

CHAPTER 188

HUMAN SERVICES - MENTAL HEALTH

SENATE BILL 10-175

BY SENATOR(S) Boyd, Newell, Tochtrop, Williams;
also REPRESENTATIVE(S) Riesberg, Gerou, Schafer S., Todd, Vigil.

AN ACT**CONCERNING THE RELOCATION OF PROVISIONS RELATING TO BEHAVIORAL HEALTH.**

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

SECTION 1. Repeal of provisions being relocated in this act. Articles 1, 2, 10, 10.3, 12, 13, and 15 of title 27, article 22 of title 26, and parts 2, 3, and 11 of article 1 of title 25, Colorado Revised Statutes, are repealed.

SECTION 2. Title 27, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW ARTICLES CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

ARTICLE 65
Care and Treatment of Persons
with Mental Illness

27-65-101. [Formerly 27-10-101] Legislative declaration. (1) The general assembly hereby declares that, subject to available appropriations, the purposes of this article are:

(a) To secure for each person who may have a mental illness such care and treatment as will be suited to the needs of the person and to insure that such care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

(b) To deprive a person of his or her liberty for purposes of treatment or care only when less restrictive alternatives are unavailable and only when his or her safety or the safety of others is endangered;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) To provide the fullest possible measure of privacy, dignity, and other rights to persons undergoing care and treatment for mental illness;

(d) To encourage the use of voluntary rather than coercive measures to provide treatment and care for mental illness and to provide such treatment and care in the least restrictive setting;

(e) To provide appropriate information to family members concerning the location and fact of admission of a person with a mental illness to inpatient or residential care and treatment;

(f) To encourage the appropriate participation of family members in the care and treatment of a person with a mental illness and, when appropriate, to provide information to family members in order to facilitate such participation; and

(g) To facilitate the recovery and resiliency of each person who receives care and treatment under this article.

(2) To carry out these purposes, subject to available appropriations, the provisions of this article shall be liberally construed.

27-65-102. [Formerly 27-10-102] Definitions. As used in this article, unless the context otherwise requires:

(1) "Acute treatment unit" means a facility or a distinct part of a facility for short-term psychiatric care, which may include substance abuse treatment, that provides a total, twenty-four-hour, therapeutically planned and professionally staffed environment for persons who do not require inpatient hospitalization but need more intense and individual services than are available on an outpatient basis, such as crisis management and stabilization services.

~~(1.5)~~ (2) "Certified peace officer" means any certified peace officer as described in section 16-2.5-102, C.R.S.

~~(2)~~ (3) "Court" means any district court of the state of Colorado and the probate court in the city and county of Denver.

~~(2.3)~~ (4) "Court-ordered evaluation" means an evaluation ordered by a court pursuant to ~~section 27-10-106~~ SECTION 27-65-106.

~~(3)~~ (5) "Department" means the department of human services.

~~(4)~~ (6) "Executive director" means the executive director of the department of human services.

~~(4.5)~~ (7) "Facility" means a public hospital or a licensed private hospital, clinic, community mental health center or clinic, acute treatment unit, institution, sanitarium, or residential child care facility that provides treatment for a person with a mental illness.

~~(4.7)~~ (8) "Family member" means a spouse, parent, adult child, or adult sibling of a person with a mental illness.

~~(5)~~ (9) (a) "Gravely disabled" means a condition in which a person, as a result of a mental illness:

(I) Is in danger of serious physical harm due to his or her inability or failure to provide himself or herself with the essential human needs of food, clothing, shelter, and medical care; or

(II) Lacks judgment in the management of his or her resources and in the conduct of his or her social relations to the extent that his or her health or safety is significantly endangered and lacks the capacity to understand that this is so.

(b) A person who, because of care provided by a family member or by an individual with a similar relationship to the person, is not in danger of serious physical harm or is not significantly endangered in accordance with paragraph (a) of this ~~subsection (5)~~ SUBSECTION (9) may be deemed "gravely disabled" if there is notice given that the support given by the family member or other individual who has a similar relationship to the person is to be terminated and the individual with a mental illness:

(I) Is diagnosed by a professional person as suffering from: Schizophrenia; a major affective disorder; a delusional disorder; or another mental disorder with psychotic features; and

(II) Has been certified, pursuant to this article, for treatment of the disorder or has been admitted as an inpatient to a treatment facility for treatment of the disorder at least twice during the last thirty-six months with a period of at least thirty days between certifications or admissions; and

(III) Is exhibiting a deteriorating course leading toward danger to self or others or toward the conditions described in paragraph (a) of this ~~subsection (5)~~ SUBSECTION (9) with symptoms and behavior that are substantially similar to those that preceded and were associated with his or her hospital admissions or certifications for treatment; and

(IV) Is not receiving treatment that is essential for his or her health or safety.

(c) A person of any age may be "gravely disabled", but such term shall not include a person who has a developmental disability by reason of the person's developmental disability alone.

(d) For purposes of paragraph (b) of this ~~subsection (5)~~ SUBSECTION (9), an individual with a relationship to a person that is similar to that of a family member shall not include an employee or agent of a boarding home or treatment facility.

~~(5.5)~~ (10) "Hospitalization" means twenty-four-hour out-of-home placement for mental health treatment in a facility.

~~(5.6)~~ (11) "Independent professional person" means a professional person, as

defined in ~~subsection (11)~~ SUBSECTION (17) of this section, who evaluates ~~the~~ A minor's condition as an independent decision-maker and whose recommendations are based on the standard of what is in the best interest of the minor. The professional person may be associated with the admitting mental health facility if he or she is free to independently evaluate the minor's condition and need for treatment and has the authority to refuse admission to any minor who does not satisfy the statutory standards specified in ~~section 27-10-103 (3.1)~~ SECTION 27-65-103 (3).

~~(6) Repealed.~~

~~(7) (Deleted by amendment, L. 2006, p. 1372, § 2, effective August 7, 2006.)~~

~~(7.2)~~ (12) "Minor" means a person under eighteen years of age; except that the term does not include a person who is fifteen years of age or older who is living separately and apart from his or her parent or legal guardian and is managing his or her financial affairs, regardless of his or her source of income, or who is married and living separately and apart from his or her parent or legal guardian.

~~(7.5)~~ (13) "Patient representative" means a person designated by ~~the~~ A mental health facility to process patient complaints or grievances or to represent patients who are minors pursuant to ~~section 27-10-103 (3.3)~~ SECTION 27-65-103 (5).

~~(8) (Deleted by amendment, L. 2006, p. 1372, § 2, effective August 7, 2006.)~~

~~(8.5)~~ (14) "Person with a mental illness" means a person with one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. Developmental disability is insufficient to either justify or exclude a finding of mental illness within the provisions of this article.

~~(9)~~ (15) "Petitioner" means any person who files any petition in any proceeding in the interest of any person who allegedly has a mental illness or is allegedly gravely disabled.

~~(10)~~ (16) "Physician" means a person licensed to practice medicine in this state.

~~(11)~~ (17) "Professional person" means a person licensed to practice medicine in this state or a psychologist certified to practice in this state.

~~(11.5)~~ (18) "Residential child care facility" means a facility licensed by the state department of human services pursuant to article 6 of title 26, C.R.S., to provide group care and treatment for children as such facility is defined in section 26-6-102 (8), C.R.S. A residential child care facility may be eligible for designation by the executive director of the department of human services pursuant to this article.

~~(12)~~ (19) "Respondent" means either a person alleged in a petition filed pursuant to this article to have a mental illness or be gravely disabled or a person certified pursuant to the provisions of this article.

~~(13)~~ (20) "Screening" means a review of all petitions, to consist of an interview

with the petitioner and, whenever possible, the respondent, an assessment of the problem, an explanation of the petition to the respondent, and a determination of whether the respondent needs and, if so, will accept, on a voluntary basis, comprehensive evaluation, treatment, referral, and other appropriate services, either on an inpatient or an outpatient basis.

27-65-103. [Formerly 27-10-103] Voluntary applications for mental health services. (1) Nothing in this article shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to section 15-14-316 (4), C.R.S., a ward, as defined in section 15-14-102 (15), C.R.S., may be admitted to hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court ~~which~~ THAT appointed the guardian of the admission.

(2) Notwithstanding any other provision of law, a minor who is fifteen years of age or older, whether with or without the consent of a parent or legal guardian, may consent to receive mental health services to be rendered by a facility or a professional person. Such consent shall not be subject to disaffirmance because of minority. The professional person rendering mental health services to a minor may, with or without the consent of the minor, advise the parent or legal guardian of the minor of the services given or needed.

~~(3) Repealed.~~

~~(3-1)~~ (3) A minor who is fifteen years of age or older or a parent or legal guardian of a minor on the minor's behalf may make voluntary application for hospitalization. Application for hospitalization on behalf of a minor who is under fifteen years of age and who is a ward of the department of human services shall not be made unless a guardian ad litem has been appointed for the minor or a petition for the same has been filed with the court by the agency having custody of the minor; except that such an application for hospitalization may be made under emergency circumstances requiring immediate hospitalization, in which case the agency shall file a petition for appointment of a guardian ad litem within seventy-two hours after application for admission is made, and the court shall appoint a guardian ad litem forthwith. Procedures for hospitalization of such minor may proceed pursuant to this section once a petition for appointment of a guardian ad litem has been filed, if necessary. Whenever such application for hospitalization is made, an independent professional person shall interview the minor and conduct a careful investigation into the minor's background, using all available sources, including, but not limited to, the parents or legal guardian and the school and any other social agencies. Prior to admitting a minor for hospitalization, the independent professional person shall make the following findings:

- (a) That the minor has a mental illness and is in need of hospitalization;
- (b) That a less restrictive treatment alternative is inappropriate or unavailable; and

(c) That hospitalization is likely to be beneficial.

~~(3.2)~~ (4) An interview and investigation by an independent professional person shall not be required for a minor who is fifteen years of age or older and who, upon the recommendation of his or her treating professional person, seeks voluntary hospitalization with the consent of his or her parent or legal guardian. In order to assure that the minor's consent to such hospitalization is voluntary, the minor shall be advised, at or before the time of admission, of his or her right to refuse to sign the admission consent form and his or her right to revoke his or her consent at a later date. If a minor admitted pursuant to this ~~subsection (3.2)~~ SUBSECTION (4) subsequently revokes his or her consent after admission, a review of his or her need for hospitalization pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section shall be initiated immediately.

~~(3.3)~~ (5) (a) The need for continuing hospitalization of all voluntary patients who are minors shall be formally reviewed at least every two months. Review pursuant to this ~~subsection (3.3)~~ SUBSECTION (5) shall fulfill the requirement specified in section 19-1-115 (8), C.R.S., when the minor is fifteen years of age or older and consenting to hospitalization.

(b) The review shall be conducted by an independent professional person who is not a member of the minor's treating team; or, if the minor, his or her physician, and the minor's parent or guardian do not object to the need for continued hospitalization, the review required pursuant to this ~~subsection (3.3)~~ SUBSECTION (5) may be conducted internally by the hospital staff.

(c) The independent professional person shall determine whether the minor continues to meet the criteria specified in ~~subsection (3.1)~~ SUBSECTION (3) of this section and whether continued hospitalization is appropriate and shall at least conduct an investigation pursuant to ~~subsection (3.1)~~ SUBSECTION (3) of this section.

(d) Ten days prior to the review, the patient representative at the mental health facility shall notify the minor of the date of the review and shall assist the minor in articulating to the independent professional person his or her wishes concerning continued hospitalization.

(e) Nothing in this section shall be construed to limit a minor's right to seek release from the facility pursuant to any other provisions under the law.

~~(3.4)~~ (6) Every six months the review required pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section shall be conducted by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section.

~~(3.5)~~ (7) (a) When a minor does not consent to or objects to continued hospitalization, the need for such continued hospitalization shall, within ten days, be reviewed pursuant to ~~subsection (3.3)~~ SUBSECTION (5) of this section by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to this ~~subsection (3.5)~~ SUBSECTION (7). The minor shall be informed of the results of such review within three days of completion of such review. If the conclusion reached by such

professional person is that the minor no longer meets the standards for hospitalization specified in ~~subsection (3.1)~~ SUBSECTION (3) of this section, the minor shall be discharged.

(b) If, twenty-four hours after being informed of the results of the review specified in paragraph (a) of this ~~subsection (3.5)~~ SUBSECTION (7), a minor continues to affirm the objection to hospitalization, the minor shall be advised by the director of the facility or his or her duly appointed representative that the minor has the right to retain and consult with an attorney at any time and that the director or his or her duly appointed representative shall file, within three days after the request of the minor, a statement requesting an attorney for the minor or, if the minor is under fifteen years of age, a guardian ad litem. The minor, his or her attorney, if any, and his or her parent, legal guardian, or guardian ad litem, if any, shall also be given written notice that a hearing upon the recommendation for continued hospitalization may be had before the court or a jury upon written request directed to the court pursuant to paragraph (d) of this ~~subsection (3.5)~~ SUBSECTION (7).

(c) Whenever the statement requesting an attorney is filed with the court, the court shall ascertain whether the minor has retained counsel, and, if he or she has not, the court shall, within three days, appoint an attorney to represent the minor, or if the minor is under fifteen years of age, a guardian ad litem. Upon receipt of a petition filed by the guardian ad litem, the court shall appoint an attorney to represent the minor under fifteen years of age.

(d) The minor or his or her attorney or guardian ad litem may, at any time after the minor has continued to affirm his or her objection to hospitalization pursuant to paragraph (b) of this ~~subsection (3.5)~~ SUBSECTION (7), file a written request that the recommendation for continued hospitalization be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the minor, his or her attorney, if any, his or her parents or legal guardian, his or her guardian ad litem, if any, the independent professional person, and the minor's treating team of the time and place thereof. The hearing shall be held in accordance with ~~section 27-10-111~~ SECTION 27-65-111; except that the court or jury shall determine that the minor is in need of care and treatment if the court or jury makes the following findings: That the minor has a mental illness and is in need of hospitalization; that a less restrictive treatment alternative is inappropriate or unavailable; and that hospitalization is likely to be beneficial. At the conclusion of the hearing, the court may enter an order confirming the recommendation for continued hospitalization, discharge the minor, or enter any other appropriate order.

(e) For purposes of this ~~subsection (3.5)~~ SUBSECTION (7), "objects to hospitalization" means that a minor, with the necessary assistance of hospital staff, has written his or her objections to continued hospitalization and has been given an opportunity to affirm or disaffirm such objections forty-eight hours after the objections are first written.

(f) A minor may not again object to hospitalization pursuant to this ~~subsection (3.5)~~ SUBSECTION (7) until ninety days after conclusion of proceedings pursuant to this ~~subsection (3.5)~~ SUBSECTION (7).

(g) In addition to the rights specified under ~~section 27-10-117~~ SECTION 27-65-117 for persons receiving evaluation, care, or treatment, a written notice specifying the rights of minor children under this section shall be given to each minor upon admission to hospitalization.

~~(3-6)~~ (8) A minor who no longer meets the standards for hospitalization specified in ~~subsection (3-1)~~ SUBSECTION (3) of this section shall be discharged.

~~(4)~~ (9) For the purpose of this article, the treatment by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone for healing shall be considered a form of treatment.

~~(5)~~ (10) The medical and legal status of all voluntary patients receiving treatment for mental illness in inpatient or custodial facilities shall be reviewed at least once every six months.

~~(6)~~ (11) Voluntary patients shall be afforded all the rights and privileges customarily granted by hospitals to their patients.

~~(7)~~ (12) If at any time during a seventy-two-hour evaluation of a person who is confined involuntarily the facility staff requests the person to sign in voluntarily and he or she elects to do so, the following advisement shall be given orally and in writing and an appropriate notation shall be made in his or her medical record by the professional person or his or her designated agent:

NOTICE

The decision to sign in voluntarily should be made by you alone and should be free from any force or pressure implied or otherwise. If you do not feel that you are able to make a truly voluntary decision, you may continue to be held at the hospital involuntarily. As an involuntary patient, you will have the right to protest your confinement and request a hearing before a judge.

27-65-104. [Formerly 27-10-104] Rights of respondents. Unless specifically stated in an order by the court, a respondent shall not forfeit any legal right or suffer legal disability by reason of the provisions of this article.

27-65-105. [Formerly 27-10-105] Emergency procedure. (1) Emergency procedure may be invoked under either one of the following two conditions:

(a) (I) When any person appears to have a mental illness and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then a person specified in subparagraph (II) of this paragraph (a), each of whom is referred to in this section as the "intervening professional", upon probable cause and with such assistance as may be required, may take the person into custody, or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.

(II) The following persons may effect a seventy-two-hour hold as provided in subparagraph (I) of this paragraph (a):

(A) A certified peace officer;

(B) A professional person;

(C) A registered professional nurse as defined in section 12-38-103 (11), C.R.S., who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing;

(D) A licensed marriage and family therapist or licensed professional counselor, licensed under the provisions of part 5 or 6 of article 43 of title 12, C.R.S., or an addiction counselor licensed pursuant to section 12-43-804 (3), C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental disorders; or

(E) A licensed clinical social worker licensed under the provisions of part 4 of article 43 of title 12, C.R.S.

(b) Upon an affidavit sworn to or affirmed before a judge that relates sufficient facts to establish that a person appears to have a mental illness and, as a result of the mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, the court may order the person described in the affidavit to be taken into custody and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. Whenever in this article a facility is to be designated or approved by the executive director, hospitals, if available, shall be approved or designated in each county before other facilities are approved or designated. Whenever in this article a facility is to be designated or approved by the executive director as a facility for a stated purpose and the facility to be designated or approved is a private facility, the consent of the private facility to the enforcement of standards set by the executive director shall be a prerequisite to the designation or approval.

~~(1.1)~~ (2) (a) When a person is taken into custody pursuant to subsection (1) of this section, such person shall not be detained in a jail, lockup, or other place used for the confinement of persons charged with or convicted of penal offenses; except that such place may be used if no other suitable place of confinement for treatment and evaluation is readily available. In such situation the person shall be detained separately from those persons charged with or convicted of penal offenses and shall be held for a period not to exceed twenty-four hours, excluding Saturdays, Sundays, and holidays, after which time he or she shall be transferred to a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. When a person is taken into custody and confined pursuant to this ~~subsection (1.1)~~ SUBSECTION (2), such person shall be examined at least every twelve hours by a certified peace officer, nurse, or physician or by an appropriate staff professional of the nearest designated or approved mental health treatment facility to determine if the person is receiving appropriate care consistent with his or her mental condition.

(b) A sheriff or police chief who violates the provisions of paragraph (a) of this

~~subsection (1.1)~~ SUBSECTION (2), related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2) by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2).

~~(2)~~ (3) Such facility shall require an application in writing, stating the circumstances under which the person's condition was called to the attention of the intervening professional and further stating sufficient facts, obtained from the personal observations of the intervening professional or obtained from others whom he or she reasonably believes to be reliable, to establish that the person has a mental illness and, as a result of the mental illness, is an imminent danger to others or to himself or herself or is gravely disabled. The application shall indicate when the person was taken into custody and who brought the person's condition to the attention of the intervening professional. A copy of the application shall be furnished to the person being evaluated, and the application shall be retained in accordance with the provisions of ~~section 27-10-120 (3)~~ SECTION 27-65-121 (4).

~~(3)~~ (4) If the seventy-two-hour treatment and evaluation facility admits the person, it may detain him or her for evaluation and treatment for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays if evaluation and treatment services are not available on those days. For the purposes of this ~~subsection (3)~~ SUBSECTION (4), evaluation and treatment services are not deemed to be available merely because a professional person is on call during weekends or holidays. If, in the opinion of the professional person in charge of the evaluation, the person can be properly cared for without being detained, he or she shall be provided services on a voluntary basis.

~~(4)~~ (5) Each person admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive such treatment and care as his or her condition requires for the full period that he or she is held. The person shall be released before seventy-two hours have elapsed if, in the opinion of the professional person in charge of the evaluation, the person no longer requires evaluation or treatment. Persons who have been detained for seventy-two-hour evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for treatment pursuant to ~~section 27-10-107~~ SECTION 27-65-107.

27-65-106. [Formerly 27-10-106] Court-ordered evaluation for persons with mental illness. (1) Any person alleged to have a mental illness and, as a result of the mental illness, to be a danger to others or to himself or herself or to be gravely disabled may be given an evaluation of his or her condition under a court order pursuant to this section.

(2) Any individual may petition the court in the county in which the respondent resides or is physically present alleging that there is a person who appears to have a mental illness and, as a result of the mental illness, appears to be a danger to others or to himself or herself or appears to be gravely disabled and requesting that an evaluation of the person's condition be made.

(3) The petition for a court-ordered evaluation shall contain the following:

(a) The name and address of the petitioner and his OR HER interest in the case;

(b) The name of the person for whom evaluation is sought, who shall be designated as the respondent, and, if known to the petitioner, the address, age, sex, marital status, and occupation of the respondent;

(c) Allegations of fact indicating that the respondent may have a mental illness and, as a result of the mental illness, be a danger to others or to himself or herself or be gravely disabled and showing reasonable grounds to warrant an evaluation;

(d) The name and address of every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the respondent, if available;

(e) The name, address, and telephone number of the attorney, if any, who has most recently represented the respondent. If there is no attorney, there shall be a statement as to whether, to the best knowledge of the petitioner, the respondent meets the criteria established by the legal aid agency operating in the county or city and county for it to represent a client.

(4) Upon receipt of a petition satisfying the requirements of subsection (3) of this section, the court shall designate a facility, approved by the executive director, or a professional person to provide screening of the respondent to determine whether there is probable cause to believe the allegations.

(5) Following screening, the facility or professional person designated by the court shall file his or her report with the court. The report shall include a recommendation as to whether there is probable cause to believe that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled and whether the respondent will voluntarily receive evaluation or treatment. The screening report submitted to the court shall be confidential in accordance with ~~section 27-10-120~~ SECTION 27-65-121 and shall be furnished to the respondent or his or her attorney or personal representative.

(6) Whenever it appears, by petition and screening pursuant to this section, to the satisfaction of the court that probable cause exists to believe that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled and that efforts have been made to secure the cooperation of the respondent, who has refused or failed to accept evaluation voluntarily, the court shall issue an order for evaluation authorizing a certified peace officer to take the respondent into custody and place him or her in a facility designated by the executive director for seventy-two-hour treatment and evaluation. At the time of taking the respondent into custody, a copy of the petition and the order for evaluation shall be given to the respondent, and promptly thereafter to any one person designated by such respondent and to the person in charge of the seventy-two-hour treatment and evaluation facility named in the order or his or her designee.

(7) The respondent shall be evaluated as promptly as possible and shall in no

event be detained longer than seventy-two hours under the court order, excluding Saturdays, Sundays, and holidays if treatment and evaluation services are not available on those days. Within that time, the respondent shall be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment.

(8) At the time the respondent is taken into custody for evaluation or within a reasonable time thereafter, unless a responsible relative is in possession of the respondent's personal property, the certified peace officer taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the respondent.

(9) When a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this section or ~~section 27-10-105~~ SECTION 27-65-105, the person shall be advised by the facility director or his or her duly appointed representative that the person is going to be examined with regard to his or her mental condition.

(10) Whenever a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility, he or she shall be advised by the facility director or his or her duly appointed representative of his or her right to retain and consult with any attorney at any time and that, if he or she cannot afford to pay an attorney, upon proof of indigency, one will be appointed by the court without cost.

27-65-107. [Formerly 27-10-107] Certification for short-term treatment.

(1) If a person detained for seventy-two hours under the provisions of ~~section 27-10-105~~ SECTION 27-65-105 or a respondent under court order for evaluation pursuant to ~~section 27-10-106~~ SECTION 27-65-106 has received an evaluation, he or she may be certified for not more than three months of short-term treatment under the following conditions:

(a) The professional staff of the agency or facility providing seventy-two-hour treatment and evaluation has analyzed the person's condition and has found the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(b) The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, his or her acceptance of voluntary treatment shall not preclude certification.

(c) The facility which will provide short-term treatment has been designated or approved by the executive director to provide such treatment.

(2) The notice of certification must be signed by a professional person on the staff of the evaluation facility who participated in the evaluation and shall state facts sufficient to establish reasonable grounds to believe that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled. The certification shall be filed with the court within forty-eight hours, excluding Saturdays, Sundays, and court holidays, of the date of certification. The certification shall be filed with the court in the county in which

the respondent resided or was physically present immediately prior to his or her being taken into custody.

(3) Within twenty-four hours of certification, copies of the certification shall be personally delivered to the respondent, and a copy shall be kept by the evaluation facility as part of the person's record. The respondent shall also be asked to designate one other person whom he or she wishes informed regarding certification. If he or she is incapable of making such a designation at the time the certification is delivered, he or she shall be asked to designate such person as soon as he or she is capable. In addition to the copy of the certification, the respondent shall be given a written notice that a hearing upon his or her certification for short-term treatment may be had before the court or a jury upon written request directed to the court pursuant to subsection (6) of this section.

(4) Upon certification of the respondent, the facility designated for short-term treatment shall have custody of the respondent.

(5) Whenever a certification is filed with the court, the court, if it has not already done so under ~~section 27-10-106 (10)~~ SECTION 27-65-106 (10), shall forthwith appoint an attorney to represent the respondent. The court shall determine whether the respondent is able to afford an attorney. If the respondent cannot afford counsel, the court shall appoint either counsel from the legal services program operating in that jurisdiction or private counsel to represent the respondent. The attorney representing the respondent shall be provided with a copy of the certification immediately upon his or her appointment. Waiver of counsel must be knowingly and intelligently made in writing and filed with the court by the respondent. In the event that a respondent who is able to afford an attorney fails to pay the appointed counsel, such counsel, upon application to the court and after appropriate notice and hearing, may obtain a judgment for reasonable attorney fees against the respondent or person making request for such counsel or both the respondent and such person.

(6) The respondent for short-term treatment or his or her attorney may at any time file a written request that the certification for short-term treatment or the treatment be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the respondent and his or her attorney and the certifying and treating professional person of the time and place thereof. The hearing shall be held in accordance with ~~section 27-10-111~~ SECTION 27-65-111. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order, subject to available appropriations.

(7) Records and papers in proceedings under this section and ~~section 27-10-108~~ SECTION 27-65-108 shall be maintained separately by the clerks of the several courts. Upon the release of any respondent in accordance with the provisions of ~~section 27-10-110~~ SECTION 27-65-110, the facility shall notify the clerk of the court within five days of the release, and the clerk shall forthwith seal the record in the case and omit the name of the respondent from the index of cases in such court until and unless the respondent becomes subject to an order of long-term care and treatment pursuant to ~~section 27-10-109~~ SECTION 27-65-109 or until and unless the court orders them opened for good cause shown. In the event a petition is filed

pursuant to ~~section 27-10-109~~ SECTION 27-65-109, such certification record may be opened and become a part of the record in the long-term care and treatment case and the name of the respondent indexed.

(8) Whenever it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by a sheriff, the court may issue an order directing the sheriff or his or her designee to deliver the respondent to the designated facility.

27-65-108. [Formerly 27-10-108] Extension of short-term treatment. If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary for treatment of the respondent, he OR SHE shall file with the court an extended certification. No extended certification for treatment shall be for a period of more than three months. The respondent shall be entitled to a hearing on the extended certification under the same conditions as in an original certification. The attorney initially representing the respondent shall continue to represent that person, unless the court appoints another attorney.

27-65-109. [Formerly 27-10-109] Long-term care and treatment of persons with mental illness. (1) Whenever a respondent has received short-term treatment for five consecutive months under the provisions of ~~sections 27-10-107 and 27-10-108~~ SECTIONS 27-65-107 AND 27-65-108, the professional person in charge of the evaluation and treatment may file a petition with the court for long-term care and treatment of the respondent under the following conditions:

(a) The professional staff of the agency or facility providing short-term treatment has analyzed the respondent's condition and has found that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

(b) The respondent has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the respondent will not remain in a voluntary treatment program, his or her acceptance of voluntary treatment shall not preclude an order pursuant to this section.

(c) The facility that will provide long-term care and treatment has been designated or approved by the executive director to provide the care and treatment.

(2) Every petition for long-term care and treatment shall include a request for a hearing before the court prior to the expiration of six months from the date of original certification. A copy of the petition shall be delivered personally to the respondent for whom long-term care and treatment is sought and mailed to his or her attorney of record simultaneously with the filing thereof.

(3) Within ten days after receipt of the petition, the respondent or his or her attorney may request a jury trial by filing a written request therefor with the court.

(4) The court or jury shall determine whether the conditions of subsection (1) of

this section are met and whether the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled. The court shall thereupon issue an order of long-term care and treatment for a term not to exceed six months, or it shall discharge the respondent for whom long-term care and treatment was sought, or it shall enter any other appropriate order, subject to available appropriations. An order for long-term care and treatment shall grant custody of the respondent to the department for placement with an agency or facility designated by the executive director to provide long-term care and treatment. When a petition contains a request that a specific legal disability be imposed or that a specific legal right be deprived, the court may order the disability imposed or the right deprived if it or a jury has determined that the respondent has a mental illness or is gravely disabled and that, by reason thereof, the person is unable to competently exercise said right or perform the function as to which the disability is sought to be imposed. Any interested person may ask leave of the court to intervene as a copetitioner for the purpose of seeking the imposition of a legal disability or the deprivation of a legal right.

(5) An original order of long-term care and treatment or any extension of such order shall expire upon the date specified therein, unless further extended as provided in this subsection (5). If an extension is being sought, the professional person in charge of the evaluation and treatment shall certify to the court at least thirty days prior to the expiration date of the order in force that an extension of the order is necessary for the care and treatment of the respondent subject to the order in force, and a copy of the certification shall be delivered to the respondent and simultaneously mailed to his or her attorney of record. At least twenty days before the expiration of the order, the court shall give written notice to the respondent and his or her attorney of record that a hearing upon the extension may be had before the court or a jury upon written request to the court within ten days after receipt of the notice. If no hearing is requested by the respondent within such time, the court may proceed ex parte. If a hearing is timely requested, it shall be held before the expiration date of the order in force. If the court or jury finds that the conditions of subsection (1) of this section continue to be met and that the respondent has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled, the court shall issue an extension of the order. Any extension shall be for a period of not more than six months, but there may be as many extensions as the court orders pursuant to this section.

27-65-110. [Formerly 27-10-110] Termination of short-term and long-term treatment - escape. (1) An original certification for short-term treatment under ~~section 27-10-107~~ SECTION 27-65-107, or an extended certification under ~~section 27-10-108~~ SECTION 27-65-108, or an order for long-term care and treatment or any extension thereof shall terminate as soon as, in the opinion of the professional person in charge of treatment of the respondent, the respondent has received sufficient benefit from such treatment for him OR HER to leave. Whenever a certification or extended certification is terminated under this section, the professional person in charge of providing treatment shall so notify the court in writing within five days of such termination. Such professional person may also prescribe day care, night care, or any other similar mode of treatment prior to termination.

(2) Before termination, an escaped respondent may be returned to the facility by

order of the court without a hearing or by the superintendent or director of such facility without order of court. After termination, a respondent may be returned to the institution only in accordance with the provisions of this article.

27-65-111. [Formerly 27-10-111] Hearing procedures - jurisdiction.

(1) Hearings before the court under ~~section 27-10-107, 27-10-108, or 27-10-109~~ SECTION 27-65-107, 27-65-108, OR 27-65-109 shall be conducted in the same manner as other civil proceedings before the court. The burden of proof shall be upon the person or facility seeking to detain the respondent. The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds by clear and convincing evidence that the person has a mental illness and, as a result of the mental illness, is a danger to others or to himself or herself or is gravely disabled.

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

(3) Every respondent subject to an order for short-term treatment or long-term care and treatment shall be advised of his or her right to appeal the order by the court at the conclusion of any hearing as a result of which such an order may be entered.

(4) The court in which the petition is filed under ~~section 27-10-106~~ SECTION 27-65-106 or the certification is filed under ~~section 27-10-107~~ SECTION 27-65-107 shall be the court of original jurisdiction and of continuing jurisdiction for any further proceedings under this article. When the convenience of the parties and the ends of justice would be promoted by a change in the court having jurisdiction, the court may order a transfer of the proceeding to another county. Until further order of the transferee court, if any, it shall be the court of continuing jurisdiction.

~~(4.5)~~ (5) (a) In the event that a respondent or a person found not guilty by reason of impaired mental condition pursuant to section 16-8-103.5 (5), C.R.S., or by reason of insanity pursuant to section 16-8-105 (4) or 16-8-105.5, C.R.S., refuses to accept medication, the court having jurisdiction of the action pursuant to subsection (4) of this section, the court committing the person or defendant to the custody of the department ~~of human services~~ pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., or the court of the jurisdiction in which the designated facility treating the respondent or person is located shall have jurisdiction and venue to accept a petition by a treating physician and to enter an order requiring that the respondent or person accept such treatment or, in the alternative, that the medication be forcibly administered to him or her. The court of the jurisdiction in which the designated facility is located shall not exercise its jurisdiction without the permission of the court that committed the person to the custody of the department ~~of human services~~. Upon the filing of such a petition, the court shall appoint an attorney, if one has not been appointed, to represent the respondent or person and hear the matter within ten days.

(b) In any case brought under paragraph (a) of this ~~subsection (4.5)~~ SUBSECTION (5) in a court for the county in which the treating facility is located, the county where the proceeding was initiated pursuant to subsection (4) of this section or the court committing the person to the custody of the department of human services pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., shall either reimburse the county in which the proceeding pursuant to this ~~subsection (4.5)~~ SUBSECTION (5) was filed and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be.

(c) In the case of a defendant who is found incompetent to proceed pursuant to section 16-8.5-103, C.R.S., and who refuses to accept medication, the jurisdiction for the petition for involuntary treatment procedures shall be as set forth in section 16-8.5-112, C.R.S.

~~(5)~~(6) All proceedings under this article, including proceedings to impose a legal disability pursuant to ~~section 27-10-125~~ SECTION 27-65-127, shall be conducted by the district attorney of the county where the proceeding is held or by a qualified attorney acting for the district attorney appointed by the district court for that purpose; except that, in any county or in any city and county having a population exceeding fifty thousand persons, the proceedings shall be conducted by the county attorney or by a qualified attorney acting for the county attorney appointed by the district court. In any case in which there has been a change of venue to a county other than the county of residence of the respondent or the county in which the certification proceeding was commenced, the county from which the proceeding was transferred shall either reimburse the county to which the proceeding was transferred and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be. Upon request of a guardian appointed pursuant to article 14 of title 15, C.R.S., the guardian may intervene in any proceeding under this article concerning his OR HER ward and, through counsel, may present evidence and represent to the court the views of the guardian concerning the appropriate disposition of the case.

27-65-112. [Formerly 27-10-112] Appeals. Appellate review of any order of short-term treatment or long-term care and treatment may be had as provided in the Colorado appellate rules. Such appeal shall be advanced upon the calendar of the appellate court and shall be decided at the earliest practicable time. Pending disposition by the appellate court, it may make such order as it may consider proper in the premises relating to the care and custody of the respondent.

27-65-113. [Formerly 27-10-113] Habeas corpus. Any person detained pursuant to this article shall be entitled to an order in the nature of habeas corpus upon proper petition to any court generally empowered to issue orders in the nature of habeas corpus.

27-65-114. [Formerly 27-10-114] Restoration of rights. Any person who, by reason of a judicial decree entered by a court of this state prior to July 1, 1975, is adjudicated as a person with a mental illness shall be deemed to have been restored to legal capacity and competency.

27-65-115. [Formerly 27-10-115] Discrimination. No person who has received evaluation or treatment under any provisions of this article shall be discriminated against because of such status. For purposes of this section, "discrimination" means giving any undue weight to the fact of hospitalization or outpatient care and treatment unrelated to a person's present capacity to meet standards applicable to all persons. Any person who suffers injury by reason of a violation of this section shall have a civil cause of action.

27-65-116. [Formerly 27-10-116] Right to treatment. (1) (a) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to medical and psychiatric care and treatment, with regard to services listed in ~~section 27-1-201 (1) (a) to (1) (c)~~ SECTION 27-66-101 and services listed in rules and regulations authorized by ~~section 27-1-202~~ SECTION 27-66-102, suited to meet his or her individual needs, delivered in such a way as to keep him or her in the least restrictive environment, and delivered in such a way as to include the opportunity for participation of family members in his or her program of care and treatment when appropriate, all subject to available appropriations. Nothing in this paragraph (a) shall create any right with respect to any person other than the person receiving evaluation, care, or treatment. The professional person and the agency or facility providing evaluation, care, or treatment shall keep records detailing all care and treatment received by such person, and such records shall be made available, upon that person's written authorization, to his or her attorney or his or her personal physician. Such records shall be permanent records and retained in accordance with the provisions of ~~section 27-10-120 (3)~~ SECTION 27-65-121 (4).

(b) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to petition the court pursuant to the provisions of section 13-45-102, C.R.S., subject to available appropriations, for release to a less restrictive setting within or without a treating facility or release from a treating facility when adequate medical and psychiatric care and treatment is not administered.

(2) The department shall adopt regulations to assure that each agency or facility providing evaluation, care, or treatment shall require the following:

(a) Consent for specific therapies and major medical treatment in the nature of surgery. The nature of the consent, by whom it is given, and under what conditions, shall be determined by ~~regulations~~ RULES of the department.

(b) The order of a physician for any treatment or specific therapy based on appropriate medical examinations;

(c) Notation in the patient's treatment record of periodic examinations, evaluations, orders for treatment, and specific therapies signed by personnel involved;

(d) Conduct according to the guidelines contained in the regulations of the federal government and the department with regard to clinical investigations, research, experimentation, and testing of any kind; and

(e) Documentation of the findings, conclusions, and decisions in any

administrative review of a decision to release or withhold the information requested by a family member pursuant to ~~section 27-10-120 (1) (g) or (1) (h)~~ SECTION 27-65-121 (1) (g) OR (1) (h) and documentation of any information given to a family member.

27-65-117. [Formerly 27-10-117] Rights of persons receiving evaluation, care, or treatment. (1) Each person receiving evaluation, care, or treatment under any provision of this article has the following rights and shall be advised of such rights by the facility:

(a) To receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held, or censored by the personnel of the facility.

(b) To have access to letter-writing materials, including postage, and to have staff members of the facility assist him OR HER if unable to write, prepare, and mail correspondence;

(c) To have ready access to telephones, both to make and to receive calls in privacy;

(d) To have frequent and convenient opportunities to meet with visitors. Each person may see his OR HER attorney, clergyman, or physician at any time.

(e) To wear his OR HER own clothes, keep and use his OR HER own personal possessions, and keep and be allowed to spend a reasonable sum of his OR HER own money.

(2) A person's rights under subsection (1) of this section may be denied for good cause only by the professional person providing treatment. Denial of any right shall in all cases be entered into the person's treatment record. Information pertaining to a denial of rights contained in the person's treatment record shall be made available, upon request, to the person or his OR HER attorney.

(3) No person admitted to or in a facility shall be fingerprinted unless required by other provisions of law.

(4) A person may be photographed upon admission for identification and the administrative purposes of the facility. ~~Such~~ THE photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other nonmedical photographs shall be taken or used without appropriate consent or authorization.

(5) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to a written copy of all his OR HER rights enumerated in this section, and a minor child shall receive written notice of his OR HER rights as provided in ~~section 27-10-103 (3.5) (g)~~ SECTION 27-65-103 (7) (g). A list of such rights shall be prominently posted in all evaluation and treatment facilities.

27-65-118. [Formerly 27-10-117.5] Administration or monitoring of medications to persons receiving care. The executive director has the power to

direct the administration or monitoring of medications in conformity with part 3 of article 1.5 of title 25, C.R.S., to persons receiving treatment in facilities created pursuant to this article.

27-65-119. [Formerly 27-10-118] Employment of persons in a facility. The department shall adopt ~~regulations~~ RULES governing the employment and compensation thereof of persons receiving care or treatment under any provision of this article. The department shall establish standards for reasonable compensation for such employment.

27-65-120. [Formerly 27-10-119] Voting in public elections. Any person receiving evaluation, care, or treatment under any provision of this article shall be given the opportunity to exercise his or her right to register and to vote in primary and general elections. The agency or facility providing evaluation, care, or treatment shall assist such persons, upon their request, to obtain voter registration forms, applications for mail-in ballots, and mail-in ballots and to comply with any other prerequisite for voting.

27-65-121. [Formerly 27-10-120] Records. (1) Except as provided in subsection (2) of this section, all information obtained and records prepared in the course of providing any services under this article to individuals under any provision of this article shall be confidential and privileged matter. The information and records may be disclosed only:

(a) In communications between qualified professional personnel in the provision of services or appropriate referrals;

(b) When the recipient of services designates persons to whom information or records may be released; but, if a recipient of services is a ward or conservatee and his or her guardian or conservator designates, in writing, persons to whom records or information may be disclosed, the designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional personnel to reveal information that has been given to him or her in confidence by members of a patient's family or other informants;

(c) To the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he or she may be entitled;

(d) If the department has promulgated rules for the conduct of research. Such rules shall include, but not be limited to, the requirement that all researchers must sign an oath of confidentiality. All identifying information concerning individual patients, including names, addresses, telephone numbers, and social security numbers, shall not be disclosed for research purposes.

(e) To the courts, as necessary to the administration of the provisions of this article;

(f) To persons authorized by an order of court after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the Colorado rules of civil procedure;

(g) To adult family members upon admission of a person with a mental illness for inpatient or residential care and treatment. The only information released pursuant to this paragraph (g) shall be the location and fact of admission of the person with a mental illness who is receiving care and treatment. The disclosure of location is governed by the procedures in ~~section 27-10-120.5 (1)~~ SECTION 27-65-122 and is subject to review under ~~section 27-10-120.5~~ SECTION 27-65-122.

(h) To adult family members actively participating in the care and treatment of a person with a mental illness regardless of the length of the participation. The information released pursuant to this paragraph (h) shall be limited to one or more of the following: The diagnosis, the prognosis, the need for hospitalization and anticipated length of stay, the discharge plan, the medication administered and side effects of the medication, and the short-term and long-term treatment goals. The disclosure is governed by the procedures in ~~section 27-10-120.5 (2)~~ SECTION 27-65-122 (2) and is subject to review under ~~section 27-10-120.5~~ SECTION 27-65-122.

(i) In accordance with state and federal law to the agency designated pursuant to the federal "Protection and Advocacy for Mentally Ill Individuals Act", 42 U.S.C. sec. 10801, et seq., as the governor's protection and advocacy system for Colorado.

~~(1.5)~~ (2) Nothing in paragraph (g) or (h) of subsection (1) of this section shall be deemed to preclude the release of information to a parent concerning his or her minor child.

~~(2)~~ (3) (a) Nothing in this article shall be construed as rendering privileged or confidential any information, except written medical records and information ~~which~~ THAT is privileged under section 13-90-107, C.R.S., concerning observed behavior ~~which~~ THAT constitutes a criminal offense committed upon the premises of any facility providing services under this article or any criminal offense committed against any person while performing or receiving services under this article.

(b) The provisions of subsection (1) of this section shall not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6, C.R.S.

~~(3)~~ (4) (a) All facilities shall maintain and retain permanent records, including all applications as required pursuant to ~~section 27-10-105 (2)~~ SECTION 27-65-105 (3).

(b) Outpatient or ambulatory care facilities shall retain all records for a minimum of seven years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-five years of age for persons who were under eighteen years of age when admitted to the facility.

(c) Inpatient or hospital care facilities shall retain all records for a minimum of ten years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-eight years of age for persons who were under eighteen years of age when admitted to the facility.

27-65-122. [Formerly 27-10-120.5] Request for release of information - procedures - review of a decision concerning release of information. (1) When

a family member requests the location and fact of admission of a person with a mental illness pursuant to ~~section 27-10-120 (1) (g)~~ SECTION 27-65-121 (1) (g), the treating professional person or his or her designee, who shall be a professional person, shall decide whether to release or withhold such information. The location shall be released unless the treating professional person or his or her designee determines, after an interview with the person with a mental illness, that release of the information to a particular family member would not be in the best interests of the person with a mental illness. Any decision to withhold information requested pursuant to ~~section 27-10-120 (1) (g)~~ SECTION 27-65-121 (1) (g) is subject to administrative review pursuant to this section upon request of a family member or the person with a mental illness. The treating facility shall make a record of the information given to a family member pursuant to this subsection (1). For the purposes of this subsection (1), an adult person having a similar relationship to a person with a mental illness as a spouse, parent, child, or sibling of a person with a mental illness may also request the location and fact of admission concerning a person with a mental illness.

(2) (a) When a family member requests information pursuant to ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) concerning a person with a mental illness, the treating professional person or his or her designee shall determine whether the person with a mental illness is capable of making a rational decision in weighing his or her confidentiality interests and the care and treatment interests implicated by the release of information. The treating professional person or his or her designee shall then determine whether the person with a mental illness consents or objects to such release. Information shall be released or withheld in the following circumstances:

(I) If the treating professional person or his or her designee makes a finding that the person with a mental illness is capable of making a rational decision concerning his or her interests and the person with a mental illness consents to the release of information, the treating professional person or his or her designee shall order the release of the information unless he or she determines that the release would not be in the best interests of the person with a mental illness.

(II) If the treating professional person or his or her designee makes a finding that the person with a mental illness is capable of making a rational decision concerning his or her interests and the person with a mental illness objects to the release of information, the treating professional person or his or her designee shall not order the release of the information.

(III) If the treating professional person or his or her designee makes a finding that the person with a mental illness is not capable of making a rational decision concerning his or her interests, the treating professional person or his or her designee may order the release of the information if he or she determines that the release would be in the best interests of the person with a mental illness.

(IV) Any determination as to capacity under this paragraph (a) shall be used only for the limited purpose of this paragraph (a).

(b) A decision by a treating professional person or his or her designee concerning the capability of a person with a mental illness under subparagraph (III) of

paragraph (a) of this subsection (2) is subject to administrative review upon the request of the person with a mental illness. A decision by a treating professional person or his or her designee to order the release or withholding of information under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of either a family member or the person with a mental illness.

(c) The director of the treating facility shall make a record of any information given to a family member pursuant to paragraph (a) of this subsection (2) and ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h).

(3) When administrative review is requested either under subsection (1) or paragraph (b) of subsection (2) of this section, the director of the facility providing care and treatment to the person with a mental illness shall cause an objective and impartial review of the decision to withhold or release information. The review shall be conducted by the director of the facility, if he or she is a professional person, or by a professional person whom he or she designates if the director is not available or if the director cannot provide an objective and impartial review. The review shall include, but need not be limited to, an interview with the person with a mental illness. The facility providing care and treatment shall document the review of the decision.

(4) If a person with a mental illness objects to the release or withholding of information, the person with a mental illness and his or her attorney, if any, shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information. The person with a mental illness shall be informed of any information proposed to be withheld or released and to whom and shall be given a reasonable opportunity to initiate the administrative review process before information concerning his or her care and treatment is released.

(5) A family member whose request for information is denied shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information.

(6) A person with a mental illness may file a written request for review by the court of a decision made upon administrative review to release information to a family member requested under ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) and proposed to be released pursuant to subsection (2) of this section. If judicial review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the person with a mental illness and his or her attorney, the treating professional person, and the person who made the decision upon administrative review of the time and place thereof. The hearing shall be conducted in the same manner as other civil proceedings before the court.

(7) In order to allow a person with a mental illness an opportunity to seek judicial review, the treating facility or the treating professional person or his or her designee shall not release information requested pursuant to ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) until five days after the determination upon administrative review of the director or his or her designee is received by the person with a mental illness, and, once judicial review is requested, information shall not be released except by court order. However, if the person with a mental illness

indicates an intention not to appeal a determination upon administrative review that is adverse to him or her concerning the release of information, the information may be released less than five days after the determination upon review is received by the person with a mental illness.

(8) This section provides for the release of information only and shall not be deemed to authorize the release of the written medical record without authorization by the patient or as otherwise provided by law.

(9) For purposes of this section, the treating professional person's designee shall be a professional person.

27-65-123. [Formerly 27-10-121] Treatment in federal facilities. (1) If a person is certified under the provisions of this article and is eligible for hospital care or treatment by an agency of the United States and if a certificate of notification from said agency, showing that facilities are available and that the person is eligible for care or treatment therein, is received, the court may order ~~said person~~ HIM OR HER to be placed in the custody of the agency for hospitalization. When any person is admitted pursuant to an order of court to any hospital or institution operated by any agency of the United States within or without this state, ~~he~~ THE PERSON shall be subject to the rules and regulations of the agency. The chief officer of any hospital or institution operated by an agency and in which the person is so hospitalized shall, with respect to the person, be vested with the same powers as the chief officer of the Colorado mental health institute at Pueblo with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction shall be retained in the appropriate courts of this state to inquire into the mental condition of persons so hospitalized and to determine the necessity for continuance of their hospitalization.

(2) An order of a court of competent jurisdiction of another state, territory, or the District of Columbia, authorizing hospitalization of a person to any agency of the United States, shall have the same effect as to said person while in this state as in the jurisdiction in which the court entering the order is situated; the courts of the state or district issuing the order shall be deemed to have retained jurisdiction of the person so hospitalized for the purpose of inquiring into his OR HER mental condition and of determining the necessity for continuance of his OR HER hospitalization. Consent is hereby given to the application of the law of the state or district in which the court issuing the order for hospitalization is located, with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, to transfer, to conditionally release, or to discharge the person hospitalized.

27-65-124. [Formerly 27-10-122] Transfer of persons into and out of Colorado - reciprocal agreements. (+) The transfer of persons hospitalized voluntarily under the provisions of this article out of Colorado or under the laws of another jurisdiction into Colorado shall be governed by the provisions of the interstate compact on mental health.

~~(2) to (6) Repealed.~~

27-65-125. [Formerly 27-10-123] Criminal proceedings. Proceedings under

~~section 27-10-105, 27-10-106, or 27-10-107~~ SECTION 27-65-105, 27-65-106, OR 27-65-107 shall not be initiated or carried out involving a person charged with a criminal offense unless or until the criminal offense has been tried or dismissed; except that the judge of the court wherein the criminal action is pending may request the district or probate court to authorize and permit such proceedings.

27-65-126. [Formerly 27-10-124] Application of this article. The provisions of this article do not apply to or govern any proceedings commenced or concluded prior to July 1, 1975, with the exception of ~~section 27-10-114~~ SECTION 27-65-114. Any proceeding commenced prior to July 1, 1975, shall be administered and disposed of according to the provisions of law existing prior to July 1, 1975, in the same manner as if this article had not been enacted.

27-65-127. [Formerly 27-10-125] Imposition of legal disability - deprivation of legal right - restoration. (1) (a) When an interested person wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for a person who has a mental illness and who is a danger to himself or herself or others, is gravely disabled, or is insane, as defined in section 16-8-101, C.R.S., and who is not then subject to proceedings under this article or part 3 or part 4 of article 14 of title 15, C.R.S., the interested person may petition the court for a specific finding as to the legal disability or deprivation of a legal right. Actions commenced pursuant to this subsection (1) may include but shall not be limited to actions to determine contractual rights and rights with regard to the operation of motor vehicles.

(b) The petition shall set forth the disability to be imposed or the legal right to be deprived and the reasons therefor.

(2) ~~(a)~~ The court may impose a legal disability or may deprive a person of a legal right only upon finding both of the following:

~~(i)~~ (a) That the respondent is a person with a mental illness and is a danger to himself or herself or others, gravely disabled, or insane, as defined in section 16-8-101, C.R.S.;

~~(ii)~~ (b) That the requested disability or deprivation is both necessary and desirable.

~~(b) Repealed.~~

(3) To have a legal disability removed or a legal right restored, any interested person may file a petition with the court which made the original finding. No legal disability shall be imposed nor a legal right be deprived for a period of more than six months without a review hearing by the court at the end of six months at which the findings specified in subsection (2) of this section shall be reaffirmed to justify continuance of the disability or deprivation. A copy of the petition shall be served on the person who filed the original petition, on the person whose rights are affected if he OR SHE is not the petitioner, and upon the facility where the person whose rights are affected resides, if any.

(4) Whenever any proceedings are instituted or conducted pursuant to this

section, the following procedures shall apply:

(a) Upon the filing of a petition, the court shall appoint an attorney-at-law to represent the respondent. The respondent may replace said attorney with an attorney of the respondent's own selection at any time. Attorney fees for an indigent respondent shall be paid by the court.

(b) The court, upon request of an indigent respondent or his or her attorney, shall appoint, at the court's expense, one or more professional persons of the respondent's selection to assist the respondent in the preparation of his or her case.

(c) Upon demand made at least five days prior to the date of hearing, the respondent shall have the right to a trial of all issues by a jury of six.

(d) At all times the burden shall be upon the person seeking imposition of a disability or deprivation of a legal right or opposing removal of a disability or deprivation to prove all essential elements by clear and convincing evidence.

(e) Pending a hearing, the court may issue an order temporarily imposing a disability or depriving the respondent of a legal right for a period of not more than ten days in conformity with the standards for issuance of ex parte temporary restraining orders in civil cases, but no individual habilitation or rehabilitation plan shall be required prior to the issuance of such order.

(f) Except as otherwise provided in this subsection (4), all proceedings shall be held in conformance with the Colorado rules of civil procedure, but no costs shall be assessed against the respondent.

(5) Any person who, by reason of a judicial decree or order entered by a court of this state prior to July 1, 1979, is under the imposition of a legal disability or has been deprived of a legal right pursuant to this section as it existed prior to July 1, 1979, shall be released from such decree or order on December 31, 1979.

27-65-128. [Formerly 27-10-126] Administration - rules. The department shall make such rules and regulations as will consistently enforce the provisions of this article.

27-65-129. [Formerly 27-10-127] Payment for counsel. In order to provide legal representation to persons eligible therefor as provided in this article, the judicial department is authorized to pay, out of appropriations made therefor by the general assembly, sums directly to appointed counsel on a case-by-case basis or, on behalf of the state, to make lump-sum grants to and contract with individual attorneys, legal partnerships, legal professional corporations, public interest law firms, or nonprofit legal services corporations.

27-65-130. [Formerly 27-10-128] Mental health service standards for health care facilities. (†) The advisory board created by ~~section 27-10-129~~ SECTION 27-65-131 shall be responsible for recommending standards and ~~regulations~~ RULES relevant to the provisions of this article for the programs of mental health services to those patients in any health care facility that has either separate facilities for the care, treatment, and rehabilitation of persons with mental health problems or those

health care facilities that have as their only purpose the treatment and care of such persons.

~~(2) (Deleted by amendment, L. 92, p. 955, § 6, effective March 19, 1992.)~~

27-65-131. [Formerly 27-10-129] Advisory board - service standards and regulations. ~~(1)~~ There is hereby established an advisory board to the department for the purpose of assisting and advising the executive director in accordance with ~~section 27-10-128~~ SECTION 27-65-130 in the development of service standards and ~~regulations~~ RULES. The board shall consist of not less than eleven nor more than fifteen members appointed by the governor and shall include one representative each from the ~~division of mental health~~ UNIT in the department THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, the department of human services, the department of public health and environment, the university of Colorado ~~medical~~ HEALTH SCIENCES center, and a leading professional association of psychiatrists in this state; at least one member representing proprietary skilled health care facilities; one member representing nonprofit health care facilities; one member representing the Colorado bar association; one member representing consumers of mental health services; one member representing families of persons with mental illness; one member representing children's health care facilities; and other persons from both the private and the public sectors who are recognized or known to be interested and informed in the area of the board's purpose and function. In making appointments to the board, the governor is encouraged to include representation by at least one member who is a person with a disability, as defined in section 24-45.5-102 (2), C.R.S., a family member of a person with a disability, or a member of an advocacy group for persons with disabilities, provided that the other requirements of this ~~subsection (1)~~ SECTION are met.

~~(2) (Deleted by amendment, L. 92, p. 955, § 7, effective March 19, 1992.)~~

ARTICLE 66

Community Mental Health Services - Purchase

27-66-101. [Formerly 27-1-201] Definitions. As used in this ~~part 2~~ ARTICLE, unless the context otherwise requires:

(1) "Acute treatment unit" means a facility or a distinct part of a facility for short-term psychiatric care, which may include substance abuse treatment, that provides a total, twenty-four-hour, therapeutically planned and professionally staffed environment for persons who do not require inpatient hospitalization but need more intense and individual services than are available on an outpatient basis, such as crisis management and stabilization services.

(2) "Community mental health center" means either a physical plant or a group of services under unified administration or affiliated with one another, and including at least the following services provided for the prevention and treatment of mental illness in persons residing in a particular community in or near the facility so situated:

(a) Inpatient services;

- (b) Outpatient services;
- (c) Partial hospitalization;
- (d) Emergency services;
- (e) Consultative and educational services.

(3) "Community mental health clinic" means a health institution planned, organized, operated, and maintained to provide basic community services for the prevention, diagnosis, and treatment of emotional or mental disorders, such services being rendered primarily on an outpatient and consultative basis.

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED IN SECTION 26-1-105, C.R.S.

(5) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES.

(6) "UNIT" MEANS THE UNIT IN THE DEPARTMENT THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

27-66-102. [Formerly 27-1-202] Administration - rules. (1) The executive director of the department of human services has the power and duty to administer and enforce the provisions of this ~~part 2~~ ARTICLE.

(2) The department of human services may adopt reasonable and proper rules to implement this ~~part 2~~ ARTICLE in accordance with the provisions of section 24-4-103, C.R.S., and consistent with ~~sections 27-1-103 and 27-1-103.5~~ SECTIONS 27-90-102 AND 27-90-103.

27-66-103. [Formerly 27-1-203] Community mental health services - purchase program. In order to encourage the development of preventive, treatment, and rehabilitative services through new community mental health programs, the improvement and expansion of existing community mental health services, and the integration of community with state mental health services, there is established a program to purchase community mental health services by the department. ~~of human services.~~

27-66-104. [Formerly 27-1-204] Types of services purchased - limitation on payments - offender mental health services fund. (1) Community mental health services may be purchased from clinics, community mental health centers, local general or psychiatric hospitals, and other agencies ~~which~~ THAT have been approved by the executive director. ~~of the department of human services for such purchase.~~

~~(2) and (3) Repealed.~~

~~(4)~~ (2) (a) Each year the general assembly shall appropriate funds for the purchase of mental health services from:

(I) Community mental health centers;

(II) Agencies that provide specialized clinic-type services but do not serve a specific designated service area; and

(III) Acute treatment units.

(b) The funds appropriated for the purposes of this ~~subsection (4)~~ SUBSECTION (2) shall be distributed by the executive director ~~of the department of human services~~ to approved community mental health centers and other agencies on the basis of need and in accordance with the services provided.

~~(5)~~(3) Each year the general assembly may appropriate funds in addition to those appropriated for purposes of ~~subsection (4)~~ SUBSECTION (2) of this section, which FUNDS may be used by the executive director ~~of the department of human services~~ to assist community mental health clinics and centers in instituting innovative programs, in providing mental health services to impoverished areas, and in dealing with crisis situations. The executive director ~~of the department of human services~~ shall require that any innovative or crisis programs for which funds are allocated under this ~~subsection (5)~~ SUBSECTION (3) be clearly defined in terms of services to be rendered, program objectives, scope and duration of the program, and the maximum amount of funds to be provided.

~~(5.5)~~ (4) (a) The offender mental health services fund, REFERRED TO IN THIS SUBSECTION (4) AS THE "FUND", is hereby created in the state treasury. The principal of the fund shall consist of tobacco litigation settlement moneys transferred by the state treasurer to the fund in accordance with section 24-75-1104.5 (1.5) (a) (II), C.R.S., for the purchase of mental health services for juvenile and adult offenders who have mental health problems and are involved in the criminal justice system. ~~The division of mental health in the department of human services,~~ THE UNIT, subject to annual appropriation by the general assembly, shall distribute the principal of the fund to the community mental health centers; except that, at the end of the 2007-08 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the fund shall be transferred to the short-term innovative health program grant fund created in section 25-36-101 (2), C.R.S., in accordance with section 24-75-1104.5 (1.5) (b), C.R.S. Interest and income earned on the deposit and investment of moneys in the ~~offender mental health services~~ fund shall be credited to the fund and shall remain in the fund until the end of the fiscal year in which credited, when it shall be transferred to the short-term innovative health program grant fund.

(b) Notwithstanding any provision of paragraph (a) of this ~~subsection (5.5)~~ SUBSECTION (4) to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred forty-six thousand three hundred fifty dollars from the ~~offender mental health services~~ fund and transfer such sum to the general fund.

~~(6)~~(5) If there is a reduction in the financial support of local governmental bodies for community mental health services, the executive director ~~of the department of human services~~ is authorized to reduce state payments for services in an amount proportional to the reduction in such local financial support.

~~(7) Repealed.~~

~~(8)~~(6) For purposes of entering into a cooperative purchasing agreement pursuant to section 24-110-201, C.R.S., a nonprofit community mental health center or a nonprofit community mental health clinic may be certified as a local public procurement unit as provided in section 24-110-207.5, C.R.S.

27-66-105. [Formerly 27-1-205] Standards for approval. (1) In approving or rejecting community mental health clinics for the purchase of mental health services, the executive director ~~of the department of human services~~ shall:

(a) Consider the adequacy of mental health services provided by such clinics, taking into consideration such factors as geographic location, local economic conditions, and availability of manpower;

(b) Require that overall responsibility for the administration of a community mental health clinic be vested in a director who is a physician or a member of one of the mental health professions;

(c) Require that the treatment programs of the clinic be under the overall direction of a psychiatrist who is a physician licensed to practice medicine in the state of Colorado;

(d) Require that the clinic staff include, wherever feasible, other professional staff workers, such as psychologists, social workers, educational consultants, and nurses, with such qualifications, responsibilities, and time on the job as correspond with the size and capacity of the clinic. The clinic staff may include, with the approval of the executive director, ~~of the department of human services~~, such other nonprofessional persons as may be deemed necessary by the clinic board for the proper discharge of its functions.

(e) Require that each clinic from which services may be purchased be under the control and direction of a county or community board of health, a board of directors or trustees of a corporation, for profit or not for profit, a regional mental health and mental retardation board, or a political subdivision of the state;

(f) Consider the existence of facilities that provide an emphasis on the care and treatment of persons recently released from mental hospitals or institutions directed toward assisting said persons in their adjustment to and functioning within society as a whole.

(2) In approving or rejecting local general or psychiatric hospitals, community mental health centers, acute treatment units, and other agencies for the purchase of services not provided by local mental health clinics, including, but not limited to, twenty-four-hour and partial hospitalization, the executive director ~~of the department of human services~~ shall consider the following factors:

(a) The general quality of care provided to patients by such agencies;

(b) The organization of the medical staff to provide for the integration and coordination of the psychiatric treatment program;

(c) The provisions for the availability of nursing, psychological, and social services and the existence of an organized program of activities under the direction of an occupational therapist or of another qualified person;

(d) The licensure by the department of public health and environment or another state agency where applicable;

(e) The methods by which the agency coordinates its services with those rendered by other agencies to ensure an uninterrupted continuum of care to persons with mental illness; AND

(f) The availability of such services to the general public.

(3) In the purchase of services from community mental health centers, the executive director ~~of the department of human services~~ shall specify levels and types of inpatient, outpatient, consultation, education, and training services and expenditures and shall establish minimum standards for other programs of such centers that are to be supported with state funds.

27-66-106. [Formerly 27-1-206] Federal grants-in-aid - administration. The department ~~of human services~~ is designated the official mental health and mental retardation authority, and is authorized to receive grants-in-aid from the federal government under the provisions of 42 U.S.C. sec. 246, and shall administer said grants in accordance therewith.

27-66-107. [Formerly 27-1-207] Purchase of services by courts, counties, municipalities, school districts, and other political subdivisions. Any county, municipality, school district, health service district, or other political subdivision of the state or any county, district, or juvenile court is authorized to purchase ~~such~~ mental health services from community mental health clinics and such other community agencies as are approved for purchases by the executive director. ~~of the department of human services.~~ For the purchase of mental health services by counties or city and counties as authorized by this section, the board of county commissioners of any county or the city council of any city and county may levy a tax not to exceed two mills upon real property within the county or city and county if the board first submits the question of such levy to a vote of the qualified electors at a general election and receives their approval of such levy.

27-66-108. [Formerly 27-1-208] Institutes and training programs. The department ~~of human services~~ may, from time to time during each year, provide ~~such~~ consultation and conduct ~~such~~ institutes and training programs on a state, regional, district, county, or community level as ~~may be~~ necessary to coordinate, inform, and assist in the training of staff members of the various approved community mental health programs of the state. The department ~~of human services~~ may reimburse ~~such~~ staff members for reasonable and necessary expenses incurred in attending ~~such~~ THE institutes and training programs.

27-66-109. [Formerly 27-1-209] Family mental health services grant program - rural areas - creation - administration - report - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of human services created in section 26-1-105, C.R.S.

~~(b) "Division" means the division within the department responsible for mental health services.~~

~~(c)~~ (b) "Family mental health services" means counseling services provided by a licensed mental health professional to children and their families.

~~(d)~~ (c) "Grant program" means the family mental health services grant program created in subsection (2) of this section.

~~(e)~~ (d) "Rural area" means:

(I) A county with a population of less than fifty thousand people, according to the most recently available population statistics of the United States bureau of the census;

(II) A municipality with a population of less than fifty thousand people, according to the most recently available population statistics of the United States bureau of the census, that is located ten miles or more from a municipality with a population of more than fifty thousand people; or

(III) The unincorporated part of a county located ten miles or more from a municipality with a population of more than fifty thousand people, according to the most recently available population statistics of the United States bureau of the census.

~~(f)~~ (e) "State board" means the state board of human services created in section 26-1-107, C.R.S.

(f) "UNIT" MEANS THE UNIT IN THE DEPARTMENT THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

(2) (a) There is hereby created the family mental health services grant program. The ~~division~~ UNIT shall administer the grant program.

(b) A community mental health center located in or serving a rural area may apply for a one-time grant to fund the provision of family mental health services in a rural area. When applying for a grant, the community mental health center shall submit the following information in a form and manner determined by the ~~division~~ UNIT:

(I) The need for family mental health services in the rural area that will be served;

(II) The specific family mental health services that will be provided;

(III) The community mental health center's plan for sustaining the family mental health services without future moneys from the grant program; and

(IV) Any other information required by the ~~division~~ UNIT.

(c) The ~~division~~ UNIT shall establish criteria to be used in awarding grants pursuant to this section. The criteria shall include, but need not be limited to, the following:

(I) The types of family mental health services that may be provided using moneys awarded through the grant program;

(II) The family mental health service needs of the rural areas that will be served;

(III) A method for ranking the family mental health service needs of the rural areas so as to provide grant moneys to the rural areas with the greatest need;

(IV) The ability of a community mental health center to sustain the family mental health service without additional moneys from the grant program.

(d) The state board may adopt rules as necessary for the implementation of the grant program.

(3) (a) There is hereby created in the state treasury the family mental health services grant program cash fund, REFERRED TO IN THIS SUBSECTION (3) AS THE "FUND". The moneys in the fund shall be subject to annual appropriation by the general assembly to award grants to eligible community mental health centers and for the direct and indirect costs associated with the implementation of the grant program. The ~~division~~ UNIT is authorized to accept on behalf of the state any grants, gifts, or donations from any private or public source for the purpose of the grant program. All private and public ~~funds~~ MONEYS received through grants, gifts, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund at the end of any fiscal year.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), the ~~division~~ UNIT shall not implement the grant program until sufficient grants, gifts, or donations are obtained to cover the costs of implementing the grant program.

(4) By November 1, 2008, and by each November 1 thereafter, as part of its annual budget request, the department shall submit a report to the joint budget committee regarding the grant program. The report shall include, but need not be limited to, the following information:

(a) The amount of moneys awarded through the grant program during the prior fiscal year;

(b) The recipients of grant moneys;

(c) The types of family mental health services provided by community mental health centers with the grant moneys;

(d) The rural areas served by the family mental health services;

(e) Whether the grant program has been successful in serving the family mental health needs in rural areas; and

(f) Whether the grant program should be modified in any way, continued in its current form, or repealed.

(5) This section is repealed, effective July 1, 2010.

ARTICLE 67
Child Mental Health Treatment Act

27-67-101. [Formerly 27-10.3-101] Short title. This article shall be known and may be cited as the "Child Mental Health Treatment Act".

27-67-102. [Formerly 27-10.3-102] Legislative declaration. (1) The general assembly finds that many parents in Colorado have experienced challenging circumstances because their children have significant mental health needs. Many times, the parents are loving, caring parents who have become increasingly frustrated in their attempts to navigate the various governmental systems including child welfare, mental health, law enforcement, juvenile justice, education, and youth corrections in an attempt to find help for their children. Frequently in these situations an action in dependency or neglect under article 3 of title 19, C.R.S., is neither appropriate nor warranted.

(2) The general assembly finds that it is desirable to assist children with mental health needs and their families. The general assembly further finds that it is desirable to make mental health services more available to families who want treatment for their children. The general assembly finds that, although the mental health agencies are responsible for providing the full range of mental health treatment services, including residential care, for those children who have been found to be categorically eligible for medicaid, there remains a population of children in need of mental health services who are not categorically eligible for medicaid. Accordingly, the general assembly determines that it is appropriate to adopt a program pursuant to which a continuum of services would be provided to these children.

27-67-103. [Formerly 27-10.3-103] Definitions. As used in this article, unless the context otherwise requires:

(1) "Behavioral health organization" shall have the same meaning as provided in section 25.5-5-403 (1), C.R.S.

~~(1.5)~~ (2) "Child at risk of out-of-home placement" means a child who, although not otherwise categorically eligible for medicaid, meets the following criteria:

(a) Has been diagnosed as having a mental illness, as defined in ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14);

(b) Requires a level of care that is provided in a residential child care facility pursuant to section 25.5-5-306, C.R.S., or that is provided through in-home or community-based programs and who, without such care, is at risk of out-of-home

placement;

(c) If determined to be in need of placement in a residential child care facility, is determined to be eligible for supplemental security income; and

(d) For whom it is inappropriate or unwarranted to file an action in dependency or neglect pursuant to article 3 of title 19, C.R.S.

~~(2)~~ (3) "Community mental health center" means either a physical plant or a group of services under unified administration or affiliated with one another and includes at least the following services provided for the prevention and treatment of mental illness in persons residing in a particular community in or near the facility or group so situated:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization;

~~(d) (Deleted by amendment, L. 2007, p. 1372, § 2, effective May 30, 2007.)~~

~~(e)~~ (d) Emergency services; and

~~(f)~~ (e) Consultative and educational services.

~~(3)~~ (4) "County department" means the county or district department of social services.

~~(3.5)~~ (5) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

~~(4)~~ (6) "Mental health agency" means the community mental health center serving children in a particular geographic area or the behavioral health organization serving children in a particular geographic area who are receiving medicaid.

~~(5)~~ (7) "State department" means the state department of human services.

27-67-104. [Formerly 27-10.3-104] Provision of mental health treatment services for youth. (1) (a) A parent or guardian may apply to a mental health agency on behalf of his or her minor child for mental health treatment services for the child pursuant to this section, whether the child is categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., or whether the parent believes his or her child is a child at risk of

out-of-home placement. In such circumstances, it shall be the responsibility of the mental health agency to evaluate the child and to clinically assess the child's need for mental health services and, when warranted, to provide treatment services as necessary and in the best interests of the child and the child's family. Subject to available state appropriations, the mental health agency shall be responsible for the provision of the treatment services and care management, including any in-home family mental health treatment, other family preservation services, residential treatment, or any post-residential follow-up services that may be appropriate for the child's or family's needs. For the purposes of this section, the term "care management" includes, but is not limited to, consideration of the continuity of care and array of services necessary for appropriately treating the child and the decision-making authority regarding a child's placement in and discharge from mental health services. A dependency or neglect action pursuant to article 3 of title 19, C.R.S., shall not be required in order to allow a family access to residential mental health treatment services for a child.

(b) At the time of the assessment by the mental health agency, if residential services are denied, or at the time when the mental health agency has recommended that the child be discharged from services, the mental health agency shall advise the family, both orally and in writing, of the appeal process available to them. The mental health agency shall have two working days within which to complete any internal appeal process. Within five working days after the mental health agency's final denial or recommendation for discharge, a parent or guardian may request an objective third party at the state department who is a professional person, as that term is defined in ~~section 27-10-102 (11)~~ SECTION 27-65-102 (17), to review the action of the mental health agency. The review shall occur within three working days of the parent's or guardian's request.

(2) If at any time the mental health agency determines pursuant to section 19-3-304, C.R.S., that there is reasonable cause to know or suspect that a child has been subjected to abuse or neglect, then the mental health agency shall immediately contact the appropriate county department. Within ten days after the referral to the county department, the mental health agency shall meet with the county department and the family. Upon referral to the county department, the county department shall proceed with an assessment to determine whether there is a sufficient basis to believe that physical or sexual abuse or neglect or some other form of abuse or neglect of a child's physical well-being has occurred, warranting a dependency or neglect action.

27-67-105. [Formerly 27-10.3-105] Monitoring - report. (1) On or before September 1, 2009, and by September 1 of each year thereafter, each community mental health center shall report to the state department the following information, and each behavioral health organization, for those children eligible to receive medicaid benefits whose parent or legal guardian requests residential treatment, shall report to the department of health care policy and financing the following information:

(a) The number of children, both those children who are categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., and those children who are at risk of out-of-home placement, to whom the following services were provided:

(I) An assessment pursuant to ~~section 27-10.3-104 (1) (a)~~ SECTION 27-67-104 (1) (a);

(II) In-home family mental health treatment;

(III) Community-based treatment, including but not limited to therapeutic foster care services;

(IV) Family preservation services;

(V) Residential treatment; and

(VI) Post-residential follow-up services.

(b) The number of children, both those children who are categorically eligible for Medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., and those children who are at risk of out-of-home placement, referred to the county department for a dependency or neglect investigation pursuant to ~~section 27-10.3-104 (2)~~ SECTION 27-67-104 (2), and the reasons therefor;

(c) The number of children for whom either:

(I) An assessment was requested but not performed, and the reasons that the assessment was not performed; or

(II) An assessment was performed but the mental health agency did not provide services under this article, and the reasons that services were not provided, including whether the family refused the services offered;

(d) The costs associated with the provision of the mental health treatment services;

(e) The profiles of the children and families served;

(f) The outcomes of treatment for the children served, as determined by the state department in consultation with mental health agencies, service providers, and families;

(g) If residential services were provided, the length of stay; and

(h) The aggregate number of complaints submitted pursuant to the dispute resolution process described in ~~section 27-10.3-107~~ SECTION 27-67-107, the nature of the complaints, and the general disposition of the cases.

~~(2) Repealed.~~

~~(2)~~ (2) On or before October 1, 2009, and on or before October 1 of each year thereafter, the department of health care policy and financing shall provide to the state department the information received from behavioral health organizations pursuant to subsection (1) of this section.

27-67-106. [Formerly 27-10.3-106] Funding - rules. (1) In order to make mental health treatment available, it is the intent of the general assembly that mental health treatment provided pursuant to this article to each child described in ~~section 27-10.3-103 (1.5)~~ SECTION 27-67-103 (2) be provided by mental health agencies.

(2)(a) If neither the family's private insurance nor federal medicaid funding cover all of the costs associated with the services provided to a child at risk of out-of-home placement pursuant to this article, then the family shall be responsible for paying that portion that is not covered by private insurance or federal medicaid funding on a sliding scale basis as set forth in subsection (3) of this section. Any remaining portion of the services not covered by private insurance, federal medicaid funding, or the family's share, shall be paid for from moneys appropriated for such purpose pursuant to paragraph (b) of this subsection (2) or from general fund moneys, subject to available appropriations.

(b) Pursuant to section 24-75-1104.5 (1) (k), C.R.S., beginning in the 2004-05 fiscal year, and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the general assembly shall appropriate to the state department to fund the remaining portion of services not covered by private insurance, federal medicaid funding, or the family's share, as described in paragraph (a) of this subsection (2), three hundred thousand dollars from the moneys received by the state in accordance with the master settlement agreement for the preceding fiscal year. The general assembly shall appropriate the amount specified in this paragraph (b) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(3) The state board of human services, in consultation with the department of health care policy and financing, shall promulgate rules implementing a sliding scale for the payment of services, including mental health treatment and room and board, that are not covered by private insurance or federal medicaid funding. It is the intent of the general assembly that the portion of such expenses paid from general fund moneys shall not exceed the general fund appropriations made for such purpose in any given fiscal year. It is the further intent of the general assembly that subsidies provided by the state through general fund moneys shall be used to assist the lowest income families to ensure the maximum use of appropriate least restrictive treatment services and to provide access to the greatest number of children.

27-67-107. [Formerly 27-10.3-107] Dispute resolution - rules. (1) The state department shall utilize, when appropriate, established grievance and dispute resolution processes in order to assure that parents have access to mental health services on behalf of their children.

(2) The state board of human services shall promulgate rules to assure that a grievance process is available to parents concerning the provision of mental health services and to assure that a dispute resolution process is available for disputes between the county departments and mental health agencies.

27-67-108. [Formerly 27-10.3-108] Repeal of article. This article is repealed, effective July 1, 2019.

ARTICLE 68
Mental Health Services Pilot Program
for Families of Discharged Veterans of
Operation Enduring Freedom and
Operation Iraqi Freedom

27-68-101. [Formerly 27-1-301] Short title. This ~~part 3~~ ARTICLE shall be known and may be cited as the "Mental Health Services Pilot Program for Families of Recently Discharged Veterans Act".

27-68-102. [Formerly 27-1-302] Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Current research indicates that there exists a military culture in the United States that is reluctant to seek mental health services, in part because of a widely held perception that seeking mental health services will destroy a military career. This perception adds additional stress to a veteran or the family of a veteran in addition to the underlying cause of their distress, thus compounding the initial problem.

(b) Frequently, it is the family of the veteran who initially seeks treatment services and the veteran then follows suit. However, upon discharge, families are not covered under veterans administration benefits, leaving most families of discharged veterans with limited access to mental health services.

(c) Access to mental health services is being severely limited by capacity constraints within the military system. Veterans administration medical and mental health clinics report waiting lists of more than four hundred veterans in some areas.

(d) Colorado Springs is home to a high percentage of combat veterans from operation enduring freedom and operation Iraqi freedom and their families who would benefit from the provision of mental health services.

(2) The general assembly therefore finds that it is in the best interest of the state of Colorado to create a pilot program to educate veterans and their families about mental health issues, including posttraumatic stress disorder, encourage families of discharged veterans to seek mental health services, and provide mental health services to families who would otherwise not be able to receive such services.

27-68-103. [Formerly 27-1-303] Definitions. As used in this ~~part 3~~ ARTICLE, unless the context otherwise requires:

(1) "Community mental health center" means a nonprofit community mental health center as defined in ~~section 27-1-201(2)~~ SECTION 27-66-101 (2).

(2) "Department" means the ~~Colorado~~ department of human services, CREATED IN SECTION 26-1-105, C.R.S.

(3) "Discharged veteran" means a discharged veteran who served in operation enduring freedom or operation Iraqi freedom.

(4) "Family" means a spouse or dependent child of a discharged veteran.

(5) "Fund" means the mental health services pilot program fund created in ~~section 27-1-305~~ SECTION 27-68-105.

(6) "Pilot program" means the mental health services pilot program for families of recently discharged veterans created in ~~section 27-1-304(1)~~ SECTION 27-68-104 (1).

27-68-104. [Formerly 27-1-304] Pilot program - creation - scope - reporting.

(1) There is hereby created in the department the mental health services pilot program for families of recently discharged veterans to educate veterans and their families about mental health issues, including posttraumatic stress disorder, encourage families of discharged veterans to seek mental health services, and provide mental health services to families of discharged veterans who would otherwise not be able to receive such services.

(2) Effective July 1, 2007, subject to available funding, the department shall purchase community mental health treatment services pursuant to ~~section 27-1-203~~ SECTION 27-66-103 and mental health education services from community mental health centers in the Colorado Springs area for the purpose of providing mental health education, referral, and treatment services to families of recently discharged veterans. Participating community mental health centers shall provide a full range of mental health services to families of discharged veterans. Participating community mental health centers are hereby authorized and encouraged to contract with other mental health providers in the Colorado Springs area for mental health services as necessary. Mental health education services provided by participating community mental health centers shall include, but need not be limited to, creating and maintaining a web site that includes information on the symptoms of posttraumatic stress disorder, treatment options, referral information, and contact information for persons seeking treatment.

(3) A family that receives services through the pilot program shall pay to the participating community mental health center a co-pay not to exceed twenty dollars for each calendar month to cover all services received during that month. If the family has access to alternative insurance coverage for the mental health services received, such alternative funding shall be utilized prior to accessing pilot program dollars.

(4) Beginning July 1, 2007, community mental health centers participating in the pilot program shall collect data on services provided and client outcomes for the purpose of determining the effectiveness of the pilot program. No later than December 1, 2009, each participating community mental health center shall submit a report to the department summarizing the outcomes of the pilot program. No later than February 1, 2010, the department shall submit a report to the health and human services committees of the senate and house of representatives, or any successor committees, that summarizes the findings of the participating community mental health centers.

27-68-105. [Formerly 27-1-305] Mental health services pilot program fund - supplemental tobacco litigation settlement moneys account - creation.

(1) There are hereby created in the state treasury the mental health services pilot program fund and an account within the fund to be known as the supplemental tobacco litigation settlement moneys account. The principal of the portion of the fund that is not the account shall consist of general fund appropriations made by the general assembly for the pilot program and gifts, grants, matching funds, or donations received by the department for the pilot program from the federal government or any other public or private source. The principal of the account shall consist of settlement moneys, as defined in section 24-75-1102 (2), C.R.S., or interest or income earned on the deposit and investment of settlement moneys transferred to the account from the short-term innovative health program grant fund created pursuant to section 25-36-101 (2), C.R.S., enacted by Senate Bill 07-097 at the first regular session of the sixty-sixth general assembly, as required by section 25-36-101 (7), C.R.S. All interest and income earned on the deposit and investment of moneys in the portion of the fund that is not the account shall be credited to that portion of the fund, and all interest and income earned on the deposit and investment of moneys in the account shall be credited to the account and remain in the account until transferred as required by this subsection (1). The department shall use moneys in the fund and account only to purchase mental health services for families of discharged veterans pursuant to this ~~part 3~~ ARTICLE and to pay the administrative costs of implementing the pilot program; except that administrative costs shall not exceed five percent of all amounts appropriated from the fund or the account for a fiscal year; and except that, at the end of the 2007-08 fiscal year and at the end of any fiscal year thereafter, any unexpended and unencumbered moneys in the account shall be transferred to the short-term innovative health program grant fund.

(2) The department may solicit and receive gifts, grants, and donations from public and private sources to carry out the purposes of this ~~part 3~~ ARTICLE, but receipt of gifts, grants, and donations shall not be a prerequisite to the implementation of the pilot program. The department shall transfer any moneys received pursuant to this subsection (2) to the state treasurer who shall credit them to the fund in accordance with the provisions of subsection (1) of this section.

27-68-106. [Formerly 27-1-306] Repeal of article. This ~~part 3~~ ARTICLE is repealed, effective July 1, 2010.

ARTICLE 69
Integrated System of Care Family Advocacy
Demonstration Programs for Mental Health
Juvenile Justice Populations

27-69-101. [Formerly 26-22-101] Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Colorado families and youth have difficulties navigating the mental health, physical health, substance abuse, developmental disabilities, education, juvenile justice, child welfare, and other state and local systems that are compounded when the youth has a mental illness or co-occurring disorder;

(b) Preliminary research demonstrates that family advocates increase family and youth satisfaction, improve family participation, and improve services to help youth

and families succeed and achieve positive outcomes. One preliminary study in Colorado found that the wide array of useful characteristics and valued roles performed by family advocates, regardless of where they are located institutionally, provided evidence for continuing and expanding the use of family advocates in systems of care.

(c) Input from families, youth, and state and local community agency representatives in Colorado demonstrates that family advocates help families get the services and support they need and want, help families to better navigate complex state and local systems, improve family and youth outcomes, and help disengaged families and youth to become engaged families and youth;

(d) State and local agencies and systems need to develop more strengths-based, family-centered, individualized, culturally competent, and collaborative approaches that better meet the needs of families and youth;

(e) A family advocate helps state and local agencies and systems adopt more strengths-based-targeted programs, policies, and services to better meet the needs of families and their youth with mental illness or co-occurring disorders and improve outcomes for all, including families, youth, and the agencies they utilize;

(f) There is a need to demonstrate the success of family advocates in helping agencies and systems in Colorado to better meet the needs of families and youth and help state and local agencies strengthen programs.

(2) It is therefore in the state's best interest to establish demonstration programs for system of care family advocates for mental health juvenile justice populations who navigate across mental health, physical health, substance abuse, developmental disabilities, juvenile justice, education, child welfare, and other state and local systems to ensure sustained and thoughtful family participation in the planning processes of the care for their children and youth.

27-69-102. [Formerly 26-22-102] Definitions. As used in this article, unless the context otherwise requires:

(1) "Co-occurring disorders" means disorders that commonly coincide with mental illness and may include, but are not limited to, substance abuse, developmental disabilities, fetal alcohol syndrome, and traumatic brain injury.

(2) "Demonstration programs" means programs that are intended to exemplify and demonstrate evidence of the successful use of family advocates in assisting families and youth with mental illness or co-occurring disorders.

(3) "Division of criminal justice" means the division of criminal justice created in section 24-33.5-502, C.R.S., in the department of public safety.

~~(4) "Division of mental health" means the unit within the department of human services that is responsible for mental health services.~~

~~(5)~~ (4) "Family advocacy coalition" means a coalition of family advocates or family advocacy organizations working to help families and youth with mental

health problems, substance abuse, developmental disabilities, and other co-occurring disorders to improve services and outcomes for youth and families and to work with and enhance state and local systems.

(6) (5) "Family advocate" means an individual who has been trained to assist families in accessing and receiving services and support. Family advocates are usually individuals who have raised or cared for children and youth with mental health or co-occurring disorders and have worked with multiple agencies and providers, including mental health, physical health, substance abuse, juvenile justice, developmental disabilities, and other state and local systems of care.

(7) (6) "Legislative oversight committee" means the legislative oversight committee for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems, created in section 18-1.9-103, C.R.S.

(8) (7) "Partnership" means a relationship between a family advocacy organization and another entity whereby the family advocacy organization works directly with another entity for oversight and management of the family advocate and family advocacy demonstration program, and the family advocacy organization employs, supervises, mentors, and provides training to the family advocate.

(9) (8) "System of care" means an integrated network of community-based services and support that is organized to meet the challenges of youth with complex needs, including, but not limited to, the need for substantial services to address areas of developmental, physical, and mental health, substance abuse, child welfare, and education and involvement in or being at risk of involvement with the juvenile justice system. In a system of care, families and youth work in partnership with public and private organizations to build on the strengths of individuals and to address each person's cultural and linguistic needs so services and support are effective.

(10) (9) "Task force" means the task force for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems in Colorado, created in section 18-1.9-104, C.R.S.

(10) "UNIT" MEANS THE UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

27-69-103. [Formerly 26-22-103] Demonstration programs established.

There are hereby established demonstration programs for system of care family advocates for mental health juvenile justice populations that shall be implemented and monitored by the ~~division of mental health~~ UNIT, with input, cooperation, and support from the division of criminal justice, the task force, and family advocacy coalitions.

27-69-104. [Formerly 26-22-104] Program scope. (1) On or before September 1, 2007, the ~~division of mental health~~ UNIT, after consultation with family advocacy coalitions, the task force, and the division of criminal justice, shall develop a request for proposals to design demonstration programs for family

advocacy programs that:

(a) Focus on youth with mental illness or co-occurring disorders who are involved in or at risk of involvement with the juvenile justice system and that are based upon the families' and youths' strengths; and

(b) Provide navigation, crisis response, integrated planning, and diversion from the juvenile justice system for youth with mental illness or co-occurring disorders.

(2) The ~~division of mental health~~ UNIT shall accept responses to the request for proposals from a partnership between a family advocacy organization and any of the following entities or individuals that operate or are developing a family advocacy program:

(a) A nonprofit entity;

(b) A governmental entity;

(c) A tribal government;

(d) An individual; or

(e) A group.

(3) The responses to the request for proposals shall include, but need not be limited to, the following information:

(a) Identification of the key stakeholders involved in the demonstration program to ensure consistent data points across all demonstration programs for consistent evaluation, which shall include a family advocacy organization and, at a minimum, representatives of the juvenile court, the probation department, the district attorney's office, the public defender's office, a school district, the division of youth corrections within the department of human services, a county department of social or human services, a local community mental health center, and a regional behavioral health organization, and may include representatives of a local law enforcement agency, a county public health department, a substance abuse program, a community centered board, a local juvenile services planning committee, and other community partners;

(b) Plans for identification of the targeted population, which shall include, at a minimum:

(I) A description of the targeted population and region to be served, including youth with mental illness or co-occurring disorders who are involved in or at risk of involvement with the juvenile justice system and other state and local systems; and

(II) A description of the specific population to be served that is flexible and defined by the local community;

(c) A plan for family advocates that includes:

- (I) Experience and hiring requirements;
 - (II) The provision of appropriate training; and
 - (III) A definition of roles and responsibilities;
- (d) A plan for family advocate program services for targeted youth and their families, including:
- (I) Strengths, needs, and cultural assessment;
 - (II) Navigation and support services;
 - (III) Education programs related to mental illness, co-occurring disorders, the juvenile justice system, and other relevant systems;
 - (IV) Cooperative training programs for family advocates and for staff, where applicable, of mental health, physical health, substance abuse, developmental disabilities, education, child welfare, juvenile justice, and other state and local systems related to the role and partnership between the family advocates and the systems that affect youth and their family;
 - (V) Integrated crisis response services and crisis planning;
 - (VI) Access to diversion and other services to improve outcomes for youth and their families; and
 - (VII) Other services as determined by the local community;
- (e) A plan for providing the data required by ~~section 26-22-105 (3)~~ SECTION 27-69-105 (3), plans for a comparison group, and plans for sustainability; and
- (f) A commitment to participate in the cost of the demonstration program by allocating, as a group, any moneys available to the entity, by providing services to the program, or by a combination of moneys and services in an amount equal to twenty percent of the total cost necessary to operate the program.
- (4) On or before November 15, 2007, the ~~division of mental health~~ UNIT, after consultation with family advocacy coalitions, the task force, and the division of criminal justice, shall select three demonstration programs to deliver juvenile justice family advocacy services. The ~~division of mental health~~ UNIT shall base the selection on:
- (a) The program's demonstration of collaborative partnerships that integrate family advocates into the systems of care;
 - (b) The program's ability to serve a sufficient population that will demonstrate the success of family advocacy programs; and
 - (c) Any other criteria set by the ~~division of mental health~~ UNIT.

(5) To ensure adequate geographic distribution, one of the selected demonstration programs shall operate in rural communities, one shall operate in urban communities, and one shall operate in suburban communities.

(6) The selected programs shall participate in the cost of the demonstration program by allocating, as a group, any moneys available to the entity, by providing services to the program, or by a combination of moneys and services in an amount equal to twenty percent of the total cost necessary to operate the program.

27-69-105. [Formerly 26-22-105] Evaluation and reporting. (1) On or before January 1, 2008, the ~~division of mental health~~ UNIT shall prepare an initial descriptive report of the selected demonstration programs and provide the report to the legislative oversight committee, the task force, the family advocacy coalition, and the demonstration programs selected pursuant to ~~section 26-22-104(4)~~ SECTION 27-69-104 (4).

(2) The initial report shall include, but need not be limited to, the following factors:

(a) A description of the selected demonstration programs and the entities working with the programs; and

(b) The number of families expected to be served.

(3) Each selected demonstration program shall regularly forward the following data to the division of criminal justice:

(a) System utilization outcomes, including, but not limited to, available data on services provided related to mental health, physical health, juvenile justice, developmental disabilities, substance abuse, child welfare, traumatic brain injuries, school services, and co-occurring disorders;

(b) Youth and family outcomes, related to, but not limited to, mental health, substance abuse, developmental disabilities, juvenile justice, and traumatic brain injury issues;

(c) Family and youth satisfaction and assessment of family advocates;

(d) Process and leadership outcomes, including, but not limited to, measures of partnerships, service processes and practices among partnering agencies, leadership indicators, and shared responses to resources and outcomes; and

(e) Other outcomes, including, but not limited to, identification of the cost avoidance or cost savings, if any, achieved by the demonstration program, the applicable outcomes achieved, the transition services provided, and the service utilization time frames.

(4) On or before January 15, 2009, and on or before January 15, 2010, the division of criminal justice shall submit a compilation of the data provided pursuant to subsection (3) of this section, with an executive summary, to the legislative oversight committee, the task force, family advocacy coalitions, and the selected

demonstration programs.

(5) On or before June 1, 2010, the division of criminal justice shall complete a comprehensive evaluation of the selected demonstration programs based on the data provided pursuant to subsection (3) of this section. Prior to preparing the evaluation, the division of criminal justice shall develop with the selected demonstration programs the comparison groups for the evaluation. The evaluation shall include analysis of the comparison groups. The division of criminal justice shall submit a final report, including an executive summary and recommendations, to the task force, the demonstration programs, and family advocacy coalitions for review. The division of criminal justice, the ~~division of mental health~~ UNIT, family advocacy coalitions, and the task force shall review the evaluation findings and jointly develop recommendations to be made to the legislative oversight committee.

(6) On or before July 1, 2010, the legislative oversight committee, after receiving a recommendation from the task force, shall make recommendations to the chairs of the health and human services committees of the house of representatives and the senate, or any successor committees, and the chairs of the judiciary committees of the house of representatives and the senate, or any successor committees, related to continuation or expansion throughout the state of the selected demonstration programs.

(7) The division of criminal justice shall comply with the provisions of this section only if sufficient funds are appropriated to implement this section.

27-69-106. [Formerly 26-22-106] Repeal of article. This article is repealed, effective July 1, 2011.

ARTICLE 80 Alcohol and Drug Abuse

27-80-101. [Formerly 25-1-201] Definitions. As used in this ~~part 2~~ ARTICLE, unless the context otherwise requires:

~~(1) (Deleted by amendment, L. 94, p. 1639, § 56, effective May 31, 1994.)~~

~~(2)~~ (1) "Department" means the department of human services CREATED IN SECTION 26-1-105, C.R.S.

~~(2.5)~~ (2) "Designated service area" means the geographical substate planning area specified by the director of the ~~division~~ UNIT to be served by a designated managed service organization, as described in ~~section 25-1-206.5~~ SECTION 27-80-107.

~~(3) "Division" means the division of alcohol and drug abuse.~~

~~(3.5)~~ (3) "Executive director" means the executive director of the department of human services.

~~(3.7)~~ (4) "Fetal alcohol spectrum disorder" or "FASD" means a continuum of permanent birth defects caused by maternal consumption of alcohol during pregnancy. "FASD" includes, but is not limited to, fetal alcohol syndrome.

~~(4)~~ (5) "Public program" means a program concerning the problems of alcohol or drug abuse sponsored by a local or regional health department, county department of social services, court, probation department, law enforcement agency, school, school system, board of cooperative services, Indian tribal reservation, or state agency. "Public program" includes any alcohol or drug abuse treatment program required as a condition of probation under part 2 of article 11 of title 16, C.R.S., any alcohol or drug abuse program administered by the division of adult parole under article 2 of title 17, C.R.S., any community correctional facility or program administered under article 27 of title 17, C.R.S., and any alcohol or drug abuse treatment program administered by the division of youth corrections under title 19, C.R.S.

(6) "UNIT" MEANS THE UNIT IN THE DEPARTMENT THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

~~(5)~~ (7) "Vendor" means any bar, tavern, restaurant, or retail establishment licensed in the state of Colorado under articles 46 and 47 of title 12, C.R.S., to sell alcoholic beverages for consumption on or off the vendor's premises.

27-80-102. [Formerly 25-1-202] Duties of the unit. (1) The ~~division~~ UNIT shall formulate a comprehensive state plan for alcohol and drug abuse programs. The state plan shall be submitted to the governor and, upon his OR HER approval, shall be submitted to the appropriate United States agency for review and approval. The state plan shall include, but not be limited to:

(a) A survey of the need for the prevention and treatment of alcohol and drug abuse, including a survey of the health facilities needed to provide services and a plan for the development and distribution of facilities and programs throughout the state;

(b) A plan for programs to educate the public in the problems of alcohol and drug abuse;

(c) A survey of the need for trained teachers, health professionals, and others involved in the prevention and treatment of alcohol and drug abuse and the rehabilitation of abusers, and a plan to provide the necessary training for such persons;

(d) Provisions for the periodic review and updating of the state plan, which shall take place at least annually.

(2) The department, acting by and through the ~~division~~ UNIT, is designated as the sole state agency for the supervision of the administration of the state plan.

27-80-103. [Formerly 25-1-203] Grants for public programs. (1) The ~~division~~ UNIT may make grants, from funds appropriated by the general assembly for purposes of this section or available from any other governmental or private source, to approved public programs.

(2) A public program may provide, but need not be limited to, any of the

following:

- (a) Acute medical services, including emergency services and detoxification;
 - (b) Case finding, diagnosis, treatment, counseling, individual or group psychotherapy, after-care treatment, and other rehabilitation services;
 - (c) Education and counseling regarding the use and abuse of alcohol and drugs;
 - (d) Programs for prevention of alcohol and drug abuse;
 - (e) Training of teachers, health professionals, and others in the field of alcohol and drug abuse and addiction counseling;
 - (f) Coordination of existing services and the development of other needed services through demonstration and evaluation projects; OR
 - (g) Services to pregnant women who are alcohol and drug dependent through demonstration and evaluation projects.
- (3) In approving any public program, the ~~division~~ UNIT shall take into consideration the following:
- (a) The community need for the public program;
 - (b) The range of services to be provided;
 - (c) The integration of the public program with, and the participation of, other public and nongovernmental agencies, organizations, institutions, and individuals, and their services and facilities, if any, that are available to assist the public program;
 - (d) The adequacy of the public program to accomplish its purposes; AND
 - (e) Such other information as the ~~division~~ UNIT deems necessary.
- (4) Applications for grants made under subsection (1) of this section shall be made to the ~~division~~ UNIT, on forms furnished by the ~~division~~ UNIT, and shall contain such information as the ~~division~~ UNIT may require. Wherever possible, the ~~division~~ UNIT shall give priority to those public programs which are community-based and include services to children and juveniles as well as adults, ~~which~~ THAT provide a comprehensive range of services, and ~~which~~ THAT evidence a high degree of community support, either financial or in the furnishing of services and facilities, or both.
- (5) Whenever any department or agency of the state has moneys available from any source for public programs, such department or agency is authorized to distribute the moneys in accordance with the state plan and to make reasonable rules ~~and regulations~~ for the administration of such public programs.

27-80-104. [Formerly 25-1-204] Cancellation of grants. (1) The ~~division~~

UNIT may cancel any grant for any public program for any of the following reasons:

- (a) There is no longer a need for the public program.
- (b) Funds for the public program are not available.

(c) The public program does not meet the standards or requirements adopted by the department or does not conform to the comprehensive state plan for alcohol and drug abuse programs.

(2) Before canceling a grant for the reasons set forth in ~~subsection (1) (c)~~ PARAGRAPH (c) OF SUBSECTION (1) of this section, the ~~division~~ UNIT shall notify the person or agency in charge of the public program of the deficiency in the program, and such person or agency shall be given a reasonable amount of time within which to correct the deficiency.

27-80-105. [Formerly 25-1-205] Annual distribution of funds. Funds for public programs shall be distributed annually, if available.

27-80-106. [Formerly 25-1-206] Purchase of prevention and treatment services. (1) Using funds appropriated for purposes of this section or available from any other governmental or private source, the ~~division~~ UNIT may purchase services for prevention or for treatment of alcohol and drug abuse or both types of services on a contract basis from any tribal nation or any public or private agency, organization, or institution approved by the ~~division~~ UNIT. The services purchased may be any of those which may be provided through a public program, as set forth in ~~section 25-1-203~~ (2) SECTION 27-80-103 (2). In contracting for services, the ~~division~~ UNIT shall attempt to obtain services that are in addition to, and not a duplication of, existing available services or services that are of a pilot or demonstration nature. Any agency operating a public program may also purchase such services on a contract basis.

(2) (a) In addition to the services purchased pursuant to subsection (1) of this section, using funds appropriated for purposes of this section or available from any other governmental or private source, the ~~division~~ UNIT may purchase services for the treatment of alcohol and drug abuse on a contract basis from a designated managed service organization for a designated service area as set forth in ~~section 25-1-206.5~~ SECTION 27-80-107. A public or private agency, organization, or institution approved by the ~~division~~ UNIT through the process set forth in ~~section 25-1-206.5~~ SECTION 27-80-107 may be designated as a designated managed service organization.

(b) Designated managed service organizations receiving funds pursuant to this subsection (2) shall comply with all relevant provisions of this ~~part 2~~ ARTICLE and the rules promulgated thereunder.

27-80-107. [Formerly 25-1-206.5] Designation of managed service organizations - purchase of services - revocation of designation. (1) The director of the ~~division~~ UNIT shall establish designated service areas for the provision of treatment services for alcohol and drug abuse in a particular geographical region of the state.

(2) In order to be selected as a designated managed service organization to provide services in a particular designated service area, a private corporation, for profit or not for profit, or a public agency, organization, or institution shall apply to the ~~division~~ UNIT for such designation in the form and manner specified by the executive director or the executive director's designee. Such designation process shall be in lieu of a competitive bid process under the "Procurement Code", articles 101 to 112 of title 24, C.R.S. The director of the ~~division~~ UNIT shall make the designation based on factors established by the executive director or the executive director's designee. The factors for designation established by the executive director or the executive director's designee shall include, but shall not be limited to, the following:

(a) Whether the managed service organization has experience working with public treatment agencies and collaborating with other public agencies;

(b) Whether the managed service organization has experience working with publicly funded clients, including expertise in treating priority populations designated by the ~~division~~ UNIT;

(c) Whether the managed service organization has offices in and provides services in the substate planning area or is willing to relocate to the substate planning area;

(d) Whether the managed service organization has experience using the cost-share principles used by the ~~division~~ UNIT in its contracts with providers and is willing to cost-share;

(e) Whether the managed service organization has developed an effective, integrated information and fiscal reporting system and has experience working with and is able to comply with state and federal reporting requirements;

(f) Whether the managed service organization has experience engaging in a clinical quality improvement process; AND

(g) Whether the managed service organization has experience with public funding requirements and state contracting requirements.

(3) The designation of a managed service organization by the director of the ~~division~~ UNIT as described in subsection (2) of this section shall be considered an initial decision of the department which may be reviewed by the executive director in accordance with the provisions of section 24-4-105, C.R.S. Review by the executive director in accordance with section 24-4-105, C.R.S., shall constitute final agency action for purposes of judicial review.

(4) The terms and conditions for providing treatment services shall be specified in the contract entered into between the ~~division~~ UNIT and the designated managed service organization.

(5) The contract may include a provisional designation for ninety days. At the conclusion of the ninety-day provisional period, the director of the ~~division~~ UNIT may choose to revoke the contract or, subject to meeting the terms and conditions

specified in the contract, may choose to extend the contract for a stated time period.

(6) A managed service organization that is designated to serve a designated service area may subcontract with a network of service providers to provide treatment services for alcohol and drug abuse within the particular designated service area.

(7) (a) The director of the ~~division~~ UNIT may revoke the designation of a designated managed service organization upon a finding that the managed service organization is in violation of the performance of the provisions of this ~~part 2~~ ARTICLE or the rules promulgated thereunder. Such revocation shall conform to the provisions and procedures specified in article 4 of title 24, C.R.S., and shall be made only after notice and an opportunity for a hearing is provided as specified in that article. A hearing to revoke a designation as a designated managed service organization shall constitute final agency action for purposes of judicial review.

(b) Once a designation has been revoked pursuant to paragraph (a) of this subsection (7), the director of the ~~division~~ UNIT may designate one or more service providers to provide the treatment services pending designation of a new designated managed service organization or may enter into contracts with subcontractors to provide the treatment services.

(c) From time to time, the director of the ~~division~~ UNIT may solicit applications from applicants for managed service organization designation to provide treatment services for a specified planning area or areas.

27-80-108. [Formerly 25-1-207] Rules. (1) The state board of human services, created in section 26-1-107, C.R.S., has the power to promulgate rules governing the provisions of this ~~part 2~~ ARTICLE. Such rules may include, but shall not be limited to:

(a) Requirements to be met in the operation of a public program, including record keeping and data compilation;

(b) Conditions that may be imposed on a public program in order for the program to maintain eligibility for a grant;

(c) Requirements for public and private agencies, organizations, and institutions from which the ~~division~~ UNIT may purchase services under ~~section 25-1-206 (1)~~ SECTION 27-80-106 (1);

~~(c.5)~~ (d) Requirements for managed service organizations ~~which~~ THAT are designated by the director of the ~~division~~ UNIT to provide services in a designated service area under ~~section 25-1-206 (2)~~ SECTION 27-80-106 (2);

~~(d)~~ (e) Standards that must be met by addiction counselors to participate in public programs or to provide purchased services and certification requirements necessary to be certified by the director of the division of registrations, pursuant to part 8 of article 43 of title 12, C.R.S.;

~~(e)~~ (f) Any rules ~~or regulations which~~ THAT are necessary to carry out the

purposes of the treatment program for high-risk pregnant women ~~which~~ THAT is created pursuant to ~~section 25-1-212~~ SECTION 27-80-112.

27-80-109. [Formerly 25-1-209] Coordination of state and federal funds and programs. (1) All requests for state appropriations for alcohol and drug abuse programs shall be submitted to the ~~division~~ UNIT and the office of state planning and budgeting on dates specified by the ~~division~~ UNIT consistent with requirements and procedures of the office of state planning and budgeting. After studying each request, ~~and the recommendations of the advisory council, the division~~ THE UNIT shall make a report thereon, with its comments and recommendations, including priorities for appropriations and a statement as to whether the requested appropriation would be consistent with the comprehensive state plan for alcohol and drug abuse programs. The reports of the ~~division~~ UNIT shall be submitted to the governor, the office of state planning and budgeting, and the joint budget committee, together with all pertinent material on which the recommendations of the ~~division~~ UNIT are based.

(2) The ~~division~~ UNIT shall also review applications for federal grants for alcohol and drug abuse programs submitted by any department or agency of state government, by any political subdivision of the state, by any Indian tribal reservation, or by any other public or private agency, organization, or institution. The ~~division~~ UNIT shall transmit to the division of planning and to the appropriate United States agency its comments and recommendations, together with a statement as to whether the grant would be consistent with the comprehensive state plan for alcohol and drug abuse programs.

27-80-110. [Formerly 25-1-210] Reports. The ~~division~~ UNIT shall submit a report not later than November 1 of each year to the ~~house and senate committees on health, environment, welfare, and institutions~~ HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, on the costs and effectiveness of alcohol and drug abuse programs in this state and on recommended legislation in the field of alcohol and drug abuse.

27-80-111. [Formerly 25-1-211] Counselor training - fund created. (1) The executive director ~~of the department of human services~~ shall establish by rule fees to be charged for addiction counselor training. The amount assessed shall be sufficient to cover a portion of the costs of administering such training, and the moneys collected therefor shall be deposited in the addiction counselor training fund. Additional funding may be obtained from general, cash, or federal funds otherwise appropriated to the ~~division~~ UNIT.

(2) There is hereby created in the office of the state treasurer the addiction counselor training fund. Moneys collected pursuant to subsection (1) of this section shall be deposited in the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department ~~of human services~~ for allocation to the ~~division of alcohol and drug abuse~~ UNIT for the administration of addiction counselor training requirements established by rules of the state board of human services pursuant to ~~section 25-1-207 (1) (d)~~ SECTION 27-80-108 (1) (e). Moneys in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.

27-80-112. [Formerly 25-1-212] Legislative declaration - treatment program for high-risk pregnant women - creation. (1) The general assembly hereby finds and declares that the health and well-being of the women of Colorado is at risk; that such women are at risk of poor birth outcomes or physical and other disabilities due to substance abuse, which is the abuse of alcohol and drugs, during the prenatal period; that early identification of such high-risk pregnant women and substance abuse treatment greatly reduce the occurrence of poor birth outcomes; and that the citizens of Colorado will greatly benefit from a program to reduce poor birth outcomes and subsequent problems resulting from such poor birth outcomes in cases involving high-risk pregnant women through the cost savings envisioned by the prevention and early treatment of such problems.

(2) In recognition of such problems, there is hereby created a treatment program for high-risk pregnant women.

27-80-113. [Formerly 25-1-213] Alcohol and drug and addiction counseling and treatment - necessary components. Any entity that qualifies to provide services pursuant to section 25.5-5-202 (1) (r), C.R.S., in regard to the treatment program for high-risk pregnant women, shall make available, in addition to alcohol and drug and addiction counseling and treatment: Risk assessment services; care coordination; nutrition assessment; psychosocial counseling; intensive health education, including but not limited to parenting education and education on risk factors and appropriate health behaviors; home visits; transportation services; and other services deemed necessary by the ~~division of alcohol and drug abuse of the department of human services~~ UNIT and the department of health care policy and financing.

27-80-114. [Formerly 25-1-214] Treatment program for high-risk pregnant women - cooperation with private entities. The department of health care policy and financing shall cooperate with any private entities ~~which~~ THAT desire to assist ~~such~~ THE department OF HEALTH CARE POLICY AND FINANCING in the provision of services connected with the treatment program for high-risk pregnant women. Private entities may provide services ~~which~~ THAT are not provided to persons pursuant to the treatment program for high-risk pregnant women, article 2 of title 26, C.R.S., and articles 4, 5, and 6 of title 25.5, C.R.S., which may include, but shall not be limited to, needs assessment services, preventive services, rehabilitative services, care coordination, nutrition assessment, psychosocial counseling, intensive health education, home visits, transportation, development of provider training, child care, and other necessary components of residential or outpatient treatment or care.

27-80-115. [Formerly 25-1-215] Treatment program for high-risk pregnant women - data collection. The department of health care policy and financing shall create a data collection mechanism regarding persons receiving services pursuant to the treatment program for high-risk pregnant women, which shall include the collection of data on cost-effectiveness, success of the program, and other data ~~such~~ THE department OF HEALTH CARE POLICY AND FINANCING deems appropriate.

27-80-116. [Formerly 25-1-216] Fetal alcohol spectrum disorders - legislative declaration - health warning signs - commission - repeal. (1) The general assembly hereby finds and declares that:

(a) Fetal alcohol exposure is among the leading known causes of mental retardation and birth defects in the children of this state;

(b) Individuals with undiagnosed fetal alcohol exposure suffer substantially from secondary issues such as child abuse and neglect, separation from families, multiple foster placements, depression, aggression, school failure, juvenile detention, and job instability;

(c) These secondary disabilities come at a high cost to individuals, their families, and society; and

(d) A survey performed in 2006 by the Colorado pregnancy risk assessment system estimated that eleven and two-tenths percent of women in Colorado said that they drank alcohol during the last three months of their pregnancy.

(2) The general assembly therefore declares that fetal alcohol exposure and its related problems can be reduced substantially by a greater awareness of the consequences of drinking alcohol while pregnant and by early diagnosis and receipt of appropriate and effective intervention.

(3) Each vendor licensed in Colorado to sell alcoholic beverages is hereby encouraged to post a health warning sign pursuant to paragraph (c) of subsection (4) of this section, informing patrons that the consumption of alcohol during pregnancy may cause birth defects, including fetal alcohol syndrome.

(4) (a) There is hereby created the fetal alcohol spectrum disorders commission, referred to in this section as the "commission". The commission is created as a temporary commission under section 22 of article IV of the state constitution. The commission shall be composed of no more than ten members. On or before August 30, 2009, the executive director, ~~of the department of human services,~~ in consultation with a nonprofit organization that works with FASD issues, shall appoint the commission members with the goal of selecting a broad representation of individuals working in the field of FASD. The commission shall include representation from the following areas and groups in any combination the executive director deems appropriate:

(I) Pediatrics;

(II) Family physicians;

(III) Child development programs that work with special needs children;

(IV) The department of public health and environment;

(V) The juvenile justice system;

(VI) Preschool, elementary, secondary, and higher education;

(VII) Parents, foster parents, or legal guardians of children affected by FASD;

(VIII) The developmentally disabled community; and

(IX) Speech, language, and occupational therapy.

(b) The commission shall meet at least once on or before September 30, 2009. At its first meeting, the commission shall elect by a majority vote a chairperson from among the commission members who shall act as the presiding officer of the commission, determine a meeting schedule, and develop a list of priorities. Commission members shall serve without compensation or reimbursement of expenses.

(c) On or before October 30, 2009, the commission shall develop a health warning sign for use by vendors and a plan for making the sign available on-line to vendors. At a minimum, the health warning sign shall read as follows:

HEALTH WARNING
DRINKING ANY ALCOHOLIC BEVERAGE DURING
PREGNANCY MAY CAUSE BIRTH DEFECTS.

(d) On or before December 1, 2009, and as needed thereafter, the commission shall make recommendations to the ~~division of the department that has authority for substance abuse and mental health community programs~~ UNIT and to the health and human services committees of the senate and the house of representatives, or any successor committees. The commission's recommendations shall address the prevention of and education about FASD and any other FASD-related issues.

(e) This subsection (4) is repealed, effective June 30, 2012.

27-80-117. [Formerly 25-1-217] Rural alcohol and substance abuse prevention and treatment program - creation - administration - definitions - cash fund - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Program" means the rural alcohol and substance abuse prevention and treatment program created pursuant to subsection (2) of this section that shall consist of the rural youth alcohol and substance abuse prevention and treatment project and the rural detoxification project.

(b) "Rural area" means a county with a population of less than thirty thousand people, according to the most recently available population statistics of the United States bureau of the census.

(c) "Youth" means an individual who is at least eight years of age but who is less than eighteen years of age.

(2) (a) (I) There is hereby created the rural alcohol and substance abuse prevention and treatment program within the ~~division~~ UNIT to provide:

(A) Prevention and treatment services to youth in rural areas, which services may include but need not be limited to providing alternative activities for youth through the rural youth alcohol and substance abuse prevention and treatment project; and

(B) Treatment services to persons addicted to alcohol or drugs through the rural

detoxification project.

(II) The ~~division~~ UNIT shall administer the program pursuant to rules adopted by the state board of human services as of January 1, 2010, or as amended by the state board thereafter.

(b) The ~~division~~ UNIT shall incorporate provisions to implement the program into its regular contracting mechanism for the purchase of prevention and treatment services pursuant to ~~section 25-1-206~~ SECTION 27-80-106, including but not limited to detoxification programs. The ~~division~~ UNIT shall develop a method to equitably distribute and provide additional moneys through contracts to provide for prevention services for and treatment of persons in rural areas.

(c) Notwithstanding any provision of this section to the contrary, the ~~division~~ UNIT shall implement the program on or after January 1, 2011, subject to the availability of sufficient moneys to operate an effective program, as determined by the ~~division~~ UNIT.

(3)(a) There is hereby created in the state treasury the rural alcohol and substance abuse cash fund, referred to in this section as the "fund", that shall consist of the rural youth alcohol and substance abuse prevention and treatment account, referred to in this section as the "youth account", and the rural detoxification account, referred to in this section as the "detoxification account". The fund shall be comprised of moneys collected from surcharges assessed pursuant to sections 18-19-103.5, 42-4-1301 (7) (d) (IV), and 42-4-1701 (4) (f), C.R.S., which moneys shall be divided equally between the youth account and the detoxification account, and any moneys credited to the fund pursuant to paragraph (b) of this subsection (3), which moneys shall be divided equally between the youth account and the detoxification account unless the grantee or donor specifies to which account the grant, gift, or donation shall be credited. The moneys in the fund shall be subject to annual appropriation by the general assembly to the ~~division~~ UNIT for the purpose of implementing the program. All interest derived from the deposit and investment of moneys in the fund shall remain in the fund. Any unexpended or unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be transferred or credited to the general fund or another fund; except that any unexpended and unencumbered moneys remaining in the fund as of June 30, 2016, shall be credited to the general fund.

(b) The ~~division~~ UNIT is authorized to accept any grants, gifts, or donations from any private or public source on behalf of the state for the purpose of the program. The ~~division~~ UNIT shall transmit all private and public moneys received through grants, gifts, or donations to the state treasurer, who shall credit the same to the fund.

(4) (a) This section is repealed, effective July 1, 2016.

(b) Prior to such repeal, the program shall be reviewed as provided in section 24-34-104, C.R.S.

ARTICLE 81

Alcoholism and Intoxication Treatment

27-81-101. [Formerly 25-1-301] Legislative declaration. (1) It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. The general assembly hereby finds and declares that alcoholism and intoxication are matters of statewide concern.

(2) With the passage of this ~~part 3~~ ARTICLE at its first regular session in 1973, the forty-ninth general assembly has recognized the character and pervasiveness of alcohol abuse and alcoholism and that public intoxication and alcoholism are health problems ~~which~~ THAT should be handled by public health rather than criminal procedures. The general assembly further finds and declares that no other health problem has been so seriously neglected and that, while the costs of dealing with the problem are burdensome, the social and economic costs and the waste of human resources caused by alcohol abuse and alcoholism are massive, tragic, and no longer acceptable. The general assembly believes that the best interests of this state demand an across-the-board locally oriented attack on the massive alcohol abuse and alcoholism problem and that this ~~part 3~~ ARTICLE will provide a base from which to launch the attack and reduce the tragic human loss, but only if adequately funded. Therefore, in response to the needs as determined by an ad hoc committee and to assist in the implementation of this ~~part 3~~ ARTICLE at both the local and state level, the general assembly hereby appropriates moneys for: Receiving and screening centers and their staffs; medical detoxification; intensive treatment; halfway house care; outpatient rehabilitative therapy; orientation, education, and in-service training; ~~division~~ staff for the administration, monitoring, and evaluation of the program; and operating costs for patient transportation.

27-81-102. [Formerly 25-1-302] Definitions. As used in this ~~part 3~~ ARTICLE, unless the context otherwise requires:

(1) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages or uses alcoholic beverages to the extent that his OR HER health is substantially impaired or endangered or his OR HER social or economic function is substantially disrupted. Nothing in this subsection (1) shall preclude the denomination of an alcoholic as intoxicated by alcohol or incapacitated by alcohol.

(2) "Approved private treatment facility" means a private agency meeting the standards prescribed in ~~section 25-1-306 (1)~~ SECTION 27-81-106 (1) and approved under ~~section 25-1-306~~ SECTION 27-81-106.

(3) "Approved public treatment facility" means a treatment agency operating under the direction and control of or approved by the ~~division of alcohol and drug abuse~~ UNIT or providing treatment under this article through a contract with the ~~division~~ UNIT under ~~section 25-1-305 (7)~~ SECTION 27-81-105 (7) and meeting the standards prescribed in ~~section 25-1-306 (1)~~ SECTION 27-81-106 (1) and approved under ~~section 25-1-306~~ SECTION 27-81-106.

~~(3-6)~~(4) "Court" means the district court in the county in which the person named in a petition filed pursuant to this ~~part 3~~ ARTICLE resides or is physically present. In the city and county of Denver, "court" means the probate court.

~~(4)~~(5) "Department" means the department of human ~~services~~ services CREATED IN SECTION 26-1-105, C.R.S.

~~(5)~~(6) "Director" means the director of the ~~division of alcohol and drug abuse~~ UNIT.

~~(6)~~ "Division" means the ~~division of alcohol and drug abuse within the department.~~

(7) "Emergency service patrol" means a patrol established under ~~section 25-1-314~~ SECTION 27-81-115.

(8) "Executive director" means the executive director of the department.

(9) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious, ~~or~~ has his OR HER judgment otherwise so impaired that he OR SHE is incapable of realizing and making a rational decision with respect to his OR HER need for treatment, ~~or~~ is unable to take care of his OR HER basic personal needs or safety, or lacks sufficient understanding or capacity to make or communicate rational decisions ~~concerning his person~~ ABOUT HIMSELF OR HERSELF.

(10) "Incompetent person" means a person who has been adjudged incompetent by the district court.

(11) "Intoxicated person" or "person intoxicated by alcohol" means ~~any~~ A person whose mental or physical functioning is temporarily but substantially impaired as a result of the presence of alcohol in ~~the~~ HIS OR HER body.

(12) "Licensed physician" means either a physician licensed by the state of Colorado or a hospital-licensed physician employed by the admitting facility.

~~(12.2)~~(13) "Minor" means a person under the age of eighteen years.

~~(13)~~(14) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, ~~which~~ THAT may be extended to alcoholics and intoxicated persons.

(15) "UNIT" MEANS THE UNIT IN THE DEPARTMENT THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

27-81-103. [Formerly 25-1-303] Powers of the unit. (1) To carry out the purposes of this ~~part 3~~ ARTICLE, the ~~division~~ UNIT may:

(a) Plan, establish, and maintain treatment programs as necessary or desirable;

(b) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to

alcoholics or intoxicated persons;

(c) Solicit and accept for use any gift of money or property made by will or otherwise and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Administer or supervise the administration of the provisions relating to alcoholics and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(e) Coordinate its activities and cooperate with alcoholism programs in this state and other states and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this state and other states for the treatment of alcoholics and intoxicated persons and for the common advancement of alcoholism programs;

(f) Keep records and engage in research and the gathering of relevant statistics;

(g) Do other acts and things necessary or convenient to execute the authority expressly granted to it; AND

(h) Acquire, hold, or dispose of real property, or any interest therein, and construct, lease, or otherwise provide treatment facilities for alcoholics and intoxicated persons.

27-81-104. [Formerly 25-1-304] Duties of the unit - review. (1) In addition to duties prescribed by ~~section 25-1-202~~ SECTION 27-80-102, the ~~division~~ UNIT shall:

(a) Develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(b) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and treatment of alcoholics and intoxicated persons;

(c) Utilize community mental health centers and clinics whenever feasible;

(d) Cooperate with the department of corrections in establishing and conducting programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in appropriate agencies and institutions and for alcoholics and intoxicated persons in or on parole from correctional institutions and in carrying out duties specified under paragraphs (i) and (k) of this subsection (1);

(e) Cooperate with the department of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics

and intoxicated persons and preparing curriculum materials thereon for use at all levels of school education;

(f) Prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol;

(g) Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol;

(h) Organize and foster training programs for all persons engaged in treatment of alcoholics and intoxicated persons;

(i) Sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics and intoxicated persons and serve as a clearinghouse for information relating to alcoholism;

(j) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(k) Advise the governor in the preparation of a comprehensive plan for treatment of alcoholics and intoxicated persons for inclusion in the state's comprehensive health plan;

(l) Review all state health, welfare, and treatment plans to be submitted for federal funding under federal legislation and advise the governor on provisions to be included relating to alcoholism and intoxicated persons;

(m) Assist in the development of, and cooperate with, alcohol education and treatment programs for employees of state and local governments and businesses and industries in this state;

(n) Utilize the support and assistance of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment;

(o) Cooperate with the department of transportation in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while under the influence of, or impaired by, alcohol;

(p) Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics and intoxicated persons and to provide them with adequate and appropriate treatment;

(q) Encourage all health and disability insurance programs to include alcoholism as a covered illness; AND

(r) Submit to the governor an annual report covering the activities of the ~~division~~

UNIT.

27-81-105. [Formerly 25-1-305] Comprehensive program for treatment - regional facilities. (1) The ~~division~~, with the advice and recommendations of the advisory council pursuant to section ~~25-1-208~~, UNIT shall establish a comprehensive and coordinated program for the treatment of alcoholics and intoxicated persons.

(2) Insofar as funds available to the ~~division~~ UNIT will permit, the program of the ~~division~~ ESTABLISHED IN SUBSECTION (1) OF THIS SECTION shall include all of the following:

- (a) Emergency treatment;
- (b) Inpatient treatment;
- (c) Intermediate treatment; AND
- (d) Outpatient and follow-up treatment.

(3) The ~~division~~ UNIT shall provide for adequate and appropriate treatment for alcoholics and intoxicated persons admitted under ~~sections 25-1-308 to 25-1-311~~ SECTIONS 27-81-109 TO 27-81-112. Except as otherwise provided in ~~section 25-1-310~~ SECTION 27-81-111, treatment may not be provided at a correctional institution except for inmates.

(4) The ~~division~~ UNIT shall maintain, supervise, and control all facilities operated by it subject to policies of the department. The administrator of each facility shall make an annual report of its activities to the director in the form and manner the director specifies.

(5) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(6) The director shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

(7) The ~~division~~ UNIT may contract for the use of any facility as an approved public treatment facility if the director, subject to the policies of the department, considers this to be an effective and economical course to follow.

27-81-106. [Formerly 25-1-306] Standards for public and private treatment facilities - fees - enforcement procedures - penalties. (1) In accordance with the provisions of this ~~part 3~~ ARTICLE, the ~~division~~ UNIT shall establish standards for approved treatment facilities that receive public funds. ~~Such~~ THE standards ~~must~~ SHALL be met for a treatment facility to be approved as a public or private treatment facility. The ~~division~~ UNIT shall fix the fees to be charged for the required inspections. The fees that are charged to approved treatment facilities that provide level I and level II programs as provided in section 42-4-1301.3 (3) (c), C.R.S., shall be transmitted to the state treasurer, who shall credit the fees to the alcohol and drug driving safety program fund created in section 42-4-1301.3 (4) (a), C.R.S. The standards may concern only the health standards to be met and standards of

treatment to be afforded patients and shall reflect the success criteria established by the general assembly.

(2) The ~~division~~ UNIT periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(3) The ~~division~~ UNIT shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the ~~division~~ UNIT, on request, data, statistics, schedules, and information the ~~division~~ UNIT reasonably requires. An approved public or private treatment facility that fails without good cause to furnish any data, statistics, schedules, or information, as requested, or files fraudulent returns thereof shall be removed from the list of approved treatment facilities.

(5) The ~~division~~ UNIT, after hearing, may suspend, revoke, limit, restrict, or refuse to grant an approval for failure to meet its standards.

(6) The district court may restrain any violation of, review any denial, restriction, or revocation of approval under, and grant other relief required to enforce the provisions of this section.

(7) Upon petition of the ~~division~~ UNIT and after a hearing held upon reasonable notice to the facility, the district court may issue a warrant to an officer or employee of the ~~division~~ UNIT authorizing him OR HER to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the ~~division~~ UNIT or which the ~~division~~ UNIT has reasonable cause to believe is operating in violation of this ~~part 3~~ ARTICLE.

27-81-107. [Formerly 25-1-306.5] Compliance with local government zoning regulations - notice to local governments - provisional approval. (1) The ~~division~~ UNIT shall require any residential treatment facility seeking approval as a public or private treatment facility pursuant to this ~~part 3~~ ARTICLE to comply with any applicable zoning regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of approval of a facility.

(2) The ~~division~~ UNIT shall assure that timely written notice is provided to the municipality, city and county, or county where a residential treatment facility is situated, including the address of the facility and the population and number of persons to be served by the facility, when any of the following occurs:

(a) An application for approval of a residential treatment facility pursuant to ~~section 25-1-306~~ SECTION 27-81-106 is made;

(b) Approval is granted to a residential treatment facility pursuant to ~~section 25-1-306~~ SECTION 27-81-106;

(c) A change in the approval of a residential treatment facility occurs; or

(d) The approval of a residential treatment facility is revoked or otherwise terminated for any reason.

(3) In the event of a zoning or other delay or dispute between a residential treatment facility and the municipality, city and county, or county where the facility is situated, the ~~division~~ UNIT may grant provisional approval of the facility for up to one hundred twenty days pending resolution of the delay or dispute.

27-81-108. [Formerly 25-1-307] Acceptance for treatment - rules. (1) The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics and intoxicated persons. In establishing the rules the director shall be guided by the following standards:

(a) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he OR SHE is found to require inpatient treatment.

(c) A person shall not be denied treatment solely because he OR SHE has withdrawn from treatment against medical advice on a prior occasion or because he OR SHE has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(e) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

27-81-109. [Formerly 25-1-308] Voluntary treatment of alcoholics. (1) An alcoholic, including a minor, may apply for voluntary treatment directly to an approved treatment facility.

(2) Subject to rules adopted by the director, the administrator in charge of an approved treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator shall refer the person to another approved treatment facility for treatment if possible and appropriate.

(3) If a patient receiving inpatient care leaves an approved treatment facility, he OR SHE shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic and requires help, the administrator may arrange for assistance in obtaining supportive services and residential facilities.

27-81-110. [Formerly 25-1-309] Voluntary treatment for intoxicated persons and persons incapacitated by alcohol. (1) An intoxicated person or person intoxicated or incapacitated by alcohol, including a minor, may voluntarily admit himself OR HERSELF to an approved treatment facility for emergency treatment.

(2) A person who comes voluntarily to an approved treatment facility shall be evaluated or examined by the facility administrator or by his OR HER authorized designee immediately. A person found to be in need of treatment shall then be admitted or referred to another appropriate facility. If a person is found not to be in need of treatment, he OR SHE shall be released or referred to another appropriate facility.

(3) Except as provided in subsection (7) of this section, a voluntarily admitted person shall be released from the approved treatment facility immediately upon his OR HER request.

(4) A person who is not admitted to an approved treatment facility, and who is not referred to another health facility, and who has no funds may be taken to his OR HER home, if any. If he OR SHE has no home, the approved treatment facility may assist him OR HER in obtaining shelter.

(5) If a person is admitted to an approved treatment facility, his OR HER family or next of kin shall be notified as promptly as possible. If an adult person requests that there be no notification, his OR HER request shall be respected.

(6) If the administrator in charge of the approved treatment facility or his OR HER authorized designee determines that it is for the person's benefit, the person shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

(7) Nothing in this section shall preclude the approved treatment facility administrator or his OR HER authorized designee from seeking emergency commitment OF A PERSON as provided in ~~section 25-1-310~~ SECTION 27-81-111 or involuntary commitment OF A PERSON as provided in ~~section 25-1-311~~ SECTION 27-81-112, regardless of whether such person has been voluntarily admitted under this section. In such cases, the ~~administrator~~ ADMINISTRATOR'S or designee's further conduct shall be governed by ~~section 25-1-310 or 25-1-311~~ SECTION 27-81-111 OR 27-81-112, as applicable.

27-81-111. [Formerly 25-1-310] Emergency commitment. (1) (a) When ~~any~~ A person is intoxicated or incapacitated by alcohol and clearly dangerous to the health and safety of himself, herself, or others, ~~such person~~ HE OR SHE shall be taken into protective custody by law enforcement authorities or an emergency service patrol, acting with probable cause, and placed in an approved treatment facility. If no such facilities are available, he or she may be detained in an emergency medical facility or jail, but only for so long as may be necessary to prevent injury to himself, herself, or others or to prevent a breach of the peace. If the person being detained is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders. A law enforcement officer or emergency service patrol officer, in detaining the person, is taking him or her into protective custody. In so doing, the detaining officer may protect himself or herself by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime. Law enforcement or emergency service personnel who act in compliance with this section are acting in the course of their official duties and are

not criminally or civilly liable therefor. Nothing in this subsection (1) shall preclude an intoxicated or incapacitated person who is not dangerous to the health and safety of himself, herself, or others from being assisted to his or her home or like location by the law enforcement officer or emergency service patrol officer.

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

(2) A law enforcement officer, emergency service patrolman, physician, spouse, guardian, or relative of the person to be committed or any other responsible person may make a written application for emergency commitment under this section, directed to the administrator of the approved treatment facility. The application shall state the circumstances requiring emergency commitment, including the applicant's personal observations and the specific statements of others, if any, upon which he OR SHE relies in making the application. A copy of the application shall be furnished to the person to be committed.

(3) If the approved treatment facility administrator or his or her authorized designee approves the application, the person shall be committed, evaluated, and treated for a period not to exceed five days. The person shall be brought to the facility by a peace officer, the emergency service patrol, or any interested person. If necessary, the court may be contacted to issue an order to the police, the peace officer's department, or the sheriff's department to transport the person to the facility.

(4) If the approved treatment facility administrator or his OR HER authorized designee determines that the application fails to sustain the grounds for emergency commitment as set forth in subsection (1) of this section, the commitment shall be refused and the person detained immediately released, and the person shall be encouraged to seek voluntary treatment if appropriate.

(5) When the administrator determines that the grounds for commitment no longer exist, he OR SHE shall discharge the person committed under this section. ~~No~~ A person committed under this section may NOT be detained in any treatment facility for more than five days; except that a person may be detained for longer than five days at the approved treatment facility if, in that period of time, a petition for involuntary commitment has been filed pursuant to ~~section 25-1-311~~ SECTION 27-81-112. A person may not be detained longer than ten days after the date of filing of the petition for involuntary commitment.

(6) Whenever a person is involuntarily detained pursuant to this section, he OR SHE shall immediately be advised by the facility administrator or his OR HER authorized designee, both orally and in writing, of his OR HER right to challenge such detention by application to the courts for a writ of habeas corpus, to be represented by counsel at every stage of any proceedings relating to his OR HER commitment and recommitment, and to have counsel appointed by the court or provided by the court if he OR SHE wants the assistance of counsel and is unable to

obtain counsel.

27-81-112. [Formerly 25-1-311] Involuntary commitment of alcoholics.

(1) A person may be committed to the custody of the ~~division~~ UNIT by the court upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of any approved treatment facility, or any other responsible person. The petition shall allege that the person is an alcoholic and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition.

~~(1.5)~~ (2) A petition submitted pursuant to subsection (1) of this section shall not be accepted unless there is documentation of the refusal by the person to be committed to accessible and affordable voluntary treatment. ~~Such~~ THE documentation may include, but shall not be limited to, ~~physicians' statements, advanced practice nurses' statements, notations in the person's medical or law enforcement records, or witnesses' statements~~ NOTATIONS IN THE PERSON'S MEDICAL OR LAW ENFORCEMENT RECORDS OR STATEMENTS BY A PHYSICIAN, ADVANCED PRACTICE NURSE, OR WITNESS.

~~(2)~~ (3) Upon the filing of the petition, the court shall fix a date for a hearing no later than ten days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be personally served on the petitioner, the person whose commitment is sought, and one of his OR HER parents or his OR HER legal guardian if he OR SHE is a minor. A copy of the petition and notice of hearing shall be mailed to the ~~division of alcohol and drug abuse~~, UNIT, to counsel for the person whose commitment is sought, to the administrator in charge of the approved treatment facility to which the person may have been committed for emergency treatment, and to any other person the court believes advisable.

~~(3)~~ (4) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that the person's presence is likely to be injurious to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed physician, he or she shall be given an opportunity to be examined by a court-appointed licensed physician. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

~~(4)~~ (5) If after hearing all relevant evidence, including the results of any diagnostic examination by the licensed hospital, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the ~~division~~. ~~The division~~ UNIT. THE UNIT shall have the right to delegate physical custody of the person to an appropriate approved treatment facility. It may not order commitment of a person unless it determines that the ~~division~~ UNIT is able to provide adequate and appropriate treatment for him OR HER, and the treatment is likely to be beneficial.

~~(4.5)~~ (6) Upon the commitment of a person to the ~~division~~ UNIT by the court, the court may issue an order to the sheriff to transport the person committed to the facility designated by the ~~division~~ UNIT.

~~(5)~~ (7) A person committed as provided in this section shall remain in the custody of the ~~division~~ UNIT for treatment for a period of thirty days unless sooner discharged. At the end of the thirty-day period, he OR SHE shall be discharged automatically unless the ~~division~~ UNIT, before expiration of the period, obtains a court order for his OR HER recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days unless sooner discharged. If a person has been committed because he OR SHE is an alcoholic likely to inflict physical harm on another, the ~~division~~ UNIT shall apply for recommitment if after examination it is determined that the likelihood still exists.

~~(6)~~ (8) A person recommitted as provided in ~~subsection (5)~~ SUBSECTION (7) of this section who has not been discharged by the ~~division~~ UNIT before the end of the ninety-day period shall be discharged at the expiration of that period unless the ~~division~~ UNIT, before expiration of the period, obtains a court order on the grounds set forth in subsection (1) of this section for recommitment for a further period not to exceed ninety days. If a person has been committed because he OR SHE is an alcoholic likely to inflict physical harm on another, the ~~division~~ UNIT shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under ~~subsection (5)~~ SUBSECTION (7) of this section and this ~~subsection (6)~~ SUBSECTION (8) are permitted.

~~(7)~~ (9) Upon the filing of a petition for recommitment under ~~subsections (5) and (6)~~ SUBSECTIONS (7) AND (8) of this section, the court shall fix a date for hearing no later than ten days after the date the petition was filed. A copy of the petition and of the notice of hearing shall be served and mailed as required in ~~subsection (2)~~ SUBSECTION (3) of this section. At the hearing, the court shall proceed as provided in ~~subsection (3)~~ SUBSECTION (4) of this section.

~~(8)~~ (10) The ~~division~~ UNIT shall provide for adequate and appropriate treatment of a person committed to its custody. The ~~division~~ UNIT may transfer any person committed to its custody from one approved treatment facility to another if transfer is advisable.

~~(9)~~ (11) A person committed to the custody of the ~~division~~ UNIT for treatment shall be discharged at any time before the end of the period for which he OR SHE has been committed if either of the following conditions is met:

(a) In THE case of an alcoholic committed on the grounds that he OR SHE is likely

to inflict physical harm upon another, that he OR SHE no longer has an alcoholic condition ~~which~~ THAT requires treatment or the likelihood no longer exists; or

(b) In THE case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate.

~~(10)~~ (12) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of his or her wishes. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

~~(11)~~ (13) If a private treatment facility agrees with the request of a competent patient or his OR HER parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer him OR HER to the private treatment facility.

~~(12)~~ (14) A person committed under this ~~part 3~~ ARTICLE may at any time seek to be discharged from commitment by an order in the nature of habeas corpus.

~~(13)~~ (15) The venue for proceedings under this section is the county in which the person to be committed resides or is present.

~~(14)~~ (16) All proceedings conducted pursuant to this ~~part 3~~ ARTICLE shall be conducted by the district attorney of the county where the proceeding is held or by an attorney acting for the district attorney appointed by the court for that purpose; except that, in any county or in any city and county having a population exceeding one hundred thousand persons, the proceedings shall be conducted by the county attorney or by an attorney acting for the county attorney appointed by the court.

27-81-113. [Formerly 25-1-312] Records of alcoholics and intoxicated persons. (1) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(2) Notwithstanding subsection (1) of this section, the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism. Information under this subsection (2) shall not be published in a way that discloses patients' names or other identifying information.

27-81-114. [Formerly 25-1-313] Visitation and communication of patients. (1) ~~Patients~~ A PATIENT in any approved treatment facility shall be granted opportunities for continuing visitation and communication with ~~their families~~ HIS OR HER FAMILY and friends consistent with an effective treatment program. ~~Patients~~ A

PATIENT shall be permitted to consult with counsel at any time.

(2) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The director may adopt reasonable rules regarding the use of the telephone by patients in approved treatment facilities.

27-81-115. [Formerly 25-1-314] Emergency service patrol - establishment - rules. (1) The ~~division~~ UNIT and cities, counties, city and counties, and regional service authorities may establish emergency service patrols. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated or incapacitated by alcohol. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and shall be authorized to transport ~~persons~~ A PERSON intoxicated or incapacitated by alcohol to ~~their homes~~ HIS OR HER HOME and to and from treatment facilities.

(2) The director shall adopt rules for the establishment, training, and conduct of emergency service patrols.

27-81-116. [Formerly 25-1-315] Payment for treatment - financial ability of patients. (1) If treatment is provided by an approved public treatment facility and the patient, including a committed person, has not paid the charge therefor, the approved treatment facility is entitled to any payment received by the patient or to which the patient may be entitled because of the services rendered and from any public or private source available to the approved treatment facility because of the treatment provided to the patient. The approved treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges that have not been paid.

(2) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability is liable to the approved treatment facility for the cost of maintenance and treatment of the patient therein in accordance with rates established. The approved treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges that have not been paid.

(3) The director shall adopt rules that establish a standardized ability-to-pay schedule, under which those with sufficient financial ability are required to pay the full cost of services provided and those who are totally without sufficient financial ability are provided appropriate treatment at no charge. The schedule shall take into consideration the income, including government assistance programs, savings, and other personal and real property, of the person required to pay and any support the person required to pay furnishes to another person as required by law.

(4) Nothing in this section shall prohibit an approved treatment facility from charging a minimal fee for therapeutic purposes.

27-81-117. [Formerly 25-1-316] Criminal laws - limitations. (1) ~~No~~ A county, municipality, or other political subdivision may NOT adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the

elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) ~~No~~ A county, municipality, or other political subdivision may NOT interpret or apply any law of general application to circumvent the provisions of subsection (1) of this section.

(3) Nothing in this ~~part 3~~ ARTICLE affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, or a boat or machinery or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(4) The fact that a person is intoxicated or incapacitated by alcohol shall not prevent his ~~being arrested or prosecuted~~ OR HER ARREST OR PROSECUTION for the commission of any criminal act or conduct not enumerated in subsection (1) of this section.

(5) Nothing in this ~~part 3~~ ARTICLE shall be construed as a limitation upon the right of a police officer to make an otherwise legal arrest, notwithstanding the fact that the arrested person may be intoxicated or incapacitated by alcohol.

ARTICLE 82 Drug Abuse Prevention, Education, and Treatment

27-82-101. [Formerly 25-1-1100.2] Legislative declaration. (1) The general assembly recognizes the character and pervasiveness of drug abuse and drug dependency and that drug abuse and dependency are serious problems. The general assembly further finds and declares that these problems have been very seriously neglected and that the social and economic costs and the waste of human resources caused by drug abuse and dependency are massive, tragic, and no longer acceptable. The general assembly believes that the best interests of this state demand an across-the-board locally oriented attack on the massive drug abuse and dependency problem, which attack includes prevention, education, and treatment, and that this ~~part 11~~ ARTICLE will provide a base from which to launch the attack and reduce the tragic human loss.

(2) It is the policy of this state that drug dependent persons and persons who are under the influence of drugs should be afforded treatment in order that they may lead normal lives as productive members of society. The general assembly hereby finds and declares that drug abuse and drug dependency are matters of statewide concern.

27-82-102. [Formerly 25-1-1101] Definitions. As used in this ~~part 11~~ ARTICLE, unless the context otherwise requires:

(1) "Administrator" means the administrator of an approved treatment facility or an individual authorized in writing to act as his OR HER designee.

(2) "Approved private treatment facility" means a private agency meeting the standards prescribed in ~~section 25-1-1102 (1)~~ SECTION 27-82-103 (1) and approved

under ~~section 25-1-1102~~ SECTION 27-82-103.

(3) "Approved public treatment facility" means a treatment agency operating under the direction and control of or approved by the ~~division of alcohol and drug abuse~~ UNIT and meeting the standards prescribed in ~~section 25-1-1102 (1)~~ SECTION 27-82-103 (1) and approved under ~~section 25-1-1102~~ SECTION 27-82-103.

(4) "Court" means the district court in the county in which the person named in a petition filed pursuant to this ~~part 11~~ ARTICLE resides or is physically present. In the city and county of Denver, "court" means the probate court.

(5) "Department" means the department of human services CREATED IN SECTION 26-1-105, C.R.S.

(6) "Director" means the director of the ~~division of alcohol and drug abuse~~ UNIT.

~~(7) "Division" means the division of alcohol and drug abuse within the department.~~

~~(8)~~ (7) "Drug" means a controlled substance as defined in section 12-22-303 (7), C.R.S., and toxic vapors.

~~(9)~~ (8) "Drug abuser" means a person who habitually uses drugs or who uses drugs to the extent that his OR HER health is substantially impaired or endangered or his OR HER social or economic function is substantially disrupted. Nothing in this subsection ~~(9)~~ (8) shall preclude the denomination of a drug abuser as a person under the influence of or incapacitated by drugs.

~~(10)~~ (9) "Executive director" means the executive director of the department.

~~(11)~~ (10) "Incapacitated by drugs" means that a person, as a result of the use of drugs, is unconscious or has his OR HER judgment otherwise so impaired that he OR SHE is incapable of realizing and making a rational decision with respect to his OR HER need for treatment, ~~or~~ is unable to take care of his OR HER basic personal needs or safety, or lacks sufficient understanding or capacity to make or communicate rational decisions concerning ~~his person~~ HIMSELF OR HERSELF.

~~(12)~~ (11) "Licensed physician" means either a physician licensed by the state of Colorado or a hospital-licensed physician employed by the admitting facility.

~~(13)~~ (12) "Minor" means a person under the age of eighteen years.

~~(14)~~ (13) "Person under the influence of drugs" means any person whose mental or physical functioning is temporarily but substantially impaired as a result of the presence of drugs in his OR HER body.

~~(15)~~ (14) "Toxic vapors" means a substance or product containing such substances as defined in section 18-18-412 (3), C.R.S.

~~(16)~~ (15) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation,

medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, ~~which~~ THAT may be extended to drug abusers and persons under the influence of drugs.

(16) "UNIT" MEANS THE UNIT IN THE DEPARTMENT THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

27-82-103. [Formerly 25-1-1102] Standards for public and private treatment facilities - fees - enforcement procedures - penalties. (1) In accordance with the provisions of this ~~part~~ ~~++~~ ARTICLE, the ~~division~~ UNIT shall establish standards for approved treatment facilities that receive public funds or that dispense controlled substances or both. ~~Such~~ THE standards ~~must~~ SHALL be met for a treatment facility to be approved as a public or private treatment facility. The ~~division~~ UNIT shall fix the fees to be charged for the required inspections. The fees that are charged to approved treatment facilities that provide level I and level II programs as provided in section 42-4-1301.3 (3) (c), C.R.S., shall be transmitted to the state treasurer, who shall credit the fees to the alcohol and drug driving safety program fund created in section 42-4-1301.3 (4) (a), C.R.S. The standards may concern only the health standards to be met and standards of treatment to be afforded patients and shall reflect the success criteria established by the general assembly.

(2) The ~~division~~ UNIT periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(3) The ~~division~~ UNIT shall maintain a list of approved public and private treatment facilities.

(4) Each approved public and private treatment facility shall file with the ~~division~~ UNIT, on request, data, statistics, schedules, and information the ~~division~~ UNIT reasonably requires. An approved public or private treatment facility that fails without good cause to furnish any data, statistics, schedules, or information, as requested, or files fraudulent returns thereof shall be removed from the list of approved treatment facilities.

(5) The ~~division~~ UNIT, after hearing, may suspend, revoke, limit, restrict, or refuse to grant an approval for failure to meet its standards.

(6) ~~No~~ A person shall NOT operate a private or public treatment facility in this state without approval from the ~~division~~ UNIT; except that this ~~part~~ ~~++~~ ARTICLE shall not apply to a private treatment facility that accepts only private funds and does not dispense controlled substances. The district court may restrain any violation of, review any denial, restriction, or revocation of approval under, and grant other relief required to enforce the provisions of this section.

(7) Upon petition of the ~~division~~ UNIT and after a hearing held upon reasonable notice to the facility, the district court may issue a warrant to an officer or employee of the ~~division~~ UNIT authorizing him OR HER to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the ~~division~~

UNIT or which the ~~division~~ UNIT has reasonable cause to believe is operating in violation of this ~~part~~ ARTICLE.

27-82-104. [Formerly 25-1-1103] Acceptance for treatment - rules. (1) The director shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of drug abusers and persons under the influence of drugs. In establishing the rules, the director shall be guided by the following standards:

(a) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient treatment, unless or until he OR SHE is found to require residential treatment.

(c) A person may not be denied treatment solely because he OR SHE has withdrawn from treatment against medical advice on a prior occasion or because he OR SHE has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(e) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or leaves a form of treatment will have available and utilize other appropriate treatment.

27-82-105. [Formerly 25-1-1104] Voluntary treatment of drug abusers. (1) A drug abuser, including a minor, may apply for voluntary treatment directly to an approved treatment facility.

(2) Subject to rules adopted by the director, the administrator in charge of an approved treatment facility shall determine who shall be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator may refer the person to another approved and appropriate treatment facility for treatment if it is deemed likely to be beneficial. A person should not be referred for further treatment if it is determined that further treatment is not likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate, or further treatment is unlikely to be beneficial.

(3) If a patient receiving residential care leaves an approved treatment facility, he OR SHE shall be encouraged to consent to outpatient treatment or supportive services if appropriate.

27-82-106. [Formerly 25-1-1105] Voluntary treatment for persons under influence of drugs and persons incapacitated by drugs. (1) A person under the influence of or incapacitated by drugs, including a minor if provided by rules of the ~~division~~ UNIT, may voluntarily admit himself OR HERSELF to an approved treatment facility for emergency treatment.

(2) A person who voluntarily enters an approved treatment facility shall be

immediately evaluated or examined by the facility administrator. A person found to be in need of treatment shall then be admitted or referred to another appropriate facility. If a person is found not to be in need of treatment, he OR SHE shall be released or referred to another appropriate facility.

(3) Except as provided in subsection (7) of this section, a voluntarily admitted person shall be released from the approved treatment facility immediately upon his OR HER request.

(4) A person who is not admitted to an approved treatment facility, and who is not referred to another health facility, and who has no funds may be taken to his OR HER home, if any. If he OR SHE has no home, the approved treatment facility may assist him OR HER in obtaining shelter.

(5) If a person is admitted to an approved treatment facility, his OR HER family or next of kin shall be notified as promptly as possible in accordance with federal confidentiality regulations for alcohol and drug abuse patient records, which regulations are found at 42 CFR, part II, secs. 2.1 to 2.67, as amended. If an adult person requests that there be no notification, his OR HER request shall be respected.

(6) If the administrator in charge of the approved treatment facility determines that it is for the person's benefit, the person shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

(7) Nothing in this section shall preclude the approved treatment facility administrator from seeking emergency commitment OF A PERSON as provided in ~~section 25-1-1106~~ SECTION 27-82-107 or involuntary commitment OF A PERSON as provided in ~~section 25-1-1107~~ SECTION 27-82-108, regardless of whether ~~such persons have~~ THE PERSON HAS been voluntarily admitted under this section. In such ~~cases~~ CASE, the administrator ADMINISTRATOR'S or designee's further conduct shall be governed by ~~section 25-1-1106 or 25-1-1107~~ SECTION 27-82-107 OR 27-82-108, as applicable.

27-82-107. [Formerly 25-1-1106] Emergency commitment. (1) When any person is under the influence of or incapacitated by drugs and clearly dangerous to the health and safety of himself, HERSELF, or others, ~~such person~~ HE OR SHE may be taken into protective custody by law enforcement authorities, acting with probable cause, and placed in an approved treatment facility. If no such facilities are available, he OR SHE may be detained in an emergency medical facility or jail, but only for so long as may be necessary to prevent injury to himself, HERSELF, or others or to prevent a breach of the peace. A law enforcement officer, in detaining the person, is taking him OR HER into protective custody. In so doing, the detaining officer may protect himself OR HERSELF by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime. Law enforcement personnel who act in compliance with this section are acting in the course of their official duties and are not criminally or civilly liable therefor. Nothing in this subsection (1) shall preclude a person under the influence of or incapacitated by drugs who is not dangerous to the health and safety of himself, HERSELF, or others from being assisted to his OR HER home or like location by the

law enforcement officer.

(2) A law enforcement officer, physician, spouse, guardian, or relative of the person to be committed or any other responsible person may make a written application for emergency commitment under this section, directed to the administrator of the approved treatment facility. The application shall state the circumstances requiring emergency commitment, including the applicant's personal observations and the specific statements of others, if any, upon which he OR SHE relies in making the application. A copy of the application shall be furnished to the person to be committed.

(3) If the approved treatment facility administrator finds that there are sufficient grounds in the application, the person shall be committed, evaluated, and treated for a period not to exceed five days. The person shall be brought to the facility by a peace officer or any interested person. If necessary, the court may be contacted to issue an order to the police, the peace officer's department, or the sheriff's department to transport the person to the facility.

(4) If the approved treatment facility administrator determines that there are insufficient grounds in the application to sustain an emergency commitment as set forth in subsection (1) of this section, the commitment shall be refused and the person detained immediately released, and the person shall be encouraged to seek voluntary treatment if appropriate.

(5) When the administrator determines that the grounds for commitment no longer exist, the emergency commitment shall be revoked and the client shall be placed on voluntary status and encouraged to seek further voluntary treatment. No person committed under this section may be detained in any treatment facility for more than five days; except that a person may be detained for longer than five days at the approved treatment facility if, in that period of time, a petition for involuntary commitment has been filed pursuant to ~~section 25-1-1107~~ SECTION 27-82-108. A person may not be detained longer than ten days, excluding weekends and holidays, after the date of filing of the petition for involuntary commitment unless valid medical reasons exist for detaining a person longer.

(6) Whenever a person is involuntarily detained pursuant to this section, he OR SHE shall be advised within twenty-four hours by the facility administrator, both orally and in writing, of his OR HER right to challenge such detention by application to the courts for a writ of habeas corpus, and to have counsel appointed by the court or provided by the court if he OR SHE wants the assistance of counsel and is unable to obtain counsel.

27-82-108. [Formerly 25-1-1107] Involuntary commitment of drug abusers.

(1) A person may be committed to the custody of the ~~division~~ UNIT by the court upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of any approved treatment facility, or any other responsible person. The petition shall allege that the person is a drug abuser and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by drugs. A refusal to undergo treatment does not

constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within ten days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination or an examination cannot be made of such person due to the person's condition. The certificate shall set forth the physician's findings in support of the allegations of the petition.

~~(1.5)~~ (2) A petition submitted pursuant to subsection (1) of this section shall not be accepted unless there is documentation of the refusal by the person to be admitted to accessible and affordable voluntary treatment. ~~Such~~ Documentation may include, but shall not be limited to, physicians' and advanced practice nurses' statements, notations in the person's medical or law enforcement records, or witnesses' statements.

~~(2)~~ (3) Upon the filing of the petition, the court shall fix a date for a hearing no later than ten days, excluding weekends and holidays, after the date the petition was filed, unless valid medical reasons exist for delaying the hearing. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be personally served on the person whose commitment is sought and one of his OR HER parents or his OR HER legal guardian if he OR SHE is a minor. A copy of the petition and notice of hearing shall be provided to the petitioner, to the ~~division of alcohol and drug abuse~~, UNIT, to counsel for the person whose commitment is sought, if any, to the administrator in charge of the approved treatment facility to which the person may have been committed for emergency treatment, and to any other person the court believes advisable.

~~(3)~~ (4) At the hearing, the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that the person's presence is likely to be injurious to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed physician, he or she shall be given an opportunity to be examined by a court-appointed licensed physician. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital or an approved public or private treatment facility for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

~~(4)~~ (5) If after hearing all relevant evidence, including the results of any diagnostic examination by the licensed hospital, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the ~~division~~. ~~The division~~ UNIT. THE UNIT shall have the right to delegate physical custody of the person to an appropriate approved treatment facility. It may not order commitment of a person unless it determines that the ~~division~~ UNIT is able to provide adequate and appropriate treatment for him OR HER and that the treatment is likely to be beneficial.

~~(5)~~ (6) Upon the commitment of a person to the ~~division~~ UNIT by the court, the court may issue an order to the sheriff to transport the person committed to the facility designated by the ~~division~~ UNIT.

~~(6)~~ (7) A person committed as provided in this section shall remain in the custody of the ~~division~~ UNIT for treatment for a period of thirty days unless sooner discharged. At the end of the thirty-day period, he OR SHE shall be discharged automatically unless the ~~division~~ UNIT, before expiration of the period, files a petition for his OR HER recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days and a hearing has been scheduled in accordance with ~~subsection (2)~~ SUBSECTION (3) of this section. If a person has been committed because he OR SHE is a drug abuser likely to inflict physical harm on another, the ~~division~~ UNIT shall apply for recommitment if, after examination, it is determined that the likelihood still exists.

~~(7)~~ (8) A person recommitted as provided in ~~subsection (6)~~ SUBSECTION (7) of this section who has not been discharged by the ~~division~~ UNIT before the end of the ninety-day period shall be discharged at the expiration of that period unless the ~~division~~ UNIT, before expiration of the period, files a petition on the grounds set forth in subsection (1) of this section for recommitment for a further period not to exceed ninety days and a hearing has been scheduled in accordance with ~~subsection (2)~~ SUBSECTION (3) of this section. If a person has been committed because he OR SHE is a drug abuser likely to inflict physical harm on another, the ~~division~~ UNIT shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under ~~subsection (6)~~ SUBSECTION (7) of this section and this ~~subsection (7)~~ SUBSECTION (8) are permitted.

~~(8)~~ (9) Upon the filing of a petition for recommitment under ~~subsections (6) and (7)~~ SUBSECTIONS (7) AND (8) of this section, the court shall fix a date for hearing no later than ten days, excluding weekends and holidays, after the date the petition was filed unless valid medical reasons exist for delaying the hearing. A copy of the petition and of the notice of hearing shall be served as required in ~~subsection (2)~~ SUBSECTION (3) of this section. At the hearing, the court shall proceed as provided in ~~subsection (3)~~ SUBSECTION (4) of this section.

~~(9)~~ (10) The ~~division~~ UNIT shall provide for adequate and appropriate treatment of a person committed to its custody. The ~~division~~ UNIT may transfer any person committed to its custody from one approved treatment facility to another if transfer is advisable.

~~(10)~~ (11) A person committed to the custody of the ~~division~~ UNIT for treatment shall be discharged at any time before the end of the period for which he OR SHE has been committed if either of the following conditions is met:

(a) In THE case of a drug abuser committed on the grounds that he OR SHE is likely to inflict physical harm upon another, that he OR SHE no longer has a drug abuse condition ~~which~~ THAT requires treatment or the likelihood no longer exists; or

(b) In THE case of a drug abuser committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists, or in case of a drug

abuser committed on any grounds under this section, that further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer appropriate, or further treatment is unlikely to be beneficial.

~~(11)~~ (12) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if the person wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of the person's wishes. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

~~(12)~~ (13) If a private treatment facility agrees with the request of a competent patient or his OR HER parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility may transfer him OR HER to the private treatment facility.

~~(13)~~ (14) A person committed under this ~~part 11~~ ARTICLE may at any time seek to be discharged from commitment by an order in the nature of habeas corpus.

~~(14)~~ (15) The venue for proceedings under this section is the county in which the person to be committed resides or is present.

~~(15)~~ (16) All proceedings conducted pursuant to this ~~part 11~~ ARTICLE shall be conducted by the district attorney of the county where the proceeding is held or by an attorney acting for the district attorney appointed by the court for that purpose; except that, in any county or in any city and county having a population exceeding one hundred thousand persons, the proceedings shall be conducted by the county attorney or by an attorney acting for the county attorney appointed by the court.

27-82-109. [Formerly 25-1-1108] Records of drug abusers and persons under influence of drugs. (1) The registration and other records of treatment facilities shall remain confidential and fully protected as outlined in federal confidentiality regulations for alcohol and drug abuse patient records found at 42 CFR, part II, secs. 2.1 to 2.67, as amended.

(2) Notwithstanding subsection (1) of this section, the director may make available information from patients' records for purposes of research into the causes and treatment of drug abuse. Information under this subsection (2) shall not be published in a way that discloses patients' names or other identifying information.

27-82-110. [Formerly 25-1-1109] Visitation and communication of patients. (1) ~~Patients in any~~ A PATIENT IN AN approved treatment facility shall be granted opportunities for continuing visitation and communication with ~~their families~~ HIS OR HER FAMILY and friends consistent with an effective treatment program. ~~Patients~~ A PATIENT shall be permitted to consult with counsel at any time.

(2) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The director may adopt reasonable rules regarding the use of the telephone by patients in approved treatment facilities.

27-82-111. [Formerly 25-1-1110] Payment for treatment - financial ability of patients. (1) If treatment is provided by an approved public treatment facility and the patient, including a committed person, has not paid the charge therefor, the approved treatment facility is entitled to any payment received by the patient or to which he OR SHE may be entitled because of the services rendered and from any public or private source available to the approved treatment facility because of the treatment provided to the patient. The treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges which have not been paid.

(2) A patient in an approved treatment facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability is liable to the approved treatment facility for the cost of maintenance and treatment of the patient therein in accordance with rates established. The treatment facility may seek and obtain a judgment in an appropriate court for any fees or charges ~~which~~ THAT have not been paid.

(3) The director shall establish by rule a standardized ability-to-pay schedule, under which those with sufficient financial ability are required to pay the full cost of services provided and those who are totally without sufficient financial ability are provided appropriate treatment at no charge. Such schedule shall take into consideration the income including government assistance programs, savings, and other personal and real property of the person required to pay, and any support being furnished by him OR HER to any person he OR SHE is required by law to support.

(4) Nothing in this section shall prohibit a facility from charging a minimal fee for therapeutic purposes.

27-82-112. [Formerly 25-1-1111] Criminal laws - limitations. (1) Nothing in this ~~part 11~~ ARTICLE affects any law, ordinance, resolution, or rule against driving under the influence of drugs or other similar offense involving the operation of a vehicle, an aircraft, a boat, any machinery, or any other equipment or regarding the sale, purchase, possession, or use of drugs.

(2) The fact that a person is under the influence of or incapacitated by drugs shall not prevent his ~~being arrested or prosecuted~~ OR HER ARREST OR PROSECUTION for the commission of any criminal act or conduct.

(3) Nothing in this ~~part 11~~ ARTICLE shall be construed as a limitation upon the right of a police officer to make an otherwise legal arrest, notwithstanding the fact that the arrested person may be under the influence of or incapacitated by drugs.

27-82-113. [Formerly 25-1-1112] Limitations on services and programs provided - available funds. (1) The level of services provided and the scope of programs administered by the ~~division which~~ UNIT THAT relate to drug abuse prevention, education, and treatment, including the number of clients served in

treatment programs, shall be subject to the moneys available to the ~~division~~ UNIT for such purposes.

(2) The department ~~of human services~~ is authorized to accept, on behalf of the state of Colorado, and expend any grants of federal funds for all or any purposes of this ~~part~~ ~~††~~ ARTICLE.

ARTICLE 90
Institutions - Department of Human Services

27-90-100.3. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES CREATED IN SECTION 26-1-105, C.R.S.

(2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES.

27-90-101. [Formerly 27-1-102] Executive director - division heads - interagency council - advisory boards.

~~(1) Repealed.~~

~~(2)(a) Repealed.~~

~~(b)~~ (1) (a) Medical personnel employed at any of the institutions subject to the control of the executive director, the medical director of which is licensed to practice medicine in this state, shall be exempt from the provisions of the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., with respect to service rendered to bona fide patients or inmates at ~~said~~ THOSE institutions, if such personnel: Are licensed to practice medicine in any other state of the United States or any province of Canada; have satisfactorily completed an internship of not less than one year in the United States, Canada, or Puerto Rico in a hospital approved for that purpose by the American medical association; have satisfactorily completed three years of postgraduate residency training, or its equivalent, in their particular specialty in a hospital approved for that purpose by the American medical association; and can read, write, speak, and understand the English language. Proof ~~of said~~ THAT THE requirements HAVE BEEN MET shall be submitted to and approved or disapproved by the executive director. ~~of the department of human services.~~

~~(c)~~ (b) All ~~such~~ personnel ~~as~~ WHO cannot satisfy all of the requirements set forth in ~~paragraph (b)~~ PARAGRAPH (a) of this ~~subsection (2)~~ SUBSECTION (1) shall be exempt from the provisions of the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., with respect to services rendered to bona fide patients or inmates at said institutions, if ~~such~~ THE personnel: Are of good moral character; are graduates of an approved medical college as defined in section 12-36-108, C.R.S.; have completed an approved internship of at least one year as defined in section 12-36-109, C.R.S.; ~~and~~, within a period of nine months of their employment, pass the examinations approved by the Colorado state board of medical examiners under the provisions of the "Colorado Medical Practice Act" and the national board of

medical examiners, the national board of examiners for osteopathic physicians and surgeons, or the federation of state medical boards on subjects relating to the basic sciences; are able to read, write, speak, and understand the English language; and, in the case of personnel who are not citizens of the United States, become such citizens within the minimum period of time within which the particular individual can become a citizen according to the laws of the United States and the regulations of the immigration and naturalization service of the United States department of justice or within such additional time as may be granted by said boards.

~~(d)~~ (c) Medical personnel granted exemption under paragraphs (b) and (c) of this subsection (2) PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (1) may not practice medicine except as described in this subsection (2) SUBSECTION (1) without first complying with all of the provisions of ~~said~~ THE "Colorado Medical Practice Act".

~~(3)~~ (2) The governor may appoint an interagency council to serve at his OR HER pleasure, to be composed of such representatives as he OR SHE may select from the departments of public health and environment, labor and employment, health care policy and financing, human services, personnel, and such other state officers and officials as he OR SHE may deem appropriate.

~~(4)~~ (3) The governor may appoint advisory boards to consult with the executive director and the chief officer of any institution within the jurisdiction of the department. Any such advisory board shall consist of not less than five nor more than fifteen persons recognized or known to be interested and informed in the area of the ~~said~~ institution's purpose and function. Members of ~~such~~ THE ADVISORY boards shall serve without compensation but may be reimbursed for actual and necessary expenses incurred in attending regular meetings. ~~Said~~ ADVISORY boards ESTABLISHED PURSUANT TO THIS SUBSECTION (3) shall meet quarterly and during any interim on call of the executive director.

27-90-102. [Formerly 27-1-103] Duties of executive director - governor acquire water rights - rules. (1) The duties of the executive director ~~of the department of human services~~ shall be:

(a) To manage, supervise, and control the charitable, mental, custodial, and special educational public institutions operated and supported by the state; to manage and supervise the special agencies, departments, boards, and commissions transferred to or established within the department by law; to improve, develop, and carry forward programs of therapy, counseling, and aftercare to the end that ~~persons~~ A PERSON dependent upon tax-supported programs may be afforded opportunity and encouragement to overcome the disability causing ~~their~~ HIS OR HER partial or total dependence upon the state;

(b) To supervise the business, fiscal, budget, personnel, and financial operations of the department and the institutions and activities under his OR HER control;

(c) In consultation with the several superintendents, the chief officer of the Colorado mental health institute at Pueblo, the head of the administrative division for the Colorado mental health institute at Fort Logan, and the director of the division of planning, to develop a systematic building program providing for the projected, long-range needs of the institutions under his OR HER control;

(d) To classify the lands connected with the state institutions under his OR HER control and determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all state institutions for the food products that can be grown or produced thereon and the relative value of such agricultural use in the treatment or rehabilitation of the persons confined in ~~said~~ THOSE institutions;

(e) To the extent practical, to utilize the staff and services of other state agencies and departments, within their respective statutory functions, including administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., to carry out the purposes of this ~~part~~ ARTICLE;

~~(f) Repealed.~~

~~(g)~~ (f) To examine and evaluate each child committed to the department and to place each child so committed as provided in section 19-2-922, C.R.S.;

~~(h)~~ (g) To transfer between appropriate state institutions children committed to the department as provided in section 19-2-923, C.R.S.;

~~(i)~~ (h) To require of the head of each institution and agency assigned to the department an annual report containing ~~such~~ information, and submitted at ~~such~~ a time, as the executive director decides;

~~(j)~~ (i) To exercise control over publications of the department and subdivisions thereof and cause ~~such~~ publications ~~as~~ THAT are approved for circulation in quantity outside the executive branch to be issued in accordance with the provisions of section 24-1-136, C.R.S.;

~~(k)~~ (j) To implement the procedures regarding children who are in detention or who have or may have mental illness or developmental disabilities specified in the provisions of the "Colorado Children's Code" contained in articles 1, 2, and 3 of title 19, C.R.S.;

~~(l)~~ (k) To carry out the duties prescribed in article 11.7 of title 16, C.R.S.; AND

~~(m)~~ (l) To provide information to the director of research of the legislative council concerning population projections, research data, and the projected long-range needs of the institutions under the control of the executive director and any other related data requested by the director.

~~(1.5)~~ (2) The executive director shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

~~(2)~~ (3) On behalf of the state of Colorado, the governor is authorized to acquire water and water rights for the operation of the Colorado mental health institute at Fort Logan. Title to ~~such~~ THAT property may be acquired in fee simple absolute by purchase, donation, or the exercise of the power of eminent domain through condemnation proceedings in accordance with law from funds made available by the general assembly.

~~(3)~~ ~~(a)~~ ~~(1)~~ (4) (a) (I) The executive director shall appoint a board of medical consultants.

(II) The executive director shall determine the membership of the board based on the medical and surgical needs of the department.

(III) The executive director shall determine the qualifications for appointment to the board of medical consultants; except that all members of the board shall be licensed by the state board of medical examiners pursuant to the provisions of article 36 of title 12, C.R.S.

(b) ~~Persons~~ A PERSON serving on the board of medical consultants shall provide not more than one thousand hours of consultation per year in ~~their~~ HIS OR HER capacity as A board ~~members~~ MEMBER.

(c) Members of the board of medical consultants shall be compensated at a rate ~~which~~ THAT shall be approved by the executive director. Compensation shall be paid from available funds of the department.

(d) The board members shall act as medical consultants to the department with respect to persons receiving services from the institutions listed in ~~section 27-1-104~~ SECTION 27-90-104 and from any institution operated pursuant to part 11 of article 2 of title 19, C.R.S.

(e) A member of the board of medical consultants, for all activities performed within the course and scope of his OR HER responsibilities to the department, is a "public employee" as defined in section 24-10-103 (4), C.R.S.

~~(4)~~ ~~(a)~~ (5) (a) The executive director ~~of the department of human services~~ shall have authority to adopt "executive director rules", as described in section 26-1-108, C.R.S., for programs administered and services provided by the department ~~of human services~~ as set forth in this title. ~~Such~~ THE rules shall be promulgated in accordance with the provisions of section 24-4-103, C.R.S.

(b) Whenever a statutory grant of rule-making authority in this title refers to the DEPARTMENT, state department, or the department of human services, it shall mean the department of human services acting through either the state board of human services or the executive director ~~of the department of human services~~ or both. When exercising rule-making authority under this title, the ~~state~~ department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in ~~section 27-1-103.5~~ SECTION 27-90-103 and "executive director rules" as set forth in this section.

(c) Any rules adopted by the state board of human services to implement the provisions of this title prior to March 25, 2009, whose content meets the definition of "executive director rules" shall continue to be effective until revised, amended, or repealed by the executive director.

27-90-103. [Formerly 27-1-103.5] State board of human services - rules.

(1) The state board of human services, created in section 26-1-107, C.R.S., is

authorized to adopt "board rules" as necessary to implement the programs administered and the services provided by the department ~~of human services~~ as provided in this title. ~~Such~~ THE rules shall be promulgated in accordance with the provisions of section 24-4-103, C.R.S.

(2) "Board rules" are rules promulgated by the state board of human services governing:

- (a) Program scope and content;
- (b) Requirements, obligations, and rights of clients and recipients;
- (c) Non-executive director rules concerning vendors, providers, and other persons affected by acts of the department. ~~of human services.~~

(3) (a) Any rules adopted by the executive director ~~of the department of human services~~ to implement the provisions of this title prior to March 25, 2009, whose content meets the definition of "board rules" shall continue to be effective until revised, amended, or repealed by the state board of human services.

(b) Any rules adopted by the state board to implement the provisions of this title prior to March 25, 2009, whose content meets the definition of "executive director rules" shall continue to be effective until revised, amended, or repealed by the executive director.

(4) Whenever a statutory grant of rule-making authority in this title refers to the department, THE STATE DEPARTMENT, or the department of human services, it shall mean the department of human services acting through either the state board of human services or the executive director. ~~of the department of human services.~~ When exercising rule-making authority under this title, the state department, either acting through the state board or the executive director, shall establish rules consistent with the powers and the distinction between "board rules" as set forth in this section and "executive director rules" as set forth in ~~section 27-1-103~~ SECTION 27-90-102.

27-90-104. [Formerly 27-1-104] Institutions managed, supervised, and controlled. (1) The department shall manage, supervise, and control the following state institutions:

- ~~(a) and (b) Repealed.~~
- ~~(c)~~ (a) Colorado mental health institute at Pueblo;
- ~~(d)~~ (b) Wheat Ridge regional center;
- ~~(e)~~ (c) Grand Junction regional center;
- ~~(f)~~ (d) Lookout Mountain school, at Golden;
- ~~(g)~~ (e) Mount View school, at Morrison;

~~(h)~~ (f) Colorado mental health institute at Fort Logan, in Denver;

~~(i)~~ (g) Golden Gate youth camp, in Gilpin county;

~~(j)~~ (h) Lathrop Park youth camp, in Huerfano county; AND

~~(k) and (l) Repealed.~~

~~(m)~~ (i) Pueblo regional center.

~~(n) Repealed.~~

27-90-105. [Formerly 27-1-104.4] Future juvenile detention facility needs.

(1) (a) The general assembly hereby finds and declares that currently there are no juvenile detention facilities with commitment beds or locked detention beds in the southwest portion of Colorado and that the nearest such facility in the Grand Junction or Glenwood Springs area is as much as four hours away from some southwestern communities. As a result of this distance, authorities in the southwest region of the state often avoid detention even though such avoidance presents a public safety problem, and those juveniles who are taken to distant facilities lose the critical access to family members and local community agencies that would otherwise render their transitional return to the community less difficult.

(b) The general assembly further finds and declares that the juvenile population in detention is expected to increase by seventy and nine ~~one-hundredths~~ HUNDREDTHS percent by the year 2002. In addition, the general assembly finds and declares that the juvenile commitment population is expected to increase by forty-nine and nine-tenths percent by the year 2002. The general assembly finds and declares that the growth patterns on the western slope of the state have led to a growth in population of at-risk youth and increased crime and that the office of youth services accordingly has experienced a shortfall of both detention and commitment beds in the western part of the state.

(c) The general assembly therefore determines that it would be appropriate to consider the need for the construction of a juvenile detention facility in southwest Colorado.

(2) (a) The department of ~~human services~~ is directed to assess the need for, and to determine the community commitment to, a new multipurpose juvenile detention facility to be constructed in La Plata county that would serve the following detention and treatment needs of juveniles in the southwest portion of the state:

(I) Secure facility housing of juveniles who are detained on juvenile-related charges; and

(II) Secure facility and medium secure facility housing of juveniles who are committed to the ~~office~~ DIVISION of youth ~~services~~ CORRECTIONS.

(b) In assessing the need for such a facility and the services to be rendered at such a facility, the department of ~~human services~~ shall evaluate privatization options.

(3) The department of human services shall present its findings, conclusions, and recommendations to the capital development committee of the general assembly on or before November 1, 1996.

27-90-106. [Formerly 27-1-104.5] Legislative review of facilities program plans for juvenile facilities. (1) Prior to any appropriation by the general assembly for the construction of a new, expanded, renovated, or improved juvenile facility, and no later than November 1 prior to the beginning of the budget year for which the appropriation is made, the department of human services shall submit a proposed facility program plan for each proposed new, expanded, renovated, or improved juvenile facility to the capital development committee. The capital development committee shall make a recommendation regarding the facility program plan to the joint budget committee. The general assembly may contract with a consultant to provide assistance to the capital development committee and the joint budget committee in the review of facilities program plans submitted by the department. ~~of human services.~~

(2) For the purposes of this section, "facility program plan" means a pre-architectural design program, as that term is understood in the architectural profession. A facility program plan shall include but need not be limited to the number of beds proposed to be included in the new juvenile facility or the addition to an existing juvenile facility, the primary security level of the proposed facility or addition, the staffing plan of the proposed facility or addition, and a description of any educational or ancillary support facilities required for the proposed facility or addition.

27-90-107. [Formerly 27-1-106] Transfer of functions. (1) The department has the authority to execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the board of control of the state children's home, the board of control of the Mount View girls' school, and the division of administration of the division of parole prior to July 1, 1959.

(2) Except where the context plainly requires otherwise, "board" or "boards of control", with reference to the institutions and the division listed in subsection (1) of this section, means and refers to the department of human services.

27-90-108. [Formerly 27-1-107] Transfer of employees, records, and property - retirement benefits protected - decision of governor. (1) All employees of the division of administration of the division of parole and all employees of the boards of control enumerated in ~~section 27-1-106~~ SECTION 27-90-107 who were engaged in the performance of duties prescribed and supervised by ~~said~~ THE division of administration of ~~said~~ THE division of parole and ~~said~~ THE boards, respectively, and ~~who~~ THAT were transferred to the department of institutions on July 1, 1959, shall retain all rights to retirement benefits under the laws of the state, and their services shall be deemed to have been continuous. All funds, accounts, books, records, documents, and equipment of ~~said~~ THE boards and ~~said~~ THE division of administration of the division of parole became the property of the department of institutions on July 1, 1959.

(2) All questions pertaining to the proper disposition of funds, accounts, books, records, documents, or equipment arising under this ~~part~~ † ARTICLE and section

17-1-101, C.R.S., and caused by the transfer of powers, duties, rights, functions, and obligations from any board of control to the department of institutions shall be determined by the governor.

(3) Whenever in this ~~part~~ ARTICLE a department, agency, division, or unit thereof is transferred to the department of institutions, the provisions of subsections (1) and (2) of this section shall be declared applicable in effecting such transfer.

27-90-109. [Formerly 27-1-108] Department may accept gifts, donations, and grants. The department of ~~human services~~ or any institution managed, supervised, and controlled by the department may accept or refuse to accept, on behalf of and in the name of the state, gifts, donations, and grants, including grants of federal funds, for any purpose connected with the work or programs of the department or of any such institution. The executive director, ~~of the department,~~ with the approval of the governor, has the power to direct the disposition of any such gift, donation, and grant so accepted for any purpose consistent with the terms and conditions under which given.

27-90-110. [Formerly 27-1-109] Rules for this article and certain provisions in title 19, C.R.S. Pursuant to section 24-4-103, C.R.S., the department of ~~human services~~ shall promulgate such rules as are necessary to implement the provisions of this ~~part~~ ARTICLE and the procedures specified in sections 19-2-508, 19-2-906, 19-2-922, 19-2-923, 19-3-403, 19-3-506, 19-3-507, and 19-3-508, C.R.S., regarding children who are in detention or who have or may have mental illness or developmental disabilities.

27-90-111. [Formerly 27-1-110] Employment of personnel - screening of applicants - disqualifications from employment. (1) The general assembly hereby recognizes that many of the individuals receiving services from persons employed by the state department pursuant to this title or title 26, C.R.S., are unable to defend themselves and are therefore vulnerable to abuse or assault. It is the intent of the general assembly to minimize the potential for hiring and employing persons with a propensity toward abuse, assault, or similar offenses against others for positions that would provide them with unsupervised access to vulnerable persons. The general assembly hereby declares that, in accordance with section 13 of article XII of the state constitution, for purposes of terminating employees in the state personnel system who are finally convicted of criminal conduct, offenses involving moral turpitude include, but are not limited to, the disqualifying offenses specified in ~~subsection (7)~~ SUBSECTION (9) of this section.

~~(1.5)~~ (2) For purposes of this section, unless the context otherwise requires:

(a) "Contracting employee" means a person who contracts with the ~~state~~ department and who is designated by the executive director ~~of the state department~~ or the executive director's designee as serving in a contract position involving direct contact with vulnerable persons.

(b) "Conviction" means a verdict of guilty by a judge or jury or a plea of guilty or nolo contendere that is accepted by the court or adjudication for an offense that would constitute a criminal offense if committed by an adult. "Conviction" also includes having received a deferred judgment and sentence or deferred adjudication;

except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence or deferred adjudication.

(c) "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to vulnerable persons, regardless of the level of supervision of the employee. "Direct contact" may include positions in which persons have access to or unsupervised time with clients or patients, including but not limited to maintenance personnel, housekeeping staff, kitchen staff, and security personnel.

(d) "Employee" means an employee of the ~~state~~ department who is under the state personnel system of the state of Colorado.

~~(e) "Executive director" means the executive director of the state department.~~

~~(f) "State department" means the department of human services.~~

~~(g)~~ (e) "Vulnerable person" means any individual served by the ~~state~~ department who is susceptible to abuse or mistreatment because of the individual's circumstances, including but not limited to the individual's age, disability, frailty, mental illness, developmental disability, or ill health.

~~(1.7)~~ (3) The employment screening and disqualification requirements in this section apply to the following facilities or programs operated by the ~~state~~ department:

(a) Any facility operated by the ~~state~~ department for the care and treatment of persons with mental illness pursuant to ~~article 10~~ ARTICLE 65 of this title;

(b) Any facility operated by the ~~state~~ department for the care and treatment of the developmentally disabled pursuant to article 10.5 of this title;

(c) Vocational rehabilitation services provided pursuant to article 8 of title 26, C.R.S.;

(d) Any direct services identified and provided by the ~~state~~ department in which employees have direct contact with vulnerable persons in a state-operated facility or in a vulnerable person's home or residence;

(e) State and veterans nursing homes operated pursuant to article 12 of title 26, C.R.S.;

(f) Any facility directly operated by the ~~state~~ department in which juveniles who are in the custody of the ~~state~~ department reside, including detention or commitment centers; AND

(g) Any secure facility contracted for by the ~~state~~ department pursuant to section 19-2-403, C.R.S., in which juveniles who are in the custody of the ~~state~~ department reside.

~~(2)~~ (4) Prior to the ~~state~~ department's permanent employment of ~~any~~ A person in

a position that would require that person to have direct contact with any vulnerable person, the executive director or any division head of the ~~state~~ department shall make an inquiry to the director of the Colorado bureau of investigation to ascertain whether ~~such~~ THE person has a criminal history. ~~Such~~ THE person's employment shall be conditional upon a satisfactory criminal background check. Any criminal background check conducted pursuant to this ~~subsection (2)~~ SUBSECTION (4) shall include but need not be limited to arrests, conviction records, and the disposition of any criminal charges. The ~~state~~ department shall require ~~said~~ THE person to have his or her fingerprints taken by a local law enforcement agency. The local law enforcement agency shall forward those fingerprints to the Colorado bureau of investigation for the purpose of fingerprint processing utilizing the files and records of the Colorado bureau of investigation and the federal bureau of investigation. The ~~state~~ department shall pay for the costs of criminal background checks conducted pursuant to this section out of existing appropriations.

~~(3)~~ (5) The executive director or any division head shall contact previous employers of any person who is one of the top three finalists for a position that would require that person to have direct contact with any vulnerable person, for the purpose of obtaining information and recommendations that may be relevant to ~~such~~ THE person's fitness for employment. Any previous employer of an applicant for employment who provides information to the executive director or a division head or who makes a recommendation concerning ~~such~~ THE person shall be immune from civil liability unless the information is false and the previous employer knows such information is false or acts with reckless disregard concerning the veracity of ~~such~~ THE information.

~~(4)~~ (6) Any local agency or provider of services pursuant to this title or title 26, C.R.S., may investigate applicants for employment.

~~(5)~~ (7) The executive director, any division head, or any local agency or provider who relies on information obtained pursuant to this section in making an employment decision or who concludes that the nature of any information disqualifies the person from employment as either an employee or a contracting employee shall be immune from civil liability for ~~said~~ THAT decision or conclusion unless the information relied upon is false and the executive director, division head, or local agency or provider knows ~~such~~ THE information is false or acts with reckless disregard concerning the veracity of ~~such~~ THE information.

~~(6)~~ (8) The executive director may promulgate such rules as are necessary to implement the provisions of this section.

~~(7)(a)~~ (9) (a) If the criminal background check conducted pursuant to ~~subsection (2) or (9)~~ SUBSECTION (4) OR (11) of this section indicates that a prospective employee or prospective contracting employee was convicted of any of the disqualifying offenses set forth in paragraph (b) or (c) of this ~~subsection (7), said~~ SUBSECTION (9), THE person shall be disqualified from employment either as an employee or as a contracting employee in a position involving direct contact with vulnerable persons. A person who is disqualified as a result of this section shall not be hired or retained by the ~~state~~ department in a position involving direct contact with vulnerable persons nor be eligible to contract for or continue in a contract position designated by the executive director or the executive director's designee as

involving direct contact with vulnerable persons.

(b) Except as otherwise provided in paragraph (d) of this ~~subsection (7)~~ SUBSECTION (9), a person shall be disqualified from employment either as an employee or as a contracting employee regardless of the length of time that may have passed since the discharge of the sentence imposed for any of the following criminal offenses:

(I) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(II) Any felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(III) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(IV) Any felony offense of child abuse, as defined in section 18-6-401, C.R.S.;
OR

(V) Any felony offense in any other state, the elements of which are substantially similar to the elements of any of the offenses described in subparagraph (I), (II), (III), or (IV) of this paragraph (b).

(c) Except as otherwise provided in paragraph (d) of this ~~subsection (7)~~ SUBSECTION (9), a person shall be disqualified from employment either as an employee or as a contracting employee if less than ten years have passed since the person was discharged from a sentence imposed for conviction of any of the following criminal offenses:

(I) Third degree assault, as described in section 18-3-204, C.R.S.;

(II) Any misdemeanor, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(III) Violation of a protection order, as described in section 18-6-803.5, C.R.S.;

(IV) Any misdemeanor offense of child abuse, as defined in section 18-6-401, C.R.S.;

(V) Any misdemeanor offense of sexual assault on a client by a psychotherapist, as defined in section 18-3-405.5, C.R.S.; OR

(VI) Any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any of the offenses described in subparagraph (I), (II), (III), (IV), or (V) of this paragraph (c).

(d) If a person was adjudicated a juvenile delinquent for the commission of any disqualifying offense set forth in either paragraph (b) or (c) of this ~~subsection (7)~~ SUBSECTION (9) and more than seven years have elapsed since the commission of

the offense, the person may submit a written request to the executive director as provided in ~~subsection (11)~~ SUBSECTION (13) of this section for reconsideration of the disqualification.

~~(8)(a)~~ (10) (a) Any employee who is employed in a position involving direct contact with vulnerable persons and who is arrested, charged with, or issued a summons and complaint for any of the disqualifying offenses set forth in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section shall inform his or her supervisor of the arrest, charges, or issuance of a summons and complaint before returning to work. Any employee who fails to make such a report or disclosure may be terminated from employment. The ~~state~~ department or any facility operated by the ~~state~~ department shall advise its employees and contracting employees in writing of the requirement for self-reporting of the disqualifying offenses set forth in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section.

(b) An employee who is charged with any of the disqualifying offenses set forth in paragraph (b) of ~~subsection (7)~~ SUBSECTION (9) of this section shall be suspended until resolution of the criminal charges or completion of administrative action by the ~~state~~ department. An employee who is charged with any of the disqualifying offenses set forth in paragraph (c) of ~~subsection (7)~~ SUBSECTION (9) of this section may be suspended at the discretion of the ~~state~~ department until resolution of the criminal charges or completion of administrative action by the ~~state~~ department. The employee shall inform his or her supervisor of the disposition of the criminal charges. Any employee who fails to report such information may be terminated from employment. Upon notification to the ~~state~~ department that the employee has received a conviction for any of the disqualifying offenses described in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section, the employee shall be terminated from employment. Nothing in this paragraph (b) shall prohibit the ~~state~~ department from taking administrative action if the employee's conduct would justify disciplinary action under section 13 of article XII of the state constitution for failure to comply with standards of efficient service or competence or for willful misconduct, willful failure, or inability to perform his or her duties.

~~(9)~~ (11) The general assembly recognizes that the ~~state~~ department contracts with persons to serve in positions that involve direct contact with vulnerable persons in state-operated facilities or to provide state-funded services that involve direct contact with vulnerable persons in the homes and residences of such vulnerable persons. In order to protect vulnerable persons who come into contact with these contracting employees, the executive director or the executive director's designee shall designate those contract positions that involve direct contact with vulnerable persons that shall be subject to the provisions of this ~~subsection (9)~~ SUBSECTION (11). In any contract initially entered into or renewed on or after July 1, 1999, concerning a contract position that has been designated as involving direct contact with vulnerable persons, the ~~state~~ department shall include the following terms and conditions:

(a) That the contracting employee shall submit to a criminal background check as described in ~~subsection (2)~~ SUBSECTION (4) of this section for state employees;

(b) That the contracting employee shall report any arrests, charges, or summonses for any of the disqualifying offenses specified in paragraph (b) or (c) of ~~subsection~~

~~(7)~~ SUBSECTION (9) of this section to the contracting employee's supervisor at the ~~state~~ department before returning to work;

(c) That the contracting employee may be suspended or terminated, at the discretion of the ~~state~~ department, prior to the resolution of the criminal charges for any of the disqualifying offenses specified in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section;

(d) That, upon notification to the ~~state~~ department that the contracting employee has received a conviction for any of the disqualifying offenses described in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section, the contracting employee's position with the ~~state~~ department shall be terminated.

~~(10)~~ (12) An employee or contracting employee who is disqualified due to conviction of any of the disqualifying offenses set forth in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section may submit a written request to the executive director for reconsideration of the disqualification. Reconsideration under this ~~subsection (10)~~ SUBSECTION (12) may only be based on a mistake of fact such as an error in the identity of the person for whom the criminal background check was performed. If the executive director determines that there was a mistake of fact involving the identity of the person, the executive director shall issue a finding that the disqualifying factor is not a bar to the person's employment either as an employee or as a contracting employee.

~~(11)~~ ~~(a)~~ (13) (a) An employee or contracting employee who is disqualified for conviction of an offense specified in paragraph (c) of ~~subsection (7)~~ SUBSECTION (9) of this section may submit a written request to the executive director for reconsideration of the disqualification and a review of whether the person poses a risk of harm to vulnerable persons. In reviewing a disqualification, the executive director shall give predominant weight to the safety of vulnerable persons over the interests of the disqualified person. The final determination shall be based upon a review of:

(I) The seriousness of the disqualifying offense;

(II) Whether the person has a conviction for more than one disqualifying offense;

(III) The vulnerability of the victim at the time the disqualifying offense was committed;

(IV) The time elapsed without a repeat of the same or similar disqualifying offense;

(V) Documentation of successful completion of training or rehabilitation pertinent to the disqualifying offense; AND

(VI) Any other relevant information submitted by the DISQUALIFIED person.

(b) The decision of the executive director shall constitute final agency action.

~~(12)~~ (14) Nothing in this section shall be construed to preclude the ~~state~~

department or the director of any facility operated by the ~~state~~ department from adopting a policy regarding self-reporting of arrests, charges, or summonses or a policy regarding disqualification from employment that includes other offenses not set forth in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section.

ARTICLE 91

Institutions - General Administrative Provisions

27-91-101. [Formerly 27-2-101] Legislative declaration. The purpose of this section and ~~section 27-2-102~~ SECTION 27-91-102 is to provide for the payment of actual expenses only, in lieu of stated salaries and mileage, to all members of boards of control of state institutions.

27-91-102. [Formerly 27-2-102] Boards of control entitled only to actual expenses. ~~Members~~ A MEMBER of ~~boards~~ A BOARD of control, trustees, or commissioners of all institutions supported by or under the patronage and control of the state shall receive as compensation for ~~their~~ HIS OR HER services only actual expenses incurred in attendance upon and in going to and returning from each regular and special meeting of ~~said boards~~ THE BOARD of control, trustees, or commissioners or for performing any services whatever for the institution of which ~~they are members~~ HE OR SHE IS A MEMBER of the board of control, trustees, or commissioners, payment to be made out of the funds appropriated for the support and maintenance of the respective institutions. In all cases of cash paid out by the ~~said members of boards~~ MEMBER OF A BOARD of control, trustees, or commissioners, an itemized account, accompanied by the proper vouchers therefor, signed by the party to whom such money has been paid, shall accompany the vouchers upon which all warrants for such expenditures shall issue.

27-91-103. [Formerly 27-2-103] Debts in excess of appropriation - emergencies. The various officers designated by law to control and direct the fiscal affairs of the several state institutions shall not contract within any year any indebtedness in excess of the amount named in any appropriation made for the support of any state institution during that time; but, in cases of emergency, the governor may authorize the contraction of such indebtedness ~~as~~ THAT in his OR HER judgment is absolutely necessary for the maintenance and support of the institution, until such time as the general assembly meets. The officers of any state institution, supported by the levy of any special tax, shall contract no indebtedness in any year in excess of eighty percent of the gross amount of the levy made for that year from which to support that institution.

27-91-104. [Formerly 27-2-104] The term "officer" includes members of boards. The term "officer" as used in ~~section 27-2-105~~ SECTION 27-91-105 includes any member of the various boards created by law to govern or supervise the respective state institutions.

27-91-105. [Formerly 27-2-105] Indebtedness limited to appropriation. It is unlawful for any officer of any state institution of this state to incur or contract any indebtedness for, on behalf of, or in the name of ~~such~~ THE state institution or in the name of the state in excess of the sum appropriated by the general assembly for the use or support of ~~such~~ THE institution for the fiscal year. ~~No~~ AN officer of any state institution shall NOT draw any money from the state treasury unless the same

is absolutely needed and required by ~~such~~ THE institution at the time, and then only upon the warrant of the controller.

27-91-106. [Formerly 27-2-106] Violation - penalty. Any person who violates any of the provisions of ~~section 27-2-105~~ SECTION 27-91-105 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

27-91-107. [Formerly 27-2-107] Purchase of supplies by and from institutions. (1) The following designated state institutions are within the purview of this section: All facilities of the departments of corrections and human services, the Colorado mental health institute at Pueblo, the Wheat Ridge regional center, the Grand Junction regional center, the Pueblo regional center, the Lookout Mountain school at Golden, the Mount View school at Morrison, the Colorado industries for the blind, and the Colorado psychiatric hospital.

(2) When any of ~~such~~ THE institutions ENUMERATED IN SUBSECTION (1) OF THIS SECTION are in need of supplies ~~such as~~ THAT are grown, produced, or manufactured by any other of ~~such~~ THE institutions, it shall purchase the same from ~~such~~ THE other institution if it has a surplus thereof of suitable quality available for sale at a price not in excess of the current market price for such supplies, and it is the duty of the managing boards of such respective institutions to require observance of the provisions of this section.

27-91-108. [Formerly 27-2-108] Display of flags. (1) The chief administrative officer of any state institution supported in whole or in part by the state and under the control of the state shall have erected and maintained, at the entrance of the institution or on the principal administrative building or grounds thereof, a suitable flagstaff with the attachments necessary for the display of flags and shall cause to be displayed thereon the flags of the United States and of the state of Colorado. The flag of the state of Colorado shall be the same size as the flag of the United States with which it is displayed. If both flags are displayed on one flagstaff, the flag of the state of Colorado shall be placed below the flag of the United States.

(2) (a) The chief administrative officer of any court facility supported in whole or in part by the state and under the control of the state shall cause to be permanently and prominently displayed the flag of the United States, as described in chapter 1 of title 4, U.S.C., in each courtroom when a court proceeding is in session. A flag displayed in a courtroom must measure three by five feet. No alleged failure to cause the flag of the United States to be permanently and prominently displayed in a courtroom supported in whole or in part by the state and under the control of the state shall be the basis of any challenge to such court's authority or jurisdiction or for any appeal of any decision, order, or judgment of such court.

(b) The flags of the United States and of the state of Colorado shall be permanently and prominently displayed in all committee rooms under the control of the general assembly of the state of Colorado.

(c) On and after September 1, 1996, the chief administrative officer of any school supported in whole or in part by the state and under the control of the state shall

cause to be displayed permanently and prominently the flag of the United States, as described in chapter 1 of title 4, U.S.C., in each academic classroom when an academic class is in session. A flag displayed in an academic classroom shall measure no less than either twelve by eighteen inches if it is displayed in a frame or two by three feet if it is displayed on a flagstaff.

(3) The chief administrative officer of any school or court facility supported in whole or in part by the state and under the control of the state is hereby authorized to accept donations of flags to be displayed in classrooms or courtrooms pursuant to the provisions of subsection (2) of this section.

(4) (a) The chief administrative officer of any state institution, school, or court facility described in this section shall not permit the display of any depiction or representation of a flag of the United States that is intended for public view and permanently affixed or attached to any part of the building or grounds of said state institution, school, or court facility, and which display does not conform with 4 U.S.C. sec. 7.

(b) Nothing in this subsection (4) shall be construed to preclude the temporary display of any instructional or historical materials or student work product included as part of a lesson not permanently affixed or attached to any part of said building or grounds.

(5) Any flag of the United States displayed pursuant to this section shall be displayed as described in 4 U.S.C. sec. 7.

27-91-109. [Formerly 27-2-108.5] Personal display of flags. (1) The right to display reasonably the flag of the United States shall not be infringed with respect to the display:

(a) On an individual's person;

(b) Anywhere on an individual's personal or real property; and

(c) In the buildings or on the grounds of any tax-supported property in the state; except that the state or political subdivision that has jurisdiction over the building or grounds may adopt reasonable rules and regulations regarding the size, number, placement, manner of display, and lighting of the flag, and the location, size, and height of flagpoles.

(2) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, the right with respect to an individual's real property shall be subject to reasonable restrictive covenants or equitable servitudes; except that no such covenant or servitude, nor any owners' association shall prohibit the outdoor display of the flag of the United States by a property owner on that owner's property if the flag is displayed in a manner consistent with chapter 1 of title 4 of the United States Code, as amended.

(b) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, an owners' association, the state, or a political subdivision may adopt reasonable rules and regulations regarding the size, number, placement, manner of

display, and lighting of the flag, and the location, size, and height of flagpoles.

(3) For purposes of this section, "display reasonably" shall be presumed to include a display of the flag of the United States that is consistent with chapter 1 of title 4 of the United States Code, as amended.

(4) A right described in subsection (1) of this section is a civil right of free speech and a protected form of expression under the first amendment to the United States constitution and section 10 of article II of the state constitution.

ARTICLE 92

Institutions - Charges for Patients

27-92-101. [Formerly 27-12-101] Liability. (1) When ~~any~~ A person is admitted, committed, or transferred to ~~any~~ A public institution of this state supervised by the department of human services for the care, support, maintenance, education, or treatment of persons with mental illness, the person, his or her spouse, and his or her parents shall be liable for the costs of his or her care, support, maintenance, and treatment to the extent and in the manner provided in this article. No other relatives of the person shall be liable to any extent for such costs.

(2) The provisions of this article shall apply also to those persons received under the provisions of article 8 of title 16 and sections 16-13-216, 19-2-922, and 19-2-923, C.R.S., but not by way of exclusion.

27-92-102. [Formerly 27-12-102] Cost determination. (1) The department of human services shall periodically determine the individual cost for the care, support, maintenance, treatment, and education of the patients of each of ~~such~~ THE PUBLIC INSTITUTIONS SUPERVISED BY THE DEPARTMENT OF HUMAN SERVICES. In making ~~such~~ THE determination, it is proper for the department to use averaging methods to the extent that it is not practicable, in the judgment of the executive director of the department of human services, to compute the actual cost for each patient.

(2) With respect to ~~any~~ A resident patient who is under the age of twenty-one years, ~~there shall be deducted~~ THE DEPARTMENT OF HUMAN SERVICES SHALL DEDUCT from the DETERMINED cost ~~so determined~~ an amount equal to the average per capita cost for the education of children with disabilities pursuant to article 20 of title 22, C.R.S.

27-92-103. [Formerly 27-12-103] Extent of liability. (1) ~~There shall be assessed~~ THE DEPARTMENT OF HUMAN SERVICES SHALL ASSESS against the ~~said~~ patient, spouse, or parents made liable by ~~section 27-12-101~~ SECTION 27-92-101, or any of them, all or such part of the cost as they are respectively able to pay, but ~~there shall not be assessed against such~~ THE DEPARTMENT OF HUMAN SERVICES SHALL NOT ASSESS AGAINST THE LIABLE persons in the aggregate more than the whole of such cost.

(2) The liability of each parent shall cease when such parent has completed payments as assessed in this article for one hundred eighty months subsequent to May 1, 1964, or upon the patient's eighteenth birthday, whichever event first occurs.

27-92-104. [Formerly 27-12-104] Determination of ability to pay. (1) All insurance and other benefits payable for the care, support, maintenance, and treatment of a patient shall be considered available for payment of the cost determined under ~~section 27-12-102~~ SECTION 27-92-102.

(2) The department of human services shall determine the ability of a patient and his OR HER spouse to pay the balance of ~~such~~ THE cost by consideration of the following factors: Income reportable under Colorado law; the age of the patient and spouse; the number of dependents, their ages, and their mental and physical condition; provision for retirement years; the length of the patient's care or treatment; liabilities; and assets. ~~Such~~ THE determination shall be made according to schedules contained in published rules, adopted in accordance with the provisions of article 4 of title 24, C.R.S.

(3) If it is determined that the patient and his OR HER spouse are unable to pay the entire cost determined under ~~section 27-12-102~~ SECTION 27-92-102 and the length of the patient's care and treatment at a state institution is reasonably anticipated to be less than six months, the department of human services shall determine the parent's ability to pay by consideration of the same factors referred to in subsection (2) of this section, applying each such factor to the parent.

(4) If it is determined that the patient and his OR HER spouse are unable to pay the entire cost determined under ~~section 27-12-102~~ SECTION 27-92-102 and the length of the patient's care and treatment at a state institution is reasonably anticipated to exceed six months, the department of human services shall determine the parent's ability to pay by reference to ~~such~~ THE parent's net taxable income reportable under Colorado law and to the patient's length of care or treatment. At the request of the parent, the department shall also consider other factors relevant to the interest of avoiding undue hardship to the family unit. ~~Such~~ Other factors may include the parent's age, provision for retirement years, assets, liabilities, and the number of dependents, their mental and physical condition, and their educational requirements. ~~Such~~ THE determination shall be made according to schedules contained in published rules adopted in accordance with the provisions of article 4 of title 24, C.R.S.

(5) Should any parent not file a Colorado income tax return, ~~such~~ THE parent's net Colorado taxable income equivalent shall be determined by reference to his OR HER United States income tax return as though all the income disclosed by ~~such~~ THAT return had been derived from sources within Colorado, and ~~said~~ THE table of rates shall be applied to ~~such~~ THE net taxable income equivalent.

(6) Upon the willful failure of any patient, spouse, or parent to furnish to the department of human services, upon request, copies of his OR HER income tax returns, ~~such person~~ HE OR SHE shall be deemed to have THE ability to pay the entire cost determined under this article.

(7) Every agency and department of the state is required to render all reasonable assistance to the executive director of the department of human services in obtaining all information necessary for proper implementation of the purposes of this article. Nothing in this subsection (7) shall be construed to require the department of revenue to produce a copy of any person's income tax return solely upon the request

of the department of human services, but the department of revenue shall deliver a copy of any such return upon the request of the taxpayer or his OR HER duly authorized representative, pursuant to section 39-21-113 (4), C.R.S.

27-92-105. [Formerly 27-12-105] Effect of determination. A determination of the ability of a patient, spouse, or parent to pay shall remain in effect until a redetermination is made.

27-92-106. [Formerly 27-12-106] Appeal. Appeals from the determination of the ability of a patient or relative to pay, as provided in this article, may be taken to any court of record in Colorado having jurisdiction of the patient or his OR HER spouse or parents liable for ~~such~~ payment; but no ~~such~~ appeal may be taken until the executive director of the department of human services has ruled upon a written request for a review of ~~such~~ THE determination. ~~Such~~ THE request shall be made within sixty days after receipt of notification of the ~~said~~ determination, and the applicant shall be notified of the decision of the ~~said~~ executive director within forty-five days after the receipt of the ~~said~~ applicant's request for review.

27-92-107. [Formerly 27-12-107] Service. Service of any notification, information, or request for information, review, or redetermination, accomplished by certified mail, return receipt requested, or in any manner provided by the Colorado rules of civil procedure, shall be sufficient for all purposes of this article.

27-92-108. [Formerly 27-12-108] Certificate - prima facie evidence. In any action or proceeding to enforce the claims of the state provided for in this article, a certificate by the chief administrative officer of the institution involved or the executive director of the department of human services as to any fact or matter necessary to the establishment of ~~said~~ THE claim which is a matter of record in the institution or in the department of human services shall constitute prima facie evidence. ~~thereof.~~

27-92-109. [Formerly 27-12-109] Further actions. (1) ~~Any~~ A patient, spouse, or parent liable by this article who fails to pay the amounts assessed pursuant to this article shall be proceeded against in any manner authorized by law for the collection of sums due and owing to the state of Colorado.

(2) All property of ~~said~~ persons LIABLE PURSUANT TO THIS ARTICLE shall be subject to application to ~~said~~ claims irrespective of its origin, composition, or source subject to the exemptions set forth in section 13-54-102, C.R.S.

(3) Claims against responsible relatives in other states may be enforced as claims for support under the provisions of the "Uniform Interstate Family Support Act", article 5 of title 14, C.R.S.

(4) In the absence of fraud, ~~said~~ THE patient, spouse, and parents shall be liable only to the extent of assessments actually made against them respectively in accordance with this article.

ARTICLE 93
Colorado Mental Health Institute at Pueblo

27-93-101. [Formerly 27-13-101] Institute established. (1) There is hereby established the Colorado mental health institute at Pueblo for the treatment and cure of persons who may have mental illness from any cause and for other persons in state institutions on an inpatient and outpatient basis and in state programs relating to the treatment of alcoholism and drugs who may require medical care and treatment within the capabilities of the staff and facilities of the institute.

(2) All materials without limitation that contain the former names of the Colorado mental health institute at Fort Logan and the Colorado mental health institute at Pueblo shall be utilized to the maximum extent possible in the ordinary course of business before being replaced.

(3) The Colorado mental health institute at Pueblo is authorized to contract, pursuant to the federal government procurement process, with federal agencies to provide psychiatric, medical, and surgical services at the institute to persons under the care of or in the custody or control of an agency of the federal government, so long as the provision of such services does not exceed the capabilities of the staff and facilities of the institute and does not preempt services to state patients.

27-93-102. [Formerly 27-13-102] Capacity to take property. The Colorado mental health institute at Pueblo is authorized to receive gifts, legacies, devises, and conveyances of property, real or personal, that may be made, given, or granted to or for the Colorado mental health institute at Pueblo. The chief officer of the ~~hospital~~ INSTITUTE, with the approval of the governor, shall make disposition of such gifts or property as may be for the best interest of said Colorado mental health institute at Pueblo.

27-93-103. [Formerly 27-13-103] Employees - publications. (1) The head of the administrative division overseeing the Colorado mental health institute at Pueblo shall appoint or employ, pursuant to section 13 of article XII of the state constitution, such administrators, physicians, nurses, attendants, and additional employees as may be necessary for the proper conduct of said institute. The head of the administrative division may contract with the board of regents of the university of Colorado health sciences center or any other governing board of a state-supported institution of higher education for the provision of services by physicians and other health care practitioners when deemed necessary for the proper conduct of the institute. During the performance of any duties by the physicians and other health care practitioners for the department of human services, the physicians and other health care practitioners are "public employees" as defined in section 24-10-103 (4), C.R.S., and the limitation of section 24-30-1517 (2), C.R.S., shall not apply.

(2) Publications of the institute circulated in quantity outside the institute shall be subject to the approval and control of the executive director of the department of human services.

27-93-104. [Formerly 27-13-109] Authorized utilization of medical facilities at institute - equipment replacement fund. (1) ~~Any~~ A person committed to the custody of or cared for in the department of human services or the department of corrections who requires medical care and treatment ~~which~~ THAT can be advantageously treated by psychiatric, medical, or surgical care available at the

Colorado mental health institute at Pueblo may be treated at ~~said~~ THE institute. Charges for patient care and treatment shall be made in the manner provided in ~~article 12~~ ARTICLE 92 of this title. A specific appropriation shall be made annually for the general medical division of the Colorado mental health institute at Pueblo, based upon projections of the total patient load and associated costs from all institutions, and the department of human services shall determine at least annually the per diem expenses and the actual utilization of the general medical division by each institution, including other divisions of the Colorado mental health institute at Pueblo.

(2) ~~Any~~ A person under the care of or in the custody or control of an agency of the federal government whose psychiatric, medical, or surgical needs could be advantageously treated at the Colorado mental health institute at Pueblo may be treated at ~~said~~ THE institute pursuant to a contract between the institute and the agency of the federal government.

(3) ~~Any such~~ A contract ENTERED INTO PURSUANT TO SUBSECTION (2) OF THIS SECTION shall cover the full direct and indirect costs of ~~such~~ services as determined by generally accepted accounting principles and shall include a fee to cover the need for replacement of existing equipment which would occur because of this additional use. All fees collected pursuant to this subsection (3) shall be collected by the Colorado mental health institute at Pueblo and shall be transmitted to the state treasurer, who shall credit the same to the equipment replacement fund, which fund is hereby created. Moneys in the equipment replacement fund shall be appropriated by the general assembly on an annual basis to the department of human services for replacement of existing equipment made necessary pursuant to this section.

27-93-105. [Formerly 27-13-110] Alternative uses for institute facilities.
 (†) The department of human services shall determine the existence of resources at THE Colorado mental health institute at Pueblo that are in excess of the needs of the primary purpose of ~~said~~ THE institute and may make available to the regents of the university of Colorado, on mutually agreeable terms, a maximum of ten beds at ~~said~~ THE institute for the purpose of teaching students in the family practice medical training program conducted by and under the control of the regents. ~~Such~~ THE resources shall be a supplement to any existing health care resources and academic facilities in the region.

(2) ~~Repeated:~~

ARTICLE 94

Colorado Mental Health Institute at Fort Logan

27-94-101. [Formerly 27-15-101] Legislative declaration. In order to provide a program to promote mental health in the state of Colorado, a mental health center is established as provided in this article.

27-94-102. [Formerly 27-15-102] Establishment of mental health center.
 (1) There is hereby established at the site of Fort Logan, Denver county, Colorado, a mental health center to be known as the Colorado mental health institute at Fort Logan, referred to in this article as the "center". The center shall be under the general supervision and control of the department of human services.

(2) All materials without limitation that contain the former names of the Colorado mental health institute at Fort Logan and the Colorado mental health institute at Pueblo shall be utilized to the maximum extent possible in the ordinary course of business before being replaced.

27-94-103. [Formerly 27-15-103] Employees - publications. (1) The head of the administrative division overseeing the center shall appoint or employ, pursuant to section 13 of article XII of the state constitution, ~~such~~ administrators, physicians, nurses, attendants, and additional employees as ~~may be~~ necessary for the proper conduct of ~~said~~ THE center. The head of the administrative division may contract with the board of regents of the university of Colorado health sciences center for the provision of services by physicians when deemed necessary for the proper conduct of the center, and during the performance of any duties by ~~such~~ THE physicians for the department of human services, ~~such~~ THE physicians are "public employees" as defined in section 24-10-103 (4), C.R.S., and the limitation of section 24-30-1517 (2), C.R.S., shall not apply.

(2) Publications of the center circulated in quantity outside the center shall be subject to the approval and control of the executive director of the department of human services.

27-94-104. [Formerly 27-15-104] Capacity to take property. The center is authorized to receive gifts, legacies, devises, and conveyances of property, real and personal, that may be granted or given to the center. The executive director of the department of human services, with the approval of the governor, shall make disposition of such property as may be for the best interest of said center.

27-94-105. [Formerly 27-15-105] Admissions to center - transfers - releases. (1) ~~Any~~ A person who by law is committed to the department of human services for placement in a state hospital may be committed to or placed in the center upon order of a court of competent jurisdiction, except those persons committed to the Colorado mental health institute at Pueblo pursuant to a judicial determination of not guilty by reason of insanity and those persons committed under section 16-8-106 (1), C.R.S., relating to commitments for observation and examination.

(2) ~~Any~~ A person placed at the center may be transferred to the Colorado mental health institute at Pueblo, the Wheat Ridge regional center, the Grand Junction regional center, the Pueblo regional center, the Mount View school, or the Lookout Mountain school in accordance with law.

(3) ~~Any~~ A person placed at the center may be released under such terms and conditions as would entitle him OR HER to his OR HER release from the Colorado mental health institute at Pueblo.

SECTION 3. 2-3-1304 (1) (e), Colorado Revised Statutes, is amended to read:

2-3-1304. Powers and duties of capital development committee. (1) The capital development committee shall have the following powers and duties:

(e) To review facilities program plans of the department of corrections for correctional facilities pursuant to section 17-1-104.8, C.R.S., and facilities program

plans of the department of human services for juvenile facilities pursuant to ~~section 27-1-104.5~~ SECTION 27-90-106, C.R.S., and make recommendations regarding those plans to the joint budget committee;

SECTION 4. 7-60-132 (1) (a), Colorado Revised Statutes, is amended to read:

7-60-132. Dissolution by decree of court. (1) On application by or for a partner, the court shall decree a dissolution if:

(a) A partner has been determined by the court to be mentally incompetent to such a degree that the partner is incapable of performing the partner's part of the partnership contract or a court of competent jurisdiction has made such a finding pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S.;

SECTION 5. 8-73-108 (4) (b) (IV) (C), Colorado Revised Statutes, is amended to read:

8-73-108. Benefit awards - repeal. (4) **Full award.** An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(b)(IV) The off-the-job or on-the-job use of not medically prescribed intoxicating beverages or controlled substances, as defined in section 12-22-303 (7), C.R.S., may be reason for a determination for a full award pursuant to this paragraph (b), but only if:

(C) A worker who is not affiliated with an approved treatment program must present to the division within four weeks after the date of the medical statement referred to in sub-subparagraph (B) of this subparagraph (IV), substantiation of registration in a program of corrective action that will commence within four weeks after the date of the medical statement and that is provided by an approved private treatment facility or an approved public treatment facility as defined in ~~section 25-1-302 (2) or (3)~~ SECTION 27-81-102 (2) OR (3), C.R.S., or by an alcoholics anonymous program. ~~Such~~ THE substantiation shall be in writing to the division and signed by an authorized representative of the approved treatment program.

SECTION 6. 10-3.5-108 (3) (d), Colorado Revised Statutes, is amended to read:

10-3.5-108. Distributions - remittance of portion of proceeds. (3) (d) The executive director of the department of human services shall direct each certified capital company that reports to the division pursuant to paragraph (b) of this subsection (3) to transfer to one or more approved community mental health clinics or approved community mental health centers, as defined in ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., an amount of money equal to one-half of the amount identified in such report to be used solely for the purposes identified in ~~sections 27-1-203 and 27-1-204 (5)~~ SECTIONS 27-66-103 AND 27-66-104 (3), C.R.S., taking

into account the standards contained in ~~section 27-1-205~~ SECTION 27-66-105, C.R.S.

SECTION 7. 12-32-108.3 (10), Colorado Revised Statutes, is amended to read:

12-32-108.3. Disciplinary action by board. (10) In case any person holding a license to practice podiatry in this state is determined to be mentally incompetent or insane by a court of competent jurisdiction and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the person holding a license is incapable of continuing to practice podiatry, his OR HER license shall automatically be suspended by the board, and, anything in this article to the contrary notwithstanding, such suspension shall continue until the licensee is found by such court to be competent to practice podiatry.

SECTION 8. 12-33-117 (5), Colorado Revised Statutes, is amended to read:

12-33-117. Discipline of licensees - letters of admonition, suspension, revocation, denial, and probation - grounds. (5) In the event any person holding a license to practice chiropractic in this state is determined to be mentally incompetent or insane by a court of competent jurisdiction and a court enters, pursuant to part 3 or 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the person holding a license is incapable of continuing to practice chiropractic, his OR HER license shall automatically be suspended by the board, and, anything in this article to the contrary notwithstanding, such suspension shall continue until the licentiate is found by such court to be competent to practice chiropractic.

SECTION 9. 12-36-118 (8), Colorado Revised Statutes, is amended to read:

12-36-118. Disciplinary action by board - immunity. (8) If any licensee is determined to be mentally incompetent or insane by a court of competent jurisdiction and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of continuing to practice medicine or practice as a physician assistant, his or her license shall automatically be suspended by the board, and, anything in this article to the contrary notwithstanding, such suspension shall continue until the licensee is found by such court to be competent to practice medicine or practice as a physician assistant.

SECTION 10. 12-38-116.5 (7), Colorado Revised Statutes, is amended to read:

12-38-116.5. Disciplinary procedures of the board - inquiry and hearings panels. (7) In case any nurse is determined to be mentally incompetent or insane by a court of competent jurisdiction and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the nurse is incapable of continuing the practice of nursing, the nurse's license shall automatically be suspended by the board, and,

notwithstanding any provision of this article to the contrary, such suspension shall continue until the nurse is found by such court to be competent to continue the practice of nursing.

SECTION 11. 12-43-214 (2) and (4) (b), Colorado Revised Statutes, are amended to read:

12-43-214. Mandatory disclosure of information to clients. (2) If the client is a child who is consenting to mental health services pursuant to ~~section 27-10-103~~ SECTION 27-65-103, C.R.S., disclosure shall be made to the child. If the client is a child whose parent or legal guardian is consenting to mental health services, disclosure shall be made to the parent or legal guardian.

(4) The disclosure of information required by subsection (1) of this section is not required when psychotherapy is being administered in any of the following circumstances:

(b) Pursuant to a court order or involuntary procedures pursuant to ~~sections 27-10-105 to 27-10-109~~ SECTIONS 27-65-105 TO 27-65-109, C.R.S.;

SECTION 12. 12-43-215 (8), Colorado Revised Statutes, is amended to read:

12-43-215. Scope of article - exemptions. (8) The provisions of section 12-43-702.5 shall not apply to employees of community mental health centers or clinics as those centers or clinics are defined by ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., but such persons practicing outside the scope of employment as employees of a facility defined by ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., shall be subject to the provisions of section 12-43-702.5.

SECTION 13. 12-43-803 (1) and (3), Colorado Revised Statutes, are amended to read:

12-43-803. Licensure or certification of addiction counselors - authority of director - rules. (1) The director is authorized to certify and discipline certified or licensed addiction counselors. The ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, shall exercise all other rights, powers, duties, functions, and obligations vested in those entities concerning certified or licensed addiction counselors pursuant to ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S.

(3) In addition to addiction counselors specifically authorized to be certified or licensed for approved programs pursuant to ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., the director may certify or license addiction counselors, upon individual application, in any alcohol or drug abuse treatment program required as a condition of probation under part 2 of article 1.3 of title 18, C.R.S., any alcohol or drug abuse program administered by the division of adult services under part 1 of article 2 of title 17, C.R.S., any community corrections facility or program administered under article 27 of title 17, C.R.S., and any alcohol or drug abuse treatment program administered by the division of youth corrections under title 19, C.R.S.

SECTION 14. 12-64-111 (1) (w), Colorado Revised Statutes, is amended to read:

12-64-111. Discipline of licensees. (1) Upon signed complaint by any complainant or upon its own motion, the board may proceed to a hearing in conformity with section 12-64-112. After a hearing, and by a concurrence of a majority of members, the board may revoke or suspend the license of, place on probation, or otherwise discipline or fine, any licensed veterinarian for any of the following reasons:

(w) A determination that he OR SHE is mentally incompetent by a court of competent jurisdiction and such court has entered, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that he OR SHE is incapable of continuing to practice veterinary medicine;

SECTION 15. 13-5-142 (1) (b), (1) (c), (3) (b) (II), and (3) (b) (III), Colorado Revised Statutes, are amended to read:

13-5-142. National instant criminal background check system - reporting. (1) Beginning July 1, 2002, the clerk of the court of every judicial district in the state shall periodically report the following information to the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion of which is codified at 18 U.S.C. sec. 922 (t):

(b) The name of each person who has been committed by order of the court to the custody of the ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, pursuant to ~~section 25-1-311 or 25-1-1107~~ SECTION 27-81-112 OR 27-82-108, C.R.S.; and

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of mental illness pursuant to ~~section 27-10-107~~ SECTION 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to ~~section 27-10-108~~ SECTION 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to ~~section 27-10-109~~ SECTION 27-65-109, C.R.S.

(3) The clerk of the court of every judicial district in the state shall take all necessary steps to cancel a record made by that clerk in the national instant criminal background check system if:

(b) No less than three years before the date of the written request:

(II) The period of commitment of the most recent order of commitment or recommitment expired, or the court entered an order terminating the person's incapacity or discharging the person from commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of commitment to the custody of the ~~division of alcohol and drug~~

~~abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE; except that the clerk shall not cancel any record pertaining to a person with respect to whom two recommitment orders have been entered under ~~section 25-1-311 (5) and (6)~~ SECTION 27-81-112 (7) AND (8), C.R.S., or who was discharged from treatment under ~~section 25-1-311 (9)~~ SECTION 27-81-112 (11), C.R.S., on the grounds that further treatment will not be likely to bring about significant improvement in the person's condition; or

(III) The record in the case was sealed pursuant to ~~section 27-10-107 (7)~~ SECTION 27-65-107 (7), C.R.S., or the court entered an order discharging the person from commitment in the nature of habeas corpus pursuant to ~~section 27-10-113~~ SECTION 27-65-113, C.R.S., if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of mental illness.

SECTION 16. 13-9-123 (1) (b), (1) (c), (3) (b) (II), and (3) (b) (III), Colorado Revised Statutes, are amended to read:

13-9-123. National instant criminal background check system - reporting.

(1) Beginning July 1, 2002, the clerk of the probate court shall periodically report the following information to the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act", Pub.L. 103-159, the relevant portion of which is codified at 18 U.S.C. sec. 922 (t):

(b) The name of each person who has been committed by order of the court to the custody of the ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, pursuant to ~~section 25-1-311 or 25-1-1107~~ SECTION 27-81-112 OR 27-82-108, C.R.S.; and

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of mental illness pursuant to ~~section 27-10-107~~ SECTION 27-65-107, C.R.S., for extended certification for treatment of mental illness pursuant to ~~section 27-10-108~~ SECTION 27-65-108, C.R.S., or for long-term care and treatment of mental illness pursuant to ~~section 27-10-109~~ SECTION 27-65-109, C.R.S.

(3) The clerk of the probate court shall take all necessary steps to cancel a record made by that clerk in the national instant criminal background check system if:

(b) No less than three years before the date of the written request:

(II) The period of commitment of the most recent order of commitment or recommitment expired, or the court entered an order terminating the person's incapacity or discharging the person from commitment in the nature of habeas corpus, if the record in the national instant criminal background check system is based on an order of commitment to the custody of the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE; except that the clerk shall not cancel any

record pertaining to a person with respect to whom two recommitment orders have been entered under ~~section 25-1-311 (5) and (6)~~ SECTION 27-81-112 (7) AND (8), C.R.S., or who was discharged from treatment under ~~section 25-1-311 (9)~~ SECTION 27-81-112 (11), C.R.S., on the grounds that further treatment will not be likely to bring about significant improvement in the person's condition; or

(III) The record in the case was sealed pursuant to ~~section 27-10-107 (7)~~ SECTION 27-65-107 (7), C.R.S., or the court entered an order discharging the person from commitment in the nature of habeas corpus pursuant to ~~section 27-10-113~~ SECTION 27-65-113, C.R.S., if the record in the national instant criminal background check system is based on a court order for involuntary certification for short-term treatment of mental illness.

SECTION 17. 13-20-401 (2), Colorado Revised Statutes, is amended to read:

13-20-401. Definitions. As used in this part 4, unless the context otherwise requires:

(2) "Patient" means the person upon whom a proposed electroconvulsive treatment is to be performed; except that nothing in this part 4 shall be construed to supersede the provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S., or any rule or regulation adopted by the department of human services pursuant to ~~section 27-10-116 (2)~~ SECTION 27-65-116 (2), C.R.S., with regard to the care and treatment of any person unable to exercise written informed consent or of a person with a mental illness.

SECTION 18. 13-90-107 (1) (m) (IV) (C) and (1) (m) (IV) (D), Colorado Revised Statutes, are amended to read:

13-90-107. Who may not testify without consent. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(m) (IV) This paragraph (m) shall not apply in cases in which:

(C) Due to alcohol or other substance intoxication or abuse, as described in ~~sections 25-1-310 and 25-1-1106~~ SECTIONS 27-81-111 AND 27-82-107, C.R.S., the person receiving peer support is a clear and immediate danger to the person's self or others;

(D) There is reasonable cause to believe that the person receiving peer support has a mental illness and, due to the mental illness, is an imminent threat to himself or herself or others or is gravely disabled as defined in ~~section 27-10-102~~ SECTION 27-65-102, C.R.S.; or

SECTION 19. 15-14-316 (4), Colorado Revised Statutes, is amended to read:

15-14-316. Rights and immunities of guardian - limitations. (4) A guardian may not initiate the commitment of a ward to a mental health-care institution or facility except in accordance with the state's procedure for involuntary civil

commitment. To obtain hospital or institutional care and treatment for mental illness of a ward, a guardian shall proceed as provided under ~~article 10~~ ARTICLE 65 of title 27, C.R.S. To obtain care and treatment from an approved service agency as defined in section 27-10.5-102, C.R.S., for a ward with developmental disabilities, a guardian shall proceed under article 10.5 of title 27, C.R.S. To obtain care and treatment for alcoholism or substance abuse, a guardian shall proceed as provided under ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S. No guardian shall have the authority to consent to any such care or treatment against the will of the ward.

SECTION 20. 15-14-506 (4) (b), Colorado Revised Statutes, is amended to read:

15-14-506. Medical durable power of attorney. (4) (b) Nothing in this article shall be construed to supersede any provision of article 1 of title 25, C.R.S., ~~article 10 of title 27, C.R.S.~~, or article 10.5 OR ARTICLE 65 of title 27, C.R.S.

SECTION 21. 16-8-103 (3), Colorado Revised Statutes, is amended to read:

16-8-103. Pleading insanity as a defense. (3) If there has been no grand jury indictment or preliminary hearing prior to the entry of the plea of not guilty by reason of insanity, the court shall hold a preliminary hearing prior to the trial of the insanity issue. If probable cause is not established, the case shall be dismissed, but the court may order the district attorney to institute civil proceedings pursuant to ~~article 10~~ ARTICLE 65 of title 27, C.R.S., if it appears that the protection of the public or the accused requires it.

SECTION 22. 16-8.5-116 (2) (c), Colorado Revised Statutes, is amended to read:

16-8.5-116. Commitment - termination of proceedings. (2) The court shall review the case of a defendant committed or confined as incompetent to proceed at least every three months with regard to the probability that the defendant will eventually be restored to competency and with regard to the justification for continued commitment or confinement. The review may be held in conjunction with a restoration hearing under section 16-8.5-113. Prior to each review, the institution treating the defendant shall provide the court with a report regarding the competency of the defendant. If, on the basis of the available evidence, not including evidence resulting from a refusal by the defendant to accept treatment, there is a substantial probability that the defendant will not be restored to competency within the foreseeable future, the court may order the release of the defendant from commitment under this article through one or more of the following means:

(c) The court or a party may commence civil proceedings under the provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S., if the defendant meets the requirements for commitment pursuant to said ~~article 10~~ ARTICLE 65; or

SECTION 23. 16-13-701 (4), Colorado Revised Statutes, is amended to read:

16-13-701. Reporting of forfeited property. (4) The ~~alcohol and drug abuse division~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL

HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, shall prepare an annual accounting report of moneys received by the managed service organization pursuant to section 16-13-311 (3) (a) (VII) (B), including revenues, expenditures, beginning and ending balances, and services provided. The ~~alcohol and drug abuse division~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, shall provide this information in its annual report pursuant to ~~section 25-1-210~~ SECTION 27-80-110, C.R.S.

SECTION 24. 17-2-201 (5.7) (a), Colorado Revised Statutes, is amended to read:

17-2-201. State board of parole. (5.7) If, as a condition of parole, an offender is required to undergo counseling or treatment, unless the parole board determines that treatment at another facility or with another person is warranted, such treatment or counseling shall be at a facility or with a person:

(a) Approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., if the treatment is for alcohol or drug abuse;

SECTION 25. 17-2-209, Colorado Revised Statutes, is amended to read:

17-2-209. Civil proceedings - inmate subject to parole. When an inmate has met all of the requirements to be eligible for parole, but the board has reason to believe that the offender may have a mental illness pursuant to ~~article 10~~ ARTICLE 65 of title 27, C.R.S., the board shall initiate civil proceedings pursuant to article 23 of this title and ~~articles 10 to 15~~ ARTICLES 10.5, 11, 14, 65, 67, 92, 93, AND 94 of title 27, C.R.S.

SECTION 26. 17-27.1-101 (5) (a) (I), Colorado Revised Statutes, is amended to read:

17-27.1-101. Nongovernmental facilities for offenders - registration - notifications - penalties. (5) No private treatment program in Colorado shall admit or accept a supervised or unsupervised person into the program unless that program:

(a) Is registered with the administrator of the interstate compact, and, if the person is a supervised person, the private treatment program is:

(I) Approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., if the program provides alcohol or drug abuse treatment;

SECTION 27. 17-27.9-102 (1), Colorado Revised Statutes, is amended to read:

17-27.9-102. Specialized restitution and community service programs - contract with treatment providers - division of criminal justice. (1) The director of the division of criminal justice of the department of public safety may, pursuant to section 17-27-108, contract with one or more public or private providers or community corrections boards, as defined in section 17-27-102 (2), who operate restitution and community service facilities, to provide specialized restitution and community service programs that meet the requirements of this section. As used in this article, such providers shall be referred to as "providers". The provision of any substance abuse treatment shall be by an entity approved by the ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, pursuant to ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S.

SECTION 28. 18-1.3-204 (2) (a) (II) and (2) (c) (I), Colorado Revised Statutes, are amended to read:

18-1.3-204. Conditions of probation. (2) (a) When granting probation, the court may, as a condition of probation, require that the defendant:

(II) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose. In any case where inpatient psychiatric treatment is indicated, the court shall proceed in accordance with ~~article 10~~ ARTICLE 65 of title 27, C.R.S., and require the defendant to comply with the recommendation of the professional person in charge of the evaluation required pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S.

(c) If the court orders counseling or treatment as a condition of probation, unless the court makes a specific finding that treatment in another facility or with another person is warranted, the court shall order that such treatment or counseling be at a facility or with a person:

(I) Approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., if the treatment is for alcohol or drug abuse;

SECTION 29. 18-1.3-210, Colorado Revised Statutes, is amended to read:

18-1.3-210. Counseling or treatment for alcohol or drug abuse. (1) In any case in which treatment or counseling for alcohol or drug abuse is authorized in connection with a deferred prosecution, deferred judgment and sentence, or probation, the court may require the defendant to obtain counseling or treatment for the condition. If the court orders the counseling or treatment, the court shall order that the counseling or treatment be obtained from a treatment facility or person approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., unless the court makes a finding that counseling or treatment in another facility or with

another person is warranted. If the defendant voluntarily submits himself or herself for such treatment or counseling, the district attorney and the court may consider his or her willingness to correct his or her condition as a basis for granting deferred prosecution or deferred judgment and sentence.

(2) Notwithstanding the provisions of subsection (1) of this section, in any case in which treatment or counseling for alcohol or drug abuse is authorized and ordered by the court in connection with a deferred prosecution, deferred judgment and sentence, or probation for an offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., the court shall order that the counseling or treatment be obtained from a treatment facility or person approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S.

SECTION 30. 18-1.3-211, Colorado Revised Statutes, is amended to read:

18-1.3-211. Sentencing of felons - parole of felons - treatment and testing based upon assessment required. (1) Each person sentenced by the court for a felony committed on or after July 1, 1992, shall be required, as a part of any sentence to probation, community corrections, or incarceration with the department of corrections, to undergo periodic testing and treatment for substance abuse that is appropriate to such felon based upon the recommendations of the assessment made pursuant to section 18-1.3-209, or based upon any subsequent recommendations by the department of corrections, the judicial department, or the division of criminal justice of the department of public safety, whichever is appropriate. Any such testing or treatment shall be at a facility or with a person approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., and at such felon's own expense, unless such felon is indigent.

(2) Each person placed on parole by the state board of parole on or after July 1, 1992, shall be required, as a condition of such parole, to undergo periodic testing and treatment for substance abuse that is appropriate to such parolee based upon the recommendations of the assessment made pursuant to section 18-1.3-209 or any assessment or subsequent reassessment made regarding such parolee during his or her incarceration or any period of parole. Any such testing or treatment shall be at a facility or with a person approved by the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., and at such parolee's own expense, unless such parolee is indigent.

SECTION 31. 18-6.5-102 (3) (e), Colorado Revised Statutes, is amended to read:

18-6.5-102. Definitions. As used in this article, unless the context otherwise requires:

(3) A "person with a disability" means any person who:

(e) Is a person with a mental illness as the term is defined in ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S.; or

SECTION 32. 18-12-202 (3) (a) and (3) (b) (I), Colorado Revised Statutes, are amended to read:

18-12-202. Definitions. As used in this part 2, unless the context otherwise requires:

(3) "Chronically and habitually uses alcoholic beverages to the extent that the applicant's normal faculties are impaired" means:

(a) The applicant has at any time been committed as an alcoholic pursuant to ~~section 25-1-310 or 25-1-311~~ SECTION 27-81-111 OR 27-81-112, C.R.S.; or

(b) Within the ten-year period immediately preceding the date on which the permit application is submitted, the applicant:

(I) Has been committed as an alcoholic pursuant to ~~section 25-1-308 or 25-1-309~~ SECTION 27-81-109 OR 27-81-110, C.R.S.; or

SECTION 33. 18-13-119 (5) (a), Colorado Revised Statutes, is amended to read:

18-13-119. Health care providers - abuse of health insurance. (5) (a) Reimbursements made pursuant to articles 4 and 15 of title 26, C.R.S., federal medicare laws for inpatient hospitalization, and mental health services purchased in accordance with ~~part 2 of article 1~~ ARTICLE 66 of title 27, C.R.S., are exempt from the provisions of this section.

SECTION 34. 18-13-122 (16) (b), Colorado Revised Statutes, is amended to read:

18-13-122. Illegal possession or consumption of ethyl alcohol by an underage person - definitions - adolescent substance abuse prevention and treatment fund - legislative declaration. (16) (b) The surcharge collected pursuant to subparagraph (IV) of paragraph (b) of subsection (2) of this section shall be transmitted to the state treasurer, who shall credit the same to the adolescent substance abuse prevention and treatment fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly to the ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., for adolescent substance abuse prevention and treatment programs. The ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section. All private and public funds received

through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. Any unexpended moneys in the fund may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

SECTION 35. 18-19-103.5 (2) (b) and (4), Colorado Revised Statutes, are amended to read:

18-19-103.5. Rural alcohol and substance abuse surcharge - repeal. (2) The clerk of the court shall disburse the surcharge required by subsection (1) of this section as follows:

(b) Ninety-five percent shall be disbursed to the state treasurer who shall credit the same to the rural alcohol and substance abuse cash fund created in ~~section 25-1-217(3)~~ SECTION 27-80-117 (3), C.R.S.

(4) This section is repealed, effective July 1, 2016, unless the general assembly extends the repeal of the rural alcohol and substance abuse prevention and treatment program created in ~~section 25-1-217~~ SECTION 27-80-117, C.R.S.

SECTION 36. 19-1-103 (76), Colorado Revised Statutes, is amended to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(76) "Mental health hospital placement prescreening" means a face-to-face mental health examination, conducted by a mental health professional, to determine whether a child should be placed in a facility for evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., and may include consultation with other mental health professionals and review of all available records on the child.

SECTION 37. 19-1-115 (8) (a), Colorado Revised Statutes, is amended to read:

19-1-115. Legal custody - guardianship - placement out of the home - petition for review for need of placement. (8) (a) Whenever it appears necessary that the placement of a child out of the home will be for longer than ninety days, the placement is voluntary and not court-ordered, and the placement involves the direct expenditure of funds appropriated by the general assembly to the department of human services, a petition for review of need for placement shall be filed by the department or agency with which the child has been placed before the expiration of ninety days in the placement. A decree providing for voluntary placement of a child with an agency in which public moneys are expended shall be renewable in circumstances where there is documentation that the child has an emotional, a physical, or an intellectual disability that necessitates care and treatment for a longer duration than ninety days as provided pursuant to this paragraph (a). The court shall not transfer or require relinquishment of legal custody of, or otherwise terminate the parental rights with respect to, a child who has an emotional, a physical, or an

intellectual disability and who was voluntarily placed out of the home for the purposes of obtaining special treatment or care solely because the parent or legal guardian is unable to provide the treatment or care. Whenever a child fifteen years of age or older consents to placement in a mental health facility pursuant to ~~section 27-10-103~~ SECTION 27-65-103, C.R.S., the review under ~~section 27-10-103 (3.3)~~ SECTION 27-65-103 (5), C.R.S., shall be conducted in lieu of and shall fulfill the requirements for review under this paragraph (a).

SECTION 38. 19-2-508 (3) (b), Colorado Revised Statutes, is amended to read:

19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions - repeal. (3) (b) (I) If it appears that any juvenile being held in detention or shelter may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., the court or detention personnel shall refer the juvenile to the nearest community centered board for an eligibility determination. If it appears that any juvenile being held in a detention or shelter facility pursuant to the provisions of this article may have a mental illness, as provided in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health hospital placement prescreening on the juvenile. The court shall be notified of the contact and may take appropriate action. If a mental health hospital placement prescreening is requested, it shall be conducted in an appropriate place accessible to the juvenile and the mental health professional. A request for a mental health hospital placement prescreening shall not extend the time within which a detention hearing shall be held pursuant to this section. If a detention hearing has been set but has not yet occurred, the mental health hospital placement prescreening shall be conducted prior to the hearing; except that the prescreening shall not extend the time within which a detention hearing shall be held.

(II) If a juvenile has been ordered detained pending an adjudication, disposition, or other court hearing and the juvenile subsequently appears to have a mental illness, as provided in ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health hospital placement prescreening. A mental health hospital placement prescreening shall be conducted at any appropriate place accessible to the juvenile and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

(III) When the mental health professional finds, as a result of the prescreening, that the juvenile may have a mental illness, the mental health professional shall recommend to the court that the juvenile be evaluated pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S.

(IV) Nothing in this paragraph (b) shall be construed to preclude the use of emergency procedures pursuant to ~~section 27-10-105 (1)~~ SECTION 27-65-105 (1), C.R.S.

SECTION 39. 19-2-916 (1), Colorado Revised Statutes, is amended to read:

19-2-916. Sentencing - placement based on special needs of the juvenile.

(1) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, the court may order that the juvenile be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he or she receive other special care and may place the juvenile in a hospital or other suitable facility for such purposes; except that no juvenile may be placed in a mental health facility operated by the department of human services until the juvenile has received a mental health hospital placement prescreening resulting in a recommendation that the juvenile be placed in a facility for an evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the department of human services. No order for a seventy-two-hour treatment and evaluation shall be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional that indicates that mental illness is present in the juvenile. The court shall make, prior to the hearing, such orders regarding temporary custody of the juvenile as are deemed appropriate.

SECTION 40. 19-2-922 (3) (b) (III), Colorado Revised Statutes, is amended to read:

19-2-922. Juveniles committed to department of human services - evaluation and placement. (3) (b) (III) If the evaluation report states that the juvenile has a mental illness, as provided in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the department of human services shall initiate proceedings under ~~article 10~~ ARTICLE 65 of title 27, C.R.S., and notify the court thereof.

SECTION 41. 19-2-923 (3) (a) and (3) (d), Colorado Revised Statutes, are amended to read:

19-2-923. Juveniles committed to department of human services - transfers.

(3) (a) Any juvenile committed to the department of human services may be transferred temporarily to any state treatment facility for persons with mental illness or developmental disabilities for purposes of diagnosis, evaluation, and emergency treatment; except that no juvenile may be transferred to a mental health facility until the juvenile has received a mental health hospital placement prescreening resulting in a recommendation that the juvenile be placed in a facility for evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S. No juvenile committed to the department as an aggravated juvenile offender or violent juvenile offender shall be transferred until the treatment facility has a secure setting in which to house the juvenile. The period of temporary transfer pursuant to this paragraph (a) shall not exceed sixty days.

(d) When a juvenile is in continued transferred placement and the treatment facility and the sending facility agree that the need for placement of the juvenile is likely to continue beyond the original period of commitment to the department of human services, the treatment facility shall initiate proceedings with the court having jurisdiction over the juvenile under ~~article 10~~ ARTICLE 65 of title 27, C.R.S., if the juvenile has a mental illness or under article 10.5 of title 27, C.R.S., if the juvenile has developmental disabilities.

SECTION 42. 19-3-308 (1.5) (b), Colorado Revised Statutes, is amended to read:

19-3-308. Action upon report of intrafamilial, institutional, or third-party abuse - child protection team - rules. (1.5) (b) If, during the investigation and assessment process, the county department determines that the family's issues may be attributable to the child's mental health status, rather than dependency or neglect issues, and that mental health treatment services pursuant to ~~section 27-10.3-104~~ SECTION 27-67-104, C.R.S., may be more appropriate, the county department shall contact the mental health agency, as that term is defined in ~~section 27-10.3-103 (4)~~ SECTION 27-67-103 (6), C.R.S. Within ten days after the commencement of the investigation, the county department shall meet with a representative from the mental health agency and the family. The county department, in conjunction with the mental health agency, shall jointly determine whether mental health services should be provided pursuant to ~~section 27-10.3-104~~ SECTION 27-67-104, C.R.S., or whether the provision of services through the county department is more appropriate.

SECTION 43. 19-3-401 (3) (c) (II) and (3) (c) (III), Colorado Revised Statutes, are amended to read:

19-3-401. Taking children into custody. (3) (c) The court orders required by paragraphs (a) and (b) of this subsection (3) shall not be required in the following circumstances:

(II) When the newborn child's only identifiable birth parent has been determined by a physician, registered nurse, or qualified mental health professional to meet the criteria specified in ~~section 27-10-105~~ SECTION 27-65-105, C.R.S., for custody, treatment, and evaluation of mental illness or grave disability;

(III) When both of the newborn child's birth parents have been determined by a physician, registered nurse, or qualified mental health professional to meet the criteria specified in ~~section 27-10-105~~ SECTION 27-65-105, C.R.S., for custody, treatment, and evaluation of mental illness or grave disability; or

SECTION 44. 19-3-403 (4), Colorado Revised Statutes, is amended to read:

19-3-403. Temporary custody - hearing - time limits - restriction - rules. (4) (a) If it appears that any child being held in a shelter facility may be developmentally disabled, as provided in article 10.5 of title 27, C.R.S., the court shall refer the child to the nearest community centered board for an eligibility determination. If it appears that any child being held in a shelter facility pursuant to the provisions of this article may have a mental illness, as provided in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health prescreening on the child. The court shall be notified of the contact and may take appropriate action. If a mental health prescreening is requested, it shall be conducted in an appropriate place accessible to the child and the mental health professional. A request for a mental health prescreening shall not extend the time within which a hearing shall be held pursuant to this section. If a hearing has been set but has not yet occurred, the mental health prescreening shall

be conducted prior to the hearing; except that the prescreening shall not extend the time within which a hearing shall be held pursuant to this section.

(b) If a child has been ordered detained pending an adjudication, disposition, or other court hearing and the child subsequently appears to have a mental illness, as provided in ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health prescreening. A mental health prescreening shall be conducted at any appropriate place accessible to the child and the mental health professional within twenty-four hours of the request, excluding Saturdays, Sundays, and legal holidays.

(c) When the mental health professional finds, as a result of the prescreening, that the child may have a mental illness, the mental health professional shall recommend to the court that the child be evaluated pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., and the court shall proceed as provided in section 19-3-506.

(d) Nothing in this subsection (4) shall be construed to preclude the use of emergency procedures pursuant to ~~section 27-10-105 (1)~~ SECTION 27-65-105, C.R.S.

SECTION 45. 19-3-506 (1) (b), (1) (c), and (3) (a), Colorado Revised Statutes, are amended to read:

19-3-506. Child with a mental illness or developmental disability - procedure. (1) (b) If it appears from the evidence presented at an adjudicatory hearing or otherwise that a child may have a mental illness, as defined in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., and the child has not had a mental health prescreening pursuant to section 19-3-403 (4), the court shall order a prescreening to determine whether the child requires further evaluation. Such prescreening shall be conducted as expeditiously as possible, and a prescreening report shall be provided to the court within twenty-four hours of the prescreening, excluding Saturdays, Sundays, and legal holidays.

(c) When the mental health professional finds, based upon a prescreening done pursuant to section 19-3-403 (4) or under this section, that the child may have a mental illness, as defined in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the court shall review the prescreening report within twenty-four hours, excluding Saturdays, Sundays, and legal holidays, and order the child placed for an evaluation at a facility designated by the executive director of the department of human services for a seventy-two-hour treatment and evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S. On and after January 1, 1986, if the child to be placed is in a detention facility, the designated facility shall admit the child within twenty-four hours after the court orders an evaluation, excluding Saturdays, Sundays, and legal holidays.

(3) (a) When the evaluation conducted pursuant to subsection (1) of this section states that the child has a mental illness, as defined in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the court shall treat the evaluation report as a certification under ~~section 27-10-107~~ SECTION 27-65-107, C.R.S., and shall proceed pursuant to ~~article 10~~ ARTICLE 65 of title 27, C.R.S.,

assuming all of the powers granted to a court in such proceedings.

SECTION 46. 19-3-508 (1) (d) (I), Colorado Revised Statutes, is amended to read:

19-3-508. Neglected or dependent child - disposition - concurrent planning.

(1) When a child has been adjudicated to be neglected or dependent, the court may enter a decree of disposition the same day, but in any event it shall do so within forty-five days unless the court finds that the best interests of the child will be served by granting a delay. In a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the court shall enter a decree of disposition within thirty days after the adjudication and shall not grant a delay unless good cause is shown and unless the court finds that the best interests of the child will be served by granting the delay. It is the intent of the general assembly that the dispositional hearing be held on the same day as the adjudicatory hearing, whenever possible. If a delay is granted, the court shall set forth the reasons why a delay is necessary and the minimum amount of time needed to resolve the reasons for the delay and shall schedule the hearing at the earliest possible time following the delay. When the proposed disposition is termination of the parent-child legal relationship, the hearing on termination shall not be held on the same date as the adjudication, and the time limits set forth above for dispositional hearings shall not apply. When the proposed disposition is termination of the parent-child legal relationship, the court may continue the dispositional hearing to the earliest available date for a hearing in accordance with the provisions of paragraph (a) of subsection (3) of this section and part 6 of this article. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan that shall include but not be limited to one or more of the following provisions of paragraphs (a) to (d) of this subsection (1):

(d) (I) The court may order that the child be examined or treated by a physician, surgeon, psychiatrist, or psychologist or that he OR SHE receive other special care and may place the child in a hospital or other suitable facility for such purposes; except that no child may be placed in a mental health facility operated by the department of human services until the child has received a mental health prescreening resulting in a recommendation that the child be placed in a facility for evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., or a hearing has been held by the court after notice to all parties, including the department of human services. No order for a seventy-two-hour treatment and evaluation shall be entered unless a hearing is held and evidence indicates that the prescreening report is inadequate, incomplete, or incorrect and that competent professional evidence is presented by a mental health professional which indicates that mental illness is present in the child. The court shall make, prior to the hearing, such orders regarding temporary custody of the child as are deemed appropriate.

SECTION 47. 22-31-129 (1) (g), Colorado Revised Statutes, is amended to read:

22-31-129. Vacancies. (1) A school director office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(g) If a court of competent jurisdiction determines that the person duly elected or appointed is insane or otherwise mentally incompetent, but only after the right to appeal has been waived or otherwise exhausted, and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the insanity or mental incompetency is of such a degree that the person is incapable of serving as a school director;

SECTION 48. 22-60.5-107 (2) (a), Colorado Revised Statutes, is amended to read:

22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization. (2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(a) When the holder has been determined to be mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the holder is incapable of continuing to perform his or her job; except that the license, certificate, endorsement, or authorization held by a person who has been determined to be mentally incompetent and for whom such an order has been entered shall be revoked or suspended by operation of law without a hearing, notwithstanding the provisions of section 22-60.5-108;

SECTION 49. 23-19.5-103 (5), Colorado Revised Statutes, is amended to read:

23-19.5-103. Limited implementation - consent to release confidential information - policy - revocation. (5) Notwithstanding the provisions of this article, the release of information concerning a student who is taken into custody or receiving care and treatment under the provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S., shall be governed by the provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S.

SECTION 50. The introductory portion to 24-1-120 (6) and 24-1-120 (6) (d), Colorado Revised Statutes, are amended to read:

24-1-120. Department of human services - creation - repeal. (6) The department shall consist of the following divisions AND UNITS:

(d) The ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, created pursuant to ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S. The ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, and its powers, duties, and functions, including the powers, duties, and functions relating to the alcohol and drug driving safety program specified in section 42-4-1301.3, C.R.S., are transferred

by a **type 2** transfer to the department of human services.

SECTION 51. 24-1.9-102 (1) (a) (VII), Colorado Revised Statutes, is amended to read:

24-1.9-102. Memorandum of understanding - local-level interagency oversight groups - individualized service and support teams - coordination of services for children and families - requirements - waiver. (1) (a) Local representatives of each of the agencies specified in this paragraph (a) and county departments of social services may enter into memorandums of understanding that are designed to promote a collaborative system of local-level interagency oversight groups and individualized service and support teams to coordinate and manage the provision of services to children and families who would benefit from integrated multi-agency services. The memorandums of understanding entered into pursuant to this subsection (1) shall be between interested county departments of social services and local representatives of each of the following agencies or entities:

(VII) A designated managed service organization for the provision of treatment services for alcohol and drug abuse pursuant to ~~section 25-1-206.5~~ SECTION 27-80-107, C.R.S.; and

SECTION 52. 24-5-101 (1) (b) (III), Colorado Revised Statutes, is amended to read:

24-5-101. Effect of criminal conviction on employment rights. (1) (b) This subsection (1) shall not apply to:

(III) The employment of personnel in positions involving direct contact with vulnerable persons as specified in ~~section 27-1-110~~ SECTION 27-90-111, C.R.S.;

SECTION 53. 24-33.5-512 (2) (b), Colorado Revised Statutes, is amended to read:

24-33.5-512. Recidivism reduction grant program - creation - definitions - repeal. (2) **Definitions.** As used in this section, unless the context otherwise requires:

(b) "Target population" means persons with mental illnesses or co-occurring disorders, as defined in ~~section 26-22-102~~ SECTION 27-69-102, C.R.S., who have been involved in the criminal justice system.

SECTION 54. 24-34-104 (47) (c), Colorado Revised Statutes, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (47) The following agencies, functions, or both, shall terminate on July 1, 2016:

(c) The rural alcohol and substance abuse prevention and treatment program created pursuant to ~~section 25-1-217~~ SECTION 27-80-117, C.R.S., within the ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT

ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE.

SECTION 55. 24-75-1104.5 (1) (k), (1.5) (a) (II), (1.5) (a) (VIII) (A), and (3), Colorado Revised Statutes, are amended to read:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1) Except as otherwise provided in subsection (5) of this section, for the 2004-05 fiscal year and for each fiscal year thereafter, the following programs, services, or funds shall receive the following specified amounts from the settlement moneys received by the state in the preceding fiscal year; except that fifteen million four hundred thousand dollars of strategic contribution fund moneys and, for the 2010-11 fiscal year and for each fiscal year thereafter only, the lesser of sixty-five million dollars of other settlement moneys or all other settlement moneys shall be allocated in each fiscal year in which they are received by the state and except that, of the other settlement moneys received by the state in the 2009-10 fiscal year, the lesser of sixty-five million dollars or all of such moneys shall be transferred to the general fund on June 30, 2010, and shall not be allocated:

(k) Three hundred thousand dollars shall be appropriated, as provided in ~~section 27-10.3-106~~ SECTION 27-67-106, C.R.S., to fund the state's share of the annual funding required for the "Child Mental Health Treatment Act", ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S.

(1.5) (a) Except as otherwise provided in subsections (5) and (6) of this section, for the 2007-08 fiscal year and for each fiscal year thereafter, the following programs, services, and funds shall receive the following specified amounts from the portion of any settlement moneys received and allocated by the state in the current fiscal year that remains after the programs, services, and funds receiving such moneys pursuant to subsection (1) of this section have been fully funded, and the portion of all other settlement moneys received by the state in the preceding fiscal year that remains after the programs, services, and funds receiving such other settlement moneys pursuant to subsection (1) of this section have been fully funded and all overexpenditures and supplemental appropriations allowed for the 2006-07, 2007-08, 2008-09, or 2009-10 fiscal years pursuant to section 24-22-115 (4) have been made:

(II) The offender mental health services fund created in ~~section 27-1-204 (5.5)~~ SECTION 27-66-104 (4), C.R.S., shall receive twelve percent of the settlement moneys, which the state treasurer shall transfer thereto, for the purchase of mental health services from community mental health centers for juvenile and adult offenders who have mental health problems and are involved in the criminal justice system.

(VIII) (A) The ~~division of alcohol and drug abuse~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, shall receive three percent of the settlement moneys, which shall be transferred by the state treasurer to the alcohol and drug abuse community prevention and treatment fund, which is hereby created in the state treasury. Interest and income earned on the deposit and investment of moneys in the fund shall be credited to the fund and

shall remain in the fund until the end of the fiscal year in which credited, when it shall be transferred to the short-term innovative health program grant fund created in section 25-36-101 (2), C.R.S., in accordance with paragraph (b) of this subsection (1.5). The principal of the fund shall be subject to annual appropriation by the general assembly to provide or purchase community prevention and treatment services in accordance with ~~section 25-1-206~~ SECTION 27-80-106, C.R.S.; except that, at the end of the 2007-08 fiscal year and at the end of each fiscal year thereafter, all unexpended and unencumbered principal of the fund shall be transferred to the short-term innovative health program grant fund created in section 25-36-101 (2), C.R.S., in accordance with paragraph (b) of this subsection (1.5).

(3) Notwithstanding the provisions of subsections (1) and (1.5) of this section, for purposes of ~~sections 22-7-908 (3), 23-20-136 (3.5) (a), 25-4-1411 (6) (a), 25-4-1415 (2), 25-20.5-201 (2) (c), 25-23-104 (2), 25-31-107 (2) (d) (I), 25.5-3-207 (3), 25.5-6-805 (2), 25.5-8-105 (3), 27-10.3-106 (2) (b), and 28-5-709 (2) (a)~~ SECTIONS 22-7-908 (3), 23-20-136 (3.5) (a), 25-4-1411 (6) (a), 25-4-1415 (2), 25-20.5-201 (2) (c), 25-23-104 (2), 25-31-107 (2) (d) (I), 25.5-3-207 (3), 25.5-6-805 (2), 25.5-8-105 (3), 27-67-106 (2) (b), AND 28-5-709 (2) (a), C.R.S., settlement moneys received and allocated by the state pursuant to said subsections (1) and (1.5) during the same fiscal year shall be deemed to be moneys received for or during the preceding fiscal year.

SECTION 56. 24-110-207.5 (1) (a), Colorado Revised Statutes, is amended to read:

24-110-207.5. Certification of certain entities as local public procurement units - rules - report - repeal. (1) The executive director may certify any of the following entities as a local public procurement unit:

(a) Any nonprofit community mental health center, as defined in ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., any nonprofit community mental health clinic, as defined in ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., any nonprofit community centered board, as defined in section 27-10.5-102, C.R.S., or any nonprofit service agency, as defined in section 27-10.5-102, C.R.S., if the entity uses the supplies, services, or construction procured for the public mental health system or the public developmentally disabled system;

SECTION 57. 25-1-1202 (1) (ss), (1) (vv), (1) (iii), and (1) (jjj), Colorado Revised Statutes, are amended to read:

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

(ss) ~~Sections 25-1-309 and 25-1-312~~ SECTIONS 27-81-110 AND 27-81-113, C.R.S., concerning the treatment of intoxicated persons;

(vv) ~~Sections 25-1-1105 and 25-1-1108~~ SECTIONS 27-82-106 AND 27-82-109, C.R.S., concerning the treatment of drug abusers;

(iii) ~~Section 27-10-103 (2)~~ SECTION 27-65-103 (2), C.R.S., concerning voluntary applications for mental health services;

(jjj) ~~Sections 27-10-120 (1.5) and 27-10-120.5~~ SECTIONS 27-65-121 (2) AND 27-65-122, C.R.S., concerning records related to mental health services for minor children;

SECTION 58. 25-1.5-101 (1) (i) (I), Colorado Revised Statutes, is amended to read:

25-1.5-101. Powers and duties of department. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(i) (I) To establish sanitary standards and make sanitary, sewerage, and health inspections and examinations for charitable, penal, and other public institutions, and, with respect to the state institutions under the department of human services specified in ~~section 27-1-104~~ SECTION 27-90-104, C.R.S., or under the department of corrections specified in section 17-1-104.3 (1) (b), C.R.S., such inspections and examinations shall be made at least once each year. Reports on such inspections of institutions under control of the department of human services or the department of corrections shall be made to the executive director of the appropriate department for appropriate action, if any.

SECTION 59. 25-1.5-103 (3.5) (a) (I), Colorado Revised Statutes, is amended to read:

25-1.5-103. Health facilities - powers and duties of department - limitations on rules promulgated by department. (3.5) (a) (I) The department of public health and environment may establish life safety code and physical plant requirements for an occupancy that is contiguous with an acute treatment unit if the occupancy is operated by the acute treatment unit licensee and the services provided by the occupancy are outpatient services certified in accordance with ~~article 10~~ ARTICLE 65 of title 27, C.R.S., to determine appropriate placement or detoxification services licensed by the department of human services. The services provided by the occupancy shall benefit acute treatment unit clients, although the occupancy may also provide such services to other populations. It shall be at the discretion of the acute treatment unit licensee to either construct the necessary fire safety separations between the occupancy and the acute treatment unit or to assume fiscal and administrative responsibility for assuring that the occupancy meets the life safety code requirements as specified and verified by the department of public health and environment.

SECTION 60. 25-1.5-301 (2) (g), Colorado Revised Statutes, is amended to read:

25-1.5-301. Definitions. As used in this part 3, unless the context otherwise requires:

(2) "Facility" means:

(g) Facilities that provide treatment for persons with mental illness as defined in ~~section 27-10-102 (4.5)~~ SECTION 27-65-102 (7), C.R.S., except for those facilities which are publicly or privately licensed hospitals;

SECTION 61. 25-3-102 (2), Colorado Revised Statutes, is amended to read:

25-3-102. License - application - issuance. (2) In the licensing of a community mental health center, acute treatment unit, or clinic, satisfactory evidence that the applicant is in compliance with the standards, rules, and regulations promulgated pursuant to ~~section 27-1-202~~ SECTION 27-66-102, C.R.S., shall be required for licensure.

SECTION 62. 25-3.5-301 (5) (e), Colorado Revised Statutes, is amended to read:

25-3.5-301. License required - exceptions. (5) The provisions of subsections (1) to (3) of this section shall not apply to the following:

(e) Vehicles used solely for the transportation of intoxicated persons or persons incapacitated by alcohol as defined in ~~section 25-1-302~~ SECTION 27-81-102, C.R.S., but who are not otherwise disabled or seriously injured and who would not be expected to require skilled treatment or care while in the vehicle.

SECTION 63. 25-36-101 (3) and (7), Colorado Revised Statutes, are amended to read:

25-36-101. Short-term grants for innovative health programs - grant fund - creation - appropriation from fund - transfer of moneys for fiscal years 2007-08 through 2011-12. (3) (a) For the 2007-08 fiscal year, of the moneys transferred pursuant to sections 24-22-115 (1) (b) and 24-75-1104.5 (1.5) (a) (IX) and (1.5) (b), C.R.S., the lesser of one hundred thirty-four thousand two hundred twelve dollars or thirteen and four-tenths percent of the total amount transferred to the fund shall be appropriated to the ~~division of mental health~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, for implementation of ~~article 22 of title 26~~ ARTICLE 69 OF TITLE 27, C.R.S., and the lesser of thirty-eight thousand five hundred three dollars or three and nine-tenths percent of the total amount transferred to the fund shall be appropriated to the division of criminal justice in the department of public safety for implementation of ~~article 22 of title 26~~ ARTICLE 69 OF TITLE 27, C.R.S.

(b) For the 2008-09 fiscal year, the 2009-10 fiscal year, and the 2010-11 fiscal year, of the moneys transferred pursuant to sections 24-22-115 (1) (b) and 24-75-1104.5 (1.5) (a) (IX) and (1.5) (b), C.R.S., the lesser of one hundred eighty-five thousand seventeen dollars or eight and eight-tenths percent of the total amount transferred to the fund shall be annually appropriated to the ~~division of mental health~~ UNIT in the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, for implementation of ~~article 22 of title 26~~ ARTICLE 69 OF TITLE 27, C.R.S., and the lesser of thirty-six thousand seven hundred dollars or one and seven-tenths percent of the total amount transferred to

the fund shall be appropriated to the division of criminal justice in the department of public safety for implementation of ~~article 22 of title 26~~ ARTICLE 69 OF TITLE 27, C.R.S.

(7) Notwithstanding any other provision of this section, for the 2007-08, 2008-09 and 2009-10 fiscal years, the state treasurer shall transfer from the short-term innovative health program grant fund to the supplemental tobacco litigation settlement moneys account of the mental health services pilot program fund, created in ~~section 27-1-305 (1)~~ SECTION 27-68-105 (1), C.R.S., the lesser of three hundred thousand dollars or thirty percent of the amount allocated to the short-term innovative health program grant fund for the fiscal year pursuant to section 24-75-1104.5 (1.5) (a) (IX), C.R.S., enacted by Senate Bill 07-097 at the first regular session of the sixty-sixth general assembly.

SECTION 64. 25.5-3-110, Colorado Revised Statutes, is amended to read:

25.5-3-110. Effect of part 1. This part 1 shall not affect the department of human services' responsibilities for the provision of mental health care in accordance with ~~part 2 of article 1~~ ARTICLE 66 of title 27, C.R.S., and this part 1 shall not affect any provisions of article 22 of title 23, C.R.S., or any other provisions of law relating to the university of Colorado psychiatric hospital.

SECTION 65. 25.5-4-103 (3), Colorado Revised Statutes, is amended to read:

25.5-4-103. Definitions. As used in this article and articles 5 and 6 of this title, unless the context otherwise requires:

(3) "Case management services" means services provided by community centered boards, as defined by section 27-10.5-102 (3), C.R.S., and community mental health centers and community mental health clinics, as defined by ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., to assist developmentally disabled persons, as defined by section 27-10.5-102 (11), C.R.S., and persons with mental illness, as defined by ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S., by case management agencies, as defined in section 25.5-6-303 (5), providing services, as defined in sections 25.5-6-104 (2) (b) and 25.5-6-303 (6), to elderly, blind, and disabled persons and long-term care clients, in gaining access to needed medical, social, educational, and other services.

SECTION 66. 25.5-4-406 (1) (a), Colorado Revised Statutes, is amended to read:

25.5-4-406. Rate setting - medicaid residential treatment service providers - monitoring and auditing - report. (1) The state department shall approve a rate-setting process consistent with medicaid requirements for providers of medicaid residential treatment services in the state of Colorado as developed by the department of human services. The rate-setting process developed pursuant to this section may include, but shall not be limited to:

(a) A range for reimbursement that represents a base-treatment rate for serving a child who is subject to out-of-home placement due to dependency and neglect, a child placed in a residential child care facility pursuant to the "Child Mental Health

Treatment Act", ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S., or a child who has been adjudicated a delinquent, which includes a defined service package to meet the needs of the child;

SECTION 67. 25.5-5-203 (1) (1), Colorado Revised Statutes, is amended to read:

25.5-5-203. Optional programs with special state provisions. (1) Subject to the provisions of subsection (2) of this section, this section specifies programs developed by Colorado to increase federal financial participation through selecting optional services or optional eligible groups. These programs include but are not limited to:

(1) The treatment program for high-risk pregnant women, as specified in ~~section 25-1-212~~ SECTION 27-80-112, C.R.S., and sections 25.5-5-309, 25.5-5-310, and 25.5-5-311;

SECTION 68. 25.5-5-301 (4), Colorado Revised Statutes, is amended to read:

25.5-5-301. Clinic services. (4) "Clinic services" also means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that are furnished to a pregnant woman who is enrolled for services pursuant to section 25.5-5-205 or who is eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996, in a facility which is not a part of a hospital but is organized and operated as a freestanding alcohol or drug treatment program approved and licensed by the ~~division of alcohol and drug abuse of~~ UNIT IN the department of human services THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, pursuant to ~~section 25-1-207 (1) (c)~~ SECTION 27-80-108 (1) (c), C.R.S.

SECTION 69. 25.5-5-306 (1), Colorado Revised Statutes, is amended to read:

25.5-5-306. Residential child health care - waiver - program - rules. (1) The state department, in cooperation with the department of human services, shall implement a program concerning residential child health care under this article and articles 4 and 6 of this title to provide services pursuant to ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S., to medicaid-eligible children residing in residential child care facilities, as that term is defined in section 26-6-102 (8), C.R.S., to medicaid-eligible children residing in psychiatric residential treatment facilities, and children placed by the department of human services or through county departments of social services in licensed or certified out-of-home placement facilities. Children with developmental disabilities, as defined in section 27-10.5-102 (11), C.R.S., who are placed in such facilities shall meet the out-of-home placement criteria described in section 19-1-107, C.R.S., and shall be neglected or dependent as described in section 19-3-102, C.R.S. The state board shall establish the type of rehabilitative or medical assistance services to be provided under the program as described in subsection (3) of this section, to the extent such services are cost-efficient, and the recipient eligibility criteria that may include, but are not limited to, a medical necessity determination and a financial eligibility determination. The state board shall define in rule the staff permitted to order, monitor, and assess seclusion and restraint in psychiatric residential treatment facilities, and the corresponding restrictions on the use of seclusion and restraint.

SECTION 70. 25.5-5-307, Colorado Revised Statutes, is amended to read:

25.5-5-307. Child mental health treatment and family support program.

(1) The general assembly finds that many parents in Colorado who have experienced challenging circumstances because their children have significant mental health needs and who have attempted to care for their children or seek services on their behalf often are burdened with the excessive financial and personal costs of providing such care. Private insurance companies may not cover mental health services and rarely cover residential mental health treatment services; those that do seldom cover a sufficient percentage of the expense to make such mental health treatment a viable option for many families in need. The result is that many families do not have the ability to obtain the mental health services that they feel their children desperately need. The general assembly finds that it is in the best interests of these families and the citizens of the state to encourage the preservation of family units by making mental health treatment available to these children pursuant to ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S.

(2) In order to make mental health treatment available, it is the intent of the general assembly that each medicaid-eligible child who is diagnosed as a person with a mental illness, as that term is defined in ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S., shall receive mental health treatment, which may include in-home family mental health treatment, other family preservation services, residential treatment, or any post-residential follow-up services, that shall be paid for through federal medicaid funding.

SECTION 71. 26-1-132 (1) (a), Colorado Revised Statutes, is amended to read:

26-1-132. Department of human services - rate setting - residential treatment service providers - monitoring and auditing - report. (1) The state department shall develop a rate-setting process consistent with medicaid requirements for providers of residential treatment services in the state of Colorado. Representatives of counties and the provider community shall be involved in the actual development of the rate-setting process. The rate-setting process for rates funded by medicaid shall be approved by the department of health care policy and financing. The rate-setting process developed pursuant to this section may include, but shall not be limited to:

(a) A range for reimbursement that represents a base-treatment rate for serving a child who is subject to out-of-home placement due to dependency and neglect, a child placed in a residential child care facility pursuant to the "Child Mental Health Treatment Act", ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S., or a child who has been adjudicated a delinquent, which includes a defined service package to meet the needs of the child;

SECTION 72. 26-1-201 (1) (a), (1) (b), (1) (c), (1) (x), (1) (z), (1) (aa), and (1) (bb), Colorado Revised Statutes, are amended to read:

26-1-201. Programs administered - services provided - department of human services. (1) This section specifies the programs to be administered and the services to be provided by the department of human services. These programs and services include the following:

(a) Alcohol and drug abuse programs, as specified in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S.;

(b) Alcoholism and intoxication treatment programs, as specified in ~~part 3 of article 1 of title 25~~ ARTICLE 81 OF TITLE 27, C.R.S.;

(c) Drug abuse prevention, education, and treatment programs, as specified in ~~part 11 of article 1 of title 25~~ ARTICLE 82 OF TITLE 27, C.R.S.;

(x) Programs for the care and treatment of persons with mental illness, as specified in ~~article 10~~ ARTICLE 65 of title 27, C.R.S.;

(z) Charges for patients, as set forth in ~~article 12~~ ARTICLE 92 of title 27, C.R.S.;

(aa) The Colorado mental health institute at Pueblo, as specified in ~~article 13~~ ARTICLE 93 of title 27, C.R.S.; and

(bb) The Colorado mental health institute at Fort Logan, as specified in ~~article 15~~ ARTICLE 94 of title 27, C.R.S.

SECTION 73. 26-2-112 (3) (a) (III), Colorado Revised Statutes, is amended to read:

26-2-112. Old age pensions for inmates of public institutions. (3) (a) (III) It is the duty of such chief financial officer to pay monthly from the assistance payments under the old age pension, as prior claim therefrom, all lawful claims of said public institution for the care, support, maintenance, education, and treatment of said inmate in accordance with ~~article 12~~ ARTICLE 92 of title 27, C.R.S.

SECTION 74. 26-2-805.5 (2), Colorado Revised Statutes, is amended to read:

26-2-805.5. Exemptions - requirements. (2) As a prerequisite to entering into a valid Colorado child care assistance program contract with a county office or to being a party to any other payment agreement for the provision of care for a child whose care is funded in whole or in part with moneys received on the child's behalf from publicly funded state child care assistance programs, an exempt family child care home provider shall sign an attestation that affirms he or she, and any qualified adult residing in the exempt family child care home, has not been determined to be insane or mentally incompetent by a court of competent jurisdiction and a court has not entered, pursuant to part 3 or 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the provider cannot safely operate an exempt family child care home.

SECTION 75. 26-6-102 (8), Colorado Revised Statutes, is amended to read:

26-6-102. Definitions. As used in this article, unless the context otherwise requires:

(8) "Residential child care facility" means a facility licensed by the state department pursuant to this part 1 to provide twenty-four-hour group care and

treatment for five or more children operated under private, public, or nonprofit sponsorship. "Residential child care facility" includes community-based residential child care facilities, shelter facilities, and therapeutic residential child care facilities as defined in rule by the state board, and psychiatric residential treatment facilities as defined in section 25.5-4-103 (19.5), C.R.S. A residential child care facility may be eligible for designation by the executive director of the state department pursuant to ~~article 10~~ ARTICLE 65 of title 27, C.R.S.

SECTION 76. 26-6-104 (8) (a), Colorado Revised Statutes, is amended to read:

26-6-104. Licenses - out-of-state notices and consent - demonstration pilot program. (8) The state department, a county department, or a child placement agency licensed under the provisions of this part 1 shall not issue a license or certificate to operate any agency or facility defined in this part 1 if the person applying for such license or certificate or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility:

(a) Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.

SECTION 77. 26-6-108 (2) (b) and (2.5) (a) (I) (C), Colorado Revised Statutes, are amended to read:

26-6-108. Denial of license - suspension - revocation - probation - refusal to renew license - fines. (2) The department may deny an application, or suspend, revoke, or make probationary the license of any facility regulated and licensed under this part 1 or assess a fine against the licensee pursuant to section 26-6-114 should the licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility:

(b) Be determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a family child care home, foster care home, or child care center, the record of such determination and entry of such order being conclusive evidence thereof; or

(2.5) (a) (I) The state department shall deny an application for a license under the circumstances described in section 26-6-104 (7). The state department shall revoke or suspend a license previously issued if:

(C) The licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a

court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a family child care home, foster care home, or child care center, the record of such determination and entry of such order being conclusive evidence thereof.

SECTION 78. 26-6-120 (3) (b), Colorado Revised Statutes, is amended to read:

26-6-120. Exempt family child care home providers - fingerprint-based criminal history records check - child care assistance program moneys - temporary care - definitions. (3) A contract to provide moneys under the Colorado child care assistance program pursuant to part 8 of article 2 of this title shall not be issued or renewed by the state department or a county department to an exempt family child care home provider if the provider or a qualified adult who resides with the provider:

(b) Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the provider cannot safely operate an exempt family child care home. The record of such determination and entry of such order shall be conclusive evidence thereof. An exempt family child care home provider shall sign an attestation affirming the lack of such a finding prior to entering into or renewing a contract for moneys under the Colorado child care assistance program, pursuant to section 26-2-805.5 (2).

SECTION 79. 26-20-102 (2), Colorado Revised Statutes, is amended to read:

26-20-102. Definitions. As used in this article, unless the context otherwise requires:

(2) "Chemical restraint" means giving an individual medication involuntarily for the purpose of restraining that individual; except that "chemical restraint" does not include the involuntary administration of medication pursuant to ~~section 27-10-111 (4.5)~~ SECTION 27-65-111 (5), C.R.S., or administration of medication for voluntary or life-saving medical procedures.

SECTION 80. 26-20-103 (3), Colorado Revised Statutes, is amended to read:

26-20-103. Basis for use of restraint. (3) In addition to the circumstances described in subsection (1) of this section, a facility, as defined in ~~section 27-10-102 (4.5)~~ SECTION 27-65-102 (7), C.R.S., that is designated by the executive director of the department of human services to provide treatment pursuant to ~~section 27-10-105, 27-10-106, 27-10-107, or 27-10-109~~ SECTION 27-65-105, 27-65-106, 27-65-107, OR 27-65-109, C.R.S., to a person with mental illness, as defined in ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S., may use seclusion to restrain a person with a mental illness when the seclusion is necessary to eliminate a continuous and serious disruption of the treatment environment.

SECTION 81. 30-28-115 (2) (b.5), Colorado Revised Statutes, is amended to read:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (2) (b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of persons with mental illness as that term is defined in ~~section 27-10-102~~ SECTION 27-65-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4), C.R.S. A group home for persons with mental illness established under this paragraph (b.5) shall not be located within seven hundred fifty feet of another such group home or of another group home as defined in paragraphs (a) and (b) of this subsection (2), unless otherwise provided for by the county. A person shall not be placed in a group home without being screened by either a professional person, as defined in ~~section 27-10-102 (11)~~ SECTION 27-65-102 (17), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of human services pursuant to ~~section 27-1-103~~ SECTION 27-90-102, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, and any person who has been convicted of a felony involving a violent offense shall not be eligible for placement in such group homes. The provisions of this paragraph (b.5) shall be implemented, where appropriate, by the rules of the department of public health and environment concerning residential treatment facilities for persons with mental illness. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

SECTION 82. 31-23-303 (2) (b.5), Colorado Revised Statutes, is amended to read:

31-23-303. Legislative declaration. (2) (b.5) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of persons with mental illness as that term is defined in ~~section 27-10-102~~ SECTION 27-65-102, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight persons with mental illness is a residential use of property for zoning purposes, as defined in section 31-23-301 (4). A group home for persons with mental illness established under this paragraph (b.5) shall not be located within seven hundred fifty feet of another such group home, unless otherwise provided for by the municipality. A person shall not be placed in a group home without being screened by either a professional person, as defined in ~~section 27-10-102 (11)~~ SECTION 27-65-102 (17), C.R.S., or any other such mental health professional designated by the director of a facility, which facility is approved by the executive director of the department of human services pursuant to ~~section 27-1-103~~ SECTION 27-90-102, C.R.S. Persons determined to be not guilty by reason of insanity to a violent offense shall not be placed in such group homes, and any person who has been convicted of a felony involving a violent offense shall not be eligible for placement in such group homes. The provisions of this paragraph (b.5) shall be implemented, where appropriate, by the rules of the department of public health and environment concerning residential treatment facilities for persons with mental illness. Nothing in this paragraph (b.5) shall be construed to exempt such group homes from compliance with any state, county, or municipal health, safety, and fire codes.

SECTION 83. 38-1-202 (1)(b)(IV)(F), Colorado Revised Statutes, is amended to read:

38-1-202. Governmental entities, corporations, and persons authorized to use eminent domain. (1) The following governmental entities, types of governmental entities, and public corporations, in accordance with all procedural and other requirements specified in this article and articles 2 to 7 of this title and to the extent and within any time frame specified in the applicable authorizing statute may exercise the power of eminent domain:

(b) The state:

(IV) By action of the general assembly or by action of any of the following officers and agencies of the state:

(F) The governor as authorized in ~~section 27-1-103 (2)~~ SECTION 27-90-102 (2), C.R.S.;

SECTION 84. 42-2-116 (5), Colorado Revised Statutes, is amended to read:

42-2-116. Restricted license. (5) The department is authorized after examination to issue a restricted license to a person with a mental illness or a developmental disability, containing such restrictions as may be imposed upon said person by a court pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S.

SECTION 85. 42-2-125 (1)(h), Colorado Revised Statutes, is amended to read:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver or minor driver upon receiving a record showing that such driver has:

(h) Been determined to be mentally incompetent by a court of competent jurisdiction and for whom a court has entered, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the person is incapable of safely operating a motor vehicle;

SECTION 86. 42-4-1301 (7)(d)(IV)(A) and (7)(d)(IV)(B), Colorado Revised Statutes, are amended to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - definitions - penalties - repeal. (7) Penalties. (d) In addition to the penalties prescribed in this subsection (7):

(IV)(A) Persons convicted of DUI, DUI per se, DWAI, and habitual user are subject to an additional penalty surcharge of not less than one dollar and not more than ten dollars for programs to address alcohol and substance abuse problems among persons in rural areas. The minimum penalty surcharge shall be mandatory, and the court shall have no discretion to suspend or waive the surcharge; except that the court may suspend or waive the surcharge for a defendant determined by the

court to be indigent. Any moneys collected for the surcharge shall be transmitted to the state treasurer, who shall credit the same to the rural alcohol and substance abuse cash fund created in ~~section 25-1-217 (3)~~ SECTION 27-80-117 (3), C.R.S.

(B) This subparagraph (IV) is repealed, effective July 1, 2016, unless the general assembly extends the repeal of the rural alcohol and substance abuse prevention and treatment program created in ~~section 25-1-217~~ SECTION 27-80-117, C.R.S.

SECTION 87. 42-4-1301.3 (4) (a), Colorado Revised Statutes, is amended to read:

42-4-1301.3. Alcohol and drug driving safety program. (4) (a) There is hereby created an alcohol and drug driving safety program fund in the office of the state treasurer to the credit of which shall be deposited all moneys as directed by this paragraph (a). The assessment in effect on July 1, 1998, shall remain in effect unless the judicial department and the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, have provided to the general assembly a statement of the cost of the program, including costs of administration for the past and current fiscal year to include a proposed change in the assessment. The general assembly shall then consider the proposed new assessment and approve the amount to be assessed against each person during the following fiscal year in order to ensure that the alcohol and drug driving safety program established in this section shall be financially self-supporting. Any adjustment in the amount to be assessed shall be so noted in the appropriation to the judicial department and the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, as a footnote or line item related to this program in the general appropriation bill. The state auditor shall periodically audit the costs of the programs to determine that they are reasonable and that the rate charged is accurate based on these costs. Any other fines, fees, or costs levied against such person shall not be part of the program fund. The amount assessed for the alcohol and drug evaluation shall be transmitted by the court to the state treasurer to be credited to the alcohol and drug driving safety program fund. Fees charged under ~~sections 25-1-306 (1), C.R.S., and 25-1-1102 (1)~~ SECTIONS 27-81-106 (1) AND 27-82-103 (1), C.R.S., to approved alcohol and drug treatment facilities that provide level I and level II programs as provided in paragraph (c) of subsection (3) of this section shall be transmitted to the state treasurer, who shall credit the fees to the alcohol and drug driving safety program fund. Upon appropriation by the general assembly, these funds shall be expended by the judicial department and the ~~division of alcohol and drug abuse~~ UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, for the administration of the alcohol and drug driving safety program. In administering the alcohol and drug driving safety program, the judicial department is authorized to contract with any agency for such services as the judicial department deems necessary. Moneys deposited in the alcohol and drug driving safety program fund shall remain in said fund to be used for the purposes set forth in this section and shall not revert or transfer to the general fund except by further act of the general assembly.

SECTION 88. 42-4-1701 (4) (f), Colorado Revised Statutes, is amended to read:

42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule - repeal. (4) (f) (I) In addition to the surcharge specified in sub-subparagraph (N) of subparagraph (I) of paragraph (a) of this subsection (4), an additional surcharge of five dollars shall be assessed for a violation of section 42-4-1301 (2) (a.5). Moneys collected pursuant to this paragraph (f) shall be transmitted to the state treasurer who shall deposit such moneys in the rural alcohol and substance abuse cash fund created in ~~section 25-1-217 (3)~~ SECTION 27-80-117 (3), C.R.S., within fourteen days after the end of each quarter, to be used for the purposes set forth in ~~section 25-1-217~~ SECTION 27-80-117, C.R.S.

(II) If the additional surcharge is collected by a county court, the additional surcharge shall be six dollars of which one dollar shall be retained by the county and the remaining five dollars shall be transmitted to the state treasurer and credited to the rural alcohol and substance abuse cash fund created in ~~section 25-1-217 (3)~~ SECTION 27-80-117 (3), C.R.S., within fourteen days after the end of each quarter, to be used for the purposes set forth in ~~section 25-1-217~~ SECTION 27-80-117, C.R.S.

(III) This paragraph (f) is repealed, effective July 1, 2016, unless the general assembly extends the repeal of the rural alcohol and substance abuse prevention and treatment program created in ~~section 25-1-217~~ SECTION 27-80-117, C.R.S.

SECTION 89. 42-4-1705 (3), Colorado Revised Statutes, is amended to read:

42-4-1705. Person arrested to be taken before the proper court. (3) Any other provision of law to the contrary notwithstanding, a police officer may place a person who has been arrested and charged with DUI, DUI per se, or UDD and who has been given a written notice or summons to appear in court as provided in section 42-4-1707 in a state-approved treatment facility for alcoholism even though entry or other record of such arrest and charge has been made. Such placement shall be governed by ~~part 3 of article 1 of title 25~~ ARTICLE 81 OF TITLE 27, C.R.S., except where in conflict with this section.

SECTION 90. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 29, 2010