

CHAPTER 357

HUMAN SERVICES - BEHAVIORAL HEALTH

SENATE BILL 25-041

BY SENATOR(S) Michaelson Jenet and Amabile, Cutter, Ball, Gonzales J., Hinrichsen, Kipp, Kolker, Rodriguez, Wallace, Weissman;
also REPRESENTATIVE(S) Bradfield and English, Bacon, Boesenecker, Brown, Carter, Duran, Jackson, Joseph, Lindsay, Ricks, McCluskie.

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.

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 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

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

ORGANIZATION TO PROVIDE PERMANENT SUPPORTIVE HOUSING FOR PERSONS WHOSE CHARGES ARE DISMISSED 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. THE STATE DEPARTMENT SHALL MAKE EFFORTS TO COLLABORATE WITH SERVICE PROVIDERS, INCLUDING THE OFFICE OF BRIDGES OF COLORADO ESTABLISHED PURSUANT TO SECTION 13-95-103, TO ENSURE CONTINUITY OF CARE AND SERVICE DELIVERY IN A MANNER THAT AVOIDS DUPLICATION AND BIFURCATION OF SERVICES.

(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 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 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, 16-8.5-103, **amend** (3) and (4) as follows:

16-8.5-103. Determination of competency to proceed. (3) Within ~~seven~~ FOURTEEN days after receipt of the court-ordered report, either party may request a hearing or a second evaluation.

(4) If a party requests a second evaluation, any pending requests for a hearing must be continued until the receipt of the second evaluation report. The report of the expert conducting the second evaluation must be completed and filed with the court within thirty-five days after the court order allowing the second evaluation, unless the time period is extended by the court for good cause. ~~If a second evaluation is completed and restoration is ultimately ordered, then~~ The court shall ~~make~~ PROVIDE the second evaluation ~~available~~ to THE PARTIES AND the department. THE

DEPARTMENT SHALL USE THE SECOND EVALUATION TO ENSURE THAT THE DEPARTMENT COMPLIES WITH ITS RESPONSIBILITIES, INCLUDING REVIEWING AND SUMMARIZING PRIOR COMPETENCY OPINIONS AS REQUIRED IN SECTION 16-8.5-105 (5)(f). If the second evaluation is requested by the court, it must be paid for by the court.

SECTION 4. In Colorado Revised Statutes, 16-8.5-105, **amend** (5)(f) as follows:

16-8.5-105. Evaluations, locations, time frames, and report. (5) The competency evaluation and report must include, but need not be limited to:

(f) An opinion as to whether there is a substantial probability that the defendant, with restoration services, will attain competency within the reasonably foreseeable future. ~~and: AS PART OF FORMING THEIR OPINION, THE COMPETENCY EVALUATOR SHALL USE DUE DILIGENCE IN THE REVIEW AND SUMMARY OF ANY PRIOR COMPETENCY OPINIONS REGARDING THE DEFENDANT. IF THE COMPETENCY EVALUATOR'S OPINION REGARDING RESTORABILITY DIFFERS FROM OPINIONS IN PAST EVALUATIONS OF THE DEFENDANT, THE COMPETENCY EVALUATOR SHALL EXPLAIN THE BASIS FOR THEIR DIFFERENT OPINION.~~

~~(f) If any court within the previous five years found the defendant incompetent to proceed and that the defendant would not attain competency within the reasonably foreseeable future, an opinion as to why the defendant's current circumstances are different from the prior court's findings; and~~

~~(H) If the defendant has been found incompetent to proceed after being found competent to proceed three or more times within the previous five years, an opinion as to whether, even if restored, the defendant will maintain competency throughout the current case.~~

SECTION 5. In Colorado Revised Statutes, 16-8.5-106, **amend** (2) as follows:

16-8.5-106. Evaluation at request of defendant. (2) THE DEFENDANT SHALL PROVIDE a copy of the second evaluation ~~shall be furnished~~ to the COURT AND prosecution in a reasonable amount of time in advance of the competency or restoration hearing. UPON RECEIPT OF THE SECOND EVALUATION, THE COURT SHALL FURNISH THE SECOND EVALUATION TO THE DEPARTMENT.

SECTION 6. In Colorado Revised Statutes, 16-8.5-111, **amend** (2)(b), (3)(a)(III), (3)(b)(IV), (3)(b)(V) introductory portion, (4)(a), (4)(b), and (7) 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).

(3) Certification for short-term treatment. (a) (III) The court may order initiation of certification for short-term treatment PURSUANT TO THIS SUBSECTION (3) only:

(A) UPON A SPECIFIC REQUEST FROM A PERSON AUTHORIZED TO MAKE THE REQUEST PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION;

~~(A)~~ (B) If the court finds reasonable grounds to believe that the defendant meets the standard for a certification for short-term treatment pursuant to section 27-65-108.5 or 27-65-109; and

~~(B)~~ (C) If the defendant's highest charged offense is a petty offense, traffic offense, or misdemeanor offense, or with the agreement of the prosecuting attorney, regardless of the severity of the charge.

(b) If the court requires the requesting party to initiate certification for short-term treatment pursuant to subsection (3)(a) of this section:

(IV) IF THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A MISDEMEANOR THAT IS NOT SUBJECT TO DISMISSAL PURSUANT TO SUBSECTION (1.6) OF THIS SECTION, the court may, upon the court's own motion, forgo an order for restoration services and dismiss the charges against the defendant without prejudice when the certification for short-term treatment is initiated; ~~if the highest charged offense is a petty offense, traffic offense, or misdemeanor offense;~~ or

(V) IF THE DEFENDANT'S HIGHEST CHARGED OFFENSE IS A FELONY, the court may, ONLY with the agreement of the prosecuting attorney and defendant, stay the restoration order to allow certification for short-term treatment proceedings to occur and to allow the district attorney to consider whether dismissal of the case is appropriate. In determining whether dismissal is appropriate while the criminal matter is pending, the defendant, the defendant's attorney in the criminal matter, and the prosecuting attorney in the criminal matter have access to limited information about any civil proceedings against the defendant pursuant to sections 27-65-108.5, 27-65-109, 27-65-110, and 27-65-111. Any information obtained must be kept confidential unless disclosure is otherwise authorized by law. The court shall not extend the defendant's criminal case past the time limits set forth in section

16-8.5-116.5. The limited information that the defendant, defendant's attorney, and prosecuting attorney may access includes:

(4) **Restoration hearing.** (a) (I) If the final determination made pursuant to section 16-8.5-103 is that the defendant is incompetent to proceed and the evaluator opines at any time that there is not a substantial probability that the defendant, with restoration services, will attain competency within the reasonably foreseeable future, the court shall set a hearing within the time frame set forth in section 16-8.5-113 (5). If the court receives the evaluator's opinion pursuant to this subsection (4) prior to entering a restoration order AND A PARTY REQUESTS A HEARING, the court shall set the hearing in lieu of ordering restoration treatment.

(II) WITHIN FOURTEEN DAYS AFTER RECEIPT OF A COURT-ORDERED REPORT REGARDING THE DEFENDANT'S COMPETENCY, EITHER PARTY MAY REQUEST A HEARING OR A SECOND EVALUATION. IF A PARTY REQUESTS A SECOND EVALUATION, THE COURT SHALL CONTINUE THE HEARING UNTIL THE COURT RECEIVES THE SECOND REPORT. THE EXPERT CONDUCTING THE SECOND EVALUATION SHALL COMPLETE AND FILE THE EXPERT'S REPORT WITH THE COURT WITHIN THIRTY-FIVE DAYS AFTER THE COURT ORDER ALLOWING THE SECOND EVALUATION, UNLESS THE COURT EXTENDS THE TIME PERIOD AFTER A FINDING OF GOOD CAUSE. THE COURT SHALL PROVIDE THE SECOND EVALUATION TO THE PARTIES AND THE DEPARTMENT.

(b) If the final determination made pursuant to section 16-8.5-103 is that the defendant is incompetent to proceed and the evaluator opines, pursuant to section 16-8.5-105 (5)(e)(I)(B), or another qualified expert opines that the defendant's diagnosis likely includes a moderate to severe intellectual or developmental disability, acquired traumatic brain injury, or dementia, which either alone or together with a co-occurring mental illness affects the defendant's ability to gain or maintain competency, the court shall set a hearing within the time frame set forth in section 16-8.5-113 (5) on the issue of whether there is a substantial probability that the defendant will be restored to competency in the reasonably foreseeable future. If the court receives the evaluator's opinion pursuant to this subsection (4) prior to entering a restoration order AND A PARTY REQUESTS A HEARING, the court shall set a hearing in lieu of ordering restoration treatment.

(7) (a) **Outpatient restoration services.** If the defendant is out of custody and the court has ordered restoration services pursuant to subsection (2)(a) of this section:

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

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

(c) (III) If the department determines that the department is unable, within a reasonable time, to provide restoration services on an outpatient basis, the

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

(b) If, IN THE PROCESS OF COORDINATING OUTPATIENT RESTORATION SERVICES FOR A DEFENDANT, THE DEPARTMENT DETERMINES THAT THE DEFENDANT MEETS THE STANDARD FOR A CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 AND THAT INITIATING A PETITION FOR AN OUTPATIENT CERTIFICATION IS APPROPRIATE, THE DEPARTMENT MAY REQUEST, IN WRITING, THAT THE COURT REFER THE MATTER FOR FILING OF A PETITION FOR SHORT-TERM TREATMENT PURSUANT TO 27-65-108.5 IN A COURT WITH JURISDICTION AND AUTHORIZE THE DEPARTMENT TO FILE THE PETITION. AFTER RECEIVING A WRITTEN REQUEST, THE COURT SHALL HEAR AND CONSIDER ANY OBJECTIONS FROM THE DEFENDANT PRIOR TO RULING ON THE REQUEST.

SECTION 7. In Colorado Revised Statutes, 16-8.5-113, **amend** (2) and (3) as follows:

16-8.5-113. Restoration to competency. (2) Within fourteen days after receipt of a report from the department or other court-approved ~~provider of restoration services~~ COMPETENCY EVALUATOR certifying that the defendant is competent to proceed, either party may request a hearing or a second evaluation. The court shall determine whether to allow the second evaluation or proceed to a hearing on competency. If the second evaluation is requested by the court or by an indigent defendant, the evaluation must be paid for by the court.

(3) If a second evaluation is allowed, any pending requests for a hearing must be continued until receipt of the second evaluation report. The report of the expert conducting the second evaluation report must be completed and filed with the court within thirty-five days after the court order allowing the second evaluation, unless the time period is extended by the court after a finding of good cause. THE COURT SHALL PROVIDE THE SECOND EVALUATION TO THE PARTIES AND THE DEPARTMENT.

SECTION 8. In Colorado Revised Statutes, 16-8.5-116, **amend** (2)(c)(V) and (2)(c)(VI); and **repeal** (2)(c)(VII) as follows:

16-8.5-116. Certification - reviews - rules. (2) (c) At least ten days before each review, the department treating team shall provide to the court an additional report that summarizes:

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

(VI) Whether the defendant, based on observations of the defendant's behavior in the facility, presents a substantial risk to the physical safety of the defendant's self, of another person, or of the community if released for community restoration.
and

(VII) ~~Any opinions which would be required during an initial evaluation pursuant to section 16-8.5-105 (5)(f).~~

SECTION 9. In Colorado Revised Statutes, 16-8.5-116.5, **amend** (1)(b) and (7) as follows:

16-8.5-116.5. Restoration - time limits - dismissal of charges - exceptions - rules. (1) To ensure compliance with relevant constitutional principles, for any offense for which the defendant is ordered to receive competency restoration services in an inpatient or outpatient setting, if the court determines, based on available evidence, that there is not a substantial probability that the defendant, with restoration services, will be restored to competency within the reasonably foreseeable future, the court:

(b) May, IF AFTER GIVING DUE WEIGHT TO THE OPINION OF A PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-65-102, EMPLOYED BY OR UNDER CONTRACT WITH THE OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH, THE COURT FINDS REASONABLE GROUNDS TO BELIEVE THAT THE DEFENDANT MEETS CRITERIA FOR A CERTIFICATION FOR SHORT TERM TREATMENT PURSUANT TO SECTION 27-65-108.5 OR SECTION 27-65-109, order ONE OF THE FOLLOWING PERSONS TO INITIATE, IN A COURT WITH JURISDICTION, A PROCEEDING FOR A CERTIFICATION FOR SHORT-TERM TREATMENT OF THE DEFENDANT PURSUANT TO SECTION 27-65-108.5 OR 27-65-109: The district attorney, or upon request from the district attorney; a professional person, as defined in section 27-65-102, WHO IS NOT EMPLOYED BY OR UNDER CONTRACT WITH THE BEHAVIORAL HEALTH ADMINISTRATION IN THE DEPARTMENT OR THE OFFICE OF CIVIL AND FORENSIC MENTAL HEALTH; a representative of DESIGNATED BY the behavioral health administration in the department, or a representative of DESIGNATED BY the office of civil and forensic mental health. ~~to initiate, in a court with jurisdiction, a proceeding for a certification for short-term treatment of the defendant pursuant to section 27-65-108.5 or 27-65-109. If the court finds reasonable grounds to believe the defendant meets criteria for a certification for short-term treatment pursuant to section 27-65-108.5 or 27-65-109.~~ NOTWITHSTANDING THE AUTHORITY GRANTED PURSUANT TO THIS SUBSECTION (1)(b), A COURT SHALL NOT ORDER A PERSON TO INITIATE A PROCEEDING PURSUANT TO THIS SUBSECTION (1)(b) IF INITIATING A PROCEEDING WOULD CONTRADICT THE PERSON'S PROFESSIONAL MEDICAL OPINION OR OTHERWISE VIOLATE THE PERSON'S PROFESSIONAL CONDUCT RULES.

(7) (a) Prior to the dismissal of charges pursuant to this section or section 16-8.5-111 (5), ~~unless the court has already ordered a person to initiate proceedings for a certification for short-term treatment,~~ the court shall make findings ABOUT whether there are reasonable grounds to believe the person meets the standard for a certification for short-term treatment. If the court finds there are reasonable grounds, the court may stay the dismissal for thirty-five days, SET A REVIEW HEARING, and notify any professional person, as defined in section 27-65-102; a representative of DESIGNATED BY the behavioral health administration in the department; or a representative of DESIGNATED BY the office of civil and forensic mental health who has recently treated or interacted with the defendant that there are reasonable grounds for short-term treatment and afford the person an opportunity to pursue certification proceedings or to arrange necessary services.

(b) THE COURT SHALL GRANT THIRTY-FIVE DAY EXTENSIONS OF THE STAY DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION:

(I) ANY NUMBER OF TIMES WITH THE CONSENT OF THE DEFENDANT; AND

(II) REGARDLESS OF THE DEFENDANT'S CONSENT, UPON REQUEST OF THE PROSECUTION IF THE COURT FINDS GOOD CAUSE:

(A) UP TO FOUR TIMES, IN ADDITION TO THE INITIAL STAY AUTHORIZED IN SUBSECTION (7)(a) OF THIS SECTION, BUT NOT TO EXCEED ONE HUNDRED SEVENTY-FIVE DAYS IN TOTAL, IF THE DEFENDANT IS CHARGED WITH A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406, OR FOR FELONY UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102; OR

(B) ONCE, IN ADDITION TO THE INITIAL STAY AUTHORIZED IN SUBSECTION (7)(a) OF THIS SECTION, BUT NOT TO EXCEED SEVENTY DAYS IN TOTAL, IF THE DEFENDANT IS NOT CHARGED WITH A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406, OR FOR FELONY UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102.

(c) FOR THE PURPOSES OF SUBSECTION (7)(b) OF THIS SECTION, GOOD CAUSE DOES NOT INCLUDE A PERSON'S REFUSAL OR FAILURE TO TIMELY FILE A PETITION PURSUANT TO SECTION 27-65-108.5.

(d) WHEN A DEFENDANT'S CHARGES ARE DISMISSED PURSUANT TO THIS SECTION OR SECTION 16-8.5-111(5), THE COURT SHALL NOTIFY THE DEPARTMENT IN WRITING THAT THE CHARGES WERE DISMISSED AND THE REASON FOR THE DISMISSAL.

SECTION 10. In Colorado Revised Statutes, **add** 16-8.6-113 as follows:

16-8.6-113. Effect of acceptance. A COURT SHALL VACATE ANY EXISTING ORDER AND SHALL NOT ENTER A NEW ORDER DIRECTING THE DEPARTMENT TO CONDUCT A COMPETENCY EVALUATION OR PROVIDE RESTORATION SERVICES TO A DEFENDANT IF THE DEFENDANT WAS ACCEPTED TO PARTICIPATE IN THE BRIDGES WRAPAROUND CARE PROGRAM.

SECTION 11. In Colorado Revised Statutes, 16-5-401, **add** (2.5) as follows:

16-5-401. Limitation for commencing criminal proceedings, civil infraction proceedings, and juvenile delinquency proceedings - definitions.
(2.5) (a) (I) THE TIME LIMITATIONS IMPOSED BY THIS SECTION ARE TOLLED WHILE THE OFFENDER IS IN A COMPETENCY-RELATED DIVERSION OR DEFLECTION PROGRAM.

(II) AS USED IN THIS SUBSECTION (2.5)(a), "COMPETENCY-RELATED DIVERSION OR DEFLECTION PROGRAM" MEANS A PROGRAM THAT OFFERS A POTENTIALLY INCOMPETENT OFFENDER THE OPPORTUNITY TO AVOID THE FILING OR RE-FILING OF CHARGES IN EXCHANGE FOR THE OFFENDER'S PARTICIPATION AND SUCCESSFUL COMPLETION OF A PROGRAM DESIGNED FOR POTENTIALLY INCOMPETENT PERSONS.

(b) THE TIME LIMITATIONS IMPOSED BY THIS SECTION ARE TOLLED BEGINNING WHEN A DEFENDANT'S CASE IS DISMISSED WITHOUT PREJUDICE FOR THE PURPOSE OF FACILITATING CERTIFICATION FOR SHORT-TERM TREATMENT PURSUANT TO SECTION

16-8.5-111 (3) UNTIL EITHER THE DEFENDANTS CRIMINAL CASE IS RE-FILED OR SIX MONTHS HAS PASSED SINCE THE CASE WAS DISMISSED, WHICHEVER IS EARLIER.

SECTION 12. In Colorado Revised Statutes, 27-65-110, **amend** (1) introductory portion as follows:

27-65-110. Long-term care and treatment of persons with mental health disorders - procedure. (1) Whenever a respondent has received an extended certification for treatment pursuant section 27-65-109 (10), INCLUDING AS IT IS APPLIED TO COURT-ORDERED CERTIFICATION PURSUANT TO SECTION 27-65-108.5(9), the professional person in charge of the certification for short-term treatment or the BHA may file a petition with the court at least thirty days prior to the expiration date of the extended certification for long-term care and treatment of the respondent under the following conditions:

SECTION 13. In Colorado Revised Statutes, 19-2.5-701.5, **amend** (1) and (6) as follows:

19-2.5-701.5. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Competency evaluation" means ~~an evaluation~~ A COURT-ORDERED EVALUATION PERFORMED BY THE DEPARTMENT, OR A SECOND EVALUATION CONDUCTED PURSUANT TO SECTION 19-2.5-707, conducted by a competency evaluator that meets the requirements described in section 19-2.5-703 (4). ~~"Competency evaluation" includes both court-ordered evaluations performed by the department and second evaluations.~~

(6) "Restoration evaluation" means ~~an evaluation~~ A COURT-ORDERED EVALUATION PERFORMED BY THE DEPARTMENT, OR A SECOND EVALUATION CONDUCTED PURSUANT TO SECTION 19-2.5-707, conducted by a competency evaluator to determine if the juvenile has become competent to proceed or will be able to be restored to competency in the reasonably foreseeable future. ~~"Restoration evaluation" includes both court-ordered evaluations by the department and second evaluations.~~

SECTION 14. In Colorado Revised Statutes, 19-2.5-704, **amend** (2)(b) and (2)(c) as follows:

19-2.5-704. Procedure after determination of competency or incompetency. (2) (b) Pursuant to section 27-60-105, the department is the entity responsible for the oversight of restoration education and coordination of services necessary to competency restoration. THE DEPARTMENT SHALL ONLY CONDUCT A RESTORATION EVALUATION WITH A COURT ORDER PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION.

(c) (I) The court, ~~or~~ a party, OR THE DEPARTMENT may raise, at any time, the need for a restoration evaluation of a juvenile's competency. THE REQUEST MUST INCLUDE THE FACTUAL GROUNDS THAT SUPPORT THE NEED FOR A RESTORATION EVALUATION.

(II) (A) THE COURT MUST ENSURE PROMPT RESOLUTION OF ANY REQUEST FOR A RESTORATION EVALUATION.

(B) THE COURT SHALL ORDER EACH PARTY TO STATE THEIR POSITION AND PROVIDE INPUT ON THE REQUEST NO LATER THAN FOURTEEN DAYS AFTER WHEN THE PARTY WAS NOTIFIED OF THE REQUEST; EXCEPT IF THE JUVENILE IS IN CUSTODY OR INPATIENT RESTORATION, THE COURT SHALL ALLOW SEVEN DAYS FOR A PARTY TO OBJECT TO THE REQUEST. IF THE PARTIES ARE BEFORE THE COURT, THE COURT MAY TAKE POSITIONS ON THE RECORD, OR THE COURT MAY ORDER A WRITTEN POSITION FROM EACH PARTY AS NECESSARY.

(C) IF NO PARTY OBJECTS, THE COURT SHALL ORDER THE RESTORATION EVALUATION FORTHWITH.

(D) IF A PARTY OBJECTS, THE PARTY SHALL STATE THE GROUNDS FOR THEIR OBJECTION.

(III) If ~~raised~~ a PARTY TIMELY OBJECTS TO A RESTORATION EVALUATION BEING ORDERED, the court shall order a restoration evaluation only when there is credible information that the juvenile's circumstances have changed, the court cannot fairly determine whether the juvenile has been restored to competency or will be able to be restored to competency in the reasonably foreseeable future WITHOUT AN EVALUATION, and the cause for a restoration evaluation outweighs the negative impact of a restoration evaluation upon the juvenile. ~~and any delay that will be caused by a restoration evaluation.~~ THE COURT MAY RULE ON A REQUEST BASED ON THE INFORMATION RECEIVED WITH THE REQUEST AND WITH ANY OBJECTION WITHOUT A HEARING, OR IF THE COURT FINDS A HEARING IS NECESSARY TO RULE ON THE REQUEST, the court may hold a hearing WITHIN FOURTEEN DAYS AFTER RECEIVING AN OBJECTION to determine if a restoration evaluation must be ordered. If the court orders a restoration evaluation, such evaluation must meet the requirements of section 19-2.5-703 (4).

SECTION 15. 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.

Approved: June 2, 2025