICTION BY ORDERING THE  
7 CASE TO PROCEED PURSUANT TO ARTICLE 10 OF TITLE 25.5.

8 ~~(7) Upon request of a legal guardian appointed pursuant to article~~  
9 ~~14 of title 15, the legal guardian may intervene in any proceeding brought~~  
10 ~~pursuant to this article 65 concerning the legal guardian's ward and,~~  
11 ~~through counsel, may present evidence and represent to the court the~~  
12 ~~views of the legal guardian concerning the appropriate disposition of the~~  
13 ~~case.~~

14 ~~(8) A lay person may submit an affidavit to the court concerning~~  
15 ~~the lay person's relationship to the respondent, how long the lay person~~  
16 ~~has known the respondent, the lay person's physical address, and the lay~~  
17 ~~person's views concerning the appropriate disposition of the respondent's~~  
18 ~~case.~~

19 **SECTION 16.** In Colorado Revised Statutes, **add** 27-65-113.1  
20 and 27-65-113.5 as follows:

21 **27-65-113.1. Hearing procedures.**

22 (1) A HEARING HELD PURSUANT TO SECTION 27-65-201,  
23 27-65-202, 27-65-108.5, 27-65-109, 27-65-109.5, OR 27-65-110 MUST BE  
24 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE  
25 THE COURT.

26 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S  
27 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT

1 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A  
2 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND  
3 TREATMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO THE RESULTS  
4 OF THE PROFESSIONAL PERSON'S EXAMINATION. THE COURT-APPOINTED  
5 PROFESSIONAL PERSON SHALL ACT SOLELY IN AN ADVISORY CAPACITY,  
6 AND NO PRESUMPTION IS ATTACHED TO THE PROFESSIONAL PERSON'S  
7 FINDINGS.

8 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT  
9 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY  
10 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65 CONCERNING THE  
11 LEGAL GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT  
12 EVIDENCE AND REPRESENT TO THE COURT THE VIEWS OF THE LEGAL  
13 GUARDIAN CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

14 (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT  
15 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW  
16 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S  
17 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE  
18 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

19 **27-65-113.5. County attorney and district attorney**  
20 **responsibilities.**

21 (1) THE COUNTY ATTORNEY OR DISTRICT ATTORNEY IN A COUNTY  
22 OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR LESS THAN  
23 FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING AS THE  
24 COUNTY OR DISTRICT ATTORNEY'S DESIGNEE WHO IS APPROVED BY THE  
25 DISTRICT COURT, HAS THE FOLLOWING POWERS AND RESPONSIBILITIES:

26 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN  
27 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 OR

1 TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION  
2 16-8.5-118, UNLESS EXPRESSLY RELIEVED OR MODIFIED BY STATUTE;

3 (b) TO ASSIST A NONPROFESSIONAL INDIVIDUAL WHO IS  
4 ATTEMPTING TO INITIATE A REQUEST TO THE COURT FOR AN EVALUATION,  
5 PURSUANT TO SECTION 27-65-106 (1)(b), OF A PERSON WHOM THE  
6 NONPROFESSIONAL INDIVIDUAL BELIEVES MEETS THE CRITERIA FOR A  
7 CERTIFICATION BY PROVIDING INFORMATION AND ASSISTING IN MAKING  
8 FILINGS TO THE COURT;

9 (c) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION  
10 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT  
11 TO THIS ARTICLE 65; AND

12 (d) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS  
13 BROUGHT PURSUANT TO THIS ARTICLE 65 TO INTERESTED PARTIES AS  
14 ALLOWABLE BY LAW.

15 **SECTION 17.** In Colorado Revised Statutes, **amend** 27-65-114  
16 as follows:

17 **27-65-114. Appeals.**

18 (1) Appellate review of any order ~~of~~ FOR CERTIFICATION FOR  
19 short-term treatment or long-term care and treatment OR FOR CIVIL  
20 COMMITMENT may be had as provided in the Colorado appellate rules. An  
21 appeal must be advanced upon the calendar of the appellate court and  
22 must be decided at the earliest practicable time. Pending disposition by  
23 the appellate court, the court may make such order as the court may  
24 consider proper in the premises relating to the care and custody of the  
25 respondent.

26 (2) THE COURT SHALL ADVISE A RESPONDENT SUBJECT TO AN  
27 ORDER FOR CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM

1 CARE AND TREATMENT OR FOR CIVIL COMMITMENT OF THE RESPONDENT'S  
2 RIGHT TO APPEAL THE ORDER AT THE CONCLUSION OF ANY HEARING.

3 **SECTION 18.** In Colorado Revised Statutes, 27-65-118, **amend**  
4 (1)(a) as follows:

5 **27-65-118. Right to treatment - rules.**

6 (1) (a) Any person receiving an evaluation or treatment pursuant  
7 to this article 65 is entitled to medical and psychiatric care and treatment,  
8 with regard to services listed in section 27-50-301 and services listed in  
9 rules authorized by section 27-66-102, suited to meet the person's  
10 individual needs, delivered in such a way as to keep the person in the  
11 least-restrictive environment, and delivered in such a way as to include  
12 the opportunity for participation of family members in the person's  
13 program of care and treatment, when appropriate. ~~Nothing in~~ A PERSON  
14 RECEIVING AN EVALUATION OR TREATMENT PURSUANT TO THIS ARTICLE  
15 65 MUST NOT BE DENIED CARE OR DISCHARGED DUE TO AN INABILITY TO  
16 PAY. This subsection (1)(a) ~~creates~~ DOES NOT CREATE any right with  
17 respect to any person other than the person receiving an evaluation, care,  
18 or treatment. The professional person and the agency or facility providing  
19 an evaluation, care, or treatment shall keep records detailing all care and  
20 treatment received by the person, and the records must be made available,  
21 upon the person's written authorization, to the person's attorney or the  
22 person's personal physician. The records are permanent records and must  
23 be retained in accordance with section 27-65-123 (4).

24 **SECTION 19.** In Colorado Revised Statutes, 27-65-123, **add** (7),  
25 (8), (9), (10), and (11) as follows:

26 **27-65-123. Records.**

27 (7) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO

1 THIS ARTICLE 65 MUST BE MAINTAINED SEPARATELY BY THE CLERKS OF  
2 THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST  
3 NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS  
4 SECTION.

5 (b) UPON THE TERMINATION OF A CERTIFICATION PURSUANT TO  
6 SECTION 27-65-112 OR THE TERMINATION OF CIVIL COMMITMENT  
7 PURSUANT TO SECTION 27-65-202, THE CLERK OF THE COURT SHALL  
8 IMMEDIATELY SEAL THE RECORD IN THE CASE AND OMIT THE  
9 RESPONDENT'S NAME FROM THE INDEX OF CASES IN THE COURT UNTIL AND  
10 UNLESS THE RESPONDENT BECOMES SUBJECT TO AN ORDER OF  
11 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT PURSUANT TO  
12 SECTION 27-65-110 AND UNLESS THE COURT ORDERS THE RECORDS  
13 OPENED FOR GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED  
14 PURSUANT TO SECTION 27-65-110 OR 27-65-201, THE CERTIFICATION  
15 RECORD MAY BE OPENED AND BECOME PART OF THE RECORD IN THE  
16 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT CASE AND THE  
17 NAME OF THE RESPONDENT INDEXED.

18 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION,  
19 WHILE A MATTER IS PENDING OR AFTER IT IS SEALED, THE COURT MAY  
20 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND  
21 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING  
22 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE  
23 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A  
24 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID  
25 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE  
26 CLERK SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE AND PROVIDE  
27 THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR AUTHORIZED

1 REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

2 (8) WHEN A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES  
3 IN THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD AS  
4 DESCRIBED IN SECTION 27-65-106, THE COURT, COUNTY ATTORNEY, OR  
5 DISTRICT ATTORNEY CONDUCTING ANY SUBSEQUENT PROCEEDINGS  
6 PURSUANT TO THIS ARTICLE 65, AND THE PROVIDER WHO CONDUCTS AN  
7 EVALUATION OR PROVIDES CARE, MAY, WITHOUT COURT AUTHORIZATION,  
8 PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY WITH THE FOLLOWING  
9 LIMITED INFORMATION, IF AVAILABLE:

10 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE  
11 RESPONDENT MET THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM  
12 TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

13 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN  
14 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE  
15 RESPONDENT; AND

16 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR  
17 A CERTIFICATION FOR SHORT-TERM TREATMENT.

18 (9) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY  
19 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT  
20 PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT, A PROFESSIONAL  
21 PERSON, OR AN INTERVENING PROFESSIONAL WITH LAWFUL POSSESSION OF  
22 RECORDS FROM MAINTAINING AND USING THE RECORDS, UNLESS  
23 PROHIBITED BY LAW.

24 (10) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A  
25 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT,  
26 A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK  
27 TO UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED

1 TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING  
2 COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS  
3 BROUGHT PURSUANT TO THIS ARTICLE 65.

4 (11) THE DISTRICT ATTORNEY MAY PROVIDE INFORMATION TO A  
5 VICTIM WHEN NECESSARY TO COMPLY WITH THE "VICTIM RIGHTS ACT",  
6 PART 3 OF ARTICLE 4.1 OF TITLE 24.

7 **SECTION 20.** In Colorado Revised Statutes, 27-65-131, **amend**  
8 (1) introductory portion, (1)(g), and (1)(h); and **add** (1)(i) as follows:

9 **27-65-131. Data report.**

10 (1) ~~Beginning January 1, 2025, and each~~ ON OR BEFORE January  
11 1 ~~thereafter~~ OF EACH YEAR, the BHA shall ~~annually~~ submit a report to the  
12 general assembly on the outcomes and effectiveness of the involuntary  
13 commitment system described in this article 65, disaggregated by region,  
14 including any recommendations to improve the system and outcomes for  
15 persons involuntarily committed or certified pursuant to this article 65.  
16 The report must include aggregated and disaggregated nonidentifying  
17 individual-level data. At a minimum, the report must include:

18 (g) Barriers and opportunities with local providers, the judicial  
19 branch, and law enforcement; ~~and~~

20 (h) How many individuals were placed in the custody of the BHA  
21 on a certification for short-term treatment who were concurrently  
22 involved in the criminal justice system, including the outcomes of each  
23 person and any barriers and opportunities that may exist to better serve  
24 the population; AND

25 (i) HOW MANY INDIVIDUALS WHO MET THE CRITERIA FOR  
26 SHORT-TERM CERTIFICATION REQUIRED INPATIENT PLACEMENT, CARE, OR  
27 TREATMENT BUT WERE NOT PROVIDED INPATIENT PLACEMENT, CARE, OR

1 TREATMENT BECAUSE IT WAS NOT AVAILABLE.

2 **SECTION 21.** In Colorado Revised Statutes, add part 2 to article  
3 65 of title 27 as follows:

4 PART 2  
5 CIVIL COMMITMENT OF INCOMPETENT AND  
6 UNRESTORABLE PERSON

7 **27-65-201. Court supervision of incompetent and unrestorable**  
8 **person ordered into civil commitment - repeal.**

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

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

15 (a) NOTIFY THE COUNTY ATTORNEY;

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

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

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

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

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

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

26 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED  
27 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT

1 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD  
2 PURSUANT TO THIS ARTICLE 65, INCLUDING ANY APPEALS;

3 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE  
4 CIVIL COMMITMENT; AND

5 (IV) THE RIGHT TO PERIODIC REVIEW OF THE CIVIL COMMITMENT  
6 AND THE RIGHT TO CONTEST, INCLUDING BY TRIAL, WHETHER THE  
7 RESPONDENT QUALIFIES FOR TERMINATION OF CIVIL COMMITMENT.

8 (4) AT ANY TIME DURING THE CIVIL COMMITMENT, THE COURT  
9 MAY:

10 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE CIVIL  
11 COMMITMENT UPON REQUEST OF THE PARTIES AFTER GIVING THE PARTIES  
12 AN OPPORTUNITY TO OBJECT AND BE HEARD;

13 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER  
14 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT  
15 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE  
16 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED  
17 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;

18 (c) ORDER CDHS TO PROVIDE TO THE COURT:

19 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS  
20 THE CRITERIA FOR TERMINATION OF CIVIL COMMITMENT PURSUANT TO  
21 SECTION 27-65-202; AND

22 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN  
23 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
24 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501,  
25 WITHOUT HAVING ANY OTHER MENTAL HEALTH DISORDER THAT IS NOT AN  
26 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
27 DISORDER AND THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE

1 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
2 OTHERS, OR IS GRAVELY DISABLED.

3 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE  
4 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE  
5 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE  
6 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR  
7 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY  
8 THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT  
9 CARE AT THE DISCRETION OF CDHS OR HCPF;

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) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT  
27 THE DISCRETION OF CDHS OR HCPF OR IF CDHS OR HCPF PROPOSES TO

1 MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT  
2 SHALL, PRIOR TO MODIFYING THE CIVIL COMMITMENT TO CHANGE THE  
3 RESPONDENT'S PROVIDER OR PLACEMENT, REVIEW THE APPROPRIATENESS  
4 OF THE PROPOSED PROVIDER OR PLACEMENT, INCLUDING WHETHER THE  
5 PROVIDER FITS THE RESPONDENT'S DIAGNOSIS AND TREATMENT NEEDS AND  
6 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS THE COMMUNITY  
7 FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE  
8 RESPONDENT.

9 (c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE  
10 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO  
11 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY  
12 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE  
13 COURT'S DECISION.

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

25 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE  
26 RESPONDENT'S MENTAL HEALTH DISORDER;

27 (II) THE CLINICAL DIAGNOSIS AND CLINICAL PERSPECTIVE ON THE

1 RESPONDENT'S CURRENT MENTAL STATE AND PROGNOSIS;  
2 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED  
3 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH A TREATMENT PLAN IN  
4 THE REASONABLY FORESEEABLE FUTURE;  
5 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,  
6 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR  
7 OTHERS;  
8 (V) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
9 THE RESPONDENT'S HOSPITALIZATION, ARREST, OR CERTIFICATION FOR  
10 SHORT-TERM TREATMENT;  
11 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION  
12 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S  
13 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL  
14 HARM;  
15 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
16 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF  
17 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS  
18 WILL REOCCUR WITHOUT INPATIENT TREATMENT;  
19 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;  
20 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE  
21 REASONABLY ACCOMMODATED;  
22 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF  
23 OTHERS; AND  
24 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING  
25 PROFESSIONALS.  
26 (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE  
27 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE

1 FOR THE FIRST TIME SINCE BEING CIVILLY COMMITTED UNLESS:

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

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

8 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR  
9 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO  
10 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,  
11 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND  
12 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM  
13 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER  
14 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT  
15 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE  
16 RESPONDENT CANNOT COMPLY.

17 (6)(a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO  
18 INPATIENT CARE AT THE DISCRETION OF CDHS OR HCPF, THE EXECUTIVE  
19 DIRECTOR OF CDHS SHALL DESIGNATE THE STATE FACILITY AT WHICH THE  
20 RESPONDENT IS HELD FOR CARE AND TREATMENT AND MAY TRANSFER THE  
21 RESPONDENT FROM ONE FACILITY TO ANOTHER IF, IN THE OPINION OF THE  
22 EXECUTIVE DIRECTOR, IT IS APPROPRIATE TO DO SO IN THE INTEREST OF  
23 THE PROPER CARE, CUSTODY, AND TREATMENT OF THE RESPONDENT OR  
24 FOR THE PROTECTION OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN  
25 QUESTION.

26 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,  
27 CDHS 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 OUTSIDE OF INPATIENT CARE FOR THE FIRST TIME SINCE THE  
8           RESPONDENT WAS CIVILLY COMMITTED WITHOUT PRIOR APPROVAL OF THE  
9           COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

10           (7) TERMINATION OF THE CIVIL COMMITMENT IS GOVERNED BY  
11           SECTION 27-65-202.

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 CIVILLY  
15           COMMITTED UNLESS A SUBSTANTIALLY SIMILAR EXAMINATION WAS  
16           ORDERED BY THE COURT WITHIN THE PREVIOUS TWELVE MONTHS. THE  
17           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 CIVIL COMMITMENT  
23           PURSUANT TO SECTION 16-8.5-118;

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

26           (IV) IS APPROPRIATELY PLACED; AND

27           (V) MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL

1 COMMITMENT PURSUANT TO SECTION 27-65-202;  
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 CIVILLY COMMITTED;  
18 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS  
19 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC  
20 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A  
21 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF CDHS;  
22 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE  
23 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND  
24 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION  
25 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.  
26 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE  
27 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE

1 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR  
2 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO  
3 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED  
4 NECESSARY FOR THE COURT'S SUPERVISION OF THE CIVIL COMMITMENT.

5 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,  
6 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST  
7 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND  
8 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE  
9 CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT,  
10 CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM  
11 PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF  
12 THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202. THE  
13 RESPONDENT SHALL COOPERATE WITH ANY EXAMINATIONS ORDERED  
14 PURSUANT TO THIS SUBSECTION (10)(a).

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

18 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR  
19 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE  
20 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO  
21 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT  
22 DOES NOT MEET THE CRITERIA FOR TERMINATION.

23 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2030.

24 **27-65-202. Termination of civil commitment - repeal.**

25 (1) THE COURT SHALL TERMINATE A RESPONDENT'S CIVIL  
26 COMMITMENT ORDERED PURSUANT TO SECTION 27-65-201 IF THE  
27 RESPONDENT:

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

3           (b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY  
4           TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF  
5           OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED  
6           SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S  
7           CONDUCT TO THE REQUIREMENTS OF THE LAW.

8           (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE  
9           AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT  
10          MEETS THE STANDARD FOR TERMINATION FROM CIVIL COMMITMENT  
11          PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PROVIDER OR THE  
12          PROVIDER'S DESIGNEE SHALL REPORT THE DETERMINATION TO THE COURT  
13          THAT PLACED THE RESPONDENT INTO THE PROVIDER'S CARE AND CUSTODY,  
14          THE COUNTY ATTORNEY, AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
15          SOUGHT CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT  
16          PURSUANT TO SECTION 16-8.5-118. THE COURT SHALL FURNISH A COPY OF  
17          ANY REPORTS RECEIVED TO THE RESPONDENT AND THE RESPONDENT'S  
18          COUNSEL.

19          (3)(a) THE RESPONDENT MAY REQUEST TERMINATION OF THE CIVIL  
20          COMMITMENT IN WRITING AT ANY TIME THE RESPONDENT WOULD NOT BE  
21          PROHIBITED FROM HAVING A SUBSEQUENT TERMINATION TRIAL PURSUANT  
22          TO SUBSECTION (7) OF THIS SECTION.

23          (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST  
24          FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON  
25          THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR  
26          TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1)  
27          OF THIS SECTION.

1           (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR  
2 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE  
3 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
4 SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT  
5 PURSUANT TO SECTION 16-8.5-118 FOURTEEN DAYS TO OBJECT TO  
6 TERMINATION OR REQUEST AN OPPORTUNITY TO CONDUCT AN  
7 INDEPENDENT EVALUATION BY AN EXPERT OF THE COUNTY ATTORNEY'S OR  
8 DISTRICT ATTORNEY'S OWN CHOOSING AND EXPENSE.

9           (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT  
10 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN  
11 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE  
12 RESPONDENT'S CIVIL COMMITMENT.

13           (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY  
14 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,  
15 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO  
16 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR  
17 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN  
18 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE  
19 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT  
20 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST  
21 FOR A SINGLE INDEPENDENT EVALUATION.

22           (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE  
23 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE  
24 RESPONDENT'S REQUEST FOR TERMINATION.

25           (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE  
26 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO  
27 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

1           (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY  
2           OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL  
3           TERMINATE THE RESPONDENT'S CIVIL COMMITMENT.

4           (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY  
5           TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE  
6           RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE  
7           RESPONDENT'S COUNSEL RECEIVED A COPY OF THE REPORT, AND ADVISE  
8           THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE COURT OR  
9           THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE THAN SIX  
10           INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS THE  
11           CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
12           SECTION.

13           (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE  
14           COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN THIRTY-FIVE DAYS  
15           AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE  
16           COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN SEVENTY-TWO DAYS  
17           AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS  
18           EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE  
19           COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED  
20           PURSUANT TO THIS SUBSECTION (5)(b), THE COURT SHALL TERMINATE THE  
21           CIVIL COMMITMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S  
22           CARE AND CUSTODY.

23           (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION  
24           BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS  
25           STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE  
26           OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY  
27           ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL

1 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY  
2 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT  
3 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND  
4 TO ANY OTHER MATTERS RELATED TO THE CIVIL COMMITMENT AND  
5 TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY RELATED APPEALS.

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

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

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

1 FOR TERMINATION.

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

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

24 (10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2030.

25 **SECTION 22.** In Colorado Revised Statutes, **add** part 5 to article  
26 10 of title 25.5 as follows:

27 PART 5

1 PROTECTIVE PLACEMENT AND  
2 ENHANCED PROTECTIVE PLACEMENT

3 **25.5-10-501. Definitions.**

4 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE  
5 REQUIRES:

6 (1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS  
7 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION  
8 27-60-203.

9 (2) "DANGER TO OTHERS" HAS THE MEANING SET FORTH IN  
10 SECTION 27-65-102.

11 (3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,  
12 HAS THE MEANING SET FORTH IN SECTION 27-65-102.

13 (4) "DEPARTMENT OF HEALTH CARE POLICY AND FINANCING" OR  
14 "HCPF" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND  
15 FINANCING CREATED IN SECTION 24-1-119.5.

16 (5) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE  
17 MEANING SET FORTH IN SECTION 25.5-10-202.

18 (6) "INTERVENING PROFESSIONAL" HAS THE MEANING SET FORTH  
19 IN SECTION 27-65-102.

20 (7) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN  
21 SECTION 27-65-102.

22 (8) "NEUROCOGNITIVE DISORDER" MEANS A SUBSTANTIAL AND  
23 PERSISTENT DISORDER OF THE COGNITIVE OR NEUROLOGICAL PROCESSES  
24 THAT GROSSLY IMPAIRS JUDGMENT, MEMORY, OR CAPACITY TO RECOGNIZE  
25 REALITY OR TO CONTROL BEHAVIOR, GENERAL INTELLECTUAL  
26 FUNCTIONING, OR ADAPTIVE BEHAVIOR THAT IS ATTRIBUTABLE TO A  
27 NEUROLOGICAL OR COGNITIVE DISORDER OR RELATED CONDITION,

1 INCLUDING, BUT NOT LIMITED TO, A TRAUMATIC BRAIN INJURY, A  
2 DEGENERATIVE DISORDER, OR DEMENTIA. "NEUROCOGNITIVE DISORDER"  
3 DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

4 (9) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN  
5 SECTION 27-65-102.

6 (10) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM  
7 OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT  
8 PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND  
9 DEVELOPMENTAL DISABILITIES.

10 (11) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE  
11 MEANING SET FORTH IN SECTION 27-65-102.

12 **25.5-10-502. Criteria and standards for protective placement.**

13 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A  
14 RESPONDENT IF:

15 (a) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS  
16 A NEUROCOGNITIVE DISORDER;

17 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE  
18 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,  
19 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT  
20 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND

21 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, IS A  
22 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS.

23 (2) WHEN EVALUATING A PERSON TO DETERMINE WHETHER THE  
24 PERSON MEETS THE CRITERIA PURSUANT TO SUBSECTION (1) OF THIS  
25 SECTION, THE COURT, EVALUATOR, INTERVENING PROFESSIONAL, OR  
26 PROFESSIONAL PERSON SHALL TAKE INTO CONSIDERATION:

27 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S

1 OWN NEUROCOGNITIVE DISORDER;

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

4 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND  
5 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE  
6 FUTURE;

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

9 (e) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
10 THE PERSON'S HOSPITALIZATION, ARREST, CERTIFICATION FOR  
11 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

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

15 (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
16 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS  
17 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL  
18 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

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

1 SUBSTANTIAL INTERACTIONS WITH THE PERSON.

2 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS AN  
3 INCARCERATED PERSON AS IF THE PERSON WERE IN THE COMMUNITY WHEN  
4 EVALUATING WHETHER THE PERSON MEETS THE CRITERIA PURSUANT TO  
5 SUBSECTION (1) OF THIS SECTION.

6

7 **25.5-10-503. Short-term protective placement for incompetent**  
8 **defendants in a criminal matter.**

9 (1) UPON PETITION OF A PROFESSIONAL PERSON OR INTERVENING  
10 PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND  
11 LICENSURE, AN APPOINTED LEGAL GUARDIAN, OR A REPRESENTATIVE OF  
12 THE BHA OR HCPF, A COURT MAY CERTIFY A PERSON FOR SHORT-TERM  
13 PROTECTIVE PLACEMENT FOR NOT MORE THAN THREE MONTHS UNDER THE  
14 FOLLOWING CONDITIONS:

15 (a) THE PERSON IS A RESPONDENT IN A CRIMINAL MATTER IN WHICH  
16 THE PERSON HAS BEEN FOUND INCOMPETENT TO PROCEED;

17 (b) THE COURT HEARING THE CRIMINAL MATTER REFERRED THE  
18 MATTER FOR FILING OF A PETITION PURSUANT TO SECTION 16-8.5-117;

19 (c) A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
20 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE:

21 (I) 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 SHORT-TERM PROTECTIVE PLACEMENT; AND

25 (II) HAS EVALUATED THE PERSON WITHIN THE PAST THREE  
26 MONTHS AND PRODUCED A WRITTEN OPINION THAT THE PERSON MEETS  
27 THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION

1 25.5-10-502;

2 (d) THERE IS A SKILLED NURSING FACILITY, A REGIONAL CENTER,  
3 OR ANOTHER PLACEMENT WILLING TO ACCEPT CARE AND CUSTODY OF THE  
4 RESPONDENT AND TO HOLD THE PROTECTIVE PLACEMENT; AND

5 (e) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE  
6 PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE  
7 PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE SHORT-TERM  
8 PROTECTIVE PLACEMENT.

9 (2) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS  
10 SECTION MUST:

11 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS  
12 THAT THE RESPONDENT MEETS THE CRITERIA FOR SHORT-TERM  
13 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, INCLUDING  
14 ATTACHING THE PROFESSIONAL PERSON'S OR INTERVENING  
15 PROFESSIONAL'S WRITTEN OPINION PRODUCED PURSUANT TO SUBSECTION  
16 (1)(c)(II) OF THIS SECTION;

17 (b) BE FILED WITHIN FOURTEEN DAYS AFTER THE INITIATING PARTY  
18 RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE  
19 SHORT-TERM PROTECTIVE PLACEMENT; AND

20 (c) BE FILED WITH THE COURT IN THE COUNTY WHERE THE  
21 RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR  
22 TO THE FILING OF THE PETITION; EXCEPT THAT, IF THE PERSON WAS  
23 ARRESTED FOR THE PRIOR CASE AND HELD IN CUSTODY, THE PETITION MAY  
24 BE FILED IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS  
25 PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE RESPONDENT'S ARREST.

26 (3) WITHIN TWENTY-FOUR HOURS AFTER CERTIFICATION, COPIES  
27 OF THE SHORT-TERM PROTECTIVE PLACEMENT MUST BE PERSONALLY

1 DELIVERED TO THE RESPONDENT AND HCPF WHO SHALL RETAIN A COPY  
2 OF THE CERTIFICATION AS PART OF THE RESPONDENT'S RECORD. IF THE  
3 CRIMINAL CASE IS PENDING, OR NOT YET DISMISSED, THE PETITIONING  
4 PARTY SHALL PROVIDE NOTICE OF THE FILING OF THE PETITION TO THE  
5 CRIMINAL COURT. THE CRIMINAL COURT SHALL PROVIDE THE NOTICE TO  
6 THE PROSECUTING AND DEFENSE ATTORNEYS IN THE CRIMINAL CASE AND  
7 ANY ATTORNEY APPOINTED THE RESPONDENT PURSUANT TO SUBSECTION  
8 (5) OF THIS SECTION.

9 (4) THE PETITIONER SHALL ASK THE RESPONDENT TO DESIGNATE  
10 ONE OTHER PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED  
11 REGARDING THE PETITION. IF THE RESPONDENT IS INCAPABLE OF MAKING  
12 A DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE COURT MAY  
13 ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE  
14 RESPONDENT IS CAPABLE. IF THE PETITIONER FAILS TO ASK THE  
15 RESPONDENT TO DESIGNATE A PERSON, THE RESPONDENT'S ATTORNEY  
16 APPOINTED PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL REPORT  
17 TO THE COURT ANY PERSON WHOM THE RESPONDENT WANTS TO BE  
18 INFORMED REGARDING THE PETITION.

19 (5) WHENEVER A PETITION IS FILED PURSUANT TO THIS SECTION,  
20 THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT  
21 THE RESPONDENT. THE COURT SHALL PROVIDE THE RESPONDENT WITH A  
22 WRITTEN NOTICE THAT THE RESPONDENT HAS A RIGHT TO A HEARING ON  
23 THE PETITION AND MAY MAKE A WRITTEN REQUEST FOR A JURY TRIAL. THE  
24 RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS  
25 CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE  
26 ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A  
27 COPY OF THE PETITION AND ANY SUPPORTING MATERIALS IMMEDIATELY

1 UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE  
2 COUNSEL WHEN THE RESPONDENT MAKES A KNOWING AND VOLUNTARY  
3 WAIVER IN FRONT OF THE COURT.

4 (6) UPON FILING A PETITION PURSUANT TO THIS SECTION AND  
5 AFFORDING THE RESPONDENT A CHANCE TO CONTEST THE PETITION, THE  
6 COURT MAY GRANT OR DENY THE PROTECTIVE PLACEMENT BASED ON THE  
7 FACTS ESTABLISHED IN THE PETITION, SUBJECT TO THE COURT'S FURTHER  
8 REVIEW OR A JURY TRIAL.

9 (7) WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE PETITION FILED  
10 PURSUANT TO THIS SECTION, THE RESPONDENT, OR THE RESPONDENT'S  
11 ATTORNEY, MAY REQUEST A JURY TRIAL BY FILING A WRITTEN MOTION  
12 WITH THE COURT.

13 (8) THE RESPONDENT MAY KNOWINGLY AND VOLUNTARILY  
14 CONSENT TO THE PETITION IN WRITING.

15 (9) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT  
16 ANY TIME, FILE A WRITTEN REQUEST FOR THE COURT TO REVIEW THE  
17 SHORT-TERM PROTECTIVE PLACEMENT. IF A REVIEW IS REQUESTED, THE  
18 COURT SHALL HEAR THE MATTER WITHIN FOURTEEN DAYS AFTER THE  
19 REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT, THE  
20 RESPONDENT'S ATTORNEY, HCPF, AND THE COMMUNITY OR FACILITY  
21 PROVIDER WHO IS OR WILL PROVIDE TREATMENT. THE HEARING MUST BE  
22 HELD IN ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION  
23 OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE SHORT-TERM  
24 PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY  
25 OTHER APPROPRIATE ORDER.

26 (10) (a) THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES,  
27 AND CARE PROVIDERS MAY SHARE INFORMATION WITH EACH OTHER AND

1 THE PARTIES AS NECESSARY. THE BHA, HCPF, THE DEPARTMENT OF  
2 HUMAN SERVICES, AND CARE PROVIDERS MAY RECEIVE AND POSSESS ALL  
3 INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS  
4 SECTION, INCLUDING ANY EVALUATIONS; ANY MEDICAL AND MENTAL  
5 HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND  
6 IN PROCEEDINGS HELD PURSUANT TO THIS PART 5, ARTICLE 65 OF TITLE 27,  
7 OR ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE  
8 RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

9 (b) THE COURT MAY ORDER THE DISTRICT ATTORNEY RESPONSIBLE  
10 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS  
11 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT  
12 RECORDS TO HCPF WITHIN SEVEN DAYS AFTER THE COURT'S ORDER.

13 (c) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE  
14 RESPONDENT IN ANY PROCEEDING SHALL SEND MATERIALS TO HCPF WITH  
15 THE RESPONDENT'S CONSENT.

16 (11) (a) THE DEPARTMENT OF HEALTH CARE POLICY AND  
17 FINANCING IS RESPONSIBLE FOR FINDING AN APPROPRIATE PROVIDER AND  
18 INPATIENT PLACEMENT FOR THE RESPONDENT.

19 (b) AFTER A PETITION IS FILED, UNLESS AN APPROPRIATE PROVIDER  
20 HAS ALREADY BEEN IDENTIFIED AND IS WILLING TO ACCEPT THE  
21 SHORT-TERM PROTECTIVE PLACEMENT, THE COURT SHALL ORDER HCPF  
22 TO PROVIDE CARE COORDINATION AND MAKE DILIGENT EFFORTS TO FIND  
23 A PROVIDER FOR THE RESPONDENT.

24 (c) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
25 SHALL KEEP THE COURT INFORMED, IN WRITING, OF EFFORTS MADE TO FIND  
26 AN APPROPRIATE PROVIDER FOR THE RESPONDENT.

27 (12) UPON ORDERING A SHORT-TERM PROTECTIVE PLACEMENT OF

1 THE RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT  
2 HAS CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

3 (13) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT  
4 IN A SHORT-TERM PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO  
5 ANOTHER PROVIDER FOR TREATMENT AND THE SAFETY OF THE  
6 RESPONDENT OR THE PUBLIC REQUIRES THAT THE RESPONDENT BE  
7 TRANSPORTED BY A SECURE TRANSPORTATION PROVIDER OR A LAW  
8 ENFORCEMENT AGENCY, THE COURT MAY ISSUE AN ORDER DIRECTING THE  
9 LAW ENFORCEMENT AGENCY WHERE THE RESPONDENT RESIDES OR SECURE  
10 TRANSPORTATION PROVIDER TO DELIVER THE RESPONDENT TO THE  
11 DESIGNATED PROVIDER.

12 (14) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN  
13 SECTION 25.5-10-506, A SHORT-TERM PROTECTIVE PLACEMENT MAY BE  
14 TERMINATED UPON THE SIGNATURE OF THE TREATING MEDICAL  
15 PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A FACILITY  
16 OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS  
17 AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE  
18 RESPONDENT'S LEGAL GUARDIAN.

19 (15) IF THE PROFESSIONAL PERSON IN CHARGE OF THE  
20 RESPONDENT'S EVALUATION AND TREATMENT BELIEVES THAT A PERIOD  
21 LONGER THAN THREE MONTHS IS NECESSARY TO TREAT THE RESPONDENT,  
22 THE PROFESSIONAL PERSON SHALL FILE WITH THE COURT A REQUEST FOR  
23 AN EXTENDED PROTECTIVE PLACEMENT AT LEAST THIRTY DAYS PRIOR TO  
24 THE EXPIRATION DATE OF THE ORIGINAL PROTECTIVE PLACEMENT. AN  
25 EXTENDED PROTECTIVE PLACEMENT FOR TREATMENT MUST NOT BE FOR A  
26 PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS ENTITLED TO  
27 A HEARING ON THE EXTENDED PROTECTIVE PLACEMENT UNDER THE SAME

1 CONDITIONS AS AN ORIGINAL PROTECTIVE PLACEMENT. THE ATTORNEY  
2 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO  
3 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER  
4 ATTORNEY.

5 **25.5-10-504. Long-term protective placement of persons with**  
6 **a neurocognitive disorder - procedure.**

7 (1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE  
8 PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL  
9 PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE  
10 APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A  
11 PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE  
12 EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A  
13 LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE  
14 FOLLOWING CONDITIONS:

15 (a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY  
16 PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE  
17 RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO  
18 MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
19 25.5-10-502 (1); AND

20 (b) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, IN  
21 COLLABORATION WITH THE BHA, HAS IDENTIFIED A PROVIDER OR  
22 PLACEMENT TO PROVIDE CARE AND TREATMENT OF THE RESPONDENT.

23 (2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST  
24 INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE  
25 EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR  
26 A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO  
27 WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE

1 ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST  
2 BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM  
3 PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO  
4 THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE  
5 FILING.

6 (3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE  
7 RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY  
8 TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.

9 (4) THE COURT OR JURY SHALL DETERMINE WHETHER THE  
10 CONDITIONS OF SUBSECTION (1) OF THIS SECTION ARE MET AND WHETHER  
11 THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR  
12 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE  
13 COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT  
14 FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT  
15 FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER  
16 ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE  
17 PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE BHA FOR  
18 PLACEMENT WITH AN AGENCY OR FACILITY THAT IS APPROPRIATE TO  
19 PROVIDE LONG-TERM PROTECTIVE PLACEMENT. THE BHA MAY DELEGATE  
20 THE PHYSICAL CUSTODY OF THE RESPONDENT TO ANY FACILITY OR  
21 PROVIDER APPROPRIATE TO CARE FOR THE RESPONDENT AND THE  
22 REQUIREMENT FOR THE PROVISION OF SERVICES AND CARE COORDINATION.  
23 WHEN A PETITION CONTAINS A REQUEST THAT A SPECIFIC LEGAL  
24 DISABILITY BE IMPOSED OR THAT A SPECIFIC LEGAL RIGHT BE DEPRIVED,  
25 THE COURT MAY ORDER THE DISABILITY IMPOSED OR THE RIGHT DEPRIVED  
26 IF THE COURT OR A JURY HAS DETERMINED THAT THE RESPONDENT MEETS  
27 THE CRITERIA AND STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT

1 TO SECTION 25.5-10-502 (1) AND THAT, AS A RESULT, THE RESPONDENT IS  
2 UNABLE TO COMPETENTLY EXERCISE THE SPECIFIC LEGAL RIGHT OR  
3 PERFORM THE FUNCTION FOR WHICH THE DISABILITY IS SOUGHT TO BE  
4 IMPOSED. ANY INTERESTED PERSON MAY ASK LEAVE OF THE COURT TO  
5 INTERVENE AS A COPETITIONER FOR THE PURPOSE OF SEEKING THE  
6 IMPOSITION OF A LEGAL DISABILITY OR THE DEPRIVATION OF A LEGAL  
7 RIGHT.

8 (5) AN ORIGINAL ORDER OF LONG-TERM PROTECTIVE PLACEMENT  
9 AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED,  
10 UNLESS FURTHER EXTENDED AS PROVIDED IN THIS SUBSECTION (5). IF AN  
11 EXTENSION IS BEING SOUGHT, THE PROFESSIONAL PERSON IN CHARGE OF  
12 THE EVALUATION AND TREATMENT SHALL CERTIFY TO THE COURT AT  
13 LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORDER IN  
14 FORCE THAT AN EXTENSION OF THE ORDER IS NECESSARY FOR THE  
15 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN  
16 FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED  
17 TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE  
18 RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE  
19 THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE  
20 TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY OF RECORD THAT  
21 A HEARING UPON THE EXTENSION MAY BE HAD BEFORE THE COURT OR A  
22 JURY UPON WRITTEN REQUEST TO THE COURT WITHIN TEN DAYS AFTER  
23 RECEIPT OF THE NOTICE. IF A HEARING IS NOT TIMELY REQUESTED BY THE  
24 RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS  
25 TIMELY REQUESTED, THE HEARING MUST BE HELD BEFORE THE EXPIRATION  
26 DATE OF THE ORDER IN FORCE. IF THE COURT OR JURY FINDS THAT THE  
27 CONDITIONS OF SUBSECTION (1) OF THIS SECTION CONTINUE TO BE MET

1 AND THAT THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND  
2 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
3 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER.  
4 ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS  
5 MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

6 (6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE  
7 PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON  
8 THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL  
9 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE BHA         
10 PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE THE  
11 RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE  
12 RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY  
13 PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN  
14 ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS  
15 TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN  
16 OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE  
17 FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST  
18 TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

19                
20 **25.5-10-505. Connect respondent to home- and**  
21 **community-based services.**

22 WHEN A RESPONDENT IS DISCHARGED FROM A PROTECTIVE  
23 PLACEMENT OR A PROTECTIVE PLACEMENT IS TERMINATED, THE BHA  
24 SHALL REFER THE RESPONDENT TO ANY HOME- AND COMMUNITY-BASED  
25 SERVICES FOR WHICH THE RESPONDENT MAY BE ELIGIBLE AND SHALL  
26 MAKE DILIGENT EFFORTS TO CONNECT THE RESPONDENT WITH HOME- AND  
27 COMMUNITY-BASED SERVICES.

1                   **25.5-10-506. Termination of protective placement - short-term**  
2                   **and long-term placement.**

3                   (1) A PROTECTIVE PLACEMENT TERMINATES WHEN THE  
4                   PROFESSIONAL PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT,  
5                   AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD,  
6                   DETERMINES THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR  
7                   PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1).

8                   (2) THE PROFESSIONAL PERSON IN CHARGE OF THE  
9                   RESPONDENT'S CARE SHALL NOT APPROVE THE TERMINATION OF THE  
10                  PROTECTIVE PLACEMENT UNLESS TWO PROFESSIONAL PERSONS  
11                  INDEPENDENTLY EVALUATE THE RESPONDENT AND INDEPENDENTLY OPINE  
12                  THAT THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR PROTECTIVE  
13                  PLACEMENT TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE  
14                  PROFESSIONAL PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH  
15                  AND PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS  
16                  REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS  
17                  WITH ONLY ONE PROFESSIONAL PERSON.

18                  **25.5-10-507. Court supervision of incompetent and**  
19                  **unrestorable persons ordered into an enhanced protective placement.**

20                  (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF  
21                  AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118  
22                  TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509,  
23                  THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED  
24                  PROTECTIVE PLACEMENT.

25                  (2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE  
26                  PLACEMENT, THE COURT SHALL:

27                  (a) NOTIFY THE COUNTY ATTORNEY;

1 (b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND  
2 PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO  
3 THE RESPONDENT'S ATTORNEY; AND

4 (c) SET A REVIEW HEARING AND ORDER THE RESPONDENT  
5 BROUGHT BEFORE THE COURT.

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

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

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

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

11 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED  
12 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT  
13 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD  
14 PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;

15 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE  
16 ENHANCED PROTECTIVE PLACEMENT; AND

17 (IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED  
18 PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY  
19 TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE  
20 ENHANCED PROTECTIVE PLACEMENT.

21 (4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT,  
22 THE COURT MAY:

23 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED  
24 PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING  
25 THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;

26 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER  
27 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT

1 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE  
2 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED  
3 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;

4 (c) ORDER CDHS TO PROVIDE TO THE COURT:

5 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS  
6 THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE  
7 PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

8 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN  
9 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
10 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
11 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
12 OTHERS, OR IS GRAVELY DISABLED;

13 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE  
14 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE  
15 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE  
16 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR  
17 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY  
18 THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT  
19 CARE AT THE DISCRETION OF CDHS OR HCPF;

20 (e) ORDER, AS NECESSARY, APPROPRIATE ENTITIES, INCLUDING THE  
21 SHERIFF, TO BRING THE RESPONDENT BEFORE THE COURT OR TAKE THE  
22 RESPONDENT TO THE PLACEMENT WHERE PHYSICAL CUSTODY OF THE  
23 RESPONDENT HAS BEEN ORDERED;

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

26 (g) ISSUE ORDERS AS NECESSARY TO EFFECTUATE AND ENFORCE  
27 THE COURT'S POWERS AND RESPONSIBILITIES PURSUANT TO THIS SECTION,

1 INCLUDING AUTHORIZATION FOR THE REASONABLE USE OF FORCE,  
2 WARRANTS FOR THE ARREST OF THE RESPONDENT, OR CONTEMPT  
3 PROCEEDINGS AGAINST A NONCOMPLIANT INDIVIDUAL OR ENTITY.

4 (5) (a) THE COURT SHALL ENSURE THE RESPONDENT IS PLACED IN  
5 THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM  
6 AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE,  
7 THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
8 RESPONDENT.

9 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT  
10 THE DISCRETION OF CDHS OR HCPF OR IF CDHS OR HCPF PROPOSES TO  
11 MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT  
12 SHALL, PRIOR TO MODIFYING THE ENHANCED PROTECTIVE PLACEMENT TO  
13 CHANGE THE RESPONDENT'S PROVIDER OR PLACEMENT, == REVIEW THE  
14 APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT,  
15 INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS  
16 AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY  
17 PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS  
18 HARM TO OTHERS POSED BY THE RESPONDENT.

19 (c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE  
20 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO  
21 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY  
22 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE  
23 COURT'S DECISION.

24 (d) WHEN DECIDING WHETHER TO APPROVE THE NEW PROVIDER OR  
25 PLACEMENT, THE COURT SHALL GIVE DEFERENCE TO CDHS AND THE  
26 OPINION OF ANY MEDICAL PROFESSIONAL ON THE APPROPRIATENESS OF  
27 THE PROVIDER AND PLACEMENT FOR THE RESPONDENT, BUT DEFERENCE

1 MUST NOT BE GIVEN TO CDHS OR A MEDICAL PROFESSIONAL AS TO  
2 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS ANY VICTIMS AND THE  
3 COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS  
4 POSED BY THE RESPONDENT. WHEN CONSIDERING THE APPROPRIATENESS  
5 OF THE PLACEMENT FOR THE RESPONDENT, VICTIMS, AND THE COMMUNITY,  
6 THE COURT SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES,  
7 INCLUDING:

8 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE  
9 RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND  
10 DEVELOPMENTAL DISABILITY;

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

13 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED  
14 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH TREATMENT AND  
15 SERVICES IN THE REASONABLY FORESEEABLE FUTURE;

16 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,  
17 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR  
18 OTHERS;

19 (V) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
20 THE RESPONDENT'S HOSPITALIZATION, ARREST, CERTIFICATION FOR  
21 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

22 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION  
23 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S  
24 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL  
25 HARM; ==

26 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
27 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF

1 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS  
2 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

3 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

4 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE  
5 REASONABLY ACCOMMODATED;

6 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF  
7 OTHERS; AND

8 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING  
9 PROFESSIONALS.

10 (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE  
11 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE,  
12 AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE BEING IN AN  
13 ENHANCED PROTECTIVE PLACEMENT UNLESS:

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

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

20 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR  
21 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO  
22 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,  
23 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND  
24 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM  
25 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER  
26 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT  
27 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE

1 RESPONDENT CANNOT COMPLY.

2 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO  
3 INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101, AT THE DISCRETION  
4 OF CDHS OR HCPF, THE EXECUTIVE DIRECTOR OF HCPF SHALL  
5 DESIGNATE THE STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR  
6 CARE AND TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE  
7 FACILITY TO ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT  
8 IS APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE,  
9 CUSTODY, AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION  
10 OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

11 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,  
12 HCPF SHALL:

13 (I) ENSURE THE RESPONDENT IS PLACED IN THE  
14 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND  
15 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE  
16 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
17 RESPONDENT; AND

18 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED  
19 SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101,  
20 FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO AN  
21 ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE  
22 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

23 (7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS  
24 GOVERNED BY SECTION 25.5-10-508.

25 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND  
26 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT  
27 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS

1 ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A  
2 SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE  
3 PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

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

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

8 (II) CONTINUES TO MEET THE CRITERIA FOR ENHANCED  
9 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118;

10 (III) MEETS THE CRITERIA FOR CIVIL COMMITMENT PURSUANT TO  
11 SECTION 16-8.5-118;

12 (IV) IS APPROPRIATELY PLACED; AND

13 (V) MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED  
14 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508;

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

17 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE  
18 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

19 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO  
20 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S  
21 PROGRESS;

22 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH  
23 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS  
24 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE  
25 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

26 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO  
27 OTHERS;

1 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE  
2 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED  
3 TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED  
4 PROTECTIVE PLACEMENT;

5 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS  
6 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC  
7 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A  
8 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR;

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

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

13 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE  
14 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE  
15 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR  
16 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO  
17 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED  
18 NECESSARY FOR THE COURT'S SUPERVISION OF THE ENHANCED PROTECTIVE  
19 PLACEMENT.

20 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,  
21 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST  
22 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND  
23 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE  
24 ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM  
25 TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE  
26 CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT  
27 PURSUANT TO SECTION 25.5-10-508. THE RESPONDENT SHALL COOPERATE

1 WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION  
2 (10)(a).

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

6 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR  
7 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE  
8 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO  
9 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT  
10 DOES NOT MEET THE CRITERIA FOR TERMINATION.

11 **25.5-10-508. Termination of enhanced protective placement.**

12 (1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED  
13 PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507  
14 WHEN THE RESPONDENT:

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

17 (b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR  
18 INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO  
19 CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR  
20 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 ENHANCED PROTECTIVE  
26 PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE  
27 PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE

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

7 (3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE  
8 ENHANCED PROTECTIVE PLACEMENT IN WRITING AT ANY TIME THE  
9 RESPONDENT WOULD NOT BE PROHIBITED FROM HAVING A SUBSEQUENT  
10 TERMINATION TRIAL PURSUANT TO SUBSECTION (7) OF THIS SECTION.

11 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST  
12 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON  
13 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR  
14 TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO  
15 SUBSECTION (1) OF THIS SECTION.

16 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR  
17 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE  
18 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
19 SOUGHT ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
20 16-8.5-118 FOURTEEN DAYS TO OBJECT TO TERMINATION OR REQUEST AN  
21 OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION BY AN EXPERT  
22 OF THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S OWN CHOOSING  
23 AND EXPENSE.

24 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT  
25 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN  
26 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE  
27 RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

1           (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY  
2           REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,  
3           THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO  
4           COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR  
5           DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN  
6           EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE  
7           COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT  
8           EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST  
9           FOR A SINGLE INDEPENDENT EVALUATION.

10           (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE  
11           EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE  
12           RESPONDENT'S REQUEST FOR TERMINATION.

13           (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE  
14           COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO  
15           RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

16           (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY  
17           OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL  
18           TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

19           (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY  
20           TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE  
21           RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE  
22           RESPONDENT'S COUNSEL RECEIVED A COPY OF ANY REPORTS RECEIVED,  
23           AND ADVISE THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE  
24           COURT OR THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE  
25           THAN SIX INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS  
26           THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
27           SECTION.

1 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE  
2 COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE  
3 DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL  
4 SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A  
5 DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME  
6 LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE COURT DOES NOT BEGIN  
7 THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION  
8 (5)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE  
9 PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE  
10 AND CUSTODY.

11 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION  
12 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS  
13 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE  
14 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY  
15 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL  
16 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY  
17 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT  
18 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND  
19 TO ANY OTHER MATTERS RELATED TO THE ENHANCED PROTECTIVE  
20 PLACEMENT AND TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY  
21 RELATED APPEALS.

22 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT  
23 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION  
24 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1)  
25 OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A  
26 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE  
27 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS

1 SECTION.

2 (b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE  
3 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
4 SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE  
5 PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S  
6 ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE  
7 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT  
8 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE  
9 ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY  
10 ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT  
11 OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

12 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET  
13 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
14 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION  
15 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL  
16 FOR TERMINATION.

17 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR  
18 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO  
19 LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A  
20 NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY  
21 DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE  
22 DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL  
23 CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL  
24 COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT  
25 IN ACCORDANCE WITH SECTION 27-65-201.

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

1 CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN  
2 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE  
3 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
4 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
5 OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE  
6 RECOMMENDATION OF CDHS, CONVERT THE ENHANCED PROTECTIVE  
7 PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE  
8 CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-201.

9 **25.5-10-509. Jurisdiction - transfer.**

10 (1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO  
11 THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS  
12 PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING  
13 JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF  
14 ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY  
15 FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

16 (b) WHEN THE CONVENIENCE OF THE PARTIES AND THE ENDS OF  
17 JUSTICE WOULD BE PROMOTED BY A CHANGE IN THE COURT HAVING  
18 JURISDICTION, THE COURT MAY ORDER A TRANSFER OF THE PROCEEDING  
19 TO ANOTHER COUNTY. UNTIL FURTHER ORDER OF THE TRANSFEREE COURT,  
20 IF ANY, IT IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE  
21 CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS  
22 PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING  
23 TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS  
24 INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT  
25 PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

26 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),  
27 ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED

1 PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED  
2 WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR  
3 TREATMENT.

4 (b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT  
5 PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION  
6 WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS  
7 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

8 (c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN  
9 INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION  
10 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE  
11 PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT  
12 RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF  
13 THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE  
14 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

15 (3) IN ANY CASE IN WHICH THERE HAS BEEN A CHANGE OF VENUE  
16 TO A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE  
17 RESPONDENT OR THE COUNTY IN WHICH THE PROCEEDING WAS  
18 COMMENCED, THE COUNTY FROM WHICH THE PROCEEDING WAS  
19 TRANSFERRED SHALL EITHER REIMBURSE THE COUNTY TO WHICH THE  
20 PROCEEDING WAS TRANSFERRED AND IN WHICH THE PROCEEDING WAS  
21 HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE  
22 PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN  
23 PERSONNEL AND RESOURCES, INCLUDING ITS OWN DISTRICT OR COUNTY  
24 ATTORNEY, AS THE CASE MAY BE.

25 (4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10  
26 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE  
27 ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT

1 DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR  
2 A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN  
3 ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR  
4 NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION  
5 AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

6 **25.5-10-510. Hearing procedures.**

7 (1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE  
8 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE  
9 THE COURT.

10 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S  
11 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT  
12 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A  
13 PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO  
14 THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE  
15 COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN  
16 ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE  
17 PROFESSIONAL PERSON'S FINDINGS.

18 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT  
19 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY  
20 PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL  
21 GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND  
22 REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN  
23 CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

24 (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT  
25 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW  
26 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S  
27 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE

1 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

2 **25.5-10-511. County attorney and district attorney**  
3 **responsibilities.**

4 (1) THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY IN A  
5 COUNTY OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR  
6 LESS THAN FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING  
7 AS THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S DESIGNEE WHO IS  
8 APPROVED BY THE DISTRICT COURT, HAS THE FOLLOWING POWERS AND  
9 RESPONSIBILITIES:

10 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN  
11 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED  
12 FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

13

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14 (b) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION  
15 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT  
16 TO THIS PART 5; AND

17 (c) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS  
18 BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS  
19 ALLOWABLE BY LAW.

20 **25.5-10-512. Appeals.**

21 (1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE  
22 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS  
23 PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE  
24 ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE  
25 DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY  
26 THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT  
27 MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND

1 CUSTODY OF THE RESPONDENT.

2 (2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE  
3 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF  
4 THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE  
5 CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE  
6 ENTERED.

7 **25.5-10-513. Habeas corpus.**

8 ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS ENTITLED TO  
9 AN ORDER IN THE NATURE OF HABEAS CORPUS UPON PROPER PETITION TO  
10 ANY COURT GENERALLY EMPOWERED TO ISSUE ORDERS IN THE NATURE OF  
11 HABEAS CORPUS.

12 **25.5-10-514. Rights of respondents ordered into enhanced**  
13 **protective placement or protective placement.**

14 (1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS  
15 PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED  
16 PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN  
17 INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10,  
18 INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220,  
19 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227,  
20 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

21 (2) A RESPONDENT PLACED IN THE CUSTODY OF CDHS AT A STATE  
22 HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO PROCEEDINGS  
23 PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE RIGHTS PROVIDED  
24 IN SECTIONS 27-65-105, 27-65-108, 27-65-117, 27-65-118, 27-65-119,  
25 27-65-122, AND 27-65-124.

26 **25.5-10-515. Records - rules.**

27 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL

1 INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF  
2 PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION  
3 OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION  
4 AND RECORDS MAY BE DISCLOSED ONLY:

5 (a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS,  
6 FACILITY PERSONNEL, OR STATE AGENCIES IN THE PROVISION OF SERVICES  
7 OR APPROPRIATE REFERRALS;

8 (b) WHEN THE RECIPIENT OF SERVICES DESIGNATES PERSONS TO  
9 WHOM INFORMATION OR RECORDS MAY BE RELEASED, BUT, IF A RECIPIENT  
10 OF SERVICES IS A WARD OR CONSERVATEE AND THE WARD'S OR  
11 CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING,  
12 PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE  
13 DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT;  
14 EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN,  
15 PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER  
16 PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN  
17 GIVEN TO THE PERSON IN CONFIDENCE BY MEMBERS OF A PATIENT'S  
18 FAMILY OR OTHER INFORMANTS;

19 (c) TO THE EXTENT NECESSARY TO MAKE CLAIMS ON BEHALF OF A  
20 RECIPIENT OF AID, INSURANCE, OR MEDICAL ASSISTANCE TO WHICH THE  
21 RECIPIENT MAY BE ENTITLED;

22 (d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH.  
23 THE RULES MUST INCLUDE, BUT ARE NOT LIMITED TO, THE REQUIREMENT  
24 THAT ALL RESEARCHERS MUST SIGN AN OATH OF CONFIDENTIALITY. ALL  
25 IDENTIFYING INFORMATION CONCERNING INDIVIDUAL PATIENTS,  
26 INCLUDING NAMES, ADDRESSES, TELEPHONE NUMBERS, AND SOCIAL  
27 SECURITY NUMBERS, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

1 (e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF  
2 THIS PART 5;

3 (f) TO PERSONS AUTHORIZED BY AN ORDER OF COURT AFTER  
4 NOTICE AND OPPORTUNITY FOR HEARING TO THE PERSON TO WHOM THE  
5 RECORD OR INFORMATION PERTAINS AND THE CUSTODIAN OF THE RECORD  
6 OR INFORMATION PURSUANT TO THE COLORADO RULES OF CIVIL  
7 PROCEDURE;

8 (g) TO FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A  
9 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL  
10 DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

11 (h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY  
12 PARTICIPATING IN THE CARE AND TREATMENT OF A PERSON WITH A  
13 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL  
14 DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE  
15 INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS LIMITED  
16 TO ONE OR MORE OF THE FOLLOWING: THE DIAGNOSIS, THE PROGNOSIS,  
17 THE NEED FOR HOSPITALIZATION AND ANTICIPATED LENGTH OF STAY, THE  
18 DISCHARGE PLAN, THE MEDICATION ADMINISTERED AND SIDE EFFECTS OF  
19 THE MEDICATION, AND THE SHORT-TERM AND LONG-TERM TREATMENT  
20 GOALS.

21 (i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE  
22 AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND  
23 ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C.  
24 SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY  
25 SYSTEM FOR COLORADO.

26 (2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT  
27 PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE

1 PARENT'S MINOR CHILD.

2 (3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION  
3 PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND  
4 INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107,  
5 CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL  
6 OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING  
7 SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE  
8 COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING  
9 SERVICES PURSUANT TO THIS PART 5.

10 (b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO  
11 PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A  
12 CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION  
13 16-8-103.6.

14 (c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF  
15 NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL  
16 DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE  
17 PERSON.

18 (4) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO  
19 THIS PART 5 MUST BE MAINTAINED SEPARATELY BY THE CLERK OF THE  
20 SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST NOT BE  
21 MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS SECTION.

22 (b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT  
23 PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN  
24 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508,  
25 THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE  
26 CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN  
27 THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN

1 ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION  
2 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR  
3 GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO  
4 SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND  
5 BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE  
6 PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

7 (c) NOTWITHSTANDING SUBSECTION (4)(b) OF THIS SECTION,  
8 WHILE A MATTER IS PENDING OR AFTER A CASE IS SEALED, THE COURT MAY  
9 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND  
10 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING  
11 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE  
12 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A  
13 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID  
14 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE  
15 CLERK OF THE COURT SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE  
16 AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR  
17 AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

18 (5) IF A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES IN  
19 THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD, THE COURT,  
20 COUNTY ATTORNEY, OR DISTRICT ATTORNEY CONDUCTING ANY  
21 SUBSEQUENT PROCEEDINGS PURSUANT TO THIS PART 5 AND THE PROVIDER  
22 WHO CONDUCTS AN EVALUATION OR PROVIDES CARE MAY, WITHOUT  
23 COURT AUTHORIZATION, PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY  
24 WITH THE FOLLOWING LIMITED INFORMATION, IF AVAILABLE:

25 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE  
26 RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE  
27 PLACEMENT PURSUANT TO SECTION 25.5-10-503;

1 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN  
2 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE  
3 RESPONDENT; AND

4 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR  
5 SHORT-TERM PROTECTIVE PLACEMENT.

6 (6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY  
7 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT  
8 PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN  
9 SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL  
10 WITH LAWFUL POSSESSION OF RECORDS FROM MAINTAINING AND USING  
11 THE RECORDS, UNLESS PROHIBITED BY LAW.

12 (7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A  
13 PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE  
14 DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN  
15 INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE RECORDS FOR  
16 GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER  
17 CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE  
18 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5.

19 (8) THE DISTRICT ATTORNEY MAY PROVIDE INFORMATION TO A  
20 VICTIM WHEN NECESSARY TO COMPLY WITH THE "VICTIM RIGHTS ACT",  
21 PART 3 OF ARTICLE 4.1 OF TITLE 24.

22 **25.5-10-516. Payment for counsel.**

23 IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS  
24 ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL  
25 DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL  
26 ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A  
27 CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM

1 GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL  
2 PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST  
3 LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

4 **25.5-10-517. Authority to increase payments to nursing facility**  
5 **and regional center providers - rules.**

6 SUBJECT TO AVAILABLE APPROPRIATIONS AND FEDERAL  
7 AUTHORIZATION, HCPF MAY INCREASE PAYMENTS TO NURSING FACILITY  
8 PROVIDERS AND REGIONAL CENTER PROVIDERS FOR THE PURPOSE OF  
9 ACHIEVING THE LEAST RESTRICTIVE PLACEMENT REQUIREMENT FOR  
10 INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT PURSUANT TO THIS  
11 PART 5. HCPF SHALL ADOPTED RULES DEFINING THE QUALIFICATIONS AND  
12 PAYMENT SCHEDULE FOR NURSING FACILITY PROVIDERS AND REGIONAL  
13 CENTER PROVIDERS THAT SERVE THE INDIVIDUALS SUBJECT TO A  
14 PROTECTIVE PLACEMENT.

15 **25.5-10-518. Repeal of part.**

16 THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2031.

17 **SECTION 23. In Colorado Revised Statutes, add 25.5-6-414 as**  
18 **follows:**

19 **25.5-6-414. Delivery of services for individuals with serious**  
20 **mental illness - rules.**

21 (1) THE STATE DEPARTMENT IS COMMITTED TO IMPROVING ACCESS  
22 TO, AND THE QUALITY OF SERVICES FOR, INDIVIDUALS WITH SERIOUS  
23 MENTAL ILLNESS WHO ARE ENROLLED IN THE STATE MEDICAL ASSISTANCE  
24 PROGRAM.

25 (2) THE STATE DEPARTMENT SHALL, IN COLLABORATION WITH THE  
26 BEHAVIORAL HEALTH ADMINISTRATION, SERVICE PROVIDERS,  
27 STAKEHOLDERS, AND INDIVIDUALS WITH LIVED EXPERIENCE,

1 CONTINUOUSLY EVALUATE AND EXPLORE OPTIONS TO ENHANCE THE  
2 DELIVERY OF SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS,  
3 WHICH EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

4 (a) EXPANDING COMMUNITY-BASED SERVICE CAPACITY AND CARE  
5 COORDINATION;

6 (b) IMPROVING TRANSITIONS OF CARE ACROSS SETTINGS;

7 (c) LEVERAGING FEDERAL AUTHORITIES, WAIVERS, AND FINANCING  
8 MECHANISMS;

9 (d) ADVANCING INNOVATIVE SERVICE DELIVERY MODELS AND  
10 VALUE-BASED PAYMENT APPROACHES; AND

11 (e) IDENTIFYING AND ADDRESSING GAPS IN ACCESS, QUALITY, AND  
12 OUTCOMES.

13 (3) THE STATE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO  
14 ALIGN FINANCING, BENEFITS, AND SERVICE DELIVERY SYSTEMS TO BETTER  
15 MEET THE NEEDS OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WITH  
16 THE GOALS OF IMPROVING HEALTH OUTCOMES, REDUCING AVOIDABLE  
17 UTILIZATION OF HIGH-COST SERVICES, AND SUPPORTING INDIVIDUALS TO  
18 LIVE IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO MEET THE  
19 INDIVIDUAL'S NEEDS.

20 (4) THE STATE DEPARTMENT MAY ADOPT RULES AS NECESSARY TO  
21 IMPLEMENT THIS SECTION.

22 (5) THIS SECTION DOES NOT CREATE AN ENTITLEMENT TO A  
23 SPECIFIC SERVICE OR LEVEL OF CARE.

24 **SECTION 24.** In Colorado Revised Statutes, 25.5-10-216,  
25 **amend (7) as follows:**

26 **25.5-10-216. Imposition of legal disability - removal of legal**  
27 **right.**

1           (7) A person shall not be admitted to a regional center, as defined  
2 in section 27-10.5-102, C.R.S., without a court order issued pursuant to  
3 this section except in an emergency, IF THE PERSON MEETS THE CRITERIA  
4 FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
5 16-8.5-118, or for the purpose of temporary respite care.

6           **SECTION 25.** In Colorado Revised Statutes, 27-10.5-110,  
7 **amend (2) as follows:**

8           **27-10.5-110. Imposition of legal disability - removal of legal**  
9 **right.**

10           (2) A person shall not be admitted to a regional center without a  
11 court order issued pursuant to section 25.5-10-216, C.R.S., except in an  
12 emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED  
13 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the  
14 purpose of temporary respite care.

15           **SECTION 26.** In Colorado Revised Statutes, 13-94-105, **add**  
16 (1.6) as follows:

17           **13-94-105. Office of public guardianship - director - duties -**  
18 **memorandum of understanding - annual report - repeal.**

19           (1.6) THE OFFICE MAY ESTABLISH, MAINTAIN, AND ADJUST  
20 STAFFING LEVELS, INCLUDING GUARDIANS, CASE AIDES, AND  
21 ADMINISTRATIVE SUPPORT, AS NECESSARY TO:

22           (a) SCREEN AND ACCEPT REFERRALS ARISING FROM COMPETENCY  
23 PROCEEDINGS UNDER ARTICLE 8.5 OF TITLE 16;

24           (b) PROVIDE      EMERGENCY PUBLIC GUARDIANSHIP SERVICES  
25 PURSUANT TO SECTION 15-14-312 (6), ARTICLE 8.5 OF TITLE 16, ARTICLE  
26 10 OF TITLE 25.5, AND ARTICLE 65 OF TITLE 27 FOR INDIGENT INDIVIDUALS  
27 FOUND INCOMPETENT TO PROCEED;

1 (c) IDENTIFY AND SUPPORT TIMELY TRANSITIONS TO CIVIL  
2 PLACEMENT, TREATMENT, AND SERVICES IN ORDER TO PREVENT  
3 UNNECESSARY INCARCERATION OR HOSPITALIZATION; AND

4 (d) SUPPORT LONG-TERM GUARDIANSHIP SERVICES WHEN  
5 NECESSARY.

6 **SECTION 27.** In Colorado Revised Statutes, 15-14-312, **add** (6)  
7 as follows:

8 **15-14-312. Emergency guardian.**

9 (6) IN ADDITION TO A COURT WITH JURISDICTION TO HEAR  
10 PROCEEDINGS PURSUANT TO THIS TITLE 15, A CRIMINAL COURT MAY  
11 APPOINT AN EMERGENCY GUARDIAN AS AUTHORIZED PURSUANT TO  
12 SECTION 16-8.5-117 OR 16-8.5-118, OR A CIVIL COURT SUPERVISING A  
13 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED  
14 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 MAY  
15 APPOINT AN EMERGENCY GUARDIAN.

16 **SECTION 28.** In Colorado Revised Statutes, 24-75-109, **add**  
17 (1)(b)(III) as follows:

18 **24-75-109. Controller may allow expenditures in excess of**  
19 **appropriations - limitations - appropriations for subsequent fiscal**  
20 **year restricted - repeal.**

21 (1) For the purpose of closing the state's books, and subject to the  
22 provisions of this section, the controller may, on or after May 1 of any  
23 fiscal year and before the forty-fifth day after the close thereof, upon  
24 approval of the governor, allow any department, institution, or agency of  
25 the state, including any institution of higher education, to make an  
26 expenditure in excess of the amount authorized by an item of  
27 appropriation for such fiscal year if:

1           (b) (III) THE OVEREXPENDITURE IS BY THE DEPARTMENT OF  
2           HUMAN SERVICES FOR THE PURPOSE OF PLACING INDIVIDUALS FOUND  
3           INCOMPETENT TO PROCEED AND UNRESTORABLE WHO MEET THE CRITERIA  
4           FOR CIVIL COMMITMENT, PROTECTIVE PLACEMENT, OR ENHANCED  
5           PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118 AND ARE  
6           COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES; OR

7           **SECTION 29.** In Colorado Revised Statutes, 24-4.1-302, **add**  
8           (2)(q.1), (2)(q.2), and (2)(q.3) as follows:

9           **24-4.1-302. Definitions.**

10           As used in this part 3, and for no other purpose, including the  
11           expansion of the rights of any defendant:

12           (2) "Critical stages" means the following stages of the criminal  
13           justice process:

14           (q.1) A TRIAL FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
15           PLACEMENT PURSUANT TO SECTION 16-8.5-118;

16           (q.2) A HEARING TO TERMINATE A CIVIL COMMITMENT PURSUANT  
17           TO SECTION 27-65-202 OR AN ENHANCED PROTECTIVE PLACEMENT  
18           PURSUANT TO SECTION 25.5-10-508;

19           (q.3) THE TRANSFER, RELEASE, OR ESCAPE OF A PERSON UNDER A  
20           CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED  
21           PROTECTIVE PLACEMENT UNDER COURT SUPERVISION PURSUANT TO  
22           SECTION 25.5-10-507 WHEN THE CRIMINAL CASE INITIATING THE CIVIL  
23           COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT INVOLVED A  
24           VICTIM.

25           **SECTION 30.** In Colorado Revised Statutes, 24-4.1-302.5,  
26           **amend** (1)(b); and **add** (1)(j.6) as follows:

27           **24-4.1-302.5. Rights afforded to victims - definitions.**

1 (1) In order to preserve and protect a victim's rights to justice and  
2 due process, each victim of a crime has the following rights:

3 (b) The right to be informed of and be present by appearing in  
4 person, by phone, virtually by audio or video, or similar technology for  
5 all critical stages of the criminal justice process as specified in section  
6 24-4.1-302 (2); except that the victim shall have the right to be informed  
7 of, without being present for, the critical stages described in section  
8 24-4.1-302 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p),  
9 (2)(q), **(2)(q.3)**, (2)(r), and (2)(u);

10 (j.6) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR CHANGES  
11 TO MATERIAL TERMS OF A CIVIL COMMITMENT PURSUANT TO SECTION  
12 27-65-201 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
13 25.5-10-507 ON BEHALF OF A PERSON IN A CIVIL COMMITMENT OR  
14 PROTECTIVE PLACEMENT IN A CRIMINAL CASE INVOLVING THE VICTIM, AND  
15 THE RIGHT TO BE PRESENT BY APPEARING IN PERSON, BY PHONE, OR  
16 VIRTUALLY BY VIDEO OR AUDIO, OR SIMILAR TECHNOLOGY, AND HEARD AT  
17 ANY HEARING DURING WHICH A COURT CONSIDERS THE REQUEST. AS USED  
18 IN THIS SUBSECTION (1)(j.6), "REQUEST FOR CHANGES TO MATERIAL  
19 TERMS" INCLUDES ANY REQUEST TO BE RELEASED FROM AN INPATIENT  
20 SETTING TO AN OUTPATIENT SETTING OR TO BE MOVED INTO A  
21 LESS-SECURE SETTING.

22 **SECTION 31.** In Colorado Revised Statutes, 24-4.1-303, **add**  
23 (11)(b.8), (11)(b.9), (14.6), and (14.8) as follows:

24 **24-4.1-303. Procedures for ensuring rights of victims of**  
25 **crimes.**

26 (11) The district attorney shall inform a victim of the following:

27 (b.8) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302

1 (2)(q.1), (2)(q.2), AND (2)(q.3);

2 (b.9) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION  
3 (14.8) OF THIS SECTION.

4 (14.6) ANY FACILITY OR PROVIDER THAT HAS THE CARE AND  
5 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING  
6 PURSUANT TO A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE  
7 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OR SUPERVISION OF A CIVIL  
8 COMMITMENT PURSUANT TO SECTION 27-65-201 OR ENHANCED  
9 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 THAT  
10 RESULTED FROM A CRIMINAL CASE INVOLVING A VICTIM SHALL NOTIFY THE  
11 APPLICABLE COUNTY ATTORNEY OF THE FOLLOWING:

- 12 (a) THE INSTITUTION IN WHICH THE PERSON RESIDES;
- 13 (b) ANY RELEASE OF THE PERSON ON FURLOUGH OR OTHER  
14 PROGRAM, IN ADVANCE OF THE RELEASE;
- 15 (c) ANY OTHER TRANSFER OR RELEASE FROM AN INPATIENT  
16 SETTING;
- 17 (d) ANY ESCAPE BY THE PERSON AND ANY SUBSEQUENT  
18 RECAPTURE OF THE PERSON; AND
- 19 (e) THE DEATH OF THE PERSON WHILE IN CUSTODY OR WHILE  
20 UNDER THE JURISDICTION OF THE STATE.

21 (14.8) THE COUNTY ATTORNEY SHALL INFORM THE DISTRICT  
22 ATTORNEY THAT SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
23 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OF THE FOLLOWING:

- 24 (a) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302  
25 (2)(q.1), (2)(q.2), AND (2)(q.3);
- 26 (b) ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL  
27 COMMITMENT DESCRIBED IN SECTION 24-4.1-302.5 (2)(j.6); AND

1 (c) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.6)  
2 OF THIS SECTION FROM A FACILITY OR A PROVIDER WHO HAS THE CARE AND  
3 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING  
4 PURSUANT TO A CIVIL COMMITMENT SUPERVISED PURSUANT TO SECTION  
5 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT SUPERVISED  
6 PURSUANT TO SECTION 25.5-10-507.

7 **SECTION 32.** In Colorado Revised Statutes, 13-5-142, **amend**  
8 (1)(c) and (3)(b)(III) as follows:

9 **13-5-142. National instant criminal background check system**  
10 **- reporting.**

11 (1) On and after March 20, 2013, the state court administrator  
12 shall send electronically the following information to the Colorado bureau  
13 of investigation created pursuant to section 24-33.5-401, referred to in  
14 this section as the "bureau":

15 (c) The name of each person with respect to whom the court has  
16 entered an order for ~~involuntary~~ certification for short-term treatment of  
17 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~  
18 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended  
19 certification for treatment of a mental health disorder pursuant to section  
20 27-65-109 (10), or for long-term care and treatment of a mental health  
21 disorder pursuant to section 27-65-110.

22 (3) The state court administrator shall take all necessary steps to  
23 cancel a record made by the state court administrator in the national  
24 instant criminal background check system if:

25 (b) No less than three years before the date of the written request:

26 (III) The record in the case was sealed pursuant to ~~section~~  
27 ~~27-65-109 (7)~~ SECTION 27-65-123 (7) OR 25.5-10-515 (4), or the court

1 entered an order discharging the person from certification in the nature of  
2 habeas corpus pursuant to section 27-65-115, if the record in the national  
3 instant criminal background check system is based on a court order for  
4 involuntary certification for short-term treatment of a mental health  
5 disorder.

6 **SECTION 33.** In Colorado Revised Statutes, 13-5-142.5, **amend**  
7 (2)(a)(III) as follows:

8 **13-5-142.5. National instant criminal background check**  
9 **system - judicial process for awarding relief from federal**  
10 **prohibitions - legislative declaration.**

11 (2) **Eligibility.** A person may petition for relief pursuant to this  
12 section if:

13 (a) (III) The court has entered an order for the person's ~~involuntary~~  
14 certification for short-term treatment of a mental health disorder pursuant  
15 to ~~section 27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109,  
16 OR 27-65-109.5, for extended certification for treatment of a mental  
17 health disorder pursuant to section 27-65-109 (10), or for long-term care  
18 and treatment of a mental health disorder pursuant to section 27-65-110;  
19 and

20 **SECTION 34.** In Colorado Revised Statutes, **amend** 13-5-142.8  
21 as follows:

22 **13-5-142.8. Notice by professional persons.**

23 Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and  
24 13-5-142.5 (2), an order for ~~involuntary~~ certification for short-term  
25 treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or~~  
26 27-65-109 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5 must also  
27 include a notice filed by a professional person pursuant to section

1 ~~27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109, OR  
2 27-65-109.5, and an order for extended certification for treatment of a  
3 mental health disorder pursuant to section 27-65-109 (10) must also  
4 include a notice filed by a professional person pursuant to section  
5 27-65-109 (10).

6 **SECTION 35**. In Colorado Revised Statutes, 13-9-123, **amend**  
7 (1)(c) and (3)(b)(III) as follows:

8 **13-9-123. National instant criminal background check system**  
9 **- reporting.**

10 (1) On and after March 20, 2013, the state court administrator  
11 shall send electronically the following information to the Colorado bureau  
12 of investigation created pursuant to section 24-33.5-401, referred to in  
13 this section as the "bureau":

14 (c) The name of each person with respect to whom the court has  
15 entered an order for ~~involuntary~~ certification for short-term treatment of  
16 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~  
17 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended  
18 certification for treatment of a mental health disorder pursuant to section  
19 27-65-109 (10), or for long-term care and treatment of a mental health  
20 disorder pursuant to section 27-65-110.

21 (3) The state court administrator shall take all necessary steps to  
22 cancel a record made by the state court administrator in the national  
23 instant criminal background check system if:

24 (b) No less than three years before the date of the written request:

25 (III) The record in the case was sealed pursuant to ~~section~~  
26 ~~27-65-109 (7)~~ SECTION 27-65-123 (7), or the court entered an order  
27 discharging the person from certification in the nature of habeas corpus

1 pursuant to section 27-65-115, if the record in the national instant  
2 criminal background check system is based on a court order for  
3 involuntary certification for short-term treatment of a mental health  
4 disorder.

5 **SECTION 36.** In Colorado Revised Statutes, 13-9-124, **amend**  
6 (2)(a)(III) as follows:

7 **13-9-124. National instant criminal background check system**  
8 **- judicial process for awarding relief from federal prohibitions -**  
9 **legislative declaration.**

10 (2) **Eligibility.** A person may petition for relief pursuant to this  
11 section if:

12 (a) (III) The court has entered an order for the person's ~~involuntary~~  
13 certification for short-term treatment of a mental health disorder pursuant  
14 to ~~section 27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109,  
15 OR 27-65-109.5, for extended certification for treatment of a mental  
16 health disorder pursuant to section 27-65-109 (10), or for long-term care  
17 and treatment of a mental health disorder pursuant to section 27-65-110;  
18 and

19 **SECTION 37.** In Colorado Revised Statutes, 15-18.7-202,  
20 **amend** (7) as follows:

21 **15-18.7-202. Behavioral health orders for scope of treatment**  
22 **- form contents - effect.**

23 (7) Nothing in this part 2 means that an adult who has executed a  
24 behavioral health orders form has consented to a petition for involuntary  
25 administration of medication authority pursuant to ~~section 27-65-113 (5)~~  
26 SECTION 27-65-113 (3).

27 **SECTION 38.** In Colorado Revised Statutes, 16-5-401, **amend**

1 (2.5)(b) as follows:

2 **16-5-401. Limitation for commencing criminal proceedings,**  
3 **civil infraction proceedings, and juvenile delinquency proceedings -**  
4 **definitions.**

5 (2.5) (b) The time limitations imposed by this section are tolled  
6 beginning when a defendant's case is dismissed without prejudice for the  
7 purpose of facilitating certification for short-term treatment pursuant to  
8 ~~section 16-8.5-111 (3)~~ SECTION 16-8.5-109 until either the defendant's  
9 criminal case is refiled or six months has passed since the case was  
10 dismissed, whichever is earlier.

11 **SECTION 39.** In Colorado Revised Statutes, 16-8.6-103, **amend**  
12 (2)(b) as follows:

13 **16-8.6-103. Bridges wraparound care program - established.**

14 (2) The purpose of the bridges wraparound care program is to:

15 (b) Serve eligible individuals whose cases have been dismissed  
16 pursuant to ~~section 16-8.5-111 (1.6)~~ SECTION 16-8.5-109 (4) but who are  
17 voluntarily willing to participate in the bridges wraparound care program;

18 **SECTION 40.** In Colorado Revised Statutes, 16-10-404, **amend**  
19 (1)(b) as follows:

20 **16-10-404. Use of a court facility dog - definitions.**

21 (1) As used in this section, unless the context otherwise requires:

22 (b) "Criminal proceeding" or "criminal proceedings" has the same  
23 meaning as set forth in section 16-8.5-101. ~~(8)~~.

24 **SECTION 41.** In Colorado Revised Statutes, 17-22.5-403.5,  
25 **amend** (4)(f) as follows:

26 **17-22.5-403.5. Special needs parole.**

27 (4) (f) If, prior to or during any parole revocation hearing,

1 including hearings for offenders granted parole pursuant to subsection (5)  
2 of this section, the department or a member of the parole board has a  
3 substantial and good faith reason to believe that the offender is  
4 incompetent to proceed, as defined in section 16-8.5-101, ~~(12)~~; the parole  
5 board shall suspend all proceedings and notify the public defender liaison  
6 described in section 21-1-104 (6). THE COURT SHALL APPOINT the office  
7 of state public defender ~~shall be appointed by the court~~ to represent the  
8 inmate, and THE OFFICE OF STATE PUBLIC DEFENDER shall file a written  
9 motion with the trial court that imposed the sentence to determine  
10 competency. The motion must contain a certificate of counsel stating that  
11 the motion is based on a good faith belief that the inmate is incompetent  
12 to proceed. The motion must set forth the specific facts that have formed  
13 the basis for the motion. The court shall seal the motion. The court shall  
14 follow all the relevant procedures in article 8.5 of title 16 regarding the  
15 determination of competency. The presence of the inmate is not required  
16 unless there is good cause shown.

17 **SECTION 42.** In Colorado Revised Statutes, 17-26-118, **amend**  
18 (3)(i) as follows:

19 **17-26-118. Criminal justice data collection - definitions.**

20 (3) The keeper of each jail facility shall keep and maintain a daily  
21 record of the following data:

22 (i) The number of confined inmates awaiting a competency  
23 evaluation, ~~as defined in section 16-8.5-101 (2)~~; a competency hearing,  
24 ~~as defined in section 16-8.5-101 (4)~~; or a restoration hearing, as THOSE  
25 TERMS ARE defined in section 16-8.5-101; ~~(17)~~;

26 **SECTION 43.** In Colorado Revised Statutes, 22-31-129, **amend**  
27 (1) introductory portion and (1)(g) as follows:

1           **22-31-129. Vacancies.**

2           (1) A school director office ~~shall be~~ IS deemed to be vacant upon  
3 the occurrence of any one of the following events prior to the expiration  
4 of the term of office:

5           (g) If a court of competent jurisdiction determines that the person  
6 duly elected or appointed is insane or otherwise mentally incompetent,  
7 but only after the right to appeal has been waived or otherwise exhausted,  
8 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or  
9 section 27-65-109 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR  
10 27-65-127, an order specifically finding that the insanity or mental  
11 incompetency is of such a degree that the person is incapable of serving  
12 as a school director;

13           **SECTION 44.** In Colorado Revised Statutes, 22-60.5-107,  
14 **amend** (2)(a) as follows:

15           **22-60.5-107. Grounds for denying, annulling, suspending, or**  
16 **revoking license, certificate, endorsement, or authorization -**  
17 **definitions.**

18           (2) Any license, certificate, endorsement, or authorization may be  
19 denied, annulled, suspended, or revoked in the manner prescribed in  
20 section 22-60.5-108, notwithstanding the provisions of subsection (1) of  
21 this section:

22           (a) When the holder has been determined to be mentally  
23 incompetent by a court of competent jurisdiction and a court has entered,  
24 pursuant to part 3 or part 4 of article 14 of title 15 or section 27-65-109  
25 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR 27-65-127, an order  
26 specifically finding that the mental incompetency is of such a degree that  
27 the holder is incapable of continuing to perform ~~his or her~~ THEIR job;

1 except that the license, certificate, endorsement, or authorization held by  
2 a person who has been determined to be mentally incompetent and for  
3 whom such an order has been entered ~~shall~~ MUST be revoked or  
4 suspended by operation of law without a hearing, notwithstanding the  
5 provisions of section 22-60.5-108;

6 **SECTION 45.** In Colorado Revised Statutes, 24-72-705, **amend**  
7 (1)(g) as follows:

8 **24-72-705. Sealing criminal justice records other than**  
9 **convictions - simplified process - applicability.**

10 (1) (g) Charges that are dismissed pursuant to ~~section 16-8.5-116~~  
11 SECTION 16-8.5-109 (4), 16-8.5-113, OR 16-8.5-116 are not eligible for  
12 sealing.

13 **SECTION 46.** In Colorado Revised Statutes, 26-1-107, **amend**  
14 (6)(h) as follows:

15 **26-1-107. State board of human services - reimbursement for**  
16 **expenses - rules.**

17 (6) The state board shall:

18 (h) Adopt rules concerning standards for the level of training,  
19 education, and experience that a psychiatrist or psychologist ~~shall have to~~  
20 MUST be qualified IN ORDER to perform competency evaluations in  
21 criminal cases pursuant to section 16-8-106 and article 8.5 of title 16,  
22 ~~C.R.S.~~, and standards for conducting and reporting competency  
23 evaluations in criminal cases. ~~Prior to adopting the rules, the state board~~  
24 ~~shall consider recommendations from the competency evaluation advisory~~  
25 ~~board created in section 16-8.5-119, C.R.S.~~

26 **SECTION 47.** In Colorado Revised Statutes, 27-60-105, **amend**  
27 (2) and (6) as follows:

1           **27-60-105. Outpatient restoration to competency services -**  
2 **jail-based behavioral health services - responsible entity - duties -**  
3 **report - legislative declaration.**

4           (2) The state department serves as a central organizing structure  
5 and responsible entity for the provision of competency restoration  
6 education services and coordination of competency restoration services  
7 ordered by the court pursuant to ~~section 16-8.5-111 (2)~~ SECTION  
8 16-8.5-110(1) or 19-2.5-704 (2), and the behavioral health administration  
9 serves as the central organizing structure and responsible entity for  
10 jail-based behavioral health services pursuant to section 27-60-106.

11           (6) In addition to subsection (4) of this section and subject to  
12 available appropriations, the state department shall require any county jail  
13 to assist in the provision of interim mental health services for individuals  
14 who have been court-ordered for inpatient competency restoration and  
15 who are waiting admission for an inpatient bed. This section does not toll  
16 or otherwise modify the time frames for the state department to offer  
17 inpatient admission pursuant to the provisions of ~~section 16-8.5-111~~  
18 SECTION 16-8.5-110.

19           **SECTION 48.** In Colorado Revised Statutes, 27-71-103, **amend**  
20 (2)(c)(II) as follows:

21           **27-71-103. Mental health residential facilities - additional**  
22 **beds.**

23           (2) (c) The state department, in collaboration with the behavioral  
24 health administration and the department of health care policy and  
25 financing, shall establish criteria for admissions and discharge planning,  
26 quality assurance monitoring, appropriate length of stay, and compliance  
27 with applicable federal law. For the mental health residential facilities

1 created pursuant to this section, admission criteria for facilities must  
2 include:

3 (II) For treatment beds that do not serve individuals covered under  
4 a home- and community-based waiver, offering priority placement to  
5 individuals under a certification for short-term or extended short-term  
6 treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION  
7 27-65-108.5, 27-65-109, OR 27-65-109.5, and long-term care and  
8 treatment pursuant to ~~section 27-65-109~~ SECTION 27-65-110 on an  
9 outpatient basis.

10 **SECTION 49.** In Colorado Revised Statutes, 27-94-107, **amend**  
11 (2) as follows:

12 **27-94-107. Renovation for additional beds.**

13 (2) Initially, the beds may be used for persons needing  
14 competency services. When the wait list for INPATIENT competency  
15 RESTORATION services ~~provided pursuant to section 16-8.5-111~~ FOR  
16 DEFENDANTS NOT ADMITTED WITHIN THE TIME LIMITS SET FORTH IN  
17 SECTION 16-8.5-110 (3)(a)(II) OR (3)(a)(III) is eliminated or trending so  
18 that it can be reasonably expected to be eliminated within one year, the  
19 department of human services shall implement a plan to transition the  
20 beds created in subsection (1) of this section to serve civil patients and  
21 immediately notify the joint budget committee of the general assembly.  
22 Within one year after the notification to the joint budget committee, all  
23 beds created pursuant to subsection (1) of this section must serve civil  
24 patients.

25 **SECTION 50. Repeal of nonrelocated provisions in this act.**

26 In Colorado Revised Statutes, **repeal** the following provisions that are not  
27 relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113

1 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

2           **SECTION 51. Safety clause.** The general assembly finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, or safety or for appropriations for  
5 the support and maintenance of the departments of the state and state  
6 institutions.