

An Act

SENATE BILL 26-149

BY SENATOR(S) Amabile and Simpson, Baisley, Ball, Bright, Carson, Catlin, Gonzales J., Jodeh, Kipp, Kirkmeyer, Kolker, Marchman, Pelton B., Pelton R., Rich, Wallace, Zamora Wilson, Coleman;
also REPRESENTATIVE(S) Caldwell and McCluskie, Bacon, Barron, Boesenecker, Brown, Camacho, Clifford, Duran, English, Espenoza, Flanell, Froelich, Garcia, Garcia Sander, Gilchrist, Goldstein, Gonzalez R., Hamrick, Hartsook, Jackson, Joseph, Keltie, Lieder, Lindsay, Lukens, Marshall, Martinez, Mauro, McCormick, Nguyen, Paschal, Phillips, Ricks, Rutinel, Sirota, Smith, Soper, Stewart K., Stewart R., Story, Suckla, Taggart, Titone, Valdez, Winter T., Woog.

CONCERNING PATHWAYS FOR INDIVIDUALS WITH MENTAL HEALTH DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

16-8.5-101. Definitions.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

(2) "CIVIL PROCEEDING" MEANS:

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

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

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

(H) (3) "Collateral materials" means the relevant police incident reports and the charging documents, either the criminal information or indictment.

(Z) (4) "Competency evaluation" includes both court-ordered competency evaluations and second evaluations.

(3) (5) "Competency evaluator" means a licensed physician who is a psychiatrist or a licensed psychologist, each of whom is trained in forensic competency assessments, or a psychiatrist who is in forensic training and practicing under the supervision of a psychiatrist with expertise in forensic psychiatry, or a psychologist who is in forensic training and is practicing under the supervision of a licensed psychologist with expertise in forensic psychology.

(4) (6) "Competency hearing" means a hearing to determine whether a defendant is competent to proceed.

(5) (7) "Competent to proceed" means that the defendant does not have a mental disability or developmental disability that prevents the defendant from having sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense or THAT prevents the defendant from having

a rational and factual understanding of the criminal proceedings.

(8) "COUNTY ATTORNEY" MEANS A COUNTY ATTORNEY OR A QUALIFIED ATTORNEY ACTING FOR A COUNTY ATTORNEY APPOINTED BY THE DISTRICT COURT OR, IN ANY COUNTY OR CITY AND COUNTY WITH A POPULATION EQUAL TO OR LESS THAN FIFTY THOUSAND PEOPLE, THE DISTRICT ATTORNEY OR QUALIFIED ATTORNEY ACTING FOR THE DISTRICT ATTORNEY APPOINTED BY THE DISTRICT COURT.

(6) (9) "Court-ordered competency evaluation" means a court-ordered examination of a defendant either before, during, or after trial, directed to developing information relevant to a determination of the defendant's competency to proceed at a particular stage of the criminal proceeding, that is performed by a competency evaluator and includes evaluations concerning restoration to competency.

(7) (10) "Court-ordered report" means a report of an evaluation, conducted by or under the direction of ~~the department~~ CDHS, that is the statutory obligation of ~~the department~~ CDHS to prepare when requested to do so by the court.

(8) (11) "Criminal proceedings" means trial, sentencing, satisfaction of the sentence, execution, and any pretrial matter that is not susceptible of fair determination without the personal participation of the defendant.

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

(10) (13) "Developmental disability" means a disability that has manifested before the person reaches twenty-two years ~~of age~~ OLD, constitutes a substantial disability to the affected ~~individual~~ PERSON, and is attributable to an intellectual disability or other neurological conditions when ~~such~~ THE conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual disability. Unless otherwise specifically stated, the federal definition of "developmental disability", 42 U.S.C. sec. 15002 (8), ~~shall~~ DOES not apply.

(11) (14) "Executive director" means the executive director of the department of human services.

(15) "GUARDIAN" MEANS A GUARDIAN APPOINTED FOR THE DEFENDANT PURSUANT TO ARTICLE 14 OF TITLE 15 OR AN EMERGENCY GUARDIAN APPOINTED PURSUANT TO THIS ARTICLE 8.5, ARTICLE 65 OF TITLE 27, OR ARTICLE 10 OF TITLE 25.5.

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

~~(12)~~ (17) "Incompetent to proceed" means that, as a result of a mental disability or developmental disability, the defendant does not have sufficient present ability to consult with the defendant's lawyer with a reasonable degree of rational understanding in order to assist in the defense, or that, as a result of a mental disability or developmental disability, the defendant does not have a rational and factual understanding of the criminal proceedings.

~~(13)~~ (18) "In-custody" means in prison, in a jail, or in any other locked detention facility that does not meet the definition of "inpatient".

~~(14)~~ (19) "Inpatient" means in the custody of ~~the department~~ CDHS, either in a hospital or in a full-time, jail-based restoration program developed by ~~the department~~ CDHS.

(20) "INPATIENT CARE AT THE DISCRETION OF CDHS" MEANS PLACEMENT AT A FACILITY:

(a) WHERE THE PERSON IS REQUIRED TO RESIDE AND IS NOT PERMITTED TO LEAVE UNLESS ACCOMPANIED AND SUPERVISED BY STAFF;

(b) THAT AGREES TO SUPERVISE THE PERSON, THAT AGREES TO TAKE APPROPRIATE MEASURES TO ENSURE THE PERSON COMPLIES WITH ANY COURT ORDERS, AND THAT HAS PROCEDURES IN PLACE THAT WOULD RESULT IN A TIMELY REPORT TO THE COURT, LICENSING AUTHORITIES, AND LAW ENFORCEMENT IF THE PERSON ABSCONDED WITHOUT PERMISSION;

(c) WHERE A PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102, WHO IS EMPLOYED BY OR CONTRACTED WITH CDHS, BHA, OR HCPF, ATTESTS THAT THE FACILITY IS MEDICALLY APPROPRIATE AND SUFFICIENTLY PROTECTS VICTIMS AND THE COMMUNITY FROM THE

SUBSTANTIAL RISK OF HARM POSED BY THE PERSON; AND

(d) THAT IS OPERATED BY, OR HAS CONTRACTED WITH, CDHS, BHA, OR HCPF TO PROVIDE SERVICES FOR CDHS, BHA, OR HCPF.

(15) (21) "Mental disability" means a substantial disorder of thought, mood, perception, or cognitive ability that results in marked functional disability, significantly interfering with adaptive behavior. "Mental disability" does not include acute intoxication from alcohol or other substances, or any condition manifested only by antisocial behavior, or any substance abuse impairment resulting from recent use or withdrawal. However, substance abuse that results in a long-term, substantial disorder of thought, mood, or cognitive ability may constitute a mental disability.

(16) (22) "Outpatient" means a location outside of the custody of the department CDHS. "Outpatient" does not include a jail, prison, or other detention facility where the defendant is in-custody.

(23) "RESTORABLE" MEANS THERE IS A SUBSTANTIAL PROBABILITY THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

(24) "RESTORABILITY" MEANS THE LEGAL QUESTION OF WHETHER A DEFENDANT IS RESTORABLE OR UNRESTORABLE.

(25) "RESTORABILITY HEARING" MEANS A HEARING TO DETERMINE WHETHER A DEFENDANT WHO IS INCOMPETENT TO PROCEED IS RESTORABLE OR UNRESTORABLE.

(17) (26) "Restoration hearing" means a hearing to determine whether a defendant who has previously been determined to be incompetent to proceed has become competent to proceed.

(18) (27) "Second evaluation" means an A COMPETENCY evaluation requested by the court, the district attorney, or the defendant that is performed by a competency evaluator and that is not performed by or under the direction of, or paid for by, the department CDHS.

(19) (28) "Tier 1" means a defendant:

(a) Who has been ordered to receive inpatient ~~restorative treatment~~ RESTORATION SERVICES;

(b) For whom a competency evaluator has determined either that the defendant:

(I) Appears to have a mental health disorder and, as a result of the mental health disorder, appears to be a danger to THE DEFENDANT'S SELF, A DANGER TO others, or to ~~himself or herself or appears to be~~ gravely disabled; or

(II) Has a mental health disorder; and

(c) For whom, as a result of the determination made pursuant to ~~subsection (19)(b)~~ SUBSECTION (28)(b) of this section, delaying inpatient hospitalization beyond seven days would cause harm to the defendant or others.

~~(20)~~ (29) "Tier 2" means a defendant who has been ordered to receive inpatient ~~restorative treatment~~ RESTORATION SERVICES and who does not meet the criteria to be a tier 1 defendant.

(30) "UNRESTORABLE" MEANS THERE IS NOT A SUBSTANTIAL PROBABILITY THAT A DEFENDANT, WITH RESTORATION SERVICES, WILL ATTAIN COMPETENCY IN THE REASONABLY FORESEEABLE FUTURE.

(31) "VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO PARTICIPATE" MEANS THE DEFENDANT HAS NOT ATTENDED RESTORATION SERVICES OR THE DEFENDANT REFUSES TO TAKE PRESCRIBED MEDICATIONS, ESPECIALLY WHEN THE DEFENDANT INTENDS TO AVOID OR DELAY THE COURT CASE FROM PROCEEDING. "VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO PARTICIPATE" DOES NOT INCLUDE ACTS THAT PRIMARILY RESULT FROM THE BONA FIDE MEDICAL OR MENTAL HEALTH DISORDER FOR WHICH THE DEFENDANT IS INCOMPETENT OR A DEFENDANT'S ATTEMPT TO RAISE A BONA FIDE GOOD FAITH CONCERN ABOUT MEDICATION SIDE EFFECTS AND RISKS.

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

(1) While a defendant is incompetent to proceed, the defendant must

not be tried or sentenced, nor shall the court consider or decide pretrial matters that are not susceptible of fair determination without the personal participation of the defendant. However, a determination that a defendant is incompetent to proceed does not preclude ~~the furtherance of the~~ ADDITIONAL proceedings by the court to consider and decide matters, including a preliminary hearing and motions, that are susceptible of fair determination prior to trial and without the personal participation of the defendant. Those proceedings may be later reopened if, in the discretion of the court, substantial new evidence is discovered after and as a result of the defendant's restoration to competency.

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

(a) If the judge has reason to believe that the defendant is incompetent to proceed, the judge shall suspend the proceeding and determine the competency or incompetency of the defendant pursuant to section 16-8.5-103;

(b) If either the defense or the prosecution has reason to believe that the defendant is incompetent to proceed, either party may file a motion in advance of the commencement of the particular proceeding. A motion to determine competency shall MUST be in writing and contain a certificate of counsel stating that the motion is based on a good faith doubt that the defendant is competent to proceed. The motion must set forth the specific facts that have formed the basis for the motion. The court must SHALL seal the motion. If the motion is made by the prosecution, the prosecution shall provide the defense a copy of the motion. If the motion is made by the defense, the defense shall provide the prosecution notice of the filing of the motion at the time of filing, and if the defense requests a hearing, the defense shall provide the motion to the prosecution at the time the hearing is requested. The motion may be filed after the commencement of the proceeding if, for good cause shown, the defendant's mental disability or developmental disability was not known or apparent before the commencement of the proceeding.

~~(c) Repealed.~~

~~(d)~~ (c) By the public defender liaison, as described in section 21-1-104 (6), or an attorney representing the offender in a parole

proceeding.

(3) [~~Formerly 16-8.5-109 (1)~~] When a determination is to be made as to a defendant's competency THE ISSUE OF WHETHER A DEFENDANT IS INCOMPETENT to proceed IS RAISED, the court shall explain to the defendant the nature and consequences of the proceeding and the DEFENDANT'S rights of the defendant under this section. ~~The defendant,~~ PURSUANT TO SECTION 16-8.5-108 (2) AND (3). If the defendant wishes to contest the question, THE DEFENDANT may request a competency hearing that the court shall grant as a matter of right.

~~(3)~~ (4) Notwithstanding any provision of this article 8.5, to the contrary, the question of whether a convicted person is mentally incompetent to be executed must be raised and determined pursuant to part 14 of article 1.3 of title 18.

~~(4)~~ (5) If a defendant is eligible for referral to the bridges wraparound care program pursuant article 8.6 of this title 16, the court may ask the parties whether the defendant should be referred for participation in the program. With the agreement of the parties, the court may delay making determinations regarding the defendant's competency to allow a bridges wraparound care coordinator to conduct an initial intake of the defendant pursuant to section 16-8.6-108 to determine whether the bridges wraparound care program is appropriate for the defendant.

16-8.5-103. Determination of competency to proceed.

(1) (a) Whenever the question of a defendant's competency to proceed is raised, by either party or on the court's own motion, the court may make a preliminary finding of competency or incompetency to proceed, which is a final determination unless a party to the case objects within seven days after the court's preliminary finding.

(b) On or before the date when a court orders that a defendant be evaluated for competency, a bridges court liaison for the district hired or contracted pursuant to article 95 of title 13 may be assigned to the defendant.

(2) If either party objects to the court's preliminary finding, or if the court determines that it has insufficient information to make a preliminary

finding, the court shall order that the defendant be evaluated for competency by ~~the department~~ CDHS and that ~~the department~~ CDHS prepare a court-ordered report.

~~(3) Within fourteen days after receipt of the court-ordered report, either party may request a hearing or a second evaluation.~~

~~(4) If a party requests a second evaluation, any pending requests for a hearing must be continued until the receipt of the second evaluation report. The report of the expert conducting the second evaluation must be completed and filed with the court within thirty-five days after the court order allowing the second evaluation, unless the time period is extended by the court for good cause. The court shall provide the second evaluation to the parties and the department. The department shall use the second evaluation to ensure that the department complies with its responsibilities, including reviewing and summarizing prior competency opinions as required by section 16-8.5-105 (5)(f). If the second evaluation is requested by the court, it must be paid for by the court.~~

~~(5) (3) If neither party requests a hearing PURSUANT TO SECTION 16-8.5-108 or a second evaluation PURSUANT TO SECTION 16-8.5-111, within the applicable time frame, the court shall enter a final determination, based on the information then available to the court, whether the defendant is or is not competent to proceed.~~

~~(6) If a party makes a timely request for a hearing, the hearing shall be held within thirty-five days after the request for a hearing or, if applicable, within thirty-five days after the filing of the second evaluation report, unless the time is extended by the court after a finding of good cause.~~

~~(7) At any hearing held pursuant to this section, the party asserting the incompetency of the defendant shall have the burden of submitting evidence and the burden of proof by a preponderance of the evidence.~~

~~(8) (4) If the question of the defendant's incompetency to proceed is raised after a jury is impaneled to try the issues raised by a plea of not guilty and the court determines that the defendant is incompetent to proceed or orders a court-ordered competency evaluation, the court may declare a mistrial. Declaration of a mistrial under these circumstances does not~~

constitute jeopardy, nor does it prohibit the trial or sentencing of the defendant for the same offense after the defendant has been found restored to competency.

~~(9)~~ (5) In all proceedings ~~under~~ BROUGHT PURSUANT TO this article 8.5, when competency has been raised by the parole board pursuant to ~~section 16-8.5-102(2)(d)~~ SECTION 17-22.5-403.5 (4)(f), the court shall pay for any evaluation to determine competency pursuant to this section, and the COMPETENCY evaluation must be conducted at the place where the defendant is in custody.

16-8.5-104. Defendant's waiver of privilege.

(1) When a defendant raises the issue of competency to proceed, or when the court determines that the defendant is incompetent to proceed, any claim by the defendant to confidentiality or privilege is deemed waived in the case in which competency is raised and for records or information from any prior criminal case in which the defendant raised the issue of competency or in which the court determined that the defendant was incompetent to proceed. The district attorney, the defense attorney, the bridges court liaison, and the court are granted access, without written consent of the defendant or further order of the court, to:

(a) Reports of competency evaluations, including second evaluations;

(b) Information and documents relating to the competency evaluation that are created by, obtained by, reviewed by, or relied on by an A COMPETENCY evaluator; ~~performing a court-ordered evaluation~~; and

(c) The COMPETENCY evaluator, for the purpose of discussing the competency evaluation.

(2) Upon a request by either party or the court for the information described in subsection (1) of this section, the COMPETENCY evaluator or treatment provider shall provide the information for use in preparing for a COMPETENCY hearing, ~~on competency~~ RESTORABILITY HEARING, or restoration HEARING and for use during ~~such a~~ THE hearing.

~~(3) An evaluator or a facility providing competency evaluation or~~

~~restoration treatment services~~ CDHS, A COMPETENCY EVALUATOR, OR A RESTORATION SERVICE PROVIDER THAT IS PERFORMING WORK pursuant to a court order issued pursuant to this article 8.5 shall provide ~~procedural~~ information to the court, bridges court liaison, district attorney, or defense counsel concerning the defendant's location, the defendant's hospital or facility admission status, the status of ANY COMPETENCY evaluation procedures, and ~~other procedural information relevant to the case~~ THE STATUS OF ANY RESTORATION SERVICES.

(4) ~~Nothing in This section limits~~ DOES NOT LIMIT the court's ability to order that information, in addition to the information described in subsections (1) and (3) of this section, be provided to the COMPETENCY evaluator, or to either party to the case, nor does it limit the information that is available after the written consent of the defendant.

~~(4.5)~~ (5) The court may, upon the request of either party, issue an order to assist a party in accessing, receiving copies of, or discussing with ~~an~~ A COMPETENCY evaluator or treatment provider information or records that the party has the right to access pursuant to the defendant's waiver of privilege. If a party requests ~~such~~ an order, the court shall allow the opposing party to make any legal objection, including whether the requested information is within the scope of the defendant's waiver of privilege, and SHALL consider any requests for protective orders prior to issuing the court order. This section does not limit the court's ability to order information be provided to a party with the written consent of the defendant.

~~(5)~~ (6) The court shall order both the prosecutor and the defendant or the defendant's counsel to exchange the names, addresses, reports, and statements of each physician or psychologist who has examined or treated the defendant for competency.

~~(6)~~ (7) Statements made by the defendant in the course of any COMPETENCY evaluation must be protected in accordance with ~~section 16-8.5-108~~ SECTION 16-8.5-107.

16-8.5-105. Competency evaluations, locations, time frames, and report.

(1) (a) (I) The court shall order that the competency evaluation be conducted on an outpatient basis or, if the defendant is unable to post the

monetary condition of bond or is ineligible to be released on bond, at the place where the defendant is in-custody, except as provided in subsection (1)(b) of this section. WHEN THE COURT ORDERS A COMPETENCY EVALUATION, THE COURT SHALL ALSO ORDER THE APPROPRIATE PARTY TO TRANSMIT THE COLLATERAL MATERIALS TO CDHS WITHIN TWO BUSINESS DAYS AFTER THE ORDER FOR A COMPETENCY EVALUATION, WITH A CERTIFICATE OF SERVICE OF THE COLLATERAL MATERIALS PROVIDED TO THE COURT AND OTHER NECESSARY PARTIES. IF THE PARTIES ARE COMMUNICATING WITH THE COURT BY ELECTRONIC MEANS AND THE ORDER FOR A COMPETENCY EVALUATION IS ISSUED BY ELECTRONIC MEANS, CDHS SHALL ACCEPT THE ORDER BY THE SAME ELECTRONIC MEANS.

(II) ~~If the department~~ CDHS conducts the COMPETENCY evaluation on an in-custody basis, ~~the department~~ CDHS shall begin the COMPETENCY evaluation as soon as practicable, BUT SHALL COMPLETE THE COMPETENCY EVALUATION NO LATER THAN TWENTY-ONE DAYS after ~~the department's receipt of a~~ RECEIVING THE COLLATERAL MATERIALS AND court order directing the COMPETENCY evaluation ~~If the evaluation is conducted on an in-custody basis, the department shall complete the evaluation no later than twenty-one days after receipt of the order and the collateral materials~~ BE COMPLETED.

(III) If CDHS CONDUCTS the COMPETENCY evaluation ~~is conducted~~ on an out-of-custody basis, ~~the department~~ CDHS shall complete the COMPETENCY evaluation within forty-two days after receipt of the order and THE collateral materials, unless the court extends the time upon a showing of good cause. THE COURT SHALL DETERMINE THE TYPE OF BOND AND THE CONDITIONS OF RELEASE AFTER CONSIDERATION OF THE PRESUMPTIONS AND FACTORS ENUMERATED IN ARTICLE 4 OF THIS TITLE 16, WHICH INCLUDE CONSIDERATION OF THE INFORMATION RECEIVED FROM ANY PRETRIAL SERVICES PROGRAM PURSUANT TO SECTION 16-4-106 AND ANY INFORMATION PROVIDED BY THE BRIDGES COURT LIAISON HIRED OR CONTRACTED PURSUANT TO ARTICLE 95 OF TITLE 13. AS A CONDITION OF ANY BOND, THE COURT SHALL REQUIRE THE DEFENDANT'S COOPERATION WITH THE COMPETENCY EVALUATION ON AN OUTPATIENT BASIS. IN SETTING THE BOND, THE COURT SHALL NOT CONSIDER THE NEED FOR THE DEFENDANT TO RECEIVE AN EVALUATION PURSUANT TO THIS ARTICLE 8.5 AS A FACTOR IN DETERMINING ANY MONETARY CONDITION OF BOND.

~~(H) At the time any evaluation is ordered, the court shall order that~~

~~the collateral materials be transmitted to the department within twenty-four hours after the order by the appropriate party with a certificate of service of the materials provided to the court and other necessary parties by the party ordered to transmit the collateral materials.~~

~~(H) The court shall determine the type of bond and the conditions of release after consideration of the presumptions and factors enumerated in article 4 of this title 16, which include consideration of the information received from any pretrial services program pursuant to section 16-4-106 and any information provided by the bridges court liaison hired or contracted pursuant to article 95 of title 13. As a condition of any bond, the court shall require the defendant's cooperation with the competency evaluation on an outpatient and out-of-custody basis. In setting the bond, the court shall not consider the need for the defendant to receive an evaluation pursuant to this article 8.5 as a factor in determining any monetary condition of bond.~~

~~(IV) Nothing in This subsection (1)(a) limits the availability of DOES NOT LIMIT A PERSON'S ABILITY TO SEEK a court-ordered evaluation for a person with a mental health disorder or invokes TO INITIATE the procedure for an emergency mental health hold set forth in PURSUANT TO section 27-65-106.~~

~~(b) (I) Notwithstanding the provisions of subsection (1)(a) of this section, the court may order the defendant placed in the department's CDHS's custody for the time necessary to conduct the AN inpatient competency evaluation if:~~

~~(H) (A) The department CDHS provides a recommendation to the court, after consultation CONSULTING with the defendant and review of REVIEWING any clinical or collateral materials, that conducting the competency evaluation on an inpatient basis is clinically appropriate;~~

~~(H) (B) The court finds that the competency evaluation and report provided by the department CDHS is insufficient because it does not meet statutory requirements pursuant to subsection (5) of this section or that two or more conflicting competency evaluations and reports have been completed; or~~

~~(H) (C) Extraordinary circumstances relating to the case or the~~

defendant make conducting the competency evaluation on an inpatient basis necessary and appropriate.

~~(IV) and (V) (Deleted by amendment, L. 2019.)~~

~~(b.3)~~ (II) Upon entry of a court order pursuant to ~~subsection (1)(b)~~ SUBSECTION (1)(b)(I) of this section, ~~the department~~ CDHS has the same authority with respect to custody as provided for in section 16-8-105.5 (4).

~~(b.5)~~ (III) When the court orders an inpatient COMPETENCY evaluation, the court shall advise the defendant that restoration services may commence immediately if the COMPETENCY evaluation ~~concludes~~ OPINES that the defendant is incompetent to proceed, unless either party objects at the time of the advisement, or within seventy-two hours after the receipt of the written REPORT OF THE COMPETENCY evaluation submitted to the court. The court shall record any objection to the order of commitment to ~~the department~~ CDHS.

~~(b.6)~~ If the evaluator concludes that the defendant is incompetent to proceed and that inpatient restoration services are not clinically appropriate, ~~the department shall detail the outpatient and out-of-custody restoration services available to the defendant.~~

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

~~(c) (Deleted by amendment, L. 2019.)~~

(c) [Formerly 16-8.5-105 (1)(b.6)] If the COMPETENCY evaluator ~~concludes~~ OPINES that the defendant is incompetent to proceed and that inpatient restoration services are not clinically appropriate, ~~the department~~ CDHS shall detail the outpatient ~~and out-of-custody~~ restoration services available to the defendant.

(d) (I) If a defendant is in ~~the department's~~ CDHS's custody for purposes of the competency evaluation ordered pursuant to this article 8.5

and the defendant has completed the competency evaluation and the COMPETENCY evaluator has ~~concluded~~ OPINED that:

(A) The defendant is competent to proceed, ~~the department~~ CDHS may return the defendant to a county jail or to the community, as determined by the defendant's bond status; ~~If the evaluator has concluded that~~

(B) The defendant is incompetent to proceed and that inpatient restoration services are not clinically appropriate, and outpatient restoration services are available to the defendant in the community, ~~the department~~ CDHS shall notify the court and the bridges court liaison BY ELECTRONIC MEANS, and ~~the department~~ CDHS shall develop a discharge plan and a plan for community-based restoration services in coordination with the community restoration services provider.

(II) The court shall hold a hearing within seven days after receiving the notice PURSUANT TO SUBSECTION (1)(d)(I)(B) OF THIS SECTION, at which ~~the department~~ CDHS shall provide to the court the plan for community-based restoration services, and the court may enter any appropriate orders regarding the custody of the defendant and the defendant's bond status. ~~The department~~ CDHS shall advise the defendant of the date and time of the court hearing. If ~~the department~~ CDHS is returning the defendant to a county jail, the county sheriff in the jurisdiction where the defendant must return shall take custody of the defendant within seventy-two hours after receiving notification from ~~the department~~ CDHS that the defendant's COMPETENCY evaluation is completed. At the time ~~the department~~ CDHS notifies the sheriff, ~~the department~~ CDHS shall also notify the court and the bridges court liaison that ~~the department~~ CDHS is returning the defendant to the custody of the jail.

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

(2) The defendant ~~shall~~ MUST cooperate with the competency evaluator and with other personnel providing ancillary services such as testing and radiological services. Statements made by the defendant in the course of the COMPETENCY evaluation ~~shall be~~ ARE protected as provided

in ~~section 16-8.5-108~~ SECTION 16-8.5-107. If the defendant does not cooperate with the competency evaluator and other personnel providing ancillary services and the lack of cooperation is not the result of a developmental disability or a mental disability, the fact of the defendant's noncooperation with the competency evaluator and other personnel providing ancillary services may be admissible in the defendant's competency HEARING, RESTORABILITY HEARING, or restoration hearing to rebut any evidence introduced by the defendant with regard to the defendant's competency.

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

(4) THE COMPETENCY EVALUATOR SHALL PREPARE a written report of the COMPETENCY evaluation, ~~must be prepared and the department CDHS shall electronically deliver the report to the court clerk who ordered it. The clerk shall provide a copy of the report to the prosecuting attorney, the bridges court liaison, and the defense counsel using an e-filing system~~ AS ORDERED USING AN E-FILING SYSTEM RECORD IN THE MATTER. Without reducing any other timelines set forth in this article 8.5, the competency evaluator shall provide the written report to the court within fourteen days after finishing meeting, or attempting to meet, with the defendant to evaluate the defendant's competency.

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

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

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

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

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

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

(I) (A) ~~An THE COMPETENCY EVALUATOR'S opinion as to whether there is a substantial probability that the defendant, with restoration services, will attain competency within the reasonably foreseeable future; and~~ THE DEFENDANT IS RESTORABLE OR UNRESTORABLE. AS PART OF FORMING THE OPINION, THE COMPETENCY EVALUATOR SHALL USE DUE DILIGENCE IN REVIEWING AND SUMMARIZING ANY PRIOR COMPETENCY OPINIONS REGARDING THE DEFENDANT. IF THE OPINION REGARDING RESTORABILITY DIFFERS FROM OPINIONS IN PAST EVALUATIONS OF THE DEFENDANT, THE COMPETENCY EVALUATOR SHALL EXPLAIN THE BASIS FOR THE COMPETENCY EVALUATOR'S DIFFERING OPINIONS.

(B) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, AS DEFINED IN SECTION 27-65-102, IF THE OPINION IS THAT THE DEFENDANT IS UNRESTORABLE AND THE DEFENDANT IS EITHER CHARGED WITH HOMICIDE PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE, AS

DEFINED IN SECTION 18-1.3-406 (2); OR A FELONY THAT CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102; OR THE DISTRICT ATTORNEY PROVIDED NOTICE THAT THE DISTRICT ATTORNEY IS AWARE OF AN ACT DESCRIBED IN SECTION 16-8.5-118 (6)(b)(I) THAT IS NOT CHARGED IN THE CURRENT CASE THE DEFENDANT IS ALLEGED TO HAVE COMMITTED AND IS OR WAS CHARGED IN A CRIMINAL CASE IN COLORADO IN WHICH COMPETENCY WAS RAISED.

~~(B)~~ (C) If possible, when the defendant is diagnosed with a moderate to severe ~~intellectual or developmental disability acquired or traumatic brain injury, or dementia~~ OR A NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION 25.5-10-501, which either alone or together with a co-occurring mental ~~illness~~ DISABILITY affects the defendant's ability to gain or maintain competency, ~~the evaluator shall provide an opinion as to whether there is a substantial probability that the defendant with restoration services will attain competency within the reasonably foreseeable future.~~ ~~When~~ AND the opinion is that ~~there is a substantial probability of attaining competency~~ THE DEFENDANT IS RESTORABLE, the COMPETENCY evaluator shall specifically state whether the COMPETENCY evaluator believes there are unique or different services outside the standard competency restoration curriculum developed by ~~the department~~ CDHS that the defendant may need in order to be restored to competency within the reasonably foreseeable future.

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

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

~~(g)~~ (e) The competency evaluator's opinion as to whether the defendant meets the criteria for a ~~tier I~~ TIER 1 or ~~tier II~~ TIER 2 designation;

as defined in section ~~16-8.5-101 (19) and (20)~~; and

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

(I) Meets the criteria for an emergency mental health hold pursuant to section 27-65-106;

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

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

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

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

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

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

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

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

(6) Whenever a competency evaluation is ordered upon the request of either party, the court ~~may~~ SHALL notify the county attorney ~~or district attorney~~ required to conduct proceedings pursuant to ~~section 27-65-113(6)~~ SECTION 27-65-113.5 for the county in which the charges are pending, and the bridges court liaison hired or contracted pursuant to article 95 of title 13, of all court dates for return of the COMPETENCY EVALUATION report. ~~on competency to ensure that all parties are on notice of the expected need for coordinated services and planning with consideration of possible civil certification.~~

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

(8) A competency evaluator is not liable for damages in any civil action for failure to warn or protect a specific person or persons, including

those identifiable by their association with a specific location or entity, against the violent behavior of a defendant being evaluated by the competency evaluator, and ~~any~~ THE competency evaluator must not be held civilly liable for failure to predict ~~such~~ violent behavior, except ~~where~~ WHEN the defendant has communicated to the competency evaluator a serious threat of imminent physical violence against a specific person or persons, including those identifiable by their association with a specific location or entity.

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

(1) If a defendant committed to the custody of ~~the department~~ CDHS for A COMPETENCY evaluation, or for restoration ~~treatment~~ SERVICES, meets the constitutional requirements for the administration of involuntary medication, the defendant's treating physician may petition the court for an order requiring that the defendant accept the ~~treatment~~ MEDICATION or, alternatively, that the medication be forcibly administered to the defendant. ~~The department~~ CDHS shall, prior to the hearing on the petition, deliver a copy of the petition to the court that committed the defendant to the custody of ~~the department~~ CDHS, the prosecuting attorney, and the defendant's legal representation in the criminal case, if ~~such~~ LEGAL representation exists, and to the defendant directly if the defendant does not have legal representation. A physician shall assess and document the defendant's mental status prior to the administration of medication.

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

(3) ~~If the committing court elects to transfer venue for medication hearings to the court of the jurisdiction where the defendant is located~~ IF A HEARING FOR ADMINISTRATION OF INVOLUNTARY MEDICATION IS HEARD IN A DIFFERENT COUNTY THAN THE COUNTY WHERE THE COMMITTING COURT IS LOCATED, the committing county shall reimburse the county where the

proceeding is heard for the reasonable costs incurred in conducting the proceeding. Alternatively, the district attorney OR COUNTY ATTORNEY for the committing county ~~or in any county or any city and county having a population exceeding fifty thousand people, the county attorney for the committing county,~~ may prosecute the proceeding as the proponent of the physician's petition.

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

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

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

~~(b)~~ (2) Evidence acquired directly or indirectly for the first time from a communication derived from the defendant's mental processes during the course of a competency evaluation or involuntary medication proceeding is admissible at any sentencing hearing held pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.3-1302 for an offense charged prior to July 1, 2020, or

pursuant to section 18-1.4-102 only to prove the existence or absence of any mitigating factor.

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

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

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

(b) (I) A REQUEST FOR A COMPETENCY HEARING IS GOVERNED BY SECTION 16-8.5-109.

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

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

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

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

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

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

(b) **[Formerly 16-8.5-109 (3)]** The court may examine or cross-examine ~~any witness~~ WITNESSES called by the defendant or prosecuting attorney ~~at a competency hearing~~ and may summon and examine witnesses on the court's own motion.

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

(a) To be present in person;

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

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

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

(4) **[Formerly 16-8.5-108 (2)]** ~~In any~~ AT A COMPETENCY hearing, ~~concerning competency to proceed or restoration to competency~~ RESTORABILITY HEARING, OR RESTORATION HEARING, competency evaluators and other experts may testify as to the conclusions reached from their examination of hospital records, laboratory reports, X rays, electroencephalograms, and psychological test results if the material that the

COMPETENCY evaluators or experts examined in reaching their conclusions is produced at the time of the hearing. ~~Nothing in This section prevents~~ DOES NOT PREVENT the parties from obtaining the information authorized by PURSUANT TO section 16-8.5-104 prior to the hearing.

(5) [Formerly 16-8.5-114 (3)] Evidence of any determination as to the defendant's competency, ~~or incompetency~~ RESTORABILITY, OR RESTORATION is not admissible on the issues raised by a plea of not guilty, not guilty by reason of insanity, or, for offenses that occurred before July 1, 1995, the affirmative defense of impaired mental condition.

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

(1) **Competency hearing.**

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

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

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

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

an initial intake of the defendant pursuant to section 16-8.6-108 to determine whether the bridges wraparound care program is appropriate for the defendant, or, EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, the court may order restoration services pursuant to ~~subsection (2) of this section~~ SECTION 16-8.5-110.

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

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

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

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

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

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

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

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

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

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

(b) If the ~~court determines the defendant is incompetent to proceed~~ and DEFENDANT is in-custody on a CLASS 1 misdemeanor, ~~petty offense, or traffic offense~~ A MISDEMEANOR DESCRIBED IN PART 13 OF ARTICLE 4 OF TITLE 42, OR AN OFFENSE CHARGED PURSUANT TO SECTION 42-4-1402 (2)(c), the court ~~must~~ SHALL set a hearing on bond within seven days after the court's final determination that the defendant is incompetent to proceed. At the bond hearing, there is a presumption that the court ~~shall~~ order a personal recognizance bond and enter an order for restoration services pursuant to

~~subsection (2)(a)~~ SUBSECTION (1)(a) of this section. In order to deny the defendant a personal recognizance bond and enter an order to commit the defendant for inpatient restoration services pursuant to ~~subsection (2)(c)~~ SUBSECTION (1)(c) of this section, the court ~~shall~~ MUST make findings of fact that extraordinary circumstances exist to overcome the presumption of release by clear and convincing evidence. If the court denies a personal recognizance bond, the court ~~must~~ SHALL notify ~~the department~~ CDHS of the specific findings the court made to deny the personal recognizance bond. The judicial department shall develop a form for a court to use to notify ~~the department~~ CDHS of the court's findings that are required by this ~~subsection (2)(b)~~ SUBSECTION (1)(b).

(c) If the court finds that the defendant is not eligible for release from custody or not able to post the monetary condition of bond, or the court approves a recommendation from ~~the department~~ CDHS that inpatient restoration services are clinically appropriate, the court shall commit the defendant to the custody of ~~the department~~ CDHS and order inpatient restoration services.

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

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

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

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

~~(III) If the department determines that the department is unable, within a reasonable time, to provide restoration services on an outpatient basis, the department shall notify the court within fourteen days after the department's determination, at which point the court shall review the case~~

~~and determine what interim mental health services the department or a community provider can provide to the defendant. If a bridges court liaison is appointed, the department shall report to the bridges court liaison every twenty-eight days concerning the availability of restoration services on an outpatient basis to the defendant.~~

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

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

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

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

(I) The executive director shall designate a state facility or facilities where the defendant is held for care and psychiatric treatment and receives restoration services, and THE EXECUTIVE DIRECTOR may EFFECTUATE THE DEFENDANT'S transfer ~~the defendant~~ from one facility to another if, in the opinion of the EXECUTIVE director, doing so is in the best interest of proper care, custody, and treatment of the defendant or the protection of the public or the personnel of the facilities in question. ~~The department~~ CDHS shall

provide restoration services at an appropriate inpatient program. ~~The department~~ CDHS shall notify the court, the bridges court liaison, the prosecuting attorney, and the defense attorney when the defendant is placed or moved to a different program.

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

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

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

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

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

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

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

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

(I) Assist the defendant with any necessary transportation;

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

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

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

(d) If the defendant is discharged from ~~the department's~~ CDHS's custody after receiving inpatient restoration services and the defendant is to be returned to the custody of the county jail, ~~the department~~ CDHS shall:

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

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

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

16-8.5-111. Second evaluation.

(1) [Formerly 16-8.5-106 (1)] If a defendant wishes to be examined by a competency evaluator of ~~his or her~~ THE DEFENDANT'S own choice in connection with any proceeding under this ~~article~~ ARTICLE 8.5, the court,

upon timely motion, shall ~~order that~~ ENTER ANY ORDERS NECESSARY FOR the competency evaluator chosen by the defendant TO be given reasonable opportunity to conduct ~~the~~ A second evaluation. ~~in accordance with sections 16-8.5-103 and 16-8.5-111.~~

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

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

(b) WHETHER THE DEFENDANT IS RESTORABLE; AND

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

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

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

(5) [~~Formerly 16-8.5-107~~] ~~In all proceedings brought pursuant to this article 8.5, the court shall appoint a competency evaluator or an attorney for the defendant at the state's expense upon motion of the defendant with proof that the defendant is indigent and without money to employ a competency evaluator or attorney to which the defendant is entitled pursuant to this article 8.5. The court shall pay for a second evaluation if a second evaluation is requested by an indigent defendant.~~

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

16-8.5-112. [~~Formerly 16-8.5-116~~] Review hearing to determine competency - report.

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

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

(b) At least ten days before each review HEARING, the individual or entity evaluating the defendant COMPETENCY EVALUATOR shall provide the court with a report describing THAT INCLUDES:

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

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

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

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

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

~~(IV.5) Whether the defendant has an intellectual and developmental disability, as defined in section 25.5-10-202, and if the defendant does have such a disability, whether the defendant may be eligible for any additional services pursuant to article 10 of title 25.5 or article 10.5 of title 27.~~

(V) WHETHER THE DEFENDANT MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5 AND, IF THE DEFENDANT MEETS THE CRITERIA, WHETHER THE COMPETENCY EVALUATOR BELIEVES THE DEFENDANT COULD BE TREATED ON AN OUTPATIENT BASIS PURSUANT TO SECTION 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, IN ASSESSING WHETHER THE DEFENDANT IS A DANGER TO THE DEFENDANT'S SELF, A DANGER TO OTHERS, OR GRAVELY DISABLED, AS THOSE TERMS ARE DEFINED IN SECTION 27-65-102, THE COURT, COMPETENCY EVALUATOR, OR PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102, SHALL NOT RELY ON THE FACT THAT THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A

MEDICAL FACILITY TO ESTABLISH THAT THE DEFENDANT IS NOT A DANGER TO THE DEFENDANT'S SELF, A DANGER TO OTHERS, OR GRAVELY DISABLED. IF IT IS THE COMPETENCY EVALUATOR'S OPINION THAT THE DEFENDANT MEETS CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO REQUEST A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT OF THE DEFENDANT.

(VI) WHETHER THE DEFENDANT HAS A DEVELOPMENTAL DISABILITY, AND IF THE DEFENDANT DOES HAVE A DEVELOPMENTAL DISABILITY, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH DISORDER, AS DEFINED IN SECTION 27-65-102, AND WHETHER THE DEFENDANT MAY BE ELIGIBLE FOR ANY ADDITIONAL SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR ARTICLE 10.5 OF TITLE 27, OR MAY MEET THE CRITERIA FOR A CIVIL PROCEEDING FOR IMPOSITION OF A LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION 25.5-10-216. IF THE COMPETENCY EVALUATOR'S OPINION IS THAT THE DEFENDANT MAY MEET THE CRITERIA, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO PETITION THE COURT FOR IMPOSITION OF A LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT.

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

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

~~(VI) Repealed:~~

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

~~(VIII)~~ (X) A summary of the observations of the defendant by the ~~treating~~ TREATMENT staff at the facility or other location where inpatient RESTORATION services were delivered.

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

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

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

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

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

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

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

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

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

(B) THE PROSECUTION REQUESTED AN OPINION REGARDING

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

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

~~(4) Repealed.~~

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

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

16-8.5-113. Restorability hearing - burdens of proof - determination - dismissal.

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

(b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND A COMPETENCY EVALUATOR OPINES THAT THE DEFENDANT IS UNRESTORABLE,

AND EITHER A RESTORABILITY HEARING HAS NOT BEEN HELD OR ONE HUNDRED EIGHTY-TWO DAYS HAVE PASSED SINCE THE DEFENDANT BEGAN RECEIVING RESTORATION SERVICES AFTER A FINDING OF RESTORABILITY, THE COURT SHALL, UPON MOTION OF A PARTY, SET A RESTORABILITY HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION 16-8.5-108 (1)(d). A RESTORABILITY HEARING MAY BE COMBINED WITH A RESTORATION HEARING, IF APPROPRIATE.

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

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

(a) THE DEFENDANT HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT IS UNRESTORABLE IF ANY CHARGE IN ANY OF THE DEFENDANT'S PENDING CRIMINAL CASES IN THE STATE OF COLORADO INCLUDE A CRIME SUBJECT TO THE "VICTIM RIGHTS ACT", SECTION 24-4.1-302 (1); UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404; OR INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302; AND

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

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

(a) ANY DIAGNOSED MENTAL DISORDER OR DEVELOPMENTAL DISABILITY GIVING RISE TO THE DEFENDANT'S INCOMPETENCY, INCLUDING

AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-10-202, OR NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION 25.5-10-501, AND WHETHER THE DIAGNOSED MENTAL DISORDER OR DEVELOPMENTAL DISABILITY CAN BE TREATED, MITIGATED, OR MANAGED IN A WAY THAT WOULD ALLOW THE DEFENDANT TO PROGRESS TOWARD BECOMING COMPETENT TO PROCEED;

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

(c) THE EXPERIENCES, OBSERVATIONS, AND OPINIONS OF QUALIFIED EXPERTS, INCLUDING MEDICAL PROFESSIONALS, TREATMENT PROVIDERS, AND RESTORATION SPECIALISTS;

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

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

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

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

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

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

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

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

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

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

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

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

16-8.5-114. Restoration hearing - burdens of proof - determination.

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

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

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

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

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

(2) [~~Formerly 16-8.5-113 (2)~~] ~~Within fourteen days after receipt of a report from the department or other court-approved competency evaluator certifying that the defendant is competent to proceed, Either party may request a RESTORATION hearing or a second evaluation The court shall determine whether to allow the second evaluation or proceed to a hearing on competency. If the second evaluation is requested by the court or by an indigent defendant, the evaluation must be paid for by the court~~ PURSUANT TO SECTION 16-8.5-111.

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

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

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

16-8.5-115. Procedure after restoration hearing.

(1) [Formerly 16-8.5-114 (1)] If a defendant is found to be restored to competency after the RESTORATION hearing held pursuant to ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall resume the criminal proceedings or order the sentence carried out. The court shall credit any time the defendant spent in confinement while committed pursuant to ~~section 16-8.5-111~~ SECTION 16-8.5-110 against any term of imprisonment imposed after restoration to competency.

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

16-8.5-116. Dismissal of charges after reaching maximum time

permitted to restore defendant - exceptions - rules.

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

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

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

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

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

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

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

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

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

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

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

(a) The defendant is found incompetent to proceed;

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

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

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

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

(8) [Formerly 16-8.5-116.5 (14)] If a defendant is in custody and ~~the~~

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

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

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

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

(1) IF THE COURT DETERMINES THERE IS A SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE FOUND UNRESTORABLE PURSUANT TO SECTION 16-8.5-113, THE DEFENDANT WILL REACH THE MAXIMUM TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION 16-8.5-116, OR THE COURT WILL ORDER THE INITIATION OF A CIVIL PROCEEDING PURSUANT TO THIS SECTION, THE COURT SHALL, UNLESS THE COURT FINDS THERE IS AN ACCEPTABLE CARE COORDINATION ALTERNATIVE ALREADY IN PLACE, APPOINT A BRIDGES COURT LIAISON TO PROVIDE SERVICES AUTHORIZED IN ARTICLE 95 OF TITLE 13, WHICH MAY INCLUDE:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25.5-10-216; AND

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

(A) THE DISTRICT ATTORNEY;

(B) THE COUNTY ATTORNEY;

(C) A GUARDIAN, IF ONE IS APPOINTED;

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

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

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

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

(A) WHETHER A CIVIL PROCEEDING IS PENDING AGAINST THE DEFENDANT AND, IF SO, THE DATE AND TIME OF THE CIVIL PROCEEDING AND THE FINAL DISPOSITION OF THE CIVIL PROCEEDING, REGARDLESS OF WHETHER THE CIVIL PROCEEDING IS CONFIDENTIAL OR CLOSED TO THE PROSECUTING ATTORNEY OR THE DEFENDANT'S ATTORNEY IN THE CRIMINAL CASE; AND

(B) WHETHER THE COURT PREVIOUSLY ORDERED CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109,

OR 27-65-109.5, CERTIFICATION FOR LONG-TERM CARE AND TREATMENT PURSUANT TO SECTION 27-65-110, PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION 25.5-10-216.

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

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

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

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

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

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

(I) THE DISTRICT ATTORNEY;

(II) THE COUNTY ATTORNEY;

(III) THE APPOINTED EMERGENCY GUARDIAN;

(IV) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL WHO OPINED PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION THAT THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING IF THE PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S OPINION IS NOT THE RESULT OF WORK PERFORMED AS PART OF EMPLOYMENT OR A CONTRACT WITH THE BHA OR WITH CDHS; OR

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

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

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

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

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

(II) THE COURT FINDS GOOD CAUSE; AND

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

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

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

(II) THE COURT FINDS GOOD CAUSE; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16-8.5-118. Civil commitment and enhanced protective placement for incompetent and unrestorable defendants - report - repeal.

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

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

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

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

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

(III) ORDER CDHS TO IDENTIFY AN APPROPRIATE PROVIDER AND PLACEMENT FOR THE DEFENDANT IN THE EVENT A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT IS GRANTED AND TO KEEP THE COURT INFORMED IN WRITING OF AVAILABLE PLACEMENT OPTIONS.

(2) AT ANY TIME FOLLOWING THE PROSECUTION'S WRITTEN NOTICE PROVIDED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION AND UPON REQUEST OF THE DEFENDANT, THE BRIDGES COURT LIAISON, OR CDHS, THE COURT MAY APPOINT AN EMERGENCY GUARDIAN PURSUANT TO SECTION

16-8.5-117 (2).

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

(4) (a) THE TRIAL MUST BE CIVIL IN NATURE BUT CONDUCTED IN ACCORDANCE WITH THE COLORADO RULES OF EVIDENCE. A DISTRICT COURT JUDGE OR, WITH THE CONSENT OF BOTH PARTIES, A COUNTY COURT JUDGE OR A MAGISTRATE ASSIGNED BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT SHALL SERVE AS THE FINDER OF FACT.

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

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

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

(5) (a) THE DEFENDANT MAY REQUEST TO STIPULATE THAT THE COURT ORDER CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT

RATHER THAN CONTESTING THE MATTER AT A TRIAL. THE COURT SHALL ALLOW THE DEFENDANT TO STIPULATE TO THE COURT ORDERING A CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT ONLY IF:

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

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

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

(IV) THE PARTIES ESTABLISH A FACTUAL BASIS.

(b) ANY STIPULATION OR ADMISSION MADE AS PART OF THE STIPULATION TO IMPOSE A CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT IS NOT ADMISSIBLE IN ANY FUTURE CRIMINAL PROSECUTION TO PROVE ANY ACT ALLEGED IN THE WRITTEN NOTICE SEEKING THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT.

(6) AT TRIAL, THE PROSECUTION SHALL PROVE BY CLEAR AND CONVINCING EVIDENCE THAT:

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

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

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

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

(C) A FELONY THAT CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS

DEFINED IN SECTION 16-22-102; AND

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

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

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

(I) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT SHALL NOT CONSIDER, A DEFENSE BASED ON A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, INCLUDING A MENTAL DISEASE OR DEFECT, AS DEFINED IN SECTION 16-8-102, INCLUDING, BUT NOT LIMITED TO, A DEFENSE RAISED PURSUANT TO ARTICLE 8 OF TITLE 16 OR ANY DEFENSE THAT IS AN ELEMENT-NEGATING TRAVERSE BASED ON A MENTAL DISEASE OR DEFECT;

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

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

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

(c) THE PROSECUTION SHALL NOT ALLEGE, AND THE COURT SHALL NOT CONSIDER, AN ACT OR SERIES OF ACTS FOR WHICH THE DEFENDANT WAS ACQUITTED OR CONVICTED AS THE QUALIFYING ACTS SATISFYING THE CRITERIA LISTED IN SUBSECTION (6)(b) OF THIS SECTION, BUT THE COURT MAY ADMIT EVIDENCE OF AN ACT OR A SERIES OF ACTS FOR WHICH THE

DEFENDANT WAS ACQUITTED OR CONVICTED IF OTHERWISE ADMISSIBLE PURSUANT TO THE COLORADO RULES OF EVIDENCE AND RELEVANT TO THE CRITERIA LISTED IN SUBSECTION (6)(a) OR (6)(c) OF THIS SECTION.

(d) (I) PRIOR TO TRIAL, THE COURT SHALL FIND THAT THE PROSECUTION HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF THIS SECTION IF AN ACT ALLEGED TO SATISFY THE REQUIREMENT OF SUBSECTION (6)(b)(I) OF THIS SECTION IS:

(A) CHARGED IN THE CURRENT CASE; OR

(B) CHARGED IN ANOTHER PENDING CASE IN THE SAME JURISDICTION AND COMPETENCY WAS RAISED IN THE CASE.

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

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

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

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

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

(c) (I) IF THE DEFENDANT CONTESTS THAT THE DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT SHALL REVIEW THE RECORD AND DETERMINE IF THE DEFENDANT OR DEFENSE COUNSEL RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR FAILED TO OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT.

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

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

(d) AT TRIAL, THE COURT:

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

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

(III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY.

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

OR AT THE STATE HOSPITAL.

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

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

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

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

(III) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT TO AN APPROPRIATE CIVIL COURT WITH JURISDICTION AND DISMISS THE CASE IN ACCORDANCE WITH SUBSECTION (14) OF THIS SECTION.

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

(12) (a) IF THE COURT FINDS THAT THE PROSECUTION MET THE REQUIREMENTS DESCRIBED IN SUBSECTION (6) OF THIS SECTION OR IF THE COURT ACCEPTS THE DEFENDANT'S STIPULATION TO CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT, THE COURT SHALL MAKE A FINDING OF THE DEFENDANT'S PRIMARY DIAGNOSIS THAT CONSTITUTES THE MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY. THE COURT SHALL ORDER THE DEFENDANT CIVILLY COMMITTED TO THE LEGAL CUSTODY OF CDHS AND SUPERVISED PURSUANT TO SECTION 27-65-201, UNLESS THE DEFENDANT'S

PRIMARY DIAGNOSIS IS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, IN WHICH CASE, THE COURT SHALL ORDER AN ENHANCED PROTECTIVE PLACEMENT AND LEGAL CUSTODY OF THE DEFENDANT TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND SUPERVISED PURSUANT TO SECTION 25.5-10-507. AT ANY TIME PRIOR TO TRANSFERRING JURISDICTION TO A CIVIL COURT, THE COURT MAY, UPON A RECOMMENDATION FROM CDHS, CHANGE THE DESIGNATION OF THE PRIMARY DIAGNOSIS AND CONVERT THE ORDER TO CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT, AS APPROPRIATE, BASED ON THE DETERMINATION OF CDHS.

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

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

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

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

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

DEFENDANT.

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

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

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

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

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

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

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

(A) THE DEFENDANT'S STATEMENTS AND WHETHER THE DEFENDANT LACKS INSIGHT INTO THE DEFENDANT'S MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY;

(B) THE DEFENDANT'S CLINICAL DIAGNOSIS AND PROGNOSIS, INCLUDING ANY OPINIONS THAT THE DEFENDANT AND THE DEFENDANT'S

CURRENT MENTAL STATE AND BEHAVIORS POSE RISKS TO OTHERS;

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

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

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

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

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

(H) WHETHER THE DEFENDANT OPPOSES THE PLACEMENT;

(I) WHETHER COMMUNITY-BASED PLACEMENT CAN BE REASONABLY ACCOMMODATED;

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

(K) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING PROFESSIONALS.

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

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

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

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

(g) IF CDHS DOES NOT PROPOSE PLACING THE DEFENDANT INTO INPATIENT CARE AND CDHS HAS NOT IDENTIFIED ANY OTHER APPROPRIATE PLACEMENT WITH SUFFICIENT TIME TO REVIEW AND PLACE THE DEFENDANT WITHIN THE TIME FRAME SET FORTH IN SUBSECTION (11)(b) OF THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS.

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

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

(I) THE COURT, THE DISTRICT ATTORNEY, AND CDHS SHALL

TRANSMIT ALL NECESSARY INFORMATION, INCLUDING THE DEFENDANT'S MEDICAL RECORDS, COMPETENCY EVALUATIONS, MATERIALS USED DURING THE COMPETENCY PROCESS, AND RESTORATION RECORDS, TO THE COUNTY ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER FOR PLACEMENT. THE DISTRICT ATTORNEY AND CDHS SHALL PROVIDE ADDITIONAL NECESSARY INFORMATION UPON REQUEST OF THE COUNTY ATTORNEY.

(II) THE COURT SHALL, UNLESS OTHER APPROPRIATE TRANSPORTATION HAS BEEN APPROVED BY THE COURT, ORDER THE SHERIFF TO SECURELY TRANSPORT THE DEFENDANT TO THE ORDERED PLACEMENT AS SOON AS PRACTICABLE. THE COURT SHALL SET ANY REVIEW HEARINGS NECESSARY TO ENSURE THE DEFENDANT IS TRANSPORTED TO THE INITIAL PLACEMENT. THE COURT MAY DELAY TRANSPORTATION IF A BED AT A PLACEMENT IS NOT AVAILABLE BUT WILL BE AVAILABLE WITHIN THE NEXT THIRTY DAYS.

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

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

(b) NOTIFY CDHS AND THE COUNTY ATTORNEY; AND

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

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

(16) IF, AT THE TIME THE DISTRICT ATTORNEY SEEKS CIVIL

COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO THIS SECTION, THE DEFENDANT IS ALREADY CIVILLY COMMITTED OR ORDERED TO AN ENHANCED PROTECTIVE PLACEMENT IN ANOTHER CASE, THE COURT SHALL:

(a) TAKE JUDICIAL NOTICE OF THE PRIOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT IN LIEU OF CONDUCTING AN ADDITIONAL TRIAL;

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

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

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

(e) DISMISS THE CRIMINAL CASE AGAINST THE DEFENDANT.

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

(I) THE NUMBER OF PETITIONS FILED FOR PROTECTIVE PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL COMMITMENTS;

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

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

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

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

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

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

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

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

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

16-8.5-119. Dismissal procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16-8.5-124. Transparency requirements.

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

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

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

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

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

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

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

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

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

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

~~The department~~ CDHS shall ~~promulgate such~~ ADOPT rules as necessary to EFFECTIVELY AND consistently enforce the provisions of this article 8.5.

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

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

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

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

27-65-102. Definitions.

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

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

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

(b) a person poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.

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

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

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

(22) "Mental health disorder" ~~includes~~ MEANS 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 ~~An intellectual or developmental disability is insufficient to either justify or exclude a finding of a mental health disorder pursuant to the provisions of this article 65~~ AND INCLUDES A MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, AS THOSE TERMS ARE DEFINED IN SECTION 16-8.5-101, WHICH HAS LED A COURT TO FIND THE PERSON WITH THE DISABILITY INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE 16.

(24.5) "PERSISTENT MENTAL HEALTH DISORDER" MEANS:

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

THREE YEARS:

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

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

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

(IV) AN INPATIENT PSYCHIATRIC HOSPITALIZATION; AND

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

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

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

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

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

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

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

SECTION 4. In Colorado Revised Statutes, 27-65-104, **amend** (6)(d)(I) introductory portion as follows:

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

(6) (d) (I) The minor or the minor's attorney or guardian ad litem may, at any time after the minor has continued to affirm the minor's objection to hospitalization pursuant to subsection (6)(b) of this section, 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 of the time and place of the hearing to the minor; the minor's attorney, if any; the minor's parents or legal guardian; the minor's guardian ad litem, if any; the independent professional person; and the minor's treating team. The hearing must be held in accordance with ~~section 27-65-113~~ SECTION 27-65-113.1; 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:

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

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

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

(a) (I) When a certified peace officer has probable cause to believe a person has a mental health disorder and, as a result of the mental health disorder, is an imminent danger to the person's self, ~~or AN IMMINENT DANGER TO~~ others, or is gravely disabled, the certified peace officer may take the person into protective custody and transport the person to a facility designated by the commissioner for an emergency mental health hold. If ~~such~~ a facility is not available, the certified peace officer may transport the person to an emergency medical services facility. The certified peace officer may request assistance from a behavioral health crisis response team for assistance in detaining and transporting the person or an emergency medical services provider in transporting the person; or

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

(b) (I) When a person petitions the court in the county in which the respondent resides or is physically present requesting an evaluation of the respondent's condition and alleging that the respondent appears to have a mental health disorder and, as a result of the mental health disorder, appears to be a danger to the respondent's self, ~~or A DANGER TO~~ others, or ~~appears to be~~ gravely disabled.

(2) (a) When a person is taken into custody pursuant to subsection

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

(b) THIS SECTION DOES NOT PRECLUDE:

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

(II) A PERSON OR ENTITY THAT HAS CARE AND CUSTODY OF A DETAINED PERSON FROM TRANSPORTING THE DETAINED PERSON TO AN EMERGENCY MEDICAL SERVICES FACILITY OR FACILITY DESIGNATED BY THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH HOLD.

(3) When a person is placed on an emergency mental health hold pursuant to subsection (1) of this section and is presented to an emergency medical services facility or a facility designated by the commissioner FOR AN EMERGENCY MENTAL HEALTH HOLD, the facility shall require a BHA-approved application in writing, stating the circumstances under which the person's condition was called to the attention of the intervening professional or certified peace officer and further stating sufficient facts, obtained from the intervening professional's or certified peace officer's personal observations or obtained from others whom the intervening professional or certified peace officer reasonably believes to be reliable, to establish that the person has a mental health disorder and, as a result of the mental health disorder, is an imminent danger to the person's self, or A

DANGER TO others, or is gravely disabled. The application must indicate when the person was taken into custody and who brought the person's condition to the attention of the intervening professional or certified peace officer. A copy of the application must be furnished to the person being evaluated, and the application must be retained in accordance with section 27-65-123 (4).

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

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

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

(c) Following the screening described in subsection (4)(b) of this section, the facility, intervening professional, or certified peace officer designated by the court shall file a report with the court and may initiate an emergency mental health hold at the time of screening. The report must include a recommendation as to whether probable cause exists to believe that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self, or A DANGER TO others, or is gravely disabled, and whether the respondent will voluntarily

receive evaluation or treatment. The screening report submitted to the court pursuant to this subsection (4)(c) is confidential in accordance with section 27-65-123 and must be furnished to the respondent or the respondent's attorney or personal representative.

(d) 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 health disorder and, as a result of the mental health disorder, is a danger to the respondent's self, ~~or~~ A DANGER TO others, or is gravely disabled, and that efforts have been made to secure the cooperation of the respondent but the respondent has refused or failed to accept AN evaluation voluntarily, the court shall issue an order for AN evaluation authorizing a certified peace officer or secure transportation provider to take the respondent into custody and transport the respondent to a facility designated by the commissioner for an emergency mental health hold. At the time the respondent is taken into custody, a copy of the petition and the order for AN evaluation must be given to the respondent and promptly thereafter to the one lay person designated by the respondent and to the person in charge of the facility named in the order or the respondent's designee. If the respondent refuses to accept a copy of the petition and the order for AN evaluation, ~~such~~ THE refusal must be documented in the petition and the order for THE evaluation.

(6) (a) Each person detained for an emergency mental health hold pursuant to this section shall receive an evaluation as soon as possible after the person is ~~presented~~ PRESENTS to the facility, OR AS SOON AS POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, and shall receive such treatment and care as the person's condition requires for the full period that the person is held. The evaluation must include an assessment to determine if the person continues to meet the criteria for an emergency mental health hold and requires further mental health care in a facility designated by the commissioner. The evaluation must state whether the person should be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment pursuant to section 27-65-109.

(7) (a.5) A PERSON WHO IS LAWFULLY CONFINED FOR A CRIMINAL CHARGE IN JAIL MAY BE PLACED ONLY IN A SECURE PLACEMENT OR MAY BE CARED FOR IN THE PERSON'S PLACE OF CONFINEMENT WHILE THE PERSON IS LAWFULLY DETAINED. IF A PERSON PLACED UNDER AN EMERGENCY MENTAL

HEALTH HOLD IS RELEASED FROM CONFINEMENT, THE PERSON OR ENTITY RESPONSIBLE FOR THE PERSON'S CONFINEMENT SHALL COORDINATE WITH THE BHA TO TRANSFER THE PERSON TO AN EMERGENCY MEDICAL SERVICES FACILITY OR A FACILITY DESIGNATED BY THE COMMISSIONER FOR AN EMERGENCY MENTAL HEALTH HOLD.

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

(10) (b) A person's rights ~~under~~ PURSUANT TO this subsection (10) may only be denied if access to the item, program, or service causes the person to destabilize or creates a danger to the person's self or A DANGER TO others, as determined by a ~~licensed~~ LICENSED provider involved in the person's care. Denial of any right must be entered into the person's treatment record and must be made available, upon request, to the person, the person's legal guardian, or the person's attorney.

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

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

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

(1) (a) ~~When~~ IF a certified peace officer or emergency medical services provider has probable cause to believe a person is experiencing a behavioral health crisis ~~or is~~ AND, WITHOUT PROFESSIONAL INTERVENTION,

MAY BE A DANGER TO THE PERSON'S SELF, A DANGER TO OTHERS, OR gravely disabled, and, as a result, without professional intervention the person may be a danger to the person's self or others, then the certified peace officer or emergency medical services provider may take the person into protective custody and transport the person to an outpatient mental health facility or a facility designated by the commissioner FOR AN EMERGENCY MENTAL HEALTH HOLD or other clinically appropriate facility designated by the commissioner. If such a service A FACILITY is not available, the person may be taken to an emergency medical services facility.

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

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

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

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

(IV) To keep and use the person's cell phone, unless access to the cell phone causes the person to destabilize or creates a danger to the person's self or A DANGER TO others, as determined by a provider, facility staff member, or security personnel involved in the person's care;

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

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

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

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

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

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

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

(1) A RESPONDENT MAY BE CERTIFIED FOR SHORT-TERM TREATMENT

PURSUANT TO SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, OR CERTIFIED FOR LONG-TERM CARE AND TREATMENT PURSUANT TO SECTION 27-65-110, IF:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Upon petition of a COUNTY ATTORNEY, AN APPOINTED LEGAL

GUARDIAN, the district attorney, AN INTERVENING PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY, a professional person, a representative of the BHA, or a representative of ~~the office of civil and forensic mental health~~ CDHS, a court ~~may~~ SHALL certify a person for short-term treatment for not more than three months under the following conditions:

(b) The court hearing the criminal matter referred the matter for filing of a petition pursuant to ~~section 16-8.5-111 or 16-8.5-116.5~~ SECTION 16-8.5-117;

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

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

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

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

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

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

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

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

(2.5) (a) AN EMERGENCY MENTAL HEALTH HOLD ORDERED PURSUANT TO SECTION 27-65-106 IS NOT A PREREQUISITE TO INITIATE A CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO THIS SECTION.

(b) A RESPONDENT IS NOT REQUIRED TO BE UNDER THE CARE OF AN APPROPRIATE PROVIDER WHO IS WILLING TO HOLD A CERTIFICATION FOR SHORT-TERM TREATMENT IN ORDER TO INITIATE A CERTIFICATION PURSUANT TO THIS SECTION.

(3) Within twenty-four hours after certification, copies of the certification must be personally delivered to the respondent, the BHA or ~~the office of civil and forensic mental health~~ CDHS, AND ANY KNOWN PROVIDER OR FACILITY THAT HAS CUSTODY OF THE RESPONDENT. The department shall retain a copy as part of the respondent's record. If the criminal case is pending, or not yet dismissed, THE PETITIONING PARTY SHALL GIVE notice of the filing of the petition ~~should be given by the petitioning party~~ to the criminal court, ~~which~~ AND THE COURT shall provide ~~such~~ THE notice to the prosecuting and defense attorneys in the criminal case and any attorney appointed pursuant to ~~section 27-65-113~~ SECTION 27-65-113.5. The court shall ask the respondent to designate one other person whom the respondent wants to be informed regarding the petition. If the respondent is incapable of making such a designation at the time the petition is delivered, the court may ask the respondent to designate such person as soon as the respondent is capable.

(7.1) (a) IF THE RESPONDENT IS CERTIFIED FOR SHORT-TERM TREATMENT, UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN IDENTIFIED AND IS WILLING TO HOLD THE CERTIFICATION, THE COURT SHALL

ORDER CDHS TO PROVIDE CARE COORDINATION AND MAKE DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT.

(b) THE DEPARTMENT MAY RECEIVE AND POSSESS ALL INFORMATION RELEVANT TO THE PROCEEDINGS PURSUANT TO THIS SECTION, INCLUDING COMPETENCY EVALUATIONS, ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS PURSUANT TO THIS SECTION OR PURSUANT TO ARTICLE 8.5 OF TITLE 16, AND RELEVANT CRIMINAL JUSTICE RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

(c) THE COURT MAY ORDER:

(I) THE PETITIONER AND ANY DISTRICT ATTORNEY RESPONSIBLE FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT RECORDS TO CDHS WITHIN SEVEN DAYS AFTER THE COURT'S ORDER; AND

(II) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE RESPONDENT IN ANY PROCEEDING TO SEND MATERIALS TO CDHS, WITH THE RESPONDENT'S CONSENT, TO ASSIST IN CARE COORDINATION.

(d) CDHS MAY, AS NECESSARY, SHARE INFORMATION WITH POTENTIALLY APPROPRIATE CARE PROVIDERS AND THE PARTIES, AND SHALL KEEP THE COURT APPRISED IN WRITING OF EFFORTS TO FIND AN APPROPRIATE PROVIDER FOR THE RESPONDENT.

(7.5) IF THE COURT CERTIFIES THE RESPONDENT FOR SHORT-TERM TREATMENT AND THE COURT FINDS THAT INPATIENT TREATMENT IS NECESSARY PURSUANT TO SECTION 27-65-118 (1)(a), BUT AN INPATIENT CARE PROVIDER HAS NOT BEEN LOCATED THAT WILL ACCEPT THE RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN EXHAUSTED, THE COURT SHALL NOTIFY CDHS AND CERTIFY THE RESPONDENT FOR OUTPATIENT TREATMENT PURSUANT TO SECTION 27-65-109.5.

(8) The respondent or the respondent's attorney may, at any time, file a written request for the court to review short-term certification or request that inpatient certification be changed to outpatient treatment. If the review is requested, the court shall hear the matter within fourteen days after the request, and the court shall give notice to the respondent, the respondent's

attorney, the department, and the community or facility provider who is or will provide treatment. The hearing must be held in accordance with ~~section 27-65-113~~ SECTION 27-65-113.1. 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.

(9) ~~Section 27-65-109 (7) to (10) applies to proceedings held pursuant to this section~~ IN DETERMINING WHETHER TO CERTIFY THE RESPONDENT OR RULING UPON ANY OBJECTION TO THE CERTIFICATION, THE COURT SHALL CONSIDER THE RESPONDENT'S HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED PURSUANT TO SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND TREATMENT, FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT PSYCHIATRIC HOSPITALIZATIONS, AND WHETHER THE RESPONDENT QUALIFIES AS HAVING A PERSISTENT MENTAL HEALTH DISORDER.

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

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

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

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

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

(a) The professional staff of the facility detaining the person on an emergency mental health hold has evaluated the person and has found the person ~~has a mental health disorder and, as a result of the mental health disorder, is a danger to the person's self or others or is gravely disabled~~ MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM TREATMENT

PURSUANT TO SECTION 27-65-108.3 (1);

~~(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, the person's acceptance of voluntary treatment does not preclude certification;~~

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

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

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

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

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

(b) IN RULING UPON ANY OBJECTION TO THE CERTIFICATION, THE COURT SHALL CONSIDER THE PERSON'S HISTORY OF EMERGENCY MENTAL HEALTH HOLDS INVOKED PURSUANT TO SECTION 27-65-106, CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND TREATMENT,

FINDINGS OF INCOMPETENCY TO PROCEED PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16, AND INPATIENT PSYCHIATRIC HOSPITALIZATIONS, AND WHETHER THE PERSON QUALIFIES AS HAVING A PERSISTENT MENTAL HEALTH DISORDER.

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

(9) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION 27-65-112, a respondent certified for short-term treatment may be discharged upon the signature of the treating medical professional and the medical director of the facility. A respondent certified for short-term treatment on an outpatient basis may be discharged upon the signature of the approved professional person overseeing the respondent's treatment, and the professional person shall notify the BHA prior to the discharge. A facility or program shall make the respondent's discharge instructions available to the respondent, the respondent's attorney, and the respondent's legal guardian, if applicable, within seven days after discharge, if requested. A facility or program that is transferring a respondent to a different treatment facility or to an outpatient provider shall provide all treatment records to the facility or provider accepting the respondent at least twenty-four hours prior to the transfer.

(11) THE DEPARTMENT AND THE BHA MAY RECEIVE AND POSSESS ALL INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS SECTION, INCLUDING COMPETENCY AND MENTAL HEALTH EVALUATIONS; ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS HELD PURSUANT TO THIS SECTION OR PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE

RESPONDENT. THE DEPARTMENT MAY SHARE AND DISCUSS THE RELEVANT INFORMATION WITH THE PARTIES TO THE PROCEEDINGS.

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

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

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

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

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

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

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

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

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

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

(III) PROVIDE THE RESPONDENT WITH THE CONTACT INFORMATION FOR THE COURT IN WHICH THE OUTPATIENT CERTIFICATION WILL BE FILED AND FOR ANY DESIGNATED PROVIDER THAT IS WILLING TO HOLD THE

OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY THE COMMISSIONER TO PROVIDE TREATMENT.

(3) THE SIGNED OUTPATIENT CERTIFICATION MUST:

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

(b) BE FILED WITH THE COURT WITHIN FOURTEEN DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND COURT HOLIDAYS, AFTER THE INITIATING PARTY RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE OUTPATIENT CERTIFICATION, AND A COPY MUST BE PROVIDED TO CDHS AND THE BHA WITHIN TWENTY-FOUR HOURS AFTER FILING THE OUTPATIENT CERTIFICATION;

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

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

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

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

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

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

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

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

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

(7) WHENEVER AN OUTPATIENT CERTIFICATION IS FILED WITH THE COURT BY A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL, THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT. THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A COPY OF THE OUTPATIENT CERTIFICATION AND ALL SUPPORTING DOCUMENTATION IMMEDIATELY UPON THE ATTORNEY'S

APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE RESPONDENT MAKES A KNOWING AND INTELLIGENT WAIVER IN FRONT OF THE COURT.

(8) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY AT ANY TIME FILE A WRITTEN REQUEST THAT THE CERTIFICATION FOR SHORT-TERM TREATMENT OR THE TREATMENT BE REVIEWED BY THE COURT. IF A 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 THE RESPONDENT'S ATTORNEY AND THE CERTIFYING AND TREATING PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL OF THE TIME AND PLACE OF THE HEARING. THE HEARING MUST BE HELD IN ACCORDANCE WITH SECTION 27-65-113.1. AT THE CONCLUSION OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE OUTPATIENT CERTIFICATION FOR SHORT-TERM TREATMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY OTHER APPROPRIATE ORDER.

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

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

(a) THE RESPONDENT REQUESTS TO CONTEST, MODIFY, OR TERMINATE THE OUTPATIENT CERTIFICATION;

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

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

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

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

(13) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION 27-65-112, A RESPONDENT CERTIFIED FOR SHORT-TERM TREATMENT ON AN OUTPATIENT BASIS MAY BE DISCHARGED UPON THE SIGNATURE OF THE APPROVED PROFESSIONAL PERSON OVERSEEING THE RESPONDENT'S TREATMENT, AND THE PROFESSIONAL PERSON SHALL NOTIFY THE BHA PRIOR TO THE DISCHARGE. A FACILITY OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN SEVEN DAYS AFTER DISCHARGE, IF REQUESTED. A FACILITY OR PROGRAM THAT IS TRANSFERRING A RESPONDENT TO A DIFFERENT TREATMENT FACILITY OR TO AN OUTPATIENT PROVIDER SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

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

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

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

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

(1) Whenever a respondent has received an extended certification for treatment pursuant to section 27-65-109 (10), including as it is applied to court-ordered certification pursuant to section 27-65-108.5, ~~(9)~~, the professional person in charge of the certification for short-term treatment or the BHA may file a petition with the court at least thirty days prior to the expiration date of the extended certification 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 health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1); AND

~~(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, the respondent's acceptance of voluntary treatment does not preclude an order pursuant to this section; and~~

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

(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 health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1). The court shall issue an order of long-term care and treatment for a term not to exceed six months, discharge the respondent for whom long-term care and treatment was sought, or enter any other appropriate order. An order for

long-term care and treatment must grant custody of the respondent to the BHA for placement with an agency or facility designated by the commissioner to provide long-term care and treatment. The BHA may delegate the physical custody of the respondent to a facility designated by the commissioner and the requirement for the provision of services and care coordination. 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 the court or a jury has determined that the respondent has a mental health disorder or is gravely disabled and that, as a result, the respondent is unable to competently exercise the specific legal right or perform the function for 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 expires on the date specified, 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 must be simultaneously delivered to the respondent and electronically delivered to the respondent's attorney of record. At least twenty days before the expiration of the order, the court shall give written notice to the respondent and the respondent's 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 a hearing is not requested by the respondent within such time, the court may proceed ex parte. If a hearing is timely requested, the hearing must 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 health disorder and, as a result of the mental health disorder, is a danger to THE RESPONDENT'S SELF, A DANGER TO others, or ~~to the respondent's self or is~~ gravely disabled, the court shall issue an extension of the order. Any extension must not exceed six months, but there may be as many extensions as the court orders pursuant to this section.

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

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

(3) The facility responsible for providing services to a respondent on a certification on an outpatient basis shall proactively reach out to the respondent to engage the respondent in treatment. If the respondent refuses treatment or court-ordered medication and is decompensating psychiatrically, the court may order a certified peace officer or secure transportation provider to transport the respondent to an appropriate, least-restrictive designated facility in collaboration with the BHA and the provider holding the certification. The respondent does not need to be ~~imminently dangerous~~ AN IMMINENT DANGER to the respondent's self or AN IMMINENT DANGER TO others for the provider to request, and the court to order, transportation to a facility for the respondent to receive treatment and court-ordered medications. The facility responsible for providing services to a respondent on a certification on an outpatient basis shall provide the court information on the facility's proactive outreach to the respondent and the professional person's and psychiatric advanced practice registered nurse's basis for medical opinion.

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

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

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

SECTION 14. In Colorado Revised Statutes, 27-65-112, **amend** (1)

as follows:

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

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

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

(c) A CERTIFICATION FOR SHORT-TERM TREATMENT MUST NOT BE TERMINATED LESS THAN THIRTY DAYS AFTER THE DATE OF THE INITIAL CERTIFICATION UNLESS THE TERMINATION COMPLIES WITH SUBSECTION (1)(d) OF THIS SECTION. A CERTIFICATION FOR SHORT-TERM TREATMENT OF A RESPONDENT WHO HAS A PERSISTENT MENTAL HEALTH DISORDER MUST NOT BE TERMINATED UNLESS THE TERMINATION COMPLIES WITH SUBSECTION (1)(e) OF THIS SECTION UNLESS THE CERTIFICATION IS BEING TERMINATED BY:

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

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

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

(II) AT LEAST ONE OF THE PROFESSIONAL PERSONS MUST BE THE PROFESSIONAL PERSON MOST RESPONSIBLE FOR INTERACTING WITH AND PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THE PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S CARE MAY SERVE AS ONE OF THE TWO PROFESSIONAL PERSONS IF THE PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S CARE IS THE PROFESSIONAL PERSON MOST RESPONSIBLE FOR INTERACTING WITH AND PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THE OTHER PROFESSIONAL PERSON IS NOT REQUIRED TO INTERACT WITH THE RESPONDENT. THIS SUBSECTION (1)(d) DOES NOT PREVENT EITHER PROFESSIONAL PERSON FROM INTERACTING WITH OR EXAMINING THE RESPONDENT IF IT IS MEDICALLY APPROPRIATE.

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

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

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

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

(B) THE PROFESSIONAL PERSON REASONABLY BELIEVES THAT THE RESPONDENT WILL SEEK THE RECOMMENDED PSYCHIATRIC CARE WITHOUT A CONTINUED CERTIFICATION WITHIN THE NEXT SIXTY DAYS DESPITE CONSIDERATIONS OF ANY PAST: PSYCHIATRIC DETERIORATION; STATEMENTS OF THE RESPONDENT ASSERTING A WILLINGNESS TO SEEK VOLUNTARY CARE THAT THE RESPONDENT DID NOT SUBSEQUENTLY PURSUE; HISTORY OF REPETITIVE EMERGENCY MENTAL HEALTH HOLDS PURSUANT TO SECTION 27-65-106 OR CERTIFICATIONS FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND TREATMENT; AND CRIMINAL CHARGES FOR WHICH THE RESPONDENT WAS FOUND INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE 16.

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

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

(h) WHEN A CERTIFICATION FOR SHORT-TERM TREATMENT OR AN EXTENDED CERTIFICATION IS TERMINATED PURSUANT TO THIS SECTION, THE PROFESSIONAL PERSON IN CHARGE OF PROVIDING TREATMENT TO THE RESPONDENT SHALL NOTIFY THE COURT IN WRITING WITHIN FIVE DAYS AFTER

THE TERMINATION. IF THE RESPONDENT HAS A PERSISTENT MENTAL HEALTH DISORDER AND WAS TERMINATED FROM AN INPATIENT SETTING WITHIN THIRTY DAYS AFTER THE DATE OF THE INITIAL SHORT-TERM CERTIFICATION, THE NOTICE MUST INCLUDE A COPY OF THE STATEMENT DESCRIBED IN SUBSECTION (1)(f) OF THIS SECTION AND BE PLACED IN THE RESPONDENT'S MEDICAL RECORD.

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

27-65-113. Jurisdiction - transfer.

~~(1) Hearings before the court pursuant to section 27-65-108.5, 27-65-109, or 27-65-110 are conducted in the same manner as other civil proceedings before the court. The burden of proof is on 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 respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others 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 the professional person's examination. The court-appointed professional person shall act solely in an advisory capacity, and no presumption is attached to the professional person's findings.~~

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

~~(4) (1) (a) The court in which the A petition is filed under section 27-65-106 or the OR certification is filed pursuant to section 27-65-109 THIS ARTICLE 65, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS PURSUANT TO THIS ARTICLE 65 THAT RECEIVES A COURT ORDER TRANSFERRING JURISDICTION OF A CIVIL COMMITMENT PURSUANT TO SECTION 16-8.5-118, is the court of original jurisdiction and of continuing jurisdiction for any~~

further proceedings pursuant to this article 65.

(b) 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 is the court of continuing jurisdiction. IF MULTIPLE CRIMINAL COURTS REFER A MATTER FOR PROCEEDING PURSUANT TO SECTION 27-65-201 OR 27-65-108.5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

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

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

(c) A PETITION OR REQUEST FOR A PROCEEDING REGARDING AN EMERGENCY MENTAL HEALTH HOLD ORDERED PURSUANT TO SECTION 27-65-106 OR CERTIFICATION FOR SHORT-TERM TREATMENT ORDERED PURSUANT TO SECTION 27-65-109 MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY PRESENT AND TRANSPORTED FOR AN EMERGENCY MENTAL HEALTH HOLD, OR IS CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

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

~~(5)(a)~~ (3) (a) In the event that a respondent or a person WHO IS ORDERED COMMITTED PURSUANT TO SECTION 16-8.5-118, OR IS BEING SUPERVISED IN A COMMITMENT PURSUANT TO SECTION 27-65-201, OR IS found not guilty by reason of impaired mental condition pursuant to section 16-8-103.5 (5), or by reason of insanity pursuant to section 16-8-105 (4) or 16-8-105.5, refuses to accept medication, the court having jurisdiction of the action pursuant to ~~subsection (4)~~ SUBSECTION (1) of this section; the court committing the person or defendant to the custody of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5; or the court of the jurisdiction in which the designated facility treating the respondent or person is located has jurisdiction and venue to accept a petition by a treating physician and to enter an order requiring that the respondent or person accept ~~such~~ THE treatment or, in the alternative, that the medication be forcibly administered to the respondent or person. 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. Upon the filing of ~~such a~~ THE 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 pursuant to ~~subsection (5)(a)~~ SUBSECTION (3)(a) of this section in a court for the county in which the treating facility is located, the county where the proceeding was initiated pursuant to ~~subsection (4)~~ SUBSECTION (1) of this section or the court committing the person to the custody of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in which the proceeding pursuant to this ~~subsection (5)~~ SUBSECTION (3) 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 and who refuses to accept medication, the jurisdiction for the petition for involuntary treatment procedures is as set forth in ~~section 16-8.5-112~~ SECTION 16-8.5-106.

~~(6) (4) All adversarial proceedings pursuant to this article 65, including proceedings to impose a legal disability pursuant to section 27-65-127, must 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 must 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.

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

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

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

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

27-65-113.1. Hearing procedures.

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

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

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

(4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

27-65-113.5. County attorney and district attorney responsibilities.

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

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

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

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

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

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

27-65-114. Appeals.

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

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

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

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

(1) (a) Any person receiving an evaluation or treatment pursuant to this article 65 is entitled to medical and psychiatric care and treatment, with regard to services listed in section 27-50-301 and services listed in rules

authorized by section 27-66-102, suited to meet the person's individual needs, delivered in such a way as to keep the person in the least-restrictive environment, and delivered in such a way as to include the opportunity for participation of family members in the person's program of care and treatment, when appropriate. ~~Nothing in~~ A PERSON RECEIVING AN EVALUATION OR TREATMENT PURSUANT TO THIS ARTICLE 65 MUST NOT BE DENIED CARE OR DISCHARGED DUE TO AN INABILITY TO PAY. This subsection (1)(a) ~~creates~~ DOES NOT CREATE any right with respect to any person other than the person receiving an evaluation, care, or treatment. The professional person and the agency or facility providing an evaluation, care, or treatment shall keep records detailing all care and treatment received by the person, and the records must be made available, upon the person's written authorization, to the person's attorney or the person's personal physician. The records are permanent records and must be retained in accordance with section 27-65-123 (4).

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

27-65-123. Records.

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

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

(c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION, WHILE

A MATTER IS PENDING OR AFTER IT IS SEALED, THE COURT MAY DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE CLERK SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

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

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

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

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

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

(10) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK TO

UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65.

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

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

(b) CONSISTENT WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9, AND ITS IMPLEMENTING REGULATIONS, A COVERED ENTITY MAY USE OR DISCLOSE PROTECTED HEALTH INFORMATION FOR TREATMENT, PAYMENT, AND HEALTH-CARE OPERATIONS, INCLUDING DISCLOSURES NECESSARY TO SUPPORT CARE COORDINATION AND THE MANAGEMENT OF AN INDIVIDUAL'S CARE, AS AUTHORIZED PURSUANT TO 45 CFR 164.506.

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

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

27-65-131. Data report.

(1) ~~Beginning January 1, 2025, and each~~ ON OR BEFORE January 1 ~~thereafter~~ OF EACH YEAR, the BHA shall ~~annually~~ submit a report to the general assembly on the outcomes and effectiveness of the involuntary commitment system described in this article 65, disaggregated by region, including any recommendations to improve the system and outcomes for

persons involuntarily committed or certified pursuant to this article 65. The report must include aggregated and disaggregated nonidentifying individual-level data. At a minimum, the report must include:

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

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

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

(I) THE NUMBER OF SIGNED OUTPATIENT CERTIFICATIONS:

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

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

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

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

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

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

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

SECTION 21. In Colorado Revised Statutes, **add** part 2 to article 65 of title 27 as follows:

PART 2
CIVIL COMMITMENT OF INCOMPETENT AND
UNRESTORABLE PERSON

27-65-201. Court supervision of incompetent and unrestorable person ordered into civil commitment - repeal.

(1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF A CIVIL COMMITMENT PURSUANT TO SECTION 16-8.5-118 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 27-65-113, THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE CIVIL COMMITMENT.

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

(a) NOTIFY THE COUNTY ATTORNEY;

(b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO THE RESPONDENT'S ATTORNEY; AND

(c) SET A REVIEW HEARING AND ORDER THE RESPONDENT BROUGHT BEFORE THE COURT.

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

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

(b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

(I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS WAIVED BY THE RESPONDENT;

(II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD PURSUANT TO THIS ARTICLE 65, INCLUDING ANY APPEALS;

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

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

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

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

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

(c) ORDER CDHS TO PROVIDE TO THE COURT:

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

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

(d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE

INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS;

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

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

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

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

(b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS OR IF CDHS PROPOSES TO MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT SHALL, PRIOR TO MODIFYING THE CIVIL COMMITMENT TO CHANGE THE RESPONDENT'S PROVIDER OR PLACEMENT, REVIEW THE APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT, INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE RESPONDENT.

(c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY PERMIT

TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE COURT'S DECISION.

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

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

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

(III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE FUTURE;

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

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

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

(VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL

REOCCUR WITHOUT INPATIENT TREATMENT;

(VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

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

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

(XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING PROFESSIONALS.

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

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

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

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

(6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS, THE EXECUTIVE DIRECTOR OF CDHS SHALL DESIGNATE THE STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR CARE AND TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE FACILITY TO ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT IS APPROPRIATE TO DO SO IN THE INTEREST OF THE

PROPER CARE, CUSTODY, AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

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

(I) ENSURE THE RESPONDENT IS PLACED IN THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE RESPONDENT; AND

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

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

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

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

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

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

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

(e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH

TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

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

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

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

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

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

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

(10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE, ORDER CDHS TO FACILITATE AN EXAMINATION BY A PROFESSIONAL PERSON REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT, CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202, UNLESS CDHS HAS FACILITATED A SIMILAR EXAMINATION OF THE RESPONDENT IN THE PAST ONE HUNDRED TWENTY DAYS. THE RESPONDENT SHALL COOPERATE WITH ANY

EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION (10)(a).

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

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

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

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

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

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

(b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S CONDUCT TO THE REQUIREMENTS OF THE LAW.

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

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

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

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

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

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

(b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION.

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

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

(c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION, THE

COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST FOR A SINGLE INDEPENDENT EVALUATION. THE COST OF THE INDEPENDENT EVALUATION MUST BE PAID FOR BY THE REQUESTING PARTY.

(d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE RESPONDENT'S REQUEST FOR TERMINATION.

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

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

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

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

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

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

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

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

(8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A MENTAL HEALTH DISORDER THAT IS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE

TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT HAVING ANY OTHER MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS GRAVELY DISABLED, THE COURT SHALL CONVERT THE CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT AND MAY MODIFY THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH SECTION 25.5-10-507.

(9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS CO-OCCURRING MENTAL HEALTH DISORDERS THAT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, THE COURT MAY, UPON THE RECOMMENDATION OF CDHS, CONVERT A CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT AND MODIFY THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH SECTION 25.5-10-507.

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

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

PART 5
PROTECTIVE PLACEMENT AND
ENHANCED PROTECTIVE PLACEMENT

25.5-10-501. Definitions.

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

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

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

(3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,

HAS THE MEANING SET FORTH IN SECTION 27-65-102.

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

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

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

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

(8) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN SECTION 27-65-102.

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

(10) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN SECTION 27-65-102.

(11) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(12) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE MEANING SET FORTH IN SECTION 27-65-102.

25.5-10-502. Criteria and standards for protective placement.

(1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A RESPONDENT IF:

(a) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS A NEUROCOGNITIVE DISORDER;

(b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT, THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND

(c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS.

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

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

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

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

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

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

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

(g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE

CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL REOCCUR WITHOUT INVOLUNTARY TREATMENT.

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

(4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS AN INCARCERATED PERSON AS IF THE PERSON WERE IN THE COMMUNITY WHEN EVALUATING WHETHER THE PERSON MEETS THE CRITERIA PURSUANT TO SUBSECTION (1) OF THIS SECTION.

25.5-10-503. Short-term protective placement for incompetent defendants in a criminal matter.

(1) UPON PETITION OF A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE, AN APPOINTED LEGAL GUARDIAN, OR A REPRESENTATIVE OF THE BHA OR HCPF, A COURT MAY CERTIFY A PERSON FOR SHORT-TERM PROTECTIVE PLACEMENT FOR NOT MORE THAN THREE MONTHS UNDER THE FOLLOWING CONDITIONS:

(a) THE PERSON IS OR RECENTLY WAS A DEFENDANT IN A CRIMINAL MATTER IN WHICH THE PERSON HAS BEEN FOUND INCOMPETENT TO PROCEED;

(b) THE COURT HEARING THE CRIMINAL MATTER REFERRED THE MATTER FOR FILING OF A PETITION PURSUANT TO SECTION 16-8.5-117;

(c) A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE:

(I) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST

THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE SHORT-TERM PROTECTIVE PLACEMENT; AND

(II) HAS EVALUATED THE PERSON WITHIN THE PAST THREE MONTHS AND PRODUCED A WRITTEN OPINION THAT THE PERSON MEETS THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502;

(d) THERE IS A SKILLED NURSING FACILITY, A REGIONAL CENTER, OR ANOTHER PLACEMENT WILLING TO ACCEPT CARE AND CUSTODY OF THE RESPONDENT AND TO HOLD THE PROTECTIVE PLACEMENT; AND

(e) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE SHORT-TERM PROTECTIVE PLACEMENT.

(2) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST:

(a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS THAT THE RESPONDENT MEETS THE CRITERIA FOR SHORT-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, INCLUDING ATTACHING THE PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S WRITTEN OPINION PRODUCED PURSUANT TO SUBSECTION (1)(c)(II) OF THIS SECTION;

(b) BE FILED WITHIN FOURTEEN DAYS AFTER THE INITIATING PARTY RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE SHORT-TERM PROTECTIVE PLACEMENT; AND

(c) BE FILED WITH THE COURT IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF THE PETITION; EXCEPT THAT, IF THE PERSON WAS ARRESTED FOR THE PRIOR CASE AND HELD IN CUSTODY, THE PETITION MAY BE FILED IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE RESPONDENT'S ARREST.

(3) WITHIN TWENTY-FOUR HOURS AFTER CERTIFICATION, COPIES OF THE SHORT-TERM PROTECTIVE PLACEMENT MUST BE PERSONALLY DELIVERED TO THE RESPONDENT AND HCPF WHO SHALL RETAIN A COPY OF THE CERTIFICATION AS PART OF THE RESPONDENT'S RECORD. IF THE CRIMINAL CASE IS PENDING, OR NOT YET DISMISSED, THE PETITIONING PARTY

SHALL PROVIDE NOTICE OF THE FILING OF THE PETITION TO THE CRIMINAL COURT. THE CRIMINAL COURT SHALL PROVIDE THE NOTICE TO THE PROSECUTING AND DEFENSE ATTORNEYS IN THE CRIMINAL CASE AND ANY ATTORNEY APPOINTED THE RESPONDENT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(4) THE PETITIONER SHALL ASK THE RESPONDENT TO DESIGNATE ONE OTHER PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED REGARDING THE PETITION. IF THE RESPONDENT IS INCAPABLE OF MAKING A DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE COURT MAY ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE RESPONDENT IS CAPABLE. IF THE PETITIONER FAILS TO ASK THE RESPONDENT TO DESIGNATE A PERSON, THE RESPONDENT'S ATTORNEY APPOINTED PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL REPORT TO THE COURT ANY PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED REGARDING THE PETITION.

(5) WHENEVER A PETITION IS FILED PURSUANT TO THIS SECTION, THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT. THE COURT SHALL PROVIDE THE RESPONDENT WITH A WRITTEN NOTICE THAT THE RESPONDENT HAS A RIGHT TO A HEARING ON THE PETITION AND MAY MAKE A WRITTEN REQUEST FOR A JURY TRIAL. THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A COPY OF THE PETITION AND ANY SUPPORTING MATERIALS IMMEDIATELY UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE RESPONDENT MAKES A KNOWING AND VOLUNTARY WAIVER IN FRONT OF THE COURT.

(6) UPON FILING A PETITION PURSUANT TO THIS SECTION AND AFFORDING THE RESPONDENT A CHANCE TO CONTEST THE PETITION, THE COURT MAY GRANT OR DENY THE PROTECTIVE PLACEMENT BASED ON THE FACTS ESTABLISHED IN THE PETITION, SUBJECT TO THE COURT'S FURTHER REVIEW OR A JURY TRIAL.

(7) WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE PETITION FILED PURSUANT TO THIS SECTION, THE RESPONDENT, OR THE RESPONDENT'S ATTORNEY, MAY REQUEST A JURY TRIAL BY FILING A WRITTEN MOTION WITH THE COURT.

(8) THE RESPONDENT MAY KNOWINGLY AND VOLUNTARILY CONSENT TO THE PETITION IN WRITING.

(9) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT ANY TIME, FILE A WRITTEN REQUEST FOR THE COURT TO REVIEW THE SHORT-TERM PROTECTIVE PLACEMENT. IF A REVIEW IS REQUESTED, THE COURT SHALL HEAR THE MATTER WITHIN FOURTEEN DAYS AFTER THE REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, HCPF, AND THE COMMUNITY OR FACILITY PROVIDER WHO IS OR WILL PROVIDE TREATMENT. THE HEARING MUST BE HELD IN ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE SHORT-TERM PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY OTHER APPROPRIATE ORDER.

(10) (a) THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES, AND CARE PROVIDERS MAY SHARE INFORMATION WITH EACH OTHER AND THE PARTIES AS NECESSARY. THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES, AND CARE PROVIDERS MAY RECEIVE AND POSSESS ALL INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS SECTION, INCLUDING ANY EVALUATIONS; ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS HELD PURSUANT TO THIS PART 5, ARTICLE 65 OF TITLE 27, OR ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

(b) THE COURT MAY ORDER THE DISTRICT ATTORNEY RESPONSIBLE FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT RECORDS TO HCPF WITHIN SEVEN DAYS AFTER THE COURT'S ORDER.

(c) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE RESPONDENT IN ANY PROCEEDING SHALL SEND MATERIALS TO HCPF WITH THE RESPONDENT'S CONSENT.

(11) (a) UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN IDENTIFIED AND IS WILLING TO ACCEPT THE PROTECTIVE PLACEMENT, THE COURT SHALL NOTIFY HCPF REGARDING THE NEED FOR CARE COORDINATION.

(b) ONCE HCPF IS NOTIFIED PURSUANT TO SUBSECTION (11)(a) OF

THIS SECTION, HCPF SHALL MAKE DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT, ASSIST WITH INTENSIVE COORDINATION, AND MITIGATE BARRIERS TO APPROPRIATE PLACEMENT. HCPF SHALL COLLABORATE AND COORDINATE WITH OTHER STATE EXECUTIVE AGENCIES, LAW ENFORCEMENT, THE COURT, THE PARTIES, COMMUNITY PARTNERS, REGIONAL ACCOUNTABLE ENTITIES, AND CASE MANAGEMENT AGENCIES TO IDENTIFY AN APPROPRIATE PLACEMENT FOR THE RESPONDENT, WHICH PLACEMENT IS SUBJECT TO MEDICAID REIMBURSEMENT.

(c) THE CASE MANAGEMENT AGENCY MUST PROVIDE CASE MANAGEMENT SERVICES, AS DEFINED IN SECTION 25.5-6-1702.

(d) HCPF SHALL KEEP THE COURT INFORMED, IN WRITING, OF EFFORTS MADE TO FIND AN APPROPRIATE PLACEMENT FOR THE RESPONDENT.

(12) UPON ORDERING A SHORT-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT HAS CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

(13) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT IN A SHORT-TERM PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO ANOTHER PROVIDER FOR TREATMENT AND THE SAFETY OF THE RESPONDENT OR THE PUBLIC REQUIRES THAT THE RESPONDENT BE TRANSPORTED BY A SECURE TRANSPORTATION PROVIDER OR A LAW ENFORCEMENT AGENCY, THE COURT MAY ISSUE AN ORDER DIRECTING THE LAW ENFORCEMENT AGENCY WHERE THE RESPONDENT RESIDES OR SECURE TRANSPORTATION PROVIDER TO DELIVER THE RESPONDENT TO THE DESIGNATED PROVIDER.

(14) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION 25.5-10-506, A SHORT-TERM PROTECTIVE PLACEMENT MAY BE TERMINATED UPON THE SIGNATURE OF THE TREATING MEDICAL PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A FACILITY OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE RESPONDENT'S LEGAL GUARDIAN.

(15) IF THE PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S EVALUATION AND TREATMENT BELIEVES THAT A PERIOD LONGER THAN THREE MONTHS IS NECESSARY TO TREAT THE RESPONDENT, THE PROFESSIONAL PERSON SHALL FILE WITH THE COURT A REQUEST FOR AN

EXTENDED PROTECTIVE PLACEMENT AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL PROTECTIVE PLACEMENT. AN EXTENDED PROTECTIVE PLACEMENT FOR TREATMENT MUST NOT BE FOR A PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS ENTITLED TO A HEARING ON THE EXTENDED PROTECTIVE PLACEMENT UNDER THE SAME CONDITIONS AS AN ORIGINAL PROTECTIVE PLACEMENT. THE ATTORNEY INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER ATTORNEY.

25.5-10-504. Long-term protective placement of persons with a neurocognitive disorder - procedure.

(1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE FOLLOWING CONDITIONS:

(a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1); AND

(b) HCPF, IN COLLABORATION WITH THE BHA, HAS IDENTIFIED AN APPROPRIATE PROVIDER OR PLACEMENT TO PROVIDE CARE AND TREATMENT OF THE RESPONDENT.

(2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE FILING.

(3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY TRIAL BY FILING A WRITTEN REQUEST 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 CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE PROVIDER OR PLACEMENT IDENTIFIED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION. 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 THE COURT OR A JURY HAS DETERMINED THAT THE RESPONDENT MEETS THE CRITERIA AND STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1) AND THAT, AS A RESULT, THE RESPONDENT IS UNABLE TO COMPETENTLY EXERCISE THE SPECIFIC LEGAL RIGHT OR PERFORM THE FUNCTION FOR 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 PROTECTIVE PLACEMENT AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED, 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 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE TO THE RESPONDENT AND THE RESPONDENT'S 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 A HEARING IS NOT TIMELY REQUESTED BY THE RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS TIMELY REQUESTED, THE HEARING MUST 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 CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER. ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

(6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE COURT PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

25.5-10-505. Connect respondent to home- and community-based services.

WHEN A RESPONDENT IS DISCHARGED FROM A PROTECTIVE PLACEMENT OR A PROTECTIVE PLACEMENT IS TERMINATED, HCPF SHALL REFER THE RESPONDENT TO ANY HOME- AND COMMUNITY-BASED SERVICES FOR WHICH THE RESPONDENT MAY BE ELIGIBLE AND SHALL MAKE DILIGENT EFFORTS TO CONNECT THE RESPONDENT WITH HOME- AND COMMUNITY-BASED SERVICES.

25.5-10-506. Termination of protective placement - short-term and long-term placement.

A PROTECTIVE PLACEMENT TERMINATES WHEN THE PROFESSIONAL

PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT, AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD, DETERMINES THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). WHEN A PROTECTIVE PLACEMENT IS TERMINATED PURSUANT TO THIS SECTION, THE PROFESSIONAL PERSON IN CHARGE OF PROVIDING CARE OR TREATMENT TO THE RESPONDENT SHALL NOTIFY THE COURT IN WRITING WITHIN FIVE DAYS AFTER THE TERMINATION.

25.5-10-507. Court supervision of incompetent and unrestorable persons ordered into an enhanced protective placement.

(1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509, THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED PROTECTIVE PLACEMENT.

(2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, THE COURT SHALL:

(a) NOTIFY THE COUNTY ATTORNEY;

(b) APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT AND PROVIDE COPIES OF ANY DOCUMENTS SENT FROM THE CRIMINAL COURT TO THE RESPONDENT'S ATTORNEY; AND

(c) SET A REVIEW HEARING AND ORDER THE RESPONDENT BROUGHT BEFORE THE COURT.

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

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

(b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

(I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS WAIVED BY THE RESPONDENT;

(II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT

HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;

(III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT; AND

(IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT.

(4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT, THE COURT MAY:

(a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;

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

(c) ORDER CDHS TO PROVIDE TO THE COURT:

(I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

(II) AN OPINION ON WHETHER THE RESPONDENT HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS GRAVELY DISABLED;

(d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR

SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS;

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

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

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

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

(b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS OR IF CDHS PROPOSES TO MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT SHALL, PRIOR TO MODIFYING THE ENHANCED PROTECTIVE PLACEMENT TO CHANGE THE RESPONDENT'S PROVIDER OR PLACEMENT, REVIEW THE APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT, INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE RESPONDENT.

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

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

(I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

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

(III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH TREATMENT AND SERVICES IN THE REASONABLY FORESEEABLE FUTURE;

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

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

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

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

(VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

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

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

(XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING PROFESSIONALS.

(e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE BEING IN AN ENHANCED PROTECTIVE PLACEMENT UNLESS:

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

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

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

(6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS, AS DEFINED IN SECTION 16-8.5-101, THE EXECUTIVE DIRECTOR OF CDHS SHALL DESIGNATE THE STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR CARE AND TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE FACILITY TO ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT IS APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE, CUSTODY, AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

(b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION, HCPF SHALL:

(I) ENSURE THE RESPONDENT IS PLACED IN THE LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE RESPONDENT; AND

(II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO AN ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS GOVERNED BY SECTION 25.5-10-508.

(8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

(a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT IS APPROPRIATELY PLACED AND MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508;

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

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

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

(e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE

RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

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

(g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED PROTECTIVE PLACEMENT;

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

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

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

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

(10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE, ORDER CDHS TO FACILITATE AN EXAMINATION BY A PROFESSIONAL PERSON REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508, UNLESS CDHS HAS FACILITATED A SIMILAR EXAMINATION OF THE RESPONDENT IN THE PAST ONE HUNDRED TWENTY DAYS. THE RESPONDENT SHALL COOPERATE WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION (10)(a).

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

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

25.5-10-508. Termination of enhanced protective placement.

(1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507 WHEN THE RESPONDENT:

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

(b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S CONDUCT TO THE REQUIREMENTS OF THE LAW.

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

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

(I) THE TREATMENT PROVIDER'S OPINION THAT THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION;

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

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

(3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IN WRITING AT ANY TIME THE RESPONDENT WOULD NOT BE PROHIBITED FROM HAVING A SUBSEQUENT TERMINATION TRIAL PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION.

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

(b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

(c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION, THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN EXPERT,

CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST FOR A SINGLE INDEPENDENT EVALUATION. THE COST OF THE INDEPENDENT EVALUATION MUST BE PAID FOR BY THE REQUESTING PARTY.

(d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE RESPONDENT'S REQUEST FOR TERMINATION.

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

(f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

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

(b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION (5)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE AND CUSTODY.

(c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE OF TRIAL

AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND TO ANY OTHER MATTERS RELATED TO THE ENHANCED PROTECTIVE PLACEMENT AND TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY RELATED APPEALS.

(6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

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

(8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT IN ACCORDANCE

WITH SECTION 27-65-201.

(9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE RECOMMENDATION OF CDHS, CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-201.

25.5-10-509. Jurisdiction - transfer.

(1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

(b) 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 IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR TREATMENT.

(b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT

PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

(c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

(3) 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 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.

(4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

(5) (a) IF AN ENHANCED PROTECTIVE PLACEMENT IS ORDERED AGAINST A RESPONDENT PURSUANT TO SECTION 16-8.5-118 OR IF A RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT IS SUPERVISED PURSUANT TO SECTION 25.5-10-507, AND THE RESPONDENT REFUSES TO ACCEPT MEDICATION, THE COURT WITH JURISDICTION OVER THE ENHANCED PROTECTIVE PLACEMENT OR THE COURT WITH JURISDICTION WHERE THE FACILITY OR PROVIDER TREATING THE RESPONDENT IS LOCATED HAS JURISDICTION AND VENUE TO ACCEPT A PETITION BY THE TREATING PHYSICIAN TO ENTER AN ORDER REQUIRING THAT THE RESPONDENT ACCEPT

THE TREATMENT OR THAT THE MEDICATION BE FORCIBLY ADMINISTERED TO THE RESPONDENT. THE COURT WITH JURISDICTION WHERE THE FACILITY OR PROVIDER IS LOCATED SHALL NOT EXERCISE ITS JURISDICTION WITHOUT THE PERMISSION OF THE COURT WITH JURISDICTION OVER THE ENHANCED PROTECTIVE PLACEMENT. UPON FILING THE PETITION, THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT THE RESPONDENT IF ONE HAS NOT BEEN APPOINTED AND SHALL HEAR THE MATTER WITHIN TEN DAYS AFTER THE FILING.

(b) IN ANY CASE BROUGHT PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, THE COUNTY WHERE THE COURT WITH JURISDICTION OVER THE ENHANCED PROTECTIVE PLACEMENT IS LOCATED SHALL EITHER REIMBURSE THE COUNTY IN WHICH THE PROCEEDING PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION WAS FILED AND HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN PERSONNEL AND RESOURCES INCLUDING ITS OWN COUNTY ATTORNEY.

25.5-10-510. Hearing procedures.

(1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE THE COURT.

(2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE PROFESSIONAL PERSON'S FINDINGS.

(3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

(4) A LAY PERSON MAY SUBMIT AN AFFIDAVIT TO THE COURT CONCERNING THE LAY PERSON'S RELATIONSHIP TO THE RESPONDENT, HOW LONG THE LAY PERSON HAS KNOWN THE RESPONDENT, THE LAY PERSON'S PHYSICAL ADDRESS, AND THE LAY PERSON'S VIEWS CONCERNING THE APPROPRIATE DISPOSITION OF THE RESPONDENT'S CASE.

25.5-10-511. County attorney and district attorney responsibilities.

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

(a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

(b) TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5; AND

(c) TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS ALLOWABLE BY LAW.

(2) THIS SECTION ONLY APPLIES TO PROCEEDINGS CONDUCTED PURSUANT TO THIS PART 5.

25.5-10-512. Appeals.

(1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND CUSTODY OF THE

RESPONDENT.

(2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE ENTERED.

25.5-10-513. Habeas corpus.

ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS 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.

25.5-10-514. Rights of respondents ordered into enhanced protective placement or protective placement.

(1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10, INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220, 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227, 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

(2) A RESPONDENT PLACED IN THE CUSTODY OF CDHS AT A STATE HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO PROCEEDINGS PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE RIGHTS PROVIDED IN SECTIONS 27-65-105, 27-65-108, 27-65-117, 27-65-118, 27-65-119, 27-65-122, AND 27-65-124.

25.5-10-515. Records - rules.

(1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION AND RECORDS MAY BE DISCLOSED ONLY:

(a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS, FACILITY PERSONNEL, OR STATE AGENCIES 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 THE WARD'S OR CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING, PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT; EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN, PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN GIVEN TO THE PERSON 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 THE RECIPIENT MAY BE ENTITLED;

(d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH. THE RULES MUST INCLUDE, BUT ARE NOT 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, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

(e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF THIS PART 5;

(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 FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

(h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY PARTICIPATING

IN THE CARE AND TREATMENT OF A PERSON WITH A NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS 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.

(i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C. SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY SYSTEM FOR COLORADO.

(2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE PARENT'S MINOR CHILD.

(3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107, CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING SERVICES PURSUANT TO THIS PART 5.

(b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION 16-8-103.6.

(c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE PERSON.

(4) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 MUST BE MAINTAINED SEPARATELY BY THE CLERK OF THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS SECTION.

(b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508, THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

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

(5) IF A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES IN THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD, THE COURT, COUNTY ATTORNEY, OR DISTRICT ATTORNEY CONDUCTING ANY SUBSEQUENT PROCEEDINGS PURSUANT TO THIS PART 5 AND THE PROVIDER WHO CONDUCTS AN EVALUATION OR PROVIDES CARE MAY, WITHOUT COURT AUTHORIZATION, PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY WITH THE FOLLOWING LIMITED INFORMATION, IF AVAILABLE:

(a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-503;

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

(c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR SHORT-TERM PROTECTIVE PLACEMENT.

(6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL WITH LAWFUL POSSESSION OF RECORDS FROM MAINTAINING AND USING THE RECORDS, UNLESS PROHIBITED BY LAW.

(7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5.

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

25.5-10-516. Payment for counsel.

IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

25.5-10-517. Authority to increase payments to nursing facility and regional center providers - rules.

SUBJECT TO AVAILABLE APPROPRIATIONS AND FEDERAL AUTHORIZATION, HCPF MAY INCREASE PAYMENTS TO NURSING FACILITY PROVIDERS AND REGIONAL CENTER PROVIDERS FOR THE PURPOSE OF ACHIEVING THE LEAST RESTRICTIVE PLACEMENT REQUIREMENT FOR

INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT PURSUANT TO THIS PART 5. HCPF SHALL ADOPTED RULES DEFINING THE QUALIFICATIONS AND PAYMENT SCHEDULE FOR NURSING FACILITY PROVIDERS AND REGIONAL CENTER PROVIDERS THAT SERVE THE INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT.

25.5-10-518. Repeal of part.

THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2031.

SECTION 23. In Colorado Revised Statutes, **add 25.5-6-414** as follows:

25.5-6-414. Delivery of services for individuals with serious mental illness - rules.

(1) THE STATE DEPARTMENT IS COMMITTED TO IMPROVING ACCESS TO, AND THE QUALITY OF SERVICES FOR, INDIVIDUALS WITH SERIOUS MENTAL ILLNESS WHO ARE ENROLLED IN THE STATE MEDICAL ASSISTANCE PROGRAM.

(2) THE STATE DEPARTMENT SHALL, IN COLLABORATION WITH THE BEHAVIORAL HEALTH ADMINISTRATION, SERVICE PROVIDERS, STAKEHOLDERS, AND INDIVIDUALS WITH LIVED EXPERIENCE, CONTINUOUSLY EVALUATE AND EXPLORE OPTIONS TO ENHANCE THE DELIVERY OF SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WHICH EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

(a) EXPANDING COMMUNITY-BASED SERVICE CAPACITY AND CARE COORDINATION;

(b) IMPROVING TRANSITIONS OF CARE ACROSS SETTINGS;

(c) LEVERAGING FEDERAL AUTHORITIES, WAIVERS, AND FINANCING MECHANISMS;

(d) ADVANCING INNOVATIVE SERVICE DELIVERY MODELS AND VALUE-BASED PAYMENT APPROACHES; AND

(e) IDENTIFYING AND ADDRESSING GAPS IN ACCESS, QUALITY, AND OUTCOMES.

(3) THE STATE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO ALIGN FINANCING, BENEFITS, AND SERVICE DELIVERY SYSTEMS TO BETTER MEET THE NEEDS OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WITH THE GOALS OF IMPROVING HEALTH OUTCOMES, REDUCING AVOIDABLE UTILIZATION OF HIGH-COST SERVICES, AND SUPPORTING INDIVIDUALS TO LIVE IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO MEET THE INDIVIDUAL'S NEEDS.

(4) THE STATE DEPARTMENT MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION.

(5) THIS SECTION DOES NOT CREATE AN ENTITLEMENT TO A SPECIFIC SERVICE OR LEVEL OF CARE.

SECTION 24. In Colorado Revised Statutes, 25.5-10-216, amend (7) as follows:

25.5-10-216. Imposition of legal disability - removal of legal right.

(7) A person shall not be admitted to a regional center, as defined in section 27-10.5-102, ~~C.R.S.~~, without a court order issued pursuant to this section except in an emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the purpose of temporary respite care.

SECTION 25. In Colorado Revised Statutes, 27-10.5-110, amend (2) as follows:

27-10.5-110. Imposition of legal disability - removal of legal right.

(2) A person shall not be admitted to a regional center without a court order issued pursuant to section 25.5-10-216, ~~C.R.S.~~, except in an emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the purpose of temporary respite care.

SECTION 26. In Colorado Revised Statutes, 27-94-101.5, add (2) as follows:

27-94-101.5. Definitions.

As used in this article 94, unless the context otherwise requires:

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

SECTION 27. In Colorado Revised Statutes, add 27-94-108 as follows:

27-94-108. Construction and operation of an outpatient treatment facility.

(1) NO LATER THAN OCTOBER 1, 2027, THE DEPARTMENT SHALL CONSTRUCT AND OPERATE AN OUTPATIENT TREATMENT FACILITY FOR ADULTS WITH BEHAVIORAL HEALTH NEEDS, INCLUDING ADULTS WHO ARE FOUND INCOMPETENT TO PROCEED AND UNLIKELY TO BE RESTORED TO COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16.

(2) A PERSON MAY BE REFERRED TO THE OUTPATIENT TREATMENT FACILITY BY A COURT CONDUCTING A COMPETENCY PROCEEDING PURSUANT TO ARTICLE 8.5 OF TITLE 16, BY THE BRIDGES WRAPAROUND CARE PROGRAM ESTABLISHED IN ARTICLE 8.6 OF TITLE 16, OR BY ANY OTHER PROGRAM OR FACILITY WITHIN THE DEPARTMENT, INCLUDING PROGRAMS OPERATED THROUGH CONTRACTS WITH THE DEPARTMENT. A PERSON SHALL NOT BE REFERRED TO THE OUTPATIENT TREATMENT FACILITY FROM ANY SOURCE OUTSIDE OF COMPETENCY-RELATED PROCEEDINGS, THE BRIDGES WRAPAROUND CARE PROGRAM, OR THE DEPARTMENT.

(3) AT A MINIMUM, THE DEPARTMENT SHALL ENSURE THAT THE OUTPATIENT TREATMENT FACILITY OFFERS MENTAL HEALTH THERAPY, MEDICATION MANAGEMENT SERVICES, AND CASE MANAGEMENT SERVICES. THE DEPARTMENT MAY OFFER OUTPATIENT TREATMENT SERVICES AS COMMUNITY-BASED SERVICES, AS TELEHEALTH SERVICES, OR IN-PERSON AT THE OUTPATIENT TREATMENT FACILITY.

(4) THE DEPARTMENT MAY OPEN AND OPERATE ADDITIONAL OUTPATIENT TREATMENT FACILITIES OR CONTRACT WITH OTHER ENTITIES AT THE DEPARTMENT'S DISCRETION, SUBJECT TO ADDITIONAL APPROPRIATIONS. THE DEPARTMENT MAY HOLD ALL CIVIL CERTIFICATIONS AT A SINGLE LOCATION AND CONTRACTORS AND OTHER DEPARTMENT TREATMENT

FACILITIES MAY PROVIDE SERVICES TO SUPPORT THE CIVIL CERTIFICATIONS.

SECTION 28. In Colorado Revised Statutes, 13-94-105, **add** (1.6) as follows:

13-94-105. Office of public guardianship - director - duties - memorandum of understanding - annual report - repeal.

(1.6) THE OFFICE MAY ESTABLISH, MAINTAIN, AND ADJUST STAFFING LEVELS, INCLUDING GUARDIANS, CASE AIDES, AND ADMINISTRATIVE SUPPORT, AS NECESSARY TO:

(a) SCREEN AND ACCEPT REFERRALS ARISING FROM COMPETENCY PROCEEDINGS UNDER ARTICLE 8.5 OF TITLE 16;

(b) PROVIDE EMERGENCY PUBLIC GUARDIANSHIP SERVICES PURSUANT TO SECTION 15-14-312 (6), ARTICLE 8.5 OF TITLE 16, ARTICLE 10 OF TITLE 25.5, AND ARTICLE 65 OF TITLE 27 FOR INDIGENT INDIVIDUALS FOUND INCOMPETENT TO PROCEED;

(c) IDENTIFY AND SUPPORT TIMELY TRANSITIONS TO CIVIL PLACEMENT, TREATMENT, AND SERVICES IN ORDER TO PREVENT UNNECESSARY INCARCERATION OR HOSPITALIZATION; AND

(d) SUPPORT LONG-TERM GUARDIANSHIP SERVICES WHEN NECESSARY.

SECTION 29. In Colorado Revised Statutes, 15-14-312, **add** (6) as follows:

15-14-312. Emergency guardian.

(6) IN ADDITION TO A COURT WITH JURISDICTION TO HEAR PROCEEDINGS PURSUANT TO THIS TITLE 15, A CRIMINAL COURT OR ANOTHER COURT WITH JURISDICTION MAY APPOINT AN EMERGENCY GUARDIAN AS AUTHORIZED PURSUANT TO SECTION 16-8.5-117 OR 16-8.5-118, OR A CIVIL COURT SUPERVISING A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 MAY APPOINT AN EMERGENCY GUARDIAN.

SECTION 30. In Colorado Revised Statutes, 24-4.1-302, **add** (2)(q.1), (2)(q.2), and (2)(q.3) as follows:

24-4.1-302. Definitions.

As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(2) "Critical stages" means the following stages of the criminal justice process:

(q.1) A TRIAL FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118;

(q.2) A HEARING TO TERMINATE A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508;

(q.3) THE TRANSFER, RELEASE, OR ESCAPE OF A PERSON OR THE PLACEMENT OF A PERSON INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE AT THE DISCRETION OF CDHS, AS DEFINED IN SECTION 16-8.5-101, WHEN THE PERSON IS UNDER A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT UNDER COURT SUPERVISION PURSUANT TO SECTION 25.5-10-507 WHEN THE CRIMINAL CASE INITIATING THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT INVOLVED A VICTIM.

SECTION 31. In Colorado Revised Statutes, 24-4.1-302.5, **amend** (1)(b); and **add** (1)(j.6) as follows:

24-4.1-302.5. Rights afforded to victims - definitions.

(1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(b) The right to be informed of and be present by appearing in person, by phone, virtually by audio or video, or similar technology for all critical stages of the criminal justice process as specified in section 24-4.1-302 (2); except that the victim shall have the right to be informed of, without being present for, the critical stages described in section 24-4.1-302

(2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p), (2)(q), (2)(q.3), (2)(r), and (2)(u);

(j.6) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 ON BEHALF OF A PERSON IN A CIVIL COMMITMENT OR PROTECTIVE PLACEMENT IN A CRIMINAL CASE INVOLVING THE VICTIM, AND THE RIGHT TO BE PRESENT BY APPEARING IN PERSON, BY PHONE, OR VIRTUALLY BY VIDEO OR AUDIO, OR SIMILAR TECHNOLOGY, AND HEARD AT ANY HEARING DURING WHICH A COURT CONSIDERS THE REQUEST. AS USED IN THIS SUBSECTION (1)(j.6), "REQUEST FOR CHANGES TO MATERIAL TERMS" INCLUDES ANY REQUEST TO BE RELEASED FROM AN INPATIENT SETTING TO AN OUTPATIENT SETTING OR TO BE MOVED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE AT THE DISCRETION OF CDHS, AS DEFINED IN SECTION 16-8.5-101.

SECTION 32. In Colorado Revised Statutes, 24-4.1-303, add (11)(b.8), (11)(b.9), (14.6), and (14.8) as follows:

24-4.1-303. Procedures for ensuring rights of victims of crimes.

(11) The district attorney shall inform a victim of the following:

(b.8) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302 (2)(q.1), (2)(q.2), AND (2)(q.3);

(b.9) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.8) OF THIS SECTION.

(14.6) ANY FACILITY OR PROVIDER THAT HAS THE CARE AND PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING PURSUANT TO A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118 OR SUPERVISION OF A CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 THAT RESULTED FROM A CRIMINAL CASE INVOLVING A VICTIM SHALL NOTIFY THE APPLICABLE COUNTY ATTORNEY OF THE FOLLOWING:

(a) THE INSTITUTION IN WHICH THE PERSON RESIDES;

(b) ANY RELEASE OF THE PERSON ON FURLOUGH OR OTHER PROGRAM, IN ADVANCE OF THE RELEASE;

(c) ANY OTHER TRANSFER OR RELEASE FROM AN INPATIENT SETTING;

(d) ANY ESCAPE BY THE PERSON AND ANY SUBSEQUENT RECAPTURE OF THE PERSON; AND

(e) THE DEATH OF THE PERSON WHILE IN CUSTODY OR WHILE UNDER THE JURISDICTION OF THE STATE.

(14.8) THE COUNTY ATTORNEY SHALL INFORM THE DISTRICT ATTORNEY THAT SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118 OF THE FOLLOWING:

(a) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302 (2)(q.1), (2)(q.2), AND (2)(q.3);

(b) ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL COMMITMENT DESCRIBED IN SECTION 24-4.1-302.5 (1)(j.6); AND

(c) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.6) OF THIS SECTION FROM A FACILITY OR A PROVIDER WHO HAS THE CARE AND PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING PURSUANT TO A CIVIL COMMITMENT SUPERVISED PURSUANT TO SECTION 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT SUPERVISED PURSUANT TO SECTION 25.5-10-507.

SECTION 33. In Colorado Revised Statutes, 13-5-142, amend (1)(c) and (3)(b)(III) as follows:

13-5-142. National instant criminal background check system - reporting.

(1) On and after March 20, 2013, the state court administrator shall send electronically the following information to the Colorado bureau of investigation created pursuant to section 24-33.5-401, referred to in this section as the "bureau":

(c) The name of each person with respect to whom the court has

entered an order for involuntary certification for short-term treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110.

(3) The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

(b) No less than three years before the date of the written request:

(III) The record in the case was sealed pursuant to ~~section 27-65-109~~ (7) SECTION 27-65-123 (7) OR 25.5-10-515 (4), or the court entered an order discharging the person from certification in the nature of habeas corpus pursuant to section 27-65-115, 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 a mental health disorder.

SECTION 34. In Colorado Revised Statutes, 13-5-142.5, amend (2)(a)(III) as follows:

13-5-142.5. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration.

(2) **Eligibility.** A person may petition for relief pursuant to this section if:

(a) (III) The court has entered an order for the person's involuntary certification for short-term treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110; and

SECTION 35. In Colorado Revised Statutes, amend 13-5-142.8 as follows:

13-5-142.8. Notice by professional persons.

Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and 13-5-142.5 (2), an order for involuntary certification for short-term treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5 must also include a notice filed by a professional person pursuant to ~~section 27-65-108.5 or 27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, and an order for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10) must also include a notice filed by a professional person pursuant to section 27-65-109 (10).

SECTION 36. In Colorado Revised Statutes, 13-9-123, amend (1)(c) and (3)(b)(III) as follows:

13-9-123. National instant criminal background check system - reporting.

(1) On and after March 20, 2013, the state court administrator shall send electronically the following information to the Colorado bureau of investigation created pursuant to section 24-33.5-401, referred to in this section as the "bureau":

(c) The name of each person with respect to whom the court has entered an order for involuntary certification for short-term treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110.

(3) The state court administrator shall take all necessary steps to cancel a record made by the state court administrator in the national instant criminal background check system if:

(b) No less than three years before the date of the written request:

(III) The record in the case was sealed pursuant to ~~section 27-65-109~~ (7) SECTION 27-65-123 (7), or the court entered an order discharging the person from certification in the nature of habeas corpus pursuant to section

27-65-115, 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 a mental health disorder.

SECTION 37. In Colorado Revised Statutes, 13-9-124, amend (2)(a)(III) as follows:

13-9-124. National instant criminal background check system - judicial process for awarding relief from federal prohibitions - legislative declaration.

(2) **Eligibility.** A person may petition for relief pursuant to this section if:

(a) (III) The court has entered an order for the person's involuntary certification for short-term treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended certification for treatment of a mental health disorder pursuant to section 27-65-109 (10), or for long-term care and treatment of a mental health disorder pursuant to section 27-65-110; and

SECTION 38. In Colorado Revised Statutes, 15-18.7-202, amend (7) as follows:

15-18.7-202. Behavioral health orders for scope of treatment - form contents - effect.

(7) Nothing in this part 2 means that an adult who has executed a behavioral health orders form has consented to a petition for involuntary administration of medication authority pursuant to ~~section 27-65-113 (5)~~ SECTION 27-65-113 (3).

SECTION 39. In Colorado Revised Statutes, 16-5-401, amend (2.5)(b) as follows:

16-5-401. Limitation for commencing criminal proceedings, civil infraction proceedings, and juvenile delinquency proceedings - definitions.

(2.5) (b) The time limitations imposed by this section are tolled

beginning when a defendant's case is dismissed without prejudice for the purpose of facilitating certification for short-term treatment pursuant to ~~section 16-8.5-111 (3)~~ SECTION 16-8.5-109 until either the defendant's criminal case is refiled or six months has passed since the case was dismissed, whichever is earlier.

SECTION 40. In Colorado Revised Statutes, 16-8.6-103, **amend** (2)(b) as follows:

16-8.6-103. Bridges wraparound care program - established.

(2) The purpose of the bridges wraparound care program is to:

(b) Serve eligible individuals whose cases have been dismissed pursuant to ~~section 16-8.5-111 (1.6)~~ SECTION 16-8.5-109 (4) but who are voluntarily willing to participate in the bridges wraparound care program;

SECTION 41. In Colorado Revised Statutes, 16-10-404, **amend** (1)(b) as follows:

16-10-404. Use of a court facility dog - definitions.

(1) As used in this section, unless the context otherwise requires:

(b) "Criminal proceeding" or "criminal proceedings" has the same meaning as set forth in section 16-8.5-101. ~~(8)~~:

SECTION 42. In Colorado Revised Statutes, **amend** 16-18-101, as follows:

16-18-101. Costs in criminal cases.

(1) THE STATE SHALL PAY the costs ~~in~~ OF criminal cases ~~shall be paid by the state~~ pursuant to section 13-3-104 ~~C.R.S., when~~ IF the defendant is acquitted or ~~when~~ IF the defendant is convicted and the court determines ~~he~~ THE DEFENDANT is unable to pay ~~them~~ THE COSTS.

(2) The costs of preliminary hearings, including any reporters' transcripts thereof ordered by a defendant, ~~shall~~ MUST be paid pursuant to subsection (1) of this section. UNLESS OTHERWISE ORDERED BY THE COURT,

THE PROSECUTION SHALL PAY FOR reporters' transcripts of preliminary hearings ~~which~~ THAT are ordered by the prosecution. ~~shall be paid for by the prosecution, unless otherwise ordered by the court.~~

(3) The department of corrections, from annual appropriations made by the general assembly, shall reimburse the county or counties in a judicial district for the costs of prosecuting any crime alleged to have been committed by a person in the custody of the department. The county or counties shall certify ~~these~~ THE costs to the department, and upon approval of the executive director of the department, the DEPARTMENT SHALL PAY THE costs. ~~shall be paid. The provisions of This subsection (3) shall apply~~ APPLIES to costs that are not otherwise paid by the state.

(4) THE STATE SHALL PAY THE COSTS OF A CIVIL COMMITMENT TRIAL AND ENHANCED PROTECTIVE PLACEMENT TRIAL CONDUCTED PURSUANT TO SECTION 16-8.5-118, THE COSTS OF INITIATING A SHORT-TERM CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27, AND THE COSTS OF AN INDEPENDENT EXAMINATION AND TERMINATION HEARING CONDUCTED PURSUANT TO SECTION 27-65-202 OR 25.5-10-508, INCLUDING ANY REPORTERS' TRANSCRIPTS ORDERED BY A DEFENDANT. UNLESS OTHERWISE ORDERED BY THE COURT, THE PROSECUTION SHALL PAY FOR REPORTERS' TRANSCRIPTS OF PRELIMINARY HEARINGS THAT ARE ORDERED BY THE PROSECUTION.

SECTION 43. In Colorado Revised Statutes, 17-22.5-403.5, **amend** (4)(f) as follows:

17-22.5-403.5. Special needs parole.

(4) (f) If, prior to or during any parole revocation hearing, including hearings for offenders granted parole pursuant to subsection (5) of this section, the department or a member of the parole board has a substantial and good faith reason to believe that the offender is incompetent to proceed, as defined in section 16-8.5-101, ~~(12)~~; the parole board shall suspend all proceedings and notify the public defender liaison described in section 21-1-104 (6). THE COURT SHALL APPOINT the office of state public defender ~~shall be appointed by the court~~ to represent the inmate, and THE OFFICE OF STATE PUBLIC DEFENDER shall file a written motion with the trial court that imposed the sentence to determine competency. The motion must contain a certificate of counsel stating that the motion is based on a good faith belief

that the inmate is incompetent to proceed. The motion must set forth the specific facts that have formed the basis for the motion. The court shall seal the motion. The court shall follow all the relevant procedures in article 8.5 of title 16 regarding the determination of competency. The presence of the inmate is not required unless there is good cause shown.

SECTION 44. In Colorado Revised Statutes, 17-26-118, **amend** (3)(i) as follows:

17-26-118. Criminal justice data collection - definitions.

(3) The keeper of each jail facility shall keep and maintain a daily record of the following data:

(i) The number of confined inmates awaiting a competency evaluation, ~~as defined in section 16-8.5-101(2);~~ a competency hearing, ~~as defined in section 16-8.5-101(4);~~ or a restoration hearing, as THOSE TERMS ARE defined in section 16-8.5-101; ~~(17);~~

SECTION 45. In Colorado Revised Statutes, 20-1-111, **amend** (4)(c) as follows:

20-1-111. District attorneys may cooperate or contract - contents - appropriation.

(4) (c) FOR STATE FISCAL YEAR 2026-27, AND FOR EACH STATE FISCAL YEAR THEREAFTER, the general assembly shall ~~make an appropriation~~ APPROPRIATE ONE HUNDRED FIFTY THOUSAND DOLLARS to the department of law ~~for state fiscal year 2019-20~~ for allocation to the statewide organization representing district attorneys for the public purpose of providing prosecution training SEMINARS, CONTINUING EDUCATION PROGRAMS, AND OTHER PROSECUTION-RELATED SERVICES ON BEHALF OF DISTRICT ATTORNEYS WHO ARE MEMBERS OF THE ORGANIZATION, INCLUDING, BUT NOT LIMITED TO, COSTS AND EXPENSES FOR PERSONNEL, ADMINISTRATION, MATERIALS, AND TRAVEL, concerning ANY ISSUES RELATED TO determinations of competency to proceed for juveniles and adults, competency evaluation reports, services to restore competency, CIVIL COMMITMENTS, PROTECTIVE PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, and certification proceedings governed by article 65 of title 27.

SECTION 46. In Colorado Revised Statutes, 22-31-129, amend (1) introductory portion and (1)(g) as follows:

22-31-129. Vacancies.

(1) A school director office ~~shall be~~ IS 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 27-65-109 (4) or 27-65-127, C.R.S.~~ SECTION 27-65-110 (4) OR 27-65-127, 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 47. In Colorado Revised Statutes, 22-60.5-107, amend (2)(a) as follows:

22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization - definitions.

(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 27-65-109 (4) or 27-65-127, C.R.S.~~ SECTION 27-65-110 (4) OR 27-65-127, 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~~ THEIR 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~~ MUST be revoked or suspended by operation of law without a hearing, notwithstanding the provisions of section 22-60.5-108;

SECTION 48. In Colorado Revised Statutes, 24-72-705, amend (1)(g) as follows:

24-72-705. Sealing criminal justice records other than convictions - simplified process - applicability.

(1) (g) Charges that are dismissed pursuant to ~~section 16-8.5-116~~ SECTION 16-8.5-109 (4), 16-8.5-113, OR 16-8.5-116 are not eligible for sealing.

SECTION 49. In Colorado Revised Statutes, 24-75-111, add (7) as follows:

24-75-111. Additional authority for controller to allow expenditures in excess of appropriations - limitations - appropriations for subsequent fiscal year restricted.

(7) (a) IN ADDITION TO ANY OVEREXPENDITURE ALLOWED PURSUANT TO SECTION 24-75-109, THE CONTROLLER MAY ALLOW THE DEPARTMENT OF HUMAN SERVICES TO MAKE AN EXPENDITURE IN EXCESS OF THE AMOUNT AUTHORIZED BY AN ITEM OF APPROPRIATION FOR SUCH A FISCAL YEAR IF THE EXPENDITURE IS FOR PERSONS FOUND INCOMPETENT TO PROCEED WHO ARE PLACED OR MAY BE PLACED UNDER A CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT AND:

(I) THE OVEREXPENDITURE IS NECESSARY DUE TO UNFORESEEN CIRCUMSTANCES ARISING WHILE THE GENERAL ASSEMBLY IS NOT MEETING IN REGULAR OR SPECIAL SESSION DURING WHICH SUCH OVEREXPENDITURE CAN BE LEGISLATIVELY ADDRESSED;

(II) THE REQUEST FOR THE OVEREXPENDITURE HAS BEEN SUBMITTED TO THE OFFICE OF STATE PLANNING AND BUDGETING FOR APPROVAL AND THE OFFICE OF STATE PLANNING AND BUDGETING HAS APPROVED THE OVEREXPENDITURE, IN WHOLE OR IN PART;

(III) THE REQUEST FOR THE OVEREXPENDITURE HAS BEEN SUBMITTED TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY FOR APPROVAL; AND

(IV) THE REQUEST FOR THE OVEREXPENDITURE HAS BEEN APPROVED,

IN WHOLE OR IN PART, BY A MAJORITY VOTE OF THE MEMBERS OF THE JOINT BUDGET COMMITTEE WITHIN TWO WEEKS AFTER RECEIVING THE REQUEST FROM THE OFFICE OF STATE PLANNING AND BUDGETING AND THE CONTROLLER HAS RECEIVED WRITTEN CONFIRMATION OF THE APPROVAL FROM THE JOINT BUDGET COMMITTEE.

(b) THE JOINT BUDGET COMMITTEE SHALL NOTIFY THE COLORADO DISTRICT ATTORNEYS' COUNCIL AND THE OFFICE OF STATE PUBLIC DEFENDER OF THE OUTCOME OF THE JOINT BUDGET COMMITTEE'S VOTE.

(c) IF THE REQUEST FOR OVEREXPENDITURE IS NOT APPROVED BY THE JOINT BUDGET COMMITTEE, THE DEPARTMENT OF HUMAN SERVICES SHALL CONVENE A MEETING WITH THE DISTRICT ATTORNEYS' COUNCIL, THE OFFICE OF STATE PUBLIC DEFENDER, AND ANY OTHER RELEVANT PARTIES TO DISCUSS WHAT ACTIONS THE DEPARTMENT OF HUMAN SERVICES AND OTHER AGENCIES MAY TAKE.

SECTION 50. In Colorado Revised Statutes, 26-1-107, amend (6)(h) as follows:

26-1-107. State board of human services - reimbursement for expenses - rules.

(6) The state board shall:

(h) Adopt rules concerning standards for the level of training, education, and experience that a psychiatrist or psychologist ~~shall have to~~ **MUST** be qualified **IN ORDER** to perform competency evaluations in criminal cases pursuant to section 16-8-106 and article 8.5 of title 16, ~~C.R.S.~~, and standards for conducting and reporting competency evaluations in criminal cases. ~~Prior to adopting the rules, the state board shall consider recommendations from the competency evaluation advisory board created in section 16-8.5-119, C.R.S.~~

SECTION 51. In Colorado Revised Statutes, 27-60-105, amend (2) and (6) as follows:

27-60-105. Outpatient restoration to competency services - jail-based behavioral health services - responsible entity - duties - report - legislative declaration.

(2) The state department serves as a central organizing structure and responsible entity for the provision of competency restoration education services and coordination of competency restoration services ordered by the court pursuant to ~~section 16-8.5-111~~ (2) SECTION 16-8.5-110 (1) or 19-2.5-704 (2), and the behavioral health administration serves as the central organizing structure and responsible entity for jail-based behavioral health services pursuant to section 27-60-106.

(6) In addition to subsection (4) of this section and subject to available appropriations, the state department shall require any county jail to assist in the provision of interim mental health services for individuals who have been court-ordered for inpatient competency restoration and who are waiting admission for an inpatient bed. This section does not toll or otherwise modify the time frames for the state department to offer inpatient admission pursuant to the provisions of ~~section 16-8.5-111~~ SECTION 16-8.5-110.

SECTION 52. In Colorado Revised Statutes, 27-71-103, **amend** (2)(c)(II) as follows:

27-71-103. Mental health residential facilities - additional beds.

(2) (c) The state department, in collaboration with the behavioral health administration and the department of health care policy and financing, shall establish criteria for admissions and discharge planning, quality assurance monitoring, appropriate length of stay, and compliance with applicable federal law. For the mental health residential facilities created pursuant to this section, admission criteria for facilities must include:

(II) For treatment beds that do not serve individuals covered under a home- and community-based waiver, offering priority placement to individuals under a certification for short-term or extended short-term treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION 27-65-108.5, 27-65-109, OR 27-65-109.5, and long-term care and treatment pursuant to ~~section 27-65-109~~ SECTION 27-65-110 on an outpatient basis.

SECTION 53. In Colorado Revised Statutes, 27-94-107, **amend** (2) as follows:

27-94-107. Renovation for additional beds.

(2) Initially, the beds may be used for persons needing competency services. When the wait list for INPATIENT competency RESTORATION services ~~provided pursuant to section 16-8.5-111~~ FOR DEFENDANTS NOT ADMITTED WITHIN THE TIME LIMITS SET FORTH IN SECTION 16-8.5-110 (3)(a)(II) OR (3)(a)(III) is eliminated or trending so that it can be reasonably expected to be eliminated within one year, the department of human services shall implement a plan to transition the beds created in subsection (1) of this section to serve civil patients and immediately notify the joint budget committee of the general assembly. Within one year after the notification to the joint budget committee, all beds created pursuant to subsection (1) of this section must serve civil patients.

SECTION 54. In Colorado Revised Statutes, 24-75-302, amend (2)(uu) and (2)(vv); and add (2)(xx) as follows:

24-75-302. Capital construction fund - capital assessment fees - calculation - information technology capital account - repeal.

(2) The controller shall transfer a sum as specified in this subsection (2) from the general fund to the capital construction fund as money becomes available in the general fund during the fiscal year beginning on July 1 of the fiscal year in which the transfer is made or on the date otherwise specified for the transfer. Transfers between funds pursuant to this subsection (2) are not appropriations subject to the limitations of section 24-75-201.1. The amounts transferred pursuant to this subsection (2) are as follows:

(uu) On July 1, 2024, one hundred sixty-two million seven hundred seventy-eight thousand two hundred eighty-five dollars; and

(vv) On July 1, 2025, one hundred twenty-nine million four hundred ninety-eight thousand thirty-three dollars; AND

(xx) THREE DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2)(xx), FOUR MILLION SEVEN HUNDRED SEVENTY-SEVEN THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS.

SECTION 55. Appropriation. (1) For the 2025-26 state fiscal year,

\$535,934 is appropriated to the department of human services. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$485,934 for the Wheat Ridge regional center intermediate care facility; and

(b) \$50,000 for skilled nursing contracted beds.

SECTION 56. Capital construction appropriation. For the 2025-26 state fiscal year, \$3,577,898 is appropriated to the department of human services for use by office of civil and forensic mental health. This appropriation is from the capital construction fund created in section 24-75-302 (1)(a), C.R.S. To implement this act, the office may use this appropriation for capital construction related to the renovation of a unit at the Colorado mental health hospital in Pueblo to create enhanced protective placements for people with intellectual and developmental disabilities. Any money appropriated in this section not expended prior to July 1, 2026, is further appropriated to the department from July 1, 2026, through June 30, 2029, for the same purpose.

SECTION 57. Capital construction appropriation. For the 2025-26 state fiscal year, \$1,200,000 is appropriated to the department of human services for use by office of civil and forensic mental health. This appropriation is from the capital construction fund created in section 24-75-302 (1)(a), C.R.S. To implement this act, the office may use this appropriation for capital construction related to the development of an outpatient clinic pursuant to section 27-94-108 (1), C.R.S. Any money appropriated in this section not expended prior to July 1, 2026, is further appropriated to the department from July 1, 2026, through June 30, 2028, for the same purpose.

SECTION 58. Appropriation. (1) For the 2026-27 state fiscal year, \$3,682,028 is appropriated to the judicial department. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$64,449 for use by supreme court and court of appeals for appellate court programs, which amount is based on an assumption that the division will require an additional 0.5 FTE;

(b) \$245,458 for use by state courts administration for general courts administration, which amount is based on an assumption that the division will require an additional 2.1 FTE;

(c) \$1,113,744 for use by state courts administration for information technology infrastructure;

(d) \$103,600 for use by state courts administration for capital outlay;

(e) \$310,800 for use by state courts administration for courthouse information technology capital outlay, which amount remains available for expenditure through the close of the 2027-28 state fiscal year;

(f) \$925,244 for use by trial courts for trial court programs, which amount is based on an assumption that the division will require an additional 8.4 FTE;

(g) \$719,608 for use by trial courts for court cost, jury costs, court-appointed counsel, and reimbursements for vacated convictions; and

(h) \$199,125 for use by trial courts for district attorney mandated costs.

(2) For the 2026-27 state fiscal year, \$26,296 is appropriated to the judicial department for use by state courts administration. This appropriation is from the judicial department information technology cash fund created in section 13-32-114 (1), C.R.S. To implement this act, state courts administration may use this appropriation for information technology infrastructure.

(3) For the 2026-27 state fiscal year, \$648,860 is appropriated to the judicial department for use by the office of the state public defender. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$411,405 for personal services, which amount is based on an assumption that the office will require an additional 4.5 FTE;

(b) \$5,760 for operating expenses;

- (c) \$28,000 for capital outlay;
- (d) \$570 for attorney registration;
- (e) \$4,000 for training; and
- (f) \$199,125 for mandated costs.

(4) For the 2026-27 state fiscal year, \$206,345 is appropriated to the judicial department for use by the alternate defense counsel. This appropriation is from the general fund. To implement this act, the department may use this appropriation for conflict-of-interest contracts.

(5) For the 2026-27 state fiscal year, \$513,808 is appropriated to the judicial department for use by the office of public guardianship. This appropriation is from the general fund and is based on an assumption that the office will require an additional 5.5 FTE. To implement this act, the office may use this appropriation for program costs.

(6) For the 2026-27 state fiscal year, \$350,396 is appropriated to the judicial department for use by the office of bridges of Colorado. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

- (a) \$310,154 for personal services, which amount is based on an assumption that the office will request an additional 3.3 FTE; and
- (b) \$40,242 for operating expenses.

SECTION 59. Appropriation. (1) For the 2026-27 state fiscal year, \$133,795 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund and is based on an assumption that the department will require an additional 3.0 FTE. To implement this act, the department may use this appropriation for personal services.

(2) For the 2026-27 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$133,794 in federal funds for personal services to implement this act. The appropriation in subsection (1) of this section is based on the

assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

SECTION 60. Appropriation. (1) For the 2026-27 state fiscal year, \$709,013 is appropriated to the department of health care policy and financing. This appropriation is from the general fund, which is subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year. To implement this act, the department may use this appropriation for medical and long-term care services for medicaid eligible individuals.

(2) For the 2026-27 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$709,013 in federal funds for medical and long-term care services for medicaid eligible individuals to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds.

SECTION 61. Appropriation. For the 2026-27 state fiscal year, \$17,507,393 is appropriated to the department of human services, which amount is based on an assumption that the department will require an additional 61.1 FTE. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

Executive director's office

Health, life, and dental	\$1,074,819
Short-term disability	\$3,169
Paid family medical leave insurance	\$20,369
Unfunded liability amortization payments	\$452,633

Behavioral health administration

Program administration	\$80,605 (1.0 FTE)
Behavioral health safety net services	\$260,000

Office of civil and forensic mental health

Mental health institute at Pueblo; personal services	\$168,984 (2.0 FTE)
Court services	\$238,293 (4.0 FTE)
Purchased psychiatric bed capacity	\$5,234,880
Outpatient competency restoration program	\$169,811 (3.0 FTE)
Forensic services; competency navigation	\$835,898 (3.0 FTE)
Contracted civil services	\$6,264,514 (32.0 FTE)
Outpatient clinic	\$385,125 (3.0 FTE)

Office of adults, aging, and disability services

Wheat Ridge regional center intermediate care facility	\$767,434 (7.0 FTE)
Pueblo regional center; cottage at Pueblo	\$1,550,859 (9.1 FTE)

SECTION 62. Appropriation. (1) For the 2026-27 state fiscal year, \$242,323 is appropriated to the department of human services. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of legal services.

(2) For the 2026-27 state fiscal year, \$242,323 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section and is based on an assumption that the department of law will require an additional 1.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of human services.

SECTION 63. Appropriation. (1) For the 2026-27 state fiscal

year, \$52,644 is appropriated to the department of human services. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of information technology services.


(2) For the 2026-27 state fiscal year, \$52,644 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of human services under subsection (1) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of human services.

SECTION 64. Appropriation. For the 2026-27 state fiscal year, \$150,000 is appropriated to the department of law. This appropriation is from the general fund. To implement this act, the department may use this appropriation for deputy district attorney training.

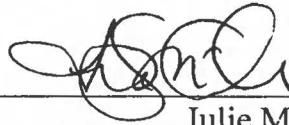
SECTION 65. Repeal of nonrelocated provisions in this act. In Colorado Revised Statutes, **repeal** the following provisions that are not relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

SECTION 66. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.



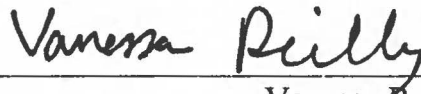
James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Esther van Mourik
SECRETARY OF
THE SENATE



Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED on Thursday May 21st 2026 at 11:30am
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO