

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, AND, IN CONNECTION THEREWITH, MAKING AN**  
103 **APPROPRIATION.**

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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

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.*

the requirement for the court to dismiss the charges against a defendant 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

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

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

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

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

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

27 ~~(7)~~ (9) "Court-ordered report" means a report of an evaluation,

1 conducted by or under the direction of ~~the department~~ CDHS, that is the  
2 statutory obligation of ~~the department~~ CDHS to prepare when requested  
3 to do so by the court.

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

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

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

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

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

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

1 reasonable degree of rational understanding in order to assist in the  
2 defense, or that, as a result of a mental disability or developmental  
3 disability, the defendant does not have a rational and factual  
4 understanding of the criminal proceedings.

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

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

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

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

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

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

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

26 ~~(15)~~ (18) "Mental disability" means a substantial disorder of  
27 thought, mood, perception, or cognitive ability that results in marked

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

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

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

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

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

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

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

27            ~~(19)~~ (25) "Tier 1" means a defendant:

1 (a) Who has been ordered to receive inpatient restorative  
2 treatment;

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

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

9 (II) Has a mental health disorder; and

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

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

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

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

1 DEFENDANT'S ATTEMPT TO RAISE A BONA FIDE GOOD FAITH CONCERN  
2 ABOUT MEDICATION SIDE EFFECTS AND RISKS.

3 **16-8.5-102. Competency to proceed - how and when raised.**

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

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

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

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

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

10 ~~(c)~~ Repealed.

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

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

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

26 ~~(4)~~ (5) If a defendant is eligible for referral to the bridges  
27 wraparound care program pursuant article 8.6 of this title 16, the court

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

8 **16-8.5-103. Determination of competency to proceed.**

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

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

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

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

25 ~~(4) If a party requests a second evaluation, any pending requests~~  
26 ~~for a hearing must be continued until the receipt of the second evaluation~~  
27 ~~report. The report of the expert conducting the second evaluation must be~~

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

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

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

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

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

1 the defendant for the same offense after the defendant has been found  
2 restored to competency.

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

9 **16-8.5-104. Defendant's waiver of privilege.**

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

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

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

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

26 (2) Upon a request by either party or the court for the information  
27 described in subsection (1) of this section, the COMPETENCY evaluator or

1 treatment provider shall provide the information for use in preparing for  
2 a COMPETENCY hearing, ~~on competency~~ RESTORABILITY HEARING, or  
3 restoration HEARING and for use during ~~such a~~ THE hearing.

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

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

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

1 order information be provided to a party with the written consent of the  
2 defendant.

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

7 ~~(6)~~ (7) Statements made by the defendant in the course of any  
8 COMPETENCY evaluation must be protected in accordance with ~~section~~  
9 ~~16-8.5-108~~ SECTION 16-8.5-107.

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

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

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

1 ~~basis, the department shall complete the evaluation no later than~~  
2 ~~twenty-one days after receipt of the order and the collateral materials BE~~  
3 ~~COMPLETED.~~

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

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

25 (III) The court shall determine the type of bond and the conditions  
26 of release after consideration of the presumptions and factors enumerated  
27 in article 4 of this title 16, which include consideration of the information

1 received from any pretrial services program pursuant to section 16-4-106  
2 and any information provided by the bridges court liaison hired or  
3 contracted pursuant to article 95 of title 13. As a condition of any bond,  
4 the court shall require the defendant's cooperation with the competency  
5 evaluation on an outpatient and out-of-custody basis. In setting the bond,  
6 the court shall not consider the need for the defendant to receive an  
7 evaluation pursuant to this article 8.5 as a factor in determining any  
8 monetary condition of bond.

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

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

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

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

27 ~~(H)~~ (C) Extraordinary circumstances relating to the case or the

1 defendant make conducting the competency evaluation on an inpatient  
2 basis necessary and appropriate.

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

4 ~~(b.3)~~ (II) Upon entry of a court order pursuant to ~~subsection (1)(b)~~  
5 SUBSECTION (1)(b)(I) of this section, ~~the department~~ CDHS has the same  
6 authority with respect to custody as provided for in section 16-8-105.5  
7 (4).

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

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

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

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

27 (c) [Formerly 16-8.5-105 (1)(b.6)] If the COMPETENCY evaluator

1 ~~concludes~~ OPINES that the defendant is incompetent to proceed and that  
2 inpatient restoration services are not clinically appropriate, ~~the department~~  
3 CDHS shall detail the outpatient ~~and out-of-custody~~ restoration services  
4 available to the defendant.

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

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

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

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

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

10 (e) ~~Nothing in~~ This section ~~restricts~~ DOES NOT RESTRICT the right  
11 of the defendant to procure a competency evaluation ~~as provided in~~  
12 ~~section 16-8.5-106~~ AT THE DEFENDANT'S REQUEST PURSUANT TO SECTION  
13 16-8.5-111 (1).

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

26 (3) To aid in forming an opinion ~~as to the competency~~ of the  
27 ~~defendant~~ DEFENDANT'S COMPETENCY, it is permissible in the course of

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

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

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

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

27           (b) A description of the nature, content, extent, and results of the

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

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

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

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

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

27 (B) AN OPINION AS TO WHETHER THE DEFENDANT POSES A

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

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

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

1           ~~(f) An opinion as to whether there is a substantial probability that~~  
2 ~~the defendant, with restoration services, will attain competency within the~~  
3 ~~reasonably foreseeable future. As part of forming their opinion, the~~  
4 ~~competency evaluator shall use due diligence in the review and summary~~  
5 ~~of any prior competency opinions regarding the defendant. If the~~  
6 ~~competency evaluator's opinion regarding restorability differs from~~  
7 ~~opinions in past evaluations of the defendant, the competency evaluator~~  
8 ~~shall explain the basis for their different opinion.~~

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

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

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

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

1 the defendant is incarcerated or is an inpatient in a medical facility to  
2 establish that the defendant is not a danger to self, or to others, or is not  
3 OR gravely disabled. If it is the COMPETENCY evaluator's opinion that the  
4 defendant meets criteria for certification for short-term treatment pursuant  
5 to section 27-65-108.5 or 27-65-109, the COMPETENCY evaluator is not  
6 required to request a petition for certification for short-term treatment of  
7 the defendant. ~~in a court with jurisdiction pursuant to section 16-8.5-111~~  
8 (3).

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

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

16 (B) WHETHER THE DEFENDANT may be eligible for any additional  
17 services pursuant to article 10 of title 25.5 or article 10.5 of title 27, OR  
18 MAY MEET THE CRITERIA FOR A CIVIL PROCEEDING OR IMPOSITION OF A  
19 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
20 25.5-10-216; OR

21 (IV) HAS A NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION  
22 25.5-10-501, AND IF THE DEFENDANT DOES HAVE A NEUROCOGNITIVE  
23 DISORDER, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH  
24 DISORDER, AND WHETHER THE DEFENDANT MAY MEET THE CRITERIA FOR  
25 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502. IF THE  
26 COMPETENCY EVALUATOR'S OPINION IS THAT THE DEFENDANT MAY MEET  
27 THE CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY

1 EVALUATOR IS NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE  
2 PLACEMENT.

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

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

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

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

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

26 (8) A competency evaluator is not liable for damages in any civil  
27 action for failure to warn or protect a specific person or persons,

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

9

==

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

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

26 (2) ~~A petition for involuntary treatment must be heard in~~ The  
27 court of the jurisdiction where the defendant is located ~~The department~~

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

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

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

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

1     **statements.**

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

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

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

1 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,  
2 2020, or pursuant to section 18-1.4-102, this section does not bar any  
3 evidence used to impeach or rebut the defendant's testimony.

4 **16-8.5-108. General hearing procedures and evidence.**

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

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

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

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

19 (IV) A REQUEST FOR A COMBINED RESTORABILITY AND  
20 RESTORATION HEARING IS GOVERNED BY SECTIONS 16-8.5-113 AND  
21 16-8.5-114.

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

27 (d) THE COMPETENCY HEARING, RESTORABILITY HEARING, OR

1 RESTORATION HEARING MUST BE HELD WITHIN THIRTY-FIVE DAYS AFTER  
2 THE COURT'S ORDER GRANTING THE REQUEST, UNLESS THE TIME IS  
3 EXTENDED BY THE COURT AFTER A FINDING OF GOOD CAUSE.

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

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

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

20 (a) To be present in person;

21 (b) To examine any reports of the competency evaluation or other  
22 matter to be considered by the court as bearing upon the determination;

23 (c) To introduce evidence, summon witnesses, cross-examine  
24 opposing witnesses or witnesses called by the court; and

25 (d) To make opening and closing statements and arguments.

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

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

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

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

18 (1) **Competency hearing.**

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

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

26 (2) [Formerly 16-8.5-111 (1)] **Competent to proceed.** If the final  
27 determination made pursuant to section 16-8.5-103 is that the defendant

1 is competent to proceed, the ~~judge~~ COURT shall order that the suspended  
2 proceeding continue or, if a mistrial was declared, shall reset the case for  
3 trial at the earliest possible date.

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

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

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

1 ~~defendant's self or others or is gravely disabled and there is a reasonable~~  
2 ~~belief that the defendant will be certified for treatment and receive the~~  
3 ~~necessary services pursuant to article 65 of title 27~~ INFRACTION; A  
4 MISDEMEANOR TRAFFIC OFFENSE; AN OFFENSE THAT CONSTITUTES AN  
5 UNCLASSIFIED MISDEMEANOR WITHOUT SPECIFICATION PURSUANT TO  
6 SECTION 18-1.3-504; OR AN OFFENSE THAT CONSTITUTES A DENOMINATED  
7 MISDEMEANOR AND NO PENALTY IS FIXED IN STATUTE PURSUANT TO  
8 SECTION 18-1.3-505, BUT NOT A MISDEMEANOR PURSUANT TO PART 13 OF  
9 ARTICLE 4 OF TITLE 42 OR ANY OFFENSE CHARGED PURSUANT TO SECTION  
10 42-4-1402 (2)(c).

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

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

20 **16-8.5-110. Restoration services - inpatient and outpatient.**

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

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

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

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

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

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

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

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

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

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

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

27 (II) The restoration services provider under contract with ~~the~~

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

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

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

25 (c) If ~~the department CDHS~~ determines that ~~the department~~ IT is  
26 unable, within a reasonable time, to provide restoration services on an  
27 outpatient basis, ~~the department CDHS~~ shall notify the court within

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

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

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

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

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

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

1 bridges court liaison, if applicable, every twenty-eight days after the  
2 initial twenty-eight-day period regarding the availability of an inpatient  
3 bed and when admission will be offered to the defendant.

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

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

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

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

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

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

1 discharge, ~~the department~~ CDHS shall:

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

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

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

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

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

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

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

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

25 **16-8.5-111. Second evaluation.**

26 (1) [Formerly 16-8.5-106 (1)] If a defendant wishes to be  
27 examined by a competency evaluator of ~~his or her~~ THE DEFENDANT'S OWN

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

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

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

12 (b) WHETHER THE DEFENDANT IS RESTORABLE; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR  
2 27-65-109, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO REQUEST  
3 A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT OF THE  
4 DEFENDANT.

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

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

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

1 competency;

2 ~~(VI) Repealed.~~

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

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

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

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

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

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

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

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

26 (VI) IF THE DEFENDANT IS CONTINUING TO RECEIVE INPATIENT  
27 RESTORATION SERVICES, whether the defendant, based on observations of

1 the defendant's behavior in the facility, presents a substantial risk to the  
2 physical safety of the defendant's self, of another person, or of the  
3 community if released for community restoration; AND

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

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

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

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

26 ~~(4) Repealed.~~

27 ~~(5)~~ (3) The court shall forward a copy of each report and summary

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

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

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

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

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

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

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

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

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

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

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

26 (b) THE NATURE AND SEVERITY OF THE DEFENDANT'S  
27 INCOMPETENCY AND WHETHER THE DEFENDANT'S LEVEL OF COMPETENCY

1 CAN BE IMPROVED THROUGH ANY SERVICES THE COURT MAY LAWFULLY  
2 ORDER, INCLUDING SERVICES THAT ARE IN ADDITION TO RESTORATION  
3 SERVICES;

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

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

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

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

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

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

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

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

1 DEFENDANT RESTORABLE AND ORDER APPROPRIATE RESTORATION  
2 SERVICES AND SET A REVIEW HEARING PURSUANT TO SECTION 16-8.5-112.

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

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

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

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

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

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

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

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

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

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

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

26 (III) A RESTORATION HEARING HAS NOT BEEN HELD OR ONE  
27 HUNDRED EIGHTY-TWO DAYS HAVE PASSED AFTER A FINDING AT A

1 RESTORATION HEARING THAT THE DEFENDANT REMAINS INCOMPETENT TO  
2 PROCEED AND THE DEFENDANT HAS CONTINUED TO RECEIVE RESTORATION  
3 SERVICES.

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

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

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

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

1           **16-8.5-115. Procedure after restoration hearing.**

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

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

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

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

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

1 for restoration services or has been confined in a jail or other detention  
2 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
3 restoration for an aggregate time of six months; and

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

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

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

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

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

26 (a) The defendant's highest charged offense is a class 4 felony and  
27 the defendant has been in ~~the department's~~ CDHS's custody for

1 restoration services or has been confined in a jail or other detention  
2 facility awaiting transport to ~~the department~~ CDHS for court-ordered  
3 restoration for an aggregate period of two years; and

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

6 (4) **[Formerly 16-8.5-116.5 (5)]** ~~Subsections (2), (3), and (4)~~  
7 ~~SUBSECTIONS (1), (2), AND (3)~~ of this section do not apply if the defendant  
8 is charged with a class 1, 2, or 3 felony offense; a sex offense, as defined  
9 in section 18-1.3-1003 (5); a crime of violence, as defined in section  
10 18-1.3-406 (2); or a level 1 or level 2 drug felony.

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

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

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

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

21 ~~(6) to (15) Repealed.~~ IF THE CONDITIONS ALLOWING THE COURT TO  
22 STAY A DISMISSAL APPLY, THE COURT SHALL STAY A DISMISSAL ORDERED  
23 PURSUANT TO THIS SECTION IN ACCORDANCE WITH SECTION 16-8.5-117 OR  
24 16-8.5-118.

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

1 initiated pursuant to article 65 of title 27, the municipal court shall  
2 dismiss the case.

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

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

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

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

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

1 SECTION 16-8.5-116, OR THE COURT WILL ORDER THE INITIATION OF A  
2 CIVIL PROCEEDING PURSUANT TO THIS SECTION:

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

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

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

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

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

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

26 (b) IF THE COURT DETERMINES THAT THE APPOINTMENT OF AN  
27 EMERGENCY GUARDIAN IS APPROPRIATE PURSUANT TO SECTION 15-14-312

1     (1), THE COURT SHALL APPOINT THE OFFICE OF PUBLIC GUARDIANSHIP AS  
2     THE DEFENDANT'S EMERGENCY GUARDIAN.

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

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

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

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

- 24            (A) THE DISTRICT ATTORNEY;  
25            (B) THE COUNTY ATTORNEY;  
26            (C) A GUARDIAN, IF ONE IS APPOINTED;  
27            (D) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL

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

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

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

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

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

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

1 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
2 25.5-10-216;

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

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

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

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

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

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

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

1 DEFENDANT OPINES THAT THE DEFENDANT MEETS THE CRITERIA FOR  
2 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND  
3 TREATMENT PURSUANT TO SECTION 27-65-108.3, FOR PROTECTIVE  
4 PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A  
5 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION  
6 25.5-10-216; AND

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

9 (I) THE DISTRICT ATTORNEY;

10 (II) THE COUNTY ATTORNEY;

11 (III) THE APPOINTED     EMERGENCY GUARDIAN;

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

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

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

27 (7) (a) THE COURT SHALL GRANT AN UNLIMITED NUMBER OF

1 THIRTY-FIVE-DAY EXTENSIONS TO STAY THE ORDER DISMISSING THE  
2 DEFENDANT'S CASE IF THE DEFENDANT CONSENTS TO THE EXTENSION.

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

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

9 (II) THE COURT FINDS GOOD CAUSE; AND

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

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

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

21 (II) THE COURT FINDS GOOD CAUSE; AND

22 (III) THE DEFENDANT IS NOT CHARGED WITH A CRIME OF  
23 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), OR A FELONY THAT  
24 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION  
25 16-22-102.

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

1 PROCEEDING PURSUANT TO SUBSECTION (3) OF THIS SECTION.

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

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

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

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

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

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

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

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

26 (10) THE COUNTY ATTORNEY OR THE APPOINTED \_\_\_ EMERGENCY  
27 GUARDIAN MAY OBJECT TO THE ORDER TO INITIATE A CIVIL PROCEEDING

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

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

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

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

20 (12) IF THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO  
21 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116; THE COURT  
22 DOES NOT ORDER THE COUNTY ATTORNEY     TO INITIATE A CIVIL  
23 PROCEEDING; AND THE CASE IS NOT STAYED PURSUANT TO SECTION  
24 16-8.5-118, THE COURT SHALL DISMISS THE CASE.

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

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

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

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

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

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

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

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

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

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

(b) (I) UPON SETTING THE TRIAL, THE COURT SHALL ORDER, IN

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

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

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

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

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

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

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

26 (IV) THE PARTIES ESTABLISH A FACTUAL BASIS.

27 (b) ANY STIPULATION OR ADMISSION MADE AS PART OF THE

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

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

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

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

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

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

14 OR

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

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

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

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

25 (I) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT  
26 SHALL NOT CONSIDER, A DEFENSE BASED ON A MENTAL DISABILITY OR  
27 DEVELOPMENTAL DISABILITY, INCLUDING A MENTAL DISEASE OR DEFECT,

1 AS DEFINED IN SECTION 16-8-102, INCLUDING, BUT NOT LIMITED TO, A  
2 DEFENSE RAISED PURSUANT TO ARTICLE 8 OF TITLE 16 OR ANY DEFENSE  
3 THAT IS AN ELEMENT-NEGATING TRAVERSE BASED ON A MENTAL DISEASE  
4 OR DEFECT;

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

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

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

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

26 (d) (I) PRIOR TO TRIAL, THE COURT SHALL FIND THAT THE  
27 PROSECUTION HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF

1 THIS SECTION IF AN ACT ALLEGED TO SATISFY THE REQUIREMENT OF  
2 SUBSECTION (6)(b)(I) OF THIS SECTION IS:

3 (A) CHARGED IN THE CURRENT CASE; OR

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

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

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

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

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

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

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

1 FAILED TO OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT.

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

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

18 (d) AT TRIAL, THE COURT:

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

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

26 (III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE  
27 COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY

1 EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION  
2 OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR  
3 DEVELOPMENTAL DISABILITY.

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

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

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

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

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

26 (III) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT OR  
27 ENHANCED PROTECTIVE PLACEMENT TO AN APPROPRIATE CIVIL COURT

1 WITH JURISDICTION AND DISMISS THE CASE IN ACCORDANCE WITH  
2 SUBSECTION (14) OF THIS SECTION.

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

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

27 (b) THE COURT SHALL ISSUE ITS FINDINGS AND ORDERS PURSUANT

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

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

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

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

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

1 IMMEDIATELY ACCEPT PLACEMENT OF THE DEFENDANT.

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

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

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

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

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

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

1 HARM TO OTHERS POSED BY THE DEFENDANT; AND  
2 (V) CONSIDER THE TOTALITY OF THE CIRCUMSTANCES, INCLUDING:  
3 (A) THE DEFENDANT'S STATEMENTS AND WHETHER THE  
4 DEFENDANT LACKS INSIGHT INTO THE DEFENDANT'S MENTAL DISABILITY  
5 OR DEVELOPMENTAL DISABILITY;  
6 (B) THE DEFENDANT'S CLINICAL DIAGNOSIS AND PROGNOSIS,  
7 INCLUDING ANY OPINIONS THAT THE DEFENDANT AND THE DEFENDANT'S  
8 CURRENT MENTAL STATE AND BEHAVIORS POSE RISKS TO OTHERS;  
9 (C) THE DEFENDANT'S REFUSAL TO VOLUNTARILY SEEK AND  
10 COMPLY WITH A TREATMENT PLAN IN THE RECENT PAST, INCLUDING IN THE  
11 DEFENDANT'S MOST RECENT PERIOD OF BEING IN THE COMMUNITY;  
12 (D) RECENT OVERT ACTS BY THE DEFENDANT TO THREATEN,  
13 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE DEFENDANT'S SELF OR  
14 OTHERS;  
15 (E) ANY PREVIOUS PATTERNS OF DECOMPENSATION OR  
16 DETERIORATION THAT RESULTED IN THE DEFENDANT'S HOSPITALIZATION,  
17 ARREST, OR CERTIFICATION FOR SHORT-TERM TREATMENT AND THAT  
18 DEMONSTRATE A RISK OF LIKELY FUTURE DECOMPENSATION;  
19 (F) WHEN THE DEFENDANT WAS LAST OUT OF CUSTODY AND  
20 WHETHER THE DEFENDANT WAS FOUND IN A CONDITION IN WHICH THE  
21 DEFENDANT WAS NOT ABLE TO CARE FOR THE DEFENDANT'S OWN BASIC  
22 NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM;  
23 (G) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
24 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (13)(d)(V)(B) TO  
25 (13)(d)(V)(F) OF THIS SECTION, SUCH THAT THE CIRCUMSTANCES ARE  
26 PRESENT IN A MANNER THAT REQUIRES INPATIENT TREATMENT OR THAT  
27 THE CIRCUMSTANCES ARE ABSENT IN A MANNER THAT ALLOWS FOR

1 COMMUNITY-BASED PLACEMENT;

2 (H) WHETHER THE DEFENDANT OPPOSES THE PLACEMENT;

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

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

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

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

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

26 (g) IF CDHS DOES NOT PROPOSE PLACING THE DEFENDANT INTO  
27 INPATIENT CARE AND CDHS HAS NOT IDENTIFIED ANY OTHER

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

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

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

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

25 (II) THE COURT SHALL, UNLESS OTHER APPROPRIATE  
26 TRANSPORTATION HAS BEEN APPROVED BY THE COURT, ORDER THE  
27 SHERIFF TO SECURELY TRANSPORT THE DEFENDANT TO THE ORDERED

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

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

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

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

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

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

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

1 (a) TAKE JUDICIAL NOTICE OF THE PRIOR CIVIL COMMITMENT OR  
2 ENHANCED PROTECTIVE PLACEMENT IN LIEU OF CONDUCTING AN  
3 ADDITIONAL TRIAL;

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

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

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

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

21 (17) (a) NO LATER THAN JANUARY 2030, CDHS SHALL INCLUDE,  
22 AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING  
23 REQUIRED BY SECTION 2-7-203, INFORMATION CONCERNING PROTECTIVE  
24 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL  
25 COMMITMENTS SOUGHT PURSUANT TO THIS SECTION. AT A MINIMUM, THE  
26 PRESENTATION MUST INCLUDE THE FOLLOWING INFORMATION FROM JULY  
27 1, 2026, TO JULY 1, 2029:

1           (I) THE NUMBER OF PETITIONS FILED FOR PROTECTIVE  
2 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL  
3 COMMITMENTS;

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

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

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

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

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

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

22           **16-8.5-119. Dismissal procedures.**

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

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

1 WRITTEN ORDER TO THE PARTIES AND CDHS;

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

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

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

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

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

25 If a defendant committed to the custody of the executive director  
26 for a competency evaluation or for restoration to competency escapes  
27 from the institution or hospital, the chief officer of the institution or

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

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

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

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

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

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

- 1 (d) The dates and results of court reviews of competency;  
2 (e) Inpatient bed space;  
3 (f) Community restoration capacity; and  
4 (g) Financial estimates of costs of each inpatient and outpatient  
5 program to identify inefficiencies.

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

9 **16-8.5-123. [Formerly 16-8.5-122] Forensic evaluator training.**

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

24 **16-8.5-124. Transparency requirements.**

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

- 27 (a) All policies and procedures related to competency evaluations,

1 restoration services, management of the competency wait list, and  
2 admission policies regarding inpatient restoration services, including  
3 services for jail-based restoration and private hospital beds;

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

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

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

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

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

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

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

19 **16-8.5-125. [Formerly 16-8.5-116.5 (11)] Rules.**

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

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

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

26 **THE PROVISIONS OF PART 5 OF ARTICLE 10 OF TITLE 25.5 APPLY AND**  
27 **THIS ARTICLE 65 DOES NOT APPLY IF A PERSON HAS AN INTELLECTUAL AND**

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

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

11 **27-65-102. Definitions.**

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

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

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

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

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

1 (11) "Department" OR "CDHS" means the department of human  
2 services.

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

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

23

==

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

26 (a) THE PERSON HAS HAD ANY COMBINATION OF AT LEAST THREE  
27 EMERGENCY MENTAL HEALTH HOLDS OR CERTIFICATIONS FOR

1 SHORT-TERM TREATMENT ORDERED AGAINST THE PERSON OR PERIODS OF  
2 INCOMPETENCY IN A CRIMINAL CASE AT THREE SEPARATE TIMES WITHIN  
3 THE PAST THREE YEARS;

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

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

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

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

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

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

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

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

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

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

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

1 facility. The certified peace officer may request assistance from a  
2 behavioral health crisis response team for assistance in detaining and  
3 transporting the person or an emergency medical services provider in  
4 transporting the person; or

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

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

25 (2) (a) When a person is taken into custody pursuant to subsection  
26 (1) of this section, the person must not be detained in a jail, lockup, or  
27 other place used for the confinement of persons charged with or convicted

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

15 (b) THIS SECTION DOES NOT PRECLUDE:

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

21

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

26 (3) When a person is placed on an emergency mental health hold  
27 pursuant to subsection (1) of this section and is presented to an

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

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

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

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

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

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

27 (6) (a) Each person detained for an emergency mental health hold

1 pursuant to this section shall receive an evaluation as soon as possible  
2 after the person ~~is presented~~ PRESENTS to the facility, OR AS SOON AS  
3 POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE  
4 PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, == and shall receive  
5 such treatment and care as the person's condition requires for the full  
6 period that the person is held. The evaluation must include an assessment  
7 to determine if the person continues to meet the criteria for an emergency  
8 mental health hold and requires further mental health care in a facility  
9 designated by the commissioner. The evaluation must state whether the  
10 person should be released, referred for further care and treatment on a  
11 voluntary basis, or certified for short-term treatment pursuant to section  
12 27-65-109.

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

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

1 subsection (8)(a)(I) of this section. The facility may facilitate follow-up  
2 care through contracts with community-based behavioral health providers  
3 or the 988 crisis hotline operated pursuant to section 27-64-103. If the  
4 facility facilitates follow-up care through a third-party contract, the  
5 facility shall obtain authorization from the person to provide follow-up  
6 care.

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

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

18 **SECTION 6.** In Colorado Revised Statutes, 27-65-107, **amend**  
19 (1), (2), (4)(a)(IV), and (4)(b) as follows:

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

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

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

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

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

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

1 name of the person and the time the person was transported. A copy of the  
2 application must be furnished to the person being transported.

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

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

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

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

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

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

1 ongoing treatment and services.

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

7

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

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

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

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

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

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

27 (d) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS

1     A PERSISTENT MENTAL HEALTH DISORDER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) The court hearing the criminal matter referred the matter for

1 filing of a petition pursuant to ~~section 16-8.5-111 or 16-8.5-116.5~~  
2 SECTION 16-8.5-117;

3 (d) ~~The facility or community provider that will provide~~  
4 ~~short-term treatment has been designated or approved by the~~  
5 ~~commissioner to provide such treatment~~ PERSON MEETS THE CRITERIA FOR  
6 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
7 27-65-108.3 (1); and

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

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

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

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

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

1     ~~arrest, and~~

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

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

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

11

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

27             (7) The respondent may knowingly and voluntarily consent in

1 writing to the petition.

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

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

14 (c) THE COURT MAY ORDER:

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

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

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

26 (7.5) IF THE COURT CERTIFIES THE RESPONDENT FOR SHORT-TERM  
27 TREATMENT AND THE COURT FINDS THAT INPATIENT TREATMENT IS

1 NECESSARY PURSUANT TO SECTION 27-65-118 (1)(a), BUT AN INPATIENT  
2 CARE PROVIDER HAS NOT BEEN LOCATED THAT WILL ACCEPT THE  
3 RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN EXHAUSTED,  
4 THE COURT SHALL NOTIFY CDHS AND CERTIFY THE RESPONDENT FOR  
5 OUTPATIENT TREATMENT.

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

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

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

24 (11) ~~An emergency mental health hold pursuant to section~~  
25 ~~27-65-106 is not a prerequisite to a proceeding pursuant to this section.~~

26

27 **SECTION 10. In Colorado Revised Statutes, 27-65-109, amend**

1 (1), (2) introductory portion, (2)(a), and (9); repeal (7); and add (11) as  
2 follows:

3 **27-65-109. Certification for short-term treatment - procedure.**

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

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

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

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

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

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

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

1 gravely disabled MEETS THE CRITERIA FOR CERTIFICATION FOR  
2 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

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

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

1 respondent at least twenty-four hours prior to the transfer.

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

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

14 **27-65-109.5. Certification for short-term outpatient treatment.**

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

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

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

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

1           (2)(a) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
2           ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE IS THE  
3           PETITIONER.

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

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

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

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

15          (3) THE SIGNED OUTPATIENT CERTIFICATION MUST:

16          (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS  
17          THAT THE RESPONDENT MEETS THE CRITERIA SET FORTH IN SECTION  
18          27-65-108.3;

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

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

27          (d) PROVIDE THE NAME AND CONTACT INFORMATION FOR THE LAY

1 PERSON DESIGNATED BY THE RESPONDENT, OR FOR ANY FAMILY OR  
2 FRIENDS OF THE RESPONDENT IF THE RESPONDENT WAS UNWILLING OR  
3 INCAPABLE OF DESIGNATING A LAY PERSON; AND

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

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

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

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

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

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

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

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

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

1           (b) THE OUTPATIENT CERTIFICATION WAS FILED AND A  
2           DESIGNATED PROVIDER WAS NOT IDENTIFIED WITHIN SEVEN DAYS AFTER  
3           THE FILING OF THE OUTPATIENT CERTIFICATION; OR

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

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

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

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

1 LEGAL GUARDIAN, IF APPLICABLE, WITHIN SEVEN DAYS AFTER DISCHARGE,  
2 IF REQUESTED. A FACILITY OR PROGRAM THAT IS TRANSFERRING A  
3 RESPONDENT TO A DIFFERENT TREATMENT FACILITY OR TO AN OUTPATIENT  
4 PROVIDER SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR  
5 PROVIDER ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS  
6 PRIOR TO THE TRANSFER.

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

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

21 **SECTION 12.** In Colorado Revised Statutes, 27-65-110, **amend**  
22 (1), (4), and (5) as follows:

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

25 (1) Whenever a respondent has received an extended certification  
26 for treatment pursuant to section 27-65-109 (10), including as it is applied  
27 to court-ordered certification pursuant to section 27-65-108.5, ~~(9)~~, the

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

5 (a) The professional staff of the agency or facility providing  
6 short-term treatment has analyzed the respondent's condition and has  
7 found that the respondent ~~has a mental health disorder and, as a result of~~  
8 ~~the mental health disorder, is a danger to the respondent's self or others~~  
9 ~~or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS  
10 FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION  
11 27-65-108.3 (1); AND

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

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

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

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

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

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

13 **SECTION 13.** In Colorado Revised Statutes, 27-65-111, **amend**  
14 (3), (6) introductory portion, (6)(a), and (6)(j) as follows:

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

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

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

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

11 (a) To request a change to voluntary status. A change to voluntary  
12 status may be denied by the supervising professional person or advanced  
13 practice registered nurse with training in psychiatric nursing responsible  
14 for the respondent's treatment if the professional person or advanced  
15 practice registered nurse with training in psychiatric nursing determines  
16 reasonable grounds exist to believe that the respondent will not remain in  
17 a voluntary treatment program. THIS SUBSECTION (6)(a) DOES NOT APPLY  
18 TO A RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION  
19 27-65-201.

20 (j) To have the right to file a motion with the court at any time to  
21 contest the certification. THIS SUBSECTION (6)(j) DOES NOT APPLY TO A  
22 RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION  
23 27-65-201.

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

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

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

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

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

26           **27-65-113. Jurisdiction - transfer.**

27           ~~(1) Hearings before the court pursuant to section 27-65-108.5,~~

1     ~~27-65-109, or 27-65-110 are conducted in the same manner as other civil~~  
2     ~~proceedings before the court. The burden of proof is on the person or~~  
3     ~~facility seeking to detain the respondent. The court or jury shall determine~~  
4     ~~that the respondent is in need of care and treatment only if the court or~~  
5     ~~jury finds by clear and convincing evidence that the respondent has a~~  
6     ~~mental health disorder and, as a result of the mental health disorder, is a~~  
7     ~~danger to the respondent's self or others or is gravely disabled.~~

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

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

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

26            ~~(b) When the convenience of the parties and the ends of justice~~  
27    ~~would be promoted by a change in the court having jurisdiction, the court~~

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

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

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

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

24 (d) A PETITION OR REQUEST FOR A PROCEEDING REGARDING  
25 CERTIFICATION FOR SHORT-TERM TREATMENT FOR INCOMPETENT  
26 DEFENDANTS IN A CRIMINAL MATTER PURSUANT TO SECTION 27-65-108.5  
27 OR A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 MAY BE FILED

1 IN THE JURISDICTION WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY  
2 PRESENT IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, OR IS  
3 RECEIVING INPATIENT TREATMENT OR WHERE THE CRIMINAL COURT THAT  
4 REFERRED THE MATTER IS LOCATED.

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

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

1 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in  
2 which the proceeding pursuant to this ~~subsection (5)~~ SUBSECTION (3) was  
3 filed and in which the proceeding was held for the reasonable costs  
4 incurred in conducting the proceeding or conduct the proceeding itself  
5 using its own personnel and resources, including its own district or county  
6 attorney, as the case may be.

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

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

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

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

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

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

22 **27-65-113.1. Hearing procedures.**

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

27 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S

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

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

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

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

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

27 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN

1 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 OR  
2 TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION  
3 16-8.5-118, UNLESS EXPRESSLY RELIEVED OR MODIFIED BY STATUTE;

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

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

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

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

18 **27-65-114. Appeals.**

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

27 (2) THE COURT SHALL ADVISE A RESPONDENT SUBJECT TO AN

1 ORDER FOR CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM  
2 CARE AND TREATMENT OR FOR CIVIL COMMITMENT OF THE RESPONDENT'S  
3 RIGHT TO APPEAL THE ORDER AT THE CONCLUSION OF ANY HEARING.

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

6 **27-65-118. Right to treatment - rules.**

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

25 **SECTION 19.** In Colorado Revised Statutes, 27-65-123, **add** (7),  
26 (8), (9), (10), and (11) as follows:

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

1           (7) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO  
2 THIS ARTICLE 65 MUST BE MAINTAINED SEPARATELY BY THE CLERKS OF  
3 THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST  
4 NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS  
5 SECTION.

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

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

1 THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR AUTHORIZED  
2 REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

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

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

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

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

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

25 (10) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A  
26 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT,  
27 A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK

1 TO UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED  
2 TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING  
3 COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS  
4 BROUGHT PURSUANT TO THIS ARTICLE 65.

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

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

10 **27-65-131. Data report.**

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

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

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

26 (i) HOW MANY INDIVIDUALS WHO MET THE CRITERIA FOR  
27 SHORT-TERM CERTIFICATION REQUIRED INPATIENT PLACEMENT, CARE, OR

1 TREATMENT BUT WERE NOT PROVIDED INPATIENT PLACEMENT, CARE, OR  
2 TREATMENT BECAUSE IT WAS NOT AVAILABLE.

3 **SECTION 21. In Colorado Revised Statutes, add part 2 to article**  
4 **65 of title 27 as follows:**

5 **PART 2**  
6 **CIVIL COMMITMENT OF INCOMPETENT AND**  
7 **UNRESTORABLE PERSON**

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

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

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

16 **(a) NOTIFY THE COUNTY ATTORNEY;**

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

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

22 **(3) AT THE REVIEW HEARING, THE COURT SHALL:**

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

24 **(b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:**

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

27 **(II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED**

1 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT  
2 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD  
3 PURSUANT TO THIS ARTICLE 65, INCLUDING ANY APPEALS;

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

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

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

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

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

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

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

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

1 DISORDER AND THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
2 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
3 OTHERS, OR IS GRAVELY DISABLED.

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

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

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

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

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

27 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT

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

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

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

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

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

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

6           (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,  
7           CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR  
8           OTHERS;

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

12           (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION  
13           WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S  
14           OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL  
15           HARM;

16           (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
17           CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF  
18           THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS  
19           WILL REOCCUR WITHOUT INPATIENT TREATMENT;

20           (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

21           (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE  
22           REASONABLY ACCOMMODATED;

23           (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF  
24           OTHERS; AND

25           (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING  
26           PROFESSIONALS.

27           (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE

1 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE  
2 FOR THE FIRST TIME SINCE BEING CIVILLY COMMITTED UNLESS:

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

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

9 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR  
10 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO  
11 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,  
12 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND  
13 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM  
14 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER  
15 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT  
16 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE  
17 RESPONDENT CANNOT COMPLY.

18 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO  
19 INPATIENT CARE AT THE DISCRETION OF CDHS OR HCPF, THE EXECUTIVE  
20 DIRECTOR OF CDHS SHALL DESIGNATE THE STATE FACILITY AT WHICH THE  
21 RESPONDENT IS HELD FOR CARE AND TREATMENT AND MAY TRANSFER THE  
22 RESPONDENT FROM ONE FACILITY TO ANOTHER IF, IN THE OPINION OF THE  
23 EXECUTIVE DIRECTOR, IT IS APPROPRIATE TO DO SO IN THE INTEREST OF  
24 THE PROPER CARE, CUSTODY, AND TREATMENT OF THE RESPONDENT OR  
25 FOR THE PROTECTION OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN  
26 QUESTION.

27 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,

1 CDHS SHALL:

2 (I) ENSURE THE RESPONDENT IS PLACED IN THE  
3 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND  
4 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE  
5 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
6 RESPONDENT; AND

7 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED  
8 SETTING OUTSIDE OF INPATIENT CARE FOR THE FIRST TIME SINCE THE  
9 RESPONDENT WAS CIVILLY COMMITTED WITHOUT PRIOR APPROVAL OF THE  
10 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

11 (7) TERMINATION OF THE CIVIL COMMITMENT IS GOVERNED BY  
12 SECTION 27-65-202.

13 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND  
14 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT  
15 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS CIVILLY  
16 COMMITTED UNLESS A SUBSTANTIALLY SIMILAR EXAMINATION WAS  
17 ORDERED BY THE COURT WITHIN THE PREVIOUS TWELVE MONTHS. THE  
18 REPORT MUST INCLUDE:

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

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

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

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

27 (IV) IS APPROPRIATELY PLACED; AND

1           (V) MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL  
2           COMMITMENT PURSUANT TO SECTION 27-65-202;

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

5           (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE  
6           RESPONDENT'S SYMPTOMS ARE IN REMISSION;

7           (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO  
8           THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S  
9           PROGRESS;

10          (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH  
11          TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS  
12          CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE  
13          RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

14          (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO  
15          OTHERS;

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

19          (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS  
20          AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC  
21          TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A  
22          FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF CDHS;

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

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

27          (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE

1 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE  
2 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR  
3 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO  
4 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED  
5 NECESSARY FOR THE COURT'S SUPERVISION OF THE CIVIL COMMITMENT.

6 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,  
7 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST  
8 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND  
9 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE  
10 CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT,  
11 CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM  
12 PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF  
13 THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202. THE  
14 RESPONDENT SHALL COOPERATE WITH ANY EXAMINATIONS ORDERED  
15 PURSUANT TO THIS SUBSECTION (10)(a).

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

19 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR  
20 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE  
21 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO  
22 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT  
23 DOES NOT MEET THE CRITERIA FOR TERMINATION.

24 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2030.  
25 **27-65-202. Termination of civil commitment - repeal.**

26 (1) THE COURT SHALL TERMINATE A RESPONDENT'S CIVIL  
27 COMMITMENT ORDERED PURSUANT TO SECTION 27-65-201 IF THE

1     RESPONDENT:

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

4             (b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY  
5     TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF  
6     OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED  
7     SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S  
8     CONDUCT TO THE REQUIREMENTS OF THE LAW.

9             (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE  
10    AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT  
11    MEETS THE STANDARD FOR TERMINATION FROM CIVIL COMMITMENT  
12    PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PROVIDER OR THE  
13    PROVIDER'S DESIGNEE SHALL REPORT THE DETERMINATION TO THE COURT  
14    THAT PLACED THE RESPONDENT INTO THE PROVIDER'S CARE AND CUSTODY,  
15    THE COUNTY ATTORNEY, AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
16    SOUGHT CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT  
17    PURSUANT TO SECTION 16-8.5-118. THE COURT SHALL FURNISH A COPY OF  
18    ANY REPORTS RECEIVED TO THE RESPONDENT AND THE RESPONDENT'S  
19    COUNSEL.

20            (3)(a) THE RESPONDENT MAY REQUEST TERMINATION OF THE CIVIL  
21    COMMITMENT IN WRITING AT ANY TIME THE RESPONDENT WOULD NOT BE  
22    PROHIBITED FROM HAVING A SUBSEQUENT TERMINATION TRIAL PURSUANT  
23    TO SUBSECTION (7) OF THIS SECTION.

24            (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST  
25    FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON  
26    THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR  
27    TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1)

1 OF THIS SECTION.

2 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR  
3 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE  
4 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
5 SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT  
6 PURSUANT TO SECTION 16-8.5-118 FOURTEEN DAYS TO OBJECT TO  
7 TERMINATION OR REQUEST AN OPPORTUNITY TO CONDUCT AN  
8 INDEPENDENT EVALUATION BY AN EXPERT OF THE COUNTY ATTORNEY'S OR  
9 DISTRICT ATTORNEY'S OWN CHOOSING AND EXPENSE.

10 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT  
11 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN  
12 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE  
13 RESPONDENT'S CIVIL COMMITMENT.

14 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY  
15 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,  
16 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO  
17 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR  
18 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN  
19 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE  
20 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT  
21 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST  
22 FOR A SINGLE INDEPENDENT EVALUATION.

23 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE  
24 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE  
25 RESPONDENT'S REQUEST FOR TERMINATION.

26 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE  
27 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO

1 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

2 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY  
3 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL  
4 TERMINATE THE RESPONDENT'S CIVIL COMMITMENT.

5 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY  
6 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE  
7 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE  
8 RESPONDENT'S COUNSEL RECEIVED A COPY OF THE REPORT, AND ADVISE  
9 THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE COURT OR  
10 THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE THAN SIX  
11 INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS THE  
12 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
13 SECTION.

14 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE  
15 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN THIRTY-FIVE DAYS  
16 AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE  
17 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN SEVENTY-TWO DAYS  
18 AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS  
19 EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE  
20 COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED  
21 PURSUANT TO THIS SUBSECTION (5)(b), THE COURT SHALL TERMINATE THE  
22 CIVIL COMMITMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S  
23 CARE AND CUSTODY.

24 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION  
25 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS  
26 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE  
27 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY

1 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL  
2 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY  
3 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT  
4 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND  
5 TO ANY OTHER MATTERS RELATED TO THE CIVIL COMMITMENT AND  
6 TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY RELATED APPEALS.

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

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

25 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET  
26 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
27 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION

1 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL  
2 FOR TERMINATION.

3 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR  
4 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A  
5 MENTAL HEALTH DISORDER THAT IS AN INTELLECTUAL AND  
6 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE  
7 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT HAVING ANY  
8 OTHER MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND  
9 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT  
10 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A  
11 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS  
12 GRAVELY DISABLED, THE COURT SHALL CONVERT THE CIVIL COMMITMENT  
13 TO AN ENHANCED PROTECTIVE PLACEMENT AND MAY MODIFY THE TERMS  
14 OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH  
15 SECTION 25.5-10-507.

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

25 (10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2030.

26 **SECTION 22.** In Colorado Revised Statutes, **add** part 5 to article  
27 10 of title 25.5 as follows:

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PART 5  
PROTECTIVE PLACEMENT AND  
ENHANCED PROTECTIVE PLACEMENT

**25.5-10-501. Definitions.**

AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE  
REQUIRES:

(1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS  
THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION  
27-60-203.

(2) "DANGER TO OTHERS" HAS THE MEANING SET FORTH IN  
SECTION 27-65-102.

(3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,  
HAS THE MEANING SET FORTH IN SECTION 27-65-102.

(4) "DEPARTMENT OF HEALTH CARE POLICY AND FINANCING" OR  
"HCPF" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND  
FINANCING CREATED IN SECTION 24-1-119.5.

(5) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE  
MEANING SET FORTH IN SECTION 25.5-10-202.

(6) "INTERVENING PROFESSIONAL" HAS THE MEANING SET FORTH  
IN SECTION 27-65-102.

(7) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN  
SECTION 27-65-102.

(8) "NEUROCOGNITIVE DISORDER" MEANS A SUBSTANTIAL AND  
PERSISTENT DISORDER OF THE COGNITIVE OR NEUROLOGICAL PROCESSES  
THAT GROSSLY IMPAIRS JUDGMENT, MEMORY, OR CAPACITY TO RECOGNIZE  
REALITY OR TO CONTROL BEHAVIOR, GENERAL INTELLECTUAL  
FUNCTIONING, OR ADAPTIVE BEHAVIOR THAT IS ATTRIBUTABLE TO A

1 NEUROLOGICAL OR COGNITIVE DISORDER OR RELATED CONDITION,  
2 INCLUDING, BUT NOT LIMITED TO, A TRAUMATIC BRAIN INJURY, A  
3 DEGENERATIVE DISORDER, OR DEMENTIA. "NEUROCOGNITIVE DISORDER"  
4 DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

5 (9) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN  
6 SECTION 27-65-102.

7 (10) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM  
8 OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT  
9 PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND  
10 DEVELOPMENTAL DISABILITIES.

11 (11) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE  
12 MEANING SET FORTH IN SECTION 27-65-102.

13 **25.5-10-502. Criteria and standards for protective placement.**

14 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A  
15 RESPONDENT IF:

16 (a) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS  
17 A NEUROCOGNITIVE DISORDER;

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; AND

22 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, IS A  
23 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS.

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

1 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S  
2 OWN NEUROCOGNITIVE DISORDER;

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

5 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND  
6 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE  
7 FUTURE;

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

10 (e) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
11 THE PERSON'S HOSPITALIZATION, ARREST, CERTIFICATION FOR  
12 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

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

16 (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE  
17 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS  
18 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL  
19 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

20 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE  
21 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, OR POSES  
22 A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, THE COURT,  
23 EVALUATOR, OR INTERVENING PROFESSIONAL SHALL, WHENEVER  
24 POSSIBLE, USE ALL REASONABLE EFFORTS TO LEARN ABOUT PRIOR  
25 RELEVANT BEHAVIORS AND PRIOR DIAGNOSES THROUGH AVAILABLE AND  
26 RELIABLE SOURCES, INCLUDING THE PERSON'S PRIOR MEDICAL AND  
27 MENTAL HEALTH RECORDS, POLICE REPORTS, AND INFORMATION FROM

1 RELIABLE INDIVIDUALS WHO HAVE A RELATIONSHIP OR REGULAR  
2 SUBSTANTIAL INTERACTIONS WITH THE PERSON.

3 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS AN  
4 INCARCERATED PERSON AS IF THE PERSON WERE IN THE COMMUNITY WHEN  
5 EVALUATING WHETHER THE PERSON MEETS THE CRITERIA PURSUANT TO  
6 SUBSECTION (1) OF THIS SECTION.

7  
8 **25.5-10-503. Short-term protective placement for incompetent**  
9 **defendants in a criminal matter.**

10 (1) UPON PETITION OF A PROFESSIONAL PERSON OR INTERVENING  
11 PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND  
12 LICENSURE, AN APPOINTED LEGAL GUARDIAN, OR A REPRESENTATIVE OF  
13 THE BHA OR HCPF, A COURT MAY CERTIFY A PERSON FOR SHORT-TERM  
14 PROTECTIVE PLACEMENT FOR NOT MORE THAN THREE MONTHS UNDER THE  
15 FOLLOWING CONDITIONS:

16 (a) THE PERSON IS A RESPONDENT IN A CRIMINAL MATTER IN WHICH  
17 THE PERSON HAS BEEN FOUND INCOMPETENT TO PROCEED;

18 (b) THE COURT HEARING THE CRIMINAL MATTER REFERRED THE  
19 MATTER FOR FILING OF A PETITION PURSUANT TO SECTION 16-8.5-117;

20 (c) A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL  
21 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE:

22 (I) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE  
23 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST  
24 THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE  
25 SHORT-TERM PROTECTIVE PLACEMENT; AND

26 (II) HAS EVALUATED THE PERSON WITHIN THE PAST THREE  
27 MONTHS AND PRODUCED A WRITTEN OPINION THAT THE PERSON MEETS

1 THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
2 25.5-10-502;

3 (d) THERE IS A SKILLED NURSING FACILITY, A REGIONAL CENTER,  
4 OR ANOTHER PLACEMENT WILLING TO ACCEPT CARE AND CUSTODY OF THE  
5 RESPONDENT AND TO HOLD THE PROTECTIVE PLACEMENT; AND

6 (e) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE  
7 PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE  
8 PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE SHORT-TERM  
9 PROTECTIVE PLACEMENT.

10 (2) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS  
11 SECTION MUST:

12 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS  
13 THAT THE RESPONDENT MEETS THE CRITERIA FOR SHORT-TERM  
14 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, INCLUDING  
15 ATTACHING THE PROFESSIONAL PERSON'S OR INTERVENING  
16 PROFESSIONAL'S WRITTEN OPINION PRODUCED PURSUANT TO SUBSECTION  
17 (1)(c)(II) OF THIS SECTION;

18 (b) BE FILED WITHIN FOURTEEN DAYS AFTER THE INITIATING PARTY  
19 RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE  
20 SHORT-TERM PROTECTIVE PLACEMENT; AND

21 (c) BE FILED WITH THE COURT IN THE COUNTY WHERE THE  
22 RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR  
23 TO THE FILING OF THE PETITION; EXCEPT THAT, IF THE PERSON WAS  
24 ARRESTED FOR THE PRIOR CASE AND HELD IN CUSTODY, THE PETITION MAY  
25 BE FILED IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS  
26 PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE RESPONDENT'S ARREST.

27 (3) WITHIN TWENTY-FOUR HOURS AFTER CERTIFICATION, COPIES

1 OF THE SHORT-TERM PROTECTIVE PLACEMENT MUST BE PERSONALLY  
2 DELIVERED TO THE RESPONDENT AND HCPF WHO SHALL RETAIN A COPY  
3 OF THE CERTIFICATION AS PART OF THE RESPONDENT'S RECORD. IF THE  
4 CRIMINAL CASE IS PENDING, OR NOT YET DISMISSED, THE PETITIONING  
5 PARTY SHALL PROVIDE NOTICE OF THE FILING OF THE PETITION TO THE  
6 CRIMINAL COURT. THE CRIMINAL COURT SHALL PROVIDE THE NOTICE TO  
7 THE PROSECUTING AND DEFENSE ATTORNEYS IN THE CRIMINAL CASE AND  
8 ANY ATTORNEY APPOINTED THE RESPONDENT PURSUANT TO SUBSECTION  
9 (5) OF THIS SECTION.

10 (4) THE PETITIONER SHALL ASK THE RESPONDENT TO DESIGNATE  
11 ONE OTHER PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED  
12 REGARDING THE PETITION. IF THE RESPONDENT IS INCAPABLE OF MAKING  
13 A DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE COURT MAY  
14 ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE  
15 RESPONDENT IS CAPABLE. IF THE PETITIONER FAILS TO ASK THE  
16 RESPONDENT TO DESIGNATE A PERSON, THE RESPONDENT'S ATTORNEY  
17 APPOINTED PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL REPORT  
18 TO THE COURT ANY PERSON WHOM THE RESPONDENT WANTS TO BE  
19 INFORMED REGARDING THE PETITION.

20 (5) WHENEVER A PETITION IS FILED PURSUANT TO THIS SECTION,  
21 THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT  
22 THE RESPONDENT. THE COURT SHALL PROVIDE THE RESPONDENT WITH A  
23 WRITTEN NOTICE THAT THE RESPONDENT HAS A RIGHT TO A HEARING ON  
24 THE PETITION AND MAY MAKE A WRITTEN REQUEST FOR A JURY TRIAL. THE  
25 RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS  
26 CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE  
27 ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A

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

5 (6) UPON FILING A PETITION PURSUANT TO THIS SECTION AND  
6 AFFORDING THE RESPONDENT A CHANCE TO CONTEST THE PETITION, THE  
7 COURT MAY GRANT OR DENY THE PROTECTIVE PLACEMENT BASED ON THE  
8 FACTS ESTABLISHED IN THE PETITION, SUBJECT TO THE COURT'S FURTHER  
9 REVIEW OR A JURY TRIAL.

10 (7) WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE PETITION FILED  
11 PURSUANT TO THIS SECTION, THE RESPONDENT, OR THE RESPONDENT'S  
12 ATTORNEY, MAY REQUEST A JURY TRIAL BY FILING A WRITTEN MOTION  
13 WITH THE COURT.

14 (8) THE RESPONDENT MAY KNOWINGLY AND VOLUNTARILY  
15 CONSENT TO THE PETITION IN WRITING.

16 (9) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT  
17 ANY TIME, FILE A WRITTEN REQUEST FOR THE COURT TO REVIEW THE  
18 SHORT-TERM PROTECTIVE PLACEMENT. IF A REVIEW IS REQUESTED, THE  
19 COURT SHALL HEAR THE MATTER WITHIN FOURTEEN DAYS AFTER THE  
20 REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT, THE  
21 RESPONDENT'S ATTORNEY, HCPF, AND THE COMMUNITY OR FACILITY  
22 PROVIDER WHO IS OR WILL PROVIDE TREATMENT. THE HEARING MUST BE  
23 HELD IN ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION  
24 OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE SHORT-TERM  
25 PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY  
26 OTHER APPROPRIATE ORDER.

27 (10)(a) THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES,

1 AND CARE PROVIDERS MAY SHARE INFORMATION WITH EACH OTHER AND  
2 THE PARTIES AS NECESSARY. THE BHA, HCPF, THE DEPARTMENT OF  
3 HUMAN SERVICES, AND CARE PROVIDERS MAY RECEIVE AND POSSESS ALL  
4 INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS  
5 SECTION, INCLUDING ANY EVALUATIONS; ANY MEDICAL AND MENTAL  
6 HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND  
7 IN PROCEEDINGS HELD PURSUANT TO THIS PART 5, ARTICLE 65 OF TITLE 27,  
8 OR ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE  
9 RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

10 (b) THE COURT MAY ORDER THE DISTRICT ATTORNEY RESPONSIBLE  
11 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS  
12 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT  
13 RECORDS TO HCPF WITHIN SEVEN DAYS AFTER THE COURT'S ORDER.

14 (c) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE  
15 RESPONDENT IN ANY PROCEEDING SHALL SEND MATERIALS TO HCPF WITH  
16 THE RESPONDENT'S CONSENT.

17 (11) (a) THE DEPARTMENT OF HEALTH CARE POLICY AND  
18 FINANCING IS RESPONSIBLE FOR FINDING AN APPROPRIATE PROVIDER AND  
19 INPATIENT PLACEMENT FOR THE RESPONDENT.

20 (b) AFTER A PETITION IS FILED, UNLESS AN APPROPRIATE PROVIDER  
21 HAS ALREADY BEEN IDENTIFIED AND IS WILLING TO ACCEPT THE  
22 SHORT-TERM PROTECTIVE PLACEMENT, THE COURT SHALL ORDER HCPF  
23 TO PROVIDE CARE COORDINATION AND MAKE DILIGENT EFFORTS TO FIND  
24 A PROVIDER FOR THE RESPONDENT.

25 (c) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
26 SHALL KEEP THE COURT INFORMED, IN WRITING, OF EFFORTS MADE TO FIND  
27 AN APPROPRIATE PROVIDER FOR THE RESPONDENT.

1           (12) UPON ORDERING A SHORT-TERM PROTECTIVE PLACEMENT OF  
2           THE RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT  
3           HAS CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

4           (13) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT  
5           IN A SHORT-TERM PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO  
6           ANOTHER PROVIDER FOR TREATMENT AND THE SAFETY OF THE  
7           RESPONDENT OR THE PUBLIC REQUIRES THAT THE RESPONDENT BE  
8           TRANSPORTED BY A SECURE TRANSPORTATION PROVIDER OR A LAW  
9           ENFORCEMENT AGENCY, THE COURT MAY ISSUE AN ORDER DIRECTING THE  
10           LAW ENFORCEMENT AGENCY WHERE THE RESPONDENT RESIDES OR SECURE  
11           TRANSPORTATION PROVIDER TO DELIVER THE RESPONDENT TO THE  
12           DESIGNATED PROVIDER.

13           (14) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN  
14           SECTION 25.5-10-506, A SHORT-TERM PROTECTIVE PLACEMENT MAY BE  
15           TERMINATED UPON THE SIGNATURE OF THE TREATING MEDICAL  
16           PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A FACILITY  
17           OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS  
18           AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE  
19           RESPONDENT'S LEGAL GUARDIAN.

20           (15) IF THE PROFESSIONAL PERSON IN CHARGE OF THE  
21           RESPONDENT'S EVALUATION AND TREATMENT BELIEVES THAT A PERIOD  
22           LONGER THAN THREE MONTHS IS NECESSARY TO TREAT THE RESPONDENT,  
23           THE PROFESSIONAL PERSON SHALL FILE WITH THE COURT A REQUEST FOR  
24           AN EXTENDED PROTECTIVE PLACEMENT AT LEAST THIRTY DAYS PRIOR TO  
25           THE EXPIRATION DATE OF THE ORIGINAL PROTECTIVE PLACEMENT. AN  
26           EXTENDED PROTECTIVE PLACEMENT FOR TREATMENT MUST NOT BE FOR A  
27           PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS ENTITLED TO

1 A HEARING ON THE EXTENDED PROTECTIVE PLACEMENT UNDER THE SAME  
2 CONDITIONS AS AN ORIGINAL PROTECTIVE PLACEMENT. THE ATTORNEY  
3 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO  
4 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER  
5 ATTORNEY.

6 **25.5-10-504. Long-term protective placement of persons with**  
7 **a neurocognitive disorder - procedure.**

8 (1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE  
9 PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL  
10 PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE  
11 APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A  
12 PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE  
13 EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A  
14 LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE  
15 FOLLOWING CONDITIONS:

16 (a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY  
17 PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE  
18 RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO  
19 MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
20 25.5-10-502 (1); AND

21 (b) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, IN  
22 COLLABORATION WITH THE BHA, HAS IDENTIFIED A PROVIDER OR  
23 PLACEMENT TO PROVIDE CARE AND TREATMENT OF THE RESPONDENT.

24 (2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST  
25 INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE  
26 EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR  
27 A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO

1 WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE  
2 ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST  
3 BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM  
4 PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO  
5 THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE  
6 FILING.

7 (3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE  
8 RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY  
9 TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.

10 (4) THE COURT OR JURY SHALL DETERMINE WHETHER THE  
11 CONDITIONS OF SUBSECTION (1) OF THIS SECTION ARE MET AND WHETHER  
12 THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR  
13 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE  
14 COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT  
15 FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT  
16 FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER  
17 ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE  
18 PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE BHA FOR  
19 PLACEMENT WITH AN AGENCY OR FACILITY THAT IS APPROPRIATE TO  
20 PROVIDE LONG-TERM PROTECTIVE PLACEMENT. THE BHA MAY DELEGATE  
21 THE PHYSICAL CUSTODY OF THE RESPONDENT TO ANY FACILITY OR  
22 PROVIDER APPROPRIATE TO CARE FOR THE RESPONDENT AND THE  
23 REQUIREMENT FOR THE PROVISION OF SERVICES AND CARE COORDINATION.  
24 WHEN A PETITION CONTAINS A REQUEST THAT A SPECIFIC LEGAL  
25 DISABILITY BE IMPOSED OR THAT A SPECIFIC LEGAL RIGHT BE DEPRIVED,  
26 THE COURT MAY ORDER THE DISABILITY IMPOSED OR THE RIGHT DEPRIVED  
27 IF THE COURT OR A JURY HAS DETERMINED THAT THE RESPONDENT MEETS

1 THE CRITERIA AND STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT  
2 TO SECTION 25.5-10-502 (1) AND THAT, AS A RESULT, THE RESPONDENT IS  
3 UNABLE TO COMPETENTLY EXERCISE THE SPECIFIC LEGAL RIGHT OR  
4 PERFORM THE FUNCTION FOR WHICH THE DISABILITY IS SOUGHT TO BE  
5 IMPOSED. ANY INTERESTED PERSON MAY ASK LEAVE OF THE COURT TO  
6 INTERVENE AS A COPETITIONER FOR THE PURPOSE OF SEEKING THE  
7 IMPOSITION OF A LEGAL DISABILITY OR THE DEPRIVATION OF A LEGAL  
8 RIGHT.

9 (5) AN ORIGINAL ORDER OF LONG-TERM PROTECTIVE PLACEMENT  
10 AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED,  
11 UNLESS FURTHER EXTENDED AS PROVIDED IN THIS SUBSECTION (5). IF AN  
12 EXTENSION IS BEING SOUGHT, THE PROFESSIONAL PERSON IN CHARGE OF  
13 THE EVALUATION AND TREATMENT SHALL CERTIFY TO THE COURT AT  
14 LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORDER IN  
15 FORCE THAT AN EXTENSION OF THE ORDER IS NECESSARY FOR THE  
16 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN  
17 FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED  
18 TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE  
19 RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE  
20 THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE  
21 TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY OF RECORD THAT  
22 A HEARING UPON THE EXTENSION MAY BE HAD BEFORE THE COURT OR A  
23 JURY UPON WRITTEN REQUEST TO THE COURT WITHIN TEN DAYS AFTER  
24 RECEIPT OF THE NOTICE. IF A HEARING IS NOT TIMELY REQUESTED BY THE  
25 RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS  
26 TIMELY REQUESTED, THE HEARING MUST BE HELD BEFORE THE EXPIRATION  
27 DATE OF THE ORDER IN FORCE. IF THE COURT OR JURY FINDS THAT THE

1 CONDITIONS OF SUBSECTION (1) OF THIS SECTION CONTINUE TO BE MET  
2 AND THAT THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND  
3 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION  
4 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER.  
5 ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS  
6 MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

7 (6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE  
8 PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON  
9 THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL  
10 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE BHA         
11 PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE THE  
12 RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE  
13 RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY  
14 PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN  
15 ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS  
16 TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN  
17 OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE  
18 FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST  
19 TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

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21 **25.5-10-505. Connect respondent to home- and**  
22 **community-based services.**

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1 COMMUNITY-BASED SERVICES.

2 **25.5-10-506. Termination of protective placement - short-term**  
3 **and long-term placement.**

4 (1) A PROTECTIVE PLACEMENT TERMINATES WHEN THE  
5 PROFESSIONAL PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT,  
6 AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD,  
7 DETERMINES THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR  
8 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1).

9 (2) THE PROFESSIONAL PERSON IN CHARGE OF THE  
10 RESPONDENT'S CARE SHALL NOT APPROVE THE TERMINATION OF THE  
11 PROTECTIVE PLACEMENT UNLESS TWO PROFESSIONAL PERSONS  
12 INDEPENDENTLY EVALUATE THE RESPONDENT AND INDEPENDENTLY OPINE  
13 THAT THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR PROTECTIVE  
14 PLACEMENT TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE  
15 PROFESSIONAL PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH  
16 AND PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS  
17 REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS  
18 WITH ONLY ONE PROFESSIONAL PERSON.

19 **25.5-10-507. Court supervision of incompetent and**  
20 **unrestorable persons ordered into an enhanced protective placement.**

21 (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF  
22 AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118  
23 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509,  
24 THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED  
25 PROTECTIVE PLACEMENT.

26 (2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE  
27 PLACEMENT, THE COURT SHALL:

- 1 (a) NOTIFY THE COUNTY ATTORNEY;
- 2 (b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND  
3 PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO  
4 THE RESPONDENT'S ATTORNEY; AND
- 5 (c) SET A REVIEW HEARING AND ORDER THE RESPONDENT  
6 BROUGHT BEFORE THE COURT.
- 7 (3) AT THE REVIEW HEARING, THE COURT SHALL:
- 8 (a) ENSURE THE RESPONDENT IS REPRESENTED BY COUNSEL; AND
- 9 (b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:
- 10 (I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS  
11 WAIVED BY THE RESPONDENT;
- 12 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED  
13 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT  
14 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD  
15 PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;
- 16 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE  
17 ENHANCED PROTECTIVE PLACEMENT; AND
- 18 (IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED  
19 PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY  
20 TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE  
21 ENHANCED PROTECTIVE PLACEMENT.
- 22 (4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT,  
23 THE COURT MAY:
- 24 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED  
25 PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING  
26 THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;
- 27 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER

1 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT  
2 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE  
3 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED  
4 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;

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

6 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS  
7 THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE  
8 PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

9 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN  
10 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE  
11 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
12 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
13 OTHERS, OR IS GRAVELY DISABLED;

14 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE  
15 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE  
16 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE  
17 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR  
18 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY  
19 THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT  
20 CARE AT THE DISCRETION OF CDHS OR HCPF;

21 (e) ORDER, AS NECESSARY, APPROPRIATE ENTITIES, INCLUDING THE  
22 SHERIFF, TO BRING THE RESPONDENT BEFORE THE COURT OR TAKE THE  
23 RESPONDENT TO THE PLACEMENT WHERE PHYSICAL CUSTODY OF THE  
24 RESPONDENT HAS BEEN ORDERED;

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

27 (g) ISSUE ORDERS AS NECESSARY TO EFFECTUATE AND ENFORCE

1 THE COURT'S POWERS AND RESPONSIBILITIES PURSUANT TO THIS SECTION,  
2 INCLUDING AUTHORIZATION FOR THE REASONABLE USE OF FORCE,  
3 WARRANTS FOR THE ARREST OF THE RESPONDENT, OR CONTEMPT  
4 PROCEEDINGS AGAINST A NONCOMPLIANT INDIVIDUAL OR ENTITY.

5 (5) (a) THE COURT SHALL ENSURE THE RESPONDENT IS PLACED IN  
6 THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM  
7 AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE,  
8 THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
9 RESPONDENT.

10 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT  
11 THE DISCRETION OF CDHS OR HCPF OR IF CDHS OR HCPF PROPOSES TO  
12 MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT  
13 SHALL, PRIOR TO MODIFYING THE ENHANCED PROTECTIVE PLACEMENT TO  
14 CHANGE THE RESPONDENT'S PROVIDER OR PLACEMENT,     REVIEW THE  
15 APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT,  
16 INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS  
17 AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY  
18 PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS  
19 HARM TO OTHERS POSED BY THE RESPONDENT.

20 (c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE  
21 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO  
22 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY  
23 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE  
24 COURT'S DECISION.

25 (d) WHEN DECIDING WHETHER TO APPROVE THE NEW PROVIDER OR  
26 PLACEMENT, THE COURT SHALL GIVE DEFERENCE TO CDHS AND THE  
27 OPINION OF ANY MEDICAL PROFESSIONAL ON THE APPROPRIATENESS OF

1 THE PROVIDER AND PLACEMENT FOR THE RESPONDENT, BUT DEFERENCE  
2 MUST NOT BE GIVEN TO CDHS OR A MEDICAL PROFESSIONAL AS TO  
3 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS ANY VICTIMS AND THE  
4 COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS  
5 POSED BY THE RESPONDENT. WHEN CONSIDERING THE APPROPRIATENESS  
6 OF THE PLACEMENT FOR THE RESPONDENT, VICTIMS, AND THE COMMUNITY,  
7 THE COURT SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES,  
8 INCLUDING:

9 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE  
10 RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND  
11 DEVELOPMENTAL DISABILITY;

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

14 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED  
15 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH TREATMENT AND  
16 SERVICES IN THE REASONABLY FORESEEABLE FUTURE;

17 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,  
18 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR  
19 OTHERS;

20 (V) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN  
21 THE RESPONDENT'S HOSPITALIZATION, ARREST, CERTIFICATION FOR  
22 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

23 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION  
24 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S  
25 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL  
26 HARM; ==

27 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE

1 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF  
2 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS  
3 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

4 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

5 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE  
6 REASONABLY ACCOMMODATED;

7 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF  
8 OTHERS; AND

9 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING  
10 PROFESSIONALS.

11 (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE  
12 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE,  
13 AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE BEING IN AN  
14 ENHANCED PROTECTIVE PLACEMENT UNLESS:

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

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

21 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR  
22 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO  
23 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,  
24 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND  
25 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM  
26 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER  
27 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT

1 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE  
2 RESPONDENT CANNOT COMPLY.

3 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO  
4 INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101, AT THE DISCRETION  
5 OF CDHS OR HCPF, THE EXECUTIVE DIRECTOR OF HCPF SHALL  
6 DESIGNATE THE STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR  
7 CARE AND TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE  
8 FACILITY TO ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT  
9 IS APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE,  
10 CUSTODY, AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION  
11 OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

12 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,  
13 HCPF SHALL:

14 (I) ENSURE THE RESPONDENT IS PLACED IN THE  
15 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND  
16 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE  
17 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE  
18 RESPONDENT; AND

19 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED  
20 SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101,  
21 FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO AN  
22 ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE  
23 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

24 (7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS  
25 GOVERNED BY SECTION 25.5-10-508.

26 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND  
27 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT

1 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS  
2 ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A  
3 SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE  
4 PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

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

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

9 (II) CONTINUES TO MEET THE CRITERIA FOR ENHANCED  
10 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118;

11 (III) MEETS THE CRITERIA FOR CIVIL COMMITMENT PURSUANT TO  
12 SECTION 16-8.5-118;

13 (IV) IS APPROPRIATELY PLACED; AND

14 (V) MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED  
15 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508;

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

18 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE  
19 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

20 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO  
21 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S  
22 PROGRESS;

23 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH  
24 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS  
25 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE  
26 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

27 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO

1 OTHERS;

2 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE  
3 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED  
4 TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED  
5 PROTECTIVE PLACEMENT;

6 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS  
7 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC  
8 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A  
9 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR;

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

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

14 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE  
15 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE  
16 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR  
17 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO  
18 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED  
19 NECESSARY FOR THE COURT'S SUPERVISION OF THE ENHANCED PROTECTIVE  
20 PLACEMENT.

21 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,  
22 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST  
23 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND  
24 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE  
25 ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM  
26 TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE  
27 CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT

1 PURSUANT TO SECTION 25.5-10-508. THE RESPONDENT SHALL COOPERATE  
2 WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION  
3 (10)(a).

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

7 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR  
8 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE  
9 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO  
10 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT  
11 DOES NOT MEET THE CRITERIA FOR TERMINATION.

12 **25.5-10-508. Termination of enhanced protective placement.**

13 (1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED  
14 PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507  
15 WHEN THE RESPONDENT:

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

18 (b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR  
19 INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO  
20 CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR  
21 A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED  
22 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S  
23 CONDUCT TO THE REQUIREMENTS OF THE LAW.

24 (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE  
25 AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT  
26 MEETS THE STANDARD FOR TERMINATION FROM ENHANCED PROTECTIVE  
27 PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE

1 PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE  
2 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE  
3 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE  
4 DISTRICT ATTORNEY WHO ORIGINALLY REQUESTED A CIVIL COMMITMENT  
5 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
6 16-8.5-118. THE COURT SHALL FURNISH A COPY OF THE REPORT TO THE  
7 RESPONDENT AND THE RESPONDENT'S COUNSEL.

8 (3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE  
9 ENHANCED PROTECTIVE PLACEMENT IN WRITING AT ANY TIME THE  
10 RESPONDENT WOULD NOT BE PROHIBITED FROM HAVING A SUBSEQUENT  
11 TERMINATION TRIAL PURSUANT TO SUBSECTION (7) OF THIS SECTION.

12 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST  
13 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON  
14 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR  
15 TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO  
16 SUBSECTION (1) OF THIS SECTION.

17 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR  
18 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE  
19 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY  
20 SOUGHT ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
21 16-8.5-118 FOURTEEN DAYS TO OBJECT TO TERMINATION OR REQUEST AN  
22 OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION BY AN EXPERT  
23 OF THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S OWN CHOOSING  
24 AND EXPENSE.

25 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT  
26 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN  
27 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE

1 RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

2 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY  
3 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,  
4 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO  
5 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR  
6 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN  
7 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE  
8 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT  
9 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST  
10 FOR A SINGLE INDEPENDENT EVALUATION.

11 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE  
12 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE  
13 RESPONDENT'S REQUEST FOR TERMINATION.

14 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE  
15 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO  
16 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

17 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY  
18 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL  
19 TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

20 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY  
21 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE  
22 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE  
23 RESPONDENT'S COUNSEL RECEIVED A COPY OF ANY REPORTS RECEIVED,  
24 AND ADVISE THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE  
25 COURT OR THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE  
26 THAN SIX INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS  
27 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS

1 SECTION.

2 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE  
3 COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE  
4 DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL  
5 SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A  
6 DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME  
7 LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE COURT DOES NOT BEGIN  
8 THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION  
9 (5)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE  
10 PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE  
11 AND CUSTODY.

12 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION  
13 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS  
14 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE  
15 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY  
16 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL  
17 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY  
18 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT  
19 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND  
20 TO ANY OTHER MATTERS RELATED TO THE ENHANCED PROTECTIVE  
21 PLACEMENT AND TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY  
22 RELATED APPEALS.

23 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT  
24 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION  
25 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1)  
26 OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A  
27 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE

1 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
2 SECTION.

3 (b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE  
4 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
5 SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE  
6 PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S  
7 ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE  
8 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT  
9 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE  
10 ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY  
11 ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT  
12 OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

13 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET  
14 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS  
15 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION  
16 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL  
17 FOR TERMINATION.

18 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR  
19 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO  
20 LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A  
21 NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY  
22 DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE  
23 DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL  
24 CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL  
25 COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT  
26 IN ACCORDANCE WITH SECTION 27-65-201.

27 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR

1 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A  
2 CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN  
3 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE  
4 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE  
5 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO  
6 OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE  
7 RECOMMENDATION OF CDHS, CONVERT THE ENHANCED PROTECTIVE  
8 PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE  
9 CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-201.

10 **25.5-10-509. Jurisdiction - transfer.**

11 (1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO  
12 THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS  
13 PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING  
14 JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF  
15 ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY  
16 FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

17 (b) WHEN THE CONVENIENCE OF THE PARTIES AND THE ENDS OF  
18 JUSTICE WOULD BE PROMOTED BY A CHANGE IN THE COURT HAVING  
19 JURISDICTION, THE COURT MAY ORDER A TRANSFER OF THE PROCEEDING  
20 TO ANOTHER COUNTY. UNTIL FURTHER ORDER OF THE TRANSFEREE COURT,  
21 IF ANY, IT IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE  
22 CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS  
23 PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING  
24 TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS  
25 INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT  
26 PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

27 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),

1 ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED  
2 PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED  
3 WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR  
4 TREATMENT.

5 (b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT  
6 PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION  
7 WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS  
8 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

9 (c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN  
10 INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION  
11 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE  
12 PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT  
13 RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF  
14 THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE  
15 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

16 (3) IN ANY CASE IN WHICH THERE HAS BEEN A CHANGE OF VENUE  
17 TO A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE  
18 RESPONDENT OR THE COUNTY IN WHICH THE PROCEEDING WAS  
19 COMMENCED, THE COUNTY FROM WHICH THE PROCEEDING WAS  
20 TRANSFERRED SHALL EITHER REIMBURSE THE COUNTY TO WHICH THE  
21 PROCEEDING WAS TRANSFERRED AND IN WHICH THE PROCEEDING WAS  
22 HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE  
23 PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN  
24 PERSONNEL AND RESOURCES, INCLUDING ITS OWN DISTRICT OR COUNTY  
25 ATTORNEY, AS THE CASE MAY BE.

26 (4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10  
27 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE

1     ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT  
2     DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR  
3     A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN  
4     ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR  
5     NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION  
6     AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

7             **25.5-10-510. Hearing procedures.**

8             (1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE  
9     CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE  
10    THE COURT.

11            (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S  
12    COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT  
13    A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A  
14    PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO  
15    THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE  
16    COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN  
17    ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE  
18    PROFESSIONAL PERSON'S FINDINGS.

19            (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT  
20    TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY  
21    PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL  
22    GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND  
23    REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN  
24    CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

25            (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT  
26    CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW  
27    LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S

1 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE  
2 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

3 **25.5-10-511. County attorney and district attorney**  
4 **responsibilities.**

5 (1) THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY IN A  
6 COUNTY OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR  
7 LESS THAN FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING  
8 AS THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S DESIGNEE WHO IS  
9 APPROVED BY THE DISTRICT COURT, HAS THE FOLLOWING POWERS AND  
10 RESPONSIBILITIES:

11 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN  
12 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED  
13 FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

14       
15 (b) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION  
16 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT  
17 TO THIS PART 5; AND

18 (c) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS  
19 BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS  
20 ALLOWABLE BY LAW.

21 **25.5-10-512. Appeals.**

22 (1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE  
23 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS  
24 PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE  
25 ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE  
26 DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY  
27 THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT

1 MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND  
2 CUSTODY OF THE RESPONDENT.

3 (2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE  
4 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF  
5 THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE  
6 CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE  
7 ENTERED.

8 **25.5-10-513. Habeas corpus.**

9 ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS ENTITLED TO  
10 AN ORDER IN THE NATURE OF HABEAS CORPUS UPON PROPER PETITION TO  
11 ANY COURT GENERALLY EMPOWERED TO ISSUE ORDERS IN THE NATURE OF  
12 HABEAS CORPUS.

13 **25.5-10-514. Rights of respondents ordered into enhanced**  
14 **protective placement or protective placement.**

15 (1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS  
16 PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED  
17 PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN  
18 INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10,  
19 INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220,  
20 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227,  
21 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

22 (2) A RESPONDENT PLACED IN THE CUSTODY OF CDHS AT A STATE  
23 HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO PROCEEDINGS  
24 PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE RIGHTS PROVIDED  
25 IN SECTIONS 27-65-105, 27-65-108, 27-65-117, 27-65-118, 27-65-119,  
26 27-65-122, AND 27-65-124.

27 **25.5-10-515. Records - rules.**

1           (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL  
2 INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF  
3 PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION  
4 OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION  
5 AND RECORDS MAY BE DISCLOSED ONLY:

6           (a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS,  
7 FACILITY PERSONNEL, OR STATE AGENCIES IN THE PROVISION OF SERVICES  
8 OR APPROPRIATE REFERRALS;

9           (b) WHEN THE RECIPIENT OF SERVICES DESIGNATES PERSONS TO  
10 WHOM INFORMATION OR RECORDS MAY BE RELEASED, BUT, IF A RECIPIENT  
11 OF SERVICES IS A WARD OR CONSERVATEE AND THE WARD'S OR  
12 CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING,  
13 PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE  
14 DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT;  
15 EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN,  
16 PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER  
17 PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN  
18 GIVEN TO THE PERSON IN CONFIDENCE BY MEMBERS OF A PATIENT'S  
19 FAMILY OR OTHER INFORMANTS;

20           (c) TO THE EXTENT NECESSARY TO MAKE CLAIMS ON BEHALF OF A  
21 RECIPIENT OF AID, INSURANCE, OR MEDICAL ASSISTANCE TO WHICH THE  
22 RECIPIENT MAY BE ENTITLED;

23           (d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH.  
24 THE RULES MUST INCLUDE, BUT ARE NOT LIMITED TO, THE REQUIREMENT  
25 THAT ALL RESEARCHERS MUST SIGN AN OATH OF CONFIDENTIALITY. ALL  
26 IDENTIFYING INFORMATION CONCERNING INDIVIDUAL PATIENTS,  
27 INCLUDING NAMES, ADDRESSES, TELEPHONE NUMBERS, AND SOCIAL

1 SECURITY NUMBERS, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

2 (e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF  
3 THIS PART 5;

4 (f) TO PERSONS AUTHORIZED BY AN ORDER OF COURT AFTER  
5 NOTICE AND OPPORTUNITY FOR HEARING TO THE PERSON TO WHOM THE  
6 RECORD OR INFORMATION PERTAINS AND THE CUSTODIAN OF THE RECORD  
7 OR INFORMATION PURSUANT TO THE COLORADO RULES OF CIVIL  
8 PROCEDURE;

9 (g) TO FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A  
10 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL  
11 DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

12 (h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY  
13 PARTICIPATING IN THE CARE AND TREATMENT OF A PERSON WITH A  
14 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL  
15 DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE  
16 INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS LIMITED  
17 TO ONE OR MORE OF THE FOLLOWING: THE DIAGNOSIS, THE PROGNOSIS,  
18 THE NEED FOR HOSPITALIZATION AND ANTICIPATED LENGTH OF STAY, THE  
19 DISCHARGE PLAN, THE MEDICATION ADMINISTERED AND SIDE EFFECTS OF  
20 THE MEDICATION, AND THE SHORT-TERM AND LONG-TERM TREATMENT  
21 GOALS.

22 (i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE  
23 AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND  
24 ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C.  
25 SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY  
26 SYSTEM FOR COLORADO.

27 (2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT

1 PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE  
2 PARENT'S MINOR CHILD.

3 (3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION  
4 PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND  
5 INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107,  
6 CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL  
7 OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING  
8 SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE  
9 COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING  
10 SERVICES PURSUANT TO THIS PART 5.

11 (b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO  
12 PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A  
13 CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION  
14 16-8-103.6.

15 (c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF  
16 NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL  
17 DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE  
18 PERSON.

19 (4) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO  
20 THIS PART 5 MUST BE MAINTAINED SEPARATELY BY THE CLERK OF THE  
21 SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST NOT BE  
22 MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS SECTION.

23 (b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT  
24 PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN  
25 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508,  
26 THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE  
27 CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN

1 THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN  
2 ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION  
3 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR  
4 GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO  
5 SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND  
6 BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE  
7 PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

8 (c) NOTWITHSTANDING SUBSECTION (4)(b) OF THIS SECTION,  
9 WHILE A MATTER IS PENDING OR AFTER A CASE IS SEALED, THE COURT MAY  
10 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND  
11 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING  
12 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE  
13 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A  
14 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID  
15 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE  
16 CLERK OF THE COURT SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE  
17 AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR  
18 AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

19 (5) IF A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES IN  
20 THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD, THE COURT,  
21 COUNTY ATTORNEY, OR DISTRICT ATTORNEY CONDUCTING ANY  
22 SUBSEQUENT PROCEEDINGS PURSUANT TO THIS PART 5 AND THE PROVIDER  
23 WHO CONDUCTS AN EVALUATION OR PROVIDES CARE MAY, WITHOUT  
24 COURT AUTHORIZATION, PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY  
25 WITH THE FOLLOWING LIMITED INFORMATION, IF AVAILABLE:

26 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE  
27 RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE

1 PLACEMENT PURSUANT TO SECTION 25.5-10-503;

2 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN  
3 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE  
4 RESPONDENT; AND

5 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR  
6 SHORT-TERM PROTECTIVE PLACEMENT.

7 (6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY  
8 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT  
9 PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN  
10 SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL  
11 WITH LAWFUL POSSESSION OF RECORDS FROM MAINTAINING AND USING  
12 THE RECORDS, UNLESS PROHIBITED BY LAW.

13 (7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A  
14 PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE  
15 DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN  
16 INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE RECORDS FOR  
17 GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER  
18 CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE  
19 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5.

20 (8) THE DISTRICT ATTORNEY MAY PROVIDE INFORMATION TO A  
21 VICTIM WHEN NECESSARY TO COMPLY WITH THE "VICTIM RIGHTS ACT",  
22 PART 3 OF ARTICLE 4.1 OF TITLE 24.

23 **25.5-10-516. Payment for counsel.**

24 IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS  
25 ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL  
26 DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL  
27 ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A

1 CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM  
2 GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL  
3 PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST  
4 LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

5 **25.5-10-517. Authority to increase payments to nursing facility**  
6 **and regional center providers - rules.**

7 SUBJECT TO AVAILABLE APPROPRIATIONS AND FEDERAL  
8 AUTHORIZATION, HCPF MAY INCREASE PAYMENTS TO NURSING FACILITY  
9 PROVIDERS AND REGIONAL CENTER PROVIDERS FOR THE PURPOSE OF  
10 ACHIEVING THE LEAST RESTRICTIVE PLACEMENT REQUIREMENT FOR  
11 INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT PURSUANT TO THIS  
12 PART 5. HCPF SHALL ADOPTED RULES DEFINING THE QUALIFICATIONS AND  
13 PAYMENT SCHEDULE FOR NURSING FACILITY PROVIDERS AND REGIONAL  
14 CENTER PROVIDERS THAT SERVE THE INDIVIDUALS SUBJECT TO A  
15 PROTECTIVE PLACEMENT.

16 **25.5-10-518. Repeal of part.**

17 THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2031.

18 **SECTION 23. In Colorado Revised Statutes, add 25.5-6-414 as**  
19 **follows:**

20 **25.5-6-414. Delivery of services for individuals with serious**  
21 **mental illness - rules.**

22 (1) THE STATE DEPARTMENT IS COMMITTED TO IMPROVING ACCESS  
23 TO, AND THE QUALITY OF SERVICES FOR, INDIVIDUALS WITH SERIOUS  
24 MENTAL ILLNESS WHO ARE ENROLLED IN THE STATE MEDICAL ASSISTANCE  
25 PROGRAM.

26 (2) THE STATE DEPARTMENT SHALL, IN COLLABORATION WITH THE  
27 BEHAVIORAL HEALTH ADMINISTRATION, SERVICE PROVIDERS,

1 STAKEHOLDERS, AND INDIVIDUALS WITH LIVED EXPERIENCE,  
2 CONTINUOUSLY EVALUATE AND EXPLORE OPTIONS TO ENHANCE THE  
3 DELIVERY OF SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS,  
4 WHICH EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

5 (a) EXPANDING COMMUNITY-BASED SERVICE CAPACITY AND CARE  
6 COORDINATION;

7 (b) IMPROVING TRANSITIONS OF CARE ACROSS SETTINGS;

8 (c) LEVERAGING FEDERAL AUTHORITIES, WAIVERS, AND FINANCING  
9 MECHANISMS;

10 (d) ADVANCING INNOVATIVE SERVICE DELIVERY MODELS AND  
11 VALUE-BASED PAYMENT APPROACHES; AND

12 (e) IDENTIFYING AND ADDRESSING GAPS IN ACCESS, QUALITY, AND  
13 OUTCOMES.

14 (3) THE STATE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO  
15 ALIGN FINANCING, BENEFITS, AND SERVICE DELIVERY SYSTEMS TO BETTER  
16 MEET THE NEEDS OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WITH  
17 THE GOALS OF IMPROVING HEALTH OUTCOMES, REDUCING AVOIDABLE  
18 UTILIZATION OF HIGH-COST SERVICES, AND SUPPORTING INDIVIDUALS TO  
19 LIVE IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO MEET THE  
20 INDIVIDUAL'S NEEDS.

21 (4) THE STATE DEPARTMENT MAY ADOPT RULES AS NECESSARY TO  
22 IMPLEMENT THIS SECTION.

23 (5) THIS SECTION DOES NOT CREATE AN ENTITLEMENT TO A  
24 SPECIFIC SERVICE OR LEVEL OF CARE.

25 **SECTION 24.** In Colorado Revised Statutes, 25.5-10-216,  
26 **amend (7) as follows:**

27 **25.5-10-216. Imposition of legal disability - removal of legal**

1 **right.**

2 (7) A person shall not be admitted to a regional center, as defined  
3 in section 27-10.5-102, C.R.S., without a court order issued pursuant to  
4 this section except in an emergency, IF THE PERSON MEETS THE CRITERIA  
5 FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
6 16-8.5-118, or for the purpose of temporary respite care.

7 **SECTION 25.** In Colorado Revised Statutes, 27-10.5-110,  
8 **amend (2) as follows:**

9 **27-10.5-110. Imposition of legal disability - removal of legal**  
10 **right.**

11 (2) A person shall not be admitted to a regional center without a  
12 court order issued pursuant to section 25.5-10-216, C.R.S., except in an  
13 emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED  
14 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the  
15 purpose of temporary respite care.

16 **SECTION 26.** In Colorado Revised Statutes, 13-94-105, **add**  
17 **(1.6) as follows:**

18 **13-94-105. Office of public guardianship - director - duties -**  
19 **memorandum of understanding - annual report - repeal.**

20 (1.6) THE OFFICE MAY ESTABLISH, MAINTAIN, AND ADJUST  
21 STAFFING LEVELS, INCLUDING GUARDIANS, CASE AIDES, AND  
22 ADMINISTRATIVE SUPPORT, AS NECESSARY TO:

23 (a) SCREEN AND ACCEPT REFERRALS ARISING FROM COMPETENCY  
24 PROCEEDINGS UNDER ARTICLE 8.5 OF TITLE 16;

25 (b) PROVIDE      EMERGENCY PUBLIC GUARDIANSHIP SERVICES  
26 PURSUANT TO SECTION 15-14-312 (6), ARTICLE 8.5 OF TITLE 16, ARTICLE  
27 10 OF TITLE 25.5, AND ARTICLE 65 OF TITLE 27 FOR INDIGENT INDIVIDUALS

1 FOUND INCOMPETENT TO PROCEED;

2 (c) IDENTIFY AND SUPPORT TIMELY TRANSITIONS TO CIVIL  
3 PLACEMENT, TREATMENT, AND SERVICES IN ORDER TO PREVENT  
4 UNNECESSARY INCARCERATION OR HOSPITALIZATION; AND

5 (d) SUPPORT LONG-TERM GUARDIANSHIP SERVICES WHEN  
6 NECESSARY.

7 **SECTION 27.** In Colorado Revised Statutes, 15-14-312, **add** (6)  
8 as follows:

9 **15-14-312. Emergency guardian.**

10 (6) IN ADDITION TO A COURT WITH JURISDICTION TO HEAR  
11 PROCEEDINGS PURSUANT TO THIS TITLE 15, A CRIMINAL COURT MAY  
12 APPOINT AN EMERGENCY GUARDIAN AS AUTHORIZED PURSUANT TO  
13 SECTION 16-8.5-117 OR 16-8.5-118, OR A CIVIL COURT SUPERVISING A  
14 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED  
15 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 MAY  
16 APPOINT AN EMERGENCY GUARDIAN.

17 **SECTION 28.** In Colorado Revised Statutes, 24-75-109, **add**  
18 (1)(b)(III) as follows:

19 **24-75-109. Controller may allow expenditures in excess of**  
20 **appropriations - limitations - appropriations for subsequent fiscal**  
21 **year restricted - repeal.**

22 (1) For the purpose of closing the state's books, and subject to the  
23 provisions of this section, the controller may, on or after May 1 of any  
24 fiscal year and before the forty-fifth day after the close thereof, upon  
25 approval of the governor, allow any department, institution, or agency of  
26 the state, including any institution of higher education, to make an  
27 expenditure in excess of the amount authorized by an item of

1 appropriation for such fiscal year if:

2 (b) (III) THE OVEREXPENDITURE IS BY THE DEPARTMENT OF  
3 HUMAN SERVICES FOR THE PURPOSE OF PLACING INDIVIDUALS FOUND  
4 INCOMPETENT TO PROCEED AND UNRESTORABLE WHO MEET THE CRITERIA  
5 FOR CIVIL COMMITMENT, PROTECTIVE PLACEMENT, OR ENHANCED  
6 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118 AND ARE  
7 COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES; OR

8 **SECTION 29.** In Colorado Revised Statutes, 24-4.1-302, **add**  
9 (2)(q.1), (2)(q.2), and (2)(q.3) as follows:

10 **24-4.1-302. Definitions.**

11 As used in this part 3, and for no other purpose, including the  
12 expansion of the rights of any defendant:

13 (2) "Critical stages" means the following stages of the criminal  
14 justice process:

15 (q.1) A TRIAL FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
16 PLACEMENT PURSUANT TO SECTION 16-8.5-118;

17 (q.2) A HEARING TO TERMINATE A CIVIL COMMITMENT PURSUANT  
18 TO SECTION 27-65-202 OR AN ENHANCED PROTECTIVE PLACEMENT  
19 PURSUANT TO SECTION 25.5-10-508;

20 (q.3) THE TRANSFER, RELEASE, OR ESCAPE OF A PERSON UNDER A  
21 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED  
22 PROTECTIVE PLACEMENT UNDER COURT SUPERVISION PURSUANT TO  
23 SECTION 25.5-10-507 WHEN THE CRIMINAL CASE INITIATING THE CIVIL  
24 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT INVOLVED A  
25 VICTIM.

26 **SECTION 30.** In Colorado Revised Statutes, 24-4.1-302.5,  
27 **amend** (1)(b); and **add** (1)(j.6) as follows:

1           **24-4.1-302.5. Rights afforded to victims - definitions.**

2           (1) In order to preserve and protect a victim's rights to justice and  
3 due process, each victim of a crime has the following rights:

4           (b) The right to be informed of and be present by appearing in  
5 person, by phone, virtually by audio or video, or similar technology for  
6 all critical stages of the criminal justice process as specified in section  
7 24-4.1-302 (2); except that the victim shall have the right to be informed  
8 of, without being present for, the critical stages described in section  
9 24-4.1-302 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p),  
10 (2)(q), **(2)(q.3)**, (2)(r), and (2)(u);

11           (j.6) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR CHANGES  
12 TO MATERIAL TERMS OF A CIVIL COMMITMENT PURSUANT TO SECTION  
13 27-65-201 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION  
14 25.5-10-507 ON BEHALF OF A PERSON IN A CIVIL COMMITMENT OR  
15 PROTECTIVE PLACEMENT IN A CRIMINAL CASE INVOLVING THE VICTIM, AND  
16 THE RIGHT TO BE PRESENT BY APPEARING IN PERSON, BY PHONE, OR  
17 VIRTUALLY BY VIDEO OR AUDIO, OR SIMILAR TECHNOLOGY, AND HEARD AT  
18 ANY HEARING DURING WHICH A COURT CONSIDERS THE REQUEST. AS USED  
19 IN THIS SUBSECTION (1)(j.6), "REQUEST FOR CHANGES TO MATERIAL  
20 TERMS" INCLUDES ANY REQUEST TO BE RELEASED FROM AN INPATIENT  
21 SETTING TO AN OUTPATIENT SETTING OR TO BE MOVED INTO A  
22 LESS-SECURE SETTING.

23           **SECTION 31.** In Colorado Revised Statutes, 24-4.1-303, **add**  
24 (11)(b.8), (11)(b.9), (14.6), and (14.8) as follows:

25           **24-4.1-303. Procedures for ensuring rights of victims of**  
26 **crimes.**

27           (11) The district attorney shall inform a victim of the following:

1 (b.8) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302  
2 (2)(q.1), (2)(q.2), AND (2)(q.3);

3 (b.9) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION  
4 (14.8) OF THIS SECTION.

5 (14.6) ANY FACILITY OR PROVIDER THAT HAS THE CARE AND  
6 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING  
7 PURSUANT TO A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE  
8 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OR SUPERVISION OF A CIVIL  
9 COMMITMENT PURSUANT TO SECTION 27-65-201 OR ENHANCED  
10 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 THAT  
11 RESULTED FROM A CRIMINAL CASE INVOLVING A VICTIM SHALL NOTIFY THE  
12 APPLICABLE COUNTY ATTORNEY OF THE FOLLOWING:

- 13 (a) THE INSTITUTION IN WHICH THE PERSON RESIDES;
- 14 (b) ANY RELEASE OF THE PERSON ON FURLOUGH OR OTHER  
15 PROGRAM, IN ADVANCE OF THE RELEASE;
- 16 (c) ANY OTHER TRANSFER OR RELEASE FROM AN INPATIENT  
17 SETTING;
- 18 (d) ANY ESCAPE BY THE PERSON AND ANY SUBSEQUENT  
19 RECAPTURE OF THE PERSON; AND
- 20 (e) THE DEATH OF THE PERSON WHILE IN CUSTODY OR WHILE  
21 UNDER THE JURISDICTION OF THE STATE.

22 (14.8) THE COUNTY ATTORNEY SHALL INFORM THE DISTRICT  
23 ATTORNEY THAT SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE  
24 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OF THE FOLLOWING:

- 25 (a) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302  
26 (2)(q.1), (2)(q.2), AND (2)(q.3);
- 27 (b) ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL

1 COMMITMENT DESCRIBED IN SECTION 24-4.1-302.5 (2)(j.6); AND

2 (c) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.6)  
3 OF THIS SECTION FROM A FACILITY OR A PROVIDER WHO HAS THE CARE AND  
4 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING  
5 PURSUANT TO A CIVIL COMMITMENT SUPERVISED PURSUANT TO SECTION  
6 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT SUPERVISED  
7 PURSUANT TO SECTION 25.5-10-507.

8 **SECTION 32.** In Colorado Revised Statutes, 13-5-142, **amend**  
9 (1)(c) and (3)(b)(III) as follows:

10 **13-5-142. National instant criminal background check system**  
11 **- reporting.**

12 (1) On and after March 20, 2013, the state court administrator  
13 shall send electronically the following information to the Colorado bureau  
14 of investigation created pursuant to section 24-33.5-401, referred to in  
15 this section as the "bureau":

16 (c) The name of each person with respect to whom the court has  
17 entered an order for ~~involuntary~~ certification for short-term treatment of  
18 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~  
19 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended  
20 certification for treatment of a mental health disorder pursuant to section  
21 27-65-109 (10), or for long-term care and treatment of a mental health  
22 disorder pursuant to section 27-65-110.

23 (3) The state court administrator shall take all necessary steps to  
24 cancel a record made by the state court administrator in the national  
25 instant criminal background check system if:

26 (b) No less than three years before the date of the written request:

27 (III) The record in the case was sealed pursuant to ~~section~~

1 ~~27-65-109 (7)~~ SECTION 27-65-123 (7) OR 25.5-10-515 (4), or the court  
2 entered an order discharging the person from certification in the nature of  
3 habeas corpus pursuant to section 27-65-115, if the record in the national  
4 instant criminal background check system is based on a court order for  
5 involuntary certification for short-term treatment of a mental health  
6 disorder.

7 **SECTION 33.** In Colorado Revised Statutes, 13-5-142.5, **amend**  
8 (2)(a)(III) as follows:

9 **13-5-142.5. National instant criminal background check**  
10 **system - judicial process for awarding relief from federal**  
11 **prohibitions - legislative declaration.**

12 (2) **Eligibility.** A person may petition for relief pursuant to this  
13 section if:

14 (a) (III) The court has entered an order for the person's ~~involuntary~~  
15 certification for short-term treatment of a mental health disorder pursuant  
16 to section 27-65-108.5 or 27-65-109 SECTIONS 27-65-108.5, 27-65-109,  
17 OR 27-65-109.5, for extended certification for treatment of a mental  
18 health disorder pursuant to section 27-65-109 (10), or for long-term care  
19 and treatment of a mental health disorder pursuant to section 27-65-110;  
20 and

21 **SECTION 34.** In Colorado Revised Statutes, **amend** 13-5-142.8  
22 as follows:

23 **13-5-142.8. Notice by professional persons.**

24 Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and  
25 13-5-142.5 (2), an order for ~~involuntary~~ certification for short-term  
26 treatment of a mental health disorder pursuant to section 27-65-108.5 or  
27 27-65-109 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5 must also

1 include a notice filed by a professional person pursuant to section  
2 ~~27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109, OR  
3 27-65-109.5, and an order for extended certification for treatment of a  
4 mental health disorder pursuant to section 27-65-109 (10) must also  
5 include a notice filed by a professional person pursuant to section  
6 27-65-109 (10).

7 **SECTION 35.** In Colorado Revised Statutes, 13-9-123, **amend**  
8 (1)(c) and (3)(b)(III) as follows:

9 **13-9-123. 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 the court entered an order

1 discharging the person from certification in the nature of habeas corpus  
2 pursuant to section 27-65-115, if the record in the national instant  
3 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 36.** In Colorado Revised Statutes, 13-9-124, **amend**  
7 (2)(a)(III) as follows:

8 **13-9-124. National instant criminal background check system**  
9 **- judicial process for awarding relief from federal prohibitions -**  
10 **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 37.** In Colorado Revised Statutes, 15-18.7-202,  
21 **amend** (7) as follows:

22 **15-18.7-202. Behavioral health orders for scope of treatment**  
23 **- form contents - effect.**

24 (7) Nothing in this part 2 means that an adult who has executed a  
25 behavioral health orders form has consented to a petition for involuntary  
26 administration of medication authority pursuant to ~~section 27-65-113 (5)~~  
27 SECTION 27-65-113 (3).

1           **SECTION 38.** In Colorado Revised Statutes, 16-5-401, **amend**  
2 (2.5)(b) as follows:

3           **16-5-401. Limitation for commencing criminal proceedings,**  
4 **civil infraction proceedings, and juvenile delinquency proceedings -**  
5 **definitions.**

6           (2.5) (b) The time limitations imposed by this section are tolled  
7 beginning when a defendant's case is dismissed without prejudice for the  
8 purpose of facilitating certification for short-term treatment pursuant to  
9 ~~section 16-8.5-111 (3)~~ SECTION 16-8.5-109 until either the defendant's  
10 criminal case is refiled or six months has passed since the case was  
11 dismissed, whichever is earlier.

12           **SECTION 39.** In Colorado Revised Statutes, 16-8.6-103, **amend**  
13 (2)(b) as follows:

14           **16-8.6-103. Bridges wraparound care program - established.**

15           (2) The purpose of the bridges wraparound care program is to:  
16           (b) Serve eligible individuals whose cases have been dismissed  
17 pursuant to ~~section 16-8.5-111 (1.6)~~ SECTION 16-8.5-109 (4) but who are  
18 voluntarily willing to participate in the bridges wraparound care program;

19           **SECTION 40.** In Colorado Revised Statutes, 16-10-404, **amend**  
20 (1)(b) as follows:

21           **16-10-404. Use of a court facility dog - definitions.**

22           (1) As used in this section, unless the context otherwise requires:  
23           (b) "Criminal proceeding" or "criminal proceedings" has the same  
24 meaning as set forth in section 16-8.5-101. ~~(8)~~.

25           **SECTION 41.** In Colorado Revised Statutes, 17-22.5-403.5,  
26 **amend** (4)(f) as follows:

27           **17-22.5-403.5. Special needs parole.**

1 (4) (f) If, prior to or during any parole revocation hearing,  
2 including hearings for offenders granted parole pursuant to subsection (5)  
3 of this section, the department or a member of the parole board has a  
4 substantial and good faith reason to believe that the offender is  
5 incompetent to proceed, as defined in section 16-8.5-101, ~~(12)~~; the parole  
6 board shall suspend all proceedings and notify the public defender liaison  
7 described in section 21-1-104 (6). THE COURT SHALL APPOINT the office  
8 of state public defender ~~shall be appointed by the court~~ to represent the  
9 inmate, and THE OFFICE OF STATE PUBLIC DEFENDER shall file a written  
10 motion with the trial court that imposed the sentence to determine  
11 competency. The motion must contain a certificate of counsel stating that  
12 the motion is based on a good faith belief that the inmate is incompetent  
13 to proceed. The motion must set forth the specific facts that have formed  
14 the basis for the motion. The court shall seal the motion. The court shall  
15 follow all the relevant procedures in article 8.5 of title 16 regarding the  
16 determination of competency. The presence of the inmate is not required  
17 unless there is good cause shown.

18 **SECTION 42.** In Colorado Revised Statutes, 17-26-118, **amend**  
19 (3)(i) as follows:

20 **17-26-118. Criminal justice data collection - definitions.**

21 (3) The keeper of each jail facility shall keep and maintain a daily  
22 record of the following data:

23 (i) The number of confined inmates awaiting a competency  
24 evaluation, ~~as defined in section 16-8.5-101 (2)~~; a competency hearing,  
25 ~~as defined in section 16-8.5-101 (4)~~; or a restoration hearing, as THOSE  
26 TERMS ARE defined in section 16-8.5-101; ~~(17)~~;

27 **SECTION 43.** In Colorado Revised Statutes, 22-31-129, **amend**

1 (1) introductory portion and (1)(g) as follows:

2 **22-31-129. Vacancies.**

3 (1) A school director office ~~shall be~~ IS deemed to be vacant upon  
4 the occurrence of any one of the following events prior to the expiration  
5 of the term of office:

6 (g) If a court of competent jurisdiction determines that the person  
7 duly elected or appointed is insane or otherwise mentally incompetent,  
8 but only after the right to appeal has been waived or otherwise exhausted,  
9 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or  
10 section 27-65-109 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR  
11 27-65-127, an order specifically finding that the insanity or mental  
12 incompetency is of such a degree that the person is incapable of serving  
13 as a school director;

14 **SECTION 44.** In Colorado Revised Statutes, 22-60.5-107,  
15 **amend** (2)(a) as follows:

16 **22-60.5-107. Grounds for denying, annulling, suspending, or**  
17 **revoking license, certificate, endorsement, or authorization -**  
18 **definitions.**

19 (2) Any license, certificate, endorsement, or authorization may be  
20 denied, annulled, suspended, or revoked in the manner prescribed in  
21 section 22-60.5-108, notwithstanding the provisions of subsection (1) of  
22 this section:

23 (a) When the holder has been determined to be mentally  
24 incompetent by a court of competent jurisdiction and a court has entered,  
25 pursuant to part 3 or part 4 of article 14 of title 15 or section 27-65-109  
26 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR 27-65-127, an order  
27 specifically finding that the mental incompetency is of such a degree that

1 the holder is incapable of continuing to perform ~~his or her~~ THEIR job;  
2 except that the license, certificate, endorsement, or authorization held by  
3 a person who has been determined to be mentally incompetent and for  
4 whom such an order has been entered ~~shall~~ MUST be revoked or  
5 suspended by operation of law without a hearing, notwithstanding the  
6 provisions of section 22-60.5-108;

7 **SECTION 45.** In Colorado Revised Statutes, 24-72-705, **amend**  
8 (1)(g) as follows:

9 **24-72-705. Sealing criminal justice records other than**  
10 **convictions - simplified process - applicability.**

11 (1) (g) Charges that are dismissed pursuant to ~~section 16-8.5-116~~  
12 SECTION 16-8.5-109 (4), 16-8.5-113, OR 16-8.5-116 are not eligible for  
13 sealing.

14 **SECTION 46.** In Colorado Revised Statutes, 26-1-107, **amend**  
15 (6)(h) as follows:

16 **26-1-107. State board of human services - reimbursement for**  
17 **expenses - rules.**

18 (6) The state board shall:

19 (h) Adopt rules concerning standards for the level of training,  
20 education, and experience that a psychiatrist or psychologist ~~shall have to~~  
21 MUST be qualified IN ORDER to perform competency evaluations in  
22 criminal cases pursuant to section 16-8-106 and article 8.5 of title 16,  
23 ~~C.R.S.~~, and standards for conducting and reporting competency  
24 evaluations in criminal cases. ~~Prior to adopting the rules, the state board~~  
25 ~~shall consider recommendations from the competency evaluation advisory~~  
26 ~~board created in section 16-8.5-119, C.R.S.~~

27 **SECTION 47.** In Colorado Revised Statutes, 27-60-105, **amend**

1 (2) and (6) as follows:

2 **27-60-105. Outpatient restoration to competency services -**  
3 **jail-based behavioral health services - responsible entity - duties -**  
4 **report - legislative declaration.**

5 (2) The state department serves as a central organizing structure  
6 and responsible entity for the provision of competency restoration  
7 education services and coordination of competency restoration services  
8 ordered by the court pursuant to ~~section 16-8.5-111 (2)~~ SECTION  
9 16-8.5-110(1) or 19-2.5-704 (2), and the behavioral health administration  
10 serves as the central organizing structure and responsible entity for  
11 jail-based behavioral health services pursuant to section 27-60-106.

12 (6) In addition to subsection (4) of this section and subject to  
13 available appropriations, the state department shall require any county jail  
14 to assist in the provision of interim mental health services for individuals  
15 who have been court-ordered for inpatient competency restoration and  
16 who are waiting admission for an inpatient bed. This section does not toll  
17 or otherwise modify the time frames for the state department to offer  
18 inpatient admission pursuant to the provisions of ~~section 16-8.5-111~~  
19 SECTION 16-8.5-110.

20 **SECTION 48.** In Colorado Revised Statutes, 27-71-103, **amend**  
21 (2)(c)(II) as follows:

22 **27-71-103. Mental health residential facilities - additional**  
23 **beds.**

24 (2) (c) The state department, in collaboration with the behavioral  
25 health administration and the department of health care policy and  
26 financing, shall establish criteria for admissions and discharge planning,  
27 quality assurance monitoring, appropriate length of stay, and compliance

1 with applicable federal law. For the mental health residential facilities  
2 created pursuant to this section, admission criteria for facilities must  
3 include:

4 (II) For treatment beds that do not serve individuals covered under  
5 a home- and community-based waiver, offering priority placement to  
6 individuals under a certification for short-term or extended short-term  
7 treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION  
8 27-65-108.5, 27-65-109, OR 27-65-109.5, and long-term care and  
9 treatment pursuant to ~~section 27-65-109~~ SECTION 27-65-110 on an  
10 outpatient basis.

11 **SECTION 49.** In Colorado Revised Statutes, 27-94-107, **amend**  
12 (2) as follows:

13 **27-94-107. Renovation for additional beds.**

14 (2) Initially, the beds may be used for persons needing  
15 competency services. When the wait list for INPATIENT competency  
16 RESTORATION services ~~provided pursuant to section 16-8.5-111~~ FOR  
17 DEFENDANTS NOT ADMITTED WITHIN THE TIME LIMITS SET FORTH IN  
18 SECTION 16-8.5-110 (3)(a)(II) OR (3)(a)(III) is eliminated or trending so  
19 that it can be reasonably expected to be eliminated within one year, the  
20 department of human services shall implement a plan to transition the  
21 beds created in subsection (1) of this section to serve civil patients and  
22 immediately notify the joint budget committee of the general assembly.  
23 Within one year after the notification to the joint budget committee, all  
24 beds created pursuant to subsection (1) of this section must serve civil  
25 patients.

26 **SECTION 50.** In Colorado Revised Statutes, 24-75-302, amend  
27 (2)(uu) and (2)(vv); and add (2)(ww) as follows:

1           **24-75-302. Capital construction fund - capital assessment fees**  
2           **- calculation - information technology capital account - repeal.**

3           (2) The controller shall transfer a sum as specified in this  
4           subsection (2) from the general fund to the capital construction fund as  
5           money becomes available in the general fund during the fiscal year  
6           beginning on July 1 of the fiscal year in which the transfer is made or on  
7           the date otherwise specified for the transfer. Transfers between funds  
8           pursuant to this subsection (2) are not appropriations subject to the  
9           limitations of section 24-75-201.1. The amounts transferred pursuant to  
10          this subsection (2) are as follows:

11           (uu) On July 1, 2024, one hundred sixty-two million seven  
12          hundred seventy-eight thousand two hundred eighty-five dollars; and

13           (vv) On July 1, 2025, one hundred twenty-nine million four  
14          hundred ninety-eight thousand thirty-three dollars; AND

15           (ww) THREE DAYS AFTER THE EFFECTIVE DATE OF THIS  
16          SUBSECTION (2)(ww), THREE MILLION FIVE HUNDRED SEVENTY-SEVEN  
17          THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS.

18           **SECTION 51. Appropriation.** (1) For the 2025-26 state fiscal  
19          year, \$535,934 is appropriated to the department of human services. This  
20          appropriation is from the general fund. To implement this act, the  
21          department may use this appropriation as follows:

22           (a) \$485,934 for the wheat ridge regional center intermediate care  
23          facility; and

24           (b) \$50,000 for skilled nursing contracted beds.

25           **SECTION 52. Capital construction appropriation.** For the  
26          2025-26 state fiscal year, \$3,577,898 is appropriated to the department of  
27          human services for use by office of civil and forensic mental health. This

1 appropriation is from the capital construction fund created in section  
2 24-75-302 (1)(a), C.R.S. To implement this act, the office may use this  
3 appropriation for capital construction related to the renovation of a unit  
4 at the Colorado mental health hospital in Pueblo to create enhanced  
5 protective placements for people with intellectual and developmental  
6 disabilities. Any money appropriated in this section not expended prior  
7 to July 1, 2026, is further appropriated to the department from July 1,  
8 2026, through June 30, 2029, for the same purpose.

9 **SECTION 53. Appropriation.** (1) For the 2026-27 state fiscal  
10 year, \$6,079,632 is appropriated to the judicial department. This  
11 appropriation is from the general fund. To implement this act, the  
12 department may use this appropriation as follows:

13 (a) \$127,618 for use by supreme court and court of appeals for  
14 appellate court programs, which amount is based on an assumption that  
15 the division will require an additional 1.0 FTE;

16 (b) \$316,323 for use by state courts administration for general  
17 courts administration, which amount is based on an assumption that the  
18 division will require an additional 2.0 FTE;

19 (c) \$1,113,774 for use by state courts administration for  
20 information technology infrastructure;

21 (d) \$181,500 for use by state courts administration for capital  
22 outlay;

23 (e) \$555,000 for use by state courts administration for courthouse  
24 information technology capital outlay, which amount remains available  
25 for expenditure through the close of the 2027-28 state fiscal year;

26 (f) \$2,208,080 for use by trial courts for trial court programs,  
27 which amount is based on an assumption that the division will require an

1 additional 21.0 FTE; and

2 (g) \$1,577,337 for use by trial courts for court cost, jury costs,  
3 court-appointed counsel, and reimbursements for vacated convictions.

4 (2) For the 2026-27 state fiscal year, \$648,860 is appropriated to  
5 the judicial department for use by the office of the state public defender.  
6 This appropriation is from the general fund. To implement this act, the  
7 department may use this appropriation as follows:

8 (a) \$411,405 for personal services, which amount is based on an  
9 assumption that the office will require an additional 4.5 FTE;

10 (b) \$5,760 for operating expenses;

11 (c) \$28,000 for capital outlay;

12 (d) \$570 for attorney registration;

13 (e) \$4,000 for training; and

14 (f) \$199,125 for mandated costs.

15 (3) For the 2026-27 state fiscal year, \$206,345 is appropriated to  
16 the judicial department for use by the alternate defense counsel. This  
17 appropriation is from the general fund. To implement this act, the  
18 department may use this appropriation for conflict-of-interest contracts.

19 (4) For the 2026-27 state fiscal year, \$513,808 is appropriated to  
20 the judicial department for use by the office of public guardianship. This  
21 appropriation is from the general fund and is based on an assumption that  
22 the office will require an additional 5.5 FTE. To implement this act, the  
23 office may use this appropriation for program costs.

24 (5) For the 2026-27 state fiscal year, \$458,898 is appropriated to  
25 the judicial department for use by the office of bridges of Colorado. This  
26 appropriation is from the general fund. To implement this act, the office  
27 may use this appropriation as follows:

1           (a) \$425,394 for personal services, which amount is based on an  
2           assumption that the office will request an additional 4.3 FTE; and

3           (b) \$33,504 for operating expenses.

4           **SECTION 54. Appropriation.** (1) For the 2026-27 state fiscal  
5           year, \$133,795 is appropriated to the department of health care policy and  
6           financing for use by the executive director's office. This appropriation is  
7           from the general fund and is based on an assumption that the department  
8           will require an additional 3.0 FTE. To implement this act, the department  
9           may use this appropriation for personal services.

10           (2) For the 2026-27 state fiscal year, the general assembly  
11           anticipates that the department of health care policy and financing will  
12           receive \$133,794 in federal funds for personal services to implement this  
13           act. The appropriation in subsection (1) of this section is based on the  
14           assumption that the department will receive this amount of federal funds,  
15           which is subject to the "(I)" notation as defined in the annual general  
16           appropriation act for the same fiscal year.

17           **SECTION 55. Appropriation.** (1) For the 2026-27 state fiscal  
18           year, \$1,751,732 is appropriated to the department of health care policy  
19           and financing. This appropriation is from the general fund, which is  
20           subject to the "(M)" notation as defined in the annual general  
21           appropriation act for the same fiscal year. To implement this act, the  
22           department may use this appropriation for medical and long-term care  
23           services for medicaid eligible individuals.

24           (2) For the 2026-27 state fiscal year, the general assembly  
25           anticipates that the department of health care policy and financing will  
26           receive \$1,751,732 in federal funds for medical and long-term care  
27           services for medicaid eligible individuals to implement this act. The

1 appropriation in subsection (1) of this section is based on the assumption  
2 that the department will receive this amount of federal funds.

3 (3) For the 2026-27 state fiscal year, \$3,503,464 is appropriated  
4 to the department of human services. This appropriation is from  
5 reappropriated funds received from the department of health care policy  
6 and financing under subsections (1) and (2) of this section. To implement  
7 this act, the department may use this appropriation as follows:

8 (a) \$316,512 for use by the executive director's office for health,  
9 life, and dental;

10 (b) \$562,932 for use by the office of civil and forensic mental  
11 health for personal services related to the mental health institute at  
12 pueblo;

13 (b) \$806,912 for use by the office of civil and forensic mental  
14 health for operating expenses related to the mental health institute at  
15 pueblo;

16 (c) \$40,500 for use by the office of civil and forensic mental  
17 health for capital outlay related to the mental health institute at pueblo;

18 (d) \$996,722 for use by the office of civil and forensic mental  
19 health for skilled nursing contract beds; and

20 (e) \$779,886 for use by the office of adults, aging, and disability  
21 services for the wheat ridge regional center intermediate care facility,  
22 which amount is based on an assumption the office will require an  
23 additional 9.0 FTE.

24 **SECTION 56. Appropriation.** (1) For 2026-27 state fiscal year,  
25 \$1,042,386 is appropriated to the department of human services for use  
26 by the executive director's office. This appropriation is from the general  
27 fund. To implement this act, the department may use this appropriation

1 as follows:

2 (a) \$598,806 for health, life, and dental;

3 (b) \$2,952 for short-term disability;

4 (c) \$18,974 for paid family and medical leave; and

5 (d) \$421,654 for unfunded liability amortization payments.

6 (2) For the 2026-27 state fiscal year, \$684,052 is appropriated to  
7 the department of human services for use by the behavioral health  
8 administration. This appropriation is from the general fund. To implement  
9 this act, the administration may use this appropriation as follows:

10 (a) \$284,052 for program administration, which amount is based  
11 on an assumption that the administration will require an additional 3.0  
12 FTE; and

13 (b) \$400,000 for behavioral health safety net services.

14 (3) For the 2026-27 state fiscal year, \$14,621,347 is appropriated  
15 to the department of human services for use by the office of civil and  
16 forensic mental health. This appropriation is from the general fund. To  
17 implement this act, the department may use this appropriation as follows:

18 (a) \$62,548 for personal services related to the mental health  
19 institute at pueblo, which amount is based on an assumption the office  
20 will require an additional 9.1 FTE;

21 (b) \$89,656 operating expenses related to the mental health  
22 institute at pueblo;

23 (c) \$4,500 for capital outlay related to the mental health institute  
24 at pueblo;

25 (d) \$9,385,100 for purchased psychiatric bed capacity;

26 (e) \$427,167 for skilled nursing contracted beds;

27 (f) \$1,165,199 for evaluations and discharge services, which

1 amount is based on an assumption that the office will require an  
2 additional 6.0 FTE;

3 (g) \$3,144,833 for care coordination, which amount is based on  
4 an assumption that the office will require an additional 36.0 FTE; and

5 (h) \$342,344 for data and information technology, which amount  
6 is based on an assumption the office will require an additional 4.0 FTE;

7 **SECTION 57. Appropriation.** (1) For the 2026-27 state fiscal  
8 year, \$270,017 is appropriated to the department of human services. This  
9 appropriation is from the general fund. To implement this act, the  
10 department may use this appropriation for the purchase of legal services.

11 (2) For the 2026-27 state fiscal year, \$270,017 is appropriated to  
12 the department of law. This appropriation is from reappropriated funds  
13 received from the department of human services under subsection (1) of  
14 this section and is based on an assumption that the department of law will  
15 require an additional 1.1 FTE. To implement this act, the department of  
16 law may use this appropriation to provide legal services for the  
17 department of human services.

18 **SECTION 58. Appropriation.** (1) For the 2026-27 state fiscal  
19 year, \$52,644 is appropriated to the department of human services. This  
20 appropriation is from the general fund. To implement this act, the  
21 department may use this appropriation for the purchase of information  
22 technology services.

23 (2) For the 2026-27 state fiscal year, \$52,644 is appropriated to  
24 the office of the governor for use by the office of information technology.  
25 This appropriation is from reappropriated funds received from the  
26 department of human services under subsection (1) of this section. To  
27 implement this act, the office may use this appropriation to provide

1 information technology services for the department of human services.

2 **SECTION 59. Repeal of nonrelocated provisions in this act.**

3 In Colorado Revised Statutes, **repeal** the following provisions that are not  
4 relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113  
5 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

6 **SECTION 60. Safety clause.** The general assembly finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, or safety or for appropriations for  
9 the support and maintenance of the departments of the state and state  
10 institutions.