

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted 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 3rd Reading
May 7, 2026

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.

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

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

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

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

6 (1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
7 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
8 27-60-203.

9 (2) "CIVIL PROCEEDING" MEANS:

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

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

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

17 (†) (3) "Collateral materials" means the relevant police incident
18 reports and the charging documents, either the criminal information or
19 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~~
8 ~~treatment~~ 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~~ CDHS shall advise the
8 defendant of the date and time of the court hearing. If ~~the department~~
9 CDHS is returning the defendant to a county jail, the county sheriff in the
10 jurisdiction where the defendant must return shall take custody of the
11 defendant within seventy-two hours after receiving notification from ~~the~~
12 ~~department~~ CDHS that the defendant's COMPETENCY evaluation is
13 completed. At the time ~~the department~~ CDHS notifies the sheriff, ~~the~~
14 ~~department~~ CDHS shall also notify the court and the bridges court liaison
15 that ~~the department~~ CDHS is returning the defendant to the custody of the
16 jail.

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

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

1 developmental disability or a mental disability, the fact of the defendant's
2 noncooperation with the competency evaluator and other personnel
3 providing ancillary services may be admissible in the defendant's
4 competency HEARING, RESTORABILITY HEARING, or restoration hearing to
5 rebut any evidence introduced by the defendant with regard to the
6 defendant's competency.

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

22 (4) THE COMPETENCY EVALUATOR SHALL PREPARE a written report
23 of the COMPETENCY evaluation, ~~must be prepared and the department~~
24 CDHS shall electronically deliver the report to the court ~~clerk who~~
25 ~~ordered it. The clerk shall provide a copy of the report to the prosecuting~~
26 ~~attorney, the bridges court liaison, and the defense counsel using an~~
27 ~~e-filing system~~ AS ORDERED USING AN E-FILING SYSTEM RECORD IN THE

1 ~~MATTER.~~ Without reducing any other timelines set forth in this article 8.5,
2 the competency evaluator shall provide the written report to the court
3 within fourteen days after finishing meeting, or attempting to meet, with
4 the defendant to evaluate the defendant's competency.

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

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

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

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

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

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

26 (I) (A) ~~An~~ THE COMPETENCY EVALUATOR'S opinion as to whether
27 ~~there is a substantial probability that the defendant, with restoration~~

1 ~~services, will attain competency within the reasonably foreseeable future;~~
2 ~~and~~ THE DEFENDANT IS RESTORABLE OR UNRESTORABLE. AS PART OF
3 FORMING THE OPINION, THE COMPETENCY EVALUATOR SHALL USE DUE
4 DILIGENCE IN REVIEWING AND SUMMARIZING ANY PRIOR COMPETENCY
5 OPINIONS REGARDING THE DEFENDANT. IF THE OPINION REGARDING
6 RESTORABILITY DIFFERS FROM OPINIONS IN PAST EVALUATIONS OF THE
7 DEFENDANT, THE COMPETENCY EVALUATOR SHALL EXPLAIN THE BASIS
8 FOR THE COMPETENCY EVALUATOR'S DIFFERING OPINIONS.

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

21 ~~(B)~~ (C) If possible, when the defendant is diagnosed with a
22 moderate to severe ~~intellectual or developmental disability acquired or~~
23 ~~traumatic brain injury, or dementia~~ OR A NEUROCOGNITIVE DISORDER, AS
24 DEFINED IN SECTION 25.5-10-501, which either alone or together with a
25 co-occurring mental ~~illness~~ DISABILITY affects the defendant's ability to
26 gain or maintain competency, ~~the evaluator shall provide an opinion as to~~
27 ~~whether there is a substantial probability that the defendant with~~

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

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

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

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

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

27 (I) Meets the criteria for an emergency mental health hold

1 pursuant to section 27-65-106;

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

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

24 (A) Whether the defendant ALSO HAS A MENTAL HEALTH
25 DISORDER, AS DEFINED IN SECTION 27-65-102, AND, IF THE DEFENDANT
26 DOES HAVE A CO-OCCURRING INTELLECTUAL AND DEVELOPMENTAL
27 DISABILITY AND A MENTAL HEALTH DISORDER, THE PRIMARY DIAGNOSIS,

1 IF DETERMINABLE; AND

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

5 (IV) HAS A NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION
6 25.5-10-501, AND IF THE DEFENDANT DOES HAVE A NEUROCOGNITIVE
7 DISORDER, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH
8 DISORDER, AND WHETHER THE DEFENDANT MAY MEET THE CRITERIA FOR
9 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502. IF THE
10 COMPETENCY EVALUATOR'S OPINION IS THAT THE DEFENDANT MAY MEET
11 THE CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY
12 EVALUATOR IS NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE
13 PLACEMENT.

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

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

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

24 (6) Whenever a competency evaluation is ordered upon the
25 request of either party, the court ~~may~~ SHALL notify the county attorney ~~or~~
26 ~~district attorney~~ required to conduct proceedings pursuant to ~~section~~
27 ~~27-65-113 (6)~~ SECTION 27-65-113.5 for the county in which the charges

1 are pending, and the bridges court liaison hired or contracted pursuant to
2 article 95 of title 13, of all court dates for return of the COMPETENCY
3 EVALUATION report. ~~on competency to ensure that all parties are on notice~~
4 ~~of the expected need for coordinated services and planning with~~
5 ~~consideration of possible civil certification.~~

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

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

22

23 **16-8.5-106. [Formerly 16-8.5-112] Petition for involuntary**
24 **administration of medication - venue for collateral hearing.**

25 (1) If a defendant committed to the custody of ~~the department~~
26 CDHS for A COMPETENCY evaluation, or for restoration ~~treatment~~
27 SERVICES, meets the constitutional requirements for the administration of

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

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

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

1 county having a population exceeding fifty thousand people, the county
2 attorney for the committing county, may prosecute the proceeding as the
3 proponent of the physician's petition.

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

14 **16-8.5-107. [Formerly 16-8.5-108 (1)] Use of defendant's**
15 **statements.**

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

1 and the jury shall be so instructed at the request of either party.

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

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

18 **16-8.5-108. General hearing procedures and evidence.**

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

27 (b) (I) A REQUEST FOR A COMPETENCY HEARING IS GOVERNED BY

1 SECTION 16-8.5-109.

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

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

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

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

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

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

27 (b) **[Formerly 16-8.5-109 (3)]** The court may examine or

1 cross-examine ~~any witness~~ WITNESSES called by the defendant or
2 prosecuting attorney ~~at a competency hearing~~ and may summon and
3 examine witnesses on the court's own motion.

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

7 (a) To be present in person;

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

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

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

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

24 (5) [Formerly 16-8.5-114 (3)] Evidence of any determination as
25 to the defendant's competency, ~~or incompetency~~ RESTORABILITY, OR
26 RESTORATION is not admissible on the issues raised by a plea of not
27 guilty, not guilty by reason of insanity, or, for offenses that occurred

1 before July 1, 1995, the affirmative defense of impaired mental condition.

2 **16-8.5-109. Competency hearing - procedure after**
3 **determination of competency or incompetency - mandatory dismissal**
4 **- refile of charges.**

5 (1) **Competency hearing.**

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

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

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

18 (3) [Formerly 16-8.5-111 (1.5)] **Referral to wraparound care**
19 **program or restoration services.** If the final determination made
20 pursuant to section 16-8.5-103 is that the defendant is incompetent to
21 proceed and the defendant is eligible for referral to the bridges
22 wraparound care program pursuant to article 8.6 of this title 16, the court
23 may ask the parties whether the defendant should be referred for
24 participation in the program. With the agreement of the parties, the court
25 may delay ordering restoration services for the defendant to allow a
26 bridges wraparound care coordinator to conduct an initial intake of the
27 defendant pursuant to section 16-8.6-108 to determine whether the

1 bridges wraparound care program is appropriate for the defendant, or,
2 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, the court may
3 order restoration services pursuant to ~~subsection (2) of this section~~
4 SECTION 16-8.5-110.

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

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

24 (b) ~~If the district attorney makes the prima facie showing pursuant~~
25 ~~to subsection (1.6)(a) of this section, the court shall proceed pursuant to~~
26 ~~subsection (3) of this section or section 16-8.5-116.5 (7) and, upon~~
27 ~~completion of the certification process, the court shall dismiss the charges~~

1 against the defendant.

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

6 **16-8.5-110. Restoration services - inpatient and outpatient.**

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

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

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

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

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

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

27 (c) If the court finds that the defendant is not eligible for release

1 from custody or not able to post the monetary condition of bond, or the
2 court approves a recommendation from ~~the department~~ CDHS that
3 inpatient restoration services are clinically appropriate, the court shall
4 commit the defendant to the custody of ~~the department~~ CDHS and order
5 inpatient restoration services.

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

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

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

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

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

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

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

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

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

26 (I) The executive director shall designate a state facility or
27 facilities where the defendant is held for care and psychiatric treatment

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

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

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

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

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

1 inpatient RESTORATION services at a location determined by the
2 department CDHS.

3 (II) Outpatient restoration services would be more clinically
4 appropriate, the department CDHS shall

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

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

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

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

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

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

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

27 (d) If the defendant is discharged from the department's CDHS's

1 custody after receiving inpatient restoration services and the defendant is
2 to be returned to the custody of the county jail, ~~the department~~ CDHS
3 shall:

4 (I) Notify the sheriff of the jurisdiction where the defendant is to
5 be returned;

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

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

14 **16-8.5-111. Second evaluation.**

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

22 (2) EITHER PARTY HAS THE RIGHT TO REQUEST A SECOND
23 EVALUATION WITHIN FOURTEEN DAYS AFTER RECEIVING THE INITIAL OR
24 UPDATED COURT-ORDERED COMPETENCY EVALUATION REPORT, AND THE
25 COURT SHALL GRANT THE REQUEST. THE SECOND EVALUATION REPORT
26 MUST INCLUDE THE COMPETENCY EVALUATOR'S OPINION, IF APPLICABLE,
27 REGARDING:

1 (a) WHETHER THE DEFENDANT IS COMPETENT TO PROCEED OR
2 INCOMPETENT TO PROCEED;

3 (b) WHETHER THE DEFENDANT IS RESTORABLE; AND

4 (c) IF THE DEFENDANT IS RECEIVING RESTORATION SERVICES,
5 WHETHER THE DEFENDANT HAS BEEN RESTORED TO COMPETENCY.

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

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

25 (5) [Formerly 16-8.5-107] ~~In all proceedings brought pursuant to~~
26 ~~this article 8.5, the court shall appoint a competency evaluator or an~~
27 ~~attorney for the defendant at the state's expense upon motion of the~~

1 defendant with proof that the defendant is indigent and without money to
2 employ a competency evaluator or attorney to which the defendant is
3 entitled pursuant to this article 8.5. The court shall pay for a second
4 evaluation if a second evaluation is requested by an indigent defendant.

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

9 **16-8.5-112. [Formerly 16-8.5-116] Review hearing to determine**
10 **competency - report.**

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

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

27 (b) At least ten days before each review HEARING, the individual

1 ~~or entity evaluating the defendant~~ COMPETENCY EVALUATOR shall provide
2 the court with a report ~~describing~~ THAT INCLUDES:

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

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

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

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

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

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

1 ~~article 10.5 of title 27.~~

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

22 (VI) WHETHER THE DEFENDANT HAS A DEVELOPMENTAL
23 DISABILITY, AND IF THE DEFENDANT DOES HAVE A DEVELOPMENTAL
24 DISABILITY, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH
25 DISORDER, AS DEFINED IN SECTION 27-65-102, AND WHETHER THE
26 DEFENDANT MAY BE ELIGIBLE FOR ANY ADDITIONAL SERVICES PURSUANT
27 TO ARTICLE 10 OF TITLE 25.5 OR ARTICLE 10.5 OF TITLE 27, OR MAY MEET

1 THE CRITERIA FOR A CIVIL PROCEEDING FOR IMPOSITION OF A LEGAL
2 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION
3 25.5-10-216. IF THE COMPETENCY EVALUATOR'S OPINION IS THAT THE
4 DEFENDANT MAY MEET THE CRITERIA, THE COMPETENCY EVALUATOR IS
5 NOT REQUIRED TO PETITION THE COURT FOR IMPOSITION OF A LEGAL
6 DISABILITY OR REMOVAL OF A LEGAL RIGHT.

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

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

19 ~~(VI)~~ Repealed.

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

26 ~~(VIII)~~ (X) A summary of the observations of the defendant by the
27 ~~treating~~ TREATMENT staff at the facility or other location where inpatient

1 RESTORATION services were delivered.

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

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

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

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

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

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

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

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

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

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

10 ~~(3)~~ (2) After the initial review HEARING CONDUCTED pursuant to
11 ~~subsection (2)(a)~~ SUBSECTION (1)(a) of this section, the court shall review
12 the case of the defendant every ninety-one days. At least ten days before
13 each review, the ~~individual or entity evaluating the defendant~~
14 COMPETENCY EVALUATOR shall provide the court with an updated
15 COMPETENCY EVALUATION report as described in ~~subsection (2)(b)~~
16 SUBSECTION (1)(b) of this section and the treatment staff shall provide an
17 updated summary of observations as described in ~~subsection (2)(c)~~
18 SUBSECTION (1)(c) of this section.

19 ~~(4) Repealed.~~

20 ~~(5)~~ (3) The court shall forward a copy of each report and summary
21 received pursuant to ~~subsections (2) and (3)~~ SUBSECTIONS (1) AND (2) of
22 this section to the county attorney or district attorney required to conduct
23 proceedings pursuant to ~~section 27-65-113 (6)~~ SECTION 27-65-113.5 for
24 the county in which the case is pending and, when a bridges court liaison
25 is appointed, to the bridges court liaison.

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

27 **16-8.5-113. Restorability hearing - burdens of proof -**

1 **determination - dismissal.**

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

5 (b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION
6 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND A
7 COMPETENCY EVALUATOR OPINES THAT THE DEFENDANT IS
8 UNRESTORABLE, AND EITHER A RESTORABILITY HEARING HAS NOT BEEN
9 HELD OR ONE HUNDRED EIGHTY-TWO DAYS HAVE PASSED SINCE THE
10 DEFENDANT BEGAN RECEIVING RESTORATION SERVICES AFTER A FINDING
11 OF RESTORABILITY, THE COURT SHALL, UPON MOTION OF A PARTY, SET A
12 RESTORABILITY HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION
13 16-8.5-108 (1)(d). A RESTORABILITY HEARING MAY BE COMBINED WITH A
14 RESTORATION HEARING, IF APPROPRIATE.

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

21 (2) AT ANY RESTORABILITY HEARING CONDUCTED PURSUANT TO
22 THIS SECTION:

23 (a) THE DEFENDANT HAS THE BURDEN OF PROVING BY A
24 PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS
25 UNRESTORABLE IF ANY CHARGE IN ANY OF THE DEFENDANT'S PENDING
26 CRIMINAL CASES IN THE STATE OF COLORADO INCLUDE A CRIME SUBJECT
27 TO THE "VICTIM RIGHTS ACT", SECTION 24-4.1-302 (1); UNLAWFUL

1 SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INDECENT
2 EXPOSURE, AS DESCRIBED IN SECTION 18-7-302; AND

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

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

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

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

26 (c) THE EXPERIENCES, OBSERVATIONS, AND OPINIONS OF
27 QUALIFIED EXPERTS, INCLUDING MEDICAL PROFESSIONALS, TREATMENT

1 PROVIDERS, AND RESTORATION SPECIALISTS;

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

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

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

13 (g) ANY RELEVANT STATEMENTS MADE BY THE DEFENDANT
14 DURING THE RESTORATION PROCESS; OR

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

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

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

25 (II) IF THE COURT FINDS THAT THE DEFENDANT HAS MET THE
26 BURDEN OF PROVING THEY ARE UNRESTORABLE PURSUANT TO SUBSECTION
27 (2)(a) OF THIS SECTION, THE COURT SHALL FIND THE DEFENDANT

1 UNRESTORABLE.

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

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

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

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

27 **16-8.5-114. Restoration hearing - burdens of proof -**

1 **determination.**

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

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

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

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

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

26 (2) [**Formerly 16-8.5-113 (2)**] ~~Within fourteen days after receipt~~
27 ~~of a report from the department or other court-approved competency~~

1 ~~evaluator certifying that the defendant is competent to proceed;~~ Either
2 party may request a RESTORATION hearing or a second evaluation ~~The~~
3 ~~court shall determine whether to allow the second evaluation or proceed~~
4 ~~to a hearing on competency. If the second evaluation is requested by the~~
5 ~~court or by an indigent defendant, the evaluation must be paid for by the~~
6 ~~court~~ PURSUANT TO SECTION 16-8.5-111.

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

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

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

24 **16-8.5-115. Procedure after restoration hearing.**

25 (1) [Formerly 16-8.5-114 (1)] If a defendant is found to be
26 restored to competency after the RESTORATION hearing held pursuant to
27 ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall resume the

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

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

13 **16-8.5-116. Dismissal of charges after reaching maximum time**
14 **permitted to restore defendant - exceptions - rules.**

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

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

27 (b) The court determines, based on available evidence, that the

1 defendant remains incompetent to proceed.

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

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

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

17 (3) [Formerly 16-8.5-116.5 (4)] 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 █
20 and release the defendant from confinement pursuant to subsection (7) of
21 this section, if:

22 (a) The defendant's highest charged offense is a class 4 felony and
23 the defendant has been in the department's CDHS's custody for
24 restoration services or has been confined in a jail or other detention
25 facility awaiting transport to the department CDHS for court-ordered
26 restoration for an aggregate period of two years; and

27 (b) The court determines, based on available evidence, that the

1 defendant remains incompetent to proceed.

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

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

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

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

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

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

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

26 (8) [Formerly 16-8.5-116.5 (14)] If a defendant is in custody and
27 the department CDHS does not comply with the time limits set forth in

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

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

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

18 **16-8.5-117. Initiation of civil proceeding - appointment of**
19 **bridges court liaison or guardian - extension - dismissal.**

20 (1) ■ IF THE COURT DETERMINES THERE IS A SUBSTANTIAL
21 PROBABILITY THAT THE DEFENDANT WILL BE FOUND UNRESTORABLE
22 PURSUANT TO SECTION 16-8.5-113, THE DEFENDANT WILL REACH THE
23 MAXIMUM TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO
24 SECTION 16-8.5-116, OR THE COURT WILL ORDER THE INITIATION OF A
25 CIVIL PROCEEDING PURSUANT TO THIS SECTION, THE COURT SHALL, UNLESS
26 THE COURT FINDS THERE IS AN ACCEPTABLE CARE COORDINATION
27 ALTERNATIVE ALREADY IN PLACE, APPOINT A BRIDGES COURT LIAISON TO

1 PROVIDE SERVICES AUTHORIZED IN ARTICLE 95 OF TITLE 13, WHICH MAY
2 INCLUDE:

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

7 (b) IF THE DEFENDANT DOES NOT OBJECT, FACILITATING
8 PSYCHOLOGICAL ASSESSMENTS OF THE DEFENDANT TO HELP DETERMINE
9 APPROPRIATE LEVELS OF CARE;

10 (c) IDENTIFYING AND INFORMING THE COURT AND PARTIES OF
11 APPROPRIATE LONG-TERM LEVEL OF CARE RECOMMENDATIONS AND
12 PLACEMENT AVAILABILITY;

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

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

21

22 (2) (a) EXCEPT WHEN THE CITY AND COUNTY OF DENVER HAS
23 EXCLUSIVE ORIGINAL JURISDICTION OVER THE APPOINTMENT OF A
24 GUARDIAN PURSUANT TO SECTION 9 (3) OF ARTICLE VI OF THE STATE
25 CONSTITUTION, ANY INTERESTED PERSON, INCLUDING THE DEFENDANT'S
26 ATTORNEY, MAY PETITION THE CRIMINAL COURT FOR THE APPOINTMENT
27 OF AN EMERGENCY GUARDIAN PURSUANT TO SECTION 15-14-312 BY FILING

1 A PETITION INTO THE CRIMINAL CASE THAT SATISFIES THE REQUIREMENTS
2 OF SECTION 15-14-312.

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

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

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

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

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

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

24 (I) SHALL NOT APPOINT AN ATTORNEY TO REPRESENT THE
25 DEFENDANT FOR THE PURPOSE OF CONTESTING THE APPOINTMENT OF AN
26 EMERGENCY GUARDIAN UNLESS THE DEFENDANT WISHES TO CONTEST THE
27 APPOINTMENT AND HAS NOT RETAINED AN ATTORNEY FOR THAT PURPOSE;

1 AND

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

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

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

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

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

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

3 (A) THE DISTRICT ATTORNEY;

4 (B) THE COUNTY ATTORNEY;

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

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

11 OR

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

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

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

24 (A) WHETHER A CIVIL PROCEEDING IS PENDING AGAINST THE
25 DEFENDANT AND, IF SO, THE DATE AND TIME OF THE CIVIL PROCEEDING
26 AND THE FINAL DISPOSITION OF THE CIVIL PROCEEDING, REGARDLESS OF
27 WHETHER THE CIVIL PROCEEDING IS CONFIDENTIAL OR CLOSED TO THE

1 PROSECUTING ATTORNEY OR THE DEFENDANT'S ATTORNEY IN THE
2 CRIMINAL CASE; AND

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

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

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

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

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

27 (b) A COMPETENCY EVALUATOR OR A PROFESSIONAL PERSON, AS

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

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

- 12 (I) THE DISTRICT ATTORNEY;
- 13 (II) THE COUNTY ATTORNEY;
- 14 (III) THE APPOINTED EMERGENCY GUARDIAN;
- 15 (IV) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
16 WHO OPINED PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION THAT
17 THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING IF THE
18 PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S OPINION IS NOT
19 THE RESULT OF WORK PERFORMED AS PART OF EMPLOYMENT OR A
20 CONTRACT WITH THE BHA OR WITH CDHS; OR

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

23 (7) NOTWITHSTANDING SUBSECTIONS (4) AND (6) OF THIS SECTION,
24 IF AN APPOINTED EMERGENCY GUARDIAN BELIEVES IN THEIR
25 PROFESSIONAL JUDGMENT THAT A CIVIL PROCEEDING SHOULD BE
26 INITIATED, THE COURT SHALL ALLOW THE EMERGENCY GUARDIAN TO
27 INITIATE THE CIVIL PROCEEDING IN LIEU OF ORDERING THE COUNTY

1 ATTORNEY TO INITIATE THE CIVIL PROCEEDING.

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

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

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

11 (II) THE COURT FINDS GOOD CAUSE; AND

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

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

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

23 (II) THE COURT FINDS GOOD CAUSE; AND

24 (III) THE DEFENDANT IS NOT CHARGED WITH A CRIME OF
25 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), OR A FELONY THAT
26 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION
27 16-22-102.

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

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

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

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

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

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

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

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

26 (d) INCLUDES ANY ORDERS THE COURT ISSUED PURSUANT TO THIS
27 SECTION.

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

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

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

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

22 (13) IF THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO
23 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116; THE COURT
24 DOES NOT ORDER THE COUNTY ATTORNEY TO INITIATE A CIVIL
25 PROCEEDING; AND THE CASE IS NOT STAYED PURSUANT TO SECTION
26 16-8.5-118, THE COURT SHALL DISMISS THE CASE.

27 **16-8.5-118. Civil commitment and enhanced protective**

1 **placement for incompetent and unrestorable defendants - report -**
2 **repeal.**

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

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

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

21 (I) STAY THE ORDER DISMISSING THE DEFENDANT'S CRIMINAL
22 CASE;

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

26 (III) ORDER CDHS TO IDENTIFY AN APPROPRIATE PROVIDER AND
27 PLACEMENT FOR THE DEFENDANT IN THE EVENT A CIVIL COMMITMENT OR

1 AN ENHANCED PROTECTIVE PLACEMENT IS GRANTED AND TO KEEP THE
2 COURT INFORMED IN WRITING OF AVAILABLE PLACEMENT OPTIONS.

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

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

24 (4) (a) THE TRIAL MUST BE CIVIL IN NATURE BUT CONDUCTED IN
25 ACCORDANCE WITH THE COLORADO RULES OF EVIDENCE. A DISTRICT
26 COURT JUDGE OR, WITH THE CONSENT OF BOTH PARTIES, A COUNTY COURT
27 JUDGE OR A MAGISTRATE ASSIGNED BY THE CHIEF JUDGE OF THE JUDICIAL

1 DISTRICT SHALL SERVE AS THE FINDER OF FACT.

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

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

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

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

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

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

25 (III) THE COURT FINDS THE DEFENDANT UNDERSTANDS THE
26 STIPULATION AND THAT THE STIPULATION IS VOLUNTARY DESPITE THE
27 DEFENDANT BEING INCOMPETENT TO PROCEED; AND

1 (IV) THE PARTIES ESTABLISH A FACTUAL BASIS.

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

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

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

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

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

15 OR

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

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

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

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

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

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

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

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

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

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

27 (d) (I) PRIOR TO TRIAL, THE COURT SHALL FIND THAT THE

1 PROSECUTION HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF
2 THIS SECTION IF AN ACT ALLEGED TO SATISFY THE REQUIREMENT OF
3 SUBSECTION (6)(b)(I) OF THIS SECTION IS:

4 (A) CHARGED IN THE CURRENT CASE; OR
5 (B) CHARGED IN ANOTHER PENDING CASE IN THE SAME
6 JURISDICTION AND COMPETENCY WAS RAISED IN THE CASE.

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

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

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

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

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

25 (c) (I) IF THE DEFENDANT CONTESTS THAT THE DEFENDANT HAS A
26 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT SHALL
27 REVIEW THE RECORD AND DETERMINE IF THE DEFENDANT OR DEFENSE

1 COUNSEL RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR
2 FAILED TO OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT.

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

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

19 (d) AT TRIAL, THE COURT:

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

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

27 (III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE

1 COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY
2 EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION
3 OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR
4 DEVELOPMENTAL DISABILITY.

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

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

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

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

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

27 (III) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT OR

1 ENHANCED PROTECTIVE PLACEMENT TO AN APPROPRIATE CIVIL COURT
2 WITH JURISDICTION AND DISMISS THE CASE IN ACCORDANCE WITH
3 SUBSECTION (14) OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (A) THE DEFENDANT'S STATEMENTS AND WHETHER THE

1 DEFENDANT LACKS INSIGHT INTO THE DEFENDANT'S MENTAL DISABILITY
2 OR DEVELOPMENTAL DISABILITY;

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

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

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

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

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

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

26 (H) WHETHER THE DEFENDANT OPPOSES THE PLACEMENT;

27 (I) WHETHER COMMUNITY-BASED PLACEMENT CAN BE

1 REASONABLY ACCOMMODATED;

2 (J) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF
3 OTHERS; AND

4 (K) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING
5 PROFESSIONALS.

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

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

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

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

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

1 APPROPRIATE PLACEMENT WITH SUFFICIENT TIME TO REVIEW AND PLACE
2 THE DEFENDANT WITHIN THE TIME FRAME SET FORTH IN SUBSECTION
3 (11)(b) OF THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT
4 PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS.

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

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

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

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

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

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

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

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

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

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

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

26 (a) TAKE JUDICIAL NOTICE OF THE PRIOR CIVIL COMMITMENT OR
27 ENHANCED PROTECTIVE PLACEMENT IN LIEU OF CONDUCTING AN

1 ADDITIONAL TRIAL;

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

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

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

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

19 (17) (a) NO LATER THAN JANUARY 2031, CDHS SHALL INCLUDE,
20 AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING
21 REQUIRED BY SECTION 2-7-203, INFORMATION CONCERNING PROTECTIVE
22 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL
23 COMMITMENTS SOUGHT PURSUANT TO THIS SECTION. AT A MINIMUM, THE
24 PRESENTATION MUST INCLUDE THE FOLLOWING INFORMATION FROM JULY
25 1, 2026, TO JULY 1, 2030:

26 (I) THE NUMBER OF PETITIONS FILED FOR PROTECTIVE
27 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL

1 COMMITMENTS;

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

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

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

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

16 (b) HCPF AND THE JUDICIAL DEPARTMENT SHALL PROVIDE ANY
17 NECESSARY INFORMATION TO ASSIST CDHS IN ITS PRESENTATION.

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

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

24 (b) THE ACTUAL AND PROJECTED COSTS THAT CDHS WILL OR MAY
25 INCUR FOR SERVICES RELATED TO CDHS'S OBLIGATIONS PURSUANT TO
26 SECTIONS 27-65-201 AND 25.5-10-507.

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

1 **16-8.5-119. Dismissal procedures.**

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

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

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

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

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

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

1 ORDER.

2 **16-8.5-120. [Formerly 16-8.5-117] Escape - return to**
3 **institution.**

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

15 **16-8.5-121. [Formerly 16-8.5-118] Temporary removal for**
16 **treatment and rehabilitation.**

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

22 **16-8.5-122. [Formerly 16-8.5-120] Competency evaluation**
23 **monitoring system - users - rules.**

24 (1) ~~The department~~ CDHS, with assistance from the judicial
25 department, shall develop an electronic system to track the status of
26 defendants in the criminal justice system for whom a competency
27 evaluation or competency restoration has been ordered. The system must

1 contain information on the following:

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

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

15 **16-8.5-123. [Formerly 16-8.5-122] Forensic evaluator training.**

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

1 manage an oversight program ~~that will~~ TO provide support and ensure
2 quality of forensic evaluators.

3 **16-8.5-124. Transparency requirements.**

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

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

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

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

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

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

19 (f) The number of individuals on the competency restoration wait
20 list;

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

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

25 **16-8.5-125. [Formerly 16-8.5-116.5 (11)] Rules.**

26 ~~The department~~ CDHS shall ~~promulgate~~ such ADOPT rules as
27 necessary to EFFECTIVELY AND consistently enforce the provisions of this

1 article 8.5.

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

4 **27-65-101.5. Nonapplicability of article if individual has**
5 **intellectual and developmental disability or neurocognitive disorder.**

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

15 **SECTION 3.** In Colorado Revised Statutes, 27-65-102, **amend**
16 (10), (11), (21), and (22); and **add** (10.2), ___ (24.5), (27.5), and (32) as
17 follows:

18 **27-65-102. Definitions.**

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

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

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

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

1 to them, as evidenced by a recent overt act, attempt, or threat to do serious
2 physical harm by the person in question.

3 (10.2) "DANGER TO THE PERSON'S SELF", OR SIMILAR
4 TERMINOLOGY, MEANS A PERSON POSES A SUBSTANTIAL RISK OF PHYSICAL
5 HARM TO THE PERSON'S SELF AS MANIFESTED BY EVIDENCE OF RECENT
6 THREATS OR ATTEMPTS AT SUICIDE OR SERIOUS BODILY HARM TO THE
7 PERSON'S SELF.

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

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

20 (22) "Mental health disorder" ~~includes~~ MEANS one or more
21 substantial disorders of the cognitive, volitional, or emotional processes
22 that grossly impairs judgment or capacity to recognize reality or to control
23 behavior ~~An intellectual or developmental disability is insufficient to~~
24 ~~either justify or exclude a finding of a mental health disorder pursuant to~~
25 ~~the provisions of this article 65~~ AND INCLUDES A MENTAL DISABILITY OR
26 DEVELOPMENTAL DISABILITY, AS THOSE TERMS ARE DEFINED IN SECTION
27 16-8.5-101, WHICH HAS LED A COURT TO FIND THE PERSON WITH THE

1 DISABILITY INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE
2 16.

3 ==
4 (24.5) "PERSISTENT MENTAL HEALTH DISORDER" MEANS:

5 (a) A MENTAL HEALTH DISORDER THAT HAS RESULTED IN THE
6 PERSON HAVING THREE OR MORE OF THE FOLLOWING WITHIN THE
7 PRECEDING THREE YEARS:

8 (I) AN EMERGENCY MENTAL HEALTH HOLD PURSUANT TO SECTION
9 27-65-106;

10 (II) A CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO
11 SECTION 27-65-109 OR 27-65-109.5;

12 (III) A FINDING OF INCOMPETENCY TO PROCEED PURSUANT TO
13 ARTICLE 8 OR 8.5 OF TITLE 16; OR

14 (IV) AN INPATIENT PSYCHIATRIC HOSPITALIZATION; AND

15 (b) A PROFESSIONAL PERSON WITH AN ESTABLISHED TREATMENT
16 RELATIONSHIP WITH THE PERSON, AS DESCRIBED IN SECTION 27-65-109.5
17 (1)(a), HAS EVALUATED THE PERSON WITHIN THE PRECEDING NINETY DAYS
18 OR A PROFESSIONAL PERSON CONDUCTING AN EVALUATION OR TREATMENT
19 PURSUANT TO THIS ARTICLE 65 HAS GIVEN CONSIDERATION TO THE
20 PERSON'S HISTORY OF PSYCHIATRIC DETERIORATION AND CYCLING
21 THROUGH INTERVENTIONS AND DETERMINED THAT:

22 (I) THE PERSON CURRENTLY HAS A MENTAL HEALTH DISORDER
23 THAT SUBSTANTIALLY IMPAIRS THE PERSON'S ABILITY TO MAKE INFORMED
24 DECISIONS ABOUT TREATMENT;

25 (II) VOLUNTARY TREATMENT IS UNLIKELY TO BE SUFFICIENT TO
26 PREVENT FURTHER PSYCHIATRIC DETERIORATION OR CRISIS EPISODES
27 BASED ON THE PERSON'S TREATMENT HISTORY AND CURRENT

1 PRESENTATION;

2 (III) INVOLUNTARY TREATMENT IS CLINICALLY INDICATED AND
3 APPROPRIATE GIVEN THE PERSON'S CURRENT CONDITION, LEVEL OF
4 FUNCTIONING, AND TREATMENT HISTORY, INCLUDING ANY FAILURES TO
5 MAINTAIN VOLUNTARY TREATMENT DESPITE ANY PRIOR ASSURANCES THE
6 PERSON WOULD; AND

7 (IV) THE PERSON HAS NOT HAD A CONTINUOUS PERIOD OF TWELVE
8 OR MORE MONTHS OF IMMEDIATELY PRECEDING STABILITY, UNLESS THE
9 PROFESSIONAL PERSON DOCUMENTS SPECIFIC CLINICAL FINDINGS THAT
10 CURRENT PSYCHIATRIC DETERIORATION IS OCCURRING NOTWITHSTANDING
11 THE PERIOD OF STABILITY.

12 (27.5) "PSYCHIATRIC DETERIORATION" MEANS A MEASURABLE
13 DECLINE IN OVERALL FUNCTIONING DUE TO THE PERSON'S MENTAL HEALTH
14 DISORDER. PSYCHIATRIC DETERIORATION MAY BE EVIDENCED BY, BUT NOT
15 LIMITED TO, A PERSON'S INCREASED SEVERITY OR FREQUENCY OF
16 SYMPTOMS, DIMINISHED ABILITY TO PERFORM ACTIVITIES OF DAILY LIVING
17 RESULTING IN MENTAL, EMOTIONAL, OR PHYSICAL HARM, OR AN INABILITY
18 TO RECOGNIZE THE NEED FOR INTERVENTION, WHICH HAS A SUBSTANTIAL
19 PROBABILITY OF RESULTING IN HARM OR FURTHER DECOMPENSATION TO
20 THE PERSON.

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

27 **SECTION 4.** In Colorado Revised Statutes, 27-65-104, **amend**

1 (6)(d)(I) introductory portion as follows:

2 **27-65-104. Voluntary applications for mental health services**
3 **- treatment of minors - definition.**

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

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

22 **27-65-106. Emergency mental health hold - screening -**
23 **court-ordered evaluation - discharge instructions - respondent's**
24 **rights.**

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

27 (a) (I) When a certified peace officer has probable cause to

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

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

25 (b) (I) When a person petitions the court in the county in which
26 the respondent resides or is physically present requesting an evaluation of
27 the respondent's condition and alleging that the respondent appears to

1 have a mental health disorder and, as a result of the mental health
2 disorder, appears to be a danger to the respondent's self, ~~or~~ A DANGER TO
3 others, or ~~appears to be~~ gravely disabled.

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

21 (b) THIS SECTION DOES NOT PRECLUDE:

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

25

26 (II) A PERSON OR ENTITY THAT HAS CARE AND CUSTODY OF A
27 DETAINED PERSON FROM TRANSPORTING THE DETAINED PERSON TO AN

1 EMERGENCY MEDICAL SERVICES FACILITY OR FACILITY DESIGNATED BY
2 THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH HOLD.

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

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

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

1 (a.5) THE PETITION FOR A COURT-ORDERED EVALUATION FILED
2 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION MAY CONTAIN THE
3 RESPONDENT'S HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED
4 PURSUANT TO SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM
5 TREATMENT OR LONG-TERM CARE AND TREATMENT, FINDINGS OF
6 INCOMPETENCY TO PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16,
7 AND INPATIENT PSYCHIATRIC HOSPITALIZATIONS, AND A STATEMENT
8 WHETHER THE PETITIONER BELIEVES THE RESPONDENT HAS A PERSISTENT
9 MENTAL HEALTH DISORDER. IN DETERMINING WHETHER PROBABLE CAUSE
10 EXISTS TO ORDER AN EVALUATION, THE COURT SHALL CONSIDER ANY
11 HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED PURSUANT TO
12 SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM TREATMENT OR
13 LONG-TERM CARE AND TREATMENT, FINDINGS OF INCOMPETENCY TO
14 PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT
15 PSYCHIATRIC HOSPITALIZATIONS, AND WHETHER THE RESPONDENT MAY
16 QUALIFY AS HAVING A PERSISTENT MENTAL HEALTH DISORDER.

17 (c) Following the screening described in subsection (4)(b) of this
18 section, the facility, intervening professional, or certified peace officer
19 designated by the court shall file a report with the court and may initiate
20 an emergency mental health hold at the time of screening. The report
21 must include a recommendation as to whether probable cause exists to
22 believe that the respondent has a mental health disorder and, as a result
23 of the mental health disorder, is a danger to the respondent's self, or A
24 DANGER TO others, or is gravely disabled, and whether the respondent will
25 voluntarily receive evaluation or treatment. The screening report
26 submitted to the court pursuant to this subsection (4)(c) is confidential in
27 accordance with section 27-65-123 and must be furnished to the

1 respondent or the respondent's attorney or personal representative.

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

20 (6) (a) Each person detained for an emergency mental health hold
21 pursuant to this section shall receive an evaluation as soon as possible
22 after the person ~~is presented~~ PRESENTS to the facility, OR AS SOON AS
23 POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE
24 PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, == and shall receive
25 such treatment and care as the person's condition requires for the full
26 period that the person is held. The evaluation must include an assessment
27 to determine if the person continues to meet the criteria for an emergency

1 mental health hold and requires further mental health care in a facility
2 designated by the commissioner. The evaluation must state whether the
3 person should be released, referred for further care and treatment on a
4 voluntary basis, or certified for short-term treatment pursuant to section
5 27-65-109.

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

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

27 (10) (b) A person's rights ~~under~~ PURSUANT TO this subsection (10)

1 may only be denied if access to the item, program, or service causes the
2 person to destabilize or creates a danger to the person's self or A DANGER
3 TO others, as determined by a ~~licensed~~ LICENSED provider involved in the
4 person's care. Denial of any right must be entered into the person's
5 treatment record and must be made available, upon request, to the person,
6 the person's legal guardian, or the person's attorney.

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

11 **SECTION 6.** In Colorado Revised Statutes, 27-65-107, **amend**
12 (1), (2), (4)(a)(IV), and (4)(b) as follows:

13 **27-65-107. Emergency transportation - application - screening**
14 **- respondent's rights.**

15 (1) (a) ~~When~~ IF a certified peace officer or emergency medical
16 services provider has probable cause to believe a person is experiencing
17 a behavioral health crisis ~~or is~~ AND, WITHOUT PROFESSIONAL
18 INTERVENTION, MAY BE A DANGER TO THE PERSON'S SELF, A DANGER TO
19 OTHERS, OR gravely disabled, ~~and, as a result, without professional~~
20 ~~intervention the person may be a danger to the person's self or others, then~~
21 the certified peace officer or emergency medical services provider may
22 take the person into protective custody and transport the person to an
23 outpatient mental health facility or a facility designated by the
24 commissioner **FOR AN EMERGENCY MENTAL HEALTH HOLD** or other
25 clinically appropriate facility designated by the commissioner. If ~~such a~~
26 ~~service~~ A FACILITY is not available, the person may be taken to an
27 emergency medical services facility.

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

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

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

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

27 (IV) To keep and use the person's cell phone, unless access to the

1 cell phone causes the person to destabilize or creates a danger to the
2 person's self or A DANGER TO others, as determined by a provider, facility
3 staff member, or security personnel involved in the person's care;

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

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

15 **27-65-108. Care coordination for persons certified or in need**
16 **of ongoing treatment.**

17 (1) A facility designated by the commissioner shall notify and
18 engage the BHA prior to terminating or transferring a person certified
19 pursuant to section 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or
20 27-65-111. The BHA ~~may~~ SHALL provide care coordination services to
21 support a person whose certification is terminated but who is in need of
22 ongoing treatment and services.

23 (2) The BHA shall, directly or through a contract, provide care
24 coordination services to a person certified pursuant to section
25 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or 27-65-111 and
26 determined by the designated facility and the BHA to need care
27 coordination services.

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

27-65-108.3. Criteria and standards for certification for short-term treatment and certification for long-term care and treatment.

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

(a) THE RESPONDENT HAS BEEN ADVISED OF THE AVAILABILITY OF, BUT HAS NOT ACCEPTED, VOLUNTARY TREATMENT OR, WITH CONSIDERATION OF ALL REASONABLY AVAILABLE INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT, THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND

(b) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS A MENTAL HEALTH DISORDER AND, AS A RESULT OF THE MENTAL HEALTH DISORDER, THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF, A DANGER TO OTHERS, OR GRAVELY DISABLED.

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

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

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

3 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND
4 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE
5 FUTURE;

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

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

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

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

18 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE
19 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, OR
20 POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, THE COURT,
21 EVALUATOR, PROFESSIONAL PERSON, OR INTERVENING PROFESSIONAL
22 SHALL, WHENEVER POSSIBLE, USE ALL REASONABLE EFFORTS TO LEARN
23 ABOUT PRIOR RELEVANT BEHAVIORS AND PRIOR DIAGNOSES THROUGH
24 AVAILABLE AND RELIABLE SOURCES, INCLUDING THE PERSON'S PRIOR
25 MEDICAL AND MENTAL HEALTH RECORDS, POLICE REPORTS, AND
26 INFORMATION FROM RELIABLE INDIVIDUALS WHO HAVE A RELATIONSHIP
27 OR REGULAR SUBSTANTIAL INTERACTIONS WITH THE PERSON.

1 (4) THE COURT, EVALUATOR, PROFESSIONAL PERSON, OR
2 INTERVENING PROFESSIONAL SHALL CONSIDER WHETHER THE PERSON HAS
3 A HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED PURSUANT
4 TO SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM TREATMENT OR
5 LONG-TERM CARE AND TREATMENT, FINDINGS OF INCOMPETENCY TO
6 PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT
7 PSYCHIATRIC HOSPITALIZATIONS, AND WHETHER THE PERSON MAY
8 QUALIFY AS HAVING A PERSISTENT MENTAL HEALTH DISORDER.

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

13 **SECTION 9.** In Colorado Revised Statutes, 27-65-108.5, **amend**
14 (1) introductory portion, (1)(b), (1)(d), (2), (3), (8), and (9); **repeal**
15 (10) and (11); and **add** (2.1), (2.5), (7.1), and (7.5) as follows:

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

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

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

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

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

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

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

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

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

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

1 ~~arrest, and~~

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

4 (2.1) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
5 SECTION MAY CONTAIN THE RESPONDENT'S HISTORY OF EMERGENCY
6 MENTAL HEALTH HOLDS INVOKED PURSUANT TO SECTION 27-65-106,
7 CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
8 TREATMENT, FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO
9 ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT PSYCHIATRIC
10 HOSPITALIZATIONS, AND A STATEMENT AS TO WHETHER THE PETITIONER
11 BELIEVES THE RESPONDENT HAS A PERSISTENT MENTAL HEALTH DISORDER.

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~~ IN DETERMINING WHETHER TO CERTIFY THE
25 RESPONDENT OR RULING UPON ANY OBJECTION TO THE CERTIFICATION,
26 THE COURT SHALL CONSIDER THE RESPONDENT'S HISTORY OF EMERGENCY
27 MENTAL HEALTH HOLDS INVOKED PURSUANT TO SECTION 27-65-106,

1 CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
2 TREATMENT, FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO
3 ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT PSYCHIATRIC
4 HOSPITALIZATIONS, AND WHETHER THE RESPONDENT QUALIFIES AS
5 HAVING A PERSISTENT MENTAL HEALTH DISORDER.

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

11 (11) ~~An emergency mental health hold pursuant to section~~
12 ~~27-65-106 is not a prerequisite to a proceeding pursuant to this section.~~

13

14 SECTION 10. In Colorado Revised Statutes, 27-65-109, amend
15 (1), (2) introductory portion, (2)(a), and (9); repeal (7); and add (2.5) and
16 (11) as follows:

17 27-65-109. Certification for short-term treatment - procedure.

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

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

26 (b) The person has been advised of the availability of, but has not
27 accepted, voluntary treatment; but, if reasonable grounds exist to believe

1 that the person will not remain in a voluntary treatment program, the
2 person's acceptance of voluntary treatment does not preclude certification;

3 (e) (b) The facility or community provider that will provide
4 short-term treatment has been designated by the commissioner to provide
5 such treatment; and

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

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

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

17 (2.5) (a) IF THE PROFESSIONAL STAFF OF THE FACILITY DETAINING
18 THE PERSON ON AN EMERGENCY MENTAL HEALTH HOLD HAS DETERMINED
19 THE PERSON HAS A PERSISTENT MENTAL HEALTH DISORDER, THE NOTICE
20 OF CERTIFICATION MUST STATE THAT THE PERSON HAS A PERSISTENT
21 MENTAL HEALTH DISORDER AND INCLUDE A SUMMARY OF THE PERSON'S
22 HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED PURSUANT TO
23 SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM TREATMENT OR
24 LONG-TERM CARE AND TREATMENT, FINDINGS OF INCOMPETENCY TO
25 PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT
26 PSYCHIATRIC HOSPITALIZATIONS.

27 (b) IN RULING UPON ANY OBJECTION TO THE CERTIFICATION, THE

1 COURT SHALL CONSIDER THE PERSON'S HISTORY OF EMERGENCY MENTAL
2 HEALTH HOLDS INVOKED PURSUANT TO SECTION 27-65-106,
3 CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
4 TREATMENT, FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO
5 ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT PSYCHIATRIC
6 HOSPITALIZATIONS, AND WHETHER THE PERSON QUALIFIES AS HAVING A
7 PERSISTENT MENTAL HEALTH DISORDER.

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

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

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

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

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

19 **27-65-109.5. Certification for short-term outpatient treatment.**

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

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

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

4 AND

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

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

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

10 (I) ASK THE RESPONDENT TO DESIGNATE A LAY PERSON WHOM THE
11 RESPONDENT WISHES TO BE INFORMED REGARDING THE OUTPATIENT
12 CERTIFICATION;

13 (II) PROVIDE THE RESPONDENT WITH A COPY OF THE OUTPATIENT
14 CERTIFICATION; AND

15 (III) PROVIDE THE RESPONDENT WITH THE CONTACT INFORMATION
16 FOR THE COURT IN WHICH THE OUTPATIENT CERTIFICATION WILL BE FILED
17 AND FOR ANY DESIGNATED PROVIDER THAT IS WILLING TO HOLD THE
18 OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY THE
19 COMMISSIONER TO PROVIDE TREATMENT.

20 (3) THE SIGNED OUTPATIENT CERTIFICATION MUST:

21 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS
22 THAT THE RESPONDENT MEETS THE CRITERIA SET FORTH IN SECTION
23 27-65-108.3;

24 (b) BE FILED WITH THE COURT WITHIN FOURTEEN DAYS,
25 EXCLUDING SATURDAYS, SUNDAYS, AND COURT HOLIDAYS, AFTER THE
26 INITIATING PARTY RECEIVED THE COURT ORDER FROM THE CRIMINAL
27 COURT INITIATING THE OUTPATIENT CERTIFICATION, AND A COPY MUST BE

1 PROVIDED TO CDHS AND THE BHA WITHIN TWENTY-FOUR HOURS AFTER
2 FILING THE OUTPATIENT CERTIFICATION;

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

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

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

13 (4) (a) IF THE PETITIONER HAS DETERMINED THE RESPONDENT HAS
14 A PERSISTENT MENTAL HEALTH DISORDER, THE NOTICE OF OUTPATIENT
15 CERTIFICATION MUST STATE THAT THE RESPONDENT HAS A PERSISTENT
16 MENTAL HEALTH DISORDER AND INCLUDE A SUMMARY OF THE
17 RESPONDENT'S HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED
18 PURSUANT TO SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM
19 TREATMENT OR LONG-TERM CARE AND TREATMENT, FINDINGS OF
20 INCOMPETENCY TO PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16,
21 AND INPATIENT PSYCHIATRIC HOSPITALIZATIONS.

22 (b) IN RULING UPON ANY OBJECTION TO THE CERTIFICATION, THE
23 COURT SHALL CONSIDER THE RESPONDENT'S HISTORY OF EMERGENCY
24 MENTAL HEALTH HOLDS INVOKED PURSUANT TO SECTION 27-65-106,
25 CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
26 TREATMENT, FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO
27 ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT PSYCHIATRIC

1 HOSPITALIZATIONS, AND WHETHER THE RESPONDENT QUALIFIES AS
2 HAVING A PERSISTENT MENTAL HEALTH DISORDER.

3 (5)(a) ONCE THE BHA RECEIVES THE NOTICE OF OUTPATIENT
4 CERTIFICATION, IF NO DESIGNATED PROVIDER HAS BEEN IDENTIFIED, THE
5 BHA SHALL PROVIDE CARE COORDINATION PURSUANT TO SECTION
6 27-65-108, WHICH INCLUDES MAKING DILIGENT EFFORTS TO IDENTIFY A
7 DESIGNATED PROVIDER TO HOLD THE OUTPATIENT CERTIFICATION AND
8 PROVIDE CARE TO THE RESPONDENT. THE BHA SHALL KEEP THE COURT,
9 PETITIONER, AND COUNTY ATTORNEY INFORMED IN WRITING REGARDING
10 ANY DESIGNATED PROVIDER THAT WILL HOLD THE OUTPATIENT
11 CERTIFICATION AND PROVIDE CARE TO THE RESPONDENT.

12 (b) ONCE A PROVIDER IS DESIGNATED TO HOLD THE OUTPATIENT
13 CERTIFICATION, THE PROVIDER SHALL NOTIFY THE BHA IF THE PROVIDER
14 HAS NOT MADE CONTACT WITH THE RESPONDENT WITHIN SEVEN DAYS
15 AFTER ACCEPTING THE OUTPATIENT CERTIFICATION. THE BHA SHALL
16 NOTIFY THE COURT IN WRITING THAT THE PROVIDER HAS NOT MADE
17 CONTACT WITH THE RESPONDENT WITHIN SEVEN DAYS AFTER ACCEPTING
18 THE OUTPATIENT CERTIFICATION.

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

24 (7) WHENEVER AN OUTPATIENT CERTIFICATION IS FILED WITH THE
25 COURT BY A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL, THE
26 COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT THE
27 RESPONDENT. THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL

1 PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY
2 APPEALS. THE ATTORNEY REPRESENTING THE RESPONDENT MUST BE
3 PROVIDED WITH A COPY OF THE OUTPATIENT CERTIFICATION AND ALL
4 SUPPORTING DOCUMENTATION IMMEDIATELY UPON THE ATTORNEY'S
5 APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE
6 RESPONDENT MAKES A KNOWING AND INTELLIGENT WAIVER IN FRONT OF
7 THE COURT.

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

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

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

27 (a) THE RESPONDENT REQUESTS TO CONTEST, MODIFY, OR

1 TERMINATE THE OUTPATIENT CERTIFICATION;

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

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

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

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

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

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

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

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

22 **SECTION 12.** In Colorado Revised Statutes, 27-65-110, **amend**
23 (1), (4), and (5) as follows:

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

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

1 to court-ordered certification pursuant to section 27-65-108.5, ~~(9)~~, the
2 professional person in charge of the certification for short-term treatment
3 or the BHA may file a petition with the court at least thirty days prior to
4 the expiration date of the extended certification for long-term care and
5 treatment of the respondent under the following conditions:

6 (a) The professional staff of the agency or facility providing
7 short-term treatment has analyzed the respondent's condition and has
8 found that the respondent ~~has a mental health disorder and, as a result of~~
9 ~~the mental health disorder, is a danger to the respondent's self or others~~
10 ~~or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS
11 FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
12 27-65-108.3 (1); AND

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

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

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

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

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

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

14 **SECTION 13.** In Colorado Revised Statutes, 27-65-111, **amend**
15 (3), (6) introductory portion, (6)(a), and (6)(j) as follows:

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

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

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

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

12 (a) To request a change to voluntary status. A change to voluntary
13 status may be denied by the supervising professional person or advanced
14 practice registered nurse with training in psychiatric nursing responsible
15 for the respondent's treatment if the professional person or advanced
16 practice registered nurse with training in psychiatric nursing determines
17 reasonable grounds exist to believe that the respondent will not remain in
18 a voluntary treatment program. THIS SUBSECTION (6)(a) DOES NOT APPLY
19 TO A RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION
20 27-65-201.


21 (j) To have the right to file a motion with the court at any time to
22 contest the certification. THIS SUBSECTION (6)(j) DOES NOT APPLY TO A
23 RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION
24 27-65-201.

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

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

1 **long-term treatment.**

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

15 
16 (b) PRIOR TO TERMINATING A CERTIFICATION FOR SHORT-TERM
17 TREATMENT, THE FACILITY OR COMMUNITY PROVIDER THAT IS CERTIFIED
18 TO PROVIDE TREATMENT TO THE RESPONDENT SHALL REVIEW AND
19 CONSIDER THE REASONABLY AVAILABLE HISTORY OF THE RESPONDENT,
20 INCLUDING ANY HISTORY OF EMERGENCY MENTAL HEALTH HOLDS
21 INVOKED PURSUANT TO SECTION 27-65-106, CERTIFICATIONS FOR
22 SHORT-TERM TREATMENT OR LONG-TERM CARE AND TREATMENT,
23 FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO ARTICLE 8 OR 8.5
24 OF TITLE 16, AND INPATIENT PSYCHIATRIC HOSPITALIZATIONS.

25 (c) A CERTIFICATION FOR SHORT-TERM TREATMENT MUST NOT BE
26 TERMINATED LESS THAN THIRTY DAYS AFTER THE DATE OF THE INITIAL
27 CERTIFICATION UNLESS THE TERMINATION COMPLIES WITH SUBSECTION

1 (1)(d) OF THIS SECTION. A CERTIFICATION FOR SHORT-TERM TREATMENT
2 OF A RESPONDENT WHO HAS A PERSISTENT MENTAL HEALTH DISORDER
3 MUST NOT BE TERMINATED UNLESS THE TERMINATION COMPLIES WITH
4 SUBSECTION (1)(e) OF THIS SECTION UNLESS THE CERTIFICATION IS BEING
5 TERMINATED BY:

6 (I) A COMMUNITY PROVIDER HOLDING AN OUTPATIENT
7 CERTIFICATION THAT EMPLOYS TWO OR MORE PROFESSIONAL PERSONS; OR

8 (II) A FACILITY HOLDING AN INPATIENT CERTIFICATION THAT HAS
9 TWO OR MORE PROFESSIONAL PERSONS WORKING IN THE TWELVE HOURS
10 PRECEDING THE TIME PRIOR TO THE TERMINATION.

11 (d) (I) THE PROFESSIONAL PERSON IN CHARGE OF THE
12 RESPONDENT'S CARE SHALL NOT APPROVE THE TERMINATION OF THE
13 RESPONDENT'S CERTIFICATION WITHIN THIRTY DAYS AFTER THE DATE OF
14 THE INITIAL CERTIFICATION FOR SHORT-TERM TREATMENT UNLESS TWO
15 PROFESSIONAL PERSONS HAVE INDIVIDUALLY CONSULTED AND REVIEWED
16 THE RESPONDENT'S CASE AND AGREE THAT THE RESPONDENT NO LONGER
17 MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT.

18 (II) AT LEAST ONE OF THE PROFESSIONAL PERSONS MUST BE THE
19 PROFESSIONAL PERSON MOST RESPONSIBLE FOR INTERACTING WITH AND
20 PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THE
21 PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S CARE MAY SERVE
22 AS ONE OF THE TWO PROFESSIONAL PERSONS IF THE PROFESSIONAL PERSON
23 IN CHARGE OF THE RESPONDENT'S CARE IS THE PROFESSIONAL PERSON
24 MOST RESPONSIBLE FOR INTERACTING WITH AND PROVIDING DIRECT CARE
25 AND TREATMENT TO THE RESPONDENT. THE OTHER PROFESSIONAL PERSON
26 IS NOT REQUIRED TO INTERACT WITH THE RESPONDENT. THIS SUBSECTION
27 (1)(d) DOES NOT PREVENT EITHER PROFESSIONAL PERSON FROM

1 INTERACTING WITH OR EXAMINING THE RESPONDENT IF IT IS MEDICALLY
2 APPROPRIATE.

3 (III) WHEN CONSULTING AND REVIEWING THE RESPONDENT'S CASE,
4 BOTH PROFESSIONAL PERSONS SHALL CONSIDER THE REQUIREMENTS OF
5 SECTION 27-65-108.3 (2), (3), AND (4).

6 (e) THE PROFESSIONAL PERSON IN CHARGE OF THE CARE OF A
7 RESPONDENT WHO HAS A PERSISTENT MENTAL HEALTH DISORDER SHALL
8 NOT APPROVE THE TERMINATION OF THE RESPONDENT'S CERTIFICATION
9 FROM AN INPATIENT SETTING WITHIN THIRTY DAYS AFTER THE DATE OF
10 THE INITIAL CERTIFICATION FOR SHORT-TERM TREATMENT UNLESS TWO
11 PROFESSIONAL PERSONS INDEPENDENTLY EVALUATE THE RESPONDENT,
12 INDEPENDENTLY AGREE THAT THE RESPONDENT NO LONGER MEETS THE
13 CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT, AND
14 INDEPENDENTLY SIGN A STATEMENT IN ACCORDANCE WITH SUBSECTION
15 (1)(f) OF THIS SECTION. BOTH PROFESSIONAL PERSONS SHALL CONSIDER
16 THE REQUIREMENTS OF SECTION 27-65-108.3 (2), (3), AND (4).

17 (f) (I) IF THE RESPONDENT HAS A PERSISTENT MENTAL HEALTH
18 DISORDER AND THE PROFESSIONAL PERSON IS DISCHARGING THE
19 CERTIFICATION FOR SHORT-TERM TREATMENT FROM AN INPATIENT
20 SETTING, THE PROFESSIONAL PERSON SHALL SIGN A WRITTEN STATEMENT
21 THAT STATES:

22 (A) TERMINATING THE CERTIFICATION FOR SHORT-TERM
23 TREATMENT, RATHER THAN TRANSFERRING THE CERTIFICATION TO AN
24 OUTPATIENT PROVIDER OR OUTPATIENT SETTING, IS MEDICALLY
25 APPROPRIATE; AND

26 (B) THE PROFESSIONAL PERSON REASONABLY BELIEVES THAT THE
27 RESPONDENT WILL SEEK THE RECOMMENDED PSYCHIATRIC CARE WITHOUT

1 A CONTINUED CERTIFICATION WITHIN THE NEXT SIXTY DAYS DESPITE
2 CONSIDERATIONS OF ANY PAST: PSYCHIATRIC DETERIORATION;
3 STATEMENTS OF THE RESPONDENT ASSERTING A WILLINGNESS TO SEEK
4 VOLUNTARY CARE THAT THE RESPONDENT DID NOT SUBSEQUENTLY
5 PURSUE; HISTORY OF REPETITIVE EMERGENCY MENTAL HEALTH HOLDS
6 PURSUANT TO SECTION 27-65-106 OR CERTIFICATIONS FOR SHORT-TERM
7 TREATMENT OR LONG-TERM CARE AND TREATMENT; AND CRIMINAL
8 CHARGES FOR WHICH THE RESPONDENT WAS FOUND INCOMPETENT TO
9 PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE 16.

10 (II) THIS SUBSECTION (1)(f) DOES NOT CREATE A CAUSE OF
11 ACTION. A PROFESSIONAL PERSON OR ENTITY THAT PROVIDES CARE TO A
12 RESPONDENT UNDER A CERTIFICATION IS NOT LIABLE FOR COMPLIANCE OR
13 NONCOMPLIANCE WITH THIS SUBSECTION (1)(f).

14 (g) SUBSECTIONS (1)(d),(1)(e), AND (1)(f) OF THIS SECTION DO NOT
15 APPLY IF A CERTIFICATION FOR SHORT-TERM TREATMENT IS TRANSFERRED
16 TO ANOTHER INPATIENT OR OUTPATIENT PROVIDER OR IF A RESPONDENT
17 IS DISCHARGED FROM AN INPATIENT SETTING WHEN THE PROFESSIONAL
18 PERSON SIGNS AN OUTPATIENT CERTIFICATION PURSUANT TO SECTION
19 27-65-109.5 (3)(e) THAT INCLUDES A STATEMENT THAT A PROVIDER
20 NEEDS TO BE IDENTIFIED.

21 (h) WHEN A CERTIFICATION FOR SHORT-TERM TREATMENT OR AN
22 EXTENDED CERTIFICATION IS TERMINATED PURSUANT TO THIS SECTION,
23 THE PROFESSIONAL PERSON IN CHARGE OF PROVIDING TREATMENT TO THE
24 RESPONDENT SHALL NOTIFY THE COURT IN WRITING WITHIN FIVE DAYS
25 AFTER THE TERMINATION. IF THE RESPONDENT HAS A PERSISTENT MENTAL
26 HEALTH DISORDER AND WAS TERMINATED FROM AN INPATIENT SETTING
27 WITHIN THIRTY DAYS AFTER THE DATE OF THE INITIAL SHORT-TERM

1 CERTIFICATION, THE NOTICE MUST INCLUDE A COPY OF THE STATEMENT
2 DESCRIBED IN SUBSECTION (1)(f) OF THIS SECTION AND BE PLACED IN THE
3 RESPONDENT'S MEDICAL RECORD.

4 SECTION 15. In Colorado Revised Statutes, amend 27-65-113
5 as follows:

6 **27-65-113. Jurisdiction - transfer.**

7 ~~(1) Hearings before the court pursuant to section 27-65-108.5,~~
8 ~~27-65-109, or 27-65-110 are conducted in the same manner as other civil~~
9 ~~proceedings before the court. The burden of proof is on the person or~~
10 ~~facility seeking to detain the respondent. The court or jury shall determine~~
11 ~~that the respondent is in need of care and treatment only if the court or~~
12 ~~jury finds by clear and convincing evidence that the respondent has a~~
13 ~~mental health disorder and, as a result of the mental health disorder, is a~~
14 ~~danger to the respondent's self or others or is gravely disabled.~~

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

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

26 ~~(4) (1) (a) The court in which the A petition is filed under section~~
27 ~~27-65-106 or the OR certification is filed pursuant to section 27-65-109~~

1 THIS ARTICLE 65, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS
2 PURSUANT TO THIS ARTICLE 65 THAT RECEIVES A COURT ORDER
3 TRANSFERRING JURISDICTION OF A CIVIL COMMITMENT PURSUANT TO
4 SECTION 16-8.5-118, is the court of original jurisdiction and of continuing
5 jurisdiction for any further proceedings pursuant to this article 65.

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

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

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

24 (c) A PETITION OR REQUEST FOR A PROCEEDING REGARDING AN
25 EMERGENCY MENTAL HEALTH HOLD ORDERED PURSUANT TO SECTION
26 27-65-106 OR CERTIFICATION FOR SHORT-TERM TREATMENT ORDERED
27 PURSUANT TO SECTION 27-65-109 MAY BE FILED IN THE JURISDICTION

1 WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY PRESENT AND
2 TRANSPORTED FOR AN EMERGENCY MENTAL HEALTH HOLD, OR IS
3 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

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

12 ~~(5)(a)~~ (3) (a) In the event that a respondent or a person WHO IS
13 ORDERED COMMITTED PURSUANT TO SECTION 16-8.5-118, OR IS BEING
14 SUPERVISED IN A COMMITMENT PURSUANT TO SECTION 27-65-201, OR IS
15 found not guilty by reason of impaired mental condition pursuant to
16 section 16-8-103.5 (5), or by reason of insanity pursuant to section
17 16-8-105 (4) or 16-8-105.5, refuses to accept medication, the court having
18 jurisdiction of the action pursuant to ~~subsection (4)~~ SUBSECTION (1) of
19 this section; the court committing the person or defendant to the custody
20 of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or
21 16-8-105.5; or the court of the jurisdiction in which the designated facility
22 treating the respondent or person is located has jurisdiction and venue to
23 accept a petition by a treating physician and to enter an order requiring
24 that the respondent or person accept ~~such~~ THE treatment or, in the
25 alternative, that the medication be forcibly administered to the respondent
26 or person. The court of the jurisdiction in which the designated facility is
27 located shall not exercise its jurisdiction without the permission of the

1 court that committed the person to the custody of the department. Upon
2 the filing of ~~such a~~ THE petition, the court shall appoint an attorney, if one
3 has not been appointed, to represent the respondent or person and hear the
4 matter within ten days.

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

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

20 ~~(6) (4) All adversarial proceedings pursuant to this article 65,~~
21 ~~including proceedings to impose a legal disability pursuant to section~~
22 ~~27-65-127, must be conducted by the district attorney of the county where~~
23 ~~the proceeding is held or by a qualified attorney acting for the district~~
24 ~~attorney appointed by the district court for that purpose; except that, in~~
25 ~~any county or in any city and county having a population exceeding fifty~~
26 ~~thousand persons, the proceedings must be conducted by the county~~
27 ~~attorney or by a qualified attorney acting for the county attorney~~

1 ~~appointed by the district court.~~ In any case in which there has been a
2 change of venue to a county other than the county of residence of the
3 respondent or the county in which the certification proceeding was
4 commenced, the county from which the proceeding was transferred shall
5 either reimburse the county to which the proceeding was transferred and
6 in which the proceeding was held for the reasonable costs incurred in
7 conducting the proceeding or conduct the proceeding itself using its own
8 personnel and resources, including its own district or county attorney, as
9 the case may be.

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

18 ~~(7) Upon request of a legal guardian appointed pursuant to article~~
19 ~~14 of title 15, the legal guardian may intervene in any proceeding brought~~
20 ~~pursuant to this article 65 concerning the legal guardian's ward and,~~
21 ~~through counsel, may present evidence and represent to the court the~~
22 ~~views of the legal guardian concerning the appropriate disposition of the~~
23 ~~case.~~

24 ~~(8) A lay person may submit an affidavit to the court concerning~~
25 ~~the lay person's relationship to the respondent, how long the lay person~~
26 ~~has known the respondent, the lay person's physical address, and the lay~~
27 ~~person's views concerning the appropriate disposition of the respondent's~~

1 case:

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

4 **27-65-113.1. Hearing procedures.**

5 (1) A HEARING HELD PURSUANT TO SECTION 27-65-201,
6 27-65-202, 27-65-108.5, 27-65-109, 27-65-109.5, OR 27-65-110 MUST BE
7 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE
8 THE COURT.

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

18 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT
19 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY
20 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65 CONCERNING THE
21 LEGAL GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT
22 EVIDENCE AND REPRESENT TO THE COURT THE VIEWS OF THE LEGAL
23 GUARDIAN CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

24 (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT
25 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW
26 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S
27 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE

1 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

2 **27-65-113.5. County attorney and district attorney**
3 **responsibilities.**

4 (1) THE COUNTY ATTORNEY OR DISTRICT ATTORNEY IN A COUNTY
5 OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR LESS THAN
6 FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING AS THE
7 COUNTY OR DISTRICT ATTORNEY'S DESIGNEE WHO IS APPOINTED BY THE
8 DISTRICT COURT, HAS THE FOLLOWING POWERS AND RESPONSIBILITIES:

9 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN
10 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 OR
11 TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION
12 16-8.5-118, UNLESS EXPRESSLY RELIEVED OR MODIFIED BY STATUTE;

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

19 (c) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION
20 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT
21 TO THIS ARTICLE 65; AND

22 (d) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS
23 BROUGHT PURSUANT TO THIS ARTICLE 65 TO INTERESTED PARTIES AS
24 ALLOWABLE BY LAW.

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

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

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

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

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

15 **27-65-118. Right to treatment - rules.**

16 (1) (a) Any person receiving an evaluation or treatment pursuant
17 to this article 65 is entitled to medical and psychiatric care and treatment,
18 with regard to services listed in section 27-50-301 and services listed in
19 rules authorized by section 27-66-102, suited to meet the person's
20 individual needs, delivered in such a way as to keep the person in the
21 least-restrictive environment, and delivered in such a way as to include
22 the opportunity for participation of family members in the person's
23 program of care and treatment, when appropriate. ~~Nothing in~~ A PERSON
24 RECEIVING AN EVALUATION OR TREATMENT PURSUANT TO THIS ARTICLE
25 65 MUST NOT BE DENIED CARE OR DISCHARGED DUE TO AN INABILITY TO
26 PAY. This subsection (1)(a) ~~creates~~ DOES NOT CREATE any right with
27 respect to any person other than the person receiving an evaluation, care,

1 or treatment. The professional person and the agency or facility providing
2 an evaluation, care, or treatment shall keep records detailing all care and
3 treatment received by the person, and the records must be made available,
4 upon the person's written authorization, to the person's attorney or the
5 person's personal physician. The records are permanent records and must
6 be retained in accordance with section 27-65-123 (4).

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

9 **27-65-123. Records.**

10 (7) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO
11 THIS ARTICLE 65 MUST BE MAINTAINED SEPARATELY BY THE CLERKS OF
12 THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST
13 NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS
14 SECTION.

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

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

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

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

23 (b) WHETHER THE RESPONDENT WAS RELEASED OR REMAINS IN
24 INPATIENT CARE AND WHETHER FURTHER CARE IS BEING PROVIDED TO THE
25 RESPONDENT; AND

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

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

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

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

17 (12) (a) THIS ARTICLE 65 DOES NOT REQUIRE A COVERED ENTITY,
18 AS DEFINED IN THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
19 ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9, TO
20 USE OR DISCLOSE PROTECTED HEALTH INFORMATION OR OTHER
21 PERSONALLY IDENTIFIABLE INFORMATION IN A MANNER THAT IS
22 INCONSISTENT WITH, OR EXCEEDS THE REQUIREMENTS OF, THE FEDERAL
23 LAW AND ITS IMPLEMENTING REGULATIONS, INCLUDING 45 CFR 160 AND
24 45 CFR 164.

25 (b) CONSISTENT WITH THE FEDERAL "HEALTH INSURANCE
26 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS.
27 1320d TO 1320d-9, AND ITS IMPLEMENTING REGULATIONS, A COVERED

1 ENTITY MAY USE OR DISCLOSE PROTECTED HEALTH INFORMATION FOR
2 TREATMENT, PAYMENT, AND HEALTH-CARE OPERATIONS, INCLUDING
3 DISCLOSURES NECESSARY TO SUPPORT CARE COORDINATION AND THE
4 MANAGEMENT OF AN INDIVIDUAL'S CARE, AS AUTHORIZED PURSUANT TO
5 45 CFR 164.506.

6 (c) ANY USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION
7 PURSUANT TO THIS ARTICLE 65 MUST COMPLY WITH THE MINIMUM
8 NECESSARY STANDARDS SET FORTH IN 45 CFR 164.502 (b) AND 45 CFR
9 164.514 (d), AS APPLICABLE.

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

13 **27-65-131. Data report.**

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

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

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

1 the population; ■

2 (i) INFORMATION REGARDING CERTIFICATIONS FOR SHORT-TERM
3 OUTPATIENT TREATMENT FILED PURSUANT TO SECTION 27-65-109.5,
4 INCLUDING:

5 (I) THE NUMBER OF SIGNED OUTPATIENT CERTIFICATIONS:

6 (A) THAT IDENTIFIED A DESIGNATED PROVIDER TO HOLD THE
7 OUTPATIENT CERTIFICATION;

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

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

14 (D) THAT DID NOT IDENTIFY A DESIGNATED PROVIDER AND A
15 PROVIDER WAS NEVER DESIGNATED;

16 (II) THE AVERAGE AMOUNT OF TIME IT TOOK TO IDENTIFY A
17 DESIGNATED PROVIDER TO HOLD THE OUTPATIENT CERTIFICATION IF A
18 DESIGNATED PROVIDER WAS NOT INITIALLY IDENTIFIED BUT WAS LATER
19 IDENTIFIED; AND

20 (III) ANY AVAILABLE INFORMATION ON THE FREQUENCY AND
21 REASONS FOR DENIALS AND BARRIERS TO IDENTIFYING A DESIGNATED
22 PROVIDER TO HOLD OUTPATIENT CERTIFICATIONS; AND

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

27 **SECTION 21.** In Colorado Revised Statutes, **add** part 2 to article

1 65 of title 27 as follows:

2

PART 2

3

CIVIL COMMITMENT OF INCOMPETENT AND

4

UNRESTORABLE PERSON

5

27-65-201. Court supervision of incompetent and unrestorable

6

person ordered into civil commitment - repeal.

7

(1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF

8

A CIVIL COMMITMENT PURSUANT TO SECTION 16-8.5-118 TO A CIVIL COURT

9

WITH JURISDICTION PURSUANT TO SECTION 27-65-113, THE CIVIL COURT

10

HAS EXCLUSIVE JURISDICTION OVER THE CIVIL COMMITMENT.

11

(2) UPON RECEIVING JURISDICTION OF A CIVIL COMMITMENT, THE

12

CIVIL COURT SHALL:

13

(a) NOTIFY THE COUNTY ATTORNEY;

14

(b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND

15

PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO

16

THE RESPONDENT'S ATTORNEY; AND

17

(c) SET A REVIEW HEARING AND ORDER THE RESPONDENT

18

BROUGHT BEFORE THE COURT.

19

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

20

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

21

(b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

22

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

23

WAIVED BY THE RESPONDENT;

24

(II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED

25

COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT

26

HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD

27

PURSUANT TO THIS ARTICLE 65, INCLUDING ANY APPEALS;

1 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE
2 CIVIL COMMITMENT; AND

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

6 (4) AT ANY TIME DURING THE CIVIL COMMITMENT, THE COURT
7 MAY:

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

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

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

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

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

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

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

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

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

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

24 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT
25 THE DISCRETION OF CDHS OR IF CDHS PROPOSES TO MOVE THE
26 RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT SHALL, PRIOR
27 TO MODIFYING THE CIVIL COMMITMENT TO CHANGE THE RESPONDENT'S

1 PROVIDER OR PLACEMENT, REVIEW THE APPROPRIATENESS OF THE
2 PROPOSED PROVIDER OR PLACEMENT, INCLUDING WHETHER THE PROVIDER
3 FITS THE RESPONDENT'S DIAGNOSIS AND TREATMENT NEEDS AND WHETHER
4 THE PLACEMENT SUFFICIENTLY PROTECTS THE COMMUNITY FROM THE
5 SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE
6 RESPONDENT.

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

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

23 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE
24 RESPONDENT'S MENTAL HEALTH DISORDER;

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

27 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED

1 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH A TREATMENT PLAN IN
2 THE REASONABLY FORESEEABLE FUTURE;

3 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,
4 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR
5 OTHERS;

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

9 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION
10 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S
11 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL
12 HARM;

13 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE
14 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF
15 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS
16 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

17 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

18 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE
19 REASONABLY ACCOMMODATED;

20 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF
21 OTHERS; AND

22 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING
23 PROFESSIONALS.

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

27 (I) ANY VICTIMS HAVE BEEN NOTIFIED OF A CRITICAL STAGE, AS

1 DEFINED IN SECTION 24-4.1-302 (2)(q.3), AND GIVEN THE OPPORTUNITY TO
2 BE HEARD; AND

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

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

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

24 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,
25 CDHS SHALL:

26 (I) ENSURE THE RESPONDENT IS PLACED IN THE
27 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND

1 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE
2 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
3 RESPONDENT; AND

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

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

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

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

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

21 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE
22 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

23 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO
24 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S
25 PROGRESS;

26 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH
27 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS

1 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE
2 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

3 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
4 OTHERS;

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

8 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS
9 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC
10 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A
11 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF CDHS;

12 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE
13 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND

14 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION
15 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

16 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE
17 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE
18 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR
19 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO
20 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED
21 NECESSARY FOR THE COURT'S SUPERVISION OF THE CIVIL COMMITMENT,
22 BUT THE COURT SHALL NOT REQUIRE A PROVIDER TO SUBMIT PROGRESS
23 REPORTS MORE FREQUENTLY THAN EVERY NINETY DAYS.

24 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,
25 ORDER CDHS TO FACILITATE AN EXAMINATION BY A PROFESSIONAL
26 PERSON REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND
27 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE

1 CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT,
2 CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM
3 PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF
4 THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202, UNLESS CDHS
5 HAS FACILITATED A SIMILAR EXAMINATION OF THE RESPONDENT IN THE
6 PAST ONE HUNDRED TWENTY DAYS. THE RESPONDENT SHALL COOPERATE
7 WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION
8 (10)(a).

9 (b) STATEMENTS MADE BY THE RESPONDENT DURING AN
10 EXAMINATION CONDUCTED PURSUANT TO THIS SUBSECTION (10) MUST NOT
11 BE USED IN ANY CRIMINAL PROSECUTION.

12 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR
13 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE
14 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO
15 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT
16 DOES NOT MEET THE CRITERIA FOR TERMINATION.

17 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

18 **27-65-202. Termination of civil commitment - repeal.**

19 (1) THE COURT SHALL TERMINATE A RESPONDENT'S CIVIL
20 COMMITMENT ORDERED PURSUANT TO SECTION 27-65-201 IF THE
21 RESPONDENT:

22 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO
23 OTHERS; OR

24 (b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY
25 TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF
26 OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED
27 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S

1 CONDUCT TO THE REQUIREMENTS OF THE LAW.

2 (2) (a) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL
3 CARE AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE
4 RESPONDENT MEETS THE STANDARD FOR TERMINATION FROM CIVIL
5 COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
6 PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE
7 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE
8 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE
9 DISTRICT ATTORNEY WHO ORIGINALLY SOUGHT CIVIL COMMITMENT OR AN
10 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118.
11 THE COURT SHALL FURNISH A COPY OF ANY REPORTS RECEIVED TO THE
12 RESPONDENT AND THE RESPONDENT'S COUNSEL.

13 (b) THE DETERMINATION REPORTED PURSUANT TO SUBSECTION
14 (2)(a) OF THIS SECTION MUST INCLUDE:

15 (I) THE TREATMENT PROVIDER'S OPINION THAT THE RESPONDENT
16 MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL COMMITMENT
17 PURSUANT TO SUBSECTION (1) OF THIS SECTION;

18 (II) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
19 OTHERS; AND

20 (III) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION IN
21 THE REPORT, INCLUDING A SUMMARY OF THE MATERIALS REVIEWED,
22 ASSESSMENTS CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED.

23 (3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE CIVIL
24 COMMITMENT IN WRITING AT ANY TIME THE RESPONDENT WOULD NOT BE
25 PROHIBITED FROM HAVING A SUBSEQUENT TERMINATION TRIAL PURSUANT
26 TO SUBSECTION (7) OF THIS SECTION.

27 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST

1 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON
2 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR
3 TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1)
4 OF THIS SECTION.

5 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR
6 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE
7 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY
8 SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT
9 PURSUANT TO SECTION 16-8.5-118 FOURTEEN DAYS TO OBJECT TO
10 TERMINATION OR REQUEST AN OPPORTUNITY TO CONDUCT AN
11 INDEPENDENT EVALUATION BY AN EXPERT OF THE COUNTY ATTORNEY'S OR
12 DISTRICT ATTORNEY'S OWN CHOOSING AND EXPENSE.

13 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT
14 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN
15 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE
16 RESPONDENT'S CIVIL COMMITMENT.

17 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY
18 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,
19 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO
20 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR
21 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN
22 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE
23 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT
24 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST
25 FOR A SINGLE INDEPENDENT EVALUATION. THE COST OF THE INDEPENDENT
26 EVALUATION MUST BE PAID FOR BY THE REQUESTING PARTY.

27 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE

1 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE
2 RESPONDENT'S REQUEST FOR TERMINATION.

3 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE
4 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO
5 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

6 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY
7 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL
8 TERMINATE THE RESPONDENT'S CIVIL COMMITMENT.

9 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY
10 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE
11 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE
12 RESPONDENT'S COUNSEL RECEIVED A COPY OF THE REPORT, AND ADVISE
13 THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE COURT OR
14 THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE THAN SIX
15 INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS THE
16 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
17 SECTION.

18 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE
19 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN THIRTY-FIVE DAYS
20 AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE
21 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN SEVENTY-TWO DAYS
22 AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS
23 EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE
24 COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED
25 PURSUANT TO THIS SUBSECTION (5)(b), THE COURT SHALL TERMINATE THE
26 CIVIL COMMITMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S
27 CARE AND CUSTODY.

1 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION
2 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS
3 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE
4 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY
5 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL
6 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY
7 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT
8 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND
9 TO ANY OTHER MATTERS RELATED TO THE CIVIL COMMITMENT AND
10 TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY RELATED APPEALS.

11 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT
12 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION
13 OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS
14 SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A
15 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE
16 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
17 SECTION.

18 (b) IF THE TRIER OF FACT FINDS, BY A PREPONDERANCE OF THE
19 EVIDENCE, THAT THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION
20 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL ORDER
21 THE RESPONDENT RELEASED FROM THE PROVIDER'S CARE AND CUSTODY
22 AND TERMINATE THE RESPONDENT'S CIVIL COMMITMENT. IF THE TRIER OF
23 FACT FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE
24 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT
25 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE
26 CIVIL COMMITMENT AND MAY ENTER OR MODIFY ANY ORDERS TO ASSIST
27 IN PROGRESSING THE TREATMENT OF THE RESPONDENT OR THAT ARE

1 NECESSARY TO PROTECT THE PUBLIC.

2 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET
3 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
4 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION
5 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL
6 FOR TERMINATION.

7 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR
8 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A
9 MENTAL HEALTH DISORDER THAT IS AN INTELLECTUAL AND
10 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE
11 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT HAVING ANY
12 OTHER 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, THE COURT SHALL CONVERT THE CIVIL COMMITMENT
17 TO AN ENHANCED PROTECTIVE PLACEMENT AND MAY MODIFY THE TERMS
18 OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH
19 SECTION 25.5-10-507.

20 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR
21 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS
22 CO-OCCURRING MENTAL HEALTH DISORDERS THAT INCLUDE AN
23 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE
24 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, THE
25 COURT MAY, UPON THE RECOMMENDATION OF CDHS, CONVERT A CIVIL
26 COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT AND MODIFY
27 THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE

1 WITH SECTION 25.5-10-507.

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

3 **SECTION 22.** In Colorado Revised Statutes, **add** part 5 to article
4 10 of title 25.5 as follows:

5 PART 5
6 PROTECTIVE PLACEMENT AND
7 ENHANCED PROTECTIVE PLACEMENT

8 **25.5-10-501. Definitions.**

9 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

11 (1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
12 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
13 27-60-203.

14 (2) "DANGER TO OTHERS" HAS THE MEANING SET FORTH IN
15 SECTION 27-65-102.

16 (3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,
17 HAS THE MEANING SET FORTH IN SECTION 27-65-102.

18 (4) "DEPARTMENT OF HEALTH CARE POLICY AND FINANCING" OR
19 "HCPF" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND
20 FINANCING CREATED IN SECTION 24-1-119.5.

21 (5) "DEPARTMENT OF HUMAN SERVICES" OR "CDHS" MEANS THE
22 DEPARTMENT OF HUMAN SERVICES.

23 (6) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE
24 MEANING SET FORTH IN SECTION 25.5-10-202.

25 (7) "INTERVENING PROFESSIONAL" HAS THE MEANING SET FORTH
26 IN SECTION 27-65-102.

27 (8) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN

1 SECTION 27-65-102.

2 (9) "NEUROCOGNITIVE DISORDER" MEANS A SUBSTANTIAL AND
3 PERSISTENT ACQUIRED DISORDER OF THE COGNITIVE OR NEUROLOGICAL
4 PROCESSES THAT GROSSLY IMPAIRS JUDGMENT, MEMORY, OR CAPACITY TO
5 RECOGNIZE REALITY OR TO CONTROL BEHAVIOR, GENERAL INTELLECTUAL
6 FUNCTIONING, OR ADAPTIVE BEHAVIOR THAT IS ATTRIBUTABLE TO A
7 NEUROLOGICAL OR COGNITIVE DISORDER OR RELATED CONDITION,
8 INCLUDING, BUT NOT LIMITED TO, A TRAUMATIC BRAIN INJURY, A
9 DEGENERATIVE DISORDER, OR DEMENTIA. "NEUROCOGNITIVE DISORDER"
10 DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

11 (10) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN
12 SECTION 27-65-102.

13 (11) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM
14 OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT
15 PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND
16 DEVELOPMENTAL DISABILITIES.

17 (12) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE
18 MEANING SET FORTH IN SECTION 27-65-102.

19 **25.5-10-502. Criteria and standards for protective placement.**

20 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A
21 RESPONDENT IF:

22 (a) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS
23 A NEUROCOGNITIVE DISORDER;

24 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE
25 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,
26 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT
27 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND

1 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, IS A
2 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS.

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

7 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S
8 OWN NEUROCOGNITIVE DISORDER;

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

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

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

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

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

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

26 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE
27 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, OR POSES

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

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

13

14 **25.5-10-503. Short-term protective placement for incompetent**
15 **defendants in a criminal matter.**

16 (1) UPON PETITION OF A PROFESSIONAL PERSON OR INTERVENING
17 PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND
18 LICENSURE, AN APPOINTED LEGAL GUARDIAN, OR A REPRESENTATIVE OF
19 THE BHA OR HCPF, A COURT MAY CERTIFY A PERSON FOR SHORT-TERM
20 PROTECTIVE PLACEMENT FOR NOT MORE THAN THREE MONTHS UNDER THE
21 FOLLOWING CONDITIONS:

22 (a) THE PERSON IS OR RECENTLY WAS A DEFENDANT IN A CRIMINAL
23 MATTER IN WHICH THE PERSON HAS BEEN FOUND INCOMPETENT TO
24 PROCEED;

25 (b) THE COURT HEARING THE CRIMINAL MATTER REFERRED THE
26 MATTER FOR FILING OF A PETITION PURSUANT TO SECTION 16-8.5-117;

27 (c) A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL

1 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE:

2 (I) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE
3 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST
4 THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE
5 SHORT-TERM PROTECTIVE PLACEMENT; AND

6 (II) HAS EVALUATED THE PERSON WITHIN THE PAST THREE
7 MONTHS AND PRODUCED A WRITTEN OPINION THAT THE PERSON MEETS
8 THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
9 25.5-10-502;

10 (d) THERE IS A SKILLED NURSING FACILITY, A REGIONAL CENTER,
11 OR ANOTHER PLACEMENT WILLING TO ACCEPT CARE AND CUSTODY OF THE
12 RESPONDENT AND TO HOLD THE PROTECTIVE PLACEMENT; AND

13 (e) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE
14 PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE
15 PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE SHORT-TERM
16 PROTECTIVE PLACEMENT.

17 (2) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
18 SECTION MUST:

19 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS
20 THAT THE RESPONDENT MEETS THE CRITERIA FOR SHORT-TERM
21 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, INCLUDING
22 ATTACHING THE PROFESSIONAL PERSON'S OR INTERVENING
23 PROFESSIONAL'S WRITTEN OPINION PRODUCED PURSUANT TO SUBSECTION
24 (1)(c)(II) OF THIS SECTION;

25 (b) BE FILED WITHIN FOURTEEN DAYS AFTER THE INITIATING PARTY
26 RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE
27 SHORT-TERM PROTECTIVE PLACEMENT; AND

1 (c) BE FILED WITH THE COURT IN THE COUNTY WHERE THE
2 RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR
3 TO THE FILING OF THE PETITION; EXCEPT THAT, IF THE PERSON WAS
4 ARRESTED FOR THE PRIOR CASE AND HELD IN CUSTODY, THE PETITION MAY
5 BE FILED IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS
6 PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE RESPONDENT'S ARREST.

7 (3) WITHIN TWENTY-FOUR HOURS AFTER CERTIFICATION, COPIES
8 OF THE SHORT-TERM PROTECTIVE PLACEMENT MUST BE PERSONALLY
9 DELIVERED TO THE RESPONDENT AND HCPF WHO SHALL RETAIN A COPY
10 OF THE CERTIFICATION AS PART OF THE RESPONDENT'S RECORD. IF THE
11 CRIMINAL CASE IS PENDING, OR NOT YET DISMISSED, THE PETITIONING
12 PARTY SHALL PROVIDE NOTICE OF THE FILING OF THE PETITION TO THE
13 CRIMINAL COURT. THE CRIMINAL COURT SHALL PROVIDE THE NOTICE TO
14 THE PROSECUTING AND DEFENSE ATTORNEYS IN THE CRIMINAL CASE AND
15 ANY ATTORNEY APPOINTED THE RESPONDENT PURSUANT TO SUBSECTION
16 (5) OF THIS SECTION.

17 (4) THE PETITIONER SHALL ASK THE RESPONDENT TO DESIGNATE
18 ONE OTHER PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED
19 REGARDING THE PETITION. IF THE RESPONDENT IS INCAPABLE OF MAKING
20 A DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE COURT MAY
21 ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE
22 RESPONDENT IS CAPABLE. IF THE PETITIONER FAILS TO ASK THE
23 RESPONDENT TO DESIGNATE A PERSON, THE RESPONDENT'S ATTORNEY
24 APPOINTED PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL REPORT
25 TO THE COURT ANY PERSON WHOM THE RESPONDENT WANTS TO BE
26 INFORMED REGARDING THE PETITION.

27 (5) WHENEVER A PETITION IS FILED PURSUANT TO THIS SECTION,

1 THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT
2 THE RESPONDENT. THE COURT SHALL PROVIDE THE RESPONDENT WITH A
3 WRITTEN NOTICE THAT THE RESPONDENT HAS A RIGHT TO A HEARING ON
4 THE PETITION AND MAY MAKE A WRITTEN REQUEST FOR A JURY TRIAL. THE
5 RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS
6 CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE
7 ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A
8 COPY OF THE PETITION AND ANY SUPPORTING MATERIALS IMMEDIATELY
9 UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE
10 COUNSEL WHEN THE RESPONDENT MAKES A KNOWING AND VOLUNTARY
11 WAIVER IN FRONT OF THE COURT.

12 (6) UPON FILING A PETITION PURSUANT TO THIS SECTION AND
13 AFFORDING THE RESPONDENT A CHANCE TO CONTEST THE PETITION, THE
14 COURT MAY GRANT OR DENY THE PROTECTIVE PLACEMENT BASED ON THE
15 FACTS ESTABLISHED IN THE PETITION, SUBJECT TO THE COURT'S FURTHER
16 REVIEW OR A JURY TRIAL.

17 (7) WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE PETITION FILED
18 PURSUANT TO THIS SECTION, THE RESPONDENT, OR THE RESPONDENT'S
19 ATTORNEY, MAY REQUEST A JURY TRIAL BY FILING A WRITTEN MOTION
20 WITH THE COURT.

21 (8) THE RESPONDENT MAY KNOWINGLY AND VOLUNTARILY
22 CONSENT TO THE PETITION IN WRITING.

23 (9) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT
24 ANY TIME, FILE A WRITTEN REQUEST FOR THE COURT TO REVIEW THE
25 SHORT-TERM PROTECTIVE PLACEMENT. IF A REVIEW IS REQUESTED, THE
26 COURT SHALL HEAR THE MATTER WITHIN FOURTEEN DAYS AFTER THE
27 REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT, THE

1 RESPONDENT'S ATTORNEY, HCPF, AND THE COMMUNITY OR FACILITY
2 PROVIDER WHO IS OR WILL PROVIDE TREATMENT. THE HEARING MUST BE
3 HELD IN ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION
4 OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE SHORT-TERM
5 PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY
6 OTHER APPROPRIATE ORDER.

7 (10) (a) THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES,
8 AND CARE PROVIDERS MAY SHARE INFORMATION WITH EACH OTHER AND
9 THE PARTIES AS NECESSARY. THE BHA, HCPF, THE DEPARTMENT OF
10 HUMAN SERVICES, AND CARE PROVIDERS MAY RECEIVE AND POSSESS ALL
11 INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS
12 SECTION, INCLUDING ANY EVALUATIONS; ANY MEDICAL AND MENTAL
13 HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND
14 IN PROCEEDINGS HELD PURSUANT TO THIS PART 5, ARTICLE 65 OF TITLE 27,
15 OR ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE
16 RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

17 (b) THE COURT MAY ORDER THE DISTRICT ATTORNEY RESPONSIBLE
18 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS
19 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT
20 RECORDS TO HCPF WITHIN SEVEN DAYS AFTER THE COURT'S ORDER.

21 (c) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE
22 RESPONDENT IN ANY PROCEEDING SHALL SEND MATERIALS TO HCPF WITH
23 THE RESPONDENT'S CONSENT.

24 (11) (a) UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN
25 IDENTIFIED AND IS WILLING TO ACCEPT THE PROTECTIVE PLACEMENT, THE
26 COURT SHALL NOTIFY HCPF REGARDING THE NEED FOR CARE
27 COORDINATION.

1 (b) ONCE HCPF IS NOTIFIED PURSUANT TO SUBSECTION (11)(a) OF
2 THIS SECTION, HCPF SHALL MAKE DILIGENT EFFORTS TO FIND A PROVIDER
3 FOR THE RESPONDENT, ASSIST WITH INTENSIVE COORDINATION, AND
4 MITIGATE BARRIERS TO APPROPRIATE PLACEMENT. HCPF SHALL
5 COLLABORATE AND COORDINATE WITH OTHER STATE EXECUTIVE
6 AGENCIES, LAW ENFORCEMENT, THE COURT, THE PARTIES, COMMUNITY
7 PARTNERS, REGIONAL ACCOUNTABLE ENTITIES, AND CASE MANAGEMENT
8 AGENCIES TO IDENTIFY AN APPROPRIATE PLACEMENT FOR THE
9 RESPONDENT, WHICH PLACEMENT IS SUBJECT TO MEDICAID
10 REIMBURSEMENT.

11 (c) THE CASE MANAGEMENT AGENCY MUST PROVIDE CASE
12 MANAGEMENT SERVICES, AS DEFINED IN SECTION 25.5-6-1702.

13 (d) HCPF SHALL KEEP THE COURT INFORMED, IN WRITING, OF
14 EFFORTS MADE TO FIND AN APPROPRIATE PLACEMENT FOR THE
15 RESPONDENT.

16 (12) UPON ORDERING A SHORT-TERM PROTECTIVE PLACEMENT OF
17 THE RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT
18 HAS CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

19 (13) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT
20 IN A SHORT-TERM PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO
21 ANOTHER PROVIDER FOR TREATMENT AND THE SAFETY OF THE
22 RESPONDENT OR THE PUBLIC REQUIRES THAT THE RESPONDENT BE
23 TRANSPORTED BY A SECURE TRANSPORTATION PROVIDER OR A LAW
24 ENFORCEMENT AGENCY, THE COURT MAY ISSUE AN ORDER DIRECTING THE
25 LAW ENFORCEMENT AGENCY WHERE THE RESPONDENT RESIDES OR SECURE
26 TRANSPORTATION PROVIDER TO DELIVER THE RESPONDENT TO THE
27 DESIGNATED PROVIDER.

1 (14) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN
2 SECTION 25.5-10-506, A SHORT-TERM PROTECTIVE PLACEMENT MAY BE
3 TERMINATED UPON THE SIGNATURE OF THE TREATING MEDICAL
4 PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A FACILITY
5 OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS
6 AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE
7 RESPONDENT'S LEGAL GUARDIAN.

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

21 **25.5-10-504. Long-term protective placement of persons with**
22 **a neurocognitive disorder - procedure.**

23 (1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE
24 PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL
25 PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE
26 APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A
27 PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE

1 EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A
2 LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE
3 FOLLOWING CONDITIONS:

4 (a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY
5 PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE
6 RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO
7 MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
8 25.5-10-502 (1); AND

9 (b) HCPF, IN COLLABORATION WITH THE BHA, HAS IDENTIFIED AN
10 APPROPRIATE PROVIDER OR PLACEMENT TO PROVIDE CARE AND
11 TREATMENT OF THE RESPONDENT.

12 (2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST
13 INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE
14 EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR
15 A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO
16 WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE
17 ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST
18 BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM
19 PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO
20 THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE
21 FILING.

22 (3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE
23 RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY
24 TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.

25 (4) THE COURT OR JURY SHALL DETERMINE WHETHER THE
26 CONDITIONS OF SUBSECTION (1) OF THIS SECTION ARE MET AND WHETHER
27 THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR

1 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE
2 COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT
3 FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT
4 FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER
5 ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE
6 PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE [REDACTED]
7 PROVIDER OR PLACEMENT IDENTIFIED PURSUANT TO SUBSECTION (1)(b) OF
8 THIS SECTION. WHEN A PETITION CONTAINS A REQUEST THAT A SPECIFIC
9 LEGAL DISABILITY BE IMPOSED OR THAT A SPECIFIC LEGAL RIGHT BE
10 DEPRIVED, THE COURT MAY ORDER THE DISABILITY IMPOSED OR THE RIGHT
11 DEPRIVED IF THE COURT OR A JURY HAS DETERMINED THAT THE
12 RESPONDENT MEETS THE CRITERIA AND STANDARDS FOR PROTECTIVE
13 PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1) AND THAT, AS A
14 RESULT, THE RESPONDENT IS UNABLE TO COMPETENTLY EXERCISE THE
15 SPECIFIC LEGAL RIGHT OR PERFORM THE FUNCTION FOR WHICH THE
16 DISABILITY IS SOUGHT TO BE IMPOSED. ANY INTERESTED PERSON MAY ASK
17 LEAVE OF THE COURT TO INTERVENE AS A COPETITIONER FOR THE PURPOSE
18 OF SEEKING THE IMPOSITION OF A LEGAL DISABILITY OR THE DEPRIVATION
19 OF A LEGAL RIGHT.

20 (5) AN ORIGINAL ORDER OF LONG-TERM PROTECTIVE PLACEMENT
21 AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED,
22 UNLESS FURTHER EXTENDED AS PROVIDED IN THIS SUBSECTION (5). IF AN
23 EXTENSION IS BEING SOUGHT, THE PROFESSIONAL PERSON IN CHARGE OF
24 THE EVALUATION AND TREATMENT SHALL CERTIFY TO THE COURT AT
25 LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORDER IN
26 FORCE THAT AN EXTENSION OF THE ORDER IS NECESSARY FOR THE
27 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN

1 FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED
2 TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE
3 RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE
4 THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE
5 TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY OF RECORD THAT
6 A HEARING UPON THE EXTENSION MAY BE HAD BEFORE THE COURT OR A
7 JURY UPON WRITTEN REQUEST TO THE COURT WITHIN TEN DAYS AFTER
8 RECEIPT OF THE NOTICE. IF A HEARING IS NOT TIMELY REQUESTED BY THE
9 RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS
10 TIMELY REQUESTED, THE HEARING MUST BE HELD BEFORE THE EXPIRATION
11 DATE OF THE ORDER IN FORCE. IF THE COURT OR JURY FINDS THAT THE
12 CONDITIONS OF SUBSECTION (1) OF THIS SECTION CONTINUE TO BE MET
13 AND THAT THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND
14 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
15 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER.
16 ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS
17 MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

18 (6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE
19 PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON
20 THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL
21 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE COURT
22 PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE
23 THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE
24 RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY
25 PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN
26 ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS
27 TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN

1 OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE
2 FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST
3 TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

4
5 **25.5-10-505. Connect respondent to home- and**
6 **community-based services.**

7 WHEN A RESPONDENT IS DISCHARGED FROM A PROTECTIVE
8 PLACEMENT OR A PROTECTIVE PLACEMENT IS TERMINATED, HCPF SHALL
9 REFER THE RESPONDENT TO ANY HOME- AND COMMUNITY-BASED SERVICES
10 FOR WHICH THE RESPONDENT MAY BE ELIGIBLE AND SHALL MAKE DILIGENT
11 EFFORTS TO CONNECT THE RESPONDENT WITH HOME- AND
12 COMMUNITY-BASED SERVICES.

13 **25.5-10-506. Termination of protective placement - short-term**
14 **and long-term placement.**

15 [REDACTED] A PROTECTIVE PLACEMENT TERMINATES WHEN THE
16 PROFESSIONAL PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT,
17 AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD,
18 DETERMINES THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR
19 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). WHEN
20 A PROTECTIVE PLACEMENT IS TERMINATED PURSUANT TO THIS SECTION,
21 THE PROFESSIONAL PERSON IN CHARGE OF PROVIDING CARE OR
22 TREATMENT TO THE RESPONDENT SHALL NOTIFY THE COURT IN WRITING
23 WITHIN FIVE DAYS AFTER THE TERMINATION.

24 [REDACTED]
25 **25.5-10-507. Court supervision of incompetent and**
26 **unrestorable persons ordered into an enhanced protective placement.**

27 (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF

1 AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118
2 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509,
3 THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED
4 PROTECTIVE PLACEMENT.

5 (2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE
6 PLACEMENT, THE COURT SHALL:

7 (a) NOTIFY THE COUNTY ATTORNEY;

8 (b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND
9 PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO
10 THE RESPONDENT'S ATTORNEY; AND

11 (c) SET A REVIEW HEARING AND ORDER THE RESPONDENT
12 BROUGHT BEFORE THE COURT.

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

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

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

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

18 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED
19 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT
20 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD
21 PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;

22 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE
23 ENHANCED PROTECTIVE PLACEMENT; AND

24 (IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED
25 PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY
26 TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE
27 ENHANCED PROTECTIVE PLACEMENT.

1 (4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT,
2 THE COURT MAY:

3 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED
4 PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING
5 THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;

6 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER
7 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT
8 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE
9 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED
10 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;

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

12 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS
13 THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE
14 PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

15 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN
16 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE
17 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE
18 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO
19 OTHERS, OR IS GRAVELY DISABLED;

20 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE
21 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE
22 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE
23 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR
24 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY
25 THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT
26 CARE AT THE DISCRETION OF CDHS;

27 (e) ORDER, AS NECESSARY, APPROPRIATE ENTITIES, INCLUDING THE

1 SHERIFF, TO BRING THE RESPONDENT BEFORE THE COURT OR TAKE THE
2 RESPONDENT TO THE PLACEMENT WHERE PHYSICAL CUSTODY OF THE
3 RESPONDENT HAS BEEN ORDERED;

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

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

11 (5) (a) THE COURT SHALL ENSURE THE RESPONDENT IS PLACED IN
12 THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM
13 AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE,
14 THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
15 RESPONDENT.

16 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT
17 THE DISCRETION OF CDHS OR IF CDHS PROPOSES TO MOVE THE
18 RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT SHALL, PRIOR
19 TO MODIFYING THE ENHANCED PROTECTIVE PLACEMENT TO CHANGE THE
20 RESPONDENT'S PROVIDER OR PLACEMENT, _____ REVIEW THE
21 APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT,
22 INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS
23 AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY
24 PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS
25 HARM TO OTHERS POSED BY THE RESPONDENT.

26 (c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE
27 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO

1 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY
2 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE
3 COURT'S DECISION.

4 (d) WHEN DECIDING WHETHER TO APPROVE THE NEW PROVIDER OR
5 PLACEMENT, THE COURT SHALL GIVE DEFERENCE TO CDHS AND THE
6 OPINION OF ANY MEDICAL PROFESSIONAL ON THE APPROPRIATENESS OF
7 THE PROVIDER AND PLACEMENT FOR THE RESPONDENT, BUT DEFERENCE
8 MUST NOT BE GIVEN TO CDHS OR A MEDICAL PROFESSIONAL AS TO
9 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS ANY VICTIMS AND THE
10 COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS
11 POSED BY THE RESPONDENT. WHEN CONSIDERING THE APPROPRIATENESS
12 OF THE PLACEMENT FOR THE RESPONDENT, VICTIMS, AND THE COMMUNITY,
13 THE COURT SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES,
14 INCLUDING:

15 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE
16 RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND
17 DEVELOPMENTAL DISABILITY;

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

20 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED
21 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH TREATMENT AND
22 SERVICES IN THE REASONABLY FORESEEABLE FUTURE;

23 (IV) RECENT OVERT ACTS BY THE RESPONDENT TO THREATEN,
24 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE RESPONDENT'S SELF OR
25 OTHERS;

26 (V) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN
27 THE RESPONDENT'S HOSPITALIZATION, ARREST, CERTIFICATION FOR

1 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

2 (VI) WHETHER THE RESPONDENT WAS FOUND IN A CONDITION
3 WHERE THE RESPONDENT WAS NOT ABLE TO CARE FOR THE RESPONDENT'S
4 OWN BASIC NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL
5 HARM;

6 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE
7 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF
8 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS
9 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

10 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

11 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE
12 REASONABLY ACCOMMODATED;

13 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF
14 OTHERS; AND

15 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING
16 PROFESSIONALS.

17 (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE
18 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE,
19 AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE BEING IN AN
20 ENHANCED PROTECTIVE PLACEMENT UNLESS:

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

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

27 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR

1 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO
2 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,
3 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND
4 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM
5 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER
6 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT
7 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE
8 RESPONDENT CANNOT COMPLY.

9 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO
10 INPATIENT CARE AT THE DISCRETION OF CDHS, AS DEFINED IN SECTION
11 16-8.5-101, THE EXECUTIVE DIRECTOR OF CDHS SHALL DESIGNATE THE
12 STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR CARE AND
13 TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE FACILITY TO
14 ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT IS
15 APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE, CUSTODY,
16 AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION OF THE
17 PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

18 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,
19 HCPF SHALL:

20 (I) ENSURE THE RESPONDENT IS PLACED IN THE
21 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND
22 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE
23 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
24 RESPONDENT; AND

25 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED
26 SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101,
27 FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO AN

1 ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE
2 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

3 (7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS
4 GOVERNED BY SECTION 25.5-10-508.

5 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND
6 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT
7 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS
8 ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A
9 SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE
10 PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

11 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT
12 IS APPROPRIATELY PLACED AND MEETS THE CRITERIA FOR TERMINATION
13 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
14 25.5-10-508;

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

17 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE
18 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

19 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO
20 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S
21 PROGRESS;

22 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH
23 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS
24 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE
25 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

26 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
27 OTHERS;

1 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE
2 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED
3 TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED
4 PROTECTIVE PLACEMENT;

5 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS
6 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC
7 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A
8 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR;

9 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE
10 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND

11 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION
12 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

13 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE
14 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE
15 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR
16 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO
17 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED
18 NECESSARY FOR THE COURT'S SUPERVISION OF THE ENHANCED PROTECTIVE
19 PLACEMENT, BUT THE COURT SHALL NOT REQUIRE A PROVIDER TO SUBMIT
20 PROGRESS REPORTS MORE FREQUENTLY THAN EVERY NINETY DAYS.

21 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,
22 ORDER CDHS TO FACILITATE AN EXAMINATION BY A PROFESSIONAL
23 PERSON REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND
24 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE
25 ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM
26 TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE
27 CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT

1 PURSUANT TO SECTION 25.5-10-508, UNLESS CDHS HAS FACILITATED A
2 SIMILAR EXAMINATION OF THE RESPONDENT IN THE PAST ONE HUNDRED
3 TWENTY DAYS. THE RESPONDENT SHALL COOPERATE WITH ANY
4 EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION (10)(a).

5 (b) STATEMENTS MADE BY THE RESPONDENT DURING AN
6 EXAMINATION CONDUCTED PURSUANT TO THIS SUBSECTION (10) MUST NOT
7 BE USED IN ANY CRIMINAL PROSECUTION.

8 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR
9 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE
10 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO
11 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT
12 DOES NOT MEET THE CRITERIA FOR TERMINATION.

13 **25.5-10-508. Termination of enhanced protective placement.**

14 (1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED
15 PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507
16 WHEN THE RESPONDENT:

17 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO
18 OTHERS; OR

19 (b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR
20 INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO
21 CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR
22 A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED
23 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S
24 CONDUCT TO THE REQUIREMENTS OF THE LAW.

25 (2) (a) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL
26 CARE AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE
27 RESPONDENT MEETS THE STANDARD FOR TERMINATION FROM ENHANCED

1 PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION,
2 THE PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE
3 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE
4 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE
5 DISTRICT ATTORNEY WHO ORIGINALLY REQUESTED A CIVIL COMMITMENT
6 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
7 16-8.5-118. THE COURT SHALL FURNISH A COPY OF THE REPORT TO THE
8 RESPONDENT AND THE RESPONDENT'S COUNSEL.

9 (b) THE DETERMINATION REPORTED PURSUANT TO SUBSECTION
10 (2)(a) OF THIS SECTION MUST INCLUDE:

11 (I) THE TREATMENT PROVIDER'S OPINION THAT THE RESPONDENT
12 MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE
13 PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION;

14 (II) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
15 OTHERS; AND

16 (III) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION IN
17 THE REPORT, INCLUDING A SUMMARY OF THE MATERIALS REVIEWED,
18 ASSESSMENTS CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED.

19 (3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE
20 ENHANCED PROTECTIVE PLACEMENT IN WRITING AT ANY TIME THE
21 RESPONDENT WOULD NOT BE PROHIBITED FROM HAVING A SUBSEQUENT
22 TERMINATION TRIAL PURSUANT TO SUBSECTION (7) OF THIS SECTION.

23 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST
24 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON
25 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR
26 TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO
27 SUBSECTION (1) OF THIS SECTION.

1 (4) (a) If the court does not deny the request for
2 termination without a hearing, the court shall permit the
3 county attorney and the district attorney who originally
4 sought enhanced protective placement pursuant to section
5 16-8.5-118 fourteen days to object to termination or request an
6 opportunity to conduct an independent evaluation by an expert
7 of the county attorney's or district attorney's own choosing
8 and expense.

9 (b) If neither the county attorney nor the district
10 attorney object or request an opportunity to request an
11 independent evaluation, the court shall terminate the
12 respondent's enhanced protective placement.

13 (c) If either the county attorney or the district attorney
14 request an opportunity to conduct an independent evaluation,
15 the court shall grant that request, order the respondent to
16 comply with the evaluation, and permit the county attorney or
17 district attorney a reasonable period of time to identify an
18 expert, conduct the evaluation, and issue a report. If both the
19 county attorney and district attorney request an independent
20 evaluation, the court shall treat the request as a joint request
21 for a single independent evaluation. The cost of the independent
22 evaluation must be paid for by the requesting party.

23 (d) If the respondent does not cooperate with the
24 evaluation, the court may grant additional time or deny the
25 respondent's request for termination.

26 (e) Upon receipt of the independent evaluation report, the
27 county attorney or district attorney must provide a copy to

1 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

2 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY
3 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL
4 TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

5 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY
6 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE
7 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE
8 RESPONDENT'S COUNSEL RECEIVED A COPY OF ANY REPORTS RECEIVED,
9 AND ADVISE THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE
10 COURT OR THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE
11 THAN SIX INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS
12 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
13 SECTION.

14 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE
15 COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE
16 DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL
17 SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A
18 DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME
19 LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE COURT DOES NOT BEGIN
20 THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION
21 (5)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE
22 PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE
23 AND CUSTODY.

24 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION
25 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS
26 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE
27 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY

1 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL
2 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY
3 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT
4 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND
5 TO ANY OTHER MATTERS RELATED TO THE ENHANCED PROTECTIVE
6 PLACEMENT AND TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY
7 RELATED APPEALS.

8 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT
9 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION
10 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1)
11 OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A
12 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE
13 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
14 SECTION.

15 (b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE
16 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
17 SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE
18 PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S
19 ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE
20 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT
21 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE
22 ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY
23 ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT
24 OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

25 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET
26 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
27 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION

1 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL
2 FOR TERMINATION.

3 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR
4 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO
5 LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A
6 NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY
7 DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE
8 DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL
9 CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL
10 COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT
11 IN ACCORDANCE WITH SECTION 27-65-201.

12 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR
13 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A
14 CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN
15 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE
16 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE
17 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO
18 OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE
19 RECOMMENDATION OF CDHS, CONVERT THE ENHANCED PROTECTIVE
20 PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE
21 CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-201.

22 **25.5-10-509. Jurisdiction - transfer.**

23 (1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO
24 THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS
25 PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING
26 JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF
27 ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY

1 FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

2 (b) WHEN THE CONVENIENCE OF THE PARTIES AND THE ENDS OF
3 JUSTICE WOULD BE PROMOTED BY A CHANGE IN THE COURT HAVING
4 JURISDICTION, THE COURT MAY ORDER A TRANSFER OF THE PROCEEDING
5 TO ANOTHER COUNTY. UNTIL FURTHER ORDER OF THE TRANSFEREE COURT,
6 IF ANY, IT IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE
7 CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS
8 PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING
9 TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS
10 INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT
11 PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

12 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),
13 ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED
14 PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED
15 WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR
16 TREATMENT.

17 (b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT
18 PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION
19 WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS
20 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

21 (c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN
22 INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION
23 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE
24 PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT
25 RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF
26 THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE
27 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

1 (3) IN ANY CASE IN WHICH THERE HAS BEEN A CHANGE OF VENUE
2 TO A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE
3 RESPONDENT OR THE COUNTY IN WHICH THE PROCEEDING WAS
4 COMMENCED, THE COUNTY FROM WHICH THE PROCEEDING WAS
5 TRANSFERRED SHALL EITHER REIMBURSE THE COUNTY TO WHICH THE
6 PROCEEDING WAS TRANSFERRED AND IN WHICH THE PROCEEDING WAS
7 HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE
8 PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN
9 PERSONNEL AND RESOURCES, INCLUDING ITS OWN DISTRICT OR COUNTY
10 ATTORNEY, AS THE CASE MAY BE.

11 (4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10
12 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE
13 ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT
14 DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
15 A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN
16 ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
17 NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION
18 AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

19 (5) (a) IF AN ENHANCED PROTECTIVE PLACEMENT IS ORDERED
20 AGAINST A RESPONDENT PURSUANT TO SECTION 16-8.5-118 OR IF A
21 RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT IS SUPERVISED
22 PURSUANT TO SECTION 25.5-10-507, AND THE RESPONDENT REFUSES TO
23 ACCEPT MEDICATION, THE COURT WITH JURISDICTION OVER THE
24 ENHANCED PROTECTIVE PLACEMENT OR THE COURT WITH JURISDICTION
25 WHERE THE FACILITY OR PROVIDER TREATING THE RESPONDENT IS
26 LOCATED HAS JURISDICTION AND VENUE TO ACCEPT A PETITION BY THE
27 TREATING PHYSICIAN TO ENTER AN ORDER REQUIRING THAT THE

1 RESPONDENT ACCEPT THE TREATMENT OR THAT THE MEDICATION BE
2 FORCIBLY ADMINISTERED TO THE RESPONDENT. THE COURT WITH
3 JURISDICTION WHERE THE FACILITY OR PROVIDER IS LOCATED SHALL NOT
4 EXERCISE ITS JURISDICTION WITHOUT THE PERMISSION OF THE COURT WITH
5 JURISDICTION OVER THE ENHANCED PROTECTIVE PLACEMENT. UPON FILING
6 THE PETITION, THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT
7 THE RESPONDENT IF ONE HAS NOT BEEN APPOINTED AND SHALL HEAR THE
8 MATTER WITHIN TEN DAYS AFTER THE FILING.

9 (b) IN ANY CASE BROUGHT PURSUANT TO SUBSECTION (5)(a) OF
10 THIS SECTION, THE COUNTY WHERE THE COURT WITH JURISDICTION OVER
11 THE ENHANCED PROTECTIVE PLACEMENT IS LOCATED SHALL EITHER
12 REIMBURSE THE COUNTY IN WHICH THE PROCEEDING PURSUANT TO
13 SUBSECTION (5)(a) OF THIS SECTION WAS FILED AND HELD FOR THE
14 REASONABLE COSTS INCURRED IN CONDUCTING THE PROCEEDING OR
15 CONDUCT THE PROCEEDING ITSELF USING ITS OWN PERSONNEL AND
16 RESOURCES INCLUDING ITS OWN COUNTY ATTORNEY.

17 **25.5-10-510. Hearing procedures.**

18 (1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE
19 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE
20 THE COURT.

21 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S
22 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT
23 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A
24 PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO
25 THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE
26 COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN
27 ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE

1 PROFESSIONAL PERSON'S FINDINGS.

2 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT
3 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY
4 PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL
5 GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND
6 REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN
7 CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

8 (4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT
9 CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW
10 LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S
11 PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE
12 APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

13 **25.5-10-511. County attorney and district attorney**
14 **responsibilities.**

15 (1) THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY IN A
16 COUNTY OR CITY AND COUNTY THAT HAS A POPULATION EQUAL TO OR
17 LESS THAN FIFTY THOUSAND PEOPLE, OR A QUALIFIED ATTORNEY ACTING
18 AS THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S DESIGNEE WHO IS
19 APPOINTED BY THE DISTRICT COURT, HAS THE FOLLOWING POWERS AND
20 RESPONSIBILITIES:

21 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN
22 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED
23 FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

24
25 (b) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION
26 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT
27 TO THIS PART 5; AND

1 (c) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS
2 BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS
3 ALLOWABLE BY LAW.

4 (2) THIS SECTION ONLY APPLIES TO PROCEEDINGS CONDUCTED
5 PURSUANT TO THIS PART 5.

6 **25.5-10-512. Appeals.**

7 (1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE
8 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS
9 PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE
10 ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE
11 DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY
12 THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT
13 MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND
14 CUSTODY OF THE RESPONDENT.

15 (2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE
16 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF
17 THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE
18 CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE
19 ENTERED.

20 **25.5-10-513. Habeas corpus.**

21 ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS ENTITLED TO
22 AN ORDER IN THE NATURE OF HABEAS CORPUS UPON PROPER PETITION TO
23 ANY COURT GENERALLY EMPOWERED TO ISSUE ORDERS IN THE NATURE OF
24 HABEAS CORPUS.

25 **25.5-10-514. Rights of respondents ordered into enhanced**
26 **protective placement or protective placement.**

27 (1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS

1 PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED
2 PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN
3 INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10,
4 INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220,
5 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227,
6 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

7 (2) A RESPONDENT PLACED IN THE CUSTODY OF CDHS AT A STATE
8 HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO PROCEEDINGS
9 PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE RIGHTS PROVIDED
10 IN SECTIONS 27-65-105, 27-65-108, 27-65-117, 27-65-118, 27-65-119,
11 27-65-122, AND 27-65-124.

12 **25.5-10-515. Records - rules.**

13 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL
14 INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF
15 PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION
16 OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION
17 AND RECORDS MAY BE DISCLOSED ONLY:

18 (a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS,
19 FACILITY PERSONNEL, OR STATE AGENCIES IN THE PROVISION OF SERVICES
20 OR APPROPRIATE REFERRALS;

21 (b) WHEN THE RECIPIENT OF SERVICES DESIGNATES PERSONS TO
22 WHOM INFORMATION OR RECORDS MAY BE RELEASED, BUT, IF A RECIPIENT
23 OF SERVICES IS A WARD OR CONSERVATEE AND THE WARD'S OR
24 CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING,
25 PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE
26 DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT;
27 EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN,

1 PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER
2 PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN
3 GIVEN TO THE PERSON IN CONFIDENCE BY MEMBERS OF A PATIENT'S
4 FAMILY OR OTHER INFORMANTS;

5 (c) TO THE EXTENT NECESSARY TO MAKE CLAIMS ON BEHALF OF A
6 RECIPIENT OF AID, INSURANCE, OR MEDICAL ASSISTANCE TO WHICH THE
7 RECIPIENT MAY BE ENTITLED;

8 (d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH.
9 THE RULES MUST INCLUDE, BUT ARE NOT LIMITED TO, THE REQUIREMENT
10 THAT ALL RESEARCHERS MUST SIGN AN OATH OF CONFIDENTIALITY. ALL
11 IDENTIFYING INFORMATION CONCERNING INDIVIDUAL PATIENTS,
12 INCLUDING NAMES, ADDRESSES, TELEPHONE NUMBERS, AND SOCIAL
13 SECURITY NUMBERS, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

14 (e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF
15 THIS PART 5;

16 (f) TO PERSONS AUTHORIZED BY AN ORDER OF COURT AFTER
17 NOTICE AND OPPORTUNITY FOR HEARING TO THE PERSON TO WHOM THE
18 RECORD OR INFORMATION PERTAINS AND THE CUSTODIAN OF THE RECORD
19 OR INFORMATION PURSUANT TO THE COLORADO RULES OF CIVIL
20 PROCEDURE;

21 (g) TO FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A
22 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL
23 DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

24 (h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY
25 PARTICIPATING IN THE CARE AND TREATMENT OF A PERSON WITH A
26 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL
27 DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE

1 INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS LIMITED
2 TO ONE OR MORE OF THE FOLLOWING: THE DIAGNOSIS, THE PROGNOSIS,
3 THE NEED FOR HOSPITALIZATION AND ANTICIPATED LENGTH OF STAY, THE
4 DISCHARGE PLAN, THE MEDICATION ADMINISTERED AND SIDE EFFECTS OF
5 THE MEDICATION, AND THE SHORT-TERM AND LONG-TERM TREATMENT
6 GOALS.

7 (i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE
8 AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND
9 ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C.
10 SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY
11 SYSTEM FOR COLORADO.

12 (2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT
13 PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE
14 PARENT'S MINOR CHILD.

15 (3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION
16 PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND
17 INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107,
18 CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL
19 OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING
20 SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE
21 COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING
22 SERVICES PURSUANT TO THIS PART 5.

23 (b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO
24 PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A
25 CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION
26 16-8-103.6.

27 (c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF

1 NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL
2 DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE
3 PERSON.

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

8 (b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT
9 PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN
10 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508,
11 THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE
12 CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN
13 THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN
14 ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION
15 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR
16 GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO
17 SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND
18 BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE
19 PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

20 (c) NOTWITHSTANDING SUBSECTION (4)(b) OF THIS SECTION,
21 WHILE A MATTER IS PENDING OR AFTER A CASE IS SEALED, THE COURT MAY
22 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND
23 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING
24 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE
25 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A
26 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID
27 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE

1 CLERK OF THE COURT SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE
2 AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR
3 AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

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

11 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE
12 RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE
13 PLACEMENT PURSUANT TO SECTION 25.5-10-503;

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

17 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR
18 SHORT-TERM PROTECTIVE PLACEMENT.

19 (6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY
20 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT
21 PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN
22 SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL
23 WITH LAWFUL POSSESSION OF RECORDS FROM MAINTAINING AND USING
24 THE RECORDS, UNLESS PROHIBITED BY LAW.

25 (7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A
26 PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE
27 DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN

1 INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE RECORDS FOR
2 GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER
3 CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE
4 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5.

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

8 **25.5-10-516. Payment for counsel.**

9 IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS
10 ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL
11 DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL
12 ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A
13 CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM
14 GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL
15 PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST
16 LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

17 **25.5-10-517. Authority to increase payments to nursing facility**
18 **and regional center providers - rules.**

19 SUBJECT TO AVAILABLE APPROPRIATIONS AND FEDERAL
20 AUTHORIZATION, HCPF MAY INCREASE PAYMENTS TO NURSING FACILITY
21 PROVIDERS AND REGIONAL CENTER PROVIDERS FOR THE PURPOSE OF
22 ACHIEVING THE LEAST RESTRICTIVE PLACEMENT REQUIREMENT FOR
23 INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT PURSUANT TO THIS
24 PART 5. HCPF SHALL ADOPTED RULES DEFINING THE QUALIFICATIONS AND
25 PAYMENT SCHEDULE FOR NURSING FACILITY PROVIDERS AND REGIONAL
26 CENTER PROVIDERS THAT SERVE THE INDIVIDUALS SUBJECT TO A
27 PROTECTIVE PLACEMENT.

1 **25.5-10-518. Repeal of part.**

2 THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2031.

3 **SECTION 23. In Colorado Revised Statutes, add 25.5-6-414 as**
4 **follows:**

5 **25.5-6-414. Delivery of services for individuals with serious**
6 **mental illness - rules.**

7 (1) THE STATE DEPARTMENT IS COMMITTED TO IMPROVING ACCESS
8 TO, AND THE QUALITY OF SERVICES FOR, INDIVIDUALS WITH SERIOUS
9 MENTAL ILLNESS WHO ARE ENROLLED IN THE STATE MEDICAL ASSISTANCE
10 PROGRAM.

11 (2) THE STATE DEPARTMENT SHALL, IN COLLABORATION WITH THE
12 BEHAVIORAL HEALTH ADMINISTRATION, SERVICE PROVIDERS,
13 STAKEHOLDERS, AND INDIVIDUALS WITH LIVED EXPERIENCE,
14 CONTINUOUSLY EVALUATE AND EXPLORE OPTIONS TO ENHANCE THE
15 DELIVERY OF SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS,
16 WHICH EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

17 (a) EXPANDING COMMUNITY-BASED SERVICE CAPACITY AND CARE
18 COORDINATION;

19 (b) IMPROVING TRANSITIONS OF CARE ACROSS SETTINGS;

20 (c) LEVERAGING FEDERAL AUTHORITIES, WAIVERS, AND FINANCING
21 MECHANISMS;

22 (d) ADVANCING INNOVATIVE SERVICE DELIVERY MODELS AND
23 VALUE-BASED PAYMENT APPROACHES; AND

24 (e) IDENTIFYING AND ADDRESSING GAPS IN ACCESS, QUALITY, AND
25 OUTCOMES.

26 (3) THE STATE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO
27 ALIGN FINANCING, BENEFITS, AND SERVICE DELIVERY SYSTEMS TO BETTER

1 MEET THE NEEDS OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WITH
2 THE GOALS OF IMPROVING HEALTH OUTCOMES, REDUCING AVOIDABLE
3 UTILIZATION OF HIGH-COST SERVICES, AND SUPPORTING INDIVIDUALS TO
4 LIVE IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO MEET THE
5 INDIVIDUAL'S NEEDS.

6 (4) THE STATE DEPARTMENT MAY ADOPT RULES AS NECESSARY TO
7 IMPLEMENT THIS SECTION.

8 (5) THIS SECTION DOES NOT CREATE AN ENTITLEMENT TO A
9 SPECIFIC SERVICE OR LEVEL OF CARE.

10 SECTION 24. In Colorado Revised Statutes, 25.5-10-216,
11 amend (7) as follows:

12 **25.5-10-216. Imposition of legal disability - removal of legal**
13 **right.**

14 (7) A person shall not be admitted to a regional center, as defined
15 in section 27-10.5-102, C.R.S., without a court order issued pursuant to
16 this section except in an emergency, IF THE PERSON MEETS THE CRITERIA
17 FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
18 16-8.5-118, or for the purpose of temporary respite care.

19 SECTION 25. In Colorado Revised Statutes, 27-10.5-110,
20 amend (2) as follows:

21 **27-10.5-110. Imposition of legal disability - removal of legal**
22 **right.**

23 (2) A person shall not be admitted to a regional center without a
24 court order issued pursuant to section 25.5-10-216, C.R.S., except in an
25 emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED
26 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the
27 purpose of temporary respite care.

1 **SECTION 26.** In Colorado Revised Statutes, 27-94-101.5, add
2 (2) as follows:

3 **27-94-101.5. Definitions.**

4 As used in this article 94, unless the context otherwise requires:

5 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES.

6 **SECTION 27.** In Colorado Revised Statutes, add 27-94-108 as
7 follows:

8 **27-94-108. Construction and operation of an outpatient**
9 **treatment facility.**

10 (1) NO LATER THAN OCTOBER 1, 2027, THE DEPARTMENT SHALL
11 CONSTRUCT AND OPERATE AN OUTPATIENT TREATMENT FACILITY FOR
12 ADULTS WITH BEHAVIORAL HEALTH NEEDS, INCLUDING ADULTS WHO ARE
13 FOUND INCOMPETENT TO PROCEED AND UNLIKELY TO BE RESTORED TO
14 COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16.

15 (2) A PERSON MAY BE REFERRED TO THE OUTPATIENT TREATMENT
16 FACILITY BY A COURT CONDUCTING A COMPETENCY PROCEEDING
17 PURSUANT TO ARTICLE 8.5 OF TITLE 16, BY THE BRIDGES WRAPAROUND
18 CARE PROGRAM ESTABLISHED IN ARTICLE 8.6 OF TITLE 16, OR BY ANY
19 OTHER PROGRAM OR FACILITY WITHIN THE DEPARTMENT, INCLUDING
20 PROGRAMS OPERATED THROUGH CONTRACTS WITH THE DEPARTMENT. A
21 PERSON SHALL NOT BE REFERRED TO THE OUTPATIENT TREATMENT
22 FACILITY FROM ANY SOURCE OUTSIDE OF COMPETENCY-RELATED
23 PROCEEDINGS, THE BRIDGES WRAPAROUND CARE PROGRAM, OR THE
24 DEPARTMENT.

25 (3) AT A MINIMUM, THE DEPARTMENT SHALL ENSURE THAT THE
26 OUTPATIENT TREATMENT FACILITY OFFERS MENTAL HEALTH THERAPY,
27 MEDICATION MANAGEMENT SERVICES, AND CASE MANAGEMENT SERVICES.

1 THE DEPARTMENT MAY OFFER OUTPATIENT TREATMENT SERVICES AS
2 COMMUNITY-BASED SERVICES, AS TELEHEALTH SERVICES, OR IN-PERSON
3 AT THE OUTPATIENT TREATMENT FACILITY.

4 (4) THE DEPARTMENT MAY OPEN AND OPERATE ADDITIONAL
5 OUTPATIENT TREATMENT FACILITIES OR CONTRACT WITH OTHER ENTITIES
6 AT THE DEPARTMENT'S DISCRETION, SUBJECT TO ADDITIONAL
7 APPROPRIATIONS. THE DEPARTMENT MAY HOLD ALL CIVIL CERTIFICATIONS
8 AT A SINGLE LOCATION AND CONTRACTORS AND OTHER DEPARTMENT
9 TREATMENT FACILITIES MAY PROVIDE SERVICES TO SUPPORT THE CIVIL
10 CERTIFICATIONS.

11 **SECTION 28.** 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 29.** 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 30.** 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 31.** 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 32.** 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 33.** 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 34.** 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 35.** 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 36.** 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 37.** 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 38.** 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 39.** 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 40.** 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 41.** 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 42.** 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 43. 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 44.** 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 45.** 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 46.** 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 47.** 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 48.** 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 49.** 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 50. 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 51. 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 52.** 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 53.** 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 54.** 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), FOUR MILLION SEVEN HUNDRED SEVENTY-SEVEN
5 THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS.

6 **SECTION 55. 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 56. 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 57. Capital construction appropriation.** For the
25 2025-26 state fiscal year, \$1,200,000 is appropriated to the department of
26 human services for use by office of civil and forensic mental health. This
27 appropriation is from the capital construction fund created in section

1 24-75-302 (1)(a), C.R.S. To implement this act, the office may use this
2 appropriation for capital construction related to the development of an
3 outpatient clinic pursuant to section 27-94-108 (1), C.R.S. Any money
4 appropriated in this section not expended prior to July 1, 2026, is further
5 appropriated to the department from July 1, 2026, through June 30, 2028,
6 for the same purpose.

7 **SECTION 58. Appropriation.** (1) For the 2026-27 state fiscal
8 year, \$3,682,028 is appropriated to the judicial department. This
9 appropriation is from the general fund. To implement this act, the
10 department may use this appropriation as follows:

11 (a) \$64,449 for use by supreme court and court of appeals for
12 appellate court programs, which amount is based on an assumption that
13 the division will require an additional 0.5 FTE;

14 (b) \$245,458 for use by state courts administration for general
15 courts administration, which amount is based on an assumption that the
16 division will require an additional 2.1 FTE;

17 (c) \$1,113,744 for use by state courts administration for
18 information technology infrastructure;

19 (d) \$103,600 for use by state courts administration for capital
20 outlay;

21 (e) \$310,800 for use by state courts administration for courthouse
22 information technology capital outlay, which amount remains available
23 for expenditure through the close of the 2027-28 state fiscal year;

24 (f) \$925,244 for use by trial courts for trial court programs, which
25 amount is based on an assumption that the division will require an
26 additional 8.4 FTE;

27 (g) \$719,608 for use by trial courts for court cost, jury costs,

1 court-appointed counsel, and reimbursements for vacated convictions;
2 and

3 (h) \$199,125 for use by trial courts for district attorney mandated
4 costs.

5 (2) For the 2026-27 state fiscal year, \$26,296 is appropriated to the
6 judicial department for use by state courts administration. This
7 appropriation is from the judicial department information technology cash
8 fund created in section 13-32-114 (1), C.R.S. To implement this act, state
9 courts administration may use this appropriation for information
10 technology infrastructure.

11 (3) For the 2026-27 state fiscal year, \$648,860 is appropriated to
12 the judicial department for use by the office of the state public defender.
13 This appropriation is from the general fund. To implement this act, the
14 department may use this appropriation as follows:

15 (a) \$411,405 for personal services, which amount is based on an
16 assumption that the office will require an additional 4.5 FTE;

17 (b) \$5,760 for operating expenses;

18 (c) \$28,000 for capital outlay;

19 (d) \$570 for attorney registration;

20 (e) \$4,000 for training; and

21 (f) \$199,125 for mandated costs.

22 (4) For the 2026-27 state fiscal year, \$206,345 is appropriated to
23 the judicial department for use by the alternate defense counsel. This
24 appropriation is from the general fund. To implement this act, the
25 department may use this appropriation for conflict-of-interest contracts.

26 (5) For the 2026-27 state fiscal year, \$513,808 is appropriated to
27 the judicial department for use by the office of public guardianship. This

1 appropriation is from the general fund and is based on an assumption that
2 the office will require an additional 5.5 FTE. To implement this act, the
3 office may use this appropriation for program costs.

4 (6) For the 2026-27 state fiscal year, \$350,396 is appropriated to
5 the judicial department for use by the office of bridges of Colorado. This
6 appropriation is from the general fund. To implement this act, the office
7 may use this appropriation as follows:

8 (a) \$310,154 for personal services, which amount is based on an
9 assumption that the office will request an additional 3.3 FTE; and

10 (b) \$40,242 for operating expenses.

11 **SECTION 59. Appropriation.** (1) For the 2026-27 state fiscal
12 year, \$133,795 is appropriated to the department of health care policy and
13 financing for use by the executive director's office. This appropriation is
14 from the general fund and is based on an assumption that the department
15 will require an additional 3.0 FTE. To implement this act, the department
16 may use this appropriation for personal services.

17 (2) For the 2026-27 state fiscal year, the general assembly
18 anticipates that the department of health care policy and financing will
19 receive \$133,794 in federal funds for personal services to implement this
20 act. The appropriation in subsection (1) of this section is based on the
21 assumption that the department will receive this amount of federal funds,
22 which is subject to the "(I)" notation as defined in the annual general
23 appropriation act for the same fiscal year.

24 **SECTION 60. Appropriation.** (1) For the 2026-27 state fiscal
25 year, \$709,013 is appropriated to the department of health care policy and
26 financing. This appropriation is from the general fund, which is subject
27 to the "(M)" notation as defined in the annual general appropriation act

1 for the same fiscal year. To implement this act, the department may use
2 this appropriation for medical and long-term care services for medicaid
3 eligible individuals.

4 (2) For the 2026-27 state fiscal year, the general assembly
5 anticipates that the department of health care policy and financing will
6 receive \$709,013 in federal funds for medical and long-term care services
7 for medicaid eligible individuals to implement this act. The appropriation
8 in subsection (1) of this section is based on the assumption that the
9 department will receive this amount of federal funds.

10 **SECTION 61. Appropriation.** For the 2026-27 state fiscal year,
11 \$17,507,393 is appropriated to the department of human services, which
12 amount is based on an assumption that the department will require an
13 additional 61.1 FTE. This appropriation is from the general fund. To
14 implement this act, the department may use this appropriation as follows:

15	Executive director's office	
16	Health, life, and dental	\$1,074,819
17	Short-term disability	\$3,169
18	Paid family medical leave insurance	\$20,369
19	Unfunded liability amortization payments	\$452,633
20	Behavioral health administration	
21	Program administration	\$80,605 (1.0 FTE)
22	Behavioral health safety net services	\$260,000
23	Office of civil and forensic mental health	
24	Mental health institute at Pueblo; personal	
25	services	\$168,984 (2.0 FTE)
26	Court services	\$238,293 (4.0 FTE)
27	Purchased psychiatric bed capacity	\$5,234,880

1	Outpatient competency restoration	
2	program	\$169,811 (3.0 FTE)
3	Forensic services; competency navigation	\$835,898 (3.0 FTE)
4	Contracted civil services	\$6,264,514 (32.0 FTE)
5	Outpatient clinic	\$385,125 (3.0 FTE)
6	Office of adults, aging, and disability services	
7	Wheat Ridge regional center intermediate	
8	care facility	\$767,434 (7.0 FTE)
9	Pueblo regional center; cottage at	
10	Pueblo	\$1,550,859 (9.1 FTE)

11

12 **SECTION 62. Appropriation.** (1) For the 2026-27 state fiscal
13 year, \$242,323 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 legal services.

16 (2) For the 2026-27 state fiscal year, \$242,323 is appropriated to
17 the department of law. This appropriation is from reappropriated funds
18 received from the department of human services under subsection (1) of
19 this section and is based on an assumption that the department of law will
20 require an additional 1.0 FTE. To implement this act, the department of
21 law may use this appropriation to provide legal services for the
22 department of human services.

23 **SECTION 63. Appropriation.** (1) For the 2026-27 state fiscal
24 year, \$52,644 is appropriated to the department of human services. This
25 appropriation is from the general fund. To implement this act, the
26 department may use this appropriation for the purchase of information
27 technology services.

1 (2) For the 2026-27 state fiscal year, \$52,644 is appropriated to
2 the office of the governor for use by the office of information technology.
3 This appropriation is from reappropriated funds received from the
4 department of human services under subsection (1) of this section. To
5 implement this act, the office may use this appropriation to provide
6 information technology services for the department of human services.

7 **SECTION 64. Appropriation.** For the 2026-27 state fiscal year,
8 \$150,000 is appropriated to the department of law. This appropriation is
9 from the general fund. To implement this act, the department may use this
10 appropriation for deputy district attorney training.

11 **SECTION 65. Repeal of nonrelocated provisions in this act.**
12 In Colorado Revised Statutes, **repeal** the following provisions that are not
13 relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113
14 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

15 **SECTION 66. Safety clause.** The general assembly finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety or for appropriations for
18 the support and maintenance of the departments of the state and state
19 institutions.