

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

INTRODUCED

LLS NO. 25-0463.01 Michael Dohr x4347

HOUSE BILL 25-1147

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ENSURE THAT MUNICIPAL COURT**
102 **DEFENDANTS ARE SUBJECT TO SIMILAR CONDITIONS AS STATE**
103 **COURT DEFENDANTS.**

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>.)

The bill caps the maximum incarceration sentence for a municipal violation that has a comparable state law crime at the same length as the state-level offense. When there is no comparable state-level offense, the maximum period of incarceration is capped at the maximum for a state-level petty offense. Mandatory minimums and increased penalties

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.

based on prior convictions are prohibited unless the person is convicted of a municipal offense for which there is a comparable state offense or of an infraction that allows imposition of the same mandatory minimum or increased penalties based on prior convictions. The bill also caps a consecutive municipal sentence at 2 times the highest charge in the case.

The bill clarifies that municipal court defendants have a right to counsel and that municipal defense counsel have the same notice, case information, and opportunity to meet with their clients as do state-level defense counsel. Current law prohibits paying indigent municipal defense counsel on a fixed or flat-fee payment structure if the municipality prosecutes domestic violence cases. The bill applies the prohibition to all municipalities.

All municipal court proceedings are required to be open to public observation. Virtual observation is required for all in-custody proceedings, and prompt resolution of municipal cases is required.

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

2 **SECTION 1.** In Colorado Revised Statutes, 13-1-132, **amend**
3 (3.5)(a)(III) and (4); and **add** (3.5)(a)(III.5), (3.5)(g.5), and (3.5)(h) as
4 follows:

5 **13-1-132. Use of interactive audiovisual devices and**
6 **communication technology in court proceedings.** (3.5) (a) All
7 Colorado courts, including municipal courts, shall make any criminal
8 court proceeding conducted in open court available for remote public
9 viewing and listening in real time, at no cost to the public, through an
10 online platform, which may include a participatory web conferencing
11 platform, and post prominently on the court's website the links for remote
12 observation, unless:

13 (III) Technology ~~or~~ staffing ~~or~~ internet issues limit or prevent
14 remote observation; ~~or~~

15 (III.5) INTERNET ISSUES LIMIT OR PREVENT REMOTE OBSERVATION;

16 OR

17 (g.5) THE EXCEPTIONS TO REMOTE OBSERVATION DESCRIBED IN

1 SUBSECTION (3.5)(a) OF THIS SECTION ARE CASE SPECIFIC AND FACT
2 SPECIFIC, SO A COURT SHALL NOT ADOPT BLANKET RULES PROHIBITING
3 REMOTE OBSERVATION FOR ANY CATEGORIES OF CASES OR TYPES OF
4 PROCEEDINGS.

5 (h) THE EXCEPTIONS DESCRIBED IN SUBSECTIONS (3.5)(a)(I) AND
6 (3.5)(a)(III) OF THIS SECTION DO NOT APPLY TO COURT PROCEEDINGS IN
7 WHICH THE DEFENDANT IS IN CUSTODY.

8 (4) THE REQUIREMENTS OF THIS SECTION SUPERSEDE ANY
9 STATUTE, JUDICIAL GUIDANCE, OR CHIEF JUSTICE DIRECTIVE LIMITING
10 REMOTE PUBLIC OBSERVATION OF CRIMINAL COURTS, INCLUDING CHIEF
11 JUSTICE DIRECTIVE 23-02 ADOPTED BEFORE THE EFFECTIVE DATE OF THIS
12 HOUSE BILL 25-____. The supreme court may prescribe rules of
13 procedure pursuant to section 13-2-109 to implement this section, BUT
14 THE RULES MUST NOT NARROW OR CONFLICT WITH THE REQUIREMENTS OF
15 THIS SECTION.

16 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-10-103 as
17 follows:

18 **13-10-103. Applicability.** This article 10 applies to and governs
19 the operation of municipal courts in the cities and towns of this state.
20 Except for the provisions relating to the method of salary payment for
21 municipal judges; the incarceration of children pursuant to sections
22 19-2.5-305 and 19-2.5-1511; the appearance of the parent, guardian, or
23 lawful custodian of any child under eighteen years of age who is charged
24 with a municipal offense as required by section 13-10-111; the right to a
25 trial by jury for petty offenses pursuant to section 16-10-109; relief from
26 improperly entered guilty pleas pursuant to section 18-1-410.6; the
27 prosecution of an alleged act of domestic violence, as defined in section

1 18-6-800.3; making a criminal court proceeding conducted in open court
2 available for remote public viewing and listening in real time; rules of
3 procedure ~~promulgated~~ ADOPTED by the supreme court; ~~and~~ appellate
4 procedure; SENTENCING LIMITATIONS IN SECTION 13-10-113; AND THE
5 RIGHT TO COUNSEL FOR INDIGENT DEFENDANTS, this article 10 may be
6 superseded by charter or ordinance enacted by a home rule city.

7 **SECTION 3.** In Colorado Revised Statutes, 13-10-111.5, **amend**
8 (2), (3)(a) introductory portion, and (3)(a)(I); and **add** (3)(c) as follows:

9 **13-10-111.5. Notice to municipal courts of municipal holds.**

10 (2) Once a municipal court receives notice that ~~the~~ A defendant is being
11 held solely on the basis of a municipal hold, the municipal court shall
12 hold a hearing within forty-eight hours after the receipt of ~~such a~~ THE
13 notice. The county sheriff shall make the in-custody defendant available
14 to appear in a timely manner before a municipal judge for a hearing
15 required by this subsection (2) at the date and time mutually agreed to by
16 the county sheriff and municipal court. This subsection (2) must not be
17 construed to require the county sheriff to transport the in-custody
18 defendant to the municipal court. It is not a violation of this section if a
19 bond hearing is not held within forty-eight hours when the delay is caused
20 by circumstances in which the defendant refuses to attend court, is unable
21 to attend court due to drug or alcohol use, a serious medical or behavioral
22 health emergency, or when the delay is caused by an emergency that
23 requires the court to close. When ~~the~~ A defendant is unable to attend
24 court, the sheriff shall provide the court AND MUNICIPAL PUBLIC
25 DEFENDER'S OFFICE, IF ONE EXISTS, with a list of people subject to this
26 section who did not timely attend court, the date of the person's arrest,
27 and the location where the person is in custody. The sheriff shall

1 document the length of the delay, the reason for the delay, and the efforts
2 to abate the emergency. As soon as the emergency has sufficiently abated,
3 the sheriff shall make the in-custody defendant available to appear before
4 the municipal court at the next scheduled bond hearing. Use of
5 audiovisual conferencing technology is permissible to expedite the
6 hearing. When high-speed internet access is unavailable, making
7 audiovisual conferencing impossible, the court may conduct the hearing
8 telephonically.

9 (3) (a) At the hearing required ~~in~~ PURSUANT TO subsection (2) of
10 this section, the municipal court shall either:

11 (I) Arraign the defendant, INCLUDING ADVISEMENT, BOND
12 SETTING, AND PLEA, UNLESS THE DEFENDANT SEEKS A PLEA CONTINUANCE;
13 or

14 (c) (I) AT THE HEARING REQUIRED PURSUANT TO SUBSECTION (2)
15 OF THIS SECTION, THE DEFENDANT HAS THE RIGHT TO BE REPRESENTED BY
16 COURT-APPOINTED INDIGENT DEFENSE COUNSEL PURSUANT TO SECTION
17 13-10-114.5.

18 (II) BEFORE THE HEARING REQUIRED PURSUANT TO SUBSECTION (2)
19 OF THIS SECTION, THE COURT SHALL NOTIFY INDIGENT DEFENSE COUNSEL
20 OF EACH PERSON IN CUSTODY AND PROVIDE INDIGENT DEFENSE COUNSEL
21 SUFFICIENT TIME TO PREPARE FOR AND PRESENT AN INDIVIDUALIZED
22 ARGUMENT REGARDING THE TYPE OF BOND AND CONDITIONS OF RELEASE
23 AT THE HEARING, CONSISTENT WITH THE COURT'S DOCKET AND
24 SCHEDULING PRIORITIES.

25 (III) THE MUNICIPAL COURT SHALL NOTIFY THE PROSECUTING
26 ATTORNEY OF EACH PERSON WHOSE MATTER IS SET FOR A HEARING
27 REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE

1 PROSECUTING ATTORNEY MAY APPEAR AT ALL INITIAL HEARINGS TO
2 PROVIDE THE PROSECUTING ATTORNEY'S POSITION REGARDING THE TYPE
3 OF BOND AND CONDITIONS OF RELEASE, AND THE COURT SHALL PROVIDE
4 THE PROSECUTING ATTORNEY SUFFICIENT TIME TO PREPARE FOR AND
5 PRESENT ANY RELEVANT ARGUMENT, CONSISTENT WITH THE COURT'S
6 DOCKET AND SCHEDULING PRIORITIES.

7 (IV) PRIOR TO THE HEARING REQUIRED PURSUANT TO SUBSECTION
8 (2) OF THIS SECTION, ANY PRETRIAL SERVICES AGENCY OPERATING IN THAT
9 MUNICIPALITY, OR ANY OTHER AGENCY THAT REPORTS TO THE COURT,
10 THAT HAS CONDUCTED A PRETRIAL RELEASE ASSESSMENT OR GATHERED
11 INFORMATION FOR THE COURT'S CONSIDERATION AT THE HEARING SHALL
12 PROVIDE THE PROSECUTING ATTORNEY AND THE DEFENDANT'S ATTORNEY
13 ALL INFORMATION PROVIDED TO THE COURT REGARDING THE DEFENDANT
14 IN CUSTODY, WHICH MUST INCLUDE, IF PROVIDED TO THE COURT, THE
15 ARREST WARRANT, THE PROBABLE CAUSE STATEMENT, AND THE
16 DEFENDANT'S CRIMINAL HISTORY.

17 (V) BEFORE THE HEARING REQUIRED PURSUANT TO SUBSECTION
18 (2) OF THIS SECTION, THE SHERIFF AND JAIL PERSONNEL SHALL PROVIDE
19 INDIGENT DEFENSE COUNSEL ACCESS TO THE DEFENDANT WHO WILL BE
20 APPEARING AT THE HEARING AND SHALL ALLOW INDIGENT DEFENSE
21 COUNSEL SUFFICIENT TIME WITH THE DEFENDANT PRIOR TO THE HEARING
22 IN ORDER TO PREPARE FOR THE HEARING.

23 **SECTION 4.** In Colorado Revised Statutes, 13-10-112, **add** (3)
24 and (4) as follows:

25 **13-10-112. Powers and procedures.** (3) EACH MUNICIPAL COURT
26 SHALL ENSURE ALL COURT PROCEEDINGS, INCLUDING COURT PROCEEDINGS
27 FOR DEFENDANTS IN CUSTODY, ARE ACCESSIBLE TO ANY MEMBER OF THE

1 PUBLIC FOR PUBLIC OBSERVATION.

2 (4) IF A MUNICIPAL COURT RECEIVES NOTICE THAT A DEFENDANT
3 WHO HAS ANY CRIMINAL OR TRAFFIC MATTER PENDING BEFORE THE COURT
4 IS IN CUSTODY IN COLORADO FOR ANY REASON, THE MUNICIPAL COURT
5 SHALL TIMELY RESOLVE THE MUNICIPAL MATTER, INCLUDING ENSURING
6 THE DEFENDANT PROMPTLY APPEARS BEFORE THE COURT AND IS ASSIGNED
7 COUNSEL IF THE DEFENDANT IS ELIGIBLE FOR COURT-APPOINTED COUNSEL.
8 A MUNICIPAL COURT SHALL NOT DENY A DEFENDANT THE ABILITY TO
9 APPEAR BEFORE THE MUNICIPAL COURT BECAUSE THE DEFENDANT IS IN
10 CUSTODY FOR ANOTHER MATTER. THIS SUBSECTION (4) DOES NOT
11 PRECLUDE A DEFENDANT FROM EXPRESSLY AGREEING TO DELAY A MATTER
12 ONCE THEY APPEAR BEFORE THE MUNICIPAL COURT.

13 **SECTION 5.** In Colorado Revised Statutes, 13-10-113, **amend**
14 (1), (1.5), and (2) as follows:

15 **13-10-113. Fines and penalties.** (1) (a) ~~Except as provided in~~
16 ~~subsection (1)(b) of this section, Any~~ A person convicted of violating a
17 municipal ordinance in a municipal court of record may be incarcerated
18 for a period not to exceed three hundred sixty-four days or fined, ~~an~~
19 ~~amount not to exceed two thousand six hundred fifty dollars,~~ or both,
20 SUBJECT TO THE LIMITATIONS IN SUBSECTIONS (1)(b) TO (1)(d) OF THIS
21 SECTION.

22 (b) ~~(f) The limitation on municipal court fines set forth in~~
23 ~~paragraph (a) of this subsection (1) shall be adjusted for inflation on~~
24 ~~January 1, 2014, and on January 1 of each year thereafter.~~ A MUNICIPAL
25 COURT SHALL NOT IMPOSE A SENTENCE OF INCARCERATION FOR A
26 DEFENDANT CONVICTED OF A MUNICIPAL ORDINANCE IN A MUNICIPAL
27 COURT OF RECORD FOR A PERIOD TO EXCEED THE MAXIMUM PENALTY

1 ALLOWED FOR ANY COMPARABLE MISDEMEANOR, PETTY OFFENSE, CIVIL
2 INFRACTION, TRAFFIC OFFENSE, OR TRAFFIC INFRACTION IMPOSED
3 PURSUANT TO STATE LAW. FOR CONVICTIONS BASED ON A VIOLATION OF
4 A MUNICIPAL ORDINANCE FOR WHICH THERE IS NO COMPARABLE
5 MISDEMEANOR, PETTY OFFENSE, CIVIL INFRACTION, TRAFFIC OFFENSE, OR
6 TRAFFIC INFRACTION IMPOSED PURSUANT TO STATE LAW, THE MUNICIPAL
7 COURT SHALL NOT IMPOSE A SENTENCE OF INCARCERATION THAT EXCEEDS
8 THE MAXIMUM SENTENCE FOR A PETTY OFFENSE PURSUANT TO STATE LAW.
9 A MUNICIPALITY SHALL NOT REQUIRE IMPOSITION OF A MANDATORY
10 MINIMUM JAIL SENTENCE UNLESS THE PERSON IS CONVICTED OF A
11 MUNICIPAL OFFENSE FOR WHICH THERE IS A COMPARABLE STATE OFFENSE
12 OR INFRACTION THAT REQUIRES IMPOSITION OF THE SAME MANDATORY
13 MINIMUM JAIL SENTENCE. A MUNICIPALITY SHALL NOT IMPOSE INCREASED
14 PENALTIES BASED ON A PRIOR CONVICTION UNLESS THE PERSON IS
15 CONVICTED OF A MUNICIPAL OFFENSE FOR WHICH THERE IS A COMPARABLE
16 STATE OFFENSE OR INFRACTION THAT ALLOWS IMPOSITION OF THE SAME
17 INCREASED PENALTIES BASED ON A PRIOR CONVICTION.

18 ~~(H) As used in this paragraph (b), "inflation" means the annual~~
19 ~~percentage change in the United States department of labor, bureau of~~
20 ~~labor statistics, consumer price index for Denver-Boulder, all items, all~~
21 ~~urban consumers, or its successor index.~~

22 (c) A MUNICIPAL COURT SHALL NOT IMPOSE A FINE THAT EXCEEDS
23 THE MAXIMUM FINE FOR ANY COMPARABLE STATE OFFENSE OR
24 INFRACTION UNDER STATE LAW. FOR CONVICTIONS BASED ON A MUNICIPAL
25 ORDINANCE FOR WHICH THERE IS NO COMPARABLE STATE OFFENSE OR
26 INFRACTION, THE MUNICIPAL COURT SHALL NOT IMPOSE A FINE THAT
27 EXCEEDS THE MAXIMUM FINE FOR A PETTY OFFENSE PURSUANT TO STATE

1 LAW.

2 (d) A MUNICIPAL COURT SHALL NOT IMPOSE A MAXIMUM
3 CONSECUTIVE SENTENCE OF INCARCERATION FOR MUNICIPAL OFFENSES
4 CHARGED IN A SINGLE CASE THAT IS MORE THAN TWICE THE MAXIMUM
5 SENTENCE FOR THE HIGHEST CHARGE IN THE CASE.

6 (1.5) ~~Any~~ A MUNICIPAL COURT SHALL NOT SENTENCE TO
7 INCARCERATION A person convicted of violating a municipal ordinance in
8 a municipal court ~~which~~ THAT is not of record ~~may be incarcerated for a~~
9 ~~period not to exceed ninety days or fined~~ OR FINE THE PERSON IN an
10 amount ~~not to exceed~~ THAT EXCEEDS three hundred dollars. ~~or both~~

11 (2) In sentencing or fining a violator, the municipal ~~judge~~ COURT
12 shall ~~not exceed the sentence or fine limitations established by ordinance~~
13 SENTENCE THE VIOLATOR USING THE SENTENCING OR FINE LIMITATIONS
14 ESTABLISHED BY EITHER MUNICIPAL ORDINANCE OR STATE LAW, BASED ON
15 WHICHEVER LIMITATION IS LOWER. Any other provision of the law to the
16 contrary notwithstanding, the municipal ~~judge~~ COURT may suspend the
17 sentence or fine of ~~any~~ A violator and place ~~him~~ THE VIOLATOR on
18 probation for a period not to exceed one year.

19 **SECTION 6.** In Colorado Revised Statutes, **amend as it exists**
20 **until July 1, 2025,** 13-10-114.5 as follows:

21 **13-10-114.5. Representation by counsel - independent indigent**
22 **defense - definitions.** (1) ~~At the time of first appearance on a municipal~~
23 ~~charge, if the defendant is in custody and the charged offense includes a~~
24 ~~possible sentence of incarceration, the court shall appoint counsel to~~
25 ~~represent the defendant for purposes of the initial appearance unless, after~~
26 ~~a full advisement pursuant to C.M.C.R. 210 and section 16-7-207, C.R.S.,~~
27 ~~the defendant makes a knowing, intelligent, and voluntary waiver of his~~

1 ~~or her right to counsel.~~ A MUNICIPALITY SHALL PROVIDE DEFENSE
2 COUNSEL FOR EACH INDIGENT DEFENDANT CHARGED WITH A MUNICIPAL
3 VIOLATION FOR WHICH THE MUNICIPAL CODE ALLOWS A POSSIBLE
4 SENTENCE OF INCARCERATION UNLESS, AFTER BEING FULLY ADVISED
5 PURSUANT TO C.M.C.R. 210 AND SECTION 16-7-207, THE DEFENDANT
6 MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF THE RIGHT
7 TO COUNSEL.

8 (2) ~~If the defendant remains in custody, the appointment of~~
9 ~~counsel continues until the defendant is released from custody. If the~~
10 ~~defendant is released from custody, he or she may apply for~~
11 ~~court-appointed counsel, and the court shall appoint counsel if the court~~
12 ~~determines that the defendant is indigent and the charged offense includes~~
13 ~~a possible sentence of incarceration.~~ AN IN-CUSTODY MUNICIPAL
14 DEFENDANT IS PRESUMED INDIGENT AND AUTOMATICALLY ENTITLED TO
15 REPRESENTATION BY COURT-APPOINTED COUNSEL AT AND DURING EVERY
16 IN-CUSTODY COURT APPEARANCE. A MUNICIPALITY THAT AUTHORIZES
17 LAW ENFORCEMENT TO ARREST AN INDIVIDUAL FOR AN ALLEGED
18 MUNICIPAL CODE VIOLATION SHALL ENSURE INDIGENT DEFENSE COUNSEL
19 IS PRESENT AND AVAILABLE TO REPRESENT AN IN-CUSTODY DEFENDANT
20 AT ALL COURT APPEARANCES AND THAT COURT APPEARANCES OCCUR
21 WITHIN THE TIME FRAMES ESTABLISHED IN SECTION 13-10-111.5 (2). FOR
22 A COURT APPEARANCE AT WHICH THE MUNICIPAL COURT IS REQUIRED TO
23 SET A PERSONAL RECOGNIZANCE BOND, THE RIGHT TO INDIGENT DEFENSE
24 COUNSEL AT THE HEARING REMAINS IN PLACE, AS DOES THE REQUIREMENT
25 THAT THE COURT CONDUCT PROCEEDINGS BEFORE SETTING BOND AS
26 REQUIRED BY SECTION 13-10-111.5 (3).

27 (3) IF A DEFENDANT IS IN CUSTODY, CANNOT POST BAIL OR IS NOT

1 ALLOWED TO POST BAIL, AND HAS A MUNICIPAL HOLD, INDIGENT DEFENSE
2 COUNSEL FOR THE HOLDING MUNICIPALITY MAY AUTOMATICALLY ELECT
3 TO REPRESENT THE DEFENDANT AND SHALL NOTIFY THE COURT EITHER
4 VERBALLY OR IN WRITING OF THE REPRESENTATION. IF A MUNICIPAL
5 COURT RECEIVES NOTICE, INCLUDING FROM AN INCARCERATED
6 DEFENDANT, JAIL, OR CORRECTIONAL FACILITY, OF A DEFENDANT IN
7 CUSTODY WHO CANNOT POST BAIL OR IS NOT ALLOWED TO POST BAIL, AND
8 HAS A MUNICIPAL HOLD, THE HOLDING MUNICIPAL COURT SHALL EITHER
9 APPOINT INDIGENT DEFENSE COUNSEL TO REPRESENT THE DEFENDANT
10 WHILE THE DEFENDANT IS IN CUSTODY OR NOTIFY THE DEFENDANT'S
11 INDIGENT DEFENSE COUNSEL TO ALLOW INDIGENT DEFENSE COUNSEL THE
12 OPPORTUNITY TO AUTOMATICALLY ELECT TO REPRESENT THE DEFENDANT
13 WHILE THE DEFENDANT IS IN CUSTODY.

14 ~~(3)~~ (4) (a) On and after January 1, 2020, each municipality shall
15 provide independent indigent defense for each indigent defendant charged
16 with a municipal code violation for which there is a possible sentence of
17 incarceration. Independent indigent defense requires, at minimum, that a
18 nonpartisan entity independent of the municipal court and municipal
19 officials oversee or evaluate indigent defense counsel.

20 (b) (I) Because the office of alternate defense counsel created in
21 section 21-2-101 is an independent system of indigent defense overseen
22 by an independent commission, provision of indigent defense by lawyers
23 evaluated or overseen by the office of alternate defense counsel satisfies
24 the requirement described in ~~subsection (3)(a)~~ SUBSECTION (4)(a) of this
25 section.

26 (II) Because a legal aid clinic at any Colorado law school
27 accredited by the American bar association is an independent system of

1 indigent defense overseen by the dean of the law school with which it is
2 affiliated, ~~any~~ A provision or oversight of indigent defense through a legal
3 aid clinic associated with any Colorado law school accredited by the
4 American bar association satisfies the requirement described in
5 ~~subsection (3)(a)~~ SUBSECTION (4)(a) of this section.

6 (c) To satisfy the requirement described in ~~subsection (3)(a)~~
7 SUBSECTION (4)(a) of this section, a municipality that contracts directly
8 with one or more defense attorneys to provide counsel to indigent
9 defendants shall ensure that:

10 (I) The process to select indigent defense attorneys is transparent
11 and based on merit; and

12 (II) Each contracted indigent defense attorney is periodically
13 evaluated by an independent entity for competency and independence.
14 The municipality shall evaluate each newly hired defense attorney as soon
15 as practicable but no later than one year after ~~he or she~~ THE DEFENSE
16 ATTORNEY is hired. Otherwise, the municipality shall evaluate each
17 defense attorney at least every three years. An independent entity that
18 evaluates defense attorneys pursuant to this ~~subsection (3)(c)(II)~~
19 SUBSECTION (4)(c)(II) shall provide evaluation results and any
20 recommendations for corrective action in writing to the municipality. For
21 the purpose of this ~~subsection (3)~~ SUBSECTION (4), "independent entity"
22 means:

23 (A) The office of alternate defense counsel;

24 (B) An attorney or a group of attorneys, each of whom has
25 substantial experience practicing criminal defense in Colorado within the
26 preceding five years, so long as the attorney or group of attorneys is not
27 affiliated with the municipality receiving the services, including ~~any~~ A

1 municipal judge, prosecutor, or indigent defense attorney; or

2 (C) A local or regional independent indigent defense commission,
3 as described in ~~subsection (3)(d)~~ SUBSECTION (4)(d) of this section.

4 (d) (I) To satisfy the requirement described in ~~subsection (3)(a)~~
5 SUBSECTION (4)(a) of this section, a municipality may establish a local
6 independent indigent defense commission or coordinate with one or more
7 other municipalities to establish a regional independent indigent defense
8 commission. Any local or regional independent indigent defense
9 commission in existence as of January 1, 2018, is deemed to be in
10 compliance with this ~~subsection (3)(d)~~ SUBSECTION (4)(d) and may
11 continue as established.

12 (II) Each local or regional independent indigent defense
13 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) must
14 include at least three members, each of whom is selected by the chief
15 municipal judge in consultation with the Colorado criminal defense bar,
16 the office of alternate defense counsel, or the office of the state public
17 defender. Prior to serving on a commission, any commission member who
18 is selected by a chief municipal judge must be approved by the office of
19 alternate defense counsel. The office of alternate defense counsel shall
20 approve such appointed commission members whom the office, in its
21 discretion, deems likely to promote the provision of competent and
22 independent indigent defense.

23 (III) The terms and procedures for the members of a local or
24 regional independent indigent defense commission ~~must be~~ ESTABLISHED
25 PURSUANT TO THIS SUBSECTION (4)(d) ARE determined by the municipality
26 or municipalities that ~~establish~~ ESTABLISHED the independent indigent
27 defense commission.

1 (IV) A local or regional independent indigent defense commission
2 established pursuant to this ~~subsection (3)(d)~~ SUBSECTION (4)(d) has the
3 responsibility and exclusive authority to appoint indigent defense counsel
4 for a term of at least one year or more to be served until a successor is
5 appointed. The independent indigent defense commission retains sole
6 authority to supervise the indigent defense counsel and discharge ~~him or~~
7 ~~her~~ THEM for cause.

8 (V) A local or regional independent indigent defense commission
9 ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d), through its ability to
10 supervise, appoint, and discharge the indigent defense counsel PURSUANT
11 TO SUBSECTION (4)(d)(IV) OF THIS SECTION, shall ensure that indigent
12 defendants accused of violations of municipal ordinances for which there
13 is a possible sentence of incarceration are represented independently of
14 any political considerations or private interests, that ~~such~~ THE indigent
15 defendants receive legal services that are commensurate with those
16 available to nonindigent defendants, and that municipal indigent defense
17 attorneys provide representation in accordance with the Colorado rules of
18 professional conduct and the American bar association standards relating
19 to the administration of criminal justice.

20 (VI) A local or regional independent indigent defense commission
21 ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall not interfere
22 with the discretion, judgment, and zealous advocacy of indigent defense
23 attorneys in specific cases.

24 (VII) A local or regional independent indigent defense
25 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall
26 make recommendations to its municipality or municipalities regarding the
27 provision of adequate monetary resources to provide legal services to

1 indigent defendants accused of violations of such municipal ordinances.

2 (VIII) The members of an independent indigent defense
3 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall
4 serve without compensation; except that a municipality that establishes
5 a local independent indigent defense commission or that coordinates with
6 one or more other municipalities to establish a regional independent
7 indigent defense commission shall reimburse the members of the
8 commission for actual and reasonable expenses incurred in the
9 performance of their duties.

10 (5) IF A DEFENDANT REMAINS IN CUSTODY, THE APPOINTMENT OF
11 COUNSEL CONTINUES UNTIL THE DEFENDANT IS RELEASED FROM CUSTODY.
12 IF A DEFENDANT IS RELEASED FROM CUSTODY, THE DEFENDANT MAY
13 APPLY FOR COURT-APPOINTED COUNSEL, AND THE COURT SHALL APPOINT
14 COUNSEL IF THE COURT DETERMINES THAT THE DEFENDANT IS INDIGENT
15 AND THE CHARGED OFFENSE INCLUDES A POSSIBLE SENTENCE OF
16 INCARCERATION.

17 **SECTION 7.** In Colorado Revised Statutes, **amend as it will**
18 **become effective July 1, 2025,** 13-10-114.5 as follows:

19 **13-10-114.5. Representation by counsel - independent indigent**
20 **defense - definitions.** (1) ~~At the time of first appearance on a municipal~~
21 ~~charge, if the defendant is in custody and the charged offense includes a~~
22 ~~possible sentence of incarceration, the court shall appoint counsel to~~
23 ~~represent the defendant for purposes of the initial appearance unless, after~~
24 ~~a full advisement pursuant to C.M.C.R. 210 and section 16-7-207, C.R.S.,~~
25 ~~the defendant makes a knowing, intelligent, and voluntary waiver of his~~
26 ~~or her right to counsel.~~ A MUNICIPALITY SHALL PROVIDE DEFENSE
27 COUNSEL FOR EACH INDIGENT DEFENDANT CHARGED WITH A MUNICIPAL

1 VIOLATION FOR WHICH THE MUNICIPAL CODE ALLOWS A POSSIBLE
2 SENTENCE OF INCARCERATION UNLESS, AFTER BEING FULLY ADVISED
3 PURSUANT TO C.M.C.R. 210 AND SECTION 16-7-207, THE DEFENDANT
4 MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF THE RIGHT
5 TO COUNSEL.

6 (2) ~~If the defendant remains in custody, the appointment of~~
7 ~~counsel continues until the defendant is released from custody. If the~~
8 ~~defendant is released from custody, he or she may apply for~~
9 ~~court-appointed counsel, and the court shall appoint counsel if the court~~
10 ~~determines that the defendant is indigent and the charged offense includes~~
11 ~~a possible sentence of incarceration.~~ AN IN-CUSTODY MUNICIPAL
12 DEFENDANT IS PRESUMED INDIGENT AND AUTOMATICALLY ENTITLED TO
13 REPRESENTATION BY COURT-APPOINTED COUNSEL AT AND DURING EVERY
14 IN-CUSTODY COURT APPEARANCE. A MUNICIPALITY THAT AUTHORIZES
15 LAW ENFORCEMENT TO ARREST AN INDIVIDUAL FOR AN ALLEGED
16 MUNICIPAL CODE VIOLATION SHALL ENSURE INDIGENT DEFENSE COUNSEL
17 IS PRESENT AND AVAILABLE TO REPRESENT AN IN-CUSTODY DEFENDANT
18 AT ALL COURT APPEARANCES AND THAT COURT APPEARANCES OCCUR
19 WITHIN THE TIME FRAMES ESTABLISHED IN SECTION 13-10-111.5 (2). FOR
20 A COURT APPEARANCE AT WHICH THE MUNICIPAL COURT IS REQUIRED TO
21 SET A PERSONAL RECOGNIZANCE BOND, THE RIGHT TO INDIGENT DEFENSE
22 COUNSEL AT THE HEARING REMAINS IN PLACE, AS DOES THE REQUIREMENT
23 THAT THE COURT CONDUCT PROCEEDINGS BEFORE SETTING BOND AS
24 REQUIRED BY SECTION 13-10-111.5 (3).

25 (3) IF A DEFENDANT IS IN CUSTODY, CANNOT POST BAIL OR IS NOT
26 ALLOWED TO POST BAIL, AND HAS A MUNICIPAL HOLD, INDIGENT DEFENSE
27 COUNSEL FOR THE HOLDING MUNICIPALITY MAY AUTOMATICALLY ELECT

1 TO REPRESENT THE DEFENDANT AND SHALL NOTIFY THE COURT EITHER
2 VERBALLY OR IN WRITING OF THE REPRESENTATION. IF A MUNICIPAL
3 COURT RECEIVES NOTICE, INCLUDING FROM AN INCARCERATED
4 DEFENDANT, JAIL, OR CORRECTIONAL FACILITY, OF A DEFENDANT IN
5 CUSTODY WHO CANNOT POST BAIL OR IS NOT ALLOWED TO POST BAIL, AND
6 HAS A MUNICIPAL HOLD, THE HOLDING MUNICIPAL COURT SHALL EITHER
7 APPOINT INDIGENT DEFENSE COUNSEL TO REPRESENT THE DEFENDANT
8 WHILE THE DEFENDANT IS IN CUSTODY OR NOTIFY THE DEFENDANT'S
9 INDIGENT DEFENSE COUNSEL TO ALLOW INDIGENT DEFENSE COUNSEL THE
10 OPPORTUNITY TO AUTOMATICALLY ELECT TO REPRESENT THE DEFENDANT
11 WHILE THE DEFENDANT IS IN CUSTODY.

12 ~~(3)~~ (4) (a) On and after January 1, 2020, each municipality shall
13 provide independent indigent defense for each indigent defendant charged
14 with a municipal code violation for which there is a possible sentence of
15 incarceration. Independent indigent defense requires, at minimum, that a
16 nonpartisan entity independent of the municipal court and municipal
17 officials oversee or evaluate indigent defense counsel.

18 (b) (I) Because the office of alternate defense counsel created in
19 section 21-2-101 is an independent system of indigent defense overseen
20 by an independent commission, provision of indigent defense by lawyers
21 evaluated or overseen by the office of alternate defense counsel satisfies
22 the requirement described in ~~subsection (3)(a)~~ SUBSECTION (4)(a) of this
23 section.

24 (II) Because a legal aid clinic at any Colorado law school
25 accredited by the American bar association is an independent system of
26 indigent defense overseen by the dean of the law school with which it is
27 affiliated, ~~any~~ THE provision or oversight of indigent defense through a

1 legal aid clinic associated with any Colorado law school accredited by the
2 American bar association satisfies the requirement described in
3 ~~subsection (3)(a)~~ SUBSECTION (4)(a) of this section.

4 (c) To satisfy the requirement described in ~~subsection (3)(a)~~
5 SUBSECTION (4)(a) of this section, a municipality that contracts directly
6 with one or more defense attorneys to provide counsel to indigent
7 defendants shall ensure that:

8 (I) The process to select indigent defense attorneys is transparent
9 and based on merit;

10 (II) Each contracted indigent defense attorney is periodically
11 evaluated by an independent entity for competency and independence.
12 The municipality shall evaluate each newly hired defense attorney as soon
13 as practicable but no later than one year after ~~he or she~~ THE DEFENSE
14 ATTORNEY is hired. Otherwise, the municipality shall evaluate each
15 defense attorney at least every three years. An independent entity that
16 evaluates defense attorneys pursuant to this ~~subsection (3)(c)(II)~~
17 SUBSECTION (4)(c)(II) shall provide evaluation results and any
18 recommendations for corrective action in writing to the municipality. For
19 the purpose of this ~~subsection (3)~~ SUBSECTION (4), "independent entity"
20 means:

21 (A) The office of alternate defense counsel;

22 (B) An attorney or a group of attorneys, each of whom has
23 substantial experience practicing criminal defense in Colorado within the
24 preceding five years, so long as the attorney or group of attorneys is not
25 affiliated with the municipality receiving the services, including ~~any~~ A
26 municipal judge, prosecutor, or indigent defense attorney; or

27 (C) A local or regional independent indigent defense commission,

1 as described in ~~subsection (3)(d)~~ SUBSECTION (4)(d) of this section.

2 (III) (A) The contract does not use a fixed or flat-fee payment
3 structure for indigent defense services but instead uses the same payment
4 structure and rates that are paid by the state of Colorado to attorneys and
5 other interdisciplinary team members under contract with the office of
6 alternate defense counsel created in section 21-2-101 and that are
7 consistent with chief justice directive 04-04, or any successor chief justice
8 directive.

9 (B) ~~This subsection (3)(c)(III) only applies to a municipality that~~
10 ~~prosecutes an act of domestic violence, as defined in section 18-6-800.3.~~

11 (C) For the purposes of this ~~subsection (3)(c)~~ SUBSECTION (4)(c),
12 "fixed or flat-fee payment structure" means a fee paid as a fixed amount
13 for specified legal services, regardless of the time or effort involved, but
14 does not include an amount paid as a salary or on a salary basis.

15 (d) (I) To satisfy the requirement described in ~~subsection (3)(a)~~
16 SUBSECTION (4)(a) of this section, a municipality may establish a local
17 independent indigent defense commission or coordinate with one or more
18 other municipalities to establish a regional independent indigent defense
19 commission. ~~Any~~ A local or regional independent indigent defense
20 commission in existence as of January 1, 2018, is deemed to be in
21 compliance with this ~~subsection (3)(d)~~ SUBSECTION (4)(d) and may
22 continue as established.

23 (II) Each local or regional independent indigent defense
24 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) must
25 include at least three members, each of whom is selected by the chief
26 municipal judge in consultation with the Colorado criminal defense bar,
27 the office of alternate defense counsel, or the office of the state public

1 defender. Prior to serving on a commission, any commission member who
2 is selected by a chief municipal judge must be approved by the office of
3 alternate defense counsel. The office of alternate defense counsel shall
4 approve such appointed commission members whom the office, in its
5 discretion, deems likely to promote the provision of competent and
6 independent indigent defense.

7 (III) The terms and procedures for the members of a local or
8 regional independent indigent defense commission ~~must be~~ ESTABLISHED
9 PURSUANT TO THIS SUBSECTION (4)(d) ARE determined by the municipality
10 or municipalities that ~~establish~~ ESTABLISHED the independent indigent
11 defense commission.

12 (IV) A local or regional independent indigent defense commission
13 established pursuant to this ~~subsection (3)(d)~~ SUBSECTION (4)(d) has the
14 responsibility and exclusive authority to appoint indigent defense counsel
15 for a term of at least one year or more to be served until a successor is
16 appointed. The independent indigent defense commission retains sole
17 authority to supervise the indigent defense counsel and discharge ~~him or~~
18 ~~her~~ THEM for cause.

19 (V) A local or regional independent indigent defense commission
20 ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d), through its ability to
21 supervise, appoint, and discharge the indigent defense counsel PURSUANT
22 TO SUBSECTION (4)(d)(IV) OF THIS SECTION, shall ensure that indigent
23 defendants accused of violations of municipal ordinances for which there
24 is a possible sentence of incarceration are represented independently of
25 any political considerations or private interests, that such indigent
26 defendants receive legal services that are commensurate with those
27 available to nonindigent defendants, and that municipal indigent defense

1 attorneys provide representation in accordance with the Colorado rules of
2 professional conduct and the American bar association standards relating
3 to the administration of criminal justice.

4 (VI) A local or regional independent indigent defense commission
5 ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall not interfere
6 with the discretion, judgment, and zealous advocacy of indigent defense
7 attorneys in specific cases.

8 (VII) A local or regional independent indigent defense
9 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall
10 make recommendations to its municipality or municipalities regarding the
11 provision of adequate monetary resources to provide legal services to
12 indigent defendants accused of violations of such municipal ordinances.

13 (VIII) The members of an independent indigent defense
14 commission ESTABLISHED PURSUANT TO THIS SUBSECTION (4)(d) shall
15 serve without compensation; except that a municipality that establishes
16 a local independent indigent defense commission or that coordinates with
17 one or more other municipalities to establish a regional independent
18 indigent defense commission shall reimburse the members of the
19 commission for actual and reasonable expenses incurred in the
20 performance of their duties.

21 (5) IF A DEFENDANT REMAINS IN CUSTODY, THE APPOINTMENT OF
22 COUNSEL CONTINUES UNTIL THE DEFENDANT IS RELEASED FROM CUSTODY.
23 IF A DEFENDANT IS RELEASED FROM CUSTODY, THE DEFENDANT MAY
24 APPLY FOR COURT-APPOINTED COUNSEL, AND THE COURT SHALL APPOINT
25 COUNSEL IF THE COURT DETERMINES THAT THE DEFENDANT IS INDIGENT
26 AND THE CHARGED OFFENSE INCLUDES A POSSIBLE SENTENCE OF
27 INCARCERATION.

1 **SECTION 8.** In Colorado Revised Statutes, 21-2-103, **amend** (5)
2 as follows:

3 **21-2-103. Representation of persons who are indigent -**
4 **definition.** (5) The office of alternate defense counsel may, but is not
5 required to, evaluate the performance of attorneys providing indigent
6 defense in municipal courts at the request of any municipality, as
7 described in ~~section 13-10-114.5 (3)(c)(H)~~ SECTION 13-10-114.5
8 (4)(c)(II). The office of alternate defense counsel shall not perform any
9 such evaluations without sufficient funding for personnel to perform such
10 evaluations.

11 **SECTION 9.** In Colorado Revised Statutes, 21-2-108, **amend** (2)
12 as follows:

13 **21-2-108. Conflict-free defense for indigent persons in**
14 **municipal courts - fund created.** (2) A municipality that wants to utilize
15 the services of the office of alternate defense counsel to evaluate the
16 provision of defense counsel to indigent defendants as described in
17 ~~section 13-10-114.5 (3)(c)(H)(A)~~ SECTION 13-10-114.5 (4)(c)(II)(A)
18 during the next calendar year shall request such services on or before
19 September 1, 2018, and on or before September 1 each year thereafter.

20 **SECTION 10. Safety clause.** The general assembly finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety or for appropriations for
23 the support and maintenance of the departments of the state and state
24 institutions.