

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0114.01 Shelby Ross x4510

HOUSE BILL 25-1058

HOUSE SPONSORSHIP

Bradfield, English

SENATE SPONSORSHIP

Michaelson Jenet, Cutter

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO THE AFFIRMATIVE DEFENSE OF NOT
102 GUILTY BY REASON OF INSANITY.

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/>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. When a plea of not guilty by reason of insanity is accepted by a court, the bill requires the court, in consultation with the department of human services (CDHS) and the parties, to determine whether a sanity examination requires the defendant to stay overnight for

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.

an extended examination and the number of days of the extended examination. If the defendant is in custody, the bill authorizes the sanity examination to be conducted at the jail or place of confinement or at a facility operated by or under contract with CDHS. If the defendant is at liberty on summons or on bond, the bill prohibits the court from ordering the defendant into custody in order to conduct the sanity examination **(section 11)**.

If a sanity examination is recorded, the bill prohibits a defendant from being dressed in prison or jail clothing and prohibits restraints on the defendant from being visible on the recording **(section 12)**.

Current law authorizes psychiatrists, forensic psychologists, and other personnel conducting a sanity examination to conduct a narcoanalytic interview of the defendant with drugs that are medically appropriate, to subject the defendant to a polygraph examination, and to testify to the results of the procedures, statements, and reactions of the defendant. The bill repeals this provision **(section 12)**.

The bill makes conforming amendments and technical corrections.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 16-8-101 as
3 follows:

4 **16-8-101. Insanity defined - offenses committed before July 1,**
5 **1995.** (1) The applicable test of insanity ~~shall be~~ IS, and the COURT SHALL
6 INSTRUCT THE jury: ~~shall be so instructed:~~ "A person who is so diseased
7 or defective in mind at the time of the commission of the act as to be
8 incapable of distinguishing right from wrong with respect to that act is
9 not accountable". ~~But care should be taken not to confuse such mental~~
10 ~~disease or defect with moral obliquity, mental depravity, or passion~~
11 ~~growing out of anger, revenge, hatred, or other motives, and kindred evil~~
12 ~~conditions, for when the act is induced by any of these causes the person~~
13 ~~is accountable to the law."~~

14 (2) ~~The term "diseased or defective in mind", as used in~~
15 ~~subsection (1) of this section, does not refer to an abnormality manifested~~
16 ~~only by repeated criminal or otherwise antisocial conduct.~~

1 (3) This section ~~shall apply~~ APPLIES to offenses committed before
2 July 1, 1995.

3 **SECTION 2.** In Colorado Revised Statutes, **amend** 16-8-101.5
4 as follows:

5 **16-8-101.5. Insanity defined - offenses committed on or after**
6 **July 1, 1995.** (1) The applicable test of insanity ~~shall be~~ IS:

7 (a) A person who is so diseased or defective in mind at the time
8 of the commission of the act as to be incapable of distinguishing right
9 from wrong with respect to that act is not accountable; ~~except that care~~
10 ~~should be taken not to confuse such mental disease or defect with moral~~
11 ~~obliquity, mental depravity, or passion growing out of anger, revenge,~~
12 ~~hatred, or other motives and kindred evil conditions, for, when the act is~~
13 ~~induced by any of these causes, the person is accountable to the law; or~~

14 (b) A person who suffered from a condition of mind caused by
15 mental disease or defect that prevented the person from forming a
16 culpable mental state that is an essential element of a crime charged. ~~but~~
17 ~~care should be taken not to confuse such mental disease or defect with~~
18 ~~moral obliquity, mental depravity, or passion growing out of anger,~~
19 ~~revenge, hatred, or other motives and kindred evil conditions because,~~
20 ~~when the act is induced by any of these causes, the person is accountable~~
21 ~~to the law.~~

22 (2) ~~As used in this section:~~

23 (a) ~~"Diseased or defective in mind" does not refer to an~~
24 ~~abnormality manifested only by repeated criminal or otherwise antisocial~~
25 ~~conduct. Evidence of knowledge or awareness of the victim's actual or~~
26 ~~perceived gender, gender identity, gender expression, or sexual~~
27 ~~orientation shall not constitute inability to distinguish right from wrong.~~

1 ~~(b) "Gender identity" and "gender expression" have the same~~
2 ~~meaning as in section 18-1-901 (3)(h.5).~~

3 ~~(c) "Mental disease or defect" includes only those severely~~
4 ~~abnormal mental conditions that grossly and demonstrably impair a~~
5 ~~person's perception or understanding of reality and that are not~~
6 ~~attributable to the voluntary ingestion of alcohol or any other~~
7 ~~psychoactive substance but does not include an abnormality manifested~~
8 ~~only by repeated criminal or otherwise antisocial conduct.~~

9 ~~(d) "Sexual orientation" has the same meaning as in section~~
10 ~~18-9-121 (5)(b).~~

11 (3) This section ~~shall apply~~ APPLIES to offenses committed on or
12 after July 1, 1995.

13 **SECTION 3.** In Colorado Revised Statutes, **amend** 16-8-102 as
14 follows:

15 **16-8-102. Definitions.** As used in this ~~article~~ ARTICLE 8, unless
16 the context otherwise requires:

17 ~~(1) and (2) Repealed.~~

18 (1) "DISEASED OR DEFECTIVE IN MIND" DOES NOT REFER TO AN
19 ABNORMALITY MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHERWISE
20 ANTISOCIAL CONDUCT. EVIDENCE OF KNOWLEDGE OR AWARENESS OF THE
21 VICTIM'S ACTUAL OR PERCEIVED GENDER, GENDER IDENTITY, GENDER
22 EXPRESSION, OR SEXUAL ORIENTATION DOES NOT CONSTITUTE AN
23 INABILITY TO DISTINGUISH RIGHT FROM WRONG.

24 ~~(2.5)~~ (2) "Forensic psychologist" means a licensed psychologist
25 who is board certified in forensic psychology by the American board of
26 professional psychology or who has completed a fellowship in forensic
27 psychology meeting criteria established by the American board of

1 forensic psychology.

2 (3) "GENDER IDENTITY" AND "GENDER EXPRESSION" HAVE THE
3 SAME MEANING AS SET FORTH IN SECTION 18-1-901.

4 ~~(2.7)~~ (4) (a) "Impaired mental condition" means a condition of
5 mind, caused by mental disease or defect that prevents the person from
6 forming the culpable mental state that is an essential element of any crime
7 charged. ~~For the purposes of this subsection (2.7), "mental disease or~~
8 ~~defect" includes only those severely abnormal mental conditions which~~
9 ~~grossly and demonstrably impair a person's perception or understanding~~
10 ~~of reality and which are not attributable to the voluntary ingestion of~~
11 ~~alcohol or any other psychoactive substance; except that it does not~~
12 ~~include an abnormality manifested only by repeated criminal or otherwise~~
13 ~~antisocial conduct.~~

14 (b) ~~This subsection (2.7) shall apply only~~ SUBSECTION (4) APPLIES
15 to offenses committed before July 1, 1995.

16 ~~(3) Repealed.~~

17 ~~(4)~~ (5) "Ineligible for release" means the defendant is suffering
18 from a mental disease or defect which is likely to cause ~~him~~ THE
19 DEFENDANT to be dangerous to ~~himself~~ THE DEFENDANT'S SELF, to others,
20 or to the community, in the reasonably foreseeable future, if ~~he~~ THE
21 DEFENDANT is permitted to remain at liberty.

22 ~~(4.5)~~ (6) "Ineligible to remain on conditional release" means the
23 defendant has violated one or more conditions in ~~his~~ THE DEFENDANT'S
24 release, or the defendant is suffering from a mental disease or defect
25 which is likely to cause ~~him~~ THE DEFENDANT to be dangerous to ~~himself~~
26 THE DEFENDANT'S SELF, to others, or to the community in the reasonably
27 foreseeable future, if ~~he~~ THE DEFENDANT is permitted to remain on

1 conditional release.

2 ~~(4.7)~~ (7) "Mental disease or defect" means only those severely
3 abnormal mental conditions that grossly and demonstrably impair a
4 person's perception or understanding of reality and that are not
5 attributable to the voluntary ingestion of alcohol or any other
6 psychoactive substance; except that it does not include an abnormality
7 manifested only by repeated criminal or otherwise antisocial conduct.

8 ~~(5)~~ (8) "Release examination" means a court-ordered examination
9 of a defendant directed to developing evidence relevant to determining
10 whether ~~he~~ THE DEFENDANT is eligible for release.

11 ~~(6)~~ (9) "Release hearing" means a hearing for the purpose of
12 determining whether a defendant previously committed to the department
13 of human services, following a verdict of not guilty by reason of insanity,
14 has become eligible for release.

15 ~~(7) Repealed.~~

16 ~~(8)~~ (10) "Sanity examination" means a court-ordered examination
17 of a defendant who has entered a plea of not guilty by reason of insanity,
18 directed to developing information relevant to determining the sanity or
19 insanity of the defendant at the time of the commission of the act with
20 which ~~he~~ THE DEFENDANT is charged and ~~also his~~ THE DEFENDANT'S
21 competency to proceed.

22 (11) "SEXUAL ORIENTATION" HAS THE SAME MEANING AS SET
23 FORTH IN SECTION 18-9-121.

24 **SECTION 4.** In Colorado Revised Statutes, **amend** 16-8-103 as
25 follows:

26 **16-8-103. Pleading insanity as a defense.** (1) (a) The defense of
27 insanity may only be raised by a specific plea entered at the time of

1 arraignment; except that the court, for good cause shown, may permit the
2 plea to be entered at any time prior to trial. The form of the plea ~~shall be~~
3 IS: "Not guilty by reason of insanity"; and it must be pleaded orally either
4 by the defendant or by the defendant's counsel. A defendant who does not
5 raise the defense as provided in this section ~~shall~~ IS not be permitted to
6 rely upon insanity as a defense to the crime charged but, when charged
7 with a crime requiring a specific intent as an element thereof, may
8 introduce evidence of the defendant's mental condition as bearing upon
9 ~~his or her~~ THE DEFENDANT'S capacity to form the required specific intent.
10 The plea of not guilty by reason of insanity includes the plea of not guilty.

11 (b) This subsection (1) ~~shall apply only~~ APPLIES to offenses
12 committed before July 1, 1995.

13 (1.5) (a) The defense of insanity may only be raised by a specific
14 plea entered at the time of arraignment; except that the court, for good
15 cause shown, may permit the plea to be entered at any time prior to trial.
16 The form of the plea ~~shall be~~ IS: "Not guilty by reason of insanity"; and
17 it must be pleaded orally either by the defendant or by the defendant's
18 counsel. The plea of not guilty by reason of insanity includes the plea of
19 not guilty.

20 (b) This subsection (1.5) ~~shall apply~~ APPLIES to offenses
21 committed on or after July 1, 1995.

22 (2) If counsel for the defendant believes that a plea of not guilty
23 by reason of insanity should be entered on behalf of the defendant but the
24 defendant refuses to permit the entry of the plea, counsel may ~~so~~ inform
25 the court. The court shall then conduct ~~such~~ AN investigation as it deems
26 proper, which may include the appointment of psychiatrists or forensic
27 psychologists to assist in examining the defendant and advising the court.

1 After its investigation, the court shall conduct a hearing to determine
2 whether the plea should be entered. If the court finds that the entry of a
3 plea of not guilty by reason of insanity is necessary for a just
4 determination of the charge against the defendant, ~~it~~ THE COURT shall
5 enter the plea on behalf of the defendant, and the plea ~~so~~ entered shall
6 ~~have~~ HAS the same effect as though it had been voluntarily entered by the
7 defendant. ~~himself or herself.~~

8 (3) If ~~there has been no~~ A grand jury indictment or preliminary
9 hearing HAS NOT BEEN HELD prior to the entry of the plea of not guilty by
10 reason of insanity, the court shall hold a preliminary hearing prior to the
11 trial of the insanity issue. If probable cause is not established, the case
12 shall MUST be dismissed, but the court may order the district attorney to
13 institute civil proceedings pursuant to article 65 of title 27 ~~C.R.S.~~, if it
14 appears that the protection of the public or the accused requires ~~it~~ A CIVIL
15 PROCEEDING.

16 (4) Before accepting a plea of not guilty by reason of insanity, the
17 court shall advise the defendant of the effect and consequences of the
18 plea.

19 **SECTION 5.** In Colorado Revised Statutes, **amend** 16-8-103.5
20 as follows:

21 **16-8-103.5. Impaired mental condition - when raised -**
22 **procedure - legislative intent.** (1) If the defendant intends to assert the
23 affirmative defense of impaired mental condition, ~~he~~ THE DEFENDANT
24 shall indicate that intention to the court and to the prosecution at the time
25 of arraignment; except that the court, for good cause shown, shall permit
26 the defendant to inform the court and the prosecution of ~~his~~ THE
27 DEFENDANT'S intention to assert the affirmative defense of impaired

1 mental condition at any time prior to trial.

2 (2) If counsel for the defendant believes that an assertion of the
3 affirmative defense of impaired mental condition should be entered on
4 behalf of the defendant but the defendant refuses to permit counsel to
5 offer such evidence, counsel may ~~so~~ inform the court. The court shall then
6 conduct ~~such~~ AN investigation as it deems proper, which may include the
7 appointment of psychiatrists or forensic psychologists to assist in
8 examining the defendant and advising the court. After its investigation,
9 the court shall conduct a hearing to determine whether evidence of
10 impaired mental condition should be offered at trial. If the court finds that
11 ~~such a~~ THE defense OF IMPAIRED MENTAL CONDITION is necessary for a
12 just determination of the charge against the defendant, ~~it~~ THE COURT shall
13 inform the prosecution that ~~such~~ THE defense ~~shall~~ MUST be asserted at
14 trial by the defendant and shall order the defendant's counsel to present
15 evidence at trial on the defense of impaired mental condition.

16 (3) At the time ~~at which~~ WHEN the defendant announces ~~his~~ THE
17 DEFENDANT'S intention to assert the affirmative defense of impaired
18 mental condition, the court shall advise the defendant of the effect and
19 consequences of asserting the defense.

20 (4) When the defendant indicates ~~his~~ THE DEFENDANT'S intention
21 to assert the defense of impaired mental condition, the court shall order
22 an examination of the defendant pursuant to section 16-8-106. The court
23 shall order both the prosecutor and the defendant to exchange the names,
24 addresses, reports, and statements of persons, other than medical experts
25 subject to the provisions of section 16-8-103.6, whom the parties intend
26 to call as witnesses with regard to the affirmative defense of impaired
27 mental condition.

1 (5) If the trier of fact finds the defendant not guilty by reason of
2 impaired mental condition, pursuant to section 18-1-803 (3), ~~C.R.S.~~, the
3 court shall commit the defendant to the custody of the department of
4 human services until such time as ~~he~~ THE DEFENDANT is found eligible for
5 release, pursuant to the standards set forth in sections 16-8-115 and
6 16-8-120. The executive director of the department of human services
7 shall designate the state facility ~~at which~~ WHERE the defendant shall be
8 held for care and psychiatric treatment and may transfer the defendant
9 from one institution to another if, in the opinion of the EXECUTIVE
10 director, ~~it~~ TRANSFERRING THE DEFENDANT is desirable to do so in the
11 interest of the DEFENDANT'S proper care, custody, and treatment ~~of the~~
12 ~~defendant~~ or the protection of the public or the personnel of the facilities
13 in question.

14 (6) It is the intent of the general assembly that the assertion of the
15 affirmative defense of impaired mental condition not be made in ~~such a~~
16 ~~fashion~~ A MANNER that it is used to circumvent the requirements of
17 disclosure specified in rule 16 of the Colorado rules of criminal
18 procedure.

19 (7) A defendant may raise impaired mental condition only through
20 an assertion of affirmative defense.

21 (8) This section ~~shall apply only~~ APPLIES to offenses committed
22 before July 1, 1995.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 16-8-103.6
24 as follows:

25 **16-8-103.6. Waiver of privilege.** (1) (a) A defendant who places
26 ~~his or her~~ THE DEFENDANT'S mental condition at issue by pleading not
27 guilty by reason of insanity pursuant to section 16-8-103, or asserting the

1 affirmative defense of impaired mental condition pursuant to section
2 16-8-103.5, or disclosing witnesses who may provide evidence
3 concerning the defendant's mental condition during a sentencing hearing
4 held pursuant to section 18-1.3-1201 for an offense charged prior to July
5 1, 2020, or pursuant to section 18-1.3-1302 for an offense charged prior
6 to July 1, 2020, waives any claim of confidentiality or privilege as to
7 communications made by the defendant to a physician or psychologist in
8 the course of an examination or treatment for the mental condition for the
9 purpose of any trial or hearing on the issue of the mental condition, or
10 sentencing hearing conducted pursuant to section 18-1.3-1201 for an
11 offense charged prior to July 1, 2020, or pursuant to section 18-1.3-1302
12 for an offense charged prior to July 1, 2020. The court shall order both the
13 prosecutor and the defendant to exchange the names, addresses, reports,
14 and statements of any physician or psychologist who has examined or
15 treated the defendant for the mental condition.

16 (b) This subsection (1) ~~shall apply only~~ APPLIES to offenses
17 committed before July 1, 1995.

18 (2) (a) A defendant who places ~~his or her~~ THE DEFENDANT'S
19 mental condition at issue by pleading not guilty by reason of insanity
20 pursuant to section 16-8-103 or disclosing witnesses who may provide
21 evidence concerning the defendant's mental condition during a sentencing
22 hearing held pursuant to section 18-1.3-1201 for an offense charged prior
23 to July 1, 2020, or pursuant to section 18-1.4-102; or, for offenses
24 committed on or after July 1, 1999, by seeking to introduce evidence
25 concerning ~~his or her~~ THE DEFENDANT'S mental condition pursuant to
26 section 16-8-107 (3) waives any claim of confidentiality or privilege as
27 to communications made by the defendant to a physician or psychologist

1 in the course of an examination or treatment for the mental condition for
2 the purpose of any trial or hearing on the issue of the mental condition,
3 or sentencing hearing conducted pursuant to section 18-1.3-1201 for an
4 offense charged prior to July 1, 2020, or pursuant to section 18-1.4-102.
5 The court shall order both the prosecutor and the defendant to exchange
6 the names, addresses, reports, and statements of any physician or
7 psychologist who has examined or treated the defendant for the mental
8 condition.

9 (b) This subsection (2) ~~shall apply~~ APPLIES to offenses committed
10 on or after July 1, 1995.

11 **SECTION 7.** In Colorado Revised Statutes, **amend** 16-8-103.7
12 as follows:

13 **16-8-103.7. Examination after entry of defenses of insanity**
14 **and impaired mental condition.** (1) (a) When, at the time of
15 arraignment, the defense of insanity is raised pursuant to section
16 16-8-103, and the defendant asserts ~~his or her~~ THE DEFENDANT'S intention
17 to raise the affirmative defense of impaired mental condition pursuant to
18 section 16-8-103.5, the court shall order one examination of the defendant
19 with regard to both defenses pursuant to section 16-8-106.

20 (b) This subsection (1) ~~shall apply only~~ APPLIES to offenses
21 committed before July 1, 1995.

22 (2) (a) When, at the time of arraignment, the defense of insanity
23 is raised pursuant to section 16-8-103, the court shall order an
24 examination of the defendant with regard to the insanity defense pursuant
25 to section 16-8-106.

26 (b) This subsection (2) ~~shall apply~~ APPLIES to offenses committed
27 on or after July 1, 1995.

1 (3) (a) When the defendant gives notice pursuant to section
2 16-8-107 (3) that ~~he or she~~ THE DEFENDANT intends to introduce evidence
3 in the nature of expert opinion concerning ~~his or her~~ THE DEFENDANT'S
4 mental condition, the court shall order an examination of the defendant
5 pursuant to section 16-8-106.

6 (b) ~~The provisions of~~ This subsection (3) ~~shall apply~~ APPLIES to
7 offenses committed on or after July 1, 1999.

8 **SECTION 8.** In Colorado Revised Statutes, **amend** 16-8-104 as
9 follows:

10 **16-8-104. Separate trial of issues.** The issues raised by the plea
11 of not guilty by reason of insanity ~~shall~~ MUST be tried separately to
12 different juries, and the sanity of the defendant ~~shall~~ MUST be tried first.
13 This section ~~shall apply only~~ APPLIES to offenses committed before July
14 1, 1995.

15 **SECTION 9.** In Colorado Revised Statutes, **amend** 16-8-104.5
16 as follows:

17 **16-8-104.5. Single trial of issues.** (1) The issues raised by the
18 plea of not guilty by reason of insanity ~~shall~~ MUST be treated as an
19 affirmative defense and ~~shall~~ MUST be tried at the same proceeding and
20 before the same trier of fact as the charges to which not guilty by reason
21 of insanity is offered as a defense.

22 (2) This section ~~shall apply~~ APPLIES to offenses committed on or
23 after July 1, 1995.

24 **SECTION 10.** In Colorado Revised Statutes, 16-8-105, **amend**
25 (1), (4), and (5) as follows:

26 **16-8-105. Procedure after plea for offenses committed before**
27 **July 1, 1995.** (1) When a plea of not guilty by reason of insanity is

1 accepted, the court shall forthwith ~~commit~~ ORDER the defendant ~~for~~ TO
2 UNDERGO a sanity examination, specifying the place ~~and period of~~
3 ~~commitment~~ WHERE THE EXAMINATION MUST BE CONDUCTED.

4 (4) If the trier of fact finds the defendant not guilty by reason of
5 insanity, the court shall commit the defendant to the custody of the
6 department of human services until such time as ~~he~~ THE DEFENDANT is
7 found eligible for release. The executive director of the department of
8 human services shall designate the state facility at which the defendant
9 shall be held for care and psychiatric treatment and may transfer the
10 defendant from one institution to another if, in the opinion of the
11 EXECUTIVE director, it is desirable to do so in the interest of the
12 DEFENDANT'S proper care, custody, and treatment ~~of the defendant~~ or the
13 protection of the public or the personnel of the facilities in question.

14 (5) This section ~~shall apply~~ APPLIES to offenses committed before
15 July 1, 1995.

16 **SECTION 11.** In Colorado Revised Statutes, 16-8-105.5, **amend**
17 (1), (2), and (3) as follows:

18 **16-8-105.5. Procedure after plea for offenses committed on or**
19 **after July 1, 1995.** (1) (a) When a plea of not guilty by reason of insanity
20 is accepted, the court shall forthwith ~~commit~~ ORDER the defendant ~~for~~ TO
21 UNDERGO a sanity examination, specifying ~~the place and period of~~
22 ~~commitment~~ WHERE THE EXAMINATION MUST BE CONDUCTED. THE
23 COURT, IN CONSULTATION WITH THE DEPARTMENT OF HUMAN SERVICES
24 AND THE PARTIES, SHALL DETERMINE WHETHER THE EXAMINATION
25 REQUIRES THE DEFENDANT TO STAY OVERNIGHT FOR AN EXTENDED
26 EXAMINATION AND THE NUMBER OF DAYS OF THE EXTENDED
27 EXAMINATION.

1 (b) (I) IF THE DEFENDANT IS IN CUSTODY, THE EXAMINATION MAY
2 BE CONDUCTED AT THE JAIL OR PLACE OF CONFINEMENT OR AT A FACILITY
3 OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN
4 SERVICES. IF THE DEFENDANT IS IN CUSTODY AND THE COURT DETERMINES
5 THE EXAMINATION MUST BE CONDUCTED AT A FACILITY OPERATED BY OR
6 UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES, THE
7 COURT SHALL ORDER THE DEPARTMENT OF HUMAN SERVICES TO TAKE
8 CUSTODY OF THE DEFENDANT TO CONDUCT THE EXAMINATION AND
9 RETURN THE DEFENDANT TO THE ORIGINAL PLACE OF CUSTODY AFTER THE
10 EXAMINATION IS COMPLETE.

11 (II) IF THE DEFENDANT IS AT LIBERTY ON SUMMONS OR ON BOND,
12 THE EXAMINATION MAY BE CONDUCTED AT A FACILITY OPERATED BY OR
13 CONTRACTED WITH THE DEPARTMENT OF HUMAN SERVICES OR AT A
14 LOCATION THAT THE COURT AND DEPARTMENT OF HUMAN SERVICES
15 DETERMINE IS APPROPRIATE; EXCEPT THAT THE COURT SHALL NOT ORDER
16 A DEFENDANT INTO CUSTODY IN ORDER TO CONDUCT THE EXAMINATION
17 IF THE DEFENDANT IS AT LIBERTY ON SUMMONS OR ON BOND.

18 (2) Upon receiving the report of the sanity examination, the court
19 shall immediately set the case for trial. Every person is presumed to be
20 sane; but, once any evidence of insanity is introduced, the ~~people have~~
21 PROSECUTION HAS the burden of proving sanity beyond a reasonable
22 doubt.

23 (3) When the affirmative defense of not guilty by reason of
24 insanity has been raised, the jury ~~shall~~ MUST be given special verdict
25 forms containing interrogatories. The trier of fact shall decide first the
26 question of guilt as to felony charges that are before the court. If the trier
27 of fact concludes that guilt has been proven beyond a reasonable doubt as

1 to one or more of the felony charges submitted for consideration, the
2 special interrogatories ~~shall~~ MUST not be answered. Upon completion of
3 its deliberations on the felony charges as previously set forth in this
4 subsection (3), the trier of fact shall consider any other charges before the
5 court in a similar manner; except that ~~it~~ THE TRIER OF FACT shall not
6 answer the special interrogatories regarding ~~such~~ THE charges if ~~it~~ THE
7 TRIER OF FACT has previously found guilt beyond a reasonable doubt with
8 respect to one or more felony charges. The interrogatories ~~shall~~ MUST
9 provide for specific findings of the jury with respect to the affirmative
10 defense of not guilty by reason of insanity. When the court sits as the trier
11 of fact, ~~it~~ THE COURT shall enter appropriate specific findings with respect
12 to the affirmative defense of not guilty by reason of insanity.

13 **SECTION 12.** In Colorado Revised Statutes, 16-8-106, **amend**
14 (1)(a), (1)(b), (2)(a), (2)(b), (3), and (7) introductory portion as follows:

15 **16-8-106. Examinations and report.** (1) (a) All examinations
16 ordered by the court in criminal cases ~~shall~~ MUST be accomplished by the
17 entry of an order of the court specifying the place where ~~such~~ THE
18 examination is to be conducted and the period of time allocated for ~~such~~
19 THE examination. The defendant may be committed for ~~such~~ THE
20 examination to ~~the Colorado psychiatric hospital in Denver, the Colorado~~
21 ~~mental health institute at Pueblo~~ A STATE-RUN MENTAL HEALTH HOSPITAL,
22 the place where ~~he or she~~ THE DEFENDANT is in custody, or ~~such~~ ANY
23 other public institution designated by the court. In determining the place
24 where ~~such~~ THE examination is to be conducted, the court shall give
25 priority to the place where the defendant is in custody, unless the nature
26 and circumstances of the examination require designation of a different
27 facility. ONE OR MORE PSYCHIATRISTS OR FORENSIC PSYCHOLOGISTS

1 SHALL OBSERVE the defendant ~~shall be observed and examined by one or~~
2 ~~more psychiatrists or forensic psychologists~~ during ~~such~~ A period as the
3 court directs. For good cause shown, upon motion of the prosecution or
4 defendant, or upon the court's own motion, the court may order ~~such~~ ANY
5 further or other examination as is advisable under the circumstances.
6 ~~Nothing in~~ This section ~~shall~~ DOES NOT abridge the right of the defendant
7 to procure an examination as provided in section 16-8-108.

8 (b) (I) An interview conducted PURSUANT TO THIS SECTION in any
9 case that includes a class 1 or class 2 felony charge or a felony sex
10 offense charge described in section 18-3-402, 18-3-404, 18-3-405, or
11 18-3-405.5 C.R.S., ~~pursuant to this section~~ must be video and audio
12 recorded and preserved, EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF
13 THIS SECTION. The court shall advise the defendant that any examination
14 with a psychiatrist or forensic psychologist may be video and audio
15 recorded. A copy of the recording must be provided to all parties and the
16 court with the examination report. Any jail or other facility where the
17 court orders the examination to take place ~~must~~ SHALL permit the
18 recording to occur and ~~must~~ SHALL provide the space and equipment
19 necessary for ~~such~~ THE recording. If space and equipment are not
20 available, the sheriff or facility director shall attempt to coordinate a
21 location and the availability of equipment with the court, ~~which~~ AND THE
22 COURT may consult with the district attorney and defense counsel for an
23 agreed-upon location. If ~~no~~ AN agreement is NOT reached, and upon the
24 request of either the defense counsel or district attorney, the court shall
25 order the location of the examination, which may include ~~the Colorado~~
26 ~~mental health institute at Pueblo~~ A STATE-RUN MENTAL HEALTH HOSPITAL.

27 (II) IN ORDER TO PROTECT THE PRESUMPTION OF INNOCENCE, IF

1 THE EXAMINATION IS RECORDED, THE DEFENDANT MUST NOT BE DRESSED
2 IN PRISON OR JAIL CLOTHING. THIS SUBSECTION (1)(b)(II) DOES NOT
3 REQUIRE OR PROHIBIT THE USE OF RESTRAINTS, AND THE EXAMINATION
4 MAY BE STOPPED OR PAUSED IN ORDER TO APPLY RESTRAINTS ON THE
5 DEFENDANT TO ENSURE THE SAFETY OF THE EVALUATOR, THE DEFENDANT,
6 OR OTHERS, AS LONG AS THE RESTRAINTS ARE NOT VISIBLE ON THE
7 RECORDING.

8 (2) (a) The defendant ~~shall have~~ HAS a privilege against
9 self-incrimination during the course of an examination ~~under~~ CONDUCTED
10 PURSUANT TO this section. The fact of the defendant's noncooperation
11 with psychiatrists, forensic psychologists, and other personnel conducting
12 the examination may be admissible in the defendant's trial on the issue of
13 insanity or impaired mental condition and in any sentencing hearing held
14 pursuant to section 18-1.3-1201 or 18-1.3-1302. ~~C.R.S.~~ This ~~paragraph~~
15 ~~(a) shall apply only~~ SUBSECTION (2)(a) APPLIES to offenses committed
16 before July 1, 1995.

17 (b) The defendant ~~shall have~~ HAS a privilege against
18 self-incrimination during the course of an examination ~~under~~ CONDUCTED
19 PURSUANT TO this section. The fact of the defendant's noncooperation
20 with psychiatrists, forensic psychologists, and other personnel conducting
21 the examination may be admissible in the defendant's trial on the issue of
22 insanity and in any sentencing hearing held pursuant to section
23 18-1.3-1201 or 18-1.4-102. ~~C.R.S.~~ This ~~paragraph (b) shall apply~~
24 SUBSECTION (2)(b) APPLIES to offenses committed on or after July 1,
25 1995, but prior to July 1, 1999.

26 (3) (a) To aid in forming an opinion ~~as to~~ REGARDING the
27 DEFENDANT'S mental condition, ~~of the defendant,~~ it is permissible in the

1 course of an examination ~~under~~ CONDUCTED PURSUANT TO this section to
2 use THE DEFENDANT'S confessions and admissions ~~of the defendant~~ and
3 any other evidence of the circumstances surrounding the commission of
4 the offense, as well as the DEFENDANT'S medical and social history ~~of the~~
5 ~~defendant~~, in questioning the defendant. When the defendant is
6 noncooperative with psychiatrists, forensic psychologists, and other
7 personnel conducting the examination, an opinion of the DEFENDANT'S
8 mental condition ~~of the defendant~~ may be rendered by ~~such~~ THE
9 psychiatrists, forensic psychologists, or other personnel based upon ~~such~~
10 THE DEFENDANT'S confessions AND admissions and any other evidence of
11 the circumstances surrounding the commission of the offense, as well as
12 the DEFENDANT'S known medical and social history, ~~of the defendant~~, and
13 ~~such~~ THE opinion may be admissible into evidence at trial and in any
14 sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302.
15 C.R.S. It shall also be permissible to conduct a narcoanalytic interview of
16 the defendant with such drugs as are medically appropriate and to subject
17 the defendant to polygraph examination. In any trial or hearing on the
18 issue of the defendant's sanity, eligibility for release, or impaired mental
19 condition, and in any sentencing hearing held pursuant to section
20 18-1.3-1201 or 18-1.3-1302, C.R.S., the physicians and other personnel
21 conducting the examination may testify to the results of any such
22 procedures and the statements and reactions of the defendant insofar as
23 the same entered into the formation of their opinions as to the mental
24 condition of the defendant both at the time of the commission of the
25 alleged offense and at the present time. This paragraph (a) shall apply
26 ~~only~~ THIS SUBSECTION (3)(a) APPLIES to offenses committed before July
27 1, 1995.

1 (b) To aid in forming an opinion ~~as to~~ REGARDING the
2 DEFENDANT'S mental condition, ~~of the defendant~~, it is permissible in the
3 course of an examination ~~under~~ CONDUCTED PURSUANT TO this section to
4 use THE DEFENDANT'S confessions and admissions ~~of the defendant~~ and
5 any other evidence of the circumstances surrounding the commission of
6 the offense, as well as the DEFENDANT'S medical and social history ~~of the~~
7 ~~defendant~~, in questioning the defendant. When the defendant is
8 noncooperative with psychiatrists, forensic psychologists, and other
9 personnel conducting the examination, an opinion of the DEFENDANT'S
10 mental condition ~~of the defendant~~ may be rendered by ~~such~~ THE
11 psychiatrists, forensic psychologists, or other personnel based upon ~~such~~
12 THE DEFENDANT'S confessions AND admissions and any other evidence of
13 the circumstances surrounding the commission of the offense, as well as
14 the DEFENDANT'S known medical and social history, ~~of the defendant~~, and
15 ~~such~~ THE opinion may be admissible into evidence at trial and in any
16 sentencing hearing held pursuant to section 18-1.3-1201 for an offense
17 charged prior to July 1, 2020, or pursuant to section 18-1.4-102. ~~It shall~~
18 ~~also be permissible to conduct a narcoanalytic interview of the defendant~~
19 ~~with such drugs as are medically appropriate and to subject the defendant~~
20 ~~to polygraph examination. In any trial or hearing on the issue of the~~
21 ~~defendant's sanity or eligibility for release, and in any sentencing hearing~~
22 ~~held pursuant to section 18-1.3-1201 for an offense charged prior to July~~
23 ~~1, 2020, or pursuant to section 18-1.4-102, the physicians and other~~
24 ~~personnel conducting the examination may testify to the results of any~~
25 ~~such procedures and the statements and reactions of the defendant insofar~~
26 ~~as the same entered into the formation of their opinions as to the mental~~
27 ~~condition of the defendant both at the time of the commission of the~~

1 ~~alleged offense and at the present time.~~ This subsection (3)(b) applies to
2 offenses committed on or after July 1, 1995.

3 (c) For offenses committed on or after July 1, 1999, when a
4 defendant undergoes an examination pursuant to ~~the provisions of~~
5 ~~paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION
6 because the defendant has given notice pursuant to section 16-8-107 (3)
7 that ~~he or she~~ THE DEFENDANT intends to introduce expert opinion
8 evidence concerning ~~his or her~~ THE DEFENDANT'S mental condition, the
9 physicians, forensic psychologists, and other personnel conducting the
10 examination may testify to the results of any ~~such~~ procedures and the
11 DEFENDANT'S statements and reactions ~~of the defendant insofar as such~~
12 IF THE statements and reactions entered into the formation of ~~their~~ THE
13 EXPERTS' opinions ~~as to~~ REGARDING the DEFENDANT'S mental condition.
14 ~~of the defendant.~~

15 (7) With respect to offenses committed on or after July 1, 1999,
16 when a defendant has undergone an examination pursuant to ~~the~~
17 ~~provisions of~~ this section because the defendant has given notice pursuant
18 to section 16-8-107 (3) that ~~he or she~~ THE DEFENDANT intends to
19 introduce expert opinion evidence concerning ~~his or her~~ THE
20 DEFENDANT'S mental condition, the ~~report of shall~~ examination REPORT
21 MUST include, but is not limited to, the items described in subsections
22 (5)(a), (5)(b), and (5)(c) of this section, and:

23 **SECTION 13.** In Colorado Revised Statutes, 16-8-107, **amend**
24 (1)(a), (1)(c), (1.5)(a), (1.5)(c), (3)(b), and (3)(c) as follows:

25 **16-8-107. Evidence.** (1) (a) Except as provided in this subsection
26 (1), ~~no~~ evidence acquired directly or indirectly for the first time from a
27 communication derived from the defendant's mental processes during the

1 course of a court-ordered examination ~~under~~ PURSUANT TO section
2 16-8-106 or acquired pursuant to section 16-8-103.6 is NOT admissible
3 against the defendant on the issues raised by a plea of not guilty, if the
4 defendant is put to trial on those issues, except to rebut evidence of ~~his or~~
5 ~~her~~ THE DEFENDANT'S mental condition introduced by the defendant to
6 show incapacity to form a culpable mental state; and, in such case, that
7 evidence may be considered by the trier of fact only as bearing upon the
8 question of capacity to form a culpable mental state, and the jury, at the
9 request of either party, ~~shall~~ MUST be so instructed.

10 (c) If the defendant testifies ~~in his or her~~ ON THE DEFENDANT'S
11 own behalf upon the trial of the issues raised by the plea of not guilty, or
12 at a sentencing hearing held pursuant to section 18-1.3-1201 for an
13 offense charged prior to July 1, 2020, or pursuant to section 18-1.3-1302
14 for an offense charged prior to July 1, 2020, or pursuant to section
15 18-1.4-102, ~~the provisions of this section shall~~ DOES not bar any evidence
16 used to impeach or rebut the defendant's testimony.

17 (1.5) (a) Except as otherwise provided in this subsection (1.5),
18 evidence acquired directly or indirectly for the first time from a
19 communication derived from the defendant's mental processes during the
20 course of a court-ordered examination pursuant to section 16-8-106 or
21 acquired pursuant to section 16-8-103.6 is admissible only as to the issues
22 raised by the defendant's plea of not guilty by reason of insanity, and the
23 jury, at the request of either party, ~~shall~~ MUST be so instructed; except
24 that, for offenses committed on or after July 1, 1999, ~~such~~ THE evidence
25 ~~shall~~ IS also ~~be~~ admissible as to the defendant's mental condition if the
26 defendant undergoes the examination because the defendant has given
27 notice pursuant to subsection (3) of this section that ~~he or she~~ THE

1 DEFENDANT intends to introduce expert opinion evidence concerning his
2 or her THE DEFENDANT'S mental condition.

3 (c) If the defendant testifies ~~in his or her~~ ON THE DEFENDANT'S
4 own behalf, ~~the provisions of this section shall~~ DOES not bar any evidence
5 used to impeach or rebut the defendant's testimony. This subsection (1.5)
6 ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

7 (3) (b) Regardless of whether a defendant enters a plea of not
8 guilty by reason of insanity pursuant to section 16-8-103, the defendant
9 ~~shall not be~~ IS NOT permitted to introduce evidence in the nature of expert
10 opinion concerning ~~his or her~~ THE DEFENDANT'S mental condition without
11 having first given notice to the court and the prosecution of ~~his or her~~ THE
12 DEFENDANT'S intent to introduce ~~such~~ THE evidence and without having
13 undergone a court-ordered examination pursuant to section 16-8-106. A
14 defendant who places ~~his or her~~ THE DEFENDANT'S mental condition at
15 issue by giving such notice waives any claim of confidentiality or
16 privilege as provided in section 16-8-103.6. ~~Such~~ THE notice ~~shall~~ MUST
17 be given at the time of arraignment; except that the court, for good cause
18 shown, shall permit the defendant to inform the court and prosecution of
19 the intent to introduce such evidence at any time prior to trial. Any period
20 of delay caused by the examination and report provided for in section
21 16-8-106 ~~shall~~ MUST be excluded, as provided in section 18-1-405 (6)(a),
22 ~~C.R.S.~~, from the time within which the defendant must be brought to trial.

23 (c) ~~The provisions of~~ This subsection (3) ~~shall apply~~ APPLIES to
24 offenses committed on or after July 1, 1999.

25 **SECTION 14.** In Colorado Revised Statutes, 16-8-108, **amend**
26 (1)(a) as follows:

27 **16-8-108. Examination at instance of defendant.** (1) (a) If the

1 defendant wishes to be examined by a psychiatrist, psychologist, or other
2 expert of ~~his~~ THE DEFENDANT'S own choice in connection with any
3 proceeding under this ~~article~~ ARTICLE 8, the court, upon timely motion,
4 shall order that the examiner chosen by the defendant be given reasonable
5 opportunity to conduct the examination. An interview conducted pursuant
6 to a court order under this section must be video and audio recorded and
7 preserved, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION.
8 The court shall advise the defendant that any examination with a
9 psychiatrist or forensic psychologist may be audio and video recorded. A
10 copy of the recording must be provided to the prosecution with the
11 examination report. Any jail or other facility where the court orders the
12 examination to take place ~~must~~ SHALL permit the recording to occur and
13 ~~must~~ SHALL provide the space and equipment necessary for ~~such~~ THE
14 recording, if available. If space and equipment are not available, the
15 sheriff or facility director shall attempt to coordinate a location and the
16 availability of equipment with the court, ~~which~~ AND THE COURT may
17 consult with the district attorney and defense counsel for an agreed-upon
18 location. If ~~no~~ AN agreement is NOT reached, and upon the request of
19 either the defense counsel or district attorney, the court shall order the
20 location of the examination, which may include ~~the Colorado mental~~
21 ~~health institute at Pueblo~~ A STATE-RUN MENTAL HEALTH HOSPITAL.

22 **SECTION 15.** In Colorado Revised Statutes, **amend** 16-8-109 as
23 follows:

24 **16-8-109. Testimony of lay witnesses.** In any trial or hearing in
25 which THE DEFENDANT'S mental condition ~~of the defendant~~ is an issue,
26 ~~witnesses~~ A WITNESS not specially trained in psychiatry or psychology
27 may testify as to ~~their~~ THE WITNESS'S observation of the defendant's

1 actions and conduct, and as to conversations ~~which they have~~ THAT THE
2 WITNESS HAS had with ~~him~~ THE DEFENDANT bearing upon ~~his~~ THE
3 DEFENDANT'S mental condition, and ~~they shall~~ THE WITNESS MUST be
4 permitted to give ~~their~~ opinions or conclusions concerning THE
5 DEFENDANT'S mental condition. ~~of the defendant.~~

6 **SECTION 16.** In Colorado Revised Statutes, 16-8-114, **amend**
7 (3) as follows:

8 **16-8-114. Evidence concerning competency - inadmissibility.**

9 (3) (a) Evidence of any determination as to the defendant's competency
10 or incompetency is not admissible on the issues raised by the pleas of not
11 guilty or not guilty by reason of insanity or the affirmative defense of
12 impaired mental condition. This ~~paragraph (a) shall apply only~~
13 SUBSECTION (3)(a) APPLIES to offenses committed before July 1, 1995.

14 (b) Evidence of any determination as to the defendant's
15 competency or incompetency is not admissible on the issues raised by the
16 pleas of not guilty or not guilty by reason of insanity. This ~~paragraph (b)~~
17 ~~shall apply~~ SUBSECTION (3)(b) APPLIES to offenses committed on or after
18 July 1, 1995.

19 **SECTION 17.** In Colorado Revised Statutes, 16-8-115, **amend**
20 (1)(b), (1)(c), (1.5), (2), (3)(b), (3)(c), (4)(a.5), (4)(f), (4)(g)(XXI), and
21 (4)(i)(I) as follows:

22 **16-8-115. Release from commitment after verdict of not guilty**
23 **by reason of insanity or not guilty by reason of impaired mental**
24 **condition - definitions.** (1) (b) Following the initial release hearing
25 pursuant to subsection (1)(a) of this section, the court may order a release
26 hearing at any time on its own motion, on motion of the prosecuting
27 attorney, or on motion of the defendant. The court shall order a release

1 hearing upon receipt of the report of the chief officer of the ~~institution in~~
2 ~~which~~ HOSPITAL WHERE the defendant is committed, OR THE CHIEF
3 OFFICER'S DESIGNEE, that the defendant no longer requires hospitalization,
4 as provided in section 16-8-116. Except for the initial release hearing,
5 unless the court for good cause shown permits, the defendant is not
6 entitled to a hearing within one year subsequent to a previous hearing.

7 (c) Beginning September 1, 2022, the chief officer of the
8 ~~institution in which~~ HOSPITAL WHERE the defendant is committed, OR THE
9 CHIEF OFFICER'S DESIGNEE, shall annually submit a release examination
10 report to the court certifying whether the defendant continues to meet the
11 criteria for ongoing inpatient hospitalization or meets the applicable test
12 for release pursuant to section 16-8-120. The report must be submitted
13 each year by the date on which the defendant was initially committed for
14 inpatient hospitalization unless another release examination is ordered
15 within the twelve months preceding ~~such~~ THE date. The release
16 examination report must include the information required for a release
17 examination pursuant to subsection (2.5) of this section. The ~~institution~~
18 HOSPITAL shall provide a copy of the report to the defendant, the
19 prosecuting attorney, and any other attorney of record. Upon receipt and
20 after review of the report, the court may order a release hearing on its
21 own motion, on motion of the prosecuting attorney, or on motion of the
22 defendant.

23 (1.5) (a) Any victim of any crime or any member of ~~such~~ THE
24 victim's immediate family, if the victim has died or is a minor, the
25 perpetrator of which has been found not guilty by reason of insanity or
26 not guilty by reason of impaired mental condition, shall be notified by the
27 court in a timely manner prior to any hearing for release of the perpetrator

1 held pursuant to subsection (1) of this section, if ~~such~~ THE victim or
2 family member can reasonably be located. This ~~paragraph (a) shall apply~~
3 ~~only~~ SUBSECTION (1.5)(a) APPLIES to offenses committed before July 1,
4 1995.

5 (b) Any victim of any crime or any member of ~~such~~ THE victim's
6 immediate family, if the victim has died or is a minor, the perpetrator of
7 which has been found not guilty by reason of insanity, shall be notified by
8 the court in a timely manner prior to any hearing for release of the
9 perpetrator held pursuant to subsection (1) of this section, if ~~such~~ THE
10 victim or family member can reasonably be located. This ~~paragraph (b)~~
11 ~~shall apply~~ SUBSECTION (1.5)(b) APPLIES to offenses committed on or
12 after July 1, 1995.

13 (2) (a) The court shall order a release examination of the
14 defendant when a current one has not already been furnished or when
15 either the prosecution or defense moves for an examination of the
16 defendant at a different ~~institution~~ HOSPITAL or by different experts. The
17 court may order any additional or supplemental examination,
18 investigation, or study that ~~it~~ THE COURT deems necessary to a proper
19 consideration and determination of the question of eligibility for release.
20 The court shall set the matter for release hearing after ~~it~~ THE COURT has
21 received all of the reports that ~~it~~ THE COURT has ordered ~~under~~ PURSUANT
22 TO this section. When none of ~~said~~ THE reports indicates that the
23 defendant is eligible for release, the defendant's request for A release
24 hearing shall be denied by the court if the defendant is unable to show by
25 way of an offer of proof any evidence by a medical expert in mental
26 disorders that would indicate that the defendant is eligible for release. For
27 the purposes of this subsection (2), "medical expert in mental disorders"

1 means a physician licensed ~~under the provisions of~~ PURSUANT TO article
2 240 of title 12, a psychologist licensed ~~under the provisions of~~ PURSUANT
3 TO article 245 of title 12, a psychiatric technician licensed ~~under the~~
4 ~~provisions of~~ PURSUANT TO article 295 of title 12, a registered
5 professional nurse, as defined in section 12-255-104 (11), who by reason
6 of postgraduate education and additional nursing preparation has gained
7 knowledge, judgment, and skill in psychiatric or mental health nursing,
8 or a social worker licensed ~~under the provisions of~~ PURSUANT TO part 4
9 of article 245 of title 12. The release hearing shall be to the court or, on
10 demand by the defendant, to a jury of ~~not to exceed~~ COMPOSED OF NOT
11 MORE THAN six persons. At the release hearing, if any evidence of
12 insanity is introduced, the defendant has the burden of proving restoration
13 of sanity by a preponderance of the evidence; if any evidence of
14 ineligibility for release by reason of impaired mental condition is
15 introduced, the defendant has the burden of proving, by a preponderance
16 of the evidence, that the defendant is eligible for release by no longer
17 having an impaired mental condition. This subsection (2)(a) ~~shall apply~~
18 ~~only~~ APPLIES to offenses committed before July 1, 1995.

19 (b) The court shall order a release examination of the defendant
20 when a current one has not already been furnished or when either the
21 prosecution or defense moves for an examination of the defendant at a
22 different ~~institution~~ HOSPITAL or by different experts. The court may order
23 any additional or supplemental examination, investigation, or study that
24 ~~it~~ THE COURT deems necessary to a proper consideration and
25 determination of the question of eligibility for release. The court shall set
26 the matter for release hearing after ~~it~~ THE COURT has received all of the
27 reports that ~~it has~~ THE COURT ordered ~~under~~ PURSUANT TO this section.

1 When none of the reports indicates that the defendant is eligible for
2 release, THE COURT SHALL DENY the defendant's request for A release
3 hearing ~~shall be denied by the court~~ if the defendant is unable to show by
4 way of an offer of proof any evidence by a medical expert in mental
5 disorders that would indicate that the defendant is eligible for release. For
6 the purposes of this subsection (2), "medical expert in mental disorders"
7 means a physician licensed ~~under the provisions of~~ PURSUANT TO article
8 240 of title 12, a psychologist licensed ~~under the provisions of~~ PURSUANT
9 TO article 245 of title 12, a psychiatric technician licensed ~~under the~~
10 ~~provisions of~~ PURSUANT TO article 295 of title 12, a registered
11 professional nurse as, defined in section 12-255-104 (11), who by reason
12 of postgraduate education and additional nursing preparation has gained
13 knowledge, judgment, and skill in psychiatric or mental health nursing,
14 or a social worker licensed ~~under the provisions of~~ PURSUANT TO part 4
15 of article 245 of title 12. The release hearing shall be to the court or, on
16 demand by the defendant, to a jury composed of not more than six
17 persons. At the release hearing, if any evidence that the defendant does
18 not meet the release criteria is introduced, the defendant has the burden
19 of proving by a preponderance of the evidence that the defendant ~~has no~~
20 DOES NOT HAVE AN abnormal mental condition that would be likely to
21 cause the defendant to be dangerous either to ~~himself or herself~~ THE
22 DEFENDANT'S SELF or to others or to the community in the reasonably
23 foreseeable future. This subsection (2)(b) ~~shall apply~~ APPLIES to offenses
24 committed on or after July 1, 1995.

25 (3) (b) When a defendant is conditionally released, the chief
26 officer of the ~~institution in which~~ HOSPITAL WHERE the defendant is
27 committed, OR THE CHIEF OFFICER'S DESIGNEE, shall forthwith give written

1 notice of the terms and conditions of ~~such~~ THE release to the executive
2 director of the department of human services and to the director of any
3 behavioral health safety net provider that may be charged with THE
4 DEFENDANT'S continued treatment. ~~of the defendant.~~ The director of ~~such~~
5 THE behavioral health safety net provider shall make written reports every
6 three months to the executive director of the department of human
7 services and to the district attorney for the judicial district where the
8 defendant was committed and to the district attorney for any judicial
9 district where the defendant may be required to receive treatment
10 concerning the DEFENDANT'S treatment and status. ~~of the defendant. Such~~
11 THE reports ~~shall~~ MUST include all known violations of the terms and
12 conditions of the defendant's release and any changes in the defendant's
13 mental status that would indicate that the defendant has become ineligible
14 to remain on conditional release. ~~as defined in section 16-8-102 (4.5).~~

15 (c) A defendant who has been conditionally released remains
16 under the supervision of the department of human services until the
17 committing court enters a final order of unconditional release. When a
18 defendant fails to comply with any conditions of ~~his~~ THE DEFENDANT'S
19 release requiring ~~him~~ THE DEFENDANT to establish, maintain, and reside
20 at a specific residence and ~~his~~ THE DEFENDANT'S whereabouts have
21 ~~therefore~~ become unknown to the authorities charged with ~~his~~ THE
22 DEFENDANT'S supervision or when the defendant leaves the state of
23 Colorado without the consent of the committing court, the defendant's
24 absence from supervision ~~shall constitute~~ CONSTITUTES unauthorized
25 absence, as defined in section 18-8-208.2. Such offense occurs in the
26 county in which the defendant is authorized to reside.

27 (4) (a.5) In addition to any terms and conditions of release

1 imposed pursuant to subsection (3) of this section, a court may order a
2 defendant, as a condition of release, to register with the local law
3 enforcement agency of the jurisdiction in which the defendant resides if
4 the court finds that the chief officer of the ~~institution in which~~ HOSPITAL
5 WHERE the defendant has been committed, OR THE CHIEF OFFICER'S
6 DESIGNEE, recommends registration based on information obtained from
7 the defendant during the course of treatment that indicates the defendant
8 has committed an offense involving unlawful sexual behavior.

9 (f) The local law enforcement agency shall transmit any
10 registrations received pursuant to ~~paragraph (c) of this subsection (4)~~
11 SUBSECTION (4)(e) OF THIS SECTION to the Colorado bureau of
12 investigation within three business days following receipt OF THE
13 REGISTRATION. The Colorado bureau of investigation shall include any
14 registration information received pursuant to this section in the central
15 registry established pursuant to section 16-22-110 and shall specify that
16 the information applies to a defendant required to register as a condition
17 of release pursuant to this section. The forms completed by ~~defendants~~ A
18 DEFENDANT required to register as a condition of release pursuant to this
19 subsection (4) ~~shall be~~ ARE confidential and ~~shall~~ MUST not be open to
20 inspection except as provided in ~~paragraph (c) of subsection (3)~~
21 SUBSECTION (3)(e) of this section and except as provided for release of
22 information to the public pursuant to sections 16-22-110 (6) and
23 16-22-112.

24 (g) As used in this subsection (4), "an offense involving unlawful
25 sexual behavior" means any of the following offenses:

26 (XXI) Criminal attempt, conspiracy, or solicitation to commit any
27 of the offenses specified in this ~~paragraph (g)~~ SUBSECTION (4)(g).

1 (i) (I) Any defendant required to register as a condition of release
2 pursuant to this subsection (4), upon completion of a period of not less
3 than twenty years from the date the defendant is placed on conditional
4 release, may petition the district court for an order that discontinues the
5 requirement for ~~such~~ registration and removes the defendant's name from
6 the central registry established pursuant to section 16-22-110. The court
7 may issue ~~such~~ AN order only if the court makes written findings of fact
8 that the defendant has neither been convicted nor found not guilty by
9 reason of insanity of an offense involving unlawful sexual behavior
10 subsequent to ~~his or her~~ THE DEFENDANT'S conditional release and that the
11 defendant would not pose an undue threat to the community if allowed to
12 live in the community without registration.

13 **SECTION 18.** In Colorado Revised Statutes, 16-8-115.5, **amend**
14 (3), (4), (5), (6)(a), (6)(b), and (8) as follows:

15 **16-8-115.5. Enforcement and revocation of conditional release**
16 **from commitment.** (3) Whenever the ~~superintendent of the Colorado~~
17 ~~mental health institute at Pueblo~~ DIRECTOR OF FORENSIC SERVICES IN THE
18 DEPARTMENT OF HUMAN SERVICES, OR THE DIRECTOR'S DESIGNEE, has
19 probable cause to believe that ~~such~~ THE defendant has become ineligible
20 to remain on conditional release, ~~as defined in section 16-8-102 (4.5), said~~
21 ~~superintendent~~ THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, shall notify
22 the district attorney for the judicial district where the defendant was
23 committed. The ~~superintendent~~ DIRECTOR, OR THE DIRECTOR'S DESIGNEE,
24 or the district attorney shall apply for a warrant to be directed to the
25 sheriff or a peace officer in the jurisdiction ~~in which~~ WHERE the defendant
26 resides or may be found, commanding ~~such~~ THE sheriff or peace officer
27 to take custody of the defendant. The application ~~shall~~ MUST include the

1 order conditionally releasing the defendant pursuant to section 16-8-115
2 (3) and supporting documentation showing that THE defendant has
3 become ineligible to remain on conditional release. ~~as defined in section~~
4 ~~16-8-102 (4.5)~~. The committing court and the district court for the tenth
5 judicial district are authorized to issue ~~such~~ a warrant pursuant to ~~the~~
6 ~~provisions of~~ section 16-1-106. The ~~superintendent~~ DIRECTOR, OR THE
7 DIRECTOR'S DESIGNEE, shall mail a copy of the application to the
8 committing court and the district attorney in the committing jurisdiction.

9 (4) The sheriff or peace officer to whom the warrant is directed
10 pursuant to subsection (3) of this section shall take all necessary legal
11 action to take custody of the defendant. A sheriff shall deliver the
12 defendant immediately to the ~~Colorado mental health institute at Pueblo,~~
13 ~~which~~ HOSPITAL WHERE THE DEFENDANT WAS COMMITTED, AND THE
14 HOSPITAL shall provide care and security for the defendant. If any other
15 peace officer takes custody of the defendant, ~~such~~ THE peace officer shall
16 deliver the defendant to the custody of the sheriff of the jurisdiction ~~in~~
17 ~~which~~ WHERE the defendant was found, and ~~such~~ THE sheriff shall comply
18 with ~~the provisions of~~ this subsection (4).

19 (5) The ~~Colorado mental health institute at Pueblo~~ HOSPITAL
20 WHERE THE DEFENDANT WAS COMMITTED shall examine the defendant to
21 evaluate the defendant's ability to remain on conditional release. The
22 examination ~~shall~~ MUST be consistent with the procedure provided in
23 section 16-8-106. If the defendant refuses to submit to and cooperate with
24 the examination, the committing court shall revoke the conditional
25 release. The examination ~~shall~~ MUST be completed within twenty-one
26 days after the defendant has been delivered to the ~~institute~~ HOSPITAL as
27 a result of the defendant's arrest. The ~~institute~~ HOSPITAL shall mail or

1 deliver a written report of the examination to the committing court and
2 the district attorney in the committing jurisdiction promptly after the
3 examination is completed. The defendant may request an examination as
4 provided in section 16-8-108.

5 (6) (a) The district attorney for the judicial district where the
6 defendant was committed may file in the committing court a petition for
7 the revocation of the defendant's conditional release. The petition shall
8 MUST set forth the name of the defendant, an allegation that the defendant
9 has become ineligible to remain on conditional release, ~~as defined in~~
10 ~~section 16-8-102 (4.5)~~, and the substance of the evidence sustaining the
11 allegation.

12 (b) If the district attorney for the committing judicial district does
13 not file a petition for revocation, as provided in ~~paragraph (a) of this~~
14 ~~subsection (6)~~ SUBSECTION (6)(a) OF THIS SECTION, within ten days after
15 the defendant is delivered to the ~~Colorado mental health institute at~~
16 ~~Pueblo~~ HOSPITAL WHERE THE DEFENDANT WAS COMMITTED, the defendant
17 shall MUST be immediately released from custody; except that, upon a
18 showing of good cause by the district attorney, the court may grant a
19 reasonable extension of time to file the petition for revocation.

20 (8) Within thirty-five days after the defendant is delivered to the
21 ~~Colorado mental health institute in Pueblo~~ HOSPITAL WHERE THE
22 DEFENDANT WAS COMMITTED pursuant to subsection (4) of this section,
23 and if the defendant is not released from custody pursuant to ~~paragraph~~
24 ~~(b) of subsection (6)~~ SUBSECTION (6)(b) of this section, the committing
25 court shall hold a hearing on the petition for revocation of conditional
26 release. At ~~such~~ THE hearing, any evidence having probative value shall
27 ~~be~~ IS admissible, but the defendant shall ~~be~~ IS permitted to offer testimony

1 and to call, confront, and cross-examine witnesses. If the court finds by
2 a preponderance of the evidence that the defendant has become ineligible
3 to remain on conditional release, ~~as defined in section 16-8-102 (4.5), it~~
4 ~~shall~~ THE COURT MUST enter an order revoking the defendant's conditional
5 release and recommitting the defendant. At any time thereafter, the
6 defendant may be afforded a release hearing as provided in section
7 16-8-115. If the court does not find by a preponderance of the evidence
8 that the defendant has become ineligible to remain on conditional release,
9 ~~as defined in section 16-8-102 (4.5), it~~ THE COURT shall dismiss the
10 petition and reinstate or modify the original order of conditional release.

11 **SECTION 19.** In Colorado Revised Statutes, **amend** 16-8-116 as
12 follows:

13 **16-8-116. Release by department of human services authority.**

14 (1) AFTER A FINDING OF NOT GUILTY BY REASON OF INSANITY, when the
15 chief officer of the ~~institution in which~~ HOSPITAL WHERE a defendant has
16 been committed, ~~after a finding of not guilty by reason of insanity~~ OR THE
17 CHIEF OFFICER'S DESIGNEE, OR THE DIRECTOR OF FORENSIC SERVICES IN
18 THE DEPARTMENT OF HUMAN SERVICES, OR THE DIRECTOR'S DESIGNEE,
19 WHO HAS BEEN SUPERVISING THE DEFENDANT'S CONDITIONAL RELEASE,
20 determines that the defendant no longer requires hospitalization OR
21 SUPERVISION because ~~he~~ THE DEFENDANT no longer suffers from a mental
22 disease or defect ~~which~~ THAT is likely to cause ~~him~~ THE DEFENDANT to be
23 ~~dangerous to himself~~ A DANGER TO THE DEFENDANT'S SELF, to others, or
24 to the community in the reasonably foreseeable future, ~~such~~ THE chief
25 officer OR THE CHIEF OFFICER'S DESIGNEE, OR THE DIRECTOR OR THE
26 DIRECTOR'S DESIGNEE, shall report ~~this~~ THE determination to the court that
27 committed the defendant and the prosecuting attorney, including in the

1 report a report of examination equivalent to a release examination. The
2 clerk of the court shall forthwith furnish a copy of the report to counsel
3 for the defendant.

4 (2) Within thirty-five days after receiving the report of the chief
5 officer ~~of the institution having custody of the defendant~~ OR THE CHIEF
6 OFFICER'S DESIGNEE, OR THE DIRECTOR OR THE DIRECTOR'S DESIGNEE, the
7 court shall set a hearing on the discharge of the defendant in accordance
8 with section 16-8-115, whether or not ~~such~~ THE report is contested.

9 (3) Repealed.

10 **SECTION 20.** In Colorado Revised Statutes, **amend** 16-8-117 as
11 follows:

12 **16-8-117. Advisement on matters to be determined.** When a
13 determination is to be made as to a defendant's eligibility for release, the
14 court shall explain to the defendant the nature and consequences of the
15 proceeding and the rights of the defendant ~~under~~ PURSUANT TO this
16 section, including ~~his or her~~ THE DEFENDANT'S right to a jury trial upon
17 the question of eligibility for release. The defendant, if ~~he or she~~ THE
18 DEFENDANT wishes to contest the question, may request a hearing ~~which~~
19 ~~shall then~~ THAT MUST be granted as a matter of right. At the hearing, the
20 defendant and the prosecuting attorney are entitled to be present in
21 person, to examine any reports of examination or other matter to be
22 considered by the court as bearing upon the determination, to introduce
23 evidence, summon witnesses, cross-examine witnesses for the other side
24 or the court, and to make opening and closing statements and argument.
25 The court may examine or cross-examine any witness called by the
26 defendant or prosecuting attorney and may summon and examine
27 witnesses on its own motion.

1 **SECTION 21.** In Colorado Revised Statutes, 16-8-118, **amend**
2 (1), (1.5), (2)(a.5), and (2)(b) as follows:

3 **16-8-118. Temporary removal for treatment and**
4 **rehabilitation.** (1) The chief officer of the institution ~~in which~~ WHERE
5 a defendant has been committed under this ~~article~~ ARTICLE 8 or article 8.5
6 of this ~~title~~ TITLE 16, OR THE CHIEF OFFICER'S DESIGNEE, may authorize
7 treatment and rehabilitation activities involving temporary physical
8 removal of ~~such person~~ THE DEFENDANT from the institution ~~in which~~
9 WHERE the defendant has been placed, if prior to ~~such~~ THE authorization
10 the following procedures are carried out:

11 (a) ~~Such~~ THE chief officer, OR THE CHIEF OFFICER'S DESIGNEE,
12 shall give written notice by certified mail, with return receipt requested,
13 to the committing court and the district attorney that on or after thirty-five
14 days from the date of mailing ~~such~~ THE notice, ~~he or she~~ THE CHIEF
15 OFFICER, OR THE CHIEF OFFICER'S DESIGNEE, will authorize treatment and
16 rehabilitation activities involving temporary physical removal of the
17 defendant from the institution, unless written objections to ~~such~~ THE
18 authorization are received by ~~him or her~~ THE CHIEF OFFICER, OR THE CHIEF
19 OFFICER'S DESIGNEE, within thirty-five days from the date of mailing ~~such~~
20 THE notice.

21 (b) The clerk of the committing court shall deliver a copy of the
22 notice ~~mentioned in paragraph (a) of this subsection (1)~~ DESCRIBED IN
23 SUBSECTION (1)(a) OF THIS SECTION to the attorney of record for the
24 defendant. The district attorney or the attorney of record for the defendant
25 may file objections with the clerk of the committing court to the proposed
26 action of the chief officer of the institution ~~in which such~~ WHERE THE
27 defendant is held, OR THE CHIEF OFFICER'S DESIGNEE. THE PARTY MAKING

1 THE OBJECTIONS SHALL DELIVER a copy of ~~any such~~ THE objections, shall
2 ~~be delivered by the party making such objections~~, either by mail or by
3 personal service, to ~~such~~ THE chief officer, OR THE CHIEF OFFICER'S
4 DESIGNEE, prior to the expiration of thirty-five days from the mailing of
5 the notice by the chief officer of the institution, OR THE CHIEF OFFICER'S
6 DESIGNEE.

7 (c) In the event that objections are filed and served as provided in
8 ~~paragraphs (a) and (b) of this subsection (1)~~ SUBSECTIONS (1)(a) AND
9 (1)(b) OF THIS SECTION, the committing court shall fix a time for a hearing
10 upon the objections, and no removal of the defendant from the institution
11 ~~in which he~~ WHERE THE DEFENDANT is held ~~shall be~~ IS authorized unless
12 and until approval ~~thereof~~ is given by the committing court following
13 ~~such~~ THE hearing.

14 (1.5) The chief officer of the institution, OR THE CHIEF OFFICER'S
15 DESIGNEE, is authorized to allow a defendant, without court authorization
16 as ~~set forth~~ DESCRIBED in subsection (1) of this section, to leave the
17 physical premises of the treatment or habilitation facility for needed
18 medical treatment at a hospital, clinic, or other health-care facility, so
19 long as the defendant is accompanied by staff from the facility.

20 (2) (a.5) A court may order any defendant who receives treatment
21 and rehabilitation activities involving temporary physical removal of the
22 defendant from the institution to register with the local law enforcement
23 agency of the jurisdiction ~~in which~~ WHERE the defendant resides if the
24 court finds that the chief officer of the institution ~~in which~~ WHERE the
25 defendant has been committed, OR THE CHIEF OFFICER'S DESIGNEE,
26 recommends registration based on information obtained from the
27 defendant during the course of treatment that indicates the defendant has

1 committed an offense involving unlawful sexual behavior.

2 (b) Prior to temporary physical removal from the institution of any
3 defendant who is required to register pursuant to this subsection (2), the
4 department of human services shall obtain from the defendant the address
5 ~~at which~~ WHERE the defendant plans to reside and THE DEPARTMENT shall
6 notify the local law enforcement agency of the jurisdiction ~~in which~~
7 WHERE the defendant plans to reside and the Colorado bureau of
8 investigation as provided in section 16-8-115 (4)(c).

9 **SECTION 22.** In Colorado Revised Statutes, **amend** 16-8-119 as
10 follows:

11 **16-8-119. Counsel and physicians for indigent defendants.** In
12 all proceedings ~~under this article~~ BROUGHT PURSUANT TO THIS ARTICLE 8,
13 upon motion of the defendant and proof that ~~he~~ THE DEFENDANT is
14 indigent and without funds to employ physicians, psychologists, or
15 attorneys to which ~~he~~ THE DEFENDANT is entitled under this ~~article~~
16 ARTICLE 8, the court shall appoint ~~such~~ THE physicians, psychologists, or
17 attorneys for ~~him~~ THE DEFENDANT at state expense.

18 **SECTION 23.** In Colorado Revised Statutes, **amend** 16-8-120 as
19 follows:

20 **16-8-120. Applicable tests for release.** (1) As to any person
21 charged with any crime allegedly committed on or after June 2, 1965, the
22 test for determination of a defendant's sanity for release from
23 commitment, or ~~his~~ THE DEFENDANT'S eligibility for conditional release,
24 ~~shall be~~ IS: "That the defendant has no abnormal mental condition which
25 would be likely to cause ~~him~~ THE DEFENDANT to be dangerous either to
26 ~~himself~~ THE DEFENDANT'S SELF or to others or to the community in the
27 reasonably foreseeable future".

1 (2) As to any person charged with any crime allegedly committed
2 prior to June 2, 1965, the test for determination of a defendant's sanity for
3 release from commitment, or ~~his~~ THE DEFENDANT'S eligibility for
4 conditional release, ~~shall be~~ IS the test provided by law at the time of the
5 alleged crime to determine the sanity or insanity of ~~such~~ THE defendant.

6 (3) As to any person charged with any crime allegedly committed
7 on or after July 1, 1983, the test for determination of a defendant's sanity
8 for release from commitment, or ~~his~~ THE DEFENDANT'S eligibility for
9 conditional release, ~~shall be~~ IS: "That the defendant has no abnormal
10 mental condition ~~which~~ THAT would be likely to cause ~~him~~ THE
11 DEFENDANT to be dangerous either to ~~himself~~ THE DEFENDANT'S SELF or
12 others or to the community in the reasonably foreseeable future, and is
13 capable of distinguishing right from wrong and has substantial capacity
14 to conform ~~his~~ THE DEFENDANT'S conduct to requirements of law".

15 (4) As to any person charged with any crime allegedly committed
16 on or after July 1, 1983, but before July 1, 1995, resulting in commitment
17 by reason of impaired mental condition, the test for determination of a
18 defendant's mental condition for release from commitment, or a
19 defendant's eligibility for conditional release, ~~shall be~~ IS: "That the
20 defendant has no abnormal mental condition ~~which~~ THAT would be likely
21 to cause the defendant to be dangerous either to ~~himself or herself~~ THE
22 DEFENDANT'S SELF or to others or to the community in the reasonably
23 foreseeable future".

24 **SECTION 24.** In Colorado Revised Statutes, **amend** 16-8-121 as
25 follows:

26 **16-8-121. Escape - return to institution.** (1) If any defendant,
27 confined in an institution for the care and treatment of persons with

1 behavioral or mental health disorders or intellectual and developmental
2 disabilities under the supervision of the executive director of the
3 department of human services, escapes from ~~such~~ THE institution, it is the
4 duty of the chief officer to apply forthwith to the district court for the
5 county in which the ~~hospital or~~ institution is located for a warrant of
6 arrest directed to the sheriff of the county, commanding ~~him or her~~ THE
7 SHERIFF forthwith to take all necessary legal action to effect the arrest of
8 the defendant and to return ~~him or her~~ THE DEFENDANT promptly to the
9 institution. The fact of an escape becomes a part of the official record of
10 a defendant and must be certified to the committing court as part of the
11 record in any proceeding to determine whether the defendant is eligible
12 for release from commitment or eligible for conditional release.

13 (2) If any defendant committed to the custody of the executive
14 director of the department of human services and placed in an institution
15 under ~~his or her~~ THE EXECUTIVE DIRECTOR'S supervision has escaped from
16 an institution for the care and treatment of persons with behavioral,
17 mental health, or substance use disorders in another state, the chief officer
18 is authorized to return the defendant to the institution from which ~~he or~~
19 ~~she~~ THE DEFENDANT escaped. The chief officer is further authorized to
20 effect the return at the expense of the state of Colorado and under such
21 terms and conditions as the chief officer deems suitable.

22 **SECTION 25.** In Colorado Revised Statutes, 18-1-803, **amend**
23 (1) as follows:

24 **18-1-803. Impaired mental condition.** (1) Evidence of an
25 impaired mental condition, as defined in section 16-8-102 ~~(2.7), C.R.S.~~
26 (4), though not legal insanity may be offered in a proper case as bearing
27 upon the capacity of the accused to form the culpable mental state which

1 is an element of the offense charged.

2 **SECTION 26.** In Colorado Revised Statutes, 25.5-10-237,
3 **amend** (1) as follows:

4 **25.5-10-237. Terminology.** (1) Whenever the terms "insane",
5 "insanity", "mentally or mental incompetent", "mental incompetency", or
6 "of unsound mind" are used in the laws of the state of Colorado, they
7 ~~shall be deemed to~~ refer to the insane, as defined in ~~section 16-8-101,~~
8 ~~C.R.S.~~ SECTIONS 16-8-101 AND 16-8-101.5, or to a person with an
9 intellectual and developmental disability, as defined in section
10 25.5-10-202, as the context of the particular law requires.

11 **SECTION 27.** In Colorado Revised Statutes, 27-65-127, **amend**
12 (1)(a) as follows:

13 **27-65-127. Imposition of legal disability - deprivation of legal**
14 **right - restoration - repeal.** (1) (a) When an interested person wishes to
15 obtain a determination as to the imposition of a legal disability or the
16 deprivation of a legal right for a person who has a mental health disorder
17 and who is a danger to the person's self or others, is gravely disabled, or
18 is insane, as defined in ~~section 16-8-101~~ SECTIONS 16-8-101 AND
19 16-8-101.5, and who is not then subject to proceedings pursuant to this
20 article 65 or part 3 or part 4 of article 14 of title 15, the interested person
21 may petition the court for a specific finding as to the legal disability or
22 deprivation of a legal right. Actions commenced pursuant to this
23 subsection (1) may include but are not limited to actions to determine
24 contractual rights and rights with regard to the operation of motor
25 vehicles.

26 **SECTION 28. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2026 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.