

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

REVISED

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

LLS NO. 26-0256.01 Shelby Ross x4510

SENATE BILL 26-149

SENATE SPONSORSHIP

Amabile and Simpson, Baisley, Ball, Bright, Carson, Catlin, Coleman, Gonzales J., Jodeh, Kipp, Kirkmeyer, Kolker, Marchman, Pelton B., Pelton R., Rich, Wallace, Zamora Wilson

HOUSE SPONSORSHIP

Caldwell and McCluskie,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PATHWAYS FOR INDIVIDUALS WITH MENTAL HEALTH**
102 **DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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.*

HOUSE
Amended 2nd Reading
May 1, 2026

SENATE
Amended 3rd Reading
April 24, 2026

SENATE
Amended 2nd Reading
April 23, 2026

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.

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

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

16-8.5-101. Definitions.

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

(1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION 27-60-203.

(2) "CIVIL PROCEEDING" MEANS:

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

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

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

(+) (3) "Collateral materials" means the relevant police incident reports and the charging documents, either the criminal information or indictment.

1 ~~(2)~~ (4) "Competency evaluation" includes both court-ordered
2 competency evaluations and second evaluations.

3 ~~(3)~~ (5) "Competency evaluator" means a licensed physician who
4 is a psychiatrist or a licensed psychologist, each of whom is trained in
5 forensic competency assessments, or a psychiatrist who is in forensic
6 training and practicing under the supervision of a psychiatrist with
7 expertise in forensic psychiatry, or a psychologist who is in forensic
8 training and is practicing under the supervision of a licensed psychologist
9 with expertise in forensic psychology.

10 ~~(4)~~ (6) "Competency hearing" means a hearing to determine
11 whether a defendant is competent to proceed.

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

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

24 ~~(6)~~ (9) "Court-ordered competency evaluation" means a
25 court-ordered examination of a defendant either before, during, or after
26 trial, directed to developing information relevant to a determination of the
27 defendant's competency to proceed at a particular stage of the criminal

1 proceeding, that is performed by a competency evaluator and includes
2 evaluations concerning restoration to competency.

3 (7) (10) "Court-ordered report" means a report of an evaluation,
4 conducted by or under the direction of ~~the department~~ CDHS, that is the
5 statutory obligation of ~~the department~~ CDHS to prepare when requested
6 to do so by the court.

7 (8) (11) "Criminal proceedings" means trial, sentencing,
8 satisfaction of the sentence, execution, and any pretrial matter that is not
9 susceptible of fair determination without the personal participation of the
10 defendant.

11 (9) (12) "Department" OR "CDHS" means the department of
12 human services.

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

22 (11) (14) "Executive director" means the executive director of the
23 department of human services.

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

1 (16) "DEPARTMENT OF HEALTH CARE POLICY AND FINANCING" OR
2 "HCPF" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND
3 FINANCING CREATED IN SECTION 24-1-119.5.

4 (12) (17) "Incompetent to proceed" means that, as a result of a
5 mental disability or developmental disability, the defendant does not have
6 sufficient present ability to consult with the defendant's lawyer with a
7 reasonable degree of rational understanding in order to assist in the
8 defense, or that, as a result of a mental disability or developmental
9 disability, the defendant does not have a rational and factual
10 understanding of the criminal proceedings.

11 (13) (18) "In-custody" means in prison, in a jail, or in any other
12 locked detention facility that does not meet the definition of "inpatient".

13 (14) (19) "Inpatient" means in the custody of ~~the department~~
14 CDHS, either in a hospital or in a full-time, jail-based restoration program
15 developed by ~~the department~~ CDHS.

16 (20) "INPATIENT CARE AT THE DISCRETION OF CDHS" MEANS
17 PLACEMENT AT A FACILITY:

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

20 (b) THAT AGREES TO SUPERVISE THE PERSON, THAT AGREES TO
21 TAKE APPROPRIATE MEASURES TO ENSURE THE PERSON COMPLIES WITH
22 ANY COURT ORDERS, AND THAT HAS PROCEDURES IN PLACE THAT WOULD
23 RESULT IN A TIMELY REPORT TO THE COURT, LICENSING AUTHORITIES, AND
24 LAW ENFORCEMENT IF THE PERSON ABSCONDED WITHOUT PERMISSION;

25 (c) WHERE A PROFESSIONAL PERSON, AS DEFINED IN SECTION
26 27-65-102, WHO IS EMPLOYED BY OR CONTRACTED WITH CDHS, BHA, OR
27 HCPF, ATTESTS THAT THE FACILITY IS MEDICALLY APPROPRIATE AND

1 SUFFICIENTLY PROTECTS VICTIMS AND THE COMMUNITY FROM THE
2 SUBSTANTIAL RISK OF HARM POSED BY THE PERSON; AND

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

5 (15) (21) "Mental disability" means a substantial disorder of
6 thought, mood, perception, or cognitive ability that results in marked
7 functional disability, significantly interfering with adaptive behavior.
8 "Mental disability" does not include acute intoxication from alcohol or
9 other substances, or any condition manifested only by antisocial behavior,
10 or any substance abuse impairment resulting from recent use or
11 withdrawal. However, substance abuse that results in a long-term,
12 substantial disorder of thought, mood, or cognitive ability may constitute
13 a mental disability.

14 ==
15 (16) (22) "Outpatient" means a location outside of the custody of
16 the department CDHS. "Outpatient" does not include a jail, prison, or
17 other detention facility where the defendant is in-custody.

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

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

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

26 (17) (26) "Restoration hearing" means a hearing to determine
27 whether a defendant who has previously been determined to be

1 incompetent to proceed has become competent to proceed.

2 (18) (27) "Second evaluation" means ~~an~~ A COMPETENCY
3 evaluation requested by the court, the district attorney, or the defendant
4 that is performed by a competency evaluator and that is not performed by
5 or under the direction of, or paid for by, ~~the department~~ CDHS.

6 (19) (28) "Tier 1" means a defendant:

7 (a) Who has been ordered to receive inpatient ~~restorative treatment~~
8 RESTORATION SERVICES

9 (b) For whom a competency evaluator has determined either that
10 the defendant:

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

15 (II) Has a mental health disorder; and

16 (c) For whom, as a result of the determination made pursuant to
17 ~~subsection (19)(b)~~ SUBSECTION (28)(b) of this section, delaying inpatient
18 hospitalization beyond seven days would cause harm to the defendant or
19 others.

20 (20) (29) "Tier 2" means a defendant who has been ordered to
21 receive inpatient ~~restorative treatment~~ RESTORATION SERVICES and who
22 does not meet the criteria to be a tier 1 defendant.

23 (30) "UNRESTORABLE" MEANS THERE IS NOT A SUBSTANTIAL
24 PROBABILITY THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL
25 ATTAIN COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

26 (31) "VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO
27 PARTICIPATE" MEANS THE DEFENDANT HAS NOT ATTENDED RESTORATION

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

9 **16-8.5-102. Competency to proceed - how and when raised.**

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

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

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

27 (b) If either the defense or the prosecution has reason to believe

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

16 (c) Repealed.

17 (d) (c) By the public defender liaison, as described in section
18 21-1-104 (6), or an attorney representing the offender in a parole
19 proceeding.

20 (3) [Formerly 16-8.5-109 (1)] When a determination is to be made
21 as to a defendant's competency THE ISSUE OF WHETHER A DEFENDANT IS
22 INCOMPETENT to proceed IS RAISED, the court shall explain to the
23 defendant the nature and consequences of the proceeding and the
24 DEFENDANT'S rights of the defendant under this section. The defendant,
25 PURSUANT TO SECTION 16-8.5-108 (2) AND (3). If the defendant wishes
26 to contest the question, THE DEFENDANT may request a competency
27 hearing that the court shall grant as a matter of right.

1 (3) (4) Notwithstanding ~~any provision of this article 8.5, to the~~
2 ~~contrary~~, the question of whether a convicted person is mentally
3 incompetent to be executed must be raised and determined pursuant to
4 part 14 of article 1.3 of title 18.

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

14 **16-8.5-103. Determination of competency to proceed.**

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

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

24 (2) If either party objects to the court's preliminary finding, or if
25 the court determines that it has insufficient information to make a
26 preliminary finding, the court shall order that the defendant be evaluated
27 for competency by ~~the department~~ CDHS and that ~~the department~~ CDHS

1 prepare a court-ordered report.

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

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

15 ~~(5) (3) If neither party requests a hearing PURSUANT TO SECTION~~
16 ~~16-8.5-108 or a second evaluation PURSUANT TO SECTION 16-8.5-111,~~
17 ~~within the applicable time frame, the court shall enter a final~~
18 ~~determination, based on the information then available to the court,~~
19 ~~whether the defendant is or is not competent to proceed.~~

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

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

1 (8) (4) If the question of the defendant's incompetency to proceed
2 is raised after a jury is impaneled to try the issues raised by a plea of not
3 guilty and the court determines that the defendant is incompetent to
4 proceed or orders a court-ordered competency evaluation, the court may
5 declare a mistrial. Declaration of a mistrial under these circumstances
6 does not constitute jeopardy, nor does it prohibit the trial or sentencing of
7 the defendant for the same offense after the defendant has been found
8 restored to competency.

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

15 **16-8.5-104. Defendant's waiver of privilege.**

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

25 (a) Reports of competency evaluations, including second
26 evaluations;

27 (b) Information and documents relating to the competency

1 evaluation that are created by, obtained by, reviewed by, or relied on by
2 ~~an~~ A COMPETENCY evaluator; ~~performing a court-ordered evaluation~~; and

3 (c) The COMPETENCY evaluator, for the purpose of discussing the
4 competency evaluation.

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

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

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

24 ~~(4.5)~~ (5) The court may, upon the request of either party, issue an
25 order to assist a party in accessing, receiving copies of, or discussing with
26 ~~an~~ A COMPETENCY evaluator or treatment provider information or records
27 that the party has the right to access pursuant to the defendant's waiver of

1 privilege. If a party requests such an order, the court shall allow the
2 opposing party to make any legal objection, including whether the
3 requested information is within the scope of the defendant's waiver of
4 privilege, and SHALL consider any requests for protective orders prior to
5 issuing the court order. This section does not limit the court's ability to
6 order information be provided to a party with the written consent of the
7 defendant.

8 (5) (6) The court shall order both the prosecutor and the defendant
9 or the defendant's counsel to exchange the names, addresses, reports, and
10 statements of each physician or psychologist who has examined or treated
11 the defendant for competency.

12 (6) (7) Statements made by the defendant in the course of any
13 COMPETENCY evaluation must be protected in accordance with section
14 ~~16-8.5-108~~ SECTION 16-8.5-107.

15 **16-8.5-105. Competency evaluations, locations, time frames,**
16 **and report.**

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

1 ORDER FOR A COMPETENCY EVALUATION IS ISSUED BY ELECTRONIC
2 MEANS, CDHS SHALL ACCEPT THE ORDER BY THE SAME ELECTRONIC
3 MEANS.

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

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

1 AS A FACTOR IN DETERMINING ANY MONETARY CONDITION OF BOND.

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

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

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

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

27 ~~(H)~~ (A) ~~The department~~ CDHS provides a recommendation to the

1 court, after ~~consultation~~ CONSULTING with the defendant and ~~review of~~
2 REVIEWING any clinical or collateral materials, that conducting the
3 competency evaluation on an inpatient basis is clinically appropriate;

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

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

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

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

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

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

1 ~~restoration services available to the defendant.~~

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

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

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

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

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

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

1 with the community restoration services provider.

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

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

23 (2) The defendant ~~shall~~ MUST cooperate with the competency
24 evaluator and with other personnel providing ancillary services such as
25 testing and radiological services. Statements made by the defendant in the
26 course of the COMPETENCY evaluation ~~shall be~~ ARE protected as provided
27 in ~~section 16-8.5-108~~ SECTION 16-8.5-107. If the defendant does not

1 cooperate with the competency evaluator and other personnel providing
2 ancillary services and the lack of cooperation is not the result of a
3 developmental disability or a mental disability, the fact of the defendant's
4 noncooperation with the competency evaluator and other personnel
5 providing ancillary services may be admissible in the defendant's
6 competency HEARING, RESTORABILITY HEARING, or restoration hearing to
7 rebut any evidence introduced by the defendant with regard to the
8 defendant's competency.

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

24 (4) THE COMPETENCY EVALUATOR SHALL PREPARE a written report
25 of the COMPETENCY evaluation, ~~must be prepared~~ and the department
26 CDHS shall electronically deliver the report to the court ~~clerk who~~
27 ~~ordered it. The clerk shall provide a copy of the report to the prosecuting~~

1 ~~attorney, the bridges court liaison, and the defense counsel using an~~
2 ~~e-filing system~~ AS ORDERED USING AN E-FILING SYSTEM RECORD IN THE
3 ~~MATTER.~~ Without reducing any other timelines set forth in this article 8.5,
4 the competency evaluator shall provide the written report to the court
5 within fourteen days after finishing meeting, or attempting to meet, with
6 the defendant to evaluate the defendant's competency.

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

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

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

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

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

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

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

11 (B) ~~THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE~~
12 ~~DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, AS~~
13 ~~DEFINED IN SECTION 27-65-102, IF THE OPINION IS THAT THE DEFENDANT~~
14 ~~IS UNRESTORABLE AND THE DEFENDANT IS EITHER CHARGED WITH~~
15 ~~HOMICIDE PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF~~
16 ~~VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2); OR A FELONY THAT~~
17 ~~CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION~~
18 ~~16-22-102; OR THE DISTRICT ATTORNEY PROVIDED NOTICE THAT THE~~
19 ~~DISTRICT ATTORNEY IS AWARE OF AN ACT DESCRIBED IN SECTION~~
20 ~~16-8.5-118 (6)(b)(I) THAT IS NOT CHARGED IN THE CURRENT CASE THE~~
21 ~~DEFENDANT IS ALLEGED TO HAVE COMMITTED AND IS OR WAS CHARGED IN~~
22 ~~A CRIMINAL CASE IN COLORADO IN WHICH COMPETENCY WAS RAISED.~~

23 ~~(B)~~ (C) If possible, when the defendant is diagnosed with a
24 moderate to severe ~~intellectual or developmental disability acquired or~~
25 ~~traumatic brain injury, or dementia~~ OR A NEUROCOGNITIVE DISORDER, AS
26 DEFINED IN SECTION 25.5-10-501, which either alone or together with a
27 co-occurring mental ~~illness~~ DISABILITY affects the defendant's ability to

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

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

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

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

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

1 defendant:

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

4 (II) Meets the criteria for a certification for short-term treatment
5 pursuant to section 27-65-108.5 or 27-65-109 and, if the defendant meets
6 ~~such~~ THE criteria, whether the COMPETENCY evaluator believes the
7 defendant could be treated on an outpatient basis pursuant to section
8 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A
9 MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, in assessing
10 whether the defendant ~~with a pending criminal charge~~ is a danger to self
11 ~~or~~ THE DEFENDANT'S SELF, A DANGER TO others, or ~~is~~ gravely disabled, if
12 ~~the person is incarcerated~~ AS THOSE TERMS ARE DEFINED IN SECTION
13 27-65-102, the COURT, competency evaluator, or professional person, as
14 defined in section 27-65-102, ~~and the court~~ shall not rely on the fact that
15 the defendant is incarcerated or is an inpatient in a medical facility to
16 establish that the defendant is not a danger to self, or to others, or is not
17 OR gravely disabled. If it is the COMPETENCY evaluator's opinion that the
18 defendant meets criteria for certification for short-term treatment pursuant
19 to section 27-65-108.5 or 27-65-109, the COMPETENCY evaluator is not
20 required to request a petition for certification for short-term treatment of
21 the defendant. ~~in a court with jurisdiction pursuant to section 16-8.5-111~~
22 (3):

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

26 (A) Whether the defendant ALSO HAS A MENTAL HEALTH
27 DISORDER, AS DEFINED IN SECTION 27-65-102, AND, IF THE DEFENDANT

1 DOES HAVE A CO-OCCURRING INTELLECTUAL AND DEVELOPMENTAL
2 DISABILITY AND A MENTAL HEALTH DISORDER, THE PRIMARY DIAGNOSIS,
3 IF DETERMINABLE; AND

4 (B) WHETHER THE DEFENDANT may be eligible for any additional
5 services pursuant to article 10 of title 25.5 or article 10.5 of title 27, OR
6 MAY MEET THE CRITERIA FOR A CIVIL PROCEEDING; OR

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

16 (g) WHEN THE COMPETENCY EVALUATOR HAS REASON TO BELIEVE
17 THE DEFENDANT HAS A NEUROCOGNITIVE DISORDER, AS DEFINED IN
18 SECTION 25.5-10-501, OR A DEVELOPMENTAL DISABILITY:

19 (I) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER
20 DIAGNOSTIC TESTING EXISTS BEYOND WHAT THE COMPETENCY
21 EVALUATOR CAN PERFORM THAT IS NECESSARY TO PROVIDE AN OPINION
22 AS TO WHETHER THE DEFENDANT IS INCOMPETENT TO PROCEED OR
23 RESTORABLE; AND

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

26 (6) Whenever a competency evaluation is ordered upon the
27 request of either party, the court ~~may~~ SHALL notify the county attorney ~~or~~

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

8 (7) Each court shall allow for any competency evaluation
9 conducted pursuant to ~~the provisions of this section or section 16-8.5-106~~
10 THIS ARTICLE 8.5 to be submitted to the court through electronic means,
11 INCLUDING THROUGH AN E-FILING SYSTEM IF THE ORDER FOR THE
12 COMPETENCY EVALUATION IS ISSUED TO CDHS THROUGH AN E-FILING
13 SYSTEM.

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

24 ==
25 **16-8.5-106. [Formerly 16-8.5-112] Petition for involuntary**
26 **administration of medication - venue for collateral hearing.**

27 (1) If a defendant committed to the custody of ~~the department~~

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

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

22 (3) ~~If the committing court elects to transfer venue for medication~~
23 ~~hearings to the court of the jurisdiction where the defendant is located~~ IF
24 A HEARING FOR ADMINISTRATION OF INVOLUNTARY MEDICATION IS HEARD
25 IN A DIFFERENT COUNTY THAN THE COUNTY WHERE THE COMMITTING
26 COURT IS LOCATED, the committing county shall reimburse the county
27 where the proceeding is heard for the reasonable costs incurred in

1 conducting the proceeding. Alternatively, the district attorney OR COUNTY
2 ATTORNEY for the committing county ~~or in any county or any city and~~
3 ~~county having a population exceeding fifty thousand people, the county~~
4 ~~attorney for the committing county,~~ may prosecute the proceeding as the
5 proponent of the physician's petition.

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

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

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

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

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

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

20 **16-8.5-108. General hearing procedures and evidence.**

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

1 SECOND EVALUATION REPORT.

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

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

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

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

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

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

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

1 give opinions or conclusions concerning the competency of the defendant.

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

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

9 (a) To be present in person;

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

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

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

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

26 (5) [Formerly 16-8.5-114 (3)] Evidence of any determination as
27 to the defendant's competency, ~~or incompetency~~ RESTORABILITY, OR

1 RESTORATION is not admissible on the issues raised by a plea of not
2 guilty, not guilty by reason of insanity, or, for offenses that occurred
3 before July 1, 1995, the affirmative defense of impaired mental condition.

4 **16-8.5-109. Competency hearing - procedure after**
5 **determination of competency or incompetency - mandatory dismissal**
6 **- refile of charges.**

7 (1) **Competency hearing.**

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

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

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

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

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

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

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

26 (b) ~~If the district attorney makes the prima facie showing pursuant~~
27 ~~to subsection (1.6)(a) of this section, the court shall proceed pursuant to~~

1 ~~subsection (3) of this section or section 16-8.5-116.5 (7) and, upon~~
2 ~~completion of the certification process, the court shall dismiss the charges~~
3 ~~against the defendant.~~

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

8 **16-8.5-110. Restoration services - inpatient and outpatient.**

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

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

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

22 (II) The court may appoint a bridges court liaison HIRED OR
23 CONTRACTED PURSUANT TO ARTICLE 95 OF TITLE 13 or may order that the
24 defendant cooperate with pretrial services, if available, and the court may
25 order pretrial services or a bridges court liaison, or both, to work with the
26 defendant, ~~the department~~ CDHS, and the restoration services provider
27 under contract with ~~the department~~ CDHS to assist in securing

1 appropriate support and care management services for the defendant,
2 which may include housing resources; and

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

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

1 ~~subsection (2)(b)~~ SUBSECTION (1)(b).

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

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

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

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

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

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

1 liaison every twenty-eight days concerning the availability of restoration
2 services on an outpatient basis to the defendant.

3 (b) If, in the process of coordinating outpatient restoration
4 services for a defendant, ~~the department~~ CDHS determines that the
5 defendant meets the standard for a certification for short-term treatment
6 pursuant to section 27-65-108.5 and that initiating a petition for an
7 outpatient certification is appropriate, ~~the department~~ CRITERIA FOR THE
8 INITIATION OF A CIVIL PROCEEDING, CDHS may request, in writing, that
9 the court refer the matter for filing of a petition for short-term treatment
10 pursuant to 27-65-108.5 in a court with jurisdiction and authorize the
11 department to file the petition. After receiving a written request, the court
12 shall hear and consider any objections from the defendant prior to ruling
13 on the request ORDER THE INITIATION OF A CIVIL PROCEEDING PURSUANT
14 TO SECTION 16-8.5-117.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (IV) Coordinate with the court; pretrial services, if applicable; and
27 the bridges court liaison to ensure the defendant receives written notice

1 of the defendant's next court appearance and bond conditions.

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

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

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

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

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

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

24 (2) EITHER PARTY HAS THE RIGHT TO REQUEST A SECOND
25 EVALUATION WITHIN FOURTEEN DAYS AFTER RECEIVING THE INITIAL OR
26 UPDATED COURT-ORDERED COMPETENCY EVALUATION REPORT, AND THE
27 COURT SHALL GRANT THE REQUEST. THE SECOND EVALUATION REPORT

1 MUST INCLUDE THE COMPETENCY EVALUATOR'S OPINION, IF APPLICABLE,
2 REGARDING:

3 (a) WHETHER THE DEFENDANT IS COMPETENT TO PROCEED OR
4 INCOMPETENT TO PROCEED;

5 (b) WHETHER THE DEFENDANT IS RESTORABLE; AND

6 (c) IF THE DEFENDANT IS RECEIVING RESTORATION █ SERVICES,
7 WHETHER THE DEFENDANT HAS BEEN RESTORED TO COMPETENCY.

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

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

27 (5) **[Formerly 16-8.5-107]** In all proceedings brought pursuant to

1 ~~this article 8.5, the court shall appoint a competency evaluator or an~~
2 ~~attorney for the defendant at the state's expense upon motion of the~~
3 ~~defendant with proof that the defendant is indigent and without money to~~
4 ~~employ a competency evaluator or attorney to which the defendant is~~
5 ~~entitled pursuant to this article 8.5. The court shall pay for a second~~
6 ~~evaluation if a second evaluation is requested by an indigent defendant.~~

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

11 **16-8.5-112. [Formerly 16-8.5-116] Review hearing to determine**
12 **competency - report.**

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

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

1 pursuant to the provisions of ~~section 16-8.5-113~~ SECTION 16-8.5-114.

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

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

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

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

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

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

26 ~~(IV.5) Whether the defendant has an intellectual and~~
27 ~~developmental disability, as defined in section 25.5-10-202, and if the~~

1 ~~defendant does have such a disability, whether the defendant may be~~
2 ~~eligible for any additional services pursuant to article 10 of title 25.5 or~~
3 ~~article 10.5 of title 27.~~

4 (V) WHETHER THE DEFENDANT MEETS THE CRITERIA FOR [REDACTED]
5 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
6 27-65-108.5, 27-65-109, OR 27-65-109.5 AND, IF THE DEFENDANT MEETS
7 THE CRITERIA, WHETHER THE COMPETENCY EVALUATOR BELIEVES THE
8 DEFENDANT COULD BE TREATED ON AN OUTPATIENT BASIS PURSUANT TO
9 SECTION 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT
10 IN A MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, IN
11 ASSESSING WHETHER THE DEFENDANT IS A DANGER TO THE DEFENDANT'S
12 SELF, A DANGER TO OTHERS, OR GRAVELY DISABLED, AS THOSE TERMS ARE
13 DEFINED IN SECTION 27-65-102, THE COURT, COMPETENCY EVALUATOR,
14 OR PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102, SHALL NOT
15 RELY ON THE FACT THAT THE DEFENDANT IS INCARCERATED OR IS
16 INPATIENT IN A MEDICAL FACILITY TO ESTABLISH THAT THE DEFENDANT IS
17 NOT A DANGER TO THE DEFENDANT'S SELF, A DANGER TO OTHERS, OR
18 GRAVELY DISABLED. IF IT IS THE COMPETENCY EVALUATOR'S OPINION
19 THAT THE DEFENDANT MEETS CRITERIA FOR CERTIFICATION FOR
20 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109,
21 OR 27-65-109.5, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO
22 REQUEST A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT OF
23 THE DEFENDANT.

24 (VI) WHETHER THE DEFENDANT HAS A DEVELOPMENTAL
25 DISABILITY, AND IF THE DEFENDANT DOES HAVE A DEVELOPMENTAL
26 DISABILITY, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH
27 DISORDER, AS DEFINED IN SECTION 27-65-102, AND WHETHER THE

1 DEFENDANT MAY BE ELIGIBLE FOR ANY ADDITIONAL SERVICES PURSUANT
2 TO ARTICLE 10 OF TITLE 25.5 OR ARTICLE 10.5 OF TITLE 27, OR MAY MEET
3 THE CRITERIA FOR A CIVIL PROCEEDING FOR IMPOSITION OF A LEGAL
4 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION
5 25.5-10-216. IF THE COMPETENCY EVALUATOR'S OPINION IS THAT THE
6 DEFENDANT MAY MEET THE CRITERIA, THE COMPETENCY EVALUATOR IS
7 NOT REQUIRED TO PETITION THE COURT FOR IMPOSITION OF A LEGAL
8 DISABILITY OR REMOVAL OF A LEGAL RIGHT.

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

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

21 ~~(VI) Repealed.~~

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

1 ~~(VIII)~~ (X) A summary of the observations of the defendant by the
2 ~~treating~~ TREATMENT staff at the facility or other location where inpatient
3 RESTORATION services were delivered.

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

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

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

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

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

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

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

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

26 (A) THE DEFENDANT IS CHARGED WITH HOMICIDE PURSUANT TO
27 PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE, AS DEFINED IN

1 SECTION 18-1.3-406 (2); OR A FELONY THAT CONSTITUTES UNLAWFUL
2 SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102; OR

3 (B) THE PROSECUTION REQUESTED AN OPINION REGARDING
4 WHETHER THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM
5 TO OTHERS BECAUSE THE PROSECUTION IS AWARE OF AN ACT DESCRIBED
6 IN SECTION 16-8.5-118 (6)(b)(I) THAT IS NOT CHARGED IN THE CURRENT
7 CASE THE DEFENDANT IS ALLEGED TO HAVE COMMITTED AND IS OR WAS
8 CHARGED IN A CRIMINAL CASE IN COLORADO IN WHICH COMPETENCY WAS
9 RAISED. IF THE PROSECUTION REQUESTS AN OPINION PURSUANT TO THIS
10 SUBSECTION (1)(c)(VII)(B), THE PROSECUTION SHALL DISCLOSE THE
11 UNCHARGED ACTS TO THE DEFENDANT.

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

21 ~~(4) Repealed.~~

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

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

2 **16-8.5-113. Restorability hearing - burdens of proof -**
3 **determination - dismissal.**

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

7 (b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION
8 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND A
9 COMPETENCY EVALUATOR OPINES THAT THE DEFENDANT IS
10 UNRESTORABLE, AND EITHER A RESTORABILITY HEARING HAS NOT BEEN
11 HELD OR ONE HUNDRED EIGHTY-TWO DAYS HAVE PASSED SINCE THE
12 DEFENDANT BEGAN RECEIVING RESTORATION SERVICES AFTER A FINDING
13 OF RESTORABILITY, THE COURT SHALL, UPON MOTION OF A PARTY, SET A
14 RESTORABILITY HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION
15 16-8.5-108 (1)(d). A RESTORABILITY HEARING MAY BE COMBINED WITH A
16 RESTORATION HEARING, IF APPROPRIATE.

17 (c) IF THE COURT RECEIVES THE COMPETENCY EVALUATOR'S
18 OPINION THAT THE DEFENDANT IS UNRESTORABLE PRIOR TO ENTERING AN
19 INITIAL ORDER FOR RESTORATION SERVICES, THE COURT SHALL SET A
20 RESTORABILITY HEARING WITHIN THIRTY-FIVE DAYS AFTER RECEIVING THE
21 OPINION UNLESS THE TIME IS EXTENDED BY THE COURT AFTER A FINDING
22 OF GOOD CAUSE.

23 (2) AT ANY RESTORABILITY HEARING CONDUCTED PURSUANT TO
24 THIS SECTION:

25 (a) THE DEFENDANT HAS THE BURDEN OF PROVING BY A
26 PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS
27 UNRESTORABLE IF ANY CHARGE IN ANY OF THE DEFENDANT'S PENDING

1 CRIMINAL CASES IN THE STATE OF COLORADO INCLUDE A CRIME SUBJECT
2 TO THE "VICTIM RIGHTS ACT", SECTION 24-4.1-302 (1); UNLAWFUL
3 SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INDECENT
4 EXPOSURE, AS DESCRIBED IN SECTION 18-7-302; AND

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

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

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

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

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

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

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

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

15 (g) ANY RELEVANT STATEMENTS MADE BY THE DEFENDANT
16 DURING THE RESTORATION PROCESS; OR

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

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

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

27 (II) IF THE COURT FINDS THAT THE DEFENDANT HAS MET THE

1 BURDEN OF PROVING THEY ARE UNRESTORABLE PURSUANT TO SUBSECTION
2 (2)(a) OF THIS SECTION, THE COURT SHALL FIND THE DEFENDANT
3 UNRESTORABLE.

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

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

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

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

1 participated in the restoration ~~services. and treatment.~~

2 **16-8.5-114. Restoration hearing - burdens of proof -**
3 **determination.**

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

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

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

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

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

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

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

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

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

26 **16-8.5-115. Procedure after restoration hearing.**

27 (1) [Formerly 16-8.5-114 (1)] If a defendant is found to be

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

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

15 **16-8.5-116. Dismissal of charges after reaching maximum time**
16 **permitted to restore defendant - exceptions - rules.**

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

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

1 restoration for an aggregate time of six months; and

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

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

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

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

19 (3) **[Formerly 16-8.5-116.5 (4)]** 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 █
22 and release the defendant from confinement pursuant to ~~subsection (7) of~~
23 ~~this section~~, if:

24 (a) The defendant's highest charged offense is a class 4 felony and
25 the defendant has been in ~~the department's~~ CDHS's custody for
26 restoration services or has been confined in a jail or other detention
27 facility awaiting transport to ~~the department~~ CDHS for court-ordered

1 restoration for an aggregate period of two years; and

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

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

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

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

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

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

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

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

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

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

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

20 **16-8.5-117. Initiation of civil proceeding - appointment of**
21 **bridges court liaison or guardian - extension - dismissal.**

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

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

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

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

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

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

19 (V) COORDINATING, AS NEEDED, WITH THE OFFICE OF PUBLIC
20 GUARDIANSHIP, AN APPOINTED EMERGENCY GUARDIAN, CDHS, HCPF,
21 OR THE BHA FOR THE PURPOSE OF PROVIDING LONG-TERM CONTINUUM OF
22 CARE FOR THE DEFENDANT.

23 [REDACTED]

24 (2) (a) EXCEPT WHEN THE CITY AND COUNTY OF DENVER HAS
25 EXCLUSIVE ORIGINAL JURISDICTION OVER THE APPOINTMENT OF A
26 GUARDIAN PURSUANT TO SECTION 9 (3) OF ARTICLE VI OF THE STATE
27 CONSTITUTION, ANY INTERESTED PERSON, INCLUDING THE DEFENDANT'S

1 ATTORNEY, MAY PETITION THE CRIMINAL COURT FOR THE APPOINTMENT
2 OF AN EMERGENCY GUARDIAN PURSUANT TO SECTION 15-14-312 BY FILING
3 A PETITION INTO THE CRIMINAL CASE THAT SATISFIES THE REQUIREMENTS
4 OF SECTION 15-14-312.

5 (b) IF THE CITY AND COUNTY OF DENVER DOES NOT HAVE
6 EXCLUSIVE ORIGINAL JURISDICTION OVER THE APPOINTMENT OF A
7 GUARDIAN PURSUANT TO SECTION 9 (3) OF ARTICLE VI OF THE STATE
8 CONSTITUTION, THE COURT SHALL HAVE JURISDICTION OVER THE PETITION
9 AND SHALL APPOINT AN EMERGENCY GUARDIAN TO THE DEFENDANT UPON
10 SATISFACTION OF THE REQUIREMENTS OF SECTION 15-14-312 AND THIS
11 SUBSECTION (2).

12 (c) AT THE NEXT SCHEDULED HEARING IN THE PRESENCE OF THE
13 DEFENDANT FOLLOWING THE FILING OF A PETITION PURSUANT TO SECTION
14 15-14-312, THE COURT SHALL NOTIFY THE DEFENDANT THAT A PETITION
15 FOR EMERGENCY GUARDIANSHIP HAS BEEN FILED INTO THE CASE
16 PURSUANT TO SECTION 15-14-312 AND ADVISE THE DEFENDANT OF THE
17 FOLLOWING:

18 (I) THE AUTHORITY THAT WOULD BE GRANTED TO THE EMERGENCY
19 GUARDIAN IF THE PETITION IS GRANTED;

20 (II) THE DEFENDANT'S RIGHT TO CONTEST THE APPOINTMENT OF
21 AN EMERGENCY GUARDIAN AT A HEARING; AND

22 (III) THE DEFENDANT'S RIGHT TO A FREE ATTORNEY IF THE
23 DEFENDANT CHOOSES TO CONTEST THE APPOINTMENT OF AN EMERGENCY
24 GUARDIAN.

25 (d) NOTWITHSTANDING SECTION 15-14-312, THE COURT:

26 (I) SHALL NOT APPOINT AN ATTORNEY TO REPRESENT THE
27 DEFENDANT FOR THE PURPOSE OF CONTESTING THE APPOINTMENT OF AN

1 EMERGENCY GUARDIAN UNLESS THE DEFENDANT WISHES TO CONTEST THE
2 APPOINTMENT AND HAS NOT RETAINED AN ATTORNEY FOR THAT PURPOSE;
3 AND

4 (II) IS NOT REQUIRED TO PROVIDE THE DEFENDANT FURTHER
5 NOTICE OF THE PETITION BEYOND WHAT IS REQUIRED IN THIS SUBSECTION
6 (2).

7 (e) THE COURT SHALL NOT APPOINT THE OFFICE OF STATE PUBLIC
8 DEFENDER OR THE OFFICE OF ALTERNATE DEFENSE COUNSEL TO
9 REPRESENT A CRIMINAL DEFENDANT RELATED TO THE APPOINTMENT OF AN
10 EMERGENCY GUARDIAN OR A MATTER RELATED TO GUARDIANSHIP.

11 (3) THE COURT MAY ENTER LAWFUL ORDERS REQUESTED BY THE
12 DEFENDANT, THE APPOINTED BRIDGES COURT LIAISON, OR THE APPOINTED
13 ___ EMERGENCY GUARDIAN TO ASSIST OR FACILITATE THE WORK OF THE
14 BRIDGES COURT LIAISON OR THE APPOINTED ___ EMERGENCY GUARDIAN.

15 (4) (a) IF THE COURT HAS MADE A FINAL DETERMINATION THAT
16 THE DEFENDANT IS INCOMPETENT TO PROCEED, THE COURT MAY ORDER
17 THE COUNTY ATTORNEY ___ TO INITIATE A CIVIL PROCEEDING AGAINST THE
18 DEFENDANT WHILE THE CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT
19 ARE ONGOING IF:

20 (I) A COMPETENCY EVALUATOR OR A PROFESSIONAL PERSON, AS
21 DEFINED IN SECTION 27-65-102, OR AN INTERVENING PROFESSIONAL, AS
22 DEFINED IN SECTION 27-65-102, WHO IS ACTING WITHIN THE SCOPE OF
23 THEIR AUTHORITY AND WHO HAS AN ESTABLISHED TREATMENT
24 RELATIONSHIP WITH THE DEFENDANT, OPINES THAT THE DEFENDANT
25 MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT OR
26 LONG-TERM CARE AND TREATMENT PURSUANT TO SECTION 27-65-108.3,
27 FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR FOR

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

3 (II) ONE OF THE FOLLOWING INDIVIDUALS REQUESTS THE COURT
4 TO ORDER THE INITIATION OF A CIVIL PROCEEDING:

5 (A) THE DISTRICT ATTORNEY;

6 (B) THE COUNTY ATTORNEY;

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

8 (D) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
9 WHO OPINED THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL
10 PROCEEDING IF THE PROFESSIONAL PERSON'S OR INTERVENING
11 PROFESSIONAL'S OPINION IS NOT THE RESULT OF WORK PERFORMED AS
12 PART OF EMPLOYMENT OR A CONTRACT WITH THE BHA OR WITH CDHS;
13 OR

14 (E) A REPRESENTATIVE DESIGNATED BY THE BHA OR WITH CDHS
15 TO MAKE A REQUEST.

16 (b) NOTWITHSTANDING SUBSECTION (4)(a)(II) OF THIS SECTION, IF
17 ANY OF THE DEFENDANT'S CHARGES INCLUDE A FELONY, THE COURT MAY
18 ORDER THE COUNTY ATTORNEY TO INITIATE A CIVIL PROCEEDING ONLY IF
19 THE DISTRICT ATTORNEY CONSENTS TO THE INITIATION OF A CIVIL
20 PROCEEDING.

21 (5) (a) (I) DURING THE PENDENCY OF THE CRIMINAL CASE, THE
22 DEFENDANT, THE DEFENDANT'S ATTORNEY IN THE CRIMINAL CASE, AND
23 THE PROSECUTING ATTORNEY IN THE CRIMINAL CASE MAY ACCESS THE
24 FOLLOWING INFORMATION AND RECORDS THAT RELATE TO A CIVIL
25 PROCEEDING INITIATED AGAINST THE DEFENDANT:

26 (A) WHETHER A CIVIL PROCEEDING IS PENDING AGAINST THE
27 DEFENDANT AND, IF SO, THE DATE AND TIME OF THE CIVIL PROCEEDING

1 AND THE FINAL DISPOSITION OF THE CIVIL PROCEEDING, REGARDLESS OF
2 WHETHER THE CIVIL PROCEEDING IS CONFIDENTIAL OR CLOSED TO THE
3 PROSECUTING ATTORNEY OR THE DEFENDANT'S ATTORNEY IN THE
4 CRIMINAL CASE; AND

5 (B) WHETHER THE COURT PREVIOUSLY ORDERED CERTIFICATION
6 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5,
7 27-65-109, OR 27-65-109.5, CERTIFICATION FOR LONG-TERM CARE AND
8 TREATMENT PURSUANT TO SECTION 27-65-110, PROTECTIVE PLACEMENT
9 PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A LEGAL
10 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION
11 25.5-10-216.

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

15 (b) IF A PETITION FOR A CIVIL PROCEEDING IS FILED AGAINST THE
16 DEFENDANT AS A RESULT OF THE COURT'S ORDER PURSUANT TO
17 SUBSECTION (4)(a) OF THIS SECTION, THE PETITIONER SHALL FILE A NOTICE
18 IN THE DEFENDANT'S CRIMINAL CASE.

19 (6) THE COURT SHALL ORDER THE COUNTY ATTORNEY _____ TO
20 INITIATE A CIVIL PROCEEDING AGAINST THE DEFENDANT AND STAY THE
21 ORDER DISMISSING THE DEFENDANT'S CRIMINAL CASE FOR THIRTY-FIVE
22 DAYS IF:

23 (a) THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO
24 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116, OR, IF THE
25 DEFENDANT IS INCOMPETENT, THE DISTRICT ATTORNEY VOLUNTARILY
26 MOVES TO DISMISS THE CASE AND _____ REQUESTS THE COUNTY ATTORNEY
27 OR THE APPOINTED _____ EMERGENCY GUARDIAN TO INITIATE A CIVIL

1 PROCEEDING;

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

12 (c) ONE OF THE FOLLOWING INDIVIDUALS REQUESTS THE COURT TO
13 ORDER THE INITIATION OF A CIVIL PROCEEDING:

14 (I) THE DISTRICT ATTORNEY;

15 (II) THE COUNTY ATTORNEY;

16 (III) THE APPOINTED EMERGENCY GUARDIAN;

17 (IV) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
18 WHO OPINED PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION THAT
19 THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING IF THE
20 PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S OPINION IS NOT
21 THE RESULT OF WORK PERFORMED AS PART OF EMPLOYMENT OR A
22 CONTRACT WITH THE BHA OR WITH CDHS; OR

23 (V) A REPRESENTATIVE DESIGNATED BY THE BHA OR WITH CDHS
24 TO MAKE A REQUEST.

25 (7) NOTWITHSTANDING SUBSECTIONS (4) AND (6) OF THIS SECTION,
26 IF AN APPOINTED EMERGENCY GUARDIAN BELIEVES IN THEIR
27 PROFESSIONAL JUDGMENT THAT A CIVIL PROCEEDING SHOULD BE

1 INITIATED, THE COURT SHALL ALLOW THE EMERGENCY GUARDIAN TO
2 INITIATE THE CIVIL PROCEEDING IN LIEU OF ORDERING THE COUNTY
3 ATTORNEY TO INITIATE THE CIVIL PROCEEDING.

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

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

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

13 (II) THE COURT FINDS GOOD CAUSE; AND

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

19 (c) IF THE DEFENDANT DOES NOT CONSENT TO AN EXTENSION TO
20 STAY THE ORDER, THE COURT SHALL GRANT NO MORE THAN ONE
21 ADDITIONAL EXTENSION, SO LONG AS THE EXTENSION DOES NOT EXCEED
22 SEVENTY DAYS, IF:

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

25 (II) THE COURT FINDS GOOD CAUSE; AND

26 (III) THE DEFENDANT IS NOT CHARGED WITH A CRIME OF
27 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), OR A FELONY THAT

1 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION
2 16-22-102.

3 (d) FOR THE PURPOSE OF THIS SUBSECTION (8), GOOD CAUSE DOES
4 NOT INCLUDE REFUSAL OR FAILURE TO TIMELY FILE A PETITION FOR A CIVIL
5 PROCEEDING PURSUANT TO SUBSECTION (4) OF THIS SECTION.

6 (e) AN EXTENSION GRANTED PURSUANT TO SUBSECTION (8)(b) OR
7 (8)(c) OF THIS SECTION IS IN ADDITION TO THE INITIAL STAY AUTHORIZED
8 PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION.

9 (f) AFTER A STAY OF DISMISSAL ENDS PURSUANT TO THIS
10 SUBSECTION (8), THE COURT SHALL DISMISS THE DEFENDANT'S CRIMINAL
11 CASE UNLESS THE STAY REMAINS IN EFFECT PURSUANT TO SECTION
12 16-8.5-118. AFTER THE DEFENDANT'S CASE IS DISMISSED, THE COURT
13 SHALL NOTIFY CDHS OF THE DISMISSAL, IN WRITING, AND THE REASON
14 FOR THE DISMISSAL.

15 (9) PRIOR TO ORDERING THE COUNTY ATTORNEY ___ TO INITIATE A
16 CIVIL PROCEEDING PURSUANT TO SUBSECTION (4) OR (6) OF THIS SECTION,
17 THE COURT SHALL CONSIDER ANY OBJECTIONS FROM THE DEFENDANT.

18 (10) IF THE COURT ORDERS THE COUNTY ATTORNEY ___ TO INITIATE
19 A CIVIL PROCEEDING PURSUANT TO SUBSECTION (4) OR (6) OF THIS
20 SECTION, THE COURT SHALL SERVE THE COUNTY ATTORNEY ___ WITH A
21 WRITTEN ORDER THAT:

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

23 (b) SETS A DEADLINE FOR THE COUNTY ATTORNEY ___ TO INITIATE
24 A CIVIL PROCEEDING NO LATER THAN TWENTY-ONE DAYS AFTER THE
25 COURT'S ORDER;

26 (c) IDENTIFIES THE SPECIFIC CIVIL PROCEEDINGS THE COURT
27 INTENDS THE COUNTY ATTORNEY ___ TO INITIATE; AND

1 (d) INCLUDES ANY ORDERS THE COURT ISSUED PURSUANT TO THIS
2 SECTION.

3 (11) THE COUNTY ATTORNEY OR THE APPOINTED EMERGENCY
4 GUARDIAN MAY OBJECT TO THE ORDER TO INITIATE A CIVIL PROCEEDING
5 WITHIN SEVEN DAYS AFTER RECEIVING THE COURT ORDER SERVED
6 PURSUANT TO SUBSECTION (10) OF THIS SECTION AND MAY REQUEST A
7 HEARING. IF THE COUNTY ATTORNEY OR THE APPOINTED EMERGENCY
8 GUARDIAN FILES AN OBJECTION, THE COURT SHALL SET A HEARING
9 FORTHWITH AND RULE ON THE COUNTY ATTORNEY'S OBJECTION BY EITHER
10 VACATING, MODIFYING, OR AFFIRMING THE COURT'S ORDER TO INITIATE A
11 CIVIL PROCEEDING.

12 (12) IF THE COURT ORDERS THE COUNTY ATTORNEY TO INITIATE
13 A CIVIL PROCEEDING AGAINST THE DEFENDANT:

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

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

24 (13) IF THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO
25 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116; THE COURT
26 DOES NOT ORDER THE COUNTY ATTORNEY TO INITIATE A CIVIL
27 PROCEEDING; AND THE CASE IS NOT STAYED PURSUANT TO SECTION

1 16-8.5-118, THE COURT SHALL DISMISS THE CASE.

2 **16-8.5-118. Civil commitment and enhanced protective**
3 **placement for incompetent and unrestorable defendants - report -**
4 **repeal.**

5 (1) (a) IF THE DEFENDANT IS UNRESTORABLE PURSUANT TO
6 SECTION 16-8.5-113 OR THE DEFENDANT HAS REACHED THE MAXIMUM
7 TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION
8 16-8.5-116, THE PROSECUTION MAY NOTIFY THE COURT THAT THE
9 PROSECUTION SEEKS CIVIL COMMITMENT OR ENHANCED PROTECTIVE
10 PLACEMENT OF THE DEFENDANT PURSUANT TO THIS SECTION.

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

20 (c) UPON THE PROSECUTION PROVIDING WRITTEN NOTICE TO THE
21 COURT PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, THE COURT
22 SHALL:

23 (I) STAY THE ORDER DISMISSING THE DEFENDANT'S CRIMINAL
24 CASE;

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

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

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

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

26 (4) (a) THE TRIAL MUST BE CIVIL IN NATURE BUT CONDUCTED IN
27 ACCORDANCE WITH THE COLORADO RULES OF EVIDENCE. A DISTRICT

1 COURT JUDGE OR, WITH THE CONSENT OF BOTH PARTIES, A COUNTY COURT
2 JUDGE OR A MAGISTRATE ASSIGNED BY THE CHIEF JUDGE OF THE JUDICIAL
3 DISTRICT SHALL SERVE AS THE FINDER OF FACT.

4 (b) (I) UPON SETTING THE TRIAL, THE COURT SHALL ORDER, IN
5 WRITING, THE EXCHANGE OF RELEVANT DISCOVERY FOR THE PURPOSE OF
6 ENSURING A FAIR AND EXPEDITIOUS TRIAL FOR BOTH PARTIES, INCLUDING,
7 AT A MINIMUM, THE TIMELY DISCLOSURE OF THE WITNESSES AND
8 EVIDENCE THE PARTIES INTEND TO RELY UPON AT TRIAL.

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

13 (c) THE PARTIES MAY ISSUE SUBPOENAS PURSUANT TO RULE 17 OF
14 THE COLORADO RULES OF CRIMINAL PROCEDURE TO COMPEL THE
15 ATTENDANCE OF WITNESSES AT TRIAL.

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

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

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

27 (III) THE COURT FINDS THE DEFENDANT UNDERSTANDS THE

1 STIPULATION AND THAT THE STIPULATION IS VOLUNTARY DESPITE THE
2 DEFENDANT BEING INCOMPETENT TO PROCEED; AND

3 (IV) THE PARTIES ESTABLISH A FACTUAL BASIS.

4 (b) ANY STIPULATION OR ADMISSION MADE AS PART OF THE
5 STIPULATION TO IMPOSE A CIVIL COMMITMENT OR ENHANCED PROTECTIVE
6 PLACEMENT IS NOT ADMISSIBLE IN ANY FUTURE CRIMINAL PROSECUTION
7 TO PROVE ANY ACT ALLEGED IN THE WRITTEN NOTICE SEEKING THE CIVIL
8 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT. (6) AT TRIAL, THE
9 PROSECUTION SHALL PROVE BY CLEAR AND CONVINCING EVIDENCE THAT:

10 (a) THE DEFENDANT HAS A MENTAL DISABILITY OR
11 DEVELOPMENTAL DISABILITY;

12 (b) (I) THE DEFENDANT COMMITTED AN ACT THAT, IN THE
13 ABSENCE OF ANY MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY,
14 WOULD CONSTITUTE:

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

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

17 OR

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

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

24 (c) THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM
25 TO OTHERS.

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

1 (I) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT
2 SHALL NOT CONSIDER, A DEFENSE BASED ON A MENTAL DISABILITY OR
3 DEVELOPMENTAL DISABILITY, INCLUDING A MENTAL DISEASE OR DEFECT,
4 AS DEFINED IN SECTION 16-8-102, INCLUDING, BUT NOT LIMITED TO, A
5 DEFENSE RAISED PURSUANT TO ARTICLE 8 OF TITLE 16 OR ANY DEFENSE
6 THAT IS AN ELEMENT-NEGATING TRAVERSE BASED ON A MENTAL DISEASE
7 OR DEFECT;

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

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

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

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

1 CRITERIA LISTED IN SUBSECTION (6)(a) OR (6)(c) OF THIS SECTION.

2 (d) (I) PRIOR TO TRIAL, THE COURT SHALL FIND THAT THE
3 PROSECUTION HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF
4 THIS SECTION IF AN ACT ALLEGED TO SATISFY THE REQUIREMENT OF
5 SUBSECTION (6)(b)(I) OF THIS SECTION IS:

6 (A) CHARGED IN THE CURRENT CASE; OR

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

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

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

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

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

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

27 (c) (I) IF THE DEFENDANT CONTESTS THAT THE DEFENDANT HAS A

1 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT SHALL
2 REVIEW THE RECORD AND DETERMINE IF THE DEFENDANT OR DEFENSE
3 COUNSEL RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR
4 FAILED TO OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT.

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

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

21 (d) AT TRIAL, THE COURT:

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

26 (II) MAY TAKE JUDICIAL NOTICE OF ANY PRIOR FINDING THAT THE
27 DEFENDANT IS INCOMPETENT TO PROCEED AND THE STANDARD OF PROOF

1 TO WHICH THE PRIOR FINDING WAS MADE; AND

2 (III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE
3 COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY
4 EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION
5 OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR
6 DEVELOPMENTAL DISABILITY.

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

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

21 (11) (a) IF THE COURT FINDS THAT THE PROSECUTION MET THE
22 REQUIREMENTS DESCRIBED IN SUBSECTION (6) OF THIS SECTION, THE
23 COURT SHALL:

24 (I) ORDER THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE
25 PLACEMENT OF THE DEFENDANT IN ACCORDANCE WITH SUBSECTION (12)
26 OF THIS SECTION;

27 (II) PLACE THE DEFENDANT AND ISSUE ANY RELATED ORDERS

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

1 ORDER TO CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT, AS
2 APPROPRIATE, BASED ON THE DETERMINATION OF CDHS.

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

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

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

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

26 (II) PRIOR TO THE REVIEW HEARING, ORDER CDHS, IN
27 CONSULTATION WITH THE BHA, TO IDENTIFY AT LEAST ONE APPROPRIATE

1 PROVIDER THAT IS WILLING TO IMMEDIATELY ACCEPT PLACEMENT OF THE
2 DEFENDANT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (H) WHETHER THE DEFENDANT OPPOSES THE PLACEMENT;

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

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

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

8 (e) THE COURT SHALL NOT PERMIT OR ORDER A DEFENDANT TO BE
9 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE
10 UNLESS:

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

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

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

1 (g) IF CDHS DOES NOT PROPOSE PLACING THE DEFENDANT INTO
2 INPATIENT CARE AND CDHS HAS NOT IDENTIFIED ANY OTHER
3 APPROPRIATE PLACEMENT WITH SUFFICIENT TIME TO REVIEW AND PLACE
4 THE DEFENDANT WITHIN THE TIME FRAME SET FORTH IN SUBSECTION
5 (11)(b) OF THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT
6 PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS.

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 2031, 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, 2030:

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) HCPF AND THE JUDICIAL DEPARTMENT SHALL PROVIDE ANY
19 NECESSARY INFORMATION TO ASSIST CDHS IN ITS PRESENTATION.

20 (18) CDHS SHALL PUBLICLY POST ON CDHS'S WEBSITE THE
21 FOLLOWING INFORMATION ON A QUARTERLY BASIS:

22 (a) THE ACTUAL AND PROJECTED NUMBER OF PERSONS WHO ARE
23 INCOMPETENT AND UNRESTORABLE AND WHO ARE OR MAY BE PLACED IN
24 CDHS'S CUSTODY FOR A CIVIL COMMITMENT OR ENHANCED PROTECTIVE
25 PLACEMENT; AND

26 (b) THE ACTUAL AND PROJECTED COSTS THAT CDHS WILL OR MAY
27 INCUR FOR SERVICES RELATED TO CDHS'S OBLIGATIONS PURSUANT TO

1 SECTIONS 27-65-201 AND 25.5-10-507.

2 (19) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

3 **16-8.5-119. Dismissal procedures.**

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

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

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

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

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

22 (2) SUBJECT TO THE APPLICABLE STATUTE OF LIMITATIONS,
23 INCLUDING ANY APPLICABLE TOLLING PROVISIONS, THE DISTRICT
24 ATTORNEY MAY REFILE THE CHARGES DISMISSED PURSUANT TO THIS
25 SECTION AT A LATER TIME IF THE DISTRICT ATTORNEY HAS REASON TO
26 BELIEVE THE DEFENDANT HAS SINCE ATTAINED COMPETENCY. THE COURT
27 SHALL NOTE IN THE COURT'S FINAL ORDER DISMISSING THE CASE THAT THE

1 CHARGES MAY BE REFILED, BUT THE PROSECUTION IS NOT PRECLUDED
2 FROM REILING MERELY BECAUSE THE COURT DID NOT STATE SO IN THE
3 ORDER.

4 **16-8.5-120. [Formerly 16-8.5-117] Escape - return to**
5 **institution.**

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

17 **16-8.5-121. [Formerly 16-8.5-118] Temporary removal for**
18 **treatment and rehabilitation.**

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

24 **16-8.5-122. [Formerly 16-8.5-120] Competency evaluation**
25 **monitoring system - users - rules.**

26 (1) ~~The department~~ CDHS, with assistance from the judicial
27 department, shall develop an electronic system to track the status of

1 defendants in the criminal justice system for whom a competency
2 evaluation or competency restoration has been ordered. The system must
3 contain information on the following:

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

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

17 **16-8.5-123. [Formerly 16-8.5-122] Forensic evaluator training.**

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

1 training requirements as outlined in this section through an exemption
2 process to be developed by ~~the department~~ CDHS. The state ~~will~~ SHALL
3 manage an oversight program ~~that will~~ TO provide support and ensure
4 quality of forensic evaluators.

5 **16-8.5-124. Transparency requirements.**

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

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

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

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

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

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

21 (f) The number of individuals on the competency restoration wait
22 list;

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

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

27 **16-8.5-125. [Formerly 16-8.5-116.5 (11)] Rules.**

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

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

6 **27-65-101.5. Nonapplicability of article if individual has**
7 **intellectual and developmental disability or neurocognitive disorder.**

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

17 **SECTION 3.** In Colorado Revised Statutes, 27-65-102, **amend**
18 (10), (11), (21), and (22); and **add** (10.2), (24.5), and (32) as follows:

19 **27-65-102. Definitions.**

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

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

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

25 (b) a person poses a substantial risk of physical harm to another
26 person or persons, as manifested by evidence of recent homicidal or other
27 violent behavior by the person in question, or by evidence that others are

1 placed in reasonable fear of violent behavior and serious physical harm
2 to them, as evidenced by a recent overt act, attempt, or threat to do serious
3 physical harm by the person in question.

4 (10.2) "DANGER TO THE PERSON'S SELF", OR SIMILAR
5 TERMINOLOGY, MEANS A PERSON POSES A SUBSTANTIAL RISK OF PHYSICAL
6 HARM TO THE PERSON'S SELF AS MANIFESTED BY EVIDENCE OF RECENT
7 THREATS OR ATTEMPTS AT SUICIDE OR SERIOUS BODILY HARM TO THE
8 PERSON'S SELF.

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

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

21 (22) "Mental health disorder" ~~includes~~ MEANS one or more
22 substantial disorders of the cognitive, volitional, or emotional processes
23 that grossly impairs judgment or capacity to recognize reality or to control
24 behavior ~~An intellectual or developmental disability is insufficient to~~
25 ~~either justify or exclude a finding of a mental health disorder pursuant to~~
26 ~~the provisions of this article 65~~ AND INCLUDES A MENTAL DISABILITY OR
27 DEVELOPMENTAL DISABILITY, AS THOSE TERMS ARE DEFINED IN SECTION

1 16-8.5-101, WHICH HAS LED A COURT TO FIND THE PERSON WITH THE
2 DISABILITY INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE
3 16.

4

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5 (24.5) "PERSISTENT MENTAL HEALTH DISORDER" MEANS A PERSON
6 WHO HAS A MENTAL HEALTH DISORDER AND:

7 (a) THE PERSON HAS HAD ANY COMBINATION OF AT LEAST THREE
8 EMERGENCY MENTAL HEALTH HOLDS OR CERTIFICATIONS FOR
9 SHORT-TERM TREATMENT ORDERED AGAINST THE PERSON OR PERIODS OF
10 INCOMPETENCY IN A CRIMINAL CASE AT THREE SEPARATE TIMES WITHIN
11 THE PAST THREE YEARS;

12 (b) EVEN IF THERE IS NOT AN IMMINENT EMERGENCY, IF THE
13 MENTAL HEALTH DISORDER IS NOT TREATED THROUGH CERTIFICATION FOR
14 SHORT-TERM TREATMENT, THERE IS A SUBSTANTIAL PROBABILITY THE
15 MENTAL HEALTH DISORDER WILL RESULT IN ADDITIONAL EMERGENCY
16 MENTAL HEALTH HOLDS, CERTIFICATIONS FOR SHORT-TERM TREATMENT,
17 OR CRIMINAL CONDUCT AGAINST OTHER INDIVIDUALS WITHIN THE NEXT
18 YEAR; AND

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

23 (32) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" MEANS AN
24 APPRECIABLE AND CONSIDERABLE RISK THAT THE PERSON WILL COMMIT
25 A CRIMINAL ACT AGAINST A PERSON NOW OR IN THE REASONABLY
26 FORESEEABLE FUTURE THAT CAUSES SERIOUS BODILY INJURY, AS DEFINED
27 IN SECTION 18-1-901, TO ANOTHER PERSON, OR IS LIKELY TO CAUSE

1 SERIOUS EMOTIONAL DISTRESS TO A REASONABLE PERSON.

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

4 **27-65-104. Voluntary applications for mental health services**
5 **- treatment of minors - definition.**

6 (6) (d) (I) The minor or the minor's attorney or guardian ad litem
7 may, at any time after the minor has continued to affirm the minor's
8 objection to hospitalization pursuant to subsection (6)(b) of this section,
9 file a written request that the recommendation for continued
10 hospitalization be reviewed by the court or that the treatment be on an
11 outpatient basis. If review is requested, the court shall hear the matter
12 within ten days after the request, and the court shall give notice of the
13 time and place of the hearing to the minor; the minor's attorney, if any;
14 the minor's parents or legal guardian; the minor's guardian ad litem, if
15 any; the independent professional person; and the minor's treating team.
16 The hearing must be held in accordance with ~~section 27-65-113~~ SECTION
17 27-65-113.1; except that the court or jury shall determine that the minor
18 is in need of care and treatment if the court or jury makes the following
19 findings:

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

23 **27-65-106. Emergency mental health hold - screening -**
24 **court-ordered evaluation - discharge instructions - respondent's**
25 **rights.**

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

1 (a) (I) When a certified peace officer has probable cause to
2 believe a person has a mental health disorder and, as a result of the mental
3 health disorder, is an imminent danger to the person's self, ~~or AN~~
4 ~~IMMINENT DANGER TO~~ others, or ~~is~~ gravely disabled, the certified peace
5 officer may take the person into protective custody and transport the
6 person to a facility designated by the commissioner for an emergency
7 mental health hold. If ~~such~~ a facility is not available, the certified peace
8 officer may transport the person to an emergency medical services
9 facility. The certified peace officer may request assistance from a
10 behavioral health crisis response team for assistance in detaining and
11 transporting the person or an emergency medical services provider in
12 transporting the person; or

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

26 (b) (I) When a person petitions the court in the county in which
27 the respondent resides or is physically present requesting an evaluation of

1 the respondent's condition and alleging that the respondent HAS A
2 PERSISTENT MENTAL HEALTH DISORDER OR appears to have a mental
3 health disorder and, as a result of the mental health disorder, appears to
4 be a danger to the respondent's self, ~~OR~~ A DANGER TO others, or ~~appears to~~
5 ~~be~~ gravely disabled.

6 (2) (a) When a person is taken into custody pursuant to subsection
7 (1) of this section, the person must not be detained in a jail, lockup, or
8 other place used for the confinement of persons charged with or convicted
9 of penal offenses. Unless otherwise required by law, a certified peace
10 officer may transport the person to an emergency medical services facility
11 or facility designated by the commissioner ~~FOR AN EMERGENCY MENTAL~~
12 ~~HEALTH HOLD~~ even if a warrant has been issued for the person's arrest if
13 the certified peace officer believes it is in the best interest of the person.
14 The person must not be held on an emergency mental health hold for
15 longer than seventy-two hours after the hold is placed or ordered. Nothing
16 in this section prohibits an emergency medical services facility from
17 involuntarily holding the person in order to stabilize the person as
18 required pursuant to the federal "Emergency Medical Treatment and
19 Labor Act", 42 U.S.C. sec. 1395dd, or if the treating professional
20 determines that the ~~individual's~~ PERSON'S physical or mental health
21 disorder impairs the person's ability to make an informed decision to
22 refuse care and the provider determines that further care is indicated.

23 (b) THIS SECTION DOES NOT PRECLUDE:

24 (I) ~~A COURT FROM ORDERING AN EVALUATION AT THE JAIL WHEN~~
25 ~~THE PERSON IS LAWFULLY CONFINED IN JAIL BECAUSE THE PERSON IS~~
26 ~~CHARGED WITH OR CONVICTED OF A PENAL OFFENSE; OR~~

27

==

1 (II) A PERSON OR ENTITY THAT HAS CARE AND CUSTODY OF A
2 DETAINED PERSON FROM TRANSPORTING THE DETAINED PERSON TO AN
3 EMERGENCY MEDICAL SERVICES FACILITY OR FACILITY DESIGNATED BY
4 THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH HOLD.

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

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

25 (III) Allegations of fact indicating that the respondent may have
26 a mental health disorder and, as a result of the mental health disorder,
27 MAY be a danger to the respondent's self, ~~or~~ A DANGER TO others, or ~~be~~

1 gravely disabled and showing reasonable grounds to warrant an
2 evaluation;

3 (c) Following the screening described in subsection (4)(b) of this
4 section, the facility, intervening professional, or certified peace officer
5 designated by the court shall file a report with the court and may initiate
6 an emergency mental health hold at the time of screening. The report
7 must include a recommendation as to whether probable cause exists to
8 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,
9 OR has a mental health disorder and, as a result of the mental health
10 disorder, is a danger to the respondent's self, ~~OR~~ A DANGER TO others, or
11 ~~is~~ gravely disabled, and whether the respondent will voluntarily receive
12 evaluation or treatment. The screening report submitted to the court
13 pursuant to this subsection (4)(c) is confidential in accordance with
14 section 27-65-123 and must be furnished to the respondent or the
15 respondent's attorney or personal representative.

16 (d) Whenever it appears, by petition and screening pursuant to this
17 section, to the satisfaction of the court that probable cause exists to
18 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,
19 OR has a mental health disorder and, as a result of the mental health
20 disorder, is a danger to the respondent's self, ~~OR~~ A DANGER TO others, or
21 ~~is~~ gravely disabled, and that efforts have been made to secure the
22 cooperation of the respondent but the respondent has refused or failed to
23 accept AN evaluation voluntarily, the court shall issue an order for AN
24 evaluation authorizing a certified peace officer or secure transportation
25 provider to take the respondent into custody and transport the respondent
26 to a facility designated by the commissioner for an emergency mental
27 health hold. At the time the respondent is taken into custody, a copy of the

1 petition and the order for AN evaluation must be given to the respondent
2 and promptly thereafter to the one lay person designated by the
3 respondent and to the person in charge of the facility named in the order
4 or the respondent's designee. If the respondent refuses to accept a copy of
5 the petition and the order for AN evaluation, ~~such~~ THE refusal must be
6 documented in the petition and the order for THE evaluation.

7 (6) (a) Each person detained for an emergency mental health hold
8 pursuant to this section shall receive an evaluation as soon as possible
9 after the person ~~is presented~~ PRESENTS to the facility, OR AS SOON AS
10 POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE
11 PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, == and shall receive
12 such treatment and care as the person's condition requires for the full
13 period that the person is held. The evaluation must include an assessment
14 to determine if the person continues to meet the criteria for an emergency
15 mental health hold and requires further mental health care in a facility
16 designated by the commissioner. The evaluation must state whether the
17 person should be released, referred for further care and treatment on a
18 voluntary basis, or certified for short-term treatment pursuant to section
19 27-65-109.

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

1 THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH HOLD.

2 (8) (d) (I) The facility shall, at a minimum, attempt to follow up
3 with the person, the person's parent or legal guardian, or the person's lay
4 person at least ~~forty-eight~~ SEVENTY-TWO hours after discharge. The
5 facility is encouraged to utilize peer support professionals, as defined in
6 section 27-60-108 (2)(b), when performing follow-up care with
7 individuals and in developing a continuing care plan pursuant to
8 subsection (8)(a)(I) of this section. The facility may facilitate follow-up
9 care through contracts with community-based behavioral health providers
10 or the 988 crisis hotline operated pursuant to section 27-64-103. If the
11 facility facilitates follow-up care through a third-party contract, the
12 facility shall obtain authorization from the person to provide follow-up
13 care.

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

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

25 **SECTION 6.** In Colorado Revised Statutes, 27-65-107, **amend**
26 (1), (2), (4)(a)(IV), and (4)(b) as follows:

27 **27-65-107. Emergency transportation - application - screening**

1 **- respondent's rights.**

2 (1) (a) ~~When~~ IF a certified peace officer or emergency medical
3 services provider has probable cause to believe a person is experiencing
4 a behavioral health crisis ~~or is~~ AND, WITHOUT PROFESSIONAL
5 INTERVENTION, MAY BE A DANGER TO THE PERSON'S SELF, A DANGER TO
6 OTHERS, OR gravely disabled, ~~and, as a result, without professional~~
7 ~~intervention the person may be a danger to the person's self or others, then~~
8 the certified peace officer or emergency medical services provider may
9 take the person into protective custody and transport the person to an
10 outpatient mental health facility or a facility designated by the
11 commissioner FOR AN EMERGENCY MENTAL HEALTH HOLD or other
12 clinically appropriate facility designated by the commissioner. If ~~such a~~
13 ~~service~~ A FACILITY is not available, the person may be taken to an
14 emergency medical services facility.

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

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

25 (2) When a person is transported against the person's will pursuant
26 to subsection (1) of this section, the facility shall require an application,
27 in writing, stating the circumstances under which the person's condition

1 was called to the attention of the certified peace officer or emergency
2 medical services provider and further stating sufficient facts, obtained
3 from personal observations or obtained from others whom the certified
4 peace officer or emergency medical services provider reasonably believes
5 to be reliable, to establish that the person is experiencing a behavioral
6 health crisis or is gravely disabled and, as a result, it is believed that
7 without professional intervention the person may be a danger to the
8 person's self or A DANGER TO others. The application must indicate the
9 name of the person and the time the person was transported. A copy of the
10 application must be furnished to the person being transported.

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

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

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

27 **SECTION 7.** In Colorado Revised Statutes, **amend** 27-65-108 as

1 follows:

2 **27-65-108. Care coordination for persons certified or in need**
3 **of ongoing treatment.**

4 (1) A facility designated by the commissioner shall notify and
5 engage the BHA prior to terminating or transferring a person certified
6 pursuant to section 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or
7 27-65-111. The BHA ~~may~~ SHALL provide care coordination services to
8 support a person whose certification is terminated but who is in need of
9 ongoing treatment and services.

10 (2) The BHA shall, directly or through a contract, provide care
11 coordination services to a person certified pursuant to section
12 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or 27-65-111 and
13 determined by the designated facility and the BHA to need care
14 coordination services.

15

=====

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

18 **27-65-108.3. Criteria and standards for certification for**
19 **short-term treatment and certification for long-term care and**
20 **treatment.**

21 (1) A RESPONDENT MAY BE CERTIFIED FOR SHORT-TERM
22 TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109, OR
23 27-65-109.5, OR CERTIFIED FOR LONG-TERM CARE AND TREATMENT
24 PURSUANT TO SECTION 27-65-110, IF:

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

27 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE

1 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,
2 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT
3 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM;

4 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS
5 A MENTAL HEALTH DISORDER AND, AS A RESULT OF THE MENTAL HEALTH
6 DISORDER, THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF, A
7 DANGER TO OTHERS, OR GRAVELY DISABLED; OR

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

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

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

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

18 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND
19 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE
20 FUTURE;

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

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

26 (f) WHETHER THE PERSON WAS FOUND IN A CONDITION WHERE THE
27 PERSON WAS NOT ABLE TO CARE FOR THE PERSON'S OWN BASIC NEEDS IN

1 ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM; AND

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

6 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE
7 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, HAS A
8 PERSISTENT MENTAL HEALTH DISORDER, OR POSES A SUBSTANTIAL RISK OF
9 SERIOUS HARM TO OTHERS, THE COURT, EVALUATOR, OR INTERVENING
10 PROFESSIONAL SHALL, WHENEVER POSSIBLE, USE ALL REASONABLE
11 EFFORTS TO LEARN ABOUT PRIOR RELEVANT BEHAVIORS AND PRIOR
12 DIAGNOSES THROUGH AVAILABLE AND RELIABLE SOURCES, INCLUDING THE
13 PERSON'S PRIOR MEDICAL AND MENTAL HEALTH RECORDS, POLICE
14 REPORTS, AND INFORMATION FROM RELIABLE INDIVIDUALS WHO HAVE A
15 RELATIONSHIP OR REGULAR SUBSTANTIAL INTERACTIONS WITH THE
16 PERSON.

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

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

24 **27-65-108.5. Court-ordered certification for short-term**
25 **treatment for incompetent defendants in a criminal matter - contents**
26 **of petition - procedure to contest petition - commitment to behavioral**
27 **health administration - definition.**

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

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

11 (d) ~~The facility or community provider that will provide~~
12 ~~short-term treatment has been designated or approved by the~~
13 ~~commissioner to provide such treatment~~ PERSON MEETS THE CRITERIA FOR
14 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
15 27-65-108.3 (1); and

16 (2) The petition filed pursuant to subsection (1) of this section
17 must:

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

23 (b) Be accompanied by a report of the competency evaluator or
24 professional person who has evaluated the respondent within ~~fifty-six~~
25 NINETY-ONE days before ~~submission of~~ SUBMITTING the petition, unless
26 the respondent whose certification is sought has refused to submit to an
27 evaluation or the respondent cannot be evaluated due to the respondent's

1 condition;

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

4 ~~(d) Be filed with the court in the county where the respondent~~
5 ~~resided or was physically present immediately prior to the filing of the~~
6 ~~petition; except that if the person was arrested for the prior case and held~~
7 ~~in custody, the petition may be filed in the county where the respondent~~
8 ~~resided or was physically present immediately prior to the respondent's~~
9 ~~arrest; and~~

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

12 (2.5) (a) AN EMERGENCY MENTAL HEALTH HOLD ORDERED
13 PURSUANT TO SECTION 27-65-106 IS NOT A PREREQUISITE TO INITIATE A
14 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO THIS SECTION.

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

19 =====

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

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

8 (7.1) (a) IF THE RESPONDENT IS CERTIFIED FOR SHORT-TERM
9 TREATMENT, UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN
10 IDENTIFIED AND IS WILLING TO HOLD THE CERTIFICATION, THE COURT
11 SHALL ORDER CDHS TO PROVIDE CARE COORDINATION AND MAKE
12 DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT.

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

20 (c) THE COURT MAY ORDER:

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

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

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

5 (7.5) IF THE COURT CERTIFIES THE RESPONDENT FOR SHORT-TERM
6 TREATMENT AND THE COURT FINDS THAT INPATIENT TREATMENT IS
7 NECESSARY PURSUANT TO SECTION 27-65-118 (1)(a), BUT AN INPATIENT
8 CARE PROVIDER HAS NOT BEEN LOCATED THAT WILL ACCEPT THE
9 RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN EXHAUSTED,
10 THE COURT SHALL NOTIFY CDHS AND CERTIFY THE RESPONDENT FOR
11 OUTPATIENT TREATMENT PURSUANT TO SECTION 27-65-109.5.

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

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

25 (10) ~~In assessing whether the respondent with a pending criminal~~
26 ~~charge is a danger to self or others or is gravely disabled, if the person is~~
27 ~~incarcerated, the professional person and court shall not rely upon the fact~~

1 that the person is incarcerated to establish that the respondent is not a
2 danger to self or others or is not gravely disabled:

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

5 == =====

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

9 **27-65-109. Certification for short-term treatment - procedure.**

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

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

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

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

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

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

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

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

21 (9) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION
22 27-65-112, a respondent certified for short-term treatment may be
23 discharged upon the signature of the treating medical professional and the
24 medical director of the facility. A respondent certified for short-term
25 treatment on an outpatient basis may be discharged upon the signature of
26 the approved professional person overseeing the respondent's treatment,
27 and the professional person shall notify the BHA prior to the discharge.

1 A facility or program shall make the respondent's discharge instructions
2 available to the respondent, the respondent's attorney, and the
3 respondent's legal guardian, if applicable, within seven days after
4 discharge, if requested. A facility or program that is transferring a
5 respondent to a different treatment facility or to an outpatient provider
6 shall provide all treatment records to the facility or provider accepting the
7 respondent at least twenty-four hours prior to the transfer.

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

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

20 **27-65-109.5. Certification for short-term outpatient treatment.**

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

25 (a) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE
26 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST
27 THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE

1 OUTPATIENT CERTIFICATION;
2 (b) HAS EVALUATED THE PERSON WITHIN THE PAST THREE MONTHS
3 AND OPINED THAT THE PERSON MEETS THE CRITERIA FOR CERTIFICATION
4 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);
5 AND
6 (c) FILES WITH THE COURT A SIGNED OUTPATIENT CERTIFICATION.
7 (2) (a) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
8 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE IS THE
9 PETITIONER.
10 (b) PRIOR TO FILING THE PETITION, THE PETITIONER SHALL:
11 (I) ASK THE RESPONDENT TO DESIGNATE A LAY PERSON WHOM THE
12 RESPONDENT WISHES TO BE INFORMED REGARDING THE OUTPATIENT
13 CERTIFICATION;
14 (II) PROVIDE THE RESPONDENT WITH A COPY OF THE OUTPATIENT
15 CERTIFICATION; AND
16 (III) PROVIDE THE RESPONDENT WITH THE CONTACT INFORMATION
17 FOR THE COURT IN WHICH THE OUTPATIENT CERTIFICATION WILL BE FILED
18 AND FOR ANY DESIGNATED PROVIDER THAT IS WILLING TO HOLD THE
19 OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY THE
20 COMMISSIONER TO PROVIDE TREATMENT.
21 (3) THE SIGNED OUTPATIENT CERTIFICATION MUST:
22 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS
23 THAT THE RESPONDENT MEETS THE CRITERIA SET FORTH IN SECTION
24 27-65-108.3;
25 (b) BE FILED WITH THE COURT WITHIN FOURTEEN DAYS,
26 EXCLUDING SATURDAYS, SUNDAYS, AND COURT HOLIDAYS, AFTER THE
27 INITIATING PARTY RECEIVED THE COURT ORDER FROM THE CRIMINAL

1 COURT INITIATING THE OUTPATIENT CERTIFICATION, AND A COPY MUST BE
2 PROVIDED TO CDHS AND THE BHA WITHIN TWENTY-FOUR HOURS AFTER
3 FILING THE OUTPATIENT CERTIFICATION;

4 (c) PROVIDE ALL CONTACT INFORMATION THAT THE PETITIONER
5 HAS FOR THE RESPONDENT;

6 (d) PROVIDE THE NAME AND CONTACT INFORMATION FOR THE LAY
7 PERSON DESIGNATED BY THE RESPONDENT, OR FOR ANY FAMILY OR
8 FRIENDS OF THE RESPONDENT IF THE RESPONDENT WAS UNWILLING OR
9 INCAPABLE OF DESIGNATING A LAY PERSON; AND

10 (e) IDENTIFY ANY DESIGNATED PROVIDER THAT IS WILLING TO
11 HOLD THE OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY
12 THE COMMISSIONER TO PROVIDE TREATMENT, OR INCLUDE A STATEMENT
13 THAT A DESIGNATED PROVIDER NEEDS TO BE IDENTIFIED.

14 (4) (a) ONCE THE BHA RECEIVES THE NOTICE OF OUTPATIENT
15 CERTIFICATION, IF NO DESIGNATED PROVIDER HAS BEEN IDENTIFIED, THE
16 BHA SHALL PROVIDE CARE COORDINATION PURSUANT TO SECTION
17 27-65-108, WHICH INCLUDES MAKING DILIGENT EFFORTS TO IDENTIFY A
18 DESIGNATED PROVIDER TO HOLD THE OUTPATIENT CERTIFICATION AND
19 PROVIDE CARE TO THE RESPONDENT. THE BHA SHALL KEEP THE COURT,
20 PETITIONER, AND COUNTY ATTORNEY INFORMED IN WRITING REGARDING
21 ANY DESIGNATED PROVIDER THAT WILL HOLD THE OUTPATIENT
22 CERTIFICATION AND PROVIDE CARE TO THE RESPONDENT.

23 (b) ONCE A PROVIDER IS DESIGNATED TO HOLD THE OUTPATIENT
24 CERTIFICATION, THE PROVIDER SHALL NOTIFY THE BHA IF THE PROVIDER
25 HAS NOT MADE CONTACT WITH THE RESPONDENT WITHIN SEVEN DAYS
26 AFTER ACCEPTING THE OUTPATIENT CERTIFICATION. THE BHA SHALL
27 NOTIFY THE COURT IN WRITING THAT THE PROVIDER HAS NOT MADE

1 CONTACT WITH THE RESPONDENT WITHIN SEVEN DAYS AFTER ACCEPTING
2 THE OUTPATIENT CERTIFICATION.

3 (5) IF THE RESPONDENT HAS NOT DESIGNATED A LAY PERSON
4 WHOM THE RESPONDENT WISHES TO BE INFORMED REGARDING THE
5 OUTPATIENT CERTIFICATION, THE RESPONDENT MUST BE ASKED AND
6 ALLOWED TO DESIGNATE A LAY PERSON AS SOON AS THE RESPONDENT IS
7 CAPABLE AND WILLING TO DO SO.

8 (6) WHENEVER AN OUTPATIENT CERTIFICATION IS FILED WITH THE
9 COURT BY A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL, THE
10 COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT THE
11 RESPONDENT. THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL
12 PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY
13 APPEALS. THE ATTORNEY REPRESENTING THE RESPONDENT MUST BE
14 PROVIDED WITH A COPY OF THE OUTPATIENT CERTIFICATION AND ALL
15 SUPPORTING DOCUMENTATION IMMEDIATELY UPON THE ATTORNEY'S
16 APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE
17 RESPONDENT MAKES A KNOWING AND INTELLIGENT WAIVER IN FRONT OF
18 THE COURT.

19 (7) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY AT
20 ANY TIME FILE A WRITTEN REQUEST THAT THE CERTIFICATION FOR
21 SHORT-TERM TREATMENT OR THE TREATMENT BE REVIEWED BY THE
22 COURT. IF A REVIEW IS REQUESTED, THE COURT SHALL HEAR THE MATTER
23 WITHIN TEN DAYS AFTER THE REQUEST, AND THE COURT SHALL GIVE
24 NOTICE TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY AND THE
25 CERTIFYING AND TREATING PROFESSIONAL PERSON OR INTERVENING
26 PROFESSIONAL OF THE TIME AND PLACE OF THE HEARING. THE HEARING
27 MUST BE HELD IN ACCORDANCE WITH SECTION 27-65-113.1. AT THE

1 CONCLUSION OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE
2 OUTPATIENT CERTIFICATION FOR SHORT-TERM TREATMENT, DISCHARGE
3 THE RESPONDENT, OR ENTER ANY OTHER APPROPRIATE ORDER.

4 (8) THIS SECTION DOES NOT REQUIRE A COURT APPEARANCE IF THE
5 RESPONDENT DOES NOT CONTEST THE OUTPATIENT CERTIFICATION AND A
6 DESIGNATED PROVIDER IS IDENTIFIED TO HOLD THE OUTPATIENT
7 CERTIFICATION AND THE DESIGNATED PROVIDER MAKES CONTACT WITH
8 THE RESPONDENT WITHIN SEVEN DAYS AFTER THE DESIGNATED PROVIDER
9 BEGINS HOLDING THE OUTPATIENT CERTIFICATION.

10 (9) THE COURT SHALL SET A HEARING WITHIN THIRTY DAYS IF:

11 (a) THE RESPONDENT REQUESTS TO CONTEST, MODIFY, OR
12 TERMINATE THE OUTPATIENT CERTIFICATION;

13 (b) THE OUTPATIENT CERTIFICATION WAS FILED AND A
14 DESIGNATED PROVIDER WAS NOT IDENTIFIED WITHIN SEVEN DAYS AFTER
15 THE FILING OF THE OUTPATIENT CERTIFICATION; OR

16 (c) THE DESIGNATED PROVIDER DID NOT MAKE CONTACT WITH THE
17 RESPONDENT WITHIN SEVEN DAYS AFTER THE DESIGNATED PROVIDER
18 BEGAN HOLDING THE OUTPATIENT CERTIFICATION.

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

23 (11) THE BHA MAY RECEIVE AND POSSESS ALL INFORMATION
24 RELEVANT TO THE PROCEEDINGS PURSUANT TO THIS SECTION, INCLUDING
25 COMPETENCY AND MENTAL HEALTH EVALUATIONS; ANY MEDICAL AND
26 MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN
27 FOUND IN PROCEEDINGS PURSUANT TO THIS SECTION OR PURSUANT TO

1 ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE
2 RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT. THE
3 BHA MAY SHARE AND DISCUSS THE RELEVANT INFORMATION WITH THE
4 PARTIES TO THE PROCEEDINGS.

5 (12) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN
6 SECTION 27-65-112, A RESPONDENT CERTIFIED FOR SHORT-TERM
7 TREATMENT ON AN OUTPATIENT BASIS MAY BE DISCHARGED UPON THE
8 SIGNATURE OF THE APPROVED PROFESSIONAL PERSON OVERSEEING THE
9 RESPONDENT'S TREATMENT, AND THE PROFESSIONAL PERSON SHALL
10 NOTIFY THE BHA PRIOR TO THE DISCHARGE. A FACILITY OR PROGRAM
11 SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO
12 THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE RESPONDENT'S
13 LEGAL GUARDIAN, IF APPLICABLE, WITHIN SEVEN DAYS AFTER DISCHARGE,
14 IF REQUESTED. A FACILITY OR PROGRAM THAT IS TRANSFERRING A
15 RESPONDENT TO A DIFFERENT TREATMENT FACILITY OR TO AN OUTPATIENT
16 PROVIDER SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR
17 PROVIDER ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS
18 PRIOR TO THE TRANSFER.

19 (13) IF THE PROFESSIONAL PERSON IN CHARGE OF THE EVALUATION
20 AND TREATMENT BELIEVES THAT A PERIOD LONGER THAN THREE MONTHS
21 IS NECESSARY TO TREAT THE RESPONDENT, THE PROFESSIONAL PERSON
22 SHALL FILE WITH THE COURT AN EXTENDED CERTIFICATION AT LEAST
23 THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL
24 CERTIFICATION. AN EXTENDED CERTIFICATION FOR TREATMENT MUST NOT
25 BE FOR A PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS
26 ENTITLED TO A HEARING ON THE EXTENDED CERTIFICATION UNDER THE
27 SAME CONDITIONS AS AN ORIGINAL CERTIFICATION. THE ATTORNEY

1 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO
2 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER
3 ATTORNEY.

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

6 **SECTION 12.** In Colorado Revised Statutes, 27-65-110, **amend**
7 (1), (4), and (5) as follows:

8 **27-65-110. Certification for long-term care and treatment -**
9 **procedure.**

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

17 (a) The professional staff of the agency or facility providing
18 short-term treatment has analyzed the respondent's condition and has
19 found that the respondent ~~has a mental health disorder and, as a result of~~
20 ~~the mental health disorder, is a danger to the respondent's self or others~~
21 ~~or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS
22 FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
23 27-65-108.3 (1); AND

24 (b) ~~The respondent has been advised of the availability of, but has~~
25 ~~not accepted, voluntary treatment, but, if reasonable grounds exist to~~
26 ~~believe that the respondent will not remain in a voluntary treatment~~
27 ~~program, the respondent's acceptance of voluntary treatment does not~~

1 ~~preclude an order pursuant to this section, and~~

2 (e) (b) The facility that will provide long-term care and treatment
3 has been designated by the commissioner to provide the care and
4 treatment.

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

1 right.

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

25 **SECTION 13.** In Colorado Revised Statutes, 27-65-111, **amend**
26 (3), (6) introductory portion, (6)(a), and (6)(j) as follows:

27 **27-65-111. Certification on an outpatient basis - civil**

1 **commitment - short-term and long-term treatment.**

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

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

23 (a) To request a change to voluntary status. A change to voluntary
24 status may be denied by the supervising professional person or advanced
25 practice registered nurse with training in psychiatric nursing responsible
26 for the respondent's treatment if the professional person or advanced
27 practice registered nurse with training in psychiatric nursing determines

1 reasonable grounds exist to believe that the respondent will not remain in
2 a voluntary treatment program. THIS SUBSECTION (6)(a) DOES NOT APPLY
3 TO A RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION
4 27-65-201.

5 (j) To have the right to file a motion with the court at any time to
6 contest the certification. THIS SUBSECTION (6)(j) DOES NOT APPLY TO A
7 RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION
8 27-65-201.

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

11 **27-65-112. Termination of certification for short-term and**
12 **long-term treatment.**

13 (1) (a) An original or extended certification for short-term
14 treatment issued pursuant to section ~~27-65-108.5~~ or ~~27-65-109~~
15 ~~27-65-108.5, 27-65-109, OR 27-65-109.5, or an order or extension for~~
16 ~~certification for long-term care and treatment pursuant to section~~
17 ~~27-65-110, terminates as soon as~~ WHEN the professional person in charge
18 of treatment of the respondent and the BHA, AFTER A REASONABLE
19 OBSERVATION AND TREATMENT PERIOD, determine the respondent ~~has~~
20 ~~received sufficient benefit from the treatment for the respondent to end~~
21 ~~involuntary treatment. Whenever a certification or extended certification~~
22 ~~is terminated pursuant to this section, the professional person in charge~~
23 ~~of providing treatment shall notify the court in writing within five days~~
24 ~~after the termination~~ NO LONGER MEETS THE CRITERIA FOR CERTIFICATION
25 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1).

26 (b) THE PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S
27 CARE SHALL NOT APPROVE THE TERMINATION OF THE CERTIFICATION

1 UNLESS TWO PROFESSIONAL PERSONS INDEPENDENTLY EVALUATE THE
2 RESPONDENT AND INDEPENDENTLY OPINE THAT THE RESPONDENT NO
3 LONGER MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM
4 TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE PROFESSIONAL
5 PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH AND
6 PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS
7 REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS
8 WITH ONLY ONE PROFESSIONAL PERSON.

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

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

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

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

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

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

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

11 (b) When the convenience of the parties and the ends of justice
12 would be promoted by a change in the court having jurisdiction, the court
13 may order a transfer of the proceeding to another county. Until further
14 order of the transferee court, if any, it is the court of continuing
15 jurisdiction. IF MULTIPLE CRIMINAL COURTS REFER A MATTER FOR
16 PROCEEDING PURSUANT TO SECTION 27-65-201 OR 27-65-108.5, ANY
17 COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING TO ANOTHER
18 COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS INTO ONE
19 PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT PROMOTES THE
20 CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

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

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

1 THE JURISDICTION WHERE THE MINOR IS HOSPITALIZED.

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

9 (d) A PETITION OR REQUEST FOR A PROCEEDING REGARDING
10 CERTIFICATION FOR SHORT-TERM TREATMENT FOR INCOMPETENT
11 DEFENDANTS IN A CRIMINAL MATTER PURSUANT TO SECTION 27-65-108.5
12 OR A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 MAY BE FILED
13 IN THE JURISDICTION WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY
14 PRESENT IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, OR IS
15 RECEIVING INPATIENT TREATMENT OR WHERE THE CRIMINAL COURT THAT
16 REFERRED THE MATTER IS LOCATED.

17 ~~(5)(a)~~ (3) (a) In the event that a respondent or a person WHO IS
18 ORDERED COMMITTED PURSUANT TO SECTION 16-8.5-118, OR IS BEING
19 SUPERVISED IN A COMMITMENT PURSUANT TO SECTION 27-65-201, OR IS
20 found not guilty by reason of impaired mental condition pursuant to
21 section 16-8-103.5 (5), or by reason of insanity pursuant to section
22 16-8-105 (4) or 16-8-105.5, refuses to accept medication, the court having
23 jurisdiction of the action pursuant to ~~subsection (4)~~ SUBSECTION (1) of
24 this section; the court committing the person or defendant to the custody
25 of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or
26 16-8-105.5; or the court of the jurisdiction in which the designated facility
27 treating the respondent or person is located has jurisdiction and venue to

1 accept a petition by a treating physician and to enter an order requiring
2 that the respondent or person accept ~~such~~ THE treatment or, in the
3 alternative, that the medication be forcibly administered to the respondent
4 or person. The court of the jurisdiction in which the designated facility is
5 located shall not exercise its jurisdiction without the permission of the
6 court that committed the person to the custody of the department. Upon
7 the filing of ~~such a~~ THE petition, the court shall appoint an attorney, if one
8 has not been appointed, to represent the respondent or person and hear the
9 matter within ten days.

10 (b) In any case brought pursuant to ~~subsection (5)(a)~~ SUBSECTION
11 (3)(a) of this section in a court for the county in which the treating facility
12 is located, the county where the proceeding was initiated pursuant to
13 ~~subsection (4)~~ SUBSECTION (1) of this section or the court committing the
14 person to the custody of the department pursuant to section 16-8-103.5
15 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in
16 which the proceeding pursuant to this ~~subsection (5)~~ SUBSECTION (3) was
17 filed and in which the proceeding was held for the reasonable costs
18 incurred in conducting the proceeding or conduct the proceeding itself
19 using its own personnel and resources, including its own district or county
20 attorney, as the case may be.

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

25 ~~(6) (4) All adversarial proceedings pursuant to this article 65,~~
26 ~~including proceedings to impose a legal disability pursuant to section~~
27 ~~27-65-127, must be conducted by the district attorney of the county where~~

1 ~~the proceeding is held or by a qualified attorney acting for the district~~
2 ~~attorney appointed by the district court for that purpose; except that, in~~
3 ~~any county or in any city and county having a population exceeding fifty~~
4 ~~thousand persons, the proceedings must be conducted by the county~~
5 ~~attorney or by a qualified attorney acting for the county attorney~~
6 ~~appointed by the district court.~~ In any case in which there has been a
7 change of venue to a county other than the county of residence of the
8 respondent or the county in which the certification proceeding was
9 commenced, the county from which the proceeding was transferred shall
10 either reimburse the county to which the proceeding was transferred and
11 in which the proceeding was held for the reasonable costs incurred in
12 conducting the proceeding or conduct the proceeding itself using its own
13 personnel and resources, including its own district or county attorney, as
14 the case may be.

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

23 ~~(7) Upon request of a legal guardian appointed pursuant to article~~
24 ~~14 of title 15, the legal guardian may intervene in any proceeding brought~~
25 ~~pursuant to this article 65 concerning the legal guardian's ward and,~~
26 ~~through counsel, may present evidence and represent to the court the~~
27 ~~views of the legal guardian concerning the appropriate disposition of the~~

1 case:

2 ~~(8) A lay person may submit an affidavit to the court concerning~~
3 ~~the lay person's relationship to the respondent, how long the lay person~~
4 ~~has known the respondent, the lay person's physical address, and the lay~~
5 ~~person's views concerning the appropriate disposition of the respondent's~~
6 ~~case:~~

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

9 **27-65-113.1. Hearing procedures.**

10 (1) A HEARING HELD PURSUANT TO SECTION 27-65-201,
11 27-65-202, 27-65-108.5, 27-65-109, 27-65-109.5, OR 27-65-110 MUST BE
12 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE
13 THE COURT.

14 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S
15 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT
16 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A
17 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
18 TREATMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO THE RESULTS
19 OF THE PROFESSIONAL PERSON'S EXAMINATION. THE COURT-APPOINTED
20 PROFESSIONAL PERSON SHALL ACT SOLELY IN AN ADVISORY CAPACITY,
21 AND NO PRESUMPTION IS ATTACHED TO THE PROFESSIONAL PERSON'S
22 FINDINGS.

23 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT
24 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY
25 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65 CONCERNING THE
26 LEGAL GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT
27 EVIDENCE AND REPRESENT TO THE COURT THE VIEWS OF THE LEGAL

1 GUARDIAN CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

2 (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT
3 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW
4 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S
5 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE
6 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

7 **27-65-113.5. County attorney and district attorney**
8 **responsibilities.**

9 (1) THE COUNTY ATTORNEY OR DISTRICT ATTORNEY IN A COUNTY
10 OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR LESS THAN
11 FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING AS THE
12 COUNTY OR DISTRICT ATTORNEY'S DESIGNEE WHO IS APPOINTED BY THE
13 DISTRICT COURT, HAS THE FOLLOWING POWERS AND RESPONSIBILITIES:

14 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN
15 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 OR
16 TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION
17 16-8.5-118, UNLESS EXPRESSLY RELIEVED OR MODIFIED BY STATUTE;

18 (b) TO ASSIST A NONPROFESSIONAL INDIVIDUAL WHO IS
19 ATTEMPTING TO INITIATE A REQUEST TO THE COURT FOR AN EVALUATION,
20 PURSUANT TO SECTION 27-65-106 (1)(b), OF A PERSON WHOM THE
21 NONPROFESSIONAL INDIVIDUAL BELIEVES MEETS THE CRITERIA FOR A
22 CERTIFICATION BY PROVIDING INFORMATION AND ASSISTING IN MAKING
23 FILINGS TO THE COURT;

24 (c) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION
25 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT
26 TO THIS ARTICLE 65; AND

27 (d) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS

1 BROUGHT PURSUANT TO THIS ARTICLE 65 TO INTERESTED PARTIES AS
2 ALLOWABLE BY LAW.

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

5 **27-65-114. Appeals.**

6 (1) Appellate review of any order of FOR CERTIFICATION FOR
7 short-term treatment or long-term care and treatment OR FOR CIVIL
8 COMMITMENT may be had as provided in the Colorado appellate rules. An
9 appeal must be advanced upon the calendar of the appellate court and
10 must be decided at the earliest practicable time. Pending disposition by
11 the appellate court, the court may make such order as the court may
12 consider proper in the premises relating to the care and custody of the
13 respondent.

14 (2) THE COURT SHALL ADVISE A RESPONDENT SUBJECT TO AN
15 ORDER FOR CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM
16 CARE AND TREATMENT OR FOR CIVIL COMMITMENT OF THE RESPONDENT'S
17 RIGHT TO APPEAL THE ORDER AT THE CONCLUSION OF ANY HEARING.

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

20 **27-65-118. Right to treatment - rules.**

21 (1) (a) Any person receiving an evaluation or treatment pursuant
22 to this article 65 is entitled to medical and psychiatric care and treatment,
23 with regard to services listed in section 27-50-301 and services listed in
24 rules authorized by section 27-66-102, suited to meet the person's
25 individual needs, delivered in such a way as to keep the person in the
26 least-restrictive environment, and delivered in such a way as to include
27 the opportunity for participation of family members in the person's

1 program of care and treatment, when appropriate. ~~Nothing in~~ A PERSON
2 RECEIVING AN EVALUATION OR TREATMENT PURSUANT TO THIS ARTICLE
3 65 MUST NOT BE DENIED CARE OR DISCHARGED DUE TO AN INABILITY TO
4 PAY. This subsection (1)(a) ~~creates~~ DOES NOT CREATE any right with
5 respect to any person other than the person receiving an evaluation, care,
6 or treatment. The professional person and the agency or facility providing
7 an evaluation, care, or treatment shall keep records detailing all care and
8 treatment received by the person, and the records must be made available,
9 upon the person's written authorization, to the person's attorney or the
10 person's personal physician. The records are permanent records and must
11 be retained in accordance with section 27-65-123 (4).

12 **SECTION 19.** In Colorado Revised Statutes, 27-65-123, **add** (7),
13 (8), (9), (10), (11), and (12) as follows:

14 **27-65-123. Records.**

15 (7) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO
16 THIS ARTICLE 65 MUST BE MAINTAINED SEPARATELY BY THE CLERKS OF
17 THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST
18 NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS
19 SECTION.

20 (b) UPON THE TERMINATION OF A CERTIFICATION PURSUANT TO
21 SECTION 27-65-112 OR THE TERMINATION OF CIVIL COMMITMENT
22 PURSUANT TO SECTION 27-65-202, THE CLERK OF THE COURT SHALL
23 IMMEDIATELY SEAL THE RECORD IN THE CASE AND OMIT THE
24 RESPONDENT'S NAME FROM THE INDEX OF CASES IN THE COURT UNTIL AND
25 UNLESS THE RESPONDENT BECOMES SUBJECT TO AN ORDER OF
26 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT PURSUANT TO
27 SECTION 27-65-110 AND UNLESS THE COURT ORDERS THE RECORDS

1 OPENED FOR GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED
2 PURSUANT TO SECTION 27-65-110 OR 27-65-201, THE CERTIFICATION
3 RECORD MAY BE OPENED AND BECOME PART OF THE RECORD IN THE
4 CERTIFICATION FOR LONG-TERM CARE AND TREATMENT CASE AND THE
5 NAME OF THE RESPONDENT INDEXED.

6 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION,
7 WHILE A MATTER IS PENDING OR AFTER IT IS SEALED, THE COURT MAY
8 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND
9 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING
10 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE
11 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A
12 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID
13 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE
14 CLERK SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE AND PROVIDE
15 THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR AUTHORIZED
16 REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

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

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

1 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN
2 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE
3 RESPONDENT; AND

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

6 (9) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY
7 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT
8 PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT, A PROFESSIONAL
9 PERSON, OR AN INTERVENING PROFESSIONAL WITH LAWFUL POSSESSION OF
10 RECORDS FROM MAINTAINING AND USING THE RECORDS, UNLESS
11 PROHIBITED BY LAW.

12 (10) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A
13 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT,
14 A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK
15 TO UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED
16 TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING
17 COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS
18 BROUGHT PURSUANT TO THIS ARTICLE 65.

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

22 (12) (a) THIS ARTICLE 65 DOES NOT REQUIRE A COVERED ENTITY,
23 AS DEFINED IN THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
24 ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9, TO
25 USE OR DISCLOSE PROTECTED HEALTH INFORMATION OR OTHER
26 PERSONALLY IDENTIFIABLE INFORMATION IN A MANNER THAT IS
27 INCONSISTENT WITH, OR EXCEEDS THE REQUIREMENTS OF, THE FEDERAL

1 LAW AND ITS IMPLEMENTING REGULATIONS, INCLUDING 45 CFR 160 AND
2 45 CFR 164.

3 (b) CONSISTENT WITH THE FEDERAL "HEALTH INSURANCE
4 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS.
5 1320d TO 1320d-9, AND ITS IMPLEMENTING REGULATIONS, A COVERED
6 ENTITY MAY USE OR DISCLOSE PROTECTED HEALTH INFORMATION FOR
7 TREATMENT, PAYMENT, AND HEALTH-CARE OPERATIONS, INCLUDING
8 DISCLOSURES NECESSARY TO SUPPORT CARE COORDINATION AND THE
9 MANAGEMENT OF AN INDIVIDUAL'S CARE, AS AUTHORIZED PURSUANT TO
10 45 CFR 164.506.

11 (c) ANY USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION
12 PURSUANT TO THIS ARTICLE 65 MUST COMPLY WITH THE MINIMUM
13 NECESSARY STANDARDS SET FORTH IN 45 CFR 164.502 (b) AND 45 CFR
14 164.514 (d), AS APPLICABLE.

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

18 **27-65-131. Data report.**

19 (1) ~~Beginning January 1, 2025, and each~~ ON OR BEFORE January
20 1 ~~thereafter~~ OF EACH YEAR, the BHA shall ~~annually~~ submit a report to the
21 general assembly on the outcomes and effectiveness of the involuntary
22 commitment system described in this article 65, disaggregated by region,
23 including any recommendations to improve the system and outcomes for
24 persons involuntarily committed or certified pursuant to this article 65.
25 The report must include aggregated and disaggregated nonidentifying
26 individual-level data. At a minimum, the report must include:

27 (g) Barriers and opportunities with local providers, the judicial

1 branch, and law enforcement; and

2 (h) How many individuals were placed in the custody of the BHA
3 on a certification for short-term treatment who were concurrently
4 involved in the criminal justice system, including the outcomes of each
5 person and any barriers and opportunities that may exist to better serve
6 the population; ■

7 (i) INFORMATION REGARDING CERTIFICATIONS FOR SHORT-TERM
8 OUTPATIENT TREATMENT FILED PURSUANT TO SECTION 27-65-109.5,
9 INCLUDING:

10 (I) THE NUMBER OF SIGNED OUTPATIENT CERTIFICATIONS:

11 (A) THAT IDENTIFIED A DESIGNATED PROVIDER TO HOLD THE
12 OUTPATIENT CERTIFICATION;

13 (B) THAT DID NOT IDENTIFY A DESIGNATED PROVIDER INITIALLY
14 BUT IDENTIFIED A DESIGNATED PROVIDER WITHIN SEVEN DAYS AFTER THE
15 SIGNED OUTPATIENT CERTIFICATION WAS FILED;

16 (C) THAT DID NOT IDENTIFY A DESIGNATED PROVIDER INITIALLY
17 BUT IDENTIFIED A PROVIDER MORE THAN SEVEN DAYS AFTER THE SIGNED
18 OUTPATIENT CERTIFICATION WAS FILED;

19 (D) THAT DID NOT IDENTIFY A DESIGNATED PROVIDER AND A
20 PROVIDER WAS NEVER DESIGNATED;

21 (II) THE AVERAGE AMOUNT OF TIME IT TOOK TO IDENTIFY A
22 DESIGNATED PROVIDER TO HOLD THE OUTPATIENT CERTIFICATION IF A
23 DESIGNATED PROVIDER WAS NOT INITIALLY IDENTIFIED BUT WAS LATER
24 IDENTIFIED; AND

25 (III) ANY AVAILABLE INFORMATION ON THE FREQUENCY AND
26 REASONS FOR DENIALS AND BARRIERS TO IDENTIFYING A DESIGNATED
27 PROVIDER TO HOLD OUTPATIENT CERTIFICATIONS; AND

1 (j) INFORMATION REGARDING THE FREQUENCY OF DENIALS AND
2 BARRIERS TO PLACEMENTS IDENTIFIED BY CDHS WHEN PROVIDING CARE
3 COORDINATION PURSUANT TO SECTION 27-65-108.5. CDHS SHALL
4 PROVIDE THIS INFORMATION TO THE BHA AT LEAST ANNUALLY.

5 **SECTION 21.** In Colorado Revised Statutes, **add** part 2 to article
6 **65 of title 27 as follows:**

7 **PART 2**
8 **CIVIL COMMITMENT OF INCOMPETENT AND**
9 **UNRESTORABLE PERSON**

10 **27-65-201. Court supervision of incompetent and unrestorable**
11 **person ordered into civil commitment - repeal.**

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

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

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

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

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

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

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

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

27 **(I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS**

1 WAIVED BY THE RESPONDENT;
2 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED
3 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT
4 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD
5 PURSUANT TO THIS ARTICLE 65, INCLUDING ANY APPEALS;
6 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE
7 CIVIL COMMITMENT; AND
8 (IV) THE RIGHT TO PERIODIC REVIEW OF THE CIVIL COMMITMENT
9 AND THE RIGHT TO CONTEST, INCLUDING BY TRIAL, WHETHER THE
10 RESPONDENT QUALIFIES FOR TERMINATION OF CIVIL COMMITMENT.
11 (4) AT ANY TIME DURING THE CIVIL COMMITMENT, THE COURT
12 MAY:
13 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE CIVIL
14 COMMITMENT UPON REQUEST OF THE PARTIES AFTER GIVING THE PARTIES
15 AN OPPORTUNITY TO OBJECT AND BE HEARD;
16 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER
17 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT
18 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE
19 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED
20 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;
21 (c) ORDER CDHS TO PROVIDE TO THE COURT:
22 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS
23 THE CRITERIA FOR TERMINATION OF CIVIL COMMITMENT PURSUANT TO
24 SECTION 27-65-202; AND
25 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN
26 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE
27 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501,

1 WITHOUT HAVING ANY OTHER MENTAL HEALTH DISORDER THAT IS NOT AN
2 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE
3 DISORDER AND THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE
4 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO
5 OTHERS, OR IS GRAVELY DISABLED.

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

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

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

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

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

1 RESPONDENT.

2 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT
3 THE DISCRETION OF CDHS OR IF CDHS PROPOSES TO MOVE THE
4 RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT SHALL, PRIOR
5 TO MODIFYING THE CIVIL COMMITMENT TO CHANGE THE RESPONDENT'S
6 PROVIDER OR PLACEMENT, REVIEW THE APPROPRIATENESS OF THE
7 PROPOSED PROVIDER OR PLACEMENT, INCLUDING WHETHER THE PROVIDER
8 FITS THE RESPONDENT'S DIAGNOSIS AND TREATMENT NEEDS AND WHETHER
9 THE PLACEMENT SUFFICIENTLY PROTECTS THE COMMUNITY FROM THE
10 SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE
11 RESPONDENT.

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

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

1 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE
2 RESPONDENT'S MENTAL HEALTH DISORDER;

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

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

8 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,
9 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR
10 OTHERS;

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

14 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION
15 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S
16 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL
17 HARM;

18 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE
19 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF
20 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS
21 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

22 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

23 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE
24 REASONABLY ACCOMMODATED;

25 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF
26 OTHERS; AND

27 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING

1 PROFESSIONALS.

2 (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE
3 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE
4 FOR THE FIRST TIME SINCE BEING CIVILLY COMMITTED UNLESS:

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

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

11 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR
12 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO
13 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,
14 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND
15 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM
16 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER
17 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT
18 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE
19 RESPONDENT CANNOT COMPLY.

20 (6)(a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO
21 INPATIENT CARE AT THE DISCRETION OF CDHS, THE EXECUTIVE DIRECTOR
22 OF CDHS SHALL DESIGNATE THE STATE FACILITY AT WHICH THE
23 RESPONDENT IS HELD FOR CARE AND TREATMENT AND MAY TRANSFER THE
24 RESPONDENT FROM ONE FACILITY TO ANOTHER IF, IN THE OPINION OF THE
25 EXECUTIVE DIRECTOR, IT IS APPROPRIATE TO DO SO IN THE INTEREST OF
26 THE PROPER CARE, CUSTODY, AND TREATMENT OF THE RESPONDENT OR
27 FOR THE PROTECTION OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN

1 QUESTION.

2 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,
3 CDHS SHALL:

4 (I) ENSURE THE RESPONDENT IS PLACED IN THE
5 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND
6 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE
7 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
8 RESPONDENT; AND

9 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED
10 SETTING OUTSIDE OF INPATIENT CARE FOR THE FIRST TIME SINCE THE
11 RESPONDENT WAS CIVILLY COMMITTED WITHOUT PRIOR APPROVAL OF THE
12 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

13 (7) TERMINATION OF THE CIVIL COMMITMENT IS GOVERNED BY
14 SECTION 27-65-202.

15 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND
16 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT
17 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS CIVILLY
18 COMMITTED UNLESS A SUBSTANTIALLY SIMILAR EXAMINATION WAS
19 ORDERED BY THE COURT WITHIN THE PREVIOUS TWELVE MONTHS. THE
20 REPORT MUST INCLUDE:

21 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT
22 IS APPROPRIATELY PLACED AND MEETS THE CRITERIA FOR TERMINATION
23 OF THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202;

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

26 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE
27 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

1 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO
2 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S
3 PROGRESS;

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

8 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
9 OTHERS;

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

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

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

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

21 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE
22 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE
23 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR
24 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO
25 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED
26 NECESSARY FOR THE COURT'S SUPERVISION OF THE CIVIL COMMITMENT,
27 BUT THE COURT SHALL NOT REQUIRE A PROVIDER TO SUBMIT PROGRESS

1 REPORTS MORE FREQUENTLY THAN EVERY NINETY DAYS.

2 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,
3 ORDER CDHS TO FACILITATE AN EXAMINATION BY A PROFESSIONAL
4 PERSON REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND
5 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE
6 CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT,
7 CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM
8 PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF
9 THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202, UNLESS CDHS
10 HAS FACILITATED A SIMILAR EXAMINATION OF THE RESPONDENT IN THE
11 PAST ONE HUNDRED TWENTY DAYS. THE RESPONDENT SHALL COOPERATE
12 WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION
13 (10)(a).

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

17 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR
18 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE
19 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO
20 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT
21 DOES NOT MEET THE CRITERIA FOR TERMINATION.

22 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

23 **27-65-202. Termination of civil commitment - repeal.**

24 (1) THE COURT SHALL TERMINATE A RESPONDENT'S CIVIL
25 COMMITMENT ORDERED PURSUANT TO SECTION 27-65-201 IF THE
26 RESPONDENT:

27 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO

1 OTHERS; OR

2 (b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY
3 TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF
4 OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED
5 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S
6 CONDUCT TO THE REQUIREMENTS OF THE LAW.

7 (2) (a) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL
8 CARE AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE
9 RESPONDENT MEETS THE STANDARD FOR TERMINATION FROM CIVIL
10 COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
11 PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE
12 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE
13 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE
14 DISTRICT ATTORNEY WHO ORIGINALLY SOUGHT CIVIL COMMITMENT OR AN
15 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118.
16 THE COURT SHALL FURNISH A COPY OF ANY REPORTS RECEIVED TO THE
17 RESPONDENT AND THE RESPONDENT'S COUNSEL.

18 (b) THE DETERMINATION REPORTED PURSUANT TO SUBSECTION
19 (2)(a) OF THIS SECTION MUST INCLUDE:

20 (I) THE TREATMENT PROVIDER'S OPINION THAT THE RESPONDENT
21 MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL COMMITMENT
22 PURSUANT TO SUBSECTION (1) OF THIS SECTION;

23 (II) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
24 OTHERS; AND

25 (III) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION IN
26 THE REPORT, INCLUDING A SUMMARY OF THE MATERIALS REVIEWED,
27 ASSESSMENTS CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED.

1 (3)(a) THE RESPONDENT MAY REQUEST TERMINATION OF THE CIVIL
2 COMMITMENT IN WRITING AT ANY TIME THE RESPONDENT WOULD NOT BE
3 PROHIBITED FROM HAVING A SUBSEQUENT TERMINATION TRIAL PURSUANT
4 TO SUBSECTION (7) OF THIS SECTION.

5 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST
6 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON
7 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR
8 TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1)
9 OF THIS SECTION.

10 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR
11 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE
12 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY
13 SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT
14 PURSUANT TO SECTION 16-8.5-118 FOURTEEN DAYS TO OBJECT TO
15 TERMINATION OR REQUEST AN OPPORTUNITY TO CONDUCT AN
16 INDEPENDENT EVALUATION BY AN EXPERT OF THE COUNTY ATTORNEY'S OR
17 DISTRICT ATTORNEY'S OWN CHOOSING AND EXPENSE.

18 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT
19 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN
20 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE
21 RESPONDENT'S CIVIL COMMITMENT.

22 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY
23 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,
24 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO
25 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR
26 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN
27 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE

1 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT
2 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST
3 FOR A SINGLE INDEPENDENT EVALUATION. THE COST OF THE INDEPENDENT
4 EVALUATION MUST BE PAID FOR BY THE REQUESTING PARTY.

5 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE
6 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE
7 RESPONDENT'S REQUEST FOR TERMINATION.

8 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE
9 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO
10 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

11 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY
12 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL
13 TERMINATE THE RESPONDENT'S CIVIL COMMITMENT.

14 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY
15 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE
16 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE
17 RESPONDENT'S COUNSEL RECEIVED A COPY OF THE REPORT, AND ADVISE
18 THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE COURT OR
19 THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE THAN SIX
20 INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS THE
21 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
22 SECTION.

23 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE
24 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN THIRTY-FIVE DAYS
25 AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE
26 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN SEVENTY-TWO DAYS
27 AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS

1 EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE
2 COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED
3 PURSUANT TO THIS SUBSECTION (5)(b), THE COURT SHALL TERMINATE THE
4 CIVIL COMMITMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S
5 CARE AND CUSTODY.

6 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION
7 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS
8 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE
9 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY
10 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL
11 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY
12 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT
13 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND
14 TO ANY OTHER MATTERS RELATED TO THE CIVIL COMMITMENT AND
15 TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY RELATED APPEALS.

16 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT
17 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION
18 OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS
19 SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A
20 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE
21 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
22 SECTION.

23 (b) IF THE TRIER OF FACT FINDS, BY A PREPONDERANCE OF THE
24 EVIDENCE, THAT THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION
25 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL ORDER
26 THE RESPONDENT RELEASED FROM THE PROVIDER'S CARE AND CUSTODY
27 AND TERMINATE THE RESPONDENT'S CIVIL COMMITMENT. IF THE TRIER OF

1 FACT FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE
2 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT
3 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE
4 CIVIL COMMITMENT AND MAY ENTER OR MODIFY ANY ORDERS TO ASSIST
5 IN PROGRESSING THE TREATMENT OF THE RESPONDENT OR THAT ARE
6 NECESSARY TO PROTECT THE PUBLIC.

7 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET
8 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
9 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION
10 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL
11 FOR TERMINATION.

12 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR
13 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A
14 MENTAL HEALTH DISORDER THAT IS AN INTELLECTUAL AND
15 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE
16 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT HAVING ANY
17 OTHER MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND
18 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT
19 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A
20 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS
21 GRAVELY DISABLED, THE COURT SHALL CONVERT THE CIVIL COMMITMENT
22 TO AN ENHANCED PROTECTIVE PLACEMENT AND MAY MODIFY THE TERMS
23 OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH
24 SECTION 25.5-10-507.

25 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR
26 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS
27 CO-OCCURRING MENTAL HEALTH DISORDERS THAT INCLUDE AN

1 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE
2 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, THE
3 COURT MAY, UPON THE RECOMMENDATION OF CDHS, CONVERT A CIVIL
4 COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT AND MODIFY
5 THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE
6 WITH SECTION 25.5-10-507.

7 (10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

8 **SECTION 22.** In Colorado Revised Statutes, **add** part 5 to article
9 10 of title 25.5 as follows:

10 **PART 5**
11 **PROTECTIVE PLACEMENT AND**
12 **ENHANCED PROTECTIVE PLACEMENT**

13 **25.5-10-501. Definitions.**

14 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
17 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
18 27-60-203.

19 (2) "DANGER TO OTHERS" HAS THE MEANING SET FORTH IN
20 SECTION 27-65-102.

21 (3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,
22 HAS THE MEANING SET FORTH IN SECTION 27-65-102.

23 (4) "DEPARTMENT OF HEALTH CARE POLICY AND FINANCING" OR
24 "HCPF" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND
25 FINANCING CREATED IN SECTION 24-1-119.5.

26 (5) "DEPARTMENT OF HUMAN SERVICES" OR "CDHS" MEANS THE
27 DEPARTMENT OF HUMAN SERVICES.

1 (6) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE
2 MEANING SET FORTH IN SECTION 25.5-10-202.

3 (7) "INTERVENING PROFESSIONAL" HAS THE MEANING SET FORTH
4 IN SECTION 27-65-102.

5 (8) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN
6 SECTION 27-65-102.

7 (9) "NEUROCOGNITIVE DISORDER" MEANS A SUBSTANTIAL AND
8 PERSISTENT ACQUIRED DISORDER OF THE COGNITIVE OR NEUROLOGICAL
9 PROCESSES THAT GROSSLY IMPAIRS JUDGMENT, MEMORY, OR CAPACITY TO
10 RECOGNIZE REALITY OR TO CONTROL BEHAVIOR, GENERAL INTELLECTUAL
11 FUNCTIONING, OR ADAPTIVE BEHAVIOR THAT IS ATTRIBUTABLE TO A
12 NEUROLOGICAL OR COGNITIVE DISORDER OR RELATED CONDITION,
13 INCLUDING, BUT NOT LIMITED TO, A TRAUMATIC BRAIN INJURY, A
14 DEGENERATIVE DISORDER, OR DEMENTIA. "NEUROCOGNITIVE DISORDER"
15 DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

16 (10) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN
17 SECTION 27-65-102.

18 (11) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM
19 OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT
20 PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND
21 DEVELOPMENTAL DISABILITIES.

22 (12) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE
23 MEANING SET FORTH IN SECTION 27-65-102.

24 **25.5-10-502. Criteria and standards for protective placement.**

25 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A
26 RESPONDENT IF:

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

1 A NEUROCOGNITIVE DISORDER;

2 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE
3 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,
4 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT
5 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND

6 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, IS A
7 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS.

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

12 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S
13 OWN NEUROCOGNITIVE DISORDER;

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

16 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND
17 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE
18 FUTURE;

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

21 (e) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN
22 THE PERSON'S HOSPITALIZATION, ARREST, CERTIFICATION FOR
23 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

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

27 (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE

1 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS
2 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL
3 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

4 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE
5 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, OR POSES
6 A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, THE COURT,
7 EVALUATOR, OR INTERVENING PROFESSIONAL SHALL, WHENEVER
8 POSSIBLE, USE ALL REASONABLE EFFORTS TO LEARN ABOUT PRIOR
9 RELEVANT BEHAVIORS AND PRIOR DIAGNOSES THROUGH AVAILABLE AND
10 RELIABLE SOURCES, INCLUDING THE PERSON'S PRIOR MEDICAL AND
11 MENTAL HEALTH RECORDS, POLICE REPORTS, AND INFORMATION FROM
12 RELIABLE INDIVIDUALS WHO HAVE A RELATIONSHIP OR REGULAR
13 SUBSTANTIAL INTERACTIONS WITH THE PERSON.

14 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS AN
15 INCARCERATED PERSON AS IF THE PERSON WERE IN THE COMMUNITY WHEN
16 EVALUATING WHETHER THE PERSON MEETS THE CRITERIA PURSUANT TO
17 SUBSECTION (1) OF THIS SECTION.

18 == ==
19 **25.5-10-503. Short-term protective placement for incompetent**
20 **defendants in a criminal matter.**

21 (1) UPON PETITION OF A PROFESSIONAL PERSON OR INTERVENING
22 PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND
23 LICENSURE, AN APPOINTED LEGAL GUARDIAN, OR A REPRESENTATIVE OF
24 THE BHA OR HCPF, A COURT MAY CERTIFY A PERSON FOR SHORT-TERM
25 PROTECTIVE PLACEMENT FOR NOT MORE THAN THREE MONTHS UNDER THE
26 FOLLOWING CONDITIONS:

27 (a) THE PERSON IS OR RECENTLY WAS A DEFENDANT IN A CRIMINAL

1 MATTER IN WHICH THE PERSON HAS BEEN FOUND INCOMPETENT TO
2 PROCEED;

3 (b) THE COURT HEARING THE CRIMINAL MATTER REFERRED THE
4 MATTER FOR FILING OF A PETITION PURSUANT TO SECTION 16-8.5-117;

5 (c) A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
6 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE:

7 (I) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE
8 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST
9 THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE
10 SHORT-TERM PROTECTIVE PLACEMENT; AND

11 (II) HAS EVALUATED THE PERSON WITHIN THE PAST THREE
12 MONTHS AND PRODUCED A WRITTEN OPINION THAT THE PERSON MEETS
13 THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
14 25.5-10-502;

15 (d) THERE IS A SKILLED NURSING FACILITY, A REGIONAL CENTER,
16 OR ANOTHER PLACEMENT WILLING TO ACCEPT CARE AND CUSTODY OF THE
17 RESPONDENT AND TO HOLD THE PROTECTIVE PLACEMENT; AND

18 (e) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE
19 PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE
20 PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE SHORT-TERM
21 PROTECTIVE PLACEMENT.

22 (2) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
23 SECTION MUST:

24 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS
25 THAT THE RESPONDENT MEETS THE CRITERIA FOR SHORT-TERM
26 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, INCLUDING
27 ATTACHING THE PROFESSIONAL PERSON'S OR INTERVENING

1 PROFESSIONAL'S WRITTEN OPINION PRODUCED PURSUANT TO SUBSECTION
2 (1)(c)(II) OF THIS SECTION;

3 (b) BE FILED WITHIN FOURTEEN DAYS AFTER THE INITIATING PARTY
4 RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE
5 SHORT-TERM PROTECTIVE PLACEMENT; AND

6 (c) BE FILED WITH THE COURT IN THE COUNTY WHERE THE
7 RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR
8 TO THE FILING OF THE PETITION; EXCEPT THAT, IF THE PERSON WAS
9 ARRESTED FOR THE PRIOR CASE AND HELD IN CUSTODY, THE PETITION MAY
10 BE FILED IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS
11 PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE RESPONDENT'S ARREST.

12 (3) WITHIN TWENTY-FOUR HOURS AFTER CERTIFICATION, COPIES
13 OF THE SHORT-TERM PROTECTIVE PLACEMENT MUST BE PERSONALLY
14 DELIVERED TO THE RESPONDENT AND HCPF WHO SHALL RETAIN A COPY
15 OF THE CERTIFICATION AS PART OF THE RESPONDENT'S RECORD. IF THE
16 CRIMINAL CASE IS PENDING, OR NOT YET DISMISSED, THE PETITIONING
17 PARTY SHALL PROVIDE NOTICE OF THE FILING OF THE PETITION TO THE
18 CRIMINAL COURT. THE CRIMINAL COURT SHALL PROVIDE THE NOTICE TO
19 THE PROSECUTING AND DEFENSE ATTORNEYS IN THE CRIMINAL CASE AND
20 ANY ATTORNEY APPOINTED THE RESPONDENT PURSUANT TO SUBSECTION
21 (5) OF THIS SECTION.

22 (4) THE PETITIONER SHALL ASK THE RESPONDENT TO DESIGNATE
23 ONE OTHER PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED
24 REGARDING THE PETITION. IF THE RESPONDENT IS INCAPABLE OF MAKING
25 A DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE COURT MAY
26 ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE
27 RESPONDENT IS CAPABLE. IF THE PETITIONER FAILS TO ASK THE

1 RESPONDENT TO DESIGNATE A PERSON, THE RESPONDENT'S ATTORNEY
2 APPOINTED PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL REPORT
3 TO THE COURT ANY PERSON WHOM THE RESPONDENT WANTS TO BE
4 INFORMED REGARDING THE PETITION.

5 (5) WHENEVER A PETITION IS FILED PURSUANT TO THIS SECTION,
6 THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT
7 THE RESPONDENT. THE COURT SHALL PROVIDE THE RESPONDENT WITH A
8 WRITTEN NOTICE THAT THE RESPONDENT HAS A RIGHT TO A HEARING ON
9 THE PETITION AND MAY MAKE A WRITTEN REQUEST FOR A JURY TRIAL. THE
10 RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS
11 CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE
12 ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A
13 COPY OF THE PETITION AND ANY SUPPORTING MATERIALS IMMEDIATELY
14 UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE
15 COUNSEL WHEN THE RESPONDENT MAKES A KNOWING AND VOLUNTARY
16 WAIVER IN FRONT OF THE COURT.

17 (6) UPON FILING A PETITION PURSUANT TO THIS SECTION AND
18 AFFORDING THE RESPONDENT A CHANCE TO CONTEST THE PETITION, THE
19 COURT MAY GRANT OR DENY THE PROTECTIVE PLACEMENT BASED ON THE
20 FACTS ESTABLISHED IN THE PETITION, SUBJECT TO THE COURT'S FURTHER
21 REVIEW OR A JURY TRIAL.

22 (7) WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE PETITION FILED
23 PURSUANT TO THIS SECTION, THE RESPONDENT, OR THE RESPONDENT'S
24 ATTORNEY, MAY REQUEST A JURY TRIAL BY FILING A WRITTEN MOTION
25 WITH THE COURT.

26 (8) THE RESPONDENT MAY KNOWINGLY AND VOLUNTARILY
27 CONSENT TO THE PETITION IN WRITING.

1 (9) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT
2 ANY TIME, FILE A WRITTEN REQUEST FOR THE COURT TO REVIEW THE
3 SHORT-TERM PROTECTIVE PLACEMENT. IF A REVIEW IS REQUESTED, THE
4 COURT SHALL HEAR THE MATTER WITHIN FOURTEEN DAYS AFTER THE
5 REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT, THE
6 RESPONDENT'S ATTORNEY, HCPF, AND THE COMMUNITY OR FACILITY
7 PROVIDER WHO IS OR WILL PROVIDE TREATMENT. THE HEARING MUST BE
8 HELD IN ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION
9 OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE SHORT-TERM
10 PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY
11 OTHER APPROPRIATE ORDER.

12 (10)(a) THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES,
13 AND CARE PROVIDERS MAY SHARE INFORMATION WITH EACH OTHER AND
14 THE PARTIES AS NECESSARY. THE BHA, HCPF, THE DEPARTMENT OF
15 HUMAN SERVICES, AND CARE PROVIDERS MAY RECEIVE AND POSSESS ALL
16 INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS
17 SECTION, INCLUDING ANY EVALUATIONS; ANY MEDICAL AND MENTAL
18 HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND
19 IN PROCEEDINGS HELD PURSUANT TO THIS PART 5, ARTICLE 65 OF TITLE 27,
20 OR ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE
21 RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

22 (b) THE COURT MAY ORDER THE DISTRICT ATTORNEY RESPONSIBLE
23 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS
24 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT
25 RECORDS TO HCPF WITHIN SEVEN DAYS AFTER THE COURT'S ORDER.

26 (c) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE
27 RESPONDENT IN ANY PROCEEDING SHALL SEND MATERIALS TO HCPF WITH

1 THE RESPONDENT'S CONSENT.

2 (11) (a) UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN
3 IDENTIFIED AND IS WILLING TO ACCEPT THE PROTECTIVE PLACEMENT, THE
4 COURT SHALL NOTIFY HCPF REGARDING THE NEED FOR CARE
5 COORDINATION.

6 (b) ONCE HCPF IS NOTIFIED PURSUANT TO SUBSECTION (11)(a) OF
7 THIS SECTION, HCPF SHALL MAKE DILIGENT EFFORTS TO FIND A PROVIDER
8 FOR THE RESPONDENT, ASSIST WITH INTENSIVE COORDINATION, AND
9 MITIGATE BARRIERS TO APPROPRIATE PLACEMENT. HCPF SHALL
10 COLLABORATE AND COORDINATE WITH OTHER STATE EXECUTIVE
11 AGENCIES, LAW ENFORCEMENT, THE COURT, THE PARTIES, COMMUNITY
12 PARTNERS, REGIONAL ACCOUNTABLE ENTITIES, AND CASE MANAGEMENT
13 AGENCIES TO IDENTIFY AN APPROPRIATE PLACEMENT FOR THE
14 RESPONDENT, WHICH PLACEMENT IS SUBJECT TO MEDICAID
15 REIMBURSEMENT.

16 (c) THE CASE MANAGEMENT AGENCY MUST PROVIDE CASE
17 MANAGEMENT SERVICES, AS DEFINED IN SECTION 25.5-6-1702.

18 (d) HCPF SHALL KEEP THE COURT INFORMED, IN WRITING, OF
19 EFFORTS MADE TO FIND AN APPROPRIATE PLACEMENT FOR THE
20 RESPONDENT.

21 (12) UPON ORDERING A SHORT-TERM PROTECTIVE PLACEMENT OF
22 THE RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT
23 HAS CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

24 (13) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT
25 IN A SHORT-TERM PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO
26 ANOTHER PROVIDER FOR TREATMENT AND THE SAFETY OF THE
27 RESPONDENT OR THE PUBLIC REQUIRES THAT THE RESPONDENT BE

1 TRANSPORTED BY A SECURE TRANSPORTATION PROVIDER OR A LAW
2 ENFORCEMENT AGENCY, THE COURT MAY ISSUE AN ORDER DIRECTING THE
3 LAW ENFORCEMENT AGENCY WHERE THE RESPONDENT RESIDES OR SECURE
4 TRANSPORTATION PROVIDER TO DELIVER THE RESPONDENT TO THE
5 DESIGNATED PROVIDER.

6 (14) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN
7 SECTION 25.5-10-506, A SHORT-TERM PROTECTIVE PLACEMENT MAY BE
8 TERMINATED UPON THE SIGNATURE OF THE TREATING MEDICAL
9 PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A FACILITY
10 OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS
11 AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE
12 RESPONDENT'S LEGAL GUARDIAN.

13 (15) IF THE PROFESSIONAL PERSON IN CHARGE OF THE
14 RESPONDENT'S EVALUATION AND TREATMENT BELIEVES THAT A PERIOD
15 LONGER THAN THREE MONTHS IS NECESSARY TO TREAT THE RESPONDENT,
16 THE PROFESSIONAL PERSON SHALL FILE WITH THE COURT A REQUEST FOR
17 AN EXTENDED PROTECTIVE PLACEMENT AT LEAST THIRTY DAYS PRIOR TO
18 THE EXPIRATION DATE OF THE ORIGINAL PROTECTIVE PLACEMENT. AN
19 EXTENDED PROTECTIVE PLACEMENT FOR TREATMENT MUST NOT BE FOR A
20 PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS ENTITLED TO
21 A HEARING ON THE EXTENDED PROTECTIVE PLACEMENT UNDER THE SAME
22 CONDITIONS AS AN ORIGINAL PROTECTIVE PLACEMENT. THE ATTORNEY
23 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO
24 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER
25 ATTORNEY.

26 **25.5-10-504. Long-term protective placement of persons with**
27 **a neurocognitive disorder - procedure.**

1 (1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE
2 PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL
3 PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE
4 APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A
5 PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE
6 EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A
7 LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE
8 FOLLOWING CONDITIONS:

9 (a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY
10 PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE
11 RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO
12 MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
13 25.5-10-502 (1); AND

14 (b) HCPF, IN COLLABORATION WITH THE BHA, HAS IDENTIFIED AN
15 APPROPRIATE PROVIDER OR PLACEMENT TO PROVIDE CARE AND
16 TREATMENT OF THE RESPONDENT.

17 (2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST
18 INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE
19 EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR
20 A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO
21 WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE
22 ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST
23 BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM
24 PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO
25 THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE
26 FILING.

27 (3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE

1 RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY
2 TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.

3 (4) THE COURT OR JURY SHALL DETERMINE WHETHER THE
4 CONDITIONS OF SUBSECTION (1) OF THIS SECTION ARE MET AND WHETHER
5 THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR
6 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE
7 COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT
8 FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT
9 FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER
10 ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE
11 PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE [REDACTED]
12 PROVIDER OR PLACEMENT IDENTIFIED PURSUANT TO SUBSECTION (1)(b) OF
13 THIS SECTION. WHEN A PETITION CONTAINS A REQUEST THAT A SPECIFIC
14 LEGAL DISABILITY BE IMPOSED OR THAT A SPECIFIC LEGAL RIGHT BE
15 DEPRIVED, THE COURT MAY ORDER THE DISABILITY IMPOSED OR THE RIGHT
16 DEPRIVED IF THE COURT OR A JURY HAS DETERMINED THAT THE
17 RESPONDENT MEETS THE CRITERIA AND STANDARDS FOR PROTECTIVE
18 PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1) AND THAT, AS A
19 RESULT, THE RESPONDENT IS UNABLE TO COMPETENTLY EXERCISE THE
20 SPECIFIC LEGAL RIGHT OR PERFORM THE FUNCTION FOR WHICH THE
21 DISABILITY IS SOUGHT TO BE IMPOSED. ANY INTERESTED PERSON MAY ASK
22 LEAVE OF THE COURT TO INTERVENE AS A COPETITIONER FOR THE PURPOSE
23 OF SEEKING THE IMPOSITION OF A LEGAL DISABILITY OR THE DEPRIVATION
24 OF A LEGAL RIGHT.

25 (5) AN ORIGINAL ORDER OF LONG-TERM PROTECTIVE PLACEMENT
26 AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED,
27 UNLESS FURTHER EXTENDED AS PROVIDED IN THIS SUBSECTION (5). IF AN

1 EXTENSION IS BEING SOUGHT, THE PROFESSIONAL PERSON IN CHARGE OF
2 THE EVALUATION AND TREATMENT SHALL CERTIFY TO THE COURT AT
3 LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORDER IN
4 FORCE THAT AN EXTENSION OF THE ORDER IS NECESSARY FOR THE
5 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN
6 FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED
7 TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE
8 RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE
9 THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE
10 TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY OF RECORD THAT
11 A HEARING UPON THE EXTENSION MAY BE HAD BEFORE THE COURT OR A
12 JURY UPON WRITTEN REQUEST TO THE COURT WITHIN TEN DAYS AFTER
13 RECEIPT OF THE NOTICE. IF A HEARING IS NOT TIMELY REQUESTED BY THE
14 RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS
15 TIMELY REQUESTED, THE HEARING MUST BE HELD BEFORE THE EXPIRATION
16 DATE OF THE ORDER IN FORCE. IF THE COURT OR JURY FINDS THAT THE
17 CONDITIONS OF SUBSECTION (1) OF THIS SECTION CONTINUE TO BE MET
18 AND THAT THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND
19 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
20 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER.
21 ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS
22 MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

23 (6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE
24 PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON
25 THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL
26 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE COURT
27 PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE

1 THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE
2 RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY
3 PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN
4 ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS
5 TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN
6 OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE
7 FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST
8 TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

9
10 25.5-10-505. Connect respondent to home- and
11 community-based services.

12 WHEN A RESPONDENT IS DISCHARGED FROM A PROTECTIVE
13 PLACEMENT OR A PROTECTIVE PLACEMENT IS TERMINATED, HCPF SHALL
14 REFER THE RESPONDENT TO ANY HOME- AND COMMUNITY-BASED SERVICES
15 FOR WHICH THE RESPONDENT MAY BE ELIGIBLE AND SHALL MAKE DILIGENT
16 EFFORTS TO CONNECT THE RESPONDENT WITH HOME- AND
17 COMMUNITY-BASED SERVICES.

18 **25.5-10-506. Termination of protective placement - short-term**
19 **and long-term placement.**

20 (1) A PROTECTIVE PLACEMENT TERMINATES WHEN THE
21 PROFESSIONAL PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT,
22 AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD,
23 DETERMINES THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR
24 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1).

25 (2) THE PROFESSIONAL PERSON IN CHARGE OF THE
26 RESPONDENT'S CARE SHALL NOT APPROVE THE TERMINATION OF THE
27 PROTECTIVE PLACEMENT UNLESS TWO PROFESSIONAL PERSONS

1 INDEPENDENTLY EVALUATE THE RESPONDENT AND INDEPENDENTLY OPINE
2 THAT THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR PROTECTIVE
3 PLACEMENT TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE
4 PROFESSIONAL PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH
5 AND PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS
6 REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS
7 WITH ONLY ONE PROFESSIONAL PERSON.

8 **25.5-10-507. Court supervision of incompetent and**
9 **unrestorable persons ordered into an enhanced protective placement.**

10 (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF
11 AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118
12 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509,
13 THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED
14 PROTECTIVE PLACEMENT.

15 (2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE
16 PLACEMENT, THE COURT SHALL:

17 (a) NOTIFY THE COUNTY ATTORNEY;

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

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

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

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

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

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

1 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED
2 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT
3 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD
4 PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;

5 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE
6 ENHANCED PROTECTIVE PLACEMENT; AND

7 (IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED
8 PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY
9 TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE
10 ENHANCED PROTECTIVE PLACEMENT.

11 (4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT,
12 THE COURT MAY:

13 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED
14 PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING
15 THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;

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

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

22 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS
23 THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE
24 PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

25 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN
26 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE
27 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE

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

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

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

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

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

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

26 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT
27 THE DISCRETION OF CDHS OR IF CDHS PROPOSES TO MOVE THE

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

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

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

25 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE
26 RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND
27 DEVELOPMENTAL DISABILITY;

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 TREATMENT AND
5 SERVICES IN 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, CERTIFICATION FOR
11 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

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 AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE BEING IN AN
3 ENHANCED PROTECTIVE PLACEMENT UNLESS:

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

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

10 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR
11 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO
12 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,
13 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND
14 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM
15 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER
16 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT
17 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE
18 RESPONDENT CANNOT COMPLY.

19 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO
20 INPATIENT CARE AT THE DISCRETION OF CDHS, AS DEFINED IN SECTION
21 16-8.5-101, THE EXECUTIVE DIRECTOR OF CDHS SHALL DESIGNATE THE
22 STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR CARE AND
23 TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE FACILITY TO
24 ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT IS
25 APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE, CUSTODY,
26 AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION OF THE
27 PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

1 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,
2 HCPF SHALL:

3 (I) ENSURE THE RESPONDENT IS PLACED IN THE
4 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND
5 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE
6 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
7 RESPONDENT; AND

8 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED
9 SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101,
10 FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO AN
11 ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE
12 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

13 (7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS
14 GOVERNED BY SECTION 25.5-10-508.

15 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND
16 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT
17 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS
18 ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A
19 SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE
20 PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

21 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT
22 IS APPROPRIATELY PLACED AND MEETS THE CRITERIA FOR TERMINATION
23 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
24 25.5-10-508;

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

27 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE

1 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

2 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO
3 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S
4 PROGRESS;

5 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH
6 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS
7 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE
8 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

9 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
10 OTHERS;

11 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE
12 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED
13 TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED
14 PROTECTIVE PLACEMENT;

15 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS
16 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC
17 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A
18 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR;

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

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

23 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE
24 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE
25 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR
26 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO
27 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED

1 NECESSARY FOR THE COURT'S SUPERVISION OF THE ENHANCED PROTECTIVE
2 PLACEMENT, BUT THE COURT SHALL NOT REQUIRE A PROVIDER TO SUBMIT
3 PROGRESS REPORTS MORE FREQUENTLY THAN EVERY NINETY DAYS.

4 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,
5 ORDER CDHS TO FACILITATE AN EXAMINATION BY A PROFESSIONAL
6 PERSON REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND
7 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE
8 ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM
9 TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE
10 CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT
11 PURSUANT TO SECTION 25.5-10-508, UNLESS CDHS HAS FACILITATED A
12 SIMILAR EXAMINATION OF THE RESPONDENT IN THE PAST ONE HUNDRED
13 TWENTY DAYS. THE RESPONDENT SHALL COOPERATE WITH ANY
14 EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION (10)(a).

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

18 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR
19 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE
20 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO
21 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT
22 DOES NOT MEET THE CRITERIA FOR TERMINATION.

23 **25.5-10-508. Termination of enhanced protective placement.**

24 (1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED
25 PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507
26 WHEN THE RESPONDENT:

27 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO

1 OTHERS; OR

2 (b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR
3 INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO
4 CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR
5 A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED
6 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S
7 CONDUCT TO THE REQUIREMENTS OF THE LAW.

8 (2) (a) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL
9 CARE AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE
10 RESPONDENT MEETS THE STANDARD FOR TERMINATION FROM ENHANCED
11 PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION,
12 THE PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE
13 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE
14 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE
15 DISTRICT ATTORNEY WHO ORIGINALLY REQUESTED A CIVIL COMMITMENT
16 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
17 16-8.5-118. THE COURT SHALL FURNISH A COPY OF THE REPORT TO THE
18 RESPONDENT AND THE RESPONDENT'S COUNSEL.

19 (b) THE DETERMINATION REPORTED PURSUANT TO SUBSECTION
20 (2)(a) OF THIS SECTION MUST INCLUDE:

21 (I) THE TREATMENT PROVIDER'S OPINION THAT THE RESPONDENT
22 MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE
23 PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION;

24 (II) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
25 OTHERS; AND

26 (III) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION IN
27 THE REPORT, INCLUDING A SUMMARY OF THE MATERIALS REVIEWED,

1 ASSESSMENTS CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED.

2 (3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE
3 ENHANCED PROTECTIVE PLACEMENT IN WRITING AT ANY TIME THE
4 RESPONDENT WOULD NOT BE PROHIBITED FROM HAVING A SUBSEQUENT
5 TERMINATION TRIAL PURSUANT TO SUBSECTION (7) OF THIS SECTION.

6 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST
7 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON
8 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR
9 TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO
10 SUBSECTION (1) OF THIS SECTION.

11 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR
12 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE
13 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY
14 SOUGHT ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
15 16-8.5-118 FOURTEEN DAYS TO OBJECT TO TERMINATION OR REQUEST AN
16 OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION BY AN EXPERT
17 OF THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S OWN CHOOSING
18 AND EXPENSE.

19 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT
20 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN
21 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE
22 RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

23 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY
24 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,
25 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO
26 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR
27 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN

1 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE
2 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT
3 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST
4 FOR A SINGLE INDEPENDENT EVALUATION. THE COST OF THE INDEPENDENT
5 EVALUATION MUST BE PAID FOR BY THE REQUESTING PARTY.

6 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE
7 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE
8 RESPONDENT'S REQUEST FOR TERMINATION.

9 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE
10 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO
11 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

12 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY
13 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL
14 TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

15 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY
16 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE
17 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE
18 RESPONDENT'S COUNSEL RECEIVED A COPY OF ANY REPORTS RECEIVED,
19 AND ADVISE THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE
20 COURT OR THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE
21 THAN SIX INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS
22 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
23 SECTION.

24 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE
25 COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE
26 DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL
27 SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A

1 DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME
2 LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE COURT DOES NOT BEGIN
3 THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION
4 (5)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE
5 PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE
6 AND CUSTODY.

7 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION
8 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS
9 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE
10 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY
11 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL
12 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY
13 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT
14 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND
15 TO ANY OTHER MATTERS RELATED TO THE ENHANCED PROTECTIVE
16 PLACEMENT AND TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY
17 RELATED APPEALS.

18 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT
19 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION
20 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1)
21 OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A
22 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE
23 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
24 SECTION.

25 (b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE
26 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
27 SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE

1 PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S
2 ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE
3 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT
4 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE
5 ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY
6 ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT
7 OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

8 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET
9 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
10 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION
11 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL
12 FOR TERMINATION.

13 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR
14 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO
15 LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A
16 NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY
17 DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE
18 DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL
19 CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL
20 COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT
21 IN ACCORDANCE WITH SECTION 27-65-201.

22 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR
23 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A
24 CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN
25 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE
26 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE
27 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO

1 OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE
2 RECOMMENDATION OF CDHS, CONVERT THE ENHANCED PROTECTIVE
3 PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE
4 CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-201.

5 **25.5-10-509. Jurisdiction - transfer.**

6 (1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO
7 THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS
8 PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING
9 JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF
10 ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY
11 FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

12 (b) WHEN THE CONVENIENCE OF THE PARTIES AND THE ENDS OF
13 JUSTICE WOULD BE PROMOTED BY A CHANGE IN THE COURT HAVING
14 JURISDICTION, THE COURT MAY ORDER A TRANSFER OF THE PROCEEDING
15 TO ANOTHER COUNTY. UNTIL FURTHER ORDER OF THE TRANSFEREE COURT,
16 IF ANY, IT IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE
17 CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS
18 PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING
19 TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS
20 INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT
21 PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

22 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),
23 ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED
24 PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED
25 WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR
26 TREATMENT.

27 (b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT

1 PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION
2 WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS
3 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

4 (c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN
5 INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION
6 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE
7 PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT
8 RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF
9 THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE
10 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

11 (3) IN ANY CASE IN WHICH THERE HAS BEEN A CHANGE OF VENUE
12 TO A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE
13 RESPONDENT OR THE COUNTY IN WHICH THE PROCEEDING WAS
14 COMMENCED, THE COUNTY FROM WHICH THE PROCEEDING WAS
15 TRANSFERRED SHALL EITHER REIMBURSE THE COUNTY TO WHICH THE
16 PROCEEDING WAS TRANSFERRED AND IN WHICH THE PROCEEDING WAS
17 HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE
18 PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN
19 PERSONNEL AND RESOURCES, INCLUDING ITS OWN DISTRICT OR COUNTY
20 ATTORNEY, AS THE CASE MAY BE.

21 (4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10
22 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE
23 ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT
24 DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
25 A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN
26 ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
27 NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION

1 AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

2 (5) (a) IF AN ENHANCED PROTECTIVE PLACEMENT IS ORDERED
3 AGAINST A RESPONDENT PURSUANT TO SECTION 16-8.5-118 OR IF A
4 RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT IS SUPERVISED
5 PURSUANT TO SECTION 25.5-10-507, AND THE RESPONDENT REFUSES TO
6 ACCEPT MEDICATION, THE COURT WITH JURISDICTION OVER THE
7 ENHANCED PROTECTIVE PLACEMENT OR THE COURT WITH JURISDICTION
8 WHERE THE FACILITY OR PROVIDER TREATING THE RESPONDENT IS
9 LOCATED HAS JURISDICTION AND VENUE TO ACCEPT A PETITION BY THE
10 TREATING PHYSICIAN TO ENTER AN ORDER REQUIRING THAT THE
11 RESPONDENT ACCEPT THE TREATMENT OR THAT THE MEDICATION BE
12 FORCIBLY ADMINISTERED TO THE RESPONDENT. THE COURT WITH
13 JURISDICTION WHERE THE FACILITY OR PROVIDER IS LOCATED SHALL NOT
14 EXERCISE ITS JURISDICTION WITHOUT THE PERMISSION OF THE COURT WITH
15 JURISDICTION OVER THE ENHANCED PROTECTIVE PLACEMENT. UPON FILING
16 THE PETITION, THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT
17 THE RESPONDENT IF ONE HAS NOT BEEN APPOINTED AND SHALL HEAR THE
18 MATTER WITHIN TEN DAYS AFTER THE FILING.

19 (b) IN ANY CASE BROUGHT PURSUANT TO SUBSECTION (5)(a) OF
20 THIS SECTION, THE COUNTY WHERE THE COURT WITH JURISDICTION OVER
21 THE ENHANCED PROTECTIVE PLACEMENT IS LOCATED SHALL EITHER
22 REIMBURSE THE COUNTY IN WHICH THE PROCEEDING PURSUANT TO
23 SUBSECTION (5)(a) OF THIS SECTION WAS FILED AND HELD FOR THE
24 REASONABLE COSTS INCURRED IN CONDUCTING THE PROCEEDING OR
25 CONDUCT THE PROCEEDING ITSELF USING ITS OWN PERSONNEL AND
26 RESOURCES INCLUDING ITS OWN COUNTY ATTORNEY.

27 **25.5-10-510. Hearing procedures.**

1 (1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE
2 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE
3 THE COURT.

4 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S
5 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT
6 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A
7 PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO
8 THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE
9 COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN
10 ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE
11 PROFESSIONAL PERSON'S FINDINGS.

12 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT
13 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY
14 PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL
15 GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND
16 REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN
17 CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

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

23 **25.5-10-511. County attorney and district attorney**
24 **responsibilities.**

25 (1) THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY IN A
26 COUNTY OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR
27 LESS THAN FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING

1 AS THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S DESIGNEE WHO IS
2 APPOINTED BY THE DISTRICT COURT, HAS THE FOLLOWING POWERS AND
3 RESPONSIBILITIES:

4 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN
5 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED
6 FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

7
8 (b) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION
9 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT
10 TO THIS PART 5; AND

11 (c) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS
12 BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS
13 ALLOWABLE BY LAW.

14 (2) THIS SECTION ONLY APPLIES TO PROCEEDINGS CONDUCTED
15 PURSUANT TO THIS PART 5.

16 **25.5-10-512. Appeals.**

17 (1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE
18 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS
19 PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE
20 ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE
21 DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY
22 THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT
23 MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND
24 CUSTODY OF THE RESPONDENT.

25 (2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE
26 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF
27 THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE

1 CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE
2 ENTERED.

3 **25.5-10-513. Habeas corpus.**

4 ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS ENTITLED TO
5 AN ORDER IN THE NATURE OF HABEAS CORPUS UPON PROPER PETITION TO
6 ANY COURT GENERALLY EMPOWERED TO ISSUE ORDERS IN THE NATURE OF
7 HABEAS CORPUS.

8 **25.5-10-514. Rights of respondents ordered into enhanced**
9 **protective placement or protective placement.**

10 (1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS
11 PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED
12 PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN
13 INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10,
14 INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220,
15 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227,
16 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

17 (2) A RESPONDENT PLACED IN THE CUSTODY OF CDHS AT A STATE
18 HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO PROCEEDINGS
19 PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE RIGHTS PROVIDED
20 IN SECTIONS 27-65-105, 27-65-108, 27-65-117, 27-65-118, 27-65-119,
21 27-65-122, AND 27-65-124.

22 **25.5-10-515. Records - rules.**

23 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL
24 INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF
25 PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION
26 OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION
27 AND RECORDS MAY BE DISCLOSED ONLY:

1 (a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS,
2 FACILITY PERSONNEL, OR STATE AGENCIES IN THE PROVISION OF SERVICES
3 OR APPROPRIATE REFERRALS;

4 (b) WHEN THE RECIPIENT OF SERVICES DESIGNATES PERSONS TO
5 WHOM INFORMATION OR RECORDS MAY BE RELEASED, BUT, IF A RECIPIENT
6 OF SERVICES IS A WARD OR CONSERVATEE AND THE WARD'S OR
7 CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING,
8 PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE
9 DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT;
10 EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN,
11 PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER
12 PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN
13 GIVEN TO THE PERSON IN CONFIDENCE BY MEMBERS OF A PATIENT'S
14 FAMILY OR OTHER INFORMANTS;

15 (c) TO THE EXTENT NECESSARY TO MAKE CLAIMS ON BEHALF OF A
16 RECIPIENT OF AID, INSURANCE, OR MEDICAL ASSISTANCE TO WHICH THE
17 RECIPIENT MAY BE ENTITLED;

18 (d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH.
19 THE RULES MUST INCLUDE, BUT ARE NOT LIMITED TO, THE REQUIREMENT
20 THAT ALL RESEARCHERS MUST SIGN AN OATH OF CONFIDENTIALITY. ALL
21 IDENTIFYING INFORMATION CONCERNING INDIVIDUAL PATIENTS,
22 INCLUDING NAMES, ADDRESSES, TELEPHONE NUMBERS, AND SOCIAL
23 SECURITY NUMBERS, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

24 (e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF
25 THIS PART 5;

26 (f) TO PERSONS AUTHORIZED BY AN ORDER OF COURT AFTER
27 NOTICE AND OPPORTUNITY FOR HEARING TO THE PERSON TO WHOM THE

1 RECORD OR INFORMATION PERTAINS AND THE CUSTODIAN OF THE RECORD
2 OR INFORMATION PURSUANT TO THE COLORADO RULES OF CIVIL
3 PROCEDURE;

4 (g) TO FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A
5 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL
6 DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

7 (h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY
8 PARTICIPATING IN THE CARE AND TREATMENT OF A PERSON WITH A
9 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL
10 DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE
11 INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS LIMITED
12 TO ONE OR MORE OF THE FOLLOWING: THE DIAGNOSIS, THE PROGNOSIS,
13 THE NEED FOR HOSPITALIZATION AND ANTICIPATED LENGTH OF STAY, THE
14 DISCHARGE PLAN, THE MEDICATION ADMINISTERED AND SIDE EFFECTS OF
15 THE MEDICATION, AND THE SHORT-TERM AND LONG-TERM TREATMENT
16 GOALS.

17 (i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE
18 AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND
19 ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C.
20 SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY
21 SYSTEM FOR COLORADO.

22 (2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT
23 PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE
24 PARENT'S MINOR CHILD.

25 (3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION
26 PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND
27 INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107,

1 CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL
2 OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING
3 SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE
4 COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING
5 SERVICES PURSUANT TO THIS PART 5.

6 (b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO
7 PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A
8 CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION
9 16-8-103.6.

10 (c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF
11 NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL
12 DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE
13 PERSON.

14 (4) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO
15 THIS PART 5 MUST BE MAINTAINED SEPARATELY BY THE CLERK OF THE
16 SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST NOT BE
17 MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS SECTION.

18 (b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT
19 PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN
20 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508,
21 THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE
22 CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN
23 THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN
24 ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION
25 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR
26 GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO
27 SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND

1 BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE
2 PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

3 (c) NOTWITHSTANDING SUBSECTION (4)(b) OF THIS SECTION,
4 WHILE A MATTER IS PENDING OR AFTER A CASE IS SEALED, THE COURT MAY
5 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND
6 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING
7 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE
8 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A
9 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID
10 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE
11 CLERK OF THE COURT SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE
12 AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR
13 AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

14 (5) IF A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES IN
15 THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD, THE COURT,
16 COUNTY ATTORNEY, OR DISTRICT ATTORNEY CONDUCTING ANY
17 SUBSEQUENT PROCEEDINGS PURSUANT TO THIS PART 5 AND THE PROVIDER
18 WHO CONDUCTS AN EVALUATION OR PROVIDES CARE MAY, WITHOUT
19 COURT AUTHORIZATION, PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY
20 WITH THE FOLLOWING LIMITED INFORMATION, IF AVAILABLE:

21 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE
22 RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE
23 PLACEMENT PURSUANT TO SECTION 25.5-10-503;

24 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN
25 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE
26 RESPONDENT; AND

27 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR

1 SHORT-TERM PROTECTIVE PLACEMENT.

2 (6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY
3 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT
4 PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN
5 SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL
6 WITH LAWFUL POSSESSION OF RECORDS FROM MAINTAINING AND USING
7 THE RECORDS, UNLESS PROHIBITED BY LAW.

8 (7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A
9 PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE
10 DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN
11 INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE RECORDS FOR
12 GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER
13 CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE
14 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5.

15 (8) THE DISTRICT ATTORNEY MAY PROVIDE INFORMATION TO A
16 VICTIM WHEN NECESSARY TO COMPLY WITH THE "VICTIM RIGHTS ACT",
17 PART 3 OF ARTICLE 4.1 OF TITLE 24.

18 **25.5-10-516. Payment for counsel.**

19 IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS
20 ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL
21 DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL
22 ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A
23 CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM
24 GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL
25 PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST
26 LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

27 **25.5-10-517. Authority to increase payments to nursing facility**

1 **and regional center providers - rules.**

2 SUBJECT TO AVAILABLE APPROPRIATIONS AND FEDERAL
3 AUTHORIZATION, HCPF MAY INCREASE PAYMENTS TO NURSING FACILITY
4 PROVIDERS AND REGIONAL CENTER PROVIDERS FOR THE PURPOSE OF
5 ACHIEVING THE LEAST RESTRICTIVE PLACEMENT REQUIREMENT FOR
6 INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT PURSUANT TO THIS
7 PART 5. HCPF SHALL ADOPTED RULES DEFINING THE QUALIFICATIONS AND
8 PAYMENT SCHEDULE FOR NURSING FACILITY PROVIDERS AND REGIONAL
9 CENTER PROVIDERS THAT SERVE THE INDIVIDUALS SUBJECT TO A
10 PROTECTIVE PLACEMENT.

11 **25.5-10-518. Repeal of part.**

12 THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2031.

13 **SECTION 23.** In Colorado Revised Statutes, add 25.5-6-414 as
14 follows:

15 **25.5-6-414. Delivery of services for individuals with serious**
16 **mental illness - rules.**

17 (1) THE STATE DEPARTMENT IS COMMITTED TO IMPROVING ACCESS
18 TO, AND THE QUALITY OF SERVICES FOR, INDIVIDUALS WITH SERIOUS
19 MENTAL ILLNESS WHO ARE ENROLLED IN THE STATE MEDICAL ASSISTANCE
20 PROGRAM.

21 (2) THE STATE DEPARTMENT SHALL, IN COLLABORATION WITH THE
22 BEHAVIORAL HEALTH ADMINISTRATION, SERVICE PROVIDERS,
23 STAKEHOLDERS, AND INDIVIDUALS WITH LIVED EXPERIENCE,
24 CONTINUOUSLY EVALUATE AND EXPLORE OPTIONS TO ENHANCE THE
25 DELIVERY OF SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS,
26 WHICH EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

27 (a) EXPANDING COMMUNITY-BASED SERVICE CAPACITY AND CARE

- 1 COORDINATION;
2 (b) IMPROVING TRANSITIONS OF CARE ACROSS SETTINGS;
3 (c) LEVERAGING FEDERAL AUTHORITIES, WAIVERS, AND FINANCING
4 MECHANISMS;
5 (d) ADVANCING INNOVATIVE SERVICE DELIVERY MODELS AND
6 VALUE-BASED PAYMENT APPROACHES; AND
7 (e) IDENTIFYING AND ADDRESSING GAPS IN ACCESS, QUALITY, AND
8 OUTCOMES.

9 (3) THE STATE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO
10 ALIGN FINANCING, BENEFITS, AND SERVICE DELIVERY SYSTEMS TO BETTER
11 MEET THE NEEDS OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WITH
12 THE GOALS OF IMPROVING HEALTH OUTCOMES, REDUCING AVOIDABLE
13 UTILIZATION OF HIGH-COST SERVICES, AND SUPPORTING INDIVIDUALS TO
14 LIVE IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO MEET THE
15 INDIVIDUAL'S NEEDS.

16 (4) THE STATE DEPARTMENT MAY ADOPT RULES AS NECESSARY TO
17 IMPLEMENT THIS SECTION.

18 (5) THIS SECTION DOES NOT CREATE AN ENTITLEMENT TO A
19 SPECIFIC SERVICE OR LEVEL OF CARE.

20 **SECTION 24.** In Colorado Revised Statutes, 25.5-10-216,
21 **amend (7) as follows:**

22 **25.5-10-216. Imposition of legal disability - removal of legal**
23 **right.**

24 (7) A person shall not be admitted to a regional center, as defined
25 in section 27-10.5-102, C.R.S., without a court order issued pursuant to
26 this section except in an emergency, IF THE PERSON MEETS THE CRITERIA
27 FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION

1 16-8.5-118, or for the purpose of temporary respite care.

2 SECTION 25. In Colorado Revised Statutes, 27-10.5-110,
3 amend (2) as follows:

4 27-10.5-110. Imposition of legal disability - removal of legal
5 right.

6 (2) A person shall not be admitted to a regional center without a
7 court order issued pursuant to section 25.5-10-216, C.R.S., except in an
8 emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED
9 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the
10 purpose of temporary respite care.

11 SECTION 26. In Colorado Revised Statutes, 13-94-105, **add**
12 (1.6) as follows:

13 **13-94-105. Office of public guardianship - director - duties -**
14 **memorandum of understanding - annual report - repeal.**

15 (1.6) THE OFFICE MAY ESTABLISH, MAINTAIN, AND ADJUST
16 STAFFING LEVELS, INCLUDING GUARDIANS, CASE AIDES, AND
17 ADMINISTRATIVE SUPPORT, AS NECESSARY TO:

18 (a) SCREEN AND ACCEPT REFERRALS ARISING FROM COMPETENCY
19 PROCEEDINGS UNDER ARTICLE 8.5 OF TITLE 16;

20 (b) PROVIDE EMERGENCY PUBLIC GUARDIANSHIP SERVICES
21 PURSUANT TO SECTION 15-14-312 (6), ARTICLE 8.5 OF TITLE 16, ARTICLE
22 10 OF TITLE 25.5, AND ARTICLE 65 OF TITLE 27 FOR INDIGENT INDIVIDUALS
23 FOUND INCOMPETENT TO PROCEED;

24 (c) IDENTIFY AND SUPPORT TIMELY TRANSITIONS TO CIVIL
25 PLACEMENT, TREATMENT, AND SERVICES IN ORDER TO PREVENT
26 UNNECESSARY INCARCERATION OR HOSPITALIZATION; AND

27 (d) SUPPORT LONG-TERM GUARDIANSHIP SERVICES WHEN

1 NECESSARY.

2 **SECTION 27.** In Colorado Revised Statutes, 15-14-312, **add** (6)
3 as follows:

4 **15-14-312. Emergency guardian.**

5 (6) IN ADDITION TO A COURT WITH JURISDICTION TO HEAR
6 PROCEEDINGS PURSUANT TO THIS TITLE 15, A CRIMINAL COURT OR
7 ANOTHER COURT WITH JURISDICTION MAY APPOINT AN EMERGENCY
8 GUARDIAN AS AUTHORIZED PURSUANT TO SECTION 16-8.5-117 OR
9 16-8.5-118, OR A CIVIL COURT SUPERVISING A CIVIL COMMITMENT
10 PURSUANT TO SECTION 27-65-201 OR AN ENHANCED PROTECTIVE
11 PLACEMENT PURSUANT TO SECTION 25.5-10-507 MAY APPOINT AN
12 EMERGENCY GUARDIAN.

13 **SECTION 28.** In Colorado Revised Statutes, 24-4.1-302, **add**
14 (2)(q.1), (2)(q.2), and (2)(q.3) as follows:

15 **24-4.1-302. Definitions.**

16 As used in this part 3, and for no other purpose, including the
17 expansion of the rights of any defendant:

18 (2) "Critical stages" means the following stages of the criminal
19 justice process:

20 (q.1) A TRIAL FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE
21 PLACEMENT PURSUANT TO SECTION 16-8.5-118;

22 (q.2) A HEARING TO TERMINATE A CIVIL COMMITMENT PURSUANT
23 TO SECTION 27-65-202 OR AN ENHANCED PROTECTIVE PLACEMENT
24 PURSUANT TO SECTION 25.5-10-508;

25 (q.3) THE TRANSFER, RELEASE, OR ESCAPE OF A PERSON OR THE
26 PLACEMENT OF A PERSON INTO A COMMUNITY-BASED SETTING OUTSIDE OF
27 INPATIENT CARE AT THE DISCRETION OF CDHS, AS DEFINED IN SECTION

1 16-8.5-101, WHEN THE PERSON IS UNDER A CIVIL COMMITMENT PURSUANT
2 TO SECTION 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT UNDER
3 COURT SUPERVISION PURSUANT TO SECTION 25.5-10-507 WHEN THE
4 CRIMINAL CASE INITIATING THE CIVIL COMMITMENT OR ENHANCED
5 PROTECTIVE PLACEMENT INVOLVED A VICTIM.

6 **SECTION 29.** In Colorado Revised Statutes, 24-4.1-302.5,
7 **amend** (1)(b); and **add** (1)(j.6) as follows:

8 **24-4.1-302.5. Rights afforded to victims - definitions.**

9 (1) In order to preserve and protect a victim's rights to justice and
10 due process, each victim of a crime has the following rights:

11 (b) The right to be informed of and be present by appearing in
12 person, by phone, virtually by audio or video, or similar technology for
13 all critical stages of the criminal justice process as specified in section
14 24-4.1-302 (2); except that the victim shall have the right to be informed
15 of, without being present for, the critical stages described in section
16 24-4.1-302 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p),
17 (2)(q), **(2)(q.3)**, (2)(r), and (2)(u);

18 (j.6) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR CHANGES
19 TO MATERIAL TERMS OF A CIVIL COMMITMENT PURSUANT TO SECTION
20 27-65-201 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
21 25.5-10-507 ON BEHALF OF A PERSON IN A CIVIL COMMITMENT OR
22 PROTECTIVE PLACEMENT IN A CRIMINAL CASE INVOLVING THE VICTIM, AND
23 THE RIGHT TO BE PRESENT BY APPEARING IN PERSON, BY PHONE, OR
24 VIRTUALLY BY VIDEO OR AUDIO, OR SIMILAR TECHNOLOGY, AND HEARD AT
25 ANY HEARING DURING WHICH A COURT CONSIDERS THE REQUEST. AS USED
26 IN THIS SUBSECTION (1)(j.6), "REQUEST FOR CHANGES TO MATERIAL
27 TERMS" INCLUDES ANY REQUEST TO BE RELEASED FROM AN INPATIENT

1 SETTING TO AN OUTPATIENT SETTING OR TO BE MOVED INTO A
2 COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE AT THE
3 DISCRETION OF CDHS, AS DEFINED IN SECTION 16-8.5-101.

4 **SECTION 30.** In Colorado Revised Statutes, 24-4.1-303, add
5 (11)(b.8), (11)(b.9), (14.6), and (14.8) as follows:

6 **24-4.1-303. Procedures for ensuring rights of victims of**
7 **crimes.**

8 (11) The district attorney shall inform a victim of the following:

9 (b.8) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302
10 (2)(q.1), (2)(q.2), AND (2)(q.3);

11 (b.9) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION
12 (14.8) OF THIS SECTION.

13 (14.6) ANY FACILITY OR PROVIDER THAT HAS THE CARE AND
14 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING
15 PURSUANT TO A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE
16 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OR SUPERVISION OF A CIVIL
17 COMMITMENT PURSUANT TO SECTION 27-65-201 OR ENHANCED
18 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 THAT
19 RESULTED FROM A CRIMINAL CASE INVOLVING A VICTIM SHALL NOTIFY THE
20 APPLICABLE COUNTY ATTORNEY OF THE FOLLOWING:

21 (a) THE INSTITUTION IN WHICH THE PERSON RESIDES;

22 (b) ANY RELEASE OF THE PERSON ON FURLOUGH OR OTHER
23 PROGRAM, IN ADVANCE OF THE RELEASE;

24 (c) ANY OTHER TRANSFER OR RELEASE FROM AN INPATIENT
25 SETTING;

26 (d) ANY ESCAPE BY THE PERSON AND ANY SUBSEQUENT
27 RECAPTURE OF THE PERSON; AND

1 (e) THE DEATH OF THE PERSON WHILE IN CUSTODY OR WHILE
2 UNDER THE JURISDICTION OF THE STATE.

3 (14.8) THE COUNTY ATTORNEY SHALL INFORM THE DISTRICT
4 ATTORNEY THAT SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE
5 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OF THE FOLLOWING:

6 (a) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302
7 (2)(q.1), (2)(q.2), AND (2)(q.3);

8 (b) ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL
9 COMMITMENT DESCRIBED IN SECTION 24-4.1-302.5 (1)(j.6); AND

10 (c) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.6)
11 OF THIS SECTION FROM A FACILITY OR A PROVIDER WHO HAS THE CARE AND
12 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING
13 PURSUANT TO A CIVIL COMMITMENT SUPERVISED PURSUANT TO SECTION
14 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT SUPERVISED
15 PURSUANT TO SECTION 25.5-10-507.

16 **SECTION 31.** In Colorado Revised Statutes, 13-5-142, **amend**
17 (1)(c) and (3)(b)(III) as follows:

18 **13-5-142. National instant criminal background check system**
19 **- reporting.**

20 (1) On and after March 20, 2013, the state court administrator
21 shall send electronically the following information to the Colorado bureau
22 of investigation created pursuant to section 24-33.5-401, referred to in
23 this section as the "bureau":

24 (c) The name of each person with respect to whom the court has
25 entered an order for ~~involuntary~~ certification for short-term treatment of
26 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~
27 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended

1 certification for treatment of a mental health disorder pursuant to section
2 27-65-109 (10), or for long-term care and treatment of a mental health
3 disorder pursuant to section 27-65-110.

4 (3) The state court administrator shall take all necessary steps to
5 cancel a record made by the state court administrator in the national
6 instant criminal background check system if:

7 (b) No less than three years before the date of the written request:

8 (III) The record in the case was sealed pursuant to ~~section~~
9 ~~27-65-109 (7)~~ SECTION 27-65-123 (7) OR 25.5-10-515 (4), or the court
10 entered an order discharging the person from certification in the nature of
11 habeas corpus pursuant to section 27-65-115, if the record in the national
12 instant criminal background check system is based on a court order for
13 involuntary certification for short-term treatment of a mental health
14 disorder.

15 **SECTION 32.** In Colorado Revised Statutes, 13-5-142.5, **amend**
16 (2)(a)(III) as follows:

17 **13-5-142.5. National instant criminal background check**
18 **system - judicial process for awarding relief from federal**
19 **prohibitions - legislative declaration.**

20 (2) **Eligibility.** A person may petition for relief pursuant to this
21 section if:

22 (a) (III) The court has entered an order for the person's ~~involuntary~~
23 certification for short-term treatment of a mental health disorder pursuant
24 to section 27-65-108.5 or 27-65-109 SECTIONS 27-65-108.5, 27-65-109,
25 OR 27-65-109.5, for extended certification for treatment of a mental
26 health disorder pursuant to section 27-65-109 (10), or for long-term care
27 and treatment of a mental health disorder pursuant to section 27-65-110;

1 and

2 **SECTION 33.** In Colorado Revised Statutes, **amend** 13-5-142.8
3 as follows:

4 **13-5-142.8. Notice by professional persons.**

5 Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and
6 13-5-142.5 (2), an order for ~~involuntary~~ certification for short-term
7 treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or~~
8 ~~27-65-109~~ SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5 must also
9 include a notice filed by a professional person pursuant to section
10 27-65-108.5 or 27-65-109 SECTIONS 27-65-108.5, 27-65-109, OR
11 27-65-109.5, and an order for extended certification for treatment of a
12 mental health disorder pursuant to section 27-65-109 (10) must also
13 include a notice filed by a professional person pursuant to section
14 27-65-109 (10).

15 **SECTION 34.** In Colorado Revised Statutes, 13-9-123, **amend**
16 (1)(c) and (3)(b)(III) as follows:

17 **13-9-123. National instant criminal background check system**
18 **- reporting.**

19 (1) On and after March 20, 2013, the state court administrator
20 shall send electronically the following information to the Colorado bureau
21 of investigation created pursuant to section 24-33.5-401, referred to in
22 this section as the "bureau":

23 (c) The name of each person with respect to whom the court has
24 entered an order for ~~involuntary~~ certification for short-term treatment of
25 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~
26 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended
27 certification for treatment of a mental health disorder pursuant to section

1 27-65-109 (10), or for long-term care and treatment of a mental health
2 disorder pursuant to section 27-65-110.

3 (3) The state court administrator shall take all necessary steps to
4 cancel a record made by the state court administrator in the national
5 instant criminal background check system if:

6 (b) No less than three years before the date of the written request:

7 (III) The record in the case was sealed pursuant to ~~section~~
8 ~~27-65-109 (7)~~ SECTION 27-65-123 (7), or the court entered an order
9 discharging the person from certification in the nature of habeas corpus
10 pursuant to section 27-65-115, if the record in the national instant
11 criminal background check system is based on a court order for
12 involuntary certification for short-term treatment of a mental health
13 disorder.

14 **SECTION 35.** In Colorado Revised Statutes, 13-9-124, **amend**
15 (2)(a)(III) as follows:

16 **13-9-124. National instant criminal background check system**
17 **- judicial process for awarding relief from federal prohibitions -**
18 **legislative declaration.**

19 (2) **Eligibility.** A person may petition for relief pursuant to this
20 section if:

21 (a) (III) The court has entered an order for the person's ~~involuntary~~
22 certification for short-term treatment of a mental health disorder pursuant
23 to ~~section 27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109,
24 OR 27-65-109.5, for extended certification for treatment of a mental
25 health disorder pursuant to section 27-65-109 (10), or for long-term care
26 and treatment of a mental health disorder pursuant to section 27-65-110;
27 and

1 **SECTION 36.** In Colorado Revised Statutes, 15-18.7-202,
2 **amend** (7) as follows:

3 **15-18.7-202. Behavioral health orders for scope of treatment**
4 **- form contents - effect.**

5 (7) Nothing in this part 2 means that an adult who has executed a
6 behavioral health orders form has consented to a petition for involuntary
7 administration of medication authority pursuant to ~~section 27-65-113 (5)~~
8 SECTION 27-65-113 (3).

9 **SECTION 37.** In Colorado Revised Statutes, 16-5-401, **amend**
10 (2.5)(b) as follows:

11 **16-5-401. Limitation for commencing criminal proceedings,**
12 **civil infraction proceedings, and juvenile delinquency proceedings -**
13 **definitions.**

14 (2.5) (b) The time limitations imposed by this section are tolled
15 beginning when a defendant's case is dismissed without prejudice for the
16 purpose of facilitating certification for short-term treatment pursuant to
17 ~~section 16-8.5-111 (3)~~ SECTION 16-8.5-109 until either the defendant's
18 criminal case is refiled or six months has passed since the case was
19 dismissed, whichever is earlier.

20 **SECTION 38.** In Colorado Revised Statutes, 16-8.6-103, **amend**
21 (2)(b) as follows:

22 **16-8.6-103. Bridges wraparound care program - established.**

23 (2) The purpose of the bridges wraparound care program is to:

24 (b) Serve eligible individuals whose cases have been dismissed
25 pursuant to ~~section 16-8.5-111 (1.6)~~ SECTION 16-8.5-109 (4) but who are
26 voluntarily willing to participate in the bridges wraparound care program;

27 **SECTION 39.** In Colorado Revised Statutes, 16-10-404, **amend**

1 (1)(b) as follows:

2 **16-10-404. Use of a court facility dog - definitions.**

3 (1) As used in this section, unless the context otherwise requires:

4 (b) "Criminal proceeding" or "criminal proceedings" has the same
5 meaning as set forth in section 16-8.5-101. (8):

6 **SECTION 40.** In Colorado Revised Statutes, **amend** 16-18-101,
7 as follows:

8 **16-18-101. Costs in criminal cases.**

9 (1) THE STATE SHALL PAY the costs in OF criminal cases ~~shall be~~
10 ~~paid by the state~~ pursuant to section 13-3-104 C.R.S., ~~when~~ IF the
11 defendant is acquitted or ~~when~~ IF the defendant is convicted and the court
12 determines ~~he~~ THE DEFENDANT is unable to pay ~~them~~ THE COSTS.

13 (2) The costs of preliminary hearings, including any reporters'
14 transcripts ~~thereof~~ ordered by a defendant, ~~shall~~ MUST be paid pursuant
15 to subsection (1) of this section. UNLESS OTHERWISE ORDERED BY THE
16 COURT, THE PROSECUTION SHALL PAY FOR reporters' transcripts of
17 preliminary hearings ~~which~~ THAT are ordered by the prosecution. ~~shall be~~
18 ~~paid for by the prosecution, unless otherwise ordered by the court.~~

19 (3) The department of corrections, from annual appropriations
20 made by the general assembly, shall reimburse the county or counties in
21 a judicial district for the costs of prosecuting any crime alleged to have
22 been committed by a person in the custody of the department. The county
23 or counties shall certify ~~these~~ THE costs to the department, and upon
24 approval of the executive director of the department, the DEPARTMENT
25 SHALL PAY THE costs. ~~shall be paid. The provisions of This subsection (3)~~
26 ~~shall apply~~ APPLIES to costs that are not otherwise paid by the state.

27 (4) THE STATE SHALL PAY THE COSTS OF A CIVIL COMMITMENT

1 TRIAL AND ENHANCED PROTECTIVE PLACEMENT TRIAL CONDUCTED
2 PURSUANT TO SECTION 16-8.5-118, THE COSTS OF INITIATING A
3 SHORT-TERM CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27, AND
4 THE COSTS OF AN INDEPENDENT EXAMINATION AND TERMINATION
5 HEARING CONDUCTED PURSUANT TO SECTION 27-65-202 OR 25.5-10-508,
6 INCLUDING ANY REPORTERS' TRANSCRIPTS ORDERED BY A DEFENDANT.
7 UNLESS OTHERWISE ORDERED BY THE COURT, THE PROSECUTION SHALL
8 PAY FOR REPORTERS' TRANSCRIPTS OF PRELIMINARY HEARINGS THAT ARE
9 ORDERED BY THE PROSECUTION.

10 SECTION 41. In Colorado Revised Statutes, 17-22.5-403.5,
11 amend (4)(f) as follows:

12 17-22.5-403.5. **Special needs parole.**

13 (4) (f) If, prior to or during any parole revocation hearing,
14 including hearings for offenders granted parole pursuant to subsection (5)
15 of this section, the department or a member of the parole board has a
16 substantial and good faith reason to believe that the offender is
17 incompetent to proceed, as defined in section 16-8.5-101, ~~(12)~~, the parole
18 board shall suspend all proceedings and notify the public defender liaison
19 described in section 21-1-104 (6). THE COURT SHALL APPOINT the office
20 of state public defender ~~shall be appointed by the court~~ to represent the
21 inmate, and THE OFFICE OF STATE PUBLIC DEFENDER shall file a written
22 motion with the trial court that imposed the sentence to determine
23 competency. The motion must contain a certificate of counsel stating that
24 the motion is based on a good faith belief that the inmate is incompetent
25 to proceed. The motion must set forth the specific facts that have formed
26 the basis for the motion. The court shall seal the motion. The court shall
27 follow all the relevant procedures in article 8.5 of title 16 regarding the

1 determination of competency. The presence of the inmate is not required
2 unless there is good cause shown.

3 **SECTION 42.** In Colorado Revised Statutes, 17-26-118, **amend**
4 (3)(i) as follows:

5 **17-26-118. Criminal justice data collection - definitions.**

6 (3) The keeper of each jail facility shall keep and maintain a daily
7 record of the following data:

8 (i) The number of confined inmates awaiting a competency
9 evaluation, ~~as defined in section 16-8.5-101 (2);~~ a competency hearing,
10 ~~as defined in section 16-8.5-101 (4);~~ or a restoration hearing, as THOSE
11 TERMS ARE defined in section 16-8.5-101; ~~(17);~~

12 **SECTION 43.** In Colorado Revised Statutes, 20-1-111, **amend**
13 (4)(c) as follows:

14 **20-1-111. District attorneys may cooperate or contract -**
15 **contents - appropriation.**

16 (4) (c) FOR STATE FISCAL YEAR 2026-27, AND FOR EACH STATE
17 FISCAL YEAR THEREAFTER, the general assembly shall ~~make an~~
18 ~~appropriation~~ APPROPRIATE ONE HUNDRED FIFTY THOUSAND DOLLARS to
19 the department of law ~~for state fiscal year 2019-20~~ for allocation to the
20 statewide organization representing district attorneys for the public
21 purpose of providing prosecution training SEMINARS, CONTINUING
22 EDUCATION PROGRAMS, AND OTHER PROSECUTION-RELATED SERVICES ON
23 BEHALF OF DISTRICT ATTORNEYS WHO ARE MEMBERS OF THE
24 ORGANIZATION, INCLUDING, BUT NOT LIMITED TO, COSTS AND EXPENSES
25 FOR PERSONNEL, ADMINISTRATION, MATERIALS, AND TRAVEL, concerning
26 ANY ISSUES RELATED TO determinations of competency to proceed for
27 juveniles and adults, competency evaluation reports, services to restore

1 competency, CIVIL COMMITMENTS, PROTECTIVE PLACEMENTS, ENHANCED
2 PROTECTIVE PLACEMENTS, and certification proceedings governed by
3 article 65 of title 27.

4 **SECTION 44.** In Colorado Revised Statutes, 22-31-129, **amend**
5 (1) introductory portion and (1)(g) as follows:

6 **22-31-129. Vacancies.**

7 (1) A school director office ~~shall be~~ IS deemed to be vacant upon
8 the occurrence of any one of the following events prior to the expiration
9 of the term of office:

10 (g) If a court of competent jurisdiction determines that the person
11 duly elected or appointed is insane or otherwise mentally incompetent,
12 but only after the right to appeal has been waived or otherwise exhausted,
13 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or
14 section 27-65-109 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR
15 27-65-127, an order specifically finding that the insanity or mental
16 incompetency is of such a degree that the person is incapable of serving
17 as a school director;

18 **SECTION 45.** In Colorado Revised Statutes, 22-60.5-107,
19 **amend** (2)(a) as follows:

20 **22-60.5-107. Grounds for denying, annulling, suspending, or**
21 **revoking license, certificate, endorsement, or authorization -**
22 **definitions.**

23 (2) Any license, certificate, endorsement, or authorization may be
24 denied, annulled, suspended, or revoked in the manner prescribed in
25 section 22-60.5-108, notwithstanding the provisions of subsection (1) of
26 this section:

27 (a) When the holder has been determined to be mentally

1 incompetent by a court of competent jurisdiction and a court has entered,
2 pursuant to part 3 or part 4 of article 14 of title 15 or section 27-65-109
3 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR 27-65-127, an order
4 specifically finding that the mental incompetency is of such a degree that
5 the holder is incapable of continuing to perform ~~his or her~~ THEIR job;
6 except that the license, certificate, endorsement, or authorization held by
7 a person who has been determined to be mentally incompetent and for
8 whom such an order has been entered ~~shall~~ MUST be revoked or
9 suspended by operation of law without a hearing, notwithstanding the
10 provisions of section 22-60.5-108;

11 **SECTION 46.** In Colorado Revised Statutes, 24-72-705, **amend**
12 (1)(g) as follows:

13 **24-72-705. Sealing criminal justice records other than**
14 **convictions - simplified process - applicability.**

15 (1) (g) Charges that are dismissed pursuant to ~~section 16-8.5-116~~
16 SECTION 16-8.5-109 (4), 16-8.5-113, OR 16-8.5-116 are not eligible for
17 sealing.

18 **SECTION 47.** In Colorado Revised Statutes, 24-75-111, **add (7)**
19 **as follows:**

20 **24-75-111. Additional authority for controller to allow**
21 **expenditures in excess of appropriations - limitations -**
22 **appropriations for subsequent fiscal year restricted.**

23 (7) (a) **IN ADDITION TO ANY OVEREXPENDITURE ALLOWED**
24 **PURSUANT TO SECTION 24-75-109, THE CONTROLLER MAY ALLOW THE**
25 **DEPARTMENT OF HUMAN SERVICES TO MAKE AN EXPENDITURE IN EXCESS**
26 **OF THE AMOUNT AUTHORIZED BY AN ITEM OF APPROPRIATION FOR SUCH A**
27 **FISCAL YEAR IF THE EXPENDITURE IS FOR PERSONS FOUND INCOMPETENT**

1 TO PROCEED WHO ARE PLACED OR MAY BE PLACED UNDER A CIVIL
2 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT AND:

3 (I) THE OVEREXPENDITURE IS NECESSARY DUE TO UNFORESEEN
4 CIRCUMSTANCES ARISING WHILE THE GENERAL ASSEMBLY IS NOT MEETING
5 IN REGULAR OR SPECIAL SESSION DURING WHICH SUCH OVEREXPENDITURE
6 CAN BE LEGISLATIVELY ADDRESSED;

7 (II) THE REQUEST FOR THE OVEREXPENDITURE HAS BEEN
8 SUBMITTED TO THE OFFICE OF STATE PLANNING AND BUDGETING FOR
9 APPROVAL AND THE OFFICE OF STATE PLANNING AND BUDGETING HAS
10 APPROVED THE OVEREXPENDITURE, IN WHOLE OR IN PART;

11 (III) THE REQUEST FOR THE OVEREXPENDITURE HAS BEEN
12 SUBMITTED TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY
13 FOR APPROVAL; AND

14 (IV) THE REQUEST FOR THE OVEREXPENDITURE HAS BEEN
15 APPROVED, IN WHOLE OR IN PART, BY A MAJORITY VOTE OF THE MEMBERS
16 OF THE JOINT BUDGET COMMITTEE WITHIN TWO WEEKS AFTER RECEIVING
17 THE REQUEST FROM THE OFFICE OF STATE PLANNING AND BUDGETING AND
18 THE CONTROLLER HAS RECEIVED WRITTEN CONFIRMATION OF THE
19 APPROVAL FROM THE JOINT BUDGET COMMITTEE.

20 (b) THE JOINT BUDGET COMMITTEE SHALL NOTIFY THE COLORADO
21 DISTRICT ATTORNEYS' COUNCIL AND THE OFFICE OF STATE PUBLIC
22 DEFENDER OF THE OUTCOME OF THE JOINT BUDGET COMMITTEE'S VOTE.

23 (c) IF THE REQUEST FOR OVEREXPENDITURE IS NOT APPROVED BY
24 THE JOINT BUDGET COMMITTEE, THE DEPARTMENT OF HUMAN SERVICES
25 SHALL CONVENE A MEETING WITH THE DISTRICT ATTORNEYS' COUNCIL,
26 THE OFFICE OF STATE PUBLIC DEFENDER, AND ANY OTHER RELEVANT
27 PARTIES TO DISCUSS WHAT ACTIONS THE DEPARTMENT OF HUMAN

1 SERVICES AND OTHER AGENCIES MAY TAKE.

2 SECTION 48. In Colorado Revised Statutes, 26-1-107, amend
3 (6)(h) as follows:

4 26-1-107. State board of human services - reimbursement for
5 expenses - rules.

6 (6) The state board shall:

7 (h) Adopt rules concerning standards for the level of training,
8 education, and experience that a psychiatrist or psychologist shall have to
9 MUST be qualified IN ORDER to perform competency evaluations in
10 criminal cases pursuant to section 16-8-106 and article 8.5 of title 16,
11 C.R.S., and standards for conducting and reporting competency
12 evaluations in criminal cases. ~~Prior to adopting the rules, the state board~~
13 ~~shall consider recommendations from the competency evaluation advisory~~
14 ~~board created in section 16-8.5-119, C.R.S.~~

15 SECTION 49. In Colorado Revised Statutes, 27-60-105, amend
16 (2) and (6) as follows:

17 27-60-105. Outpatient restoration to competency services -
18 jail-based behavioral health services - responsible entity - duties -
19 report - legislative declaration.

20 (2) The state department serves as a central organizing structure
21 and responsible entity for the provision of competency restoration
22 education services and coordination of competency restoration services
23 ordered by the court pursuant to ~~section 16-8.5-111 (2)~~ SECTION
24 16-8.5-110(1) or 19-2.5-704 (2), and the behavioral health administration
25 serves as the central organizing structure and responsible entity for
26 jail-based behavioral health services pursuant to section 27-60-106.

27 (6) In addition to subsection (4) of this section and subject to

1 available appropriations, the state department shall require any county jail
2 to assist in the provision of interim mental health services for individuals
3 who have been court-ordered for inpatient competency restoration and
4 who are waiting admission for an inpatient bed. This section does not toll
5 or otherwise modify the time frames for the state department to offer
6 inpatient admission pursuant to the provisions of ~~section 16-8.5-111~~
7 SECTION 16-8.5-110.

8 **SECTION 50.** In Colorado Revised Statutes, 27-71-103, **amend**
9 (2)(c)(II) as follows:

10 **27-71-103. Mental health residential facilities - additional**
11 **beds.**

12 (2) (c) The state department, in collaboration with the behavioral
13 health administration and the department of health care policy and
14 financing, shall establish criteria for admissions and discharge planning,
15 quality assurance monitoring, appropriate length of stay, and compliance
16 with applicable federal law. For the mental health residential facilities
17 created pursuant to this section, admission criteria for facilities must
18 include:

19 (II) For treatment beds that do not serve individuals covered under
20 a home- and community-based waiver, offering priority placement to
21 individuals under a certification for short-term or extended short-term
22 treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION
23 27-65-108.5, 27-65-109, OR 27-65-109.5, and long-term care and
24 treatment pursuant to ~~section 27-65-109~~ SECTION 27-65-110 on an
25 outpatient basis.

26 **SECTION 51.** In Colorado Revised Statutes, 27-94-107, **amend**
27 (2) as follows:

1 **27-94-107. Renovation for additional beds.**

2 (2) Initially, the beds may be used for persons needing
3 competency services. When the wait list for INPATIENT competency
4 RESTORATION services ~~provided pursuant to section 16-8.5-111~~ FOR
5 DEFENDANTS NOT ADMITTED WITHIN THE TIME LIMITS SET FORTH IN
6 SECTION 16-8.5-110 (3)(a)(II) OR (3)(a)(III) is eliminated or trending so
7 that it can be reasonably expected to be eliminated within one year, the
8 department of human services shall implement a plan to transition the
9 beds created in subsection (1) of this section to serve civil patients and
10 immediately notify the joint budget committee of the general assembly.
11 Within one year after the notification to the joint budget committee, all
12 beds created pursuant to subsection (1) of this section must serve civil
13 patients.

14 **SECTION 52. In Colorado Revised Statutes, 24-75-302, amend**
15 **(2)(uu) and (2)(vv); and add (2)(ww) as follows:**

16 **24-75-302. Capital construction fund - capital assessment fees**
17 **- calculation - information technology capital account - repeal.**

18 (2) The controller shall transfer a sum as specified in this
19 subsection (2) from the general fund to the capital construction fund as
20 money becomes available in the general fund during the fiscal year
21 beginning on July 1 of the fiscal year in which the transfer is made or on
22 the date otherwise specified for the transfer. Transfers between funds
23 pursuant to this subsection (2) are not appropriations subject to the
24 limitations of section 24-75-201.1. The amounts transferred pursuant to
25 this subsection (2) are as follows:

26 (uu) On July 1, 2024, one hundred sixty-two million seven
27 hundred seventy-eight thousand two hundred eighty-five dollars; and

1 (vv) On July 1, 2025, one hundred twenty-nine million four
2 hundred ninety-eight thousand thirty-three dollars; AND

3 (ww) THREE DAYS AFTER THE EFFECTIVE DATE OF THIS
4 SUBSECTION (2)(ww), THREE MILLION FIVE HUNDRED SEVENTY-SEVEN
5 THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS.

6 **SECTION 53. Appropriation.** (1) For the 2025-26 state fiscal
7 year, \$535,934 is appropriated to the department of human services. This
8 appropriation is from the general fund. To implement this act, the
9 department may use this appropriation as follows:

10 (a) \$485,934 for the wheat ridge regional center intermediate care
11 facility; and

12 (b) \$50,000 for skilled nursing contracted beds.

13 **SECTION 54. Capital construction appropriation.** For the
14 2025-26 state fiscal year, \$3,577,898 is appropriated to the department of
15 human services for use by office of civil and forensic mental health. This
16 appropriation is from the capital construction fund created in section
17 24-75-302 (1)(a), C.R.S. To implement this act, the office may use this
18 appropriation for capital construction related to the renovation of a unit
19 at the Colorado mental health hospital in Pueblo to create enhanced
20 protective placements for people with intellectual and developmental
21 disabilities. Any money appropriated in this section not expended prior
22 to July 1, 2026, is further appropriated to the department from July 1,
23 2026, through June 30, 2029, for the same purpose.

24 **SECTION 55. Appropriation.** (1) For the 2026-27 state fiscal
25 year, \$3,682,028 is appropriated to the judicial department. This
26 appropriation is from the general fund. To implement this act, the
27 department may use this appropriation as follows:

1 (a) \$64,449 for use by supreme court and court of appeals for
2 appellate court programs, which amount is based on an assumption that
3 the division will require an additional 0.5 FTE;

4 (b) \$245,458 for use by state courts administration for general
5 courts administration, which amount is based on an assumption that the
6 division will require an additional 2.1 FTE;

7 (c) \$1,113,744 for use by state courts administration for
8 information technology infrastructure;

9 (d) \$103,600 for use by state courts administration for capital
10 outlay;

11 (e) \$310,800 for use by state courts administration for courthouse
12 information technology capital outlay, which amount remains available
13 for expenditure through the close of the 2027-28 state fiscal year;

14 (f) \$925,244 for use by trial courts for trial court programs, which
15 amount is based on an assumption that the division will require an
16 additional 8.4 FTE;

17 (g) \$719,608 for use by trial courts for court cost, jury costs,
18 court-appointed counsel, and reimbursements for vacated convictions;
19 and

20 (h) \$199,125 for use by trial courts for district attorney mandated
21 costs.

22 (2) For the 2026-27 state fiscal year, \$26,296 is appropriated to the
23 judicial department for use by state courts administration. This
24 appropriation is from the judicial department information technology cash
25 fund created in section 13-32-114 (1), C.R.S. To implement this act, state
26 courts administration may use this appropriation for information
27 technology infrastructure.

1 (3) For the 2026-27 state fiscal year, \$648,860 is appropriated to
2 the judicial department for use by the office of the state public defender.
3 This appropriation is from the general fund. To implement this act, the
4 department may use this appropriation as follows:

5 (a) \$411,405 for personal services, which amount is based on an
6 assumption that the office will require an additional 4.5 FTE;

7 (b) \$5,760 for operating expenses;

8 (c) \$28,000 for capital outlay;

9 (d) \$570 for attorney registration;

10 (e) \$4,000 for training; and

11 (f) \$199,125 for mandated costs.

12 (4) For the 2026-27 state fiscal year, \$206,345 is appropriated to
13 the judicial department for use by the alternate defense counsel. This
14 appropriation is from the general fund. To implement this act, the
15 department may use this appropriation for conflict-of-interest contracts.

16 (5) For the 2026-27 state fiscal year, \$513,808 is appropriated to
17 the judicial department for use by the office of public guardianship. This
18 appropriation is from the general fund and is based on an assumption that
19 the office will require an additional 5.5 FTE. To implement this act, the
20 office may use this appropriation for program costs.

21 (6) For the 2026-27 state fiscal year, \$335,378 is appropriated to
22 the judicial department for use by the office of bridges of Colorado. This
23 appropriation is from the general fund. To implement this act, the office
24 may use this appropriation as follows:

25 (a) \$425,394 for personal services, which amount is based on an
26 assumption that the office will request an additional 3.3 FTE; and

27 (b) \$25,224 for operating expenses.

1 **SECTION 56. Appropriation.** (1) For the 2026-27 state fiscal
2 year, \$133,795 is appropriated to the department of health care policy and
3 financing for use by the executive director's office. This appropriation is
4 from the general fund and is based on an assumption that the department
5 will require an additional 3.0 FTE. To implement this act, the department
6 may use this appropriation for personal services.

7 (2) For the 2026-27 state fiscal year, the general assembly
8 anticipates that the department of health care policy and financing will
9 receive \$133,794 in federal funds for personal services to implement this
10 act. The appropriation in subsection (1) of this section is based on the
11 assumption that the department will receive this amount of federal funds,
12 which is subject to the "(I)" notation as defined in the annual general
13 appropriation act for the same fiscal year.

14 **SECTION 57. Appropriation.** (1) For the 2026-27 state fiscal
15 year, \$709,013 is appropriated to the department of health care policy and
16 financing. This appropriation is from the general fund, which is subject
17 to the "(M)" notation as defined in the annual general appropriation act
18 for the same fiscal year. To implement this act, the department may use
19 this appropriation for medical and long-term care services for medicaid
20 eligible individuals.

21 (2) For the 2026-27 state fiscal year, the general assembly
22 anticipates that the department of health care policy and financing will
23 receive \$709,013 in federal funds for medical and long-term care services
24 for medicaid eligible individuals to implement this act. The appropriation
25 in subsection (1) of this section is based on the assumption that the
26 department will receive this amount of federal funds.

27 **SECTION 58. Appropriation.** For the 2026-27 state fiscal year,

1 \$18,519,969 is appropriated to the department of human services, which
 2 amount is based on an assumption that the department will require an
 3 additional 61.1 FTE. This appropriation is from the general fund. To
 4 implement this act, the department may use this appropriation as follows:

5	Executive director's office	
6	Health, life, and dental	\$1,019,191
7	Short-term disability	\$3,022
8	Paid family medical leave insurance	\$19,426
9	Unfunded liability amortization payments	\$431,688
10	Behavioral health administration	
11	Program administration	\$133,249 (1.0 FTE)
12	Behavioral health safety net services	\$260,000
13	Office of civil and forensic mental health	
14	Mental health institute at Pueblo; personal	
15	services	\$168,984 (2.0 FTE)
16	Court services	\$238,293 (4.0 FTE)
17	Purchased psychiatric bed capacity	\$6,657,600
18	Outpatient competency restoration	
19	program	\$169,811 (3.0 FTE)
20	Forensic services; competency navigation	\$835,898 (3.0 FTE)
21	Contracted civil services	\$6,264,514 (32.0 FTE)
22	Office of adults, aging, and disability services	
23	Wheat Ridge regional center intermediate	
24	care facility	\$767,434 (7.0 FTE)
25	Pueblo regional center; cottage at	
26	Pueblo	\$1,550,859 (9.1 FTE)
27	■ ■	

1 **SECTION 59. Appropriation.** (1) For the 2026-27 state fiscal
2 year, \$270,017 is appropriated to the department of human services. This
3 appropriation is from the general fund. To implement this act, the
4 department may use this appropriation for the purchase of legal services.

5 (2) For the 2026-27 state fiscal year, \$270,017 is appropriated to
6 the department of law. This appropriation is from reappropriated funds
7 received from the department of human services under subsection (1) of
8 this section and is based on an assumption that the department of law will
9 require an additional 1.1 FTE. To implement this act, the department of
10 law may use this appropriation to provide legal services for the
11 department of human services.

12 **SECTION 60. Appropriation.** (1) For the 2026-27 state fiscal
13 year, \$52,644 is appropriated to the department of human services. This
14 appropriation is from the general fund. To implement this act, the
15 department may use this appropriation for the purchase of information
16 technology services.

17 (2) For the 2026-27 state fiscal year, \$52,644 is appropriated to
18 the office of the governor for use by the office of information technology.
19 This appropriation is from reappropriated funds received from the
20 department of human services under subsection (1) of this section. To
21 implement this act, the office may use this appropriation to provide
22 information technology services for the department of human services.

23 **SECTION 61. Appropriation.** For the 2026-27 state fiscal year,
24 \$150,000 is appropriated to the department of law. This appropriation is
25 from the general fund. To implement this act, the department may use this
26 appropriation for deputy district attorney training.

27 **SECTION 62. Repeal of nonrelocated provisions in this act.**

1 In Colorado Revised Statutes, **repeal** the following provisions that are not
2 relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113
3 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

4 **SECTION 63. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.