Final Report to the General Assembly

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

December 2024 | Research Publication 829

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

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

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December | 2024

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December 2024

To Members of the Seventy-fourth General Assembly:

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

At its meeting on October 15, 2024, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2025 session was approved.

Sincerely,

/s/ Representative Julie McCluskie
Chair

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A current list of task force members is included as Attachment A. The scope of study letter may be found in Attachment B, and Attachment C is the Task Force annual report.

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

This report is also available online at:

https://leg.colorado.gov/committees/treatment-persons-behavioral-health-disorders-criminal-and-juvenile-justice-systems/2024

Committee and Task Force Charge and History

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

Committee Charge

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

Task Force Charge

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

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

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

Committee and Task Force Activities

The Legislative Oversight Committee met three times to monitor and examine the work, findings, and recommendations of the advisory task force and its subcommittees. The committee also considered legislation recommended by members and other stakeholders, heard a presentation from the Behavioral Health Administration (BHA), appointed task force members, and received bill draft request status updates from the Office of Legislative Legal Services.

The following sections discuss committee and task force activities during the 2024 interim.

Advisory Task Force and Subcommittee Activities

In January 2024, a scope of study letter was finalized to direct the task force's research on behavioral health policies, as requested by the committee. In addition to policy areas, the letter clarified task force procedural and voting requirements, and expanded stakeholder opportunities to more effectively engage task force members.

The task force met almost every month in 2024 and worked out a timeline, as guided by the scope of study letter, to complete position statements, collect stakeholder input, and initiate bill draft concepts. Task force subcommittees provided regular updates about juveniles, systems of care, crisis response, not guilty by reason of insanity (NGRI), and competency, as those topics related to persons with behavioral health disorders who are involved in the criminal justice system. Additionally, the task force heard presentations from the Colorado Department of Health Care Policy and Financing (HCPF) about justice involved individuals and Medicaid.

Justice-Involved Youth

The youth subcommittee of the task force examined a number areas affecting juveniles, including the Youthful Offender System (YOS) in the Colorado Department of Corrections (CDOC), the juvenile competency process, presentence confinement, and deflection and diversion.

Youthful Offender System. The YOS program is designed for violent offenders aged 14 to 18 at the time of their offense and under 19 at sentencing. It focuses on rehabilitation, with inmates housed separately from the general adult population. The youth subcommittee reviewed YOS policies and proposed several changes to improve and update practices, including case management, rehabilitative treatment plans, evaluations, data collection, and adding language on gender equity and disabilities to the legislative declaration.

Juvenile competency proceedings. The task force introduced several changes to the process for determining juvenile competency and fitness to stand trial. One identified change focused on competency evaluations for juveniles charged as adults. These evaluations are typically conducted in the court where the juvenile is tried, including adult court. Task force members argued that the adult system fails to consider a juvenile's developmental stage and unique characteristics. As an alternative, they recommended following juvenile justice system procedures for youth prosecuted as adults, with cases subject to concurrent jurisdiction between adult and juvenile courts.

Additionally, the task force recommended that courts dismiss delinquency petition and charges for juveniles found incompetent to proceed on a class 2 misdemeanor, petty offense, drug misdemeanor, or traffic offense. Members noted concerns about due process in such cases.

Presentence confinement. Presentence confinement for juveniles refers to the time a minor spends in detention or custody while awaiting sentencing, and this time is typically credited toward their final term of confinement. However, juveniles may also be confined before adjudication, and subcommittee members recommended that this pre-adjudication time be credited as well.

Deflection and Community Investment Grant Program. Having a juvenile record may impact a young person's future opportunities, including employment, education, and housing. Subcommittee members weighed the benefits of directing more funds toward deflection programs in an effort to keep kids out of the system. Specifically, they recommended a three-year grant program to implement trauma-informed health and development deflection programs for youth.

Committee recommendation. As a result of its discussions, the committee recommends Bill A, which makes several changes to the YOS and juvenile competency hearings in the courts. It also allows juveniles to receive presentence confinement credits and creates the Deflection and Community Investment Grant Program in the Department of Public Safety.

Behavioral Health Crisis Response

Task force members presented bill draft ideas to improve crisis response and continuum of care services.

Stakeholder group. Knowing about available crisis response services may help individuals access timely, professional support during mental health emergencies, potentially de-escalating situations and preventing harm. The task force found that no centralized catalog of these crisis response resources exist and recommended creating one through a stakeholder group. Once completed, the catalog will be made publicly available.

New reporting requirements. Task force members reviewed agency reporting requirements and suggested new requirements to collect more pertinent information about behavioral health services, reimbursement gaps, funding offsets, health data interoperability, and licensed behavioral health facility capabilities.

Medicaid reimbursement. In the FY 2024-25 Long Bill, the General Assembly approved a budget request from HCPF to reimburse stays at institutes of mental health disease for up to 30 days. To offset these costs, the department is currently negotiating to receive federal funds for a waiver that allows state to experiment and evaluate new approaches to Medicaid. In the meantime, however, the committee agreed to propose legislation to codify the budget request in state law, allowing reimbursement for up to 60 days of mental health care and treatment services per Medicaid member, as long as the average length of stay does not exceed 30 days per year.

Emergency mental health holds. The task force identified issues with the treatment and procedures surrounding emergency mental health holds, or a 72-hour involuntary detainment

for assessment and treatment. Concerns were specifically raised about individuals being released without proper stabilization or access to further care. In an effort to coordinate care upon discharge from a mental health hold, the following changes were suggested, including:

- requiring evaluations to include an assessment to determine if further care at a designated mental health care facility is necessary (assessment is optional under existing law);
- requiring a facility to only discharge a person if they no longer meet the criteria for the hold; and
- requiring the BHA to include the reason for discharging each person placed on an emergency mental health hold in its annual report.

Committee recommendation. The committee recommends Bill B to form a stakeholder group to catalog available behavioral health crisis resources, create new reporting requirements for departments and behavioral health facilities, update coverage of medical health care through Medicaid, and improve emergency mental health hold practices.

Not Guilty by Reason of Insanity

The NGRI evaluations typically take weeks or months to complete, as they involve a detailed examination of the defendant's mental state at the time of the crime. This process often includes multiple interviews, review of medical records, and consultations with other professionals. The time involved can vary based on the complexity of the case and jurisdiction.

The task force acknowledged the need for thorough evaluations, but expressed concerns that many appear to take an indefinite amount of time, particularly without clear parameters. They suggested that the court, the Colorado Department of Human Services (CDHS), and other legal parties collaborate to determine when evaluations should be extended and specify the number of days for such extensions.

The task force also emphasized the importance of allowing defendants to appear unshackled and in regular clothing, rather than prison or jail attire, during recorded evaluation interviews to avoid the appearance of unfair prejudice. They also presented research to the committee showing that narcoanalytics (“truth serums”) and polygraph tests are ineffective and recommended banning their use in interviews.

Committee recommendation. In response to these concerns, the committee recommends Bill C, which includes several updates to the procedure for NGRI cases. These updates cover determining the length of evaluations, guidelines for conducting interviews during evaluations, and other technical revisions to the statute.

Complementary Behavioral Health Services in Jails Grant

Committee members reviewed recommendations from the task force about expanding treatment options for individuals with behavioral health disorders, especially for those who are in jail. The task force proposed incentivizing the use of alternative and complementary therapies, such as Acudetox, a low-cost, low-risk acupuncture technique shown to improve substance use disorder treatment outcomes. Additionally, they recommended establishing a grant program to fund and study the effectiveness of such programs, providing evidence to support their broader implementation.

Committee recommendation. As a result of its discussions, Bill D requires the BHA to fund jail-based services that support the primary treatment of individuals with behavioral health disorders. Jails are to use this funding to train staff and provide these complementary services to inmates at no cost.

Competency in Criminal Justice System Services and Bail

The task force examined bond setting for those undergoing competency evaluations in jail, in addition to behavioral health treatment for those whose charges are dropped.

Bond setting and release. Task force members expressed concerns that legal decisions, such as a defendant's right to bail, are often delayed during the competency evaluation process. They also noted a lack of explanation for why some of these same defendants are denied release through a personal recognizance bond.

In response, the task force called for state law to clarify that a defendant's right to bail should not be interrupted due to a competency evaluation. They also recommended strengthening communication between the courts and the CDHS when a defendant undergoing a competency evaluation is denied release through a personal recognizance bond.

Dropped charges and continuity of care. The task force addressed the continuation of behavioral health services for individuals whose criminal charges are dropped. They pointed to research that shows abruptly stopping treatment can lead to significant issues, such as symptom relapse, increased risk of criminal behavior, and a higher likelihood of harm to oneself or others due to untreated mental health conditions.

Task force members suggested continuing inpatient services for an additional 90 days after charges are dropped to ensure continuity and stabilization. They also recommended that CDHS partner with organizations to provide permanent supportive housing for this population, as well as improve data collection and information sharing between agencies.

Committee recommendation. As a result of its discussions, the committee recommends Bill E, which clarifies what courts must consider when setting bail for defendants declared incompetent to proceed, and allows defendants to receive inpatient services from the CDHS for additional time after charges are dropped.

Summary of Recommendations

The committee recommended five bills to the Legislative Council for consideration in the 2025 session. At its meeting on October 15, 2024, the Legislative Council approved the five recommended bills for introduction. The approved bills are described below.

Bill A — Deflection Supports Justice-Involved Youth

The bill introduces changes to the YOS, addressing housing based on gender identity and disabilities, rehabilitative treatment and evaluations, and data collection. It allows earned time credits for time served before sentencing, and creates a grant program to fund trauma-induced health and development deflection programs for youth. The bill also clarifies the competency process when a juvenile is prosecuted as an adult and permits courts to order the juvenile's professional team to consult with other parties regarding a case management plan.

Bill B — Behavioral Health Crisis Response Recommendations

Bill B creates several new measures related to behavioral health crisis response, including:

- creating a stakeholder group to identify existing behavioral health resources and programs;
- adding new reporting requirements for departments and behavioral health facilities;
- updating coverage of medical health care through Medicaid; and,
- changing emergency mental health hold practices about evaluations, discharges, and reporting requirements.

Bill C — Not Guilty by Reason of Insanity Defense

The bill updates procedures for NGRI cases. Courts, in consultation with the CDHS and other parties, must determine if an extended sanity examination requires an overnight stay. Additionally, defendants are prohibited from wearing prison or jail clothing during interviews, and narcoanalytics and polygraph examinations are not permitted in these interviews.

Bill D — Complementary Behavioral Health Services in Jails Grant

This bill creates a grant program in the BHA to train jail staff in administering services that complement an inmate's primary course of treatment for a behavioral health disorder. The BHA is charged with administering and awarding the grant, including reporting requirements and developing the related rules and criteria.

Bill E — Competency in Criminal Justice System Services and Bail

The bill clarifies what courts must consider when setting bail for defendants declared incompetent to proceed and allows the defendant to receive inpatient services from CDHS for additional time after charges are dropped. Courts must also ensure a defendant's right to bail is not interrupted due to a competency evaluation. Additionally, the bill allows CDHS to enter agreements with organizations to provide permanent supportive housing for persons whose charges are dismissed or who completed the BRIDGES Wraparound Service Program.

Resource Materials

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

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

Meetings and Topics Discussed

July 22, 2024

- Overview of advisory task force and subcommittee activities
- Task force appointments
- Committee discussion: legislation for the 2025 session

August 14, 2024

- Behavioral Health Administration presentation
- Committee discussion: bill draft request updates
- Public testimony

October 1, 2024

- Public testimony
- Consideration of and final action on draft committee legislation and associated amendments

Attachment A

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

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

Updated: August 2024 (bf)

Attachment B

Representative Judy Amabile, *Chair*
Representative Mary Bradfield
Representative Regina English

Senator Robert Rodriguez, *Vice-Chair*
Senator Rhonda Fields
Senator Rod Pelton

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

State Capitol Building, Room 029
Denver, Colorado 80203-1784
(303) 866-3521

January 23, 2024

Honorable Members of the Task Force Concerning Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems:

Pursuant to Section 18-1.9-104 (3)(a), C.R.S., the Legislative Oversight Committee Concerning Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice System ("committee") is required annually to define, in writing, the scope of behavioral health policy to be considered for the committee and the Task Force Concerning Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems ("task force").

For 2024, the scope of policy to be considered for the committee is:

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

The task force does not need to reach consensus on all subjects. While the Legislative Oversight Committee encourages collaboration and problem solving among members of different backgrounds and interests, the Legislative Oversight Committee has not asked this task force to be a decision-making body for the future of legislation. Rather this task force is a space where ideas can be raised and discussed among experts across a wide range of related fields related to the treatment of persons with behavioral health disorders in the criminal and juvenile justice systems.

Therefore, for 2024, the task force shall reform their practices and procedures so that:

- Votes should not be taken by any subcommittee in order to advance an idea forward to the task force; any member may bring an idea to the entire task force after adequate discussion and debate;

- An idea from the whole task force may be advanced to the legislative oversight committee with a simple majority vote of present members. The goal is to generate more, not less, solutions to these pressing matters; and

- Expand stakeholder work to better engage members of the task force and include impacted and interested groups and individuals beyond those listed as formal members of the task force.

For 2024, the scope of policy to be considered for the task force is:

- Develop a recommendation for improving the competency system and eliminating the waitlist that includes a framework for a pathway to meaningful treatment and diversion away from the criminal justice system and into care;

- Develop a plan to expand pre-arrest diversion to enhance the State's ability to divert juveniles and adults with behavioral health disorders completely out of the criminal and juvenile justice systems;

- Examine Colorado's legal and clinical system of Not Guilty by Reason of Insanity, including the limitations of this system as it relates to the treatment of individuals with postpartum depression and psychosis;

- Explore the use and expansion of specialized responses across the state of Colorado as a way to enhance the access to appropriate treatment and care for adults and juveniles with behavioral health disorders during crisis;

- Examine the systems of care that juveniles and adults with behavioral health disorders interact with while interacting with the criminal and juvenile justice systems, including but not limited to examining currently available programs and any capacity of the system to bridge care and increase access to services; and

- Determining contributing and mitigating factors that impact arrest and recidivism rates for people with serious behavioral health disorders; including but not limited to social determinants such as housing, drug use, homelessness, and access to inpatient and outpatient care.

Sincerely,

Representative Judy Amabile, *Chair*

Senator Robert Rodriguez, *Vice-Chair*

Representative Mary Bradfield

Senator Rhonda Fields

Representative Regina English

Senator Rod Pelton

Task Force Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice System Activities in 2024

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

For 2024, the scope of the committee is:

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

For 2024, the scope of policy to be considered for the task force is:

- Develop a recommendation for improving the competency system and eliminating the waitlist that includes a framework for a pathway to meaningful treatment and diversion away from the criminal justice system and into care;
- Develop a plan to expand pre-arrest diversion to enhance the State's ability to divert juveniles and adults with behavioral health disorders completely out of the criminal and juvenile justice systems;
- Examine Colorado's legal and clinical system of Not Guilty By Reason of Insanity, including the limitations of this system as it relates to the treatment of individuals with postpartum depression and psychosis;
- Explore the use and expansion of specialized responses across the state of Colorado as a way to enhance the access to appropriate treatment and care for adults and juveniles with behavioral health disorders during crisis;
- Examine the systems of care that juveniles and adults with behavioral health disorders interact with while interacting with the criminal and juvenile justice systems, including but not limited to examining currently available programs and any capacity of the system to bridge care and increase access to services; and
- Determining contributing and mitigating factors that impact arrest and recidivism rates for people with serious behavioral health disorders; including but not limited to social determinants such as housing, drug use, homelessness, and access to inpatient and outpatient care.

The task force created five subcommittees to address the requested policy areas and continuing business from the previous year. The identified subcommittees (Crisis System, System of Care, Youth, Not Guilty by Reason of Insanity (NGRI), and Competency) were chaired by members of the task force and supported by subject matter experts from within and

external to task force membership. Subcommittees met at least monthly, but more often biweekly, to identify specific issues and policy solutions related to the requested scope. Regular updates were provided by the subcommittee chairs at the monthly meeting of the task force. In June, each subcommittee presented at least one recommendation to the task force for consideration and the following recommendations were brought to the legislative oversight committee.

Task Force Recommendations presented to the Legislative Oversight Committee:

<u>Crisis Subcommittee Recommendations</u>

1. Create a catalog of current alternative response programs and a Best Practices

   Every community has its own unique set of resources, and those resources work together in ways that are unique to their communities. Currently, there is no warehouse of information for Alternative Response Programs in Colorado, or an understanding of the models and why they work, specific to their communities. Require the information about all existing models in Colorado to be compiled and detailed, identifying what best practices are being employed in specific areas. This information should be used to encourage other entities in similar areas to develop their own alternative response models based on those best practices.
2. Incentivize local area entities to engage in multi-disciplinary training around mental health, crisis intervention teams (CIT), crisis resolution teams (CRT), mobile crisis response (MCR), and alternative response.

   Training for professionals responding to behavioral health crisis often occurs in a vacuum. Law enforcement, fire/emergency medical services, CIT, CRT, mobile crisis, 911, 988, and behavioral health professional each undergo their own distinct training and rarely do they train together. The goal of this recommendation is to encourage and incentivize professionals to engage in inter- and multi-disciplinary training to create more coordination and collaboration between responding entities.
3. Identify reimbursement shortages and gaps along the crisis response continuum and open Medicaid and grant streams to address these gaps.

   Mechanisms for reimbursement for services along the crisis response continuum are situated in numerous state, local, and private entities. This makes it challenging for individuals seeking care, and those coordinating it, to identify which services are available and how the costs of those services will be covered. During a behavioral health crisis multiple professional may be involved including emergency medical services, mobile crisis, and behavioral health secure transport. To ensure all the resources are available when needed funding streams should be set up to allow for all appropriate providers to be reimbursed for services rendered.
4. Pilot and fund a single-site, single-point-of-entry facility that is capable of medically clearing individuals, handling M1 (mental health) holds, managing emergency commitments (substance use) holds, engaging in longer-term hospitalization, facilitating detox services, providing intensive outpatient and outpatient treatment, and engaging in other services.

One of the challenges the task force heard from first responders is the lack of places other than the emergency department (ED) or the jail to take an individuals who is a danger to themselves or others due to a behavioral health crisis. Current state law does not allow for an individual placed on an M1 hold to be held in jail, but it does allow an individual under and emergency commitment for intoxication to be detained in a jail. Additionally, many individuals must first be transported to an ED for medical clearance prior to being eligible for intake into a behavioral health facility. Models exist in the state that could be adopted elsewhere to provide needed services immediately without having to go through the ED or jail.

5. Digitize the M1 process so that data can reasonably be collected and shared across systems to make processes more efficient.

<u>Systems Subcommittee Recommendations</u>

1. Incentivize the use of alternative and complementary treatments for behavioral health disorders (e.g. Acudetox). Create grant program to help fund and study the impact of these programs.

   Alternative and complementary services enhance the effectiveness of behavioral health treatments at a relatively low cost. These services can be provided in jails to help meet the needs of inmates while also balancing the limited availability of licensed behavioral health providers.

<u>Youth Subcommittee Recommendations</u>

1. Designating an entity responsible for the oversight, development, and enforcement of case management plans. Developing guidelines for what the case management plan should entail.

   There are currently inconsistent practices across the state around who is responsible for the development, oversight, and enforcement of case management plans when a youth is found incompetent to proceed. Little guidance is provided on which entities are responsible for ensuring that services are delivered to youth and that the needs of the youth and family are understood. Additionally, some plans are unrealistic and extend requirements beyond those necessary to ensure the youth is safe in the community.

2. Developing deflection programs for youth in crisis and designating entities responsible.

   Deflection programs keep youth out of the justice system by providing an avenue for services and support without any involvement of prosecution when a youth has police contact.

3. Amending the Youthful Offender System (YOS) statute to require accommodations for individuals with disabilities, accommodations for individuals with learning disabilities, individual and group mental health treatment, family therapy, mentorship, gang intervention, substance use treatment, and life skills.

   Concerns have been raised about the availability of services for youth sentenced to YOS. This is especially a concern for youth with disabilities. Further engagement with the Department of Corrections, YOS, and advocates is needed to fully identify needed changes to ensure YOS is providing the program as intended.

4. Amending C.R.S. 19-2.5-703.5 to allow Bridges of Colorado (Bridges) liaisons access to competency evaluations once appointed to a child's case.

   Bridges liaisons weren't included in the list of professionals who could access competency evaluations when the juvenile competency statute was changed. Bridges has identified this as an issue, although CDHS states the competency restoration provider facilitates these service connects making Bridges involvement duplicative. There was concern amongst members of the subcommittee about how consistent service connection and referrals are for youth in the competency system.
5. Amending adult competency statute to allow children prosecuted in the adult system to be evaluated for competency using the juvenile standard found in C.R.S. 19-2.5-701.5(5).

   Judges are often applying the adult competency standard to young people being prosecuted in adult court. Young people being prosecuted in adult court shouldn't be held to a higher standard because the prosecutor or the court has determined they be prosecuted as an adult. Being charged as an adult doesn't change the fact that their brain development has not reach that of an adult and still functions as a child.

<u>NGRI Subcommittee Recommendations</u>

1. Remove antiquated language from the insanity statute that has become offensive: references to evil, or maliciousness, but there could be others with a more careful review.
2. Remove from the statute methods for use during evaluations that are not used and are not currently scientifically valid: "narcoanalytic interview" (i.e. truth serum) and hypnotic interview.
3. Replace current test for insanity with model penal code test:

   Current: (a) A person who is so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act is not accountable; except that care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, for, when the act is induced by any of these causes, the person is accountable to the law; or (b) A person who suffered from a condition of mind caused by mental disease or defect that prevented the person from forming a culpable mental state that is an essential element of a crime charged, but care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions because, when the act is induced by any of these causes, the person is accountable to the law.

   Model Penal Code: A person is not responsible for criminal conduct if at the time of such conduct because of mental disease or defect he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of law. As used in this Article, the terms "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.
4. Make statutory changes to address the issue of settled insanity.

Colorado is one of the only states that holds that if a criminal defendant would otherwise be insane, but their permanent mental condition is caused by prior use of intoxicants, they are voluntarily intoxicated. This is the case even if someone was not intoxicated at the time of the event and even if they had stopped using drugs years prior. The source of this stance on a permanent mental condition resulting from substance (or settled insanity) is from case law not statute.

5. Amend Colorado statute to create a presumption that the video recording of a forensic examination should be done without the defendant being shackled and the defendant being in street clothes.

   In 2020 the requirement that all insanity evaluations for the most serious offenses be video recorded was added. These are almost always done in custody, with the defendant shackled. However, during the trial, the defendant has a right to not be shackled and to wear street clothing, so that the jury does not draw a negative inference from knowing that a person is in custody. The rights preserved by this practice are undone when jurors are shown the video of the defendant's examination where she is shackled and in jail attire. It would be a presumption that could be overcome if the safety of the evaluator is in question and could also consider a means to shackle the defendant to the floor with leg irons in such a way that it would not show up on the video when they are needed for safety.

Competency

1. Implement and fund Act Teams and other care models.
2. Expand temporary and permanent supportive housing, potentially utilizing existing proposition 123 revenue. Partnerships in this area need to be focused on the service provision, and funding for those services.
3. Capitol Construction of behavioral health facilities for deflection and prevention.
4. Expand and increase support for co-responder and alternative response models.
5. Examine options for a time-out provision in law for people who are out of custody but awaiting restoration.
6. Address the denial of bond or release because a person has been found incompetent and waiting for restoration. This already violates existing the law, but it needs more clarity statute. In-custody orders should convert to out of custody if an individual bonds out, at the very least they should wait out of custody until they are restored
7. Make sure that there is access to care even after a criminal case is dismissed or fully prosecuted.
8. Examine the system for crediting time served for youth who are held prior to trial, including youth who are found incompetent to proceed.

Collectively many of these recommendations resulted in five bills taken up by the members of the legislative oversight committee.

Considerations for future task force activities

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

1. The Crisis and Systems of Care subcommittees will merge in 2025 to better leverage resources of the task force as many of the solutions proposed in these groups overlapped. The group will continue to explore solutions to a lack of services for individuals in crisis, including crisis stabilization units, use of non-law enforcement options for transport and safety, and assisting individuals to receive care prior to a crisis.

2. The Youth subcommittee will continue to increase their representation and attendance at meetings. In the coming year they plan to focus on youth with behavioral health disorders and intellectual/developmental disabilities, especially those in the Youthful Offender System and those appropriate for diversion.

3. NGRI group will continue to pursue the issue of settled insanity, addressing the volitional prong of the insanity defense, and how people are treated during and after the insanity process.

4. The Competency subcommittee will look at the spectrum of housing options and shortfalls for folks who are inside or at risk of entering the competency population and identify solutions to fill these gaps and expand options. They will also examine the systems in place for individuals who are found incompetent to proceed multiple times, and how they are tracked and managed across jurisdictions. Finally, the subcommittee will continue to work to address shortfalls and barriers in access to care for individuals in or at risk of becoming a part of the competency system.

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

BILL A

LLS NO. 25-0112.01 Anna Petrini x5497 **SENATE BILL**

SENATE SPONSORSHIP

Michaelson Jenet, Cutter

HOUSE SPONSORSHIP

Bradfield and English, Amabile

Senate Committees **House Committees**

A BILL FOR AN ACT

CONCERNING YOUTH INVOLVEMENT WITH THE JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH, MODIFYING THE REQUIREMENTS FOR THE YOUTHFUL OFFENDER SYSTEM, CLARIFYING MATTERS RELATED TO DETERMINATIONS OF INCOMPETENCY, AWARDING CREDIT FOR CONFINEMENT PRIOR TO SENTENCING, AND ESTABLISHING A GRANT PROGRAM TO PROVIDE DEFLECTION SERVICES.

Bill Summary

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

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. Current law establishes the youthful offender system in the department of corrections as a sentencing option that provides a continuum of services. **Section 1** of the bill:

- Revises certain legislative declaration provisions to emphasize lasting behavioral changes in preparation for reentry, accountability, healthy relationship building, and offender and staff safety;
- Adds language related to housing arrangements and equitable treatment for youthful offenders, including youthful offenders with disabilities;
- Adds a requirement for rehabilitative treatment and life skills programming and, in certain cases, for individual and family therapy and substance use disorder treatment;
- Elaborates on clinician evaluations, tailored treatment plans, and client manager requirements for youthful offenders; and
- Imposes an annual reporting requirement beginning in January 2026.

Section 2 of the bill applies the standards for determining competency in juvenile delinquency cases to juveniles who have charges directly filed against them in adult court, juveniles whose cases are transferred to adult court, or juveniles subject to concurrent court jurisdiction.

Section 3 of the bill permits bridges court liaisons to access juvenile competency evaluations and related information.

Current law sets forth procedures for court determinations of a juvenile's competency in juvenile justice proceedings. **Section 4** of the bill requires a court to dismiss the case against a juvenile if the court makes a final determination that the juvenile is incompetent to proceed and the juvenile's highest charged act is a class 2 misdemeanor, a petty offense, a drug misdemeanor, or a traffic offense.

Under current law, one year after a court finds a juvenile charged with a level 4 drug felony is incompetent to proceed the court shall enter a finding the juvenile is unrestorable to competency and shall determine whether a management plan is necessary for the juvenile. The bill reduces the time from one year to 6 months.

The bill imposes certain limitations on a case management plan's contents in cases that involve sexual conduct and addresses court responses when a juvenile or a juvenile's parent or guardian fails to engage with a management plan's ordered services.

Section 5 of the bill requires that a person sentenced for a delinquent act committed as a juvenile receive credit for any period of confinement prior to sentencing.

Section 6 of the bill creates the deflection and community investment grant program (grant program) in the office of adult and juvenile justice assistance in the division of criminal justice to provide grants to eligible nonprofit and tribal applicants to implement a mixed-delivery system of trauma-informed health and development deflection programs for youth, including Native American youth.

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

SECTION 1. In Colorado Revised Statutes, 18-1.3-407, **amend** (1)(a), (1)(b), (3), (3.3)(a), and (3.3)(b); and **add** (1)(b.5), (3.3)(d)(III), and (15) as follows:

18-1.3-407. Sentences - youthful offenders - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections - youthful offender system study - report - legislative declaration - definitions. (1) (a) It is the intent of the general assembly that the youthful offender system established pursuant to this section ~~shall~~ benefit the state by: ~~Providing as a sentencing option for certain youthful offenders a controlled and regimented environment that affirms dignity of self and others, promotes the value of work and self-discipline, and develops useful skills and abilities through enriched programming.~~

(I) PROVIDING AS A SENTENCING OPTION FOR CERTAIN YOUTHFUL OFFENDERS A CONTROLLED ENVIRONMENT THAT AFFIRMS DIGNITY OF SELF AND OTHERS;

(II) INCREASING PUBLIC SAFETY BY PROVIDING REHABILITATIVE TREATMENT TO HELP YOUTHFUL OFFENDERS IN THE CARE OF THE YOUTHFUL OFFENDER SYSTEM MAKE LASTING BEHAVIORAL CHANGES TO PREPARE YOUTH FOR A SUCCESSFUL TRANSITION BACK INTO THE COMMUNITY;

(III) PROMOTING THE PHYSICAL SAFETY OF YOUTHFUL OFFENDERS AND STAFF WITHIN THE YOUTHFUL OFFENDER SYSTEM;

(IV) PROMOTING A SEAMLESS CONTINUUM OF CARE FROM THE TIME OF INCARCERATION TO DISCHARGE, IN WHICH YOUTHFUL OFFENDERS' NEEDS ARE MET IN A SAFE, STRUCTURED ENVIRONMENT WITH WELL-TRAINED, CARING STAFF WHO HELP YOUTHFUL OFFENDERS IDENTIFY AND ADDRESS ISSUES, BE ACCOUNTABLE, AND ACCEPT RESPONSIBILITY FOR THE YOUTHFUL OFFENDERS' ACTIONS;

(V) ENABLING YOUTHFUL OFFENDERS TO DEVELOP HEALTHY, SUPPORTIVE RELATIONSHIPS WITH PEERS, ADULTS, FAMILY, AND NEIGHBORHOOD AND COMMUNITY MEMBERS; AND

(VI) PROVIDING YOUTHFUL OFFENDERS WITH THE TOOLS NECESSARY TO BECOME LAW-ABIDING, CONTRIBUTING MEMBERS OF THE COMMUNITY UPON THE YOUTH'S RELEASE.

(b) It is the further intent of the general assembly in enacting this section that ~~female and male offenders~~ YOUTHFUL OFFENDERS, REGARDLESS OF GENDER IDENTITY OR EXPRESSION, who are eligible for sentencing to the youthful offender system pursuant to section 18-1.3-407.5, ~~or section~~ 19-2.5-801 (5), or 19-2.5-802 (1)(d)(I)(B) receive equitable treatment in sentencing, particularly in regard to the option of being sentenced to the youthful offender system. Accordingly, it is the general assembly's intent that the department of corrections take necessary measures to establish separate housing BASED ON YOUTHFUL OFFENDERS' EXPRESSED GENDER IDENTITY for ~~female and male offenders~~ YOUTHFUL OFFENDERS who are sentenced to the youthful offender system without compromising the equitable treatment of ~~either~~ THE YOUTHFUL OFFENDERS.

(b.5) IT IS THE FURTHER INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION THAT OFFENDERS WITH DISABILITIES WHO ARE ELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM PURSUANT TO SECTION 18-1.3-407.5, 19-2.5-801 (5), OR 19-2.5-802 (1)(d)(I)(B) RECEIVE EQUITABLE TREATMENT IN SENTENCING, PARTICULARLY IN REGARD TO THE OPTION OF BEING SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM. THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE DEPARTMENT OF CORRECTIONS SHALL TAKE NECESSARY MEASURES TO ESTABLISH HOUSING AND ACCESS TO SERVICES AS NEEDED FOR OFFENDERS WITH DISABILITIES WHO ARE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM WITHOUT COMPROMISING THE EQUITABLE TREATMENT OF ANY OFFENDERS.

(3) The department of corrections shall develop and implement a youthful offender system for offenders sentenced in accordance with subsection (2) of this section. The youthful offender system ~~shall be~~ IS under the direction and control of the executive director of the department of corrections. The youthful offender system ~~shall be~~ IS based on the following principles:

(a) The system should provide for teaching YOUTHFUL offenders self-discipline by providing clear consequences for DESIGNATED inappropriate behavior;

(a.5) THE SYSTEM SHOULD PROVIDE FOR REHABILITATIVE TREATMENT TO HELP YOUTHFUL OFFENDERS MAKE LASTING BEHAVIORAL CHANGES TO PREPARE YOUTH FOR A SUCCESSFUL TRANSITION BACK INTO THE COMMUNITY;

(b) The system should include a daily regimen that involves YOUTHFUL offenders in physical ~~training, self-discipline exercises~~

ACTIVITY, educational and work programs, LIFE SKILLS PROGRAMMING, and meaningful interaction, with a component for a tiered system ~~for swift and strict discipline for noncompliance~~ OF REWARDS FOR TARGET BEHAVIOR REDUCTION. THE DAILY REGIMEN MUST BE INDIVIDUALLY DETERMINED FOR EACH YOUTHFUL OFFENDER AND TAKE INTO CONSIDERATION DISABILITIES AND REASONABLE MODIFICATIONS.

(b.5) THE SYSTEM SHOULD PROVIDE YOUTHFUL OFFENDERS WITH INDIVIDUALLY TAILORED THERAPY, FAMILY THERAPY, OR SUBSTANCE USE DISORDER TREATMENT WHEN REQUESTED BY A YOUTHFUL OFFENDER OR INDICATED BY A PREVIOUS BEHAVIORAL HEALTH OR SUBSTANCE USE DISORDER EVALUATION;

(c) The system should use staff models and mentors to promote ~~within an offender the~~ A YOUTHFUL OFFENDER'S development of socially accepted attitudes and behaviors;

(d) The system should provide YOUTHFUL offenders with instruction on problem-solving skills and should incorporate methods to reinforce the use of cognitive behavior strategies that change YOUTHFUL offenders' orientation toward criminal thinking and behavior;

(e) The system should promote among YOUTHFUL offenders the creation and development of new TRAUMA-INFORMED group cultures which result in a transition to prosocial behavior; and

(f) The system should provide YOUTHFUL offenders the opportunity to gradually reenter the community. ~~while demonstrating the capacity for self-discipline and the attainment of respect for the community.~~

(3.3) The youthful offender system consists of the following components, and the department of corrections has the authority

described in this subsection (3.3) in connection with the administration of the components:

(a) (I) An intake, diagnostic, and orientation phase DURING WHICH THE DEPARTMENT OF CORRECTIONS SHALL FACILITATE AN EVALUATION OF EACH YOUTHFUL OFFENDER, CONDUCTED BY A LICENSED MENTAL HEALTH CLINICIAN FOR POSSIBLE PHYSICAL, INTELLECTUAL, DEVELOPMENTAL, AND MENTAL AND BEHAVIORAL HEALTH NEEDS.

(II) THE EVALUATOR SHALL SUBMIT A WRITTEN REPORT TO THE DEPARTMENT OF CORRECTIONS DOCUMENTING THE EVALUATOR'S FINDINGS AND TREATMENT RECOMMENDATIONS, AND THE DEPARTMENT OF CORRECTIONS SHALL CREATE A TREATMENT PLAN SPECIFICALLY TAILORED TO THE INDIVIDUAL NEEDS OF THE YOUTHFUL OFFENDER IDENTIFIED IN THE WRITTEN REPORT. THE TREATMENT PLAN MUST INCLUDE A PLAN FOR THERAPY, EDUCATION, VOCATIONAL SKILLS, LIFE SKILLS, AND REENTRY INTO THE COMMUNITY. THE DEPARTMENT OF CORRECTIONS SHALL ASSIGN A CLIENT MANAGER TO THE YOUTHFUL OFFENDER WHO SHALL MEET REGULARLY WITH THE YOUTHFUL OFFENDER, MONITOR THE YOUTHFUL OFFENDER'S TREATMENT PLAN, AND RECORD THE YOUTHFUL OFFENDER'S PROGRESS THROUGHOUT THE YOUTHFUL OFFENDER SYSTEM PROGRAM.

(b) (I) Phase I, during which time a range of core programs, supplementary activities, and educational and prevocational programs and services are provided to YOUTHFUL offenders.

(II) DURING PHASE I, THE DEPARTMENT OF CORRECTIONS SHALL REEVALUATE THE YOUTHFUL OFFENDER ON A MONTHLY BASIS TO ASSESS WHETHER THE YOUTHFUL OFFENDER'S TREATMENT PLAN SHOULD BE MODIFIED. THE DEPARTMENT OF CORRECTIONS MUST MODIFY THE

YOUTHFUL OFFENDER'S TREATMENT PLAN IF THE DEPARTMENT OF CORRECTIONS DETERMINES MODIFICATIONS ARE NECESSARY TO THE YOUTHFUL OFFENDER'S SUCCESSFUL REHABILITATION.

(d) (III) DURING PHASE III, THE YOUTHFUL OFFENDER SHALL CONTINUE TO WORK WITH THE YOUTHFUL OFFENDER'S CASE MANAGER ASSIGNED DURING THE INTAKE, DIAGNOSTIC, AND ORIENTATION PHASE PURSUANT TO SUBSECTION (3.3)(a) OF THIS SECTION TO MEET THE YOUTHFUL OFFENDER'S IDENTIFIED TREATMENT GOALS AND PLAN FOR REENTRY INTO THE COMMUNITY.

(15) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), BEGINNING IN JANUARY 2026, AND IN JANUARY EVERY YEAR THEREAFTER, THE DEPARTMENT OF CORRECTIONS SHALL INCLUDE AS PART OF ITS "SMART ACT" HEARING REQUIRED BY SECTION 2-7-203 INFORMATION CONCERNING:

(a) THE TOTAL NUMBER OF YOUTHFUL OFFENDERS THAT HAVE COMPLETED A COMMITMENT TO THE DIVISION OF YOUTH SERVICES;

(b) THE TOTAL NUMBER OF YOUTHFUL OFFENDERS IN EACH PROGRAM PHASE UNDER THE YOUTHFUL OFFENDER SYSTEM PURSUANT TO SUBSECTION (3.3) OF THIS SECTION; AND

(c) THE TOTAL NUMBER OF YOUTHFUL OFFENDERS WHO FAIL TO COMPLETE A PROGRAM PHASE UNDER THE YOUTHFUL OFFENDER SYSTEM PURSUANT TO SUBSECTION (3.3) OF THIS SECTION DUE TO NEW ADULT CHARGES FILED AGAINST THE YOUTHFUL OFFENDER.

SECTION 2. In Colorado Revised Statutes, 19-2.5-702, **amend** (1) as follows:

19-2.5-702. Incompetent to proceed - effect - how and when raised. (1) This part 7 applies only to proceedings brought pursuant to

this title 19, INCLUDING CASES DIRECTLY FILED AGAINST A JUVENILE IN DISTRICT COURT PURSUANT TO SECTION 19-2.5-801, CASES TRANSFERRED TO DISTRICT COURT FOR CRIMINAL PROCEEDINGS PURSUANT TO SECTION 19-2.5-802, AND CASES THAT ARE SUBJECT TO THE CONCURRENT JURISDICTION OF THE CRIMINAL AND JUVENILE COURTS PURSUANT TO SECTION 19-2.5-103.

SECTION 3. In Colorado Revised Statutes, 19-2.5-703.5, **amend** (1) introductory portion as follows:

19-2.5-703.5. Waiver of privilege - exchange of information - admissibility of statements. (1) When the court determines that a juvenile is incompetent to proceed, any claim of confidentiality or privilege by the juvenile or the juvenile's parent or legal guardian is deemed waived within the case to allow the court and parties to determine issues related to the juvenile's competency, restoration, and any management plan developed by the court pursuant to section 19-2.5-704 (3). The district attorney, defense attorney, guardian ad litem, the department, any competency evaluators, any restoration treatment providers, BRIDGES COURT LIAISONS, and the court are granted access, without written consent of the juvenile or further order of the court, to:

SECTION 4. In Colorado Revised Statutes, 19-2.5-704, **amend** (2.5)(a) introductory portion, (2.5)(a)(I), (2.5)(a)(II), (3)(a), and (3)(b); and **add** (2.3), (3)(b.5), and (3)(d) as follows:

19-2.5-704. Procedure after determination of competency or incompetency. (2.3) IF THE COURT MAKES A FINAL DETERMINATION PURSUANT TO SECTION 19-2.5-703 THAT THE JUVENILE IS INCOMPETENT TO PROCEED AND THE JUVENILE'S HIGHEST CHARGED ACT CONSTITUTES A CLASS 2 MISDEMEANOR, A PETTY OFFENSE, A DRUG MISDEMEANOR, OR A

TRAFFIC OFFENSE, THE COURT SHALL IMMEDIATELY DISMISS THE DELINQUENCY PETITION OR CHARGES, AS APPLICABLE, AGAINST THE JUVENILE.

(2.5) (a) If the court finds a juvenile is incompetent to proceed, THE JUVENILE'S HIGHEST CHARGED ACT IS NOT INCLUDED IN THE CHARGES SPECIFIED IN SUBSECTION (2.3) OF THIS SECTION, and the juvenile has been incompetent to proceed for a period of time that exceeds the time limits set forth in this subsection (2.5), the court shall enter a finding that the juvenile is unrestorable to competency and shall determine whether a management plan for the juvenile is necessary pursuant to subsection (3)(a) of this section. The time limits are as follows:

(I) If the highest charged act constitutes a CLASS 1 misdemeanor ~~a misdemeanor drug offense, a petty offense, or a traffic offense,~~ OR A LEVEL 4 DRUG FELONY and the juvenile is not restored to competency after a period of six months, the court shall find the juvenile unrestorable to competency;

(II) If the highest charged act constitutes a class 4, 5, or 6 felony, or a level 3 ~~or 4~~ drug felony, and the juvenile is not restored to competency after a period of one year, the court shall find the juvenile unrestorable to competency;

(3) (a) If the court finally determines pursuant to section 19-2.5-703 or 19-2.5-703.5 that the juvenile is incompetent to proceed and cannot be restored to competency in the reasonably foreseeable future, the court shall enter an order finding the juvenile unrestorable to competency and shall determine whether a CASE management plan for the juvenile is necessary, taking into account the public safety and the best interests of the juvenile. IF THE COURT DETERMINES A CASE MANAGEMENT

PLAN IS UNNECESSARY, THE COURT MAY CONTINUE ANY TREATMENT OR PLAN ALREADY IN PLACE FOR THE JUVENILE. If the court determines a CASE management plan is necessary, the court ~~shall~~ MUST develop the CASE management plan after ordering that the juvenile be placed OR CONTINUE PLACEMENT in the least-restrictive environment, taking into account the public safety and best interests of the juvenile. ~~If the court determines a management plan is unnecessary, the court may continue any treatment or plan already in place for the juvenile.~~ IN ORDER TO DEVELOP AN APPROPRIATE CASE MANAGEMENT PLAN, THE COURT MAY ORDER ANY MEMBER OF THE JUVENILE'S PROFESSIONAL TEAM TO CONSULT WITH THE JUVENILE, THE JUVENILE'S PARENT OR LEGAL GUARDIAN, OR OTHER INDIVIDUALS, INCLUDING THE JUVENILE'S DEFENSE ATTORNEY, GUARDIAN AD LITEM, OR TREATMENT PROVIDER, TO DEVELOP A PROPOSED MANAGEMENT PLAN TO PRESENT TO THE COURT FOR CONSIDERATION. The management plan must, at a minimum, address treatment for the juvenile, identify the party or parties responsible for the juvenile, and specify appropriate behavior management tools if ~~they~~ THE TOOLS are not otherwise part of the juvenile's treatment.

(b) The management plan may include:

(I) Placement options included in article 10.5 or 65 of title 27;

(II) A treatment plan developed by a licensed mental health professional;

(III) An informed supervision model, UPON THE COURT RECEIVING EVIDENCE THAT THE UNDERLYING CHARGE IS RATIONALLY RELATED TO THE NEED FOR THE USE OF AN INFORMED SUPERVISION MODEL;

(IV) Institution of a guardianship petition; or

(V) Any other remedy ~~deemed appropriate by~~ the court DEEMS

RATIONALLY RELATED TO MITIGATING COMMUNITY SAFETY CONCERNS.

(b.5) NOTWITHSTANDING SUBSECTION (3)(b) OF THIS SECTION, THE MANAGEMENT PLAN MUST NOT INCLUDE:

(I) DETENTION OF THE JUVENILE OR COMMITMENT OF THE JUVENILE TO THE DIVISION OF YOUTH SERVICES, A COUNTY JAIL, COMMUNITY CORRECTIONS, OR THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO;

(II) WORK RELEASE; OR

(III) A PSYCHOSEXUAL EVALUATION OF THE JUVENILE OR SEX OFFENDER MANAGEMENT BOARD TREATMENT REQUIREMENT, UNLESS A PSYCHOSEXUAL EVALUATION IS SPECIFICALLY RECOMMENDED BY A LICENSED MENTAL HEALTH PROFESSIONAL.

(d) ANY ENTITY RESPONSIBLE FOR CONNECTING THE JUVENILE TO SERVICES, SERVICE COORDINATION, OR CASE MANAGEMENT MAY REPORT TO THE COURT ON THE JUVENILE'S OR THE JUVENILE'S PARENT'S OR LEGAL GUARDIAN'S ENGAGEMENT IN THE SERVICES ORDERED IN THE MANAGEMENT PLAN. IF THE JUVENILE OR THE JUVENILE'S PARENT OR LEGAL GUARDIAN DOES NOT ENGAGE IN THE SERVICES ORDERED IN THE MANAGEMENT PLAN, THE COURT MAY ALTER THE MANAGEMENT PLAN OR TAKE OTHER ACTION AS NECESSARY AND PERMITTED BY LAW, INCLUDING, BUT NOT LIMITED TO, REFERRAL TO A LOCAL COLLABORATIVE MANAGEMENT PROGRAM, ORDERING A DEPARTMENT OF HUMAN SERVICES INVESTIGATION PURSUANT TO SECTION 19-3-501 (1), OR FILING A DEPENDENCY AND NEGLECT PETITION PURSUANT TO SECTION 19-3-501 (2)(b).

SECTION 5. In Colorado Revised Statutes, **add** 19-2.5-1103.5 as follows:

19-2.5-1103.5. Credit for presentence confinement. A PERSON CONFINED FOR AN ALLEGED DELINQUENT ACT PRIOR TO THE IMPOSITION OF A SENTENCE FOR AN ADJUDICATED DELINQUENT ACT IS ENTITLED TO CREDIT AGAINST THE TERM OF THE PERSON'S SENTENCE FOR THE ENTIRE PERIOD OF THE CONFINEMENT. AT THE TIME OF SENTENCING, THE COURT SHALL MAKE A FINDING REGARDING THE AMOUNT OF PRESENTENCE CONFINEMENT TO WHICH THE PERSON IS ENTITLED AND SHALL INCLUDE THE FINDING IN THE SENTENCING ORDER. THE PERIOD OF CONFINEMENT IS DEDUCTED FROM ANY COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES OR CONFINEMENT IN COUNTY JAIL, COMMUNITY CORRECTIONS, OR JUVENILE DETENTION.

SECTION 6. In Colorado Revised Statutes, **add** part 28 to article 33.5 of title 24 as follows:

PART 28

DEFLECTION AND COMMUNITY INVESTMENT GRANT PROGRAM

24-33.5-2801. Short title. THE SHORT TITLE OF THIS PART 28 IS THE "DEFLECTION AND COMMUNITY INVESTMENT GRANT PROGRAM ACT".

24-33.5-2802. Definitions. AS USED IN THIS PART 28, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AREA OF HIGH NEED" MEANS:

(a) A CITY OR ZIP CODE WITH RATES OF YOUTH ARRESTS THAT ARE HIGHER THAN THE SURROUNDING COUNTY AVERAGE, BASED ON AVAILABLE ARREST DATA, AS IDENTIFIED BY THE APPLICANT; OR

(b) A CITY OR ZIP CODE WHERE THERE IS A DISPARITY BETWEEN THE RACIAL OR ETHNIC COMPOSITION OF THE ARRESTED YOUTH

POPULATION AND THE RACIAL OR ETHNIC COMPOSITION OF THE SURROUNDING COUNTY POPULATION, AS IDENTIFIED BY THE APPLICANT.

(2) "DEFLECTION" MEANS AN EXTRAJUDICIAL RESPONSE TO A YOUTH'S CONDUCT THAT IS DESIGNED TO PREVENT THE YOUTH'S FORMAL INVOLVEMENT OR FURTHER INVOLVEMENT IN THE JUSTICE SYSTEM.

(3) "DEFLECTION PROGRAM" MEANS A PROGRAM THAT PROMOTES POSITIVE YOUTH DEVELOPMENT BY RELYING ON DEFLECTION AND AIMS TO DIVERT YOUTH FROM JUSTICE SYSTEM INVOLVEMENT AT THE EARLIEST POSSIBLE POINT.

(4) "ELIGIBLE APPLICANT" MEANS AN ELIGIBLE TRIBAL GOVERNMENT, TRIBAL ORGANIZATION, OR NONPROFIT COMMUNITY-BASED ORGANIZATION THAT MEETS THE REQUIREMENTS OF SECTION 24-33.5-2805.

(5) "GRANT PROGRAM" MEANS THE DEFLECTION AND COMMUNITY INVESTMENT GRANT PROGRAM CREATED IN SECTION 24-33.5-2803.

(6) "GRANT RECIPIENT" MEANS AN ELIGIBLE APPLICANT THAT THE OFFICE SELECTS TO RECEIVE MONEY THROUGH THE GRANT PROGRAM.

(7) "MIXED-DELIVERY SYSTEM" MEANS A SYSTEM OF ADOLESCENT DEVELOPMENT AND EDUCATION SUPPORT SERVICES DELIVERED THROUGH A COMBINATION OF PROGRAMS, PROVIDERS, AND SETTINGS THAT INCLUDE PARTNERSHIPS BETWEEN COMMUNITY-BASED NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES AND THAT IS SUPPORTED WITH A COMBINATION OF PUBLIC AND PRIVATE FUNDS.

(8) "NONPROFIT ORGANIZATION" MEANS A TAX-EXEMPT CHARITABLE OR SOCIAL WELFARE ORGANIZATION OPERATING PURSUANT TO 26 U.S.C. SEC. 501(c)(3) OR 501(c)(4) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(9) "OFFICE" MEANS THE OFFICE WITHIN THE DIVISION OF CRIMINAL JUSTICE THAT FOCUSES ON ADULT AND JUVENILE JUSTICE ASSISTANCE.

(10) "REFERRING AGENCY" MEANS AN ORGANIZATION, AGENCY, OR DEPARTMENT THAT REFERS YOUTH TO DEFLECTION PROGRAMS, INCLUDING, BUT NOT LIMITED TO, AN EDUCATION, LAW ENFORCEMENT, BEHAVIORAL HEALTH, OR PUBLIC HEALTH ENTITY.

(11) "TRAUMA-INFORMED" MEANS AN APPROACH THAT INVOLVES AN UNDERSTANDING OF ADVERSE CHILDHOOD EXPERIENCES AND THAT RESPONDS TO SYMPTOMS OF CHRONIC INTERPERSONAL TRAUMA AND TRAUMATIC STRESS ACROSS THE LIFESPAN OF AN INDIVIDUAL.

(12) "YOUTH" MEANS A CHILD, AS DEFINED IN SECTION 19-2.5-102, WHO IS SUBJECT TO:

(a) A JUVENILE COURT'S JURISDICTION PURSUANT TO SECTION 19-2.5-103;

(b) A COUNTY COURT'S CONCURRENT JURISDICTION PURSUANT TO SECTION 19-2.5-103;

(c) A COUNTY COURT'S JURISDICTION FOR A TRAFFIC OFFENSE; OR

(d) A MUNICIPAL COURT'S JURISDICTION.

24-33.5-2803. Deflection and community investment grant program - created - policies. (1) THE DEFLECTION AND COMMUNITY INVESTMENT GRANT PROGRAM IS CREATED IN THE OFFICE WITHIN THE DIVISION OF CRIMINAL JUSTICE. THE PURPOSE OF THE THREE-YEAR, COMPETITIVE GRANT PROGRAM IS TO PROVIDE GRANTS TO ELIGIBLE APPLICANTS TO IMPLEMENT A MIXED-DELIVERY SYSTEM OF TRAUMA-INFORMED HEALTH AND DEVELOPMENT DEFLECTION PROGRAMS FOR YOUTH, INCLUDING NATIVE AMERICAN YOUTH.

(2) THE OFFICE SHALL ADMINISTER THE GRANT PROGRAM AND,

SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL AWARD GRANTS AS PROVIDED IN THIS PART 28.

(3) THE DEPARTMENT MAY ADOPT POLICIES FOR THE ADMINISTRATION OF THE GRANT PROGRAM.

24-33.5-2804. Office duties. (1) THE OFFICE HAS THE FOLLOWING DUTIES:

(a) DEVELOP A COMPETITIVE APPLICATION PROCESS, INCLUDING DEADLINES, FOR AN ELIGIBLE APPLICANT TO APPLY FOR A GRANT CONSISTENT WITH THE REQUIREMENTS OF SECTION 24-33.5-2805. INITIAL GRANT AWARDS MUST BE DISTRIBUTED NO LATER THAN JUNE 30, 2026.

(b) CONTRACT WITH A TECHNICAL ASSISTANCE PROVIDER PURSUANT TO SECTION 24-33.5-2806 AND A RESEARCH UNIVERSITY EVALUATOR PURSUANT TO SECTION 24-33.5-2807; AND

(c) SUPPORT GRANTEE DATA COLLECTION AND ANALYSIS AND REQUIRE GRANTEES TO DEMONSTRATE OUTCOMES OF THE DEFLECTION PROGRAMS THAT RECEIVED A GRANT AWARD.

24-33.5-2805. Application - eligibility - awards. (1) TO RECEIVE A GRANT, AN APPLICANT MUST SUBMIT AN APPLICATION TO THE OFFICE IN ACCORDANCE WITH ANY POLICIES ADOPTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT. AT A MINIMUM, THE APPLICATION MUST INCLUDE THE FOLLOWING INFORMATION:

(a) THE TYPES OF DEFLECTION SERVICES THAT WILL BE PROVIDED;

(b) VERIFICATION THAT THE APPLICANT IS SERVING AN AREA OF HIGH NEED; AND

(c) AN OFFICIAL LETTER FROM AT LEAST ONE REFERRING AGENCY DEMONSTRATING THE AGENCY'S INTENT TO REFER YOUTH TO THE DEFLECTION PROGRAM TO PROVIDE THE YOUTH WITH TRAUMA-INFORMED

HEALTH AND DEVELOPMENT SERVICES IN LIEU OF WARNING, CITATION, OR ARREST. FOR REGIONAL APPLICATIONS DESCRIBED IN SUBSECTION (2)(c) OF THIS SECTION, LETTERS OF INTENT ARE REQUIRED FOR EACH JURISDICTION PROPOSED IN THE APPLICATION.

(2) (a) TO BE ELIGIBLE TO RECEIVE A GRANT, AN APPLICANT MUST BE:

(I) A NONPROFIT ORGANIZATION;

(II) A FEDERALLY RECOGNIZED INDIAN TRIBE, AS DEFINED IN 25 U.S.C. SEC. 1603 (14);

(III) A TRIBAL ORGANIZATION, AS DEFINED IN 25 U.S.C. SEC. 1603 (26);

(IV) AN URBAN INDIAN ORGANIZATION, AS DEFINED IN 25 U.S.C. SEC. 1603 (29); OR

(V) A PRIVATE ENTITY, WHOSE BOARD OF DIRECTORS IS MAJORITY CONTROLLED BY NATIVE AMERICANS, AND WHICH IS FISCALLY SPONSORED BY A NONPROFIT ORGANIZATION.

(b) TO BE ELIGIBLE TO RECEIVE A GRANT, AN APPLICANT MUST BE A NONGOVERNMENTAL ENTITY, WITH THE EXCEPTION OF A TRIBAL GOVERNMENT APPLICANT, AND MUST NOT BE A LAW ENFORCEMENT OR PROBATION ENTITY.

(c) APPLICANTS FROM TWO OR MORE LOCAL JURISDICTIONS MAY JOINTLY APPLY FOR A GRANT AWARD TO DELIVER DEFLECTION PROGRAM SERVICES ON A REGIONAL BASIS AND MAY RECEIVE A JOINT GRANT AWARD THAT IS THE AGGREGATE OF THE AMOUNT EACH INDIVIDUAL ELIGIBLE APPLICANT WOULD HAVE RECEIVED HAD EACH INDIVIDUAL ELIGIBLE APPLICANT APPLIED INDEPENDENTLY.

(3) THE OFFICE SHALL REVIEW THE APPLICATIONS RECEIVED

PURSUANT TO THIS SECTION. IN AWARDING GRANTS, THE OFFICE SHALL GIVE PRIORITY TO ELIGIBLE APPLICANTS IN COMMUNITIES, INCLUDING RURAL COMMUNITIES, THAT:

(a) DEFLECT YOUTH AT THE EARLIEST POSSIBLE POINT OF JUSTICE SYSTEM INVOLVEMENT;

(b) SERVE OTHERWISE UNDER-RESOURCED COMMUNITIES;

(c) EMPLOY INDIVIDUALS WHO HAVE LIVED EXPERIENCE AS A YOUTH IN THE JUSTICE SYSTEM; OR

(d) DEMONSTRATE EXPERIENCE EFFECTIVELY SERVING YOUTH POPULATIONS WHO ARE JUSTICE SYSTEM-INVOLVED OR AT RISK OF SYSTEM INVOLVEMENT.

(4) (a) SUBJECT TO AVAILABLE APPROPRIATIONS, ON OR BEFORE JUNE 30 EACH YEAR OF THE GRANT PROGRAM, THE OFFICE SHALL DISTRIBUTE GRANTS AS PROVIDED IN THIS SECTION. THE OFFICE SHALL AWARD AT LEAST TWO HUNDRED THOUSAND DOLLARS BUT NOT MORE THAN ONE MILLION DOLLARS TO AN INDIVIDUAL GRANTEE OVER THE COURSE OF THE THREE-YEAR GRANT PROGRAM.

(b) (I) SUBJECT TO AVAILABLE APPROPRIATIONS, THE OFFICE SHALL DISTRIBUTE GRANT AWARDS IN THREE EQUAL ANNUAL INSTALLMENTS, AS FOLLOWS:

(A) THE FIRST INSTALLMENT MUST BE DISTRIBUTED ON THE FIRST DAY OF THE GRANT CONTRACT;

(B) THE SECOND INSTALLMENT MUST BE DISTRIBUTED NO LATER THAN THE FIRST DAY OF THE SECOND YEAR OF THE GRANT CONTRACT; AND

(C) THE THIRD INSTALLMENT MUST BE DISTRIBUTED NO LATER THAN THE FIRST DAY OF THE THIRD YEAR OF THE GRANT CONTRACT.

(II) DISTRIBUTION OF THE SECOND AND THIRD INSTALLMENTS IS

CONTINGENT ON THE GRANTEE FULFILLING THE GRANT OBLIGATIONS AND REPORTING REQUIREMENTS PURSUANT TO SECTION 24-33.5-2807.

(5) (a) A GRANTEE SHALL USE A GRANT AWARD TO DELIVER DEFLECTION PROGRAM SERVICES IN AREAS OF HIGH NEED. A GRANTEE SHALL PROVIDE DEFLECTION SERVICES THAT ARE EVIDENCE-BASED OR RESEARCH-SUPPORTED, TRAUMA-INFORMED, CULTURALLY RELEVANT, GENDER-RESPONSIVE, AND DEVELOPMENTALLY APPROPRIATE.

(b) A GRANTEE SHALL DELIVER ONE OR MORE OF THE FOLLOWING DEFLECTION PROGRAM SERVICES:

(I) EDUCATIONAL SERVICES, INCLUDING REMEDIAL AND COLLEGE PREPARATORY ACADEMIC SERVICES;

(II) CAREER DEVELOPMENT SERVICES, INCLUDING EMPLOYMENT PREPARATION, VOCATIONAL TRAINING, INTERNSHIPS, AND APPRENTICESHIPS;

(III) RESTORATIVE JUSTICE SERVICES, INCLUDING CULTURALLY ROOTED PROGRAMMING;

(IV) MENTORING SERVICES, INCLUDING SERVICES THAT RELY ON CREDIBLE MESSENGERS WHOSE LIVED EXPERIENCE IS SIMILAR TO THE EXPERIENCE OF THE YOUTH BEING SERVED;

(V) MENTAL HEALTH SERVICES, INCLUDING CULTURALLY ROOTED HEALING PRACTICES;

(VI) BEHAVIORAL HEALTH SERVICES, INCLUDING SUBSTANCE USE EDUCATION AND TREATMENT;

(VII) HOUSING SERVICES, INCLUDING PERMANENT, SHORT-TERM, AND EMERGENCY HOUSING SERVICES;

(VIII) PERSONAL DEVELOPMENT AND LEADERSHIP TRAINING SERVICES; OR

(IX) PROSOCIAL ACTIVITIES, INCLUDING CULTURAL ENRICHMENT PROGRAMS AND SERVICES.

24-33.5-2806. Technical assistance provider. (1) THE OFFICE SHALL CONTRACT WITH A TECHNICAL ASSISTANCE PROVIDER TO SUPPORT IMPLEMENTATION OF THE GRANT PROGRAM AND TO BUILD GRANTEE CAPACITY TO DELIVER DEFLECTION PROGRAM SERVICES. PRIOR TO DEVELOPING AND DISSEMINATING GRANT PROGRAM APPLICATION MATERIALS, THE OFFICE SHALL SOLICIT AND RECEIVE INPUT FROM THE CONTRACTED TECHNICAL ASSISTANCE PROVIDER IN DEVELOPING THE GRANT PROGRAM APPLICATION MATERIALS. IN SELECTING A TECHNICAL ASSISTANCE PROVIDER, THE OFFICE SHALL PRIORITIZE ORGANIZATIONS THAT EMPLOY PEOPLE WHO HAVE LIVED EXPERIENCE AS A YOUTH IN THE JUSTICE SYSTEM.

(2) THE TECHNICAL ASSISTANCE PROVIDER SHALL DEMONSTRATE EXPERIENCE IN ALL THE FOLLOWING AREAS:

(a) DEVELOPMENTAL RESEARCH AND IDENTIFYING BEST PRACTICES FOR SERVING YOUTH INVOLVED IN, AND YOUTH AT RISK OF INVOLVEMENT IN, THE JUSTICE SYSTEM, INCLUDING CHILDREN WHO HAVE EXPERIENCED COMMERCIAL SEXUAL EXPLOITATION AND YOUTH IN THE DEPENDENCY SYSTEM;

(b) RESEARCH ON SYSTEMS THAT REFER YOUTH TO THE JUSTICE SYSTEM, INCLUDING THE EDUCATION, IMMIGRATION, AND CHILD WELFARE SYSTEMS AND RESEARCH ON BEST PRACTICES FOR REFERRALS;

(c) PRESENTING AND DISSEMINATING BEST PRACTICES ON ALTERNATIVES TO INCARCERATION AND JUSTICE SYSTEM INVOLVEMENT;

(d) WORKING WITH AND SUPPORTING COMMUNITY-BASED ORGANIZATIONS SERVING YOUTH INVOLVED IN, AND YOUTH AT RISK OF

INVOLVEMENT IN, THE JUSTICE SYSTEM IN COLORADO;

(e) COLLABORATING WITH JUSTICE SYSTEM STAKEHOLDERS;

(f) WORKING WITH AND SUPPORTING NATIVE AMERICAN ORGANIZATIONS AND COMMUNITIES; AND

(g) WORKING WITH JUSTICE SYSTEM-INVOLVED YOUTH AND COMMUNITIES AND ELEVATING YOUTH LEADERSHIP.

(3) THE TECHNICAL ASSISTANCE PROVIDER SHALL:

(a) PROVIDE INPUT TO THE OFFICE REGARDING THE DEVELOPMENT OF THE GRANT PROGRAM'S GRANT APPLICATION MATERIALS;

(b) SUPPORT GRANTEES IN ESTABLISHING AND MAINTAINING RELATIONSHIPS WITH JUSTICE SYSTEM AND COMMUNITY STAKEHOLDERS, INCLUDING PUBLIC AGENCIES, TRIBAL GOVERNMENTS AND COMMUNITIES, NONPROFIT ORGANIZATIONS, AND YOUTH AND FAMILIES MOST IMPACTED BY THE JUSTICE SYSTEM;

(c) PROVIDE GRANTEES WITH TRAINING AND SUPPORT IN IMPLEMENTING BEST PRACTICES AND TRAUMA-INFORMED, CULTURALLY RELEVANT, GENDER-RESPONSIVE, AND DEVELOPMENTALLY APPROPRIATE APPROACHES TO SERVING YOUTH;

(d) CREATE PEER LEARNING OPPORTUNITIES FOR GRANTEES TO LEARN FROM AND ALONGSIDE ONE ANOTHER;

(e) IN COLLABORATION WITH THE RESEARCH UNIVERSITY EVALUATOR SELECTED PURSUANT TO SECTION 24-33.5-2807, PROVIDE GRANTEES WITH ADMINISTRATIVE AND TECHNICAL SUPPORT TO ENSURE COMPLIANCE WITH APPLICABLE DATA REPORTING AND PROGRAM EVALUATION REQUIREMENTS, AND WITH APPLICABLE LAWS, INCLUDING LAWS AROUND CONFIDENTIALITY AND DEFLECTION ELIGIBILITY; AND

(f) PROVIDE THE RESEARCH UNIVERSITY EVALUATOR SELECTED

PURSUANT TO SECTION 24-33.5-2807 WITH INPUT REGARDING THE DEVELOPMENT OF DEFLECTION PROGRAM EVALUATION PROCESSES AND METRICS.

24-33.5-2807. Evaluation - reporting requirements. (1) THE OFFICE SHALL CONTRACT WITH A RESEARCH UNIVERSITY TO CONDUCT A STATEWIDE EVALUATION OF THE GRANT PROGRAM AND ASSOCIATED YOUTH OUTCOMES OVER THE THREE-YEAR GRANT PERIOD. THE OFFICE SHALL SOLICIT AND RECEIVE INPUT FROM THE CONTRACTED RESEARCH UNIVERSITY EVALUATOR IN DEVELOPING THE GRANT PROGRAM APPLICATION MATERIALS. THE RESEARCH UNIVERSITY EVALUATOR MUST HAVE A DEMONSTRATED COMMITMENT TO WORKING WITH COMMUNITIES IMPACTED BY THE JUSTICE SYSTEM.

(2) THE RESEARCH UNIVERSITY EVALUATOR SHALL:

(a) DEVELOP A COMMON ASSESSMENT INSTRUMENT FOR USE BY GRANTEES TO ASSESS THE NEEDS AND OUTCOMES OF YOUTH PARTICIPANTS;

(b) DESIGN A CENTRAL DATA REPOSITORY TO STANDARDIZE GRANTEE DATA COLLECTION AND REPORTING; AND

(c) SUPPORT GRANTEES WITH USING THE COMMON ASSESSMENT INSTRUMENT AND THE CENTRAL DATA REPOSITORY.

(3) THE OFFICE SHALL PROVIDE THE RESEARCH UNIVERSITY EVALUATOR WITH RELEVANT, EXISTING DATA FOR THE PURPOSES OF MEASURING OUTCOMES. MEASURED OUTCOMES MAY INCLUDE, BUT ARE NOT LIMITED TO:

(a) REDUCTIONS IN LAW ENFORCEMENT RESPONSES TO YOUTH CONDUCT INVOLVING LOW-LEVEL OFFENSES, COURT CASELOADS AND PROCESSING COSTS, DAYS YOUTH SPENT IN DETENTION, PLACEMENT OF

YOUTH IN CONGREGATE CARE, AND SCHOOL AND PLACEMENT DISRUPTIONS;

(b) REDUCTIONS IN THE NUMBER OF SCHOOL SUSPENSIONS AND EXPULSIONS;

(c) IMPROVEMENTS IN YOUTH HEALTH AND WELL-BEING, HOUSING AND COMMUNITY STABILITY, EDUCATIONAL ATTAINMENT, PROSOCIAL ACTIVITY, AND CONNECTIONS TO EMPLOYMENT OPPORTUNITIES AND MENTORSHIP; AND

(d) PROJECTED STATE AND LOCAL COST SAVINGS AS A RESULT OF THE DEFLECTION PROGRAMMING.

(4) THE OFFICE SHALL MAKE AVAILABLE ON ITS WEBSITE A REPORT OF GRANTEES, PROJECTS, AND OUTCOMES AT THE STATE AND LOCAL LEVELS WITHIN ONE HUNDRED EIGHTY DAYS OF COMPLETION OF THE GRANT PROGRAM.

(5) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR BEFORE DECEMBER 31, 2026, AND EACH DECEMBER 31 THEREAFTER FOR THE DURATION OF THE GRANT PROGRAM, THE OFFICE SHALL SUBMIT A REPORT TO THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, ABOUT THE GRANT PROGRAM. AT A MINIMUM, THE REPORT MUST INCLUDE THE NUMBER AND AMOUNT OF GRANTS AWARDED SINCE THE LAST REPORT AND A SUMMARY OF INFORMATION CONCERNING THE IMPACT OF THE MIXED DELIVERY SYSTEM OF DEFLECTION PROGRAMS FOR YOUTH, INCLUDING NATIVE AMERICAN YOUTH.

24-33.5-2808. No disclosure of participant records. RECORDS RELATED TO THE PARTICIPATION OF A YOUTH OR A YOUTH'S FAMILY IN THE DEFLECTION PROGRAM PURSUANT TO THIS PART 28 ARE NOT SUBJECT TO

DISCLOSURE TO A PROSECUTING ATTORNEY.

24-33.5-2809. Funding for grant program. (1) FOR STATE FISCAL YEARS 2025-26, 2026-27, AND 2027-28, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THREE MILLION THREE HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED THIRTY-THREE DOLLARS FROM THE GENERAL FUND TO THE DEPARTMENT FOR USE BY THE OFFICE FOR THE PURPOSES OF THIS PART 28.

(2) THE OFFICE MAY USE UP TO TWENTY-THREE AND ONE-HALF PERCENT OF THE MONEY ANNUALLY APPROPRIATED, AS FOLLOWS:

(a) UP TO THREE PERCENT OF THE MONEY ANNUALLY APPROPRIATED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION TO PAY FOR THE DIRECT AND INDIRECT COSTS THAT THE OFFICE INCURS TO ADMINISTER THE GRANT PROGRAM;

(b) UP TO THREE PERCENT OF THE MONEY ANNUALLY APPROPRIATED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION TO CONTRACT WITH A RESEARCH UNIVERSITY EVALUATOR AND THE OFFICE'S OWN GRANT PROGRAM EVALUATION-RELATED COSTS;

(c) UP TO SEVEN AND ONE-HALF PERCENT OF THE MONEY ANNUALLY APPROPRIATED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION TO CONTRACT WITH A TECHNICAL ASSISTANCE PROVIDER AND THE OFFICE'S OWN TECHNICAL ASSISTANCE-RELATED COSTS IN CONNECTION WITH THE GRANT PROGRAM; AND

(d) UP TO TEN PERCENT OF THE MONEY ANNUALLY APPROPRIATED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION FOR GRANT AWARDS TO DEFLECTION PROGRAMS TARGETING NATIVE AMERICAN YOUTH.

(3) THE OFFICE MAY USE THE REMAINING MONEY ANNUALLY APPROPRIATED FOR THE GRANT PROGRAM FOR GRANT AWARDS TO YOUTH

DEFLECTION PROGRAMS.

(4) THE OFFICE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 28.

24-33.5-2810. Repeal of part. THIS PART 28 IS REPEALED, EFFECTIVE JANUARY 1, 2031.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 25-0113.01 Shelby Ross x4510 **SENATE BILL**

SENATE SPONSORSHIP

Cutter, Michaelson Jenet

HOUSE SPONSORSHIP

Amabile and Bradfield, English

Senate Committees **House Committees**

A BILL FOR AN ACT

CONCERNING MEASURES TO ADDRESS COLORADO'S BEHAVIORAL HEALTH CRISIS RESPONSE.

Bill Summary

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

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. No later than December 31, 2025, the bill requires the department of public safety (DPS), in collaboration with the behavioral health administration (BHA), to convene a stakeholder group to identify existing resources and model programs that communities

throughout Colorado utilize when responding to behavioral health crises, including, but not limited to, co-responder programs, alternative response programs, and mobile crisis response programs. The bill requires DPS to compile a list of the existing resources and model programs and make the resources and information about the model programs publicly available on DPS's website.

The bill requires the department of health care policy and financing (HCPF), the department of public health and environment, and the BHA to provide information to the general assembly on or before January 1, 2027, regarding the reimbursement shortages and gaps within the continuum of care for the behavioral health crisis response system and the reimbursement and funding options at the state and federal level that are available to address the shortages and gaps, including funding for treatment in place.

Upon receiving the necessary federal authorization, the bill requires HCPF to reimburse an institute of mental health disease for providing inpatient mental health care and treatment to a member for up to 60 days, as long as the average length of stay does not exceed 30 days per calendar year.

Current law requires each person detained for an emergency mental health hold to receive an evaluation as soon as possible after the person is presented to a facility, and the evaluation may, but is not required to, include an assessment to determine if the person continues to meet the criteria for an emergency mental health hold and requires further mental health care in a facility designated by the commissioner. The bill requires the evaluation to include the assessment determination.

The bill requires a facility to only discharge a person placed on an emergency mental health hold if the person no longer meets the criteria for an emergency mental health hold; except that a facility may transfer the person to another facility if the facility is unable to provide the appropriate medical care to the person.

The bill requires the BHA to include in its annual report to the general assembly the reason for discharging each person who is placed on an emergency mental health hold.

No later than December 31, 2025, the bill requires each behavioral health entity, facility, and hospital to provide information to the BHA about the behavioral health entity's, facility's, or hospital's medical and behavioral health-care capabilities.

Beginning October 1, 2025, and continuing annually until October 1, 2030, the bill requires the BHA, in coordination with HCPF and the health information organization network, to prepare and submit a report to the general assembly on behavioral health data interoperability.

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

SECTION 1. In Colorado Revised Statutes, **add** 24-33.5-121 as follows:

24-33.5-121. Alternative response programs, co-responder programs, mobile crisis response programs - stakeholder group - data collection - legislative declaration. (1) (a) THE GENERAL ASSEMBLY FINDS THAT SOME COLORADO COMMUNITIES UTILIZE UNIQUE RESOURCES AND MODEL PROGRAMS WHEN RESPONDING TO A BEHAVIORAL HEALTH CRISIS, INCLUDING CO-RESPONDER PROGRAMS, ALTERNATIVE RESPONSE PROGRAMS, AND MOBILE CRISIS RESPONSE PROGRAMS. HOWEVER, THERE IS NO REPOSITORY OF INFORMATION ABOUT, NOR A GENERAL UNDERSTANDING OF, WHY THE DIFFERENT RESOURCES AND MODEL PROGRAMS WORK IN EACH COMMUNITY.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IN ORDER TO ENCOURAGE AND ASSIST OTHER COLORADO COMMUNITIES TO DEVELOP RESOURCES AND A MODEL PROGRAM SPECIFIC TO THE COMMUNITY'S NEEDS, THE DEPARTMENT OF PUBLIC SAFETY AND THE BEHAVIORAL HEALTH ADMINISTRATION SHALL CONVENE A STAKEHOLDER GROUP TO IDENTIFY EXISTING RESOURCES AND MODEL PROGRAMS, COMPILE THE INFORMATION, AND MAKE THE INFORMATION PUBLICLY AVAILABLE.

(2) (a) NO LATER THAN DECEMBER 31, 2025, THE DEPARTMENT, IN COLLABORATION WITH THE BEHAVIORAL HEALTH ADMINISTRATION IN THE DEPARTMENT OF HUMAN SERVICES, SHALL CONVENE A STAKEHOLDER GROUP TO IDENTIFY EXISTING RESOURCES AND MODEL PROGRAMS THAT COMMUNITIES THROUGHOUT COLORADO UTILIZE WHEN RESPONDING TO BEHAVIORAL HEALTH CRISES, INCLUDING, BUT NOT LIMITED TO, CO-RESPONDER PROGRAMS, ALTERNATIVE RESPONSE PROGRAMS, AND

MOBILE CRISIS RESPONSE PROGRAMS.

(b) AT A MINIMUM, THE STAKEHOLDER GROUP MUST INCLUDE REPRESENTATIVES FROM COMMUNITIES THAT HAVE EXISTING RESOURCES AND PROGRAMS; REPRESENTATIVES FROM COMMUNITY MENTAL HEALTH CENTERS; AND REPRESENTATIVES FROM AGENCIES PROVIDING LAW ENFORCEMENT, FIRE PROTECTION, EMERGENCY MEDICAL SERVICES, EMERGENCY RESPONSE SERVICES, EMERGENCY DISPATCH SERVICES; AND ANY OTHER REPRESENTATIVES THE DEPARTMENT AND BEHAVIORAL HEALTH ADMINISTRATION DETERMINE ARE NECESSARY.

(3) (a) AFTER CONVENING THE STAKEHOLDER GROUP PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE DEPARTMENT SHALL COMPILE A LIST OF EXISTING RESOURCES AND MODEL PROGRAMS IDENTIFIED DURING THE MEETING AND MAKE THE RESOURCES AND INFORMATION ABOUT THE MODEL PROGRAMS PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEBSITE.

(b) THE DEPARTMENT AND THE BHA SHALL CONTINUALLY UPDATE THE RESOURCES AND MODEL PROGRAMS COMPILED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, AS THE DEPARTMENT DETERMINES IS NECESSARY.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-4-434 as follows:

25.5-4-434. Crisis response continuum of care - reimbursement shortages and gaps - report - repeal. (1) ON OR BEFORE JANUARY 1, 2027, THE STATE DEPARTMENT, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND THE BEHAVIORAL HEALTH ADMINISTRATION IN THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE INFORMATION TO THE HOUSE OF REPRESENTATIVES HEALTH AND

HUMAN SERVICES COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, AND ANY IMPACTED STATE AGENCY, REGARDING THE REIMBURSEMENT SHORTAGES AND GAPS WITHIN THE CONTINUUM OF CARE FOR THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM, AND REIMBURSEMENT AND FUNDING OPTIONS AT THE STATE AND FEDERAL LEVEL THAT ARE AVAILABLE TO ADDRESS SHORTAGES AND GAPS, INCLUDING FUNDING FOR TREATMENT IN PLACE.

(2) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2027.

SECTION 3. In Colorado Revised Statutes, **add** 25.5-4-435 as follows:

25.5-4-435. Reimbursement for sixty-day stay - federal authorization. UPON RECEIVING THE NECESSARY FEDERAL AUTHORIZATION, THE STATE DEPARTMENT SHALL REIMBURSE AN INSTITUTE OF MENTAL HEALTH DISEASE FOR PROVIDING INPATIENT BEHAVIORAL HEALTH CARE AND TREATMENT TO A MEMBER FOR UP TO SIXTY DAYS, AS LONG AS THE AVERAGE LENGTH OF STAY DOES NOT EXCEED THIRTY DAYS PER CALENDAR YEAR.

SECTION 4. In Colorado Revised Statutes, 27-65-106, **amend** (6)(a); and **add** (7)(d) as follows:

27-65-106. Emergency mental health hold - screening - court-ordered evaluation - discharge instructions - respondent's rights. (6) (a) Each person detained for an emergency mental health hold pursuant to this section shall receive an evaluation as soon as possible after the person is presented to the facility and shall receive such treatment and care as the person's condition requires for the full period that the person is held. The evaluation ~~may~~ MUST include an assessment to determine if the person continues to meet the criteria for an emergency

mental health hold and requires further mental health care in a facility designated by the commissioner. The evaluation must state whether the person should be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment pursuant to section 27-65-109.

(7) (d) A FACILITY SHALL ONLY DISCHARGE A PERSON PLACED ON AN EMERGENCY MENTAL HEALTH HOLD IF THE PERSON NO LONGER MEETS THE CRITERIA FOR AN EMERGENCY MENTAL HEALTH HOLD; EXCEPT THAT A FACILITY MAY TRANSFER THE PERSON TO ANOTHER FACILITY IF THE FACILITY IS UNABLE TO PROVIDE THE APPROPRIATE MEDICAL CARE TO THE PERSON.

SECTION 5. In Colorado Revised Statutes, 27-65-131, **amend** (1)(a)(III) as follows:

27-65-131. Data report. (1) Beginning January 1, 2025, and each January 1 thereafter, the BHA shall annually submit a report to the general assembly on the outcomes and effectiveness of the involuntary commitment system described in this article 65, disaggregated by region, including any recommendations to improve the system and outcomes for persons involuntarily committed or certified pursuant to this article 65. The report must include aggregated and disaggregated nonidentifying individual-level data. At a minimum, the report must include:

(a) The number of seventy-two-hour emergency mental health holds that occurred in the state and the number of people placed on a seventy-two-hour emergency mental health hold, including:

(III) THE disposition of each person placed on an emergency mental health hold AND FOR EACH PERSON DISCHARGED, THE REASON THE PERSON WAS DISCHARGED;

SECTION 6. In Colorado Revised Statutes, **add** 27-50-306 as follows:

27-50-306. Reporting requirement - behavioral health and medical care capabilities - repeal. (1) NO LATER THAN DECEMBER 31, 2025, EACH BEHAVIORAL HEALTH ENTITY; FACILITY, AS DEFINED IN SECTION 27-65-102; AND HOSPITAL LICENSED PURSUANT TO SECTION 25-1.3-103 SHALL PROVIDE INFORMATION TO THE BHA ABOUT THE BEHAVIORAL HEALTH ENTITY'S, FACILITY'S, OR HOSPITAL'S MEDICAL AND BEHAVIORAL HEALTH-CARE CAPABILITIES, INCLUDING, BUT NOT LIMITED TO, WHETHER THE BEHAVIORAL HEALTH ENTITY, FACILITY, OR HOSPITAL IS ABLE TO PROVIDE CARE AND TREATMENT FOR EMERGENCY MENTAL HEALTH HOLDS, SUBSTANCE USE DISORDERS, LONG-TERM HOSPITALIZATION, DETOX SERVICES, INTENSIVE OUTPATIENT PROGRAMS, AND MEDICAL CARE.

(2) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2026.

SECTION 7. In Colorado Revised Statutes, 27-50-204, **add** (3) as follows:

27-50-204. Reporting. (3) BEGINNING OCTOBER 1, 2025, AND CONTINUING ANNUALLY UNTIL OCTOBER 1, 2030, THE BHA, IN COORDINATION WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE HEALTH INFORMATION ORGANIZATION NETWORK, AS DEFINED IN SECTION 25-35-103, SHALL PREPARE AND SUBMIT A REPORT ON BEHAVIORAL HEALTH DATA INTEROPERABILITY TO THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. AT A MINIMUM, THE REPORT MUST INCLUDE:

(a) A DESCRIPTION OF HOW THE BHA IS CURRENTLY LEVERAGING

THE HEALTH INFORMATION ORGANIZATION NETWORK TO MEET THE REQUIREMENTS OF SECTION 27-50-201 AND TO PROMOTE THE INTEROPERABLE EXCHANGE OF DATA TO IMPROVE THE QUALITY OF PATIENT CARE, AS DESCRIBED IN SECTION 27-50-105 (5), INCLUDING:

(I) THE EXTENT TO WHICH BEHAVIORAL HEALTH PROVIDERS, INCLUDING FACILITIES THAT PROVIDE INPATIENT TREATMENT PURSUANT TO SECTION 27-65-106 AND FACILITIES REGULATED BY 42 CFR 2, ARE CONNECTED TO THE HEALTH INFORMATION ORGANIZATION NETWORKS TO VIEW AND EXCHANGE HEALTH INFORMATION DATA; AND

(II) THE ROLE OF HEALTH INFORMATION ORGANIZATIONS IN SUPPORTING PROVIDERS TO MEET REPORTING REQUIREMENTS, INCLUDING FOR VALUE-BASED PAYMENTS AND QUALITY IMPROVEMENT;

(b) PLANS TO INCREASE THE INTEROPERABLE EXCHANGE OF DATA BETWEEN BEHAVIORAL HEALTH PROVIDERS, INCLUDING CONSIDERATION OF THE FOLLOWING:

(I) THE CARE COORDINATION AND TREATMENT PLANNING NEEDS OF INDIVIDUALS IN CRISIS, INCLUDING THOSE WHO HAVE HAD REPEATED HOSPITALIZATIONS PURSUANT TO SECTION 27-65-106;

(II) STRATEGIES THAT HAVE BEEN IMPLEMENTED TO INCENTIVIZE AND SUPPORT PHYSICAL HEALTH PROVIDERS' PARTICIPATION IN THE HEALTH INFORMATION ORGANIZATION NETWORKS AND HOW THOSE MAY BE REPLICATED OR MODIFIED TO INCENTIVIZE BEHAVIORAL HEALTH PROVIDERS; AND

(III) EXISTING FUNCTIONALITY IN THE HEALTH INFORMATION ORGANIZATION NETWORK THAT COULD BE LEVERAGED TO BETTER MEET THE NEEDS OF INDIVIDUALS WITH BEHAVIORAL HEALTH DISORDERS; AND

(c) RECOMMENDATIONS TO REMOVE BARRIERS AND INCREASE THE

INTEROPERABLE EXCHANGE OF DATA BETWEEN BEHAVIORAL HEALTH PROVIDERS, INCLUDING CONSIDERATION OF COSTS TO PROVIDERS AND OPPORTUNITIES TO MAXIMIZE FEDERAL FUNDING.

SECTION 8. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

BILL C

LLS NO. 25-0114.01 Shelby Ross x4510 **HOUSE BILL**

HOUSE SPONSORSHIP

Amabile and Bradfield, English

SENATE SPONSORSHIP

Michaelson Jenet, Cutter

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING MODIFICATIONS TO THE AFFIRMATIVE DEFENSE OF NOT GUILTY BY REASON OF INSANITY.

Bill Summary

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

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. When a plea of not guilty by reason of insanity is accepted by a court, the bill requires the court, in consultation with the department of human services (CDHS) and the parties, to determine whether a sanity examination requires the defendant to stay overnight for

an extended examination and the number of days of the extended examination. If the defendant is in custody, the bill authorizes the sanity examination to be conducted at the jail or place of confinement or at a facility operated by or under contract with CDHS. If the defendant is at liberty on summons or on bond, the bill prohibits the court from ordering the defendant into custody in order to conduct the sanity examination **(section 11).**

If a sanity examination is recorded, the bill prohibits a defendant from being dressed in prison or jail clothing and prohibits restraints on the defendant from being visible on the recording **(section 12).**

Current law authorizes psychiatrists, forensic psychologists, and other personnel conducting a sanity examination to conduct a narcoanalytic interview of the defendant with drugs that are medically appropriate, to subject the defendant to a polygraph examination, and to testify to the results of the procedures, statements, and reactions of the defendant. The bill repeals this provision **(section 12).**

The bill makes conforming amendments and technical corrections.

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

SECTION 1. In Colorado Revised Statutes, **amend** 16-8-101 as follows:

16-8-101. Insanity defined - offenses committed before July 1, 1995. (1) The applicable test of insanity ~~shall be~~ IS, and the COURT SHALL INSTRUCT THE jury: ~~shall be so instructed:~~ "A person who is so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act is not accountable". ~~But care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives, and kindred evil conditions, for when the act is induced by any of these causes the person is accountable to the law.".~~

(2) ~~The term "diseased or defective in mind", as used in subsection (1) of this section, does not refer to an abnormality manifested only by repeated criminal or otherwise antisocial conduct.~~

(3) This section ~~shall apply~~ APPLIES to offenses committed before July 1, 1995.

SECTION 2. In Colorado Revised Statutes, **amend** 16-8-101.5 as follows:

16-8-101.5. Insanity defined - offenses committed on or after July 1, 1995. (1) The applicable test of insanity ~~shall be~~ IS:

(a) A person who is so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act is not accountable; ~~except that care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions, for, when the act is induced by any of these causes, the person is accountable to the law;~~ or

(b) A person who suffered from a condition of mind caused by mental disease or defect that prevented the person from forming a culpable mental state that is an essential element of a crime charged. ~~but care should be taken not to confuse such mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions because, when the act is induced by any of these causes, the person is accountable to the law.~~

(2) ~~As used in this section:~~

~~(a) "Diseased or defective in mind" does not refer to an abnormality manifested only by repeated criminal or otherwise antisocial conduct. Evidence of knowledge or awareness of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation shall not constitute inability to distinguish right from wrong.~~

~~(b) "Gender identity" and "gender expression" have the same meaning as in section 18-1-901 (3)(h.5).~~

~~(c) "Mental disease or defect" includes only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality and that are not attributable to the voluntary ingestion of alcohol or any other psychoactive substance but does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.~~

~~(d) "Sexual orientation" has the same meaning as in section 18-9-121 (5)(b).~~

(3) This section ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

SECTION 3. In Colorado Revised Statutes, **amend** 16-8-102 as follows:

16-8-102. Definitions. As used in this ~~article~~ ARTICLE 8, unless the context otherwise requires:

~~(1) and (2) Repealed.~~

(1) "DISEASED OR DEFECTIVE IN MIND" DOES NOT REFER TO AN ABNORMALITY MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHERWISE ANTISOCIAL CONDUCT. EVIDENCE OF KNOWLEDGE OR AWARENESS OF THE VICTIM'S ACTUAL OR PERCEIVED GENDER, GENDER IDENTITY, GENDER EXPRESSION, OR SEXUAL ORIENTATION DOES NOT CONSTITUTE AN INABILITY TO DISTINGUISH RIGHT FROM WRONG.

~~(2.5)~~ (2) "Forensic psychologist" means a licensed psychologist who is board certified in forensic psychology by the American board of professional psychology or who has completed a fellowship in forensic psychology meeting criteria established by the American board of

forensic psychology.

(3) "GENDER IDENTITY" AND "GENDER EXPRESSION" HAVE THE SAME MEANING AS SET FORTH IN SECTION 18-1-901.

~~(2.7)~~ (4) (a) "Impaired mental condition" means a condition of mind, caused by mental disease or defect that prevents the person from forming the culpable mental state that is an essential element of any crime charged. ~~For the purposes of this subsection (2.7), "mental disease or defect" includes only those severely abnormal mental conditions which grossly and demonstrably impair a person's perception or understanding of reality and which are not attributable to the voluntary ingestion of alcohol or any other psychoactive substance; except that it does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.~~

(b) This ~~subsection (2.7) shall apply only~~ SUBSECTION (4) APPLIES to offenses committed before July 1, 1995.

~~(3) Repealed.~~

~~(4)~~ (5) "Ineligible for release" means the defendant is suffering from a mental disease or defect which is likely to cause ~~him~~ THE DEFENDANT to be dangerous to ~~himself~~ THE DEFENDANT'S SELF, to others, or to the community, in the reasonably foreseeable future, if ~~he~~ THE DEFENDANT is permitted to remain at liberty.

~~(4.5)~~ (6) "Ineligible to remain on conditional release" means the defendant has violated one or more conditions in ~~his~~ THE DEFENDANT'S release, or the defendant is suffering from a mental disease or defect which is likely to cause ~~him~~ THE DEFENDANT to be dangerous to ~~himself~~ THE DEFENDANT'S SELF, to others, or to the community in the reasonably foreseeable future, if ~~he~~ THE DEFENDANT is permitted to remain on

conditional release.

~~(4.7)~~ (7) "Mental disease or defect" means only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality and that are not attributable to the voluntary ingestion of alcohol or any other psychoactive substance; except that it does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

~~(5)~~ (8) "Release examination" means a court-ordered examination of a defendant directed to developing evidence relevant to determining whether ~~he~~ THE DEFENDANT is eligible for release.

~~(6)~~ (9) "Release hearing" means a hearing for the purpose of determining whether a defendant previously committed to the department of human services, following a verdict of not guilty by reason of insanity, has become eligible for release.

~~(7) Repealed.~~

~~(8)~~ (10) "Sanity examination" means a court-ordered examination of a defendant who has entered a plea of not guilty by reason of insanity, directed to developing information relevant to determining the sanity or insanity of the defendant at the time of the commission of the act with which ~~he~~ THE DEFENDANT is charged and ~~also his~~ THE DEFENDANT'S competency to proceed.

(11) "SEXUAL ORIENTATION" HAS THE SAME MEANING AS SET FORTH IN SECTION 18-9-121.

SECTION 4. In Colorado Revised Statutes, **amend** 16-8-103 as follows:

16-8-103. Pleading insanity as a defense. (1) (a) The defense of insanity may only be raised by a specific plea entered at the time of

arraignment; except that the court, for good cause shown, may permit the plea to be entered at any time prior to trial. The form of the plea ~~shall be~~ IS: "Not guilty by reason of insanity"; and it must be pleaded orally either by the defendant or by the defendant's counsel. A defendant who does not raise the defense as provided in this section ~~shall~~ IS not ~~be~~ permitted to rely upon insanity as a defense to the crime charged but, when charged with a crime requiring a specific intent as an element thereof, may introduce evidence of the defendant's mental condition as bearing upon ~~his or her~~ THE DEFENDANT'S capacity to form the required specific intent. The plea of not guilty by reason of insanity includes the plea of not guilty.

(b) This subsection (1) ~~shall apply only~~ APPLIES to offenses committed before July 1, 1995.

(1.5) (a) The defense of insanity may only be raised by a specific plea entered at the time of arraignment; except that the court, for good cause shown, may permit the plea to be entered at any time prior to trial. The form of the plea ~~shall be~~ IS: "Not guilty by reason of insanity"; and it must be pleaded orally either by the defendant or by the defendant's counsel. The plea of not guilty by reason of insanity includes the plea of not guilty.

(b) This subsection (1.5) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

(2) If counsel for the defendant believes that a plea of not guilty by reason of insanity should be entered on behalf of the defendant but the defendant refuses to permit the entry of the plea, counsel may ~~so~~ inform the court. The court shall then conduct ~~such~~ AN investigation as it deems proper, which may include the appointment of psychiatrists or forensic psychologists to assist in examining the defendant and advising the court.

After its investigation, the court shall conduct a hearing to determine whether the plea should be entered. If the court finds that the entry of a plea of not guilty by reason of insanity is necessary for a just determination of the charge against the defendant, ~~it~~ THE COURT shall enter the plea on behalf of the defendant, and the plea ~~so~~ entered ~~shall have~~ HAS the same effect as though it had been voluntarily entered by the defendant. ~~himself or herself.~~

(3) If ~~there has been no~~ A grand jury indictment or preliminary hearing HAS NOT BEEN HELD prior to the entry of the plea of not guilty by reason of insanity, the court shall hold a preliminary hearing prior to the trial of the insanity issue. If probable cause is not established, the case ~~shall~~ MUST be dismissed, but the court may order the district attorney to institute civil proceedings pursuant to article 65 of title 27 ~~C.R.S.,~~ if it appears that the protection of the public or the accused requires ~~it~~ A CIVIL PROCEEDING.

(4) Before accepting a plea of not guilty by reason of insanity, the court shall advise the defendant of the effect and consequences of the plea.

SECTION 5. In Colorado Revised Statutes, **amend** 16-8-103.5 as follows:

16-8-103.5. Impaired mental condition - when raised - procedure - legislative intent. (1) If the defendant intends to assert the affirmative defense of impaired mental condition, ~~he~~ THE DEFENDANT shall indicate that intention to the court and to the prosecution at the time of arraignment; except that the court, for good cause shown, shall permit the defendant to inform the court and the prosecution of ~~his~~ THE DEFENDANT'S intention to assert the affirmative defense of impaired

mental condition at any time prior to trial.

(2) If counsel for the defendant believes that an assertion of the affirmative defense of impaired mental condition should be entered on behalf of the defendant but the defendant refuses to permit counsel to offer such evidence, counsel may ~~so~~ inform the court. The court shall then conduct ~~such~~ AN investigation as it deems proper, which may include the appointment of psychiatrists or forensic psychologists to assist in examining the defendant and advising the court. After its investigation, the court shall conduct a hearing to determine whether evidence of impaired mental condition should be offered at trial. If the court finds that ~~such a~~ THE defense OF IMPAIRED MENTAL CONDITION is necessary for a just determination of the charge against the defendant, ~~it~~ THE COURT shall inform the prosecution that ~~such~~ THE defense ~~shall~~ MUST be asserted at trial by the defendant and shall order the defendant's counsel to present evidence at trial on the defense of impaired mental condition.

(3) At the time ~~at which~~ WHEN the defendant announces ~~his~~ THE DEFENDANT'S intention to assert the affirmative defense of impaired mental condition, the court shall advise the defendant of the effect and consequences of asserting the defense.

(4) When the defendant indicates ~~his~~ THE DEFENDANT'S intention to assert the defense of impaired mental condition, the court shall order an examination of the defendant pursuant to section 16-8-106. The court shall order both the prosecutor and the defendant to exchange the names, addresses, reports, and statements of persons, other than medical experts subject to the provisions of section 16-8-103.6, whom the parties intend to call as witnesses with regard to the affirmative defense of impaired mental condition.

(5) If the trier of fact finds the defendant not guilty by reason of impaired mental condition, pursuant to section 18-1-803 (3), ~~C.R.S.,~~ the court shall commit the defendant to the custody of the department of human services until such time as ~~he~~ THE DEFENDANT is found eligible for release, pursuant to the standards set forth in sections 16-8-115 and 16-8-120. The executive director of the department of human services shall designate the state facility ~~at which~~ WHERE the defendant shall be held for care and psychiatric treatment and may transfer the defendant from one institution to another if, in the opinion of the EXECUTIVE director, ~~it~~ TRANSFERRING THE DEFENDANT is desirable to do so in the interest of the DEFENDANT'S proper care, custody, and treatment ~~of the defendant~~ or the protection of the public or the personnel of the facilities in question.

(6) It is the intent of the general assembly that the assertion of the affirmative defense of impaired mental condition not be made in ~~such a fashion~~ A MANNER that it is used to circumvent the requirements of disclosure specified in rule 16 of the Colorado rules of criminal procedure.

(7) A defendant may raise impaired mental condition only through an assertion of affirmative defense.

(8) This section ~~shall apply only~~ APPLIES to offenses committed before July 1, 1995.

SECTION 6. In Colorado Revised Statutes, **amend** 16-8-103.6 as follows:

16-8-103.6. Waiver of privilege. (1) (a) A defendant who places ~~his or her~~ THE DEFENDANT'S mental condition at issue by pleading not guilty by reason of insanity pursuant to section 16-8-103, or asserting the

affirmative defense of impaired mental condition pursuant to section 16-8-103.5, or disclosing witnesses who may provide evidence concerning the defendant's mental condition during a sentencing hearing held pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.3-1302 for an offense charged prior to July 1, 2020, waives any claim of confidentiality or privilege as to communications made by the defendant to a physician or psychologist in the course of an examination or treatment for the mental condition for the purpose of any trial or hearing on the issue of the mental condition, or sentencing hearing conducted pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.3-1302 for an offense charged prior to July 1, 2020. The court shall order both the prosecutor and the defendant to exchange the names, addresses, reports, and statements of any physician or psychologist who has examined or treated the defendant for the mental condition.

(b) This subsection (1) ~~shall apply only~~ APPLIES to offenses committed before July 1, 1995.

(2) (a) A defendant who places ~~his or her~~ THE DEFENDANT'S mental condition at issue by pleading not guilty by reason of insanity pursuant to section 16-8-103 or disclosing witnesses who may provide evidence concerning the defendant's mental condition during a sentencing hearing held pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.4-102; or, for offenses committed on or after July 1, 1999, by seeking to introduce evidence concerning ~~his or her~~ THE DEFENDANT'S mental condition pursuant to section 16-8-107 (3) waives any claim of confidentiality or privilege as to communications made by the defendant to a physician or psychologist

in the course of an examination or treatment for the mental condition for the purpose of any trial or hearing on the issue of the mental condition, or sentencing hearing conducted pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.4-102. The court shall order both the prosecutor and the defendant to exchange the names, addresses, reports, and statements of any physician or psychologist who has examined or treated the defendant for the mental condition.

(b) This subsection (2) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

SECTION 7. In Colorado Revised Statutes, **amend** 16-8-103.7 as follows:

16-8-103.7. Examination after entry of defenses of insanity and impaired mental condition. (1) (a) When, at the time of arraignment, the defense of insanity is raised pursuant to section 16-8-103, and the defendant asserts ~~his or her~~ THE DEFENDANT'S intention to raise the affirmative defense of impaired mental condition pursuant to section 16-8-103.5, the court shall order one examination of the defendant with regard to both defenses pursuant to section 16-8-106.

(b) This subsection (1) ~~shall apply only~~ APPLIES to offenses committed before July 1, 1995.

(2) (a) When, at the time of arraignment, the defense of insanity is raised pursuant to section 16-8-103, the court shall order an examination of the defendant with regard to the insanity defense pursuant to section 16-8-106.

(b) This subsection (2) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

(3) (a) When the defendant gives notice pursuant to section 16-8-107 (3) that ~~he or she~~ THE DEFENDANT intends to introduce evidence in the nature of expert opinion concerning ~~his or her~~ THE DEFENDANT'S mental condition, the court shall order an examination of the defendant pursuant to section 16-8-106.

(b) ~~The provisions of~~ This subsection (3) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1999.

SECTION 8. In Colorado Revised Statutes, **amend** 16-8-104 as follows:

16-8-104. Separate trial of issues. The issues raised by the plea of not guilty by reason of insanity ~~shall~~ MUST be tried separately to different juries, and the sanity of the defendant ~~shall~~ MUST be tried first. This section ~~shall apply only~~ APPLIES to offenses committed before July 1, 1995.

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

16-8-104.5. Single trial of issues. (1) The issues raised by the plea of not guilty by reason of insanity ~~shall~~ MUST be treated as an affirmative defense and ~~shall~~ MUST be tried at the same proceeding and before the same trier of fact as the charges to which not guilty by reason of insanity is offered as a defense.

(2) This section ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

SECTION 10. In Colorado Revised Statutes, 16-8-105, **amend** (1), (4), and (5) as follows:

16-8-105. Procedure after plea for offenses committed before July 1, 1995. (1) When a plea of not guilty by reason of insanity is

accepted, the court shall forthwith ~~commit~~ ORDER the defendant ~~for~~ TO UNDERGO a sanity examination, specifying the place ~~and period of commitment~~ WHERE THE EXAMINATION MUST BE CONDUCTED.

(4) If the trier of fact finds the defendant not guilty by reason of insanity, the court shall commit the defendant to the custody of the department of human services until such time as ~~he~~ THE DEFENDANT is found eligible for release. The executive director of the department of human services shall designate the state facility at which the defendant shall be held for care and psychiatric treatment and may transfer the defendant from one institution to another if, in the opinion of the EXECUTIVE director, it is desirable to do so in the interest of the DEFENDANT'S proper care, custody, and treatment ~~of the defendant~~ or the protection of the public or the personnel of the facilities in question.

(5) This section ~~shall apply~~ APPLIES to offenses committed before July 1, 1995.

SECTION 11. In Colorado Revised Statutes, 16-8-105.5, **amend** (1), (2), and (3) as follows:

16-8-105.5. Procedure after plea for offenses committed on or after July 1, 1995. (1) (a) When a plea of not guilty by reason of insanity is accepted, the court shall forthwith ~~commit~~ ORDER the defendant ~~for~~ TO UNDERGO a sanity examination, specifying ~~the place and period of commitment~~ WHERE THE EXAMINATION MUST BE CONDUCTED. THE COURT, IN CONSULTATION WITH THE DEPARTMENT OF HUMAN SERVICES AND THE PARTIES, SHALL DETERMINE WHETHER THE EXAMINATION REQUIRES THE DEFENDANT TO STAY OVERNIGHT FOR AN EXTENDED EXAMINATION AND THE NUMBER OF DAYS OF THE EXTENDED EXAMINATION.

(b) (I) IF THE DEFENDANT IS IN CUSTODY, THE EXAMINATION MAY BE CONDUCTED AT THE JAIL OR PLACE OF CONFINEMENT OR AT A FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES. IF THE DEFENDANT IS IN CUSTODY AND THE COURT DETERMINES THE EXAMINATION MUST BE CONDUCTED AT A FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES, THE COURT SHALL ORDER THE DEPARTMENT OF HUMAN SERVICES TO TAKE CUSTODY OF THE DEFENDANT TO CONDUCT THE EXAMINATION AND RETURN THE DEFENDANT TO THE ORIGINAL PLACE OF CUSTODY AFTER THE EXAMINATION IS COMPLETE.

(II) IF THE DEFENDANT IS AT LIBERTY ON SUMMONS OR ON BOND, THE EXAMINATION MAY BE CONDUCTED AT A FACILITY OPERATED BY OR CONTRACTED WITH THE DEPARTMENT OF HUMAN SERVICES OR AT A LOCATION THAT THE COURT AND DEPARTMENT OF HUMAN SERVICES DETERMINE IS APPROPRIATE; EXCEPT THAT THE COURT SHALL NOT ORDER A DEFENDANT INTO CUSTODY IN ORDER TO CONDUCT THE EXAMINATION IF THE DEFENDANT IS AT LIBERTY ON SUMMONS OR ON BOND.

(2) Upon receiving the report of the sanity examination, the court shall immediately set the case for trial. Every person is presumed to be sane; but, once any evidence of insanity is introduced, the ~~people have~~ PROSECUTION HAS the burden of proving sanity beyond a reasonable doubt.

(3) When the affirmative defense of not guilty by reason of insanity has been raised, the jury ~~shall~~ MUST be given special verdict forms containing interrogatories. The trier of fact shall decide first the question of guilt as to felony charges that are before the court. If the trier of fact concludes that guilt has been proven beyond a reasonable doubt as

to one or more of the felony charges submitted for consideration, the special interrogatories ~~shall~~ MUST not be answered. Upon completion of its deliberations on the felony charges as previously set forth in this subsection (3), the trier of fact shall consider any other charges before the court in a similar manner; except that ~~it~~ THE TRIER OF FACT shall not answer the special interrogatories regarding ~~such~~ THE charges if ~~it~~ THE TRIER OF FACT has previously found guilt beyond a reasonable doubt with respect to one or more felony charges. The interrogatories ~~shall~~ MUST provide for specific findings of the jury with respect to the affirmative defense of not guilty by reason of insanity. When the court sits as the trier of fact, ~~it~~ THE COURT shall enter appropriate specific findings with respect to the affirmative defense of not guilty by reason of insanity.

SECTION 12. In Colorado Revised Statutes, 16-8-106, **amend** (1)(a), (1)(b), (2)(a), (2)(b), (3), and (7) introductory portion as follows:

16-8-106. Examinations and report. (1) (a) All examinations ordered by the court in criminal cases ~~shall~~ MUST be accomplished by the entry of an order of the court specifying the place where ~~such~~ THE examination is to be conducted and the period of time allocated for ~~such~~ THE examination. The defendant may be committed for ~~such~~ THE examination to ~~the Colorado psychiatric hospital in Denver, the Colorado mental health institute at Pueblo~~ A STATE-RUN MENTAL HEALTH HOSPITAL, the place where ~~he or she~~ THE DEFENDANT is in custody, or ~~such~~ ANY other public institution designated by the court. In determining the place where ~~such~~ THE examination is to be conducted, the court shall give priority to the place where the defendant is in custody, unless the nature and circumstances of the examination require designation of a different facility. ONE OR MORE PSYCHIATRISTS OR FORENSIC PSYCHOLOGISTS

SHALL OBSERVE the defendant ~~shall be observed and examined by one or more psychiatrists or forensic psychologists~~ during ~~such~~ A period as the court directs. For good cause shown, upon motion of the prosecution or defendant, or upon the court's own motion, the court may order ~~such~~ ANY further or other examination as is advisable under the circumstances. ~~Nothing in~~ This section ~~shall~~ DOES NOT abridge the right of the defendant to procure an examination as provided in section 16-8-108.

(b) (I) An interview conducted PURSUANT TO THIS SECTION in any case that includes a class 1 or class 2 felony charge or a felony sex offense charge described in section 18-3-402, 18-3-404, 18-3-405, or 18-3-405.5 ~~C.R.S., pursuant to this section~~ must be video and audio recorded and preserved, EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION. The court shall advise the defendant that any examination with a psychiatrist or forensic psychologist may be video and audio recorded. A copy of the recording must be provided to all parties and the court with the examination report. Any jail or other facility where the court orders the examination to take place ~~must~~ SHALL permit the recording to occur and ~~must~~ SHALL provide the space and equipment necessary for ~~such~~ THE recording. If space and equipment are not available, the sheriff or facility director shall attempt to coordinate a location and the availability of equipment with the court, ~~which~~ AND THE COURT may consult with the district attorney and defense counsel for an agreed-upon location. If ~~no~~ AN agreement is NOT reached, and upon the request of either the defense counsel or district attorney, the court shall order the location of the examination, which may include ~~the Colorado mental health institute at Pueblo~~ A STATE-RUN MENTAL HEALTH HOSPITAL.

(II) IN ORDER TO PROTECT THE PRESUMPTION OF INNOCENCE, IF

THE EXAMINATION IS RECORDED, THE DEFENDANT MUST NOT BE DRESSED IN PRISON OR JAIL CLOTHING. THIS SUBSECTION (1)(b)(II) DOES NOT REQUIRE OR PROHIBIT THE USE OF RESTRAINTS, AND THE EXAMINATION MAY BE STOPPED OR PAUSED IN ORDER TO APPLY RESTRAINTS ON THE DEFENDANT TO ENSURE THE SAFETY OF THE EVALUATOR, THE DEFENDANT, OR OTHERS, AS LONG AS THE RESTRAINTS ARE NOT VISIBLE ON THE RECORDING.

(2) (a) The defendant ~~shall have~~ HAS a privilege against self-incrimination during the course of an examination ~~under~~ CONDUCTED PURSUANT TO this section. The fact of the defendant's noncooperation with psychiatrists, forensic psychologists, and other personnel conducting the examination may be admissible in the defendant's trial on the issue of insanity or impaired mental condition and in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302. ~~C.R.S.~~ This ~~paragraph (a) shall apply only~~ SUBSECTION (2)(a) APPLIES to offenses committed before July 1, 1995.

(b) The defendant ~~shall have~~ HAS a privilege against self-incrimination during the course of an examination ~~under~~ CONDUCTED PURSUANT TO this section. The fact of the defendant's noncooperation with psychiatrists, forensic psychologists, and other personnel conducting the examination may be admissible in the defendant's trial on the issue of insanity and in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.4-102. ~~C.R.S.~~ This ~~paragraph (b) shall apply~~ SUBSECTION (2)(b) APPLIES to offenses committed on or after July 1, 1995, but prior to July 1, 1999.

(3) (a) To aid in forming an opinion ~~as to~~ REGARDING the DEFENDANT'S mental condition, ~~of the defendant,~~ it is permissible in the

course of an examination ~~under~~ CONDUCTED PURSUANT TO this section to use THE DEFENDANT'S confessions and admissions ~~of the defendant~~ and any other evidence of the circumstances surrounding the commission of the offense, as well as the DEFENDANT'S medical and social history ~~of the defendant,~~ in questioning the defendant. When the defendant is noncooperative with psychiatrists, forensic psychologists, and other personnel conducting the examination, an opinion of the DEFENDANT'S mental condition ~~of the defendant~~ may be rendered by ~~such~~ THE psychiatrists, forensic psychologists, or other personnel based upon ~~such~~ THE DEFENDANT'S confessions AND admissions and any other evidence of the circumstances surrounding the commission of the offense, as well as the DEFENDANT'S known medical and social history, ~~of the defendant,~~ and ~~such~~ THE opinion may be admissible into evidence at trial and in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302. ~~C.R.S. It shall also be permissible to conduct a narcoanalytic interview of the defendant with such drugs as are medically appropriate and to subject the defendant to polygraph examination. In any trial or hearing on the issue of the defendant's sanity, eligibility for release, or impaired mental condition, and in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302, C.R.S., the physicians and other personnel conducting the examination may testify to the results of any such procedures and the statements and reactions of the defendant insofar as the same entered into the formation of their opinions as to the mental condition of the defendant both at the time of the commission of the alleged offense and at the present time. This paragraph (a) shall apply only~~ THIS SUBSECTION (3)(a) APPLIES to offenses committed before July 1, 1995.

(b) To aid in forming an opinion ~~as to~~ REGARDING the DEFENDANT'S mental condition, ~~of the defendant,~~ it is permissible in the course of an examination ~~under~~ CONDUCTED PURSUANT TO this section to use THE DEFENDANT'S confessions and admissions ~~of the defendant~~ and any other evidence of the circumstances surrounding the commission of the offense, as well as the DEFENDANT'S medical and social history ~~of the defendant,~~ in questioning the defendant. When the defendant is noncooperative with psychiatrists, forensic psychologists, and other personnel conducting the examination, an opinion of the DEFENDANT'S mental condition ~~of the defendant~~ may be rendered by ~~such~~ THE psychiatrists, forensic psychologists, or other personnel based upon ~~such~~ THE DEFENDANT'S confessions AND admissions and any other evidence of the circumstances surrounding the commission of the offense, as well as the DEFENDANT'S known medical and social history, ~~of the defendant,~~ and ~~such~~ THE opinion may be admissible into evidence at trial and in any sentencing hearing held pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.4-102. ~~It shall also be permissible to conduct a narcoanalytic interview of the defendant with such drugs as are medically appropriate and to subject the defendant to polygraph examination. In any trial or hearing on the issue of the defendant's sanity or eligibility for release, and in any sentencing hearing held pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.4-102, the physicians and other personnel conducting the examination may testify to the results of any such procedures and the statements and reactions of the defendant insofar as the same entered into the formation of their opinions as to the mental condition of the defendant both at the time of the commission of the~~

~~alleged offense and at the present time.~~ This subsection (3)(b) applies to offenses committed on or after July 1, 1995.

(c) For offenses committed on or after July 1, 1999, when a defendant undergoes an examination pursuant to ~~the provisions of paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION because the defendant has given notice pursuant to section 16-8-107 (3) that ~~he or she~~ THE DEFENDANT intends to introduce expert opinion evidence concerning ~~his or her~~ THE DEFENDANT'S mental condition, the physicians, forensic psychologists, and other personnel conducting the examination may testify to the results of any ~~such~~ procedures and the DEFENDANT'S statements and reactions ~~of the defendant insofar as such~~ IF THE statements and reactions entered into the formation of ~~their~~ THE EXPERTS' opinions ~~as to~~ REGARDING the DEFENDANT'S mental condition. ~~of the defendant.~~

(7) With respect to offenses committed on or after July 1, 1999, when a defendant has undergone an examination pursuant to ~~the provisions of~~ this section because the defendant has given notice pursuant to section 16-8-107 (3) that ~~he or she~~ THE DEFENDANT intends to introduce expert opinion evidence concerning ~~his or her~~ THE DEFENDANT'S mental condition, the ~~report of shall~~ examination REPORT MUST include, but is not limited to, the items described in subsections (5)(a), (5)(b), and (5)(c) of this section, and:

SECTION 13. In Colorado Revised Statutes, 16-8-107, **amend** (1)(a), (1)(c), (1.5)(a), (1.5)(c), (3)(b), and (3)(c) as follows:

16-8-107. Evidence. (1) (a) Except as provided in this subsection (1), ~~no~~ evidence acquired directly or indirectly for the first time from a communication derived from the defendant's mental processes during the

course of a court-ordered examination ~~under~~ PURSUANT TO section 16-8-106 or acquired pursuant to section 16-8-103.6 is NOT admissible against the defendant on the issues raised by a plea of not guilty, if the defendant is put to trial on those issues, except to rebut evidence of ~~his or her~~ THE DEFENDANT'S mental condition introduced by the defendant to show incapacity to form a culpable mental state; and, in such case, that evidence may be considered by the trier of fact only as bearing upon the question of capacity to form a culpable mental state, and the jury, at the request of either party, ~~shall~~ MUST be so instructed.

(c) If the defendant testifies ~~in his or her~~ ON THE DEFENDANT'S own behalf upon the trial of the issues raised by the plea of not guilty, or at a sentencing hearing held pursuant to section 18-1.3-1201 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.3-1302 for an offense charged prior to July 1, 2020, or pursuant to section 18-1.4-102, ~~the provisions of~~ this section ~~shall~~ DOES not bar any evidence used to impeach or rebut the defendant's testimony.

(1.5) (a) Except as otherwise provided in this subsection (1.5), evidence acquired directly or indirectly for the first time from a communication derived from the defendant's mental processes during the course of a court-ordered examination pursuant to section 16-8-106 or acquired pursuant to section 16-8-103.6 is admissible only as to the issues raised by the defendant's plea of not guilty by reason of insanity, and the jury, at the request of either party, ~~shall~~ MUST be so instructed; except that, for offenses committed on or after July 1, 1999, ~~such~~ THE evidence ~~shall~~ IS also ~~be~~ admissible as to the defendant's mental condition if the defendant undergoes the examination because the defendant has given notice pursuant to subsection (3) of this section that ~~he or she~~ THE

DEFENDANT intends to introduce expert opinion evidence concerning ~~his or her~~ THE DEFENDANT'S mental condition.

(c) If the defendant testifies ~~in his or her~~ ON THE DEFENDANT'S own behalf, ~~the provisions of~~ this section ~~shall~~ DOES not bar any evidence used to impeach or rebut the defendant's testimony. This subsection (1.5) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

(3) (b) Regardless of whether a defendant enters a plea of not guilty by reason of insanity pursuant to section 16-8-103, the defendant ~~shall not be~~ IS NOT permitted to introduce evidence in the nature of expert opinion concerning ~~his or her~~ THE DEFENDANT'S mental condition without having first given notice to the court and the prosecution of ~~his or her~~ THE DEFENDANT'S intent to introduce ~~such~~ THE evidence and without having undergone a court-ordered examination pursuant to section 16-8-106. A defendant who places ~~his or her~~ THE DEFENDANT'S mental condition at issue by giving such notice waives any claim of confidentiality or privilege as provided in section 16-8-103.6. ~~Such~~ THE notice ~~shall~~ MUST be given at the time of arraignment; except that the court, for good cause shown, shall permit the defendant to inform the court and prosecution of the intent to introduce such evidence at any time prior to trial. Any period of delay caused by the examination and report provided for in section 16-8-106 ~~shall~~ MUST be excluded, as provided in section 18-1-405 (6)(a), ~~C.R.S.,~~ from the time within which the defendant must be brought to trial.

(c) ~~The provisions of~~ This subsection (3) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1999.

SECTION 14. In Colorado Revised Statutes, 16-8-108, **amend** (1)(a) as follows:

16-8-108. Examination at instance of defendant. (1) (a) If the

defendant wishes to be examined by a psychiatrist, psychologist, or other expert of ~~his~~ THE DEFENDANT'S own choice in connection with any proceeding under this ~~article~~ ARTICLE 8, the court, upon timely motion, shall order that the examiner chosen by the defendant be given reasonable opportunity to conduct the examination. An interview conducted pursuant to a court order under this section must be video and audio recorded and preserved, EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION. The court shall advise the defendant that any examination with a psychiatrist or forensic psychologist may be audio and video recorded. A copy of the recording must be provided to the prosecution with the examination report. Any jail or other facility where the court orders the examination to take place ~~must~~ SHALL permit the recording to occur and ~~must~~ SHALL provide the space and equipment necessary for ~~such~~ THE recording, if available. If space and equipment are not available, the sheriff or facility director shall attempt to coordinate a location and the availability of equipment with the court, ~~which~~ AND THE COURT may consult with the district attorney and defense counsel for an agreed-upon location. If ~~no~~ AN agreement is NOT reached, and upon the request of either the defense counsel or district attorney, the court shall order the location of the examination, which may include ~~the Colorado mental health institute at Pueblo~~ A STATE-RUN MENTAL HEALTH HOSPITAL.

SECTION 15. In Colorado Revised Statutes, **amend** 16-8-109 as follows:

16-8-109. Testimony of lay witnesses. In any trial or hearing in which THE DEFENDANT'S mental condition ~~of the defendant~~ is an issue, ~~witnesses~~ A WITNESS not specially trained in psychiatry or psychology may testify as to ~~their~~ THE WITNESS'S observation of the defendant's

actions and conduct, and as to conversations ~~which they have~~ THAT THE WITNESS HAS had with ~~him~~ THE DEFENDANT bearing upon ~~his~~ THE DEFENDANT'S mental condition, and ~~they shall~~ THE WITNESS MUST be permitted to give ~~their~~ opinions or conclusions concerning THE DEFENDANT'S mental condition. ~~of the defendant.~~

SECTION 16. In Colorado Revised Statutes, 16-8-114, **amend** (3) as follows:

16-8-114. Evidence concerning competency - inadmissibility. (3) (a) Evidence of any determination as to the defendant's competency or incompetency is not admissible on the issues raised by the pleas of not guilty or not guilty by reason of insanity or the affirmative defense of impaired mental condition. This ~~paragraph (a) shall apply only~~ SUBSECTION (3)(a) APPLIES to offenses committed before July 1, 1995.

(b) Evidence of any determination as to the defendant's competency or incompetency is not admissible on the issues raised by the pleas of not guilty or not guilty by reason of insanity. This ~~paragraph (b) shall apply~~ SUBSECTION (3)(b) APPLIES to offenses committed on or after July 1, 1995.

SECTION 17. In Colorado Revised Statutes, 16-8-115, **amend** (1)(b), (1)(c), (1.5), (2), (3)(b), (3)(c), (4)(a.5), (4)(f), (4)(g)(XXI), and (4)(i)(I) as follows:

16-8-115. Release from commitment after verdict of not guilty by reason of insanity or not guilty by reason of impaired mental condition - definitions. (1) (b) Following the initial release hearing pursuant to subsection (1)(a) of this section, the court may order a release hearing at any time on its own motion, on motion of the prosecuting attorney, or on motion of the defendant. The court shall order a release

hearing upon receipt of the report of the chief officer of the ~~institution in which~~ HOSPITAL WHERE the defendant is committed, OR THE CHIEF OFFICER'S DESIGNEE, that the defendant no longer requires hospitalization, as provided in section 16-8-116. Except for the initial release hearing, unless the court for good cause shown permits, the defendant is not entitled to a hearing within one year subsequent to a previous hearing.

(c) Beginning September 1, 2022, the chief officer of the ~~institution in which~~ HOSPITAL WHERE the defendant is committed, OR THE CHIEF OFFICER'S DESIGNEE, shall annually submit a release examination report to the court certifying whether the defendant continues to meet the criteria for ongoing inpatient hospitalization or meets the applicable test for release pursuant to section 16-8-120. The report must be submitted each year by the date on which the defendant was initially committed for inpatient hospitalization unless another release examination is ordered within the twelve months preceding ~~such~~ THE date. The release examination report must include the information required for a release examination pursuant to subsection (2.5) of this section. The ~~institution~~ HOSPITAL shall provide a copy of the report to the defendant, the prosecuting attorney, and any other attorney of record. Upon receipt and after review of the report, the court may order a release hearing on its own motion, on motion of the prosecuting attorney, or on motion of the defendant.

(1.5) (a) Any victim of any crime or any member of ~~such~~ THE victim's immediate family, if the victim has died or is a minor, the perpetrator of which has been found not guilty by reason of insanity or not guilty by reason of impaired mental condition, shall be notified by the court in a timely manner prior to any hearing for release of the perpetrator

held pursuant to subsection (1) of this section, if ~~such~~ THE victim or family member can reasonably be located. This ~~paragraph (a) shall apply only~~ SUBSECTION (1.5)(a) APPLIES to offenses committed before July 1, 1995.

(b) Any victim of any crime or any member of ~~such~~ THE victim's immediate family, if the victim has died or is a minor, the perpetrator of which has been found not guilty by reason of insanity, shall be notified by the court in a timely manner prior to any hearing for release of the perpetrator held pursuant to subsection (1) of this section, if ~~such~~ THE victim or family member can reasonably be located. This ~~paragraph (b) shall apply~~ SUBSECTION (1.5)(b) APPLIES to offenses committed on or after July 1, 1995.

(2) (a) The court shall order a release examination of the defendant when a current one has not already been furnished or when either the prosecution or defense moves for an examination of the defendant at a different ~~institution~~ HOSPITAL or by different experts. The court may order any additional or supplemental examination, investigation, or study that ~~it~~ THE COURT deems necessary to a proper consideration and determination of the question of eligibility for release. The court shall set the matter for release hearing after ~~it~~ THE COURT has received all of the reports that ~~it~~ THE COURT has ordered ~~under~~ PURSUANT TO this section. When none of ~~said~~ THE reports indicates that the defendant is eligible for release, the defendant's request for A release hearing shall be denied by the court if the defendant is unable to show by way of an offer of proof any evidence by a medical expert in mental disorders that would indicate that the defendant is eligible for release. For the purposes of this subsection (2), "medical expert in mental disorders"

means a physician licensed ~~under the provisions of~~ PURSUANT TO article 240 of title 12, a psychologist licensed ~~under the provisions of~~ PURSUANT TO article 245 of title 12, a psychiatric technician licensed ~~under the provisions of~~ PURSUANT TO article 295 of title 12, a registered professional nurse, as defined in section 12-255-104 (11), who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing, or a social worker licensed ~~under the provisions of~~ PURSUANT TO part 4 of article 245 of title 12. The release hearing shall be to the court or, on demand by the defendant, to a jury ~~of not to exceed~~ COMPOSED OF NOT MORE THAN six persons. At the release hearing, if any evidence of insanity is introduced, the defendant has the burden of proving restoration of sanity by a preponderance of the evidence; if any evidence of ineligibility for release by reason of impaired mental condition is introduced, the defendant has the burden of proving, by a preponderance of the evidence, that the defendant is eligible for release by no longer having an impaired mental condition. This subsection (2)(a) ~~shall apply only~~ APPLIES to offenses committed before July 1, 1995.

(b) The court shall order a release examination of the defendant when a current one has not already been furnished or when either the prosecution or defense moves for an examination of the defendant at a different ~~institution~~ HOSPITAL or by different experts. The court may order any additional or supplemental examination, investigation, or study that ~~it~~ THE COURT deems necessary to a proper consideration and determination of the question of eligibility for release. The court shall set the matter for release hearing after ~~it~~ THE COURT has received all of the reports that ~~it has~~ THE COURT ordered ~~under~~ PURSUANT TO this section.

When none of the reports indicates that the defendant is eligible for release, THE COURT SHALL DENY the defendant's request for A release hearing ~~shall be denied by the court~~ if the defendant is unable to show by way of an offer of proof any evidence by a medical expert in mental disorders that would indicate that the defendant is eligible for release. For the purposes of this subsection (2), "medical expert in mental disorders" means a physician licensed ~~under the provisions of~~ PURSUANT TO article 240 of title 12, a psychologist licensed ~~under the provisions of~~ PURSUANT TO article 245 of title 12, a psychiatric technician licensed ~~under the provisions of~~ PURSUANT TO article 295 of title 12, a registered professional nurse as, defined in section 12-255-104 (11), who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing, or a social worker licensed ~~under the provisions of~~ PURSUANT TO part 4 of article 245 of title 12. The release hearing shall be to the court or, on demand by the defendant, to a jury composed of not more than six persons. At the release hearing, if any evidence that the defendant does not meet the release criteria is introduced, the defendant has the burden of proving by a preponderance of the evidence that the defendant ~~has no~~ DOES NOT HAVE AN abnormal mental condition that would be likely to cause the defendant to be dangerous either to ~~himself or herself~~ THE DEFENDANT'S SELF or to others or to the community in the reasonably foreseeable future. This subsection (2)(b) ~~shall apply~~ APPLIES to offenses committed on or after July 1, 1995.

(3) (b) When a defendant is conditionally released, the chief officer of the ~~institution in which~~ HOSPITAL WHERE the defendant is committed, OR THE CHIEF OFFICER'S DESIGNEE, shall forthwith give written

notice of the terms and conditions of ~~such~~ THE release to the executive director of the department of human services and to the director of any behavioral health safety net provider that may be charged with THE DEFENDANT'S continued treatment. ~~of the defendant.~~ The director of ~~such~~ THE behavioral health safety net provider shall make written reports every three months to the executive director of the department of human services and to the district attorney for the judicial district where the defendant was committed and to the district attorney for any judicial district where the defendant may be required to receive treatment concerning the DEFENDANT'S treatment and status. ~~of the defendant. Such~~ THE reports ~~shall~~ MUST include all known violations of the terms and conditions of the defendant's release and any changes in the defendant's mental status that would indicate that the defendant has become ineligible to remain on conditional release. ~~as defined in section 16-8-102 (4.5).~~

(c) A defendant who has been conditionally released remains under the supervision of the department of human services until the committing court enters a final order of unconditional release. When a defendant fails to comply with any conditions of ~~his~~ THE DEFENDANT'S release requiring ~~him~~ THE DEFENDANT to establish, maintain, and reside at a specific residence and ~~his~~ THE DEFENDANT'S whereabouts have ~~therefore~~ become unknown to the authorities charged with ~~his~~ THE DEFENDANT'S supervision or when the defendant leaves the state of Colorado without the consent of the committing court, the defendant's absence from supervision ~~shall constitute~~ CONSTITUTES unauthorized absence, as defined in section 18-8-208.2. Such offense occurs in the county in which the defendant is authorized to reside.

(4) (a.5) In addition to any terms and conditions of release

imposed pursuant to subsection (3) of this section, a court may order a defendant, as a condition of release, to register with the local law enforcement agency of the jurisdiction in which the defendant resides if the court finds that the chief officer of the ~~institution in which~~ HOSPITAL WHERE the defendant has been committed, OR THE CHIEF OFFICER'S DESIGNEE, recommends registration based on information obtained from the defendant during the course of treatment that indicates the defendant has committed an offense involving unlawful sexual behavior.

(f) The local law enforcement agency shall transmit any registrations received pursuant to ~~paragraph (e) of this subsection (4)~~ SUBSECTION (4)(e) OF THIS SECTION to the Colorado bureau of investigation within three business days following receipt OF THE REGISTRATION. The Colorado bureau of investigation shall include any registration information received pursuant to this section in the central registry established pursuant to section 16-22-110 and shall specify that the information applies to a defendant required to register as a condition of release pursuant to this section. The forms completed by ~~defendants~~ A DEFENDANT required to register as a condition of release pursuant to this subsection (4) ~~shall be~~ ARE confidential and ~~shall~~ MUST not be open to inspection except as provided in ~~paragraph (c) of subsection (3)~~ SUBSECTION (3)(e) of this section and except as provided for release of information to the public pursuant to sections 16-22-110 (6) and 16-22-112.

(g) As used in this subsection (4), "an offense involving unlawful sexual behavior" means any of the following offenses:

(XXI) Criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in this ~~paragraph (g)~~ SUBSECTION (4)(g).

(i) (I) Any defendant required to register as a condition of release pursuant to this subsection (4), upon completion of a period of not less than twenty years from the date the defendant is placed on conditional release, may petition the district court for an order that discontinues the requirement for ~~such~~ registration and removes the defendant's name from the central registry established pursuant to section 16-22-110. The court may issue ~~such~~ AN order only if the court makes written findings of fact that the defendant has neither been convicted nor found not guilty by reason of insanity of an offense involving unlawful sexual behavior subsequent to ~~his or her~~ THE DEFENDANT'S conditional release and that the defendant would not pose an undue threat to the community if allowed to live in the community without registration.

SECTION 18. In Colorado Revised Statutes, 16-8-115.5, **amend** (3), (4), (5), (6)(a), (6)(b), and (8) as follows:

16-8-115.5. Enforcement and revocation of conditional release from commitment. (3) Whenever the ~~superintendent of the Colorado mental health institute at Pueblo~~ DIRECTOR OF FORENSIC SERVICES IN THE DEPARTMENT OF HUMAN SERVICES, OR THE DIRECTOR'S DESIGNEE, has probable cause to believe that ~~such~~ THE defendant has become ineligible to remain on conditional release, ~~as defined in section 16-8-102 (4.5), said superintendent~~ THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, shall notify the district attorney for the judicial district where the defendant was committed. The ~~superintendent~~ DIRECTOR, OR THE DIRECTOR'S DESIGNEE, or the district attorney shall apply for a warrant to be directed to the sheriff or a peace officer in the jurisdiction ~~in which~~ WHERE the defendant resides or may be found, commanding ~~such~~ THE sheriff or peace officer to take custody of the defendant. The application ~~shall~~ MUST include the

order conditionally releasing the defendant pursuant to section 16-8-115 (3) and supporting documentation showing that THE defendant has become ineligible to remain on conditional release. ~~as defined in section 16-8-102 (4.5).~~ The committing court and the district court for the tenth judicial district are authorized to issue ~~such~~ a warrant pursuant to ~~the provisions of~~ section 16-1-106. The ~~superintendent~~ DIRECTOR, OR THE DIRECTOR'S DESIGNEE, shall mail a copy of the application to the committing court and the district attorney in the committing jurisdiction.

(4) The sheriff or peace officer to whom the warrant is directed pursuant to subsection (3) of this section shall take all necessary legal action to take custody of the defendant. A sheriff shall deliver the defendant immediately to the ~~Colorado mental health institute at Pueblo, which~~ HOSPITAL WHERE THE DEFENDANT WAS COMMITTED, AND THE HOSPITAL shall provide care and security for the defendant. If any other peace officer takes custody of the defendant, ~~such~~ THE peace officer shall deliver the defendant to the custody of the sheriff of the jurisdiction ~~in which~~ WHERE the defendant was found, and ~~such~~ THE sheriff shall comply with ~~the provisions of~~ this subsection (4).

(5) The ~~Colorado mental health institute at Pueblo~~ HOSPITAL WHERE THE DEFENDANT WAS COMMITTED shall examine the defendant to evaluate the defendant's ability to remain on conditional release. The examination ~~shall~~ MUST be consistent with the procedure provided in section 16-8-106. If the defendant refuses to submit to and cooperate with the examination, the committing court shall revoke the conditional release. The examination ~~shall~~ MUST be completed within twenty-one days after the defendant has been delivered to the ~~institute~~ HOSPITAL as a result of the defendant's arrest. The ~~institute~~ HOSPITAL shall mail or

deliver a written report of the examination to the committing court and the district attorney in the committing jurisdiction promptly after the examination is completed. The defendant may request an examination as provided in section 16-8-108.

(6) (a) The district attorney for the judicial district where the defendant was committed may file in the committing court a petition for the revocation of the defendant's conditional release. The petition ~~shall~~ MUST set forth the name of the defendant, an allegation that the defendant has become ineligible to remain on conditional release, ~~as defined in section 16-8-102 (4.5),~~ and the substance of the evidence sustaining the allegation.

(b) If the district attorney for the committing judicial district does not file a petition for revocation, as provided in ~~paragraph (a) of this subsection (6)~~ SUBSECTION (6)(a) OF THIS SECTION, within ten days after the defendant is delivered to the ~~Colorado mental health institute at Pueblo~~ HOSPITAL WHERE THE DEFENDANT WAS COMMITTED, the defendant ~~shall~~ MUST be immediately released from custody; except that, upon a showing of good cause by the district attorney, the court may grant a reasonable extension of time to file the petition for revocation.

(8) Within thirty-five days after the defendant is delivered to the ~~Colorado mental health institute in Pueblo~~ HOSPITAL WHERE THE DEFENDANT WAS COMMITTED pursuant to subsection (4) of this section, and if the defendant is not released from custody pursuant to ~~paragraph (b) of subsection (6)~~ SUBSECTION (6)(b) of this section, the committing court shall hold a hearing on the petition for revocation of conditional release. At ~~such~~ THE hearing, any evidence having probative value ~~shall be~~ IS admissible, but the defendant ~~shall be~~ IS permitted to offer testimony

and to call, confront, and cross-examine witnesses. If the court finds by a preponderance of the evidence that the defendant has become ineligible to remain on conditional release, ~~as defined in section 16-8-102 (4.5), it shall~~ THE COURT MUST enter an order revoking the defendant's conditional release and recommitting the defendant. At any time thereafter, the defendant may be afforded a release hearing as provided in section 16-8-115. If the court does not find by a preponderance of the evidence that the defendant has become ineligible to remain on conditional release, ~~as defined in section 16-8-102 (4.5), it~~ THE COURT shall dismiss the petition and reinstate or modify the original order of conditional release.

SECTION 19. In Colorado Revised Statutes, **amend** 16-8-116 as follows:

16-8-116. Release by department of human services authority. (1) AFTER A FINDING OF NOT GUILTY BY REASON OF INSANITY, when the chief officer of the ~~institution in which~~ HOSPITAL WHERE a defendant has been committed, ~~after a finding of not guilty by reason of insanity~~ OR THE CHIEF OFFICER'S DESIGNEE, OR THE DIRECTOR OF FORENSIC SERVICES IN THE DEPARTMENT OF HUMAN SERVICES, OR THE DIRECTOR'S DESIGNEE, WHO HAS BEEN SUPERVISING THE DEFENDANT'S CONDITIONAL RELEASE, determines that the defendant no longer requires hospitalization OR SUPERVISION because ~~he~~ THE DEFENDANT no longer suffers from a mental disease or defect ~~which~~ THAT is likely to cause ~~him~~ THE DEFENDANT to be ~~dangerous to himself~~ A DANGER TO THE DEFENDANT'S SELF, to others, or to the community in the reasonably foreseeable future, ~~such~~ THE chief officer OR THE CHIEF OFFICER'S DESIGNEE, OR THE DIRECTOR OR THE DIRECTOR'S DESIGNEE, shall report ~~this~~ THE determination to the court that committed the defendant and the prosecuting attorney, including in the

report a report of examination equivalent to a release examination. The clerk of the court shall forthwith furnish a copy of the report to counsel for the defendant.

(2) Within thirty-five days after receiving the report of the chief officer ~~of the institution having custody of the defendant~~ OR THE CHIEF OFFICER'S DESIGNEE, OR THE DIRECTOR OR THE DIRECTOR'S DESIGNEE, the court shall set a hearing on the discharge of the defendant in accordance with section 16-8-115, whether or not ~~such~~ THE report is contested.

(3) Repealed.

SECTION 20. In Colorado Revised Statutes, **amend** 16-8-117 as follows:

16-8-117. Advisement on matters to be determined. When a determination is to be made as to a defendant's eligibility for release, the court shall explain to the defendant the nature and consequences of the proceeding and the rights of the defendant ~~under~~ PURSUANT TO this section, including ~~his or her~~ THE DEFENDANT'S right to a jury trial upon the question of eligibility for release. The defendant, if ~~he or she~~ THE DEFENDANT wishes to contest the question, may request a hearing ~~which shall then~~ THAT MUST be granted as a matter of right. At the hearing, the defendant and the prosecuting attorney are entitled to be present in person, to examine any reports of examination or other matter to be considered by the court as bearing upon the determination, to introduce evidence, summon witnesses, cross-examine witnesses for the other side or the court, and to make opening and closing statements and argument. The court may examine or cross-examine any witness called by the defendant or prosecuting attorney and may summon and examine witnesses on its own motion.

SECTION 21. In Colorado Revised Statutes, 16-8-118, **amend** (1), (1.5), (2)(a.5), and (2)(b) as follows:

16-8-118. Temporary removal for treatment and rehabilitation. (1) The chief officer of the institution ~~in which~~ WHERE a defendant has been committed under this ~~article~~ ARTICLE 8 or article 8.5 of this ~~title~~ TITLE 16, OR THE CHIEF OFFICER'S DESIGNEE, may authorize treatment and rehabilitation activities involving temporary physical removal of ~~such person~~ THE DEFENDANT from the institution ~~in which~~ WHERE the defendant has been placed, if prior to ~~such~~ THE authorization the following procedures are carried out:

(a) ~~Such~~ THE chief officer, OR THE CHIEF OFFICER'S DESIGNEE, shall give written notice by certified mail, with return receipt requested, to the committing court and the district attorney that on or after thirty-five days from the date of mailing ~~such~~ THE notice, ~~he or she~~ THE CHIEF OFFICER, OR THE CHIEF OFFICER'S DESIGNEE, will authorize treatment and rehabilitation activities involving temporary physical removal of the defendant from the institution, unless written objections to ~~such~~ THE authorization are received by ~~him or her~~ THE CHIEF OFFICER, OR THE CHIEF OFFICER'S DESIGNEE, within thirty-five days from the date of mailing ~~such~~ THE notice.

(b) The clerk of the committing court shall deliver a copy of the notice ~~mentioned in paragraph (a) of this subsection (1)~~ DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION to the attorney of record for the defendant. The district attorney or the attorney of record for the defendant may file objections with the clerk of the committing court to the proposed action of the chief officer of the institution ~~in which such~~ WHERE THE defendant is held, OR THE CHIEF OFFICER'S DESIGNEE. THE PARTY MAKING

THE OBJECTIONS SHALL DELIVER a copy of ~~any such~~ THE objections, ~~shall be delivered by the party making such objections,~~ either by mail or by personal service, to ~~such~~ THE chief officer, OR THE CHIEF OFFICER'S DESIGNEE, prior to the expiration of thirty-five days from the mailing of the notice by the chief officer of the institution, OR THE CHIEF OFFICER'S DESIGNEE.

(c) In the event that objections are filed and served as provided in ~~paragraphs (a) and (b) of this subsection (1)~~ SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION, the committing court shall fix a time for a hearing upon the objections, and no removal of the defendant from the institution ~~in which he~~ WHERE THE DEFENDANT is held ~~shall be~~ IS authorized unless and until approval ~~thereof~~ is given by the committing court following ~~such~~ THE hearing.

(1.5) The chief officer of the institution, OR THE CHIEF OFFICER'S DESIGNEE, is authorized to allow a defendant, without court authorization as ~~set forth~~ DESCRIBED in subsection (1) of this section, to leave the physical premises of the treatment or habilitation facility for needed medical treatment at a hospital, clinic, or other health-care facility, so long as the defendant is accompanied by staff from the facility.

(2) (a.5) A court may order any defendant who receives treatment and rehabilitation activities involving temporary physical removal of the defendant from the institution to register with the local law enforcement agency of the jurisdiction ~~in which~~ WHERE the defendant resides if the court finds that the chief officer of the institution ~~in which~~ WHERE the defendant has been committed, OR THE CHIEF OFFICER'S DESIGNEE, recommends registration based on information obtained from the defendant during the course of treatment that indicates the defendant has

committed an offense involving unlawful sexual behavior.

(b) Prior to temporary physical removal from the institution of any defendant who is required to register pursuant to this subsection (2), the department of human services shall obtain from the defendant the address ~~at which~~ WHERE the defendant plans to reside and THE DEPARTMENT shall notify the local law enforcement agency of the jurisdiction ~~in which~~ WHERE the defendant plans to reside and the Colorado bureau of investigation as provided in section 16-8-115 (4)(c).

SECTION 22. In Colorado Revised Statutes, **amend** 16-8-119 as follows:

16-8-119. Counsel and physicians for indigent defendants. In all proceedings ~~under this article~~ BROUGHT PURSUANT TO THIS ARTICLE 8, upon motion of the defendant and proof that ~~he~~ THE DEFENDANT is indigent and without funds to employ physicians, psychologists, or attorneys to which ~~he~~ THE DEFENDANT is entitled under this ~~article~~ ARTICLE 8, the court shall appoint ~~such~~ THE physicians, psychologists, or attorneys for ~~him~~ THE DEFENDANT at state expense.

SECTION 23. In Colorado Revised Statutes, **amend** 16-8-120 as follows:

16-8-120. Applicable tests for release. (1) As to any person charged with any crime allegedly committed on or after June 2, 1965, the test for determination of a defendant's sanity for release from commitment, or ~~his~~ THE DEFENDANT'S eligibility for conditional release, ~~shall be~~ IS: "That the defendant has no abnormal mental condition which would be likely to cause ~~him~~ THE DEFENDANT to be dangerous either to ~~himself~~ THE DEFENDANT'S SELF or to others or to the community in the reasonably foreseeable future".

(2) As to any person charged with any crime allegedly committed prior to June 2, 1965, the test for determination of a defendant's sanity for release from commitment, or ~~his~~ THE DEFENDANT'S eligibility for conditional release, ~~shall be~~ IS the test provided by law at the time of the alleged crime to determine the sanity or insanity of ~~such~~ THE defendant.

(3) As to any person charged with any crime allegedly committed on or after July 1, 1983, the test for determination of a defendant's sanity for release from commitment, or ~~his~~ THE DEFENDANT'S eligibility for conditional release, ~~shall be~~ IS: "That the defendant has no abnormal mental condition ~~which~~ THAT would be likely to cause ~~him~~ THE DEFENDANT to be dangerous either to ~~himself~~ THE DEFENDANT'S SELF or others or to the community in the reasonably foreseeable future, and is capable of distinguishing right from wrong and has substantial capacity to conform ~~his~~ THE DEFENDANT'S conduct to requirements of law".

(4) As to any person charged with any crime allegedly committed on or after July 1, 1983, but before July 1, 1995, resulting in commitment by reason of impaired mental condition, the test for determination of a defendant's mental condition for release from commitment, or a defendant's eligibility for conditional release, ~~shall be~~ IS: "That the defendant has no abnormal mental condition ~~which~~ THAT would be likely to cause the defendant to be dangerous either to ~~himself or herself~~ THE DEFENDANT'S SELF or to others or to the community in the reasonably foreseeable future".

SECTION 24. In Colorado Revised Statutes, **amend** 16-8-121 as follows:

16-8-121. Escape - return to institution. (1) If any defendant, confined in an institution for the care and treatment of persons with

behavioral or mental health disorders or intellectual and developmental disabilities under the supervision of the executive director of the department of human services, escapes from ~~such~~ THE institution, it is the duty of the chief officer to apply forthwith to the district court for the county in which the ~~hospital or~~ institution is located for a warrant of arrest directed to the sheriff of the county, commanding ~~him or her~~ THE SHERIFF forthwith to take all necessary legal action to effect the arrest of the defendant and to return ~~him or her~~ THE DEFENDANT promptly to the institution. The fact of an escape becomes a part of the official record of a defendant and must be certified to the committing court as part of the record in any proceeding to determine whether the defendant is eligible for release from commitment or eligible for conditional release.

(2) If any defendant committed to the custody of the executive director of the department of human services and placed in an institution under ~~his or her~~ THE EXECUTIVE DIRECTOR'S supervision has escaped from an institution for the care and treatment of persons with behavioral, mental health, or substance use disorders in another state, the chief officer is authorized to return the defendant to the institution from which ~~he or she~~ THE DEFENDANT escaped. The chief officer is further authorized to effect the return at the expense of the state of Colorado and under such terms and conditions as the chief officer deems suitable.

SECTION 25. In Colorado Revised Statutes, 18-1-803, **amend** (1) as follows:

18-1-803. Impaired mental condition. (1) Evidence of an impaired mental condition, as defined in section 16-8-102 ~~(2.7), C.R.S.~~ (4), though not legal insanity may be offered in a proper case as bearing upon the capacity of the accused to form the culpable mental state which

is an element of the offense charged.

SECTION 26. In Colorado Revised Statutes, 25.5-10-237, **amend** (1) as follows:

25.5-10-237. Terminology. (1) Whenever the terms "insane", "insanity", "mentally or mental incompetent", "mental incompetency", or "of unsound mind" are used in the laws of the state of Colorado, they ~~shall be deemed to~~ refer to the insane, as defined in ~~section 16-8-101, C.R.S.~~ SECTIONS 16-8-101 AND 16-8-101.5, or to a person with an intellectual and developmental disability, as defined in section 25.5-10-202, as the context of the particular law requires.

SECTION 27. In Colorado Revised Statutes, 27-65-127, **amend** (1)(a) as follows:

27-65-127. Imposition of legal disability - deprivation of legal right - restoration - repeal. (1) (a) When an interested person wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for a person who has a mental health disorder and who is a danger to the person's self or others, is gravely disabled, or is insane, as defined in ~~section 16-8-101~~ SECTIONS 16-8-101 AND 16-8-101.5, and who is not then subject to proceedings pursuant to this article 65 or part 3 or part 4 of article 14 of title 15, the interested person may petition the court for a specific finding as to the legal disability or deprivation of a legal right. Actions commenced pursuant to this subsection (1) may include but are not limited to actions to determine contractual rights and rights with regard to the operation of motor vehicles.

SECTION 28. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the

ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

BILL D

LLS NO. 25-0115.01 Conrad Imel x2313 **HOUSE BILL**

HOUSE SPONSORSHIP

Bradfield and English, Amabile

SENATE SPONSORSHIP

Cutter and Michaelson Jenet,

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING MEASURES TO INCENTIVIZE JAILS TO PROVIDE COMPLEMENTARY BEHAVIORAL HEALTH SERVICES TO PERSONS HELD IN CUSTODY.

Bill Summary

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

Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. Under existing law, the behavioral health administration (BHA) in the department of human services administers the jail-based behavioral health services program (program). The bill

requires the BHA to, as part of the program, provide funding to jails to administer services that complement a person's primary course of treatment for a behavioral health disorder (complementary behavioral health services) to persons in custody in the jail. A jail shall use the funding to train jail staff to administer complementary behavioral health services and to provide complementary behavioral health services to persons in custody in the jail at no cost to the person.

The bill requires the general assembly to annually appropriate up to $50,000 for the administration of complementary behavioral health services as part of the program.

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

SECTION 1. In Colorado Revised Statutes, 27-60-106, **amend** (2)(b) and (2)(c); and **add** (2)(d) and (7) as follows:

27-60-106. Jail-based behavioral health services program - purpose - created - funding. (2) The purpose of the program is to:

(b) Train jail staff on behavioral health disorders and best practices in working with individuals with mental health, substance use, and co-occurring disorders; ~~and~~

(c) Fund administrative costs to jails that implement the requirements outlined in subsection (3) of this section; AND

(d) PROVIDE FUNDING TO JAILS TO ADMINISTER COMPLEMENTARY BEHAVIORAL HEALTH SERVICES TO PERSONS IN CUSTODY IN THE JAIL, AS DESCRIBED IN SUBSECTION (7) OF THIS SECTION.

(7) (a) BEGINNING JULY 1, 2025, AS PART OF THE PROGRAM AND SUBJECT TO AVAILABLE APPROPRIATIONS, THE BHA SHALL PROVIDE FUNDING TO JAILS TO ADMINISTER SERVICES THAT COMPLEMENT A PERSON'S PRIMARY COURSE OF TREATMENT, INCLUDING, BUT NOT LIMITED TO, MOTIVATIONAL ENHANCEMENT THERAPY, MEDITATION, AND AURICULAR ACUDETOX, TO PERSONS IN CUSTODY IN THE JAIL.

(b) A JAIL SHALL USE THE MONEY RECEIVED PURSUANT TO THIS

SUBSECTION (7) TO TRAIN JAIL STAFF TO ADMINISTER COMPLEMENTARY BEHAVIORAL HEALTH SERVICES AND TO PROVIDE COMPLEMENTARY BEHAVIORAL HEALTH SERVICES TO PERSONS IN CUSTODY IN THE JAIL AT NO COST TO THE PERSON. THE BHA MUST APPROVE THE COMPLEMENTARY SERVICES THAT A JAIL INTENDS TO PROVIDE WITH THE MONEY BEFORE THE JAIL MAY EXPEND THE MONEY.

(c) FOR STATE FISCAL YEAR 2025-26, AND FOR EACH FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL APPROPRIATE UP TO AN ADDITIONAL FIFTY THOUSAND DOLLARS TO THE PROGRAM FOR THE ADMINISTRATION OF COMPLEMENTARY BEHAVIORAL HEALTH SERVICES AS DESCRIBED IN THIS SUBSECTION (7).

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

BILL E

LLS NO. 25-0116.01 Conrad Imel x2313 **SENATE BILL**

SENATE SPONSORSHIP

Michaelson Jenet, Cutter

HOUSE SPONSORSHIP

Bradfield and English, Amabile

Senate Committees **House Committees**

A BILL FOR AN ACT

CONCERNING PERSONS WHO MAY BE INCOMPETENT TO STAND TRIAL, AND, IN CONNECTION THEREWITH, PERMITTING CERTAIN SERVICES FOR PERSONS WHO ARE INCOMPETENT TO PROCEED, COLLECTING RESIDENCY INFORMATION ABOUT PERSONS WHO ARE INCOMPETENT TO PROCEED, AND REQUIRING BOND SETTING FOR PERSONS WHO MAY BE INCOMPETENT TO PROCEED.

Bill Summary

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

Legislative Oversight Committee Concerning the Treatment

of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems. Under existing law, when criminal charges are dismissed against a person receiving inpatient restoration services from the department of human services (DHS), DHS must stop providing services to the person. The bill permits DHS to continue to provide services for up to 90 days after the person's case is dismissed because the person is incompetent to proceed. DHS is permitted to enter into an agreement with an organization to provide permanent supportive housing for a person whose case is dismissed because the person is incompetent to proceed or the person has successfully completed a bridges wraparound care program, and for a person who has been referred to the bridges wraparound care program.

The bill requires DHS to collect information for each person whose charges are dismissed following a determination by the court that the person is incompetent to proceed or following satisfactory completion of a bridges wraparound care program, or who has been referred to the bridges wraparound care program, concerning where the person lives or intends to live following the dismissal or referral. DHS shall share that information with the division of housing in the department of local affairs.

The bill requires the judicial department to develop a form for a court to use to notify DHS of the court's specific findings when the court denies a personal recognizance bond and orders inpatient restoration services for a defendant who is in custody for a misdemeanor, petty offense, or traffic offense, and who the court determines is incompetent to proceed but there is a substantial probability that the defendant, with restoration services, will attain competency in the reasonably foreseeable future.

The bill states that a defendant's competency status does not affect the defendant's eligibility for release on bond and is not a basis for a no-bond hold or mental health stay. A court shall not consider competency status as a factor in setting or modifying a monetary condition of bond. The bill requires a court to convert an order for in-custody or inpatient evaluation or restoration to an order for out-of-custody and outpatient evaluation or restoration if the defendant is released on bond while awaiting an in-custody or inpatient evaluation or restoration.

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

SECTION 1. In Colorado Revised Statutes, **add** 27-60-105.5 as follows:

27-60-105.5. Post-dismissal services for persons receiving

inpatient restoration services - continuation of services after dismissal - supportive housing - post-dismissal living information collection - definition. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "BRIDGES WRAPAROUND CARE PROGRAM" MEANS THE BRIDGES WRAPAROUND CARE PROGRAM CREATED IN SECTION 16-8.6-103.

(2) IF THE CHARGES AGAINST A PERSON WHO IS RECEIVING INPATIENT RESTORATION SERVICES, AS DESCRIBED IN ARTICLE 8.5 OF TITLE 16, ARE DISMISSED PURSUANT TO SECTION 16-8.5-111 OR 16-8.5-116.5 FOLLOWING A DETERMINATION BY THE COURT THAT THE PERSON IS INCOMPETENT TO PROCEED, THE STATE DEPARTMENT MAY CONTINUE TO PROVIDE SERVICES TO THE PERSON FOR UP TO NINETY DAYS AFTER THE CHARGES ARE DISMISSED. A PERSON IS NOT REQUIRED TO BE IN CUSTODY TO RECEIVE SERVICES FROM THE STATE DEPARTMENT PURSUANT TO THIS SUBSECTION (2) AFTER CHARGES ARE DISMISSED, AND A COURT SHALL NOT ORDER A PERSON TO REMAIN IN CUSTODY AS A CONDITION OF CONTINUING TO RECEIVE SERVICES FROM THE STATE DEPARTMENT.

(3) THE STATE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH AN ORGANIZATION TO PROVIDE PERMANENT SUPPORTIVE HOUSING FOR PERSONS WHOSE CHARGES ARE DISMISSED PURSUANT TO SECTION 16-8.5-111 OR 16-8.5-116.5 FOLLOWING A DETERMINATION BY THE COURT THAT THE PERSON IS INCOMPETENT TO PROCEED OR PURSUANT TO SECTION 16-8.6-110 FOLLOWING SATISFACTORY COMPLETION OF A BRIDGES WRAPAROUND CARE PROGRAM, OR FOR PERSONS WHO HAVE BEEN REFERRED TO THE BRIDGES WRAPAROUND CARE PROGRAM.

(4) (a) THE STATE DEPARTMENT SHALL COLLECT INFORMATION CONCERNING WHERE A PERSON LIVES OR INTENDS TO LIVE AFTER:

(I) THE CHARGES AGAINST THE PERSON ARE DISMISSED PURSUANT TO SECTION 16-8.5-111 OR 16-8.5-116.5 FOLLOWING A DETERMINATION BY THE COURT THAT THE PERSON IS INCOMPETENT TO PROCEED;

(II) THE CHARGES AGAINST THE PERSON ARE DISMISSED PURSUANT TO SECTION 16-8.6-110 FOLLOWING SATISFACTORY COMPLETION OF THE BRIDGES WRAPAROUND CARE PROGRAM; OR

(III) THE PERSON HAS BEEN REFERRED TO THE BRIDGES WRAPAROUND CARE PROGRAM.

(b) THE STATE DEPARTMENT SHALL SHARE THE INFORMATION COLLECTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION WITH THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS ON A SCHEDULE AGREED UPON BY THE DEPARTMENTS, BUT AT LEAST QUARTERLY.

(c) THE STATE DEPARTMENT SHALL WORK WITH THE OFFICE OF BRIDGES OF COLORADO ESTABLISHED PURSUANT TO SECTION 13-95-103 TO COLLECT THE INFORMATION DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION, AND THE OFFICE OF BRIDGES OF COLORADO SHALL PROVIDE THE INFORMATION TO THE STATE DEPARTMENT.

SECTION 2. In Colorado Revised Statutes, 13-95-105, **add** (4) as follows:

13-95-105. Bridges of Colorado - programs - administration.

(4) THE OFFICE SHALL PROVIDE INFORMATION TO THE STATE DEPARTMENT OF HUMAN SERVICES ABOUT WHERE PERSONS WHO HAVE BEEN REFERRED TO THE BRIDGES WRAPAROUND CARE PROGRAM LIVE OR INTEND TO LIVE, AS DESCRIBED IN SECTION 27-60-105.5 (4).

SECTION 3. In Colorado Revised Statutes, 16-8.5-105, **amend** (1)(a)(III) as follows:

16-8.5-105. Evaluations, locations, time frames, and report. (1) (a) (III) The court shall determine the type of bond and the conditions of release after consideration of the presumptions and factors enumerated in article 4 of this title 16, which include consideration of the information received from any pretrial services program pursuant to section 16-4-106 and any information provided by the bridges court liaison hired or contracted pursuant to article 95 of title 13. As a condition of any bond, the court shall require the defendant's cooperation with the competency evaluation on an outpatient and out-of-custody basis. A COURT SHALL ENSURE THAT THE DEFENDANT'S RIGHT TO HAVE BOND SET IS NOT INTERRUPTED WHILE THE DEFENDANT AWAITS COMPETENCY EVALUATION. EXCEPT AS PERMITTED IN SUBSECTION (1)(b) OF THIS SECTION, THE DEFENDANT'S STATUS RELATED TO COMPETENCY, INCLUDING AN ORDER FOR IN-CUSTODY OR INPATIENT EVALUATION, DOES NOT AFFECT THE DEFENDANT'S ELIGIBILITY FOR RELEASE ON BOND AND IS NOT A BASIS FOR A NO-BOND HOLD OR MENTAL HEALTH STAY. In setting the bond, the court shall not consider the need for the defendant to receive an evaluation pursuant to this article 8.5 as a factor in determining ~~any~~ A monetary condition of bond; EXCEPT THAT THE COURT MAY REMOVE OR REDUCE A MONETARY CONDITION OF BOND TO ALLOW THE DEFENDANT TO ACCESS AN OUT-OF-CUSTODY COMPETENCY EVALUATION AND ANY OTHER NECESSARY MENTAL HEALTH SERVICES. IF THE DEFENDANT IS RELEASED ON BOND WHILE AWAITING AN IN-CUSTODY OR INPATIENT EVALUATION, THE COURT SHALL CONVERT THE ORDER FOR IN-CUSTODY OR INPATIENT EVALUATION TO AN ORDER FOR OUT-OF-CUSTODY AND OUTPATIENT EVALUATION.

SECTION 4. In Colorado Revised Statutes, 16-8.5-111, **amend** (2)(b); and **add** (2.5) as follows:

16-8.5-111. Procedure after determination of competency or incompetency - bond determinations. (2) **Restoration services ordered.** If the final determination made pursuant to section 16-8.5-103 is that the defendant is incompetent to proceed and the court finds there is substantial probability that the defendant, with restoration services, will attain competency in the reasonably foreseeable future, the court has the following requirements and options:

(b) If the court determines the defendant is incompetent to proceed and is in custody on a misdemeanor, petty offense, or traffic offense, the court ~~shall~~ MUST set a hearing on bond within seven days after the court's final determination that the defendant is incompetent to proceed. At the bond hearing, there is a presumption that the court shall order a personal recognizance bond and enter an order for restoration services pursuant to subsection (2)(a) of this section. In order to deny the defendant a personal recognizance bond and enter an order to commit the defendant for inpatient restoration services pursuant to subsection (2)(c) of this section, the court shall make findings of fact that extraordinary circumstances exist to overcome the presumption of release by clear and convincing evidence. If the court denies a personal recognizance bond, the court ~~shall~~ MUST notify the department of the specific findings the court made to deny the personal recognizance bond. THE JUDICIAL DEPARTMENT SHALL DEVELOP A FORM FOR A COURT TO USE TO NOTIFY THE DEPARTMENT OF THE COURT'S FINDINGS THAT ARE REQUIRED BY THIS SUBSECTION (2)(b).

(2.5) ARTICLE II, SECTION 19 OF THE COLORADO CONSTITUTION, ARTICLE 4 OF THIS TITLE 16, AND THE COLORADO RULES OF CRIMINAL PROCEDURE DETERMINE ELIGIBILITY FOR BAIL AND THE FACTORS

CONSIDERED IN SETTING MONETARY CONDITIONS OF RELEASE. A COURT SHALL ENSURE THAT A DEFENDANT'S RIGHT TO HAVE BOND SET IS NOT INTERRUPTED WHILE THE DEFENDANT AWAITS COMPETENCY EVALUATION, COMPETENCY DETERMINATION, OR COMPETENCY RESTORATION. EXCEPT AS PERMITTED IN SECTION 16-8.5-105 (1)(b), A DEFENDANT'S STATUS RELATED TO COMPETENCY, INCLUDING AN ORDER FOR IN-CUSTODY OR INPATIENT EVALUATION, DOES NOT AFFECT THE DEFENDANT'S ELIGIBILITY FOR RELEASE ON BOND AND IS NOT A BASIS FOR A NO-BOND HOLD OR MENTAL HEALTH STAY. A COURT SHALL NOT CONSIDER COMPETENCY STATUS AS A FACTOR IN SETTING OR MODIFYING A MONETARY CONDITION OF BOND; EXCEPT THAT THE COURT MAY REMOVE OR REDUCE A MONETARY CONDITION OF BOND TO ALLOW A DEFENDANT TO ACCESS AN OUT-OF-CUSTODY COMPETENCY EVALUATION, RESTORATION SERVICES, AND ANY OTHER NECESSARY MENTAL HEALTH SERVICES. IF A DEFENDANT IS RELEASED ON BOND WHILE AWAITING AN IN-CUSTODY OR INPATIENT RESTORATION, THE COURT SHALL CONVERT THE ORDER FOR IN-CUSTODY OR INPATIENT RESTORATION TO AN ORDER FOR OUT-OF-CUSTODY AND OUTPATIENT RESTORATION.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.