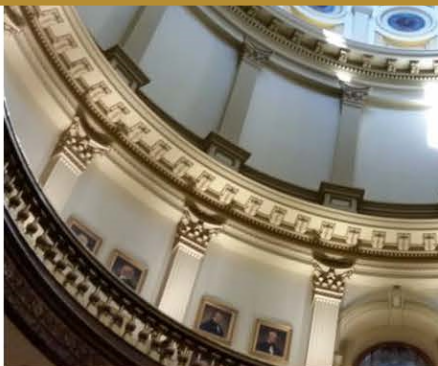


## Final Report to the General Assembly

*Legislative Oversight Committee Concerning the Treatment of  
Persons with Behavioral Health Disorders in the Criminal and  
Juvenile Justice Systems*

*December 2023 | Research Publication 803*





# Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems

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Senator Robert Rodriguez, Vice Chair

Senator Rhonda Fields

Representative Mary Bradfield

Senator Rod Pelton

Representative Regina English

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December | 2023





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December 2023

To Members of the Seventy-fourth General Assembly:

Submitted herewith is the final report of the Legislative Oversight Committee for the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice System. This committee was created pursuant to Article 98 of Title 37, Colorado Revised Statutes. The purpose of this committee is to oversee an advisory task force that studies and makes recommendations concerning persons with behavioral health disorders who are justice-involved.

At its meeting on November 15, 2023 the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2024 session was approved.

Sincerely,

/s/ Senator Stephen Fenberg  
Chair



## Table of Contents

Committee and Advisory Task Force Charge .....	1
Committee and Task Force Activities .....	2
Withdrawal Management and Jails.....	2
Adult Competency to Stand Trial.....	3
911 Resource Center .....	3
Youth Behavioral Health Services.....	4
Pretrial Diversion Programs.....	4
Prenatal and Perinatal Persons in the Crminal Justice System.....	5
Summary of Recommendations.....	7
Bill A — Strengthen Response to Behavioral Health Crises .....	7
Bill B — Adult Competency to Stand Trial .....	7
Bill C — Ongoing Funding for 911 Resource Center.....	7
Bill D — Youth Behavioral Health .....	7
Bill E — Factors for Diversion Programs .....	8
Resource Materials .....	9
Meetings and Topics Discussed.....	9

A current list of task force members is included as Attachment A and Attachment B is the task force annual report.

The text of the approved bills are included as Attachments C through G after the list of meetings and topics discussed.

**This report is also available online at:**

<https://leg.colorado.gov/committees/treatment-persons-behavioral-health-disorders-criminal-and-juvenile-justice-systems/2023-regular-session>





## Committee and Task Force Charge and History

The Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems (committee) and an advisory task force (task force) have been in existence for over two decades (Article 1.9 of Title 18, C.R.S.). The committee and task force has consistently been reauthorized about every five to seven years since its inception, most recently by [Senate Bill 22-021](#) until 2027.

### Committee Charge

The committee is responsible for the oversight of the advisory task force, as well as recommending legislative changes. The committee also develops and proposes areas of study for the task force. Additional requirements include submitting an annual report to the General Assembly each year highlighting legislation from the work of the committee and advisory task force. This report serves as this annual report.

### Task Force Charge

The 31-member advisory task force examines the identification, diagnosis, and treatment of persons with behavioral health issues who are involved in the criminal and juvenile justice systems. This includes reviewing liability, safety, and costs as they relate to these issues, and researching topics for members of the committee upon request. The task force must also consider, at a minimum, the following issues:

- early identification and intervention strategies for individuals who are at a higher risk of system involvement;
- promotion of resilience and health for persons who are involved or at-risk of becoming involved in the criminal or juvenile justice system;
- intersection of behavioral health disorders and the criminal and juvenile justice system, with a specific focus on diversion;
- safe and effective prevention and intervention strategies to promote good health outcomes upon release and during recovery.

The advisory task force may work with other task forces, committees, or organizations that are pursuing policy initiatives similar to those listed above. Further, collaborative relationships are encouraged with these other groups for joint policy-making opportunities.

## Committee and Task Force Activities

The Legislative Oversight Committee met six times to monitor and examine the work, findings, and recommendations of the advisory task force and its subcommittees. The committee also considered legislation recommended by members, the task force, and stakeholders.

Briefings and presentations were made by academic experts, task force members, agency representatives, and the public, on a wide range of behavioral health and criminal justice system related subjects, including:

- competency to stand trial nationally and in Colorado;
- inmate maternal health;
- behavioral health services and benefits;
- medical marijuana;
- withdrawal management;
- pretrial diversion; and,
- youth behavioral health.

The following sections discuss committee and task force activities during the 2023 interim.

### Advisory Task Force and Subcommittee Activities

The task force met on a monthly basis in 2023. Subcommittees provided regular updates about pretrial diversion programs, juvenile crisis response systems, adult competency, medical marijuana, and recidivism, as those topics relate to persons with behavioral health disorders who are involved in the criminal and juvenile justice systems.

Additionally, the task force heard presentations about co-responder and liaison programs between the criminal justice and behavioral health systems. Various state agencies provided overviews and updates on behavioral health as well. The advisory task force also prioritized legislative outreach efforts, and clarified advisory task force membership expectations. Further, the advisory task force elected leadership positions and updated its membership as necessary.

### Withdrawal Management and Jails

Withdrawal management, otherwise known as detox, is the medical and psychological treatment of individuals who are experiencing withdrawal symptoms, primarily due to reducing or ceasing use of a particular drug. These services are widely viewed as a critical gateway into recovery for people whose drug dependence has become debilitating. Witness testimony explained that Colorado's detox bed capacity, however, is not keeping pace with demand. As a result, individuals in need of withdrawal emergency services may end up in jail for lack of a better place, even when no crime has been committed.

Committee members heard testimony about the challenges of managing substance use withdrawal in jails. Overcrowding and staffing issues contribute to part of the problem, along with a lack of appropriate programs and services. Because of this, task force representatives

suggested prohibiting the use of jails for emergency commitments of persons under the influence of, or incapacitated by, substances. Instead, expanding the Behavioral Health Administration's (BHA) crisis response system to include substance use disorder withdrawal management emerged as a more viable alternative to jail.

**Committee recommendation.** As a result of its discussions, the committee recommends Bill A, which expands the BHA crisis response system and removes jails as an alternative option for substance use disorder commitments.

## **Adult Competency to Stand Trial**

Before someone with behavioral health problems can stand trial for a criminal offense, they must be found competent to proceed. Once the issue of competency is raised, the court orders the completion of a forensic evaluation, and legal proceedings are suspended until the competency question is answered. In Colorado, competency evaluations are court-ordered and completed in an inpatient hospital, jail, or community setting by Colorado Department of Human Services staff.

Committee members heard testimony about delays, both for evaluating whether people facing criminal charges are competent to stand trial, and for treatments to restore them to competency. The committee learned about ways to mitigate these long waits, such as pretrial diversion opportunities for this population. A related presentation emphasized how certain competency defendants benefit from community-based treatment and supports while they await evaluations or restoration services, instead of confined in jail.

Additional suggestions were made by the task force to streamline the competency process itself. This included a bill draft to address information sharing and waivers of privilege between jurisdictions so as to not duplicate evaluation efforts. The task force also presented their findings about competency restoration time frames and made suggestions that take into account the level of offense and other individual factors. Additionally, the task force proposed factors for dismissing cases or initiating civil commitment proceedings.

**Committee recommendations:** The committee recommends Bill B to reform and clarify the criminal competency to proceed process. The bill specifically addresses access to information, searches of prior competency evaluations, information included in a competency report, court options, outpatient services, and case dismissals.

Relatedly, the committee recommends Bill E to allow defendants whose competency is raised or found incompetent to proceed to enter into a diversion agreement, if the court finds the defendant has the ability to understand and participate.

## **911 Resource Center**

Task force representatives presented a bill draft request on behalf of the Colorado 911 Resource Center. The 911 Resource Center is an independent nonprofit entity created by the Public Utilities Commission (PUC) to provide resources and centralized assistance to local 911 emergency call services throughout the state. Testimony indicated that 911 calls increasingly involve a person experiencing a behavioral health crisis, and training about how to handle these calls has become

more critical. Committee members learned that the resource center is losing its funding source and discussed ways to continue its operation.

**Committee Recommendation:** In response to these concerns, the committee recommends Bill C, which authorizes annual payments from the state General Fund to continue the 911 Resource Center

## Youth Behavioral Health Services

The Crisis Resolution Team (CRT) is new pilot program administered by the BHA that provides a team-based approach to youth behavioral health. Offered in 17 counties state-wide, CRT supports families with youth and young adults who are experiencing behavioral health challenges. Program components include intensive, short-term, in-home services, as well as connection to ongoing support.

Task force members suggested expanding the CRT program to include a mobile response and stabilization service, especially for rural counties. Further testimony emphasized the program prevents costly hospitalizations and family displacement by offering in-home services. The committee and task force also discussed the benefits of addressing behavioral health issues early in life.

**Committee recommendations.** As a result of its discussions, the committee recommends Bill D, which makes the CRT program permanent and expands available services.

## Pretrial Diversion Programs

Pretrial diversion programs divert eligible adult and juvenile offenders from traditional criminal justice proceedings into alternative systems of supervision and services. Participants sign an agreement that lists what they must or must not do for dismissal of charges against them. This often includes successful completion of a treatment program, such as alcohol or drug, anger management, or recovery support.

The committee learned that people with intellectual or developmental disabilities are often overlooked for diversion programs. Furthermore, district attorneys may consider behavioral health to determine if an adult is an appropriate candidate for diversion, but not for juveniles. Task force members cautioned that many young people with behavioral health issues often get embroiled in the juvenile justice system, which only worsens their existing conditions. The committee and task force members discussed juvenile diversion eligibility requirements and agreed that behavioral health issues should not be an exclusionary factor.

**Committee recommendation.** As a result of its discussions, the committee recommends Bill E, which allows juveniles with intellectual or development disabilities, mental health or behavioral health issues, or lack of capacity, to participate in juvenile diversion programs. The bill also allows defendants whose competency is raised or found to be incompetent to proceed to participate in diversion programs.

## **Prenatal and Perinatal Persons in the Criminal Justice System**

Prisons and jails are constitutionally required to provide prenatal care, but relatively few standards exist to ensure pregnant individuals are receiving needed services. Committee members heard testimony about this population's unique physical and emotional needs especially in a correctional setting. For example, individuals giving birth while incarcerated are often separated from their child soon after giving birth and spend shorter stints in the hospital. Additionally, few correctional institutions are equipped to support women with the physical and behavioral changes that occur postpartum.

The committee and task force members discussed ways in which to improve conditions for pregnant or postpartum inmates. These ideas included bolstering related programs and services both in and outside institutions, financial support upon release to support family reunification efforts, and tailored assessments and pre-screening. Members also supported doula services at no expense to the inmate.

The committee agreed this topic needed further study and asked the task force to do so in the upcoming year.

**Committee recommendation.** The committee recommended that a bill to support perinatal persons be drafted, but the draft bill was not approved by the committee.



## Summary of Recommendations

As a result of the committee's activities, the committee recommended five bills to the Legislative Council for consideration in the 2023 session. At its meeting on November 15, 2023, the Legislative Council approved five recommended bills for introduction. The approved bills are described below.

### ***Bill A — Strengthen Response to Behavioral Health Crises***

The bill prohibits jail detention for emergency commitments of persons under the influence of, or incapacitated by, substances. Additionally, the bill requires local law enforcement agencies to report certain data to the BHA about the persons taken into protective custody pursuant to emergency commitments. The BHA is directed to use the data for planning service levels. Approved treatment facilities or emergency medical facilities that detain or hold emergency commitments are also required to provide quarterly reports to the BHA about the persons committed in aggregate. Reporting requirements are to begin on July 1, 2024.

### ***Bill B — Adult Competency to Stand Trial***

The bill makes several changes to the adult competency process, including:

- providing a definition of "reasonably foreseeable future;"
- clarifying who raises the competency question in parole hearings;
- requiring the Department of Human Services (CDHS) to report records of past competency evaluations;
- changing what is included in a competency report;
- updating procedures for determining competency; and,
- changing the amount of time a defendant may remain in custody while deemed incompetent to proceed.

### ***Bill C — Ongoing Funding for 911 Resource Center***

The bill requires annual funding of \$250,000 for the Colorado 911 Resource Center from the General Fund. The 911 Resource Center is an independent nonprofit entity created by the PUC to provide resources and centralized assistance to local 911 emergency call services throughout the state. Current funding for the center is from a 2004 agreement with the PUC requiring telecommunications companies to provide \$2 million to create and operate the nonprofit.

### ***Bill D — Youth Behavioral Health***

The bill codifies the Crisis Resolution Team program administered by the BHA, extends the program indefinitely, and expands services available under the program. The program provides specified services to children or youth who are experiencing high-acuity behavioral health crises

and their caregivers. A child or youth is eligible for services if they are 21 years of age or younger and meet other criteria in the bill.

### ***Bill E — Factors for Pretrial Diversion Programs***

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The bill allows juveniles with intellectual or developmental disabilities, mental health or behavioral health issues, or lack of capacity, to participate in juvenile diversion programs. For juveniles with severe behaviors or symptoms, other available alternatives, such as a referral to CDHS or a collaborative management program, must be considered.

Additionally, the bill extends diversion agreements to adult defendants whose competency is raised or found to be incompetent to proceed. The court must first determine if the defendant has the ability to participate and be advised of consequences for noncompliance. The bill further specifies that the diversion agreement alone is not evidence of competency, and violations of the diversion agreement may result in the proceedings on the original charges to resume.



## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>

## Meetings and Topics Discussed

March 14, 2023

- Scope of study letter for advisory task force
- Task force appointments

June 15, 2023

- Overview of 2023 legislation recommended by the Legislative Oversight Committee
- Overview of advisory task force activities and subcommittee updates
- Discussion about legislation for 2024 session
- Public testimony
- 

July 27, 2023

- Presentation on the competency crisis nationally and in Colorado
- Crisis services overview
- Inmate maternal health recommendations
- Update on behavioral health services and benefits
- 2024 legislation updates from the task force
- Task force appointments

August 29, 2023

- Public testimony
- Bill draft requests

October 24, 2023

- Public testimony
- Final action on bill draft requests
- Task force appointments

December 12, 2023

- Scope of study letter for advisory task force
- Task force updates

**BHDCJS Advisory Task Force Members**  
**31 Members: 17 Appointed by the LOC, 14 Designated by Agency**

<b>State or Private Agency</b>	<b>Representative(s) and Affiliation(s)</b>		<b>Appointed by LOC</b>
Department of Public Safety (1)	Erin Crites	Division of Criminal Justice	No
Department of Corrections (1)	Heather Salazar	Division of Parole	No
Local Law Enforcement (2) - one an active service police officer and the other from a sheriff's department	Michael Zeller	Greeley Police Department	Yes
	Travis Belden	Kit Carson County Sheriff's Department	Yes
Department of Human Services (4)	Ashley Tunstall	Division of Youth Services	No
	Ryan Templeton	Behavioral Health Administration	No
	Jagruti Shah	Colorado Mental Health Institute at Pueblo	No
	Trevor Williams	Child Welfare	No
County Department of Social Services (2)	Susan Walton	Park County Department of Human Services	Yes
	Lindsay Maisch	Pitkin County Department of Human Services	Yes
Department of Education (1)	Michael Ramirez	Teaching and Learning Unit	No
State Attorney General's Office (1)	Jamie Feld	Deputy Director of Opioid Response	No
District Attorneys (1)	Amanda Duhon	8 <sup>th</sup> Judicial District - District Attorney's Office	Yes
Public Defenders (1)	David Rosen	Office of the Colorado State Public Defender	Yes
Criminal Defense Bar (2), one with juvenile experience	Amanda Candileri	Criminal Defense Bar, juvenile experience	Yes
	Gina Shimeall	Criminal Defense Bar	Yes
Practicing Mental Health Professionals (2), one with juvenile experience	Gabrielle Touchette	Mind Springs Health, juvenile experience	Yes
	Darren Lish	University of Colorado School of Medicine	Yes
Community Mental Health Centers in Colorado (1)	Cali Thole	Summit Stone Health Partners	Yes
Person with Knowledge of Public Benefits and Public Housing in Colorado (1)	Kristin Toombs	Colorado Department of Local Affairs, Division of Housing	Yes
Department of Health Care Policy & Financing (1)	Jennifer Holcomb	HCPF	No
Practicing Forensic Professional (1)	Libby Stuyt	Forensic Professional	Yes
Members of the Public (3)	Bethe Feltman	Member with a mental illness who has been involved in the Colorado criminal justice system	Yes
	Marji Dainty	Parent of a child who has a mental illness and who has been involved in the Colorado criminal justice system	Yes
	Melanie Kesner	Member with an adult family member who has a mental illness and who has been involved in the Colorado criminal justice system	Yes
Office of the Child's Representative (1)	Katie Hecker	Youth Justice Attorney	No
Non-Profit organization that works on statewide Legislation and organizing Coloradans to promote Behavioral, mental and physical health needs (1)	Jack Johnson	Disability Law Colorado	Yes
Office of the Alternate Defense Counsel (1)	Kevin Bishop	Social Worker Coordinator	No
Colorado Department of Labor and Employment (1)	Kristin Corash	Director, Division of Vocational Rehan	No
Judicial Branch (2)	Jonathon Shamis	Lake County Judge	No
	Michele Staley	Juvenile Programs Coordinator, Probation Services	No

Updated: November 2023 (bf)

**Task Force Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice System Activities in 2023**

Pursuant to Section 18-1.9-104 (3)(a), C.R.S., the Legislative Oversight Committee Concerning Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice System (“committee”) is required annually to define, in writing, the scope of behavioral health policy to be considered for the committee and the Task Force Concerning Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems (“task force”). The following report documents that activities in which the task force engaged to address the scope of policy areas identified by the committee.

For 2023, the scope of the committee is:

- recommendations, proposals, and studies from the task force; and
- other behavioral health and justice system policy considerations arising during the work of the committee.

For 2023, the scope of policy to be considered for the task force is:

- determining contributing and mitigating factors that impact arrest and recidivism rates for people with serious behavioral health disorders; including but not limited to social determinants such as housing, drug use, homelessness, and access to inpatient and outpatient care.
- exploring how to improve the civil system for mental health care to reduce criminal justice involvement.
- developing measures to prevent juveniles and adults with behavioral health disorders from entering the competency system.
- exploring how the competency system can become more treatment oriented.
- developing outpatient mental health treatment services to help juveniles and adults leave the competency system permanently.
- exploring ways to ensure an appropriate response to individuals experiencing a mental health crisis, focusing on ways to transition from a law enforcement response toward a mental health response.
- determining contributing and mitigating factors that impact recidivism rates for people with mental and behavioral health disorders.
- identifying legislative or regulatory solutions that ensure access to treatment for people with warrants on their record.

The task force created five subcommittees to address the requested policy areas and continuing business from the previous year. The identified subcommittees (Recidivism, Adult Competency, Youth, Crisis Systems, and Marijuana) were chaired by members of the task force and supported by subject matter experts from within and external to task force membership. Subcommittees met at least monthly, but more often weekly, to identify specific issues and policy solutions related to the requested scope. Regular updates were provided by the subcommittee chairs at the monthly meeting of the task force. In June, each subcommittee presented at least one recommendation to the task force for consideration.

## **Recidivism**

The recidivism subcommittee was tasked with exploring contributing and mitigating factors to arrest and recidivism rates for people with serious behavioral health disorders and identifying legislative or regulatory solutions that ensure access to treatment for people with warrants on their record. Discussion at the subcommittee centered around the difficulty in defining recidivism and the various factors that the experts in the group have observed to impact recidivism. Most notably, these factors have included availability and access to effective behavioral health treatment services, housing, employment, and education. Additionally, the group discussed ways to assist individuals with attending to both their treatment needs and their criminal justice system requirements to include addressing the issue of attending court appearances while in treatment and limiting the impact of active warrants on access to care. In addition to proposing three bill concepts to the oversight committee, the recidivism subcommittee provided testimony to the Recidivism Interim Study Committee summarizing their discussions on defining and measuring recidivism.

## **Adult Competency**

The adult competency subcommittee was tasked with exploring how to improve the civil system for mental health care to reduce criminal justice involvement; exploring how the competency system can become more treatment-oriented; and developing outpatient mental health treatment services to help juveniles and adults leave the competency system permanently. The subcommittee discussed several ideas. First, increasing funding for administrative activities associated with competency restoration treatment. In doing so, providers could increase pay and staffing levels to ensure that administrative work does not take the place of patient care. Second, the group discussed the need for more flexibility in reevaluating individuals. They suggested that Office of Civil and Forensic Mental Health (OCFMH) could independently re-evaluate cases prior to restoration without having to formally request permission from the court or attorneys. A third topic of discussion was the need for increased information sharing, especially when competency has been raised in the past. It is often difficult for evaluators and others to access information related to previous competency claims, treatment, and restoration. Fourth, the group discussed the role that specialized competency dockets could play in creating more efficiencies in the competency system. These specialized dockets allow professionals to build collaborative relationships and operational efficiencies into the competency process to help clients receive services sooner. A fifth potential recommendation looked at diverting individuals with developmental/intellectual disabilities, brain injuries, and dementia from the competency system. Finally, the group discussed the need to streamline and cleanup the competency statutes to remove antiquated or ineffective language. In addition to these discussion on legislative policy changes, the subcommittee also discussed ways to incentivize counties to reduce waitlists. They had a presentation from professional in California on their bed cap model. This model which was implemented a little over a year ago has placed a cap on the number of beds for restoration available to each jurisdiction. When a jurisdiction goes over their allotted beds, they are required to pay fines. The fines are then utilized to fund deflection efforts in that jurisdiction. Their presentation also highlighted other processes implemented such as re-evaluations of individuals on the waitlist. These efforts have helped reduce the waitlist in California and are approaches Colorado could consider.

## **Youth**

The youth subcommittee's initial focus was on developing measures to prevent juveniles with behavioral health disorders from entering the competency system. To accomplish this, they proposed two legislative recommendations: (1) expand the eligibility considerations for juvenile diversion to include behaviors or symptoms consistent with a behavioral health or development/intellectual disability; and (2) codify youth crisis resolution teams to provide in-home and residential respite care services for children (up through age 21) and their families. In addition, the subcommittee discussed ways to address issues related to the intersection of behavioral health and the juvenile legal system including addressing trauma and diverting youth from the legal system who are experiencing behavioral health symptoms. These ideas included: improvement of supports and funding for restorative justice responses to alleged delinquent conduct; possibility of Juvenile Assessment Centers serving as an intercept point for youth in crisis/at risk of delinquency involvement; involvement of the Bridges Program to support court-involved young people and their families; and possible changes to parental responsibility in juvenile delinquency cases, to engage parents more assertively in supporting their child. During these discussions the members frequently returned to the lack of placement options for youth with acute needs, and the lack of in-home services despite Family First emphasis on prevention and in-home supports. The outstanding question the group has was: How best to incentivize development of these programs, without returning to a place where we remove children from their homes and communities too often? This would involve bolstering current mechanisms for families to access interventions and case management service prior to a crisis or court involvement, in addition to considering the benefit of juvenile specific co-responders or other alternative response models.

Near the end of the task force's work session, there was a request to consider the unique needs of pregnant and postpartum individuals involved in the criminal-legal system. While this was initially discussed within the context of recidivism, it was later discussed by the youth subcommittee. After a lengthy conversation regarding factors associated with supporting pregnant and post-partum individuals in custody and in transition out of custody, the conversation was largely tabled due to the lack of expertise on this topic in our current youth subcommittee membership.

## **Crisis Systems**

In the Crisis System Subcommittee, the targets of interventions included a review of the 911 system and diversion models and additional ways in which the mobile crisis response and alternative response models could be increased and implemented throughout the state. The subcommittee engaged subject matter experts from a local dispatch center and their community mental health center partner; the Support Team Assisted Response (STAR) program; a member of the judiciary who was interested in piloting and implementing a model where first responder staff would create a report documenting their efforts at the scene of a crisis and the court would place that report under seal for the parties to consider later at the defense request; and a member of the hospital systems emergency departments. With the collaboration of the subcommittee and subject matter experts, the subcommittee homed in on several focus areas geared towards opportunities where the crisis system could be expanded to provide more support to individuals experiencing a behavioral health crisis and diverting them from potential engagement with the criminal justice system. The subcommittee also discussed barriers to persons receiving care for behavioral health

disorders because of differences in funding rules around substance use disorder (SUD) treatment and Mental Health (MH) treatment. It was identified that in several areas of the law and in the direct service system, SUD and MH disorders are dealt with differently, making it difficult to receive whole-person care in any one facility for individuals who often carry co-occurring diagnoses. This bifurcation in the system was also true regarding rules around where people experiencing a crisis could be taken. Notably, people experiencing an SUD crisis may still be taken and detained in jails even without being charged with a crime, while individuals suffering a MH crisis cannot. The subcommittee discussed the desire to remove jail as an option when an individual is experiencing a SUD crisis. An emergency physician expressed opposition to removing jail as an option and indicated that emergency departments would bear the brunt of the burden given an inadequate set of community-based withdrawal management options. Therefore, an emphasis on withdrawal management programs and resources became a fundamental part of the discussion, which led to an identified need to increase withdrawal management options in Colorado. The subcommittee proposed increasing the accessibility of withdrawal management services within the Behavioral Health Crisis System before restricting the use of jail as a place for detoxification. The subcommittee engaged in discussion with Health Care Policy and Financing (HCPF) regarding the recent roll out of a new service, Behavioral Health Secure Transport (BHST), which reimburses providers for offering secure transportation for behavioral health services—limiting the need for law enforcement or EMS transport. Finally, the subcommittee discussed areas of misalignment between previous regulatory language under the Office of Behavioral Health and the new language being adopted under the Behavioral Health Administration. There may be need to address inconsistencies once new rules are adopted.

## **Marijuana**

The marijuana subcommittee continued with work begun in 2022 to address the concerns of increasing problems seen in community supervision, treatment, and victim safety because of the prevalence of high potency THC marijuana available to individuals under supervision following the passage of HB15-1267, which allowed people on probation and parole to use medical marijuana. This was further clarified in HB16-1359 to allow the court to limit use of medical marijuana based on material evidence that this prohibition would be necessary to accomplish the goals of sentencing, however, many probationers are still accessing high potency THC through medical marijuana cards despite having histories of substance abuse or mental health problems. In 2021, HB21-1317 provided requires that the recommending provider identify the maximum amount, maximum potency, and directions for use among other information. When this is not done the product, THC potency, dose, route, and frequency are up to the individual. The subcommittee was particularly concerned with individuals in treatment for domestic violence offenses who used high potency dispensary marijuana under a medical marijuana authorization. The subcommittee discussed the ease with which individuals can access a medical marijuana card and therefore are legally allowed to use marijuana while under supervision with no restrictions on the potency or quantity of use. To address these concerns, the subcommittee proposed a bill to require the use of an FDA approved THC product, instead of dispensary cannabis, when a medical provider determines THC is an appropriate treatment for a condition while an individual is under probation supervision and in court ordered treatment. In addition to this recommendation, the subcommittee also discussed the benefits of conducting a study that more explicitly assesses the role of marijuana use on criminal justice outcomes to include violations, revocations, arrests, and convictions and identifying the

additional impact of criminogenic risk, mental health diagnosis, housing status, location, use of medical marijuana, substance use disorder, treatment participation, mental health holds, and psychiatric hospitalization on these outcomes.

### **Task Force Recommendations presented to the Legislative Oversight Committee:**

1. Create a presumption of remote court appearance when an individual is in inpatient, partial hospitalization, and intensive outpatient behavioral healthcare treatment.
2. Expand withdrawal management services and funding within the behavioral health crisis response system, remove jail as an alternative option for SUD commitments when no crime has been committed and add affirmative language prohibiting the use of jails for SUD commitments when no crime has been committed.
3. Provide additional funding and technical assistance for judicial districts to create competency dockets.
4. Provide ongoing funding and accountability structure to support the Colorado 911 Resource Center.
5. Create a youth mobile crisis program to provide crisis response and stabilization services to kids and their families experiencing a behavioral health crisis.
6. Prohibit hospitals and urgent care providers from checking a patient's warrant status without their consent.
7. Conduct a statewide analysis to determine the availability, accessibility, and effectiveness of services addressing behavioral health and ancillary needs of adults and children involved in the justice system.
8. Require district attorney offices that accept state funding for diversion programs to consider whether a child has developmental, mental, and/or behavioral health issues and/or lack of mental capacity in their eligibility criteria for juvenile diversion.
9. Require a prescription to use FDA-approved THC when in court ordered treatment while on probation.

### **Considerations for future task force activities**

The subcommittees identified, considered, and discussed numerous issues and policy recommendations over the course of the year. Though some of these were formalized into legislative recommendation presented before the oversight committee, many were not. Ideas that did not make it to formal recommendations often needed more input from additional experts, more time to address implementation details, or more research. Below is a list of issues, concepts, or policy ideas the subcommittees would like to continue working on in the coming year.

1. Continue identifying interventions and funding models to enhance the implementation and sustainability of mobile crisis response services to deflect and divert youth and adults away from the criminal-legal system when experiencing a behavioral health crisis.
2. Engage in a broader study to identify and address the factors that contribute to and mitigate recidivism for adults and juveniles with behavioral health disorders including but not limited to criminogenic risk, continued substance use (including the use of medical marijuana), access to treatment, and supervision conditions.
3. Consider additional areas to address the current limitations of the competency system such as specialized competency courts and civil competency diversion models.



4. Identify strategies to improve the outcomes of pregnant and postpartum individuals who are incarcerated, or at risk for or experiencing behavioral health conditions postpartum.

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

Attachment C

**BILL A**

LLS NO. 24-0274.01 Shelby Ross x4510

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Amabile and English**, Bradfield

**SENATE SPONSORSHIP**

**Fields**,

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING PERSONS DETAINED IN JAIL WHO ARE HELD ON AN**  
102 **EMERGENCY COMMITMENT.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.** Beginning July 1, 2025, the bill prohibits a law enforcement officer or emergency service patrol officer who takes a person into protective custody from detaining the person in jail.

Beginning July 1, 2024, the bill requires each local law

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.

enforcement agency that has taken a person into protective custody to provide an annual report to the behavioral health administration that includes disaggregated and nonidentifying information concerning persons who were taken into protective custody in an approved treatment facility or detained in an emergency medical facility or jail.

Beginning July 1, 2024, the bill requires each approved treatment facility or emergency medical services facility that detains or holds a person on an emergency commitment to provide a quarterly report to the behavioral health administration that includes information about the persons detained or held at the facility.

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

**SECTION 1.** In Colorado Revised Statutes, 27-81-105, **amend** (3) as follows:

**27-81-105. Comprehensive program for treatment - regional facilities.** (3) The BHA shall provide adequate and appropriate treatment for persons with substance use disorders, persons intoxicated by alcohol, and persons under the influence of drugs admitted pursuant to sections 27-81-109 to 27-81-112. ~~Except as otherwise provided in section 27-81-111,~~ Treatment must not be provided at a correctional institution, except for inmates.

**SECTION 2.** In Colorado Revised Statutes, 27-81-111, **amend** (1); and **add** (8) as follows:

**27-81-111. Emergency commitment.** (1) (a) When a person is under the influence of or incapacitated by substances and IS clearly dangerous to the health and safety of ~~himself, herself,~~ THE PERSON'S SELF or others, law enforcement authorities or an emergency service patrol, acting with probable cause, shall take the person into protective custody in an approved treatment facility. If no such facilities are available, the person may be detained in an emergency medical facility, ~~or jail,~~ but only for ~~so~~ AS long as may be necessary to prevent injury to ~~himself, herself,~~

1 THE PERSON'S SELF or others or to prevent a breach of the peace. ~~If the~~  
2 ~~person being detained is a juvenile, as defined in section 19-2.5-102, the~~  
3 ~~juvenile must be placed in a setting that is nonsecure and physically~~  
4 ~~segregated by sight and sound from the adult offenders.~~ A law  
5 enforcement officer or emergency service patrol officer, in detaining the  
6 person, is taking the person into protective custody. In so doing, the  
7 detaining officer may protect ~~himself or herself~~ THE OFFICER'S SELF by  
8 reasonable methods but shall make every reasonable effort to protect the  
9 detainee's health and safety. ~~A~~ Taking A PERSON into protective custody  
10 pursuant to this section is not an arrest, and an entry or other record shall  
11 not be made to indicate that the person has been arrested or charged with  
12 a crime. Law enforcement or emergency service personnel who act in  
13 compliance with this section are acting in the course of their official  
14 duties and are not criminally or civilly liable. Nothing in this subsection  
15 (1) precludes a person intoxicated by alcohol, under the influence of  
16 drugs, or incapacitated by substances who is not dangerous to the health  
17 and safety of ~~himself, herself,~~ THE PERSON'S SELF or others from being  
18 assisted to the person's home or like location by the law enforcement  
19 officer or emergency service patrol officer.

20 (b) ~~A sheriff or police chief who violates the provisions of~~  
21 ~~subsection (1)(a) of this section related to detaining juveniles may be~~  
22 ~~subject to a civil fine of no more than one thousand dollars. The decision~~  
23 ~~to fine shall be based on prior violations of the provisions of subsection~~  
24 ~~(1)(a) of this section by the sheriff or police chief and the willingness of~~  
25 ~~the sheriff or police chief to address the violations in order to comply~~  
26 ~~with subsection (1)(a) of this section.~~

27 (c) A LAW ENFORCEMENT OFFICER OR EMERGENCY SERVICE

1 PATROL OFFICER WHO TAKES A PERSON INTO PROTECTIVE CUSTODY  
2 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION SHALL NOT DETAIN THE  
3 PERSON IN JAIL.

4 (8) (a) ON OR BEFORE JULY 1, 2024, AND EACH JULY 1  
5 THEREAFTER, EACH LOCAL LAW ENFORCEMENT AGENCY THAT HAS TAKEN  
6 A PERSON INTO PROTECTIVE CUSTODY PURSUANT TO THIS SECTION SHALL  
7 PROVIDE AN ANNUAL REPORT TO THE BHA THAT INCLUDES ONLY  
8 DISAGGREGATED AND NONIDENTIFYING INFORMATION CONCERNING  
9 PERSONS WHO WERE TAKEN INTO PROTECTIVE CUSTODY IN AN APPROVED  
10 TREATMENT FACILITY OR DETAINED IN AN EMERGENCY MEDICAL FACILITY  
11 OR JAIL. THE REPORT MUST COMPLY WITH SECTION 24-1-136 (9) AND IS  
12 EXEMPT FROM SECTION 24-1-136 (11)(a)(I). THE REPORT MUST CONTAIN  
13 THE FOLLOWING:

14 (I) THE NAMES AND COUNTIES OF THE FACILITIES AND JAILS;

15 (II) THE TOTAL NUMBER OF PERSONS TAKEN INTO PROTECTIVE  
16 CUSTODY PURSUANT TO THIS SECTION, INCLUDING A SUMMARY OF  
17 DEMOGRAPHIC INFORMATION; AND

18 (III) A SUMMARY REGARDING THE DIFFERENT REASONS FOR WHICH  
19 PERSONS WERE TAKEN INTO PROTECTIVE CUSTODY PURSUANT TO THIS  
20 SECTION.

21 (b) (I) EACH APPROVED TREATMENT FACILITY OR EMERGENCY  
22 MEDICAL SERVICES FACILITY THAT DETAINS OR HOLDS A PERSON ON AN  
23 EMERGENCY COMMITMENT SHALL PROVIDE A QUARTERLY REPORT TO THE  
24 BHA WITH THE FOLLOWING INFORMATION:

25 (A) THE TOTAL NUMBER OF PERSONS DETAINED OR HELD IN THE  
26 APPROVED TREATMENT FACILITY OR EMERGENCY MEDICAL SERVICES  
27 FACILITY ON AN EMERGENCY COMMITMENT;

1 (B) THE TOTAL NUMBER OF DAYS EACH PERSON WAS DETAINED OR  
2 HELD;

3 (C) WHETHER EACH PERSON WAS TRANSFERRED TO ANOTHER  
4 FACILITY, RELEASED, OR PLACED ON AN INVOLUNTARY COMMITMENT; AND

5 (D) WHETHER THE APPROVED TREATMENT FACILITY OR  
6 EMERGENCY MEDICAL SERVICES FACILITY TRANSFERRED EACH PERSON TO  
7 THE LOCAL JAIL TO BE DETAINED FOR AN EMERGENCY COMMITMENT AND  
8 THE REASON FOR THE TRANSFER.

9 (II) THIS SUBSECTION (8)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

10 (c) ANY INFORMATION DISAGGREGATED AND PROVIDED TO THE  
11 BHA PURSUANT TO THIS SUBSECTION (8) IS PRIVILEGED AND  
12 CONFIDENTIAL. THE BHA SHALL NOT MAKE THE INFORMATION AVAILABLE  
13 TO THE PUBLIC EXCEPT IN AN AGGREGATE FORMAT THAT CANNOT BE USED  
14 TO IDENTIFY AN INDIVIDUAL FACILITY. THE INFORMATION IS NOT SUBJECT  
15 TO CIVIL SUBPOENA AND IS NOT DISCOVERABLE OR ADMISSIBLE IN ANY  
16 CIVIL, CRIMINAL, OR ADMINISTRATIVE PROCEEDING AGAINST AN APPROVED  
17 TREATMENT FACILITY, EMERGENCY MEDICAL FACILITY, JAIL, LAW  
18 ENFORCEMENT OFFICER, OR EMERGENCY SERVICE PATROL OFFICER. THE  
19 BHA SHALL ONLY USE THE INFORMATION TO ASSESS STATEWIDE  
20 BEHAVIORAL HEALTH SERVICES NEEDS AND WITHDRAWAL MANAGEMENT  
21 NEEDS AND TO PLAN FOR SUFFICIENT LEVELS OF STATEWIDE BEHAVIORAL  
22 HEALTH AND WITHDRAWAL MANAGEMENT SERVICES. IN COLLECTING THE  
23 DATA PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (8), THE  
24 BHA SHALL PROTECT THE CONFIDENTIALITY OF PATIENT RECORDS, IN  
25 ACCORDANCE WITH STATE AND FEDERAL LAWS, AND SHALL NOT DISCLOSE  
26 ANY PUBLIC IDENTIFYING OR PROPRIETARY INFORMATION OF ANY  
27 APPROVED TREATMENT FACILITY OR EMERGENCY MEDICAL FACILITY. THIS

1 SUBSECTION (8)(c) DOES NOT APPLY TO INFORMATION THAT IS OTHERWISE  
2 AVAILABLE FROM A SOURCE OUTSIDE OF THE DATA COLLECTION  
3 ACTIVITIES REQUIRED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

4 **SECTION 3. Act subject to petition - effective date.** This act  
5 takes effect July 1, 2025; except that section 27-81-111 (8), as enacted in  
6 section 2 of this act, takes effect July 1, 2024; except that, if a referendum  
7 petition is filed pursuant to section 1 (3) of article V of the state  
8 constitution against this act or an item, section, or part of this act within  
9 the ninety-day period after final adjournment of the general assembly,  
10 then the act, item, section, or part will not take effect unless approved by  
11 the people at the general election to be held in November 2024 and, in  
12 such case, will take effect on the date of the official declaration of the  
13 vote thereon by the governor.

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

Attachment D

**BILL B**

LLS NO. 24-0275.01 Shelby Ross x4510

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Amabile and Bradfield**, English

**SENATE SPONSORSHIP**

**Fields**, Rodriguez

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ADULT COMPETENCY TO STAND TRIAL.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.** The bill reforms and clarifies the criminal competency to proceed process. The bill provides necessary parties with access to information related to the defendant's claim of incompetency to proceed. The bill requires the department of human services to search prior competency evaluations in its possession when the court orders a competency evaluation or the court finds the defendant incompetent to

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Capital letters or bold & italic numbers indicate new material to be added to existing law.  
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proceed and provide any evaluations to the court. The bill adds to the information that is included in a competency report. The bill delineates a court's options when it finds that a defendant is incompetent to proceed. The bill directs when competency services may be provided on an outpatient basis. The bill sets forth the circumstances when a court has to dismiss the defendant's case based on the highest level of charge against the defendant and how long the defendant has been waiting for restoration services.

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

2           **SECTION 1.** In Colorado Revised Statutes, 16-8.5-101, **add**  
3 (16.5) as follows:

4           **16-8.5-101. Definitions.** As used in this article 8.5, unless the  
5 context otherwise requires:

6           (16.5) "REASONABLY FORESEEABLE FUTURE" MEANS AN  
7 EVALUATOR'S CONSIDERATION OF THE DIAGNOSIS OR PROGNOSIS OF THE  
8 DEFENDANT AND WHETHER THERE IS A TIME FRAME IN WHICH, IF THERE IS  
9 NOT IMPROVEMENT, THAT THE DIAGNOSIS OR PROGNOSIS IS UNLIKELY TO  
10 CHANGE.

11           **SECTION 2.** In Colorado Revised Statutes, 16-8.5-102, **amend**  
12 (1), (2)(a), (2)(b), (2)(d), and (3) as follows:

13           **16-8.5-102. Competency to proceed - how and when raised.**

14 (1) While a defendant is incompetent to proceed, the defendant ~~shall~~  
15 MUST not be tried or sentenced, nor shall the court consider or decide  
16 pretrial matters that are not susceptible of fair determination without the  
17 personal participation of the defendant. However, a determination that a  
18 defendant is incompetent to proceed ~~shall~~ DOES not preclude the  
19 furtherance of the proceedings by the court to consider and decide  
20 matters, including a preliminary hearing and motions, that are susceptible  
21 of fair determination prior to trial and without the personal participation

1 of the defendant. Those proceedings may be later reopened if, in the  
2 discretion of the court, substantial new evidence is discovered after and  
3 as a result of the DEFENDANT'S restoration to competency. ~~of the~~  
4 ~~defendant.~~

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

7 (a) If the judge has reason to believe that the defendant is  
8 incompetent to proceed, ~~it is the judge's duty to~~ THE JUDGE SHALL suspend  
9 the proceeding and determine the competency or incompetency of the  
10 defendant pursuant to section 16-8.5-103;

11 (b) If either the defense or the prosecution has reason to believe  
12 that the defendant is incompetent to proceed, either party may file a  
13 motion in advance of the commencement of the particular proceeding. A  
14 motion to determine competency shall be in writing and contain a  
15 certificate of counsel stating that the motion is based on a good faith  
16 doubt that the defendant is competent to proceed. The motion ~~shall~~ MUST  
17 set forth the specific facts that have formed the basis for the motion. The  
18 COURT MUST SEAL THE motion. ~~shall be sealed by the court.~~ If the motion  
19 is made by the prosecution, the prosecution shall provide ~~to~~ the defense  
20 a copy of the motion. If the motion is made by the defense, the defense  
21 shall provide ~~to~~ the prosecution notice of the filing of the motion at the  
22 time of filing, and if the defense requests a hearing, the defense shall  
23 provide the motion to the prosecution at the time the hearing is requested.  
24 The motion may be filed after the commencement of the proceeding if,  
25 for good cause shown, the DEFENDANT'S mental disability or  
26 developmental disability ~~of the defendant~~ was not known or apparent  
27 before the commencement of the proceeding.

1 (d) ~~By the state board of parole when a board member has a~~  
2 ~~substantial and good-faith reason to believe that the offender is~~  
3 ~~incompetent to proceed as defined in section 16-8.5-101 (12), at a parole~~  
4 ~~hearing conducted pursuant to section 17-22.5-403.5~~ PUBLIC DEFENDER  
5 LIAISON, AS DESCRIBED IN SECTION 21-1-104 (6), OR AN ATTORNEY  
6 REPRESENTING THE OFFENDER IN A PAROLE PROCEEDING.

7 (3) Notwithstanding any provision of this ~~article~~ ARTICLE 8.5 to  
8 the contrary, the question of whether a convicted person is mentally  
9 incompetent to be executed ~~shall~~ MUST be raised and determined as  
10 ~~provided in~~ PURSUANT TO part 14 of article 1.3 of title 18. ~~C.R.S.~~

11 **SECTION 3.** In Colorado Revised Statutes, 16-8.5-103, **amend**  
12 (8) as follows:

13 **16-8.5-103. Determination of competency to proceed.** (8) If the  
14 question of the defendant's incompetency to proceed is raised after a jury  
15 is impaneled to try the issues raised by a plea of not guilty and the court  
16 determines that the defendant is incompetent to proceed or orders a  
17 court-ordered competency evaluation, the court may declare a mistrial.  
18 Declaration of a mistrial under these circumstances does not constitute  
19 jeopardy, nor does it prohibit the trial or sentencing of the defendant for  
20 the same offense after ~~he or she~~ THE DEFENDANT has been found restored  
21 to competency.

22 **SECTION 4.** In Colorado Revised Statutes, 16-8.5-104, **amend**  
23 (1) introductory portion, (3), (4), and (6); and **add** (4.5) as follows:

24 **16-8.5-104. Waiver of privilege.** (1) When a defendant raises the  
25 issue of competency to proceed, or when the court determines that the  
26 defendant is incompetent to proceed, ~~and orders that the defendant~~  
27 ~~undergo restoration treatment~~ any claim by the defendant to

1 confidentiality or privilege is deemed waived ~~and~~ IN THE CASE IN WHICH  
2 COMPETENCY IS RAISED AND FOR RECORDS OR INFORMATION FROM ANY  
3 PRIOR CRIMINAL CASE IN WHICH THE DEFENDANT RAISED THE ISSUE OF  
4 COMPETENCY OR IN WHICH THE COURT DETERMINED THAT THE  
5 DEFENDANT WAS INCOMPETENT TO PROCEED. The district attorney, the  
6 defense attorney, and the court are granted access, without written  
7 consent of the defendant or further order of the court, to:

8 (3) An evaluator or a facility providing competency evaluation or  
9 restoration treatment services pursuant to a court order issued pursuant to  
10 ~~this article is authorized to provide, and~~ ARTICLE 8.5 shall provide  
11 procedural information to the court, district attorney, or defense counsel,  
12 concerning the defendant's location, the defendant's hospital or facility  
13 admission status, the status of evaluation procedures, and other  
14 procedural information relevant to the case.

15 (4) Nothing in this section limits the court's ability to order that  
16 information in addition to ~~that set forth~~ THE INFORMATION DESCRIBED in  
17 subsections (1) and (3) of this section be provided to the evaluator, or to  
18 either party to the case, nor does it limit the information that is available  
19 after the written consent of the defendant.

20 (4.5) THE COURT MAY, UPON THE REQUEST OF EITHER PARTY,  
21 ISSUE AN ORDER TO ASSIST A PARTY IN ACCESSING, RECEIVING COPIES OF,  
22 OR DISCUSSING WITH AN EVALUATOR OR TREATMENT PROVIDER  
23 INFORMATION OR RECORDS WHICH THE PARTY HAS THE RIGHT TO ACCESS  
24 PURSUANT TO THE DEFENDANT'S WAIVER OF PRIVILEGE. IF A PARTY  
25 REQUESTS SUCH AN ORDER, THE COURT SHALL ALLOW THE OPPOSING  
26 PARTY TO MAKE ANY LEGAL OBJECTION, INCLUDING WHETHER THE  
27 REQUESTED INFORMATION IS WITHIN THE SCOPE OF THE DEFENDANT'S

1 WAIVER OF PRIVILEGE, AND CONSIDER ANY REQUESTS FOR PROTECTIVE  
2 ORDERS PRIOR TO ISSUING THE COURT ORDER. THIS SECTION DOES NOT  
3 LIMIT THE COURT'S ABILITY TO ORDER INFORMATION BE PROVIDED TO A  
4 PARTY WITH THE WRITTEN CONSENT OF THE DEFENDANT.

5 (6) Statements made by the defendant in the course of any  
6 evaluation ~~shall~~ MUST be protected ~~as provided~~ IN ACCORDANCE WITH  
7 section 16-8.5-108.

8 **SECTION 5.** In Colorado Revised Statutes, **add** 16-8.5-104.5 as  
9 follows:

10 **16-8.5-104.5. Availability of records.** (1) WHENEVER THE  
11 COURT ORDERS A COMPETENCY EVALUATION OF THE DEFENDANT  
12 PURSUANT TO SECTION 16-8.5-103 OR THE COURT FINDS THE DEFENDANT  
13 INCOMPETENT TO PROCEED PURSUANT TO SECTION 16-8.5-111, THE COURT  
14 SHALL ORDER THE DEPARTMENT TO CONDUCT A SEARCH FOR ANY PRIOR  
15 COMPETENCY EVALUATIONS OF THE DEFENDANT IN THE DEPARTMENT'S  
16 POSSESSION FROM ANY OTHER CRIMINAL CASE. WITHIN SEVENTY-TWO  
17 HOURS OF RECEIVING THE COURT'S ORDER, THE DEPARTMENT SHALL FILE  
18 THE DEFENDANT'S PRIOR COMPETENCY EVALUATIONS WITH THE COURT  
19 AND THE COURT SHALL MAKE THE PRIOR EVALUATIONS AVAILABLE TO  
20 EACH PARTY PURSUANT TO SECTION 16-8.5-104 (1).

21 (2) WITHIN SEVENTY-TWO HOURS OF RECEIVING A DEFENDANT'S  
22 REQUEST FOR RECORDS, THE SHERIFF OR TREATMENT PROVIDER SHALL  
23 PROVIDE THE DEFENDANT COPIES OF ANY RECORDS THAT RELATE TO THE  
24 DEFENDANT'S COMPETENCY, INCLUDING ANY RECORDS WITHIN THE SCOPE  
25 OF THE DEFENDANT'S WRITTEN CONSENT, IF THE DEFENDANT:

26 (a) PROVIDES A WRITTEN CONSENT FOR RECORDS PURSUANT TO  
27 SECTION 16-8.5-104;

1 (b) RAISED THE ISSUE OF COMPETENCY PURSUANT TO SECTION  
2 16-8.5-103; OR

3 (c) IS FOUND INCOMPETENT TO PROCEED PURSUANT TO SECTION  
4 16-8.5-111.

5 (3) WITHIN SEVENTY-TWO HOURS OF RECEIVING THE  
6 DEPARTMENT'S REQUEST FOR RECORDS, THE SHERIFF OR TREATMENT  
7 PROVIDER SHALL PROVIDE THE DEPARTMENT COPIES OF ANY RECORDS  
8 WITHIN THE SCOPE OF THE DEFENDANT'S WRITTEN CONSENT OR WAIVER OF  
9 PRIVILEGE PURSUANT TO SECTION 16-8.5-104 THAT RELATE TO THE  
10 DEFENDANT'S COMPETENCY. THE DEPARTMENT'S REQUEST MUST BE:

11 (a) IN WRITING AND STATE THAT THE DEPARTMENT MUST ACCESS  
12 THE RECORDS IN ORDER TO COMPLY WITH A COURT ORDER FOR A  
13 COMPETENCY EVALUATION PURSUANT TO SECTION 16-8.5-103 AND THAT  
14 THE DEPARTMENT IS ENTITLED TO RECEIVE THE RECORDS PURSUANT TO  
15 THE DEFENDANT'S WAIVER OF PRIVILEGE PURSUANT TO SECTION  
16 16-8.5-104; OR

17 (b) ACCOMPANIED BY THE DEFENDANT'S WRITTEN CONSENT FOR  
18 RECORDS PURSUANT TO SECTION 16-8.5-104.

19 **SECTION 6.** In Colorado Revised Statutes, 16-8.5-105, **amend**  
20 (1)(a)(I), (1)(b.7), (5) introductory portion, (5)(c), (5)(d), (5)(e), and  
21 (5)(f); **amend as they will become effective July 1, 2024**, (4) and  
22 (5)(h)(II); and **add** (1)(b.6) and (5)(c.5) as follows:

23 **16-8.5-105. Evaluations, locations, time frames, and report.**

24 (1) (a) (I) The court shall order that the competency evaluation be  
25 conducted on an outpatient basis or, if the defendant is unable to post the  
26 monetary condition of bond or is ineligible to be released on bond, at the  
27 place where the defendant is in-custody, except as provided in subsection

1 (1)(b) of this section. If the department conducts the evaluation on an  
2 in-custody basis, the department shall begin the evaluation as soon as  
3 practicable after the department's receipt of a court order directing the  
4 evaluation. ~~After July 1, 2020,~~ If the evaluation is conducted on an  
5 in-custody basis, the department shall complete the evaluation no later  
6 than twenty-one days after receipt of the order and the collateral  
7 materials. ~~On and after July 1, 2020,~~ If the evaluation is conducted on an  
8 out-of-custody basis, the department shall complete the evaluation within  
9 forty-two days after receipt of the order and collateral materials, unless  
10 the court extends the time upon a showing of good cause.

11 (b.6) IF THE EVALUATOR HAS CONCLUDED THAT THE DEFENDANT  
12 IS INCOMPETENT TO PROCEED AND THAT INPATIENT RESTORATION  
13 SERVICES ARE NOT CLINICALLY APPROPRIATE, THE DEPARTMENT SHALL  
14 DETAIL THE OUTPATIENT AND OUT-OF-CUSTODY RESTORATION SERVICES  
15 AVAILABLE TO THE DEFENDANT.

16 (b.7) ~~On and after July 1, 2020,~~ When the court orders an inpatient  
17 evaluation, the defendant must be offered admission to the hospital or  
18 other inpatient program within fourteen days after receipt of the court  
19 order and collateral materials. The court shall review the case in  
20 twenty-one days to determine if transportation to the hospital or program  
21 has been completed or if further orders are necessary.

22 (4) A written report of the evaluation must be prepared in  
23 triplicate and delivered to the clerk of the court that ordered it. The clerk  
24 shall provide a copy of the report both to the prosecuting attorney and the  
25 DEFENDANT'S counsel. ~~for the defendant.~~ The department may utilize the  
26 e-filing system to deliver the report to the court and serve it upon the  
27 parties. Without reducing any other timelines set forth in this article 8.5,

1 the competency evaluator shall provide the written report to the court  
2 within fourteen days after finishing meeting or attempting to meet with  
3 the ~~respondent~~ DEFENDANT to evaluate the ~~respondent's~~ DEFENDANT'S  
4 competency.

5 (5) ~~On and after July 1, 2020,~~ The competency evaluation and  
6 report must include, but need not be limited to:

7 (c) ~~A diagnosis and prognosis of the defendant's mental disability~~  
8 ~~or developmental disability~~ A DESCRIPTION OF MEDICATIONS RECENTLY  
9 PRESCRIBED TO THE DEFENDANT AND WHETHER THE DEFENDANT HAS  
10 TAKEN THE MEDICATIONS AS PRESCRIBED, WHETHER THE MEDICATIONS  
11 WERE TAKEN VOLUNTARILY OR ADMINISTERED THROUGH A FORCED  
12 MEDICATION ORDER, AND WHAT EFFECT THE MEDICATIONS HAVE ON THE  
13 DEFENDANT;

14 (c.5) A DESCRIPTION OF ANY PRIOR CASES KNOWN TO THE  
15 DEPARTMENT IN WHICH THE DEFENDANT RAISED THE ISSUE OF  
16 COMPETENCY OR THE DEFENDANT WAS FOUND INCOMPETENT TO PROCEED,  
17 INCLUDING THE JURISDICTION OF THE CASE AND THE CASE NUMBER, AND:

18 (I) THE NUMBER OF PRIOR CASES IN WHICH THE DEFENDANT HAS  
19 BEEN FOUND INCOMPETENT TO PROCEED;

20 (II) IF THE COURT FOUND THE DEFENDANT RESTORED TO  
21 COMPETENCY AND IF RESTORATION TREATMENT WAS PROVIDED TO THE  
22 DEFENDANT;

23 (III) ANY PRIOR OPINION FROM A FORENSIC EVALUATOR  
24 CONTRACTED OR EMPLOYED BY THE DEPARTMENT THAT THE DEFENDANT  
25 COULD NOT BE RESTORED TO COMPETENCY WITHIN THE REASONABLY  
26 FORESEEABLE FUTURE; AND

27 (IV) A DESCRIPTION OF ALL COMPETENCY EVALUATIONS OR



1 RESTORATION SERVICES THAT WERE PREVIOUSLY PROVIDED TO THE  
2 DEFENDANT;

3 (d) An opinion as to whether the defendant CURRENTLY suffers  
4 from a mental disability or developmental disability. IF THE OPINION OF  
5 THE COMPETENCY EVALUATOR IS THAT THE DEFENDANT SUFFERS FROM A  
6 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THEN THE REPORT  
7 MUST INCLUDE AN OPINION AS TO THE DIAGNOSIS AND THE PROGNOSIS OF  
8 THE DEFENDANT'S MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY.

9 (e) An opinion as to whether the defendant is competent to  
10 proceed OR INCOMPETENT TO PROCEED. If the opinion of the competency  
11 evaluator is that the defendant is incompetent to proceed, then THE  
12 REPORT MUST INCLUDE:

13 (I) ~~(A) If possible,~~ An opinion as to whether there is a substantial  
14 probability that the defendant, with restoration services, will attain  
15 competency within the reasonably foreseeable future; AND

16 ~~(B) When, pursuant to the requirements of subsection (5)(f) of this~~  
17 ~~section, the evaluator is aware that any court within the previous five~~  
18 ~~years has found the defendant is incompetent to proceed and there is a~~  
19 ~~substantial probability that with restoration services the defendant will not~~  
20 ~~attain competency within the reasonably foreseeable future, the evaluator~~  
21 ~~shall provide an opinion regarding the probability of restoration pursuant~~  
22 ~~to this subsection (5)(e)(I) and, when the opinion is that there is a~~  
23 ~~substantial probability of attaining competency within the reasonably~~  
24 ~~foreseeable future, the evaluator shall state why the defendant's~~  
25 ~~circumstances are different from the prior court's finding;~~

26 ~~(C) When the defendant is diagnosed with a moderate to severe~~  
27 ~~intellectual or developmental disability, acquired or traumatic brain~~

1 injury, or dementia, which either alone or together with a co-occurring  
2 mental illness affects the defendant's ability to gain or maintain  
3 competency, the evaluator shall provide an opinion as to whether there is  
4 a substantial probability that the defendant with restoration services will  
5 attain competency within the reasonably foreseeable future. When the  
6 opinion is that there is a substantial probability of attaining competency,  
7 the evaluator shall specifically state whether the evaluator believes there  
8 are unique or different services outside the standard competency  
9 restoration curriculum developed by the department that the defendant  
10 may need in order to be restored to competency within the reasonably  
11 foreseeable future.

12 (D) When the defendant has been found incompetent to proceed  
13 pursuant to section 16-8.5-103 three or more times over the previous three  
14 years in the current case or any other case, even if the defendant is later  
15 restored, the evaluator shall specifically identify those instances of  
16 findings of incompetency as a part of the review required pursuant to  
17 subsection (5)(f) of this section. The evaluator shall provide an opinion  
18 as to whether there is a substantial probability that the defendant with  
19 restoration services will attain competency within the reasonably  
20 foreseeable future and maintain competency throughout the case.

21 (II) A recommendation AN OPINION as to whether inpatient  
22 restoration services are clinically appropriate to restore the defendant to  
23 competency. If inpatient restoration services are not clinically appropriate,  
24 the department must detail the outpatient and out-of-custody restoration  
25 services available to the defendant. For evaluation reports filed on or after  
26 January 1, 2021, the recommendations must be based upon the restoration  
27 placement guideline developed pursuant to section 16-8.5-121, prior to

1 its repeal.

2 (f) ~~If available within the records of the department, a description~~  
3 ~~of all competency evaluations or restoration services that were previously~~  
4 ~~provided to the defendant, including a list of recent voluntary or~~  
5 ~~involuntary medications administered or administered through a forced~~  
6 ~~medication order;~~ AN OPINION AS TO WHETHER THERE IS A SUBSTANTIAL  
7 PROBABILITY THAT THE DEFENDANT, WITH RESTORATION SERVICES, WILL  
8 ATTAIN COMPETENCY WITHIN THE REASONABLY FORESEEABLE FUTURE,  
9 AND:

10 (I) IF ANY COURT WITHIN THE PREVIOUS FIVE YEARS FOUND THE  
11 DEFENDANT INCOMPETENT TO PROCEED AND THAT THE DEFENDANT  
12 WOULD NOT ATTAIN COMPETENCY WITHIN THE REASONABLY FORESEEABLE  
13 FUTURE, AN OPINION AS TO WHY THE DEFENDANT'S CURRENT  
14 CIRCUMSTANCES ARE DIFFERENT FROM THE PRIOR COURT'S FINDINGS; AND

15 (II) IF THE DEFENDANT HAS BEEN FOUND INCOMPETENT TO  
16 PROCEED AFTER BEING FOUND COMPETENT TO PROCEED THREE OR MORE  
17 TIMES WITHIN THE PREVIOUS FIVE YEARS, AN OPINION AS TO WHETHER,  
18 EVEN IF RESTORED, THE DEFENDANT WILL MAINTAIN COMPETENCY  
19 THROUGHOUT THE CURRENT CASE.

20 (h) The competency evaluator's opinion and the information and  
21 factors considered in making determinations as to whether the defendant:

22 (II) Meets the criteria for a certification for short-term treatment  
23 pursuant to section 27-65-108.5 or 27-65-109 and, if the defendant meets  
24 such criteria, whether the evaluator believes the defendant could be  
25 treated on an outpatient basis pursuant to section 27-65-111. In assessing  
26 whether the defendant with a pending criminal charge is a danger to self  
27 or others or is gravely disabled, if the person is incarcerated, the

1 competency evaluator or professional person, as defined in section  
2 27-65-102, and the court shall not rely on the fact that the defendant is  
3 incarcerated or is an inpatient in a medical facility to establish that the  
4 defendant is not a danger to self or others or is not gravely disabled. If it  
5 is the evaluator's opinion that the defendant meets criteria for certification  
6 for short-term treatment pursuant to section 27-65-108.5 or 27-65-109,  
7 the evaluator is not required to request a petition for certification for  
8 short-term treatment of the defendant in a court with jurisdiction pursuant  
9 to ~~section 16-8.5-111(2)(a)~~ SECTION 16-8.5-111 (3).

10 **SECTION 7.** In Colorado Revised Statutes, **amend** 16-8.5-107  
11 as follows:

12 **16-8.5-107. Counsel and evaluators for indigent defendants.**

13 In all proceedings ~~under this article~~ BROUGHT PURSUANT TO THIS ARTICLE  
14 8.5, the court shall appoint A competency ~~evaluators or attorneys~~  
15 EVALUATOR OR AN ATTORNEY for a THE defendant at ~~state~~ THE STATE'S  
16 expense upon motion of the defendant with proof that ~~he or she~~ THE  
17 DEFENDANT is indigent and without ~~funds~~ MONEY to employ A  
18 competency ~~evaluators or attorneys~~ EVALUATOR OR ATTORNEY to which  
19 ~~he or she~~ THE DEFENDANT is entitled ~~under~~ PURSUANT TO this ~~article~~  
20 ARTICLE 8.5. THE COURT SHALL PAY FOR A SECOND EVALUATION if a  
21 second evaluation is requested by an indigent defendant. ~~it shall be paid~~  
22 ~~for by the court.~~

23 **SECTION 8.** In Colorado Revised Statutes, 16-8.5-108, **amend**  
24 (1)(c) and (2) as follows:

25 **16-8.5-108. Evidence.** (1) (c) If the defendant testifies on ~~his or~~  
26 ~~her~~ THE DEFENDANT'S own behalf upon the trial of the issues raised by the  
27 plea of not guilty or, for offenses that occurred before July 1, 1995, a plea

1 of not guilty by reason of impaired mental condition, or at a sentencing  
2 hearing held pursuant to section 18-1.3-1201 for an offense charged prior  
3 to July 1, 2020, or pursuant to section 18-1.3-1302 for an offense charged  
4 prior to July 1, 2020, or pursuant to section 18-1.4-102, ~~the provisions of~~  
5 this section ~~shall~~ DOES not bar any evidence used to impeach or rebut the  
6 defendant's testimony.

7 (2) In any hearing concerning competency to proceed or  
8 restoration to competency, competency evaluators and other experts may  
9 testify as to ~~their~~ THE conclusions reached from their examination of  
10 hospital records, laboratory reports, X rays, electroencephalograms, and  
11 psychological test results if the material that ~~they~~ THE EVALUATORS OR  
12 EXPERTS examined in reaching their conclusions is produced at the time  
13 of the hearing. Nothing in this section prevents the parties from obtaining  
14 the information authorized by section 16-8.5-104 prior to the hearing.

15 **SECTION 9.** In Colorado Revised Statutes, 16-8.5-109, **amend**  
16 (1), (2)(b), and (3) as follows:

17 **16-8.5-109. Advisement on matters to be determined.**

18 (1) When a determination is to be made as to a defendant's competency  
19 to proceed, the court shall explain to the defendant the nature and  
20 consequences of the proceeding and the rights of the defendant under this  
21 section. The defendant, if ~~he or she~~ THE DEFENDANT wishes to contest the  
22 question, may request a competency hearing that THE COURT shall ~~then be~~  
23 ~~granted~~ GRANT as a matter of right.

24 (2) At a competency hearing, the defendant and the prosecuting  
25 attorney are entitled:

26 (b) To examine any reports of the COMPETENCY evaluation or  
27 other matter to be considered by the court as bearing upon the

1 determination;

2 (3) The court may examine or cross-examine any witness called  
3 by the defendant or prosecuting attorney at a competency hearing and  
4 may summon and examine witnesses on ~~its~~ THE COURT'S own motion.

5 **SECTION 10.** In Colorado Revised Statutes, **amend** 16-8.5-110  
6 as follows:

7 **16-8.5-110. Testimony of lay witnesses.** In any hearing at which  
8 the competency of the defendant is an issue, witnesses not specially  
9 trained in psychiatry or psychology and not testifying as expert witnesses  
10 may testify as to ~~their~~ THE WITNESS'S observation of the defendant's  
11 actions and conduct and as to conversations that ~~they have~~ THE WITNESS  
12 had with the defendant bearing upon the defendant's mental condition.  
13 Any such witnesses, as part of ~~their~~ THE WITNESS'S testimony, ~~shall~~ MUST  
14 be permitted to give ~~their~~ opinions or conclusions concerning the  
15 competency of the defendant.

16 **SECTION 11.** In Colorado Revised Statutes, **repeal and reenact,**  
17 **with amendments,** 16-8.5-111 as follows:

18 **16-8.5-111. Procedure after determination of competency or**  
19 **incompetency. (1) Competent to proceed.** IF THE FINAL  
20 DETERMINATION MADE PURSUANT TO SECTION 16-8.5-103 IS THAT THE  
21 DEFENDANT IS COMPETENT TO PROCEED, THE JUDGE SHALL ORDER THAT  
22 THE SUSPENDED PROCEEDING CONTINUE OR, IF A MISTRIAL WAS DECLARED,  
23 SHALL RESET THE CASE FOR TRIAL AT THE EARLIEST POSSIBLE DATE.

24 **(2) Restoration services ordered.** IF THE FINAL DETERMINATION  
25 MADE PURSUANT TO SECTION 16-8.5-103 IS THAT THE DEFENDANT IS  
26 INCOMPETENT TO PROCEED AND THE COURT FINDS THERE IS SUBSTANTIAL  
27 PROBABILITY THAT THE DEFENDANT, WITH RESTORATION SERVICES, WILL

1       ATTAIN COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE, THE  
2       COURT HAS THE FOLLOWING REQUIREMENTS AND OPTIONS:

3               (a) IF THE DEFENDANT IS OUT OF CUSTODY OR WILL BE RELEASED  
4       SOON, THE COURT SHALL ORDER THE RESTORATION SERVICES TAKE PLACE  
5       ON AN OUTPATIENT BASIS UNLESS THE RECOMMENDATION FROM THE  
6       DEPARTMENT IS THAT INPATIENT RESTORATION SERVICES ARE CLINICALLY  
7       APPROPRIATE AND:

8               (I) THE COURT SHALL ORDER THAT THE DEFENDANT PARTICIPATE  
9       IN RESTORATION SERVICES AS A CONDITION OF ANY BOND;

10              (II) THE COURT MAY ORDER THAT THE DEFENDANT COOPERATE  
11       WITH PRETRIAL SERVICES, IF AVAILABLE, AND THE COURT MAY ORDER  
12       PRETRIAL SERVICES TO WORK WITH THE DEFENDANT, THE DEPARTMENT,  
13       AND THE RESTORATION SERVICES PROVIDER UNDER CONTRACT WITH THE  
14       DEPARTMENT TO ASSIST IN SECURING APPROPRIATE SUPPORT AND CARE  
15       MANAGEMENT SERVICES FOR THE DEFENDANT, WHICH MAY INCLUDE  
16       HOUSING RESOURCES; AND

17              (III) THE COURT SHALL CONDUCT A NONAPPEARANCE REVIEW  
18       FOURTEEN DAYS AFTER THE DEFENDANT'S RELEASE FROM CUSTODY TO  
19       ENSURE THE DEFENDANT HAS BEEN RELEASED. IF THE DEFENDANT IS NOT  
20       RELEASED BY THE DATE OF THE NONAPPEARANCE REVIEW, THE COURT  
21       SHALL SET A HEARING TO DETERMINE WHETHER THE DEFENDANT WILL BE  
22       RELEASED OR TO ENTER AN ORDER PURSUANT TO SUBSECTION (2)(c) OF  
23       THIS SECTION.

24              (b) IF THE COURT DETERMINES THE DEFENDANT IS INCOMPETENT  
25       TO PROCEED AND IS IN CUSTODY ON A MISDEMEANOR, PETTY OFFENSE, OR  
26       TRAFFIC OFFENSE, THE COURT SHALL SET A HEARING ON BOND WITHIN  
27       SEVEN DAYS AFTER THE COURT'S FINAL DETERMINATION THAT THE

1 DEFENDANT IS INCOMPETENT TO PROCEED. AT THE BOND HEARING, THERE  
2 IS A PRESUMPTION THAT THE COURT SHALL ORDER A PERSONAL  
3 RECOGNIZANCE BOND AND ENTER AN ORDER FOR RESTORATION SERVICES  
4 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. IN ORDER TO DENY THE  
5 DEFENDANT A PERSONAL RECOGNIZANCE BOND AND ENTER AN ORDER TO  
6 COMMIT THE DEFENDANT FOR INPATIENT RESTORATION SERVICES  
7 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, THE COURT SHALL  
8 MAKE FINDINGS OF FACT THAT EXTRAORDINARY CIRCUMSTANCES EXIST TO  
9 OVERCOME THE PRESUMPTION OF RELEASE BY CLEAR AND CONVINCING  
10 EVIDENCE. IF THE COURT DENIES A PERSONAL RECOGNIZANCE BOND, THE  
11 COURT SHALL NOTIFY THE DEPARTMENT OF THE SPECIFIC FINDINGS THE  
12 COURT MADE TO DENY THE PERSONAL RECOGNIZANCE BOND.

13 (c) IF THE COURT FINDS THAT THE DEFENDANT IS NOT ELIGIBLE FOR  
14 RELEASE FROM CUSTODY OR NOT ABLE TO POST THE MONETARY  
15 CONDITION OF BOND, OR THE COURT APPROVES A RECOMMENDATION FROM  
16 THE DEPARTMENT THAT INPATIENT RESTORATION SERVICES ARE  
17 CLINICALLY APPROPRIATE, THE COURT SHALL COMMIT THE DEFENDANT TO  
18 THE CUSTODY OF THE DEPARTMENT AND ORDER INPATIENT RESTORATION  
19 SERVICES.

20 (3) **Certification for short-term treatment.** (a) (I) IF THE FINAL  
21 DETERMINATION MADE PURSUANT TO SECTION 16-8.5-103 IS THAT THE  
22 DEFENDANT IS INCOMPETENT TO PROCEED, REGARDLESS OF WHETHER THE  
23 COURT FINDS THAT THERE IS A SUBSTANTIAL PROBABILITY THAT THE  
24 DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY  
25 WITHIN THE REASONABLY FORESEEABLE FUTURE, THE DISTRICT  
26 ATTORNEY; A PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102;  
27 A REPRESENTATIVE OF THE BEHAVIORAL HEALTH ADMINISTRATION IN THE



1 DEPARTMENT; OR A REPRESENTATIVE OF THE OFFICE OF CIVIL AND  
2 FORENSIC MENTAL HEALTH MAY REQUEST TO INITIATE A PETITION FOR  
3 CERTIFICATION FOR SHORT-TERM TREATMENT OF THE DEFENDANT IN A  
4 COURT WITH JURISDICTION.

5 (II) THE COURT SHALL HEAR AND CONSIDER ANY OBJECTIONS  
6 FROM THE DEFENDANT PRIOR TO ORDERING THE REQUESTING PARTY TO  
7 INITIATE A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT  
8 PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION.

9 (III) THE COURT MAY ORDER INITIATION OF CERTIFICATION FOR  
10 SHORT-TERM TREATMENT ONLY:

11 (A) IF THE COURT FINDS REASONABLE GROUNDS TO BELIEVE THAT  
12 THE DEFENDANT MEETS THE STANDARD FOR A CERTIFICATION FOR  
13 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR  
14 27-65-109; AND

15 (B) IF THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A PETTY  
16 OFFENSE, TRAFFIC OFFENSE, OR MISDEMEANOR OFFENSE, OR WITH THE  
17 AGREEMENT OF THE PROSECUTING ATTORNEY, REGARDLESS OF THE  
18 SEVERITY OF THE CHARGE.

19 (b) IF THE COURT REQUIRES THE REQUESTING PARTY TO INITIATE  
20 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SUBSECTION  
21 (3)(a) OF THIS SECTION:

22 (I) THE PROSECUTING ATTORNEY AND THE DEPARTMENT SHALL  
23 TRANSMIT ANY NECESSARY INFORMATION, INCLUDING MEDICAL RECORDS,  
24 COMPETENCY EVALUATIONS, MATERIALS USED IN THE COMPETENCY  
25 PROCESS, AND RESTORATION RECORDS, TO THE REQUESTING PARTY AND  
26 SHALL COOPERATE WITH THE REQUESTING PARTY IN FILING A PETITION FOR  
27 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION

1 27-65-108.5 OR 27-65-109;

2 (II) THE REQUESTING PARTY SHALL FILE A NOTICE IN THE CRIMINAL  
3 CASE WHEN THE PETITION FOR CERTIFICATION FOR SHORT-TERM  
4 TREATMENT IS FILED PURSUANT TO SECTION 27-65-108.5 OR 27-65-109;

5 (III) THE BEHAVIORAL HEALTH ADMINISTRATION IN THE  
6 DEPARTMENT SHALL, DIRECTLY OR THROUGH A CONTRACT, PROVIDE CARE  
7 COORDINATION SERVICES PURSUANT TO SECTION 27-65-108 AFTER THE  
8 CERTIFICATION FOR SHORT-TERM TREATMENT IS FILED PURSUANT TO  
9 SECTION 27-65-108.5 OR 27-65-109; AND

10 (IV) THE COURT MAY, UPON THE COURT'S OWN MOTION, FORGO AN  
11 ORDER FOR RESTORATION SERVICES AND DISMISS THE CHARGES AGAINST  
12 THE DEFENDANT WITHOUT PREJUDICE WHEN THE CERTIFICATION FOR  
13 SHORT-TERM TREATMENT IS INITIATED IF THE HIGHEST CHARGED OFFENSE  
14 IS A PETTY OFFENSE, TRAFFIC OFFENSE, OR MISDEMEANOR OFFENSE; OR

15 (V) THE COURT MAY, WITH THE AGREEMENT OF THE PROSECUTING  
16 ATTORNEY AND DEFENDANT, STAY THE RESTORATION ORDER TO ALLOW  
17 CERTIFICATION FOR SHORT-TERM TREATMENT PROCEEDINGS TO OCCUR  
18 AND TO ALLOW THE DISTRICT ATTORNEY TO CONSIDER WHETHER  
19 DISMISSAL OF THE CASE IS APPROPRIATE. IN DETERMINING WHETHER  
20 DISMISSAL IS APPROPRIATE WHILE THE CRIMINAL MATTER IS PENDING, THE  
21 DEFENDANT, THE DEFENDANT'S ATTORNEY IN THE CRIMINAL MATTER, AND  
22 THE PROSECUTING ATTORNEY IN THE CRIMINAL MATTER HAVE ACCESS TO  
23 LIMITED INFORMATION ABOUT ANY CIVIL PROCEEDINGS AGAINST THE  
24 DEFENDANT PURSUANT TO SECTIONS 27-65-108.5, 27-65-109, 27-65-110,  
25 AND 27-65-111. ANY INFORMATION OBTAINED MUST BE KEPT  
26 CONFIDENTIAL UNLESS DISCLOSURE IS OTHERWISE AUTHORIZED BY LAW.  
27 THE COURT SHALL NOT EXTEND THE DEFENDANT'S CRIMINAL CASE PAST

1 THE TIME LIMITS SET FORTH IN SECTION 16-8.5-116.5. THE LIMITED  
2 INFORMATION THAT THE DEFENDANT, DEFENDANT'S ATTORNEY, AND  
3 PROSECUTING ATTORNEY MAY ACCESS INCLUDES:

4 (A) WHETHER CIVIL PROCEEDINGS ARE PENDING OR ONGOING;

5 (B) WHETHER THE DEFENDANT IS SUBJECT TO CERTIFICATION FOR  
6 SHORT-TERM OR LONG-TERM TREATMENT AND WHETHER THE DEFENDANT  
7 IS BEING TREATED IN AN INPATIENT OR OUTPATIENT SETTING;

8 (C) THE DATE AND TIME OF THE PROCEEDINGS, EVEN IF THE  
9 PROCEEDINGS ARE CONFIDENTIAL OR CLOSED TO THE PROSECUTING  
10 ATTORNEY OR THE DEFENDANT'S CRIMINAL ATTORNEY; AND

11 (D) THE FINAL DISPOSITION OF THE PROCEEDING.

12 (4) **Restoration hearing.** (a) IF THE FINAL DETERMINATION MADE  
13 PURSUANT TO SECTION 16-8.5-103 IS THAT THE DEFENDANT IS  
14 INCOMPETENT TO PROCEED AND THE EVALUATOR OPINES AT ANY TIME  
15 THAT THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT,  
16 WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY WITHIN THE  
17 REASONABLY FORESEEABLE FUTURE, THE COURT SHALL SET A HEARING  
18 WITHIN THE TIME FRAME SET FORTH IN SECTION 16-8.5-113 (5). IF THE  
19 COURT RECEIVES THE EVALUATOR'S OPINION PRIOR TO ENTERING A  
20 RESTORATION ORDER, THE COURT SHALL SET THE HEARING IN LIEU OF  
21 ORDERING RESTORATION TREATMENT.

22 (b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION  
23 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND  
24 THE EVALUATOR OPINES AT ANY TIME THAT THE DEFENDANT'S DIAGNOSIS  
25 LIKELY INCLUDES A MODERATE TO SEVERE INTELLECTUAL OR  
26 DEVELOPMENTAL DISABILITY, A MODERATE TO SEVERE ACQUIRED OR  
27 TRAUMATIC BRAIN INJURY, OR A NONREVERSIBLE DEGENERATIVE BRAIN

1 DISEASE, ANY OF WHICH EITHER ALONE OR TOGETHER WITH A  
2 CO-OCCURRING MENTAL ILLNESS SUBSTANTIALLY AFFECTS THE  
3 DEFENDANT'S ABILITY TO GAIN OR MAINTAIN COMPETENCY, THE COURT  
4 SHALL SET A HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION  
5 16-8.5-113 (5) ON THE ISSUE OF WHETHER THERE IS A SUBSTANTIAL  
6 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY  
7 IN THE REASONABLY FORESEEABLE FUTURE. IF THE COURT RECEIVES THE  
8 EVALUATOR'S OPINION PRIOR TO ENTERING A RESTORATION ORDER, THE  
9 COURT SHALL SET A HEARING IN LIEU OF ORDERING RESTORATION  
10 TREATMENT.

11 (c) AT ANY HEARING CONDUCTED PURSUANT TO SUBSECTION  
12 (4)(a) OR (4)(b) OF THIS SECTION:

13 (I) AN ADMITTED REPORT OR TESTIMONY FROM A QUALIFIED  
14 EXPERT OPINING THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND  
15 THAT THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT,  
16 WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY WITHIN THE  
17 REASONABLY FORESEEABLE FUTURE IS PRIMA FACIE EVIDENCE THAT  
18 CREATES A PRESUMPTION OF FACT. AN ADMITTED REPORT OR TESTIMONY  
19 FROM A QUALIFIED EXPERT WHO OPINES THAT THE DEFENDANT'S  
20 DIAGNOSIS LIKELY INCLUDES A MODERATE TO SEVERE INTELLECTUAL OR  
21 DEVELOPMENTAL DISABILITY, A MODERATE TO SEVERE ACQUIRED OR  
22 TRAUMATIC BRAIN INJURY, OR NONREVERSIBLE DEGENERATIVE BRAIN  
23 DISEASE, ANY OF WHICH EITHER ALONE OR TOGETHER WITH A  
24 CO-OCCURRING MENTAL ILLNESS AFFECTS THE DEFENDANT'S ABILITY TO  
25 GAIN OR MAINTAIN COMPETENCY, IS PRIMA FACIE EVIDENCE OF AND  
26 CREATES A PRESUMPTION THAT THE DEFENDANT IS INCOMPETENT TO  
27 PROCEED AND THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE

1 DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY  
2 WITHIN THE REASONABLY FORESEEABLE FUTURE.

3 (II) IF THE COURT HAS NOT YET ORDERED RESTORATION SERVICES  
4 AND RESTORATION SERVICES HAVE NOT BEEN PROVIDED, A PARTY  
5 ATTEMPTING TO OVERCOME THE PRESUMPTION MUST PROVE BY A  
6 PREPONDERANCE OF THE EVIDENCE THAT THERE IS A VIABLE RESTORATION  
7 TREATMENT THAT WILL RESTORE THE DEFENDANT TO COMPETENCY AND  
8 A SUBSTANTIAL PROBABILITY THAT RESTORATION EFFORTS WILL BE  
9 SUCCESSFUL WITHIN THE REASONABLY FORESEEABLE FUTURE;

10 (III) IF THE DEFENDANT'S DIAGNOSIS INCLUDES A MODERATE TO  
11 SEVERE INTELLECTUAL OR DEVELOPMENTAL DISABILITY, A MODERATE TO  
12 SEVERE ACQUIRED OR TRAUMATIC BRAIN INJURY, OR NONREVERSIBLE  
13 DEGENERATIVE BRAIN DISEASE, WHETHER OR NOT CO-OCCURRING WITH A  
14 MENTAL ILLNESS THAT SUBSTANTIALLY AFFECTS THE DEFENDANT'S  
15 ABILITY TO GAIN OR MAINTAIN COMPETENCY, THE PARTY ATTEMPTING TO  
16 OVERCOME THE PRESUMPTION MUST SHOW BY CLEAR AND CONVINCING  
17 EVIDENCE THAT THERE IS A VIABLE RESTORATION TREATMENT THAT IS  
18 SUBSTANTIALLY LIKELY TO RESTORE THE DEFENDANT TO COMPETENCY IN  
19 THE REASONABLY FORESEEABLE FUTURE; AND

20 (IV) IF THE COURT HAS ORDERED RESTORATION SERVICES AND THE  
21 COURT FINDS RECENT RESTORATION SERVICES HAVE BEEN ATTEMPTED  
22 AND THE DEFENDANT WAS NOT RESTORED TO COMPETENCY, A PARTY  
23 ATTEMPTING TO OVERCOME THE PRESUMPTION MUST PROVE BY CLEAR  
24 AND CONVINCING EVIDENCE THAT THE DEFENDANT, WITH CONTINUED  
25 RESTORATION SERVICES, WILL ATTAIN COMPETENCY IN THE REASONABLY  
26 FORESEEABLE FUTURE AND THAT THE DEFENDANT CAN MAINTAIN  
27 COMPETENCY THROUGH THE ADJUDICATION OF THE CASE.

1 (d) AT THE CONCLUSION OF ANY HEARING SET PURSUANT TO  
2 SUBSECTION (4)(a) OR (4)(b) OF THIS SECTION:

3 (I) IF THE COURT DOES NOT FIND THAT THE PARTY ASSERTING THAT  
4 THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT, WITH  
5 RESTORATION SERVICES, WILL ATTAIN COMPETENCY IN THE REASONABLY  
6 FORESEEABLE FUTURE HAS OVERCOME THE PRESUMPTION, THE COURT  
7 SHALL DISMISS THE CASE PURSUANT TO SECTION 16-8.5-116.5 (1)(a);  
8 EXCEPT THAT THE COURT MAY STAY THE DISMISSAL, IF APPROPRIATE, AS  
9 PROVIDED IN SECTION 16-8.5-116.5 (8); AND

10 (II) IF THE COURT FINDS THAT THE PARTY ASSERTING THAT THERE  
11 IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT, WITH  
12 RESTORATION SERVICES, WILL ATTAIN COMPETENCY IN THE REASONABLY  
13 FORESEEABLE FUTURE HAS OVERCOME THE PRESUMPTION, THE COURT  
14 SHALL ORDER APPROPRIATE RESTORATION SERVICES AND SET A REVIEW.

15 (5) **Dismissal of charges.** TO ENSURE COMPLIANCE WITH  
16 RELEVANT CONSTITUTIONAL PRINCIPLES, IF THE COURT AT ANY POINT  
17 DETERMINES THAT THERE IS NOT A SUBSTANTIAL PROBABILITY THAT THE  
18 DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE  
19 REASONABLY FORESEEABLE FUTURE, THE COURT SHALL, UPON MOTION OF  
20 THE DISTRICT ATTORNEY, THE DEFENDANT, OR ON ITS OWN MOTION,  
21 DISMISS THE CRIMINAL PROCEEDINGS PURSUANT TO SECTION 16-8.5-116.5  
22 (1)(a). SUBJECT TO THE PROVISIONS AND PRESUMPTIONS OF THIS SECTION  
23 THAT MAY APPLY, A COURT SHALL NOT CONTINUE CRIMINAL PROCEEDINGS  
24 AGAINST AN INCOMPETENT DEFENDANT, EXCEPT TO STAY A DISMISSAL  
25 PURSUANT TO SECTION 16-8.5-116.5 (8), UNLESS, AFTER PROPER  
26 EVALUATION, THE COURT FINDS IT MORE LIKELY THAN NOT THAT THE  
27 DEFENDANT WILL BE RESTORED TO COMPETENCY IN THE REASONABLY

1 FORESEEABLE FUTURE.

2           **(6) Defendant's volitional lack of cooperation or unwillingness**  
3 **to participate - definition.** (a) NOTHING IN THIS ARTICLE 8.5 PROHIBITS  
4 THE COURT FROM FINDING THAT THE DEFENDANT IS NOT RESTORABLE TO  
5 COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE BASED ON THE  
6 DEFENDANT'S VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO  
7 PARTICIPATE IN RESTORATION SERVICES AND TREATMENT IF THE  
8 DEFENDANT COULD BE RESTORED TO COMPETENCY IN THE REASONABLY  
9 FORESEEABLE FUTURE IF THE DEFENDANT COOPERATED AND PARTICIPATED  
10 IN THE RESTORATION SERVICES AND TREATMENT.

11           (b) FOR THE PURPOSES OF THIS SUBSECTION (6), "VOLITIONAL LACK  
12 OF COOPERATION OR UNWILLINGNESS TO PARTICIPATE" INCLUDES THE  
13 DEFENDANT NOT ATTENDING RESTORATION SERVICES OR THE  
14 DEFENDANT'S REFUSAL TO TAKE PRESCRIBED MEDICATIONS, ESPECIALLY  
15 WHEN THE DEFENDANT INTENDS TO AVOID OR DELAY THE COURT CASE  
16 FROM PROCEEDING. "VOLITIONAL LACK OF COOPERATION OR  
17 UNWILLINGNESS TO PARTICIPATE" DOES NOT INCLUDE ACTS THAT RESULT  
18 FROM THE BONA FIDE MEDICAL OR MENTAL HEALTH DISORDER FOR WHICH  
19 THE DEFENDANT IS INCOMPETENT OR A DEFENDANT'S ATTEMPT TO RAISE  
20 A BONA FIDE, GOOD FAITH CONCERN ABOUT MEDICATION SIDE EFFECTS  
21 AND RISKS.

22           **(7) Outpatient restoration services.** IF THE DEFENDANT IS OUT  
23 OF CUSTODY AND THE COURT HAS ORDERED RESTORATION SERVICES  
24 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION:

25           (a) PURSUANT TO SECTION 27-60-105, THE DEPARTMENT IS THE  
26 ENTITY RESPONSIBLE FOR THE COORDINATION OF ALL COMPETENCY  
27 RESTORATION SERVICES, INCLUDING THE OVERSIGHT OF RESTORATION

1 EDUCATION;

2 (b) THE RESTORATION SERVICES PROVIDER UNDER CONTRACT WITH  
3 THE DEPARTMENT SHALL NOTIFY THE COURT, THE DEPARTMENT, AND ANY  
4 OTHER DESIGNATED AGENCY WITHIN TWENTY-ONE DAYS AFTER THE  
5 COURT'S ORDER IF RESTORATION SERVICES HAVE NOT STARTED AND  
6 INCLUDE A DESCRIPTION OF THE EFFORTS THAT HAVE BEEN MADE TO  
7 ENGAGE THE DEFENDANT IN SERVICES; AND

8 (c) IF THE DEPARTMENT DETERMINES THAT THE DEPARTMENT IS  
9 UNABLE, WITHIN A REASONABLE TIME, TO PROVIDE RESTORATION  
10 SERVICES ON AN OUTPATIENT BASIS, THE DEPARTMENT SHALL NOTIFY THE  
11 COURT WITHIN FOURTEEN DAYS AFTER THE DEPARTMENT'S  
12 DETERMINATION, AT WHICH POINT THE COURT SHALL REVIEW THE CASE  
13 AND DETERMINE WHAT INTERIM MENTAL HEALTH SERVICES THE  
14 DEPARTMENT OR A COMMUNITY PROVIDER CAN PROVIDE TO THE  
15 DEFENDANT. IF A COURT LIAISON IS APPOINTED, THE DEPARTMENT SHALL  
16 REPORT TO THE COURT LIAISON EVERY TWENTY-EIGHT DAYS CONCERNING  
17 THE AVAILABILITY OF RESTORATION SERVICES ON AN OUTPATIENT BASIS  
18 TO THE DEFENDANT.

19 (8) **Inpatient restoration services.** (a) IF THE COURT COMMITS  
20 THE DEFENDANT TO THE CUSTODY OF THE DEPARTMENT AND ORDERS  
21 INPATIENT RESTORATION SERVICES:

22 (I) THE EXECUTIVE DIRECTOR SHALL DESIGNATE A STATE FACILITY  
23 OR FACILITIES WHERE THE DEFENDANT IS HELD FOR CARE AND  
24 PSYCHIATRIC TREATMENT AND RECEIVES RESTORATION SERVICES, AND  
25 MAY TRANSFER THE DEFENDANT FROM ONE FACILITY TO ANOTHER IF, IN  
26 THE OPINION OF THE DIRECTOR, DOING SO IS IN THE BEST INTEREST OF  
27 PROPER CARE, CUSTODY, AND TREATMENT OF THE DEFENDANT OR THE



1 PROTECTION OF THE PUBLIC OR THE PERSONNEL OF THE FACILITIES IN  
2 QUESTION. THE DEPARTMENT SHALL PROVIDE RESTORATION SERVICES AT  
3 AN APPROPRIATE INPATIENT PROGRAM.

4 (II) THE DEPARTMENT SHALL ADMIT TIER 1 DEFENDANTS FOR  
5 RESTORATION SERVICES WITHIN SEVEN DAYS AFTER RECEIPT OF THE  
6 COURT ORDER AND COLLATERAL MATERIALS;

7 (III) THE DEPARTMENT SHALL ADMIT TIER 2 DEFENDANTS FOR  
8 RESTORATION SERVICES WITHIN TWENTY-EIGHT DAYS AFTER RECEIPT OF  
9 THE COURT ORDER AND COLLATERAL MATERIALS AND SHALL ADVISE THE  
10 COURT AND THE COURT LIAISON, IF APPLICABLE, EVERY TWENTY-EIGHT  
11 DAYS AFTER THE INITIAL TWENTY-EIGHT-DAY PERIOD REGARDING THE  
12 AVAILABILITY OF AN INPATIENT BED AND WHEN ADMISSION WILL BE  
13 OFFERED TO THE DEFENDANT.

14 (b) IF A DEFENDANT IS RECEIVING INPATIENT RESTORATION  
15 SERVICES AND THE EXECUTIVE DIRECTOR CONCLUDES THAT:

16 (I) A LESS-RESTRICTIVE FACILITY WOULD BE MORE CLINICALLY  
17 APPROPRIATE, THE EXECUTIVE DIRECTOR, WITH PROPER NOTICE TO THE  
18 COURT AND CONSISTENT WITH THE PROVISIONS OF PART 3 OF ARTICLE 4.1  
19 OF TITLE 24, MAY MOVE THE DEFENDANT TO A LESS-RESTRICTIVE FACILITY  
20 IF, IN THE EXECUTIVE DIRECTOR'S OPINION, THE DEFENDANT IS NOT YET  
21 RESTORED TO COMPETENCY BUT COULD BE PROPERLY RESTORED TO  
22 COMPETENCY IN A LESS-RESTRICTIVE FACILITY. IF THE DEFENDANT IS NOT  
23 RELEASED FROM CUSTODY, THE COURT SHALL ORDER THE DEPARTMENT TO  
24 PROVIDE INPATIENT SERVICES AT A LOCATION DETERMINED BY THE  
25 DEPARTMENT.

26 (II) OUTPATIENT RESTORATION SERVICES WOULD BE MORE  
27 CLINICALLY APPROPRIATE, THE DEPARTMENT SHALL:

1 (A) NOTIFY THE COURT AND REQUEST THAT THE DEFENDANT BE  
2 CONSIDERED FOR RELEASE ON A NONMONETARY BOND IF THE DEFENDANT  
3 IS NOT CURRENTLY RELEASED ON BOND; AND

4 (B) PROVIDE TO THE COURT INFORMATION REGARDING THE  
5 APPROPRIATE OUTPATIENT RESTORATION SERVICES, DEVELOPED IN  
6 CONJUNCTION WITH THE COURT LIAISON, WHEN ASSIGNED, AND THE  
7 REASONS WHY THE DEFENDANT COULD BE PROPERLY RESTORED TO  
8 COMPETENCY ON AN OUTPATIENT BASIS.

9 (c) IF THE DEFENDANT POSTS BOND OR THE COURT ORDERS  
10 OUTPATIENT RESTORATION SERVICES IN LIEU OF CONTINUED INPATIENT  
11 SERVICES, OR IF THE DEPARTMENT BELIEVES THAT THE DEFENDANT IS  
12 RESTORED TO COMPETENCY AND THE DEFENDANT IS TO BE RELEASED TO  
13 THE COMMUNITY RATHER THAN JAIL UPON DISCHARGE, THE DEPARTMENT  
14 SHALL:

15 (I) ASSIST THE DEFENDANT WITH ANY NECESSARY  
16 TRANSPORTATION;

17 (II) PROVIDE THE NECESSARY CASE AND MEDICATION  
18 INFORMATION FOR THE DEFENDANT TO THE COMMUNITY AGENCY THAT  
19 WILL PROVIDE ONGOING SERVICES, MEDICATION SUPPORT, AND CONTINUED  
20 RESTORATION SERVICES, IF APPLICABLE;

21 (III) NOTIFY THE COURT AND THE COURT LIAISON, IF APPLICABLE,  
22 THAT THE DEFENDANT WAS RELEASED AND THE DEFENDANT'S COMMUNITY  
23 BOND STATUS; AND

24 (IV) COORDINATE WITH THE COURT; PRETRIAL SERVICES, IF  
25 APPLICABLE; AND THE COURT LIAISON, IF APPLICABLE TO ENSURE THE  
26 DEFENDANT RECEIVES WRITTEN NOTICE OF THE DEFENDANT'S NEXT COURT  
27 APPEARANCE AND BOND CONDITIONS.

1 (d) IF THE DEFENDANT IS DISCHARGED FROM THE DEPARTMENT'S  
2 CUSTODY AFTER RECEIVING INPATIENT RESTORATION SERVICES AND THE  
3 DEFENDANT IS TO BE RETURNED TO THE CUSTODY OF THE COUNTY JAIL,  
4 THE DEPARTMENT SHALL:

5 (I) NOTIFY THE SHERIFF OF THE JURISDICTION WHERE THE  
6 DEFENDANT IS TO BE RETURNED;

7 (II) NOTIFY THE COURT AND THE COURT LIAISON, IF APPLICABLE,  
8 THAT THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE CUSTODY  
9 OF THE COUNTY JAIL; AND

10 (III) WORK WITH THE SHERIFF AND ANY BEHAVIORAL HEALTH  
11 PROVIDERS IN THE COUNTY JAIL TO ENSURE THAT THE COUNTY JAIL HAS  
12 THE NECESSARY INFORMATION TO PREVENT ANY DECOMPENSATION BY THE  
13 DEFENDANT WHILE THE DEFENDANT IS IN THE COUNTY JAIL, WHICH MUST  
14 INCLUDE MEDICATION INFORMATION WHEN CLINICALLY APPROPRIATE.

15 (9) **Return to custody of county jail.** WHEN THE DEPARTMENT  
16 SUBMITS A REPORT TO THE COURT THAT THE DEPARTMENT'S POSITION IS  
17 THAT THE DEFENDANT IS RESTORED TO COMPETENCY, THE DEFENDANT  
18 MUST BE RETURNED TO THE CUSTODY OF THE COUNTY JAIL. THE SHERIFF  
19 SHALL RETURN THE DEFENDANT TO THE CUSTODY OF THE COUNTY JAIL  
20 WITHIN SEVENTY-TWO HOURS AFTER RECEIPT OF THE DEPARTMENT'S  
21 NOTICE.

22 **SECTION 12.** In Colorado Revised Statutes, 16-8.5-112, **amend**  
23 (1), (2), and (3) as follows:

24 **16-8.5-112. Venue for collateral hearings.** (1) If a defendant  
25 committed to the custody of the department for evaluation or for  
26 restoration treatment meets the constitutional requirements for the  
27 administration of involuntary medication, the defendant's treating

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

11 (2) A petition for involuntary treatment ~~shall~~ MUST be heard in the  
12 court of the jurisdiction where the defendant is located. The department  
13 shall promptly deliver a copy of the order granting or denying the petition  
14 to the court that committed the defendant to the custody of the  
15 department, the prosecuting attorney, and the defendant's legal  
16 representation in the criminal case, if such representation exists, and to  
17 the defendant directly if ~~he or she~~ THE DEFENDANT does not have legal  
18 representation.

19 (3) If the committing court elects to transfer venue for medication  
20 hearings to the court of the jurisdiction ~~in which~~ WHERE the defendant is  
21 located, the committing county shall reimburse the county ~~in which~~  
22 WHERE the proceeding is heard for the reasonable costs incurred in  
23 conducting the proceeding. Alternatively, the district attorney for the  
24 committing county, or in any county or any city and county having a  
25 population exceeding fifty thousand ~~persons~~ PEOPLE, the county attorney  
26 for the committing county, may prosecute the proceeding as the  
27 proponent of the physician's petition.

1           **SECTION 13.** In Colorado Revised Statutes, 16-8.5-113, **amend**  
2 (1), (2), (5), and (6) as follows:

3           **16-8.5-113. Restoration to competency.** (1) The court may order  
4 a restoration hearing at any time on its own motion, on motion of the  
5 prosecuting attorney, or on motion of the defendant; EXCEPT THAT THE  
6 COURT SHALL ORDER A RESTORATION HEARING WHEN REQUIRED  
7 PURSUANT TO SECTION 16-8.5-111 (4)(a) OR (4)(b).

8           (2) Within fourteen days after receipt of a report from the  
9 department or other court-approved provider of restoration services  
10 certifying that the defendant is competent to proceed, either party may  
11 request a hearing or a second evaluation. The court shall determine  
12 whether to allow the second evaluation or proceed to a hearing on  
13 competency. If the second evaluation is requested by the court or by an  
14 indigent defendant, ~~it~~ THE EVALUATION must be paid for by the court.

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

20           (6) At the hearing, THE PARTY ASSERTING THAT THE DEFENDANT  
21 IS COMPETENT HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE  
22 EVIDENCE AND the burden of submitting evidence. ~~and the burden of~~  
23 ~~proof by a preponderance of the evidence shall be upon the party~~  
24 ~~asserting that the defendant is competent.~~ At the hearing, the court shall  
25 determine whether the defendant is restored to competency.

26           **SECTION 14.** In Colorado Revised Statutes, 16-8.5-116, **amend**  
27 (2)(b) introductory portion, (2)(c) introductory portion, (2)(c)(V),

1 (2)(c)(VI), (3), and (5); **repeal** (1) and (4); and **add** (2)(c)(VII) as  
2 follows:

3 **16-8.5-116. Certification - reviews - rules.** (1) ~~Subject to the~~  
4 ~~time periods and legal standards set forth in this section, whichever is~~  
5 ~~shortest, a defendant committed to the custody of the department or~~  
6 ~~otherwise confined as a result of a determination of incompetency to~~  
7 ~~proceed must not remain confined for a period in excess of the maximum~~  
8 ~~term of confinement that could be imposed for only the single most~~  
9 ~~serious offense with which the defendant is charged, less thirty percent~~  
10 ~~for a misdemeanor offense and less fifty percent for a felony offense. At~~  
11 ~~the end of such time period, the court shall dismiss the charges, and~~  
12 ~~certification proceedings or provision of services, if any, are governed by~~  
13 ~~article 65 or 10.5 of title 27.~~

14 (2) (b) ~~On and after July 1, 2020,~~ At least ten days before each  
15 review, the individual or entity evaluating the defendant shall provide the  
16 court with a report describing:

17 (c) ~~Additionally, on and after July 1, 2020,~~ At least ten days  
18 before each review, the department treating team shall provide to the  
19 court an additional report that summarizes:

20 (V) The opinion of the treating team on the defendant's mental  
21 health functioning and ability to function on an outpatient basis for  
22 restoration services; **and**

23 (VI) Whether the defendant, based on observations of the  
24 defendant's behavior in the facility, presents a substantial risk to the  
25 physical safety of ~~himself or herself~~ THE DEFENDANT'S SELF, of another  
26 person, or of the community if released for community restoration; **AND**

27 (VII) ANY OPINIONS WHICH WOULD BE REQUIRED DURING AN

1 INITIAL EVALUATION PURSUANT TO SECTION 16-8.5-105 (5)(f).

2 (3) After the initial review pursuant to subsection (2)(a) of this  
3 section, the court shall review the case of the defendant every ninety-one  
4 days. ~~thereafter until four reviews have been conducted.~~ At least ten days  
5 before each review, the individual or entity evaluating the defendant shall  
6 provide the court with an updated report as described in subsection (2)(b)  
7 of this section and the treatment staff shall provide an updated summary  
8 of observations as described in subsection (2)(c) of this section.

9 (4) ~~After the fourth review, the court shall review the competency~~  
10 ~~of the defendant every ninety-one days until the defendant is restored to~~  
11 ~~competency or the court determines, based on available evidence, that~~  
12 ~~there is not a substantial probability that the defendant will be restored to~~  
13 ~~competency in the reasonably foreseeable future. If the court determines~~  
14 ~~based on available evidence there is not a substantial probability that the~~  
15 ~~defendant will be restored to competency in the reasonably foreseeable~~  
16 ~~future, the court shall dismiss the case subject to the provisions of~~  
17 ~~subsection (10) of this section.~~

18 (5) The court shall forward a copy of each report and summary  
19 received pursuant to ~~subsections (2), (3), and (4)~~ SUBSECTIONS (2) AND (3)  
20 of this section to the county attorney or district attorney required to  
21 conduct proceedings pursuant to section 27-65-113 (6) for the county in  
22 which the case is pending and, when a court liaison is appointed, to the  
23 court liaison.

24 **SECTION 15.** In Colorado Revised Statutes, **add with amended**  
25 **and relocated provisions** 16-8.5-116.5 as follows:

26 **16-8.5-116.5. Restoration - time limits - dismissal of charges -**  
27 **exceptions - rules.** (1) [Formerly 16-8.5-116 IP(6)] Notwithstanding the

1 ~~time periods provided in subsections (7), (8), and (9) of this section and~~  
2 To ensure compliance with relevant constitutional principles, for any  
3 offense for which the defendant is ordered to receive competency  
4 restoration services in an inpatient or outpatient setting, if the court  
5 determines, based on available evidence, that there is not a substantial  
6 probability that the defendant, WITH RESTORATION SERVICES, will be  
7 restored to competency within the reasonably foreseeable future, the  
8 court: ~~may order the defendant's release from commitment pursuant to~~  
9 ~~this article 8.5 through one or more of the following means:~~

10 (a) ~~[Formerly 16-8.5-116 (6)(a)] Upon motion of the district~~  
11 ~~attorney, the defendant, or on its own motion, the court may terminate~~  
12 SHALL DISMISS the criminal proceedings, the commitment, or the  
13 restoration services order UPON MOTION OF THE DISTRICT ATTORNEY, THE  
14 DEFENDANT, OR ON ITS OWN MOTION;

15 (b) **[Formerly 16-8.5-116 (6)(b) as it will become effective July**  
16 **1, 2024]** ~~If the court finds reasonable grounds to believe the defendant~~  
17 ~~meets criteria for a certification for short-term treatment pursuant to~~  
18 ~~section 27-65-108.5 or 27-65-109, the court May order the district~~  
19 ~~attorney, or upon request from the district attorney, a professional person,~~  
20 ~~as defined in section 27-65-102; a representative of the behavioral health~~  
21 ~~administration in the department; or a representative of the office of civil~~  
22 ~~and forensic mental health to initiate, in a court with jurisdiction, a~~  
23 ~~proceeding for a certification for short-term treatment of the defendant~~  
24 ~~pursuant to section 27-65-108.5 or 27-65-109 IF THE COURT FINDS~~  
25 ~~REASONABLE GROUNDS TO BELIEVE THE DEFENDANT MEETS CRITERIA FOR~~  
26 ~~A CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION~~  
27 ~~27-65-108.5 OR 27-65-109;~~



1 (c) ~~[Formerly 16-8.5-116 (6)(c)] In the case of a defendant who~~  
2 ~~has been found eligible for services pursuant to article 10.5 of title 27 due~~  
3 ~~to an intellectual and developmental disability, the court~~ MAY, or a party  
4 may, initiate an action to restrict the rights of the defendant pursuant to  
5 article 10.5 of title 27 IN THE CASE OF A DEFENDANT WHO HAS BEEN  
6 FOUND ELIGIBLE FOR SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27  
7 DUE TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY; or

8 (d) ~~[Formerly 16-8.5-116 (6)(d)] On and after July 1, 2020, the~~  
9 ~~department shall~~ SHALL REQUIRE THE DEPARTMENT TO ensure that case  
10 management services and support are made available to any defendant  
11 released from commitment pursuant to this article 8.5 due to the  
12 substantial probability that the defendant will not be restored to  
13 competency in the ~~reasonable~~ REASONABLY foreseeable future.

14 (2) AT A REVIEW HEARING HELD CONCERNING THE DEFENDANT'S  
15 COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE CHARGES  
16 AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM  
17 CONFINEMENT PURSUANT TO SUBSECTION (8) OF THIS SECTION IF:

18 (a) THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A PETTY  
19 OFFENSE OR TRAFFIC OFFENSE AND THE DEFENDANT HAS BEEN IN THE  
20 DEPARTMENT'S CUSTODY FOR RESTORATION SERVICES OR HAS BEEN  
21 CONFINED IN A JAIL OR OTHER DETENTION FACILITY AWAITING TRANSPORT  
22 TO THE DEPARTMENT FOR COURT-ORDERED RESTORATION FOR AN  
23 AGGREGATE TIME OF SEVEN DAYS; AND

24 (b) THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE,  
25 THAT THE DEFENDANT REMAINS INCOMPETENT TO PROCEED.

26 (3) AT A REVIEW HEARING HELD CONCERNING THE DEFENDANT'S  
27 COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE CHARGES

1 AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM  
2 CONFINEMENT PURSUANT TO SUBSECTION (8) OF THIS SECTION IF:

3 (a) THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A CLASS 2  
4 MISDEMEANOR OR ANY MISDEMEANOR DRUG OFFENSE AND THE  
5 DEFENDANT HAS BEEN IN THE DEPARTMENT'S CUSTODY FOR RESTORATION  
6 SERVICES OR HAS BEEN CONFINED IN A JAIL OR OTHER DETENTION FACILITY  
7 AWAITING TRANSPORT TO THE DEPARTMENT FOR COURT-ORDERED  
8 RESTORATION FOR AN AGGREGATE TIME OF NINETY DAYS; AND

9 (b) THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE,  
10 THAT THE DEFENDANT REMAINS INCOMPETENT TO PROCEED.

11 (4) [Formerly 16-8.5-116 (7)] At any A review hearing held  
12 concerning the defendant's competency to proceed, the court shall dismiss  
13 the charges against the defendant and release the defendant from  
14 confinement ~~subject to the provisions of subsection (10)~~ PURSUANT TO  
15 SUBSECTION (8) of this section if:

16 (a) ~~The defendant:~~

17 ~~(I) Is charged with a misdemeanor, a misdemeanor drug offense,~~  
18 ~~a petty offense, or a traffic offense;~~

19 ~~(II) Has been committed to the custody of the department or~~  
20 ~~otherwise confined as a result of a determination of incompetency to~~  
21 ~~proceed;~~

22 ~~(III) Has received competency restoration services while~~  
23 ~~committed or otherwise confined for an aggregate time of six months; and~~

24 THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A CLASS 1  
25 MISDEMEANOR OR IS A LEVEL 4 DRUG FELONY AND THE DEFENDANT HAS  
26 BEEN IN THE DEPARTMENT'S CUSTODY FOR RESTORATION SERVICES OR HAS  
27 BEEN CONFINED IN A JAIL OR OTHER DETENTION FACILITY AWAITING

1 TRANSPORT TO THE DEPARTMENT FOR COURT-ORDERED RESTORATION FOR  
2 AN AGGREGATE TIME OF SIX MONTHS; AND

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

5 (5) [Formerly 16-8.5-116 (8)] At any A review hearing held  
6 concerning the defendant's competency to proceed, the court shall dismiss  
7 the charges against the defendant and release the defendant from  
8 confinement ~~subject to the provisions of subsection (10)~~ PURSUANT TO  
9 SUBSECTION (8) of this section if:

10 (a) ~~The defendant:~~

11 ~~(I) Is charged with a class 5 or class 6 felony, except for those~~  
12 ~~offenses enumerated in section 24-4.1-302 (1), or with a level 3 or level~~  
13 ~~4 drug felony;~~

14 ~~(II) Has been committed to the custody of the department or~~  
15 ~~otherwise confined as a result of a determination of incompetency to~~  
16 ~~proceed; and~~

17 ~~(III) Has received competency restoration services while~~  
18 ~~committed or otherwise confined for an aggregate time of one year; and~~

19 THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A CLASS 5 OR CLASS 6  
20 FELONY, EXCEPT FOR THOSE OFFENSES ENUMERATED IN SECTION  
21 24-4.1-302 (1) OR THE OFFENSE IS A LEVEL 3 DRUG FELONY, AND THE  
22 DEFENDANT HAS BEEN IN THE DEPARTMENT'S CUSTODY FOR RESTORATION  
23 SERVICES OR HAS BEEN CONFINED IN A JAIL OR OTHER DETENTION FACILITY  
24 AWAITING TRANSPORT TO THE DEPARTMENT FOR COURT-ORDERED  
25 RESTORATION FOR AN AGGREGATE PERIOD OF ONE YEAR; AND

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

1 (6) AT A REVIEW HEARING HELD CONCERNING THE DEFENDANT'S  
2 COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE CHARGES  
3 AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM  
4 CONFINEMENT PURSUANT TO SUBSECTION (8) OF THIS SECTION, IF:

5 (a) THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A CLASS 4  
6 FELONY AND THE DEFENDANT HAS BEEN IN THE DEPARTMENT'S CUSTODY  
7 FOR RESTORATION SERVICES OR HAS BEEN CONFINED IN A JAIL OR OTHER  
8 DETENTION FACILITY AWAITING TRANSPORT TO THE DEPARTMENT FOR  
9 COURT-ORDERED RESTORATION FOR AN AGGREGATE PERIOD OF TWO  
10 YEARS; AND

11 (b) THE COURT DETERMINES, BASED ON AVAILABLE EVIDENCE,  
12 THAT THE DEFENDANT REMAINS INCOMPETENT TO PROCEED.

13 (7) **[Formerly 16-8.5-116 (9)]** SUBSECTIONS (2), (3), (4), (5), AND  
14 (6) OF THIS SECTION DO NOT APPLY if the defendant is charged with **any**  
15 ~~other felony offense except~~ a class 1, 2, or 3 felony offense; a sex offense  
16 as defined in section 18-1.3-1003 (5); a crime of violence as defined in  
17 section 18-1.3-406 (2); or a level 1 or level 2 drug felony. ~~and has been~~  
18 ~~committed to the custody of the department or otherwise confined as a~~  
19 ~~result of a determination of incompetency to proceed the following~~  
20 ~~provisions apply:~~

21 (a) ~~If the defendant has received competency restoration services~~  
22 ~~while committed or otherwise confined for an aggregate time of two years~~  
23 ~~and the court determines, based on available evidence, that the defendant~~  
24 ~~is not restored to competency, then the court shall dismiss the charges~~  
25 ~~against the defendant, subject to the provisions of subsection (10) of this~~  
26 ~~section, unless any party objects to dismissal.~~

27 (b) ~~If a party objects to dismissal of charges pursuant to~~

1 subsection (9)(a) of this section, the court shall set the matter for a  
2 hearing. Upon completion of the hearing, the court shall dismiss the  
3 charges unless the court determines that the party objecting to the  
4 dismissal establishes by clear and convincing evidence that there is a  
5 compelling public interest in continuing the prosecution and there is a  
6 substantial probability that the defendant will attain competency in the  
7 foreseeable future. If the court declines to dismiss the charges, the court  
8 shall address the appropriateness of continued confinement and may alter  
9 or reduce bond if appropriate pursuant to article 4 of this title 16 or the  
10 decision to commit the defendant to the department pursuant to section  
11 16-8.5-111.

12 (8) [Formerly 16-8.5-116 (10) as it will become effective July 1,  
13 2024] Prior to the dismissal of charges pursuant to subsection (1), (4), (6),  
14 (7), (8), or (9) of this section OR SECTION 16-8.5-111 (5), unless the court  
15 has already ordered a person to initiate proceedings for a certification for  
16 short-term treatment, the court shall make findings whether there are  
17 reasonable grounds to believe the person meets the standard for a  
18 certification for short-term treatment. If the court finds there are  
19 reasonable grounds, the court may stay the dismissal for thirty-five days  
20 and notify any professional person, as defined in section 27-65-102, a  
21 representative of the behavioral health administration in the department,  
22 or a representative of the office of civil and forensic mental health who  
23 has recently treated or interacted with the defendant that there are  
24 reasonable grounds for short-term treatment and afford the person an  
25 opportunity to pursue certification proceedings or to arrange necessary  
26 services.

27 (9) PRIOR TO THE DISMISSAL OF CHARGES PURSUANT TO SECTION

1 16-8.5-111 (5), WHEN THE DEFENDANT'S DIAGNOSIS INCLUDES A  
2 MODERATE OR SEVERE INTELLECTUAL OR DEVELOPMENTAL DISABILITY, A  
3 MODERATE OR SEVERE ACQUIRED OR TRAUMATIC BRAIN INJURY, OR  
4 NON-REVERSIBLE DEGENERATIVE BRAIN DISEASE, THE COURT MAY STAY  
5 THE DISMISSAL FOR THIRTY-FIVE DAYS. IF THE COURT STAYS THE  
6 DISMISSAL, THE COURT SHALL NOTIFY A GOVERNMENT ENTITY OR  
7 COMMUNITY-BASED ORGANIZATION THAT IS CAPABLE OF PROVIDING  
8 RESOURCES TO THE DEFENDANT UPON DISMISSAL OF CHARGES.

9 (10) **[Formerly 16-8.5-116 (11)]** In any circumstance ~~where~~ WHEN  
10 the defendant's case was dismissed or the defendant was released from  
11 confinement, the court shall enter a written decision explaining why the  
12 court did or did not terminate the criminal proceeding or the commitment  
13 or restoration order.

14 (11) **[Formerly 16-8.5-116 (12)]** If charges against a defendant are  
15 dismissed pursuant to this section OR SECTION 16-8.5-111 (5), such  
16 charges are not eligible for sealing pursuant to section 24-72-705.

17 (12) **[Formerly 16-8.5-116 (13)]** The department shall promulgate  
18 such rules as necessary to consistently enforce the provisions of this  
19 article 8.5.

20 (13) **[Formerly 16-8.5-116 (14)]** ~~On and after July 1, 2020,~~ The  
21 court may, at any time ~~of~~ DURING the restoration process, order the  
22 department to provide the court with an appropriate release plan for the  
23 reintegration of the defendant into the community with appropriate  
24 services.

25 (14) **[Formerly 16-8.5-116 (15)]** When the defendant is charged  
26 with an offense in municipal court and the defendant is found  
27 incompetent to proceed, or when civil commitment proceedings are

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

3 (15) IF A DEFENDANT IS IN CUSTODY AND THE DEPARTMENT DOES  
4 NOT COMPLY WITH THE TIME LIMITS SET FORTH IN SECTION 16-8.5-111,  
5 THE DEFENDANT IS SUBJECT TO THE TIME LIMITS SET FORTH IN  
6 SUBSECTIONS (2), (3), (4), (5), AND (6) OF THIS SECTION AND, BASED UPON  
7 THE BEST AVAILABLE EVIDENCE, THE DEFENDANT WILL NOT BE ADMITTED  
8 TO AN INPATIENT FACILITY TO BEGIN RESTORATION WITHIN THE TIME  
9 LIMITS DESCRIBED IN THE APPLICABLE SUBSECTION, THE COURT MAY  
10 RELEASE THE DEFENDANT OR DISMISS THE CASE IN LIEU OF THE  
11 DEFENDANT REMAINING IN CUSTODY ON A WAIT LIST FOR RESTORATION  
12 SERVICES.

13 (16) WHEN A DEFENDANT IS IN CUSTODY AND IS FOUND  
14 INCOMPETENT TO PROCEED, AT EVERY SUBSEQUENT REVIEW OF THE  
15 DEFENDANT'S CASE, THE COURT SHALL MAKE A FINDING ON THE RECORD  
16 REGARDING THE EXPIRATION OF APPLICABLE TIME LIMITS SET FORTH IN  
17 THIS SECTION.

18 (17) IF A DEFENDANT FILES A MOTION ALLEGING THE COURT IS  
19 REQUIRED TO DISMISS THE CASE BECAUSE A TIME LIMIT IN THIS SECTION  
20 HAS EXPIRED, THE DEFENDANT IS ENTITLED TO A TIMELY HEARING AND  
21 RULING ON THE MOTION.

22 **SECTION 16.** In Colorado Revised Statutes, **amend** 16-8.5-117  
23 as follows:

24 **16-8.5-117. Escape - return to institution.** If a defendant  
25 committed to the custody of the executive director for a competency  
26 evaluation or for restoration to competency escapes from the institution  
27 or hospital, ~~it is the duty~~ of the chief officer of the institution or hospital

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

9             **SECTION 17.** In Colorado Revised Statutes, **amend** 16-8.5-118  
10     as follows:

11             **16-8.5-118. Temporary removal for treatment and**  
12     **rehabilitation.** The chief officer of an institution ~~in which~~ WHERE a  
13     defendant has been committed ~~under this article~~ PURSUANT TO THIS  
14     ARTICLE 8.5 may authorize treatment and rehabilitation activities  
15     involving temporary physical removal of the ~~person~~ DEFENDANT from the  
16     institution ~~in which~~ WHERE the defendant has been placed ~~according to~~ IN  
17     ACCORDANCE WITH the procedures and requirements of section 16-8-118.

18             **SECTION 18.** In Colorado Revised Statutes, 27-60-105, **amend**  
19     (2) as follows:

20             **27-60-105. Outpatient restoration to competency services -**  
21     **jail-based behavioral health services - responsible entity - duties -**  
22     **report - legislative declaration.** (2) The state department serves as a  
23     central organizing structure and responsible entity for the provision of  
24     competency restoration education services and coordination of  
25     competency restoration services ordered by the court pursuant to ~~section~~  
26     ~~16-8.5-111 (2)(b) or 19-2.5-704 (2)~~ SECTION 16-8.5-111 (2) OR  
27     19-2.5-704 (2), and the behavioral health administration serves as the



1 central organizing structure and responsible entity for jail-based  
2 behavioral health services pursuant to section 27-60-106.

3 **SECTION 19.** In Colorado Revised Statutes, **repeal of relocated**  
4 **provisions in this act,** 16-8.5-116 IP(6), (6)(a), (6)(c), (6)(d), (7), (8), (9),  
5 (11), (12), (13), (14), and (15) and 16-8.5-116 (6)(b) and (10) as they will  
6 become effective July 1, 2024.

7 **SECTION 20. Act subject to petition - effective date.** This act  
8 takes effect at 12:01 a.m. on the day following the expiration of the  
9 ninety-day period after final adjournment of the general assembly; except  
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
11 of the state constitution against this act or an item, section, or part of this  
12 act within such period, then the act, item, section, or part will not take  
13 effect unless approved by the people at the general election to be held in  
14 November 2024 and, in such case, will take effect on the date of the  
15 official declaration of the vote thereon by the governor.

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

Attachment E

**BILL C**

LLS NO. 24-0276.01 Jason Gelender x4330

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Fields**, Rodriguez

**HOUSE SPONSORSHIP**

**English**, Amabile

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Senate Committees

House Committees

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**A BILL FOR AN ACT**

101      **CONCERNING ONGOING FUNDING FOR THE COLORADO 911 RESOURCE**  
102            **CENTER, AND, IN CONNECTION THEREWITH, REQUIRING**  
103            **REPORTING TO ENSURE THAT THE FUNDING IS BEING EXPENDED**  
104            **EFFICIENTLY AND EFFECTIVELY, AND MAKING AN**  
105            **APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and**

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.

**Juvenile Justice Systems.** The bill requires the general assembly to annually appropriate \$250,000 from the general fund to the department of regulatory agencies for use by the public utilities commission (PUC) to fund the operations of the Colorado 911 resource center (center). The center is required to provide to the PUC quarterly a report outlining the use of the funding provided, and the PUC is required to include an accounting of the expenditure and uses of this funding in an annual report that current law requires it to make to the members of the general assembly.

To help ensure that the training, guidance, and assistance provided by the center to 911 professionals, including public safety access point (PSAP) personnel, local 911 emergency call service authorities, and PSAPs, is useful and is being effectively implemented, and that the funding provided by the bill is being expended efficiently and effectively, the center is required to:

- Survey 911 professionals regarding their perception of the quality of the training;
- Survey local 911 emergency call service authorities and PSAPs to determine the extent to which the training, guidance, and assistance is being implemented and the extent to which it is helping them to improve efficiency, crisis response decisions, and outcomes in response to both behavioral health crisis calls specifically and all emergency calls received; and
- Summarize survey results in each quarterly report to the PUC.

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

2 **SECTION 1.** In Colorado Revised Statutes, 29-11-100.2, **add** (3)  
3 as follows:

4 **29-11-100.2. Legislative declaration.** (3) THE GENERAL  
5 ASSEMBLY FURTHER FINDS AND DECLARES THAT:

6 (a) THE COMMISSION CREATED THE COLORADO 911 RESOURCE  
7 CENTER IN 2006 AS AN INDEPENDENT NONPROFIT ENTITY TO PROVIDE  
8 CENTRALIZED GUIDANCE AND ASSISTANCE TO LOCAL 911 EMERGENCY  
9 CALL SERVICE AUTHORITIES AND PUBLIC SAFETY ANSWERING POINTS  
10 THROUGHOUT THE STATE;

1 (b) THE COLORADO 911 RESOURCE CENTER SUPPORTS LOCAL 911  
2 AUTHORITIES AND PROFESSIONALS IN KEEPING THE PUBLIC AND PUBLIC  
3 SAFETY RESPONDERS OF COLORADO SAFE BY PROVIDING TRAINING TO 911  
4 PROFESSIONALS, INCLUDING PUBLIC SAFETY ANSWERING POINT  
5 PERSONNEL, AND CREATING A STATEWIDE DATABASE AND  
6 CLEARINGHOUSE WHERE 911 PROFESSIONALS CAN LEARN ABOUT CURRENT  
7 ISSUES AND ABOUT HOW DIFFERENT LOCAL 911 AUTHORITIES AND PUBLIC  
8 SAFETY ANSWERING POINTS PROVIDE 911 SERVICES AND WHERE 911  
9 PROFESSIONALS CAN ALSO ACCESS SAMPLE POLICIES AND  
10 ORGANIZATIONAL DOCUMENTS;

11 (c) THE COLORADO 911 RESOURCE CENTER HAS BEEN FUNDED  
12 SINCE ITS INCEPTION FROM THE PROCEEDS OF A 2004 SETTLEMENT  
13 AGREEMENT APPROVED BY THE COMMISSION THAT REQUIRED A  
14 TELECOMMUNICATIONS COMPANY TO PROVIDE TWO MILLION DOLLARS FOR  
15 THE CREATION AND OPERATION OF A NONPROFIT ORGANIZATION TO ASSIST  
16 LOCAL PUBLIC SAFETY ANSWERING POINTS, BUT THAT FUNDING IS RUNNING  
17 OUT AND WILL NOT BE AVAILABLE ON AN ONGOING BASIS; AND

18 (d) THE COLORADO 911 RESOURCE CENTER PROVIDES A CRITICAL  
19 PUBLIC SERVICE THAT BENEFITS ALL COLORADANS, AND IT IS NECESSARY,  
20 APPROPRIATE, IN THE BEST INTEREST OF ALL COLORADANS, AND IN  
21 FURTHERANCE OF A PUBLIC PURPOSE TO PROVIDE ONGOING, ADEQUATE,  
22 AND SUSTAINABLE STATE FUNDING TO THE COLORADO 911 RESOURCE  
23 CENTER.

24 **SECTION 2.** In Colorado Revised Statutes, **add** 29-11-108 as  
25 follows:

26 **29-11-108. Colorado 911 resource center - ongoing funding -**  
27 **expenditures report - surveys - definition.** (1) FOR STATE FISCAL YEAR

1 2024-25 AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE GENERAL  
2 ASSEMBLY SHALL APPROPRIATE TWO HUNDRED FIFTY THOUSAND DOLLARS  
3 FROM THE GENERAL FUND TO THE COMMISSION TO PROVIDE ONGOING  
4 FUNDING FOR THE OPERATIONS OF THE COLORADO 911 RESOURCE CENTER.  
5 THE COMMISSION SHALL REMIT FUNDING TO SUPPORT THE EXPENSES OF  
6 THE COLORADO 911 RESOURCE CENTER.

7 (2) (a) THE COLORADO 911 RESOURCE CENTER SHALL PROVIDE TO  
8 THE COMMISSION QUARTERLY, WITH THE FIRST REPORT BEING PROVIDED  
9 BY OCTOBER 1, 2024, A REPORT THAT OUTLINES THE EXPENDITURE AND  
10 USE OF THE FUNDING PROVIDED PURSUANT TO SUBSECTION (1) OF THIS  
11 SECTION. THE COMMISSION SHALL INCLUDE AN ACCOUNTING OF THAT  
12 EXPENDITURE AND USE IN ITS ANNUAL REPORT TO THE MEMBERS OF THE  
13 GENERAL ASSEMBLY REQUIRED BY SECTION 40-2-131.

14 (b) TO HELP ENSURE THAT THE TRAINING, GUIDANCE, AND  
15 ASSISTANCE PROVIDED BY THE 911 RESOURCE CENTER TO 911  
16 PROFESSIONALS, INCLUDING PSAP PERSONNEL, LOCAL 911 EMERGENCY  
17 CALL SERVICE AUTHORITIES, AND PSAPs IS USEFUL AND IS BEING  
18 EFFECTIVELY IMPLEMENTED AND THAT THE FUNDING PROVIDED PURSUANT  
19 TO SUBSECTION (1) OF THIS SECTION IS BEING EXPENDED EFFICIENTLY AND  
20 EFFECTIVELY, THE 911 RESOURCE CENTER, ON AN ONGOING BASIS, SHALL:

21 (I) SURVEY 911 PROFESSIONALS, INCLUDING PSAP PERSONNEL,  
22 WHO RECEIVE TRAINING FROM THE 911 RESOURCE CENTER REGARDING  
23 THEIR PERCEPTION OF THE QUALITY OF THE TRAINING;

24 (II) SURVEY LOCAL 911 EMERGENCY CALL SERVICE AUTHORITIES  
25 AND PSAPs TO DETERMINE THE EXTENT TO WHICH THE TRAINING,  
26 GUIDANCE, AND ASSISTANCE PROVIDED BY THE 911 RESOURCE CENTER IS  
27 BEING IMPLEMENTED AND THE EXTENT TO WHICH IT IS HELPING THEM TO

1 IMPROVE EFFICIENCY, CRISIS RESPONSE DECISIONS, AND OUTCOMES IN  
2 RESPONSE TO BOTH BEHAVIORAL HEALTH CRISIS CALLS SPECIFICALLY AND  
3 ALL EMERGENCY CALLS RECEIVED; AND

4 (III) SUMMARIZE SURVEY RESULTS IN EACH REPORT PROVIDED TO  
5 THE COMMISSION PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

6 (3) AS USED IN THIS SECTION, "COLORADO 911 RESOURCE CENTER"  
7 MEANS THE COLORADO 911 RESOURCE CENTER CREATED BY THE  
8 COMMISSION OR ITS SUCCESSOR ENTITY.

9 **SECTION 3. Appropriation.** For the 2024-25 state fiscal year,  
10 \$250,000 is appropriated to the department of regulatory agencies for use  
11 by the public utilities commission. This appropriation is from the general  
12 fund. To implement this act, the public utilities commission may use this  
13 appropriation for the operations of the Colorado 911 resource center.

14 **SECTION 4. Safety clause.** The general assembly finds,  
15 determines, and declares that this act is necessary for the immediate  
16 preservation of the public peace, health, or safety or for appropriations for  
17 the support and maintenance of the departments of the state and state  
18 institutions.

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

Attachment F

**BILL D**

LLS NO. 24-0277.02 Alana Rosen x2606

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Bradfield and Amabile**, English

**SENATE SPONSORSHIP**

**Fields and Pelton R.**, Rodriguez

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING EXPANDING A PROGRAM TO CONTINUE RESPONDING TO**  
102 **YOUTH BEHAVIORAL HEALTH CRISES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.** Under current law, the department of human services (department) offers statewide access to crisis system services (services) for children and youth. The bill expands the services provided through the creation of the crisis resolution team program (program) in

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

the department. The behavioral health administration (BHA) shall administer the program to provide community-based services to de-escalate and stabilize children or youth experiencing high-acuity behavioral health crises. The BHA shall contract with crisis resolution team providers (providers) to provide community-based de-escalation and stabilization services to children or youth.

A child or youth is eligible for services provided by the program if the child or youth:

- Is 21 years of age or younger;
- Has experienced high-acuity behavioral health crises as identified by the behavioral health crisis response system or emergency departments; and
- Is safe to remain in the home or the community while receiving intensive, short-term stabilization interventions.

Providers shall offer the following services to children or youth and their caregivers:

- Counseling or therapy;
- Case management to help meet treatment plans;
- Peer support or family skills coaching to foster connectedness, goal setting, and new routines to achieve positive, lasting change;
- Medication management; and
- Care coordination to provide tailored support and connection.

Providers shall offer services to a child or youth a minimum of 3 days per week with a variety of services offered daily depending on the child's or youth's clinical needs. Services must be offered to the child or youth for a minimum of 4 weeks up to a maximum of 6 weeks depending on the child's or youth's clinical needs.

The BHA shall:

- Maintain existing relationships with community partners;
- Conduct outreach and educate community partners regarding providers' services;
- Provide technical assistance to providers regarding specialized training and the use of screening and assessment tools; and
- Conduct an annual evaluation of the program.

On or before September 1, 2025, the BHA shall submit to the general assembly a feasibility study to determine whether the program can be further expanded statewide.

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

2 **SECTION 1.** In Colorado Revised Statutes, 27-60-103, **amend**



1 (1.5)(c)(I) and (6)(a); and **add** (5.5) as follows:

2 **27-60-103. Behavioral health crisis response system - services**  
3 **- request for proposals - crisis resolution team program - criteria -**  
4 **reporting - rules - definitions - repeal.** (1.5) (c) (I) Beginning in state  
5 fiscal year 2023-24, money appropriated to the state department for the  
6 purpose of this subsection (1.5) must continue the statewide access to  
7 crisis system services for children and youth. ~~until June 30, 2026.~~

8 (5.5) (a) (I) THERE IS CREATED IN THE STATE DEPARTMENT THE  
9 CRISIS RESOLUTION TEAM PROGRAM. THE PURPOSE OF THE PROGRAM IS TO  
10 PROVIDE COMMUNITY-BASED DE-ESCALATION AND STABILIZATION  
11 SERVICES TO CHILDREN AND YOUTH WHO ARE EXPERIENCING HIGH-ACUITY  
12 BEHAVIORAL HEALTH CRISES AND THEIR CAREGIVERS. THE BHA SHALL  
13 ADMINISTER THE PROGRAM AND CONTRACT WITH CRISIS RESOLUTION  
14 TEAM PROVIDERS TO OFFER THE SERVICES DESCRIBED IN SUBSECTIONS  
15 (5.5)(a)(III) AND (5.5)(a)(IV) OF THIS SECTION.

16 (II) A CHILD OR YOUTH IS ELIGIBLE FOR THE PROGRAM IF THE  
17 CHILD OR YOUTH:

18 (A) IS TWENTY-ONE YEARS OF AGE OR YOUNGER;

19 (B) HAS EXPERIENCED HIGH-ACUITY BEHAVIORAL HEALTH CRISES  
20 AS IDENTIFIED BY THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM OR  
21 AN EMERGENCY DEPARTMENT; AND

22 (C) IS SAFE TO REMAIN IN THE HOME OR COMMUNITY WHILE  
23 RECEIVING INTENSIVE, SHORT-TERM STABILIZATION INTERVENTIONS.

24 (III) THE CRISIS RESOLUTION TEAM PROVIDER SHALL OFFER THE  
25 FOLLOWING SERVICES TO CHILDREN OR YOUTH AND THEIR CAREGIVERS:

26 (A) COUNSELING OR THERAPY;

27 (B) CASE MANAGEMENT TO SUPPORT CHILDREN, YOUTH, AND

1 THEIR CAREGIVERS IN MEETING TREATMENT PLANS;

2 (C) PEER SUPPORT OR FAMILY SKILLS COACHING TO FOSTER  
3 CONNECTEDNESS, GOAL SETTING, AND NEW ROUTINES TO ACHIEVE  
4 POSITIVE, LASTING CHANGE;

5 (D) MEDICATION MANAGEMENT; AND

6 (E) CARE COORDINATION TO PROVIDE TAILORED SUPPORT AND  
7 CONNECTION THROUGH THE USE OF ADDITIONAL COMMUNITY RESOURCES.

8 (IV) THE CRISIS RESOLUTION TEAM PROVIDER SHALL OFFER  
9 SERVICES TO A CHILD OR YOUTH A MINIMUM OF THREE DAYS PER WEEK  
10 WITH A VARIETY OF SERVICES OFFERED DAILY DEPENDING ON THE CHILD'S  
11 OR YOUTH'S CLINICAL NEEDS. SERVICES MUST BE OFFERED TO THE CHILD  
12 OR YOUTH FOR A MINIMUM OF FOUR WEEKS UP TO A MAXIMUM OF SIX  
13 WEEKS DEPENDING ON THE CHILD'S OR YOUTH'S CLINICAL NEEDS.

14 (b) (I) TO CONTRACT WITH THE BHA PURSUANT TO SUBSECTION  
15 (5.5)(a)(I) OF THIS SECTION, A CRISIS RESOLUTION TEAM PROVIDER MUST:

16 (A) PROVIDE SUPPORT AND STABILIZATION SERVICES ACCORDING  
17 TO THE TIME FRAMES DESCRIBED IN SUBSECTION (5.5)(a)(IV) OF THIS  
18 SECTION; AND

19 (B) ENTER INTO COMMUNITY COORDINATION PARTNERSHIPS  
20 PURSUANT TO SECTION 27-60-104 (6).

21 (II) CRISIS RESOLUTION TEAM PROVIDERS MAY CO-LOCATE WITHIN  
22 THE FACILITY OF A COMMUNITY-BASED ORGANIZATION OR PARTNER.

23 (III) CRISIS RESOLUTION TEAM PROVIDERS THAT ENTER INTO A  
24 CONTRACT WITH THE BHA PURSUANT TO SUBSECTION (5.5)(a)(I) OF THIS  
25 SECTION SHALL COLLECT DATA AND OUTCOMES ON THE FOLLOWING:

26 (A) THE NUMBER OF CHILDREN OR YOUTH SERVED BY THE  
27 PROGRAM, DISAGGREGATED BY GENDER, RACE, GRADE LEVEL, DISABILITY,

1 ENGLISH LANGUAGE LEARNER STATUS, AND UNHOUSED STATUS TO THE  
2 MAXIMUM EXTENT POSSIBLE IN COMPLIANCE WITH THE "COLORADO  
3 PRIVACY ACT", ESTABLISHED PURSUANT TO PART 13 OF ARTICLE 1 OF  
4 TITLE 6;

5 (B) THE ORGANIZATIONS THAT REFER CHILDREN OR YOUTH TO THE  
6 PROGRAM;

7 (C) THE NUMBER OF CHILDREN OR YOUTH HOSPITALIZED WHILE  
8 RECEIVING SERVICES FROM THE CRISIS RESOLUTION TEAM PROVIDER;

9 (D) THE NUMBER OF REFERRALS FOR CHILDREN AND YOUTH TO  
10 OUT-OF-HOME PLACEMENTS WHILE RECEIVING SERVICES FROM THE CRISIS  
11 RESOLUTION TEAM PROVIDER; AND

12 (E) THE NUMBER AND TYPES OF SERVICES AND SUPPORTS THAT  
13 CHILDREN, YOUTH, AND THEIR CAREGIVERS RECEIVE.

14 (c) TO ADMINISTER THE PROGRAM, THE BHA SHALL:

15 (I) USE EXISTING COMMUNITY COORDINATION PARTNERSHIPS  
16 PURSUANT TO SECTION 27-60-104 (6) TO MAINTAIN RELATIONSHIPS WITH  
17 THE FOLLOWING COMMUNITY PARTNERS:

18 (A) LOCAL COMMUNITY MENTAL AND BEHAVIORAL HEALTH  
19 PROVIDERS;

20 (B) COUNTY DEPARTMENTS OF HUMAN OR SOCIAL SERVICES;

21 (C) ORGANIZATIONS THAT SERVE JUSTICE-INVOLVED CHILDREN OR  
22 YOUTH;

23 (D) SCHOOL DISTRICTS;

24 (E) ORGANIZATIONS THAT SERVE CHILDREN OR YOUTH WITH  
25 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

26 (F) LOCAL HOSPITALS AND EMERGENCY DEPARTMENTS;

27 (G) LOCAL LAW ENFORCEMENT AGENCIES; AND

- 1 (H) PUBLIC HEALTH DEPARTMENTS;
- 2 (II) CONDUCT OUTREACH AND EDUCATE COMMUNITY PARTNERS  
3 REGARDING CRISIS RESOLUTION TEAM SERVICES AVAILABLE THROUGH THE  
4 PROGRAM;
- 5 (III) PROVIDE TECHNICAL ASSISTANCE TO CRISIS RESOLUTION  
6 TEAM PROVIDERS REGARDING SPECIALIZED TRAINING AND THE USE OF  
7 SCREENING AND ASSESSMENT TOOLS FOR CHILDREN OR YOUTH;
- 8 (IV) COLLECT DATA AND OUTCOMES FROM CRISIS RESOLUTION  
9 TEAM PROVIDERS AS DESCRIBED IN SUBSECTION (5.5)(b)(III) OF THIS  
10 SECTION;
- 11 (V) CONDUCT, OR CONTRACT WITH A THIRD-PARTY EVALUATOR TO  
12 CONDUCT, AN ANNUAL EVALUATION OF THE PROGRAM USING THE DATA  
13 AND OUTCOMES COLLECTED FROM CRISIS RESOLUTION TEAM PROVIDERS  
14 PURSUANT TO SUBSECTION (5.5)(c)(IV) OF THIS SECTION; AND
- 15 (VI) CONDUCT, OR CONTRACT WITH A THIRD-PARTY EVALUATOR  
16 TO CONDUCT, A FEASIBILITY STUDY TO:
  - 17 (A) DETERMINE HOW TO CONTINUE TO EXPAND THE PROGRAM  
18 STATEWIDE;
  - 19 (B) IDENTIFY THE NECESSARY TOOLS TO CONTINUE THE EXPANSION  
20 OF THE PROGRAM STATEWIDE; AND
  - 21 (C) CREATE A PHASED APPROACH TO CONTINUE THE EXPANSION OF  
22 THE PROGRAM.
- 23 (d) ON OR BEFORE SEPTEMBER 1, 2025, THE BHA SHALL SUBMIT  
24 THE FEASIBILITY STUDY SET FORTH IN SUBSECTION (5.5)(c)(VI) OF THIS  
25 SECTION TO THE HOUSE OF REPRESENTATIVES PUBLIC AND BEHAVIORAL  
26 HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE HEALTH AND  
27 HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, AND

1 THE JOINT BUDGET COMMITTEE.

2 (e) AS USED IN THIS SUBSECTION (5.5), UNLESS THE CONTEXT  
3 OTHERWISE REQUIRES:

4 (I) "CAREGIVER" MEANS A PARENT, FOSTER PARENT, KIN,  
5 GUARDIAN, OR LEGAL CUSTODIAN.

6 (II) "CRISIS RESOLUTION TEAM PROGRAM" OR "PROGRAM" MEANS  
7 THE CRISIS RESOLUTION TEAM PROGRAM CREATED IN SUBSECTION  
8 (5.5)(a)(I) OF THIS SECTION.

9 (III) "CRISIS RESOLUTION TEAM PROVIDER" MEANS A SERVICE  
10 PROVIDER THAT SUPPORTS CHILDREN OR YOUTH WHO ARE EXPERIENCING  
11 BEHAVIORAL HEALTH CRISES AND MAY BENEFIT FROM INTENSIVE,  
12 SHORT-TERM, IN-HOME SERVICES AND ONGOING SUPPORT.

13 (6) (a) (I) Beginning in January 2014, and every January  
14 thereafter, the BHA shall report progress on the implementation of the  
15 crisis response system, as well as information about and updates to the  
16 system, as part of its "State Measurement for Accountable, Responsive,  
17 and Transparent (SMART) Government Act" hearing required by section  
18 2-7-203.

19 (II) BEGINNING IN JANUARY 2025, AND EVERY JANUARY  
20 THEREAFTER, THE BHA SHALL REPORT PROGRESS ON THE CRISIS  
21 RESOLUTION TEAM PROGRAM CREATED IN SUBSECTION (5.5) OF THIS  
22 SECTION AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE,  
23 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING  
24 REQUIRED BY SECTION 2-7-203.

25 **SECTION 2. Safety clause.** The general assembly finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.

Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

Attachment G

**BILL E**

LLS NO. 24-0278.01 Alana Rosen x2606

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Rodriguez and Fields,**

**HOUSE SPONSORSHIP**

**English and Bradfield,** Amabile

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**Senate Committees**

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING CONSIDERING FACTORS RELATED TO THE CAPABILITY TO**  
102 **PARTICIPATE IN THE JUDICIAL PROCESS IN DETERMINING**  
103 **WHETHER TO PLACE A PERSON INTO A PRETRIAL DIVERSION**  
104 **PROGRAM.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.** The bill requires a district attorney's office, or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

the office's designee, to consider the use of a juvenile diversion program (program) to prevent a juvenile who demonstrates behaviors or symptoms consistent with an intellectual and developmental disability, a mental or behavioral health issue, or a lack of mental capacity from further involvement in formal delinquency proceedings.

Current law allows programs to use the results of an approved and validated assessment tool to identify the appropriate diversion services a juvenile may need and the professionals who may provide the services. The bill adds behavioral health services and services for juveniles with developmental disabilities to the types of services a juvenile may need and adds behavioral health treatment providers and providers who offer services to juveniles with developmental disabilities to the list of professionals who may provide the appropriate diversion services.

If a defendant's competency is raised or a defendant is found incompetent to proceed, the bill allows the defendant to enter into a diversion agreement if the court finds that the defendant has the ability to participate and is advised of the potential consequences of failure to comply. The defendant's entrance into the diversion agreement does not waive the issue of competency to stand trial if there is a violation of the diversion agreement and proceedings on the charges resume. The diversion agreement alone is not evidence of competency.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2.5-402, **amend**  
3 (3)(e), (4)(c)(III), (4)(c)(IV), and (4.5)(c); and **add** (1)(c)(I.5), (4)(b.5),  
4 (4)(c)(V), and (4)(c.5) as follows:

5 **19-2.5-402. Juvenile diversion program - authorized - report**  
6 **- allocation of money - legislative declaration - definitions.** (1)(c) The  
7 goals of the diversion programs are to:

8 (I.5) CONSIDER A JUVENILE WHO DEMONSTRATES BEHAVIORS OR  
9 SYMPTOMS CONSISTENT WITH AN INTELLECTUAL AND DEVELOPMENTAL  
10 DISABILITY, A MENTAL OR BEHAVIORAL HEALTH ISSUE, OR LACK OF  
11 MENTAL CAPACITY, AND DIVERT THE JUVENILE OUT OF THE JUVENILE  
12 JUSTICE SYSTEM AND INTO A COMMUNITY TREATMENT PROGRAM;

13 (3) For purposes of this section:



1 (e) "Services" may include, but are not limited to, provision of  
2 diagnostic needs assessment, general counseling and counseling during  
3 a crisis situation, BEHAVIORAL HEALTH SERVICES, SERVICES FOR  
4 JUVENILES WITH DEVELOPMENTAL DISABILITIES, specialized tutoring, job  
5 training and placement, restitution programs, community service,  
6 constructive recreational activities, day reporting and day treatment  
7 programs, and follow-up activities.

8 (4) District attorneys' offices or the office's designees shall:

9 (b.5) CONSIDER THE USE OF DIVERSION TO PREVENT A JUVENILE  
10 WHO DEMONSTRATES BEHAVIORS OR SYMPTOMS CONSISTENT WITH AN  
11 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, A MENTAL HEALTH OR  
12 BEHAVIORAL HEALTH ISSUE, OR A LACK OF MENTAL CAPACITY FROM  
13 FURTHER INVOLVEMENT IN FORMAL DELINQUENCY PROCEEDINGS. A  
14 DISTRICT ATTORNEY'S OFFICE OR THE OFFICE'S DESIGNEE SHALL NOT  
15 DISQUALIFY A JUVENILE FROM DIVERSION CONSIDERATION BASED SOLELY  
16 ON THE JUVENILE RAISING COMPETENCY PURSUANT TO SECTION  
17 19-2.5-702 IF THE JUVENILE IS CAPABLE OF PARTICIPATING IN DIVERSION  
18 AND IS ADVISED OF THE POTENTIAL CONSEQUENCES OF FAILURE TO  
19 COMPLY WITH DIVERSION.

20 (c) Not deny diversion to a juvenile based on the juvenile's:

21 (III) Age, race or ethnicity, gender, gender identity, gender  
22 expression, or sexual orientation; ~~or~~

23 (IV) Legal representation; OR

24 (V) BEHAVIORS OR SYMPTOMS CONSISTENT WITH AN  
25 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, A MENTAL HEALTH OR  
26 BEHAVIORAL HEALTH ISSUE, OR A LACK OF MENTAL CAPACITY, UNLESS  
27 THE BEHAVIORS OR SYMPTOMS ARE SO SEVERE THAT THE JUVENILE

1 CANNOT UNDERSTAND OR PARTICIPATE IN DIVERSION.

2 (c.5) IN A CASE IN WHICH A JUVENILE DEMONSTRATES BEHAVIORS  
3 OR SYMPTOMS THAT ARE SO SEVERE THAT THE JUVENILE CANNOT  
4 UNDERSTAND OR PARTICIPATE IN DIVERSION, CONSIDER ALL AVAILABLE  
5 ALTERNATIVES, INCLUDING, BUT NOT LIMITED TO, REFERRAL TO THE STATE  
6 DEPARTMENT OR A COLLABORATIVE MANAGEMENT PROGRAM IN LIEU OF  
7 ADJUDICATION IF IT IS LIKELY THAT A JUVENILE WOULD BE FOUND  
8 INCOMPETENT AND UNLIKELY TO BE RESTORED IN THE FORESEEABLE  
9 FUTURE.

10 (4.5) Diversion programs may use the results of an approved  
11 validated assessment tool to inform:

12 (c) What services, if any, may be offered to the juvenile.  
13 Professionals involved with the juvenile's needs, treatment, and service  
14 planning, including district attorneys, public defenders, probation,  
15 BEHAVIORAL HEALTH TREATMENT PROVIDERS, PROVIDERS WHO OFFER  
16 SERVICES TO JUVENILES FOR DEVELOPMENTAL DISABILITIES, and state and  
17 local governmental entities, such as the state department of human  
18 services and county departments of human or social services,  
19 nongovernmental agencies, and individuals collaborating to provide  
20 appropriate diversion services.

21 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-101, **add**  
22 (9)(g) as follows:

23 **18-1.3-101. Pretrial diversion - appropriation - repeal.**

24 (9) **Diversion agreements.** (g) IF A DEFENDANT'S COMPETENCY TO  
25 PROCEED IS RAISED PURSUANT TO SECTION 16-8.5-102 OR A DEFENDANT  
26 IS FOUND INCOMPETENT TO PROCEED PURSUANT TO SECTION 16-8.5-103,  
27 THE FOLLOWING APPLY:

1           (I) THE DEFENDANT MAY ENTER INTO A DIVERSION AGREEMENT IF  
2 THE COURT FINDS THAT THE DEFENDANT HAS THE ABILITY TO PARTICIPATE  
3 AND IS ADVISED OF THE POTENTIAL CONSEQUENCES OF FAILURE TO  
4 COMPLY;

5           (II) NOTWITHSTANDING SUBSECTION (1)(b) OF THIS SECTION, THE  
6 DEFENDANT'S ENTRANCE INTO A DIVERSION AGREEMENT CONSTITUTES A  
7 WAIVER OF THE DEFENDANT'S RIGHT TO A SPEEDY TRIAL FOR THE PERIOD  
8 OF DIVERSION PURSUANT TO SECTION 18-1-405 (6) REGARDLESS OF  
9 WHETHER A WRITTEN WAIVER IS COMPLETED; AND

10          (III) THE DEFENDANT'S ENTRANCE INTO THE DIVERSION  
11 AGREEMENT DOES NOT WAIVE THE ISSUE OF COMPETENCY TO STAND TRIAL  
12 IF THERE IS A VIOLATION OF THE DIVERSION AGREEMENT AND  
13 PROCEEDINGS ON THE CHARGES RESUME. THE DIVERSION AGREEMENT  
14 ALONE IS NOT EVIDENCE OF COMPETENCY.

15          **SECTION 3. Safety clause.** The general assembly finds,  
16 determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, or safety or for appropriations for  
18 the support and maintenance of the departments of the state and state  
19 institutions.