

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0940.01 Jerry Barry x4341

SENATE BILL 19-223

SENATE SPONSORSHIP

Lee and Gardner,

HOUSE SPONSORSHIP

Weissman and Landgraf,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ACTIONS RELATED TO COMPETENCY TO PROCEED.**

Bill Summary

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

When a defendant's competency to proceed is raised, the bill:

- ! Changes the timing of various matters;
- ! Clarifies where restoration services are to be provided;
- ! Increases the role of the court liaisons;
- ! Expands the requirements for a competency evaluation report; and
- ! Clarifies when defendants are to be released following an evaluation or restoration services.

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

The bill requires the department of human services to:

- ! Develop an electronic system to track the status of defendants for whom competency to proceed has been raised;
- ! Convene a group of experts to create a placement guideline for use in determining where restoration services should be provided; and
- ! Partner with an institution of higher education to develop and provide training in competency evaluations.

On and after January 1, 2020, competency evaluators are required to have attended training. District attorneys, public defenders, and alternate defense counsel are also to receive training on competency to proceed.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 16-8.5-101
3 as follows:

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

6 (1) "COLLATERAL MATERIALS" MEANS THE RELEVANT POLICE
7 INCIDENT REPORTS AND THE CHARGING DOCUMENTS, EITHER THE
8 CRIMINAL INFORMATION OR INDICTMENT.

9 ~~(1)~~ (2) "Competency evaluation" includes both court-ordered
10 competency evaluations and second evaluations.

11 ~~(2)~~ (3) "Competency evaluator" means a licensed physician who
12 is a psychiatrist or a licensed psychologist, each of whom is trained in
13 forensic competency assessments, or a psychiatrist who is in forensic
14 training and practicing under the supervision of a psychiatrist with
15 expertise in forensic psychiatry, or a psychologist who is in forensic
16 training and is practicing under the supervision of a licensed psychologist
17 with expertise in forensic psychology.

18 ~~(3)~~ (4) "Competency hearing" means a hearing to determine

1 whether a defendant is competent to proceed.

2 ~~(4)~~ (5) "Competent to proceed" means that the defendant does not
3 have a mental disability or developmental disability that prevents the
4 defendant from having sufficient present ability to consult with the
5 defendant's lawyer with a reasonable degree of rational understanding in
6 order to assist in the defense or prevents the defendant from having a
7 rational and factual understanding of the criminal proceedings.

8 ~~(5)~~ (6) "Court-ordered competency evaluation" means a
9 court-ordered examination of a defendant either before, during, or after
10 trial, directed to developing information relevant to a determination of the
11 defendant's competency to proceed at a particular stage of the criminal
12 proceeding, that is performed by a competency evaluator and includes
13 evaluations concerning restoration to competency.

14 ~~(6)~~ (7) "Court-ordered report" means a report of an evaluation,
15 conducted by or under the direction of the department, that is the statutory
16 obligation of the department to prepare when requested to do so by the
17 court.

18 ~~(7)~~ (8) "Criminal proceedings" means trial, sentencing,
19 satisfaction of the sentence, execution, and any pretrial matter that is not
20 susceptible of fair determination without the personal participation of the
21 defendant.

22 ~~(8)~~ (9) "Department" means the department of human services.

23 ~~(9)~~ (10) "Developmental disability" means a disability that has
24 manifested before the person reaches twenty-two years of age, that
25 constitutes a substantial disability to the affected individual, and is
26 attributable to ~~mental retardation~~ AN INTELLECTUAL DISABILITY or other
27 neurological conditions when such conditions result in impairment of

1 general intellectual functioning or adaptive behavior similar to that of a
2 person with ~~mental retardation~~ AN INTELLECTUAL DISABILITY. Unless
3 otherwise specifically stated, the federal definition of "developmental
4 disability", 42 U.S.C. sec. 15001 et seq., shall not apply.

5 ~~(10)~~ (11) "Executive director" means the executive director of the
6 department of human services.

7 ~~(11)~~ (12) "Incompetent to proceed" means that, as a result of a
8 mental disability or developmental disability, the defendant does not have
9 sufficient present ability to consult with the defendant's lawyer with a
10 reasonable degree of rational understanding in order to assist in the
11 defense, or that, as a result of a mental disability or developmental
12 disability, the defendant does not have a rational and factual
13 understanding of the criminal proceedings.

14 (13) "IN-CUSTODY" MEANS IN PRISON, IN A JAIL, OR IN ANY OTHER
15 LOCKED DETENTION FACILITY THAT DOES NOT MEET THE DEFINITION OF
16 INPATIENT.

17 (14) "INPATIENT" MEANS IN THE CUSTODY OF THE DEPARTMENT,
18 EITHER IN A HOSPITAL OR IN A FULL-TIME, JAIL-BASED RESTORATION
19 PROGRAM DEVELOPED BY THE DEPARTMENT.

20 ~~(12)~~ (15) "Mental disability" means a substantial disorder of
21 thought, mood, perception, or cognitive ability that results in marked
22 functional disability, significantly interfering with adaptive behavior.
23 "Mental disability" does not include acute intoxication from alcohol or
24 other substances, or any condition manifested only by antisocial behavior,
25 or any substance abuse impairment resulting from recent use or
26 withdrawal. However, substance abuse that results in a long-term,
27 substantial disorder of thought, mood, or cognitive ability may constitute

1 a mental disability.

2 (16) "OUTPATIENT" MEANS A LOCATION OUTSIDE OF THE CUSTODY
3 OF THE DEPARTMENT. "OUTPATIENT" DOES NOT INCLUDE A JAIL, PRISON,
4 OR OTHER DETENTION FACILITY WHERE THE DEFENDANT IS IN-CUSTODY.

5 ~~(13)~~ (17) "Restoration hearing" means a hearing to determine
6 whether a defendant who has previously been determined to be
7 incompetent to proceed has become competent to proceed.

8 ~~(14)~~ (18) "Second evaluation" means an evaluation requested by
9 the court, the district attorney, or the defendant that is performed by a
10 competency evaluator and that is not performed by or under the direction
11 of, or paid for by, the department.

12 (19) "TIER 1" MEANS A DEFENDANT:

13 (a) WHO HAS BEEN ORDERED TO RECEIVE INPATIENT RESTORATIVE
14 TREATMENT;

15 (b) FOR WHOM A COMPETENCY EVALUATOR HAS DETERMINED
16 EITHER THAT THE DEFENDANT:

17 (I) APPEARS TO HAVE A MENTAL HEALTH DISORDER AND, AS A
18 RESULT OF THE MENTAL HEALTH DISORDER, APPEARS TO BE A DANGER TO
19 OTHERS OR TO HIMSELF OR HERSELF OR APPEARS TO BE GRAVELY
20 DISABLED; OR

21 (II) HAS A MENTAL HEALTH DISORDER; AND

22 (c) AS A RESULT OF THE DETERMINATION MADE PURSUANT TO
23 SUBSECTION (19)(b) OF THIS SECTION, DELAYING INPATIENT
24 HOSPITALIZATION BEYOND SEVEN DAYS WOULD CAUSE HARM TO THE
25 DEFENDANT OR OTHERS.

26 (20) "TIER 2" MEANS A DEFENDANT WHO HAS BEEN ORDERED TO
27 RECEIVE INPATIENT RESTORATIVE TREATMENT AND WHO DOES NOT MEET

1 THE CRITERIA TO BE A TIER 1 DEFENDANT.

2 **SECTION 2.** In Colorado Revised Statutes, 16-8.5-102, **amend**
3 (2) introductory portion and (2)(d); and **repeal** (2)(c) as follows:

4 **16-8.5-102. Mental incompetency to proceed - how and when**
5 **raised.** (2) The question of a defendant's competency to proceed ~~shall~~
6 MUST be raised in ONLY ONE OF the following ~~manner~~ MANNERS:

7 (c) ~~By the affidavit of any chief officer of an institution having~~
8 ~~custody of a defendant awaiting execution; or~~

9 (d) By the state board of parole when a board member has a
10 substantial and good-faith reason to believe that the offender is
11 incompetent to proceed, as defined in ~~section 16-8.5-101 (11)~~ SECTION
12 16-8.5-101 (12), at a parole hearing conducted pursuant to section
13 17-22.5-403.5.

14 **SECTION 3.** In Colorado Revised Statutes, 16-8.5-103, **amend**
15 (1), (3), (4), and (8) as follows:

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

17 (1) (a) Whenever the question of a defendant's competency to proceed is
18 raised, by either party or on the court's own motion, the court may make
19 a preliminary finding of competency or incompetency ~~TO PROCEED~~, which
20 ~~shall be~~ IS a final determination unless a party to the case objects within
21 ~~fourteen~~ SEVEN days after the court's preliminary finding.

22 (b) ON OR BEFORE THE DATE WHEN A COURT ORDERS THAT A
23 DEFENDANT BE EVALUATED FOR COMPETENCY, A COURT LIAISON FOR THE
24 DISTRICT HIRED PURSUANT TO PART 2 OF ARTICLE 11.9 OF THIS TITLE 16
25 MAY BE ASSIGNED TO THE DEFENDANT.

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

1 (4) If a party requests a second evaluation, any pending requests
2 for a hearing ~~shall~~ MUST be continued until the receipt of the second
3 evaluation report. The report of the expert conducting the second
4 evaluation ~~shall~~ MUST be completed and filed with the court within
5 ~~sixty-three~~ THIRTY-FIVE days after the court order allowing the second
6 evaluation, unless the time period is extended by the court for good cause.
7 If the second evaluation is requested by the court, it ~~shall~~ MUST be paid
8 for by the court.

9 (8) If the question of the defendant's incompetency to proceed is
10 raised after a jury is impaneled to try the issues raised by a plea of not
11 guilty and the court determines that the defendant is incompetent to
12 proceed or orders ~~the defendant committed~~ for a court-ordered
13 competency evaluation, the court may declare a mistrial. Declaration of
14 a mistrial under these circumstances does not constitute jeopardy, nor
15 does it prohibit the trial, sentencing, or execution of the defendant for the
16 same offense after he or she has been found restored to competency.

17 **SECTION 4.** In Colorado Revised Statutes, 16-8.5-105, **amend**
18 (1) and (5); and **add** (6) and (7) as follows:

19 **16-8.5-105. Evaluations, locations, time frames, and report.**

20 (1) (a) (I) The court shall order that the COMPETENCY evaluation be
21 conducted on an outpatient basis or, if the defendant is ~~in custody~~ UNABLE
22 TO POST THE MONETARY CONDITION OF BOND OR IS INELIGIBLE TO BE
23 RELEASED ON BOND, at the place where the defendant is ~~in custody~~. ~~The~~
24 ~~defendant shall be released on bond if otherwise eligible for bond~~
25 IN-CUSTODY, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION.
26 IF THE DEPARTMENT CONDUCTS THE EVALUATION ON AN IN-CUSTODY
27 BASIS, THE DEPARTMENT SHALL BEGIN THE EVALUATION AS SOON AS

1 PRACTICABLE AFTER THE DEPARTMENT'S RECEIPT OF A COURT ORDER
2 DIRECTING THE EVALUATION. AFTER JULY 1, 2020, IF THE EVALUATION IS
3 CONDUCTED ON AN IN-CUSTODY BASIS, THE DEPARTMENT SHALL
4 COMPLETE THE EVALUATION NO LATER THAN TWENTY-ONE DAYS AFTER
5 RECEIPT OF THE ORDER AND THE COLLATERAL MATERIALS. ON AND AFTER
6 JULY 1, 2020, IF THE EVALUATION IS CONDUCTED ON AN OUT-OF-CUSTODY
7 BASIS, THE DEPARTMENT SHALL COMPLETE THE EVALUATION WITHIN
8 FORTY-TWO DAYS AFTER RECEIPT OF THE ORDER AND COLLATERAL
9 MATERIALS, UNLESS THE COURT EXTENDS THE TIME UPON A SHOWING OF
10 GOOD CAUSE.

11 (II) AT THE TIME ANY EVALUATION IS ORDERED, THE COURT SHALL
12 ORDER THAT THE COLLATERAL MATERIALS BE TRANSMITTED TO THE
13 DEPARTMENT WITHIN TWENTY-FOUR HOURS AFTER THE ORDER BY THE
14 APPROPRIATE PARTY WITH A CERTIFICATE OF SERVICE OF THE MATERIALS
15 PROVIDED TO THE COURT AND OTHER NECESSARY PARTIES BY THE PARTY
16 ORDERED TO TRANSMIT THE COLLATERAL MATERIALS.

17 (III) THE COURT SHALL DETERMINE THE TYPE OF BOND AND THE
18 CONDITIONS OF RELEASE AFTER CONSIDERATION OF THE PRESUMPTIONS
19 AND FACTORS ENUMERATED IN ARTICLE 4 OF THIS TITLE 16, WHICH
20 INCLUDE CONSIDERATION OF THE INFORMATION RECEIVED FROM ANY
21 PRETRIAL SERVICES PROGRAM PURSUANT TO THE PROVISIONS OF SECTION
22 16-4-106 AND ANY INFORMATION PROVIDED BY THE COURT LIAISON HIRED
23 PURSUANT TO PART 2 OF ARTICLE 11.9 OF THIS TITLE 16. AS A CONDITION
24 OF ANY BOND, THE COURT SHALL REQUIRE THE DEFENDANT'S
25 COOPERATION WITH THE COMPETENCY EVALUATION ON AN OUTPATIENT
26 AND OUT-OF-CUSTODY BASIS. IN SETTING THE BOND, THE COURT SHALL
27 NOT CONSIDER THE NEED FOR THE DEFENDANT TO RECEIVE AN

1 EVALUATION PURSUANT TO THIS ARTICLE 8.5 AS A FACTOR IN
2 DETERMINING ANY MONETARY CONDITION OF BOND.

3 (IV) NOTHING IN THIS SUBSECTION (1)(a) LIMITS THE
4 AVAILABILITY OF A COURT-ORDERED EVALUATION FOR A PERSON WITH A
5 MENTAL HEALTH DISORDER PURSUANT TO SECTION 27-65-106 OR INVOKES
6 THE EMERGENCY PROCEDURE SET FORTH IN SECTION 27-65-105.

7 (b) Notwithstanding the provisions of ~~paragraph (a) of this~~
8 ~~subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, the court may order
9 the defendant placed in the DEPARTMENT'S custody ~~of the Colorado~~
10 ~~mental health institute at Pueblo~~ for the time necessary to conduct the
11 INPATIENT COMPETENCY evaluation if:

12 (I) ~~The court finds the defendant may be a danger to self or others~~
13 ~~as defined in section 27-65-102, C.R.S.~~ THE DEPARTMENT PROVIDES A
14 RECOMMENDATION TO THE COURT, AFTER CONSULTATION WITH THE
15 DEFENDANT AND REVIEW OF ANY CLINICAL OR COLLATERAL MATERIALS,
16 THAT CONDUCTING THE COMPETENCY EVALUATION ON AN INPATIENT
17 BASIS IS CLINICALLY APPROPRIATE;

18 (II) ~~The court finds that an inadequate competency evaluation and~~
19 ~~report has been completed or two or more conflicting competency~~
20 ~~evaluations and reports have been completed~~ THE COURT FINDS THAT AN
21 INADEQUATE COMPETENCY EVALUATION AND REPORT HAS BEEN
22 COMPLETED OR THAT TWO OR MORE CONFLICTING COMPETENCY
23 EVALUATIONS AND REPORTS HAVE BEEN COMPLETED, AND THE COURT
24 FINDS THAT AN INPATIENT EVALUATION IS NECESSARY; OR

25 (III) ~~The court finds that an observation period is necessary to~~
26 ~~determine if the defendant is competent to stand trial;~~ EXTRAORDINARY
27 CIRCUMSTANCES RELATING TO THE CASE OR THE DEFENDANT MAKE

1 CONDUCTING THE COMPETENCY EVALUATION ON AN INPATIENT BASIS
2 NECESSARY AND APPROPRIATE.

3 (IV) ~~The court receives a recommendation from the Colorado~~
4 ~~mental health institute at Pueblo court services evaluator that conducting~~
5 ~~the evaluation at the Colorado mental health institute at Pueblo is~~
6 ~~appropriate because the evaluator conducting the evaluation for the~~
7 ~~Colorado mental health institute at Pueblo determines that the defendant~~
8 ~~has been uncooperative or the defendant has clinical needs that warrant~~
9 ~~transfer to the Colorado mental health institute at Pueblo; or~~

10 (V) ~~The court receives written approval for the evaluation to be~~
11 ~~conducted at the Colorado mental health institute at Pueblo from the~~
12 ~~executive director of the department of human services, or his or her~~
13 ~~designee.~~

14 (b.3) UPON ENTRY OF A COURT ORDER PURSUANT TO SUBSECTION
15 (1)(b) OF THIS SECTION, THE DEPARTMENT HAS THE SAME AUTHORITY
16 WITH RESPECT TO CUSTODY AS PROVIDED FOR IN SECTION 16-8-105.5 (4).

17 (b.5) WHEN THE COURT ORDERS AN INPATIENT EVALUATION, THE
18 COURT SHALL ADVISE THE DEFENDANT THAT RESTORATION SERVICES MAY
19 COMMENCE IMMEDIATELY IF THE EVALUATION CONCLUDES THAT THE
20 DEFENDANT IS INCOMPETENT TO PROCEED, UNLESS EITHER PARTY OBJECTS
21 AT THE TIME OF THE ADVISEMENT, OR WITHIN SEVENTY-TWO HOURS AFTER
22 THE RECEIPT OF THE WRITTEN EVALUATION SUBMITTED TO THE COURT.
23 THE COURT SHALL RECORD ANY OBJECTION TO THE ORDER OF
24 COMMITMENT TO THE DEPARTMENT.

25 (b.7) ON AND AFTER JULY 1, 2020, WHEN THE COURT ORDERS AN
26 INPATIENT EVALUATION, THE DEFENDANT MUST BE OFFERED ADMISSION
27 TO THE HOSPITAL OR OTHER INPATIENT PROGRAM WITHIN FOURTEEN DAYS

1 AFTER RECEIPT OF THE COURT ORDER AND COLLATERAL MATERIALS. THE
2 COURT SHALL REVIEW THE CASE IN TWENTY-ONE DAYS TO DETERMINE IF
3 TRANSPORTATION TO THE HOSPITAL OR PROGRAM HAS BEEN COMPLETED
4 OR IF FURTHER ORDERS ARE NECESSARY.

5 (c) ~~The court, when setting bond pursuant to section 16-4-103, if~~
6 ~~the defendant is eligible for bond, and after receiving any information~~
7 ~~pursuant to section 16-4-106, shall not consider the need for the~~
8 ~~defendant to receive an evaluation pursuant to this article.~~

9 (d) If a defendant is in THE DEPARTMENT'S custody ~~at the Colorado~~
10 ~~mental health institute at Pueblo~~ for purposes of the COMPETENCY
11 evaluation ordered pursuant to this ~~article~~ ARTICLE 8.5 and the defendant
12 has completed the COMPETENCY evaluation and ~~must be returned~~ THE
13 EVALUATOR HAS CONCLUDED THAT THE DEFENDANT IS COMPETENT TO
14 PROCEED, THE DEPARTMENT MAY RETURN THE DEFENDANT TO a county
15 jail OR TO THE COMMUNITY, AS DETERMINED BY THE DEFENDANT'S BOND
16 STATUS. IF THE EVALUATOR HAS CONCLUDED THAT THE DEFENDANT IS
17 INCOMPETENT TO PROCEED AND THAT INPATIENT RESTORATION SERVICES
18 ARE NOT CLINICALLY APPROPRIATE, AND OUTPATIENT RESTORATION
19 SERVICES ARE AVAILABLE TO THE DEFENDANT IN THE COMMUNITY, THE
20 DEPARTMENT SHALL NOTIFY THE COURT AND THE COURT LIAISON, AND
21 THE DEPARTMENT SHALL COORDINATE WITH THE COURT LIAISON TO
22 DEVELOP A DISCHARGE PLAN AND A PLAN FOR COMMUNITY-BASED
23 RESTORATION SERVICES. THE COURT SHALL HOLD A HEARING WITHIN
24 SEVEN DAYS AFTER RECEIVING THE NOTICE. IF THE DEPARTMENT IS
25 RETURNING THE DEFENDANT to a county jail, the county sheriff in the
26 jurisdiction where the defendant must return shall ~~make all reasonable~~
27 ~~efforts to take custody of the defendant as soon as practicable once~~

1 WITHIN SEVENTY-TWO HOURS AFTER RECEIVING NOTIFICATION FROM THE
2 DEPARTMENT THAT the defendant's evaluation is completed. AT THE TIME
3 THE DEPARTMENT NOTIFIES THE SHERIFF, THE DEPARTMENT SHALL ALSO
4 NOTIFY THE COURT AND THE COURT LIAISON THAT THE DEPARTMENT IS
5 RETURNING THE DEFENDANT TO THE CUSTODY OF THE JAIL.

6 (e) Nothing in this section ~~shall restrict~~ RESTRICTS the right of the
7 defendant to procure ~~an~~ A COMPETENCY evaluation as provided in ~~section~~
8 ~~16-8.5-107~~ SECTION 16-8.5-106.

9 (5) ON AND AFTER JULY 1, 2020, the report of evaluation shall
10 COMPETENCY EVALUATION AND REPORT MUST include but need not be
11 limited to:

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

14 (b) A description of the nature, content, extent, and results of the
15 COMPETENCY evaluation and any tests conducted, ~~and~~ WHICH MUST
16 INCLUDE BUT NEED NOT BE LIMITED TO THE INFORMATION REVIEWED AND
17 RELIED UPON IN CONDUCTING THE COMPETENCY EVALUATION AND
18 SPECIFIC TESTS CONDUCTED BY THE COMPETENCY EVALUATOR;

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

21 (d) An opinion as to whether the defendant suffers from a mental
22 disability or developmental disability; ~~and~~

23 (e) An opinion as to whether the defendant is competent to
24 proceed. IF THE OPINION OF THE COMPETENCY EVALUATOR IS THAT THE
25 DEFENDANT IS INCOMPETENT TO PROCEED, THEN:

26 (I) IF POSSIBLE, AN OPINION AS TO WHETHER THERE IS A
27 SUBSTANTIAL PROBABILITY THAT THE DEFENDANT, WITH RESTORATION

1 SERVICES, WILL ATTAIN COMPETENCY WITHIN THE REASONABLY
2 FORESEEABLE FUTURE; AND

3 (II) A RECOMMENDATION AS TO WHETHER INPATIENT
4 RESTORATION SERVICES ARE CLINICALLY APPROPRIATE TO RESTORE THE
5 DEFENDANT TO COMPETENCY. IF INPATIENT RESTORATION SERVICES ARE
6 NOT CLINICALLY APPROPRIATE, THE DEPARTMENT MUST DETAIL THE
7 OUTPATIENT AND OUT-OF-CUSTODY RESTORATION SERVICES AVAILABLE
8 TO THE DEFENDANT. FOR EVALUATION REPORTS FILED ON OR AFTER
9 JANUARY 1, 2021, THE RECOMMENDATIONS MUST BE BASED UPON THE
10 RESTORATION PLACEMENT GUIDELINE DEVELOPED PURSUANT TO SECTION
11 16-8.5-121, PRIOR TO ITS REPEAL.

12 (f) IF AVAILABLE WITHIN THE RECORDS OF THE DEPARTMENT, A
13 DESCRIPTION OF ALL COMPETENCY EVALUATIONS OR RESTORATION
14 SERVICES THAT WERE PREVIOUSLY PROVIDED TO THE DEFENDANT,
15 INCLUDING A LIST OF RECENT VOLUNTARY OR INVOLUNTARY MEDICATIONS
16 ADMINISTERED OR ADMINISTERED THROUGH A FORCED MEDICATION
17 ORDER; _____

18 (g) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE
19 DEFENDANT MEETS THE CRITERIA FOR A TIER I OR TIER II DESIGNATION,
20 AS DEFINED IN SECTION 16-8.5-101(19) AND (20); AND

21 (h) THE COMPETENCY EVALUATOR'S OPINION AS TO WHETHER THE
22 DEFENDANT MEETS THE CRITERIA FOR CERTIFICATION PURSUANT TO
23 ARTICLE 65 OF TITLE 27 OR WHETHER THE DEFENDANT IS ELIGIBLE FOR
24 SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR ARTICLE 10.5 OF
25 TITLE 27, INCLUDING THE FACTORS CONSIDERED IN MAKING EITHER
26 DETERMINATION.

27 (6) WHENEVER A COMPETENCY EVALUATION IS ORDERED UPON

1 THE REQUEST OF EITHER PARTY, THE COURT MAY NOTIFY THE COUNTY
2 ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS
3 PURSUANT TO SECTION 27-65-111 (6) FOR THE COUNTY IN WHICH THE
4 CHARGES ARE PENDING AND THE COURT LIAISON HIRED PURSUANT TO PART
5 2 OF ARTICLE 11.9 OF THIS TITLE 16 OF ALL COURT DATES FOR RETURN OF
6 THE REPORT ON COMPETENCY TO ENSURE THAT ALL PARTIES ARE ON
7 NOTICE OF THE EXPECTED NEED FOR COORDINATED SERVICES AND
8 PLANNING WITH CONSIDERATION OF POSSIBLE CIVIL COMMITMENT.
9 FURTHER, THE COURT MAY ORDER, WITH THE CONSENT OF THE
10 DEFENDANT'S COUNSEL, THE COURT LIAISON TO DEVELOP OR COORDINATE
11 A PLAN FOR MENTAL HEALTH INTERVENTION THAT WILL HELP THE
12 DEFENDANT BECOME COMPETENT, WHICH MAY INCLUDE A PLAN FOR
13 HOUSING, CASE MANAGEMENT, MEDICAL ASSISTANCE, AND APPROPRIATE
14 MENTAL HEALTH COUNSELING OR PROGRAM SERVICES.

15 (7) A COMPETENCY EVALUATOR IS NOT LIABLE FOR DAMAGES IN
16 ANY CIVIL ACTION FOR FAILURE TO WARN OR PROTECT A SPECIFIC PERSON
17 OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR ASSOCIATION WITH
18 A SPECIFIC LOCATION OR ENTITY, AGAINST THE VIOLENT BEHAVIOR OF A
19 DEFENDANT BEING EVALUATED BY THE COMPETENCY EVALUATOR, AND
20 ANY COMPETENCY EVALUATOR MUST NOT BE HELD CIVILLY LIABLE FOR
21 FAILURE TO PREDICT SUCH VIOLENT BEHAVIOR, EXCEPT WHERE THE
22 DEFENDANT HAS COMMUNICATED TO THE COMPETENCY EVALUATOR A
23 SERIOUS THREAT OF IMMINENT PHYSICAL VIOLENCE AGAINST A SPECIFIC
24 PERSON OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR
25 ASSOCIATION WITH A SPECIFIC LOCATION OR ENTITY.

26 **SECTION 5.** In Colorado Revised Statutes, 16-8.5-111, **amend**
27 (2); and **add** (3) as follows:

1 **16-8.5-111. Procedure after determination of competency or**
2 **incompetency.** (2) If the final determination made pursuant to section
3 16-8.5-103 is that the defendant is incompetent to proceed, the court has
4 the following options:

5 (a) IF THE DEFENDANT IS CHARGED WITH AN OFFENSE AS OUTLINED
6 IN SECTION 16-8.5-116 (7) OR (8), EXCEPT FOR AN OFFENSE ENUMERATED
7 IN SECTION 24-4.1-302 (1), AND THE COMPETENCY EVALUATION HAS
8 DETERMINED THAT THE DEFENDANT MEETS THE STANDARD FOR CIVIL
9 COMMITMENT PURSUANT TO ARTICLE 65 OF TITLE 27, THE COURT MAY
10 FORGO ANY ORDER OF RESTORATION AND IMMEDIATELY ORDER THAT
11 PROCEEDINGS BE INITIATED BY THE COUNTY ATTORNEY OR DISTRICT
12 ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS PURSUANT TO SECTION
13 27-65-111 (6) FOR THE CIVIL COMMITMENT OF THE DEFENDANT AND
14 DISMISS THE CHARGES WITHOUT PREJUDICE IN THE INTEREST OF JUSTICE
15 ONCE CIVIL COMMITMENT PROCEEDINGS HAVE BEEN INITIATED.

16 ~~(a)~~ (b) (I) If the defendant is on bond or summons, the court shall
17 ~~consider whether~~ ORDER THAT restoration to competency ~~should occur~~
18 TAKE PLACE on an outpatient ~~and out-of-custody~~ basis, UNLESS THE
19 DEPARTMENT RECOMMENDS INPATIENT RESTORATION SERVICES PURSUANT
20 TO SECTION 16-8.5-105 (5)(e)(II).

21 (II) If the defendant is in custody AND THE RECOMMENDATION IS
22 FOR OUT PATIENT RESTORATION SERVICES, the court ~~may~~ SHALL CONSIDER
23 THE release OF the defendant on bond ~~upon compliance with the standards~~
24 ~~and procedures for such release prescribed by statute and by~~ CONSISTENT
25 WITH ARTICLE 4 OF THIS TITLE 16 AND the Colorado rules of criminal
26 procedure. As a condition of bond, the court ~~may require the defendant~~
27 ~~to obtain any treatment or habilitation services that are available to the~~

1 ~~defendant, such as inpatient or outpatient treatment at a community~~
2 ~~mental health center or in any other appropriate treatment setting, as~~
3 ~~determined by the court. Nothing in this section authorizes the court to~~
4 ~~order community mental health centers or other providers to provide~~
5 ~~treatment for persons not otherwise eligible for these services. At any~~
6 ~~hearing to determine eligibility for release on bond, the court shall~~
7 ~~consider any effect the defendant's incompetency may have on the court's~~
8 ~~ability to ensure the defendant's presence for hearing or trial. There is a~~
9 ~~presumption that the defendant's incompetency will inhibit the defendant's~~
10 ~~ability to ensure his or her presence for trial~~ SHALL ORDER THAT THE
11 RESTORATION TAKE PLACE ON AN OUTPATIENT BASIS. Pursuant to section
12 27-60-105, the DEPARTMENT THROUGH THE office of behavioral health is
13 the entity responsible for the oversight of restoration education and
14 coordination of ~~services necessary to~~ ALL competency restoration
15 SERVICES. AS A CONDITION OF RELEASE FOR OUTPATIENT RESTORATION
16 SERVICES, THE COURT MAY REQUIRE PRETRIAL SERVICES AND THE COURT
17 LIAISON TO WORK WITH THE DEPARTMENT AND THE RESTORATION
18 SERVICES PROVIDER UNDER CONTRACT WITH THE DEPARTMENT TO ASSIST
19 IN SECURING APPROPRIATE SUPPORT AND CARE MANAGEMENT SERVICES,
20 WHICH MAY INCLUDE HOUSING RESOURCES. THE INDIVIDUAL AGENCY
21 RESPONSIBLE FOR PROVIDING OUTPATIENT RESTORATION SERVICES FOR
22 THE DEFENDANT SHALL NOTIFY THE COURT OR OTHER DESIGNATED
23 AGENCY WITHIN TWENTY-ONE DAYS IF RESTORATION SERVICES HAVE NOT
24 COMMENCED.

25 (b) (c) If the court finds that the defendant is not eligible for
26 release from custody OR NOT ABLE TO POST THE MONETARY CONDITION OF
27 BOND, the court may commit the defendant to the custody of the

1 department, in which case the executive director has the same powers
2 with respect to commitment as the executive director has following a
3 commitment ~~under~~ PURSUANT TO section 16-8-105.5 (4). At such time as
4 the department recommends to the court that the defendant is restored to
5 competency, the defendant may be returned to custody of the county jail
6 or to previous bond status.

7 (d) IF THE COURT HAS ORDERED OUTPATIENT RESTORATION
8 SERVICES AND THE DEPARTMENT DETERMINES THAT IT IS UNABLE, WITHIN
9 A REASONABLE TIME, TO PROVIDE RESTORATION SERVICES ON AN
10 OUTPATIENT BASIS, THE DEPARTMENT SHALL NOTIFY THE COURT WITHIN
11 FOURTEEN DAYS AFTER ITS DETERMINATION, AT WHICH POINT THE COURT
12 SHALL REVIEW THE CASE AND DETERMINE WHAT INTERIM MENTAL HEALTH
13 SERVICES CAN BE PROVIDED WITHIN THE COMMUNITY BY THE
14 DEPARTMENT OR OTHER COMMUNITY PROVIDER. THE DEPARTMENT SHALL
15 REPORT TO THE COURT LIAISON EVERY TEN DAYS THEREAFTER
16 CONCERNING THE AVAILABILITY OF RESTORATION SERVICES ON AN
17 OUTPATIENT BASIS.

18 (e) IF THE COURT COMMITS THE DEFENDANT TO THE CUSTODY OF
19 THE DEPARTMENT, THE EXECUTIVE DIRECTOR HAS THE SAME POWERS WITH
20 RESPECT TO A COMMITMENT PROVIDED FOR IN SECTION 16-8-105.5 (4).

21 (f) (I) IF THE COURT HAS ORDERED INPATIENT RESTORATION
22 SERVICES, THE DEPARTMENT SHALL PROVIDE RESTORATION SERVICES AT
23 AN APPROPRIATE INPATIENT RESTORATION SERVICES PROGRAM. ON AND
24 AFTER JULY 1, 2019, THE DEPARTMENT SHALL OFFER TIER 1 DEFENDANTS
25 ADMISSION FOR RESTORATION SERVICES WITHIN SEVEN DAYS AFTER
26 RECEIPT OF THE COURT ORDER AND COLLATERAL MATERIALS. ON AND
27 AFTER JULY 1, 2021, THE DEPARTMENT SHALL OFFER ADMISSION TO TIER

1 2 DEFENDANTS WITHIN TWENTY-EIGHT DAYS AFTER RECEIPT OF THE COURT
2 ORDER AND COLLATERAL MATERIALS. FOR TIER 2 DEFENDANTS, THE
3 DEPARTMENT SHALL ADVISE THE COURT AND THE COURT LIAISON EVERY
4 TEN DAYS AFTER THE INITIAL TWENTY-EIGHT DAY PERIOD REGARDING THE
5 AVAILABILITY OF A BED AND WHEN ADMISSION WILL BE OFFERED.

6 (II) IF THE DEFENDANT IS NOT OFFERED ADMISSION AND
7 TRANSPORTED TO THE INPATIENT RESTORATION SERVICES PROGRAM
8 WITHIN THE TIME FRAMES PROVIDED OR IN ACCORDANCE WITH OTHER
9 COURT ORDERS, THE COURT MAY:

10 (A) REVIEW THE CASE FOR CONSIDERATION OF OUTPATIENT
11 RESTORATION SERVICES AND APPROPRIATE AND NECESSARY CASE
12 MANAGEMENT SERVICES COORDINATED WITH THE DEPARTMENT, THE
13 COURT LIAISON, AND PRETRIAL SERVICES; OR

14 (B) MAKE ANY OTHER ORDER DETERMINED TO BE NECESSARY IN
15 ORDER TO SECURE THE NECESSARY RESTORATION SERVICES.

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

1 (h) (I) IF THE DEFENDANT IS RECEIVING INPATIENT RESTORATION
2 SERVICES AND THE EXECUTIVE DIRECTOR CONCLUDES THAT
3 COMMUNITY-BASED RESTORATION SERVICES WOULD BE MORE CLINICALLY
4 APPROPRIATE, THE DEPARTMENT SHALL:

5 (A) NOTIFY THE COURT AND REQUEST THAT THE DEFENDANT BE
6 CONSIDERED FOR RELEASE ON A NONMONETARY BOND IF THE DEFENDANT
7 IS NOT CURRENTLY RELEASED ON BOND; AND

8 (B) PROVIDE TO THE COURT INFORMATION REGARDING THE
9 APPROPRIATE OUTPATIENT RESTORATION SERVICES, DEVELOPED IN
10 CONJUNCTION WITH THE COURT LIAISON, AND THE REASONS WHY THE
11 DEFENDANT COULD BE PROPERLY RESTORED TO COMPETENCY ON AN
12 OUTPATIENT BASIS.

13 (II) THE COURT SHALL RULE ON THE REQUEST WITHIN FOURTEEN
14 DAYS AFTER RECEIPT OF THE REQUEST FROM THE DEPARTMENT.

15 (3) (a) WHEN THE DEPARTMENT SUBMITS A REPORT TO THE COURT
16 THAT IT IS THE POSITION OF THE DEPARTMENT THAT THE DEFENDANT IS
17 RESTORED TO COMPETENCY, THE DEFENDANT MAY BE RETURNED TO THE
18 CUSTODY OF THE COUNTY JAIL. IF THE RECOMMENDATION IS THAT THE
19 DEFENDANT BE RETURNED TO THE CUSTODY OF THE COUNTY JAIL, THE
20 DEPARTMENT SHALL NOTIFY THE SHERIFF OF THE JURISDICTION WHERE THE
21 DEFENDANT IS TO BE RETURNED AND THE COURT LIAISON. WITHIN
22 SEVENTY-TWO HOURS AFTER RECEIPT OF THE NOTICE, THE SHERIFF SHALL
23 RETURN THE DEFENDANT TO THE JAIL. WHEN A DEFENDANT IS
24 TRANSFERRED TO THE PHYSICAL CUSTODY OF THE SHERIFF, THE
25 DEPARTMENT SHALL WORK WITH THE COURT LIAISON AND THE SHERIFF
26 AND ANY BEHAVIORAL HEALTH PROVIDERS IN THE JAIL TO ENSURE THAT
27 THE JAIL HAS THE NECESSARY INFORMATION TO PREVENT ANY

1 DECOMPENSATION BY THE DEFENDANT WHILE THE DEFENDANT IS IN JAIL,
2 WHICH MUST INCLUDE MEDICATION INFORMATION WHEN CLINICALLY
3 APPROPRIATE. THE REPORT TO THE COURT MUST ALSO INCLUDE A
4 STATEMENT THAT THE DEPARTMENT IS RETURNING THE DEFENDANT TO
5 THE CUSTODY OF THE COUNTY JAIL. THE SHERIFF AND THE COURT LIAISON
6 SHALL WORK TO ENSURE THAT THE DEFENDANT IS PROVIDED THE CORRECT
7 VOLUNTARY MEDICATION WHILE AT THE COUNTY JAIL.

8 (b) IF THE DEFENDANT WAS RELEASED ON BOND PRIOR TO THE
9 INPATIENT HOSPITALIZATION, THE DEFENDANT MUST BE RELEASED
10 PURSUANT TO THE BOND WITH THE CONDITIONS IMPOSED BY THE COURT.
11 THE DEPARTMENT SHALL ASSIST THE DEFENDANT WITH ANY AND ALL
12 NECESSARY TRANSPORTATION AND COORDINATE WITH THE COURT LIAISON
13 FOR SERVICES NECESSARY FOR REENTRY INTO THE COMMUNITY. THE
14 DEPARTMENT SHALL PROVIDE THE NECESSARY CASE AND MEDICATION
15 INFORMATION FOR THE DEFENDANT TO THE COMMUNITY AGENCY THAT
16 WILL PROVIDE ONGOING SERVICES AND MEDICATION SUPPORT. THE
17 DEPARTMENT SHALL NOTIFY THE COURT AND THE COURT LIAISON THAT
18 THE DEPARTMENT IS RETURNING THE DEFENDANT TO THE COMMUNITY ON
19 BOND STATUS. THE DEPARTMENT, THE COURT LIAISON, AND THE COURT,
20 INCLUDING PRETRIAL SERVICES, SHALL COORDINATE TO ENSURE THAT THE
21 DEFENDANT IS ADVISED OF HIS OR HER NEXT COURT APPEARANCE AND ALL
22 OF THE REQUIRED TERMS AND CONDITIONS OF THE RELEASE ON BOND.

23 **SECTION 6.** In Colorado Revised Statutes, 16-8.5-113, **amend**
24 (2) and (3) as follows:

25 **16-8.5-113. Restoration to competency.** (2) Within fourteen
26 days after receipt of a report from the department or other court-approved
27 provider of restoration services certifying that the defendant is competent

1 to proceed, either party may request a hearing or a second evaluation. The
2 court shall determine whether to allow the second evaluation or proceed
3 to a hearing on competency. If the second evaluation is requested by the
4 court or by an indigent defendant, it ~~shall~~ MUST be paid for by the court.

5 (3) If a second evaluation is allowed, any pending requests for a
6 hearing ~~shall~~ MUST be continued until receipt of the second evaluation
7 report. The report of the expert conducting the second evaluation report
8 ~~shall~~ MUST be completed and filed with the court within ~~sixty-three~~
9 THIRTY-FIVE days after the court order allowing the second evaluation,
10 unless the time period is extended by the court after a finding of good
11 cause.

12 **SECTION 7.** In Colorado Revised Statutes, 16-8.5-114, **amend**
13 (2) as follows:

14 **16-8.5-114. Procedure after hearing concerning restoration to**
15 **competency.** (2) If, after the hearing held pursuant to section 16-8.5-113,
16 the court determines that the defendant remains incompetent to proceed,
17 the court may continue or modify any orders entered at the time of the
18 original determination of incompetency and may commit or recommit the
19 defendant or enter any new order necessary to facilitate the defendant's
20 restoration to mental competency, CONSISTENT WITH THE REQUIREMENTS
21 OF SECTION 16-8.5-111.

22 **SECTION 8.** In Colorado Revised Statutes, **repeal and reenact,**
23 **with amendments,** 16-8.5-116 as follows:

24 **16-8.5-116. Certification - reviews - termination of**
25 **proceedings - rules.** (1) SUBJECT TO THE TIME PERIODS AND LEGAL
26 STANDARDS SET FORTH IN THIS SECTION, WHICHEVER IS SHORTEST, A
27 DEFENDANT COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR

1 OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF
2 INCOMPETENCY TO PROCEED MUST NOT REMAIN CONFINED FOR A PERIOD
3 IN EXCESS OF THE MAXIMUM TERM OF CONFINEMENT THAT COULD BE
4 IMPOSED FOR ONLY THE SINGLE MOST SERIOUS OFFENSE WITH WHICH THE
5 DEFENDANT IS CHARGED, LESS FIFTY PERCENT. AT THE END OF SUCH TIME
6 PERIOD, THE COURT SHALL DISMISS THE CHARGES, AND CERTIFICATION
7 PROCEEDINGS OR PROVISION OF SERVICES, IF ANY, ARE GOVERNED BY
8 ARTICLE 65 OR 10.5 OF TITLE 27.

9 (2) (a) WITHIN NINETY-ONE DAYS AFTER THE ENTRY OF THE
10 COURT'S ORDER OF COMMITMENT, THE COURT SHALL REVIEW THE CASE OF
11 A DEFENDANT WHO HAS BEEN DETERMINED TO BE INCOMPETENT TO
12 PROCEED WITH REGARD TO THE PROBABILITY THAT THE DEFENDANT WILL
13 EVENTUALLY BE RESTORED TO COMPETENCY AND WITH REGARD TO THE
14 JUSTIFICATION FOR CERTIFICATION OR CONFINEMENT. THE REVIEW MAY BE
15 HELD IN CONJUNCTION WITH A RESTORATION HEARING HELD PURSUANT TO
16 SECTION 16-8.5-113. HOWEVER, IF AT THE REVIEW HEARING, THERE IS A
17 REQUEST BY THE DEFENDANT FOR A RESTORATION HEARING PURSUANT TO
18 SECTION 16-8.5-113, THE COURT SHALL SET THE RESTORATION HEARING
19 WITHIN THIRTY-FIVE DAYS AFTER THE REQUEST PURSUANT TO THE
20 PROVISIONS OF SECTION 16-8.5-113.

21 (b) ON AND AFTER JULY 1, 2020, AT LEAST TEN DAYS BEFORE EACH
22 REVIEW, THE INDIVIDUAL OR ENTITY EVALUATING THE DEFENDANT SHALL
23 PROVIDE THE COURT WITH A REPORT DESCRIBING:

- 24 (I) AN OPINION REGARDING THE DEFENDANT'S COMPETENCY;
25 (II) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE
26 DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE
27 REASONABLY FORESEEABLE FUTURE;

1 (III) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE
2 DEFENDANT WILL BE RESTORED TO COMPETENCY WITHIN THE TIME
3 PERIODS ESTABLISHED BY THIS SECTION;

4 (IV) WHETHER THE DEFENDANT MEETS THE REQUIREMENTS FOR
5 CERTIFICATION SET FORTH IN ARTICLE 65 OF TITLE 27 OR IS ELIGIBLE FOR
6 SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27;

7 (V) ANY AND ALL EFFORTS MADE FOR RESTORATION THROUGH
8 MEDICATION, THERAPY, EDUCATION, OR OTHER SERVICES AND THE
9 OUTCOME OF THOSE EFFORTS IN RELATION TO RESTORING THE DEFENDANT
10 TO COMPETENCY;

11 (VI) WHETHER THERE IS A SUBSTANTIAL PROBABILITY THAT THE
12 DEFENDANT WILL BE RESTORED TO COMPETENCY AND REMAIN COMPETENT
13 WITH THE USE OF MEDICATIONS OR WILL NOT REMAIN COMPETENT
14 WITHOUT THE USE OF FORCED MEDICATION;

15 (VII) IF THE DEFENDANT HAS FAILED TO COOPERATE WITH
16 TREATMENT, WHETHER THE INCOMPETENCY AND MENTAL OR
17 INTELLECTUAL AND DEVELOPMENTAL DISABILITY CONTRIBUTES TO THE
18 DEFENDANT'S REFUSAL OR INABILITY TO COOPERATE WITH RESTORATION
19 OR PREVENTS THE ABILITY OF THE DEFENDANT TO COOPERATE WITH
20 RESTORATION; AND

21 (VIII) A SUMMARY OF THE OBSERVATIONS OF THE DEFENDANT BY
22 THE TREATING STAFF AT THE FACILITY OR OTHER LOCATION WHERE
23 INPATIENT SERVICES WERE DELIVERED.

24 (c) ADDITIONALLY, ON AND AFTER JULY 1, 2020, AT LEAST TEN
25 DAYS BEFORE EACH REVIEW, THE DEPARTMENT TREATING TEAM SHALL
26 PROVIDE TO THE COURT AN ADDITIONAL REPORT THAT SUMMARIZES:

27 (I) WHAT RESTORATIVE EDUCATION HAS BEEN PROVIDED AND THE

1 FREQUENCY OF THAT EDUCATION;

2 (II) WHAT MEDICATION HAS BEEN ADMINISTERED, INCLUDING
3 VOLUNTARY OR INVOLUNTARY MEDICATIONS;

4 (III) WHAT RELEASE PLANS HAVE BEEN MADE FOR THE DEFENDANT
5 AFTER RELEASE, INCLUDING A DISCUSSION OF THE SUPPORT FROM FAMILY
6 MEMBERS;

7 (IV) WHETHER OR NOT THE DEFENDANT WOULD AGREE TO
8 VOLUNTARY ADMISSION TO THE HOSPITAL FOR CERTIFICATION PURSUANT
9 TO ARTICLE 65 OF TITLE 27;

10 (V) THE OPINION OF THE TREATING TEAM ON THE DEFENDANT'S
11 MENTAL HEALTH FUNCTIONING AND ABILITY TO FUNCTION ON AN
12 OUTPATIENT BASIS FOR RESTORATION SERVICES; AND

13 (VI) WHETHER THE DEFENDANT, BASED ON OBSERVATIONS OF THE
14 DEFENDANT'S BEHAVIOR IN THE FACILITY, PRESENTS A SUBSTANTIAL RISK
15 TO THE PHYSICAL SAFETY OF HIMSELF OR HERSELF, OF ANOTHER PERSON,
16 OR OF THE COMMUNITY IF RELEASED FOR COMMUNITY RESTORATION.

17 (3) AFTER THE INITIAL REVIEW PURSUANT TO SUBSECTION (2)(a)
18 OF THIS SECTION, THE COURT SHALL REVIEW THE CASE OF THE DEFENDANT
19 EVERY NINETY-ONE DAYS THEREAFTER UNTIL FOUR REVIEWS HAVE BEEN
20 CONDUCTED. AT LEAST TEN DAYS BEFORE EACH REVIEW, THE INDIVIDUAL
21 OR ENTITY EVALUATING THE DEFENDANT SHALL PROVIDE THE COURT WITH
22 AN UPDATED REPORT AS DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION
23 AND THE TREATMENT STAFF SHALL PROVIDE AN UPDATED SUMMARY OF
24 OBSERVATIONS AS DESCRIBED IN SUBSECTION (2)(c) OF THIS SECTION.

25 (4) AFTER THE FOURTH REVIEW, THE COURT SHALL REVIEW THE
26 COMPETENCY OF THE DEFENDANT EVERY SIXTY-THREE DAYS UNTIL THE
27 DEFENDANT IS RESTORED TO COMPETENCY OR THE COURT DETERMINES,

1 BASED ON AVAILABLE EVIDENCE, THAT THERE IS NOT A SUBSTANTIAL
2 PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO COMPETENCY
3 IN THE FORESEEABLE FUTURE AND IN THAT CASE, THE COURT SHALL
4 DISMISS THE CASE.

5 (5) THE COURT SHALL FORWARD A COPY OF EACH REPORT AND
6 SUMMARY RECEIVED PURSUANT TO SUBSECTIONS (2), (3), AND (4) OF THIS
7 SECTION TO THE COUNTY ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO
8 CONDUCT PROCEEDINGS PURSUANT TO SECTION 27-65-111 (6) FOR THE
9 COUNTY IN WHICH THE CASE IS PENDING AND TO THE COURT LIAISON.

10 (6) NOTWITHSTANDING THE TIME PERIODS PROVIDED IN
11 SUBSECTIONS (7), (8), AND (9) OF THIS SECTION AND TO ENSURE
12 COMPLIANCE WITH RELEVANT CONSTITUTIONAL PRINCIPLES, FOR ANY
13 OFFENSE FOR WHICH THE DEFENDANT REMAINS CONFINED AS A RESULT OF
14 A DETERMINATION OF INCOMPETENCY TO PROCEED IF THE COURT
15 DETERMINES, BASED ON AVAILABLE EVIDENCE, THAT THERE IS NOT A
16 SUBSTANTIAL PROBABILITY THAT THE DEFENDANT WILL BE RESTORED TO
17 COMPETENCY WITHIN THE REASONABLY FORESEEABLE FUTURE, THE COURT
18 MAY ORDER THE DEFENDANT'S RELEASE FROM COMMITMENT PURSUANT TO
19 THIS ARTICLE 8.5 THROUGH ONE OR MORE OF THE FOLLOWING MEANS:

20 (a) UPON MOTION OF THE DISTRICT ATTORNEY, THE DEFENDANT,
21 OR ON ITS OWN MOTION, THE COURT MAY TERMINATE THE CRIMINAL
22 PROCEEDINGS, THE COMMITMENT, OR THE RESTORATION SERVICES ORDER;

23 (b) THE COURT MAY, IN COORDINATION WITH THE COUNTY
24 ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS
25 PURSUANT TO SECTION 27-65-111 (6) FOR THE COUNTY IN WHICH THE
26 DEFENDANT IS CHARGED, ORDER THE COMMENCEMENT OF CERTIFICATION
27 PROCEEDINGS PURSUANT TO THE PROVISIONS OF ARTICLE 65 OF TITLE 27

1 IF THE DEFENDANT MEETS THE REQUIREMENTS FOR CERTIFICATION
2 PURSUANT TO ARTICLE 65 OF TITLE 27;

3 (c) IN THE CASE OF A DEFENDANT WHO HAS BEEN FOUND ELIGIBLE
4 FOR SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27 DUE TO AN
5 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, THE COURT OR A PARTY
6 MAY INITIATE AN ACTION TO RESTRICT THE RIGHTS OF THE DEFENDANT
7 PURSUANT TO ARTICLE 10.5 OF TITLE 27; OR

8 (d) ON AND AFTER JULY 1, 2020, THE DEPARTMENT SHALL ENSURE
9 THAT CASE MANAGEMENT SERVICES AND SUPPORT ARE MADE AVAILABLE
10 TO ANY DEFENDANT RELEASED FROM COMMITMENT PURSUANT TO THIS
11 ARTICLE 8.5 DUE TO THE SUBSTANTIAL PROBABILITY THAT THE
12 DEFENDANT WILL NOT BE RESTORED TO COMPETENCY IN THE REASONABLE
13 FORESEEABLE FUTURE.

14 (7) AT ANY REVIEW HEARING HELD CONCERNING THE
15 DEFENDANT'S COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE
16 CHARGES AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM
17 CONFINEMENT, SUBJECT TO THE PROVISIONS OF SUBSECTION (10) OF THIS
18 SECTION, IF:

19 (a) THE DEFENDANT:

20 (I) IS CHARGED WITH A MISDEMEANOR, A MISDEMEANOR DRUG
21 OFFENSE, OR A PETTY OFFENSE, EXCEPT FOR THOSE OFFENSES
22 ENUMERATED IN SECTION 24-4.1-302 (1);

23 (II) HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT
24 OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF
25 INCOMPETENCY TO PROCEED;

26 (III) HAS RECEIVED COMPETENCY RESTORATION SERVICES WHILE
27 COMMITTED OR OTHERWISE CONFINED FOR AN AGGREGATE TIME OF SIX

1 MONTHS; AND

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

4 (8) AT ANY REVIEW HEARING HELD CONCERNING THE
5 DEFENDANT'S COMPETENCY TO PROCEED, THE COURT SHALL DISMISS THE
6 CHARGES AGAINST THE DEFENDANT AND RELEASE THE DEFENDANT FROM
7 CONFINEMENT, SUBJECT TO THE PROVISIONS OF SUBSECTION (10) OF THIS
8 SECTION, IF:

9 (a) THE DEFENDANT:

10 (I) IS CHARGED WITH A CLASS 5 OR CLASS 6 FELONY, EXCEPT FOR
11 THOSE OFFENSES ENUMERATED IN SECTION 24-4.1-302 (1); WITH A LEVEL
12 3 OR LEVEL 4 DRUG FELONY; OR WITH ANY MISDEMEANOR OFFENSE THAT
13 IS NOT INCLUDED IN SUBSECTION (7) OF THIS SECTION;

14 (II) HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT
15 OR OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF
16 INCOMPETENCY TO PROCEED; AND

17 (III) HAS RECEIVED COMPETENCY RESTORATION SERVICES WHILE
18 COMMITTED OR OTHERWISE CONFINED FOR AN AGGREGATE TIME OF ONE
19 YEAR; AND

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

22 (9) IF THE DEFENDANT IS CHARGED WITH ANY OTHER FELONY
23 OFFENSE EXCEPT A CLASS 1, 2, OR 3 FELONY OFFENSE; A SEX OFFENSE AS
24 DEFINED IN SECTION 18-1.3-1003 (5); A CRIME OF VIOLENCE AS DEFINED
25 IN SECTION 18-1.3-406 (2); OR A LEVEL 1 OR LEVEL 2 DRUG FELONY, AND
26 HAS BEEN COMMITTED TO THE CUSTODY OF THE DEPARTMENT OR
27 OTHERWISE CONFINED AS A RESULT OF A DETERMINATION OF

1 INCOMPETENCY TO PROCEED, THE FOLLOWING PROVISIONS APPLY:

2 (a) IF THE DEFENDANT HAS RECEIVED COMPETENCY RESTORATION
3 SERVICES WHILE COMMITTED OR OTHERWISE CONFINED FOR AN
4 AGGREGATE TIME OF TWO YEARS AND THE COURT DETERMINES, BASED ON
5 AVAILABLE EVIDENCE, THAT THE DEFENDANT IS NOT RESTORED TO
6 COMPETENCY, THEN THE COURT SHALL DISMISS THE CHARGES AGAINST
7 THE DEFENDANT, SUBJECT TO THE PROVISIONS OF SUBSECTION (10) OF THIS
8 SECTION, UNLESS ANY PARTY OBJECTS TO DISMISSAL.

9 (b) IF A PARTY OBJECTS TO DISMISSAL OF CHARGES PURSUANT TO
10 SUBSECTION (9)(a) OF THIS SECTION, THE COURT SHALL SET THE MATTER
11 FOR A HEARING. UPON COMPLETION OF THE HEARING, THE COURT SHALL
12 DISMISS THE CHARGES UNLESS THE COURT DETERMINES THAT THE PARTY
13 OBJECTING TO THE DISMISSAL ESTABLISHES BY CLEAR AND CONVINCING
14 EVIDENCE THAT THERE IS A COMPELLING PUBLIC INTEREST IN CONTINUING
15 THE PROSECUTION AND THERE IS A SUBSTANTIAL PROBABILITY THAT THE
16 DEFENDANT WILL ATTAIN COMPETENCY IN THE FORESEEABLE FUTURE. IF
17 THE COURT DECLINES TO DISMISS THE CHARGES, THE COURT SHALL
18 ADDRESS THE APPROPRIATENESS OF CONTINUED CONFINEMENT AND MAY
19 ALTER OR REDUCE BOND IF APPROPRIATE PURSUANT TO ARTICLE 4 OF THIS
20 TITLE 16 OR THE DECISION TO COMMIT THE DEFENDANT TO THE
21 DEPARTMENT PURSUANT TO SECTION 16-8.5-111.

22 (10) PRIOR TO THE DISMISSAL OF CHARGES PURSUANT TO
23 SUBSECTION (1), (6), (7), (8), OR (9) OF THIS SECTION, THE COURT SHALL
24 IDENTIFY WHETHER THE DEFENDANT MEETS THE REQUIREMENTS FOR
25 CERTIFICATION PURSUANT TO ARTICLE 65 OF TITLE 27 OR, FOR THE
26 PROVISION OF SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27, OR
27 WHETHER THE DEFENDANT WILL AGREE TO A VOLUNTARY COMMITMENT.

1 IF THE COURT FINDS THE REQUIREMENTS FOR CERTIFICATION OR PROVISION
2 OF SERVICES ARE MET OR THE DEFENDANT DOES NOT AGREE TO A
3 VOLUNTARY COMMITMENT, THE COURT MAY STAY THE DISMISSAL FOR
4 TWENTY-ONE DAYS AND NOTIFY THE DEPARTMENT AND COUNTY
5 ATTORNEY OR DISTRICT ATTORNEY REQUIRED TO CONDUCT PROCEEDINGS
6 PURSUANT TO SECTION 27-65-111 (6) IN THE RELEVANT JURISDICTION OF
7 THE PENDING DISMISSAL SO AS TO PROVIDE THE DEPARTMENT AND THE
8 COUNTY ATTORNEY OR DISTRICT ATTORNEY WITH THE OPPORTUNITY TO
9 PURSUE CERTIFICATION PROCEEDINGS OR THE PROVISION OF NECESSARY
10 SERVICES.

11 (11) IN ANY CIRCUMSTANCE WHERE THE DEFENDANT'S CASE WAS
12 DISMISSED OR THE DEFENDANT WAS RELEASED FROM CONFINEMENT, THE
13 COURT SHALL ENTER A WRITTEN DECISION EXPLAINING WHY THE COURT
14 DID OR DID NOT TERMINATE THE CRIMINAL PROCEEDING OR THE
15 COMMITMENT OR RESTORATION ORDER.

16 (12) IF CHARGES AGAINST A DEFENDANT ARE DISMISSED PURSUANT
17 TO THIS SECTION, SUCH CHARGES ARE NOT ELIGIBLE FOR SEALING
18 PURSUANT TO SECTION 24-72-702.5.

19 (13) THE DEPARTMENT SHALL PROMULGATE SUCH RULES AS
20 NECESSARY TO CONSISTENTLY ENFORCE THE PROVISIONS OF THIS ARTICLE
21 8.5.

22 (14) ON AND AFTER JULY 1, 2020, THE COURT MAY, AT ANY TIME
23 OF THE RESTORATION PROCESS, ORDER THE DEPARTMENT TO PROVIDE THE
24 COURT WITH AN APPROPRIATE RELEASE PLAN FOR THE REINTEGRATION OF
25 THE DEFENDANT INTO THE COMMUNITY WITH APPROPRIATE SERVICES.

26 **SECTION 9.** In Colorado Revised Statutes, **add** 16-8.5-120 as
27 follows:

1 **16-8.5-120. Competency evaluation monitoring system - users**

2 **- rules.** (1) THE DEPARTMENT, WITH ASSISTANCE FROM THE JUDICIAL
3 DEPARTMENT, SHALL DEVELOP AN ELECTRONIC SYSTEM TO TRACK THE
4 STATUS OF DEFENDANTS IN THE CRIMINAL JUSTICE SYSTEM FOR WHOM A
5 COMPETENCY EVALUATION OR COMPETENCY RESTORATION HAS BEEN
6 ORDERED. THE SYSTEM MUST CONTAIN INFORMATION ON THE FOLLOWING:

- 7 (a) THE DATE THE COURT ORDERED THE EVALUATION;
- 8 (b) THE DATES OF AND LOCATIONS WHERE THE EVALUATION WAS
9 STARTED AND COMPLETED;
- 10 (c) THE DATE OF AND LOCATION WHERE THE DEFENDANT ENTERED
11 RESTORATION SERVICES;
- 12 (d) THE DATES AND RESULTS OF COURT REVIEWS OF COMPETENCY;
- 13 (e) INPATIENT BED SPACE;
- 14 (f) COMMUNITY RESTORATION CAPACITY; AND
- 15 (g) FINANCIAL ESTIMATES OF COSTS OF EACH INPATIENT AND
16 OUTPATIENT PROGRAM TO IDENTIFY INEFFICIENCIES.

17 (2) THE DEPARTMENT SHALL ESTABLISH WHO HAS ACCESS TO
18 ENTER INFORMATION INTO THE ELECTRONIC SYSTEM AND WHO MAY HAVE
19 READ-ONLY ACCESS TO THE ELECTRONIC SYSTEM.

20 **SECTION 10.** In Colorado Revised Statutes, **add** 16-8.5-121 as
21 follows:

22 **16-8.5-121. Restoration services placement guideline -**
23 **committee - creation - repeal.** (1) BY JANUARY 1, 2020, THE
24 DEPARTMENT SHALL CREATE A COMMITTEE OF CLINICAL EXPERTS IN
25 FORENSIC SERVICES TO CREATE A PLACEMENT GUIDELINE TO BE USED BY
26 ALL COMPETENCY EVALUATORS WHEN DETERMINING THE CORRECT
27 CLINICAL LOCATION FOR COMPETENCY RESTORATION SERVICES TO OCCUR.

1 THE COMMITTEE CONSISTS OF THE FOLLOWING INDIVIDUALS:

2 (a) THREE STATE-LICENSED FORENSIC PSYCHOLOGISTS OR
3 PSYCHIATRISTS CURRENTLY ABLE TO PRACTICE MEDICINE IN THE STATE
4 WHO ARE NOT EMPLOYED BY THE DEPARTMENT;

5 (b) TWO STATE-LICENSED FORENSIC PSYCHOLOGISTS OR
6 PSYCHIATRISTS CURRENTLY ABLE TO PRACTICE MEDICINE IN THE STATE
7 WHO ARE EMPLOYED BY THE DEPARTMENT;

8 (c) TWO EXPERTS IN FORENSIC PSYCHIATRY REPRESENTING ONE OR
9 MORE INSTITUTIONS OF HIGHER EDUCATION;

10 (d) ONE MEMBER WHO IS CLINICALLY TRAINED REPRESENTING THE
11 DEPARTMENT;

12 (e) ONE MEMBER REPRESENTING THE JUDICIAL DEPARTMENT WHO
13 IS DIRECTLY INVOLVED IN ORDERING AND REVIEWING COMPETENCY
14 EVALUATIONS; AND

15 (f) ONE MEMBER WHO IS CLINICALLY TRAINED REPRESENTING
16 COMMUNITY MENTAL HEALTH PROVIDERS.

17 (2) THE MEMBERS OF THE COMMITTEE SHALL SERVE VOLUNTARILY
18 WITHOUT PAY OR REIMBURSEMENT FOR EXPENSES.

19 (3) THE PLACEMENT GUIDELINE MUST BE CREATED BY JULY 1,
20 2020, AND MUST BE USED BY ALL FORENSIC EVALUATORS ON AND AFTER
21 JANUARY 1, 2021, TO ENSURE CONSISTENCY IN EVALUATIONS ACROSS THE
22 STATE.

23 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

24 **SECTION 11.** In Colorado Revised Statutes, **add 16-8.5-122** as
25 follows:

26 **16-8.5-122. Forensic evaluator training.** BY FEBRUARY 1, 2020,
27 THE DEPARTMENT SHALL CREATE A PARTNERSHIP WITH AN ACCREDITED

1 INSTITUTION OF HIGHER EDUCATION IN THE STATE TO DEVELOP AND
2 PROVIDE RIGOROUS TRAINING IN FORENSIC EVALUATION. ON OR BEFORE
3 JANUARY 1, 2021, NEWLY HIRED COMPETENCY EVALUATORS MUST
4 COMPLETE A TRAINING THAT ADDRESSES COMPETENCY, SANITY, REPORT
5 WRITING, EXPERT TESTIMONY, AND OTHER SKILLS CRUCIAL FOR FORENSIC
6 EVALUATORS. THE STATE WILL MANAGE AN OVERSIGHT PROGRAM THAT
7 WILL PROVIDE SUPPORT AND ENSURE QUALITY OF FORENSIC EVALUATORS.

8 **SECTION 12.** In Colorado Revised Statutes, 27-60-105, **amend**
9 (4) introductory portion as follows:

10 **27-60-105. Outpatient restoration to competency services -**
11 **jail-based behavioral health services - responsible entity - duties -**
12 **report - legislative declaration.** (4) Beginning July 1, 2018 2019, the
13 office has the following duties and responsibilities, subject to available
14 appropriations:

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16 **SECTION 13.** In Colorado Revised Statutes, **repeal** 27-65-125
17 as follows:

18 **27-65-125. Criminal proceedings.** ~~Proceedings under section~~
19 ~~27-65-105, 27-65-106, or 27-65-107 shall not be initiated or carried out~~
20 ~~involving a person charged with a criminal offense unless or until the~~
21 ~~criminal offense has been tried or dismissed; except that the judge of the~~
22 ~~court wherein the criminal action is pending may request the district or~~
23 ~~probate court to authorize and permit such proceedings.~~

24 **SECTION 14.** In Colorado Revised Statutes, 13-1-137, **amend**
25 (1)(d) and (1)(e); and **add** (1)(f) as follows:

26 **13-1-137. Reporting of data concerning juvenile proceedings.**
27 (1) Notwithstanding section 24-1-136 (1)(a)(I), the judicial branch shall

1 report annually to the judiciary committees of the house of representatives
2 and senate, or to any successor committees, information concerning:

3 (d) The status of recommended reviews to juvenile court rules,
4 forms, and chief justice directives regarding the representation of children
5 in juvenile delinquency courts; ~~and~~

6 (e) The number of juvenile delinquency cases that involved a
7 detention hearing, the number of juveniles who were released after the
8 detention hearing, and the number of juveniles who remained in detention
9 after the detention hearing; AND

10 (f) THE PROCESS OF TRAINING JUDICIAL OFFICERS AND PRIVATE
11 DEFENSE ATTORNEYS CONCERNING DETERMINATIONS OF COMPETENCY TO
12 PROCEED FOR JUVENILES AND ADULTS, COMPETENCY EVALUATION
13 REPORTS, SERVICES TO RESTORE COMPETENCY, AND CERTIFICATION
14 PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

15 **SECTION 15.** In Colorado Revised Statutes, 20-1-111, **add**
16 (4)(c) as follows:

17 **20-1-111. District attorneys may cooperate on contract -**
18 **contents - appropriation.** (4) (c) THE GENERAL ASSEMBLY SHALL MAKE
19 AN APPROPRIATION TO THE DEPARTMENT OF LAW FOR STATE FISCAL YEAR
20 2019-20 FOR ALLOCATION TO THE STATEWIDE ORGANIZATION
21 REPRESENTING DISTRICT ATTORNEYS FOR THE PUBLIC PURPOSE OF
22 PROVIDING PROSECUTION TRAINING CONCERNING DETERMINATIONS OF
23 COMPETENCY TO PROCEED FOR JUVENILES AND ADULTS, COMPETENCY
24 EVALUATION REPORTS, SERVICES TO RESTORE COMPETENCY, AND
25 CERTIFICATION PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

26 **SECTION 16.** In Colorado Revised Statutes, 21-1-104, **amend**
27 (4)(d) and (4)(e); and **add** (4)(f) as follows:

1 **21-1-104. Duties of public defender - report.**

2 (4) Notwithstanding section 24-1-136 (11)(a)(I), pursuant to section
3 2-7-203, the state public defender shall report annually to the judiciary
4 committees of the house of representatives and senate, or to any successor
5 committees, information concerning:

6 (d) The average length of time attorneys are assigned to juvenile
7 court; ~~and~~

8 (e) The outcome of efforts to reduce juvenile court rotations and
9 increase opportunities for promotional advancement in salaries for
10 attorneys in juvenile court; AND

11 (f) THE PROCESS OF TRAINING ATTORNEYS AND OTHER EMPLOYEES
12 OF THE OFFICE CONCERNING DETERMINATIONS OF COMPETENCY TO
13 PROCEED FOR JUVENILES AND ADULTS, COMPETENCY EVALUATION
14 REPORTS, SERVICES TO RESTORE COMPETENCY, AND CERTIFICATION
15 PROCEEDINGS GOVERNED BY ARTICLE 65 OF TITLE 27.

16 **SECTION 17.** In Colorado Revised Statutes, 21-2-104, **amend**
17 (3) introductory portion, (3)(d), and (3)(e); and **add** (3)(f) as follows:

18 **21-2-104. Duties of alternate defense counsel and contract**
19 **attorneys - report.** (3) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I),
20 pursuant to section 2-7-203, ~~C.R.S.~~, the office of alternate defense
21 counsel shall report annually to the judiciary committees of the house of
22 representatives and senate, or to any successor committees, information
23 concerning:

24 (d) The average length of time attorneys are assigned to juvenile
25 court; ~~and~~

26 (e) The outcome of efforts to reduce juvenile court rotations and
27 increase opportunities for promotional advancement in salaries for

1 attorneys in juvenile court; AND

2 (f) THE PROCESS OF TRAINING EMPLOYEES AND CONTRACTORS
3 CONCERNING DETERMINATIONS OF COMPETENCY TO PROCEED FOR
4 JUVENILES AND ADULTS, COMPETENCY EVALUATION REPORTS, SERVICES
5 TO RESTORE COMPETENCY, AND CERTIFICATION PROCEEDINGS GOVERNED
6 BY ARTICLE 65 OF TITLE 27.

7 **SECTION 18.** In Colorado Revised Statutes, 17-1-102, **amend**
8 (7.5)(a)(IV) as follows:

9 **17-1-102. Definitions.** As used in this title 17, unless the context
10 otherwise requires:

11 (7.5) (a) "Special needs offender" means a person in the custody
12 of the department:

13 (IV) Who, as determined by a licensed health care provider who
14 is employed by or under contract with the department, on the basis of
15 available evidence, not including evidence resulting from a refusal of the
16 person to accept treatment, does not have a substantial probability of
17 being restored to competency for the completion of any sentence and is
18 not likely to pose a risk to public safety. As used in this subsection
19 (7.5)(a)(IV), "competency" has the same meaning as "competent to
20 proceed", as defined in ~~section 16-8.5-101(4)~~ SECTION 16-8.5-101 (5).

21 **SECTION 19.** In Colorado Revised Statutes, 17-22.5-403.5,
22 **amend** (4)(d) as follows:

23 **17-22.5-403.5. Special needs parole.** (4) (d) The state board of
24 parole shall make a determination of whether to grant special needs
25 parole within thirty days after receiving the referral from the department.
26 The board may delay the decision in order to request that the department
27 modify the special needs parole plan. If, prior to or during any parole

1 hearing, the board or any member of the board has a substantial and
2 good-faith reason to believe that the offender is incompetent to proceed,
3 as defined in ~~section 16-8.5-101 (11)~~ SECTION 16-8.5-101 (12), the board
4 shall suspend all proceedings and notify the trial court that imposed any
5 active sentence, and the court shall determine the competency or
6 incompetency of the defendant pursuant to section 16-8.5-103. The court
7 shall appoint counsel to represent the offender with respect to the
8 determination of competency of the offender, but the presence of the
9 offender is not required for any court proceedings unless good cause is
10 shown.

11 **SECTION 20.** In Colorado Revised Statutes, 27-60-105, **amend**
12 (2) as follows:

13 **27-60-105. Outpatient restoration to competency services -**
14 **jail-based behavioral health services - responsible entity - duties -**
15 **report - legislative declaration.** (2) The office of behavioral health shall
16 serve as a central organizing structure and responsible entity for the
17 provision of competency restoration education services, coordination of
18 competency restoration services ordered by the court pursuant to ~~section~~
19 ~~19-2-1303 (2) or 16-8.5-111 (2)(a)~~ SECTION 16-8.5-111 (2)(b) OR
20 19-2-1303 (2), and jail-based behavioral health services pursuant to
21 section 27-60-106.

22 **SECTION 21. Effective date.** This act takes effect July 1, 2019.

23 **SECTION 22. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.