

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 26-0256.01 Shelby Ross x4510

SENATE BILL 26-149

SENATE SPONSORSHIP

Amabile and Simpson, Baisley, Ball, Bright, Carson, Catlin, Coleman, Gonzales J., Jodeh, Kipp, Kirkmeyer, Kolker, Marchman, Pelton B., Pelton R., Rich, Wallace, Zamora Wilson

HOUSE SPONSORSHIP

Caldwell and McCluskie,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

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

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>.)

Under current law, if a defendant is found incompetent to proceed and the defendant will not be restored to competency in the foreseeable future, the court is required to dismiss charges against the defendant and the defendant, in limited circumstances, may be referred for certification for short-term treatment through a civil court process. The bill maintains

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

SENATE
Amended 3rd Reading
April 24, 2026

SENATE
Amended 2nd Reading
April 23, 2026

the requirement for the court to dismiss the charges against a defendant if the defendant's highest charged offense is certain misdemeanor offenses and maintains certification for short-term treatment as an option for the defendant. However, the bill authorizes the district attorney or county attorney (prosecution) to notify the court that the prosecution seeks civil commitment or an enhanced protective placement of a defendant if the prosecution can prove by clear and convincing evidence that the defendant:

- Has a mental disability or developmental disability;
- Committed an act of homicide, crime of violence, or felony that constitutes unlawful sexual behavior; and
- Poses a substantial risk of serious harm to others.

If the prosecution seeks civil commitment or an enhanced protective placement, the court is required to stay the order dismissing the defendant's case, set a trial within 91 days after the date the written notice was filed, and order the office of forensic and mental health (OCFMH) in the department of human services (CDHS) to identify an appropriate provider and placement for the defendant in the event a civil commitment or enhanced protective placement is granted. If the court finds the prosecution has not met its burden, the court is required to deny the prosecution's request to civilly commit the defendant or order an enhanced protective placement of the defendant. If the court finds the prosecution has met its burden, the court is required to 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 CDHS unless the defendant's primary diagnosis is an intellectual and developmental disability (IDD) or a neurocognitive disorder, in which case, the court shall order an enhanced protective placement of the defendant to the department of health care policy and financing (HCPF).

After ordering a civil commitment or enhanced protective placement, the court has 70 days to review and approve a placement for the defendant, place the defendant, transfer jurisdiction to the appropriate civil court, and dismiss the defendant's criminal case. If an appropriate placement is not identified by OCFMH within the specified time frames, the court is required to place the defendant in the physical care and custody of a state hospital; except that, if the defendant's primary diagnosis includes an IDD or a neurocognitive disorder, the court shall not place the defendant in a state hospital unless placement in a regional center or skilled nursing facility is unavailable or inappropriate.

Upon receiving jurisdiction of a civil commitment or enhanced protective placement, the bill requires the civil court to supervise the civil commitment or enhanced protective placement by notifying the county attorney, appointing an attorney to represent the respondent, and setting a review hearing. At the hearing, the respondent has the right to request

modification of the terms of the civil commitment or enhanced protective placement and the right to periodic review, including whether the respondent qualifies for termination of the civil commitment or enhanced protective placement. The court is required to ensure the respondent is placed in the least-restrictive setting adequate to protect the victims and community. The court shall not modify the civil commitment or enhanced protective placement and place the respondent into a state hospital unless the court has exhausted all reasonable attempts to find an alternative and no other less-restrictive placements are adequate to protect the victims and the community. The provider charged with the physical care and custody of the respondent is required to submit a report to the court and the parties annually by the date the respondent was civilly committed or ordered into enhanced protective placement unless a substantially similar examination was ordered by the court within the previous 12 months.

The bill requires the court to terminate the respondent's civil commitment or enhanced protective placement if the respondent no longer poses a substantial risk of serious harm to others or the respondent does not have the applicable disorder or 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 their conduct to the requirements of the law. If the respondent does not meet the criteria for termination, the respondent is not entitled to another termination trial within one year after the conclusion of the previous trial.

The court shall convert a civil commitment to an enhanced protective placement if the respondent does not meet the criteria for termination but the respondent has a mental health disorder that is an IDD or a neurocognitive disorder, without having any other mental health disorder that is not an IDD or a 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. If the defendant does not meet the criteria for termination and has co-occurring mental health disorders that include an IDD or a neurocognitive disorder, the court may, upon the recommendation of OCFMH, convert the civil commitment to an enhanced protective placement.

The court shall convert an enhanced protective placement to a civil commitment if the respondent does not meet the criteria for termination and the respondent no longer has an IDD 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. If the defendant does not meet the criteria for termination and has co-occurring mental health disorders that do not include an IDD or a neurocognitive disorder, the court may, upon the recommendation of OCFMH, convert the enhanced protective placement to a civil commitment.

Under current law, an emergency mental health hold (M1 hold)

may be initiated against a person for not more than 72 hours if the person appears to have a mental health disorder and as a result of the mental health disorder, appears to be a danger to the person's self or others, or appears to be gravely disabled. A person detained for an M1 hold and transported to an emergency medical services facility or facility designated by the commissioner (facility) of the behavioral health administration (BHA) and is required to receive an evaluation as soon as possible after the person presents to the facility. Rather than being transported to a facility, the bill authorizes a person who has an M1 hold initiated against them while in confinement to receive an evaluation at the person's place of confinement. If the person is released from confinement, the person responsible for the confinement is required to coordinate with the BHA to transfer the person to a facility.

Under current law, if a person under an M1 hold meets the criteria for certification for short-term treatment, the person may be certified for not more than 3 months. Rather than requiring an M1 hold as a prerequisite to short-term certification, the bill authorizes a person to be certified if the person:

- Has a persistent mental health disorder; or
- Has a mental health disorder and, as a result of the mental health disorder, the person is unwilling or unable to comply with voluntary treatment, or reasonable grounds exist to believe that the person will not remain in a voluntary treatment program and is a danger to the person's self, a danger to others, or gravely disabled.

A person may not be certified for short-term treatment or long-term care and treatment if the person has an IDD or neurocognitive disorder without any other mental health disorder that is not an IDD 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. If a respondent is certified, the court shall order OCFMH to provide care coordination and make diligent efforts to find a provider for the respondent that is willing to hold the certification. The respondent may be certified for long-term care and treatment if the respondent continues to meet the criteria and standards for certification for short-term treatment. The court shall terminate the certification if the respondent no longer meets the criteria for certification.

A court may order the short-term or long-term protective placement of a person who:

- Has a neurocognitive disorder;
- Is unwilling or unable to comply with voluntary treatment, or reasonable grounds exist to believe that the person will not remain in a voluntary treatment program; and
- Is a danger to the person's self, a danger to others, or gravely disabled.

The bill aligns the provisions for short-term and long-term protective placement with certifications for short-term treatment and long-term care with treatment.

HCPF, in collaboration with the BHA, is responsible for finding an appropriate provider and placement for a person subject to a short-term or long-term protective placement. A protective placement may be terminated upon the signature of the treating medical professional and the medical director of the facility if, after a reasonable observation and treatment period, the treating medical professional determines the respondent no longer meets the criteria for protective placement.

The bill makes conforming amendments.

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

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

4 **16-8.5-101. Definitions.**

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

6 (1) "CIVIL PROCEEDING" MEANS:

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

10 (b) A CIVIL PROCEEDING TO IMPOSE A LEGAL DISABILITY PURSUANT
11 TO ARTICLE 10 OF TITLE 25.5; AND

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

14 ~~(1)~~ (2) "Collateral materials" means the relevant police incident
15 reports and the charging documents, either the criminal information or
16 indictment.

17 ~~(2)~~ (3) "Competency evaluation" includes both court-ordered
18 competency evaluations and second evaluations.

19 ~~(3)~~ (4) "Competency evaluator" means a licensed physician who

1 is a psychiatrist or a licensed psychologist, each of whom is trained in
2 forensic competency assessments, or a psychiatrist who is in forensic
3 training and practicing under the supervision of a psychiatrist with
4 expertise in forensic psychiatry, or a psychologist who is in forensic
5 training and is practicing under the supervision of a licensed psychologist
6 with expertise in forensic psychology.

7 ~~(4)~~ (5) "Competency hearing" means a hearing to determine
8 whether a defendant is competent to proceed.

9 ~~(5)~~ (6) "Competent to proceed" means that the defendant does not
10 have a mental disability or developmental disability that prevents the
11 defendant from having sufficient present ability to consult with the
12 defendant's lawyer with a reasonable degree of rational understanding in
13 order to assist in the defense or THAT prevents the defendant from having
14 a rational and factual understanding of the criminal proceedings.

15 (7) "COUNTY ATTORNEY" MEANS A COUNTY ATTORNEY OR A
16 QUALIFIED ATTORNEY ACTING FOR A COUNTY ATTORNEY APPOINTED BY
17 THE DISTRICT COURT OR, IN ANY COUNTY OR CITY AND COUNTY WITH A
18 POPULATION EQUAL TO OR LESS THAN FIFTY THOUSAND PEOPLE, THE
19 DISTRICT ATTORNEY OR QUALIFIED ATTORNEY ACTING FOR THE DISTRICT
20 ATTORNEY APPOINTED BY THE DISTRICT COURT.

21 ~~(6)~~ (8) "Court-ordered competency evaluation" means a
22 court-ordered examination of a defendant either before, during, or after
23 trial, directed to developing information relevant to a determination of the
24 defendant's competency to proceed at a particular stage of the criminal
25 proceeding, that is performed by a competency evaluator and includes
26 evaluations concerning restoration to competency.

27 ~~(7)~~ (9) "Court-ordered report" means a report of an evaluation,

1 conducted by or under the direction of ~~the department~~ CDHS, that is the
2 statutory obligation of ~~the department~~ CDHS to prepare when requested
3 to do so by the court.

4 ~~(8)~~ (10) "Criminal proceedings" means trial, sentencing,
5 satisfaction of the sentence, execution, and any pretrial matter that is not
6 susceptible of fair determination without the personal participation of the
7 defendant.

8 ~~(9)~~ (11) "Department" OR "CDHS" means the department of
9 human services.

10 ~~(10)~~ (12) "Developmental disability" means a disability that has
11 manifested before the person reaches twenty-two years ~~of age~~ OLD,
12 constitutes a substantial disability to the affected ~~individual~~ PERSON, and
13 is attributable to an intellectual disability or other neurological conditions
14 when ~~such~~ THE conditions result in impairment of general intellectual
15 functioning or adaptive behavior similar to that of a person with an
16 intellectual disability. Unless otherwise specifically stated, the federal
17 definition of "developmental disability", 42 U.S.C. sec. 15002 (8), ~~shall~~
18 DOES not apply.

19 ~~(11)~~ (13) "Executive director" means the executive director of the
20 department of human services.

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

25 ~~(12)~~ (15) "Incompetent to proceed" means that, as a result of a
26 mental disability or developmental disability, the defendant does not have
27 sufficient present ability to consult with the defendant's lawyer with a

1 reasonable degree of rational understanding in order to assist in the
2 defense, or that, as a result of a mental disability or developmental
3 disability, the defendant does not have a rational and factual
4 understanding of the criminal proceedings.

5 ~~(13)~~ (16) "In-custody" means in prison, in a jail, or in any other
6 locked detention facility that does not meet the definition of "inpatient".

7 ~~(14)~~ (17) "Inpatient" means in the custody of ~~the department~~
8 CDHS, either in a hospital or in a full-time, jail-based restoration program
9 developed by ~~the department~~ CDHS.

10 (17.5) "INPATIENT CARE AT THE DISCRETION OF CDHS OR HCPF",
11 OR SIMILAR TERMINOLOGY, MEANS PLACEMENT AT A FACILITY:

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

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

19 (c) WHERE A PROFESSIONAL PERSON, AS DEFINED IN SECTION
20 27-65-102, WHO IS EMPLOYED BY OR CONTRACTED BY CDHS, BHA, OR
21 HCPF, ATTESTS THAT THE FACILITY IS MEDICALLY APPROPRIATE AND
22 SUFFICIENTLY PROTECTS VICTIMS AND THE COMMUNITY FROM THE
23 SUBSTANTIAL RISK OF HARM POSED BY THE PERSON; AND

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

26 ~~(15)~~ (18) "Mental disability" means a substantial disorder of
27 thought, mood, perception, or cognitive ability that results in marked

1 functional disability, significantly interfering with adaptive behavior.
2 "Mental disability" does not include acute intoxication from alcohol or
3 other substances, or any condition manifested only by antisocial behavior,
4 or any substance abuse impairment resulting from recent use or
5 withdrawal. However, substance abuse that results in a long-term,
6 substantial disorder of thought, mood, or cognitive ability may constitute
7 a mental disability.

8

9 ~~(16)~~ (19) "Outpatient" means a location outside of the custody of
10 ~~the department~~ CDHS. "Outpatient" does not include a jail, prison, or
11 other detention facility where the defendant is in-custody.

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

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

17 (22) "RESTORABILITY HEARING" MEANS A HEARING TO DETERMINE
18 WHETHER A DEFENDANT WHO IS INCOMPETENT TO PROCEED IS
19 RESTORABLE OR UNRESTORABLE.

20 ~~(17)~~ (23) "Restoration hearing" means a hearing to determine
21 whether a defendant who has previously been determined to be
22 incompetent to proceed has become competent to proceed.

23 ~~(18)~~ (24) "Second evaluation" means ~~an~~ A COMPETENCY
24 evaluation requested by the court, the district attorney, or the defendant
25 that is performed by a competency evaluator and that is not performed by
26 or under the direction of, or paid for by, ~~the department~~ CDHS.

27 ~~(19)~~ (25) "Tier 1" means a defendant:

1 (a) Who has been ordered to receive inpatient restorative
2 treatment;

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

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

9 (II) Has a mental health disorder; and

10 (c) For whom, as a result of the determination made pursuant to
11 ~~subsection (19)(b)~~ SUBSECTION (25)(b) of this section, delaying inpatient
12 hospitalization beyond seven days would cause harm to the defendant or
13 others.

14 ~~(20)~~ (26) "Tier 2" means a defendant who has been ordered to
15 receive inpatient restorative treatment and who does not meet the criteria
16 to be a tier 1 defendant.

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

20 (28) "VOLITIONAL LACK OF COOPERATION OR UNWILLINGNESS TO
21 PARTICIPATE" MEANS THE DEFENDANT HAS NOT ATTENDED RESTORATION
22 SERVICES OR THE DEFENDANT REFUSES TO TAKE PRESCRIBED
23 MEDICATIONS, ESPECIALLY WHEN THE DEFENDANT INTENDS TO AVOID OR
24 DELAY THE COURT CASE FROM PROCEEDING. "VOLITIONAL LACK OF
25 COOPERATION OR UNWILLINGNESS TO PARTICIPATE" DOES NOT INCLUDE
26 ACTS THAT PRIMARILY RESULT FROM THE BONA FIDE MEDICAL OR MENTAL
27 HEALTH DISORDER FOR WHICH THE DEFENDANT IS INCOMPETENT OR A

1 DEFENDANT'S ATTEMPT TO RAISE A BONA FIDE GOOD FAITH CONCERN
2 ABOUT MEDICATION SIDE EFFECTS AND RISKS.

3 **16-8.5-102. Competency to proceed - how and when raised.**

4 (1) While a defendant is incompetent to proceed, the defendant
5 must not be tried or sentenced, nor shall the court consider or decide
6 pretrial matters that are not susceptible of fair determination without the
7 personal participation of the defendant. However, a determination that a
8 defendant is incompetent to proceed does not preclude ~~the furtherance of~~
9 ~~the~~ ADDITIONAL proceedings by the court to consider and decide matters,
10 including a preliminary hearing and motions, that are susceptible of fair
11 determination prior to trial and without the personal participation of the
12 defendant. Those proceedings may be later reopened if, in the discretion
13 of the court, substantial new evidence is discovered after and as a result
14 of the defendant's restoration to competency.

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

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

21 (b) If either the defense or the prosecution has reason to believe
22 that the defendant is incompetent to proceed, either party may file a
23 motion in advance of the commencement of the particular proceeding. A
24 motion to determine competency ~~shall~~ MUST be in writing and contain a
25 certificate of counsel stating that the motion is based on a good faith
26 doubt that the defendant is competent to proceed. The motion must set
27 forth the specific facts that have formed the basis for the motion. The

1 court ~~must~~ SHALL seal the motion. If the motion is made by the
2 prosecution, the prosecution shall provide the defense a copy of the
3 motion. If the motion is made by the defense, the defense shall provide
4 the prosecution notice of the filing of the motion at the time of filing, and
5 if the defense requests a hearing, the defense shall provide the motion to
6 the prosecution at the time the hearing is requested. The motion may be
7 filed after the commencement of the proceeding if, for good cause shown,
8 the defendant's mental disability or developmental disability was not
9 known or apparent before the commencement of the proceeding.

10 ~~(c) Repealed.~~

11 ~~(d)~~ (c) By the public defender liaison, as described in section
12 21-1-104 (6), or an attorney representing the offender in a parole
13 proceeding.

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

22 ~~(3)~~ (4) Notwithstanding ~~any provision of~~ this article 8.5 to the
23 contrary, the question of whether a convicted person is mentally
24 incompetent to be executed must be raised and determined pursuant to
25 part 14 of article 1.3 of title 18.

26 ~~(4)~~ (5) If a defendant is eligible for referral to the bridges
27 wraparound care program pursuant article 8.6 of this title 16, the court

1 may ask the parties whether the defendant should be referred for
2 participation in the program. With the agreement of the parties, the court
3 may delay making determinations regarding the defendant's competency
4 to allow a bridges wraparound care coordinator to conduct an initial
5 intake of the defendant pursuant to section 16-8.6-108 to determine
6 whether the bridges wraparound care program is appropriate for the
7 defendant.

8 **16-8.5-103. Determination of competency to proceed.**

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

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

18 (2) If either party objects to the court's preliminary finding, or if
19 the court determines that it has insufficient information to make a
20 preliminary finding, the court shall order that the defendant be evaluated
21 for competency by the department CDHS and that the department CDHS
22 prepare a court-ordered report.

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

25 ~~(4) If a party requests a second evaluation, any pending requests~~
26 ~~for a hearing must be continued until the receipt of the second evaluation~~
27 ~~report. The report of the expert conducting the second evaluation must be~~

1 ~~completed and filed with the court within thirty-five days after the court~~
2 ~~order allowing the second evaluation, unless the time period is extended~~
3 ~~by the court for good cause. The court shall provide the second evaluation~~
4 ~~to the parties and the department. The department shall use the second~~
5 ~~evaluation to ensure that the department complies with its responsibilities,~~
6 ~~including reviewing and summarizing prior competency opinions as~~
7 ~~required by section 16-8.5-105 (5)(f). If the second evaluation is~~
8 ~~requested by the court, it must be paid for by the court.~~

9 (5) (3) If neither party requests a hearing PURSUANT TO SECTION
10 16-8.5-108 or a second evaluation PURSUANT TO SECTION 16-8.5-111,
11 within the applicable time frame, the court shall enter a final
12 determination, based on the information then available to the court,
13 whether the defendant is or is not competent to proceed.

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

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

22 (8) (4) If the question of the defendant's incompetency to proceed
23 is raised after a jury is impaneled to try the issues raised by a plea of not
24 guilty and the court determines that the defendant is incompetent to
25 proceed or orders a court-ordered competency evaluation, the court may
26 declare a mistrial. Declaration of a mistrial under these circumstances
27 does not constitute jeopardy, nor does it prohibit the trial or sentencing of

1 the defendant for the same offense after the defendant has been found
2 restored to competency.

3 (9) (5) In all proceedings ~~under~~ BROUGHT PURSUANT TO this
4 article 8.5, when competency has been raised by the parole board
5 pursuant to ~~section 16-8.5-102 (2)(d)~~ SECTION 17-22.5-403.5 (4)(f), the
6 court shall pay for any evaluation to determine competency pursuant to
7 this section, and the COMPETENCY evaluation must be conducted at the
8 place where the defendant is in custody.

9 **16-8.5-104. Defendant's waiver of privilege.**

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

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

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

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

26 (2) Upon a request by either party or the court for the information
27 described in subsection (1) of this section, the COMPETENCY evaluator or

1 treatment provider shall provide the information for use in preparing for
2 a COMPETENCY hearing, ~~on competency~~ RESTORABILITY HEARING, or
3 restoration HEARING and for use during ~~such a~~ THE hearing.

4 (3) ~~An evaluator or a facility providing competency evaluation or~~
5 ~~restoration treatment services~~ THE DEPARTMENT, A COMPETENCY
6 EVALUATOR, OR A RESTORATION SERVICE PROVIDER THAT IS PERFORMING
7 WORK pursuant to a court order issued pursuant to this article 8.5 shall
8 provide ~~procedural~~ information to the court, bridges court liaison, district
9 attorney, or defense counsel concerning the defendant's location, the
10 defendant's hospital or facility admission status, the status of ANY
11 COMPETENCY evaluation procedures, and ~~other procedural information~~
12 ~~relevant to the case~~ THE STATUS OF ANY RESTORATION TREATMENT AND
13 SERVICES.

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

19 ~~(4.5)~~ (5) The court may, upon the request of either party, issue an
20 order to assist a party in accessing, receiving copies of, or discussing with
21 ~~an~~ A COMPETENCY evaluator or treatment provider information or records
22 that the party has the right to access pursuant to the defendant's waiver of
23 privilege. If a party requests ~~such~~ an order, the court shall allow the
24 opposing party to make any legal objection, including whether the
25 requested information is within the scope of the defendant's waiver of
26 privilege, and SHALL consider any requests for protective orders prior to
27 issuing the court order. This section does not limit the court's ability to

1 order information be provided to a party with the written consent of the
2 defendant.

3 ~~(5)~~ (6) The court shall order both the prosecutor and the defendant
4 or the defendant's counsel to exchange the names, addresses, reports, and
5 statements of each physician or psychologist who has examined or treated
6 the defendant for competency.

7 ~~(6)~~ (7) Statements made by the defendant in the course of any
8 COMPETENCY evaluation must be protected in accordance with ~~section~~
9 ~~16-8.5-108~~ SECTION 16-8.5-107.

10 **16-8.5-105. Competency evaluations, locations, time frames,**
11 **and report.**

12 (1) (a) (I) The court shall order that the competency evaluation be
13 conducted on an outpatient basis or, if the defendant is unable to post the
14 monetary condition of bond or is ineligible to be released on bond, at the
15 place where the defendant is in-custody, except as provided in subsection
16 (1)(b) of this section. WHEN THE COURT ORDERS A COMPETENCY
17 EVALUATION, THE COURT SHALL ALSO ORDER THE APPROPRIATE PARTY TO
18 TRANSMIT THE COLLATERAL MATERIALS TO CDHS WITHIN TWO BUSINESS
19 DAYS AFTER THE ORDER FOR A COMPETENCY EVALUATION, WITH A
20 CERTIFICATE OF SERVICE OF THE COLLATERAL MATERIALS PROVIDED TO
21 THE COURT AND OTHER NECESSARY PARTIES.

22 (II) If ~~the department~~ CDHS conducts the COMPETENCY
23 evaluation on an in-custody basis, ~~the department~~ CDHS shall begin the
24 COMPETENCY evaluation as soon as practicable, BUT NO LATER THAN
25 TWENTY-ONE BUSINESS DAYS, after ~~the department's receipt of a~~
26 RECEIVING THE COLLATERAL MATERIALS AND court order directing the
27 COMPETENCY evaluation ~~If the evaluation is conducted on an in-custody~~

1 basis, ~~the department shall complete the evaluation no later than~~
2 ~~twenty-one days after receipt of the order and the collateral materials BE~~
3 COMPLETED.

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

20 ~~(II) At the time any evaluation is ordered, the court shall order that~~
21 ~~the collateral materials be transmitted to the department within~~
22 ~~twenty-four hours after the order by the appropriate party with a~~
23 ~~certificate of service of the materials provided to the court and other~~
24 ~~necessary parties by the party ordered to transmit the collateral materials.~~

25 (III) The court shall determine the type of bond and the conditions
26 of release after consideration of the presumptions and factors enumerated
27 in article 4 of this title 16, which include consideration of the information

1 received from any pretrial services program pursuant to section 16-4-106
2 and any information provided by the bridges court liaison hired or
3 contracted pursuant to article 95 of title 13. As a condition of any bond,
4 the court shall require the defendant's cooperation with the competency
5 evaluation on an outpatient and out-of-custody basis. In setting the bond,
6 the court shall not consider the need for the defendant to receive an
7 evaluation pursuant to this article 8.5 as a factor in determining any
8 monetary condition of bond.

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

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

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

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

27 ~~(HH)~~ (C) Extraordinary circumstances relating to the case or the

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

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

4 ~~(b.3)~~ (II) Upon entry of a court order pursuant to ~~subsection (1)(b)~~
5 SUBSECTION (1)(b)(I) of this section, ~~the department~~ CDHS has the same
6 authority with respect to custody as provided for in section 16-8-105.5
7 (4).

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

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

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

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

27 (c) [Formerly 16-8.5-105 (1)(b.6)] If the COMPETENCY evaluator

1 ~~concludes~~ OPINES that the defendant is incompetent to proceed and that
2 inpatient restoration services are not clinically appropriate, ~~the department~~
3 CDHS shall detail the outpatient ~~and out-of-custody~~ restoration services
4 available to the defendant.

5 (d) (I) If a defendant is in ~~the department's~~ CDHS's custody for
6 purposes of the competency evaluation ordered pursuant to this article 8.5
7 and the defendant has completed the competency evaluation and the
8 COMPETENCY evaluator has ~~concluded~~ OPINED that:

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

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

20 (II) The court shall hold a hearing within seven days after
21 receiving the notice PURSUANT TO SUBSECTION (1)(d)(I)(B) OF THIS
22 SECTION, at which ~~the department~~ CDHS shall provide to the court the
23 plan for community-based restoration services, and the court may enter
24 any appropriate orders regarding the custody of the defendant and the
25 defendant's bond status. ~~The department~~ THE COURT MAY INCLUDE IN THE
26 ORDER A REQUIREMENT FOR THE DEFENDANT TO PARTICIPATE IN MENTAL
27 HEALTH TREATMENT AS PART OF THE COMMUNITY-BASED RESTORATION

1 SERVICES. CDHS shall advise the defendant of the date and time of the
2 court hearing. If ~~the department~~ CDHS is returning the defendant to a
3 county jail, the county sheriff in the jurisdiction where the defendant must
4 return shall take custody of the defendant within seventy-two hours after
5 receiving notification from ~~the department~~ CDHS that the defendant's
6 COMPETENCY evaluation is completed. At the time ~~the department~~ CDHS
7 notifies the sheriff, ~~the department~~ CDHS shall also notify the court and
8 the bridges court liaison that ~~the department~~ CDHS is returning the
9 defendant to the custody of the jail.

10 (e) ~~Nothing in~~ This section ~~restricts~~ DOES NOT RESTRICT the right
11 of the defendant to procure a competency evaluation ~~as provided in~~
12 ~~section 16-8.5-106~~ AT THE DEFENDANT'S REQUEST PURSUANT TO SECTION
13 16-8.5-111 (1).

14 (2) The defendant ~~shall~~ MUST cooperate with the competency
15 evaluator and with other personnel providing ancillary services such as
16 testing and radiological services. Statements made by the defendant in the
17 course of the COMPETENCY evaluation ~~shall be~~ ARE protected as provided
18 in ~~section 16-8.5-108~~ SECTION 16-8.5-107. If the defendant does not
19 cooperate with the competency evaluator and other personnel providing
20 ancillary services and the lack of cooperation is not the result of a
21 developmental disability or a mental disability, the fact of the defendant's
22 noncooperation with the competency evaluator and other personnel
23 providing ancillary services may be admissible in the defendant's
24 competency or restoration hearing to rebut any evidence introduced by the
25 defendant with regard to the defendant's competency.

26 (3) To aid in forming an opinion ~~as to the competency~~ of the
27 ~~defendant~~ DEFENDANT'S COMPETENCY, it is permissible in the course of

1 ~~an~~ A COMPETENCY evaluation ~~under~~ PURSUANT TO this section to use THE
2 DEFENDANT'S confessions and admissions ~~of the defendant~~ and any other
3 evidence of the circumstances surrounding the commission of the offense,
4 as well as the DEFENDANT'S medical and social history, ~~of the defendant~~
5 in questioning the defendant. When the defendant is noncooperative with
6 the competency evaluator or personnel providing ancillary services, THE
7 COMPETENCY EVALUATOR MAY RENDER an opinion of the DEFENDANT'S
8 competency ~~of the defendant may be rendered by the competency~~
9 ~~evaluator~~ based upon confessions, admissions, and any other evidence of
10 the circumstances surrounding the commission of the offense, as well as
11 the DEFENDANT'S known medical and social history, ~~of the defendant~~, and
12 the opinion may be admissible into evidence at the defendant's
13 competency or restoration hearing.

14 (4) THE COMPETENCY EVALUATOR SHALL PREPARE a written report
15 of the COMPETENCY evaluation, ~~must be prepared and the department~~
16 CDHS shall electronically deliver the report to the court clerk who
17 ordered it. The clerk shall provide a copy of the report to the prosecuting
18 attorney, the bridges court liaison, and the defense counsel using an
19 e-filing system. Without reducing any other timelines set forth in this
20 article 8.5, the competency evaluator shall provide the written report to
21 the court within fourteen days after finishing meeting, or attempting to
22 meet, with the defendant to evaluate the defendant's competency.

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

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

27 (b) A description of the nature, content, extent, and results of the

1 competency evaluation and any tests conducted, which must include, but
2 ~~need not be~~ IS NOT limited to, the information reviewed and relied upon
3 in conducting the competency evaluation and specific tests conducted by
4 the competency evaluator;

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

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

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

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

27 (B) AN OPINION AS TO WHETHER THE DEFENDANT POSES A

1 SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, AS DEFINED IN SECTION
2 27-65-102, IF THE OPINION IS THAT THE DEFENDANT IS UNRESTORABLE
3 AND THE DEFENDANT IS EITHER CHARGED WITH HOMICIDE PURSUANT TO
4 PART 1 OF ARTICLE 3 OF TITLE 18; A CRIME OF VIOLENCE, AS DEFINED IN
5 SECTION 18-1.3-406 (2); OR A FELONY THAT CONSTITUTES UNLAWFUL
6 SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102; OR THE DISTRICT
7 ATTORNEY PROVIDED NOTICE THAT THE DISTRICT ATTORNEY IS AWARE OF
8 AN ACT NOT CHARGED IN THE CURRENT CASE THAT WOULD QUALIFY
9 PURSUANT TO SECTION 16-8.5-118 (6)(b)(II).

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

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

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

9 ~~(g)~~ (e) The competency evaluator's opinion as to whether the
10 defendant meets the criteria for a ~~tier-I~~ TIER 1 or ~~tier-II~~ TIER 2 designation;
11 ~~as defined in section 16-8.5-101 (19) and (20); and~~

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

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

17 (II) Meets the criteria for a certification for short-term treatment
18 pursuant to section 27-65-108.5 or 27-65-109 and, if the defendant meets
19 ~~such~~ THE criteria, whether the COMPETENCY evaluator believes the
20 defendant could be treated on an outpatient basis pursuant to section
21 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A
22 MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, in assessing
23 whether the defendant ~~with a pending criminal charge~~ is a danger to self
24 ~~or~~ THE DEFENDANT'S SELF, A DANGER TO others, or ~~is~~ gravely disabled, if
25 ~~the person is incarcerated~~ AS THOSE TERMS ARE DEFINED IN SECTION
26 27-65-102, the COURT, competency evaluator, or professional person, as
27 defined in section 27-65-102, ~~and the court~~ shall not rely on the fact that

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

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

12 (A) Whether the defendant ALSO HAS A MENTAL HEALTH
13 DISORDER AND, IF THE DEFENDANT DOES HAVE A CO-OCCURRING
14 INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND A MENTAL HEALTH
15 DISORDER, THE PRIMARY DIAGNOSIS, IF DETERMINABLE; AND

16 (B) WHETHER THE DEFENDANT may be eligible for any additional
17 services pursuant to article 10 of title 25.5 or article 10.5 of title 27, OR
18 MAY MEET THE CRITERIA FOR A CIVIL PROCEEDING OR IMPOSITION OF A
19 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION
20 25.5-10-216; OR

21 (IV) HAS A NEUROCOGNITIVE DISORDER, AS DEFINED IN SECTION
22 25.5-10-501, AND IF THE DEFENDANT DOES HAVE A NEUROCOGNITIVE
23 DISORDER, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH
24 DISORDER, AND WHETHER THE DEFENDANT MAY MEET THE CRITERIA FOR
25 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502. IF THE
26 COMPETENCY EVALUATOR'S OPINION IS THAT THE DEFENDANT MAY MEET
27 THE CRITERIA FOR PROTECTIVE PLACEMENT, THE COMPETENCY

1 EVALUATOR IS NOT REQUIRED TO PETITION THE COURT FOR PROTECTIVE
2 PLACEMENT.

3 (g) WHEN THE COMPETENCY EVALUATOR HAS REASON TO BELIEVE
4 THE DEFENDANT HAS A NEUROCOGNITIVE DISORDER OR AN INTELLECTUAL
5 AND DEVELOPMENTAL DISABILITY THAT MAY QUALIFY AS A MENTAL
6 HEALTH DISORDER:

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

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

14 (6) Whenever a competency evaluation is ordered upon the
15 request of either party, the court ~~may~~ SHALL notify the county attorney or
16 district attorney required to conduct proceedings pursuant to ~~section~~
17 ~~27-65-113 (6)~~ SECTION 27-65-113.5 for the county in which the charges
18 are pending, and the bridges court liaison hired or contracted pursuant to
19 article 95 of title 13, of all court dates for return of the COMPETENCY
20 EVALUATION report. ~~on competency to ensure that all parties are on notice~~
21 ~~of the expected need for coordinated services and planning with~~
22 ~~consideration of possible civil certification.~~

23 (7) Each court shall allow for any competency evaluation
24 conducted pursuant to ~~the provisions of this section or section 16-8.5-106~~
25 THIS ARTICLE 8.5 to be submitted to the court through electronic means.

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

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

9 ==

10 **16-8.5-106. [Formerly 16-8.5-112] Petition for involuntary**
11 **administration of medication - venue for collateral hearing.**

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

26 (2) ~~A petition for involuntary treatment must be heard in~~ The
27 court of the jurisdiction where the defendant is located ~~The department~~

1 SHALL HEAR A PETITION FOR INVOLUNTARY TREATMENT. CDHS shall
2 promptly deliver a copy of the order granting or denying the petition to
3 the court that committed the defendant to the custody of ~~the department~~
4 CDHS, the prosecuting attorney, and the defendant's legal representation
5 in the criminal case, if ~~such~~ LEGAL representation exists, and to the
6 defendant directly if the defendant does not have legal representation.

7 (3) ~~If the committing court elects to transfer venue for medication~~
8 ~~hearings to the court of the jurisdiction where the defendant is located~~ IF
9 A HEARING FOR ADMINISTRATION OF INVOLUNTARY MEDICATION IS HEARD
10 IN A DIFFERENT COUNTY THAN THE COUNTY WHERE THE COMMITTING
11 COURT IS LOCATED, the committing county shall reimburse the county
12 where the proceeding is heard for the reasonable costs incurred in
13 conducting the proceeding. Alternatively, the district attorney OR COUNTY
14 ATTORNEY for the committing county ~~or in any county or any city and~~
15 ~~county having a population exceeding fifty thousand people, the county~~
16 ~~attorney for the committing county,~~ may prosecute the proceeding as the
17 proponent of the physician's petition.

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

27 **16-8.5-107. [Formerly 16-8.5-108 (1)] Use of defendant's**

1 **statements.**

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

15 ~~(b)~~ (2) Evidence acquired directly or indirectly for the first time
16 from a communication derived from the defendant's mental processes
17 during the course of a competency evaluation or involuntary medication
18 proceeding is admissible at any sentencing hearing held pursuant to
19 section 18-1.3-1201 for an offense charged prior to July 1, 2020, or
20 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,
21 2020, or pursuant to section 18-1.4-102 only to prove the existence or
22 absence of any mitigating factor.

23 ~~(c)~~ (3) If the defendant testifies on the defendant's own behalf
24 upon the trial of the issues raised by the plea of not guilty or, for offenses
25 that occurred before July 1, 1995, a plea of not guilty by reason of
26 impaired mental condition, or at a sentencing hearing held pursuant to
27 section 18-1.3-1201 for an offense charged prior to July 1, 2020, or

1 pursuant to section 18-1.3-1302 for an offense charged prior to July 1,
2 2020, or pursuant to section 18-1.4-102, this section does not bar any
3 evidence used to impeach or rebut the defendant's testimony.

4 **16-8.5-108. General hearing procedures and evidence.**

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

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

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

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

19 (IV) A REQUEST FOR A COMBINED RESTORABILITY AND
20 RESTORATION HEARING IS GOVERNED BY SECTIONS 16-8.5-113 AND
21 16-8.5-114.

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

27 (d) THE COMPETENCY HEARING, RESTORABILITY HEARING, OR

1 RESTORATION HEARING MUST BE HELD WITHIN THIRTY-FIVE DAYS AFTER
2 THE COURT'S ORDER GRANTING THE REQUEST, UNLESS THE TIME IS
3 EXTENDED BY THE COURT AFTER A FINDING OF GOOD CAUSE.

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

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

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

20 (a) To be present in person;

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

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

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

26 (4) **[Formerly 16-8.5-108 (2)]** ~~In any~~ AT A COMPETENCY hearing,
27 ~~concerning competency to proceed or restoration to competency~~

1 RESTORABILITY HEARING, OR RESTORATION HEARING, competency
2 evaluators and other experts may testify as to the conclusions reached
3 from their examination of hospital records, laboratory reports, X rays,
4 electroencephalograms, and psychological test results if the material that
5 the COMPETENCY evaluators or experts examined in reaching their
6 conclusions is produced at the time of the hearing. ~~Nothing in This~~
7 section ~~prevents~~ DOES NOT PREVENT the parties from obtaining the
8 information authorized by PURSUANT TO section 16-8.5-104 prior to the
9 hearing.

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

15 **16-8.5-109. Competency hearing - procedure after**
16 **determination of competency or incompetency - mandatory dismissal**
17 **- refile of charges.**

18 (1) **Competency hearing.**

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

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

26 (2) [Formerly 16-8.5-111 (1)] **Competent to proceed.** If the final
27 determination made pursuant to section 16-8.5-103 is that the defendant

1 is competent to proceed, the ~~judge~~ COURT shall order that the suspended
2 proceeding continue or, if a mistrial was declared, shall reset the case for
3 trial at the earliest possible date.

4 (3) **[Formerly 16-8.5-111 (1.5)] Referral to wraparound care**
5 **program or restoration services.** If the final determination made
6 pursuant to section 16-8.5-103 is that the defendant is incompetent to
7 proceed and the defendant is eligible for referral to the bridges
8 wraparound care program pursuant to article 8.6 of this title 16, the court
9 may ask the parties whether the defendant should be referred for
10 participation in the program. With the agreement of the parties, the court
11 may delay ordering restoration services for the defendant to allow a
12 bridges wraparound care coordinator to conduct an initial intake of the
13 defendant pursuant to section 16-8.6-108 to determine whether the
14 bridges wraparound care program is appropriate for the defendant, or,
15 EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, the court may
16 order restoration services pursuant to ~~subsection (2) of this section~~
17 SECTION 16-8.5-110.

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

20 (a) THE COURT SHALL DISMISS THE CHARGES AGAINST THE
21 DEFENDANT IN ACCORDANCE WITH SECTION 16-8.5-116 if the final
22 determination made pursuant to section 16-8.5-103 is that the defendant
23 is incompetent to proceed and if a defendant's highest charged offense is
24 a class 2 misdemeanor; a petty offense; a drug misdemeanor; ~~or a traffic~~
25 ~~offense, the court shall dismiss the charges against the defendant unless~~
26 ~~the district attorney objects prior to the entry of the order to dismiss and~~
27 ~~makes a prima facie showing that the defendant is a danger to the~~

1 ~~defendant's self or others or is gravely disabled and there is a reasonable~~
2 ~~belief that the defendant will be certified for treatment and receive the~~
3 ~~necessary services pursuant to article 65 of title 27~~ INFRACTION; A
4 MISDEMEANOR TRAFFIC OFFENSE; AN OFFENSE THAT CONSTITUTES AN
5 UNCLASSIFIED MISDEMEANOR WITHOUT SPECIFICATION PURSUANT TO
6 SECTION 18-1.3-504; OR AN OFFENSE THAT CONSTITUTES A DENOMINATED
7 MISDEMEANOR AND NO PENALTY IS FIXED IN STATUTE PURSUANT TO
8 SECTION 18-1.3-505, BUT NOT A MISDEMEANOR PURSUANT TO PART 13 OF
9 ARTICLE 4 OF TITLE 42 OR ANY OFFENSE CHARGED PURSUANT TO SECTION
10 42-4-1402 (2)(c).

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

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

20 **16-8.5-110. Restoration services - inpatient and outpatient.**

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

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

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

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

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

21 (b) If the ~~court determines the defendant is incompetent to~~
22 ~~proceed and~~ DEFENDANT is in-custody on a CLASS 1 misdemeanor, ~~petty~~
23 ~~offense, or traffic offense~~ A MISDEMEANOR DESCRIBED IN PART 13 OF
24 ARTICLE 4 OF TITLE 42, OR AN OFFENSE CHARGED PURSUANT TO SECTION
25 42-4-1402 (2)(c), the court ~~must~~ SHALL set a hearing on bond within
26 seven days after the court's final determination that the defendant is
27 incompetent to proceed. At the bond hearing, there is a presumption that

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

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

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

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

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

27 (II) The restoration services provider under contract with ~~the~~

1 ~~department~~ CDHS shall notify the court, ~~the department~~ CDHS, the
2 bridges court liaison, and any other designated agency within twenty-one
3 days after the court's order if restoration services have not started and
4 include a description of the efforts that have been made to engage the
5 defendant in services. and

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

15 (b) If, in the process of coordinating outpatient restoration
16 services for a defendant, ~~the department~~ CDHS determines that the
17 defendant meets the standard for a certification for short-term treatment
18 pursuant to section 27-65-108.5 and that initiating a petition for an
19 outpatient certification is appropriate, ~~the department~~ CDHS may request,
20 in writing, that the court refer the matter for filing of a petition for
21 short-term treatment pursuant to SECTION 27-65-108.5 in a court with
22 jurisdiction and authorize ~~the department~~ CDHS to file the petition. After
23 receiving a written request, the court shall hear and consider any
24 objections from the defendant prior to ruling on the request.

25 (c) If ~~the department~~ CDHS determines that ~~the department~~ IT is
26 unable, within a reasonable time, to provide restoration services on an
27 outpatient basis, ~~the department~~ CDHS shall notify the court within

1 fourteen days after the ~~department's~~ ITS determination, at which point the
2 court shall review the case and determine what interim mental health
3 services ~~the department~~ CDHS or a community provider can provide to
4 the defendant. If a bridges court liaison is appointed, ~~the department~~
5 CDHS shall report to the bridges court liaison every twenty-eight days
6 concerning the availability of restoration services on an outpatient basis
7 to the defendant.

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

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

11 (I) The executive director shall designate a state facility or
12 facilities where the defendant is held for care and psychiatric treatment
13 and receives restoration services, and THE EXECUTIVE DIRECTOR may
14 EFFECTUATE THE DEFENDANT'S transfer ~~the defendant~~ from one facility to
15 another if, in the opinion of the EXECUTIVE director, doing so is in the
16 best interest of proper care, custody, and treatment of the defendant or the
17 protection of the public or the personnel of the facilities in question. ~~The~~
18 ~~department~~ CDHS shall provide restoration services at an appropriate
19 inpatient program. ~~The department~~ CDHS shall notify the court, the
20 bridges court liaison, the prosecuting attorney, and the defense attorney
21 when the defendant is placed or moved to a different program.

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

25 (III) ~~The department~~ CDHS shall admit tier 2 defendants for
26 INPATIENT restoration services within twenty-eight days after receipt of
27 the court order and collateral materials and shall advise the court and the

1 bridges court liaison, if applicable, every twenty-eight days after the
2 initial twenty-eight-day period regarding the availability of an inpatient
3 bed and when admission will be offered to the defendant.

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

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

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

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

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

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

1 discharge, ~~the department~~ CDHS shall:

2 (I) Assist the defendant with any necessary transportation;

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

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

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

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

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

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

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

25 **16-8.5-111. Second evaluation.**

26 (1) [Formerly 16-8.5-106 (1)] If a defendant wishes to be
27 examined by a competency evaluator of ~~his or her~~ THE DEFENDANT'S own

1 choice in connection with any proceeding under this ~~article~~ ARTICLE 8.5,
2 the court, upon timely motion, shall ~~order that~~ ENTER ANY ORDERS
3 NECESSARY FOR the competency evaluator chosen by the defendant TO be
4 given reasonable opportunity to conduct ~~the~~ A second evaluation. ~~in~~
5 ~~accordance with sections 16-8.5-103 and 16-8.5-111.~~

6 (2) EITHER PARTY HAS THE RIGHT TO REQUEST A SECOND
7 EVALUATION, AND THE COURT SHALL GRANT THE REQUEST. THE SECOND
8 EVALUATION REPORT MUST INCLUDE THE COMPETENCY EVALUATOR'S
9 OPINION, IF APPLICABLE, REGARDING:

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

12 (b) WHETHER THE DEFENDANT IS RESTORABLE; AND

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

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

20 (4) **[Formerly 16-8.5-103 (4)]** If a party requests a second
21 evaluation, THE COURT SHALL CONTINUE any pending requests for a
22 hearing ~~must be continued~~ until the receipt of the second evaluation
23 report. The COMPETENCY EVALUATOR SHALL COMPLETE AND FILE THE
24 report of the expert conducting the second evaluation ~~must be completed~~
25 ~~and filed~~ with the court within thirty-five days after the court order
26 allowing the second evaluation, unless the time period is extended by the
27 court for good cause. The court shall provide the second evaluation to

1 CDHS AND the parties. ~~and the department. The department~~ CDHS shall
2 use the second evaluation to ensure that ~~the department~~ CDHS complies
3 with its responsibilities, including reviewing and summarizing prior
4 competency opinions ~~as required by section 16-8.5-105 (5)(f)~~ MADE
5 PURSUANT TO SECTION 16-8.5-105 (5)(d)(I)(A). If the COURT REQUESTS
6 THE second evaluation, ~~is requested by the court~~, it must be paid for by
7 the court.

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

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

19 **16-8.5-112. [Formerly 16-8.5-116] Review hearing to determine**
20 **competency - report.**

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

22 (2)(a) (1) (a) Within ninety-one days after the entry of the court's
23 order of commitment or order to receive outpatient restoration SERVICES,
24 the court shall SET A HEARING TO review the case of a defendant who has
25 been determined to be incompetent to proceed with regard to ~~the~~
26 ~~probability that~~ WHETHER the defendant ~~will be restored to competency~~
27 ~~within the reasonably foreseeable future~~ IS RESTORABLE OR

1 UNRESTORABLE and with regard to the justification for certification,
2 confinement, or continued restoration treatment. The review HEARING
3 may be held in conjunction with a RESTORABILITY HEARING HELD
4 PURSUANT TO SECTION 16-8.5-113 OR A restoration hearing held pursuant
5 to ~~section 16-8.5-113~~ SECTION 16-8.5-114. However, if at the review
6 hearing there is a request by the defendant for a restoration hearing
7 pursuant to ~~section 16-8.5-113~~ SECTION 16-8.5-114, the court shall set the
8 restoration hearing within thirty-five days after the request pursuant to the
9 provisions of ~~section 16-8.5-113~~ SECTION 16-8.5-114.

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

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

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

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

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

25 ~~(IV.3) Whether the defendant meets the criteria for a certification~~
26 ~~for short-term treatment pursuant to section 27-65-108.5 or 27-65-109~~
27 ~~and, if the defendant meets such criteria, whether the evaluator believes~~

1 ~~the defendant could be treated on an outpatient basis pursuant to section~~
2 ~~27-65-111. In assessing whether a defendant with a pending criminal~~
3 ~~charge is a danger to self or others or is gravely disabled, if the person is~~
4 ~~incarcerated, the evaluator shall not rely on the fact that the defendant is~~
5 ~~incarcerated or is an inpatient in a medical facility to establish the~~
6 ~~defendant is not a danger to self or others or is not gravely disabled.~~

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

12 (V) WHETHER THE DEFENDANT MEETS THE CRITERIA FOR A
13 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
14 27-65-108.5 OR 27-65-109 AND, IF THE DEFENDANT MEETS THE CRITERIA,
15 WHETHER THE COMPETENCY EVALUATOR BELIEVES THE DEFENDANT
16 COULD BE TREATED ON AN OUTPATIENT BASIS PURSUANT TO SECTION
17 27-65-111. IF THE DEFENDANT IS INCARCERATED OR IS INPATIENT IN A
18 MEDICAL FACILITY AND HAS A PENDING CRIMINAL CHARGE, IN ASSESSING
19 WHETHER THE DEFENDANT IS A DANGER TO THE DEFENDANT'S SELF, A
20 DANGER TO OTHERS, OR GRAVELY DISABLED, AS THOSE TERMS ARE
21 DEFINED IN SECTION 27-65-102, THE COURT, COMPETENCY EVALUATOR,
22 OR PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102, SHALL NOT
23 RELY ON THE FACT THAT THE DEFENDANT IS INCARCERATED OR IS
24 INPATIENT IN A MEDICAL FACILITY TO ESTABLISH THAT THE DEFENDANT IS
25 NOT A DANGER TO THE DEFENDANT'S SELF, A DANGER TO OTHERS, OR
26 GRAVELY DISABLED. IF IT IS THE COMPETENCY EVALUATOR'S OPINION
27 THAT THE DEFENDANT MEETS CRITERIA FOR CERTIFICATION FOR

1 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR
2 27-65-109, THE COMPETENCY EVALUATOR IS NOT REQUIRED TO REQUEST
3 A PETITION FOR CERTIFICATION FOR SHORT-TERM TREATMENT OF THE
4 DEFENDANT.

5 (VI) WHETHER THE DEFENDANT HAS AN INTELLECTUAL AND
6 DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-10-202, AND
7 IF THE DEFENDANT DOES HAVE AN INTELLECTUAL AND DEVELOPMENTAL
8 DISABILITY, WHETHER THE DEFENDANT ALSO HAS A MENTAL HEALTH
9 DISORDER, AND WHETHER THE DEFENDANT MAY BE ELIGIBLE FOR ANY
10 ADDITIONAL SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5 OR
11 ARTICLE 10.5 OF TITLE 27, OR MAY MEET THE CRITERIA FOR A CIVIL
12 PROCEEDING FOR IMPOSITION OF A LEGAL DISABILITY PURSUANT TO
13 SECTION 25.5-10-216. IF THE COMPETENCY EVALUATOR'S OPINION IS THAT
14 THE DEFENDANT MAY MEET THE CRITERIA, THE COMPETENCY EVALUATOR
15 IS NOT REQUIRED TO PETITION THE COURT FOR IMPOSITION OF A LEGAL
16 DISABILITY.

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

25 (V) (VIII) A DESCRIPTION OF any and all efforts made for
26 restoration through medication, therapy, education, or other services and
27 the outcome of those efforts in relation to restoring the defendant to

1 competency;

2 ~~(VI) Repealed.~~

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

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

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

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

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

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

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

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

26 (VI) IF THE DEFENDANT IS CONTINUING TO RECEIVE INPATIENT
27 RESTORATION SERVICES, whether the defendant, based on observations of

1 the defendant's behavior in the facility, presents a substantial risk to the
2 physical safety of the defendant's self, of another person, or of the
3 community if released for community restoration; AND

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

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

10 (B) THE PROSECUTION REQUESTED AN OPINION REGARDING
11 WHETHER THE DEFENDANT POSES A SUBSTANTIAL RISK OF SERIOUS HARM
12 TO OTHERS BECAUSE THE PROSECUTION IS AWARE OF AN ACT NOT
13 CHARGED IN THE CURRENT CASE THAT WOULD QUALIFY PURSUANT TO
14 SECTION 16-8.5-118 (6)(b)(II). IF THE PROSECUTION REQUESTS AN OPINION
15 PURSUANT TO THIS SUBSECTION (1)(c)(VII)(B), THE PROSECUTION SHALL
16 DISCLOSE THE UNCHARGED ACTS TO THE DEFENDANT.

17 ~~(3)~~ (2) After the initial review HEARING CONDUCTED pursuant to
18 ~~subsection (2)(a)~~ SUBSECTION (1)(a) of this section, the court shall review
19 the case of the defendant every ninety-one days. At least ten days before
20 each review, the ~~individual or entity evaluating the defendant~~
21 COMPETENCY EVALUATOR shall provide the court with an updated
22 COMPETENCY EVALUATION report as described in ~~subsection (2)(b)~~
23 SUBSECTION (1)(b) of this section and the treatment staff shall provide an
24 updated summary of observations as described in ~~subsection (2)(c)~~
25 SUBSECTION (1)(c) of this section.

26 ~~(4) Repealed.~~

27 ~~(5)~~ (3) The court shall forward a copy of each report and summary

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

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

7 **16-8.5-113. Restorability hearing - burdens of proof -**
8 **determination - dismissal.**

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

12 (b) IF THE FINAL DETERMINATION MADE PURSUANT TO SECTION
13 16-8.5-103 IS THAT THE DEFENDANT IS INCOMPETENT TO PROCEED AND A
14 COMPETENCY EVALUATOR OPINES THAT THE DEFENDANT IS
15 UNRESTORABLE, AND EITHER A RESTORABILITY HEARING HAS NOT BEEN
16 HELD OR ONE HUNDRED EIGHTY-TWO DAYS HAVE PASSED SINCE THE
17 DEFENDANT BEGAN RECEIVING RESTORATION SERVICES AFTER A FINDING
18 OF RESTORABILITY, THE COURT SHALL, UPON MOTION OF A PARTY, SET A
19 RESTORABILITY HEARING WITHIN THE TIME FRAME SET FORTH IN SECTION
20 16-8.5-108 (1)(d). A RESTORABILITY HEARING MAY BE COMBINED WITH A
21 RESTORATION HEARING, IF APPROPRIATE.

22 (c) IF THE COURT RECEIVES THE COMPETENCY EVALUATOR'S
23 OPINION THAT THE DEFENDANT IS UNRESTORABLE PRIOR TO ENTERING AN
24 INITIAL ORDER FOR RESTORATION SERVICES, THE COURT SHALL SET A
25 RESTORABILITY HEARING IN LIEU OF ORDERING RESTORATION SERVICES.

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

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

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

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

18 (a) ANY DIAGNOSED MENTAL CONDITION GIVING RISE TO THE
19 DEFENDANT'S INCOMPETENCY, INCLUDING A DEVELOPMENTAL DISABILITY;
20 AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DEFINED IN
21 SECTION 25.5-10-202; A NEUROCOGNITIVE DISORDER, AS DEFINED IN
22 SECTION 25.5-10-501; AN ACQUIRED TRAUMATIC BRAIN INJURY; OR
23 DEMENTIA, AND WHETHER THE DIAGNOSED MENTAL CONDITION CAN BE
24 TREATED, MITIGATED, OR MANAGED IN A WAY THAT WOULD ALLOW THE
25 DEFENDANT TO PROGRESS TOWARD BECOMING COMPETENT TO PROCEED;

26 (b) THE NATURE AND SEVERITY OF THE DEFENDANT'S
27 INCOMPETENCY AND WHETHER THE DEFENDANT'S LEVEL OF COMPETENCY

1 CAN BE IMPROVED THROUGH ANY SERVICES THE COURT MAY LAWFULLY
2 ORDER, INCLUDING SERVICES THAT ARE IN ADDITION TO RESTORATION
3 SERVICES;

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

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

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

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

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

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

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

25 (I) IF THE COURT FINDS THAT THE DEFENDANT HAS NOT MET THE
26 BURDEN OF PROVING THE DEFENDANT IS UNRESTORABLE PURSUANT TO
27 SUBSECTION (2)(a) OF THIS SECTION, THE COURT SHALL FIND THE

1 DEFENDANT RESTORABLE AND ORDER APPROPRIATE RESTORATION
2 SERVICES AND SET A REVIEW HEARING PURSUANT TO SECTION 16-8.5-112.

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

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

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

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

24 (5) [Formerly 16-8.5-111 (6)(a)] ~~(a) Nothing in~~ This article 8.5
25 ~~prohibits~~ DOES NOT PROHIBIT the court from finding that the defendant is
26 restorable ~~to competency in the reasonably foreseeable future~~ based on
27 the defendant's volitional lack of cooperation or unwillingness to

1 participate in restoration services and treatment if THE COURT FINDS THAT
2 the defendant could be ~~restored to competency in the reasonably~~
3 ~~foreseeable future~~ RESTORABLE if the defendant cooperated and
4 participated in the restoration services and treatment.

5 **16-8.5-114. Restoration hearing - burdens of proof -**
6 **determination.**

7 (1) (a) [Formerly 16-8.5-113 (1)] The court may, ~~order~~ UPON A
8 MOTION OF A PARTY AND UPON A SHOWING OF GOOD CAUSE, SET a
9 restoration hearing ~~at any time on its own motion, on motion of the~~
10 ~~prosecuting attorney, or on motion of the defendant, except that the court~~
11 ~~shall order a restoration hearing when required pursuant to section~~
12 ~~16-8.5-111(4)(a) or (4)(b)~~ WITHIN THE TIME FRAME SET FORTH IN SECTION
13 16-8.5-108 (1)(a). FOR THE PURPOSES OF THIS SUBSECTION (1)(a), GOOD
14 CAUSE INCLUDES IF A DEFENDANT IS APPROACHING THE MAXIMUM TIME
15 PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO SECTION
16 16-8.5-116. A RESTORATION HEARING MAY BE COMBINED WITH A
17 RESTORABILITY HEARING, IF APPROPRIATE.

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

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

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

26 (III) A RESTORATION HEARING HAS NOT BEEN HELD OR ONE
27 HUNDRED EIGHTY-TWO DAYS HAVE PASSED AFTER A FINDING AT A

1 RESTORATION HEARING THAT THE DEFENDANT REMAINS INCOMPETENT TO
2 PROCEED AND THE DEFENDANT HAS CONTINUED TO RECEIVE RESTORATION
3 SERVICES.

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

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

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

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

1 **16-8.5-115. Procedure after restoration hearing.**

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

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

17 **16-8.5-116. Dismissal of charges after reaching maximum time**
18 **permitted to restore defendant - exceptions - rules.**

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

24 (a) The defendant's highest charged offense is a class 1
25 misdemeanor; ANY MISDEMEANOR THAT CONSTITUTES A FIRST OFFENSE
26 PURSUANT TO PART 13 OF ARTICLE 4 OF TITLE 42; or ~~is~~ a level 4 drug
27 felony, and the defendant has been in ~~the department's~~ CDHS's custody

1 for restoration services or has been confined in a jail or other detention
2 facility awaiting transport to ~~the department~~ CDHS for court-ordered
3 restoration for an aggregate time of six months; and

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

6 (2) **[Formerly 16-8.5-116.5 (3)]** At a review hearing held
7 PURSUANT TO SECTION 16-8.5-112 concerning the defendant's competency
8 to proceed, the court shall dismiss the charges against the defendant
9 PURSUANT TO SUBSECTION (5) OF THIS SECTION and release the defendant
10 from confinement ~~pursuant to subsection (7) of this section~~ if:

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

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

21 (3) **[Formerly 16-8.5-116.5 (4)]** At a review hearing held
22 PURSUANT TO SECTION 16-8.5-112 concerning the defendant's competency
23 to proceed, the court shall dismiss the charges against the defendant
24 PURSUANT TO SUBSECTION (5) OF THIS SECTION and release the defendant
25 from confinement ~~pursuant to subsection (7) of this section~~, if:

26 (a) The defendant's highest charged offense is a class 4 felony and
27 the defendant has been in ~~the department's~~ CDHS's custody for

1 restoration services or has been confined in a jail or other detention
2 facility awaiting transport to ~~the department~~ CDHS for court-ordered
3 restoration for an aggregate period of two years; and

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

6 (4) **[Formerly 16-8.5-116.5 (5)]** ~~Subsections (2), (3), and (4)~~
7 ~~SUBSECTIONS (1), (2), AND (3)~~ of this section do not apply if the defendant
8 is charged with a class 1, 2, or 3 felony offense; a sex offense, as defined
9 in section 18-1.3-1003 (5); a crime of violence, as defined in section
10 18-1.3-406 (2); or a level 1 or level 2 drug felony.

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

13 (a) The defendant is found incompetent to proceed;

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

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

21 ~~(6) to (15) Repealed. IF THE CONDITIONS ALLOWING THE COURT TO~~
22 ~~STAY A DISMISSAL APPLY, THE COURT SHALL STAY A DISMISSAL ORDERED~~
23 ~~PURSUANT TO THIS SECTION IN ACCORDANCE WITH SECTION 16-8.5-117 OR~~
24 ~~16-8.5-118.~~

25 (7) **[Formerly 16-8.5-116.5 (13)]** When the defendant is charged
26 with an offense in municipal court and the defendant is found
27 incompetent to proceed, or when civil commitment proceedings are

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

3 (8) [Formerly 16-8.5-116.5 (14)] If a defendant is in custody and
4 ~~the department~~ CDHS does not comply with the time limits set forth in
5 ~~section 16-8.5-111 the defendant is subject to the time limits set forth in~~
6 ~~subsections (2), (3), and (4) of this section~~ SECTION 16-8.5-110, and,
7 based upon the best available evidence, the defendant will not be admitted
8 to an inpatient facility to begin restoration SERVICES within the time limits
9 described in ~~the applicable subsection~~ SUBSECTIONS (1), (2), OR (3) OF
10 THIS SECTION, the court may release the defendant or dismiss the case in
11 lieu of the defendant remaining in custody on a wait list for restoration
12 services.

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

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

22 **16-8.5-117. Initiation of civil proceeding - appointment of**
23 **bridges court liaison or guardian - extension - dismissal.**

24 (1) IF THE COURT DETERMINES THERE IS A SUBSTANTIAL
25 PROBABILITY THAT THE DEFENDANT WILL BE FOUND UNRESTORABLE
26 PURSUANT TO SECTION 16-8.5-113, THE DEFENDANT WILL REACH THE
27 MAXIMUM TIME PERMITTED TO RESTORE THE DEFENDANT PURSUANT TO

1 SECTION 16-8.5-116, OR THE COURT WILL ORDER THE INITIATION OF A
2 CIVIL PROCEEDING PURSUANT TO THIS SECTION:

3 (a) THE COURT MAY, UNLESS THE COURT FINDS THERE IS AN
4 ACCEPTABLE CARE COORDINATION ALTERNATIVE ALREADY IN PLACE,
5 APPOINT A BRIDGES COURT LIAISON TO PROVIDE SERVICES AUTHORIZED IN
6 ARTICLE 95 OF TITLE 13, WHICH MAY INCLUDE:

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

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

14 (III) IDENTIFYING AND INFORMING THE COURT AND PARTIES OF
15 APPROPRIATE LONG-TERM LEVEL OF CARE RECOMMENDATIONS AND
16 PLACEMENT AVAILABILITY;

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

21 (V) COORDINATING, AS NEEDED, WITH THE OFFICE OF PUBLIC
22 GUARDIANSHIP, AN APPOINTED EMERGENCY GUARDIAN, CDHS, THE
23 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR THE
24 BEHAVIORAL HEALTH ADMINISTRATION FOR THE PURPOSE OF PROVIDING
25 LONG-TERM CONTINUUM OF CARE FOR THE DEFENDANT.

26 (b) IF THE COURT DETERMINES THAT THE APPOINTMENT OF AN
27 EMERGENCY GUARDIAN IS APPROPRIATE PURSUANT TO SECTION 15-14-312

1 (1), THE COURT SHALL APPOINT THE OFFICE OF PUBLIC GUARDIANSHIP AS
2 THE DEFENDANT'S EMERGENCY GUARDIAN.

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

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

12 (I) A COMPETENCY EVALUATOR, OR A PROFESSIONAL PERSON OR
13 INTERVENING PROFESSIONAL, AS THOSE TERMS ARE DEFINED IN SECTION
14 27-65-102, WHO IS ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND
15 WHO HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE
16 DEFENDANT, OPINES THAT THE DEFENDANT MEETS THE CRITERIA FOR
17 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
18 TREATMENT PURSUANT TO SECTION 27-65-108.3, FOR PROTECTIVE
19 PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR FOR IMPOSITION OF
20 A LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO
21 SECTION 25.5-10-216; AND

22 (II) ONE OF THE FOLLOWING INDIVIDUALS REQUESTS THE COURT
23 TO INITIATE A CIVIL PROCEEDING:

24 (A) THE DISTRICT ATTORNEY;

25 (B) THE COUNTY ATTORNEY;

26 (C) A GUARDIAN, IF ONE IS APPOINTED;

27 (D) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL

1 WHO OPINED THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL
2 PROCEEDING IF THE PROFESSIONAL PERSON'S OR INTERVENING
3 PROFESSIONAL'S OPINION IS NOT THE RESULT OF WORK PERFORMED AS
4 PART OF EMPLOYMENT OR A CONTRACT WITH THE BEHAVIORAL HEALTH
5 ADMINISTRATION IN CDHS OR WITH CDHS; OR

6 (E) A REPRESENTATIVE DESIGNATED BY THE BEHAVIORAL HEALTH
7 ADMINISTRATION IN CDHS OR WITH CDHS TO MAKE A REQUEST.

8 (b) NOTWITHSTANDING SUBSECTION (3)(a)(II) OF THIS SECTION, IF
9 ANY OF THE DEFENDANT'S CHARGES INCLUDE A FELONY, THE COURT MAY,
10 WITH THE CONSENT OF THE DISTRICT ATTORNEY, ORDER THE COUNTY
11 ATTORNEY TO INITIATE A CIVIL PROCEEDING.

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

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

23 (B) WHETHER THE COURT PREVIOUSLY ORDERED CERTIFICATION
24 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5,
25 27-65-109, OR 27-65-109.5, CERTIFICATION FOR LONG-TERM CARE AND
26 TREATMENT PURSUANT TO SECTION 27-65-110, PROTECTIVE PLACEMENT
27 PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A LEGAL

1 DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION
2 25.5-10-216;

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

6 (b) IF A PETITION FOR A CIVIL PROCEEDING IS FILED AGAINST THE
7 DEFENDANT AS A RESULT OF THE COURT'S ORDER PURSUANT TO
8 SUBSECTION (3)(a) OF THIS SECTION:

9 (I) THE PETITIONER SHALL FILE A NOTICE IN THE DEFENDANT'S
10 CRIMINAL CASE; AND

11 (II) THE BEHAVIORAL HEALTH ADMINISTRATION IN CDHS SHALL,
12 EITHER DIRECTLY OR THROUGH CONTRACT, PROVIDE CARE COORDINATION
13 SERVICES PURSUANT TO SECTION 27-65-108.

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

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

24 (b) A COMPETENCY EVALUATOR, OR A PROFESSIONAL PERSON OR
25 INTERVENING PROFESSIONAL, AS THOSE TERMS ARE DEFINED IN SECTION
26 27-65-102, WHO IS ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND
27 WHO HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE

1 DEFENDANT OPINES THAT THE DEFENDANT MEETS THE CRITERIA FOR
2 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND
3 TREATMENT PURSUANT TO SECTION 27-65-108.3, FOR PROTECTIVE
4 PLACEMENT PURSUANT TO SECTION 25.5-10-502, OR IMPOSITION OF A
5 LEGAL DISABILITY OR REMOVAL OF A LEGAL RIGHT PURSUANT TO SECTION
6 25.5-10-216; AND

7 (c) ONE OF THE FOLLOWING INDIVIDUALS REQUESTS THE COURT TO
8 INITIATE A CIVIL PROCEEDING:

9 (I) THE DISTRICT ATTORNEY;

10 (II) THE COUNTY ATTORNEY;

11 (III) THE APPOINTED EMERGENCY GUARDIAN;

12 (IV) THE PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
13 WHO OPINED PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION THAT
14 THE DEFENDANT MEETS THE CRITERIA FOR A CIVIL PROCEEDING IF THE
15 PROFESSIONAL PERSON'S OR INTERVENING PROFESSIONAL'S OPINION IS NOT
16 THE RESULT OF WORK PERFORMED AS PART OF EMPLOYMENT OR A
17 CONTRACT WITH THE BEHAVIORAL HEALTH ADMINISTRATION IN CDHS OR
18 WITH CDHS; OR

19 (V) A REPRESENTATIVE DESIGNATED BY THE BEHAVIORAL HEALTH
20 ADMINISTRATION IN CDHS OR WITH CDHS TO MAKE A REQUEST.

21 (6) NOTWITHSTANDING SUBSECTIONS (3) AND (5) OF THIS SECTION,
22 IF AN APPOINTED EMERGENCY GUARDIAN BELIEVES IN THEIR
23 PROFESSIONAL JUDGMENT THAT A CIVIL PROCEEDING SHOULD BE
24 INITIATED, THE COURT SHALL ALLOW THE EMERGENCY GUARDIAN TO
25 INITIATE THE CIVIL PROCEEDING IN LIEU OF ORDERING THE COUNTY
26 ATTORNEY TO INITIATE THE CIVIL PROCEEDING.

27 (7) (a) THE COURT SHALL GRANT AN UNLIMITED NUMBER OF

1 THIRTY-FIVE-DAY EXTENSIONS TO STAY THE ORDER DISMISSING THE
2 DEFENDANT'S CASE IF THE DEFENDANT CONSENTS TO THE EXTENSION.

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

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

9 (II) THE COURT FINDS GOOD CAUSE; AND

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

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

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

21 (II) THE COURT FINDS GOOD CAUSE; AND

22 (III) THE DEFENDANT IS NOT CHARGED WITH A CRIME OF
23 VIOLENCE, AS DEFINED IN SECTION 18-1.3-406 (2), OR A FELONY THAT
24 CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION
25 16-22-102.

26 (d) FOR THE PURPOSE OF THIS SUBSECTION (7), GOOD CAUSE DOES
27 NOT INCLUDE REFUSAL OR FAILURE TO TIMELY FILE A PETITION FOR A CIVIL

1 PROCEEDING PURSUANT TO SUBSECTION (3) OF THIS SECTION.

2 (e) AN EXTENSION GRANTED PURSUANT TO SUBSECTION (7)(b) OR
3 (6)(c) OF THIS SECTION IS IN ADDITION TO THE INITIAL STAY AUTHORIZED
4 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

5 (f) AFTER A STAY OF DISMISSAL ENDS PURSUANT TO THIS
6 SUBSECTION (7), THE COURT SHALL DISMISS THE DEFENDANT'S CRIMINAL
7 CASE UNLESS THE STAY REMAINS IN EFFECT PURSUANT TO SECTION
8 16-8.5-118. AFTER THE DEFENDANT'S CASE IS DISMISSED, THE COURT
9 SHALL NOTIFY CDHS OF THE DISMISSAL, IN WRITING, AND THE REASON
10 FOR THE DISMISSAL.

11 (8) PRIOR TO ORDERING THE COUNTY ATTORNEY ___ TO INITIATE A
12 CIVIL PROCEEDING PURSUANT TO SUBSECTION (3) OR (5) OF THIS SECTION,
13 THE COURT SHALL CONSIDER ANY OBJECTIONS FROM THE DEFENDANT.

14 (9) IF THE COURT ORDERS THE COUNTY ATTORNEY ___ TO INITIATE
15 A CIVIL PROCEEDING PURSUANT TO SUBSECTION (3) OR (5) OF THIS
16 SECTION, THE COURT SHALL SERVE THE COUNTY ATTORNEY ___ WITH A
17 WRITTEN ORDER THAT:

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

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

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

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

26 (10) THE COUNTY ATTORNEY OR THE APPOINTED ___ EMERGENCY
27 GUARDIAN MAY OBJECT TO THE ORDER TO INITIATE A CIVIL PROCEEDING

1 WITHIN SEVEN DAYS AFTER RECEIVING THE COURT ORDER SERVED
2 PURSUANT TO SUBSECTION (9) OF THIS SECTION AND MAY REQUEST A
3 HEARING. IF THE COUNTY ATTORNEY OR THE APPOINTED EMERGENCY
4 GUARDIAN FILES AN OBJECTION, THE COURT SHALL SET A HEARING
5 FORTHWITH AND RULE ON THE COUNTY ATTORNEY'S OBJECTION BY EITHER
6 VACATING, MODIFYING, OR AFFIRMING THE COURT'S ORDER TO INITIATE A
7 CIVIL PROCEEDING.

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

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

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

20 (12) IF THE COURT ORDERS DISMISSAL OF THE CASE PURSUANT TO
21 SECTION 16-8.5-109 (4), 16-8.5-113 (4)(b), OR 16-8.5-116; THE COURT
22 DOES NOT ORDER THE COUNTY ATTORNEY TO INITIATE A CIVIL
23 PROCEEDING; AND THE CASE IS NOT STAYED PURSUANT TO SECTION
24 16-8.5-118, THE COURT SHALL DISMISS THE CASE.

25 **16-8.5-118. Civil commitment and enhanced protective**
26 **placement for incompetent and unrestorable defendants - report -**
27 **repeal.**

1 (1) (a) If the defendant is unrestorable pursuant to
2 section 16-8.5-113 or the defendant has reached the maximum
3 time permitted to restore the defendant pursuant to section
4 16-8.5-116, the prosecution may notify the court that the
5 prosecution seeks civil commitment or enhanced protective
6 placement of the defendant pursuant to this section.

7 (b) If the prosecution verbally notifies the court
8 pursuant to subsection (1)(a) of this section, the court shall
9 order the prosecution to file written notice within seven days
10 after the verbal notification and provide the notice to the
11 parties, CDHS, and the county attorney. The notice must include
12 the acts upon which the prosecution intends to rely upon at
13 trial that the prosecution alleges satisfy subsection (6)(b) of
14 this section. The prosecution shall not allege acts for which the
15 defendant has been acquitted.

16 (c) Upon the prosecution providing written notice to the
17 court pursuant to subsection (1)(b) of this section, the court
18 shall:

19 (I) Stay the order dismissing the defendant's criminal
20 case;

21 (II) Set a trial within ninety-one days after the date the
22 written notice was filed or, with both parties' consent, any date
23 agreeable to the parties; AND

24 (III) Order CDHS to identify an appropriate provider and
25 placement for the defendant in the event a civil commitment or
26 an enhanced protective placement is granted and to keep the
27 court informed in writing of available placement options.

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(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 (1).

(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

1 WRITING, THE EXCHANGE OF RELEVANT DISCOVERY FOR THE PURPOSE OF
2 ENSURING A FAIR AND EXPEDITIOUS TRIAL FOR BOTH PARTIES, INCLUDING,
3 AT A MINIMUM, THE TIMELY DISCLOSURE OF THE WITNESSES AND
4 EVIDENCE THE PARTIES INTEND TO RELY UPON AT TRIAL.

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

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

12 (5) (a) THE DEFENDANT MAY REQUEST TO STIPULATE THAT THE
13 COURT ORDER CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT
14 RATHER THAN CONTESTING THE MATTER AT A TRIAL. THE COURT SHALL
15 ALLOW THE DEFENDANT TO STIPULATE TO THE COURT ORDERING A CIVIL
16 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT ONLY IF:

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

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

23 (III) THE COURT FINDS THE DEFENDANT UNDERSTANDS THE
24 STIPULATION AND THAT THE STIPULATION IS VOLUNTARILY DESPITE THE
25 DEFENDANT BEING INCOMPETENT TO PROCEED; AND

26 (IV) THE PARTIES ESTABLISH A FACTUAL BASIS.

27 (b) ANY STIPULATION OR ADMISSION MADE AS PART OF THE

1 STIPULATION TO IMPOSITION OF A CIVIL COMMITMENT OR ENHANCED
2 PROTECTIVE PLACEMENT IS NOT ADMISSIBLE IN ANY FUTURE CRIMINAL
3 PROSECUTION TO PROVE ANY ACT ALLEGED IN THE WRITTEN NOTICE
4 SEEKING THE CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT.

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

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

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

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

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

14 OR

15 (C) A FELONY THAT CONSTITUTES UNLAWFUL SEXUAL BEHAVIOR,
16 AS DEFINED IN SECTION 16-22-102; AND

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

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

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

25 (I) THE DEFENDANT IS NOT PERMITTED TO RAISE, AND THE COURT
26 SHALL NOT CONSIDER, A DEFENSE BASED ON A MENTAL DISABILITY OR
27 DEVELOPMENTAL DISABILITY, INCLUDING A MENTAL DISEASE OR DEFECT,

1 AS DEFINED IN SECTION 16-8-102, INCLUDING, BUT NOT LIMITED TO, A
2 DEFENSE RAISED PURSUANT TO ARTICLE 8 OF TITLE 16 OR ANY DEFENSE
3 THAT IS AN ELEMENT-NEGATING TRAVERSE BASED ON A MENTAL DISEASE
4 OR DEFECT;

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

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

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

18 (c) THE PROSECUTION SHALL NOT ALLEGE, AND THE COURT SHALL
19 NOT CONSIDER, AN ACT OR SERIES OF ACTS FOR WHICH THE DEFENDANT
20 WAS ACQUITTED OR CONVICTED AS THE QUALIFYING ACTS SATISFYING THE
21 CRITERIA LISTED IN SUBSECTION (6)(b) OF THIS SECTION, BUT THE COURT
22 MAY ADMIT EVIDENCE OF AN ACT OR A SERIES OF ACTS FOR WHICH THE
23 DEFENDANT WAS ACQUITTED OR CONVICTED IF OTHERWISE ADMISSIBLE
24 PURSUANT TO THE COLORADO RULES OF EVIDENCE AND RELEVANT TO THE
25 CRITERIA LISTED IN SUBSECTION (6)(a) OR (6)(c) OF THIS SECTION.

26 (d) (I) PRIOR TO TRIAL, THE COURT SHALL FIND THAT THE
27 PROSECUTION HAS MET THE REQUIREMENTS IN SUBSECTION (6)(b)(II) OF

1 THIS SECTION IF AN ACT ALLEGED TO SATISFY THE REQUIREMENT OF
2 SUBSECTION (6)(b)(I) OF THIS SECTION IS:

3 (A) CHARGED IN THE CURRENT CASE; OR

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

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

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

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

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

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

24 (c) (I) IF THE DEFENDANT CONTESTS THAT THE DEFENDANT HAS A
25 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY, THE COURT SHALL
26 REVIEW THE RECORD AND DETERMINE IF THE DEFENDANT OR DEFENSE
27 COUNSEL RAISED THE ISSUE OF THE DEFENDANT BEING INCOMPETENT OR

1 FAILED TO OBJECT TO A FINDING THAT THE DEFENDANT IS INCOMPETENT.

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

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

18 (d) AT TRIAL, THE COURT:

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

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

26 (III) SUBJECT TO CONSTITUTIONAL LIMITATIONS AND THE
27 COLORADO RULES OF EVIDENCE, SHALL ALLOW ADMISSION OF ANY

1 EVIDENCE FROM PRIOR COURT PROCEEDINGS THAT BEAR ON THE QUESTION
2 OF WHETHER THE DEFENDANT HAS A MENTAL DISABILITY OR
3 DEVELOPMENTAL DISABILITY.

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

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

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

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

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

26 (III) TRANSFER JURISDICTION OF THE CIVIL COMMITMENT OR
27 ENHANCED PROTECTIVE PLACEMENT TO AN APPROPRIATE CIVIL COURT

1 WITH JURISDICTION AND DISMISS THE CASE IN ACCORDANCE WITH
2 SUBSECTION (14) OF THIS SECTION.

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

8 (12) (a) IF THE COURT FINDS THAT THE PROSECUTION MET THE
9 REQUIREMENTS DESCRIBED IN SUBSECTION (6) OF THIS SECTION OR IF THE
10 COURT ACCEPTS THE DEFENDANT'S STIPULATION TO CIVIL COMMITMENT OR
11 ENHANCED PROTECTIVE PLACEMENT, THE COURT SHALL MAKE A FINDING
12 OF THE DEFENDANT'S PRIMARY DIAGNOSIS THAT CONSTITUTES THE
13 MENTAL DISABILITY OR DEVELOPMENTAL DISABILITY. THE COURT SHALL
14 ORDER THE DEFENDANT CIVILLY COMMITTED TO THE LEGAL CUSTODY OF
15 CDHS AND SUPERVISED PURSUANT TO SECTION 27-65-201, UNLESS THE
16 DEFENDANT'S PRIMARY DIAGNOSIS IS AN INTELLECTUAL AND
17 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE
18 TERMS ARE DEFINED IN SECTION 25.5-10-501, IN WHICH CASE, THE COURT
19 SHALL ORDER AN ENHANCED PROTECTIVE PLACEMENT AND LEGAL
20 CUSTODY OF THE DEFENDANT TO THE DEPARTMENT OF HEALTH CARE
21 POLICY AND FINANCING AND SUPERVISED PURSUANT TO SECTION
22 25.5-10-507. AT ANY TIME PRIOR TO TRANSFERRING JURISDICTION TO A
23 CIVIL COURT, THE COURT MAY, UPON A RECOMMENDATION FROM CDHS,
24 CHANGE THE DESIGNATION OF THE PRIMARY DIAGNOSIS AND CONVERT THE
25 ORDER TO CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT, AS
26 APPROPRIATE, BASED ON THE DETERMINATION OF CDHS.

27 (b) THE COURT SHALL ISSUE ITS FINDINGS AND ORDERS PURSUANT

1 TO THIS SECTION IN WRITING. WHEN THE COURT TRANSFERS JURISDICTION
2 TO A CIVIL COURT PURSUANT TO SECTION 27-65-113 OR 25.5-10-509, THE
3 COURT SHALL SEND THE CIVIL COURT RECEIVING JURISDICTION ALL THE
4 WRITTEN FINDINGS AND ORDERS ENTERED PURSUANT TO THIS SECTION.

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

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

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

25 (II) PRIOR TO THE REVIEW HEARING, ORDER CDHS, IN
26 CONSULTATION WITH THE BEHAVIORAL HEALTH ADMINISTRATION, TO
27 IDENTIFY AT LEAST ONE APPROPRIATE PROVIDER THAT IS WILLING TO

1 IMMEDIATELY ACCEPT PLACEMENT OF THE DEFENDANT.

2 (c) AT THE REVIEW HEARING, IF CDHS PROPOSES PLACING THE
3 DEFENDANT INTO INPATIENT CARE, THE COURT SHALL ORDER, WITHOUT
4 FURTHER COURT REVIEW, THE DEFENDANT PLACED INTO INPATIENT CARE
5 AT THE DISCRETION OF CDHS IF THE COURT ORDERED A CIVIL
6 COMMITMENT OR AT THE DISCRETION OF HCPF IF THE COURT ORDERED AN
7 ENHANCED PROTECTIVE PLACEMENT. IF CDHS DOES NOT PROPOSE
8 PLACING THE DEFENDANT INTO INPATIENT CARE, THE COURT SHALL
9 REVIEW ANY PLACEMENT IDENTIFIED BY CDHS TO ENSURE IT IS
10 APPROPRIATE AND SUFFICIENTLY PROTECTS VICTIMS AND THE COMMUNITY
11 FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE
12 DEFENDANT. THE COURT MAY CONTINUE THE REVIEW HEARING OR ORDER
13 AN ADDITIONAL REVIEW HEARING WITHIN THE TIME FRAME SET FORTH IN
14 SUBSECTION (11)(b) OF THIS SECTION.

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

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

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

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

25 (IV) NOT GIVE DEFERENCE TO CDHS OR A MEDICAL
26 PROFESSIONAL AS TO WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS
27 VICTIMS AND THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS

1 HARM TO OTHERS POSED BY THE DEFENDANT; AND
2 (V) CONSIDER THE TOTALITY OF THE CIRCUMSTANCES, INCLUDING:
3 (A) THE DEFENDANT'S STATEMENTS AND WHETHER THE
4 DEFENDANT LACKS INSIGHT INTO THE DEFENDANT'S MENTAL DISABILITY
5 OR DEVELOPMENTAL DISABILITY;
6 (B) THE DEFENDANT'S CLINICAL DIAGNOSIS AND PROGNOSIS,
7 INCLUDING ANY OPINIONS THAT THE DEFENDANT AND THE DEFENDANT'S
8 CURRENT MENTAL STATE AND BEHAVIORS POSE RISKS TO OTHERS;
9 (C) THE DEFENDANT'S REFUSAL TO VOLUNTARILY SEEK AND
10 COMPLY WITH A TREATMENT PLAN IN THE RECENT PAST, INCLUDING IN THE
11 DEFENDANT'S MOST RECENT PERIOD OF BEING IN THE COMMUNITY;
12 (D) RECENT OVERT ACTS BY THE DEFENDANT TO THREATEN,
13 CAUSE, OR ATTEMPT TO CAUSE HARM TO THE DEFENDANT'S SELF OR
14 OTHERS;
15 (E) ANY PREVIOUS PATTERNS OF DECOMPENSATION OR
16 DETERIORATION THAT RESULTED IN THE DEFENDANT'S HOSPITALIZATION,
17 ARREST, OR CERTIFICATION FOR SHORT-TERM TREATMENT AND THAT
18 DEMONSTRATE A RISK OF LIKELY FUTURE DECOMPENSATION;
19 (F) WHEN THE DEFENDANT WAS LAST OUT OF CUSTODY AND
20 WHETHER THE DEFENDANT WAS FOUND IN A CONDITION IN WHICH THE
21 DEFENDANT WAS NOT ABLE TO CARE FOR THE DEFENDANT'S OWN BASIC
22 NEEDS IN ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM;
23 (G) THE FREQUENCY, RECENCY, AND SEVERITY OF THE
24 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (13)(d)(V)(B) TO
25 (13)(d)(V)(F) OF THIS SECTION, SUCH THAT THE CIRCUMSTANCES ARE
26 PRESENT IN A MANNER THAT REQUIRES INPATIENT TREATMENT OR THAT
27 THE CIRCUMSTANCES ARE ABSENT IN A MANNER THAT ALLOWS FOR

1 COMMUNITY-BASED PLACEMENT;
2 (H) WHETHER THE DEFENDANT OPPOSES THE PLACEMENT;
3 (I) WHETHER COMMUNITY-BASED PLACEMENT CAN BE
4 REASONABLY ACCOMMODATED;
5 (J) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF
6 OTHERS; AND
7 (K) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING
8 PROFESSIONALS.
9 (e) THE COURT SHALL NOT ORDER OR PERMIT A DEFENDANT TO BE
10 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE
11 UNLESS THE COURT FINDS THE RISK OF HARM POSED BY THE DEFENDANT
12 TO VICTIMS AND THE COMMUNITY CAN BE REASONABLY MITIGATED IN THE
13 COMMUNITY-BASED SETTING AND UNTIL AFTER PROVIDING VICTIMS WITH
14 NOTICE AND AN OPPORTUNITY TO BE HEARD.
15 (f) AFTER REVIEWING THE PROVIDERS, IF THE COURT FINDS THAT
16 MULTIPLE PROVIDERS ARE APPROPRIATE FOR THE DEFENDANT, VICTIMS,
17 AND THE COMMUNITY, THE COURT SHALL ORDER THE DEFENDANT BE
18 PLACED IN THE LEAST-RESTRICTIVE SETTING THAT IS ADEQUATE TO
19 PROTECT THE VICTIMS AND THE COMMUNITY AND TO PROVIDE, TO THE
20 GREATEST EXTENT POSSIBLE, THE APPROPRIATE LEVEL OF CARE FOR,
21 TREATMENT FOR, AND SUPERVISION OF THE DEFENDANT. IF MORE THAN
22 ONE EQUALLY RESTRICTIVE PLACEMENT IS AVAILABLE AND APPROPRIATE,
23 THE COURT SHALL ORDER THE DEFENDANT BE PLACED INTO A SETTING
24 THAT IS BEST SUITED FOR THE DEFENDANT'S TREATMENT NEEDS AND
25 SUPERVISION, AS DETERMINED BY CDHS.
26 (g) IF CDHS DOES NOT PROPOSE PLACING THE DEFENDANT INTO
27 INPATIENT CARE AND CDHS HAS NOT IDENTIFIED ANY OTHER

1 APPROPRIATE PLACEMENT WITH SUFFICIENT TIME TO REVIEW AND PLACE
2 THE DEFENDANT WITHIN THE TIME FRAME SET FORTH IN SUBSECTION
3 (11)(b) OF THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT
4 PLACED INTO INPATIENT CARE AT THE DISCRETION OF CDHS IF THE COURT
5 ORDERED A CIVIL COMMITMENT OR AT THE DISCRETION OF HCPF IF THE
6 COURT ORDERED AN ENHANCED PROTECTIVE PLACEMENT.

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

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

17 (I) THE COURT, THE DISTRICT ATTORNEY, AND CDHS SHALL
18 TRANSMIT ALL NECESSARY INFORMATION, INCLUDING THE DEFENDANT'S
19 MEDICAL RECORDS, COMPETENCY EVALUATIONS, MATERIALS USED DURING
20 THE COMPETENCY PROCESS, AND RESTORATION RECORDS, TO THE COUNTY
21 ATTORNEY WITHIN THREE BUSINESS DAYS AFTER THE ORDER FOR
22 PLACEMENT. THE DISTRICT ATTORNEY AND CDHS SHALL PROVIDE
23 ADDITIONAL NECESSARY INFORMATION UPON REQUEST OF THE COUNTY
24 ATTORNEY.

25 (II) THE COURT SHALL, UNLESS OTHER APPROPRIATE
26 TRANSPORTATION HAS BEEN APPROVED BY THE COURT, ORDER THE
27 SHERIFF TO SECURELY TRANSPORT THE DEFENDANT TO THE ORDERED

1 PLACEMENT AS SOON AS PRACTICABLE. THE COURT SHALL SET ANY
2 REVIEW HEARINGS NECESSARY TO ENSURE THE DEFENDANT IS
3 TRANSPORTED TO THE INITIAL PLACEMENT. THE COURT MAY DELAY
4 TRANSPORTATION IF A BED AT A PLACEMENT IS NOT AVAILABLE BUT WILL
5 BE AVAILABLE WITHIN THE NEXT THIRTY DAYS.

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

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

12 (b) NOTIFY CDHS AND THE COUNTY ATTORNEY; AND

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

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

23 (16) IF, AT THE TIME THE DISTRICT ATTORNEY SEEKS CIVIL
24 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO THIS
25 SECTION, THE DEFENDANT IS ALREADY CIVILLY COMMITTED OR ORDERED
26 TO AN ENHANCED PROTECTIVE PLACEMENT IN ANOTHER CASE, THE COURT
27 SHALL:

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

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

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

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

20 (e) DISMISS THE CRIMINAL CASE AGAINST THE DEFENDANT.

21 (17) (a) NO LATER THAN JANUARY 2031, CDHS SHALL INCLUDE,
22 AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING
23 REQUIRED BY SECTION 2-7-203, INFORMATION CONCERNING PROTECTIVE
24 PLACEMENTS, ENHANCED PROTECTIVE PLACEMENTS, AND CIVIL
25 COMMITMENTS SOUGHT PURSUANT TO THIS SECTION. AT A MINIMUM, THE
26 PRESENTATION MUST INCLUDE THE FOLLOWING INFORMATION FROM JULY
27 1, 2026, TO JULY 1, 2030:

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

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

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

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

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

18 (b) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
19 AND THE JUDICIAL DEPARTMENT SHALL PROVIDE ANY NECESSARY
20 INFORMATION TO ASSIST CDHS IN ITS PRESENTATION.

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

22 **16-8.5-119. Dismissal procedures.**

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

26 (a) THE COURT SHALL ENTER A WRITTEN ORDER WITH THE COURT'S
27 LEGAL AND FACTUAL BASIS FOR THE DISMISSAL AND PROVIDE THE

1 WRITTEN ORDER TO THE PARTIES AND CDHS;

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

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

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

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

23 **16-8.5-120. [Formerly 16-8.5-117] Escape - return to**
24 **institution.**

25 If a defendant committed to the custody of the executive director
26 for a competency evaluation or for restoration to competency escapes
27 from the institution or hospital, the chief officer of the institution or

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

9 **16-8.5-121. [Formerly 16-8.5-118] Temporary removal for**
10 **treatment and rehabilitation.**

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

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

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

- 23 (a) The date the court ordered the COMPETENCY evaluation;
24 (b) The dates of and locations where the COMPETENCY evaluation
25 was started and completed;
26 (c) The date of and location where the defendant entered
27 restoration services;

- 1 (d) The dates and results of court reviews of competency;
2 (e) Inpatient bed space;
3 (f) Community restoration capacity; and
4 (g) Financial estimates of costs of each inpatient and outpatient
5 program to identify inefficiencies.

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

9 **16-8.5-123. [Formerly 16-8.5-122] Forensic evaluator training.**

10 ~~By February 1, 2020,~~ The department shall create a partnership
11 with an accredited institution of higher education in the state to develop
12 and provide rigorous training in forensic evaluation. ~~On or before January~~
13 ~~1, 2021,~~ Newly hired competency evaluators ~~must~~ SHALL complete a
14 training that addresses competency, sanity, report writing, expert
15 testimony, and other skills crucial for forensic evaluators; except that
16 competency evaluators who are forensic psychiatrists certified or
17 certification-eligible by the American board of psychiatry and neurology
18 and forensic psychologists who are certified or certification-eligible by
19 the American board of forensic psychology may be exempt from any
20 training requirements as outlined in this section through an exemption
21 process to be developed by ~~the department~~ CDHS. The state ~~will~~ SHALL
22 manage an oversight program ~~that will~~ TO provide support and ensure
23 quality of forensic evaluators.

24 **16-8.5-124. Transparency requirements.**

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

27 (a) All policies and procedures related to competency evaluations,

1 restoration services, management of the competency wait list, and
2 admission policies regarding inpatient restoration services, including
3 services for jail-based restoration and private hospital beds;

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

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

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

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

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

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

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

19 **16-8.5-125. [Formerly 16-8.5-116.5 (11)] Rules.**

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

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

24 **27-65-101.5. Nonapplicability of article if individual has**
25 **intellectual and developmental disability or neurocognitive disorder.**

26 **THE PROVISIONS OF PART 5 OF ARTICLE 10 OF TITLE 25.5 APPLY AND**
27 **THIS ARTICLE 65 DOES NOT APPLY IF A PERSON HAS AN INTELLECTUAL AND**

1 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE
2 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT ANY OTHER
3 MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND
4 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT
5 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A
6 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS
7 GRAVELY DISABLED.

8 **SECTION 3.** In Colorado Revised Statutes, 27-65-102, **amend**
9 (10), (11), (21), and (22); and **add** (10.2), (24.5), and (32) as follows:

10 **27-65-102. Definitions.**

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

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

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

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

22 (10.2) "DANGER TO THE PERSON'S SELF", OR SIMILAR
23 TERMINOLOGY, MEANS A PERSON POSES A SUBSTANTIAL RISK OF PHYSICAL
24 HARM TO THE PERSON'S SELF AS MANIFESTED BY EVIDENCE OF RECENT
25 THREATS OR ATTEMPTS AT SUICIDE OR SERIOUS BODILY HARM TO THE
26 PERSON'S SELF.

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

1 services.

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

12 (22) "Mental health disorder" ~~includes~~ MEANS one or more
13 substantial disorders of the cognitive, volitional, or emotional processes
14 that grossly impairs judgment or capacity to recognize reality or to control
15 behavior ~~An intellectual or developmental disability is insufficient to~~
16 ~~either justify or exclude a finding of a mental health disorder pursuant to~~
17 ~~the provisions of this article 65~~ AND INCLUDES A MENTAL DISABILITY OR
18 DEVELOPMENTAL DISABILITY, AS THOSE TERMS ARE DEFINED IN SECTION
19 16-8.5-101, WHICH HAS LED A COURT TO FIND THE PERSON WITH THE
20 DISABILITY INCOMPETENT TO PROCEED PURSUANT TO ARTICLE 8.5 OF TITLE
21 16.

22

23 =====
24 (24.5) "PERSISTENT MENTAL HEALTH DISORDER" MEANS A PERSON
25 WHO HAS A MENTAL HEALTH DISORDER AND:

26 (a) THE PERSON HAS HAD ANY COMBINATION OF AT LEAST THREE
27 EMERGENCY MENTAL HEALTH HOLDS OR CERTIFICATIONS FOR
SHORT-TERM TREATMENT ORDERED AGAINST THE PERSON OR PERIODS OF

1 INCOMPETENCY IN A CRIMINAL CASE AT THREE SEPARATE TIMES WITHIN
2 THE PAST THREE YEARS;

3 (b) EVEN IF THERE IS NOT AN IMMINENT EMERGENCY, IF THE
4 MENTAL HEALTH DISORDER IS NOT TREATED THROUGH CERTIFICATION FOR
5 SHORT-TERM TREATMENT, THERE IS A SUBSTANTIAL PROBABILITY THE
6 MENTAL HEALTH DISORDER WILL RESULT IN ADDITIONAL EMERGENCY
7 MENTAL HEALTH HOLDS, CERTIFICATIONS FOR SHORT-TERM TREATMENT,
8 OR CRIMINAL CONDUCT AGAINST OTHER INDIVIDUALS WITHIN THE NEXT
9 YEAR; AND

10 (c) THE MENTAL HEALTH DISORDER PRESENTLY SUBSTANTIALLY
11 IMPAIRS THE PERSON'S CAPACITY TO MAKE AN INFORMED TREATMENT
12 DECISION OR FOLLOW THROUGH WITH A SUSTAINED TREATMENT PLAN
13 WITHOUT BEING CERTIFIED FOR SHORT-TERM TREATMENT.

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

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

22 **27-65-104. Voluntary applications for mental health services**
23 **- treatment of minors - definition.**

24 (6) (d) (I) The minor or the minor's attorney or guardian ad litem
25 may, at any time after the minor has continued to affirm the minor's
26 objection to hospitalization pursuant to subsection (6)(b) of this section,
27 file a written request that the recommendation for continued

1 hospitalization be reviewed by the court or that the treatment be on an
2 outpatient basis. If review is requested, the court shall hear the matter
3 within ten days after the request, and the court shall give notice of the
4 time and place of the hearing to the minor; the minor's attorney, if any;
5 the minor's parents or legal guardian; the minor's guardian ad litem, if
6 any; the independent professional person; and the minor's treating team.
7 The hearing must be held in accordance with ~~section 27-65-113~~ SECTION
8 27-65-113.1; except that the court or jury shall determine that the minor
9 is in need of care and treatment if the court or jury makes the following
10 findings:

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

14 **27-65-106. Emergency mental health hold - screening -**
15 **court-ordered evaluation - discharge instructions - respondent's**
16 **rights.**

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

19 (a) (I) When a certified peace officer has probable cause to
20 believe a person has a mental health disorder and, as a result of the mental
21 health disorder, is an imminent danger to the person's self, ~~or~~ AN
22 IMMINENT DANGER TO others, or ~~is~~ gravely disabled, the certified peace
23 officer may take the person into protective custody and transport the
24 person to a facility designated by the commissioner for an emergency
25 mental health hold. If ~~such~~ a facility is not available, the certified peace
26 officer may transport the person to an emergency medical services
27 facility. The certified peace officer may request assistance from a

1 behavioral health crisis response team for assistance in detaining and
2 transporting the person or an emergency medical services provider in
3 transporting the person; or

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

17 (b) (I) When a person petitions the court in the county in which
18 the respondent resides or is physically present requesting an evaluation of
19 the respondent's condition and alleging that the respondent HAS A
20 PERSISTENT MENTAL HEALTH DISORDER OR appears to have a mental
21 health disorder and, as a result of the mental health disorder, appears to
22 be a danger to the respondent's self, ~~or A DANGER TO others, or appears to~~
23 ~~be~~ gravely disabled.

24 (2) (a) When a person is taken into custody pursuant to subsection
25 (1) of this section, the person must not be detained in a jail, lockup, or
26 other place used for the confinement of persons charged with or convicted
27 of penal offenses. Unless otherwise required by law, a certified peace

1 officer may transport the person to an emergency medical services facility
2 or facility designated by the commissioner even if a warrant has been
3 issued for the person's arrest if the certified peace officer believes it is in
4 the best interest of the person. The person must not be held on an
5 emergency mental health hold for longer than seventy-two hours after the
6 hold is placed or ordered. Nothing in this section prohibits an emergency
7 medical services facility from involuntarily holding the person in order to
8 stabilize the person as required pursuant to the federal "Emergency
9 Medical Treatment and Labor Act", 42 U.S.C. sec. 1395dd, or if the
10 treating professional determines that the individual's PERSON'S physical
11 or mental health disorder impairs the person's ability to make an informed
12 decision to refuse care and the provider determines that further care is
13 indicated.

14 (b) THIS SECTION DOES NOT PRECLUDE:

15 (I) A COURT FROM ORDERING AN EVALUATION OF A PERSON WHEN
16 THE PERSON IS CONFINED IF THE PERSON IS LAWFULLY CONFINED IN JAIL,
17 LOCKUP, OR ANOTHER PLACE USED FOR CONFINING INDIVIDUALS CHARGED
18 WITH, OR CONVICTED OF, A PENAL OFFENSE FOR ANY OTHER LAWFUL
19 REASON; OR

20

==

21 (II) A PERSON OR ENTITY THAT HAS CARE AND CUSTODY OF A
22 DETAINED PERSON FROM TRANSPORTING THE DETAINED PERSON TO AN
23 EMERGENCY MEDICAL SERVICES FACILITY OR FACILITY DESIGNATED BY
24 THE COMMISSIONER.

25 (3) When a person is placed on an emergency mental health hold
26 pursuant to subsection (1) of this section and is presented to an
27 emergency medical services facility or a facility designated by the

1 commissioner, the facility shall require a BHA-approved application in
2 writing, stating the circumstances under which the person's condition was
3 called to the attention of the intervening professional or certified peace
4 officer and further stating sufficient facts, obtained from the intervening
5 professional's or certified peace officer's personal observations or
6 obtained from others whom the intervening professional or certified peace
7 officer reasonably believes to be reliable, to establish that the person has
8 a mental health disorder and, as a result of the mental health disorder, is
9 an imminent danger to the person's self, ~~or~~ A DANGER TO others, or ~~is~~
10 gravely disabled. The application must indicate when the person was
11 taken into custody and who brought the person's condition to the attention
12 of the intervening professional or certified peace officer. A copy of the
13 application must be furnished to the person being evaluated, and the
14 application must be retained in accordance with section 27-65-123 (4).

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

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

22 (c) Following the screening described in subsection (4)(b) of this
23 section, the facility, intervening professional, or certified peace officer
24 designated by the court shall file a report with the court and may initiate
25 an emergency mental health hold at the time of screening. The report
26 must include a recommendation as to whether probable cause exists to
27 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,

1 OR has a mental health disorder and, as a result of the mental health
2 disorder, is a danger to the respondent's self, ~~or~~ A DANGER TO others, or
3 ~~is~~ gravely disabled, and whether the respondent will voluntarily receive
4 evaluation or treatment. The screening report submitted to the court
5 pursuant to this subsection (4)(c) is confidential in accordance with
6 section 27-65-123 and must be furnished to the respondent or the
7 respondent's attorney or personal representative.

8 (d) Whenever it appears, by petition and screening pursuant to this
9 section, to the satisfaction of the court that probable cause exists to
10 believe that the respondent HAS A PERSISTENT MENTAL HEALTH DISORDER,
11 OR has a mental health disorder and, as a result of the mental health
12 disorder, is a danger to the respondent's self, ~~or~~ A DANGER TO others, or
13 ~~is~~ gravely disabled, and that efforts have been made to secure the
14 cooperation of the respondent but the respondent has refused or failed to
15 accept AN evaluation voluntarily, the court shall issue an order for AN
16 evaluation authorizing a certified peace officer or secure transportation
17 provider to take the respondent into custody and transport the respondent
18 to a facility designated by the commissioner for an emergency mental
19 health hold. At the time the respondent is taken into custody, a copy of the
20 petition and the order for AN evaluation must be given to the respondent
21 and promptly thereafter to the one lay person designated by the
22 respondent and to the person in charge of the facility named in the order
23 or the respondent's designee. If the respondent refuses to accept a copy of
24 the petition and the order for AN evaluation, ~~such~~ THE refusal must be
25 documented in the petition and the order for THE evaluation.

26 (6) (a) Each person detained for an emergency mental health hold
27 pursuant to this section shall receive an evaluation as soon as possible

1 after the person ~~is presented~~ PRESENTS to the facility, OR AS SOON AS
2 POSSIBLE WHERE THE PERSON IS CONFINED FOR A CRIMINAL CHARGE IF THE
3 PERSON IS ALREADY LAWFULLY CONFINED IN JAIL, == and shall receive
4 such treatment and care as the person's condition requires for the full
5 period that the person is held. The evaluation must include an assessment
6 to determine if the person continues to meet the criteria for an emergency
7 mental health hold and requires further mental health care in a facility
8 designated by the commissioner. The evaluation must state whether the
9 person should be released, referred for further care and treatment on a
10 voluntary basis, or certified for short-term treatment pursuant to section
11 27-65-109.

12 (7) (a.5) A PERSON WHO IS LAWFULLY CONFINED FOR A CRIMINAL
13 CHARGE IN JAIL MAY BE PLACED ONLY IN A SECURE PLACEMENT OR MAY
14 BE CARED FOR IN THE PERSON'S PLACE OF CONFINEMENT WHILE THE
15 PERSON IS LAWFULLY DETAINED. IF A PERSON PLACED UNDER AN
16 EMERGENCY MENTAL HEALTH HOLD IS RELEASED FROM CONFINEMENT,
17 THE PERSON OR ENTITY RESPONSIBLE FOR THE PERSON'S CONFINEMENT
18 SHALL COORDINATE WITH THE BHA TO TRANSFER THE PERSON TO AN
19 EMERGENCY MEDICAL SERVICES FACILITY OR A FACILITY DESIGNATED BY
20 THE COMMISSIONER.

21 (8) (d) (I) The facility shall, at a minimum, attempt to follow up
22 with the person, the person's parent or legal guardian, or the person's lay
23 person at least ~~forty-eight~~ SEVENTY-TWO hours after discharge. The
24 facility is encouraged to utilize peer support professionals, as defined in
25 section 27-60-108 (2)(b), when performing follow-up care with
26 individuals and in developing a continuing care plan pursuant to
27 subsection (8)(a)(I) of this section. The facility may facilitate follow-up

1 care through contracts with community-based behavioral health providers
2 or the 988 crisis hotline operated pursuant to section 27-64-103. If the
3 facility facilitates follow-up care through a third-party contract, the
4 facility shall obtain authorization from the person to provide follow-up
5 care.

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

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

17 **SECTION 6.** In Colorado Revised Statutes, 27-65-107, **amend**
18 (1), (2), (4)(a)(IV), and (4)(b) as follows:

19 **27-65-107. Emergency transportation - application - screening**
20 **- respondent's rights.**

21 (1) (a) ~~When~~ IF a certified peace officer or emergency medical
22 services provider has probable cause to believe a person is experiencing
23 a behavioral health crisis ~~or is~~ AND, WITHOUT PROFESSIONAL
24 INTERVENTION, MAY BE A DANGER TO THE PERSON'S SELF, A DANGER TO
25 OTHERS, OR gravely disabled, ~~and, as a result, without professional~~
26 ~~intervention the person may be a danger to the person's self or others, then~~
27 the certified peace officer or emergency medical services provider may

1 take the person into protective custody and transport the person to an
2 outpatient mental health facility or a facility designated by the
3 commissioner or other clinically appropriate facility designated by the
4 commissioner. If ~~such a service~~ A FACILITY is not available, the person
5 may be taken to an emergency medical services facility.

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

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

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

1 application must be furnished to the person being transported.

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

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

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

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

20 **27-65-108. Care coordination for persons certified or in need**
21 **of ongoing treatment.**

22 (1) A facility designated by the commissioner shall notify and
23 engage the BHA prior to terminating or transferring a person certified
24 pursuant to section 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or
25 27-65-111. The BHA ~~may~~ SHALL provide care coordination services to
26 support a person whose certification is terminated but who is in need of
27 ongoing treatment and services.

1 (2) The BHA shall, directly or through a contract, provide care
2 coordination services to a person certified pursuant to section
3 27-65-108.5, 27-65-109, 27-65-109.5, 27-65-110, or 27-65-111 and
4 determined by the designated facility and the BHA to need care
5 coordination services.

6

=====

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

9 **27-65-108.3. Criteria and standards for certification for**
10 **short-term treatment and certification for long-term care and**
11 **treatment.**

12 (1) A RESPONDENT MAY BE CERTIFIED FOR SHORT-TERM
13 TREATMENT PURSUANT TO SECTION 27-65-108.5, 27-65-109, OR
14 27-65-109.5, OR CERTIFIED FOR LONG-TERM CARE AND TREATMENT
15 PURSUANT TO SECTION 27-65-110, IF:

16 (a) THE RESPONDENT HAS BEEN ADVISED OF THE AVAILABILITY OF,
17 BUT HAS NOT ACCEPTED, VOLUNTARY TREATMENT;

18 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE
19 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,
20 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT
21 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM;

22 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS
23 A MENTAL HEALTH DISORDER AND, AS A RESULT OF THE MENTAL HEALTH
24 DISORDER, THE RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF, A
25 DANGER TO OTHERS, OR GRAVELY DISABLED; OR

26 (d) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS
27 A PERSISTENT MENTAL HEALTH DISORDER.

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

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

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

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

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

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

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

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

24 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE
25 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, HAS A
26 PERSISTENT MENTAL HEALTH DISORDER, OR POSES A SUBSTANTIAL RISK OF
27 SERIOUS HARM TO OTHERS, THE COURT, EVALUATOR, OR INTERVENING

1 PROFESSIONAL SHALL, WHENEVER POSSIBLE, USE ALL REASONABLE
2 EFFORTS TO LEARN ABOUT PRIOR RELEVANT BEHAVIORS AND PRIOR
3 DIAGNOSES THROUGH AVAILABLE AND RELIABLE SOURCES, INCLUDING THE
4 PERSON'S PRIOR MEDICAL AND MENTAL HEALTH RECORDS, POLICE
5 REPORTS, AND INFORMATION FROM RELIABLE INDIVIDUALS WHO HAVE A
6 RELATIONSHIP OR REGULAR SUBSTANTIAL INTERACTIONS WITH THE
7 PERSON.

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

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

15 **27-65-108.5. Court-ordered certification for short-term**
16 **treatment for incompetent defendants in a criminal matter - contents**
17 **of petition - procedure to contest petition - commitment to behavioral**
18 **health administration - definition.**

19 (1) Upon petition of A COUNTY ATTORNEY, AN APPOINTED LEGAL
20 GUARDIAN, the district attorney, AN INTERVENING PROFESSIONAL ACTING
21 WITHIN THE SCOPE OF THEIR AUTHORITY, a professional person, a
22 representative of the BHA, or a representative of ~~the office of civil and~~
23 ~~forensic mental health~~ CDHS, a court ~~may~~ SHALL certify a person for
24 short-term treatment for not more than three months under the following
25 conditions:

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

1 SECTION 16-8.5-117;

2 (d) ~~The facility or community provider that will provide~~
3 ~~short-term treatment has been designated or approved by the~~
4 ~~commissioner to provide such treatment~~ PERSON MEETS THE CRITERIA FOR
5 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
6 27-65-108.3 (1); and

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

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

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

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

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

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

3 (2.5) (a) AN EMERGENCY MENTAL HEALTH HOLD ORDERED
4 PURSUANT TO SECTION 27-65-106 IS NOT A PREREQUISITE TO INITIATE A
5 CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO THIS SECTION.

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

10

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

26 (7.1) (a) IF THE RESPONDENT IS CERTIFIED FOR SHORT-TERM
27 TREATMENT, UNLESS AN APPROPRIATE PROVIDER HAS ALREADY BEEN

1 IDENTIFIED AND IS WILLING TO HOLD THE CERTIFICATION, THE COURT
2 SHALL ORDER CDHS TO PROVIDE CARE COORDINATION AND MAKE
3 DILIGENT EFFORTS TO FIND A PROVIDER FOR THE RESPONDENT.

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

11 (c) THE COURT MAY ORDER:

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

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

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

23 (7.5) IF THE COURT CERTIFIES THE RESPONDENT FOR SHORT-TERM
24 TREATMENT AND THE COURT FINDS THAT INPATIENT TREATMENT IS
25 NECESSARY PURSUANT TO SECTION 27-65-118 (1)(a), BUT AN INPATIENT
26 CARE PROVIDER HAS NOT BEEN LOCATED THAT WILL ACCEPT THE
27 RESPONDENT AFTER ALL REASONABLE EFFORTS HAVE BEEN EXHAUSTED,

1 THE COURT SHALL NOTIFY CDHS AND CERTIFY THE RESPONDENT FOR
2 OUTPATIENT TREATMENT.

3 (8) The respondent or the respondent's attorney may, at any time,
4 file a written request for the court to review short-term certification or
5 request that inpatient certification be changed to outpatient treatment. If
6 the review is requested, the court shall hear the matter within fourteen
7 days after the request, and the court shall give notice to the respondent,
8 the respondent's attorney, the department, and the community or facility
9 provider who is or will provide treatment. The hearing must be held in
10 accordance with ~~section 27-65-113~~ SECTION 27-65-113.1. At the
11 conclusion of the hearing, the court may enter or confirm the certification
12 for short-term treatment, discharge the respondent, or enter any other
13 appropriate order.

14 (9) ~~Section 27-65-109 (7) to (10) applies to proceedings held~~
15 ~~pursuant to this section.~~

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

21 (11) ~~An emergency mental health hold pursuant to section~~
22 ~~27-65-106 is not a prerequisite to a proceeding pursuant to this section.~~

23

24 **SECTION 10. In Colorado Revised Statutes, 27-65-109, amend**
25 **(1), (2) introductory portion, (2)(a), and (9); repeal (7); and add (11) as**
26 **follows:**

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

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

3 (a) The professional staff of the facility detaining the person on
4 an emergency mental health hold has evaluated the person and has found
5 the person has a mental health disorder and, as a result of the mental
6 health disorder, is a danger to the person's self or others or is gravely
7 disabled MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM
8 TREATMENT PURSUANT TO SECTION 27-65-108.3 (1);

9 (b) The person has been advised of the availability of, but has not
10 accepted, voluntary treatment; but, if reasonable grounds exist to believe
11 that the person will not remain in a voluntary treatment program, the
12 person's acceptance of voluntary treatment does not preclude certification;

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

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

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

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

27 (7) Records and papers in proceedings pursuant to this section

1 must be maintained separately by the clerks of the several courts. Upon
2 the release of any respondent in accordance with section 27-65-112, the
3 facility shall notify the clerk of the court within five days after the release,
4 and the clerk shall immediately seal the record in the case and omit the
5 name of the respondent from the index of cases in the court until and
6 unless the respondent becomes subject to an order of certification for
7 long-term care and treatment pursuant to section 27-65-110 or until and
8 unless the court orders the records opened for good cause shown. In the
9 event a petition is filed pursuant to section 27-65-110, the certification
10 record may be opened and become a part of the record in the long-term
11 care and treatment case and the name of the respondent indexed.

12 (9) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN SECTION
13 27-65-112, a respondent certified for short-term treatment may be
14 discharged upon the signature of the treating medical professional and the
15 medical director of the facility. A respondent certified for short-term
16 treatment on an outpatient basis may be discharged upon the signature of
17 the approved professional person overseeing the respondent's treatment,
18 and the professional person shall notify the BHA prior to the discharge.
19 A facility or program shall make the respondent's discharge instructions
20 available to the respondent, the respondent's attorney, and the
21 respondent's legal guardian, if applicable, within seven days after
22 discharge, if requested. A facility or program that is transferring a
23 respondent to a different treatment facility or to an outpatient provider
24 shall provide all treatment records to the facility or provider accepting the
25 respondent at least twenty-four hours prior to the transfer.

26 (11) THE DEPARTMENT AND THE BHA MAY RECEIVE AND POSSESS
27 ALL INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO

1 THIS SECTION, INCLUDING COMPETENCY AND MENTAL HEALTH
2 EVALUATIONS; ANY MEDICAL AND MENTAL HEALTH RECORDS FOR WHICH
3 A WAIVER OR PRIVILEGE HAS BEEN FOUND IN PROCEEDINGS HELD
4 PURSUANT TO THIS SECTION OR PURSUANT TO ARTICLE 8 OR 8.5 OF TITLE
5 16; AND RELEVANT CRIMINAL JUSTICE RECORDS, INCLUDING ANY
6 CRIMINAL HISTORY OF THE RESPONDENT. THE DEPARTMENT MAY SHARE
7 AND DISCUSS THE RELEVANT INFORMATION WITH THE PARTIES TO THE
8 PROCEEDINGS.

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

11 **27-65-109.5. Certification for short-term outpatient treatment.**

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

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

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

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

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

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

2 (I) ASK THE RESPONDENT TO DESIGNATE A LAY PERSON WHOM THE

3 RESPONDENT WISHES TO BE INFORMED REGARDING THE OUTPATIENT

4 CERTIFICATION;

5 (II) PROVIDE THE RESPONDENT WITH A COPY OF THE OUTPATIENT

6 CERTIFICATION; AND

7 (III) PROVIDE THE RESPONDENT WITH THE CONTACT INFORMATION

8 FOR THE COURT IN WHICH THE OUTPATIENT CERTIFICATION WILL BE FILED

9 AND FOR ANY DESIGNATED PROVIDER THAT IS WILLING TO HOLD THE

10 OUTPATIENT CERTIFICATION AND THAT HAS BEEN IDENTIFIED BY THE

11 COMMISSIONER TO PROVIDE TREATMENT.

12 (3) THE SIGNED OUTPATIENT CERTIFICATION MUST:

13 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS

14 THAT THE RESPONDENT MEETS THE CRITERIA SET FORTH IN SECTION

15 27-65-108.3;

16 (b) BE FILED WITH THE COURT WITHIN FOURTEEN DAYS,

17 EXCLUDING SATURDAYS, SUNDAYS, AND COURT HOLIDAYS, AFTER THE

18 INITIATING PARTY RECEIVED THE COURT ORDER FROM THE CRIMINAL

19 COURT INITIATING THE OUTPATIENT CERTIFICATION, AND A COPY MUST BE

20 PROVIDED TO CDHS AND THE BHA WITHIN TWENTY-FOUR HOURS AFTER

21 FILING THE OUTPATIENT CERTIFICATION;

22 (c) PROVIDE ALL CONTACT INFORMATION THAT THE PETITIONER

23 HAS FOR THE RESPONDENT;

24 (d) PROVIDE THE NAME AND CONTACT INFORMATION FOR THE LAY

25 PERSON DESIGNATED BY THE RESPONDENT, OR FOR ANY FAMILY OR

26 FRIENDS OF THE RESPONDENT IF THE RESPONDENT WAS UNWILLING OR

27 INCAPABLE OF DESIGNATING A LAY PERSON; AND

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

5 (4) ONCE THE BHA RECEIVES THE NOTICE OF OUTPATIENT
6 CERTIFICATION, IF NO DESIGNATED PROVIDER HAS BEEN IDENTIFIED, THE
7 BHA SHALL PROVIDE CARE COORDINATION PURSUANT TO SECTION
8 27-65-108, WHICH INCLUDES MAKING DILIGENT EFFORTS TO IDENTIFY A
9 DESIGNATED PROVIDER TO HOLD THE OUTPATIENT CERTIFICATION AND
10 PROVIDE CARE TO THE RESPONDENT. THE BHA SHALL KEEP THE COURT,
11 PETITIONER, AND COUNTY ATTORNEY INFORMED IN WRITING REGARDING
12 ANY DESIGNATED PROVIDER THAT WILL HOLD THE OUTPATIENT
13 CERTIFICATION AND PROVIDE CARE TO THE RESPONDENT.

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

19 (6) WHENEVER AN OUTPATIENT CERTIFICATION IS FILED WITH THE
20 COURT BY A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL, THE
21 COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT THE
22 RESPONDENT. THE RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL
23 PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY
24 APPEALS. THE ATTORNEY REPRESENTING THE RESPONDENT MUST BE
25 PROVIDED WITH A COPY OF THE OUTPATIENT CERTIFICATION AND ALL
26 SUPPORTING DOCUMENTATION IMMEDIATELY UPON THE ATTORNEY'S
27 APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE COUNSEL WHEN THE

1 RESPONDENT MAKES A KNOWING AND INTELLIGENT WAIVER IN FRONT OF
2 THE COURT.

3 (7) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY AT
4 ANY TIME FILE A WRITTEN REQUEST THAT THE CERTIFICATION FOR
5 SHORT-TERM TREATMENT OR THE TREATMENT BE REVIEWED BY THE
6 COURT OR THAT THE TREATMENT BE ON AN OUTPATIENT BASIS. IF A
7 REVIEW IS REQUESTED, THE COURT SHALL HEAR THE MATTER WITHIN TEN
8 DAYS AFTER THE REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE
9 RESPONDENT AND THE RESPONDENT'S ATTORNEY AND THE CERTIFYING
10 AND TREATING PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL OF
11 THE TIME AND PLACE OF THE HEARING. THE HEARING MUST BE HELD IN
12 ACCORDANCE WITH SECTION 27-65-113.1. AT THE CONCLUSION OF THE
13 HEARING, THE COURT MAY ENTER OR CONFIRM THE OUTPATIENT
14 CERTIFICATION FOR SHORT-TERM TREATMENT, DISCHARGE THE
15 RESPONDENT, OR ENTER ANY OTHER APPROPRIATE ORDER.

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

22 (9) THE COURT SHALL SET A HEARING IF:

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

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

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

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

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

17 (12) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN
18 SECTION 27-65-112, A RESPONDENT CERTIFIED FOR SHORT-TERM
19 TREATMENT ON AN OUTPATIENT BASIS MAY BE DISCHARGED UPON THE
20 SIGNATURE OF THE APPROVED PROFESSIONAL PERSON OVERSEEING THE
21 RESPONDENT'S TREATMENT, AND THE PROFESSIONAL PERSON SHALL
22 NOTIFY THE BHA PRIOR TO THE DISCHARGE. A FACILITY OR PROGRAM
23 SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO
24 THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE RESPONDENT'S
25 LEGAL GUARDIAN, IF APPLICABLE, WITHIN SEVEN DAYS AFTER DISCHARGE,
26 IF REQUESTED. A FACILITY OR PROGRAM THAT IS TRANSFERRING A
27 RESPONDENT TO A DIFFERENT TREATMENT FACILITY OR TO AN OUTPATIENT

1 PROVIDER SHALL PROVIDE ALL TREATMENT RECORDS TO THE FACILITY OR
2 PROVIDER ACCEPTING THE RESPONDENT AT LEAST TWENTY-FOUR HOURS
3 PRIOR TO THE TRANSFER.

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

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

18 **SECTION 12.** In Colorado Revised Statutes, 27-65-110, **amend**
19 (1), (4), and (5) as follows:

20 **27-65-110. Certification for long-term care and treatment -**
21 **procedure.**

22 (1) Whenever a respondent has received an extended certification
23 for treatment pursuant to section 27-65-109 (10), including as it is applied
24 to court-ordered certification pursuant to section 27-65-108.5, ~~(9)~~, the
25 professional person in charge of the certification for short-term treatment
26 or the BHA may file a petition with the court at least thirty days prior to
27 the expiration date of the extended certification for long-term care and

1 treatment of the respondent under the following conditions:

2 (a) The professional staff of the agency or facility providing
3 short-term treatment has analyzed the respondent's condition and has
4 found that the respondent ~~has a mental health disorder and, as a result of~~
5 ~~the mental health disorder, is a danger to the respondent's self or others~~
6 ~~or is gravely disabled~~ CONTINUES TO MEET THE CRITERIA AND STANDARDS
7 FOR CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION
8 27-65-108.3 (1); AND

9 (b) ~~The respondent has been advised of the availability of, but has~~
10 ~~not accepted, voluntary treatment, but, if reasonable grounds exist to~~
11 ~~believe that the respondent will not remain in a voluntary treatment~~
12 ~~program, the respondent's acceptance of voluntary treatment does not~~
13 ~~preclude an order pursuant to this section; and~~

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

17 (4) The court or jury shall determine whether the conditions of
18 subsection (1) of this section are met and whether the respondent ~~has a~~
19 ~~mental health disorder and, as a result of the mental health disorder, is a~~
20 ~~danger to the respondent's self or others or is gravely disabled~~ CONTINUES
21 TO MEET THE CRITERIA AND STANDARDS FOR CERTIFICATION FOR
22 SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1). The
23 court shall issue an order of long-term care and treatment for a term not
24 to exceed six months, discharge the respondent for whom long-term care
25 and treatment was sought, or enter any other appropriate order. An order
26 for long-term care and treatment must grant custody of the respondent to
27 the BHA for placement with an agency or facility designated by the

1 commissioner to provide long-term care and treatment. The BHA may
2 delegate the physical custody of the respondent to a facility designated by
3 the commissioner and the requirement for the provision of services and
4 care coordination. When a petition contains a request that a specific legal
5 disability be imposed or that a specific legal right be deprived, the court
6 may order the disability imposed or the right deprived if the court or a
7 jury has determined that the respondent has a mental health disorder or is
8 gravely disabled and that, as a result, the respondent is unable to
9 competently exercise the specific legal right or perform the function for
10 which the disability is sought to be imposed. Any interested person may
11 ask leave of the court to intervene as a copetitioner for the purpose of
12 seeking the imposition of a legal disability or the deprivation of a legal
13 right.

14 (5) An original order of long-term care and treatment or any
15 extension of such order expires on the date specified, unless further
16 extended as provided in this subsection (5). If an extension is being
17 sought, the professional person in charge of the evaluation and treatment
18 shall certify to the court at least thirty days prior to the expiration date of
19 the order in force that an extension of the order is necessary for the care
20 and treatment of the respondent subject to the order in force, and a copy
21 of the certification must be simultaneously delivered to the respondent
22 and electronically delivered to the respondent's attorney of record. At
23 least twenty days before the expiration of the order, the court shall give
24 written notice to the respondent and the respondent's attorney of record
25 that a hearing upon the extension may be had before the court or a jury
26 upon written request to the court within ten days after receipt of the
27 notice. If a hearing is not requested by the respondent within such time,

1 the court may proceed ex parte. If a hearing is timely requested, the
2 hearing must be held before the expiration date of the order in force. If
3 the court or jury finds that the conditions of subsection (1) of this section
4 continue to be met and that the respondent has a mental health disorder
5 and, as a result of the mental health disorder, is a danger to THE
6 RESPONDENT'S SELF, A DANGER TO others, or ~~to the respondent's self or is~~
7 gravely disabled, the court shall issue an extension of the order. Any
8 extension must not exceed six months, but there may be as many
9 extensions as the court orders pursuant to this section.

10 **SECTION 13.** In Colorado Revised Statutes, 27-65-111, **amend**
11 (3), (6) introductory portion, (6)(a), and (6)(j) as follows:

12 **27-65-111. Certification on an outpatient basis - civil**
13 **commitment - short-term and long-term treatment.**

14 (3) The facility responsible for providing services to a respondent
15 on a certification on an outpatient basis shall proactively reach out to the
16 respondent to engage the respondent in treatment. If the respondent
17 refuses treatment or court-ordered medication and is decompensating
18 psychiatrically, the court may order a certified peace officer or secure
19 transportation provider to transport the respondent to an appropriate,
20 least-restrictive designated facility in collaboration with the BHA and the
21 provider holding the certification. The respondent does not need to be
22 ~~imminently dangerous~~ AN IMMINENT DANGER to the respondent's self or
23 AN IMMINENT DANGER TO others for the provider to request, and the court
24 to order, transportation to a facility for the respondent to receive treatment
25 and court-ordered medications. The facility responsible for providing
26 services to a respondent on a certification on an outpatient basis shall
27 provide the court information on the facility's proactive outreach to the

1 respondent and the professional person's and psychiatric advanced
2 practice registered nurse's basis for medical opinion.

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

8 (a) To request a change to voluntary status. A change to voluntary
9 status may be denied by the supervising professional person or advanced
10 practice registered nurse with training in psychiatric nursing responsible
11 for the respondent's treatment if the professional person or advanced
12 practice registered nurse with training in psychiatric nursing determines
13 reasonable grounds exist to believe that the respondent will not remain in
14 a voluntary treatment program. THIS SUBSECTION (6)(a) DOES NOT APPLY
15 TO A RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION
16 27-65-201.

17 (j) To have the right to file a motion with the court at any time to
18 contest the certification. THIS SUBSECTION (6)(j) DOES NOT APPLY TO A
19 RESPONDENT WHO IS CIVILLY COMMITTED PURSUANT TO SECTION
20 27-65-201.

21 **SECTION 14.** In Colorado Revised Statutes, 27-65-112, **amend**
22 (1) as follows:

23 **27-65-112. Termination of certification for short-term and**
24 **long-term treatment.**

25 (1) (a) An original or extended certification for short-term
26 treatment issued pursuant to section ~~27-65-108.5 or 27-65-109~~
27 ~~27-65-108.5, 27-65-109, OR 27-65-109.5, or an order or extension for~~

1 certification for long-term care and treatment pursuant to section
2 27-65-110, terminates as soon as WHEN the professional person in charge
3 of treatment of the respondent and the BHA, AFTER A REASONABLE
4 OBSERVATION AND TREATMENT PERIOD, determine the respondent has
5 received sufficient benefit from the treatment for the respondent to end
6 involuntary treatment. Whenever a certification or extended certification
7 is terminated pursuant to this section, the professional person in charge
8 of providing treatment shall notify the court in writing within five days
9 after the termination NO LONGER MEETS THE CRITERIA FOR CERTIFICATION
10 FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.3 (1).

11 (b) THE PROFESSIONAL PERSON IN CHARGE OF THE RESPONDENT'S
12 CARE SHALL NOT APPROVE THE TERMINATION OF THE CERTIFICATION
13 UNLESS TWO PROFESSIONAL PERSONS INDEPENDENTLY EVALUATE THE
14 RESPONDENT AND INDEPENDENTLY OPINE THAT THE RESPONDENT NO
15 LONGER MEETS THE CRITERIA FOR CERTIFICATION FOR SHORT-TERM
16 TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE PROFESSIONAL
17 PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH AND
18 PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS
19 REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS
20 WITH ONLY ONE PROFESSIONAL PERSON.

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

23 **27-65-113. Jurisdiction - transfer.**

24 ~~(1) Hearings before the court pursuant to section 27-65-108.5,~~
25 ~~27-65-109, or 27-65-110 are conducted in the same manner as other civil~~
26 ~~proceedings before the court. The burden of proof is on the person or~~
27 ~~facility seeking to detain the respondent. The court or jury shall determine~~

1 ~~that the respondent is in need of care and treatment only if the court or~~
2 ~~jury finds by clear and convincing evidence that the respondent has a~~
3 ~~mental health disorder and, as a result of the mental health disorder, is a~~
4 ~~danger to the respondent's self or others or is gravely disabled.~~

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

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

16 ~~(4) (1) (a) The court in which the A petition is filed under section~~
17 ~~27-65-106 or the OR certification is filed pursuant to section 27-65-109~~
18 ~~THIS ARTICLE 65, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS~~
19 ~~PURSUANT TO THIS ARTICLE 65 THAT RECEIVES A COURT ORDER~~
20 ~~TRANSFERRING JURISDICTION OF A CIVIL COMMITMENT PURSUANT TO~~
21 ~~SECTION 16-8.5-118, is the court of original jurisdiction and of continuing~~
22 ~~jurisdiction for any further proceedings pursuant to this article 65.~~

23 (b) When the convenience of the parties and the ends of justice
24 would be promoted by a change in the court having jurisdiction, the court
25 may order a transfer of the proceeding to another county. Until further
26 order of the transferee court, if any, it is the court of continuing
27 jurisdiction. IF MULTIPLE CRIMINAL COURTS REFER A MATTER FOR

1 PROCEEDING PURSUANT TO SECTION 27-65-201 OR 27-65-108.5, ANY
2 COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING TO ANOTHER
3 COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS INTO ONE
4 PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT PROMOTES THE
5 CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

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

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

14 (c) A PETITION OR REQUEST FOR A PROCEEDING REGARDING AN
15 EMERGENCY MENTAL HEALTH HOLD ORDERED PURSUANT TO SECTION
16 27-65-106 OR CERTIFICATION FOR SHORT-TERM TREATMENT ORDERED
17 PURSUANT TO SECTION 27-65-109 MAY BE FILED IN THE JURISDICTION
18 WHERE THE RESPONDENT RESIDES, WAS PHYSICALLY PRESENT AND
19 TRANSPORTED FOR AN EMERGENCY MENTAL HEALTH HOLD, OR IS
20 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

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

1 REFERRED THE MATTER IS LOCATED.

2 ~~(5)(a)~~ (3) (a) In the event that a respondent or a person found not
3 guilty by reason of impaired mental condition pursuant to section
4 16-8-103.5 (5), or by reason of insanity pursuant to section 16-8-105 (4)
5 or 16-8-105.5, refuses to accept medication, the court having jurisdiction
6 of the action pursuant to ~~subsection (4)~~ SUBSECTION (1) of this section;
7 the court committing the person or defendant to the custody of the
8 department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or
9 16-8-105.5; or the court of the jurisdiction in which the designated facility
10 treating the respondent or person is located has jurisdiction and venue to
11 accept a petition by a treating physician and to enter an order requiring
12 that the respondent or person accept ~~such~~ THE treatment or, in the
13 alternative, that the medication be forcibly administered to the respondent
14 or person. The court of the jurisdiction in which the designated facility is
15 located shall not exercise its jurisdiction without the permission of the
16 court that committed the person to the custody of the department. Upon
17 the filing of ~~such a~~ THE petition, the court shall appoint an attorney, if one
18 has not been appointed, to represent the respondent or person and hear the
19 matter within ten days.

20 (b) In any case brought pursuant to ~~subsection (5)(a)~~ SUBSECTION
21 (3)(a) of this section in a court for the county in which the treating facility
22 is located, the county where the proceeding was initiated pursuant to
23 ~~subsection (4)~~ SUBSECTION (1) of this section or the court committing the
24 person to the custody of the department pursuant to section 16-8-103.5
25 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in
26 which the proceeding pursuant to this ~~subsection (5)~~ SUBSECTION (3) was
27 filed and in which the proceeding was held for the reasonable costs

1 incurred in conducting the proceeding or conduct the proceeding itself
2 using its own personnel and resources, including its own district or county
3 attorney, as the case may be.

4 (c) In the case of a defendant who is found incompetent to
5 proceed pursuant to section 16-8.5-103 and who refuses to accept
6 medication, the jurisdiction for the petition for involuntary treatment
7 procedures is as set forth in ~~section 16-8.5-112~~ SECTION 16-8.5-106.

8 ~~(6) (4) All adversarial proceedings pursuant to this article 65,~~
9 ~~including proceedings to impose a legal disability pursuant to section~~
10 ~~27-65-127, must be conducted by the district attorney of the county where~~
11 ~~the proceeding is held or by a qualified attorney acting for the district~~
12 ~~attorney appointed by the district court for that purpose; except that, in~~
13 ~~any county or in any city and county having a population exceeding fifty~~
14 ~~thousand persons, the proceedings must be conducted by the county~~
15 ~~attorney or by a qualified attorney acting for the county attorney~~
16 ~~appointed by the district court.~~ In any case in which there has been a
17 change of venue to a county other than the county of residence of the
18 respondent or the county in which the certification proceeding was
19 commenced, the county from which the proceeding was transferred shall
20 either reimburse the county to which the proceeding was transferred and
21 in which the proceeding was held for the reasonable costs incurred in
22 conducting the proceeding or conduct the proceeding itself using its own
23 personnel and resources, including its own district or county attorney, as
24 the case may be.

25 (5) IF A CIVIL PROCEEDING WAS INITIATED PURSUANT TO THIS
26 ARTICLE 65 OR TRANSFERRED PURSUANT TO SECTION 16-8.5-118 BUT THE
27 PROCEEDING IS NO LONGER PROPER BECAUSE THE COURT DETERMINED

1 THAT THE RESPONDENT HAS AN INTELLECTUAL AND DEVELOPMENTAL
2 DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE TERMS ARE
3 DEFINED IN SECTION 25.5-10-501, WITHOUT ANY OTHER MENTAL HEALTH
4 DISORDER, THE COURT MAY MAINTAIN JURISDICTION BY ORDERING THE
5 CASE TO PROCEED PURSUANT TO ARTICLE 10 OF TITLE 25.5.

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

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

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

19 **27-65-113.1. Hearing procedures.**

20 (1) A HEARING HELD PURSUANT TO SECTION 27-65-201,
21 27-65-202, 27-65-108.5, 27-65-109, 27-65-109.5, OR 27-65-110 MUST BE
22 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE
23 THE COURT.

24 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S
25 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT
26 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A
27 CERTIFICATION FOR SHORT-TERM TREATMENT OR LONG-TERM CARE AND

1 TREATMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO THE RESULTS
2 OF THE PROFESSIONAL PERSON'S EXAMINATION. THE COURT-APPOINTED
3 PROFESSIONAL PERSON SHALL ACT SOLELY IN AN ADVISORY CAPACITY,
4 AND NO PRESUMPTION IS ATTACHED TO THE PROFESSIONAL PERSON'S
5 FINDINGS.

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

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

17 **27-65-113.5. County attorney and district attorney**
18 **responsibilities.**

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

24 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN
25 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS ARTICLE 65 OR
26 TRANSFERRED FROM THE CRIMINAL COURT PURSUANT TO SECTION
27 16-8.5-118, UNLESS EXPRESSLY RELIEVED OR MODIFIED BY STATUTE;

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

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

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

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

15 **27-65-114. Appeals.**

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

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

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

3 **27-65-118. Right to treatment - rules.**

4 (1) (a) Any person receiving an evaluation or treatment pursuant
5 to this article 65 is entitled to medical and psychiatric care and treatment,
6 with regard to services listed in section 27-50-301 and services listed in
7 rules authorized by section 27-66-102, suited to meet the person's
8 individual needs, delivered in such a way as to keep the person in the
9 least-restrictive environment, and delivered in such a way as to include
10 the opportunity for participation of family members in the person's
11 program of care and treatment, when appropriate. ~~Nothing in~~ A PERSON
12 RECEIVING AN EVALUATION OR TREATMENT PURSUANT TO THIS ARTICLE
13 65 MUST NOT BE DENIED CARE OR DISCHARGED DUE TO AN INABILITY TO
14 PAY. This subsection (1)(a) ~~creates~~ DOES NOT CREATE any right with
15 respect to any person other than the person receiving an evaluation, care,
16 or treatment. The professional person and the agency or facility providing
17 an evaluation, care, or treatment shall keep records detailing all care and
18 treatment received by the person, and the records must be made available,
19 upon the person's written authorization, to the person's attorney or the
20 person's personal physician. The records are permanent records and must
21 be retained in accordance with section 27-65-123 (4).

22 **SECTION 19.** In Colorado Revised Statutes, 27-65-123, **add** (7),
23 (8), (9), (10), and (11) as follows:

24 **27-65-123. Records.**

25 (7) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO
26 THIS ARTICLE 65 MUST BE MAINTAINED SEPARATELY BY THE CLERKS OF
27 THE SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST

1 NOT BE MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS
2 SECTION.

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

16 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION,
17 WHILE A MATTER IS PENDING OR AFTER IT IS SEALED, THE COURT MAY
18 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND
19 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING
20 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE
21 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A
22 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID
23 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE
24 CLERK SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE AND PROVIDE
25 THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR AUTHORIZED
26 REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

27 (8) WHEN A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES

1 IN THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD AS
2 DESCRIBED IN SECTION 27-65-106, THE COURT, COUNTY ATTORNEY, OR
3 DISTRICT ATTORNEY CONDUCTING ANY SUBSEQUENT PROCEEDINGS
4 PURSUANT TO THIS ARTICLE 65, AND THE PROVIDER WHO CONDUCTS AN
5 EVALUATION OR PROVIDES CARE, MAY, WITHOUT COURT AUTHORIZATION,
6 PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY WITH THE FOLLOWING
7 LIMITED INFORMATION, IF AVAILABLE:

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

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

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

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

22 (10) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A
23 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE 65, THE DEPARTMENT,
24 A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL MAY SEEK
25 TO UNSEAL CASE RECORDS FOR GOOD CAUSE, WHICH INCLUDES THE NEED
26 TO USE THE RECORDS IN OTHER CRIMINAL PROCEEDINGS INVOLVING
27 COMPETENCY PURSUANT TO ARTICLE 8.5 OF TITLE 16 OR PROCEEDINGS

1 BROUGHT PURSUANT TO THIS ARTICLE 65.

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

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

7 **27-65-131. Data report.**

8 (1) ~~Beginning January 1, 2025, and each~~ ON OR BEFORE January
9 1 ~~thereafter~~ OF EACH YEAR, the BHA shall ~~annually~~ submit a report to the
10 general assembly on the outcomes and effectiveness of the involuntary
11 commitment system described in this article 65, disaggregated by region,
12 including any recommendations to improve the system and outcomes for
13 persons involuntarily committed or certified pursuant to this article 65.
14 The report must include aggregated and disaggregated nonidentifying
15 individual-level data. At a minimum, the report must include:

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

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

23 (i) HOW MANY INDIVIDUALS WHO MET THE CRITERIA FOR
24 SHORT-TERM CERTIFICATION REQUIRED INPATIENT PLACEMENT, CARE, OR
25 TREATMENT BUT WERE NOT PROVIDED INPATIENT PLACEMENT, CARE, OR
26 TREATMENT BECAUSE IT WAS NOT AVAILABLE.

27 **SECTION 21.** In Colorado Revised Statutes, **add** part 2 to article

1 65 of title 27 as follows:

2 PART 2

3 CIVIL COMMITMENT OF INCOMPETENT AND

4 UNRESTORABLE PERSON

5 **27-65-201. Court supervision of incompetent and unrestorable**
6 **person ordered into civil commitment - repeal.**

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

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

13 (a) NOTIFY THE COUNTY ATTORNEY;

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

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

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

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

21 (b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

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

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

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

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

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

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

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

16 (c) ORDER CDHS TO PROVIDE TO THE COURT:

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

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

1 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE
2 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE
3 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE
4 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR
5 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY
6 THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT
7 CARE AT THE DISCRETION OF CDHS OR HCPF;

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

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

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

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

24 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT
25 THE DISCRETION OF CDHS OR HCPF OR IF CDHS OR HCPF PROPOSES TO
26 MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT
27 SHALL, PRIOR TO MODIFYING THE CIVIL COMMITMENT TO CHANGE THE

1 RESPONDENT'S PROVIDER OR PLACEMENT, REVIEW THE APPROPRIATENESS
2 OF THE PROPOSED PROVIDER OR PLACEMENT, INCLUDING WHETHER THE
3 PROVIDER FITS THE RESPONDENT'S DIAGNOSIS AND TREATMENT NEEDS AND
4 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS THE COMMUNITY
5 FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS POSED BY THE
6 RESPONDENT.

7 (c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE
8 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO
9 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY
10 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE
11 COURT'S DECISION.

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

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

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

27 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED

1 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH A TREATMENT PLAN IN
2 THE REASONABLY FORESEEABLE FUTURE;

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

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

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

13 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE
14 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF
15 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS
16 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

17 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;

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

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

22 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING
23 PROFESSIONALS.

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

27 (I) ANY VICTIMS HAVE BEEN NOTIFIED OF A CRITICAL STAGE, AS

1 DEFINED IN SECTION 24-4.1-302 (2)(q.3), AND GIVEN THE OPPORTUNITY TO
2 BE HEARD; AND

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

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

15 (6)(a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO
16 INPATIENT CARE AT THE DISCRETION OF CDHS OR HCPF, THE EXECUTIVE
17 DIRECTOR OF CDHS SHALL DESIGNATE THE STATE FACILITY AT WHICH THE
18 RESPONDENT IS HELD FOR CARE AND TREATMENT AND MAY TRANSFER THE
19 RESPONDENT FROM ONE FACILITY TO ANOTHER IF, IN THE OPINION OF THE
20 EXECUTIVE DIRECTOR, IT IS APPROPRIATE TO DO SO IN THE INTEREST OF
21 THE PROPER CARE, CUSTODY, AND TREATMENT OF THE RESPONDENT OR
22 FOR THE PROTECTION OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN
23 QUESTION.

24 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,
25 CDHS SHALL:

26 (I) ENSURE THE RESPONDENT IS PLACED IN THE
27 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND

1 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE
2 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
3 RESPONDENT; AND

4 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED
5 SETTING OUTSIDE OF INPATIENT CARE FOR THE FIRST TIME SINCE THE
6 RESPONDENT WAS CIVILLY COMMITTED WITHOUT PRIOR APPROVAL OF THE
7 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

8 (7) TERMINATION OF THE CIVIL COMMITMENT IS GOVERNED BY
9 SECTION 27-65-202.

10 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND
11 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT
12 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS CIVILLY
13 COMMITTED UNLESS A SUBSTANTIALLY SIMILAR EXAMINATION WAS
14 ORDERED BY THE COURT WITHIN THE PREVIOUS TWELVE MONTHS. THE
15 REPORT MUST INCLUDE:

16 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT:

17 (I) MEETS THE CRITERIA FOR SHORT-TERM CERTIFICATION
18 PURSUANT TO SECTION 27-65-108.3 (1) OR SHORT-TERM PROTECTIVE
19 PLACEMENT PURSUANT TO SECTION 25.5-10-503 (1);

20 (II) CONTINUES TO MEET THE CRITERIA FOR CIVIL COMMITMENT
21 PURSUANT TO SECTION 16-8.5-118;

22 (III) MEETS THE CRITERIA FOR ENHANCED PROTECTIVE
23 PLACEMENT PURSUANT TO SECTION 16-8.5-118;

24 (IV) IS APPROPRIATELY PLACED; AND

25 (V) MEETS THE CRITERIA FOR TERMINATION OF THE CIVIL
26 COMMITMENT PURSUANT TO SECTION 27-65-202;

27 (b) A SUMMARY OF THE MATERIALS REVIEWED, ASSESSMENTS

1 CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED;

2 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE
3 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

4 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO
5 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S
6 PROGRESS;

7 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH
8 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS
9 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE
10 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

11 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO
12 OTHERS;

13 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE
14 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED
15 TREATMENT AND MANAGEMENT OF INDIVIDUALS CIVILLY COMMITTED;

16 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS
17 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC
18 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A
19 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF CDHS;

20 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE
21 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND

22 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION
23 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

24 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE
25 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE
26 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR
27 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO

1 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED
2 NECESSARY FOR THE COURT'S SUPERVISION OF THE CIVIL COMMITMENT.

3 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,
4 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST
5 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND
6 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE
7 CIVIL COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT,
8 CERTIFICATION FOR SHORT-TERM TREATMENT, OR SHORT-TERM
9 PROTECTIVE PLACEMENT, OR MEETS THE CRITERIA FOR TERMINATION OF
10 THE CIVIL COMMITMENT PURSUANT TO SECTION 27-65-202. THE
11 RESPONDENT SHALL COOPERATE WITH ANY EXAMINATIONS ORDERED
12 PURSUANT TO THIS SUBSECTION (10)(a).

13 (b) STATEMENTS MADE BY THE RESPONDENT DURING AN
14 EXAMINATION CONDUCTED PURSUANT TO THIS SUBSECTION (10) MUST NOT
15 BE USED IN ANY CRIMINAL PROSECUTION.

16 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR
17 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE
18 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO
19 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT
20 DOES NOT MEET THE CRITERIA FOR TERMINATION.

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

22 **27-65-202. Termination of civil commitment - repeal.**

23 (1) THE COURT SHALL TERMINATE A RESPONDENT'S CIVIL
24 COMMITMENT ORDERED PURSUANT TO SECTION 27-65-201 IF THE
25 RESPONDENT:

26 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO
27 OTHERS; OR

1 (b) DOES NOT HAVE A MENTAL HEALTH DISORDER THAT IS LIKELY
2 TO CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF
3 OR A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED
4 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S
5 CONDUCT TO THE REQUIREMENTS OF THE LAW.

6 (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE
7 AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT
8 MEETS THE STANDARD FOR TERMINATION FROM CIVIL COMMITMENT
9 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PROVIDER OR THE
10 PROVIDER'S DESIGNEE SHALL REPORT THE DETERMINATION TO THE COURT
11 THAT PLACED THE RESPONDENT INTO THE PROVIDER'S CARE AND CUSTODY,
12 THE COUNTY ATTORNEY, AND THE DISTRICT ATTORNEY WHO ORIGINALLY
13 SOUGHT CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE PLACEMENT
14 PURSUANT TO SECTION 16-8.5-118. THE COURT SHALL FURNISH A COPY OF
15 ANY REPORTS RECEIVED TO THE RESPONDENT AND THE RESPONDENT'S
16 COUNSEL.

17 (3)(a) THE RESPONDENT MAY REQUEST TERMINATION OF THE CIVIL
18 COMMITMENT IN WRITING AT ANY TIME THE RESPONDENT WOULD NOT BE
19 PROHIBITED FROM HAVING A SUBSEQUENT TERMINATION TRIAL PURSUANT
20 TO SUBSECTION (7) OF THIS SECTION.

21 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST
22 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON
23 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR
24 TERMINATION OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1)
25 OF THIS SECTION.

26 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR
27 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE

1 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY
2 SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT
3 PURSUANT TO SECTION 16-8.5-118 FOURTEEN DAYS TO OBJECT TO
4 TERMINATION OR REQUEST AN OPPORTUNITY TO CONDUCT AN
5 INDEPENDENT EVALUATION BY AN EXPERT OF THE COUNTY ATTORNEY'S OR
6 DISTRICT ATTORNEY'S OWN CHOOSING AND EXPENSE.

7 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT
8 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN
9 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE
10 RESPONDENT'S CIVIL COMMITMENT.

11 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY
12 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,
13 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO
14 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR
15 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN
16 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE
17 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT
18 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST
19 FOR A SINGLE INDEPENDENT EVALUATION.

20 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE
21 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE
22 RESPONDENT'S REQUEST FOR TERMINATION.

23 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE
24 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO
25 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

26 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY
27 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL

1 TERMINATE THE RESPONDENT'S CIVIL COMMITMENT.

2 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY
3 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE
4 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE
5 RESPONDENT'S COUNSEL RECEIVED A COPY OF THE REPORT, AND ADVISE
6 THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE COURT OR
7 THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE THAN SIX
8 INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS THE
9 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
10 SECTION.

11 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE
12 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN THIRTY-FIVE DAYS
13 AFTER THE DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE
14 COURT SHALL SCHEDULE THE TRIAL TO BEGIN WITHIN SEVENTY-TWO DAYS
15 AFTER THE DEMAND. A DELAY ATTRIBUTABLE TO THE RESPONDENT IS
16 EXCLUDED FROM THE TIME LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE
17 COURT DOES NOT BEGIN THE TRIAL WITHIN THE TIME PERMITTED
18 PURSUANT TO THIS SUBSECTION (5)(b), THE COURT SHALL TERMINATE THE
19 CIVIL COMMITMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S
20 CARE AND CUSTODY.

21 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION
22 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS
23 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE
24 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY
25 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL
26 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY
27 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT

1 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND
2 TO ANY OTHER MATTERS RELATED TO THE CIVIL COMMITMENT AND
3 TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY RELATED APPEALS.

4 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT
5 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION
6 OF THE CIVIL COMMITMENT PURSUANT TO SUBSECTION (1) OF THIS
7 SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A
8 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE
9 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
10 SECTION.

11 (b) IF THE TRIER OF FACT FINDS, BY A PREPONDERANCE OF THE
12 EVIDENCE, THAT THE RESPONDENT MEETS THE CRITERIA FOR TERMINATION
13 PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL ORDER
14 THE RESPONDENT RELEASED FROM THE PROVIDER'S CARE AND CUSTODY
15 AND TERMINATE THE RESPONDENT'S CIVIL COMMITMENT. IF THE TRIER OF
16 FACT FINDS, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE
17 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT
18 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE
19 CIVIL COMMITMENT AND MAY ENTER OR MODIFY ANY ORDERS TO ASSIST
20 IN PROGRESSING THE TREATMENT OF THE RESPONDENT OR THAT ARE
21 NECESSARY TO PROTECT THE PUBLIC.

22 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET
23 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
24 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION
25 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL
26 FOR TERMINATION.

27 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR

1 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A
2 MENTAL HEALTH DISORDER THAT IS AN INTELLECTUAL AND
3 DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE DISORDER, AS THOSE
4 TERMS ARE DEFINED IN SECTION 25.5-10-501, WITHOUT HAVING ANY
5 OTHER MENTAL HEALTH DISORDER THAT IS NOT AN INTELLECTUAL AND
6 DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE DISORDER AND THAT
7 SUBSTANTIALLY CONTRIBUTES TO WHETHER THE RESPONDENT IS A
8 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS, OR IS
9 GRAVELY DISABLED, THE COURT SHALL CONVERT THE CIVIL COMMITMENT
10 TO AN ENHANCED PROTECTIVE PLACEMENT AND MAY MODIFY THE TERMS
11 OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE WITH
12 SECTION 25.5-10-507.

13 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR
14 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS
15 CO-OCCURRING MENTAL HEALTH DISORDERS THAT INCLUDE AN
16 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE
17 DISORDER, AS THOSE TERMS ARE DEFINED IN SECTION 25.5-10-501, THE
18 COURT MAY, UPON THE RECOMMENDATION OF CDHS, CONVERT A CIVIL
19 COMMITMENT TO AN ENHANCED PROTECTIVE PLACEMENT AND MODIFY
20 THE TERMS OF THE ENHANCED PROTECTIVE PLACEMENT IN ACCORDANCE
21 WITH SECTION 25.5-10-507.

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

23 **SECTION 22.** In Colorado Revised Statutes, **add** part 5 to article
24 10 of title 25.5 as follows:

25 PART 5
26 PROTECTIVE PLACEMENT AND
27 ENHANCED PROTECTIVE PLACEMENT

1 **25.5-10-501. Definitions.**

2 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

4 (1) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
5 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
6 27-60-203.

7 (2) "DANGER TO OTHERS" HAS THE MEANING SET FORTH IN
8 SECTION 27-65-102.

9 (3) "DANGER TO THE PERSON'S SELF", OR SIMILAR TERMINOLOGY,
10 HAS THE MEANING SET FORTH IN SECTION 27-65-102.

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

14 (5) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE
15 MEANING SET FORTH IN SECTION 25.5-10-202.

16 (6) "INTERVENING PROFESSIONAL" HAS THE MEANING SET FORTH
17 IN SECTION 27-65-102.

18 (7) "MENTAL HEALTH DISORDER" HAS THE MEANING SET FORTH IN
19 SECTION 27-65-102.

20 (8) "NEUROCOGNITIVE DISORDER" MEANS A SUBSTANTIAL AND
21 PERSISTENT DISORDER OF THE COGNITIVE OR NEUROLOGICAL PROCESSES
22 THAT GROSSLY IMPAIRS JUDGMENT, MEMORY, OR CAPACITY TO RECOGNIZE
23 REALITY OR TO CONTROL BEHAVIOR, GENERAL INTELLECTUAL
24 FUNCTIONING, OR ADAPTIVE BEHAVIOR THAT IS ATTRIBUTABLE TO A
25 NEUROLOGICAL OR COGNITIVE DISORDER OR RELATED CONDITION,
26 INCLUDING, BUT NOT LIMITED TO, A TRAUMATIC BRAIN INJURY, A
27 DEGENERATIVE DISORDER, OR DEMENTIA. "NEUROCOGNITIVE DISORDER"

1 DOES NOT INCLUDE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

2 (9) "PROFESSIONAL PERSON" HAS THE MEANING SET FORTH IN
3 SECTION 27-65-102.

4 (10) "REGIONAL CENTER" MEANS A FACILITY OR PROGRAM
5 OPERATED DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THAT
6 PROVIDES SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND
7 DEVELOPMENTAL DISABILITIES.

8 (11) "SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS" HAS THE
9 MEANING SET FORTH IN SECTION 27-65-102.

10 **25.5-10-502. Criteria and standards for protective placement.**

11 (1) THE COURT MAY ORDER THE PROTECTIVE PLACEMENT OF A
12 RESPONDENT IF:

13 (a) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, HAS
14 A NEUROCOGNITIVE DISORDER;

15 (b) WITH THE CONSIDERATION OF ALL REASONABLY AVAILABLE
16 INFORMATION, INCLUDING THE RELEVANT HISTORY OF THE RESPONDENT,
17 THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT
18 WILL NOT REMAIN IN A VOLUNTARY TREATMENT PROGRAM; AND

19 (c) THE RESPONDENT, BY CLEAR AND CONVINCING EVIDENCE, IS A
20 DANGER TO THE RESPONDENT'S SELF OR A DANGER TO OTHERS.

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

25 (a) THE PERSON'S STATEMENTS AND INSIGHTS INTO THE PERSON'S
26 OWN NEUROCOGNITIVE DISORDER;

27 (b) CLINICAL DIAGNOSIS AND CLINICAL PERSPECTIVE ON THE

1 PERSON'S CURRENT MENTAL STATE AND PROGNOSIS;

2 (c) THE PERSON'S WILLINGNESS TO VOLUNTARILY SEEK AND

3 COMPLY WITH A TREATMENT PLAN IN THE REASONABLY FORESEEABLE

4 FUTURE;

5 (d) RECENT OVERT ACTS BY THE PERSON TO THREATEN, CAUSE, OR

6 ATTEMPT TO CAUSE HARM TO THE PERSON'S SELF OR OTHERS;

7 (e) PREVIOUS PATTERNS OF DETERIORATION THAT RESULTED IN

8 THE PERSON'S HOSPITALIZATION, ARREST, CERTIFICATION FOR

9 SHORT-TERM TREATMENT, OR PROTECTIVE PLACEMENT;

10 (f) WHETHER THE PERSON WAS FOUND IN A CONDITION WHERE THE

11 PERSON WAS NOT ABLE TO CARE FOR THE PERSON'S OWN BASIC NEEDS IN

12 ORDER TO AVOID THE RISK OF SERIOUS PHYSICAL HARM; AND

13 (g) THE FREQUENCY, RECENCY, AND SEVERITY OF THE

14 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (2)(b) TO (2)(f) OF THIS

15 SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS WILL

16 REOCCUR WITHOUT INVOLUNTARY TREATMENT.

17 (3) WHEN EVALUATING WHETHER A PERSON IS A DANGER TO THE

18 PERSON'S SELF OR A DANGER TO OTHERS, IS GRAVELY DISABLED, OR POSES

19 A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, THE COURT,

20 EVALUATOR, OR INTERVENING PROFESSIONAL SHALL, WHENEVER

21 POSSIBLE, USE ALL REASONABLE EFFORTS TO LEARN ABOUT PRIOR

22 RELEVANT BEHAVIORS AND PRIOR DIAGNOSES THROUGH AVAILABLE AND

23 RELIABLE SOURCES, INCLUDING THE PERSON'S PRIOR MEDICAL AND

24 MENTAL HEALTH RECORDS, POLICE REPORTS, AND INFORMATION FROM

25 RELIABLE INDIVIDUALS WHO HAVE A RELATIONSHIP OR REGULAR

26 SUBSTANTIAL INTERACTIONS WITH THE PERSON.

27 (4) THE COURT OR PROFESSIONAL PERSON SHALL ASSESS AN

1 INCARCERATED PERSON AS IF THE PERSON WERE IN THE COMMUNITY WHEN
2 EVALUATING WHETHER THE PERSON MEETS THE CRITERIA PURSUANT TO
3 SUBSECTION (1) OF THIS SECTION.

4

5 **25.5-10-503. Short-term protective placement for incompetent**
6 **defendants in a criminal matter.**

7 (1) UPON PETITION OF A PROFESSIONAL PERSON OR INTERVENING
8 PROFESSIONAL ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND
9 LICENSURE, AN APPOINTED LEGAL GUARDIAN, OR A REPRESENTATIVE OF
10 THE BHA OR HCPF, A COURT MAY CERTIFY A PERSON FOR SHORT-TERM
11 PROTECTIVE PLACEMENT FOR NOT MORE THAN THREE MONTHS UNDER THE
12 FOLLOWING CONDITIONS:

13 (a) THE PERSON IS A RESPONDENT IN A CRIMINAL MATTER IN WHICH
14 THE PERSON HAS BEEN FOUND INCOMPETENT TO PROCEED;

15 (b) THE COURT HEARING THE CRIMINAL MATTER REFERRED THE
16 MATTER FOR FILING OF A PETITION PURSUANT TO SECTION 16-8.5-117;

17 (c) A PROFESSIONAL PERSON OR INTERVENING PROFESSIONAL
18 ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AND LICENSURE:

19 (I) HAS AN ESTABLISHED TREATMENT RELATIONSHIP WITH THE
20 PERSON, INCLUDING HAVING PROVIDED CARE TO THE PERSON IN THE PAST
21 THREE MONTHS, WHICH CARE FORMS THE BASIS FOR REQUESTING THE
22 SHORT-TERM PROTECTIVE PLACEMENT; AND

23 (II) HAS EVALUATED THE PERSON WITHIN THE PAST THREE
24 MONTHS AND PRODUCED A WRITTEN OPINION THAT THE PERSON MEETS
25 THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
26 25.5-10-502;

27 (d) THERE IS A SKILLED NURSING FACILITY, A REGIONAL CENTER,

1 OR ANOTHER PLACEMENT WILLING TO ACCEPT CARE AND CUSTODY OF THE
2 RESPONDENT AND TO HOLD THE PROTECTIVE PLACEMENT; AND

3 (e) THE PERSON, THE PERSON'S LEGAL GUARDIAN, AND THE
4 PERSON'S LAY PERSON, IF APPLICABLE, HAVE BEEN ADVISED OF THE
5 PERSON'S RIGHT TO AN ATTORNEY AND TO CONTEST THE SHORT-TERM
6 PROTECTIVE PLACEMENT.

7 (2) THE PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
8 SECTION MUST:

9 (a) STATE SUFFICIENT FACTS TO ESTABLISH REASONABLE GROUNDS
10 THAT THE RESPONDENT MEETS THE CRITERIA FOR SHORT-TERM
11 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502, INCLUDING
12 ATTACHING THE PROFESSIONAL PERSON'S OR INTERVENING
13 PROFESSIONAL'S WRITTEN OPINION PRODUCED PURSUANT TO SUBSECTION
14 (1)(c)(II) OF THIS SECTION;

15 (b) BE FILED WITHIN FOURTEEN DAYS AFTER THE INITIATING PARTY
16 RECEIVED THE COURT ORDER FROM THE CRIMINAL COURT INITIATING THE
17 SHORT-TERM PROTECTIVE PLACEMENT; AND

18 (c) BE FILED WITH THE COURT IN THE COUNTY WHERE THE
19 RESPONDENT RESIDED OR WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR
20 TO THE FILING OF THE PETITION; EXCEPT THAT, IF THE PERSON WAS
21 ARRESTED FOR THE PRIOR CASE AND HELD IN CUSTODY, THE PETITION MAY
22 BE FILED IN THE COUNTY WHERE THE RESPONDENT RESIDED OR WAS
23 PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE RESPONDENT'S ARREST.

24 (3) WITHIN TWENTY-FOUR HOURS AFTER CERTIFICATION, COPIES
25 OF THE SHORT-TERM PROTECTIVE PLACEMENT MUST BE PERSONALLY
26 DELIVERED TO THE RESPONDENT AND HCPF WHO SHALL RETAIN A COPY
27 OF THE CERTIFICATION AS PART OF THE RESPONDENT'S RECORD. IF THE

1 CRIMINAL CASE IS PENDING, OR NOT YET DISMISSED, THE PETITIONING
2 PARTY SHALL PROVIDE NOTICE OF THE FILING OF THE PETITION TO THE
3 CRIMINAL COURT. THE CRIMINAL COURT SHALL PROVIDE THE NOTICE TO
4 THE PROSECUTING AND DEFENSE ATTORNEYS IN THE CRIMINAL CASE AND
5 ANY ATTORNEY APPOINTED THE RESPONDENT PURSUANT TO SUBSECTION
6 (5) OF THIS SECTION.

7 (4) THE PETITIONER SHALL ASK THE RESPONDENT TO DESIGNATE
8 ONE OTHER PERSON WHOM THE RESPONDENT WANTS TO BE INFORMED
9 REGARDING THE PETITION. IF THE RESPONDENT IS INCAPABLE OF MAKING
10 A DESIGNATION AT THE TIME THE PETITION IS DELIVERED, THE COURT MAY
11 ASK THE RESPONDENT TO DESIGNATE A PERSON AS SOON AS THE
12 RESPONDENT IS CAPABLE. IF THE PETITIONER FAILS TO ASK THE
13 RESPONDENT TO DESIGNATE A PERSON, THE RESPONDENT'S ATTORNEY
14 APPOINTED PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL REPORT
15 TO THE COURT ANY PERSON WHOM THE RESPONDENT WANTS TO BE
16 INFORMED REGARDING THE PETITION.

17 (5) WHENEVER A PETITION IS FILED PURSUANT TO THIS SECTION,
18 THE COURT SHALL IMMEDIATELY APPOINT AN ATTORNEY TO REPRESENT
19 THE RESPONDENT. THE COURT SHALL PROVIDE THE RESPONDENT WITH A
20 WRITTEN NOTICE THAT THE RESPONDENT HAS A RIGHT TO A HEARING ON
21 THE PETITION AND MAY MAKE A WRITTEN REQUEST FOR A JURY TRIAL. THE
22 RESPONDENT HAS THE RIGHT TO AN ATTORNEY FOR ALL PROCEEDINGS
23 CONDUCTED PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS. THE
24 ATTORNEY REPRESENTING THE RESPONDENT MUST BE PROVIDED WITH A
25 COPY OF THE PETITION AND ANY SUPPORTING MATERIALS IMMEDIATELY
26 UPON THE ATTORNEY'S APPOINTMENT. THE RESPONDENT MAY ONLY WAIVE
27 COUNSEL WHEN THE RESPONDENT MAKES A KNOWING AND VOLUNTARY

1 WAIVER IN FRONT OF THE COURT.

2 (6) UPON FILING A PETITION PURSUANT TO THIS SECTION AND
3 AFFORDING THE RESPONDENT A CHANCE TO CONTEST THE PETITION, THE
4 COURT MAY GRANT OR DENY THE PROTECTIVE PLACEMENT BASED ON THE
5 FACTS ESTABLISHED IN THE PETITION, SUBJECT TO THE COURT'S FURTHER
6 REVIEW OR A JURY TRIAL.

7 (7) WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE PETITION FILED
8 PURSUANT TO THIS SECTION, THE RESPONDENT, OR THE RESPONDENT'S
9 ATTORNEY, MAY REQUEST A JURY TRIAL BY FILING A WRITTEN MOTION
10 WITH THE COURT.

11 (8) THE RESPONDENT MAY KNOWINGLY AND VOLUNTARILY
12 CONSENT TO THE PETITION IN WRITING.

13 (9) THE RESPONDENT OR THE RESPONDENT'S ATTORNEY MAY, AT
14 ANY TIME, FILE A WRITTEN REQUEST FOR THE COURT TO REVIEW THE
15 SHORT-TERM PROTECTIVE PLACEMENT. IF A REVIEW IS REQUESTED, THE
16 COURT SHALL HEAR THE MATTER WITHIN FOURTEEN DAYS AFTER THE
17 REQUEST, AND THE COURT SHALL GIVE NOTICE TO THE RESPONDENT, THE
18 RESPONDENT'S ATTORNEY, HCPF, AND THE COMMUNITY OR FACILITY
19 PROVIDER WHO IS OR WILL PROVIDE TREATMENT. THE HEARING MUST BE
20 HELD IN ACCORDANCE WITH SECTION 25.5-10-510. AT THE CONCLUSION
21 OF THE HEARING, THE COURT MAY ENTER OR CONFIRM THE SHORT-TERM
22 PROTECTIVE PLACEMENT, DISCHARGE THE RESPONDENT, OR ENTER ANY
23 OTHER APPROPRIATE ORDER.

24 (10)(a) THE BHA, HCPF, THE DEPARTMENT OF HUMAN SERVICES,
25 AND CARE PROVIDERS MAY SHARE INFORMATION WITH EACH OTHER AND
26 THE PARTIES AS NECESSARY. THE BHA, HCPF, THE DEPARTMENT OF
27 HUMAN SERVICES, AND CARE PROVIDERS MAY RECEIVE AND POSSESS ALL

1 INFORMATION RELEVANT TO THE PROCEEDINGS HELD PURSUANT TO THIS
2 SECTION, INCLUDING ANY EVALUATIONS; ANY MEDICAL AND MENTAL
3 HEALTH RECORDS FOR WHICH A WAIVER OR PRIVILEGE HAS BEEN FOUND
4 IN PROCEEDINGS HELD PURSUANT TO THIS PART 5, ARTICLE 65 OF TITLE 27,
5 OR ARTICLE 8 OR 8.5 OF TITLE 16; AND RELEVANT CRIMINAL JUSTICE
6 RECORDS, INCLUDING ANY CRIMINAL HISTORY OF THE RESPONDENT.

7 (b) THE COURT MAY ORDER THE DISTRICT ATTORNEY RESPONSIBLE
8 FOR PROSECUTING A CRIMINAL CASE THAT LED TO PROCEEDINGS
9 PURSUANT TO THIS SECTION OR SECTION 16-8.5-117 TO SEND RELEVANT
10 RECORDS TO HCPF WITHIN SEVEN DAYS AFTER THE COURT'S ORDER.

11 (c) ANY CURRENT OR FORMER ATTORNEY WHO REPRESENTED THE
12 RESPONDENT IN ANY PROCEEDING SHALL SEND MATERIALS TO HCPF WITH
13 THE RESPONDENT'S CONSENT.

14 (11) (a) THE DEPARTMENT OF HEALTH CARE POLICY AND
15 FINANCING IS RESPONSIBLE FOR FINDING AN APPROPRIATE PROVIDER AND
16 INPATIENT PLACEMENT FOR THE RESPONDENT.

17 (b) AFTER A PETITION IS FILED, UNLESS AN APPROPRIATE PROVIDER
18 HAS ALREADY BEEN IDENTIFIED AND IS WILLING TO ACCEPT THE
19 SHORT-TERM PROTECTIVE PLACEMENT, THE COURT SHALL ORDER HCPF
20 TO PROVIDE CARE COORDINATION AND MAKE DILIGENT EFFORTS TO FIND
21 A PROVIDER FOR THE RESPONDENT.

22 (c) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
23 SHALL KEEP THE COURT INFORMED, IN WRITING, OF EFFORTS MADE TO FIND
24 AN APPROPRIATE PROVIDER FOR THE RESPONDENT.

25 (12) UPON ORDERING A SHORT-TERM PROTECTIVE PLACEMENT OF
26 THE RESPONDENT, THE PROVIDER ORDERED TO RECEIVE THE RESPONDENT
27 HAS CARE AND PHYSICAL CUSTODY OF THE RESPONDENT.

1 (13) WHENEVER IT APPEARS TO THE COURT THAT A RESPONDENT
2 IN A SHORT-TERM PROTECTIVE PLACEMENT SHOULD BE TRANSFERRED TO
3 ANOTHER PROVIDER FOR TREATMENT AND THE SAFETY OF THE
4 RESPONDENT OR THE PUBLIC REQUIRES THAT THE RESPONDENT BE
5 TRANSPORTED BY A SECURE TRANSPORTATION PROVIDER OR A LAW
6 ENFORCEMENT AGENCY, THE COURT MAY ISSUE AN ORDER DIRECTING THE
7 LAW ENFORCEMENT AGENCY WHERE THE RESPONDENT RESIDES OR SECURE
8 TRANSPORTATION PROVIDER TO DELIVER THE RESPONDENT TO THE
9 DESIGNATED PROVIDER.

10 (14) IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN
11 SECTION 25.5-10-506, A SHORT-TERM PROTECTIVE PLACEMENT MAY BE
12 TERMINATED UPON THE SIGNATURE OF THE TREATING MEDICAL
13 PROFESSIONAL AND THE MEDICAL DIRECTOR OF THE FACILITY. A FACILITY
14 OR PROGRAM SHALL MAKE THE RESPONDENT'S DISCHARGE INSTRUCTIONS
15 AVAILABLE TO THE RESPONDENT, THE RESPONDENT'S ATTORNEY, AND THE
16 RESPONDENT'S LEGAL GUARDIAN.

17 (15) IF THE PROFESSIONAL PERSON IN CHARGE OF THE
18 RESPONDENT'S EVALUATION AND TREATMENT BELIEVES THAT A PERIOD
19 LONGER THAN THREE MONTHS IS NECESSARY TO TREAT THE RESPONDENT,
20 THE PROFESSIONAL PERSON SHALL FILE WITH THE COURT A REQUEST FOR
21 AN EXTENDED PROTECTIVE PLACEMENT AT LEAST THIRTY DAYS PRIOR TO
22 THE EXPIRATION DATE OF THE ORIGINAL PROTECTIVE PLACEMENT. AN
23 EXTENDED PROTECTIVE PLACEMENT FOR TREATMENT MUST NOT BE FOR A
24 PERIOD OF MORE THAN THREE MONTHS. THE RESPONDENT IS ENTITLED TO
25 A HEARING ON THE EXTENDED PROTECTIVE PLACEMENT UNDER THE SAME
26 CONDITIONS AS AN ORIGINAL PROTECTIVE PLACEMENT. THE ATTORNEY
27 INITIALLY REPRESENTING THE RESPONDENT SHALL CONTINUE TO

1 REPRESENT THE RESPONDENT, UNLESS THE COURT APPOINTS ANOTHER
2 ATTORNEY.

3 **25.5-10-504. Long-term protective placement of persons with**
4 **a neurocognitive disorder - procedure.**

5 (1) IF A RESPONDENT HAS RECEIVED AN EXTENDED PROTECTIVE
6 PLACEMENT PURSUANT TO SECTION 25.5-10-503, THE PROFESSIONAL
7 PERSON IN CHARGE OF THE EXTENDED PROTECTIVE PLACEMENT, THE
8 APPOINTED LEGAL GUARDIAN, OR THE COUNTY ATTORNEY MAY FILE A
9 PETITION WITH THE COURT AT LEAST THIRTY DAYS PRIOR TO THE
10 EXPIRATION DATE OF THE EXTENDED PROTECTIVE PLACEMENT FOR A
11 LONG-TERM PROTECTIVE PLACEMENT OF THE RESPONDENT UNDER THE
12 FOLLOWING CONDITIONS:

13 (a) THE PROFESSIONAL STAFF OF THE AGENCY OR FACILITY
14 PROVIDING SHORT-TERM PROTECTIVE PLACEMENT HAS ANALYZED THE
15 RESPONDENT'S CONDITION AND FOUND THE RESPONDENT CONTINUES TO
16 MEET THE CRITERIA FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION
17 25.5-10-502 (1); AND

18 (b) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, IN
19 COLLABORATION WITH THE BHA, HAS IDENTIFIED A PROVIDER OR
20 PLACEMENT TO PROVIDE CARE AND TREATMENT OF THE RESPONDENT.

21 (2) A PETITION FOR LONG-TERM PROTECTIVE PLACEMENT MUST
22 INCLUDE A REQUEST FOR A HEARING BEFORE THE COURT PRIOR TO THE
23 EXPIRATION OF SIX MONTHS AFTER THE DATE OF THE ORIGINAL ORDER FOR
24 A PROTECTIVE PLACEMENT AND PROVIDE A RECOMMENDATION AS TO
25 WHETHER THE LONG-TERM PROTECTIVE PLACEMENT SHOULD TAKE PLACE
26 ON AN INPATIENT OR OUTPATIENT BASIS. A COPY OF THE PETITION MUST
27 BE DELIVERED PERSONALLY TO THE RESPONDENT FOR WHOM LONG-TERM

1 PROTECTIVE PLACEMENT IS SOUGHT AND ELECTRONICALLY DELIVERED TO
2 THE RESPONDENT'S ATTORNEY OF RECORD SIMULTANEOUSLY WITH THE
3 FILING.

4 (3) WITHIN TEN DAYS AFTER RECEIPT OF THE PETITION, THE
5 RESPONDENT MAY REQUEST A HEARING BEFORE THE COURT OR A JURY
6 TRIAL BY FILING A WRITTEN REQUEST WITH THE COURT.

7 (4) THE COURT OR JURY SHALL DETERMINE WHETHER THE
8 CONDITIONS OF SUBSECTION (1) OF THIS SECTION ARE MET AND WHETHER
9 THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND STANDARDS FOR
10 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1). THE
11 COURT SHALL ISSUE AN ORDER OF LONG-TERM PROTECTIVE PLACEMENT
12 FOR A TERM NOT TO EXCEED SIX MONTHS, DISCHARGE THE RESPONDENT
13 FOR WHOM LONG-TERM PROTECTIVE PLACEMENT WAS SOUGHT, OR ENTER
14 ANY OTHER APPROPRIATE ORDER. AN ORDER FOR LONG-TERM PROTECTIVE
15 PLACEMENT MUST GRANT CUSTODY OF THE RESPONDENT TO THE BHA FOR
16 PLACEMENT WITH AN AGENCY OR FACILITY THAT IS APPROPRIATE TO
17 PROVIDE LONG-TERM PROTECTIVE PLACEMENT. THE BHA MAY DELEGATE
18 THE PHYSICAL CUSTODY OF THE RESPONDENT TO ANY FACILITY OR
19 PROVIDER APPROPRIATE TO CARE FOR THE RESPONDENT AND THE
20 REQUIREMENT FOR THE PROVISION OF SERVICES AND CARE COORDINATION.
21 WHEN A PETITION CONTAINS A REQUEST THAT A SPECIFIC LEGAL
22 DISABILITY BE IMPOSED OR THAT A SPECIFIC LEGAL RIGHT BE DEPRIVED,
23 THE COURT MAY ORDER THE DISABILITY IMPOSED OR THE RIGHT DEPRIVED
24 IF THE COURT OR A JURY HAS DETERMINED THAT THE RESPONDENT MEETS
25 THE CRITERIA AND STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT
26 TO SECTION 25.5-10-502 (1) AND THAT, AS A RESULT, THE RESPONDENT IS
27 UNABLE TO COMPETENTLY EXERCISE THE SPECIFIC LEGAL RIGHT OR

1 PERFORM THE FUNCTION FOR WHICH THE DISABILITY IS SOUGHT TO BE
2 IMPOSED. ANY INTERESTED PERSON MAY ASK LEAVE OF THE COURT TO
3 INTERVENE AS A COPETITIONER FOR THE PURPOSE OF SEEKING THE
4 IMPOSITION OF A LEGAL DISABILITY OR THE DEPRIVATION OF A LEGAL
5 RIGHT.

6 (5) AN ORIGINAL ORDER OF LONG-TERM PROTECTIVE PLACEMENT
7 AND AN EXTENSION OF THE ORDER EXPIRES ON THE DATE SPECIFIED,
8 UNLESS FURTHER EXTENDED AS PROVIDED IN THIS SUBSECTION (5). IF AN
9 EXTENSION IS BEING SOUGHT, THE PROFESSIONAL PERSON IN CHARGE OF
10 THE EVALUATION AND TREATMENT SHALL CERTIFY TO THE COURT AT
11 LEAST THIRTY DAYS PRIOR TO THE EXPIRATION DATE OF THE ORDER IN
12 FORCE THAT AN EXTENSION OF THE ORDER IS NECESSARY FOR THE
13 PROTECTIVE PLACEMENT OF THE RESPONDENT SUBJECT TO THE ORDER IN
14 FORCE, AND A COPY OF THE ORDER MUST BE SIMULTANEOUSLY DELIVERED
15 TO THE RESPONDENT AND ELECTRONICALLY DELIVERED TO THE
16 RESPONDENT'S ATTORNEY OF RECORD. AT LEAST TWENTY DAYS BEFORE
17 THE EXPIRATION OF THE ORDER, THE COURT SHALL GIVE WRITTEN NOTICE
18 TO THE RESPONDENT AND THE RESPONDENT'S ATTORNEY OF RECORD THAT
19 A HEARING UPON THE EXTENSION MAY BE HAD BEFORE THE COURT OR A
20 JURY UPON WRITTEN REQUEST TO THE COURT WITHIN TEN DAYS AFTER
21 RECEIPT OF THE NOTICE. IF A HEARING IS NOT TIMELY REQUESTED BY THE
22 RESPONDENT, THE COURT MAY PROCEED EX PARTE. IF A HEARING IS
23 TIMELY REQUESTED, THE HEARING MUST BE HELD BEFORE THE EXPIRATION
24 DATE OF THE ORDER IN FORCE. IF THE COURT OR JURY FINDS THAT THE
25 CONDITIONS OF SUBSECTION (1) OF THIS SECTION CONTINUE TO BE MET
26 AND THAT THE RESPONDENT CONTINUES TO MEET THE CRITERIA AND
27 STANDARDS FOR PROTECTIVE PLACEMENT PURSUANT TO SECTION

1 25.5-10-502 (1), THE COURT SHALL ISSUE AN EXTENSION OF THE ORDER.
2 ANY EXTENSION MUST NOT EXCEED SIX MONTHS, BUT THERE MAY BE AS
3 MANY EXTENSIONS AS THE COURT ORDERS PURSUANT TO THIS SECTION.

4 (6) A RESPONDENT PLACED IN LONG-TERM PROTECTIVE
5 PLACEMENT MAY BE DISCHARGED FROM THE PROVIDER OR FACILITY UPON
6 THE SIGNATURE OF THE TREATING PROFESSIONAL PERSON AND MEDICAL
7 DIRECTOR OF THE FACILITY, AND THE FACILITY SHALL NOTIFY THE BHA ==
8 PRIOR TO THE RESPONDENT'S DISCHARGE. THE FACILITY SHALL MAKE THE
9 RESPONDENT'S DISCHARGE INSTRUCTIONS AVAILABLE TO THE
10 RESPONDENT, THE RESPONDENT'S ATTORNEY, THE RESPONDENT'S LAY
11 PERSON, AND THE RESPONDENT'S LEGAL GUARDIAN, IF APPLICABLE, WITHIN
12 ONE WEEK AFTER DISCHARGE, IF REQUESTED. A FACILITY THAT IS
13 TRANSFERRING A RESPONDENT TO A DIFFERENT FACILITY OR TO AN
14 OUTPATIENT PROGRAM SHALL PROVIDE ALL TREATMENT RECORDS TO THE
15 FACILITY OR PROVIDER ACCEPTING THE RESPONDENT AT LEAST
16 TWENTY-FOUR HOURS PRIOR TO THE TRANSFER.

17 == ==
18 **25.5-10-505. Connect respondent to home- and**
19 **community-based services.**

20 WHEN A RESPONDENT IS DISCHARGED FROM A PROTECTIVE
21 PLACEMENT OR A PROTECTIVE PLACEMENT IS TERMINATED, THE BHA
22 SHALL REFER THE RESPONDENT TO ANY HOME- AND COMMUNITY-BASED
23 SERVICES FOR WHICH THE RESPONDENT MAY BE ELIGIBLE AND SHALL
24 MAKE DILIGENT EFFORTS TO CONNECT THE RESPONDENT WITH HOME- AND
25 COMMUNITY-BASED SERVICES.

26 **25.5-10-506. Termination of protective placement - short-term**
27 **and long-term placement.**

1 (1) A PROTECTIVE PLACEMENT TERMINATES WHEN THE
2 PROFESSIONAL PERSON IN CHARGE OF TREATMENT OF THE RESPONDENT,
3 AFTER A REASONABLE OBSERVATION AND TREATMENT PERIOD,
4 DETERMINES THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR
5 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-502 (1).

6 (2) THE PROFESSIONAL PERSON IN CHARGE OF THE
7 RESPONDENT'S CARE SHALL NOT APPROVE THE TERMINATION OF THE
8 PROTECTIVE PLACEMENT UNLESS TWO PROFESSIONAL PERSONS
9 INDEPENDENTLY EVALUATE THE RESPONDENT AND INDEPENDENTLY OPINE
10 THAT THE RESPONDENT NO LONGER MEETS THE CRITERIA FOR PROTECTIVE
11 PLACEMENT TREATMENT. ONE OF THE OPINIONS MUST BE FROM THE
12 PROFESSIONAL PERSON WHO IS MOST RESPONSIBLE FOR INTERACTING WITH
13 AND PROVIDING DIRECT CARE AND TREATMENT TO THE RESPONDENT. THIS
14 REQUIREMENT DOES NOT APPLY IF A PROVIDER EMPLOYS AND CONTRACTS
15 WITH ONLY ONE PROFESSIONAL PERSON.

16 **25.5-10-507. Court supervision of incompetent and**
17 **unrestorable persons ordered into an enhanced protective placement.**

18 (1) ONCE A CRIMINAL COURT HAS TRANSFERRED JURISDICTION OF
19 AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118
20 TO A CIVIL COURT WITH JURISDICTION PURSUANT TO SECTION 25.5-10-509,
21 THE CIVIL COURT HAS EXCLUSIVE JURISDICTION OVER THE ENHANCED
22 PROTECTIVE PLACEMENT.

23 (2) UPON RECEIVING JURISDICTION OF AN ENHANCED PROTECTIVE
24 PLACEMENT, THE COURT SHALL:

25 (a) NOTIFY THE COUNTY ATTORNEY;

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

1 THE RESPONDENT'S ATTORNEY; AND

2 (c) SET A REVIEW HEARING AND ORDER THE RESPONDENT

3 BROUGHT BEFORE THE COURT.

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

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

6 (b) ADVISE THE RESPONDENT OF THE FOLLOWING RIGHTS:

7 (I) THE RIGHT TO APPEAR IN PERSON AT ANY PROCEEDING, UNLESS

8 WAIVED BY THE RESPONDENT;

9 (II) THE RIGHT TO BE REPRESENTED BY PRIVATELY RETAINED

10 COUNSEL, OR COURT-APPOINTED COUNSEL IF THE RESPONDENT DOES NOT

11 HAVE PRIVATELY RETAINED COUNSEL, DURING ANY PROCEEDING HELD

12 PURSUANT TO THIS PART 5, INCLUDING ANY APPEALS;

13 (III) THE RIGHT TO REQUEST MODIFICATION OF THE TERMS OF THE

14 ENHANCED PROTECTIVE PLACEMENT; AND

15 (IV) THE RIGHT TO PERIODIC REVIEW OF THE ENHANCED

16 PROTECTIVE PLACEMENT AND THE RIGHT TO CONTEST, INCLUDING BY

17 TRIAL, WHETHER THE RESPONDENT QUALIFIES FOR TERMINATION OF THE

18 ENHANCED PROTECTIVE PLACEMENT.

19 (4) AT ANY TIME DURING THE ENHANCED PROTECTIVE PLACEMENT,

20 THE COURT MAY:

21 (a) MODIFY ANY COURT ORDER OR ANY TERM OF THE ENHANCED

22 PROTECTIVE PLACEMENT UPON REQUEST OF THE PARTIES AFTER GIVING

23 THE PARTIES AN OPPORTUNITY TO OBJECT AND BE HEARD;

24 (b) ISSUE A WARRANT FOR THE RESPONDENT'S ARREST AND ORDER

25 THE RESPONDENT BE BROUGHT BEFORE THE COURT IF THE COURT

26 DETERMINES THE RESPONDENT HAS FAILED TO COMPLY WITH ANY OF THE

27 COURT'S ORDERS, INCLUDING THE RESPONDENT'S UNAUTHORIZED

1 DEPARTURE FROM THE PHYSICAL CUSTODY OF A PROVIDER;

2 (c) ORDER CDHS TO PROVIDE TO THE COURT:

3 (I) AN UPDATED OPINION ON WHETHER THE RESPONDENT MEETS
4 THE CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE
5 PLACEMENT PURSUANT TO SECTION 25.5-10-508; AND

6 (II) AN OPINION ON WHETHER THE RESPONDENT HAS AN
7 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR NEUROCOGNITIVE
8 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE
9 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO
10 OTHERS, OR IS GRAVELY DISABLED;

11 (d) UPON THE REQUEST OF ANY PARTY, THE REQUEST OF THE
12 INDIVIDUAL OR ENTITY WITH PHYSICAL CARE AND CUSTODY OF THE
13 RESPONDENT, OR THE COURT'S OWN MOTION, CONDUCT A REVIEW OF THE
14 RESPONDENT'S PLACEMENT AND ENTER ANY ORDERS NECESSARY FOR
15 SHARING OR RECEIVING INFORMATION NECESSARY TO REVIEW AND MODIFY
16 THE PLACEMENT, UNLESS THE RESPONDENT IS PLACED INTO INPATIENT
17 CARE AT THE DISCRETION OF CDHS OR HCPF;

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

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

24 (g) ISSUE ORDERS AS NECESSARY TO EFFECTUATE AND ENFORCE
25 THE COURT'S POWERS AND RESPONSIBILITIES PURSUANT TO THIS SECTION,
26 INCLUDING AUTHORIZATION FOR THE REASONABLE USE OF FORCE,
27 WARRANTS FOR THE ARREST OF THE RESPONDENT, OR CONTEMPT

1 PROCEEDINGS AGAINST A NONCOMPLIANT INDIVIDUAL OR ENTITY.

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

7 (b) IF THE RESPONDENT IS NOT PLACED INTO INPATIENT CARE AT
8 THE DISCRETION OF CDHS OR HCPF OR IF CDHS OR HCPF PROPOSES TO
9 MOVE THE RESPONDENT INTO OR OUT OF INPATIENT CARE, THE COURT
10 SHALL, PRIOR TO MODIFYING THE ENHANCED PROTECTIVE PLACEMENT TO
11 CHANGE THE RESPONDENT'S PROVIDER OR PLACEMENT, == REVIEW THE
12 APPROPRIATENESS OF THE PROPOSED PROVIDER OR PLACEMENT,
13 INCLUDING WHETHER THE PROVIDER FITS THE RESPONDENT'S DIAGNOSIS
14 AND TREATMENT NEEDS AND WHETHER THE PLACEMENT SUFFICIENTLY
15 PROTECTS THE COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS
16 HARM TO OTHERS POSED BY THE RESPONDENT.

17 (c) UPON REQUEST, THE COURT SHALL PERMIT CDHS, THE
18 PARTIES, OR THE APPOINTED LEGAL GUARDIAN THE OPPORTUNITY TO
19 OBJECT AND BE HEARD PRIOR TO THE COURT'S DECISION. THE COURT MAY
20 PERMIT TESTIMONY IF THE COURT BELIEVES IT WOULD BE HELPFUL TO THE
21 COURT'S DECISION.

22 (d) WHEN DECIDING WHETHER TO APPROVE THE NEW PROVIDER OR
23 PLACEMENT, THE COURT SHALL GIVE DEFERENCE TO CDHS AND THE
24 OPINION OF ANY MEDICAL PROFESSIONAL ON THE APPROPRIATENESS OF
25 THE PROVIDER AND PLACEMENT FOR THE RESPONDENT, BUT DEFERENCE
26 MUST NOT BE GIVEN TO CDHS OR A MEDICAL PROFESSIONAL AS TO
27 WHETHER THE PLACEMENT SUFFICIENTLY PROTECTS ANY VICTIMS AND THE

1 COMMUNITY FROM THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS
2 POSED BY THE RESPONDENT. WHEN CONSIDERING THE APPROPRIATENESS
3 OF THE PLACEMENT FOR THE RESPONDENT, VICTIMS, AND THE COMMUNITY,
4 THE COURT SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES,
5 INCLUDING:

6 (I) THE RESPONDENT'S STATEMENTS AND INSIGHTS INTO THE
7 RESPONDENT'S OWN NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND
8 DEVELOPMENTAL DISABILITY;

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

11 (III) THE RESPONDENT'S WILLINGNESS AND DEMONSTRATED
12 ABILITY TO VOLUNTARILY SEEK AND COMPLY WITH TREATMENT AND
13 SERVICES IN THE REASONABLY FORESEEABLE FUTURE;

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

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

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

24 (VII) THE FREQUENCY, RECENCY, AND SEVERITY OF THE
25 CONSIDERATIONS DESCRIBED IN SUBSECTIONS (5)(d)(II) TO (5)(d)(VI) OF
26 THIS SECTION AND THE LIKELIHOOD THAT THE CONDITIONS AND EVENTS
27 WILL REOCCUR WITHOUT INPATIENT TREATMENT;

1 (VIII) WHETHER THE RESPONDENT OPPOSES THE PLACEMENT;
2 (IX) WHETHER COMMUNITY-BASED PLACEMENT CAN BE
3 REASONABLY ACCOMMODATED;
4 (X) THE LIMITED RESOURCES OF THE STATE AND THE NEEDS OF
5 OTHERS; AND
6 (XI) THE PLACEMENT RECOMMENDATIONS OF ANY TREATING
7 PROFESSIONALS.
8 (e) THE COURT SHALL NOT PERMIT OR ORDER A RESPONDENT TO BE
9 PLACED INTO A COMMUNITY-BASED SETTING OUTSIDE OF INPATIENT CARE,
10 AS DEFINED IN SECTION 16-8.5-101, FOR THE FIRST TIME SINCE BEING IN AN
11 ENHANCED PROTECTIVE PLACEMENT UNLESS:
12 (I) THE VICTIMS HAVE BEEN NOTIFIED OF A CRITICAL STAGE, AS
13 DEFINED IN SECTION 24-4.1-302 (2)(q.3), AND GIVEN THE OPPORTUNITY TO
14 BE HEARD; AND
15 (II) THE DISTRICT ATTORNEY IN THE CASE THAT SOUGHT CIVIL
16 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT HAS BEEN NOTIFIED
17 AND GIVEN AN OPPORTUNITY TO OBJECT AND BE HEARD.
18 (f) IF THE COURT MODIFIES THE RESPONDENT'S PROVIDER OR
19 PLACEMENT, THE COURT SHALL ISSUE ANY ORDERS NECESSARY TO
20 MITIGATE THE RESPONDENT'S RISK TO ANY VICTIMS OR THE COMMUNITY,
21 INCLUDING ORDERING THE PROVIDER TO TAKE REASONABLE AND
22 PRACTICABLE PROTECTIVE MEASURES TO PREVENT THE RESPONDENT FROM
23 CONTACTING ANY VICTIMS; EXCEPT THAT THE COURT SHALL NOT ORDER
24 THE RESPONDENT TO COMPLY WITH ANY CONDITIONS THAT ARE NOT
25 NECESSARY TO MITIGATE THE RESPONDENT'S RISK OR WITH WHICH THE
26 RESPONDENT CANNOT COMPLY.
27 (6) (a) IF THE COURT ORDERS THE RESPONDENT TO BE PLACED INTO

1 INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101, AT THE DISCRETION
2 OF CDHS OR HCPF, THE EXECUTIVE DIRECTOR OF HCPF SHALL
3 DESIGNATE THE STATE FACILITY AT WHICH THE RESPONDENT IS HELD FOR
4 CARE AND TREATMENT AND MAY TRANSFER THE RESPONDENT FROM ONE
5 FACILITY TO ANOTHER IF, IN THE OPINION OF THE EXECUTIVE DIRECTOR, IT
6 IS APPROPRIATE TO DO SO IN THE INTEREST OF THE PROPER CARE,
7 CUSTODY, AND TREATMENT OF THE RESPONDENT OR FOR THE PROTECTION
8 OF THE PUBLIC OR PERSONNEL AT THE FACILITIES IN QUESTION.

9 (b) NOTWITHSTANDING SUBSECTION (6)(a) OF THIS SECTION,
10 HCPF SHALL:

11 (I) ENSURE THE RESPONDENT IS PLACED IN THE
12 LEAST-RESTRICTIVE PLACEMENT ADEQUATE TO PROTECT THE VICTIM AND
13 THE COMMUNITY AND PROVIDE, TO THE GREATEST EXTENT POSSIBLE, THE
14 APPROPRIATE LEVEL OF CARE, TREATMENT, AND SUPERVISION OF THE
15 RESPONDENT; AND

16 (II) NOT PLACE THE RESPONDENT IN A COMMUNITY-BASED
17 SETTING OUTSIDE OF INPATIENT CARE, AS DEFINED IN SECTION 16-8.5-101,
18 FOR THE FIRST TIME SINCE THE RESPONDENT WAS SUBJECTED TO AN
19 ENHANCED PROTECTIVE PLACEMENT WITHOUT PRIOR APPROVAL OF THE
20 COURT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

21 (7) TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT IS
22 GOVERNED BY SECTION 25.5-10-508.

23 (8) THE PROVIDER CHARGED WITH THE PHYSICAL CARE AND
24 CUSTODY OF THE RESPONDENT SHALL SUBMIT A REPORT TO THE COURT
25 AND THE PARTIES ANNUALLY BY THE DATE THE RESPONDENT WAS
26 ORDERED INTO ENHANCED PROTECTIVE PLACEMENT UNLESS A
27 SUBSTANTIALLY SIMILAR EXAMINATION WAS ORDERED WITHIN THE

1 PREVIOUS TWELVE MONTHS. THE REPORT MUST INCLUDE:

2 (a) THE PROVIDER'S OPINION ABOUT WHETHER THE RESPONDENT:

3 (I) MEETS THE CRITERIA FOR SHORT-TERM CERTIFICATION

4 PURSUANT TO SECTION 27-65-108.3 (1) OR SHORT-TERM PROTECTIVE

5 PLACEMENT PURSUANT TO SECTION 25.5-10-503 (1);

6 (II) CONTINUES TO MEET THE CRITERIA FOR ENHANCED

7 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118;

8 (III) MEETS THE CRITERIA FOR CIVIL COMMITMENT PURSUANT TO

9 SECTION 16-8.5-118;

10 (IV) IS APPROPRIATELY PLACED; AND

11 (V) MEETS THE CRITERIA FOR TERMINATION OF THE ENHANCED

12 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508;

13 (b) A SUMMARY OF THE MATERIALS REVIEWED, ASSESSMENTS

14 CONDUCTED, AND OTHER BASES OF OPINIONS RENDERED;

15 (c) THE RESPONDENT'S DIAGNOSIS AND WHETHER THE

16 RESPONDENT'S SYMPTOMS ARE IN REMISSION;

17 (d) A SUMMARY OF THE SERVICES OR TREATMENT PROVIDED TO

18 THE RESPONDENT SINCE THE LAST REPORT AND THE RESPONDENT'S

19 PROGRESS;

20 (e) A SUMMARY OF THE RESPONDENT'S COMPLIANCE WITH

21 TREATMENT OR SERVICES, INCLUDING INFORMATION ABOUT MEDICATIONS

22 CURRENTLY PRESCRIBED TO THE RESPONDENT AND WHETHER THE

23 RESPONDENT IS COMPLIANT WITH TAKING THE PRESCRIBED MEDICATIONS;

24 (f) AN ASSESSMENT OF THE RESPONDENT'S RISK OF HARM TO

25 OTHERS;

26 (g) A SUMMARY OF THE RESPONDENT'S TREATMENT OR SERVICE

27 NEEDS BY UTILIZING EVIDENCE-BASED STANDARDS OF INDIVIDUALIZED

1 TREATMENT AND MANAGEMENT OF INDIVIDUALS WITH AN ENHANCED
2 PROTECTIVE PLACEMENT;

3 (h) A SUMMARY OF THE SPECIFIC TREATMENT OR SERVICE OPTIONS
4 AVAILABLE TO THE RESPONDENT IN THE COMMUNITY AND THE SPECIFIC
5 TREATMENT OR SERVICE OPTIONS AVAILABLE TO THE RESPONDENT AT A
6 FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR;

7 (i) A SUMMARY OF WHETHER AND HOW ONGOING RISKS COULD BE
8 MITIGATED IF THE RESPONDENT WERE PLACED IN THE COMMUNITY; AND

9 (j) SPECIFIC FACTS AND EVIDENCE SUPPORTING EACH OPINION
10 MADE PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

11 (9) THE COURT MAY ORDER ANY TREATMENT OR SERVICE
12 PROVIDER WHO HAS AGREED OR WHO HAS BEEN ORDERED TO PROVIDE
13 SERVICES OR TREATMENT TO THE RESPONDENT TO ISSUE REGULAR
14 PROGRESS REPORTS CONTAINING INFORMATION REQUIRED PURSUANT TO
15 SUBSECTION (8) OF THIS SECTION OR OTHER INFORMATION DEEMED
16 NECESSARY FOR THE COURT'S SUPERVISION OF THE ENHANCED PROTECTIVE
17 PLACEMENT.

18 (10) (a) THE COURT MAY, UPON A SHOWING OF GOOD CAUSE,
19 ORDER AN EXAMINATION BY A PSYCHOLOGIST OR PSYCHIATRIST
20 REGARDING THE RESPONDENT'S PROGRESS WITH TREATMENT AND
21 WHETHER THE RESPONDENT MEETS THE CRITERIA FOR CONVERSION OF THE
22 ENHANCED PROTECTIVE PLACEMENT TO CERTIFICATION FOR SHORT-TERM
23 TREATMENT OR SHORT-TERM PROTECTIVE PLACEMENT, OR MEETS THE
24 CRITERIA FOR TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT
25 PURSUANT TO SECTION 25.5-10-508. THE RESPONDENT SHALL COOPERATE
26 WITH ANY EXAMINATIONS ORDERED PURSUANT TO THIS SUBSECTION
27 (10)(a).

1 (b) STATEMENTS MADE BY THE RESPONDENT DURING AN
2 EXAMINATION CONDUCTED PURSUANT TO THIS SUBSECTION (10) MUST NOT
3 BE USED IN ANY CRIMINAL PROSECUTION.

4 (c) GOOD CAUSE INCLUDES A RESPONDENT'S TIMELY REQUEST FOR
5 AN EVALUATION THAT ALLOWS A COMPETENCY EVALUATOR TO PROVIDE
6 A SECOND OPINION IN RESPONSE TO THE REPORT PROVIDED PURSUANT TO
7 SUBSECTION (8) OF THIS SECTION THAT OPINES THAT THE RESPONDENT
8 DOES NOT MEET THE CRITERIA FOR TERMINATION.

9 **25.5-10-508. Termination of enhanced protective placement.**

10 (1) THE COURT SHALL TERMINATE A RESPONDENT'S ENHANCED
11 PROTECTIVE PLACEMENT ORDERED PURSUANT TO SECTION 25.5-10-507
12 WHEN THE RESPONDENT:

13 (a) NO LONGER POSES A SUBSTANTIAL RISK OF SERIOUS HARM TO
14 OTHERS; OR

15 (b) NO LONGER HAS A NEUROCOGNITIVE DISORDER OR
16 INTELLECTUAL AND DEVELOPMENTAL DISABILITY THAT IS LIKELY TO
17 CAUSE THE RESPONDENT TO BE A DANGER TO THE RESPONDENT'S SELF OR
18 A DANGER TO OTHERS AND THE RESPONDENT HAS DEMONSTRATED
19 SUFFICIENT CAPACITY AND WILLINGNESS TO CONFORM THE RESPONDENT'S
20 CONDUCT TO THE REQUIREMENTS OF THE LAW.

21 (2) IF A TREATMENT PROVIDER CHARGED WITH THE PHYSICAL CARE
22 AND CUSTODY OF THE RESPONDENT DETERMINES THAT THE RESPONDENT
23 MEETS THE STANDARD FOR TERMINATION FROM ENHANCED PROTECTIVE
24 PLACEMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
25 PROVIDER OR THE PROVIDER'S DESIGNEE SHALL REPORT THE
26 DETERMINATION TO THE COURT THAT PLACED THE RESPONDENT INTO THE
27 PROVIDER'S CARE AND CUSTODY, THE COUNTY ATTORNEY, AND THE

1 DISTRICT ATTORNEY WHO ORIGINALLY REQUESTED A CIVIL COMMITMENT
2 OR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
3 16-8.5-118. THE COURT SHALL FURNISH A COPY OF THE REPORT TO THE
4 RESPONDENT AND THE RESPONDENT'S COUNSEL.

5 (3) (a) THE RESPONDENT MAY REQUEST TERMINATION OF THE
6 ENHANCED PROTECTIVE PLACEMENT IN WRITING AT ANY TIME THE
7 RESPONDENT WOULD NOT BE PROHIBITED FROM HAVING A SUBSEQUENT
8 TERMINATION TRIAL PURSUANT TO SUBSECTION (7) OF THIS SECTION.

9 (b) THE COURT SHALL DENY THE REQUEST UNLESS THE REQUEST
10 FOR TERMINATION INCLUDES AN OPINION FROM A PROFESSIONAL PERSON
11 THAT THE RESPONDENT CURRENTLY MEETS THE CRITERIA FOR
12 TERMINATION OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO
13 SUBSECTION (1) OF THIS SECTION.

14 (4) (a) IF THE COURT DOES NOT DENY THE REQUEST FOR
15 TERMINATION WITHOUT A HEARING, THE COURT SHALL PERMIT THE
16 COUNTY ATTORNEY AND THE DISTRICT ATTORNEY WHO ORIGINALLY
17 SOUGHT ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
18 16-8.5-118 FOURTEEN DAYS TO OBJECT TO TERMINATION OR REQUEST AN
19 OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION BY AN EXPERT
20 OF THE COUNTY ATTORNEY'S OR DISTRICT ATTORNEY'S OWN CHOOSING
21 AND EXPENSE.

22 (b) IF NEITHER THE COUNTY ATTORNEY NOR THE DISTRICT
23 ATTORNEY OBJECT OR REQUEST AN OPPORTUNITY TO REQUEST AN
24 INDEPENDENT EVALUATION, THE COURT SHALL TERMINATE THE
25 RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

26 (c) IF EITHER THE COUNTY ATTORNEY OR THE DISTRICT ATTORNEY
27 REQUEST AN OPPORTUNITY TO CONDUCT AN INDEPENDENT EVALUATION,

1 THE COURT SHALL GRANT THAT REQUEST, ORDER THE RESPONDENT TO
2 COMPLY WITH THE EVALUATION, AND PERMIT THE COUNTY ATTORNEY OR
3 DISTRICT ATTORNEY A REASONABLE PERIOD OF TIME TO IDENTIFY AN
4 EXPERT, CONDUCT THE EVALUATION, AND ISSUE A REPORT. IF BOTH THE
5 COUNTY ATTORNEY AND DISTRICT ATTORNEY REQUEST AN INDEPENDENT
6 EVALUATION, THE COURT SHALL TREAT THE REQUEST AS A JOINT REQUEST
7 FOR A SINGLE INDEPENDENT EVALUATION.

8 (d) IF THE RESPONDENT DOES NOT COOPERATE WITH THE
9 EVALUATION, THE COURT MAY GRANT ADDITIONAL TIME OR DENY THE
10 RESPONDENT'S REQUEST FOR TERMINATION.

11 (e) UPON RECEIPT OF THE INDEPENDENT EVALUATION REPORT, THE
12 COUNTY ATTORNEY OR DISTRICT ATTORNEY MUST PROVIDE A COPY TO
13 RESPONDENT'S COUNSEL AND THE COURT WITHIN FOURTEEN DAYS.

14 (f) IF NEITHER THE COUNTY ATTORNEY NOR DISTRICT ATTORNEY
15 OBJECT WITHIN THE TIME PERMITTED BY THE COURT, THE COURT SHALL
16 TERMINATE THE RESPONDENT'S ENHANCED PROTECTIVE PLACEMENT.

17 (5) (a) IF EITHER THE COUNTY ATTORNEY OR DISTRICT ATTORNEY
18 TIMELY OBJECTS, THE COURT SHALL, AS SOON AS PRACTICABLE, BRING THE
19 RESPONDENT BEFORE THE COURT, ENSURE THE RESPONDENT AND THE
20 RESPONDENT'S COUNSEL RECEIVED A COPY OF ANY REPORTS RECEIVED,
21 AND ADVISE THE RESPONDENT OF THE RIGHT TO DEMAND A TRIAL BY THE
22 COURT OR THE RIGHT TO DEMAND, IN WRITING, A JURY TRIAL OF NOT MORE
23 THAN SIX INDIVIDUALS TO DETERMINE WHETHER THE RESPONDENT MEETS
24 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
25 SECTION.

26 (b) IF THE RESPONDENT DEMANDS A TRIAL BEFORE THE COURT, THE
27 COURT SHALL SCHEDULE THE TRIAL WITHIN THIRTY-FIVE DAYS AFTER THE

1 DEMAND. IF THE RESPONDENT DEMANDS A JURY TRIAL, THE COURT SHALL
2 SCHEDULE THE TRIAL WITHIN SEVENTY-TWO DAYS AFTER THE DEMAND. A
3 DELAY ATTRIBUTABLE TO THE RESPONDENT IS EXCLUDED FROM THE TIME
4 LIMITATIONS IN THIS SUBSECTION (5)(b). IF THE COURT DOES NOT BEGIN
5 THE TRIAL WITHIN THE TIME PERMITTED PURSUANT TO THIS SUBSECTION
6 (5)(b), THE COURT SHALL TERMINATE THE ENHANCED PROTECTIVE
7 PLACEMENT AND RELEASE THE RESPONDENT FROM THE PROVIDER'S CARE
8 AND CUSTODY.

9 (c) IF THE COUNTY ATTORNEY DOES NOT OBJECT TO TERMINATION
10 BUT THE DISTRICT ATTORNEY DOES, THE DISTRICT ATTORNEY HAS
11 STANDING TO SERVE AS THE COUNTY ATTORNEY FOR THE LIMITED PURPOSE
12 OF TRIAL AND ANY APPEALS RELATED TO THE TRIAL. THE COUNTY
13 ATTORNEY SHALL TIMELY PROVIDE THE DISTRICT ATTORNEY ALL
14 INFORMATION AND RECORDS RELEVANT TO THE TRIAL IN THE COUNTY
15 ATTORNEY'S POSSESSION OR CONTROL WITHOUT SUBPOENA OR COURT
16 ORDER. THE DISTRICT ATTORNEY'S LIMITED STANDING DOES NOT EXTEND
17 TO ANY OTHER MATTERS RELATED TO THE ENHANCED PROTECTIVE
18 PLACEMENT AND TERMINATES UPON RESOLUTION OF THE TRIAL AND ANY
19 RELATED APPEALS.

20 (6) (a) AT THE TRIAL, IF ANY EVIDENCE IS INTRODUCED THAT
21 SHOWS THE RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION
22 OF THE ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SUBSECTION (1)
23 OF THIS SECTION, THE RESPONDENT HAS THE BURDEN TO SHOW BY A
24 PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT MEETS THE
25 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
26 SECTION.

27 (b) IF THE TRIER OF FACT FINDS THE RESPONDENT MEETS THE

1 CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
2 SECTION, THE COURT SHALL ORDER THE RESPONDENT RELEASED FROM THE
3 PROVIDER'S CARE AND CUSTODY AND TERMINATE THE RESPONDENT'S
4 ENHANCED PROTECTIVE PLACEMENT. IF THE TRIER OF FACT FINDS THE
5 RESPONDENT DOES NOT MEET THE CRITERIA FOR TERMINATION PURSUANT
6 TO SUBSECTION (1) OF THIS SECTION, THE COURT SHALL CONTINUE THE
7 ENHANCED PROTECTIVE PLACEMENT AND MAY ENTER OR MODIFY ANY
8 ORDERS TO ASSIST IN PROGRESSING THE TREATMENT OF THE RESPONDENT
9 OR THAT ARE NECESSARY TO PROTECT THE PUBLIC.

10 (7) IF THE TRIER OF FACT FINDS THE RESPONDENT DOES NOT MEET
11 THE CRITERIA FOR TERMINATION PURSUANT TO SUBSECTION (1) OF THIS
12 SECTION, THE RESPONDENT IS NOT ENTITLED TO ANOTHER TERMINATION
13 TRIAL WITHIN ONE YEAR AFTER THE CONCLUSION OF THE PREVIOUS TRIAL
14 FOR TERMINATION.

15 (8) IF THE RESPONDENT DOES NOT MEET THE CRITERIA FOR
16 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND NO
17 LONGER HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A
18 NEUROCOGNITIVE DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO ANY
19 DANGER POSED TO THE RESPONDENT'S SELF OR TO OTHERS, OR ANY GRAVE
20 DISABILITY FROM WHICH THE RESPONDENT SUFFERS, THE COURT SHALL
21 CONVERT THE ENHANCED PROTECTIVE PLACEMENT TO A CIVIL
22 COMMITMENT AND MAY MODIFY THE TERMS OF THE CIVIL COMMITMENT
23 IN ACCORDANCE WITH SECTION 27-65-201.

24 (9) IF THE DEFENDANT DOES NOT MEET THE CRITERIA FOR
25 TERMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION AND HAS A
26 CO-OCCURRING MENTAL HEALTH DISORDER THAT DOES NOT INCLUDE AN
27 INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR A NEUROCOGNITIVE

1 DISORDER THAT SUBSTANTIALLY CONTRIBUTES TO WHETHER THE
2 RESPONDENT IS A DANGER TO THE RESPONDENT'S SELF OR A DANGER TO
3 OTHERS, OR IS GRAVELY DISABLED, THE COURT MAY, UPON THE
4 RECOMMENDATION OF CDHS, CONVERT THE ENHANCED PROTECTIVE
5 PLACEMENT TO A CIVIL COMMITMENT AND MODIFY THE TERMS OF THE
6 CIVIL COMMITMENT IN ACCORDANCE WITH SECTION 27-65-201.

7 **25.5-10-509. Jurisdiction - transfer.**

8 (1) (a) THE COURT IN WHICH A PETITION IS FILED PURSUANT TO
9 THIS PART 5, OR A COURT AUTHORIZED TO CONDUCT PROCEEDINGS
10 PURSUANT TO THIS PART 5 THAT RECEIVES A COURT ORDER TRANSFERRING
11 JURISDICTION OF AN ENHANCED PROTECTIVE PLACEMENT, IS THE COURT OF
12 ORIGINAL JURISDICTION AND OF CONTINUING JURISDICTION FOR ANY
13 FURTHER PROCEEDINGS PURSUANT TO THIS PART 5.

14 (b) WHEN THE CONVENIENCE OF THE PARTIES AND THE ENDS OF
15 JUSTICE WOULD BE PROMOTED BY A CHANGE IN THE COURT HAVING
16 JURISDICTION, THE COURT MAY ORDER A TRANSFER OF THE PROCEEDING
17 TO ANOTHER COUNTY. UNTIL FURTHER ORDER OF THE TRANSFEREE COURT,
18 IF ANY, IT IS THE COURT OF CONTINUING JURISDICTION. IF MULTIPLE
19 CRIMINAL COURTS REFER A MATTER FOR PROCEEDINGS PURSUANT TO THIS
20 PART 5, ANY COURT WITH JURISDICTION MAY TRANSFER THE PROCEEDING
21 TO ANOTHER COUNTY AND ALLOW FOR CONSOLIDATION OF PROCEEDINGS
22 INTO ONE PROCEEDING, WHICH MAY OCCUR IN ANY COUNTY THAT
23 PROMOTES THE CONVENIENCE OF THE PARTIES AND THE ENDS OF JUSTICE.

24 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),
25 ANY PETITION, ORDER, TRANSFER OF JURISDICTION OF AN ENHANCED
26 PROTECTIVE PLACEMENT, OR REQUEST FOR A PROCEEDING MAY BE FILED
27 WHERE THE RESPONDENT RESIDES OR IS PHYSICALLY PRESENT FOR

1 TREATMENT.

2 (b) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT
3 PURSUANT TO SECTION 25.5-10-502 MAY BE FILED IN THE JURISDICTION
4 WHERE THE RESPONDENT RESIDES OR WHERE THE RESPONDENT IS
5 CURRENTLY IN AN INPATIENT SETTING RECEIVING TREATMENT.

6 (c) A PETITION OR REQUEST FOR A PROTECTIVE PLACEMENT FOR AN
7 INCOMPETENT DEFENDANT IN A CRIMINAL MATTER PURSUANT TO SECTION
8 25.5-10-502 OR TRANSFER OF JURISDICTION OF AN ENHANCED PROTECTIVE
9 PLACEMENT MAY BE FILED IN THE JURISDICTION WHERE THE RESPONDENT
10 RESIDES, WAS PHYSICALLY PRESENT IMMEDIATELY PRIOR TO THE FILING OF
11 THE PETITION, OR IS RECEIVING INPATIENT TREATMENT OR WHERE THE
12 CRIMINAL COURT THAT REFERRED THE MATTER IS LOCATED.

13 (3) IN ANY CASE IN WHICH THERE HAS BEEN A CHANGE OF VENUE
14 TO A COUNTY OTHER THAN THE COUNTY OF RESIDENCE OF THE
15 RESPONDENT OR THE COUNTY IN WHICH THE PROCEEDING WAS
16 COMMENCED, THE COUNTY FROM WHICH THE PROCEEDING WAS
17 TRANSFERRED SHALL EITHER REIMBURSE THE COUNTY TO WHICH THE
18 PROCEEDING WAS TRANSFERRED AND IN WHICH THE PROCEEDING WAS
19 HELD FOR THE REASONABLE COSTS INCURRED IN CONDUCTING THE
20 PROCEEDING OR CONDUCT THE PROCEEDING ITSELF USING ITS OWN
21 PERSONNEL AND RESOURCES, INCLUDING ITS OWN DISTRICT OR COUNTY
22 ATTORNEY, AS THE CASE MAY BE.

23 (4) IF A PROCEEDING IS INITIATED PURSUANT TO THIS ARTICLE 10
24 BUT A PROCEEDING PURSUANT TO ARTICLE 65 OF TITLE 27 IS MORE
25 ADVISABLE BECAUSE THE COURT DETERMINES THAT THE RESPONDENT
26 DOES NOT HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
27 A NEUROCOGNITIVE DISORDER OR HAS A MENTAL HEALTH DISORDER IN

1 ADDITION TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR
2 NEUROCOGNITIVE DISORDER, THE COURT MAY MAINTAIN JURISDICTION
3 AND ORDER THE CASE TO PROCEED PURSUANT TO ARTICLE 65 OF TITLE 27.

4 **25.5-10-510. Hearing procedures.**

5 (1) A HEARING HELD PURSUANT TO THIS PART 5 MUST BE
6 CONDUCTED IN THE SAME MANNER AS OTHER CIVIL PROCEEDINGS BEFORE
7 THE COURT.

8 (2) THE COURT, AFTER CONSULTATION WITH THE RESPONDENT'S
9 COUNSEL TO OBTAIN THE COUNSEL'S RECOMMENDATIONS, MAY APPOINT
10 A PROFESSIONAL PERSON TO EXAMINE THE RESPONDENT FOR WHOM A
11 PROTECTIVE PLACEMENT IS SOUGHT AND TESTIFY AT THE HEARING AS TO
12 THE RESULTS OF THE PROFESSIONAL PERSON'S EXAMINATION. THE
13 COURT-APPOINTED PROFESSIONAL PERSON SHALL ACT SOLELY IN AN
14 ADVISORY CAPACITY, AND NO PRESUMPTION IS ATTACHED TO THE
15 PROFESSIONAL PERSON'S FINDINGS.

16 (3) UPON REQUEST OF A LEGAL GUARDIAN APPOINTED PURSUANT
17 TO ARTICLE 14 OF TITLE 15, THE LEGAL GUARDIAN MAY INTERVENE IN ANY
18 PROCEEDING BROUGHT PURSUANT TO THIS PART 5 CONCERNING THE LEGAL
19 GUARDIAN'S WARD AND, THROUGH COUNSEL, MAY PRESENT EVIDENCE AND
20 REPRESENT TO THE COURT THE VIEWS OF THE LEGAL GUARDIAN
21 CONCERNING THE APPROPRIATE DISPOSITION OF THE CASE.

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

27 **25.5-10-511. County attorney and district attorney**

1 **responsibilities.**

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

8 (a) TO FILE AND APPEAR ON BEHALF OF THE COUNTY OR STATE IN
9 ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5 OR TRANSFERRED
10 FROM THE CRIMINAL COURT PURSUANT TO SECTION 16-8.5-118;

11 ==
12 **(b)** TO EXERCISE DUE DILIGENCE IN GATHERING INFORMATION
13 FROM AVAILABLE SOURCES FOR USE IN PROCEEDINGS BROUGHT PURSUANT
14 TO THIS PART 5; AND

15 **(c)** TO SHARE AND PROVIDE INFORMATION ABOUT PROCEEDINGS
16 BROUGHT PURSUANT TO THIS PART 5 TO INTERESTED PARTIES AS
17 ALLOWABLE BY LAW.

18 **25.5-10-512. Appeals.**

19 (1) APPELLATE REVIEW OF ANY ORDER FOR PROTECTIVE
20 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT MAY BE HAD AS
21 PROVIDED IN THE COLORADO APPELLATE RULES. AN APPEAL MUST BE
22 ADVANCED UPON THE CALENDAR OF THE APPELLATE COURT AND MUST BE
23 DECIDED AT THE EARLIEST PRACTICABLE TIME. PENDING DISPOSITION BY
24 THE APPELLATE COURT, THE COURT MAY MAKE SUCH ORDER AS THE COURT
25 MAY CONSIDER PROPER IN THE PREMISES RELATING TO THE CARE AND
26 CUSTODY OF THE RESPONDENT.

27 (2) A RESPONDENT SUBJECT TO AN ORDER FOR PROTECTIVE

1 PLACEMENT OR ENHANCED PROTECTIVE PLACEMENT SHALL BE ADVISED OF
2 THE RESPONDENT'S RIGHT TO APPEAL THE ORDER BY THE COURT AT THE
3 CONCLUSION OF ANY HEARING, AND, AS A RESULT, THE ORDER MAY BE
4 ENTERED.

5 **25.5-10-513. Habeas corpus.**

6 ANY PERSON DETAINED PURSUANT TO THIS PART 5 IS ENTITLED TO
7 AN ORDER IN THE NATURE OF HABEAS CORPUS UPON PROPER PETITION TO
8 ANY COURT GENERALLY EMPOWERED TO ISSUE ORDERS IN THE NATURE OF
9 HABEAS CORPUS.

10 **25.5-10-514. Rights of respondents ordered into enhanced**
11 **protective placement or protective placement.**

12 (1) A RESPONDENT IN A PROCEEDING BROUGHT PURSUANT TO THIS
13 PART 5 OR WHO IS UNDER A PROTECTIVE PLACEMENT OR AN ENHANCED
14 PROTECTIVE PLACEMENT HAS THE SAME RIGHTS AS A PERSON WITH AN
15 INTELLECTUAL AND DEVELOPMENTAL DISABILITY UNDER THIS ARTICLE 10,
16 INCLUDING THE RIGHTS PROVIDED IN SECTIONS 25.5-10-218, 25.5-10-220,
17 25.5-10-221, 25.5-10-222, 25.5-10-223, 25.5-10-225, 25.5-10-227,
18 25.5-10-228, 25.5-10-229, 25.5-10-230, 25.5-10-236, AND 25.5-10-240.

19 (2) A RESPONDENT PLACED IN THE CUSTODY OF CDHS AT A STATE
20 HOSPITAL HAS THE SAME RIGHTS AS A PERSON SUBJECT TO PROCEEDINGS
21 PURSUANT TO ARTICLE 65 OF TITLE 27, INCLUDING THE RIGHTS PROVIDED
22 IN SECTIONS 27-65-105, 27-65-108, 27-65-117, 27-65-118, 27-65-119,
23 27-65-122, AND 27-65-124.

24 **25.5-10-515. Records - rules.**

25 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL
26 INFORMATION OBTAINED AND RECORDS PREPARED IN THE COURSE OF
27 PROVIDING ANY SERVICES TO ANY PERSON PURSUANT TO ANY PROVISION

1 OF THIS PART 5 ARE CONFIDENTIAL AND PRIVILEGED. THE INFORMATION
2 AND RECORDS MAY BE DISCLOSED ONLY:

3 (a) IN COMMUNICATIONS BETWEEN QUALIFIED PROFESSIONALS,
4 FACILITY PERSONNEL, OR STATE AGENCIES IN THE PROVISION OF SERVICES
5 OR APPROPRIATE REFERRALS;

6 (b) WHEN THE RECIPIENT OF SERVICES DESIGNATES PERSONS TO
7 WHOM INFORMATION OR RECORDS MAY BE RELEASED, BUT, IF A RECIPIENT
8 OF SERVICES IS A WARD OR CONSERVATEE AND THE WARD'S OR
9 CONSERVATEE'S GUARDIAN OR CONSERVATOR DESIGNATES, IN WRITING,
10 PERSONS TO WHOM RECORDS OR INFORMATION MAY BE DISCLOSED, THE
11 DESIGNATION IS VALID IN LIEU OF THE DESIGNATION BY THE RECIPIENT;
12 EXCEPT THAT NOTHING IN THIS SECTION COMPELS A PHYSICIAN,
13 PSYCHOLOGIST, SOCIAL WORKER, NURSE, ATTORNEY, OR OTHER
14 PROFESSIONAL PERSONNEL TO REVEAL INFORMATION THAT HAS BEEN
15 GIVEN TO THE PERSON IN CONFIDENCE BY MEMBERS OF A PATIENT'S
16 FAMILY OR OTHER INFORMANTS;

17 (c) TO THE EXTENT NECESSARY TO MAKE CLAIMS ON BEHALF OF A
18 RECIPIENT OF AID, INSURANCE, OR MEDICAL ASSISTANCE TO WHICH THE
19 RECIPIENT MAY BE ENTITLED;

20 (d) IF HCPF HAS ADOPTED RULES FOR THE CONDUCT OF RESEARCH.
21 THE RULES MUST INCLUDE, BUT ARE NOT LIMITED TO, THE REQUIREMENT
22 THAT ALL RESEARCHERS MUST SIGN AN OATH OF CONFIDENTIALITY. ALL
23 IDENTIFYING INFORMATION CONCERNING INDIVIDUAL PATIENTS,
24 INCLUDING NAMES, ADDRESSES, TELEPHONE NUMBERS, AND SOCIAL
25 SECURITY NUMBERS, MUST NOT BE DISCLOSED FOR RESEARCH PURPOSES.

26 (e) TO THE COURTS, AS NECESSARY FOR THE ADMINISTRATION OF
27 THIS PART 5;

1 (f) TO PERSONS AUTHORIZED BY AN ORDER OF COURT AFTER
2 NOTICE AND OPPORTUNITY FOR HEARING TO THE PERSON TO WHOM THE
3 RECORD OR INFORMATION PERTAINS AND THE CUSTODIAN OF THE RECORD
4 OR INFORMATION PURSUANT TO THE COLORADO RULES OF CIVIL
5 PROCEDURE;

6 (g) TO FAMILY MEMBERS UPON ADMISSION OF A PERSON WITH A
7 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL
8 DISABILITY FOR INPATIENT OR RESIDENTIAL PROTECTIVE PLACEMENT;

9 (h) TO FAMILY MEMBERS OR A LAY PERSON ACTIVELY
10 PARTICIPATING IN THE CARE AND TREATMENT OF A PERSON WITH A
11 NEUROCOGNITIVE DISORDER OR INTELLECTUAL AND DEVELOPMENTAL
12 DISABILITY, REGARDLESS OF THE LENGTH OF THE PARTICIPATION. THE
13 INFORMATION RELEASED PURSUANT TO THIS SUBSECTION (1)(h) IS LIMITED
14 TO ONE OR MORE OF THE FOLLOWING: THE DIAGNOSIS, THE PROGNOSIS,
15 THE NEED FOR HOSPITALIZATION AND ANTICIPATED LENGTH OF STAY, THE
16 DISCHARGE PLAN, THE MEDICATION ADMINISTERED AND SIDE EFFECTS OF
17 THE MEDICATION, AND THE SHORT-TERM AND LONG-TERM TREATMENT
18 GOALS.

19 (i) IN ACCORDANCE WITH STATE AND FEDERAL LAW, TO THE
20 AGENCY DESIGNATED PURSUANT TO THE FEDERAL "PROTECTION AND
21 ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT", 42 U.S.C.
22 SEC. 10801 ET SEQ., AS THE GOVERNOR'S PROTECTION AND ADVOCACY
23 SYSTEM FOR COLORADO.

24 (2) SUBSECTION (1)(g) OR (1)(h) OF THIS SECTION DOES NOT
25 PRECLUDE THE RELEASE OF INFORMATION TO A PARENT CONCERNING THE
26 PARENT'S MINOR CHILD.

27 (3) (a) THIS PART 5 DOES NOT RENDER ANY INFORMATION

1 PRIVILEGED OR CONFIDENTIAL, EXCEPT WRITTEN MEDICAL RECORDS AND
2 INFORMATION THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107,
3 CONCERNING OBSERVED BEHAVIOR THAT CONSTITUTES A CRIMINAL
4 OFFENSE COMMITTED UPON THE PREMISES OF ANY FACILITY PROVIDING
5 SERVICES PURSUANT TO THIS PART 5 OR ANY CRIMINAL OFFENSE
6 COMMITTED AGAINST ANY PERSON WHILE PERFORMING OR RECEIVING
7 SERVICES PURSUANT TO THIS PART 5.

8 (b) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO
9 PHYSICIANS OR PSYCHOLOGISTS ELIGIBLE TO TESTIFY CONCERNING A
10 CRIMINAL DEFENDANT'S MENTAL CONDITION PURSUANT TO SECTION
11 16-8-103.6.

12 (c) THIS SECTION DOES NOT PROHIBIT THE LIMITED DISCLOSURE OF
13 NECESSARY INFORMATION TO THE PROSECUTING ATTORNEY AND CRIMINAL
14 DEFENSE COUNSEL IF A CRIMINAL CASE IS STILL PENDING AGAINST THE
15 PERSON.

16 (4) (a) COURT RECORDS IN PROCEEDINGS BROUGHT PURSUANT TO
17 THIS PART 5 MUST BE MAINTAINED SEPARATELY BY THE CLERK OF THE
18 SEVERAL COURTS AND THE CASE NUMBER AND PROCEEDINGS MUST NOT BE
19 MADE PUBLIC OR RELEASED, EXCEPT AS PROVIDED IN THIS SECTION.

20 (b) UPON THE TERMINATION OF A PROTECTIVE PLACEMENT
21 PURSUANT TO SECTION 25.5-10-506 OR THE TERMINATION OF AN
22 ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-508,
23 THE CLERK OF THE COURT SHALL IMMEDIATELY SEAL THE RECORD IN THE
24 CASE AND OMIT THE RESPONDENT'S NAME FROM THE INDEX OF CASES IN
25 THE COURT UNTIL AND UNLESS THE RESPONDENT BECOMES SUBJECT TO AN
26 ORDER OR LONG-TERM PROTECTIVE PLACEMENT PURSUANT TO SECTION
27 25.5-10-504 AND UNLESS THE COURT ORDERS THE RECORDS OPENED FOR

1 GOOD CAUSE SHOWN. IN THE EVENT A PETITION IS FILED PURSUANT TO
2 SECTION 25.5-10-504 OR 25.5-10-507, THE RECORD MAY BE OPENED AND
3 BECOME PART OF THE RECORD IN THE LONG-TERM PROTECTIVE
4 PLACEMENT CASE AND THE NAME OF THE RESPONDENT INDEXED.

5 (c) NOTWITHSTANDING SUBSECTION (4)(b) OF THIS SECTION,
6 WHILE A MATTER IS PENDING OR AFTER A CASE IS SEALED, THE COURT MAY
7 DISCLOSE THE EXISTENCE OF THE PROCEEDING, THE CASE NUMBER, AND
8 COURT RECORDS TO THE RESPONDENT OR ANY ATTORNEY REPRESENTING
9 THE RESPONDENT IN ANY PROCEEDING OR MATTER WITH A RELEASE
10 SIGNED BY THE RESPONDENT OR PURSUANT TO A COURT ORDER. WHEN A
11 COURT ORDER SPECIFICALLY AUTHORIZING DISCLOSURE OR A VALID
12 RELEASE FOR A RECORD IS PRESENTED TO THE CLERK OF THE COURT, THE
13 CLERK OF THE COURT SHALL ACKNOWLEDGE THE EXISTENCE OF THE CASE
14 AND PROVIDE THE CASE NUMBER AND RECORDS TO THE RESPONDENT OR
15 AUTHORIZED REQUESTOR POSSESSING A COURT ORDER OR A RELEASE.

16 (5) IF A CERTIFIED PEACE OFFICER INITIATES OR PARTICIPATES IN
17 THE INITIATION OF AN EMERGENCY MENTAL HEALTH HOLD, THE COURT,
18 COUNTY ATTORNEY, OR DISTRICT ATTORNEY CONDUCTING ANY
19 SUBSEQUENT PROCEEDINGS PURSUANT TO THIS PART 5 AND THE PROVIDER
20 WHO CONDUCTS AN EVALUATION OR PROVIDES CARE MAY, WITHOUT
21 COURT AUTHORIZATION, PROVIDE THE CERTIFIED PEACE OFFICER'S AGENCY
22 WITH THE FOLLOWING LIMITED INFORMATION, IF AVAILABLE:

23 (a) WHETHER OR NOT A PROFESSIONAL PERSON FOUND THE
24 RESPONDENT MET THE CRITERIA FOR SHORT-TERM PROTECTIVE
25 PLACEMENT PURSUANT TO SECTION 25.5-10-503;

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

1 RESPONDENT; AND

2 (c) WHETHER OR NOT FURTHER PROCEEDINGS WERE INITIATED FOR
3 SHORT-TERM PROTECTIVE PLACEMENT.

4 (6) SEALING RECORDS BY THE COURT DOES NOT PREVENT A PARTY
5 TO RELATED CRIMINAL CASES, A PARTY TO A PROCEEDING BROUGHT
6 PURSUANT TO THIS PART 5, HCPF, THE BHA, THE DEPARTMENT OF HUMAN
7 SERVICES, A PROFESSIONAL PERSON, OR AN INTERVENING PROFESSIONAL
8 WITH LAWFUL POSSESSION OF RECORDS FROM MAINTAINING AND USING
9 THE RECORDS, UNLESS PROHIBITED BY LAW.

10 (7) A PARTY TO RELATED CRIMINAL CASES, A PARTY TO A
11 PROCEEDING BROUGHT PURSUANT TO THIS PART 5, HCPF, THE BHA, THE
12 DEPARTMENT OF HUMAN SERVICES, A PROFESSIONAL PERSON, OR AN
13 INTERVENING PROFESSIONAL MAY SEEK TO UNSEAL CASE RECORDS FOR
14 GOOD CAUSE, WHICH INCLUDES THE NEED TO USE THE RECORDS IN OTHER
15 CRIMINAL PROCEEDINGS INVOLVING COMPETENCY PURSUANT TO ARTICLE
16 8.5 OF TITLE 16 OR PROCEEDINGS BROUGHT PURSUANT TO THIS PART 5.

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

20 **25.5-10-516. Payment for counsel.**

21 IN ORDER TO PROVIDE LEGAL REPRESENTATION TO PERSONS
22 ELIGIBLE FOR AN ATTORNEY PURSUANT TO THIS ARTICLE 10, THE JUDICIAL
23 DEPARTMENT SHALL PAY, OUT OF MONEY APPROPRIATED BY THE GENERAL
24 ASSEMBLY, MONEY DIRECTLY TO THE APPOINTED ATTORNEY ON A
25 CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, SHALL PAY LUMP-SUM
26 GRANTS TO AND CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL
27 PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST

1 LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS.

2 **25.5-10-517. Authority to increase payments to nursing facility**
3 **and regional center providers - rules.**

4 SUBJECT TO AVAILABLE APPROPRIATIONS AND FEDERAL
5 AUTHORIZATION, HCPF MAY INCREASE PAYMENTS TO NURSING FACILITY
6 PROVIDERS AND REGIONAL CENTER PROVIDERS FOR THE PURPOSE OF
7 ACHIEVING THE LEAST RESTRICTIVE PLACEMENT REQUIREMENT FOR
8 INDIVIDUALS SUBJECT TO A PROTECTIVE PLACEMENT PURSUANT TO THIS
9 PART 5. HCPF SHALL ADOPTED RULES DEFINING THE QUALIFICATIONS AND
10 PAYMENT SCHEDULE FOR NURSING FACILITY PROVIDERS AND REGIONAL
11 CENTER PROVIDERS THAT SERVE THE INDIVIDUALS SUBJECT TO A
12 PROTECTIVE PLACEMENT.

13 **25.5-10-518. Repeal of part.**

14 THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2031.

15 **SECTION 23. In Colorado Revised Statutes, add 25.5-6-414 as**
16 **follows:**

17 **25.5-6-414. Delivery of services for individuals with serious**
18 **mental illness - rules.**

19 (1) THE STATE DEPARTMENT IS COMMITTED TO IMPROVING ACCESS
20 TO, AND THE QUALITY OF SERVICES FOR, INDIVIDUALS WITH SERIOUS
21 MENTAL ILLNESS WHO ARE ENROLLED IN THE STATE MEDICAL ASSISTANCE
22 PROGRAM.

23 (2) THE STATE DEPARTMENT SHALL, IN COLLABORATION WITH THE
24 BEHAVIORAL HEALTH ADMINISTRATION, SERVICE PROVIDERS,
25 STAKEHOLDERS, AND INDIVIDUALS WITH LIVED EXPERIENCE,
26 CONTINUOUSLY EVALUATE AND EXPLORE OPTIONS TO ENHANCE THE
27 DELIVERY OF SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS,

1 WHICH EFFORTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

2 (a) EXPANDING COMMUNITY-BASED SERVICE CAPACITY AND CARE

3 COORDINATION;

4 (b) IMPROVING TRANSITIONS OF CARE ACROSS SETTINGS;

5 (c) LEVERAGING FEDERAL AUTHORITIES, WAIVERS, AND FINANCING

6 MECHANISMS;

7 (d) ADVANCING INNOVATIVE SERVICE DELIVERY MODELS AND

8 VALUE-BASED PAYMENT APPROACHES; AND

9 (e) IDENTIFYING AND ADDRESSING GAPS IN ACCESS, QUALITY, AND

10 OUTCOMES.

11 (3) THE STATE DEPARTMENT SHALL CONSIDER OPPORTUNITIES TO

12 ALIGN FINANCING, BENEFITS, AND SERVICE DELIVERY SYSTEMS TO BETTER

13 MEET THE NEEDS OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, WITH

14 THE GOALS OF IMPROVING HEALTH OUTCOMES, REDUCING AVOIDABLE

15 UTILIZATION OF HIGH-COST SERVICES, AND SUPPORTING INDIVIDUALS TO

16 LIVE IN THE LEAST RESTRICTIVE SETTING APPROPRIATE TO MEET THE

17 INDIVIDUAL'S NEEDS.

18 (4) THE STATE DEPARTMENT MAY ADOPT RULES AS NECESSARY TO

19 IMPLEMENT THIS SECTION.

20 (5) THIS SECTION DOES NOT CREATE AN ENTITLEMENT TO A

21 SPECIFIC SERVICE OR LEVEL OF CARE.

22 SECTION 24. In Colorado Revised Statutes, 25.5-10-216,

23 amend (7) as follows:

24 25.5-10-216. Imposition of legal disability - removal of legal

25 right.

26 (7) A person shall not be admitted to a regional center, as defined

27 in section 27-10.5-102, C.R.S., without a court order issued pursuant to

1 this section except in an emergency, IF THE PERSON MEETS THE CRITERIA
2 FOR AN ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
3 16-8.5-118, or for the purpose of temporary respite care.

4 **SECTION 25.** In Colorado Revised Statutes, 27-10.5-110,
5 **amend (2) as follows:**

6 **27-10.5-110. Imposition of legal disability - removal of legal**
7 **right.**

8 (2) A person shall not be admitted to a regional center without a
9 court order issued pursuant to section 25.5-10-216, ~~C.R.S.~~, except in an
10 emergency, IF THE PERSON MEETS THE CRITERIA FOR AN ENHANCED
11 PROTECTIVE PLACEMENT PURSUANT TO SECTION 16-8.5-118, or for the
12 purpose of temporary respite care.

13 **SECTION 26.** In Colorado Revised Statutes, 13-94-105, **add**
14 **(1.6) as follows:**

15 **13-94-105. Office of public guardianship - director - duties -**
16 **memorandum of understanding - annual report - repeal.**

17 (1.6) THE OFFICE MAY ESTABLISH, MAINTAIN, AND ADJUST
18 STAFFING LEVELS, INCLUDING GUARDIANS, CASE AIDES, AND
19 ADMINISTRATIVE SUPPORT, AS NECESSARY TO:

20 (a) SCREEN AND ACCEPT REFERRALS ARISING FROM COMPETENCY
21 PROCEEDINGS UNDER ARTICLE 8.5 OF TITLE 16;

22 (b) PROVIDE EMERGENCY PUBLIC GUARDIANSHIP SERVICES
23 PURSUANT TO SECTION 15-14-312 (6), ARTICLE 8.5 OF TITLE 16, ARTICLE
24 10 OF TITLE 25.5, AND ARTICLE 65 OF TITLE 27 FOR INDIGENT INDIVIDUALS
25 FOUND INCOMPETENT TO PROCEED;

26 (c) IDENTIFY AND SUPPORT TIMELY TRANSITIONS TO CIVIL
27 PLACEMENT, TREATMENT, AND SERVICES IN ORDER TO PREVENT

1 UNNECESSARY INCARCERATION OR HOSPITALIZATION; AND
2 (d) SUPPORT LONG-TERM GUARDIANSHIP SERVICES WHEN
3 NECESSARY.

4 **SECTION 27.** In Colorado Revised Statutes, 15-14-312, **add** (6)
5 as follows:

6 **15-14-312. Emergency guardian.**

7 (6) IN ADDITION TO A COURT WITH JURISDICTION TO HEAR
8 PROCEEDINGS PURSUANT TO THIS TITLE 15, A CRIMINAL COURT MAY
9 APPOINT AN EMERGENCY GUARDIAN AS AUTHORIZED PURSUANT TO
10 SECTION 16-8.5-117 OR 16-8.5-118, OR A CIVIL COURT SUPERVISING A
11 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED
12 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 MAY
13 APPOINT AN EMERGENCY GUARDIAN.

14 **SECTION 28.** In Colorado Revised Statutes, 24-4.1-302, **add**
15 (2)(q.1), (2)(q.2), and (2)(q.3) as follows:

16 **24-4.1-302. Definitions.**

17 As used in this part 3, and for no other purpose, including the
18 expansion of the rights of any defendant:

19 (2) "Critical stages" means the following stages of the criminal
20 justice process:

21 (q.1) A TRIAL FOR CIVIL COMMITMENT OR ENHANCED PROTECTIVE
22 PLACEMENT PURSUANT TO SECTION 16-8.5-118;

23 (q.2) A HEARING TO TERMINATE A CIVIL COMMITMENT PURSUANT
24 TO SECTION 27-65-202 OR AN ENHANCED PROTECTIVE PLACEMENT
25 PURSUANT TO SECTION 25.5-10-508;

26 (q.3) THE TRANSFER, RELEASE, OR ESCAPE OF A PERSON UNDER A
27 CIVIL COMMITMENT PURSUANT TO SECTION 27-65-201 OR AN ENHANCED

1 PROTECTIVE PLACEMENT UNDER COURT SUPERVISION PURSUANT TO
2 SECTION 25.5-10-507 WHEN THE CRIMINAL CASE INITIATING THE CIVIL
3 COMMITMENT OR ENHANCED PROTECTIVE PLACEMENT INVOLVED A
4 VICTIM.

5 **SECTION 29.** In Colorado Revised Statutes, 24-4.1-302.5,
6 **amend** (1)(b); and **add** (1)(j.6) as follows:

7 **24-4.1-302.5. Rights afforded to victims - definitions.**

8 (1) In order to preserve and protect a victim's rights to justice and
9 due process, each victim of a crime has the following rights:

10 (b) The right to be informed of and be present by appearing in
11 person, by phone, virtually by audio or video, or similar technology for
12 all critical stages of the criminal justice process as specified in section
13 24-4.1-302 (2); except that the victim shall have the right to be informed
14 of, without being present for, the critical stages described in section
15 24-4.1-302 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p),
16 (2)(q), **(2)(q.3)**, (2)(r), and (2)(u);

17 (j.6) THE RIGHT TO BE INFORMED OF ANY REQUEST FOR CHANGES
18 TO MATERIAL TERMS OF A CIVIL COMMITMENT PURSUANT TO SECTION
19 27-65-201 OR ENHANCED PROTECTIVE PLACEMENT PURSUANT TO SECTION
20 25.5-10-507 ON BEHALF OF A PERSON IN A CIVIL COMMITMENT OR
21 PROTECTIVE PLACEMENT IN A CRIMINAL CASE INVOLVING THE VICTIM, AND
22 THE RIGHT TO BE PRESENT BY APPEARING IN PERSON, BY PHONE, OR
23 VIRTUALLY BY VIDEO OR AUDIO, OR SIMILAR TECHNOLOGY, AND HEARD AT
24 ANY HEARING DURING WHICH A COURT CONSIDERS THE REQUEST. AS USED
25 IN THIS SUBSECTION (1)(j.6), "REQUEST FOR CHANGES TO MATERIAL
26 TERMS" INCLUDES ANY REQUEST TO BE RELEASED FROM AN INPATIENT
27 SETTING TO AN OUTPATIENT SETTING OR TO BE MOVED INTO A

1 LESS-SECURE SETTING.

2 **SECTION 30.** In Colorado Revised Statutes, 24-4.1-303, **add**
3 (11)(b.8), (11)(b.9), (14.6), and (14.8) as follows:

4 **24-4.1-303. Procedures for ensuring rights of victims of**
5 **crimes.**

6 (11) The district attorney shall inform a victim of the following:

7 (b.8) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302
8 (2)(q.1), (2)(q.2), AND (2)(q.3);

9 (b.9) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION
10 (14.8) OF THIS SECTION.

11 (14.6) ANY FACILITY OR PROVIDER THAT HAS THE CARE AND
12 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING
13 PURSUANT TO A CIVIL COMMITMENT OR AN ENHANCED PROTECTIVE
14 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OR SUPERVISION OF A CIVIL
15 COMMITMENT PURSUANT TO SECTION 27-65-201 OR ENHANCED
16 PROTECTIVE PLACEMENT PURSUANT TO SECTION 25.5-10-507 THAT
17 RESULTED FROM A CRIMINAL CASE INVOLVING A VICTIM SHALL NOTIFY THE
18 APPLICABLE COUNTY ATTORNEY OF THE FOLLOWING:

19 (a) THE INSTITUTION IN WHICH THE PERSON RESIDES;

20 (b) ANY RELEASE OF THE PERSON ON FURLOUGH OR OTHER
21 PROGRAM, IN ADVANCE OF THE RELEASE;

22 (c) ANY OTHER TRANSFER OR RELEASE FROM AN INPATIENT
23 SETTING;

24 (d) ANY ESCAPE BY THE PERSON AND ANY SUBSEQUENT
25 RECAPTURE OF THE PERSON; AND

26 (e) THE DEATH OF THE PERSON WHILE IN CUSTODY OR WHILE
27 UNDER THE JURISDICTION OF THE STATE.

1 (14.8) THE COUNTY ATTORNEY SHALL INFORM THE DISTRICT
2 ATTORNEY THAT SOUGHT CIVIL COMMITMENT OR ENHANCED PROTECTIVE
3 PLACEMENT PURSUANT TO SECTION 16-8.5-118 OF THE FOLLOWING:

4 (a) ANY CRITICAL STAGE DESCRIBED IN SECTION 24-4.1-302
5 (2)(q.1), (2)(q.2), AND (2)(q.3);

6 (b) ANY REQUEST FOR CHANGES TO MATERIAL TERMS OF A CIVIL
7 COMMITMENT DESCRIBED IN SECTION 24-4.1-302.5 (2)(j.6); AND

8 (c) ANY INFORMATION RECEIVED PURSUANT TO SUBSECTION (14.6)
9 OF THIS SECTION FROM A FACILITY OR A PROVIDER WHO HAS THE CARE AND
10 PHYSICAL CUSTODY OF A RESPONDENT IN AN INPATIENT SETTING
11 PURSUANT TO A CIVIL COMMITMENT SUPERVISED PURSUANT TO SECTION
12 27-65-201 OR AN ENHANCED PROTECTIVE PLACEMENT SUPERVISED
13 PURSUANT TO SECTION 25.5-10-507.

14 **SECTION 31.** In Colorado Revised Statutes, 13-5-142, **amend**
15 (1)(c) and (3)(b)(III) as follows:

16 **13-5-142. National instant criminal background check system**
17 **- reporting.**

18 (1) On and after March 20, 2013, the state court administrator
19 shall send electronically the following information to the Colorado bureau
20 of investigation created pursuant to section 24-33.5-401, referred to in
21 this section as the "bureau":

22 (c) The name of each person with respect to whom the court has
23 entered an order for ~~involuntary~~ certification for short-term treatment of
24 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~
25 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended
26 certification for treatment of a mental health disorder pursuant to section
27 27-65-109 (10), or for long-term care and treatment of a mental health

1 disorder pursuant to section 27-65-110.

2 (3) The state court administrator shall take all necessary steps to
3 cancel a record made by the state court administrator in the national
4 instant criminal background check system if:

5 (b) No less than three years before the date of the written request:

6 (III) The record in the case was sealed pursuant to ~~section~~
7 ~~27-65-109 (7)~~ SECTION 27-65-123 (7) OR 25.5-10-515 (4), or the court
8 entered an order discharging the person from certification in the nature of
9 habeas corpus pursuant to section 27-65-115, if the record in the national
10 instant criminal background check system is based on a court order for
11 involuntary certification for short-term treatment of a mental health
12 disorder.

13 **SECTION 32.** In Colorado Revised Statutes, 13-5-142.5, **amend**
14 (2)(a)(III) as follows:

15 **13-5-142.5. National instant criminal background check**
16 **system - judicial process for awarding relief from federal**
17 **prohibitions - legislative declaration.**

18 (2) **Eligibility.** A person may petition for relief pursuant to this
19 section if:

20 (a) (III) The court has entered an order for the person's involuntary
21 certification for short-term treatment of a mental health disorder pursuant
22 to ~~section 27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109,
23 OR 27-65-109.5, for extended certification for treatment of a mental
24 health disorder pursuant to section 27-65-109 (10), or for long-term care
25 and treatment of a mental health disorder pursuant to section 27-65-110;
26 and

27 **SECTION 33.** In Colorado Revised Statutes, **amend** 13-5-142.8

1 as follows:

2 **13-5-142.8. Notice by professional persons.**

3 Under sections 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and
4 13-5-142.5 (2), an order for involuntary certification for short-term
5 treatment of a mental health disorder pursuant to ~~section 27-65-108.5 or~~
6 ~~27-65-109~~ SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5 must also
7 include a notice filed by a professional person pursuant to ~~section~~
8 ~~27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109, OR
9 27-65-109.5, and an order for extended certification for treatment of a
10 mental health disorder pursuant to section 27-65-109 (10) must also
11 include a notice filed by a professional person pursuant to section
12 27-65-109 (10).

13 **SECTION 34.** In Colorado Revised Statutes, 13-9-123, **amend**
14 (1)(c) and (3)(b)(III) as follows:

15 **13-9-123. National instant criminal background check system**
16 **- reporting.**

17 (1) On and after March 20, 2013, the state court administrator
18 shall send electronically the following information to the Colorado bureau
19 of investigation created pursuant to section 24-33.5-401, referred to in
20 this section as the "bureau":

21 (c) The name of each person with respect to whom the court has
22 entered an order for involuntary certification for short-term treatment of
23 a mental health disorder pursuant to ~~section 27-65-108.5 or 27-65-109~~
24 SECTIONS 27-65-108.5, 27-65-109, OR 27-65-109.5, for extended
25 certification for treatment of a mental health disorder pursuant to section
26 27-65-109 (10), or for long-term care and treatment of a mental health
27 disorder pursuant to section 27-65-110.

1 (3) The state court administrator shall take all necessary steps to
2 cancel a record made by the state court administrator in the national
3 instant criminal background check system if:

4 (b) No less than three years before the date of the written request:

5 (III) The record in the case was sealed pursuant to ~~section~~
6 ~~27-65-109 (7)~~ SECTION 27-65-123 (7), or the court entered an order
7 discharging the person from certification in the nature of habeas corpus
8 pursuant to section 27-65-115, if the record in the national instant
9 criminal background check system is based on a court order for
10 involuntary certification for short-term treatment of a mental health
11 disorder.

12 **SECTION 35.** In Colorado Revised Statutes, 13-9-124, **amend**
13 (2)(a)(III) as follows:

14 **13-9-124. National instant criminal background check system**
15 **- judicial process for awarding relief from federal prohibitions -**
16 **legislative declaration.**

17 (2) **Eligibility.** A person may petition for relief pursuant to this
18 section if:

19 (a) (III) The court has entered an order for the person's involuntary
20 certification for short-term treatment of a mental health disorder pursuant
21 to ~~section 27-65-108.5 or 27-65-109~~ SECTIONS 27-65-108.5, 27-65-109,
22 OR 27-65-109.5, for extended certification for treatment of a mental
23 health disorder pursuant to section 27-65-109 (10), or for long-term care
24 and treatment of a mental health disorder pursuant to section 27-65-110;
25 and

26 **SECTION 36.** In Colorado Revised Statutes, 15-18.7-202,
27 **amend** (7) as follows:

1 **15-18.7-202. Behavioral health orders for scope of treatment**
2 **- form contents - effect.**

3 (7) Nothing in this part 2 means that an adult who has executed a
4 behavioral health orders form has consented to a petition for involuntary
5 administration of medication authority pursuant to ~~section 27-65-113 (5)~~
6 SECTION 27-65-113 (3).

7 **SECTION 37.** In Colorado Revised Statutes, 16-5-401, **amend**
8 (2.5)(b) as follows:

9 **16-5-401. Limitation for commencing criminal proceedings,**
10 **civil infraction proceedings, and juvenile delinquency proceedings -**
11 **definitions.**

12 (2.5) (b) The time limitations imposed by this section are tolled
13 beginning when a defendant's case is dismissed without prejudice for the
14 purpose of facilitating certification for short-term treatment pursuant to
15 ~~section 16-8.5-111 (3)~~ SECTION 16-8.5-109 until either the defendant's
16 criminal case is refiled or six months has passed since the case was
17 dismissed, whichever is earlier.

18 **SECTION 38.** In Colorado Revised Statutes, 16-8.6-103, **amend**
19 (2)(b) as follows:

20 **16-8.6-103. Bridges wraparound care program - established.**

21 (2) The purpose of the bridges wraparound care program is to:

22 (b) Serve eligible individuals whose cases have been dismissed
23 pursuant to ~~section 16-8.5-111 (1.6)~~ SECTION 16-8.5-109 (4) but who are
24 voluntarily willing to participate in the bridges wraparound care program;

25 **SECTION 39.** In Colorado Revised Statutes, 16-10-404, **amend**
26 (1)(b) as follows:

27 **16-10-404. Use of a court facility dog - definitions.**

1 (1) As used in this section, unless the context otherwise requires:

2 (b) "Criminal proceeding" or "criminal proceedings" has the same
3 meaning as set forth in section 16-8.5-101. ~~(8)~~.

4 **SECTION 40.** In Colorado Revised Statutes, 17-22.5-403.5,
5 **amend** (4)(f) as follows:

6 **17-22.5-403.5. Special needs parole.**

7 (4) (f) If, prior to or during any parole revocation hearing,
8 including hearings for offenders granted parole pursuant to subsection (5)
9 of this section, the department or a member of the parole board 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, ~~(12)~~, the parole
12 board shall suspend all proceedings and notify the public defender liaison
13 described in section 21-1-104 (6). THE COURT SHALL APPOINT the office
14 of state public defender ~~shall be appointed by the court~~ to represent the
15 inmate, and THE OFFICE OF STATE PUBLIC DEFENDER shall file a written
16 motion with the trial court that imposed the sentence to determine
17 competency. The motion must contain a certificate of counsel stating that
18 the motion is based on a good faith belief that the inmate is incompetent
19 to proceed. The motion must set forth the specific facts that have formed
20 the basis for the motion. The court shall seal the motion. The court shall
21 follow all the relevant procedures in article 8.5 of title 16 regarding the
22 determination of competency. The presence of the inmate is not required
23 unless there is good cause shown.

24 **SECTION 41.** In Colorado Revised Statutes, 17-26-118, **amend**
25 (3)(i) as follows:

26 **17-26-118. Criminal justice data collection - definitions.**

27 (3) The keeper of each jail facility shall keep and maintain a daily

1 record of the following data:

2 (i) The number of confined inmates awaiting a competency
3 evaluation, ~~as defined in section 16-8.5-101 (2);~~ a competency hearing,
4 ~~as defined in section 16-8.5-101 (4);~~ or a restoration hearing, as THOSE
5 TERMS ARE defined in section 16-8.5-101; ~~(17);~~

6 **SECTION 42.** In Colorado Revised Statutes, 22-31-129, **amend**
7 (1) introductory portion and (1)(g) as follows:

8 **22-31-129. Vacancies.**

9 (1) A school director office ~~shall be~~ IS deemed to be vacant upon
10 the occurrence of any one of the following events prior to the expiration
11 of the term of office:

12 (g) If a court of competent jurisdiction determines that the person
13 duly elected or appointed is insane or otherwise mentally incompetent,
14 but only after the right to appeal has been waived or otherwise exhausted,
15 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or
16 section 27-65-109 (4) or 27-65-127, C.R.S. SECTION 27-65-110 (4) OR
17 27-65-127, an order specifically finding that the insanity or mental
18 incompetency is of such a degree that the person is incapable of serving
19 as a school director;

20 **SECTION 43.** In Colorado Revised Statutes, 22-60.5-107,
21 **amend** (2)(a) as follows:

22 **22-60.5-107. Grounds for denying, annulling, suspending, or**
23 **revoking license, certificate, endorsement, or authorization -**
24 **definitions.**

25 (2) Any license, certificate, endorsement, or authorization may be
26 denied, annulled, suspended, or revoked in the manner prescribed in
27 section 22-60.5-108, notwithstanding the provisions of subsection (1) of

1 this section:

2 (a) When the holder has been determined to be mentally
3 incompetent by a court of competent jurisdiction and a court has entered,
4 pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-65-109~~
5 ~~(4) or 27-65-127, C.R.S.~~ SECTION 27-65-110 (4) OR 27-65-127, an order
6 specifically finding that the mental incompetency is of such a degree that
7 the holder is incapable of continuing to perform ~~his or her~~ THEIR job;
8 except that the license, certificate, endorsement, or authorization held by
9 a person who has been determined to be mentally incompetent and for
10 whom such an order has been entered ~~shall~~ MUST be revoked or
11 suspended by operation of law without a hearing, notwithstanding the
12 provisions of section 22-60.5-108;

13 **SECTION 44.** In Colorado Revised Statutes, 24-72-705, **amend**
14 (1)(g) as follows:

15 **24-72-705. Sealing criminal justice records other than**
16 **convictions - simplified process - applicability.**

17 (1) (g) Charges that are dismissed pursuant to ~~section 16-8.5-116~~
18 SECTION 16-8.5-109 (4), 16-8.5-113, OR 16-8.5-116 are not eligible for
19 sealing.

20 **SECTION 45.** In Colorado Revised Statutes, 26-1-107, **amend**
21 (6)(h) as follows:

22 **26-1-107. State board of human services - reimbursement for**
23 **expenses - rules.**

24 (6) The state board shall:

25 (h) Adopt rules concerning standards for the level of training,
26 education, and experience that a psychiatrist or psychologist ~~shall have to~~
27 MUST be qualified IN ORDER to perform competency evaluations in

1 criminal cases pursuant to section 16-8-106 and article 8.5 of title 16,
2 ~~C.R.S.~~, and standards for conducting and reporting competency
3 evaluations in criminal cases. ~~Prior to adopting the rules, the state board~~
4 ~~shall consider recommendations from the competency evaluation advisory~~
5 ~~board created in section 16-8.5-119, C.R.S.~~

6 **SECTION 46.** In Colorado Revised Statutes, 27-60-105, **amend**
7 (2) and (6) as follows:

8 **27-60-105. Outpatient restoration to competency services -**
9 **jail-based behavioral health services - responsible entity - duties -**
10 **report - legislative declaration.**

11 (2) The state department serves as a central organizing structure
12 and responsible entity for the provision of competency restoration
13 education services and coordination of competency restoration services
14 ordered by the court pursuant to ~~section 16-8.5-111 (2)~~ SECTION
15 16-8.5-110(1) or 19-2.5-704 (2), and the behavioral health administration
16 serves as the central organizing structure and responsible entity for
17 jail-based behavioral health services pursuant to section 27-60-106.

18 (6) In addition to subsection (4) of this section and subject to
19 available appropriations, the state department shall require any county jail
20 to assist in the provision of interim mental health services for individuals
21 who have been court-ordered for inpatient competency restoration and
22 who are waiting admission for an inpatient bed. This section does not toll
23 or otherwise modify the time frames for the state department to offer
24 inpatient admission pursuant to the provisions of ~~section 16-8.5-111~~
25 SECTION 16-8.5-110.

26 **SECTION 47.** In Colorado Revised Statutes, 27-71-103, **amend**
27 (2)(c)(II) as follows:

1 **27-71-103. Mental health residential facilities - additional**
2 **beds.**

3 (2) (c) The state department, in collaboration with the behavioral
4 health administration and the department of health care policy and
5 financing, shall establish criteria for admissions and discharge planning,
6 quality assurance monitoring, appropriate length of stay, and compliance
7 with applicable federal law. For the mental health residential facilities
8 created pursuant to this section, admission criteria for facilities must
9 include:

10 (II) For treatment beds that do not serve individuals covered under
11 a home- and community-based waiver, offering priority placement to
12 individuals under a certification for short-term or extended short-term
13 treatment pursuant to ~~section 27-65-107 or 27-65-108~~ SECTION
14 27-65-108.5, 27-65-109, OR 27-65-109.5, and long-term care and
15 treatment pursuant to ~~section 27-65-109~~ SECTION 27-65-110 on an
16 outpatient basis.

17 **SECTION 48.** In Colorado Revised Statutes, 27-94-107, **amend**
18 (2) as follows:

19 **27-94-107. Renovation for additional beds.**

20 (2) Initially, the beds may be used for persons needing
21 competency services. When the wait list for INPATIENT competency
22 RESTORATION services ~~provided pursuant to section 16-8.5-111~~ FOR
23 DEFENDANTS NOT ADMITTED WITHIN THE TIME LIMITS SET FORTH IN
24 SECTION 16-8.5-110 (3)(a)(II) OR (3)(a)(III) is eliminated or trending so
25 that it can be reasonably expected to be eliminated within one year, the
26 department of human services shall implement a plan to transition the
27 beds created in subsection (1) of this section to serve civil patients and

1 immediately notify the joint budget committee of the general assembly.
2 Within one year after the notification to the joint budget committee, all
3 beds created pursuant to subsection (1) of this section must serve civil
4 patients.

5 **SECTION 49. In Colorado Revised Statutes, 24-75-302, amend**
6 **(2)(uu) and (2)(vv); and add (2)(ww) as follows:**

7 **24-75-302. Capital construction fund - capital assessment fees**
8 **- calculation - information technology capital account - repeal.**

9 (2) The controller shall transfer a sum as specified in this
10 subsection (2) from the general fund to the capital construction fund as
11 money becomes available in the general fund during the fiscal year
12 beginning on July 1 of the fiscal year in which the transfer is made or on
13 the date otherwise specified for the transfer. Transfers between funds
14 pursuant to this subsection (2) are not appropriations subject to the
15 limitations of section 24-75-201.1. The amounts transferred pursuant to
16 this subsection (2) are as follows:

17 (uu) On July 1, 2024, one hundred sixty-two million seven
18 hundred seventy-eight thousand two hundred eighty-five dollars; and

19 (vv) On July 1, 2025, one hundred twenty-nine million four
20 hundred ninety-eight thousand thirty-three dollars; AND

21 (ww) THREE DAYS AFTER THE EFFECTIVE DATE OF THIS
22 SUBSECTION (2)(ww), THREE MILLION FIVE HUNDRED SEVENTY-SEVEN
23 THOUSAND EIGHT HUNDRED NINETY-EIGHT DOLLARS.

24 **SECTION 50. Appropriation. (1) For the 2025-26 state fiscal**
25 **year, \$535,934 is appropriated to the department of human services. This**
26 **appropriation is from the general fund. To implement this act, the**
27 **department may use this appropriation as follows:**

1 (a) \$485,934 for the wheat ridge regional center intermediate care
2 facility; and

3 (b) \$50,000 for skilled nursing contracted beds.

4 **SECTION 51. Capital construction appropriation.** For the
5 2025-26 state fiscal year, \$3,577,898 is appropriated to the department of
6 human services for use by office of civil and forensic mental health. This
7 appropriation is from the capital construction fund created in section
8 24-75-302 (1)(a), C.R.S. To implement this act, the office may use this
9 appropriation for capital construction related to the renovation of a unit
10 at the Colorado mental health hospital in Pueblo to create enhanced
11 protective placements for people with intellectual and developmental
12 disabilities. Any money appropriated in this section not expended prior
13 to July 1, 2026, is further appropriated to the department from July 1,
14 2026, through June 30, 2029, for the same purpose.

15 **SECTION 52. Appropriation.** (1) For the 2026-27 state fiscal
16 year, \$4,740,122 is appropriated to the judicial department. This
17 appropriation is from the general fund. To implement this act, the
18 department may use this appropriation as follows:

19 (a) \$64,449 for use by supreme court and court of appeals for
20 appellate court programs, which amount is based on an assumption that
21 the division will require an additional 0.5 FTE;

22 (b) \$160,081 for use by state courts administration for general
23 courts administration, which amount is based on an assumption that the
24 division will require an additional 1.5 FTE;

25 (c) \$1,113,774 for use by state courts administration for
26 information technology infrastructure;

27 (d) \$168,000 for use by state courts administration for capital

1 outlay;

2 (e) \$555,000 for use by state courts administration for courthouse
3 information technology capital outlay, which amount remains available
4 for expenditure through the close of the 2027-28 state fiscal year;

5 (f) \$1,101,481 for use by trial courts for trial court programs,
6 which amount is based on an assumption that the division will require an
7 additional 10.0 FTE; and

8 (g) \$1,577,337 for use by trial courts for court cost, jury costs,
9 court-appointed counsel, and reimbursements for vacated convictions.

10 (2) For the 2026-27 state fiscal year, \$648,860 is appropriated to
11 the judicial department for use by the office of the state public defender.
12 This appropriation is from the general fund. To implement this act, the
13 department may use this appropriation as follows:

14 (a) \$411,405 for personal services, which amount is based on an
15 assumption that the office will require an additional 4.5 FTE;

16 (b) \$5,760 for operating expenses;

17 (c) \$28,000 for capital outlay;

18 (d) \$570 for attorney registration;

19 (e) \$4,000 for training; and

20 (f) \$199,125 for mandated costs.

21 (3) For the 2026-27 state fiscal year, \$206,345 is appropriated to
22 the judicial department for use by the alternate defense counsel. This
23 appropriation is from the general fund. To implement this act, the
24 department may use this appropriation for conflict-of-interest contracts.

25 (4) For the 2026-27 state fiscal year, \$513,808 is appropriated to
26 the judicial department for use by the office of public guardianship. This
27 appropriation is from the general fund and is based on an assumption that

1 the office will require an additional 5.5 FTE. To implement this act, the
2 office may use this appropriation for program costs.

3 (5) For the 2026-27 state fiscal year, \$458,898 is appropriated to
4 the judicial department for use by the office of bridges of Colorado. This
5 appropriation is from the general fund. To implement this act, the office
6 may use this appropriation as follows:

7 (a) \$425,394 for personal services, which amount is based on an
8 assumption that the office will request an additional 4.3 FTE; and

9 (b) \$33,504 for operating expenses.

10 **SECTION 53. Appropriation.** (1) For the 2026-27 state fiscal
11 year, \$133,795 is appropriated to the department of health care policy and
12 financing for use by the executive director's office. This appropriation is
13 from the general fund and is based on an assumption that the department
14 will require an additional 3.0 FTE. To implement this act, the department
15 may use this appropriation for personal services.

16 (2) For the 2026-27 state fiscal year, the general assembly
17 anticipates that the department of health care policy and financing will
18 receive \$133,794 in federal funds for personal services to implement this
19 act. The appropriation in subsection (1) of this section is based on the
20 assumption that the department will receive this amount of federal funds,
21 which is subject to the "(I)" notation as defined in the annual general
22 appropriation act for the same fiscal year.

23 **SECTION 54. Appropriation.** (1) For the 2026-27 state fiscal
24 year, \$1,751,732 is appropriated to the department of health care policy
25 and financing. This appropriation is from the general fund, which is
26 subject to the "(M)" notation as defined in the annual general
27 appropriation act for the same fiscal year. To implement this act, the

1 department may use this appropriation for medical and long-term care
2 services for medicaid eligible individuals.

3 (2) For the 2026-27 state fiscal year, the general assembly
4 anticipates that the department of health care policy and financing will
5 receive \$1,751,732 in federal funds for medical and long-term care
6 services for medicaid eligible individuals to implement this act. The
7 appropriation in subsection (1) of this section is based on the assumption
8 that the department will receive this amount of federal funds.

9 (3) For the 2026-27 state fiscal year, \$3,503,464 is appropriated
10 to the department of human services. This appropriation is from
11 reappropriated funds received from the department of health care policy
12 and financing under subsections (1) and (2) of this section. To implement
13 this act, the department may use this appropriation as follows:

14 (a) \$316,512 for use by the executive director's office for health,
15 life, and dental;

16 (b) \$562,932 for use by the office of civil and forensic mental
17 health for personal services related to the mental health institute at
18 pueblo;

19 (b) \$806,912 for use by the office of civil and forensic mental
20 health for operating expenses related to the mental health institute at
21 pueblo;

22 (c) \$40,500 for use by the office of civil and forensic mental
23 health for capital outlay related to the mental health institute at pueblo;

24 (d) \$996,722 for use by the office of civil and forensic mental
25 health for skilled nursing contract beds; and

26 (e) \$779,886 for use by the office of adults, aging, and disability
27 services for the wheat ridge regional center intermediate care facility,

1 which amount is based on an assumption the office will require an
2 additional 9.0 FTE.

3 **SECTION 55. Appropriation.** (1) For 2026-27 state fiscal year,
4 \$1,042,386 is appropriated to the department of human services for use
5 by the executive director's office. This appropriation is from the general
6 fund. To implement this act, the department may use this appropriation
7 as follows:

8 (a) \$598,806 for health, life, and dental;

9 (b) \$2,952 for short-term disability;

10 (c) \$18,974 for paid family and medical leave; and

11 (d) \$421,654 for unfunded liability amortization payments.

12 (2) For the 2026-27 state fiscal year, \$684,052 is appropriated to
13 the department of human services for use by the behavioral health
14 administration. This appropriation is from the general fund. To implement
15 this act, the administration may use this appropriation as follows:

16 (a) \$284,052 for program administration, which amount is based
17 on an assumption that the administration will require an additional 3.0
18 FTE; and

19 (b) \$400,000 for behavioral health safety net services.

20 (3) For the 2026-27 state fiscal year, \$14,621,347 is appropriated
21 to the department of human services for use by the office of civil and
22 forensic mental health. This appropriation is from the general fund. To
23 implement this act, the department may use this appropriation as follows:

24 (a) \$62,548 for personal services related to the mental health
25 institute at pueblo, which amount is based on an assumption the office
26 will require an additional 9.1 FTE;

27 (b) \$89,656 operating expenses related to the mental health

1 institute at pueblo;
2 (c) \$4,500 for capital outlay related to the mental health institute
3 at pueblo;
4 (d) \$9,385,100 for purchased psychiatric bed capacity;
5 (e) \$427,167 for skilled nursing contracted beds;
6 (f) \$1,165,199 for evaluations and discharge services, which
7 amount is based on an assumption that the office will require an
8 additional 6.0 FTE;
9 (g) \$3,144,833 for care coordination, which amount is based on
10 an assumption that the office will require an additional 36.0 FTE; and
11 (h) \$342,344 for data and information technology, which amount
12 is based on an assumption the office will require an additional 4.0 FTE;
13 **SECTION 56. Appropriation.** (1) For the 2026-27 state fiscal
14 year, \$270,017 is appropriated to the department of human services. This
15 appropriation is from the general fund. To implement this act, the
16 department may use this appropriation for the purchase of legal services.
17 (2) For the 2026-27 state fiscal year, \$270,017 is appropriated to
18 the department of law. This appropriation is from reappropriated funds
19 received from the department of human services under subsection (1) of
20 this section and is based on an assumption that the department of law will
21 require an additional 1.1 FTE. To implement this act, the department of
22 law may use this appropriation to provide legal services for the
23 department of human services.
24 **SECTION 57. Appropriation.** (1) For the 2026-27 state fiscal
25 year, \$52,644 is appropriated to the department of human services. This
26 appropriation is from the general fund. To implement this act, the
27 department may use this appropriation for the purchase of information

1 technology services.

2 (2) For the 2026-27 state fiscal year, \$52,644 is appropriated to
3 the office of the governor for use by the office of information technology.
4 This appropriation is from reappropriated funds received from the
5 department of human services under subsection (1) of this section. To
6 implement this act, the office may use this appropriation to provide
7 information technology services for the department of human services.

8 **SECTION 58. Repeal of nonrelocated provisions in this act.**

9 In Colorado Revised Statutes, **repeal** the following provisions that are not
10 relocated: 16-8.5-106 (2); 16-8.5-111 (3), (4), (5), and (6)(b); 16-8.5-113
11 (3) and (5); and 16-8.5-116.5 (1), (7), (8), (9), (10), and (12).

12 **SECTION 59. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.