

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0925.01 Jane Ritter

SENATE BILL 10-175

SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

(None),

Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE RELOCATION OF PROVISIONS RELATING TO
102 BEHAVIORAL HEALTH.

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://www.leg.state.co.us/billssummaries>.)

The bill relocates provisions in statute relating to behavioral health disorders.

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

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

1 **SECTION 1. Repeal of provisions being relocated in this**
2 **act.** Articles 1, 2, 10, 10.3, 12, 13, and 15 of title 27, article 22 of title 26,
3 and parts 2, 3, and 11 of article 1 of title 25, Colorado Revised Statutes,
4 are repealed.

5 **SECTION 2.** Title 27, Colorado Revised Statutes, is amended BY
6 THE ADDITION OF THE FOLLOWING NEW ARTICLES
7 CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS,
8 to read:

9 **ARTICLE 65**
10 **Care and Treatment of Persons**
11 **with Mental Illness**

12 **27-65-101. [Formerly 27-10-101] Legislative declaration.**

13 (1) The general assembly hereby declares that, subject to available
14 appropriations, the purposes of this article are:

15 (a) To secure for each person who may have a mental illness such
16 care and treatment as will be suited to the needs of the person and to
17 insure that such care and treatment are skillfully and humanely
18 administered with full respect for the person's dignity and personal
19 integrity;

20 (b) To deprive a person of his or her liberty for purposes of
21 treatment or care only when less restrictive alternatives are unavailable
22 and only when his or her safety or the safety of others is endangered;

23 (c) To provide the fullest possible measure of privacy, dignity, and
24 other rights to persons undergoing care and treatment for mental illness;

25 (d) To encourage the use of voluntary rather than coercive
26 measures to provide treatment and care for mental illness and to provide
27 such treatment and care in the least restrictive setting;

1 (e) To provide appropriate information to family members
2 concerning the location and fact of admission of a person with a mental
3 illness to inpatient or residential care and treatment;

4 (f) To encourage the appropriate participation of family members
5 in the care and treatment of a person with a mental illness and, when
6 appropriate, to provide information to family members in order to
7 facilitate such participation; and

8 (g) To facilitate the recovery and resiliency of each person who
9 receives care and treatment under this article.

10 (2) To carry out these purposes, subject to available
11 appropriations, the provisions of this article shall be liberally construed.

12 **27-65-102. [Formerly 27-10-102] Definitions.** As used in this
13 article, unless the context otherwise requires:

14 (1) "Acute treatment unit" means a facility or a distinct part of a
15 facility for short-term psychiatric care, which may include substance
16 abuse treatment, that provides a total, twenty-four-hour, therapeutically
17 planned and professionally staffed environment for persons who do not
18 require inpatient hospitalization but need more intense and individual
19 services than are available on an outpatient basis, such as crisis
20 management and stabilization services.

21 ~~(1.5)~~ (2) "Certified peace officer" means any certified peace
22 officer as described in section 16-2.5-102, C.R.S.

23 ~~(2)~~ (3) "Court" means any district court of the state of Colorado
24 and the probate court in the city and county of Denver.

25 ~~(2.3)~~ (4) "Court-ordered evaluation" means an evaluation ordered
26 by a court pursuant to ~~section 27-10-106~~ SECTION 27-65-106.

27 ~~(3)~~ (5) "Department" means the department of human services.

1 ~~(4)~~ (6) "Executive director" means the executive director of the
2 department of human services.

3 ~~(4.5)~~ (7) "Facility" means a public hospital or a licensed private
4 hospital, clinic, community mental health center or clinic, acute treatment
5 unit, institution, sanitarium, or residential child care facility that provides
6 treatment for a person with a mental illness.

7 ~~(4.7)~~ (8) "Family member" means a spouse, parent, adult child, or
8 adult sibling of a person with a mental illness.

9 ~~(5)~~ (9) (a) "Gravely disabled" means a condition in which a
10 person, as a result of a mental illness:

11 (I) Is in danger of serious physical harm due to his or her inability
12 or failure to provide himself or herself with the essential human needs of
13 food, clothing, shelter, and medical care; or

14 (II) Lacks judgment in the management of his or her resources and
15 in the conduct of his or her social relations to the extent that his or her
16 health or safety is significantly endangered and lacks the capacity to
17 understand that this is so.

18 (b) A person who, because of care provided by a family member
19 or by an individual with a similar relationship to the person, is not in
20 danger of serious physical harm or is not significantly endangered in
21 accordance with paragraph (a) of this subsection ~~(5)~~ SUBSECTION (9) may
22 be deemed "gravely disabled" if there is notice given that the support
23 given by the family member or other individual who has a similar
24 relationship to the person is to be terminated and the individual with a
25 mental illness:

26 (I) Is diagnosed by a professional person as suffering from:
27 Schizophrenia; a major affective disorder; a delusional disorder; or

1 another mental disorder with psychotic features; and

2 (II) Has been certified, pursuant to this article, for treatment of the
3 disorder or has been admitted as an inpatient to a treatment facility for
4 treatment of the disorder at least twice during the last thirty-six months
5 with a period of at least thirty days between certifications or admissions;
6 and

7 (III) Is exhibiting a deteriorating course leading toward danger to
8 self or others or toward the conditions described in paragraph (a) of this
9 ~~subsection (5)~~ SUBSECTION (9) with symptoms and behavior that are
10 substantially similar to those that preceded and were associated with his
11 or her hospital admissions or certifications for treatment; and

12 (IV) Is not receiving treatment that is essential for his or her
13 health or safety.

14 (c) A person of any age may be "gravely disabled", but such term
15 shall not include a person who has a developmental disability by reason
16 of the person's developmental disability alone.

17 (d) For purposes of paragraph (b) of this ~~subsection (5)~~
18 SUBSECTION (9), an individual with a relationship to a person that is
19 similar to that of a family member shall not include an employee or agent
20 of a boarding home or treatment facility.

21 ~~(5.5)~~(10) "Hospitalization" means twenty-four-hour out-of-home
22 placement for mental health treatment in a facility.

23 ~~(5.6)~~(11) "Independent professional person" means a professional
24 person, as defined in ~~subsection (11)~~ SUBSECTION (17) of this section,
25 who evaluates ~~the~~ A minor's condition as an independent decision-maker
26 and whose recommendations are based on the standard of what is in the
27 best interest of the minor. The professional person may be associated

1 with the admitting mental health facility if he or she is free to
2 independently evaluate the minor's condition and need for treatment and
3 has the authority to refuse admission to any minor who does not satisfy
4 the statutory standards specified in ~~section 27-10-103 (3.1)~~ SECTION
5 27-65-103 (3).

6 ~~(6) Repealed.~~

7 ~~(7) (Deleted by amendment, L. 2006, p. 1372, § 2, effective~~
8 ~~August 7, 2006.)~~

9 ~~(7.2)~~ (12) "Minor" means a person under eighteen years of age;
10 except that the term does not include a person who is fifteen years of age
11 or older who is living separately and apart from his or her parent or legal
12 guardian and is managing his or her financial affairs, regardless of his or
13 her source of income, or who is married and living separately and apart
14 from his or her parent or legal guardian.

15 ~~(7.5)~~ (13) "Patient representative" means a person designated by
16 ~~the~~ A mental health facility to process patient complaints or grievances or
17 to represent patients who are minors pursuant to ~~section 27-10-103 (3.3)~~
18 SECTION 27-65-103 (5).

19 ~~(8) (Deleted by amendment, L. 2006, p. 1372, § 2, effective~~
20 ~~August 7, 2006.)~~

21 ~~(8.5)~~ (14) "Person with a mental illness" means a person with one
22 or more substantial disorders of the cognitive, volitional, or emotional
23 processes that grossly impairs judgment or capacity to recognize reality
24 or to control behavior. Developmental disability is insufficient to either
25 justify or exclude a finding of mental illness within the provisions of this
26 article.

27 ~~(9)~~ (15) "Petitioner" means any person who files any petition in

1 any proceeding in the interest of any person who allegedly has a mental
2 illness or is allegedly gravely disabled.

3 ~~(10)~~ (16) "Physician" means a person licensed to practice
4 medicine in this state.

5 ~~(11)~~ (17) "Professional person" means a person licensed to
6 practice medicine in this state or a psychologist certified to practice in this
7 state.

8 ~~(11.5)~~ (18) "Residential child care facility" means a facility
9 licensed by the state department of human services pursuant to article 6
10 of title 26, C.R.S., to provide group care and treatment for children as
11 such facility is defined in section 26-6-102 (8), C.R.S. A residential child
12 care facility may be eligible for designation by the executive director of
13 the department of human services pursuant to this article.

14 ~~(12)~~ (19) "Respondent" means either a person alleged in a petition
15 filed pursuant to this article to have a mental illness or be gravely disabled
16 or a person certified pursuant to the provisions of this article.

17 ~~(13)~~ (20) "Screening" means a review of all petitions, to consist
18 of an interview with the petitioner and, whenever possible, the
19 respondent, an assessment of the problem, an explanation of the petition
20 to the respondent, and a determination of whether the respondent needs
21 and, if so, will accept, on a voluntary basis, comprehensive evaluation,
22 treatment, referral, and other appropriate services, either on an inpatient
23 or an outpatient basis.

24 **27-65-103. [Formerly 27-10-103] Voluntary applications for**
25 **mental health services.** (1) Nothing in this article shall be construed in
26 any way as limiting the right of any person to make voluntary application
27 at any time to any public or private agency or professional person for

1 mental health services, either by direct application in person or by referral
2 from any other public or private agency or professional person. Subject
3 to section 15-14-316 (4), C.R.S., a ward, as defined in section 15-14-102
4 (15), C.R.S., may be admitted to hospital or institutional care and
5 treatment for mental illness by consent of the guardian for so long as the
6 ward agrees to such care and treatment. Within ten days of any such
7 admission of the ward for such hospital or institutional care and
8 treatment, the guardian shall notify in writing the court ~~which~~ THAT
9 appointed the guardian of the admission.

10 (2) Notwithstanding any other provision of law, a minor who is
11 fifteen years of age or older, whether with or without the consent of a
12 parent or legal guardian, may consent to receive mental health services to
13 be rendered by a facility or a professional person. Such consent shall not
14 be subject to disaffirmance because of minority. The professional person
15 rendering mental health services to a minor may, with or without the
16 consent of the minor, advise the parent or legal guardian of the minor of
17 the services given or needed.

18 ~~(3) Repealed.~~

19 ~~(3.1)~~ (3) A minor who is fifteen years of age or older or a parent
20 or legal guardian of a minor on the minor's behalf may make voluntary
21 application for hospitalization. Application for hospitalization on behalf
22 of a minor who is under fifteen years of age and who is a ward of the
23 department of human services shall not be made unless a guardian ad
24 litem has been appointed for the minor or a petition for the same has been
25 filed with the court by the agency having custody of the minor; except
26 that such an application for hospitalization may be made under emergency
27 circumstances requiring immediate hospitalization, in which case the

1 agency shall file a petition for appointment of a guardian ad litem within
2 seventy-two hours after application for admission is made, and the court
3 shall appoint a guardian ad litem forthwith. Procedures for
4 hospitalization of such minor may proceed pursuant to this section once
5 a petition for appointment of a guardian ad litem has been filed, if
6 necessary. Whenever such application for hospitalization is made, an
7 independent professional person shall interview the minor and conduct a
8 careful investigation into the minor's background, using all available
9 sources, including, but not limited to, the parents or legal guardian and
10 the school and any other social agencies. Prior to admitting a minor for
11 hospitalization, the independent professional person shall make the
12 following findings:

13 (a) That the minor has a mental illness and is in need of
14 hospitalization;

15 (b) That a less restrictive treatment alternative is inappropriate or
16 unavailable; and

17 (c) That hospitalization is likely to be beneficial.

18 ~~(3.2)~~ (4) An interview and investigation by an independent
19 professional person shall not be required for a minor who is fifteen years
20 of age or older and who, upon the recommendation of his or her treating
21 professional person, seeks voluntary hospitalization with the consent of
22 his or her parent or legal guardian. In order to assure that the minor's
23 consent to such hospitalization is voluntary, the minor shall be advised,
24 at or before the time of admission, of his or her right to refuse to sign the
25 admission consent form and his or her right to revoke his or her consent
26 at a later date. If a minor admitted pursuant to this ~~subsection (3.2)~~
27 SUBSECTION (4) subsequently revokes his or her consent after admission,

1 a review of his or her need for hospitalization pursuant to ~~subsection (3.3)~~
2 SUBSECTION (5) of this section shall be initiated immediately.

3 ~~(3.3)~~ (5) (a) The need for continuing hospitalization of all
4 voluntary patients who are minors shall be formally reviewed at least
5 every two months. Review pursuant to this ~~subsection (3.3)~~ SUBSECTION
6 (5) shall fulfill the requirement specified in section 19-1-115 (8), C.R.S.,
7 when the minor is fifteen years of age or older and consenting to
8 hospitalization.

9 (b) The review shall be conducted by an independent professional
10 person who is not a member of the minor's treating team; or, if the minor,
11 his or her physician, and the minor's parent or guardian do not object to
12 the need for continued hospitalization, the review required pursuant to
13 this ~~subsection (3.3)~~ SUBSECTION (5) may be conducted internally by the
14 hospital staff.

15 (c) The independent professional person shall determine whether
16 the minor continues to meet the criteria specified in ~~subsection (3.1)~~
17 SUBSECTION (3) of this section and whether continued hospitalization is
18 appropriate and shall at least conduct an investigation pursuant to
19 ~~subsection (3.1)~~ SUBSECTION (3) of this section.

20 (d) Ten days prior to the review, the patient representative at the
21 mental health facility shall notify the minor of the date of the review and
22 shall assist the minor in articulating to the independent professional
23 person his or her wishes concerning continued hospitalization.

24 (e) Nothing in this section shall be construed to limit a minor's
25 right to seek release from the facility pursuant to any other provisions
26 under the law.

27 ~~(3.4)~~ (6) Every six months the review required pursuant to

1 ~~subsection (3.3)~~ SUBSECTION (5) of this section shall be conducted by an
2 independent professional person who is not a member of the minor's
3 treating team and who has not previously reviewed the child pursuant to
4 ~~subsection (3.3)~~ SUBSECTION (5) of this section.

5 ~~(3.5)~~ (7) (a) When a minor does not consent to or objects to
6 continued hospitalization, the need for such continued hospitalization
7 shall, within ten days, be reviewed pursuant to ~~subsection (3.3)~~
8 SUBSECTION (5) of this section by an independent professional person
9 who is not a member of the minor's treating team and who has not
10 previously reviewed the child pursuant to this ~~subsection (3.5)~~
11 SUBSECTION (7). The minor shall be informed of the results of such
12 review within three days of completion of such review. If the conclusion
13 reached by such professional person is that the minor no longer meets the
14 standards for hospitalization specified in ~~subsection (3.1)~~ SUBSECTION (3)
15 of this section, the minor shall be discharged.

16 (b) If, twenty-four hours after being informed of the results of the
17 review specified in paragraph (a) of this ~~subsection (3.5)~~ SUBSECTION (7),
18 a minor continues to affirm the objection to hospitalization, the minor
19 shall be advised by the director of the facility or his or her duly appointed
20 representative that the minor has the right to retain and consult with an
21 attorney at any time and that the director or his or her duly appointed
22 representative shall file, within three days after the request of the minor,
23 a statement requesting an attorney for the minor or, if the minor is under
24 fifteen years of age, a guardian ad litem. The minor, his or her attorney,
25 if any, and his or her parent, legal guardian, or guardian ad litem, if any,
26 shall also be given written notice that a hearing upon the recommendation
27 for continued hospitalization may be had before the court or a jury upon

1 written request directed to the court pursuant to paragraph (d) of this
2 ~~subsection (3.5)~~ SUBSECTION (7).

3 (c) Whenever the statement requesting an attorney is filed with the
4 court, the court shall ascertain whether the minor has retained counsel,
5 and, if he or she has not, the court shall, within three days, appoint an
6 attorney to represent the minor, or if the minor is under fifteen years of
7 age, a guardian ad litem. Upon receipt of a petition filed by the guardian
8 ad litem, the court shall appoint an attorney to represent the minor under
9 fifteen years of age.

10 (d) The minor or his or her attorney or guardian ad litem may, at
11 any time after the minor has continued to affirm his or her objection to
12 hospitalization pursuant to paragraph (b) of this ~~subsection (3.5)~~
13 SUBSECTION (7), file a written request that the recommendation for
14 continued hospitalization be reviewed by the court or that the treatment
15 be on an outpatient basis. If review is requested, the court shall hear the
16 matter within ten days after the request, and the court shall give notice to
17 the minor, his or her attorney, if any, his or her parents or legal guardian,
18 his or her guardian ad litem, if any, the independent professional person,
19 and the minor's treating team of the time and place thereof. The hearing
20 shall be held in accordance with ~~section 27-10-111~~ SECTION 27-65-111;
21 except that the court or jury shall determine that the minor is in need of
22 care and treatment if the court or jury makes the following findings: That
23 the minor has a mental illness and is in need of hospitalization; that a less
24 restrictive treatment alternative is inappropriate or unavailable; and that
25 hospitalization is likely to be beneficial. At the conclusion of the hearing,
26 the court may enter an order confirming the recommendation for
27 continued hospitalization, discharge the minor, or enter any other

1 appropriate order.

2 (e) For purposes of this ~~subsection (3.5)~~ SUBSECTION (7), "objects
3 to hospitalization" means that a minor, with the necessary assistance of
4 hospital staff, has written his or her objections to continued
5 hospitalization and has been given an opportunity to affirm or disaffirm
6 such objections forty-eight hours after the objections are first written.

7 (f) A minor may not again object to hospitalization pursuant to
8 this ~~subsection (3.5)~~ SUBSECTION (7) until ninety days after conclusion of
9 proceedings pursuant to this ~~subsection (3.5)~~ SUBSECTION (7).

10 (g) In addition to the rights specified under ~~section 27-10-117~~
11 SECTION 27-65-117 for persons receiving evaluation, care, or treatment,
12 a written notice specifying the rights of minor children under this section
13 shall be given to each minor upon admission to hospitalization.

14 ~~(3.6)~~ (8) A minor who no longer meets the standards for
15 hospitalization specified in ~~subsection (3.1)~~ SUBSECTION (3) of this
16 section shall be discharged.

17 ~~(4)~~ (9) For the purpose of this article, the treatment by prayer in
18 the practice of the religion of any church which teaches reliance on
19 spiritual means alone for healing shall be considered a form of treatment.

20 ~~(5)~~ (10) The medical and legal status of all voluntary patients
21 receiving treatment for mental illness in inpatient or custodial facilities
22 shall be reviewed at least once every six months.

23 ~~(6)~~ (11) Voluntary patients shall be afforded all the rights and
24 privileges customarily granted by hospitals to their patients.

25 ~~(7)~~ (12) If at any time during a seventy-two-hour evaluation of a
26 person who is confined involuntarily the facility staff requests the person
27 to sign in voluntarily and he or she elects to do so, the following

1 advisement shall be given orally and in writing and an appropriate
2 notation shall be made in his or her medical record by the professional
3 person or his or her designated agent:

4 **NOTICE**

5 The decision to sign in voluntarily should be made
6 by you alone and should be free from any force or pressure
7 implied or otherwise. If you do not feel that you are able
8 to make a truly voluntary decision, you may continue to be
9 held at the hospital involuntarily. As an involuntary
10 patient, you will have the right to protest your confinement
11 and request a hearing before a judge.

12 **27-65-104. [Formerly 27-10-104] Rights of respondents.**

13 Unless specifically stated in an order by the court, a respondent shall not
14 forfeit any legal right or suffer legal disability by reason of the provisions
15 of this article.

16 **27-65-105. [Formerly 27-10-105] Emergency procedure.**

17 (1) Emergency procedure may be invoked under either one of the
18 following two conditions:

19 (a) (I) When any person appears to have a mental illness and, as
20 a result of such mental illness, appears to be an imminent danger to others
21 or to himself or herself or appears to be gravely disabled, then a person
22 specified in subparagraph (II) of this paragraph (a), each of whom is
23 referred to in this section as the "intervening professional", upon probable
24 cause and with such assistance as may be required, may take the person
25 into custody, or cause the person to be taken into custody, and placed in
26 a facility designated or approved by the executive director for a
27 seventy-two-hour treatment and evaluation.

1 (II) The following persons may effect a seventy-two-hour hold as
2 provided in subparagraph (I) of this paragraph (a):

3 (A) A certified peace officer;

4 (B) A professional person;

5 (C) A registered professional nurse as defined in section
6 12-38-103 (11), C.R.S., who by reason of postgraduate education and
7 additional nursing preparation has gained knowledge, judgment, and skill
8 in psychiatric or mental health nursing;

9 (D) A licensed marriage and family therapist or licensed
10 professional counselor, licensed under the provisions of part 5 or 6 of
11 article 43 of title 12, C.R.S., or an addiction counselor licensed pursuant
12 to section 12-43-804 (3), C.R.S., who by reason of postgraduate
13 education and additional preparation has gained knowledge, judgment,
14 and skill in psychiatric or clinical mental health therapy, forensic
15 psychotherapy, or the evaluation of mental disorders; or

16 (E) A licensed clinical social worker licensed under the provisions
17 of part 4 of article 43 of title 12, C.R.S.

18 (b) Upon an affidavit sworn to or affirmed before a judge that
19 relates sufficient facts to establish that a person appears to have a mental
20 illness and, as a result of the mental illness, appears to be an imminent
21 danger to others or to himself or herself or appears to be gravely disabled,
22 the court may order the person described in the affidavit to be taken into
23 custody and placed in a facility designated or approved by the executive
24 director for a seventy-two-hour treatment and evaluation. Whenever in
25 this article a facility is to be designated or approved by the executive
26 director, hospitals, if available, shall be approved or designated in each
27 county before other facilities are approved or designated. Whenever in

1 this article a facility is to be designated or approved by the executive
2 director as a facility for a stated purpose and the facility to be designated
3 or approved is a private facility, the consent of the private facility to the
4 enforcement of standards set by the executive director shall be a
5 prerequisite to the designation or approval.

6 ~~(1.1)~~ (2) (a) When a person is taken into custody pursuant to
7 subsection (1) of this section, such person shall not be detained in a jail,
8 lockup, or other place used for the confinement of persons charged with
9 or convicted of penal offenses; except that such place may be used if no
10 other suitable place of confinement for treatment and evaluation is readily
11 available. In such situation the person shall be detained separately from
12 those persons charged with or convicted of penal offenses and shall be
13 held for a period not to exceed twenty-four hours, excluding Saturdays,
14 Sundays, and holidays, after which time he or she shall be transferred to
15 a facility designated or approved by the executive director for a
16 seventy-two-hour treatment and evaluation. If the person being detained
17 is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile
18 shall be placed in a setting that is nonsecure and physically segregated by
19 sight and sound from the adult offenders. When a person is taken into
20 custody and confined pursuant to this ~~subsection (1.1)~~ SUBSECTION (2),
21 such person shall be examined at least every twelve hours by a certified
22 peace officer, nurse, or physician or by an appropriate staff professional
23 of the nearest designated or approved mental health treatment facility to
24 determine if the person is receiving appropriate care consistent with his
25 or her mental condition.

26 (b) A sheriff or police chief who violates the provisions of
27 paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2), related to detaining

1 juveniles may be subject to a civil fine of no more than one thousand
2 dollars. The decision to fine shall be based on prior violations of the
3 provisions of paragraph (a) of this ~~subsection (1.1)~~ SUBSECTION (2) by the
4 sheriff or police chief and the willingness of the sheriff or police chief to
5 address the violations in order to comply with paragraph (a) of this
6 ~~subsection (1.1)~~ SUBSECTION (2).

7 ~~(2)~~ (3) Such facility shall require an application in writing, stating
8 the circumstances under which the person's condition was called to the
9 attention of the intervening professional and further stating sufficient
10 facts, obtained from the personal observations of the intervening
11 professional or obtained from others whom he or she reasonably believes
12 to be reliable, to establish that the person has a mental illness and, as a
13 result of the mental illness, is an imminent danger to others or to himself
14 or herself or is gravely disabled. The application shall indicate when the
15 person was taken into custody and who brought the person's condition to
16 the attention of the intervening professional. A copy of the application
17 shall be furnished to the person being evaluated, and the application shall
18 be retained in accordance with the provisions of ~~section 27-10-120 (3)~~
19 SECTION 27-65-121 (4).

20 ~~(3)~~ (4) If the seventy-two-hour treatment and evaluation facility
21 admits the person, it may detain him or her for evaluation and treatment
22 for a period not to exceed seventy-two hours, excluding Saturdays,
23 Sundays, and holidays if evaluation and treatment services are not
24 available on those days. For the purposes of this ~~subsection (3)~~
25 SUBSECTION (4), evaluation and treatment services are not deemed to be
26 available merely because a professional person is on call during weekends
27 or holidays. If, in the opinion of the professional person in charge of the

1 evaluation, the person can be properly cared for without being detained,
2 he or she shall be provided services on a voluntary basis.

3 (4) (5) Each person admitted to a seventy-two-hour treatment and
4 evaluation facility under the provisions of this article shall receive an
5 evaluation as soon as possible after he or she is admitted and shall receive
6 such treatment and care as his or her condition requires for the full period
7 that he or she is held. The person shall be released before seventy-two
8 hours have elapsed if, in the opinion of the professional person in charge
9 of the evaluation, the person no longer requires evaluation or treatment.
10 Persons who have been detained for seventy-two-hour evaluation and
11 treatment shall be released, referred for further care and treatment on a
12 voluntary basis, or certified for treatment pursuant to ~~section 27-10-107~~
13 SECTION 27-65-107.

14 **27-65-106. [Formerly 27-10-106] Court-ordered evaluation**
15 **for persons with mental illness.** (1) Any person alleged to have a
16 mental illness and, as a result of the mental illness, to be a danger to
17 others or to himself or herself or to be gravely disabled may be given an
18 evaluation of his or her condition under a court order pursuant to this
19 section.

20 (2) Any individual may petition the court in the county in which
21 the respondent resides or is physically present alleging that there is a
22 person who appears to have a mental illness and, as a result of the mental
23 illness, appears to be a danger to others or to himself or herself or appears
24 to be gravely disabled and requesting that an evaluation of the person's
25 condition be made.

26 (3) The petition for a court-ordered evaluation shall contain the
27 following:

1 (a) The name and address of the petitioner and his OR HER interest
2 in the case;

3 (b) The name of the person for whom evaluation is sought, who
4 shall be designated as the respondent, and, if known to the petitioner, the
5 address, age, sex, marital status, and occupation of the respondent;

6 (c) Allegations of fact indicating that the respondent may have a
7 mental illness and, as a result of the mental illness, be a danger to others
8 or to himself or herself or be gravely disabled and showing reasonable
9 grounds to warrant an evaluation;

10 (d) The name and address of every person known or believed by
11 the petitioner to be legally responsible for the care, support, and
12 maintenance of the respondent, if available;

13 (e) The name, address, and telephone number of the attorney, if
14 any, who has most recently represented the respondent. If there is no
15 attorney, there shall be a statement as to whether, to the best knowledge
16 of the petitioner, the respondent meets the criteria established by the legal
17 aid agency operating in the county or city and county for it to represent
18 a client.

19 (4) Upon receipt of a petition satisfying the requirements of
20 subsection (3) of this section, the court shall designate a facility, approved
21 by the executive director, or a professional person to provide screening
22 of the respondent to determine whether there is probable cause to believe
23 the allegations.

24 (5) Following screening, the facility or professional person
25 designated by the court shall file his or her report with the court. The
26 report shall include a recommendation as to whether there is probable
27 cause to believe that the respondent has a mental illness and, as a result

1 of the mental illness, is a danger to others or to himself or herself or is
2 gravely disabled and whether the respondent will voluntarily receive
3 evaluation or treatment. The screening report submitted to the court shall
4 be confidential in accordance with ~~section 27-10-120~~ SECTION 27-65-121
5 and shall be furnished to the respondent or his or her attorney or personal
6 representative.

7 (6) Whenever it appears, by petition and screening pursuant to this
8 section, to the satisfaction of the court that probable cause exists to
9 believe that the respondent has a mental illness and, as a result of the
10 mental illness, is a danger to others or to himself or herself or is gravely
11 disabled and that efforts have been made to secure the cooperation of the
12 respondent, who has refused or failed to accept evaluation voluntarily, the
13 court shall issue an order for evaluation authorizing a certified peace
14 officer to take the respondent into custody and place him or her in a
15 facility designated by the executive director for seventy-two-hour
16 treatment and evaluation. At the time of taking the respondent into
17 custody, a copy of the petition and the order for evaluation shall be given
18 to the respondent, and promptly thereafter to any one person designated
19 by such respondent and to the person in charge of the seventy-two-hour
20 treatment and evaluation facility named in the order or his or her
21 designee.

22 (7) The respondent shall be evaluated as promptly as possible and
23 shall in no event be detained longer than seventy-two hours under the
24 court order, excluding Saturdays, Sundays, and holidays if treatment and
25 evaluation services are not available on those days. Within that time, the
26 respondent shall be released, referred for further care and treatment on a
27 voluntary basis, or certified for short-term treatment.

1 (8) At the time the respondent is taken into custody for evaluation
2 or within a reasonable time thereafter, unless a responsible relative is in
3 possession of the respondent's personal property, the certified peace
4 officer taking him or her into custody shall take reasonable precautions
5 to preserve and safeguard the personal property in the possession of or on
6 the premises occupied by the respondent.

7 (9) When a person is involuntarily admitted to a seventy-two-hour
8 treatment and evaluation facility under the provisions of this section or
9 ~~section 27-10-105~~ SECTION 27-65-105, the person shall be advised by the
10 facility director or his or her duly appointed representative that the person
11 is going to be examined with regard to his or her mental condition.

12 (10) Whenever a person is involuntarily admitted to a
13 seventy-two-hour treatment and evaluation facility, he or she shall be
14 advised by the facility director or his or her duly appointed representative
15 of his or her right to retain and consult with any attorney at any time and
16 that, if he or she cannot afford to pay an attorney, upon proof of
17 indigency, one will be appointed by the court without cost.

18 **27-65-107. [Formerly 27-10-107] Certification for short-term**
19 **treatment.** (1) If a person detained for seventy-two hours under the
20 provisions of ~~section 27-10-105~~ SECTION 27-65-105 or a respondent under
21 court order for evaluation pursuant to ~~section 27-10-106~~ SECTION
22 27-65-106 has received an evaluation, he or she may be certified for not
23 more than three months of short-term treatment under the following
24 conditions:

25 (a) The professional staff of the agency or facility providing
26 seventy-two-hour treatment and evaluation has analyzed the person's
27 condition and has found the person has a mental illness and, as a result of

1 the mental illness, is a danger to others or to himself or herself or is
2 gravely disabled.

3 (b) The person has been advised of the availability of, but has not
4 accepted, voluntary treatment; but, if reasonable grounds exist to believe
5 that the person will not remain in a voluntary treatment program, his or
6 her acceptance of voluntary treatment shall not preclude certification.

7 (c) The facility which will provide short-term treatment has been
8 designated or approved by the executive director to provide such
9 treatment.

10 (2) The notice of certification must be signed by a professional
11 person on the staff of the evaluation facility who participated in the
12 evaluation and shall state facts sufficient to establish reasonable grounds
13 to believe that the person has a mental illness and, as a result of the
14 mental illness, is a danger to others or to himself or herself or is gravely
15 disabled. The certification shall be filed with the court within forty-eight
16 hours, excluding Saturdays, Sundays, and court holidays, of the date of
17 certification. The certification shall be filed with the court in the county
18 in which the respondent resided or was physically present immediately
19 prior to his or her being taken into custody.

20 (3) Within twenty-four hours of certification, copies of the
21 certification shall be personally delivered to the respondent, and a copy
22 shall be kept by the evaluation facility as part of the person's record. The
23 respondent shall also be asked to designate one other person whom he or
24 she wishes informed regarding certification. If he or she is incapable of
25 making such a designation at the time the certification is delivered, he or
26 she shall be asked to designate such person as soon as he or she is
27 capable. In addition to the copy of the certification, the respondent shall

1 be given a written notice that a hearing upon his or her certification for
2 short-term treatment may be had before the court or a jury upon written
3 request directed to the court pursuant to subsection (6) of this section.

4 (4) Upon certification of the respondent, the facility designated for
5 short-term treatment shall have custody of the respondent.

6 (5) Whenever a certification is filed with the court, the court, if it
7 has not already done so under ~~section 27-10-106 (10)~~ SECTION 27-65-106
8 (10), shall forthwith appoint an attorney to represent the respondent. The
9 court shall determine whether the respondent is able to afford an attorney.
10 If the respondent cannot afford counsel, the court shall appoint either
11 counsel from the legal services program operating in that jurisdiction or
12 private counsel to represent the respondent. The attorney representing the
13 respondent shall be provided with a copy of the certification immediately
14 upon his or her appointment. Waiver of counsel must be knowingly and
15 intelligently made in writing and filed with the court by the respondent.
16 In the event that a respondent who is able to afford an attorney fails to pay
17 the appointed counsel, such counsel, upon application to the court and
18 after appropriate notice and hearing, may obtain a judgment for
19 reasonable attorney fees against the respondent or person making request
20 for such counsel or both the respondent and such person.

21 (6) The respondent for short-term treatment or his or her attorney
22 may at any time file a written request that the certification for short-term
23 treatment or the treatment be reviewed by the court or that the treatment
24 be on an outpatient basis. If review is requested, the court shall hear the
25 matter within ten days after the request, and the court shall give notice to
26 the respondent and his or her attorney and the certifying and treating
27 professional person of the time and place thereof. The hearing shall be

1 held in accordance with ~~section 27-10-111~~ SECTION 27-65-111. At the
2 conclusion of the hearing, the court may enter or confirm the certification
3 for short-term treatment, discharge the respondent, or enter any other
4 appropriate order, subject to available appropriations.

5 (7) Records and papers in proceedings under this section and
6 ~~section 27-10-108~~ SECTION 27-65-108 shall be maintained separately by
7 the clerks of the several courts. Upon the release of any respondent in
8 accordance with the provisions of ~~section 27-10-110~~ SECTION 27-65-110,
9 the facility shall notify the clerk of the court within five days of the
10 release, and the clerk shall forthwith seal the record in the case and omit
11 the name of the respondent from the index of cases in such court until and
12 unless the respondent becomes subject to an order of long-term care and
13 treatment pursuant to ~~section 27-10-109~~ SECTION 27-65-109 or until and
14 unless the court orders them opened for good cause shown. In the event
15 a petition is filed pursuant to ~~section 27-10-109~~ SECTION 27-65-109, such
16 certification record may be opened and become a part of the record in the
17 long-term care and treatment case and the name of the respondent
18 indexed.

19 (8) Whenever it appears to the court, by reason of a report by the
20 treating professional person or any other report satisfactory to the court,
21 that a respondent detained for evaluation and treatment or certified for
22 treatment should be transferred to another facility for treatment and the
23 safety of the respondent or the public requires that the respondent be
24 transported by a sheriff, the court may issue an order directing the sheriff
25 or his or her designee to deliver the respondent to the designated facility.

26 **27-65-108. [Formerly 27-10-108] Extension of short-term**
27 **treatment.** If the professional person in charge of the evaluation and

1 treatment believes that a period longer than three months is necessary for
2 treatment of the respondent, he OR SHE shall file with the court an
3 extended certification. No extended certification for treatment shall be
4 for a period of more than three months. The respondent shall be entitled
5 to a hearing on the extended certification under the same conditions as in
6 an original certification. The attorney initially representing the
7 respondent shall continue to represent that person, unless the court
8 appoints another attorney.

9 **27-65-109. [Formerly 27-10-109] Long-term care and**
10 **treatment of persons with mental illness.** (1) Whenever a respondent
11 has received short-term treatment for five consecutive months under the
12 provisions of ~~sections 27-10-107 and 27-10-108~~ SECTIONS 27-65-107 AND
13 27-65-108, the professional person in charge of the evaluation and
14 treatment may file a petition with the court for long-term care and
15 treatment of the respondent under the following conditions:

16 (a) The professional staff of the agency or facility providing
17 short-term treatment has analyzed the respondent's condition and has
18 found that the respondent has a mental illness and, as a result of the
19 mental illness, is a danger to others or to himself or herself or is gravely
20 disabled.

21 (b) The respondent has been advised of the availability of, but has
22 not accepted, voluntary treatment; but, if reasonable grounds exist to
23 believe that the respondent will not remain in a voluntary treatment
24 program, his or her acceptance of voluntary treatment shall not preclude
25 an order pursuant to this section.

26 (c) The facility that will provide long-term care and treatment has
27 been designated or approved by the executive director to provide the care

1 and treatment.

2 (2) Every petition for long-term care and treatment shall include
3 a request for a hearing before the court prior to the expiration of six
4 months from the date of original certification. A copy of the petition shall
5 be delivered personally to the respondent for whom long-term care and
6 treatment is sought and mailed to his or her attorney of record
7 simultaneously with the filing thereof.

8 (3) Within ten days after receipt of the petition, the respondent or
9 his or her attorney may request a jury trial by filing a written request
10 therefor with the court.

11 (4) The court or jury shall determine whether the conditions of
12 subsection (1) of this section are met and whether the respondent has a
13 mental illness and, as a result of the mental illness, is a danger to others
14 or to himself or herself or is gravely disabled. The court shall thereupon
15 issue an order of long-term care and treatment for a term not to exceed six
16 months, or it shall discharge the respondent for whom long-term care and
17 treatment was sought, or it shall enter any other appropriate order, subject
18 to available appropriations. An order for long-term care and treatment
19 shall grant custody of the respondent to the department for placement
20 with an agency or facility designated by the executive director to provide
21 long-term care and treatment. When a petition contains a request that a
22 specific legal disability be imposed or that a specific legal right be
23 deprived, the court may order the disability imposed or the right deprived
24 if it or a jury has determined that the respondent has a mental illness or is
25 gravely disabled and that, by reason thereof, the person is unable to
26 competently exercise said right or perform the function as to which the
27 disability is sought to be imposed. Any interested person may ask leave

1 of the court to intervene as a copetitioner for the purpose of seeking the
2 imposition of a legal disability or the deprivation of a legal right.

3 (5) An original order of long-term care and treatment or any
4 extension of such order shall expire upon the date specified therein,
5 unless further extended as provided in this subsection (5). If an extension
6 is being sought, the professional person in charge of the evaluation and
7 treatment shall certify to the court at least thirty days prior to the
8 expiration date of the order in force that an extension of the order is
9 necessary for the care and treatment of the respondent subject to the order
10 in force, and a copy of the certification shall be delivered to the
11 respondent and simultaneously mailed to his or her attorney of record. At
12 least twenty days before the expiration of the order, the court shall give
13 written notice to the respondent and his or her attorney of record that a
14 hearing upon the extension may be had before the court or a jury upon
15 written request to the court within ten days after receipt of the notice. If
16 no hearing is requested by the respondent within such time, the court may
17 proceed ex parte. If a hearing is timely requested, it shall be held before
18 the expiration date of the order in force. If the court or jury finds that the
19 conditions of subsection (1) of this section continue to be met and that the
20 respondent has a mental illness and, as a result of the mental illness, is a
21 danger to others or to himself or herself or is gravely disabled, the court
22 shall issue an extension of the order. Any extension shall be for a period
23 of not more than six months, but there may be as many extensions as the
24 court orders pursuant to this section.

25 **27-65-110. [Formerly 27-10-110] Termination of short-term**
26 **and long-term treatment - escape.** (1) An original certification for
27 short-term treatment under ~~section 27-10-107~~ SECTION 27-65-107, or an

1 extended certification under ~~section 27-10-108~~ SECTION 27-65-108, or an
2 order for long-term care and treatment or any extension thereof shall
3 terminate as soon as, in the opinion of the professional person in charge
4 of treatment of the respondent, the respondent has received sufficient
5 benefit from such treatment for him OR HER to leave. Whenever a
6 certification or extended certification is terminated under this section, the
7 professional person in charge of providing treatment shall so notify the
8 court in writing within five days of such termination. Such professional
9 person may also prescribe day care, night care, or any other similar mode
10 of treatment prior to termination.

11 (2) Before termination, an escaped respondent may be returned to
12 the facility by order of the court without a hearing or by the
13 superintendent or director of such facility without order of court. After
14 termination, a respondent may be returned to the institution only in
15 accordance with the provisions of this article.

16 **27-65-111. [Formerly 27-10-111] Hearing procedures -**
17 **jurisdiction.** (1) Hearings before the court under ~~section 27-10-107,~~
18 ~~27-10-108, or 27-10-109~~ SECTION 27-65-107, 27-65-108, OR 27-65-109
19 shall be conducted in the same manner as other civil proceedings before
20 the court. The burden of proof shall be upon the person or facility
21 seeking to detain the respondent. The court or jury shall determine that
22 the respondent is in need of care and treatment only if the court or jury
23 finds by clear and convincing evidence that the person has a mental
24 illness and, as a result of the mental illness, is a danger to others or to
25 himself or herself or is gravely disabled.

26 (2) The court, after consultation with respondent's counsel to
27 obtain counsel's recommendations, may appoint a professional person to

1 examine the respondent for whom short-term treatment or long-term care
2 and treatment is sought and to testify at the hearing before the court as to
3 the results of his or her examination. The court-appointed professional
4 person shall act solely in an advisory capacity, and no presumption shall
5 attach to his or her findings.

6 (3) Every respondent subject to an order for short-term treatment
7 or long-term care and treatment shall be advised of his or her right to
8 appeal the order by the court at the conclusion of any hearing as a result
9 of which such an order may be entered.

10 (4) The court in which the petition is filed under ~~section~~
11 ~~27-10-106~~ SECTION 27-65-106 or the certification is filed under ~~section~~
12 ~~27-10-107~~ SECTION 27-65-107 shall be the court of original jurisdiction
13 and of continuing jurisdiction for any further proceedings under this
14 article. When the convenience of the parties and the ends of justice
15 would be promoted by a change in the court having jurisdiction, the court
16 may order a transfer of the proceeding to another county. Until further
17 order of the transferee court, if any, it shall be the court of continuing
18 jurisdiction.

19 ~~(4.5)~~ (5) (a) In the event that a respondent or a person found not
20 guilty by reason of impaired mental condition pursuant to section
21 16-8-103.5 (5), C.R.S., or by reason of insanity pursuant to section
22 16-8-105 (4) or 16-8-105.5, C.R.S., refuses to accept medication, the
23 court having jurisdiction of the action pursuant to subsection (4) of this
24 section, the court committing the person or defendant to the custody of
25 the department of ~~human services~~ pursuant to section 16-8-103.5 (5),
26 16-8-105 (4), or 16-8-105.5, C.R.S., or the court of the jurisdiction in
27 which the designated facility treating the respondent or person is located

1 shall have jurisdiction and venue to accept a petition by a treating
2 physician and to enter an order requiring that the respondent or person
3 accept such treatment or, in the alternative, that the medication be forcibly
4 administered to him or her. The court of the jurisdiction in which the
5 designated facility is located shall not exercise its jurisdiction without the
6 permission of the court that committed the person to the custody of the
7 department. ~~of human services~~ Upon the filing of such a petition, the
8 court shall appoint an attorney, if one has not been appointed, to represent
9 the respondent or person and hear the matter within ten days.

10 (b) In any case brought under paragraph (a) of this ~~subsection~~
11 ~~(4.5)~~ SUBSECTION (5) in a court for the county in which the treating
12 facility is located, the county where the proceeding was initiated pursuant
13 to subsection (4) of this section or the court committing the person to the
14 custody of the department ~~of human services~~ pursuant to section
15 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5, C.R.S., shall either reimburse
16 the county in which the proceeding pursuant to this ~~subsection (4.5)~~
17 SUBSECTION (5) was filed and in which the proceeding was held for the
18 reasonable costs incurred in conducting the proceeding or conduct the
19 proceeding itself using its own personnel and resources, including its own
20 district or county attorney, as the case may be.

21 (c) In the case of a defendant who is found incompetent to
22 proceed pursuant to section 16-8.5-103, C.R.S., and who refuses to accept
23 medication, the jurisdiction for the petition for involuntary treatment
24 procedures shall be as set forth in section 16-8.5-112, C.R.S.

25 ~~(5)~~ (6) All proceedings under this article, including proceedings
26 to impose a legal disability pursuant to ~~section 27-10-125~~ SECTION
27 27-65-127, shall be conducted by the district attorney of the county where

1 the proceeding is held or by a qualified attorney acting for the district
2 attorney appointed by the district court for that purpose; except that, in
3 any county or in any city and county having a population exceeding fifty
4 thousand persons, the proceedings shall be conducted by the county
5 attorney or by a qualified attorney acting for the county attorney
6 appointed by the district court. In any case in which there has been a
7 change of venue to a county other than the county of residence of the
8 respondent or the county in which the certification proceeding was
9 commenced, the county from which the proceeding was transferred shall
10 either reimburse the county to which the proceeding was transferred and
11 in which the proceeding was held for the reasonable costs incurred in
12 conducting the proceeding or conduct the proceeding itself using its own
13 personnel and resources, including its own district or county attorney, as
14 the case may be. Upon request of a guardian appointed pursuant to article
15 14 of title 15, C.R.S., the guardian may intervene in any proceeding under
16 this article concerning his OR HER ward and, through counsel, may present
17 evidence and represent to the court the views of the guardian concerning
18 the appropriate disposition of the case.

19 **27-65-112. [Formerly 27-10-112] Appeals.** Appellate review
20 of any order of short-term treatment or long-term care and treatment may
21 be had as provided in the Colorado appellate rules. Such appeal shall be
22 advanced upon the calendar of the appellate court and shall be decided at
23 the earliest practicable time. Pending disposition by the appellate court,
24 it may make such order as it may consider proper in the premises relating
25 to the care and custody of the respondent.

26 **27-65-113. [Formerly 27-10-113] Habeas corpus.** Any person
27 detained pursuant to this article shall be entitled to an order in the nature

1 of habeas corpus upon proper petition to any court generally empowered
2 to issue orders in the nature of habeas corpus.

3 **27-65-114. [Formerly 27-10-114] Restoration of rights.** Any
4 person who, by reason of a judicial decree entered by a court of this state
5 prior to July 1, 1975, is adjudicated as a person with a mental illness shall
6 be deemed to have been restored to legal capacity and competency.

7 **27-65-115. [Formerly 27-10-115] Discrimination.** No person
8 who has received evaluation or treatment under any provisions of this
9 article shall be discriminated against because of such status. For purposes
10 of this section, "discrimination" means giving any undue weight to the
11 fact of hospitalization or outpatient care and treatment unrelated to a
12 person's present capacity to meet standards applicable to all persons. Any
13 person who suffers injury by reason of a violation of this section shall
14 have a civil cause of action.

15 **27-65-116. [Formerly 27-10-116] Right to treatment.**
16 (1) (a) Any person receiving evaluation or treatment under any of the
17 provisions of this article is entitled to medical and psychiatric care and
18 treatment, with regard to services listed in ~~section 27-1-201 (1) (a) to (1)~~
19 ~~(e)~~ SECTION 27-66-101 and services listed in rules ~~and regulations~~
20 authorized by ~~section 27-1-202~~ SECTION 27-66-102, suited to meet his or
21 her individual needs, delivered in such a way as to keep him or her in the
22 least restrictive environment, and delivered in such a way as to include
23 the opportunity for participation of family members in his or her program
24 of care and treatment when appropriate, all subject to available
25 appropriations. Nothing in this paragraph (a) shall create any right with
26 respect to any person other than the person receiving evaluation, care, or
27 treatment. The professional person and the agency or facility providing

1 evaluation, care, or treatment shall keep records detailing all care and
2 treatment received by such person, and such records shall be made
3 available, upon that person's written authorization, to his or her attorney
4 or his or her personal physician. Such records shall be permanent records
5 and retained in accordance with the provisions of ~~section 27-10-120 (3)~~
6 SECTION 27-65-121 (4).

7 (b) Any person receiving evaluation or treatment under any of the
8 provisions of this article is entitled to petition the court pursuant to the
9 provisions of section 13-45-102, C.R.S., subject to available
10 appropriations, for release to a less restrictive setting within or without a
11 treating facility or release from a treating facility when adequate medical
12 and psychiatric care and treatment is not administered.

13 (2) The department shall adopt regulations to assure that each
14 agency or facility providing evaluation, care, or treatment shall require the
15 following:

16 (a) Consent for specific therapies and major medical treatment in
17 the nature of surgery. The nature of the consent, by whom it is given, and
18 under what conditions, shall be determined by ~~regulations~~ RULES of the
19 department.

20 (b) The order of a physician for any treatment or specific therapy
21 based on appropriate medical examinations;

22 (c) Notation in the patient's treatment record of periodic
23 examinations, evaluations, orders for treatment, and specific therapies
24 signed by personnel involved;

25 (d) Conduct according to the guidelines contained in the
26 regulations of the federal government and the department with regard to
27 clinical investigations, research, experimentation, and testing of any kind;

1 and

2 (e) Documentation of the findings, conclusions, and decisions in
3 any administrative review of a decision to release or withhold the
4 information requested by a family member pursuant to ~~section 27-10-120~~
5 ~~(1)(g) or (1)(h)~~ SECTION 27-65-121 (1) (g) OR (1) (h) and documentation
6 of any information given to a family member.

7 **27-65-117. [Formerly 27-10-117] Rights of persons receiving**
8 **evaluation, care, or treatment.** (1) Each person receiving evaluation,
9 care, or treatment under any provision of this article has the following
10 rights and shall be advised of such rights by the facility:

11 (a) To receive and send sealed correspondence. No incoming or
12 outgoing correspondence shall be opened, delayed, held, or censored by
13 the personnel of the facility.

14 (b) To have access to letter-writing materials, including postage,
15 and to have staff members of the facility assist him OR HER if unable to
16 write, prepare, and mail correspondence;

17 (c) To have ready access to telephones, both to make and to
18 receive calls in privacy;

19 (d) To have frequent and convenient opportunities to meet with
20 visitors. Each person may see his OR HER attorney, clergyman, or
21 physician at any time.

22 (e) To wear his OR HER own clothes, keep and use his OR HER own
23 personal possessions, and keep and be allowed to spend a reasonable sum
24 of his OR HER own money.

25 (2) A person's rights under subsection (1) of this section may be
26 denied for good cause only by the professional person providing
27 treatment. Denial of any right shall in all cases be entered into the

1 person's treatment record. Information pertaining to a denial of rights
2 contained in the person's treatment record shall be made available, upon
3 request, to the person or his OR HER attorney.

4 (3) No person admitted to or in a facility shall be fingerprinted
5 unless required by other provisions of law.

6 (4) A person may be photographed upon admission for
7 identification and the administrative purposes of the facility. ~~Such~~ THE
8 photographs shall be confidential and shall not be released by the facility
9 except pursuant to court order. No other nonmedical photographs shall
10 be taken or used without appropriate consent or authorization.

11 (5) Any person receiving evaluation or treatment under any of the
12 provisions of this article is entitled to a written copy of all his OR HER
13 rights enumerated in this section, and a minor child shall receive written
14 notice of his OR HER rights as provided in ~~section 27-10-103 (3.5) (g)~~
15 SECTION 27-65-103 (7) (g). A list of such rights shall be prominently
16 posted in all evaluation and treatment facilities.

17 **27-65-118. [Formerly 27-10-117.5] Administration or**
18 **monitoring of medications to persons receiving care.** The executive
19 director has the power to direct the administration or monitoring of
20 medications in conformity with part 3 of article 1.5 of title 25, C.R.S., to
21 persons receiving treatment in facilities created pursuant to this article.

22 **27-65-119. [Formerly 27-10-118] Employment of persons in**
23 **a facility.** The department shall adopt ~~regulations~~ RULES governing the
24 employment and compensation therefor of persons receiving care or
25 treatment under any provision of this article. The department shall
26 establish standards for reasonable compensation for such employment.

27 **27-65-120. [Formerly 27-10-119] Voting in public elections.**

1 Any person receiving evaluation, care, or treatment under any provision
2 of this article shall be given the opportunity to exercise his or her right to
3 register and to vote in primary and general elections. The agency or
4 facility providing evaluation, care, or treatment shall assist such persons,
5 upon their request, to obtain voter registration forms, applications for
6 mail-in ballots, and mail-in ballots and to comply with any other
7 prerequisite for voting.

8 **27-65-121. [Formerly 27-10-120] Records.** (1) Except as
9 provided in subsection (2) of this section, all information obtained and
10 records prepared in the course of providing any services under this article
11 to individuals under any provision of this article shall be confidential and
12 privileged matter. The information and records may be disclosed only:

13 (a) In communications between qualified professional personnel
14 in the provision of services or appropriate referrals;

15 (b) When the recipient of services designates persons to whom
16 information or records may be released; but, if a recipient of services is
17 a ward or conservatee and his or her guardian or conservator designates,
18 in writing, persons to whom records or information may be disclosed, the
19 designation shall be valid in lieu of the designation by the recipient;
20 except that nothing in this section shall be construed to compel a
21 physician, psychologist, social worker, nurse, attorney, or other
22 professional personnel to reveal information that has been given to him
23 or her in confidence by members of a patient's family or other informants;

24 (c) To the extent necessary to make claims on behalf of a recipient
25 of aid, insurance, or medical assistance to which he or she may be
26 entitled;

27 (d) If the department has promulgated rules for the conduct of

1 research. Such rules shall include, but not be limited to, the requirement
2 that all researchers must sign an oath of confidentiality. All identifying
3 information concerning individual patients, including names, addresses,
4 telephone numbers, and social security numbers, shall not be disclosed for
5 research purposes.

6 (e) To the courts, as necessary to the administration of the
7 provisions of this article;

8 (f) To persons authorized by an order of court after notice and
9 opportunity for hearing to the person to whom the record or information
10 pertains and the custodian of the record or information pursuant to the
11 Colorado rules of civil procedure;

12 (g) To adult family members upon admission of a person with a
13 mental illness for inpatient or residential care and treatment. The only
14 information released pursuant to this paragraph (g) shall be the location
15 and fact of admission of the person with a mental illness who is receiving
16 care and treatment. The disclosure of location is governed by the
17 procedures in ~~section 27-10-120.5 (1)~~ SECTION 27-65-122 and is subject
18 to review under ~~section 27-10-120.5~~ SECTION 27-65-122.

19 (h) To adult family members actively participating in the care and
20 treatment of a person with a mental illness regardless of the length of the
21 participation. The information released pursuant to this paragraph (h)
22 shall be limited to one or more of the following: The diagnosis, the
23 prognosis, the need for hospitalization and anticipated length of stay, the
24 discharge plan, the medication administered and side effects of the
25 medication, and the short-term and long-term treatment goals. The
26 disclosure is governed by the procedures in ~~section 27-10-120.5 (2)~~
27 SECTION 27-65-122 (2) and is subject to review under ~~section 27-10-120.5~~

1 SECTION 27-65-122.

2 (i) In accordance with state and federal law to the agency
3 designated pursuant to the federal "Protection and Advocacy for Mentally
4 Ill Individuals Act", 42 U.S.C. sec. 10801, et seq., as the governor's
5 protection and advocacy system for Colorado.

6 ~~(1.5)~~ (2) Nothing in paragraph (g) or (h) of subsection (1) of this
7 section shall be deemed to preclude the release of information to a parent
8 concerning his or her minor child.

9 ~~(2)~~ (3) (a) Nothing in this article shall be construed as rendering
10 privileged or confidential any information, except written medical records
11 and information ~~which~~ THAT is privileged under section 13-90-107,
12 C.R.S., concerning observed behavior ~~which~~ THAT constitutes a criminal
13 offense committed upon the premises of any facility providing services
14 under this article or any criminal offense committed against any person
15 while performing or receiving services under this article.

16 (b) The provisions of subsection (1) of this section shall not apply
17 to physicians or psychologists eligible to testify concerning a criminal
18 defendant's mental condition pursuant to section 16-8-103.6, C.R.S.

19 ~~(3)~~ (4) (a) All facilities shall maintain and retain permanent
20 records, including all applications as required pursuant to ~~section~~
21 ~~27-10-105~~ ~~(2)~~ SECTION 27-65-105 (3).

22 (b) Outpatient or ambulatory care facilities shall retain all records
23 for a minimum of seven years after discharge from the facility for persons
24 who were eighteen years of age or older when admitted to the facility, or
25 until twenty-five years of age for persons who were under eighteen years
26 of age when admitted to the facility.

27 (c) Inpatient or hospital care facilities shall retain all records for

1 a minimum of ten years after discharge from the facility for persons who
2 were eighteen years of age or older when admitted to the facility, or until
3 twenty-eight years of age for persons who were under eighteen years of
4 age when admitted to the facility.

5 **27-65-122. [Formerly 27-10-120.5] Request for release of**
6 **information - procedures - review of a decision concerning release of**

7 **information.** (1) When a family member requests the location and fact
8 of admission of a person with a mental illness pursuant to ~~section~~
9 ~~27-10-120 (1) (g)~~ SECTION 27-65-121 (1) (g), the treating professional
10 person or his or her designee, who shall be a professional person, shall
11 decide whether to release or withhold such information. The location
12 shall be released unless the treating professional person or his or her
13 designee determines, after an interview with the person with a mental
14 illness, that release of the information to a particular family member
15 would not be in the best interests of the person with a mental illness. Any
16 decision to withhold information requested pursuant to ~~section 27-10-120~~
17 ~~(1) (g)~~ SECTION 27-65-121 (1) (g) is subject to administrative review
18 pursuant to this section upon request of a family member or the person
19 with a mental illness. The treating facility shall make a record of the
20 information given to a family member pursuant to this subsection (1). For
21 the purposes of this subsection (1), an adult person having a similar
22 relationship to a person with a mental illness as a spouse, parent, child, or
23 sibling of a person with a mental illness may also request the location and
24 fact of admission concerning a person with a mental illness.

25 (2) (a) When a family member requests information pursuant to
26 ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) concerning a person
27 with a mental illness, the treating professional person or his or her

1 designee shall determine whether the person with a mental illness is
2 capable of making a rational decision in weighing his or her
3 confidentiality interests and the care and treatment interests implicated by
4 the release of information. The treating professional person or his or her
5 designee shall then determine whether the person with a mental illness
6 consents or objects to such release. Information shall be released or
7 withheld in the following circumstances:

8 (I) If the treating professional person or his or her designee makes
9 a finding that the person with a mental illness is capable of making a
10 rational decision concerning his or her interests and the person with a
11 mental illness consents to the release of information, the treating
12 professional person or his or her designee shall order the release of the
13 information unless he or she determines that the release would not be in
14 the best interests of the person with a mental illness.

15 (II) If the treating professional person or his or her designee
16 makes a finding that the person with a mental illness is capable of making
17 a rational decision concerning his or her interests and the person with a
18 mental illness objects to the release of information, the treating
19 professional person or his or her designee shall not order the release of
20 the information.

21 (III) If the treating professional person or his or her designee
22 makes a finding that the person with a mental illness is not capable of
23 making a rational decision concerning his or her interests, the treating
24 professional person or his or her designee may order the release of the
25 information if he or she determines that the release would be in the best
26 interests of the person with a mental illness.

27 (IV) Any determination as to capacity under this paragraph (a)

1 shall be used only for the limited purpose of this paragraph (a).

2 (b) A decision by a treating professional person or his or her
3 designee concerning the capability of a person with a mental illness under
4 subparagraph (III) of paragraph (a) of this subsection (2) is subject to
5 administrative review upon the request of the person with a mental
6 illness. A decision by a treating professional person or his or her
7 designee to order the release or withholding of information under
8 subparagraph (III) of paragraph (a) of this subsection (2) is subject to
9 administrative review upon the request of either a family member or the
10 person with a mental illness.

11 (c) The director of the treating facility shall make a record of any
12 information given to a family member pursuant to paragraph (a) of this
13 subsection (2) and ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h).

14 (3) When administrative review is requested either under
15 subsection (1) or paragraph (b) of subsection (2) of this section, the
16 director of the facility providing care and treatment to the person with a
17 mental illness shall cause an objective and impartial review of the
18 decision to withhold or release information. The review shall be
19 conducted by the director of the facility, if he or she is a professional
20 person, or by a professional person whom he or she designates if the
21 director is not available or if the director cannot provide an objective and
22 impartial review. The review shall include, but need not be limited to, an
23 interview with the person with a mental illness. The facility providing
24 care and treatment shall document the review of the decision.

25 (4) If a person with a mental illness objects to the release or
26 withholding of information, the person with a mental illness and his or
27 her attorney, if any, shall be provided with information concerning the

1 procedures for administrative review of a decision to release or withhold
2 information. The person with a mental illness shall be informed of any
3 information proposed to be withheld or released and to whom and shall
4 be given a reasonable opportunity to initiate the administrative review
5 process before information concerning his or her care and treatment is
6 released.

7 (5) A family member whose request for information is denied
8 shall be provided with information concerning the procedures for
9 administrative review of a decision to release or withhold information.

10 (6) A person with a mental illness may file a written request for
11 review by the court of a decision made upon administrative review to
12 release information to a family member requested under ~~section~~
13 ~~27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) and proposed to be released
14 pursuant to subsection (2) of this section. If judicial review is requested,
15 the court shall hear the matter within ten days after the request, and the
16 court shall give notice to the person with a mental illness and his or her
17 attorney, the treating professional person, and the person who made the
18 decision upon administrative review of the time and place thereof. The
19 hearing shall be conducted in the same manner as other civil proceedings
20 before the court.

21 (7) In order to allow a person with a mental illness an opportunity
22 to seek judicial review, the treating facility or the treating professional
23 person or his or her designee shall not release information requested
24 pursuant to ~~section 27-10-120 (1) (h)~~ SECTION 27-65-121 (1) (h) until five
25 days after the determination upon administrative review of the director or
26 his or her designee is received by the person with a mental illness, and,
27 once judicial review is requested, information shall not be released except

1 by court order. However, if the person with a mental illness indicates an
2 intention not to appeal a determination upon administrative review that
3 is adverse to him or her concerning the release of information, the
4 information may be released less than five days after the determination
5 upon review is received by the person with a mental illness.

6 (8) This section provides for the release of information only and
7 shall not be deemed to authorize the release of the written medical record
8 without authorization by the patient or as otherwise provided by law.

9 (9) For purposes of this section, the treating professional person's
10 designee shall be a professional person.

11 **27-65-123. [Formerly 27-10-121] Treatment in federal**

12 **facilities.** (1) If a person is certified under the provisions of this article
13 and is eligible for hospital care or treatment by an agency of the United
14 States and if a certificate of notification from said agency, showing that
15 facilities are available and that the person is eligible for care or treatment
16 therein, is received, the court may order ~~said person~~ HIM OR HER to be
17 placed in the custody of the agency for hospitalization. When any person
18 is admitted pursuant to an order of court to any hospital or institution
19 operated by any agency of the United States within or without this state,
20 ~~he~~ THE PERSON shall be subject to the rules and regulations of the agency.
21 The chief officer of any hospital or institution operated by an agency and
22 in which the person is so hospitalized shall, with respect to the person, be
23 vested with the same powers as the chief officer of the Colorado mental
24 health institute at Pueblo with respect to detention, custody, transfer,
25 conditional release, or discharge of patients. Jurisdiction shall be retained
26 in the appropriate courts of this state to inquire into the mental condition
27 of persons so hospitalized and to determine the necessity for continuance

1 of their hospitalization.

2 (2) An order of a court of competent jurisdiction of another state,
3 territory, or the District of Columbia, authorizing hospitalization of a
4 person to any agency of the United States, shall have the same effect as
5 to said person while in this state as in the jurisdiction in which the court
6 entering the order is situated; the courts of the state or district issuing the
7 order shall be deemed to have retained jurisdiction of the person so
8 hospitalized for the purpose of inquiring into his OR HER mental condition
9 and of determining the necessity for continuance of his OR HER
10 hospitalization. Consent is hereby given to the application of the law of
11 the state or district in which the court issuing the order for hospitalization
12 is located, with respect to the authority of the chief officer of any hospital
13 or institution operated in this state by any agency of the United States to
14 retain custody, to transfer, to conditionally release, or to discharge the
15 person hospitalized.

16 **27-65-124. [Formerly 27-10-122] Transfer of persons into and**
17 **out of Colorado - reciprocal agreements.** (†) The transfer of persons
18 hospitalized voluntarily under the provisions of this article out of
19 Colorado or under the laws of another jurisdiction into Colorado shall be
20 governed by the provisions of the interstate compact on mental health.

21 ~~(2) to (6) Repealed.~~

22 **27-65-125. [Formerly 27-10-123] Criminal proceedings.**
23 Proceedings under ~~section 27-10-105, 27-10-106, or 27-10-107~~ SECTION
24 27-65-105, 27-65-106, OR 27-65-107 shall not be initiated or carried out
25 involving a person charged with a criminal offense unless or until the
26 criminal offense has been tried or dismissed; except that the judge of the
27 court wherein the criminal action is pending may request the district or

1 probate court to authorize and permit such proceedings.

2 **27-65-126. [Formerly 27-10-124] Application of this article.**

3 The provisions of this article do not apply to or govern any proceedings
4 commenced or concluded prior to July 1, 1975, with the exception of
5 ~~section 27-10-114~~ SECTION 27-65-114. Any proceeding commenced prior
6 to July 1, 1975, shall be administered and disposed of according to the
7 provisions of law existing prior to July 1, 1975, in the same manner as if
8 this article had not been enacted.

9 **27-65-127. [Formerly 27-10-125] Imposition of legal disability
10 - deprivation of legal right - restoration.** (1) (a) When an interested

11 person wishes to obtain a determination as to the imposition of a legal
12 disability or the deprivation of a legal right for a person who has a mental
13 illness and who is a danger to himself or herself or others, is gravely
14 disabled, or is insane, as defined in section 16-8-101, C.R.S., and who is
15 not then subject to proceedings under this article or part 3 or part 4 of
16 article 14 of title 15, C.R.S., the interested person may petition the court
17 for a specific finding as to the legal disability or deprivation of a legal
18 right. Actions commenced pursuant to this subsection (1) may include
19 but shall not be limited to actions to determine contractual rights and
20 rights with regard to the operation of motor vehicles.

21 (b) The petition shall set forth the disability to be imposed or the
22 legal right to be deprived and the reasons therefor.

23 (2) ~~(a)~~ The court may impose a legal disability or may deprive a
24 person of a legal right only upon finding both of the following:

25 ~~(†)~~ (a) That the respondent is a person with a mental illness and is
26 a danger to himself or herself or others, gravely disabled, or insane, as
27 defined in section 16-8-101, C.R.S.;

1 ~~(H)~~ (b) That the requested disability or deprivation is both
2 necessary and desirable.

3 ~~(b) Repealed.~~

4 (3) To have a legal disability removed or a legal right restored,
5 any interested person may file a petition with the court which made the
6 original finding. No legal disability shall be imposed nor a legal right be
7 deprived for a period of more than six months without a review hearing
8 by the court at the end of six months at which the findings specified in
9 subsection (2) of this section shall be reaffirmed to justify continuance of
10 the disability or deprivation. A copy of the petition shall be served on the
11 person who filed the original petition, on the person whose rights are
12 affected if he OR SHE is not the petitioner, and upon the facility where the
13 person whose rights are affected resides, if any.

14 (4) Whenever any proceedings are instituted or conducted
15 pursuant to this section, the following procedures shall apply:

16 (a) Upon the filing of a petition, the court shall appoint an
17 attorney-at-law to represent the respondent. The respondent may replace
18 said attorney with an attorney of the respondent's own selection at any
19 time. Attorney fees for an indigent respondent shall be paid by the court.

20 (b) The court, upon request of an indigent respondent or his or her
21 attorney, shall appoint, at the court's expense, one or more professional
22 persons of the respondent's selection to assist the respondent in the
23 preparation of his or her case.

24 (c) Upon demand made at least five days prior to the date of
25 hearing, the respondent shall have the right to a trial of all issues by a jury
26 of six.

27 (d) At all times the burden shall be upon the person seeking

1 imposition of a disability or deprivation of a legal right or opposing
2 removal of a disability or deprivation to prove all essential elements by
3 clear and convincing evidence.

4 (e) Pending a hearing, the court may issue an order temporarily
5 imposing a disability or depriving the respondent of a legal right for a
6 period of not more than ten days in conformity with the standards for
7 issuance of ex parte temporary restraining orders in civil cases, but no
8 individual habilitation or rehabilitation plan shall be required prior to the
9 issuance of such order.

10 (f) Except as otherwise provided in this subsection (4), all
11 proceedings shall be held in conformance with the Colorado rules of civil
12 procedure, but no costs shall be assessed against the respondent.

13 (5) Any person who, by reason of a judicial decree or order
14 entered by a court of this state prior to July 1, 1979, is under the
15 imposition of a legal disability or has been deprived of a legal right
16 pursuant to this section as it existed prior to July 1, 1979, shall be released
17 from such decree or order on December 31, 1979.

18 **27-65-128. [Formerly 27-10-126] Administration - rules.** The
19 department shall make such rules ~~and regulations~~ as will consistently
20 enforce the provisions of this article.

21 **27-65-129. [Formerly 27-10-127] Payment for counsel.** In
22 order to provide legal representation to persons eligible therefor as
23 provided in this article, the judicial department is authorized to pay, out
24 of appropriations made therefor by the general assembly, sums directly to
25 appointed counsel on a case-by-case basis or, on behalf of the state, to
26 make lump-sum grants to and contract with individual attorneys, legal
27 partnerships, legal professional corporations, public interest law firms, or

1 nonprofit legal services corporations.

2 **27-65-130. [Formerly 27-10-128] Mental health service**
3 **standards for health care facilities.** (†) The advisory board created by
4 ~~section 27-10-129~~ SECTION 27-65-131 shall be responsible for
5 recommending standards and ~~regulations~~ RULES relevant to the provisions
6 of this article for the programs of mental health services to those patients
7 in any health care facility that has either separate facilities for the care,
8 treatment, and rehabilitation of persons with mental health problems or
9 those health care facilities that have as their only purpose the treatment
10 and care of such persons.

11 (2) ~~(Deleted by amendment, L. 92, p. 955, § 6, effective March~~
12 ~~19, 1992.)~~

13 **27-65-131. [Formerly 27-10-129] Advisory board - service**
14 **standards and regulations.** (†) There is hereby established an advisory
15 board to the department for the purpose of assisting and advising the
16 executive director in accordance with ~~section 27-10-128~~ SECTION
17 27-65-130 in the development of service standards and ~~regulations~~ RULES.
18 The board shall consist of not less than eleven nor more than fifteen
19 members appointed by the governor and shall include one representative
20 each from the division of mental health in the department, the department
21 of human services, the department of public health and environment, the
22 university of Colorado ~~medical~~ HEALTH SCIENCES center, and a leading
23 professional association of psychiatrists in this state; at least one member
24 representing proprietary skilled health care facilities; one member
25 representing nonprofit health care facilities; one member representing the
26 Colorado bar association; one member representing consumers of mental
27 health services; one member representing families of persons with mental

1 illness; one member representing children's health care facilities; and
2 other persons from both the private and the public sectors who are
3 recognized or known to be interested and informed in the area of the
4 board's purpose and function. In making appointments to the board, the
5 governor is encouraged to include representation by at least one member
6 who is a person with a disability, as defined in section 24-45.5-102 (2),
7 C.R.S., a family member of a person with a disability, or a member of an
8 advocacy group for persons with disabilities, provided that the other
9 requirements of this subsection (1) SECTION are met.

10 (2) ~~(Deleted by amendment, L. 92, p. 955, § 7, effective March~~
11 ~~19, 1992.)~~

12 **ARTICLE 66**

13 **Community Mental Health Services - Purchase**

14 **27-66-101. [Formerly 27-1-201] Definitions.** As used in this
15 ~~part 2~~ ARTICLE, unless the context otherwise requires:

16 (1) "Acute treatment unit" means a facility or a distinct part of a
17 facility for short-term psychiatric care, which may include substance
18 abuse treatment, that provides a total, twenty-four-hour, therapeutically
19 planned and professionally staffed environment for persons who do not
20 require inpatient hospitalization but need more intense and individual
21 services than are available on an outpatient basis, such as crisis
22 management and stabilization services.

23 (2) "Community mental health center" means either a physical
24 plant or a group of services under unified administration or affiliated with
25 one another, and including at least the following services provided for the
26 prevention and treatment of mental illness in persons residing in a
27 particular community in or near the facility so situated:

- 1 (a) Inpatient services;
- 2 (b) Outpatient services;
- 3 (c) Partial hospitalization;
- 4 (d) Emergency services;
- 5 (e) Consultative and educational services.

6 (3) "Community mental health clinic" means a health institution
7 planned, organized, operated, and maintained to provide basic community
8 services for the prevention, diagnosis, and treatment of emotional or
9 mental disorders, such services being rendered primarily on an outpatient
10 and consultative basis.

11 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES
12 CREATED IN SECTION 26-1-105, C.R.S.

13 (5) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
14 THE DEPARTMENT OF HUMAN SERVICES.

15 **27-66-102. [Formerly 27-1-202] Administration - rules.**

16 (1) The executive director of the department of human services has the
17 power and duty to administer and enforce the provisions of this ~~part 2~~
18 ARTICLE.

19 (2) The department of human services may adopt reasonable and
20 proper rules to implement this ~~part 2~~ ARTICLE in accordance with the
21 provisions of section 24-4-103, C.R.S., and consistent with ~~sections~~
22 ~~27-1-103 and 27-1-103.5~~ SECTIONS 27-90-102 AND 27-90-103.

23 **27-66-103. [Formerly 27-1-203] Community mental health**
24 **services - purchase program.** In order to encourage the development of
25 preventive, treatment, and rehabilitative services through new community
26 mental health programs, the improvement and expansion of existing
27 community mental health services, and the integration of community with

1 state mental health services, there is established a program to purchase
2 community mental health services by the department. ~~of human services.~~

3 **27-66-104. [Formerly 27-1-204] Types of services purchased**
4 **- limitation on payments - offender mental health services fund.**

5 (1) Community mental health services may be purchased from clinics,
6 community mental health centers, local general or psychiatric hospitals,
7 and other agencies ~~which~~ THAT have been approved by the executive
8 director. ~~of the department of human services for such purchase.~~

9 ~~(2) and (3) Repealed.~~

10 ~~(4)~~ (2) (a) Each year the general assembly shall appropriate funds
11 for the purchase of mental health services from:

12 (I) Community mental health centers;

13 (II) Agencies that provide specialized clinic-type services but do
14 not serve a specific designated service area; and

15 (III) Acute treatment units.

16 (b) The funds appropriated for the purposes of this ~~subsection (4)~~
17 SUBSECTION (2) shall be distributed by the executive director ~~of the~~
18 ~~department of human services~~ to approved community mental health
19 centers and other agencies on the basis of need and in accordance with the
20 services provided.

21 ~~(5)~~ (3) Each year the general assembly may appropriate funds in
22 addition to those appropriated for purposes of ~~subsection (4)~~ SUBSECTION
23 (2) of this section, which FUNDS may be used by the executive director ~~of~~
24 ~~the department of human services~~ to assist community mental health
25 clinics and centers in instituting innovative programs, in providing mental
26 health services to impoverished areas, and in dealing with crisis
27 situations. The executive director ~~of the department of human services~~

1 shall require that any innovative or crisis programs for which funds are
2 allocated under this ~~subsection (5)~~ SUBSECTION (3) be clearly defined in
3 terms of services to be rendered, program objectives, scope and duration
4 of the program, and the maximum amount of funds to be provided.

5 ~~(5.5)~~ (4) (a) The offender mental health services fund, REFERRED
6 TO IN THIS SUBSECTION (4) AS THE "FUND", is hereby created in the state
7 treasury. The principal of the fund shall consist of tobacco litigation
8 settlement moneys transferred by the state treasurer to the fund in
9 accordance with section 24-75-1104.5 (1.5) (a) (II), C.R.S., for the
10 purchase of mental health services for juvenile and adult offenders who
11 have mental health problems and are involved in the criminal justice
12 system. The division of mental health in the department, ~~of human~~
13 ~~services~~, subject to annual appropriation by the general assembly, shall
14 distribute the principal of the fund to the community mental health
15 centers; except that, at the end of the 2007-08 fiscal year and at the end
16 of each fiscal year thereafter, all unexpended and unencumbered principal
17 of the fund shall be transferred to the short-term innovative health
18 program grant fund created in section 25-36-101 (2), C.R.S., in
19 accordance with section 24-75-1104.5 (1.5) (b), C.R.S. Interest and
20 income earned on the deposit and investment of moneys in the ~~offender~~
21 ~~mental health services~~ fund shall be credited to the fund and shall remain
22 in the fund until the end of the fiscal year in which credited, when it shall
23 be transferred to the short-term innovative health program grant fund.

24 (b) Notwithstanding any provision of paragraph (a) of this
25 ~~subsection (5.5)~~ SUBSECTION (4) to the contrary, on April 20, 2009, the
26 state treasurer shall deduct two hundred forty-six thousand three hundred
27 fifty dollars from the ~~offender mental health services~~ fund and transfer

1 such sum to the general fund.

2 ~~(6)~~ (5) If there is a reduction in the financial support of local
3 governmental bodies for community mental health services, the executive
4 director of the department of human services is authorized to reduce state
5 payments for services in an amount proportional to the reduction in such
6 local financial support.

7 ~~(7) Repealed.~~

8 ~~(8)~~ (6) For purposes of entering into a cooperative purchasing
9 agreement pursuant to section 24-110-201, C.R.S., a nonprofit community
10 mental health center or a nonprofit community mental health clinic may
11 be certified as a local public procurement unit as provided in section
12 24-110-207.5, C.R.S.

13 **27-66-105. [Formerly 27-1-205] Standards for approval.**

14 (1) In approving or rejecting community mental health clinics for the
15 purchase of mental health services, the executive director of the
16 department of human services shall:

17 (a) Consider the adequacy of mental health services provided by
18 such clinics, taking into consideration such factors as geographic location,
19 local economic conditions, and availability of manpower;

20 (b) Require that overall responsibility for the administration of a
21 community mental health clinic be vested in a director who is a physician
22 or a member of one of the mental health professions;

23 (c) Require that the treatment programs of the clinic be under the
24 overall direction of a psychiatrist who is a physician licensed to practice
25 medicine in the state of Colorado;

26 (d) Require that the clinic staff include, wherever feasible, other
27 professional staff workers, such as psychologists, social workers,

1 educational consultants, and nurses, with such qualifications,
2 responsibilities, and time on the job as correspond with the size and
3 capacity of the clinic. The clinic staff may include, with the approval of
4 the executive director, ~~of the department of human services~~, such other
5 nonprofessional persons as may be deemed necessary by the clinic board
6 for the proper discharge of its functions.

7 (e) Require that each clinic from which services may be purchased
8 be under the control and direction of a county or community board of
9 health, a board of directors or trustees of a corporation, for profit or not
10 for profit, a regional mental health and mental retardation board, or a
11 political subdivision of the state;

12 (f) Consider the existence of facilities that provide an emphasis on
13 the care and treatment of persons recently released from mental hospitals
14 or institutions directed toward assisting said persons in their adjustment
15 to and functioning within society as a whole.

16 (2) In approving or rejecting local general or psychiatric hospitals,
17 community mental health centers, acute treatment units, and other
18 agencies for the purchase of services not provided by local mental health
19 clinics, including, but not limited to, twenty-four-hour and partial
20 hospitalization, the executive director ~~of the department of human~~
21 ~~services~~ shall consider the following factors:

22 (a) The general quality of care provided to patients by such
23 agencies;

24 (b) The organization of the medical staff to provide for the
25 integration and coordination of the psychiatric treatment program;

26 (c) The provisions for the availability of nursing, psychological,
27 and social services and the existence of an organized program of activities

1 under the direction of an occupational therapist or of another qualified
2 person;

3 (d) The licensure by the department of public health and
4 environment or another state agency where applicable;

5 (e) The methods by which the agency coordinates its services with
6 those rendered by other agencies to ensure an uninterrupted continuum of
7 care to persons with mental illness; AND

8 (f) The availability of such services to the general public.

9 (3) In the purchase of services from community mental health
10 centers, the executive director of the ~~department of human services~~ shall
11 specify levels and types of inpatient, outpatient, consultation, education,
12 and training services and expenditures and shall establish minimum
13 standards for other programs of such centers that are to be supported with
14 state funds.

15 **27-66-106. [Formerly 27-1-206] Federal grants-in-aid -**
16 **administration.** The department of ~~human services~~ is designated the
17 official mental health and mental retardation authority, and is authorized
18 to receive grants-in-aid from the federal government under the provisions
19 of 42 U.S.C. sec. 246, and shall administer said grants in accordance
20 therewith.

21 **27-66-107. [Formerly 27-1-207] Purchase of services by**
22 **courts, counties, municipalities, school districts, and other political**
23 **subdivisions.** Any county, municipality, school district, health service
24 district, or other political subdivision of the state or any county, district,
25 or juvenile court is authorized to purchase ~~such~~ mental health services
26 from community mental health clinics and such other community
27 agencies as are approved for purchases by the executive director. ~~of the~~

1 ~~department of human services~~. For the purchase of mental health services
2 by counties or city and counties as authorized by this section, the board
3 of county commissioners of any county or the city council of any city and
4 county may levy a tax not to exceed two mills upon real property within
5 the county or city and county if the board first submits the question of
6 such levy to a vote of the qualified electors at a general election and
7 receives their approval of such levy.

8 **27-66-108. [Formerly 27-1-208] Institutes and training**
9 **programs.** The department of ~~human services~~ may, from time to time
10 during each year, provide ~~such~~ consultation and conduct ~~such~~ institutes
11 and training programs on a state, regional, district, county, or community
12 level as ~~may be~~ necessary to coordinate, inform, and assist in the training
13 of staff members of the various approved community mental health
14 programs of the state. The department of ~~human services~~ may reimburse
15 ~~such~~ staff members for reasonable and necessary expenses incurred in
16 attending ~~such~~ THE institutes and training programs.

17 **27-66-109. [Formerly 27-1-209] Family mental health services**
18 **grant program - rural areas - creation - administration - report -**
19 **repeal.** (1) As used in this section, unless the context otherwise requires:

20 (a) "Department" means the department of human services created
21 in section 26-1-105, C.R.S.

22 (b) "Division" means the division within the department
23 responsible for mental health services.

24 (c) "Family mental health services" means counseling services
25 provided by a licensed mental health professional to children and their
26 families.

27 (d) "Grant program" means the family mental health services grant

1 program created in subsection (2) of this section.

2 (e) "Rural area" means:

3 (I) A county with a population of less than fifty thousand people,
4 according to the most recently available population statistics of the United
5 States bureau of the census;

6 (II) A municipality with a population of less than fifty thousand
7 people, according to the most recently available population statistics of
8 the United States bureau of the census, that is located ten miles or more
9 from a municipality with a population of more than fifty thousand people;
10 or

11 (III) The unincorporated part of a county located ten miles or
12 more from a municipality with a population of more than fifty thousand
13 people, according to the most recently available population statistics of
14 the United States bureau of the census.

15 (f) "State board" means the state board of human services created
16 in section 26-1-107, C.R.S.

17 (2) (a) There is hereby created the family mental health services
18 grant program. The division shall administer the grant program.

19 (b) A community mental health center located in or serving a rural
20 area may apply for a one-time grant to fund the provision of family
21 mental health services in a rural area. When applying for a grant, the
22 community mental health center shall submit the following information
23 in a form and manner determined by the division:

24 (I) The need for family mental health services in the rural area that
25 will be served;

26 (II) The specific family mental health services that will be
27 provided;

1 (III) The community mental health center's plan for sustaining the
2 family mental health services without future moneys from the grant
3 program; and

4 (IV) Any other information required by the division.

5 (c) The division shall establish criteria to be used in awarding
6 grants pursuant to this section. The criteria shall include, but need not be
7 limited to, the following:

8 (I) The types of family mental health services that may be
9 provided using moneys awarded through the grant program;

10 (II) The family mental health service needs of the rural areas that
11 will be served;

12 (III) A method for ranking the family mental health service needs
13 of the rural areas so as to provide grant moneys to the rural areas with the
14 greatest need;

15 (IV) The ability of a community mental health center to sustain
16 the family mental health service without additional moneys from the grant
17 program.

18 (d) The state board may adopt rules as necessary for the
19 implementation of the grant program.

20 (3) (a) There is hereby created in the state treasury the family
21 mental health services grant program cash fund, REFERRED TO IN THIS
22 SUBSECTION (3) AS THE "FUND". The moneys in the fund shall be subject
23 to annual appropriation by the general assembly to award grants to
24 eligible community mental health centers and for the direct and indirect
25 costs associated with the implementation of the grant program. The
26 division is authorized to accept on behalf of the state any grants, gifts, or
27 donations from any private or public source for the purpose of the grant

1 program. All private and public ~~funds~~ MONEYS received through grants,
2 gifts, or donations shall be transmitted to the state treasurer, who shall
3 credit the same to the fund. All investment earnings derived from the
4 deposit and investment of moneys in the fund shall remain in the fund and
5 shall not be transferred or revert to the general fund at the end of any
6 fiscal year.

7 (b) Notwithstanding the provisions of paragraph (a) of this
8 subsection (3), the division shall not implement the grant program until
9 sufficient grants, gifts, or donations are obtained to cover the costs of
10 implementing the grant program.

11 (4) By November 1, 2008, and by each November 1 thereafter, as
12 part of its annual budget request, the department shall submit a report to
13 the joint budget committee regarding the grant program. The report shall
14 include, but need not be limited to, the following information:

15 (a) The amount of moneys awarded through the grant program
16 during the prior fiscal year;

17 (b) The recipients of grant moneys;

18 (c) The types of family mental health services provided by
19 community mental health centers with the grant moneys;

20 (d) The rural areas served by the family mental health services;

21 (e) Whether the grant program has been successful in serving the
22 family mental health needs in rural areas; and

23 (f) Whether the grant program should be modified in any way,
24 continued in its current form, or repealed.

25 (5) This section is repealed, effective July 1, 2010.

26 **ARTICLE 67**

27 **Child Mental Health Treatment Act**

1 **27-67-101. [Formerly 27-10.3-101] Short title.** This article
2 shall be known and may be cited as the "Child Mental Health Treatment
3 Act".

4 **27-67-102. [Formerly 27-10.3-102] Legislative declaration.**
5 (1) The general assembly finds that many parents in Colorado have
6 experienced challenging circumstances because their children have
7 significant mental health needs. Many times, the parents are loving,
8 caring parents who have become increasingly frustrated in their attempts
9 to navigate the various governmental systems including child welfare,
10 mental health, law enforcement, juvenile justice, education, and youth
11 corrections in an attempt to find help for their children. Frequently in
12 these situations an action in dependency or neglect under article 3 of title
13 19, C.R.S., is neither appropriate nor warranted.

14 (2) The general assembly finds that it is desirable to assist children
15 with mental health needs and their families. The general assembly further
16 finds that it is desirable to make mental health services more available to
17 families who want treatment for their children. The general assembly
18 finds that, although the mental health agencies are responsible for
19 providing the full range of mental health treatment services, including
20 residential care, for those children who have been found to be
21 categorically eligible for medicaid, there remains a population of children
22 in need of mental health services who are not categorically eligible for
23 medicaid. Accordingly, the general assembly determines that it is
24 appropriate to adopt a program pursuant to which a continuum of services
25 would be provided to these children.

26 **27-67-103. [Formerly 27-10.3-103] Definitions.** As used in this
27 article, unless the context otherwise requires:

1 (1) "Behavioral health organization" shall have the same meaning
2 as provided in section 25.5-5-403 (1), C.R.S.

3 ~~(1.5)~~ (2) "Child at risk of out-of-home placement" means a child
4 who, although not otherwise categorically eligible for medicaid, meets the
5 following criteria:

6 (a) Has been diagnosed as having a mental illness, as defined in
7 ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14);

8 (b) Requires a level of care that is provided in a residential child
9 care facility pursuant to section 25.5-5-306, C.R.S., or that is provided
10 through in-home or community-based programs and who, without such
11 care, is at risk of out-of-home placement;

12 (c) If determined to be in need of placement in a residential child
13 care facility, is determined to be eligible for supplemental security
14 income; and

15 (d) For whom it is inappropriate or unwarranted to file an action
16 in dependency or neglect pursuant to article 3 of title 19, C.R.S.

17 ~~(2)~~ (3) "Community mental health center" means either a physical
18 plant or a group of services under unified administration or affiliated with
19 one another and includes at least the following services provided for the
20 prevention and treatment of mental illness in persons residing in a
21 particular community in or near the facility or group so situated:

22 (a) Inpatient services;

23 (b) Outpatient services;

24 (c) Partial hospitalization;

25 ~~(d) (Deleted by amendment, L. 2007, p. 1372, § 2, effective May~~
26 ~~30, 2007.)~~

27 ~~(e)~~ (d) Emergency services; and

1 ~~(f)~~ (e) Consultative and educational services.

2 ~~(3)~~ (4) "County department" means the county or district
3 department of social services.

4 ~~(3.5)~~ (5) "Master settlement agreement" means the master
5 settlement agreement, the smokeless tobacco master settlement
6 agreement, and the consent decree approved and entered by the court in
7 the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney*
8 *General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.;*
9 *Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard*
10 *Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T.*
11 *Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and*
12 *Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the
13 city and county of Denver.

14 ~~(4)~~ (6) "Mental health agency" means the community mental
15 health center serving children in a particular geographic area or the
16 behavioral health organization serving children in a particular geographic
17 area who are receiving medicaid.

18 ~~(5)~~ (7) "State department" means the state department of human
19 services.

20 **27-67-104. [Formerly 27-10.3-104] Provision of mental health**
21 **treatment services for youth.** (1) (a) A parent or guardian may apply
22 to a mental health agency on behalf of his or her minor child for mental
23 health treatment services for the child pursuant to this section, whether
24 the child is categorically eligible for medicaid under the capitated mental
25 health system described in section 25.5-5-411, C.R.S., or whether the
26 parent believes his or her child is a child at risk of out-of-home
27 placement. In such circumstances, it shall be the responsibility of the

1 mental health agency to evaluate the child and to clinically assess the
2 child's need for mental health services and, when warranted, to provide
3 treatment services as necessary and in the best interests of the child and
4 the child's family. Subject to available state appropriations, the mental
5 health agency shall be responsible for the provision of the treatment
6 services and care management, including any in-home family mental
7 health treatment, other family preservation services, residential treatment,
8 or any post-residential follow-up services that may be appropriate for the
9 child's or family's needs. For the purposes of this section, the term "care
10 management" includes, but is not limited to, consideration of the
11 continuity of care and array of services necessary for appropriately
12 treating the child and the decision-making authority regarding a child's
13 placement in and discharge from mental health services. A dependency
14 or neglect action pursuant to article 3 of title 19, C.R.S., shall not be
15 required in order to allow a family access to residential mental health
16 treatment services for a child.

17 (b) At the time of the assessment by the mental health agency, if
18 residential services are denied, or at the time when the mental health
19 agency has recommended that the child be discharged from services, the
20 mental health agency shall advise the family, both orally and in writing,
21 of the appeal process available to them. The mental health agency shall
22 have two working days within which to complete any internal appeal
23 process. Within five working days after the mental health agency's final
24 denial or recommendation for discharge, a parent or guardian may request
25 an objective third party at the state department who is a professional
26 person, as that term is defined in ~~section 27-10-102 (11)~~ SECTION
27 27-65-102 (17), to review the action of the mental health agency. The

1 review shall occur within three working days of the parent's or guardian's
2 request.

3 (2) If at any time the mental health agency determines pursuant to
4 section 19-3-304, C.R.S., that there is reasonable cause to know or
5 suspect that a child has been subjected to abuse or neglect, then the
6 mental health agency shall immediately contact the appropriate county
7 department. Within ten days after the referral to the county department,
8 the mental health agency shall meet with the county department and the
9 family. Upon referral to the county department, the county department
10 shall proceed with an assessment to determine whether there is a
11 sufficient basis to believe that physical or sexual abuse or neglect or some
12 other form of abuse or neglect of a child's physical well-being has
13 occurred, warranting a dependency or neglect action.

14 **27-67-105. [Formerly 27-10.3-105] Monitoring - report.**

15 (1) On or before September 1, 2009, and by September 1 of each year
16 thereafter, each community mental health center shall report to the state
17 department the following information, and each behavioral health
18 organization, for those children eligible to receive medicaid benefits
19 whose parent or legal guardian requests residential treatment, shall report
20 to the department of health care policy and financing the following
21 information:

22 (a) The number of children, both those children who are
23 categorically eligible for medicaid under the capitated mental health
24 system described in section 25.5-5-411, C.R.S., and those children who
25 are at risk of out-of-home placement, to whom the following services
26 were provided:

27 (I) An assessment pursuant to ~~section 27-10.3-104(1)(a)~~ SECTION

- 1 27-67-104 (1) (a);
- 2 (II) In-home family mental health treatment;
- 3 (III) Community-based treatment, including but not limited to
- 4 therapeutic foster care services;
- 5 (IV) Family preservation services;
- 6 (V) Residential treatment; and
- 7 (VI) Post-residential follow-up services.
- 8 (b) The number of children, both those children who are
- 9 categorically eligible for medicaid under the capitated mental health
- 10 system described in section 25.5-5-411, C.R.S., and those children who
- 11 are at risk of out-of-home placement, referred to the county department
- 12 for a dependency or neglect investigation pursuant to ~~section 27-10.3-104~~
- 13 ~~(2)~~ SECTION 27-67-104 (2), and the reasons therefor;
- 14 (c) The number of children for whom either:
- 15 (I) An assessment was requested but not performed, and the
- 16 reasons that the assessment was not performed; or
- 17 (II) An assessment was performed but the mental health agency
- 18 did not provide services under this article, and the reasons that services
- 19 were not provided, including whether the family refused the services
- 20 offered;
- 21 (d) The costs associated with the provision of the mental health
- 22 treatment services;
- 23 (e) The profiles of the children and families served;
- 24 (f) The outcomes of treatment for the children served, as
- 25 determined by the state department in consultation with mental health
- 26 agencies, service providers, and families;
- 27 (g) If residential services were provided, the length of stay; and

1 (h) The aggregate number of complaints submitted pursuant to the
2 dispute resolution process described in ~~section 27-10.3-107~~ SECTION
3 27-67-107, the nature of the complaints, and the general disposition of the
4 cases.

5 ~~(2) Repealed.~~

6 ~~(3)~~ (2) On or before October 1, 2009, and on or before October 1
7 of each year thereafter, the department of health care policy and financing
8 shall provide to the state department the information received from
9 behavioral health organizations pursuant to subsection (1) of this section.

10 **27-67-106. [Formerly 27-10.3-106] Funding - rules.** (1) In
11 order to make mental health treatment available, it is the intent of the
12 general assembly that mental health treatment provided pursuant to this
13 article to each child described in ~~section 27-10.3-103 (1.5)~~ SECTION
14 27-67-103 (2) be provided by mental health agencies.

15 (2) (a) If neither the family's private insurance nor federal
16 medicaid funding cover all of the costs associated with the services
17 provided to a child at risk of out-of-home placement pursuant to this
18 article, then the family shall be responsible for paying that portion that is
19 not covered by private insurance or federal medicaid funding on a sliding
20 scale basis as set forth in subsection (3) of this section. Any remaining
21 portion of the services not covered by private insurance, federal medicaid
22 funding, or the family's share, shall be paid for from moneys appropriated
23 for such purpose pursuant to paragraph (b) of this subsection (2) or from
24 general fund moneys, subject to available appropriations.

25 (b) Pursuant to section 24-75-1104.5 (1) (k), C.R.S., beginning in
26 the 2004-05 fiscal year, and for each fiscal year thereafter so long as the
27 state receives moneys pursuant to the master settlement agreement, the

1 general assembly shall appropriate to the state department to fund the
2 remaining portion of services not covered by private insurance, federal
3 medicaid funding, or the family's share, as described in paragraph (a) of
4 this subsection (2), three hundred thousand dollars from the moneys
5 received by the state in accordance with the master settlement agreement
6 for the preceding fiscal year. The general assembly shall appropriate the
7 amount specified in this paragraph (b) from moneys credited to the
8 tobacco litigation settlement cash fund created in section 24-22-115,
9 C.R.S.

10 (3) The state board of human services, in consultation with the
11 department of health care policy and financing, shall promulgate rules
12 implementing a sliding scale for the payment of services, including
13 mental health treatment and room and board, that are not covered by
14 private insurance or federal medicaid funding. It is the intent of the
15 general assembly that the portion of such expenses paid from general
16 fund moneys shall not exceed the general fund appropriations made for
17 such purpose in any given fiscal year. It is the further intent of the
18 general assembly that subsidies provided by the state through general
19 fund moneys shall be used to assist the lowest income families to ensure
20 the maximum use of appropriate least restrictive treatment services and
21 to provide access to the greatest number of children.

22 **27-67-107. [Formerly 27-10.3-107] Dispute resolution - rules.**

23 (1) The state department shall utilize, when appropriate, established
24 grievance and dispute resolution processes in order to assure that parents
25 have access to mental health services on behalf of their children.

26 (2) The state board of human services shall promulgate rules to
27 assure that a grievance process is available to parents concerning the

1 provision of mental health services and to assure that a dispute resolution
2 process is available for disputes between the county departments and
3 mental health agencies.

4 **27-67-108. [Formerly 27-10.3-108] Repeal of article.** This
5 article is repealed, effective July 1, 2019.

6 **ARTICLE 68**

7 **Mental Health Services Pilot Program**
8 **for Families of Discharged Veterans of**
9 **Operation Enduring Freedom and**
10 **Operation Iraqi Freedom**

11 **27-68-101. [Formerly 27-1-301] Short title.** This ~~part 3~~
12 ARTICLE shall be known and may be cited as the "Mental Health Services
13 Pilot Program for Families of Recently Discharged Veterans Act".

14 **27-68-102. [Formerly 27-1-302] Legislative declaration.**

15 (1) The general assembly hereby finds and declares that:

16 (a) Current research indicates that there exists a military culture
17 in the United States that is reluctant to seek mental health services, in part
18 because of a widely held perception that seeking mental health services
19 will destroy a military career. This perception adds additional stress to a
20 veteran or the family of a veteran in addition to the underlying cause of
21 their distress, thus compounding the initial problem.

22 (b) Frequently, it is the family of the veteran who initially seeks
23 treatment services and the veteran then follows suit. However, upon
24 discharge, families are not covered under veterans administration
25 benefits, leaving most families of discharged veterans with limited access
26 to mental health services.

27 (c) Access to mental health services is being severely limited by

1 capacity constraints within the military system. Veterans administration
2 medical and mental health clinics report waiting lists of more than four
3 hundred veterans in some areas.

4 (d) Colorado Springs is home to a high percentage of combat
5 veterans from operation enduring freedom and operation Iraqi freedom
6 and their families who would benefit from the provision of mental health
7 services.

8 (2) The general assembly therefore finds that it is in the best
9 interest of the state of Colorado to create a pilot program to educate
10 veterans and their families about mental health issues, including
11 posttraumatic stress disorder, encourage families of discharged veterans
12 to seek mental health services, and provide mental health services to
13 families who would otherwise not be able to receive such services.

14 **27-68-103. [Formerly 27-1-303] Definitions.** As used in this
15 ~~part 3~~ ARTICLE, unless the context otherwise requires:

16 (1) "Community mental health center" means a nonprofit
17 community mental health center as defined in ~~section 27-1-201~~ (2)
18 SECTION 27-66-101 (2).

19 (2) "Department" means the Colorado department of human
20 services.

21 (3) "Discharged veteran" means a discharged veteran who served
22 in operation enduring freedom or operation Iraqi freedom.

23 (4) "Family" means a spouse or dependent child of a discharged
24 veteran.

25 (5) "Fund" means the mental health services pilot program fund
26 created in ~~section 27-1-305~~ SECTION 27-68-105.

27 (6) "Pilot program" means the mental health services pilot

1 program for families of recently discharged veterans created in ~~section~~
2 ~~27-1-304 (1)~~ SECTION 27-68-104 (1).

3 **27-68-104. [Formerly 27-1-304] Pilot program - creation -**
4 **scope - reporting.** (1) There is hereby created in the department the
5 mental health services pilot program for families of recently discharged
6 veterans to educate veterans and their families about mental health issues,
7 including posttraumatic stress disorder, encourage families of discharged
8 veterans to seek mental health services, and provide mental health
9 services to families of discharged veterans who would otherwise not be
10 able to receive such services.

11 (2) Effective July 1, 2007, subject to available funding, the
12 department shall purchase community mental health treatment services
13 pursuant to ~~section 27-1-203~~ SECTION 27-66-103 and mental health
14 education services from community mental health centers in the Colorado
15 Springs area for the purpose of providing mental health education,
16 referral, and treatment services to families of recently discharged
17 veterans. Participating community mental health centers shall provide a
18 full range of mental health services to families of discharged veterans.
19 Participating community mental health centers are hereby authorized and
20 encouraged to contract with other mental health providers in the Colorado
21 Springs area for mental health services as necessary. Mental health
22 education services provided by participating community mental health
23 centers shall include, but need not be limited to, creating and maintaining
24 a web site that includes information on the symptoms of posttraumatic
25 stress disorder, treatment options, referral information, and contact
26 information for persons seeking treatment.

27 (3) A family that receives services through the pilot program shall

1 pay to the participating community mental health center a co-pay not to
2 exceed twenty dollars for each calendar month to cover all services
3 received during that month. If the family has access to alternative
4 insurance coverage for the mental health services received, such
5 alternative funding shall be utilized prior to accessing pilot program
6 dollars.

7 (4) Beginning July 1, 2007, community mental health centers
8 participating in the pilot program shall collect data on services provided
9 and client outcomes for the purpose of determining the effectiveness of
10 the pilot program. No later than December 1, 2009, each participating
11 community mental health center shall submit a report to the department
12 summarizing the outcomes of the pilot program. No later than February
13 1, 2010, the department shall submit a report to the health and human
14 services committees of the senate and house of representatives, or any
15 successor committees, that summarizes the findings of the participating
16 community mental health centers.

17 **27-68-105. [Formerly 27-1-305] Mental health services pilot**
18 **program fund - supplemental tobacco litigation settlement moneys**
19 **account - creation.** (1) There are hereby created in the state treasury the
20 mental health services pilot program fund and an account within the fund
21 to be known as the supplemental tobacco litigation settlement moneys
22 account. The principal of the portion of the fund that is not the account
23 shall consist of general fund appropriations made by the general assembly
24 for the pilot program and gifts, grants, matching funds, or donations
25 received by the department for the pilot program from the federal
26 government or any other public or private source. The principal of the
27 account shall consist of settlement moneys, as defined in section

1 24-75-1102 (2), C.R.S., or interest or income earned on the deposit and
2 investment of settlement moneys transferred to the account from the
3 short-term innovative health program grant fund created pursuant to
4 section 25-36-101 (2), C.R.S., enacted by Senate Bill 07-097 at the first
5 regular session of the sixty-sixth general assembly, as required by section
6 25-36-101 (7), C.R.S. All interest and income earned on the deposit and
7 investment of moneys in the portion of the fund that is not the account
8 shall be credited to that portion of the fund, and all interest and income
9 earned on the deposit and investment of moneys in the account shall be
10 credited to the account and remain in the account until transferred as
11 required by this subsection (1). The department shall use moneys in the
12 fund and account only to purchase mental health services for families of
13 discharged veterans pursuant to this ~~part 3~~ ARTICLE and to pay the
14 administrative costs of implementing the pilot program; except that
15 administrative costs shall not exceed five percent of all amounts
16 appropriated from the fund or the account for a fiscal year; and except
17 that, at the end of the 2007-08 fiscal year and at the end of any fiscal year
18 thereafter, any unexpended and unencumbered moneys in the account
19 shall be transferred to the short-term innovative health program grant
20 fund.

21 (2) The department may solicit and receive gifts, grants, and
22 donations from public and private sources to carry out the purposes of this
23 ~~part 3~~ ARTICLE, but receipt of gifts, grants, and donations shall not be a
24 prerequisite to the implementation of the pilot program. The department
25 shall transfer any moneys received pursuant to this subsection (2) to the
26 state treasurer who shall credit them to the fund in accordance with the
27 provisions of subsection (1) of this section.

1 strengths-based, family-centered, individualized, culturally competent,
2 and collaborative approaches that better meet the needs of families and
3 youth;

4 (e) A family advocate helps state and local agencies and systems
5 adopt more strengths-based-targeted programs, policies, and services to
6 better meet the needs of families and their youth with mental illness or
7 co-occurring disorders and improve outcomes for all, including families,
8 youth, and the agencies they utilize;

9 (f) There is a need to demonstrate the success of family advocates
10 in helping agencies and systems in Colorado to better meet the needs of
11 families and youth and help state and local agencies strengthen programs.

12 (2) It is therefore in the state's best interest to establish
13 demonstration programs for system of care family advocates for mental
14 health juvenile justice populations who navigate across mental health,
15 physical health, substance abuse, developmental disabilities, juvenile
16 justice, education, child welfare, and other state and local systems to
17 ensure sustained and thoughtful family participation in the planning
18 processes of the care for their children and youth.

19 **27-69-102. [Formerly 26-22-102] Definitions.** As used in this
20 article, unless the context otherwise requires:

21 (1) "Co-occurring disorders" means disorders that commonly
22 coincide with mental illness and may include, but are not limited to,
23 substance abuse, developmental disabilities, fetal alcohol syndrome, and
24 traumatic brain injury.

25 (2) "Demonstration programs" means programs that are intended
26 to exemplify and demonstrate evidence of the successful use of family
27 advocates in assisting families and youth with mental illness or

1 co-occurring disorders.

2 (3) "Division of criminal justice" means the division of criminal
3 justice created in section 24-33.5-502, C.R.S., in the department of public
4 safety.

5 (4) "Division of mental health" means the unit within the
6 department of human services that is responsible for mental health
7 services.

8 (5) "Family advocacy coalition" means a coalition of family
9 advocates or family advocacy organizations working to help families and
10 youth with mental health problems, substance abuse, developmental
11 disabilities, and other co-occurring disorders to improve services and
12 outcomes for youth and families and to work with and enhance state and
13 local systems.

14 (6) "Family advocate" means an individual who has been trained
15 to assist families in accessing and receiving services and support. Family
16 advocates are usually individuals who have raised or cared for children
17 and youth with mental health or co-occurring disorders and have worked
18 with multiple agencies and providers, including mental health, physical
19 health, substance abuse, juvenile justice, developmental disabilities, and
20 other state and local systems of care.

21 (7) "Legislative oversight committee" means the legislative
22 oversight committee for the continuing examination of the treatment of
23 persons with mental illness who are involved in the criminal and juvenile
24 justice systems, created in section 18-1.9-103, C.R.S.

25 (8) "Partnership" means a relationship between a family advocacy
26 organization and another entity whereby the family advocacy organization
27 works directly with another entity for oversight and management of the

1 family advocate and family advocacy demonstration program, and the
2 family advocacy organization employs, supervises, mentors, and provides
3 training to the family advocate.

4 (9) "System of care" means an integrated network of
5 community-based services and support that is organized to meet the
6 challenges of youth with complex needs, including, but not limited to, the
7 need for substantial services to address areas of developmental, physical,
8 and mental health, substance abuse, child welfare, and education and
9 involvement in or being at risk of involvement with the juvenile justice
10 system. In a system of care, families and youth work in partnership with
11 public and private organizations to build on the strengths of individuals
12 and to address each person's cultural and linguistic needs so services and
13 support are effective.

14 (10) "Task force" means the task force for the continuing
15 examination of the treatment of persons with mental illness who are
16 involved in the criminal and juvenile justice systems in Colorado, created
17 in section 18-1.9-104, C.R.S.

18 **27-69-103. [Formerly 26-22-103] Demonstration programs**
19 **established.** There are hereby established demonstration programs for
20 system of care family advocates for mental health juvenile justice
21 populations that shall be implemented and monitored by the division of
22 mental health, with input, cooperation, and support from the division of
23 criminal justice, the task force, and family advocacy coalitions.

24 **27-69-104. [Formerly 26-22-104] Program scope.** (1) On or
25 before September 1, 2007, the division of mental health, after
26 consultation with family advocacy coalitions, the task force, and the
27 division of criminal justice, shall develop a request for proposals to

1 design demonstration programs for family advocacy programs that:

2 (a) Focus on youth with mental illness or co-occurring disorders
3 who are involved in or at risk of involvement with the juvenile justice
4 system and that are based upon the families' and youths' strengths; and

5 (b) Provide navigation, crisis response, integrated planning, and
6 diversion from the juvenile justice system for youth with mental illness
7 or co-occurring disorders.

8 (2) The division of mental health shall accept responses to the
9 request for proposals from a partnership between a family advocacy
10 organization and any of the following entities or individuals that operate
11 or are developing a family advocacy program:

- 12 (a) A nonprofit entity;
- 13 (b) A governmental entity;
- 14 (c) A tribal government;
- 15 (d) An individual; or
- 16 (e) A group.

17 (3) The responses to the request for proposals shall include, but
18 need not be limited to, the following information:

19 (a) Identification of the key stakeholders involved in the
20 demonstration program to ensure consistent data points across all
21 demonstration programs for consistent evaluation, which shall include a
22 family advocacy organization and, at a minimum, representatives of the
23 juvenile court, the probation department, the district attorney's office, the
24 public defender's office, a school district, the division of youth
25 corrections within the department of human services, a county department
26 of social or human services, a local community mental health center, and
27 a regional behavioral health organization, and may include representatives

1 of a local law enforcement agency, a county public health department, a
2 substance abuse program, a community centered board, a local juvenile
3 services planning committee, and other community partners;

4 (b) Plans for identification of the targeted population, which shall
5 include, at a minimum:

6 (I) A description of the targeted population and region to be
7 served, including youth with mental illness or co-occurring disorders who
8 are involved in or at risk of involvement with the juvenile justice system
9 and other state and local systems; and

10 (II) A description of the specific population to be served that is
11 flexible and defined by the local community;

12 (c) A plan for family advocates that includes:

13 (I) Experience and hiring requirements;

14 (II) The provision of appropriate training; and

15 (III) A definition of roles and responsibilities;

16 (d) A plan for family advocate program services for targeted youth
17 and their families, including:

18 (I) Strengths, needs, and cultural assessment;

19 (II) Navigation and support services;

20 (III) Education programs related to mental illness, co-occurring
21 disorders, the juvenile justice system, and other relevant systems;

22 (IV) Cooperative training programs for family advocates and for
23 staff, where applicable, of mental health, physical health, substance
24 abuse, developmental disabilities, education, child welfare, juvenile
25 justice, and other state and local systems related to the role and
26 partnership between the family advocates and the systems that affect
27 youth and their family;

- 1 (V) Integrated crisis response services and crisis planning;
- 2 (VI) Access to diversion and other services to improve outcomes
3 for youth and their families; and
- 4 (VII) Other services as determined by the local community;
- 5 (e) A plan for providing the data required by ~~section 26-22-105~~
6 ~~(3)~~ SECTION 27-69-105 (3), plans for a comparison group, and plans for
7 sustainability; and
- 8 (f) A commitment to participate in the cost of the demonstration
9 program by allocating, as a group, any moneys available to the entity, by
10 providing services to the program, or by a combination of moneys and
11 services in an amount equal to twenty percent of the total cost necessary
12 to operate the program.
- 13 (4) On or before November 15, 2007, the division of mental
14 health, after consultation with family advocacy coalitions, the task force,
15 and the division of criminal justice, shall select three demonstration
16 programs to deliver juvenile justice family advocacy services. The
17 division of mental health shall base the selection on:
- 18 (a) The program's demonstration of collaborative partnerships that
19 integrate family advocates into the systems of care;
- 20 (b) The program's ability to serve a sufficient population that will
21 demonstrate the success of family advocacy programs; and
- 22 (c) Any other criteria set by the division of mental health.
- 23 (5) To ensure adequate geographic distribution, one of the
24 selected demonstration programs shall operate in rural communities, one
25 shall operate in urban communities, and one shall operate in suburban
26 communities.
- 27 (6) The selected programs shall participate in the cost of the

1 demonstration program by allocating, as a group, any moneys available
2 to the entity, by providing services to the program, or by a combination
3 of moneys and services in an amount equal to twenty percent of the total
4 cost necessary to operate the program.

5 **27-69-105. [Formerly 26-22-105] Evaluation and reporting.**

6 (1) On or before January 1, 2008, the division of mental health shall
7 prepare an initial descriptive report of the selected demonstration
8 programs and provide the report to the legislative oversight committee,
9 the task force, the family advocacy coalition, and the demonstration
10 programs selected pursuant to ~~section 26-22-104 (4)~~ SECTION 27-69-104
11 (4).

12 (2) The initial report shall include, but need not be limited to, the
13 following factors:

14 (a) A description of the selected demonstration programs and the
15 entities working with the programs; and

16 (b) The number of families expected to be served.

17 (3) Each selected demonstration program shall regularly forward
18 the following data to the division of criminal justice:

19 (a) System utilization outcomes, including, but not limited to,
20 available data on services provided related to mental health, physical
21 health, juvenile justice, developmental disabilities, substance abuse, child
22 welfare, traumatic brain injuries, school services, and co-occurring
23 disorders;

24 (b) Youth and family outcomes, related to, but not limited to,
25 mental health, substance abuse, developmental disabilities, juvenile
26 justice, and traumatic brain injury issues;

27 (c) Family and youth satisfaction and assessment of family

1 advocates;

2 (d) Process and leadership outcomes, including, but not limited to,
3 measures of partnerships, service processes and practices among
4 partnering agencies, leadership indicators, and shared responses to
5 resources and outcomes; and

6 (e) Other outcomes, including, but not limited to, identification of
7 the cost avoidance or cost savings, if any, achieved by the demonstration
8 program, the applicable outcomes achieved, the transition services
9 provided, and the service utilization time frames.

10 (4) On or before January 15, 2009, and on or before January 15,
11 2010, the division of criminal justice shall submit a compilation of the
12 data provided pursuant to subsection (3) of this section, with an executive
13 summary, to the legislative oversight committee, the task force, family
14 advocacy coalitions, and the selected demonstration programs.

15 (5) On or before June 1, 2010, the division of criminal justice
16 shall complete a comprehensive evaluation of the selected demonstration
17 programs based on the data provided pursuant to subsection (3) of this
18 section. Prior to preparing the evaluation, the division of criminal justice
19 shall develop with the selected demonstration programs the comparison
20 groups for the evaluation. The evaluation shall include analysis of the
21 comparison groups. The division of criminal justice shall submit a final
22 report, including an executive summary and recommendations, to the task
23 force, the demonstration programs, and family advocacy coalitions for
24 review. The division of criminal justice, the division of mental health,
25 family advocacy coalitions, and the task force shall review the evaluation
26 findings and jointly develop recommendations to be made to the
27 legislative oversight committee.

1 (6) On or before July 1, 2010, the legislative oversight committee,
2 after receiving a recommendation from the task force, shall make
3 recommendations to the chairs of the health and human services
4 committees of the house of representatives and the senate, or any
5 successor committees, and the chairs of the judiciary committees of the
6 house of representatives and the senate, or any successor committees,
7 related to continuation or expansion throughout the state of the selected
8 demonstration programs.

9 (7) The division of criminal justice shall comply with the
10 provisions of this section only if sufficient funds are appropriated to
11 implement this section.

12 **27-69-106. [Formerly 26-22-106] Repeal of article.** This article
13 is repealed, effective July 1, 2011.

14 **ARTICLE 80**

15 **Alcohol and Drug Abuse**

16 **27-80-101. [Formerly 25-1-201] Definitions.** As used in this
17 ~~part 2~~ ARTICLE, unless the context otherwise requires:

18 ~~(1) (Deleted by amendment, L. 94, p. 1639, § 56, effective May~~
19 ~~31, 1994.)~~

20 ~~(2)~~ (1) "Department" means the department of human services.

21 ~~(2.5)~~ (2) "Designated service area" means the geographical
22 substate planning area specified by the director of the division to be
23 served by a designated managed service organization, as described in
24 ~~section 25-1-206.5~~ SECTION 27-80-107.

25 (3) "Division" means the division of alcohol and drug abuse IN
26 THE DEPARTMENT OF HUMAN SERVICES.

27 ~~(3.5)~~ (4) "Executive director" means the executive director of the

1 department of human services.

2 ~~(3.7)~~ (5) "Fetal alcohol spectrum disorder" or "FASD" means a
3 continuum of permanent birth defects caused by maternal consumption
4 of alcohol during pregnancy. "FASD" includes, but is not limited to, fetal
5 alcohol syndrome.

6 ~~(4)~~ (6) "Public program" means a program concerning the
7 problems of alcohol or drug abuse sponsored by a local or regional health
8 department, county department of social services, court, probation
9 department, law enforcement agency, school, school system, board of
10 cooperative services, Indian tribal reservation, or state agency. "Public
11 program" includes any alcohol or drug abuse treatment program required
12 as a condition of probation under part 2 of article 11 of title 16, C.R.S.,
13 any alcohol or drug abuse program administered by the division of adult
14 parole under article 2 of title 17, C.R.S., any community correctional
15 facility or program administered under article 27 of title 17, C.R.S., and
16 any alcohol or drug abuse treatment program administered by the division
17 of youth corrections under title 19, C.R.S.

18 ~~(5)~~ (7) "Vendor" means any bar, tavern, restaurant, or retail
19 establishment licensed in the state of Colorado under articles 46 and 47
20 of title 12, C.R.S., to sell alcoholic beverages for consumption on or off
21 the vendor's premises.

22 **27-80-102. [Formerly 25-1-202] Duties of division.** (1) The
23 division shall formulate a comprehensive state plan for alcohol and drug
24 abuse programs. The state plan shall be submitted to the governor and,
25 upon his OR HER approval, shall be submitted to the appropriate United
26 States agency for review and approval. The state plan shall include, but
27 not be limited to:

1 (a) A survey of the need for the prevention and treatment of
2 alcohol and drug abuse, including a survey of the health facilities needed
3 to provide services and a plan for the development and distribution of
4 facilities and programs throughout the state;

5 (b) A plan for programs to educate the public in the problems of
6 alcohol and drug abuse;

7 (c) A survey of the need for trained teachers, health professionals,
8 and others involved in the prevention and treatment of alcohol and drug
9 abuse and the rehabilitation of abusers, and a plan to provide the
10 necessary training for such persons;

11 (d) Provisions for the periodic review and updating of the state
12 plan, which shall take place at least annually.

13 (2) The department, acting by and through the division, is
14 designated as the sole state agency for the supervision of the
15 administration of the state plan.

16 **27-80-103. [Formerly 25-1-203] Grants for public programs.**

17 (1) The division may make grants, from funds appropriated by the
18 general assembly for purposes of this section or available from any other
19 governmental or private source, to approved public programs.

20 (2) A public program may provide, but need not be limited to, any
21 of the following:

22 (a) Acute medical services, including emergency services and
23 detoxification;

24 (b) Case finding, diagnosis, treatment, counseling, individual or
25 group psychotherapy, after-care treatment, and other rehabilitation
26 services;

27 (c) Education and counseling regarding the use and abuse of

1 alcohol and drugs;

2 (d) Programs for prevention of alcohol and drug abuse;

3 (e) Training of teachers, health professionals, and others in the

4 field of alcohol and drug abuse and addiction counseling;

5 (f) Coordination of existing services and the development of other

6 needed services through demonstration and evaluation projects; OR

7 (g) Services to pregnant women who are alcohol and drug

8 dependent through demonstration and evaluation projects.

9 (3) In approving any public program, the division shall take into

10 consideration the following:

11 (a) The community need for the public program;

12 (b) The range of services to be provided;

13 (c) The integration of the public program with, and the

14 participation of, other public and nongovernmental agencies,

15 organizations, institutions, and individuals, and their services and

16 facilities, if any, that are available to assist the public program;

17 (d) The adequacy of the public program to accomplish its

18 purposes; AND

19 (e) Such other information as the division deems necessary.

20 (4) Applications for grants made under subsection (1) of this

21 section shall be made to the division, on forms furnished by the division,

22 and shall contain such information as the division may require. Wherever

23 possible, the division shall give priority to those public programs which

24 are community-based and include services to children and juveniles as

25 well as adults, ~~which~~ THAT provide a comprehensive range of services,

26 and ~~which~~ THAT evidence a high degree of community support, either

27 financial or in the furnishing of services and facilities, or both.

1 (5) Whenever any department or agency of the state has moneys
2 available from any source for public programs, such department or
3 agency is authorized to distribute the moneys in accordance with the state
4 plan and to make reasonable rules ~~and regulations~~ for the administration
5 of such public programs.

6 **27-80-104. [Formerly 25-1-204] Cancellation of grants.**

7 (1) The division may cancel any grant for any public program for any of
8 the following reasons:

9 (a) There is no longer a need for the public program.

10 (b) Funds for the public program are not available.

11 (c) The public program does not meet the standards or
12 requirements adopted by the department or does not conform to the
13 comprehensive state plan for alcohol and drug abuse programs.

14 (2) Before canceling a grant for the reasons set forth in ~~subsection~~
15 ~~(1)-(c)~~ PARAGRAPH (c) OF SUBSECTION (1) of this section, the division
16 shall notify the person or agency in charge of the public program of the
17 deficiency in the program, and such person or agency shall be given a
18 reasonable amount of time within which to correct the deficiency.

19 **27-80-105. [Formerly 25-1-205] Annual distribution of funds.**

20 Funds for public programs shall be distributed annually, if available.

21 **27-80-106. [Formerly 25-1-206] Purchase of prevention and**

22 **treatment services.** (1) Using funds appropriated for purposes of this
23 section or available from any other governmental or private source, the
24 division may purchase services for prevention or for treatment of alcohol
25 and drug abuse or both types of services on a contract basis from any
26 tribal nation or any public or private agency, organization, or institution
27 approved by the division. The services purchased may be any of those

1 which may be provided through a public program, as set forth in ~~section~~
2 ~~25-1-203 (2)~~ SECTION 27-80-103 (2). In contracting for services, the
3 division shall attempt to obtain services that are in addition to, and not a
4 duplication of, existing available services or services that are of a pilot or
5 demonstration nature. Any agency operating a public program may also
6 purchase such services on a contract basis.

7 (2) (a) In addition to the services purchased pursuant to subsection
8 (1) of this section, using funds appropriated for purposes of this section
9 or available from any other governmental or private source, the division
10 may purchase services for the treatment of alcohol and drug abuse on a
11 contract basis from a designated managed service organization for a
12 designated service area as set forth in ~~section 25-1-206.5~~ SECTION
13 27-80-107. A public or private agency, organization, or institution
14 approved by the division through the process set forth in ~~section~~
15 ~~25-1-206.5~~ SECTION 27-80-107 may be designated as a designated
16 managed service organization.

17 (b) Designated managed service organizations receiving funds
18 pursuant to this subsection (2) shall comply with all relevant provisions
19 of this ~~part 2~~ ARTICLE and the rules promulgated thereunder.

20 **27-80-107. [Formerly 25-1-206.5] Designation of managed**
21 **service organizations - purchase of services - revocation of**
22 **designation.** (1) The director of the division shall establish designated
23 service areas for the provision of treatment services for alcohol and drug
24 abuse in a particular geographical region of the state.

25 (2) In order to be selected as a designated managed service
26 organization to provide services in a particular designated service area,
27 a private corporation, for profit or not for profit, or a public agency,

1 organization, or institution shall apply to the division for such designation
2 in the form and manner specified by the executive director or the
3 executive director's designee. Such designation process shall be in lieu
4 of a competitive bid process under the "Procurement Code", articles 101
5 to 112 of title 24, C.R.S. The director of the division shall make the
6 designation based on factors established by the executive director or the
7 executive director's designee. The factors for designation established by
8 the executive director or the executive director's designee shall include,
9 but shall not be limited to, the following:

10 (a) Whether the managed service organization has experience
11 working with public treatment agencies and collaborating with other
12 public agencies;

13 (b) Whether the managed service organization has experience
14 working with publicly funded clients, including expertise in treating
15 priority populations designated by the division;

16 (c) Whether the managed service organization has offices in and
17 provides services in the substate planning area or is willing to relocate to
18 the substate planning area;

19 (d) Whether the managed service organization has experience
20 using the cost-share principles used by the division in its contracts with
21 providers and is willing to cost-share;

22 (e) Whether the managed service organization has developed an
23 effective, integrated information and fiscal reporting system and has
24 experience working with and is able to comply with state and federal
25 reporting requirements;

26 (f) Whether the managed service organization has experience
27 engaging in a clinical quality improvement process; AND

1 (g) Whether the managed service organization has experience
2 with public funding requirements and state contracting requirements.

3 (3) The designation of a managed service organization by the
4 director of the division as described in subsection (2) of this section shall
5 be considered an initial decision of the department which may be
6 reviewed by the executive director in accordance with the provisions of
7 section 24-4-105, C.R.S. Review by the executive director in accordance
8 with section 24-4-105, C.R.S., shall constitute final agency action for
9 purposes of judicial review.

10 (4) The terms and conditions for providing treatment services
11 shall be specified in the contract entered into between the division and the
12 designated managed service organization.

13 (5) The contract may include a provisional designation for ninety
14 days. At the conclusion of the ninety-day provisional period, the director
15 of the division may choose to revoke the contract or, subject to meeting
16 the terms and conditions specified in the contract, may choose to extend
17 the contract for a stated time period.

18 (6) A managed service organization that is designated to serve a
19 designated service area may subcontract with a network of service
20 providers to provide treatment services for alcohol and drug abuse within
21 the particular designated service area.

22 (7) (a) The director of the division may revoke the designation of
23 a designated managed service organization upon a finding that the
24 managed service organization is in violation of the performance of the
25 provisions of this ~~part 2~~ ARTICLE or the rules promulgated thereunder.
26 Such revocation shall conform to the provisions and procedures specified
27 in article 4 of title 24, C.R.S., and shall be made only after notice and an

1 opportunity for a hearing is provided as specified in that article. A
2 hearing to revoke a designation as a designated managed service
3 organization shall constitute final agency action for purposes of judicial
4 review.

5 (b) Once a designation has been revoked pursuant to paragraph (a)
6 of this subsection (7), the director of the division may designate one or
7 more service providers to provide the treatment services pending
8 designation of a new designated managed service organization or may
9 enter into contracts with subcontractors to provide the treatment services.

10 (c) From time to time, the director of the division may solicit
11 applications from applicants for managed service organization
12 designation to provide treatment services for a specified planning area or
13 areas.

14 **27-80-108. [Formerly 25-1-207] Rules.** (1) The state board of
15 human services, created in section 26-1-107, C.R.S., has the power to
16 promulgate rules governing the provisions of this ~~part 2~~ ARTICLE. Such
17 rules may include, but shall not be limited to:

18 (a) Requirements to be met in the operation of a public program,
19 including record keeping and data compilation;

20 (b) Conditions that may be imposed on a public program in order
21 for the program to maintain eligibility for a grant;

22 (c) Requirements for public and private agencies, organizations,
23 and institutions from which the division may purchase services under
24 ~~section 25-1-206 (1)~~ SECTION 27-80-106 (1);

25 ~~(c.5)~~ (d) Requirements for managed service organizations ~~which~~
26 THAT are designated by the director of the division to provide services in
27 a designated service area under ~~section 25-1-206 (2)~~ SECTION 27-80-106

1 (2);

2 ~~(d)~~ (e) Standards that must be met by addiction counselors to
3 participate in public programs or to provide purchased services and
4 certification requirements necessary to be certified by the director of the
5 division of registrations, pursuant to part 8 of article 43 of title 12, C.R.S.;

6 ~~(e)~~ (f) Any rules or regulations ~~which~~ THAT are necessary to carry
7 out the purposes of the treatment program for high-risk pregnant women
8 ~~which~~ THAT is created pursuant to ~~section 25-1-212~~ SECTION 27-80-112.

9 **27-80-109. [Formerly 25-1-209] Coordination of state and**
10 **federal funds and programs.** (1) All requests for state appropriations
11 for alcohol and drug abuse programs shall be submitted to the division
12 and the office of state planning and budgeting on dates specified by the
13 division consistent with requirements and procedures of the office of state
14 planning and budgeting. After studying each request, ~~and the~~
15 ~~recommendations of the advisory council~~, the division shall make a report
16 thereon, with its comments and recommendations, including priorities for
17 appropriations and a statement as to whether the requested appropriation
18 would be consistent with the comprehensive state plan for alcohol and
19 drug abuse programs. The reports of the division shall be submitted to
20 the governor, the office of state planning and budgeting, and the joint
21 budget committee, together with all pertinent material on which the
22 recommendations of the division are based.

23 (2) The division shall also review applications for federal grants
24 for alcohol and drug abuse programs submitted by any department or
25 agency of state government, by any political subdivision of the state, by
26 any Indian tribal reservation, or by any other public or private agency,
27 organization, or institution. The division shall transmit to the division of

1 planning and to the appropriate United States agency its comments and
2 recommendations, together with a statement as to whether the grant
3 would be consistent with the comprehensive state plan for alcohol and
4 drug abuse programs.

5 **27-80-110. [Formerly 25-1-210] Reports.** The division shall
6 submit a report not later than November 1 of each year to the ~~house and~~
7 ~~senate committees on health, environment, welfare, and institutions~~
8 HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND HOUSE
9 OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, on the costs and
10 effectiveness of alcohol and drug abuse programs in this state and on
11 recommended legislation in the field of alcohol and drug abuse.

12 **27-80-111. [Formerly 25-1-211] Counselor training - fund**
13 **created.** (1) The executive director of the ~~department of human services~~
14 shall establish by rule fees to be charged for addiction counselor training.
15 The amount assessed shall be sufficient to cover a portion of the costs of
16 administering such training, and the moneys collected therefor shall be
17 deposited in the addiction counselor training fund. Additional funding
18 may be obtained from general, cash, or federal funds otherwise
19 appropriated to the division.

20 (2) There is hereby created in the office of the state treasurer the
21 addiction counselor training fund. Moneys collected pursuant to
22 subsection (1) of this section shall be deposited in the fund. The moneys
23 in the fund shall be subject to annual appropriation by the general
24 assembly to the ~~department of human services~~ for allocation to the
25 ~~division of alcohol and drug abuse~~ for the administration of addiction
26 counselor training requirements established by rules of the state board of
27 human services pursuant to ~~section 25-1-207 (1) (d)~~ SECTION 27-80-108

1 (1) (e). Moneys in the fund at the end of the fiscal year shall remain in
2 the fund and shall not revert to the general fund.

3 **27-80-112. [Formerly 25-1-212] Legislative declaration -**
4 **treatment program for high-risk pregnant women - creation.** (1) The
5 general assembly hereby finds and declares that the health and well-being
6 of the women of Colorado is at risk; that such women are at risk of poor
7 birth outcomes or physical and other disabilities due to substance abuse,
8 which is the abuse of alcohol and drugs, during the prenatal period; that
9 early identification of such high-risk pregnant women and substance
10 abuse treatment greatly reduce the occurrence of poor birth outcomes; and
11 that the citizens of Colorado will greatly benefit from a program to reduce
12 poor birth outcomes and subsequent problems resulting from such poor
13 birth outcomes in cases involving high-risk pregnant women through the
14 cost savings envisioned by the prevention and early treatment of such
15 problems.

16 (2) In recognition of such problems, there is hereby created a
17 treatment program for high-risk pregnant women.

18 **27-80-113. [Formerly 25-1-213] Alcohol and drug and**
19 **addiction counseling and treatment - necessary components.** Any
20 entity that qualifies to provide services pursuant to section 25.5-5-202 (1)
21 (r), C.R.S., in regard to the treatment program for high-risk pregnant
22 women, shall make available, in addition to alcohol and drug and
23 addiction counseling and treatment: Risk assessment services; care
24 coordination; nutrition assessment; psychosocial counseling; intensive
25 health education, including but not limited to parenting education and
26 education on risk factors and appropriate health behaviors; home visits;
27 transportation services; and other services deemed necessary by the

1 ~~division of alcohol and drug abuse of the department of human services~~
2 and the department of health care policy and financing.

3 **27-80-114. [Formerly 25-1-214] Treatment program for**
4 **high-risk pregnant women - cooperation with private entities.** The
5 department of health care policy and financing shall cooperate with any
6 private entities ~~which~~ THAT desire to assist ~~such~~ THE department OF
7 HEALTH CARE POLICY AND FINANCING in the provision of services
8 connected with the treatment program for high-risk pregnant women.
9 Private entities may provide services ~~which~~ THAT are not provided to
10 persons pursuant to the treatment program for high-risk pregnant women,
11 article 2 of title 26, C.R.S., and articles 4, 5, and 6 of title 25.5, C.R.S.,
12 which may include, but shall not be limited to, needs assessment services,
13 preventive services, rehabilitative services, care coordination, nutrition
14 assessment, psychosocial counseling, intensive health education, home
15 visits, transportation, development of provider training, child care, and
16 other necessary components of residential or outpatient treatment or care.

17 **27-80-115. [Formerly 25-1-215] Treatment program for**
18 **high-risk pregnant women - data collection.** The department of health
19 care policy and financing shall create a data collection mechanism
20 regarding persons receiving services pursuant to the treatment program
21 for high-risk pregnant women, which shall include the collection of data
22 on cost-effectiveness, success of the program, and other data ~~such~~ THE
23 department OF HEALTH CARE POLICY AND FINANCING deems appropriate.

24 **27-80-116. [Formerly 25-1-216] Fetal alcohol spectrum**
25 **disorders - legislative declaration - health warning signs - commission**
26 **- repeal.** (1) The general assembly hereby finds and declares that:

27 (a) Fetal alcohol exposure is among the leading known causes of

1 mental retardation and birth defects in the children of this state;

2 (b) Individuals with undiagnosed fetal alcohol exposure suffer
3 substantially from secondary issues such as child abuse and neglect,
4 separation from families, multiple foster placements, depression,
5 aggression, school failure, juvenile detention, and job instability;

6 (c) These secondary disabilities come at a high cost to individuals,
7 their families, and society; and

8 (d) A survey performed in 2006 by the Colorado pregnancy risk
9 assessment system estimated that eleven and two-tenths percent of
10 women in Colorado said that they drank alcohol during the last three
11 months of their pregnancy.

12 (2) The general assembly therefore declares that fetal alcohol
13 exposure and its related problems can be reduced substantially by a
14 greater awareness of the consequences of drinking alcohol while pregnant
15 and by early diagnosis and receipt of appropriate and effective
16 intervention.

17 (3) Each vendor licensed in Colorado to sell alcoholic beverages
18 is hereby encouraged to post a health warning sign pursuant to paragraph
19 (c) of subsection (4) of this section, informing patrons that the
20 consumption of alcohol during pregnancy may cause birth defects,
21 including fetal alcohol syndrome.

22 (4) (a) There is hereby created the fetal alcohol spectrum disorders
23 commission, referred to in this section as the "commission". The
24 commission is created as a temporary commission under section 22 of
25 article IV of the state constitution. The commission shall be composed
26 of no more than ten members. On or before August 30, 2009, the
27 executive director, ~~of the department of human services,~~ in consultation

1 with a nonprofit organization that works with FASD issues, shall appoint
2 the commission members with the goal of selecting a broad representation
3 of individuals working in the field of FASD. The commission shall
4 include representation from the following areas and groups in any
5 combination the executive director deems appropriate:

- 6 (I) Pediatrics;
- 7 (II) Family physicians;
- 8 (III) Child development programs that work with special needs
9 children;
- 10 (IV) The department of public health and environment;
- 11 (V) The juvenile justice system;
- 12 (VI) Preschool, elementary, secondary, and higher education;
- 13 (VII) Parents, foster parents, or legal guardians of children
14 affected by FASD;
- 15 (VIII) The developmentally disabled community; and
- 16 (IX) Speech, language, and occupational therapy.

17 (b) The commission shall meet at least once on or before
18 September 30, 2009. At its first meeting, the commission shall elect by
19 a majority vote a chairperson from among the commission members who
20 shall act as the presiding officer of the commission, determine a meeting
21 schedule, and develop a list of priorities. Commission members shall
22 serve without compensation or reimbursement of expenses.

23 (c) On or before October 30, 2009, the commission shall develop
24 a health warning sign for use by vendors and a plan for making the sign
25 available on-line to vendors. At a minimum, the health warning sign shall
26 read as follows:

27 HEALTH WARNING

1 DRINKING ANY ALCOHOLIC BEVERAGE DURING
2 PREGNANCY MAY CAUSE BIRTH DEFECTS.

3 (d) On or before December 1, 2009, and as needed thereafter, the
4 commission shall make recommendations to the division of the
5 department that has authority for substance abuse and mental health
6 community programs and to the health and human services committees
7 of the senate and the house of representatives, or any successor
8 committees. The commission's recommendations shall address the
9 prevention of and education about FASD and any other FASD-related
10 issues.

11 (e) This subsection (4) is repealed, effective June 30, 2012.

12 **27-80-117. [Formerly 25-1-217] Rural alcohol and substance**
13 **abuse prevention and treatment program - creation - administration**
14 **- definitions - cash fund - repeal.** (1) As used in this section, unless the
15 context otherwise requires:

16 (a) "Program" means the rural alcohol and substance abuse
17 prevention and treatment program created pursuant to subsection (2) of
18 this section that shall consist of the rural youth alcohol and substance
19 abuse prevention and treatment project and the rural detoxification
20 project.

21 (b) "Rural area" means a county with a population of less than
22 thirty thousand people, according to the most recently available
23 population statistics of the United States bureau of the census.

24 (c) "Youth" means an individual who is at least eight years of age
25 but who is less than eighteen years of age.

26 (2) (a) (I) There is hereby created the rural alcohol and substance
27 abuse prevention and treatment program within the division to provide:

1 (A) Prevention and treatment services to youth in rural areas,
2 which services may include but need not be limited to providing
3 alternative activities for youth through the rural youth alcohol and
4 substance abuse prevention and treatment project; and

5 (B) Treatment services to persons addicted to alcohol or drugs
6 through the rural detoxification project.

7 (II) The division shall administer the program pursuant to rules
8 adopted by the state board of human services as of January 1, 2010, or as
9 amended by the state board thereafter.

10 (b) The division shall incorporate provisions to implement the
11 program into its regular contracting mechanism for the purchase of
12 prevention and treatment services pursuant to ~~section 25-1-206~~ SECTION
13 27-80-106, including but not limited to detoxification programs. The
14 division shall develop a method to equitably distribute and provide
15 additional moneys through contracts to provide for prevention services
16 for and treatment of persons in rural areas.

17 (c) Notwithstanding any provision of this section to the contrary,
18 the division shall implement the program on or after January 1, 2011,
19 subject to the availability of sufficient moneys to operate an effective
20 program, as determined by the division.

21 (3) (a) There is hereby created in the state treasury the rural
22 alcohol and substance abuse cash fund, referred to in this section as the
23 "fund", that shall consist of the rural youth alcohol and substance abuse
24 prevention and treatment account, referred to in this section as the "youth
25 account", and the rural detoxification account, referred to in this section
26 as the "detoxification account". The fund shall be comprised of moneys
27 collected from surcharges assessed pursuant to sections 18-19-103.5,

1 42-4-1301 (7) (d) (IV), and 42-4-1701 (4) (f), C.R.S., which moneys shall
2 be divided equally between the youth account and the detoxification
3 account, and any moneys credited to the fund pursuant to paragraph (b)
4 of this subsection (3), which moneys shall be divided equally between the
5 youth account and the detoxification account unless the grantee or donor
6 specifies to which account the grant, gift, or donation shall be credited.
7 The moneys in the fund shall be subject to annual appropriation by the
8 general assembly to the division for the purpose of implementing the
9 program. All interest derived from the deposit and investment of moneys
10 in the fund shall remain in the fund. Any unexpended or unencumbered
11 moneys remaining in the fund at the end of a fiscal year shall remain in
12 the fund and shall not be transferred or credited to the general fund or
13 another fund; except that any unexpended and unencumbered moneys
14 remaining in the fund as of June 30, 2016, shall be credited to the general
15 fund.

16 (b) The division is authorized to accept any grants, gifts, or
17 donations from any private or public source on behalf of the state for the
18 purpose of the program. The division shall transmit all private and public
19 moneys received through grants, gifts, or donations to the state treasurer,
20 who shall credit the same to the fund.

21 (4) (a) This section is repealed, effective July 1, 2016.

22 (b) Prior to such repeal, the program shall be reviewed as
23 provided in section 24-34-104, C.R.S.

24 **ARTICLE 81**

25 **Alcoholism and Intoxication Treatment**

26 **27-81-101. [Formerly 25-1-301] Legislative declaration.** (1) It
27 is the policy of this state that alcoholics and intoxicated persons may not

1 be subjected to criminal prosecution because of their consumption of
2 alcoholic beverages but rather should be afforded a continuum of
3 treatment in order that they may lead normal lives as productive members
4 of society. The general assembly hereby finds and declares that
5 alcoholism and intoxication are matters of statewide concern.

6 (2) With the passage of this ~~part 3~~ ARTICLE at its first regular
7 session in 1973, the forty-ninth general assembly has recognized the
8 character and pervasiveness of alcohol abuse and alcoholism and that
9 public intoxication and alcoholism are health problems ~~which~~ THAT
10 should be handled by public health rather than criminal procedures. The
11 general assembly further finds and declares that no other health problem
12 has been so seriously neglected and that, while the costs of dealing with
13 the problem are burdensome, the social and economic costs and the waste
14 of human resources caused by alcohol abuse and alcoholism are massive,
15 tragic, and no longer acceptable. The general assembly believes that the
16 best interests of this state demand an across-the-board locally oriented
17 attack on the massive alcohol abuse and alcoholism problem and that this
18 ~~part 3~~ ARTICLE will provide a base from which to launch the attack and
19 reduce the tragic human loss, but only if adequately funded. Therefore,
20 in response to the needs as determined by an ad hoc committee and to
21 assist in the implementation of this ~~part 3~~ ARTICLE at both the local and
22 state level, the general assembly hereby appropriates moneys for:
23 Receiving and screening centers and their staffs; medical detoxification;
24 intensive treatment; halfway house care; outpatient rehabilitative therapy;
25 orientation, education, and in-service training; division staff for the
26 administration, monitoring, and evaluation of the program; and operating
27 costs for patient transportation.

1 **27-81-102. [Formerly 25-1-302] Definitions.** As used in this
2 ~~part 3~~ ARTICLE, unless the context otherwise requires:

3 (1) "Alcoholic" means a person who habitually lacks self-control
4 as to the use of alcoholic beverages or uses alcoholic beverages to the
5 extent that his OR HER health is substantially impaired or endangered or
6 his OR HER social or economic function is substantially disrupted.
7 Nothing in this subsection (1) shall preclude the denomination of an
8 alcoholic as intoxicated by alcohol or incapacitated by alcohol.

9 (2) "Approved private treatment facility" means a private agency
10 meeting the standards prescribed in ~~section 25-1-306 (1)~~ SECTION
11 27-81-106 (1) and approved under ~~section 25-1-306~~ SECTION 27-81-106.

12 (3) "Approved public treatment facility" means a treatment agency
13 operating under the direction and control of or approved by the division
14 ~~of alcohol and drug abuse~~ or providing treatment under this article
15 through a contract with the division under ~~section 25-1-305 (7)~~ SECTION
16 27-81-105 (7) and meeting the standards prescribed in ~~section 25-1-306~~
17 ~~(1)~~ SECTION 27-81-106 (1) and approved under ~~section 25-1-306~~ SECTION
18 27-81-106.

19 ~~(3.6)~~ (4) "Court" means the district court in the county in which
20 the person named in a petition filed pursuant to this ~~part 3~~ ARTICLE
21 resides or is physically present. In the city and county of Denver, "court"
22 means the probate court.

23 ~~(4)~~ (5) "Department" means the department of human services.

24 ~~(5)~~ (6) "Director" means the director of the division of alcohol and
25 drug abuse.

26 ~~(6)~~ (7) "Division" means the division of alcohol and drug abuse
27 within the department.

1 ~~(7)~~ (8) "Emergency service patrol" means a patrol established
2 under ~~section 25-1-314~~ SECTION 27-81-115.

3 ~~(8)~~ (9) "Executive director" means the executive director of the
4 department.

5 ~~(9)~~ (10) "Incapacitated by alcohol" means that a person, as a result
6 of the use of alcohol, is unconscious, ~~or~~ has his OR HER judgment
7 otherwise so impaired that he OR SHE is incapable of realizing and making
8 a rational decision with respect to his OR HER need for treatment, ~~or~~ is
9 unable to take care of his OR HER basic personal needs or safety, or lacks
10 sufficient understanding or capacity to make or communicate rational
11 decisions ~~concerning his person~~ ABOUT HIMSELF OR HERSELF.

12 ~~(10)~~ (11) "Incompetent person" means a person who has been
13 adjudged incompetent by the district court.

14 ~~(11)~~ (12) "Intoxicated person" or "person intoxicated by alcohol"
15 means ~~any~~ A person whose mental or physical functioning is temporarily
16 but substantially impaired as a result of the presence of alcohol in ~~the~~ HIS
17 OR HER body.

18 ~~(12)~~ (13) "Licensed physician" means either a physician licensed
19 by the state of Colorado or a hospital-licensed physician employed by the
20 admitting facility.

21 ~~(12.2)~~ (14) "Minor" means a person under the age of eighteen
22 years.

23 ~~(13)~~ (15) "Treatment" means the broad range of emergency,
24 outpatient, intermediate, and inpatient services and care, including
25 diagnostic evaluation, medical, psychiatric, psychological, and social
26 service care, vocational rehabilitation, and career counseling, ~~which~~ THAT
27 may be extended to alcoholics and intoxicated persons.

1 **27-81-103. [Formerly 25-1-303] Powers of division.** (1) To
2 carry out the purposes of this ~~part 3~~ ARTICLE, the division may:

3 (a) Plan, establish, and maintain treatment programs as necessary
4 or desirable;

5 (b) Make contracts necessary or incidental to the performance of
6 its duties and the execution of its powers, including contracts with public
7 and private agencies, organizations, and individuals to pay them for
8 services rendered or furnished to alcoholics or intoxicated persons;

9 (c) Solicit and accept for use any gift of money or property made
10 by will or otherwise and any grant of money, services, or property from
11 the federal government, the state, or any political subdivision thereof or
12 any private source, and do all things necessary to cooperate with the
13 federal government or any of its agencies in making an application for
14 any grant;

15 (d) Administer or supervise the administration of the provisions
16 relating to alcoholics and intoxicated persons of any state plan submitted
17 for federal funding pursuant to federal health, welfare, or treatment
18 legislation;

19 (e) Coordinate its activities and cooperate with alcoholism
20 programs in this state and other states and make contracts and other joint
21 or cooperative arrangements with state, local, or private agencies in this
22 state and other states for the treatment of alcoholics and intoxicated
23 persons and for the common advancement of alcoholism programs;

24 (f) Keep records and engage in research and the gathering of
25 relevant statistics;

26 (g) Do other acts and things necessary or convenient to execute
27 the authority expressly granted to it; AND

1 (h) Acquire, hold, or dispose of real property, or any interest
2 therein, and construct, lease, or otherwise provide treatment facilities for
3 alcoholics and intoxicated persons.

4 **27-81-104. [Formerly 25-1-304] Duties of division - review.**

5 (1) In addition to duties prescribed by ~~section 25-1-202~~ SECTION
6 27-80-102, the division shall:

7 (a) Develop, encourage, and foster statewide, regional, and local
8 plans and programs for the prevention of alcoholism and treatment of
9 alcoholics and intoxicated persons in cooperation with public and private
10 agencies, organizations, and individuals and provide technical assistance
11 and consultation services for these purposes;

12 (b) Coordinate the efforts and enlist the assistance of all public
13 and private agencies, organizations, and individuals interested in
14 prevention of alcoholism and treatment of alcoholics and intoxicated
15 persons;

16 (c) Utilize community mental health centers and clinics whenever
17 feasible;

18 (d) Cooperate with the department of corrections in establishing
19 and conducting programs for the prevention of alcoholism and treatment
20 of alcoholics and intoxicated persons in appropriate agencies and
21 institutions and for alcoholics and intoxicated persons in or on parole
22 from correctional institutions and in carrying out duties specified under
23 paragraphs (i) and (k) of this subsection (1);

24 (e) Cooperate with the department of education, schools, police
25 departments, courts, and other public and private agencies, organizations,
26 and individuals in establishing programs for the prevention of alcoholism
27 and treatment of alcoholics and intoxicated persons and preparing

- 1 curriculum materials thereon for use at all levels of school education;
- 2 (f) Prepare, publish, evaluate, and disseminate educational
3 material dealing with the nature and effects of alcohol;
- 4 (g) Develop and implement, as an integral part of treatment
5 programs, an educational program for use in the treatment of alcoholics
6 and intoxicated persons, which program shall include the dissemination
7 of information concerning the nature and effects of alcohol;
- 8 (h) Organize and foster training programs for all persons engaged
9 in treatment of alcoholics and intoxicated persons;
- 10 (i) Sponsor and encourage research into the causes and nature of
11 alcoholism and treatment of alcoholics and intoxicated persons and serve
12 as a clearinghouse for information relating to alcoholism;
- 13 (j) Specify uniform methods for keeping statistical information by
14 public and private agencies, organizations, and individuals and collect
15 and make available relevant statistical information, including number of
16 persons treated, frequency of admission and readmission, and frequency
17 and duration of treatment;
- 18 (k) Advise the governor in the preparation of a comprehensive
19 plan for treatment of alcoholics and intoxicated persons for inclusion in
20 the state's comprehensive health plan;
- 21 (l) Review all state health, welfare, and treatment plans to be
22 submitted for federal funding under federal legislation and advise the
23 governor on provisions to be included relating to alcoholism and
24 intoxicated persons;
- 25 (m) Assist in the development of, and cooperate with, alcohol
26 education and treatment programs for employees of state and local
27 governments and businesses and industries in this state;

1 (n) Utilize the support and assistance of interested persons in the
2 community, particularly recovered alcoholics, to encourage alcoholics
3 voluntarily to undergo treatment;

4 (o) Cooperate with the department of transportation in
5 establishing and conducting programs designed to deal with the problem
6 of persons operating motor vehicles while under the influence of, or
7 impaired by, alcohol;

8 (p) Encourage general hospitals and other appropriate health
9 facilities to admit without discrimination alcoholics and intoxicated
10 persons and to provide them with adequate and appropriate treatment;

11 (q) Encourage all health and disability insurance programs to
12 include alcoholism as a covered illness; AND

13 (r) Submit to the governor an annual report covering the activities
14 of the division.

15 **27-81-105. [Formerly 25-1-305] Comprehensive program for**
16 **treatment - regional facilities.** (1) The division ~~with the advice and~~
17 ~~recommendations of the advisory council pursuant to section 25-1-208,~~
18 shall establish a comprehensive and coordinated program for the
19 treatment of alcoholics and intoxicated persons.

20 (2) Insofar as funds available to the division will permit, the
21 program ~~of the division~~ ESTABLISHED IN SUBSECTION (1) OF THIS SECTION
22 shall include all of the following:

- 23 (a) Emergency treatment;
 - 24 (b) Inpatient treatment;
 - 25 (c) Intermediate treatment; AND
 - 26 (d) Outpatient and follow-up treatment.
- 27 (3) The division shall provide for adequate and appropriate

1 treatment for alcoholics and intoxicated persons admitted under ~~sections~~
2 ~~25-1-308 to 25-1-311~~ SECTIONS 27-81-109 TO 27-81-112. Except as
3 otherwise provided in ~~section 25-1-310~~ SECTION 27-81-111, treatment
4 may not be provided at a correctional institution except for inmates.

5 (4) The division shall maintain, supervise, and control all facilities
6 operated by it subject to policies of the department. The administrator of
7 each facility shall make an annual report of its activities to the director in
8 the form and manner the director specifies.

9 (5) All appropriate public and private resources shall be
10 coordinated with and utilized in the program if possible.

11 (6) The director shall prepare, publish, and distribute annually a
12 list of all approved public and private treatment facilities.

13 (7) The division may contract for the use of any facility as an
14 approved public treatment facility if the director, subject to the policies
15 of the department, considers this to be an effective and economical course
16 to follow.

17 **27-81-106. [Formerly 25-1-306] Standards for public and**
18 **private treatment facilities - fees - enforcement procedures -**
19 **penalties.** (1) In accordance with the provisions of this ~~part 3~~ ARTICLE,
20 the division shall establish standards for approved treatment facilities that
21 receive public funds. ~~Such~~ THE standards ~~must~~ SHALL be met for a
22 treatment facility to be approved as a public or private treatment facility.
23 The division shall fix the fees to be charged for the required inspections.
24 The fees that are charged to approved treatment facilities that provide
25 level I and level II programs as provided in section 42-4-1301.3 (3) (c),
26 C.R.S., shall be transmitted to the state treasurer, who shall credit the fees
27 to the alcohol and drug driving safety program fund created in section

1 42-4-1301.3 (4) (a), C.R.S. The standards may concern only the health
2 standards to be met and standards of treatment to be afforded patients and
3 shall reflect the success criteria established by the general assembly.

4 (2) The division periodically shall inspect approved public and
5 private treatment facilities at reasonable times and in a reasonable
6 manner.

7 (3) The division shall maintain a list of approved public and
8 private treatment facilities.

9 (4) Each approved public and private treatment facility shall file
10 with the division, on request, data, statistics, schedules, and information
11 the division reasonably requires. An approved public or private treatment
12 facility that fails without good cause to furnish any data, statistics,
13 schedules, or information, as requested, or files fraudulent returns thereof
14 shall be removed from the list of approved treatment facilities.

15 (5) The division, after hearing, may suspend, revoke, limit,
16 restrict, or refuse to grant an approval for failure to meet its standards.

17 (6) The district court may restrain any violation of, review any
18 denial, restriction, or revocation of approval under, and grant other relief
19 required to enforce the provisions of this section.

20 (7) Upon petition of the division and after a hearing held upon
21 reasonable notice to the facility, the district court may issue a warrant to
22 an officer or employee of the division authorizing him OR HER to enter
23 and inspect at reasonable times, and examine the books and accounts of,
24 any approved public or private treatment facility refusing to consent to
25 inspection or examination by the division or which the division has
26 reasonable cause to believe is operating in violation of this ~~part 3~~
27 ARTICLE.

1 **27-81-107. [Formerly 25-1-306.5] Compliance with local**
2 **government zoning regulations - notice to local governments -**
3 **provisional approval.** (1) The division shall require any residential
4 treatment facility seeking approval as a public or private treatment facility
5 pursuant to this ~~part 3~~ ARTICLE to comply with any applicable zoning
6 regulations of the municipality, city and county, or county where the
7 facility is situated. Failure to comply with applicable zoning regulations
8 shall constitute grounds for the denial of approval of a facility.

9 (2) The division shall assure that timely written notice is provided
10 to the municipality, city and county, or county where a residential
11 treatment facility is situated, including the address of the facility and the
12 population and number of persons to be served by the facility, when any
13 of the following occurs:

14 (a) An application for approval of a residential treatment facility
15 pursuant to ~~section 25-1-306~~ SECTION 27-81-106 is made;

16 (b) Approval is granted to a residential treatment facility pursuant
17 to ~~section 25-1-306~~ SECTION 27-81-106;

18 (c) A change in the approval of a residential treatment facility
19 occurs; or

20 (d) The approval of a residential treatment facility is revoked or
21 otherwise terminated for any reason.

22 (3) In the event of a zoning or other delay or dispute between a
23 residential treatment facility and the municipality, city and county, or
24 county where the facility is situated, the division may grant provisional
25 approval of the facility for up to one hundred twenty days pending
26 resolution of the delay or dispute.

27 **27-81-108. [Formerly 25-1-307] Acceptance for treatment -**

1 **rules.** (1) The director shall adopt and may amend and repeal rules for
2 acceptance of persons into the treatment program, considering available
3 treatment resources and facilities, for the purpose of early and effective
4 treatment of alcoholics and intoxicated persons. In establishing the rules
5 the director shall be guided by the following standards:

6 (a) If possible a patient shall be treated on a voluntary rather than
7 an involuntary basis.

8 (b) A patient shall be initially assigned or transferred to outpatient
9 or intermediate treatment, unless he OR SHE is found to require inpatient
10 treatment.

11 (c) A person shall not be denied treatment solely because he OR
12 SHE has withdrawn from treatment against medical advice on a prior
13 occasion or because he OR SHE has relapsed after earlier treatment.

14 (d) An individualized treatment plan shall be prepared and
15 maintained on a current basis for each patient.

16 (e) Provision shall be made for a continuum of coordinated
17 treatment services, so that a person who leaves a facility or a form of
18 treatment will have available and utilize other appropriate treatment.

19 **27-81-109. [Formerly 25-1-308] Voluntary treatment of**
20 **alcoholics.** (1) An alcoholic, including a minor, may apply for voluntary
21 treatment directly to an approved treatment facility.

22 (2) Subject to rules adopted by the director, the administrator in
23 charge of an approved treatment facility may determine who shall be
24 admitted for treatment. If a person is refused admission to an approved
25 treatment facility, the administrator shall refer the person to another
26 approved treatment facility for treatment if possible and appropriate.

27 (3) If a patient receiving inpatient care leaves an approved

1 treatment facility, he OR SHE shall be encouraged to consent to appropriate
2 outpatient or intermediate treatment. If it appears to the administrator in
3 charge of the treatment facility that the patient is an alcoholic and requires
4 help, the administrator may arrange for assistance in obtaining supportive
5 services and residential facilities.

6 **27-81-110. [Formerly 25-1-309] Voluntary treatment for**
7 **intoxicated persons and persons incapacitated by alcohol.** (1) An
8 intoxicated person or person intoxicated or incapacitated by alcohol,
9 including a minor, may voluntarily admit himself OR HERSELF to an
10 approved treatment facility for emergency treatment.

11 (2) A person who comes voluntarily to an approved treatment
12 facility shall be evaluated or examined by the facility administrator or by
13 his OR HER authorized designee immediately. A person found to be in
14 need of treatment shall then be admitted or referred to another appropriate
15 facility. If a person is found not to be in need of treatment, he OR SHE
16 shall be released or referred to another appropriate facility.

17 (3) Except as provided in subsection (7) of this section, a
18 voluntarily admitted person shall be released from the approved treatment
19 facility immediately upon his OR HER request.

20 (4) A person who is not admitted to an approved treatment
21 facility, and who is not referred to another health facility, and who has no
22 funds may be taken to his OR HER home, if any. If he OR SHE has no
23 home, the approved treatment facility may assist him OR HER in obtaining
24 shelter.

25 (5) If a person is admitted to an approved treatment facility, his OR
26 HER family or next of kin shall be notified as promptly as possible. If an
27 adult person requests that there be no notification, his OR HER request

1 shall be respected.

2 (6) If the administrator in charge of the approved treatment
3 facility or his OR HER authorized designee determines that it is for the
4 person's benefit, the person shall be encouraged to agree to further
5 diagnosis and appropriate voluntary treatment.

6 (7) Nothing in this section shall preclude the approved treatment
7 facility administrator or his OR HER authorized designee from seeking
8 emergency commitment OF A PERSON as provided in ~~section 25-1-310~~
9 SECTION 27-81-111 or involuntary commitment OF A PERSON as provided
10 in ~~section 25-1-311~~ SECTION 27-81-112, regardless of whether such
11 person has been voluntarily admitted under this section. In such cases,
12 the ~~administrator~~ ADMINISTRATOR'S or designee's further conduct shall be
13 governed by ~~section 25-1-310 or 25-1-311~~ SECTION 27-81-111 OR
14 27-81-112, as applicable.

15 **27-81-111. [Formerly 25-1-310] Emergency commitment.**

16 (1) (a) When ~~any~~ A person is intoxicated or incapacitated by alcohol and
17 clearly dangerous to the health and safety of himself, herself, or others,
18 ~~such person~~ HE OR SHE shall be taken into protective custody by law
19 enforcement authorities or an emergency service patrol, acting with
20 probable cause, and placed in an approved treatment facility. If no such
21 facilities are available, he or she may be detained in an emergency
22 medical facility or jail, but only for so long as may be necessary to
23 prevent injury to himself, herself, or others or to prevent a breach of the
24 peace. If the person being detained is a juvenile, as defined in section
25 19-1-103 (68), C.R.S., the juvenile shall be placed in a setting that is
26 nonsecure and physically segregated by sight and sound from the adult
27 offenders. A law enforcement officer or emergency service patrol officer,

1 in detaining the person, is taking him or her into protective custody. In
2 so doing, the detaining officer may protect himself or herself by
3 reasonable methods but shall make every reasonable effort to protect the
4 detainee's health and safety. A taking into protective custody under this
5 section is not an arrest, and no entry or other record shall be made to
6 indicate that the person has been arrested or charged with a crime. Law
7 enforcement or emergency service personnel who act in compliance with
8 this section are acting in the course of their official duties and are not
9 criminally or civilly liable therefor. Nothing in this subsection (1) shall
10 preclude an intoxicated or incapacitated person who is not dangerous to
11 the health and safety of himself, herself, or others from being assisted to
12 his or her home or like location by the law enforcement officer or
13 emergency service patrol officer.

14 (b) A sheriff or police chief who violates the provisions of
15 paragraph (a) of this subsection (1) related to detaining juveniles may be
16 subject to a civil fine of no more than one thousand dollars. The decision
17 to fine shall be based on prior violations of the provisions of paragraph
18 (a) of this subsection (1) by the sheriff or police chief and the willingness
19 of the sheriff or police chief to address the violations in order to comply
20 with paragraph (a) of this subsection (1).

21 (2) A law enforcement officer, emergency service patrolman,
22 physician, spouse, guardian, or relative of the person to be committed or
23 any other responsible person may make a written application for
24 emergency commitment under this section, directed to the administrator
25 of the approved treatment facility. The application shall state the
26 circumstances requiring emergency commitment, including the applicant's
27 personal observations and the specific statements of others, if any, upon

1 which he OR SHE relies in making the application. A copy of the
2 application shall be furnished to the person to be committed.

3 (3) If the approved treatment facility administrator or his or her
4 authorized designee approves the application, the person shall be
5 committed, evaluated, and treated for a period not to exceed five days.
6 The person shall be brought to the facility by a peace officer, the
7 emergency service patrol, or any interested person. If necessary, the court
8 may be contacted to issue an order to the police, the peace officer's
9 department, or the sheriff's department to transport the person to the
10 facility.

11 (4) If the approved treatment facility administrator or his OR HER
12 authorized designee determines that the application fails to sustain the
13 grounds for emergency commitment as set forth in subsection (1) of this
14 section, the commitment shall be refused and the person detained
15 immediately released, and the person shall be encouraged to seek
16 voluntary treatment if appropriate.

17 (5) When the administrator determines that the grounds for
18 commitment no longer exist, he OR SHE shall discharge the person
19 committed under this section. ~~No~~ A person committed under this section
20 may NOT be detained in any treatment facility for more than five days;
21 except that a person may be detained for longer than five days at the
22 approved treatment facility if, in that period of time, a petition for
23 involuntary commitment has been filed pursuant to ~~section 25-1-311~~
24 SECTION 27-81-112. A person may not be detained longer than ten days
25 after the date of filing of the petition for involuntary commitment.

26 (6) Whenever a person is involuntarily detained pursuant to this
27 section, he OR SHE shall immediately be advised by the facility

1 administrator or his OR HER authorized designee, both orally and in
2 writing, of his OR HER right to challenge such detention by application to
3 the courts for a writ of habeas corpus, to be represented by counsel at
4 every stage of any proceedings relating to his OR HER commitment and
5 recommitment, and to have counsel appointed by the court or provided by
6 the court if he OR SHE wants the assistance of counsel and is unable to
7 obtain counsel.

8 **27-81-112. [Formerly 25-1-311] Involuntary commitment of**
9 **alcoholics.** (1) A person may be committed to the custody of the
10 division by the court upon the petition of the person's spouse or guardian,
11 a relative, a physician, an advanced practice nurse, the administrator in
12 charge of any approved treatment facility, or any other responsible
13 person. The petition shall allege that the person is an alcoholic and that
14 the person has threatened or attempted to inflict or inflicted physical harm
15 on himself or herself or on another and that unless committed the person
16 is likely to inflict physical harm on himself or herself or on another or that
17 the person is incapacitated by alcohol. A refusal to undergo treatment
18 does not constitute evidence of lack of judgment as to the need for
19 treatment. The petition shall be accompanied by a certificate of a licensed
20 physician who has examined the person within two days before
21 submission of the petition, unless the person whose commitment is sought
22 has refused to submit to a medical examination, in which case the fact of
23 refusal shall be alleged in the petition. The certificate shall set forth the
24 physician's findings in support of the allegations of the petition.

25 ~~(1.5)~~ (2) A petition submitted pursuant to subsection (1) of this
26 section shall not be accepted unless there is documentation of the refusal
27 by the person to be committed to accessible and affordable voluntary

1 treatment. ~~Such~~ THE documentation may include, but shall not be limited
2 to, ~~physicians' statements, advanced practice nurses' statements, notations~~
3 ~~in the person's medical or law enforcement records, or witnesses'~~
4 ~~statements~~ NOTATIONS IN THE PERSON'S MEDICAL OR LAW ENFORCEMENT
5 RECORDS OR STATEMENTS BY A PHYSICIAN, ADVANCED PRACTICE NURSE,
6 OR WITNESS.

7 (2) (3) Upon the filing of the petition, the court shall fix a date for
8 a hearing no later than ten days after the date the petition was filed. A
9 copy of the petition and of the notice of the hearing, including the date
10 fixed by the court, shall be personally served on the petitioner, the person
11 whose commitment is sought, and one of his OR HER parents or his OR
12 HER legal guardian if he OR SHE is a minor. A copy of the petition and
13 notice of hearing shall be mailed to the division, ~~of alcohol and drug~~
14 ~~abuse~~, to counsel for the person whose commitment is sought, to the
15 administrator in charge of the approved treatment facility to which the
16 person may have been committed for emergency treatment, and to any
17 other person the court believes advisable.

18 (3) (4) At the hearing, the court shall hear all relevant testimony,
19 including, if possible, the testimony of at least one licensed physician who
20 has examined the person whose commitment is sought. The person shall
21 be present unless the court believes that the person's presence is likely to
22 be injurious to the person; in this event, the court shall appoint a guardian
23 ad litem to represent the person throughout the proceeding. If the person
24 has refused to be examined by a licensed physician, he or she shall be
25 given an opportunity to be examined by a court-appointed licensed
26 physician. If the person refuses and there is sufficient evidence to believe
27 that the allegations of the petition are true or if the court believes that

1 more medical evidence is necessary, the court may commit the person to
2 a licensed hospital for a period of not more than five days for a diagnostic
3 examination. In such event, the court shall schedule a further hearing for
4 final determination of commitment, in no event later than five days after
5 the first hearing.

6 ~~(4)~~ (5) If after hearing all relevant evidence, including the results
7 of any diagnostic examination by the licensed hospital, the court finds
8 that grounds for involuntary commitment have been established by clear
9 and convincing proof, it shall make an order of commitment to the
10 division. The division shall have the right to delegate physical custody
11 of the person to an appropriate approved treatment facility. It may not
12 order commitment of a person unless it determines that the division is
13 able to provide adequate and appropriate treatment for him OR HER, and
14 the treatment is likely to be beneficial.

15 ~~(4.5)~~ (6) Upon the commitment of a person to the division by the
16 court, the court may issue an order to the sheriff to transport the person
17 committed to the facility designated by the division.

18 ~~(5)~~ (7) A person committed as provided in this section shall
19 remain in the custody of the division for treatment for a period of thirty
20 days unless sooner discharged. At the end of the thirty-day period, he OR
21 SHE shall be discharged automatically unless the division, before
22 expiration of the period, obtains a court order for his OR HER
23 recommitment upon the grounds set forth in subsection (1) of this section
24 for a further period of ninety days unless sooner discharged. If a person
25 has been committed because he OR SHE is an alcoholic likely to inflict
26 physical harm on another, the division shall apply for recommitment if
27 after examination it is determined that the likelihood still exists.

1 ~~(6)~~ (8) A person recommitted as provided in ~~subsection (5)~~
2 SUBSECTION (7) of this section who has not been discharged by the
3 division before the end of the ninety-day period shall be discharged at the
4 expiration of that period unless the division, before expiration of the
5 period, obtains a court order on the grounds set forth in subsection (1) of
6 this section for recommitment for a further period not to exceed ninety
7 days. If a person has been committed because he OR SHE is an alcoholic
8 likely to inflict physical harm on another, the division shall apply for
9 recommitment if after examination it is determined that the likelihood still
10 exists. Only two recommitment orders under ~~subsection (5)~~ SUBSECTION
11 (7) of this section and this ~~subsection (6)~~ SUBSECTION (8) are permitted.

12 ~~(7)~~ (9) Upon the filing of a petition for recommitment under
13 ~~subsections (5) and (6)~~ SUBSECTIONS (7) AND (8) of this section, the court
14 shall fix a date for hearing no later than ten days after the date the petition
15 was filed. A copy of the petition and of the notice of hearing shall be
16 served and mailed as required in ~~subsection (2)~~ SUBSECTION (3) of this
17 section. At the hearing, the court shall proceed as provided in ~~subsection~~
18 ~~(3)~~ SUBSECTION (4) of this section.

19 ~~(8)~~ (10) The division shall provide for adequate and appropriate
20 treatment of a person committed to its custody. The division may transfer
21 any person committed to its custody from one approved treatment facility
22 to another if transfer is advisable.

23 ~~(9)~~ (11) A person committed to the custody of the division for
24 treatment shall be discharged at any time before the end of the period for
25 which he OR SHE has been committed if either of the following conditions
26 is met:

27 (a) In THE case of an alcoholic committed on the grounds that he

1 OR SHE is likely to inflict physical harm upon another, that he OR SHE no
2 longer has an alcoholic condition ~~which~~ THAT requires treatment or the
3 likelihood no longer exists; or

4 (b) In THE case of an alcoholic committed on the grounds of the
5 need of treatment and incapacity, that the incapacity no longer exists,
6 further treatment will not be likely to bring about significant improvement
7 in the person's condition, or treatment is no longer appropriate.

8 ~~(10)~~ (12) The court shall inform the person whose commitment or
9 recommitment is sought of his or her right to contest the application, to
10 be represented by counsel at every stage of any proceedings relating to the
11 person's commitment and recommitment, and to have counsel appointed
12 by the court or provided by the court if he or she wants the assistance of
13 counsel and is unable to obtain counsel. If the court believes that the
14 person needs the assistance of counsel, the court shall require, by
15 appointment if necessary, counsel for the person regardless of his or her
16 wishes. The person whose commitment or recommitment is sought shall
17 be informed of his or her right to be examined by a licensed physician of
18 the person's choice. If the person is unable to obtain a licensed physician
19 and requests examination by a physician, the court shall employ a
20 licensed physician.

21 ~~(11)~~ (13) If a private treatment facility agrees with the request of
22 a competent patient or his OR HER parent, sibling, adult child, or guardian
23 to accept the patient for treatment, the administrator of the public
24 treatment facility shall transfer him OR HER to the private treatment
25 facility.

26 ~~(12)~~ (14) A person committed under this ~~part 3~~ ARTICLE may at
27 any time seek to be discharged from commitment by an order in the

1 nature of habeas corpus.

2 (~~13~~) (15) The venue for proceedings under this section is the
3 county in which the person to be committed resides or is present.

4 (~~14~~) (16) All proceedings conducted pursuant to this ~~part 3~~
5 ARTICLE shall be conducted by the district attorney of the county where
6 the proceeding is held or by an attorney acting for the district attorney
7 appointed by the court for that purpose; except that, in any county or in
8 any city and county having a population exceeding one hundred thousand
9 persons, the proceedings shall be conducted by the county attorney or by
10 an attorney acting for the county attorney appointed by the court.

11 **27-81-113. [Formerly 25-1-312] Records of alcoholics and**
12 **intoxicated persons.** (1) The registration and other records of treatment
13 facilities shall remain confidential and are privileged to the patient.

14 (2) Notwithstanding subsection (1) of this section, the director
15 may make available information from patients' records for purposes of
16 research into the causes and treatment of alcoholism. Information under
17 this subsection (2) shall not be published in a way that discloses patients'
18 names or other identifying information.

19 **27-81-114. [Formerly 25-1-313] Visitation and communication**
20 **of patients.** (1) ~~Patients~~ A PATIENT in any approved treatment facility
21 shall be granted opportunities for continuing visitation and
22 communication with ~~their families~~ HIS OR HER FAMILY and friends
23 consistent with an effective treatment program. ~~Patients~~ A PATIENT shall
24 be permitted to consult with counsel at any time.

25 (2) Neither mail nor other communication to or from a patient in
26 any approved treatment facility may be intercepted, read, or censored.
27 The director may adopt reasonable rules regarding the use of the

1 telephone by patients in approved treatment facilities.

2 **27-81-115. [Formerly 25-1-314] Emergency service patrol -**
3 **establishment - rules.** (1) The division and cities, counties, city and
4 counties, and regional service authorities may establish emergency
5 service patrols. A patrol consists of persons trained to give assistance in
6 the streets and in other public places to persons who are intoxicated or
7 incapacitated by alcohol. Members of an emergency service patrol shall
8 be capable of providing first aid in emergency situations and shall be
9 authorized to transport ~~persons~~ A PERSON intoxicated or incapacitated by
10 alcohol to ~~their homes~~ HIS OR HER HOME and to and from treatment
11 facilities.

12 (2) The director shall adopt rules for the establishment, training,
13 and conduct of emergency service patrols.

14 **27-81-116. [Formerly 25-1-315] Payment for treatment -**
15 **financial ability of patients.** (1) If treatment is provided by an approved
16 public treatment facility and the patient, including a committed person,
17 has not paid the charge therefor, the approved treatment facility is entitled
18 to any payment received by the patient or to which the patient may be
19 entitled because of the services rendered and from any public or private
20 source available to the approved treatment facility because of the
21 treatment provided to the patient. The approved treatment facility may
22 seek and obtain a judgment in an appropriate court for any fees or charges
23 that have not been paid.

24 (2) A patient in an approved treatment facility, or the estate of the
25 patient, or a person obligated to provide for the cost of treatment and
26 having sufficient financial ability is liable to the approved treatment
27 facility for the cost of maintenance and treatment of the patient therein in

1 accordance with rates established. The approved treatment facility may
2 seek and obtain a judgment in an appropriate court for any fees or charges
3 that have not been paid.

4 (3) The director shall adopt rules that establish a standardized
5 ability-to-pay schedule, under which those with sufficient financial ability
6 are required to pay the full cost of services provided and those who are
7 totally without sufficient financial ability are provided appropriate
8 treatment at no charge. The schedule shall take into consideration the
9 income, including government assistance programs, savings, and other
10 personal and real property, of the person required to pay and any support
11 the person required to pay furnishes to another person as required by law.

12 (4) Nothing in this section shall prohibit an approved treatment
13 facility from charging a minimal fee for therapeutic purposes.

14 **27-81-117. [Formerly 25-1-316] Criminal laws - limitations.**

15 (1) ~~No~~ A county, municipality, or other political subdivision may NOT
16 adopt or enforce a local law, ordinance, resolution, or rule having the
17 force of law that includes drinking, being a common drunkard, or being
18 found in an intoxicated condition as one of the elements of the offense
19 giving rise to a criminal or civil penalty or sanction.

20 (2) ~~No~~ A county, municipality, or other political subdivision may
21 NOT interpret or apply any law of general application to circumvent the
22 provisions of subsection (1) of this section.

23 (3) Nothing in this ~~part 3~~ ARTICLE affects any law, ordinance,
24 resolution, or rule against drunken driving, driving under the influence of
25 alcohol, or other similar offense involving the operation of a vehicle, an
26 aircraft, or a boat or machinery or other equipment or regarding the sale,
27 purchase, dispensing, possessing, or use of alcoholic beverages at stated

1 times and places or by a particular class of persons.

2 (4) The fact that a person is intoxicated or incapacitated by
3 alcohol shall not prevent his ~~being arrested or prosecuted~~ OR HER ARREST
4 OR PROSECUTION for the commission of any criminal act or conduct not
5 enumerated in subsection (1) of this section.

6 (5) Nothing in this ~~part 3~~ ARTICLE shall be construed as a
7 limitation upon the right of a police officer to make an otherwise legal
8 arrest, notwithstanding the fact that the arrested person may be
9 intoxicated or incapacitated by alcohol.

10 **ARTICLE 82**

11 **Drug Abuse Prevention,**
12 **Education, and Treatment**

13 **27-82-101. [Formerly 25-1-1100.2] Legislative declaration.**

14 (1) The general assembly recognizes the character and pervasiveness of
15 drug abuse and drug dependency and that drug abuse and dependency are
16 serious problems. The general assembly further finds and declares that
17 these problems have been very seriously neglected and that the social and
18 economic costs and the waste of human resources caused by drug abuse
19 and dependency are massive, tragic, and no longer acceptable. The
20 general assembly believes that the best interests of this state demand an
21 across-the-board locally oriented attack on the massive drug abuse and
22 dependency problem, which attack includes prevention, education, and
23 treatment, and that this ~~part 11~~ ARTICLE will provide a base from which
24 to launch the attack and reduce the tragic human loss.

25 (2) It is the policy of this state that drug dependent persons and
26 persons who are under the influence of drugs should be afforded
27 treatment in order that they may lead normal lives as productive members

1 of society. The general assembly hereby finds and declares that drug
2 abuse and drug dependency are matters of statewide concern.

3 **27-82-102. [Formerly 25-1-1101] Definitions.** As used in this
4 ~~part 11~~ ARTICLE, unless the context otherwise requires:

5 (1) "Administrator" means the administrator of an approved
6 treatment facility or an individual authorized in writing to act as his OR
7 HER designee.

8 (2) "Approved private treatment facility" means a private agency
9 meeting the standards prescribed in ~~section 25-1-1102 (1)~~ SECTION
10 27-82-103 (1) and approved under ~~section 25-1-1102~~ SECTION 27-82-103.

11 (3) "Approved public treatment facility" means a treatment agency
12 operating under the direction and control of or approved by the division
13 ~~of alcohol and drug abuse~~ and meeting the standards prescribed in ~~section~~
14 ~~25-1-1102 (1)~~ SECTION 27-82-103 (1) and approved under ~~section~~
15 ~~25-1-1102~~ SECTION 27-82-103.

16 (4) "Court" means the district court in the county in which the
17 person named in a petition filed pursuant to this ~~part 11~~ ARTICLE resides
18 or is physically present. In the city and county of Denver, "court" means
19 the probate court.

20 (5) "Department" means the department of human services.

21 (6) "Director" means the director of the division of alcohol and
22 drug abuse.

23 (7) "Division" means the division of alcohol and drug abuse
24 within the department.

25 (8) "Drug" means a controlled substance as defined in section
26 12-22-303 (7), C.R.S., and toxic vapors.

27 (9) "Drug abuser" means a person who habitually uses drugs or

1 who uses drugs to the extent that his OR HER health is substantially
2 impaired or endangered or his OR HER social or economic function is
3 substantially disrupted. Nothing in this subsection (9) shall preclude the
4 denomination of a drug abuser as a person under the influence of or
5 incapacitated by drugs.

6 (10) "Executive director" means the executive director of the
7 department.

8 (11) "Incapacitated by drugs" means that a person, as a result of
9 the use of drugs, is unconscious or has his OR HER judgment otherwise so
10 impaired that he OR SHE is incapable of realizing and making a rational
11 decision with respect to his OR HER need for treatment, ~~or~~ is unable to
12 take care of his OR HER basic personal needs or safety, or lacks sufficient
13 understanding or capacity to make or communicate rational decisions
14 concerning ~~his person~~ HIMSELF OR HERSELF.

15 (12) "Licensed physician" means either a physician licensed by the
16 state of Colorado or a hospital-licensed physician employed by the
17 admitting facility.

18 (13) "Minor" means a person under the age of eighteen years.

19 (14) "Person under the influence of drugs" means any person
20 whose mental or physical functioning is temporarily but substantially
21 impaired as a result of the presence of drugs in his OR HER body.

22 (15) "Toxic vapors" means a substance or product containing such
23 substances as defined in section 18-18-412 (3), C.R.S.

24 (16) "Treatment" means the broad range of emergency, outpatient,
25 intermediate, and inpatient services and care, including diagnostic
26 evaluation, medical, psychiatric, psychological, and social service care,
27 vocational rehabilitation, and career counseling, ~~which~~ THAT may be

1 extended to drug abusers and persons under the influence of drugs.

2 **27-82-103. [Formerly 25-1-1102] Standards for public and**
3 **private treatment facilities - fees - enforcement procedures -**

4 **penalties.** (1) In accordance with the provisions of this ~~part~~ ~~+~~ ARTICLE,
5 the division shall establish standards for approved treatment facilities that
6 receive public funds or that dispense controlled substances or both. ~~Such~~
7 THE standards ~~must~~ SHALL be met for a treatment facility to be approved
8 as a public or private treatment facility. The division shall fix the fees to
9 be charged for the required inspections. The fees that are charged to
10 approved treatment facilities that provide level I and level II programs as
11 provided in section 42-4-1301.3 (3) (c), C.R.S., shall be transmitted to the
12 state treasurer, who shall credit the fees to the alcohol and drug driving
13 safety program fund created in section 42-4-1301.3 (4) (a), C.R.S. The
14 standards may concern only the health standards to be met and standards
15 of treatment to be afforded patients and shall reflect the success criteria
16 established by the general assembly.

17 (2) The division periodically shall inspect approved public and
18 private treatment facilities at reasonable times and in a reasonable
19 manner.

20 (3) The division shall maintain a list of approved public and
21 private treatment facilities.

22 (4) Each approved public and private treatment facility shall file
23 with the division, on request, data, statistics, schedules, and information
24 the division reasonably requires. An approved public or private treatment
25 facility that fails without good cause to furnish any data, statistics,
26 schedules, or information, as requested, or files fraudulent returns thereof
27 shall be removed from the list of approved treatment facilities.

1 (5) The division, after hearing, may suspend, revoke, limit,
2 restrict, or refuse to grant an approval for failure to meet its standards.

3 (6) ~~No~~ A person shall NOT operate a private or public treatment
4 facility in this state without approval from the division; except that this
5 ~~part 11~~ ARTICLE shall not apply to a private treatment facility that accepts
6 only private funds and does not dispense controlled substances. The
7 district court may restrain any violation of, review any denial, restriction,
8 or revocation of approval under, and grant other relief required to enforce
9 the provisions of this section.

10 (7) Upon petition of the division and after a hearing held upon
11 reasonable notice to the facility, the district court may issue a warrant to
12 an officer or employee of the division authorizing him OR HER to enter
13 and inspect at reasonable times, and examine the books and accounts of,
14 any approved public or private treatment facility refusing to consent to
15 inspection or examination by the division or which the division has
16 reasonable cause to believe is operating in violation of this ~~part 11~~
17 ARTICLE.

18 **27-82-104. [Formerly 25-1-1103] Acceptance for treatment -**
19 **rules.** (1) The director shall adopt and may amend and repeal rules for
20 acceptance of persons into the treatment program, considering available
21 treatment resources and facilities, for the purpose of early and effective
22 treatment of drug abusers and persons under the influence of drugs. In
23 establishing the rules, the director shall be guided by the following
24 standards:

25 (a) If possible a patient shall be treated on a voluntary rather than
26 an involuntary basis.

27 (b) A patient shall be initially assigned or transferred to outpatient

1 treatment, unless or until he OR SHE is found to require residential
2 treatment.

3 (c) A person may not be denied treatment solely because he OR
4 SHE has withdrawn from treatment against medical advice on a prior
5 occasion or because he OR SHE has relapsed after earlier treatment.

6 (d) An individualized treatment plan shall be prepared and
7 maintained on a current basis for each patient.

8 (e) Provision shall be made for a continuum of coordinated
9 treatment services, so that a person who leaves a facility or leaves a form
10 of treatment will have available and utilize other appropriate treatment.

11 **27-82-105. [Formerly 25-1-1104] Voluntary treatment of drug**
12 **abusers.** (1) A drug abuser, including a minor, may apply for voluntary
13 treatment directly to an approved treatment facility.

14 (2) Subject to rules adopted by the director, the administrator in
15 charge of an approved treatment facility shall determine who shall be
16 admitted for treatment. If a person is refused admission to an approved
17 treatment facility, the administrator may refer the person to another
18 approved and appropriate treatment facility for treatment if it is deemed
19 likely to be beneficial. A person should not be referred for further
20 treatment if it is determined that further treatment is not likely to bring
21 about significant improvement in the person's condition, or treatment is
22 no longer appropriate, or further treatment is unlikely to be beneficial.

23 (3) If a patient receiving residential care leaves an approved
24 treatment facility, he OR SHE shall be encouraged to consent to outpatient
25 treatment or supportive services if appropriate.

26 **27-82-106. [Formerly 25-1-1105] Voluntary treatment for**
27 **persons under influence of drugs and persons incapacitated by drugs.**

1 (1) A person under the influence of or incapacitated by drugs, including
2 a minor if provided by rules of the division, may voluntarily admit
3 himself OR HERSELF to an approved treatment facility for emergency
4 treatment.

5 (2) A person who voluntarily enters an approved treatment facility
6 shall be immediately evaluated or examined by the facility administrator.
7 A person found to be in need of treatment shall then be admitted or
8 referred to another appropriate facility. If a person is found not to be in
9 need of treatment, he OR SHE shall be released or referred to another
10 appropriate facility.

11 (3) Except as provided in subsection (7) of this section, a
12 voluntarily admitted person shall be released from the approved treatment
13 facility immediately upon his OR HER request.

14 (4) A person who is not admitted to an approved treatment
15 facility, and who is not referred to another health facility, and who has no
16 funds may be taken to his OR HER home, if any. If he OR SHE has no
17 home, the approved treatment facility may assist him OR HER in obtaining
18 shelter.

19 (5) If a person is admitted to an approved treatment facility, his OR
20 HER family or next of kin shall be notified as promptly as possible in
21 accordance with federal confidentiality regulations for alcohol and drug
22 abuse patient records, which regulations are found at 42 CFR, part II,
23 secs. 2.1 to 2.67, as amended. If an adult person requests that there be no
24 notification, his OR HER request shall be respected.

25 (6) If the administrator in charge of the approved treatment
26 facility determines that it is for the person's benefit, the person shall be
27 encouraged to agree to further diagnosis and appropriate voluntary

1 treatment.

2 (7) Nothing in this section shall preclude the approved treatment
3 facility administrator from seeking emergency commitment OF A PERSON
4 as provided in ~~section 25-1-1106~~ SECTION 27-82-107 or involuntary
5 commitment OF A PERSON as provided in ~~section 25-1-1107~~ SECTION
6 27-82-108, regardless of whether ~~such persons have~~ THE PERSON HAS
7 been voluntarily admitted under this section. In such ~~cases~~ CASE, the
8 ~~administrator~~ ADMINISTRATOR'S or designee's further conduct shall be
9 governed by ~~section 25-1-1106 or 25-1-1107~~ SECTION 27-82-107 OR
10 27-82-108, as applicable.

11 **27-82-107. [Formerly 25-1-1106] Emergency commitment.**

12 (1) When any person is under the influence of or incapacitated by drugs
13 and clearly dangerous to the health and safety of himself, HERSELF, or
14 others, ~~such person~~ HE OR SHE may be taken into protective custody by
15 law enforcement authorities, acting with probable cause, and placed in an
16 approved treatment facility. If no such facilities are available, he OR SHE
17 may be detained in an emergency medical facility or jail, but only for so
18 long as may be necessary to prevent injury to himself, HERSELF, or others
19 or to prevent a breach of the peace. A law enforcement officer, in
20 detaining the person, is taking him OR HER into protective custody. In so
21 doing, the detaining officer may protect himself OR HERSELF by
22 reasonable methods but shall make every reasonable effort to protect the
23 detainee's health and safety. A taking into protective custody under this
24 section is not an arrest, and no entry or other record shall be made to
25 indicate that the person has been arrested or charged with a crime. Law
26 enforcement personnel who act in compliance with this section are acting
27 in the course of their official duties and are not criminally or civilly liable

1 therefor. Nothing in this subsection (1) shall preclude a person under the
2 influence of or incapacitated by drugs who is not dangerous to the health
3 and safety of himself, HERSELF, or others from being assisted to his OR
4 HER home or like location by the law enforcement officer.

5 (2) A law enforcement officer, physician, spouse, guardian, or
6 relative of the person to be committed or any other responsible person
7 may make a written application for emergency commitment under this
8 section, directed to the administrator of the approved treatment facility.
9 The application shall state the circumstances requiring emergency
10 commitment, including the applicant's personal observations and the
11 specific statements of others, if any, upon which he OR SHE relies in
12 making the application. A copy of the application shall be furnished to
13 the person to be committed.

14 (3) If the approved treatment facility administrator finds that there
15 are sufficient grounds in the application, the person shall be committed,
16 evaluated, and treated for a period not to exceed five days. The person
17 shall be brought to the facility by a peace officer or any interested person.
18 If necessary, the court may be contacted to issue an order to the police,
19 the peace officer's department, or the sheriff's department to transport the
20 person to the facility.

21 (4) If the approved treatment facility administrator determines that
22 there are insufficient grounds in the application to sustain an emergency
23 commitment as set forth in subsection (1) of this section, the commitment
24 shall be refused and the person detained immediately released, and the
25 person shall be encouraged to seek voluntary treatment if appropriate.

26 (5) When the administrator determines that the grounds for
27 commitment no longer exist, the emergency commitment shall be revoked

1 and the client shall be placed on voluntary status and encouraged to seek
2 further voluntary treatment. No person committed under this section may
3 be detained in any treatment facility for more than five days; except that
4 a person may be detained for longer than five days at the approved
5 treatment facility if, in that period of time, a petition for involuntary
6 commitment has been filed pursuant to ~~section 25-1-1107~~ SECTION
7 27-82-108. A person may not be detained longer than ten days, excluding
8 weekends and holidays, after the date of filing of the petition for
9 involuntary commitment unless valid medical reasons exist for detaining
10 a person longer.

11 (6) Whenever a person is involuntarily detained pursuant to this
12 section, he OR SHE shall be advised within twenty-four hours by the
13 facility administrator, both orally and in writing, of his OR HER right to
14 challenge such detention by application to the courts for a writ of habeas
15 corpus, and to have counsel appointed by the court or provided by the
16 court if he OR SHE wants the assistance of counsel and is unable to obtain
17 counsel.

18 **27-82-108. [Formerly 25-1-1107] Involuntary commitment of**
19 **drug abusers.** (1) A person may be committed to the custody of the
20 division by the court upon the petition of the person's spouse or guardian,
21 a relative, a physician, an advanced practice nurse, the administrator in
22 charge of any approved treatment facility, or any other responsible
23 person. The petition shall allege that the person is a drug abuser and that
24 the person has threatened or attempted to inflict or inflicted physical harm
25 on himself or herself or on another and that unless committed the person
26 is likely to inflict physical harm on himself or herself or on another or that
27 the person is incapacitated by drugs. A refusal to undergo treatment does

1 not constitute evidence of lack of judgment as to the need for treatment.
2 The petition shall be accompanied by a certificate of a licensed physician
3 who has examined the person within ten days before submission of the
4 petition, unless the person whose commitment is sought has refused to
5 submit to a medical examination or an examination cannot be made of
6 such person due to the person's condition. The certificate shall set forth
7 the physician's findings in support of the allegations of the petition.

8 ~~(1.5)~~ (2) A petition submitted pursuant to subsection (1) of this
9 section shall not be accepted unless there is documentation of the refusal
10 by the person to be admitted to accessible and affordable voluntary
11 treatment. ~~Such~~ Documentation may include, but shall not be limited to,
12 physicians' and advanced practice nurses' statements, notations in the
13 person's medical or law enforcement records, or witnesses' statements.

14 ~~(2)~~ (3) Upon the filing of the petition, the court shall fix a date for
15 a hearing no later than ten days, excluding weekends and holidays, after
16 the date the petition was filed, unless valid medical reasons exist for
17 delaying the hearing. A copy of the petition and of the notice of the
18 hearing, including the date fixed by the court, shall be personally served
19 on the person whose commitment is sought and one of his OR HER parents
20 or his OR HER legal guardian if he OR SHE is a minor. A copy of the
21 petition and notice of hearing shall be provided to the petitioner, to the
22 division, ~~of alcohol and drug abuse~~, to counsel for the person whose
23 commitment is sought, if any, to the administrator in charge of the
24 approved treatment facility to which the person may have been committed
25 for emergency treatment, and to any other person the court believes
26 advisable.

27 ~~(3)~~ (4) At the hearing, the court shall hear all relevant testimony,

1 including, if possible, the testimony of at least one licensed physician who
2 has examined the person whose commitment is sought. The person shall
3 be present unless the court believes that the person's presence is likely to
4 be injurious to the person; in this event, the court shall appoint a guardian
5 ad litem to represent the person throughout the proceeding. If the person
6 has refused to be examined by a licensed physician, he or she shall be
7 given an opportunity to be examined by a court-appointed licensed
8 physician. If the person refuses and there is sufficient evidence to believe
9 that the allegations of the petition are true or if the court believes that
10 more medical evidence is necessary, the court may commit the person to
11 a licensed hospital or an approved public or private treatment facility for
12 a period of not more than five days for a diagnostic examination. In such
13 event, the court shall schedule a further hearing for final determination of
14 commitment, in no event later than five days after the first hearing.

15 ~~(4)~~ (5) If after hearing all relevant evidence, including the results
16 of any diagnostic examination by the licensed hospital, the court finds
17 that grounds for involuntary commitment have been established by clear
18 and convincing proof, it shall make an order of commitment to the
19 division. The division shall have the right to delegate physical custody
20 of the person to an appropriate approved treatment facility. It may not
21 order commitment of a person unless it determines that the division is
22 able to provide adequate and appropriate treatment for him OR HER and
23 that the treatment is likely to be beneficial.

24 ~~(5)~~ (6) Upon the commitment of a person to the division by the
25 court, the court may issue an order to the sheriff to transport the person
26 committed to the facility designated by the division.

27 ~~(6)~~ (7) A person committed as provided in this section shall

1 remain in the custody of the division for treatment for a period of thirty
2 days unless sooner discharged. At the end of the thirty-day period, he OR
3 SHE shall be discharged automatically unless the division, before
4 expiration of the period, files a petition for his OR HER recommitment
5 upon the grounds set forth in subsection (1) of this section for a further
6 period of ninety days and a hearing has been scheduled in accordance
7 with ~~subsection (2)~~ SUBSECTION (3) of this section. If a person has been
8 committed because he OR SHE is a drug abuser likely to inflict physical
9 harm on another, the division shall apply for recommitment if, after
10 examination, it is determined that the likelihood still exists.

11 ~~(7)~~ (8) A person recommitment as provided in ~~subsection (6)~~
12 SUBSECTION (7) of this section who has not been discharged by the
13 division before the end of the ninety-day period shall be discharged at the
14 expiration of that period unless the division, before expiration of the
15 period, files a petition on the grounds set forth in subsection (1) of this
16 section for recommitment for a further period not to exceed ninety days
17 and a hearing has been scheduled in accordance with ~~subsection (2)~~
18 SUBSECTION (3) of this section. If a person has been committed because
19 he OR SHE is a drug abuser likely to inflict physical harm on another, the
20 division shall apply for recommitment if after examination it is
21 determined that the likelihood still exists. Only two recommitment orders
22 under ~~subsection (6)~~ SUBSECTION (7) of this section and this ~~subsection~~
23 ~~(7)~~ SUBSECTION (8) are permitted.

24 ~~(8)~~ (9) Upon the filing of a petition for recommitment under
25 ~~subsections (6) and (7)~~ SUBSECTIONS (7) AND (8) of this section, the court
26 shall fix a date for hearing no later than ten days, excluding weekends and
27 holidays, after the date the petition was filed unless valid medical reasons

1 exist for delaying the hearing. A copy of the petition and of the notice of
2 hearing shall be served as required in ~~subsection (2)~~ SUBSECTION (3) of
3 this section. At the hearing, the court shall proceed as provided in
4 ~~subsection (3)~~ SUBSECTION (4) of this section.

5 (9) (10) The division shall provide for adequate and appropriate
6 treatment of a person committed to its custody. The division may transfer
7 any person committed to its custody from one approved treatment facility
8 to another if transfer is advisable.

9 (10) (11) A person committed to the custody of the division for
10 treatment shall be discharged at any time before the end of the period for
11 which he OR SHE has been committed if either of the following conditions
12 is met:

13 (a) In THE case of a drug abuser committed on the grounds that he
14 OR SHE is likely to inflict physical harm upon another, that he OR SHE no
15 longer has a drug abuse condition ~~which~~ THAT requires treatment or the
16 likelihood no longer exists; or

17 (b) In THE case of a drug abuser committed on the grounds of the
18 need of treatment and incapacity, that the incapacity no longer exists, or
19 in case of a drug abuser committed on any grounds under this section, that
20 further treatment will not be likely to bring about significant improvement
21 in the person's condition, or treatment is no longer appropriate, or further
22 treatment is unlikely to be beneficial.

23 (11) (12) The court shall inform the person whose commitment or
24 recommitment is sought of his or her right to contest the application, to
25 be represented by counsel at every stage of any proceedings relating to the
26 person's commitment and recommitment, and to have counsel appointed
27 by the court or provided by the court if the person wants the assistance of

1 counsel and is unable to obtain counsel. If the court believes that the
2 person needs the assistance of counsel, the court shall require, by
3 appointment if necessary, counsel for the person regardless of the person's
4 wishes. The person whose commitment or recommitment is sought shall
5 be informed of his or her right to be examined by a licensed physician of
6 the person's choice. If the person is unable to obtain a licensed physician
7 and requests examination by a physician, the court shall employ a
8 licensed physician.

9 ~~(12)~~ (13) If a private treatment facility agrees with the request of
10 a competent patient or his OR HER parent, sibling, adult child, or guardian
11 to accept the patient for treatment, the administrator of the public
12 treatment facility may transfer him OR HER to the private treatment
13 facility.

14 ~~(13)~~ (14) A person committed under this ~~part 11~~ ARTICLE may at
15 any time seek to be discharged from commitment by an order in the
16 nature of habeas corpus.

17 ~~(14)~~ (15) The venue for proceedings under this section is the
18 county in which the person to be committed resides or is present.

19 ~~(15)~~ (16) All proceedings conducted pursuant to this ~~part 11~~
20 ARTICLE shall be conducted by the district attorney of the county where
21 the proceeding is held or by an attorney acting for the district attorney
22 appointed by the court for that purpose; except that, in any county or in
23 any city and county having a population exceeding one hundred thousand
24 persons, the proceedings shall be conducted by the county attorney or by
25 an attorney acting for the county attorney appointed by the court.

26 **27-82-109. [Formerly 25-1-1108] Records of drug abusers and**
27 **persons under influence of drugs.** (1) The registration and other

1 records of treatment facilities shall remain confidential and fully
2 protected as outlined in federal confidentiality regulations for alcohol and
3 drug abuse patient records found at 42 CFR, part II, secs. 2.1 to 2.67, as
4 amended.

5 (2) Notwithstanding subsection (1) of this section, the director
6 may make available information from patients' records for purposes of
7 research into the causes and treatment of drug abuse. Information under
8 this subsection (2) shall not be published in a way that discloses patients'
9 names or other identifying information.

10 **27-82-110. [Formerly 25-1-1109] Visitation and**
11 **communication of patients.** (1) ~~Patients in any~~ A PATIENT IN AN
12 approved treatment facility shall be granted opportunities for continuing
13 visitation and communication with ~~their families~~ HIS OR HER FAMILY and
14 friends consistent with an effective treatment program. ~~Patients~~ A
15 PATIENT shall be permitted to consult with counsel at any time.

16 (2) Neither mail nor other communication to or from a patient in
17 any approved treatment facility may be intercepted, read, or censored.
18 The director may adopt reasonable rules regarding the use of the
19 telephone by patients in approved treatment facilities.

20 **27-82-111. [Formerly 25-1-1110] Payment for treatment -**
21 **financial ability of patients.** (1) If treatment is provided by an approved
22 public treatment facility and the patient, including a committed person,
23 has not paid the charge therefor, the approved treatment facility is entitled
24 to any payment received by the patient or to which he OR SHE may be
25 entitled because of the services rendered and from any public or private
26 source available to the approved treatment facility because of the
27 treatment provided to the patient. The treatment facility may seek and

1 obtain a judgment in an appropriate court for any fees or charges which
2 have not been paid.

3 (2) A patient in an approved treatment facility, or the estate of the
4 patient, or a person obligated to provide for the cost of treatment and
5 having sufficient financial ability is liable to the approved treatment
6 facility for the cost of maintenance and treatment of the patient therein in
7 accordance with rates established. The treatment facility may seek and
8 obtain a judgment in an appropriate court for any fees or charges ~~which~~
9 THAT have not been paid.

10 (3) The director shall establish by rule a standardized
11 ability-to-pay schedule, under which those with sufficient financial ability
12 are required to pay the full cost of services provided and those who are
13 totally without sufficient financial ability are provided appropriate
14 treatment at no charge. Such schedule shall take into consideration the
15 income including government assistance programs, savings, and other
16 personal and real property of the person required to pay, and any support
17 being furnished by him OR HER to any person he OR SHE is required by law
18 to support.

19 (4) Nothing in this section shall prohibit a facility from charging
20 a minimal fee for therapeutic purposes.

21 **27-82-112. [Formerly 25-1-1111] Criminal laws - limitations.**

22 (1) Nothing in this ~~part~~ ~~11~~ ARTICLE affects any law, ordinance,
23 resolution, or rule against driving under the influence of drugs or other
24 similar offense involving the operation of a vehicle, an aircraft, a boat,
25 any machinery, or any other equipment or regarding the sale, purchase,
26 possession, or use of drugs.

27 (2) The fact that a person is under the influence of or incapacitated

1 by drugs shall not prevent his ~~being arrested or prosecuted~~ OR HER
2 ARREST OR PROSECUTION for the commission of any criminal act or
3 conduct.

4 (3) Nothing in this ~~part~~ ARTICLE shall be construed as a
5 limitation upon the right of a police officer to make an otherwise legal
6 arrest, notwithstanding the fact that the arrested person may be under the
7 influence of or incapacitated by drugs.

8 **27-82-113. [Formerly 25-1-1112] Limitations on services and**
9 **programs provided - available funds.** (1) The level of services
10 provided and the scope of programs administered by the division ~~which~~
11 THAT relate to drug abuse prevention, education, and treatment, including
12 the number of clients served in treatment programs, shall be subject to the
13 moneys available to the division for such purposes.

14 (2) The department ~~of human services~~ is authorized to accept, on
15 behalf of the state of Colorado, and expend any grants of federal funds for
16 all or any purposes of this ~~part~~ ARTICLE.

17 **ARTICLE 90**

18 **Institutions - Department of Human Services**

19 **27-90-100.3. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES:

21 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES
22 CREATED IN SECTION 26-1-105, C.R.S.

23 (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
24 THE DEPARTMENT OF HUMAN SERVICES.

25 **27-90-101. [Formerly 27-1-102] Executive director - division**
26 **heads - interagency council - advisory boards.**

27 ~~(1) Repealed.~~

1 ~~(2)(a) Repealed.~~

2 ~~(b)~~ (1) (a) Medical personnel employed at any of the institutions
3 subject to the control of the executive director, the medical director of
4 which is licensed to practice medicine in this state, shall be exempt from
5 the provisions of the "Colorado Medical Practice Act", article 36 of title
6 12, C.R.S., with respect to service rendered to bona fide patients or
7 inmates at ~~said~~ THOSE institutions, if such personnel: Are licensed to
8 practice medicine in any other state of the United States or any province
9 of Canada; have satisfactorily completed an internship of not less than
10 one year in the United States, Canada, or Puerto Rico in a hospital
11 approved for that purpose by the American medical association; have
12 satisfactorily completed three years of postgraduate residency training, or
13 its equivalent, in their particular specialty in a hospital approved for that
14 purpose by the American medical association; and can read, write, speak,
15 and understand the English language. ~~Proof of said~~ THAT THE
16 requirements HAVE BEEN MET shall be submitted to and approved or
17 disapproved by the executive director. ~~of the department of human~~
18 ~~services.~~

19 ~~(c)~~ (b) All ~~such~~ personnel as WHO cannot satisfy all of the
20 requirements set forth in ~~paragraph (b)~~ PARAGRAPH (a) of this ~~subsection~~
21 ~~(2)~~ SUBSECTION (1) shall be exempt from the provisions of the "Colorado
22 Medical Practice Act", article 36 of title 12, C.R.S., with respect to
23 services rendered to bona fide patients or inmates at said institutions, if
24 ~~such~~ THE personnel: Are of good moral character; are graduates of an
25 approved medical college as defined in section 12-36-108, C.R.S.; have
26 completed an approved internship of at least one year as defined in
27 section 12-36-109, C.R.S.; ~~and~~, within a period of nine months of their

1 employment, pass the examinations approved by the Colorado state board
2 of medical examiners under the provisions of the "Colorado Medical
3 Practice Act" and the national board of medical examiners, the national
4 board of examiners for osteopathic physicians and surgeons, or the
5 federation of state medical boards on subjects relating to the basic
6 sciences; are able to read, write, speak, and understand the English
7 language; and, in the case of personnel who are not citizens of the United
8 States, become such citizens within the minimum period of time within
9 which the particular individual can become a citizen according to the laws
10 of the United States and the regulations of the immigration and
11 naturalization service of the United States department of justice or within
12 such additional time as may be granted by said boards.

13 ~~(d)~~(c) Medical personnel granted exemption under ~~paragraphs (b)~~
14 ~~and (c) of this subsection (2)~~ PARAGRAPHS (a) AND (b) OF THIS
15 SUBSECTION (1) may not practice medicine except as described in this
16 ~~subsection (2)~~ SUBSECTION (1) without first complying with all of the
17 provisions of ~~said~~ THE "Colorado Medical Practice Act".

18 ~~(3)~~(2) The governor may appoint an interagency council to serve
19 at his OR HER pleasure, to be composed of such representatives as he OR
20 SHE may select from the departments of public health and environment,
21 labor and employment, health care policy and financing, human services,
22 personnel, and such other state officers and officials as he OR SHE may
23 deem appropriate.

24 ~~(4)~~(3) The governor may appoint advisory boards to consult with
25 the executive director and the chief officer of any institution within the
26 jurisdiction of the department. Any such advisory board shall consist of
27 not less than five nor more than fifteen persons recognized or known to

1 be interested and informed in the area of the ~~said~~ institution's purpose and
2 function. Members of ~~such~~ THE ADVISORY boards shall serve without
3 compensation but may be reimbursed for actual and necessary expenses
4 incurred in attending regular meetings. ~~Said~~ ADVISORY boards
5 ESTABLISHED PURSUANT TO THIS SUBSECTION (3) shall meet quarterly and
6 during any interim on call of the executive director.

7 **27-90-102. [Formerly 27-1-103] Duties of executive director**
8 **- governor acquire water rights - rules.** (1) The duties of the executive
9 director of the ~~department of human services~~ shall be:

10 (a) To manage, supervise, and control the charitable, mental,
11 custodial, and special educational public institutions operated and
12 supported by the state; to manage and supervise the special agencies,
13 departments, boards, and commissions transferred to or established within
14 the department by law; to improve, develop, and carry forward programs
15 of therapy, counseling, and aftercare to the end that ~~persons~~ A PERSON
16 dependent upon tax-supported programs may be afforded opportunity and
17 encouragement to overcome the disability causing ~~their~~ HIS OR HER partial
18 or total dependence upon the state;

19 (b) To supervise the business, fiscal, budget, personnel, and
20 financial operations of the department and the institutions and activities
21 under his OR HER control;

22 (c) In consultation with the several superintendents, the chief
23 officer of the Colorado mental health institute at Pueblo, the head of the
24 administrative division for the Colorado mental health institute at Fort
25 Logan, and the director of the division of planning, to develop a
26 systematic building program providing for the projected, long-range
27 needs of the institutions under his OR HER control;

1 (d) To classify the lands connected with the state institutions
2 under his OR HER control and determine which are of such character as to
3 be most profitably used for agricultural purposes, taking into
4 consideration the needs of all state institutions for the food products that
5 can be grown or produced thereon and the relative value of such
6 agricultural use in the treatment or rehabilitation of the persons confined
7 in ~~said~~ THOSE institutions;

8 (e) To the extent practical, to utilize the staff and services of other
9 state agencies and departments, within their respective statutory
10 functions, including administrative law judges appointed pursuant to part
11 10 of article 30 of title 24, C.R.S., to carry out the purposes of this ~~part~~
12 ARTICLE;

13 ~~(f) Repealed.~~

14 ~~(g)~~ (f) To examine and evaluate each child committed to the
15 department and to place each child so committed as provided in section
16 19-2-922, C.R.S.;

17 ~~(h)~~ (g) To transfer between appropriate state institutions children
18 committed to the department as provided in section 19-2-923, C.R.S.;

19 ~~(i)~~ (h) To require of the head of each institution and agency
20 assigned to the department an annual report containing ~~such~~ information,
21 and submitted at ~~such~~ a time, as the executive director decides;

22 ~~(j)~~ (i) To exercise control over publications of the department and
23 subdivisions thereof and cause ~~such~~ publications ~~as~~ THAT are approved
24 for circulation in quantity outside the executive branch to be issued in
25 accordance with the provisions of section 24-1-136, C.R.S.;

26 ~~(k)~~ (j) To implement the procedures regarding children who are
27 in detention or who have or may have mental illness or developmental

1 disabilities specified in the provisions of the "Colorado Children's Code"
2 contained in articles 1, 2, and 3 of title 19, C.R.S.;

3 ~~(h)~~ (k) To carry out the duties prescribed in article 11.7 of title 16,
4 C.R.S.; AND

5 ~~(m)~~ (l) To provide information to the director of research of the
6 legislative council concerning population projections, research data, and
7 the projected long-range needs of the institutions under the control of the
8 executive director and any other related data requested by the director.

9 ~~(1.5)~~ (2) The executive director shall have such other powers,
10 duties, and functions as are prescribed for heads of principal departments
11 in the "Administrative Organization Act of 1968", article 1 of title 24,
12 C.R.S.

13 ~~(2)~~ (3) On behalf of the state of Colorado, the governor is
14 authorized to acquire water and water rights for the operation of the
15 Colorado mental health institute at Fort Logan. Title to ~~such~~ THAT
16 property may be acquired in fee simple absolute by purchase, donation,
17 or the exercise of the power of eminent domain through condemnation
18 proceedings in accordance with law from funds made available by the
19 general assembly.

20 ~~(3)(a)(f)~~ (4) (a) (I) The executive director shall appoint a board
21 of medical consultants.

22 (II) The executive director shall determine the membership of the
23 board based on the medical and surgical needs of the department.

24 (III) The executive director shall determine the qualifications for
25 appointment to the board of medical consultants; except that all members
26 of the board shall be licensed by the state board of medical examiners
27 pursuant to the provisions of article 36 of title 12, C.R.S.

1 (b) ~~Persons~~ A PERSON serving on the board of medical consultants
2 shall provide not more than one thousand hours of consultation per year
3 in ~~their~~ HIS OR HER capacity as A board ~~members~~ MEMBER.

4 (c) Members of the board of medical consultants shall be
5 compensated at a rate ~~which~~ THAT shall be approved by the executive
6 director. Compensation shall be paid from available funds of the
7 department.

8 (d) The board members shall act as medical consultants to the
9 department with respect to persons receiving services from the
10 institutions listed in ~~section 27-1-104~~ SECTION 27-90-104 and from any
11 institution operated pursuant to part 11 of article 2 of title 19, C.R.S.

12 (e) A member of the board of medical consultants, for all
13 activities performed within the course and scope of his OR HER
14 responsibilities to the department, is a "public employee" as defined in
15 section 24-10-103 (4), C.R.S.

16 ~~(4)(a)~~ (5) (a) The executive director ~~of the department of human~~
17 ~~services~~ shall have authority to adopt "executive director rules", as
18 described in section 26-1-108, C.R.S., for programs administered and
19 services provided by the department ~~of human services~~ as set forth in this
20 title. ~~Such~~ THE rules shall be promulgated in accordance with the
21 provisions of section 24-4-103, C.R.S.

22 (b) Whenever a statutory grant of rule-making authority in this
23 title refers to the DEPARTMENT, state department, or the department of
24 human services, it shall mean the department of human services acting
25 through either the state board of human services or the executive director
26 ~~of the department of human services~~ or both. When exercising
27 rule-making authority under this title, the ~~state~~ department, either acting

1 through the state board or the executive director, shall establish rules
2 consistent with the powers and the distinction between "board rules" as
3 set forth in ~~section 27-1-103.5~~ SECTION 27-90-103 and "executive director
4 rules" as set forth in this section.

5 (c) Any rules adopted by the state board of human services to
6 implement the provisions of this title prior to March 25, 2009, whose
7 content meets the definition of "executive director rules" shall continue
8 to be effective until revised, amended, or repealed by the executive
9 director.

10 **27-90-103. [Formerly 27-1-103.5] State board of human**
11 **services - rules.** (1) The state board of human services, created in
12 section 26-1-107, C.R.S., is authorized to adopt "board rules" as
13 necessary to implement the programs administered and the services
14 provided by the department of human services as provided in this title.
15 ~~Such~~ THE rules shall be promulgated in accordance with the provisions
16 of section 24-4-103, C.R.S.

17 (2) "Board rules" are rules promulgated by the state board of
18 human services governing:

19 (a) Program scope and content;

20 (b) Requirements, obligations, and rights of clients and recipients;

21 (c) Non-executive director rules concerning vendors, providers,
22 and other persons affected by acts of the department. ~~of human services.~~

23 (3) (a) Any rules adopted by the executive director ~~of the~~
24 ~~department of human services~~ to implement the provisions of this title
25 prior to March 25, 2009, whose content meets the definition of "board
26 rules" shall continue to be effective until revised, amended, or repealed
27 by the state board of human services.

1 (b) Any rules adopted by the state board to implement the
2 provisions of this title prior to March 25, 2009, whose content meets the
3 definition of "executive director rules" shall continue to be effective until
4 revised, amended, or repealed by the executive director.

5 (4) Whenever a statutory grant of rule-making authority in this
6 title refers to the department, THE STATE DEPARTMENT, or the department
7 of human services, it shall mean the department of human services acting
8 through either the state board of human services or the executive director.
9 ~~of the department of human services.~~ When exercising rule-making
10 authority under this title, the state department, either acting through the
11 state board or the executive director, shall establish rules consistent with
12 the powers and the distinction between "board rules" as set forth in this
13 section and "executive director rules" as set forth in ~~section 27-1-103~~
14 SECTION 27-90-102.

15 **27-90-104. [Formerly 27-1-104] Institutions managed,**
16 **supervised, and controlled.** (1) The department shall manage,
17 supervise, and control the following state institutions:

- 18 ~~(a) and (b) Repealed.~~
- 19 ~~(c)~~ (a) Colorado mental health institute at Pueblo;
- 20 ~~(d)~~ (b) Wheat Ridge regional center;
- 21 ~~(e)~~ (c) Grand Junction regional center;
- 22 ~~(f)~~ (d) Lookout Mountain school, at Golden;
- 23 ~~(g)~~ (e) Mount View school, at Morrison;
- 24 ~~(h)~~ (f) Colorado mental health institute at Fort Logan, in Denver;
- 25 ~~(i)~~ (g) Golden Gate youth camp, in Gilpin county;
- 26 ~~(j)~~ (h) Lathrop Park youth camp, in Huerfano county; AND
- 27 ~~(k) and (l) Repealed.~~

1 ~~(m)~~ (i) Pueblo regional center.

2 ~~(n) Repealed.~~

3 **27-90-105. [Formerly 27-1-104.4] Future juvenile detention**

4 **facility needs.** (1) (a) The general assembly hereby finds and declares
5 that currently there are no juvenile detention facilities with commitment
6 beds or locked detention beds in the southwest portion of Colorado and
7 that the nearest such facility in the Grand Junction or Glenwood Springs
8 area is as much as four hours away from some southwestern communities.

9 As a result of this distance, authorities in the southwest region of the state
10 often avoid detention even though such avoidance presents a public safety
11 problem, and those juveniles who are taken to distant facilities lose the
12 critical access to family members and local community agencies that
13 would otherwise render their transitional return to the community less
14 difficult.

15 (b) The general assembly further finds and declares that the
16 juvenile population in detention is expected to increase by seventy and
17 nine ~~one-hundredths~~ HUNDREDTHS percent by the year 2002. In addition,
18 the general assembly finds and declares that the juvenile commitment
19 population is expected to increase by forty-nine and nine-tenths percent
20 by the year 2002. The general assembly finds and declares that the
21 growth patterns on the western slope of the state have led to a growth in
22 population of at-risk youth and increased crime and that the office of
23 youth services accordingly has experienced a shortfall of both detention
24 and commitment beds in the western part of the state.

25 (c) The general assembly therefore determines that it would be
26 appropriate to consider the need for the construction of a juvenile
27 detention facility in southwest Colorado.

1 (2) (a) The department of ~~human services~~ is directed to assess the
2 need for, and to determine the community commitment to, a new
3 multipurpose juvenile detention facility to be constructed in La Plata
4 county that would serve the following detention and treatment needs of
5 juveniles in the southwest portion of the state:

6 (I) Secure facility housing of juveniles who are detained on
7 juvenile-related charges; and

8 (II) Secure facility and medium secure facility housing of
9 juveniles who are committed to the ~~office~~ DIVISION of youth ~~services~~
10 CORRECTIONS.

11 (b) In assessing the need for such a facility and the services to be
12 rendered at such a facility, the department of ~~human services~~ shall
13 evaluate privatization options.

14 (3) The department of ~~human services~~ shall present its findings,
15 conclusions, and recommendations to the capital development committee
16 of the general assembly on or before November 1, 1996.

17 **27-90-106. [Formerly 27-1-104.5] Legislative review of**
18 **facilities program plans for juvenile facilities.** (1) Prior to any
19 appropriation by the general assembly for the construction of a new,
20 expanded, renovated, or improved juvenile facility, and no later than
21 November 1 prior to the beginning of the budget year for which the
22 appropriation is made, the department of ~~human services~~ shall submit a
23 proposed facility program plan for each proposed new, expanded,
24 renovated, or improved juvenile facility to the capital development
25 committee. The capital development committee shall make a
26 recommendation regarding the facility program plan to the joint budget
27 committee. The general assembly may contract with a consultant to

1 provide assistance to the capital development committee and the joint
2 budget committee in the review of facilities program plans submitted by
3 the department. ~~of human services.~~

4 (2) For the purposes of this section, "facility program plan" means
5 a pre-architectural design program, as that term is understood in the
6 architectural profession. A facility program plan shall include but need
7 not be limited to the number of beds proposed to be included in the new
8 juvenile facility or the addition to an existing juvenile facility, the primary
9 security level of the proposed facility or addition, the staffing plan of the
10 proposed facility or addition, and a description of any educational or
11 ancillary support facilities required for the proposed facility or addition.

12 **27-90-107. [Formerly 27-1-106] Transfer of functions.**

13 (1) The department has the authority to execute, administer, perform, and
14 enforce the rights, powers, duties, functions, and obligations vested in the
15 board of control of the state children's home, the board of control of the
16 Mount View girls' school, and the division of administration of the
17 division of parole prior to July 1, 1959.

18 (2) Except where the context plainly requires otherwise, "board"
19 or "boards of control", with reference to the institutions and the division
20 listed in subsection (1) of this section, means and refers to the department
21 of human services.

22 **27-90-108. [Formerly 27-1-107] Transfer of employees,
23 records, and property - retirement benefits protected - decision of**

24 **governor.** (1) All employees of the division of administration of the
25 division of parole and all employees of the boards of control enumerated
26 in ~~section 27-1-106~~ SECTION 27-90-107 who were engaged in the
27 performance of duties prescribed and supervised by ~~said~~ THE division of

1 administration of ~~said~~ THE division of parole and ~~said~~ THE boards,
2 respectively, and ~~who~~ THAT were transferred to the department of
3 institutions on July 1, 1959, shall retain all rights to retirement benefits
4 under the laws of the state, and their services shall be deemed to have
5 been continuous. All funds, accounts, books, records, documents, and
6 equipment of ~~said~~ THE boards and ~~said~~ THE division of administration of
7 the division of parole became the property of the department of
8 institutions on July 1, 1959.

9 (2) All questions pertaining to the proper disposition of funds,
10 accounts, books, records, documents, or equipment arising under this ~~part~~
11 ~~†~~ ARTICLE and section 17-1-101, C.R.S., and caused by the transfer of
12 powers, duties, rights, functions, and obligations from any board of
13 control to the department of institutions shall be determined by the
14 governor.

15 (3) Whenever in this ~~part~~ ~~†~~ ARTICLE a department, agency,
16 division, or unit thereof is transferred to the department of institutions, the
17 provisions of subsections (1) and (2) of this section shall be declared
18 applicable in effecting such transfer.

19 **27-90-109. [Formerly 27-1-108] Department may accept gifts,**
20 **donations, and grants.** The department ~~of human services~~ or any
21 institution managed, supervised, and controlled by the department may
22 accept or refuse to accept, on behalf of and in the name of the state, gifts,
23 donations, and grants, including grants of federal funds, for any purpose
24 connected with the work or programs of the department or of any such
25 institution. The executive director, ~~of the department,~~ with the approval
26 of the governor, has the power to direct the disposition of any such gift,
27 donation, and grant so accepted for any purpose consistent with the terms

1 and conditions under which given.

2 **27-90-110. [Formerly 27-1-109] Rules for this article and**
3 **certain provisions in title 19, C.R.S.** Pursuant to section 24-4-103,
4 C.R.S., the department of ~~human services~~ shall promulgate such rules as
5 are necessary to implement the provisions of this ~~part~~ ARTICLE and the
6 procedures specified in sections 19-2-508, 19-2-906, 19-2-922, 19-2-923,
7 19-3-403, 19-3-506, 19-3-507, and 19-3-508, C.R.S., regarding children
8 who are in detention or who have or may have mental illness or
9 developmental disabilities.

10 **27-90-111. [Formerly 27-1-110] Employment of personnel -**
11 **screening of applicants - disqualifications from employment.** (1) The
12 general assembly hereby recognizes that many of the individuals
13 receiving services from persons employed by the state department
14 pursuant to this title or title 26, C.R.S., are unable to defend themselves
15 and are therefore vulnerable to abuse or assault. It is the intent of the
16 general assembly to minimize the potential for hiring and employing
17 persons with a propensity toward abuse, assault, or similar offenses
18 against others for positions that would provide them with unsupervised
19 access to vulnerable persons. The general assembly hereby declares that,
20 in accordance with section 13 of article XII of the state constitution, for
21 purposes of terminating employees in the state personnel system who are
22 finally convicted of criminal conduct, offenses involving moral turpitude
23 include, but are not limited to, the disqualifying offenses specified in
24 ~~subsection (7)~~ SUBSECTION (9) of this section.

25 ~~(1.5)~~ (2) For purposes of this section, unless the context otherwise
26 requires:

27 (a) "Contracting employee" means a person who contracts with

1 the ~~state~~ department and who is designated by the executive director of
2 ~~the state department~~ or the executive director's designee as serving in a
3 contract position involving direct contact with vulnerable persons.

4 (b) "Conviction" means a verdict of guilty by a judge or jury or a
5 plea of guilty or nolo contendere that is accepted by the court or
6 adjudication for an offense that would constitute a criminal offense if
7 committed by an adult. "Conviction" also includes having received a
8 deferred judgment and sentence or deferred adjudication; except that a
9 person shall not be deemed to have been convicted if the person has
10 successfully completed a deferred sentence or deferred adjudication.

11 (c) "Direct contact" means providing face-to-face care, training,
12 supervision, counseling, consultation, or medication assistance to
13 vulnerable persons, regardless of the level of supervision of the employee.
14 "Direct contact" may include positions in which persons have access to
15 or unsupervised time with clients or patients, including but not limited to
16 maintenance personnel, housekeeping staff, kitchen staff, and security
17 personnel.

18 (d) "Employee" means an employee of the ~~state~~ department who
19 is under the state personnel system of the state of Colorado.

20 ~~(e) "Executive director" means the executive director of the state~~
21 ~~department.~~

22 ~~(f) "State department" means the department of human services.~~

23 ~~(g)~~ (e) "Vulnerable person" means any individual served by the
24 ~~state~~ department who is susceptible to abuse or mistreatment because of
25 the individual's circumstances, including but not limited to the
26 individual's age, disability, frailty, mental illness, developmental
27 disability, or ill health.

1 ~~(1.7)~~ (3) The employment screening and disqualification
2 requirements in this section apply to the following facilities or programs
3 operated by the ~~state~~ department:

4 (a) Any facility operated by the ~~state~~ department for the care and
5 treatment of persons with mental illness pursuant to ~~article 10~~ ARTICLE 65
6 of this title;

7 (b) Any facility operated by the ~~state~~ department for the care and
8 treatment of the developmentally disabled pursuant to article 10.5 of this
9 title;

10 (c) Vocational rehabilitation services provided pursuant to article
11 8 of title 26, C.R.S.;

12 (d) Any direct services identified and provided by the ~~state~~
13 department in which employees have direct contact with vulnerable
14 persons in a state-operated facility or in a vulnerable person's home or
15 residence;

16 (e) State and veterans nursing homes operated pursuant to article
17 12 of title 26, C.R.S.;

18 (f) Any facility directly operated by the ~~state~~ department in which
19 juveniles who are in the custody of the ~~state~~ department reside, including
20 detention or commitment centers; AND

21 (g) Any secure facility contracted for by the ~~state~~ department
22 pursuant to section 19-2-403, C.R.S., in which juveniles who are in the
23 custody of the ~~state~~ department reside.

24 ~~(2)~~ (4) Prior to the ~~state~~ department's permanent employment of
25 ~~any~~ A person in a position that would require that person to have direct
26 contact with any vulnerable person, the executive director or any division
27 head of the ~~state~~ department shall make an inquiry to the director of the

1 Colorado bureau of investigation to ascertain whether ~~such~~ THE person
2 has a criminal history. ~~Such~~ THE person's employment shall be
3 conditional upon a satisfactory criminal background check. Any criminal
4 background check conducted pursuant to this ~~subsection (2)~~ SUBSECTION
5 (4) shall include but need not be limited to arrests, conviction records, and
6 the disposition of any criminal charges. The ~~state~~ department shall
7 require ~~said~~ THE person to have his or her fingerprints taken by a local
8 law enforcement agency. The local law enforcement agency shall
9 forward those fingerprints to the Colorado bureau of investigation for the
10 purpose of fingerprint processing utilizing the files and records of the
11 Colorado bureau of investigation and the federal bureau of investigation.
12 The ~~state~~ department shall pay for the costs of criminal background
13 checks conducted pursuant to this section out of existing appropriations.

14 ~~(3)~~ (5) The executive director or any division head shall contact
15 previous employers of any person who is one of the top three finalists for
16 a position that would require that person to have direct contact with any
17 vulnerable person, for the purpose of obtaining information and
18 recommendations that may be relevant to ~~such~~ THE person's fitness for
19 employment. Any previous employer of an applicant for employment
20 who provides information to the executive director or a division head or
21 who makes a recommendation concerning ~~such~~ THE person shall be
22 immune from civil liability unless the information is false and the
23 previous employer knows such information is false or acts with reckless
24 disregard concerning the veracity of ~~such~~ THE information.

25 ~~(4)~~ (6) Any local agency or provider of services pursuant to this
26 title or title 26, C.R.S., may investigate applicants for employment.

27 ~~(5)~~ (7) The executive director, any division head, or any local

1 agency or provider who relies on information obtained pursuant to this
2 section in making an employment decision or who concludes that the
3 nature of any information disqualifies the person from employment as
4 either an employee or a contracting employee shall be immune from civil
5 liability for ~~said~~ THAT decision or conclusion unless the information relied
6 upon is false and the executive director, division head, or local agency or
7 provider knows ~~such~~ THE information is false or acts with reckless
8 disregard concerning the veracity of ~~such~~ THE information.

9 (6) (8) The executive director may promulgate such rules as are
10 necessary to implement the provisions of this section.

11 (7) (a) (9) (a) If the criminal background check conducted
12 pursuant to ~~subsection (2) or (9)~~ SUBSECTION (4) OR (11) of this section
13 indicates that a prospective employee or prospective contracting
14 employee was convicted of any of the disqualifying offenses set forth in
15 paragraph (b) or (c) of this ~~subsection (7)~~, ~~said~~ SUBSECTION (9), THE
16 person shall be disqualified from employment either as an employee or
17 as a contracting employee in a position involving direct contact with
18 vulnerable persons. A person who is disqualified as a result of this
19 section shall not be hired or retained by the ~~state~~ department in a position
20 involving direct contact with vulnerable persons nor be eligible to
21 contract for or continue in a contract position designated by the executive
22 director or the executive director's designee as involving direct contact
23 with vulnerable persons.

24 (b) Except as otherwise provided in paragraph (d) of this
25 ~~subsection (7)~~ SUBSECTION (9), a person shall be disqualified from
26 employment either as an employee or as a contracting employee
27 regardless of the length of time that may have passed since the discharge

1 of the sentence imposed for any of the following criminal offenses:

2 (I) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

3 (II) Any felony offense involving unlawful sexual behavior, as
4 defined in section 16-22-102 (9), C.R.S.;

5 (III) Any felony, the underlying factual basis of which has been
6 found by the court on the record to include an act of domestic violence,
7 as defined in section 18-6-800.3, C.R.S.;

8 (IV) Any felony offense of child abuse, as defined in section
9 18-6-401, C.R.S.; OR

10 (V) Any felony offense in any other state, the elements of which
11 are substantially similar to the elements of any of the offenses described
12 in subparagraph (I), (II), (III), or (IV) of this paragraph (b).

13 (c) Except as otherwise provided in paragraph (d) of this
14 ~~subsection (7)~~ SUBSECTION (9), a person shall be disqualified from
15 employment either as an employee or as a contracting employee if less
16 than ten years have passed since the person was discharged from a
17 sentence imposed for conviction of any of the following criminal
18 offenses:

19 (I) Third degree assault, as described in section 18-3-204, C.R.S.;

20 (II) Any misdemeanor, the underlying factual basis of which has
21 been found by the court on the record to include an act of domestic
22 violence, as defined in section 18-6-800.3, C.R.S.;

23 (III) Violation of a protection order, as described in section
24 18-6-803.5, C.R.S.;

25 (IV) Any misdemeanor offense of child abuse, as defined in
26 section 18-6-401, C.R.S.;

27 (V) Any misdemeanor offense of sexual assault on a client by a

1 psychotherapist, as defined in section 18-3-405.5, C.R.S.; OR

2 (VI) Any misdemeanor offense in any other state, the elements of
3 which are substantially similar to the elements of any of the offenses
4 described in subparagraph (I), (II), (III), (IV), or (V) of this paragraph (c).

5 (d) If a person was adjudicated a juvenile delinquent for the
6 commission of any disqualifying offense set forth in either paragraph (b)
7 or (c) of this ~~subsection (7)~~ SUBSECTION (9) and more than seven years
8 have elapsed since the commission of the offense, the person may submit
9 a written request to the executive director as provided in ~~subsection (11)~~
10 SUBSECTION (13) of this section for reconsideration of the
11 disqualification.

12 ~~(8)(a)~~ (10) (a) Any employee who is employed in a position
13 involving direct contact with vulnerable persons and who is arrested,
14 charged with, or issued a summons and complaint for any of the
15 disqualifying offenses set forth in paragraph (b) or (c) of ~~subsection (7)~~
16 SUBSECTION (9) of this section shall inform his or her supervisor of the
17 arrest, charges, or issuance of a summons and complaint before returning
18 to work. Any employee who fails to make such a report or disclosure
19 may be terminated from employment. The ~~state~~ department or any
20 facility operated by the ~~state~~ department shall advise its employees and
21 contracting employees in writing of the requirement for self-reporting of
22 the disqualifying offenses set forth in paragraph (b) or (c) of ~~subsection~~
23 ~~(7)~~ SUBSECTION (9) of this section.

24 (b) An employee who is charged with any of the disqualifying
25 offenses set forth in paragraph (b) of ~~subsection (7)~~ SUBSECTION (9) of
26 this section shall be suspended until resolution of the criminal charges or
27 completion of administrative action by the ~~state~~ department. An

1 employee who is charged with any of the disqualifying offenses set forth
2 in paragraph (c) of ~~subsection (7)~~ SUBSECTION (9) of this section may be
3 suspended at the discretion of the ~~state~~ department until resolution of the
4 criminal charges or completion of administrative action by the ~~state~~
5 department. The employee shall inform his or her supervisor of the
6 disposition of the criminal charges. Any employee who fails to report
7 such information may be terminated from employment. Upon notification
8 to the ~~state~~ department that the employee has received a conviction for
9 any of the disqualifying offenses described in paragraph (b) or (c) of
10 ~~subsection (7)~~ SUBSECTION (9) of this section, the employee shall be
11 terminated from employment. Nothing in this paragraph (b) shall prohibit
12 the ~~state~~ department from taking administrative action if the employee's
13 conduct would justify disciplinary action under section 13 of article XII
14 of the state constitution for failure to comply with standards of efficient
15 service or competence or for willful misconduct, willful failure, or
16 inability to perform his or her duties.

17 ~~(9)~~(11) The general assembly recognizes that the ~~state~~ department
18 contracts with persons to serve in positions that involve direct contact
19 with vulnerable persons in state-operated facilities or to provide
20 state-funded services that involve direct contact with vulnerable persons
21 in the homes and residences of such vulnerable persons. In order to
22 protect vulnerable persons who come into contact with these contracting
23 employees, the executive director or the executive director's designee
24 shall designate those contract positions that involve direct contact with
25 vulnerable persons that shall be subject to the provisions of this
26 ~~subsection (9)~~ SUBSECTION (11). In any contract initially entered into or
27 renewed on or after July 1, 1999, concerning a contract position that has

1 been designated as involving direct contact with vulnerable persons, the
2 state department shall include the following terms and conditions:

3 (a) That the contracting employee shall submit to a criminal
4 background check as described in ~~subsection (2)~~ SUBSECTION (4) of this
5 section for state employees;

6 (b) That the contracting employee shall report any arrests, charges,
7 or summonses for any of the disqualifying offenses specified in paragraph
8 (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this section to the
9 contracting employee's supervisor at the state department before returning
10 to work;

11 (c) That the contracting employee may be suspended or
12 terminated, at the discretion of the state department, prior to the
13 resolution of the criminal charges for any of the disqualifying offenses
14 specified in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this
15 section;

16 (d) That, upon notification to the state department that the
17 contracting employee has received a conviction for any of the
18 disqualifying offenses described in paragraph (b) or (c) of ~~subsection (7)~~
19 SUBSECTION (9) of this section, the contracting employee's position with
20 the state department shall be terminated.

21 ~~(10)~~ (12) An employee or contracting employee who is
22 disqualified due to conviction of any of the disqualifying offenses set
23 forth in paragraph (b) or (c) of ~~subsection (7)~~ SUBSECTION (9) of this
24 section may submit a written request to the executive director for
25 reconsideration of the disqualification. Reconsideration under this
26 ~~subsection (10)~~ SUBSECTION (12) may only be based on a mistake of fact
27 such as an error in the identity of the person for whom the criminal

1 background check was performed. If the executive director determines
2 that there was a mistake of fact involving the identity of the person, the
3 executive director shall issue a finding that the disqualifying factor is not
4 a bar to the person's employment either as an employee or as a contracting
5 employee.

6 ~~(11)~~ (a) (13) (a) An employee or contracting employee who is
7 disqualified for conviction of an offense specified in paragraph (c) of
8 ~~subsection (7)~~ SUBSECTION (9) of this section may submit a written
9 request to the executive director for reconsideration of the disqualification
10 and a review of whether the person poses a risk of harm to vulnerable
11 persons. In reviewing a disqualification, the executive director shall give
12 predominant weight to the safety of vulnerable persons over the interests
13 of the disqualified person. The final determination shall be based upon
14 a review of:

- 15 (I) The seriousness of the disqualifying offense;
- 16 (II) Whether the person has a conviction for more than one
17 disqualifying offense;
- 18 (III) The vulnerability of the victim at the time the disqualifying
19 offense was committed;
- 20 (IV) The time elapsed without a repeat of the same or similar
21 disqualifying offense;
- 22 (V) Documentation of successful completion of training or
23 rehabilitation pertinent to the disqualifying offense; AND
- 24 (VI) Any other relevant information submitted by the
25 DISQUALIFIED person.

26 (b) The decision of the executive director shall constitute final
27 agency action.

1 such expenditures shall issue.

2 **27-91-103. [Formerly 27-2-103] Debts in excess of**
3 **appropriation - emergencies.** The various officers designated by law to
4 control and direct the fiscal affairs of the several state institutions shall
5 not contract within any year any indebtedness in excess of the amount
6 named in any appropriation made for the support of any state institution
7 during that time; but, in cases of emergency, the governor may authorize
8 the contraction of such indebtedness ~~as~~ THAT in his OR HER judgment is
9 absolutely necessary for the maintenance and support of the institution,
10 until such time as the general assembly meets. The officers of any state
11 institution, supported by the levy of any special tax, shall contract no
12 indebtedness in any year in excess of eighty percent of the gross amount
13 of the levy made for that year from which to support that institution.

14 **27-91-104. [Formerly 27-2-104] The term "officer" includes**
15 **members of boards.** The term "officer" as used in ~~section 27-2-105~~
16 SECTION 27-91-105 includes any member of the various boards created by
17 law to govern or supervise the respective state institutions.

18 **27-91-105. [Formerly 27-2-105] Indebtedness limited to**
19 **appropriation.** It is unlawful for any officer of any state institution of
20 this state to incur or contract any indebtedness for, on behalf of, or in the
21 name of ~~such~~ THE state institution or in the name of the state in excess of
22 the sum appropriated by the general assembly for the use or support of
23 ~~such~~ THE institution for the fiscal year. ~~No~~ AN officer of any state
24 institution shall NOT draw any money from the state treasury unless the
25 same is absolutely needed and required by ~~such~~ THE institution at the
26 time, and then only upon the warrant of the controller.

27 **27-91-106. [Formerly 27-2-106] Violation - penalty.** Any

1 person who violates any of the provisions of ~~section 27-2-105~~ SECTION
2 27-91-105 is guilty of a misdemeanor and, upon conviction thereof, shall
3 be punished by a fine of not more than three hundred dollars.

4 **27-91-107. [Formerly 27-2-107] Purchase of supplies by and**
5 **from institutions.** (1) The following designated state institutions are
6 within the purview of this section: All facilities of the departments of
7 corrections and human services, the Colorado mental health institute at
8 Pueblo, the Wheat Ridge regional center, the Grand Junction regional
9 center, the Pueblo regional center, the Lookout Mountain school at
10 Golden, the Mount View school at Morrison, the Colorado industries for
11 the blind, and the Colorado psychiatric hospital.

12 (2) When any of ~~such~~ THE institutions ENUMERATED IN
13 SUBSECTION (1) OF THIS SECTION are in need of supplies ~~such as~~ THAT are
14 grown, produced, or manufactured by any other of ~~such~~ THE institutions,
15 it shall purchase the same from ~~such~~ THE other institution if it has a
16 surplus thereof of suitable quality available for sale at a price not in
17 excess of the current market price for such supplies, and it is the duty of
18 the managing boards of such respective institutions to require observance
19 of the provisions of this section.

20 **27-91-108. [Formerly 27-2-108] Display of flags.** (1) The chief
21 administrative officer of any state institution supported in whole or in part
22 by the state and under the control of the state shall have erected and
23 maintained, at the entrance of the institution or on the principal
24 administrative building or grounds thereof, a suitable flagstaff with the
25 attachments necessary for the display of flags and shall cause to be
26 displayed thereon the flags of the United States and of the state of
27 Colorado. The flag of the state of Colorado shall be the same size as the

1 flag of the United States with which it is displayed. If both flags are
2 displayed on one flagstaff, the flag of the state of Colorado shall be
3 placed below the flag of the United States.

4 (2) (a) The chief administrative officer of any court facility
5 supported in whole or in part by the state and under the control of the
6 state shall cause to be permanently and prominently displayed the flag of
7 the United States, as described in chapter 1 of title 4, U.S.C., in each
8 courtroom when a court proceeding is in session. A flag displayed in a
9 courtroom must measure three by five feet. No alleged failure to cause
10 the flag of the United States to be permanently and prominently displayed
11 in a courtroom supported in whole or in part by the state and under the
12 control of the state shall be the basis of any challenge to such court's
13 authority or jurisdiction or for any appeal of any decision, order, or
14 judgment of such court.

15 (b) The flags of the United States and of the state of Colorado
16 shall be permanently and prominently displayed in all committee rooms
17 under the control of the general assembly of the state of Colorado.

18 (c) On and after September 1, 1996, the chief administrative
19 officer of any school supported in whole or in part by the state and under
20 the control of the state shall cause to be displayed permanently and
21 prominently the flag of the United States, as described in chapter 1 of title
22 4, U.S.C., in each academic classroom when an academic class is in
23 session. A flag displayed in an academic classroom shall measure no less
24 than either twelve by eighteen inches if it is displayed in a frame or two
25 by three feet if it is displayed on a flagstaff.

26 (3) The chief administrative officer of any school or court facility
27 supported in whole or in part by the state and under the control of the

1 state is hereby authorized to accept donations of flags to be displayed in
2 classrooms or courtrooms pursuant to the provisions of subsection (2) of
3 this section.

4 (4) (a) The chief administrative officer of any state institution,
5 school, or court facility described in this section shall not permit the
6 display of any depiction or representation of a flag of the United States
7 that is intended for public view and permanently affixed or attached to
8 any part of the building or grounds of said state institution, school, or
9 court facility, and which display does not conform with 4 U.S.C. sec. 7.

10 (b) Nothing in this subsection (4) shall be construed to preclude
11 the temporary display of any instructional or historical materials or
12 student work product included as part of a lesson not permanently affixed
13 or attached to any part of said building or grounds.

14 (5) Any flag of the United States displayed pursuant to this section
15 shall be displayed as described in 4 U.S.C. sec. 7.

16 **27-91-109. [Formerly 27-2-108.5] Personal display of flags.**

17 (1) The right to display reasonably the flag of the United States shall not
18 be infringed with respect to the display:

19 (a) On an individual's person;

20 (b) Anywhere on an individual's personal or real property; and

21 (c) In the buildings or on the grounds of any tax-supported
22 property in the state; except that the state or political subdivision that has
23 jurisdiction over the building or grounds may adopt reasonable rules and
24 regulations regarding the size, number, placement, manner of display, and
25 lighting of the flag, and the location, size, and height of flagpoles.

26 (2) (a) Notwithstanding any provision of subsection (1) of this
27 section to the contrary, the right with respect to an individual's real

1 property shall be subject to reasonable restrictive covenants or equitable
2 servitudes; except that no such covenant or servitude, nor any owners'
3 association shall prohibit the outdoor display of the flag of the United
4 States by a property owner on that owner's property if the flag is displayed
5 in a manner consistent with chapter 1 of title 4 of the United States Code,
6 as amended.

7 (b) Notwithstanding any provision of paragraph (a) of this
8 subsection (2) to the contrary, an owners' association, the state, or a
9 political subdivision may adopt reasonable rules and regulations
10 regarding the size, number, placement, manner of display, and lighting of
11 the flag, and the location, size, and height of flagpoles.

12 (3) For purposes of this section, "display reasonably" shall be
13 presumed to include a display of the flag of the United States that is
14 consistent with chapter 1 of title 4 of the United States Code, as amended.

15 (4) A right described in subsection (1) of this section is a civil
16 right of free speech and a protected form of expression under the first
17 amendment to the United States constitution and section 10 of article II
18 of the state constitution.

19 **ARTICLE 92**

20 **Institutions - Charges for Patients**

21 **27-92-101. [Formerly 27-12-101] Liability.** (1) When any A
22 person is admitted, committed, or transferred to any A public institution
23 of this state supervised by the department of human services for the care,
24 support, maintenance, education, or treatment of persons with mental
25 illness, the person, his or her spouse, and his or her parents shall be liable
26 for the costs of his or her care, support, maintenance, and treatment to the
27 extent and in the manner provided in this article. No other relatives of the

1 person shall be liable to any extent for such costs.

2 (2) The provisions of this article shall apply also to those persons
3 received under the provisions of article 8 of title 16 and sections
4 16-13-216, 19-2-922, and 19-2-923, C.R.S., but not by way of exclusion.

5 **27-92-102. [Formerly 27-12-102] Cost determination.** (1) The
6 department of human services shall periodically determine the individual
7 cost for the care, support, maintenance, treatment, and education of the
8 patients of each of ~~such~~ THE PUBLIC INSTITUTIONS SUPERVISED BY THE
9 DEPARTMENT OF HUMAN SERVICES. In making ~~such~~ THE determination,
10 it is proper for the department to use averaging methods to the extent that
11 it is not practicable, in the judgment of the executive director of the
12 department of human services, to compute the actual cost for each patient.

13 (2) With respect to ~~any~~ A resident patient who is under the age of
14 twenty-one years, ~~there shall be deducted~~ THE DEPARTMENT OF HUMAN
15 SERVICES SHALL DEDUCT from the DETERMINED cost ~~so determined~~ an
16 amount equal to the average per capita cost for the education of children
17 with disabilities pursuant to article 20 of title 22, C.R.S.

18 **27-92-103. [Formerly 27-12-103] Extent of liability.** (1) ~~There~~
19 ~~shall be assessed~~ THE DEPARTMENT OF HUMAN SERVICES SHALL ASSESS
20 against the ~~said~~ patient, spouse, or parents made liable by ~~section~~
21 ~~27-12-101~~ SECTION 27-92-101, or any of them, all or such part of the cost
22 as they are respectively able to pay, but ~~there shall not be assessed against~~
23 ~~such~~ THE DEPARTMENT OF HUMAN SERVICES SHALL NOT ASSESS AGAINST
24 THE LIABLE persons in the aggregate more than the whole of such cost.

25 (2) The liability of each parent shall cease when such parent has
26 completed payments as assessed in this article for one hundred eighty
27 months subsequent to May 1, 1964, or upon the patient's eighteenth

1 birthday, whichever event first occurs.

2 **27-92-104. [Formerly 27-12-104] Determination of ability to**
3 **pay.** (1) All insurance and other benefits payable for the care, support,
4 maintenance, and treatment of a patient shall be considered available for
5 payment of the cost determined under ~~section 27-12-102~~ SECTION
6 27-92-102.

7 (2) The department of human services shall determine the ability
8 of a patient and his OR HER spouse to pay the balance of ~~such~~ THE cost by
9 consideration of the following factors: Income reportable under Colorado
10 law; the age of the patient and spouse; the number of dependents, their
11 ages, and their mental and physical condition; provision for retirement
12 years; the length of the patient's care or treatment; liabilities; and assets.
13 ~~Such~~ THE determination shall be made according to schedules contained
14 in published rules, adopted in accordance with the provisions of article 4
15 of title 24, C.R.S.

16 (3) If it is determined that the patient and his OR HER spouse are
17 unable to pay the entire cost determined under ~~section 27-12-102~~ SECTION
18 27-92-102 and the length of the patient's care and treatment at a state
19 institution is reasonably anticipated to be less than six months, the
20 department of human services shall determine the parent's ability to pay
21 by consideration of the same factors referred to in subsection (2) of this
22 section, applying each such factor to the parent.

23 (4) If it is determined that the patient and his OR HER spouse are
24 unable to pay the entire cost determined under ~~section 27-12-102~~ SECTION
25 27-92-102 and the length of the patient's care and treatment at a state
26 institution is reasonably anticipated to exceed six months, the department
27 of human services shall determine the parent's ability to pay by reference

1 to ~~such~~ THE parent's net taxable income reportable under Colorado law
2 and to the patient's length of care or treatment. At the request of the
3 parent, the department shall also consider other factors relevant to the
4 interest of avoiding undue hardship to the family unit. ~~Such~~ Other factors
5 may include the parent's age, provision for retirement years, assets,
6 liabilities, and the number of dependents, their mental and physical
7 condition, and their educational requirements. ~~Such~~ THE determination
8 shall be made according to schedules contained in published rules
9 adopted in accordance with the provisions of article 4 of title 24, C.R.S.

10 (5) Should any parent not file a Colorado income tax return, ~~such~~
11 THE parent's net Colorado taxable income equivalent shall be determined
12 by reference to his OR HER United States income tax return as though all
13 the income disclosed by ~~such~~ THAT return had been derived from sources
14 within Colorado, and ~~said~~ THE table of rates shall be applied to ~~such~~ THE
15 net taxable income equivalent.

16 (6) Upon the willful failure of any patient, spouse, or parent to
17 furnish to the department of human services, upon request, copies of his
18 OR HER income tax returns, ~~such person~~ HE OR SHE shall be deemed to
19 have THE ability to pay the entire cost determined under this article.

20 (7) Every agency and department of the state is required to render
21 all reasonable assistance to the executive director of the department of
22 human services in obtaining all information necessary for proper
23 implementation of the purposes of this article. Nothing in this subsection
24 (7) shall be construed to require the department of revenue to produce a
25 copy of any person's income tax return solely upon the request of the
26 department of human services, but the department of revenue shall deliver
27 a copy of any such return upon the request of the taxpayer or his OR HER

1 duly authorized representative, pursuant to section 39-21-113 (4), C.R.S.

2 **27-92-105. [Formerly 27-12-105] Effect of determination.** A
3 determination of the ability of a patient, spouse, or parent to pay shall
4 remain in effect until a redetermination is made.

5 **27-92-106. [Formerly 27-12-106] Appeal.** Appeals from the
6 determination of the ability of a patient or relative to pay, as provided in
7 this article, may be taken to any court of record in Colorado having
8 jurisdiction of the patient or his OR HER spouse or parents liable for ~~such~~
9 payment; but no ~~such~~ appeal may be taken until the executive director of
10 the department of human services has ruled upon a written request for a
11 review of ~~such~~ THE determination. ~~Such~~ THE request shall be made
12 within sixty days after receipt of notification of the ~~said~~ determination,
13 and the applicant shall be notified of the decision of the ~~said~~ executive
14 director within forty-five days after the receipt of the ~~said~~ applicant's
15 request for review.

16 **27-92-107. [Formerly 27-12-107] Service.** Service of any
17 notification, information, or request for information, review, or
18 redetermination, accomplished by certified mail, return receipt requested,
19 or in any manner provided by the Colorado rules of civil procedure, shall
20 be sufficient for all purposes of this article.

21 **27-92-108. [Formerly 27-12-108] Certificate - prima facie**
22 **evidence.** In any action or proceeding to enforce the claims of the state
23 provided for in this article, a certificate by the chief administrative officer
24 of the institution involved or the executive director of the department of
25 human services as to any fact or matter necessary to the establishment of
26 ~~said~~ THE claim which is a matter of record in the institution or in the
27 department of human services shall constitute prima facie evidence.

1 mental health institute at Pueblo shall be utilized to the maximum extent
2 possible in the ordinary course of business before being replaced.

3 (3) The Colorado mental health institute at Pueblo is authorized
4 to contract, pursuant to the federal government procurement process, with
5 federal agencies to provide psychiatric, medical, and surgical services at
6 the institute to persons under the care of or in the custody or control of an
7 agency of the federal government, so long as the provision of such
8 services does not exceed the capabilities of the staff and facilities of the
9 institute and does not preempt services to state patients.

10 **27-93-102. [Formerly 27-13-102] Capacity to take property.**
11 The Colorado mental health institute at Pueblo is authorized to receive
12 gifts, legacies, devises, and conveyances of property, real or personal, that
13 may be made, given, or granted to or for the Colorado mental health
14 institute at Pueblo. The chief officer of the ~~hospital~~ INSTITUTE, with the
15 approval of the governor, shall make disposition of such gifts or property
16 as may be for the best interest of said Colorado mental health institute at
17 Pueblo.

18 **27-93-103. [Formerly 27-13-103] Employees - publications.**
19 (1) The head of the administrative division overseeing the Colorado
20 mental health institute at Pueblo shall appoint or employ, pursuant to
21 section 13 of article XII of the state constitution, such administrators,
22 physicians, nurses, attendants, and additional employees as may be
23 necessary for the proper conduct of said institute. The head of the
24 administrative division may contract with the board of regents of the
25 university of Colorado health sciences center or any other governing
26 board of a state-supported institution of higher education for the provision
27 of services by physicians and other health care practitioners when deemed

1 necessary for the proper conduct of the institute. During the performance
2 of any duties by the physicians and other health care practitioners for the
3 department of human services, the physicians and other health care
4 practitioners are "public employees" as defined in section 24-10-103 (4),
5 C.R.S., and the limitation of section 24-30-1517 (2), C.R.S., shall not
6 apply.

7 (2) Publications of the institute circulated in quantity outside the
8 institute shall be subject to the approval and control of the executive
9 director of the department of human services.

10 **27-93-104. [Formerly 27-13-109] Authorized utilization of**
11 **medical facilities at institute - equipment replacement fund.** (1) ~~Any~~
12 A person committed to the custody of or cared for in the department of
13 human services or the department of corrections who requires medical
14 care and treatment ~~which~~ THAT can be advantageously treated by
15 psychiatric, medical, or surgical care available at the Colorado mental
16 health institute at Pueblo may be treated at ~~said~~ THE institute. Charges for
17 patient care and treatment shall be made in the manner provided in ~~article~~
18 ~~42~~ ARTICLE 92 of this title. A specific appropriation shall be made
19 annually for the general medical division of the Colorado mental health
20 institute at Pueblo, based upon projections of the total patient load and
21 associated costs from all institutions, and the department of human
22 services shall determine at least annually the per diem expenses and the
23 actual utilization of the general medical division by each institution,
24 including other divisions of the Colorado mental health institute at
25 Pueblo.

26 (2) ~~Any~~ A person under the care of or in the custody or control of
27 an agency of the federal government whose psychiatric, medical, or

1 surgical needs could be advantageously treated at the Colorado mental
2 health institute at Pueblo may be treated at ~~said~~ THE institute pursuant to
3 a contract between the institute and the agency of the federal government.

4 (3) ~~Any such~~ A contract ENTERED INTO PURSUANT TO SUBSECTION
5 (2) OF THIS SECTION shall cover the full direct and indirect costs of ~~such~~
6 services as determined by generally accepted accounting principles and
7 shall include a fee to cover the need for replacement of existing
8 equipment which would occur because of this additional use. All fees
9 collected pursuant to this subsection (3) shall be collected by the
10 Colorado mental health institute at Pueblo and shall be transmitted to the
11 state treasurer, who shall credit the same to the equipment replacement
12 fund, which fund is hereby created. Moneys in the equipment
13 replacement fund shall be appropriated by the general assembly on an
14 annual basis to the department of human services for replacement of
15 existing equipment made necessary pursuant to this section.

16 **27-93-105. [Formerly 27-13-110] Alternative uses for institute**
17 **facilities.** ~~(1)~~ The department of human services shall determine the
18 existence of resources at THE Colorado mental health institute at Pueblo
19 that are in excess of the needs of the primary purpose of ~~said~~ THE institute
20 and may make available to the regents of the university of Colorado, on
21 mutually agreeable terms, a maximum of ten beds at ~~said~~ THE institute for
22 the purpose of teaching students in the family practice medical training
23 program conducted by and under the control of the regents. ~~Such~~ THE
24 resources shall be a supplement to any existing health care resources and
25 academic facilities in the region.

26 ~~(2) Repealed.~~

27

ARTICLE 94

1 **Colorado Mental Health Institute at Fort Logan**

2 **27-94-101. [Formerly 27-15-101] Legislative declaration.** In
3 order to provide a program to promote mental health in the state of
4 Colorado, a mental health center is established as provided in this article.

5 **27-94-102. [Formerly 27-15-102] Establishment of mental**
6 **health center.** (1) There is hereby established at the site of Fort Logan,
7 Denver county, Colorado, a mental health center to be known as the
8 Colorado mental health institute at Fort Logan, referred to in this article
9 as the "center". The center shall be under the general supervision and
10 control of the department of human services.

11 (2) All materials without limitation that contain the former names
12 of the Colorado mental health institute at Fort Logan and the Colorado
13 mental health institute at Pueblo shall be utilized to the maximum extent
14 possible in the ordinary course of business before being replaced.

15 **27-94-103. [Formerly 27-15-103] Employees - publications.**
16 (1) The head of the administrative division overseeing the center shall
17 appoint or employ, pursuant to section 13 of article XII of the state
18 constitution, ~~such~~ administrators, physicians, nurses, attendants, and
19 additional employees as ~~may be~~ necessary for the proper conduct of ~~said~~
20 THE center. The head of the administrative division may contract with the
21 board of regents of the university of Colorado health sciences center for
22 the provision of services by physicians when deemed necessary for the
23 proper conduct of the center, and during the performance of any duties by
24 ~~such~~ THE physicians for the department of human services, ~~such~~ THE
25 physicians are "public employees" as defined in section 24-10-103 (4),
26 C.R.S., and the limitation of section 24-30-1517 (2), C.R.S., shall not
27 apply.

1 (2) Publications of the center circulated in quantity outside the
2 center shall be subject to the approval and control of the executive
3 director of the department of human services.

4 **27-94-104. [Formerly 27-15-104] Capacity to take property.**
5 The center is authorized to receive gifts, legacies, devises, and
6 conveyances of property, real and personal, that may be granted or given
7 to the center. The executive director of the department of human
8 services, with the approval of the governor, shall make disposition of
9 such property as may be for the best interest of said center.

10 **27-94-105. [Formerly 27-15-105] Admissions to center -**
11 **transfers - releases.** (1) ~~Any~~ A person who by law is committed to the
12 department of human services for placement in a state hospital may be
13 committed to or placed in the center upon order of a court of competent
14 jurisdiction, except those persons committed to the Colorado mental
15 health institute at Pueblo pursuant to a judicial determination of not guilty
16 by reason of insanity and those persons committed under section 16-8-106
17 (1), C.R.S., relating to commitments for observation and examination.

18 (2) ~~Any~~ A person placed at the center may be transferred to the
19 Colorado mental health institute at Pueblo, the Wheat Ridge regional
20 center, the Grand Junction regional center, the Pueblo regional center, the
21 Mount View school, or the Lookout Mountain school in accordance with
22 law.

23 (3) ~~Any~~ A person placed at the center may be released under such
24 terms and conditions as would entitle him OR HER to his OR HER release
25 from the Colorado mental health institute at Pueblo.

26 **SECTION 3.** 2-3-1304 (1) (e), Colorado Revised Statutes, is
27 amended to read:

1 **2-3-1304. Powers and duties of capital development**

2 **committee.** (1) The capital development committee shall have the
3 following powers and duties:

4 (e) To review facilities program plans of the department of
5 corrections for correctional facilities pursuant to section 17-1-104.8,
6 C.R.S., and facilities program plans of the department of human services
7 for juvenile facilities pursuant to ~~section 27-1-104.5~~ SECTION 27-90-106,
8 C.R.S., and make recommendations regarding those plans to the joint
9 budget committee;

10 **SECTION 4.** 7-60-132 (1) (a), Colorado Revised Statutes, is
11 amended to read:

12 **7-60-132. Dissolution by decree of court.** (1) On application by
13 or for a partner, the court shall decree a dissolution if:

14 (a) A partner has been determined by the court to be mentally
15 incompetent to such a degree that the partner is incapable of performing
16 the partner's part of the partnership contract or a court of competent
17 jurisdiction has made such a finding pursuant to part 3 or part 4 of article
18 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109
19 (4) OR 27-65-127, C.R.S.;

20 **SECTION 5.** 8-73-108 (4) (b) (IV) (C), Colorado Revised
21 Statutes, is amended to read:

22 **8-73-108. Benefit awards - repeal.** (4) **Full award.** An
23 individual separated from a job shall be given a full award of benefits if
24 any of the following reasons and pertinent conditions related thereto are
25 determined by the division to have existed. The determination of whether
26 or not the separation from employment shall result in a full award of
27 benefits shall be the responsibility of the division. The following reasons

1 shall be considered, along with any other factors that may be pertinent to
2 such determination:

3 (b) (IV) The off-the-job or on-the-job use of not medically
4 prescribed intoxicating beverages or controlled substances, as defined in
5 section 12-22-303 (7), C.R.S., may be reason for a determination for a
6 full award pursuant to this paragraph (b), but only if:

7 (C) A worker who is not affiliated with an approved treatment
8 program must present to the division within four weeks after the date of
9 the medical statement referred to in sub-subparagraph (B) of this
10 subparagraph (IV), substantiation of registration in a program of
11 corrective action that will commence within four weeks after the date of
12 the medical statement and that is provided by an approved private
13 treatment facility or an approved public treatment facility as defined in
14 ~~section 25-1-302 (2) or (3)~~ SECTION 27-81-102 (2) OR (3), C.R.S., or by
15 an alcoholics anonymous program. ~~Such~~ THE substantiation shall be in
16 writing to the division and signed by an authorized representative of the
17 approved treatment program.

18 **SECTION 6.** 10-3.5-108 (3) (d), Colorado Revised Statutes, is
19 amended to read:

20 **10-3.5-108. Distributions - remittance of portion of proceeds.**

21 (3) (d) The executive director of the department of human services shall
22 direct each certified capital company that reports to the division pursuant
23 to paragraph (b) of this subsection (3) to transfer to one or more approved
24 community mental health clinics or approved community mental health
25 centers, as defined in ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., an
26 amount of money equal to one-half of the amount identified in such report
27 to be used solely for the purposes identified in ~~sections 27-1-203 and~~

1 ~~27-1-204 (5)~~ SECTIONS 27-66-103 AND 27-66-104 (3), C.R.S., taking into
2 account the standards contained in ~~section 27-1-205~~ SECTION 27-66-105,
3 C.R.S.

4 **SECTION 7.** 12-32-108.3 (10), Colorado Revised Statutes, is
5 amended to read:

6 **12-32-108.3. Disciplinary action by board.** (10) In case any
7 person holding a license to practice podiatry in this state is determined to
8 be mentally incompetent or insane by a court of competent jurisdiction
9 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or
10 ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127,
11 C.R.S., an order specifically finding that the mental incompetency or
12 insanity is of such a degree that the person holding a license is incapable
13 of continuing to practice podiatry, his OR HER license shall automatically
14 be suspended by the board, and, anything in this article to the contrary
15 notwithstanding, such suspension shall continue until the licensee is
16 found by such court to be competent to practice podiatry.

17 **SECTION 8.** 12-33-117 (5), Colorado Revised Statutes, is
18 amended to read:

19 **12-33-117. Discipline of licensees - letters of admonition,**
20 **suspension, revocation, denial, and probation - grounds.** (5) In the
21 event any person holding a license to practice chiropractic in this state is
22 determined to be mentally incompetent or insane by a court of competent
23 jurisdiction and a court enters, pursuant to part 3 or 4 of article 14 of title
24 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR
25 27-65-127, C.R.S., an order specifically finding that the mental
26 incompetency or insanity is of such a degree that the person holding a
27 license is incapable of continuing to practice chiropractic, his OR HER

1 license shall automatically be suspended by the board, and, anything in
2 this article to the contrary notwithstanding, such suspension shall
3 continue until the licentiate is found by such court to be competent to
4 practice chiropractic.

5 **SECTION 9.** 12-36-118 (8), Colorado Revised Statutes, is
6 amended to read:

7 **12-36-118. Disciplinary action by board - immunity.** (8) If any
8 licensee is determined to be mentally incompetent or insane by a court of
9 competent jurisdiction and a court enters, pursuant to part 3 or part 4 of
10 article 14 of title 15 or ~~section 27-10-109 (4) or 27-10-125~~ SECTION
11 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the
12 mental incompetency or insanity is of such a degree that the licensee is
13 incapable of continuing to practice medicine or practice as a physician
14 assistant, his or her license shall automatically be suspended by the board,
15 and, anything in this article to the contrary notwithstanding, such
16 suspension shall continue until the licensee is found by such court to be
17 competent to practice medicine or practice as a physician assistant.

18 **SECTION 10.** 12-38-116.5 (7), Colorado Revised Statutes, is
19 amended to read:

20 **12-38-116.5. Disciplinary procedures of the board - inquiry**
21 **and hearings panels.** (7) In case any nurse is determined to be mentally
22 incompetent or insane by a court of competent jurisdiction and a court
23 enters, pursuant to part 3 or part 4 of article 14 of title 15 or ~~section~~
24 ~~27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S.,
25 an order specifically finding that the mental incompetency or insanity is
26 of such a degree that the nurse is incapable of continuing the practice of
27 nursing, the nurse's license shall automatically be suspended by the board,

1 and, notwithstanding any provision of this article to the contrary, such
2 suspension shall continue until the nurse is found by such court to be
3 competent to continue the practice of nursing.

4 **SECTION 11.** 12-43-214 (2) and (4) (b), Colorado Revised
5 Statutes, are amended to read:

6 **12-43-214. Mandatory disclosure of information to clients.**

7 (2) If the client is a child who is consenting to mental health services
8 pursuant to ~~section 27-10-103~~ SECTION 27-65-103, C.R.S., disclosure
9 shall be made to the child. If the client is a child whose parent or legal
10 guardian is consenting to mental health services, disclosure shall be made
11 to the parent or legal guardian.

12 (4) The disclosure of information required by subsection (1) of
13 this section is not required when psychotherapy is being administered in
14 any of the following circumstances:

15 (b) Pursuant to a court order or involuntary procedures pursuant
16 to ~~sections 27-10-105 to 27-10-109~~ SECTIONS 27-65-105 TO 27-65-109,
17 C.R.S.;

18 **SECTION 12.** 12-43-215 (8), Colorado Revised Statutes, is
19 amended to read:

20 **12-43-215. Scope of article - exemptions.** (8) The provisions of
21 section 12-43-702.5 shall not apply to employees of community mental
22 health centers or clinics as those centers or clinics are defined by ~~section~~
23 ~~27-1-201~~ SECTION 27-66-101, C.R.S., but such persons practicing outside
24 the scope of employment as employees of a facility defined by ~~section~~
25 ~~27-1-201~~ SECTION 27-66-101, C.R.S., shall be subject to the provisions
26 of section 12-43-702.5.

27 **SECTION 13.** 12-43-803 (1) and (3), Colorado Revised Statutes,

1 are amended to read:

2 **12-43-803. Licensure or certification of addiction counselors**
3 **- authority of director - rules.** (1) The director is authorized to certify
4 and discipline certified or licensed addiction counselors. The division of
5 alcohol and drug abuse in the department of human services shall exercise
6 all other rights, powers, duties, functions, and obligations vested in those
7 entities concerning certified or licensed addiction counselors pursuant to
8 ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S.

9 (3) In addition to addiction counselors specifically authorized to
10 be certified or licensed for approved programs pursuant to ~~part 2 of article~~
11 ~~1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., the director may certify or
12 license addiction counselors, upon individual application, in any alcohol
13 or drug abuse treatment program required as a condition of probation
14 under part 2 of article 1.3 of title 18, C.R.S., any alcohol or drug abuse
15 program administered by the division of adult services under part 1 of
16 article 2 of title 17, C.R.S., any community corrections facility or program
17 administered under article 27 of title 17, C.R.S., and any alcohol or drug
18 abuse treatment program administered by the division of youth
19 corrections under title 19, C.R.S.

20 **SECTION 14.** 12-64-111 (1) (w), Colorado Revised Statutes, is
21 amended to read:

22 **12-64-111. Discipline of licensees.** (1) Upon signed complaint
23 by any complainant or upon its own motion, the board may proceed to a
24 hearing in conformity with section 12-64-112. After a hearing, and by a
25 concurrence of a majority of members, the board may revoke or suspend
26 the license of, place on probation, or otherwise discipline or fine, any
27 licensed veterinarian for any of the following reasons:

1 (w) A determination that he OR SHE is mentally incompetent by a
2 court of competent jurisdiction and such court has entered, pursuant to
3 part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109 (4) or~~
4 ~~27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order
5 specifically finding that the mental incompetency is of such a degree that
6 he OR SHE is incapable of continuing to practice veterinary medicine;

7 **SECTION 15.** 13-5-142 (1) (b), (1) (c), (3) (b) (II), and (3) (b)
8 (III), Colorado Revised Statutes, are amended to read:

9 **13-5-142. National instant criminal background check system**
10 **- reporting.** (1) Beginning July 1, 2002, the clerk of the court of every
11 judicial district in the state shall periodically report the following
12 information to the national instant criminal background check system
13 created by the federal "Brady Handgun Violence Prevention Act" (Pub.L.
14 103-159), the relevant portion of which is codified at 18 U.S.C. sec. 922
15 (t):

16 (b) The name of each person who has been committed by order of
17 the court to the custody of the division of alcohol and drug abuse in the
18 department of human services pursuant to ~~section 25-1-311 or 25-1-1107~~
19 SECTION 27-81-112 OR 27-82-108, C.R.S.; and

20 (c) The name of each person with respect to whom the court has
21 entered an order for involuntary certification for short-term treatment of
22 mental illness pursuant to ~~section 27-10-107~~ SECTION 27-65-107, C.R.S.,
23 for extended certification for treatment of mental illness pursuant to
24 ~~section 27-10-108~~ SECTION 27-65-108, C.R.S., or for long-term care and
25 treatment of mental illness pursuant to ~~section 27-10-109~~ SECTION
26 27-65-109, C.R.S.

27 (3) The clerk of the court of every judicial district in the state shall

1 take all necessary steps to cancel a record made by that clerk in the
2 national instant criminal background check system if:

3 (b) No less than three years before the date of the written request:

4 (II) The period of commitment of the most recent order of
5 commitment or recommitment expired, or the court entered an order
6 terminating the person's incapacity or discharging the person from
7 commitment in the nature of habeas corpus, if the record in the national
8 instant criminal background check system is based on an order of
9 commitment to the custody of the division of alcohol and drug abuse;
10 except that the clerk shall not cancel any record pertaining to a person
11 with respect to whom two recommitment orders have been entered under
12 ~~section 25-1-311 (5) and (6)~~ SECTION 27-81-112 (7) AND (8), C.R.S., or
13 who was discharged from treatment under ~~section 25-1-311 (9)~~ SECTION
14 27-81-112 (11), C.R.S., on the grounds that further treatment will not be
15 likely to bring about significant improvement in the person's condition;
16 or

17 (III) The record in the case was sealed pursuant to ~~section~~
18 ~~27-10-107 (7)~~ SECTION 27-65-107 (7), C.R.S., or the court entered an
19 order discharging the person from commitment in the nature of habeas
20 corpus pursuant to ~~section 27-10-113~~ SECTION 27-65-113, C.R.S., if the
21 record in the national instant criminal background check system is based
22 on a court order for involuntary certification for short-term treatment of
23 mental illness.

24 **SECTION 16.** 13-9-123 (1) (b), (1) (c), (3) (b) (II), and (3) (b)
25 (III), Colorado Revised Statutes, are amended to read:

26 **13-9-123. National instant criminal background check system**
27 **- reporting.** (1) Beginning July 1, 2002, the clerk of the probate court

1 shall periodically report the following information to the national instant
2 criminal background check system created by the federal "Brady
3 Handgun Violence Prevention Act", Pub.L. 103-159, the relevant portion
4 of which is codified at 18 U.S.C. sec. 922 (t):

5 (b) The name of each person who has been committed by order of
6 the court to the custody of the division of alcohol and drug abuse in the
7 department of human services pursuant to ~~section 25-1-311 or 25-1-1107~~
8 SECTION 27-81-112 OR 27-82-108, C.R.S.; and

9 (c) The name of each person with respect to whom the court has
10 entered an order for involuntary certification for short-term treatment of
11 mental illness pursuant to ~~section 27-10-107~~ SECTION 27-65-107, C.R.S.,
12 for extended certification for treatment of mental illness pursuant to
13 ~~section 27-10-108~~ SECTION 27-65-108, C.R.S., or for long-term care and
14 treatment of mental illness pursuant to ~~section 27-10-109~~ SECTION
15 27-65-109, C.R.S.

16 (3) The clerk of the probate court shall take all necessary steps to
17 cancel a record made by that clerk in the national instant criminal
18 background check system if:

19 (b) No less than three years before the date of the written request:

20 (II) The period of commitment of the most recent order of
21 commitment or recommitment expired, or the court entered an order
22 terminating the person's incapacity or discharging the person from
23 commitment in the nature of habeas corpus, if the record in the national
24 instant criminal background check system is based on an order of
25 commitment to the custody of the division of alcohol and drug abuse;
26 except that the clerk shall not cancel any record pertaining to a person
27 with respect to whom two recommitment orders have been entered under

1 ~~section 25-1-311 (5) and (6)~~ SECTION 27-81-112 (7) AND (8), C.R.S., or
2 who was discharged from treatment under ~~section 25-1-311 (9)~~ SECTION
3 27-81-112 (11), C.R.S., on the grounds that further treatment will not be
4 likely to bring about significant improvement in the person's condition;
5 or

6 (III) The record in the case was sealed pursuant to ~~section~~
7 ~~27-10-107 (7)~~ SECTION 27-65-107 (7), C.R.S., or the court entered an
8 order discharging the person from commitment in the nature of habeas
9 corpus pursuant to ~~section 27-10-113~~ SECTION 27-65-113, C.R.S., if the
10 record in the national instant criminal background check system is based
11 on a court order for involuntary certification for short-term treatment of
12 mental illness.

13 **SECTION 17.** 13-20-401 (2), Colorado Revised Statutes, is
14 amended to read:

15 **13-20-401. Definitions.** As used in this part 4, unless the context
16 otherwise requires:

17 (2) "Patient" means the person upon whom a proposed
18 electroconvulsive treatment is to be performed; except that nothing in this
19 part 4 shall be construed to supersede the provisions of ~~article 10~~ ARTICLE
20 65 of title 27, C.R.S., or any rule or regulation adopted by the department
21 of human services pursuant to ~~section 27-10-116 (2)~~ SECTION 27-65-116
22 (2), C.R.S., with regard to the care and treatment of any person unable to
23 exercise written informed consent or of a person with a mental illness.

24 **SECTION 18.** 13-90-107 (1) (m) (IV) (C) and (1) (m) (IV) (D),
25 Colorado Revised Statutes, are amended to read:

26 **13-90-107. Who may not testify without consent.** (1) There are
27 particular relations in which it is the policy of the law to encourage

1 confidence and to preserve it inviolate; therefore, a person shall not be
2 examined as a witness in the following cases:

3 (m) (IV) This paragraph (m) shall not apply in cases in which:

4 (C) Due to alcohol or other substance intoxication or abuse, as
5 described in ~~sections 25-1-310 and 25-1-1106~~ SECTIONS 27-81-111 AND
6 27-82-107, C.R.S., the person receiving peer support is a clear and
7 immediate danger to the person's self or others;

8 (D) There is reasonable cause to believe that the person receiving
9 peer support has a mental illness and, due to the mental illness, is an
10 imminent threat to himself or herself or others or is gravely disabled as
11 defined in ~~section 27-10-102~~ SECTION 27-65-102, C.R.S.; or

12 **SECTION 19.** 15-14-316 (4), Colorado Revised Statutes, is
13 amended to read:

14 **15-14-316. Rights and immunities of guardian - limitations.**

15 (4) A guardian may not initiate the commitment of a ward to a mental
16 health-care institution or facility except in accordance with the state's
17 procedure for involuntary civil commitment. To obtain hospital or
18 institutional care and treatment for mental illness of a ward, a guardian
19 shall proceed as provided under ~~article 10~~ ARTICLE 65 of title 27, C.R.S.
20 To obtain care and treatment from an approved service agency as defined
21 in section 27-10.5-102, C.R.S., for a ward with developmental
22 disabilities, a guardian shall proceed under article 10.5 of title 27, C.R.S.
23 To obtain care and treatment for alcoholism or substance abuse, a
24 guardian shall proceed as provided under ~~part 2 of article 1~~ of title 25
25 ARTICLE 80 OF TITLE 27, C.R.S. No guardian shall have the authority to
26 consent to any such care or treatment against the will of the ward.

27 **SECTION 20.** 15-14-506 (4) (b), Colorado Revised Statutes, is

1 amended to read:

2 **15-14-506. Medical durable power of attorney.** (4) (b) Nothing
3 in this article shall be construed to supersede any provision of article 1 of
4 title 25, C.R.S., ~~article 10 of title 27, C.R.S.,~~ or article 10.5 OR ARTICLE
5 65 of title 27, C.R.S.

6 **SECTION 21.** 16-8-103 (3), Colorado Revised Statutes, is
7 amended to read:

8 **16-8-103. Pleading insanity as a defense.** (3) If there has been
9 no grand jury indictment or preliminary hearing prior to the entry of the
10 plea of not guilty by reason of insanity, the court shall hold a preliminary
11 hearing prior to the trial of the insanity issue. If probable cause is not
12 established, the case shall be dismissed, but the court may order the
13 district attorney to institute civil proceedings pursuant to ~~article 10~~
14 ARTICLE 65 of title 27, C.R.S., if it appears that the protection of the
15 public or the accused requires it.

16 **SECTION 22.** 16-8.5-116 (2) (c), Colorado Revised Statutes, is
17 amended to read:

18 **16-8.5-116. Commitment - termination of proceedings.**
19 (2) The court shall review the case of a defendant committed or confined
20 as incompetent to proceed at least every three months with regard to the
21 probability that the defendant will eventually be restored to competency
22 and with regard to the justification for continued commitment or
23 confinement. The review may be held in conjunction with a restoration
24 hearing under section 16-8.5-113. Prior to each review, the institution
25 treating the defendant shall provide the court with a report regarding the
26 competency of the defendant. If, on the basis of the available evidence,
27 not including evidence resulting from a refusal by the defendant to accept

1 treatment, there is a substantial probability that the defendant will not be
2 restored to competency within the foreseeable future, the court may order
3 the release of the defendant from commitment under this article through
4 one or more of the following means:

5 (c) The court or a party may commence civil proceedings under
6 the provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S., if the defendant
7 meets the requirements for commitment pursuant to said ~~article 10~~
8 ARTICLE 65; or

9 **SECTION 23.** 16-13-701 (4), Colorado Revised Statutes, is
10 amended to read:

11 **16-13-701. Reporting of forfeited property.** (4) The alcohol
12 and drug abuse division in the department of human services shall prepare
13 an annual accounting report of moneys received by the managed service
14 organization pursuant to section 16-13-311 (3) (a) (VII) (B), including
15 revenues, expenditures, beginning and ending balances, and services
16 provided. The alcohol and drug abuse division shall provide this
17 information in its annual report pursuant to ~~section 25-1-210~~ SECTION
18 27-80-110, C.R.S.

19 **SECTION 24.** 17-2-201 (5.7) (a), Colorado Revised Statutes, is
20 amended to read:

21 **17-2-201. State board of parole.** (5.7) If, as a condition of
22 parole, an offender is required to undergo counseling or treatment, unless
23 the parole board determines that treatment at another facility or with
24 another person is warranted, such treatment or counseling shall be at a
25 facility or with a person:

26 (a) Approved by the division of alcohol and drug abuse
27 established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27,

1 C.R.S., if the treatment is for alcohol or drug abuse;

2 **SECTION 25.** 17-2-209, Colorado Revised Statutes, is amended
3 to read:

4 **17-2-209. Civil proceedings - inmate subject to parole.** When
5 an inmate has met all of the requirements to be eligible for parole, but the
6 board has reason to believe that the offender may have a mental illness
7 pursuant to ~~article 10~~ ARTICLE 65 of title 27, C.R.S., the board shall
8 initiate civil proceedings pursuant to article 23 of this title and ~~articles 10~~
9 ~~to 15~~ ARTICLES 10.5, 11, 14, 65, 67, 92, 93, AND 94 of title 27, C.R.S.

10 **SECTION 26.** 17-27.1-101 (5) (a) (I), Colorado Revised Statutes,
11 is amended to read:

12 **17-27.1-101. Nongovernmental facilities for offenders -**
13 **registration - notifications - penalties.** (5) No private treatment
14 program in Colorado shall admit or accept a supervised or unsupervised
15 person into the program unless that program:

16 (a) Is registered with the administrator of the interstate compact,
17 and, if the person is a supervised person, the private treatment program
18 is:

19 (I) Approved by the division of alcohol and drug abuse
20 established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27,
21 C.R.S., if the program provides alcohol or drug abuse treatment;

22 **SECTION 27.** 17-27.9-102 (1), Colorado Revised Statutes, is
23 amended to read:

24 **17-27.9-102. Specialized restitution and community service**
25 **programs - contract with treatment providers - division of criminal**
26 **justice.** (1) The director of the division of criminal justice of the
27 department of public safety may, pursuant to section 17-27-108, contract

1 with one or more public or private providers or community corrections
2 boards, as defined in section 17-27-102 (2), who operate restitution and
3 community service facilities, to provide specialized restitution and
4 community service programs that meet the requirements of this section.
5 As used in this article, such providers shall be referred to as "providers".
6 The provision of any substance abuse treatment shall be by an entity
7 approved by the division of alcohol and drug abuse in the department of
8 human services pursuant to ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF
9 TITLE 27, C.R.S.

10 **SECTION 28.** 18-1.3-204 (2) (a) (II) and (2) (c) (I), Colorado
11 Revised Statutes, are amended to read:

12 **18-1.3-204. Conditions of probation.** (2) (a) When granting
13 probation, the court may, as a condition of probation, require that the
14 defendant:

15 (II) Undergo available medical or psychiatric treatment and
16 remain in a specified institution if required for that purpose. In any case
17 where inpatient psychiatric treatment is indicated, the court shall proceed
18 in accordance with ~~article 10~~ ARTICLE 65 of title 27, C.R.S., and require
19 the defendant to comply with the recommendation of the professional
20 person in charge of the evaluation required pursuant to ~~section 27-10-105~~
21 ~~or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S.

22 (c) If the court orders counseling or treatment as a condition of
23 probation, unless the court makes a specific finding that treatment in
24 another facility or with another person is warranted, the court shall order
25 that such treatment or counseling be at a facility or with a person:

26 (I) Approved by the division of alcohol and drug abuse
27 established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27,

1 C.R.S., if the treatment is for alcohol or drug abuse;

2 **SECTION 29.** 18-1.3-210(1) and (2), Colorado Revised Statutes,
3 are amended to read:

4 **18-1.3-210. Counseling or treatment for alcohol or drug abuse.**

5 (1) In any case in which treatment or counseling for alcohol or drug
6 abuse is authorized in connection with a deferred prosecution, deferred
7 judgment and sentence, or probation, the court may require the defendant
8 to obtain counseling or treatment for the condition. If the court orders the
9 counseling or treatment, the court shall order that the counseling or
10 treatment be obtained from a treatment facility or person approved by the
11 division of alcohol and drug abuse, established in ~~part 2 of article 1 of~~
12 ~~title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., unless the court makes a finding
13 that counseling or treatment in another facility or with another person is
14 warranted. If the defendant voluntarily submits himself or herself for
15 such treatment or counseling, the district attorney and the court may
16 consider his or her willingness to correct his or her condition as a basis
17 for granting deferred prosecution or deferred judgment and sentence.

18 (2) Notwithstanding the provisions of subsection (1) of this
19 section, in any case in which treatment or counseling for alcohol or drug
20 abuse is authorized and ordered by the court in connection with a deferred
21 prosecution, deferred judgment and sentence, or probation for an offense
22 involving unlawful sexual behavior, as defined in section 16-22-102 (9),
23 C.R.S., the court shall order that the counseling or treatment be obtained
24 from a treatment facility or person approved by the division of alcohol
25 and drug abuse, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF
26 TITLE 27, C.R.S.

27 **SECTION 30.** 18-1.3-211 (1) and (2), Colorado Revised Statutes,

1 are amended to read:

2 **18-1.3-211. Sentencing of felons - parole of felons - treatment**
3 **and testing based upon assessment required.** (1) Each person
4 sentenced by the court for a felony committed on or after July 1, 1992,
5 shall be required, as a part of any sentence to probation, community
6 corrections, or incarceration with the department of corrections, to
7 undergo periodic testing and treatment for substance abuse that is
8 appropriate to such felon based upon the recommendations of the
9 assessment made pursuant to section 18-1.3-209, or based upon any
10 subsequent recommendations by the department of corrections, the
11 judicial department, or the division of criminal justice of the department
12 of public safety, whichever is appropriate. Any such testing or treatment
13 shall be at a facility or with a person approved by the division of alcohol
14 and drug abuse, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF
15 TITLE 27, C.R.S., and at such felon's own expense, unless such felon is
16 indigent.

17 (2) Each person placed on parole by the state board of parole on
18 or after July 1, 1992, shall be required, as a condition of such parole, to
19 undergo periodic testing and treatment for substance abuse that is
20 appropriate to such parolee based upon the recommendations of the
21 assessment made pursuant to section 18-1.3-209 or any assessment or
22 subsequent reassessment made regarding such parolee during his or her
23 incarceration or any period of parole. Any such testing or treatment shall
24 be at a facility or with a person approved by the division of alcohol and
25 drug abuse, established in ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF
26 TITLE 27, C.R.S., and at such parolee's own expense, unless such parolee
27 is indigent.

1 **SECTION 31.** 18-6.5-102 (3) (e), Colorado Revised Statutes, is
2 amended to read:

3 **18-6.5-102. Definitions.** As used in this article, unless the context
4 otherwise requires:

5 (3) A "person with a disability" means any person who:

6 (e) Is a person with a mental illness as the term is defined in
7 ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S.; or

8 **SECTION 32.** 18-12-202 (3) (a) and (3) (b) (I), Colorado Revised
9 Statutes, are amended to read:

10 **18-12-202. Definitions.** As used in this part 2, unless the context
11 otherwise requires:

12 (3) "Chronically and habitually uses alcoholic beverages to the
13 extent that the applicant's normal faculties are impaired" means:

14 (a) The applicant has at any time been committed as an alcoholic
15 pursuant to ~~section 25-1-310 or 25-1-311~~ SECTION 27-81-111 OR
16 27-81-112, C.R.S.; or

17 (b) Within the ten-year period immediately preceding the date on
18 which the permit application is submitted, the applicant:

19 (I) Has been committed as an alcoholic pursuant to ~~section~~
20 ~~25-1-308 or 25-1-309~~ SECTION 27-81-109 OR 27-81-110, C.R.S.; or

21 **SECTION 33.** 18-13-119 (5) (a), Colorado Revised Statutes, is
22 amended to read:

23 **18-13-119. Health care providers - abuse of health insurance.**

24 (5) (a) Reimbursements made pursuant to articles 4 and 15 of title 26,
25 C.R.S., federal medicare laws for inpatient hospitalization, and mental
26 health services purchased in accordance with ~~part 2 of article 4~~ ARTICLE
27 66 of title 27, C.R.S., are exempt from the provisions of this section.

1 **SECTION 34.** 18-13-122 (16) (b), Colorado Revised Statutes, is
2 amended to read:

3 **18-13-122. Illegal possession or consumption of ethyl alcohol**
4 **by an underage person - definitions - adolescent substance abuse**
5 **prevention and treatment fund - legislative declaration.** (16) (b) The
6 surcharge collected pursuant to subparagraph (IV) of paragraph (b) of
7 subsection (2) of this section shall be transmitted to the state treasurer,
8 who shall credit the same to the adolescent substance abuse prevention
9 and treatment fund, which fund is hereby created and referred to in this
10 section as the "fund". The moneys in the fund shall be subject to annual
11 appropriation by the general assembly to the division of alcohol and drug
12 abuse in the department of human services, established in ~~part 2 of article~~
13 ~~1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S., for adolescent substance
14 abuse prevention and treatment programs. The division of alcohol and
15 drug abuse is authorized to seek and accept gifts, grants, or donations
16 from private or public sources for the purposes of this section. All private
17 and public funds received through gifts, grants, or donations shall be
18 transmitted to the state treasurer, who shall credit the same to the fund.
19 Any unexpended moneys in the fund may be invested by the state
20 treasurer as provided by law. All interest and income derived from the
21 investment and deposit of moneys in the fund shall be credited to the
22 fund. Any unexpended and unencumbered moneys remaining in the fund
23 at the end of a fiscal year shall remain in the fund and shall not be
24 credited or transferred to the general fund or another fund.

25 **SECTION 35.** 18-19-103.5 (2) (b) and (4), Colorado Revised
26 Statutes, are amended to read:

27 **18-19-103.5. Rural alcohol and substance abuse surcharge -**

1 **repeal.** (2) The clerk of the court shall disburse the surcharge required
2 by subsection (1) of this section as follows:

3 (b) Ninety-five percent shall be disbursed to the state treasurer
4 who shall credit the same to the rural alcohol and substance abuse cash
5 fund created in ~~section 25-1-217 (3)~~ SECTION 27-80-117 (3), C.R.S.

6 (4) This section is repealed, effective July 1, 2016, unless the
7 general assembly extends the repeal of the rural alcohol and substance
8 abuse prevention and treatment program created in ~~section 25-1-217~~
9 SECTION 27-80-117, C.R.S.

10 **SECTION 36.** 19-1-103 (76), Colorado Revised Statutes, is
11 amended to read:

12 **19-1-103. Definitions.** As used in this title or in the specified
13 portion of this title, unless the context otherwise requires:

14 (76) "Mental health hospital placement prescreening" means a
15 face-to-face mental health examination, conducted by a mental health
16 professional, to determine whether a child should be placed in a facility
17 for evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION
18 27-65-105 OR 27-65-106, C.R.S., and may include consultation with other
19 mental health professionals and review of all available records on the
20 child.

21 **SECTION 37.** 19-1-115 (8) (a), Colorado Revised Statutes, is
22 amended to read:

23 **19-1-115. Legal custody - guardianship - placement out of the**
24 **home - petition for review for need of placement.** (8) (a) Whenever
25 it appears necessary that the placement of a child out of the home will be
26 for longer than ninety days, the placement is voluntary and not
27 court-ordered, and the placement involves the direct expenditure of funds

1 appropriated by the general assembly to the department of human
2 services, a petition for review of need for placement shall be filed by the
3 department or agency with which the child has been placed before the
4 expiration of ninety days in the placement. A decree providing for
5 voluntary placement of a child with an agency in which public moneys
6 are expended shall be renewable in circumstances where there is
7 documentation that the child has an emotional, a physical, or an
8 intellectual disability that necessitates care and treatment for a longer
9 duration than ninety days as provided pursuant to this paragraph (a). The
10 court shall not transfer or require relinquishment of legal custody of, or
11 otherwise terminate the parental rights with respect to, a child who has an
12 emotional, a physical, or an intellectual disability and who was
13 voluntarily placed out of the home for the purposes of obtaining special
14 treatment or care solely because the parent or legal guardian is unable to
15 provide the treatment or care. Whenever a child fifteen years of age or
16 older consents to placement in a mental health facility pursuant to ~~section~~
17 ~~27-10-103~~ SECTION 27-65-103, C.R.S., the review under ~~section~~
18 ~~27-10-103(3.3)~~ SECTION 27-65-103 (5), C.R.S., shall be conducted in lieu
19 of and shall fulfill the requirements for review under this paragraph (a).

20 **SECTION 38.** 19-2-508 (3) (b), Colorado Revised Statutes, is
21 amended to read:

22 **19-2-508. Detention and shelter - hearing - time limits -**
23 **findings - review - confinement with adult offenders - restrictions -**
24 **repeal.** (3) (b) (I) If it appears that any juvenile being held in detention
25 or shelter may be developmentally disabled, as provided in article 10.5 of
26 title 27, C.R.S., the court or detention personnel shall refer the juvenile
27 to the nearest community centered board for an eligibility determination.

1 If it appears that any juvenile being held in a detention or shelter facility
2 pursuant to the provisions of this article may have a mental illness, as
3 provided in ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND
4 27-65-106, C.R.S., the intake personnel or other appropriate personnel
5 shall contact a mental health professional to do a mental health hospital
6 placement prescreening on the juvenile. The court shall be notified of the
7 contact and may take appropriate action. If a mental health hospital
8 placement prescreening is requested, it shall be conducted in an
9 appropriate place accessible to the juvenile and the mental health
10 professional. A request for a mental health hospital placement
11 prescreening shall not extend the time within which a detention hearing
12 shall be held pursuant to this section. If a detention hearing has been set
13 but has not yet occurred, the mental health hospital placement
14 prescreening shall be conducted prior to the hearing; except that the
15 prescreening shall not extend the time within which a detention hearing
16 shall be held.

17 (II) If a juvenile has been ordered detained pending an
18 adjudication, disposition, or other court hearing and the juvenile
19 subsequently appears to have a mental illness, as provided in ~~section~~
20 ~~27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106, C.R.S., the
21 intake personnel or other appropriate personnel shall contact the court
22 with a recommendation for a mental health hospital placement
23 prescreening. A mental health hospital placement prescreening shall be
24 conducted at any appropriate place accessible to the juvenile and the
25 mental health professional within twenty-four hours of the request,
26 excluding Saturdays, Sundays, and legal holidays.

27 (III) When the mental health professional finds, as a result of the

1 prescreening, that the juvenile may have a mental illness, the mental
2 health professional shall recommend to the court that the juvenile be
3 evaluated pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105
4 OR 27-65-106, C.R.S.

5 (IV) Nothing in this paragraph (b) shall be construed to preclude
6 the use of emergency procedures pursuant to ~~section 27-10-105 (1)~~
7 SECTION 27-65-105 (1), C.R.S.

8 **SECTION 39.** 19-2-916 (1), Colorado Revised Statutes, is
9 amended to read:

10 **19-2-916. Sentencing - placement based on special needs of the**
11 **juvenile.** (1) Except as otherwise provided in section 19-2-601 for an
12 aggravated juvenile offender, the court may order that the juvenile be
13 examined or treated by a physician, surgeon, psychiatrist, or psychologist
14 or that he or she receive other special care and may place the juvenile in
15 a hospital or other suitable facility for such purposes; except that no
16 juvenile may be placed in a mental health facility operated by the
17 department of human services until the juvenile has received a mental
18 health hospital placement prescreening resulting in a recommendation
19 that the juvenile be placed in a facility for an evaluation pursuant to
20 ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR 27-65-106,
21 C.R.S., or a hearing has been held by the court after notice to all parties,
22 including the department of human services. No order for a
23 seventy-two-hour treatment and evaluation shall be entered unless a
24 hearing is held and evidence indicates that the prescreening report is
25 inadequate, incomplete, or incorrect and that competent professional
26 evidence is presented by a mental health professional that indicates that
27 mental illness is present in the juvenile. The court shall make, prior to the

1 hearing, such orders regarding temporary custody of the juvenile as are
2 deemed appropriate.

3 **SECTION 40.** 19-2-922 (3) (b) (III), Colorado Revised Statutes,
4 is amended to read:

5 **19-2-922. Juveniles committed to department of human**
6 **services - evaluation and placement.** (3) (b) (III) If the evaluation
7 report states that the juvenile has a mental illness, as provided in ~~sections~~
8 ~~27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S.,
9 the department of human services shall initiate proceedings under ~~article~~
10 ~~10~~ ARTICLE 65 of title 27, C.R.S., and notify the court thereof.

11 **SECTION 41.** 19-2-923 (3) (a) and (3) (d), Colorado Revised
12 Statutes, are amended to read:

13 **19-2-923. Juveniles committed to department of human**
14 **services - transfers.** (3) (a) Any juvenile committed to the department
15 of human services may be transferred temporarily to any state treatment
16 facility for persons with mental illness or developmental disabilities for
17 purposes of diagnosis, evaluation, and emergency treatment; except that
18 no juvenile may be transferred to a mental health facility until the juvenile
19 has received a mental health hospital placement prescreening resulting in
20 a recommendation that the juvenile be placed in a facility for evaluation
21 pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR
22 27-65-106, C.R.S. No juvenile committed to the department as an
23 aggravated juvenile offender or violent juvenile offender shall be
24 transferred until the treatment facility has a secure setting in which to
25 house the juvenile. The period of temporary transfer pursuant to this
26 paragraph (a) shall not exceed sixty days.

27 (d) When a juvenile is in continued transferred placement and the

1 treatment facility and the sending facility agree that the need for
2 placement of the juvenile is likely to continue beyond the original period
3 of commitment to the department of human services, the treatment facility
4 shall initiate proceedings with the court having jurisdiction over the
5 juvenile under ~~article 10~~ ARTICLE 65 of title 27, C.R.S., if the juvenile has
6 a mental illness or under article 10.5 of title 27, C.R.S., if the juvenile has
7 developmental disabilities.

8 **SECTION 42.** 19-3-308 (1.5) (b), Colorado Revised Statutes, is
9 amended to read:

10 **19-3-308. Action upon report of intrafamilial, institutional, or**
11 **third-party abuse - child protection team - rules.** (1.5) (b) If, during
12 the investigation and assessment process, the county department
13 determines that the family's issues may be attributable to the child's
14 mental health status, rather than dependency or neglect issues, and that
15 mental health treatment services pursuant to ~~section 27-10.3-104~~ SECTION
16 27-67-104, C.R.S., may be more appropriate, the county department shall
17 contact the mental health agency, as that term is defined in ~~section~~
18 ~~27-10.3-103~~(4) SECTION 27-67-103 (6), C.R.S. Within ten days after the
19 commencement of the investigation, the county department shall meet
20 with a representative from the mental health agency and the family. The
21 county department, in conjunction with the mental health agency, shall
22 jointly determine whether mental health services should be provided
23 pursuant to ~~section 27-10.3-104~~ SECTION 27-67-104, C.R.S., or whether
24 the provision of services through the county department is more
25 appropriate.

26 **SECTION 43.** 19-3-401 (3) (c) (II) and (3) (c) (III), Colorado
27 Revised Statutes, are amended to read:

1 **19-3-401. Taking children into custody.** (3) (c) The court
2 orders required by paragraphs (a) and (b) of this subsection (3) shall not
3 be required in the following circumstances:

4 (II) When the newborn child's only identifiable birth parent has
5 been determined by a physician, registered nurse, or qualified mental
6 health professional to meet the criteria specified in ~~section 27-10-105~~
7 SECTION 27-65-105, C.R.S., for custody, treatment, and evaluation of
8 mental illness or grave disability;

9 (III) When both of the newborn child's birth parents have been
10 determined by a physician, registered nurse, or qualified mental health
11 professional to meet the criteria specified in ~~section 27-10-105~~ SECTION
12 27-65-105, C.R.S., for custody, treatment, and evaluation of mental
13 illness or grave disability; or

14 **SECTION 44.** 19-3-403 (4), Colorado Revised Statutes, is
15 amended to read:

16 **19-3-403. Temporary custody - hearing - time limits -**
17 **restriction - rules.** (4) (a) If it appears that any child being held in a
18 shelter facility may be developmentally disabled, as provided in article
19 10.5 of title 27, C.R.S., the court shall refer the child to the nearest
20 community centered board for an eligibility determination. If it appears
21 that any child being held in a shelter facility pursuant to the provisions of
22 this article may have a mental illness, as provided in ~~sections 27-10-105~~
23 ~~and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the intake
24 personnel or other appropriate personnel shall contact a mental health
25 professional to do a mental health prescreening on the child. The court
26 shall be notified of the contact and may take appropriate action. If a
27 mental health prescreening is requested, it shall be conducted in an

1 appropriate place accessible to the child and the mental health
2 professional. A request for a mental health prescreening shall not extend
3 the time within which a hearing shall be held pursuant to this section. If
4 a hearing has been set but has not yet occurred, the mental health
5 prescreening shall be conducted prior to the hearing; except that the
6 prescreening shall not extend the time within which a hearing shall be
7 held pursuant to this section.

8 (b) If a child has been ordered detained pending an adjudication,
9 disposition, or other court hearing and the child subsequently appears to
10 have a mental illness, as provided in ~~section 27-10-105 or 27-10-106~~
11 SECTION 27-65-105 OR 27-65-106, C.R.S., the intake personnel or other
12 appropriate personnel shall contact the court with a recommendation for
13 a mental health prescreening. A mental health prescreening shall be
14 conducted at any appropriate place accessible to the child and the mental
15 health professional within twenty-four hours of the request, excluding
16 Saturdays, Sundays, and legal holidays.

17 (c) When the mental health professional finds, as a result of the
18 prescreening, that the child may have a mental illness, the mental health
19 professional shall recommend to the court that the child be evaluated
20 pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR
21 27-65-106, C.R.S., and the court shall proceed as provided in section
22 19-3-506.

23 (d) Nothing in this subsection (4) shall be construed to preclude
24 the use of emergency procedures pursuant to ~~section 27-10-105 (1)~~
25 SECTION 27-65-105, C.R.S.

26 **SECTION 45.** 19-3-506 (1) (b), (1) (c), and (3) (a), Colorado
27 Revised Statutes, are amended to read:

1 **19-3-506. Child with a mental illness or developmental**
2 **disability - procedure.** (1) (b) If it appears from the evidence presented
3 at an adjudicatory hearing or otherwise that a child may have a mental
4 illness, as defined in ~~sections 27-10-105 and 27-10-106~~ SECTIONS
5 27-65-105 AND 27-65-106, C.R.S., and the child has not had a mental
6 health prescreening pursuant to section 19-3-403 (4), the court shall order
7 a prescreening to determine whether the child requires further evaluation.
8 Such prescreening shall be conducted as expeditiously as possible, and a
9 prescreening report shall be provided to the court within twenty-four
10 hours of the prescreening, excluding Saturdays, Sundays, and legal
11 holidays.

12 (c) When the mental health professional finds, based upon a
13 prescreening done pursuant to section 19-3-403 (4) or under this section,
14 that the child may have a mental illness, as defined in ~~sections 27-10-105~~
15 and ~~27-10-106~~ SECTIONS 27-65-105 AND 27-65-106, C.R.S., the court
16 shall review the prescreening report within twenty-four hours, excluding
17 Saturdays, Sundays, and legal holidays, and order the child placed for an
18 evaluation at a facility designated by the executive director of the
19 department of human services for a seventy-two-hour treatment and
20 evaluation pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION
21 27-65-105 OR 27-65-106, C.R.S. On and after January 1, 1986, if the
22 child to be placed is in a detention facility, the designated facility shall
23 admit the child within twenty-four hours after the court orders an
24 evaluation, excluding Saturdays, Sundays, and legal holidays.

25 (3) (a) When the evaluation conducted pursuant to subsection (1)
26 of this section states that the child has a mental illness, as defined in
27 ~~sections 27-10-105 and 27-10-106~~ SECTIONS 27-65-105 AND 27-65-106,

1 C.R.S., the court shall treat the evaluation report as a certification under
2 ~~section 27-10-107~~ SECTION 27-65-107, C.R.S., and shall proceed pursuant
3 to ~~article 10~~ ARTICLE 65 of title 27, C.R.S., assuming all of the powers
4 granted to a court in such proceedings.

5 **SECTION 46.** 19-3-508 (1) (d) (I), Colorado Revised Statutes,
6 is amended to read:

7 **19-3-508. Neglected or dependent child - disposition -**
8 **concurrent planning.** (1) When a child has been adjudicated to be
9 neglected or dependent, the court may enter a decree of disposition the
10 same day, but in any event it shall do so within forty-five days unless the
11 court finds that the best interests of the child will be served by granting
12 a delay. In a county designated pursuant to section 19-1-123, if the child
13 is under six years of age at the time a petition is filed in accordance with
14 section 19-3-501 (2), the court shall enter a decree of disposition within
15 thirty days after the adjudication and shall not grant a delay unless good
16 cause is shown and unless the court finds that the best interests of the
17 child will be served by granting the delay. It is the intent of the general
18 assembly that the dispositional hearing be held on the same day as the
19 adjudicatory hearing, whenever possible. If a delay is granted, the court
20 shall set forth the reasons why a delay is necessary and the minimum
21 amount of time needed to resolve the reasons for the delay and shall
22 schedule the hearing at the earliest possible time following the delay.
23 When the proposed disposition is termination of the parent-child legal
24 relationship, the hearing on termination shall not be held on the same date
25 as the adjudication, and the time limits set forth above for dispositional
26 hearings shall not apply. When the proposed disposition is termination
27 of the parent-child legal relationship, the court may continue the

1 dispositional hearing to the earliest available date for a hearing in
2 accordance with the provisions of paragraph (a) of subsection (3) of this
3 section and part 6 of this article. When the decree does not terminate the
4 parent-child legal relationship, the court shall approve an appropriate
5 treatment plan that shall include but not be limited to one or more of the
6 following provisions of paragraphs (a) to (d) of this subsection (1):

7 (d) (I) The court may order that the child be examined or treated
8 by a physician, surgeon, psychiatrist, or psychologist or that he OR SHE
9 receive other special care and may place the child in a hospital or other
10 suitable facility for such purposes; except that no child may be placed in
11 a mental health facility operated by the department of human services
12 until the child has received a mental health prescreening resulting in a
13 recommendation that the child be placed in a facility for evaluation
14 pursuant to ~~section 27-10-105 or 27-10-106~~ SECTION 27-65-105 OR
15 27-65-106, C.R.S., or a hearing has been held by the court after notice to
16 all parties, including the department of human services. No order for a
17 seventy-two-hour treatment and evaluation shall be entered unless a
18 hearing is held and evidence indicates that the prescreening report is
19 inadequate, incomplete, or incorrect and that competent professional
20 evidence is presented by a mental health professional which indicates that
21 mental illness is present in the child. The court shall make, prior to the
22 hearing, such orders regarding temporary custody of the child as are
23 deemed appropriate.

24 **SECTION 47.** 22-31-129 (1) (g), Colorado Revised Statutes, is
25 amended to read:

26 **22-31-129. Vacancies.** (1) A school director office shall be
27 deemed to be vacant upon the occurrence of any one of the following

1 events prior to the expiration of the term of office:

2 (g) If a court of competent jurisdiction determines that the person
3 duly elected or appointed is insane or otherwise mentally incompetent,
4 but only after the right to appeal has been waived or otherwise exhausted,
5 and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or
6 ~~section 27-10-109 (4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127,
7 C.R.S., an order specifically finding that the insanity or mental
8 incompetency is of such a degree that the person is incapable of serving
9 as a school director;

10 **SECTION 48.** 22-60.5-107 (2) (a), Colorado Revised Statutes, is
11 amended to read:

12 **22-60.5-107. Grounds for denying, annulling, suspending, or**
13 **revoking license, certificate, endorsement, or authorization.** (2) Any
14 license, certificate, endorsement, or authorization may be denied,
15 annulled, suspended, or revoked in the manner prescribed in section
16 22-60.5-108, notwithstanding the provisions of subsection (1) of this
17 section:

18 (a) When the holder has been determined to be mentally
19 incompetent by a court of competent jurisdiction and a court has entered,
20 pursuant to part 3 or part 4 of article 14 of title 15 or ~~section 27-10-109~~
21 ~~(4) or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order
22 specifically finding that the mental incompetency is of such a degree that
23 the holder is incapable of continuing to perform his or her job; except that
24 the license, certificate, endorsement, or authorization held by a person
25 who has been determined to be mentally incompetent and for whom such
26 an order has been entered shall be revoked or suspended by operation of
27 law without a hearing, notwithstanding the provisions of section

1 22-60.5-108;

2 **SECTION 49.** 23-19.5-103 (5), Colorado Revised Statutes, is
3 amended to read:

4 **23-19.5-103. Limited implementation - consent to release**
5 **confidential information - policy - revocation.** (5) Notwithstanding the
6 provisions of this article, the release of information concerning a student
7 who is taken into custody or receiving care and treatment under the
8 provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S., shall be governed
9 by the provisions of ~~article 10~~ ARTICLE 65 of title 27, C.R.S.

10 **SECTION 50.** 24-1-120 (6) (d), Colorado Revised Statutes, is
11 amended to read:

12 **24-1-120. Department of human services - creation - repeal.**

13 (6) The department shall consist of the following divisions:

14 (d) The division of alcohol and drug abuse, created pursuant to
15 ~~part 2 of article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S. The division
16 of alcohol and drug abuse and its powers, duties, and functions, including
17 the powers, duties, and functions relating to the alcohol and drug driving
18 safety program specified in section 42-4-1301.3, C.R.S., are transferred
19 by a **type 2** transfer to the department of human services.

20 **SECTION 51.** 24-1.9-102 (1) (a) (VII), Colorado Revised
21 Statutes, is amended to read:

22 **24-1.9-102. Memorandum of understanding - local-level**
23 **interagency oversight groups - individualized service and support**
24 **teams - coordination of services for children and families -**
25 **requirements - waiver.** (1) (a) Local representatives of each of the
26 agencies specified in this paragraph (a) and county departments of social
27 services may enter into memorandums of understanding that are designed

1 to promote a collaborative system of local-level interagency oversight
2 groups and individualized service and support teams to coordinate and
3 manage the provision of services to children and families who would
4 benefit from integrated multi-agency services. The memorandums of
5 understanding entered into pursuant to this subsection (1) shall be
6 between interested county departments of social services and local
7 representatives of each of the following agencies or entities:

8 (VII) A designated managed service organization for the provision
9 of treatment services for alcohol and drug abuse pursuant to ~~section~~
10 ~~25-1-206.5~~ SECTION 27-80-107, C.R.S.; and

11 **SECTION 52.** 24-5-101 (1) (b) (III), Colorado Revised Statutes,
12 is amended to read:

13 **24-5-101. Effect of criminal conviction on employment rights.**

14 (1) (b) This subsection (1) shall not apply to:

15 (III) The employment of personnel in positions involving direct
16 contact with vulnerable persons as specified in ~~section 27-1-110~~ SECTION
17 27-90-111, C.R.S.;

18 **SECTION 53.** 24-33.5-512 (2) (b), Colorado Revised Statutes,
19 is amended to read:

20 **24-33.5-512. Recidivism reduction grant program - creation**
21 **- definitions - repeal.** (2) **Definitions.** As used in this section, unless
22 the context otherwise requires:

23 (b) "Target population" means persons with mental illnesses or
24 co-occurring disorders, as defined in ~~section 26-22-102~~ SECTION
25 27-69-102, C.R.S., who have been involved in the criminal justice
26 system.

27 **SECTION 54.** 24-34-104 (47) (c), Colorado Revised Statutes, is

1 amended to read:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**

4 (47) The following agencies, functions, or both, shall terminate on July
5 1, 2016:

6 (c) The rural alcohol and substance abuse prevention and
7 treatment program created pursuant to ~~section 25-1-217~~ SECTION
8 27-80-117, C.R.S., within the division of alcohol and drug abuse in the
9 department of human services.

10 **SECTION 55.** 24-75-1104.5 (1) (k), (1.5) (a) (II), (1.5) (a) (VIII)
11 (A), and (3), Colorado Revised Statutes, are amended to read:

12 **24-75-1104.5. Use of settlement moneys - programs - repeal.**

13 (1) Except as otherwise provided in subsection (5) of this section, for the
14 2004-05 fiscal year and for each fiscal year thereafter, the following
15 programs, services, or funds shall receive the following specified amounts
16 from the settlement moneys received by the state in the preceding fiscal
17 year; except that fifteen million four hundred thousand dollars of strategic
18 contribution fund moneys and, for the 2010-11 fiscal year and for each
19 fiscal year thereafter only, the lesser of sixty-five million dollars of other
20 settlement moneys or all other settlement moneys shall be allocated in
21 each fiscal year in which they are received by the state and except that, of
22 the other settlement moneys received by the state in the 2009-10 fiscal
23 year, the lesser of sixty-five million dollars or all of such moneys shall be
24 transferred to the general fund on June 30, 2010, and shall not be
25 allocated:

26 (k) Three hundred thousand dollars shall be appropriated, as
27 provided in ~~section 27-10.3-106~~ SECTION 27-67-106, C.R.S., to fund the

1 state's share of the annual funding required for the "Child Mental Health
2 Treatment Act", ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S.

3 (1.5) (a) Except as otherwise provided in subsections (5) and (6)
4 of this section, for the 2007-08 fiscal year and for each fiscal year
5 thereafter, the following programs, services, and funds shall receive the
6 following specified amounts from the portion of any settlement moneys
7 received and allocated by the state in the current fiscal year that remains
8 after the programs, services, and funds receiving such moneys pursuant
9 to subsection (1) of this section have been fully funded, and the portion
10 of all other settlement moneys received by the state in the preceding fiscal
11 year that remains after the programs, services, and funds receiving such
12 other settlement moneys pursuant to subsection (1) of this section have
13 been fully funded and all overexpenditures and supplemental
14 appropriations allowed for the 2006-07, 2007-08, 2008-09, or 2009-10
15 fiscal years pursuant to section 24-22-115 (4) have been made:

16 (II) The offender mental health services fund created in ~~section~~
17 ~~27-1-204 (5.5)~~ SECTION 27-66-104 (4), C.R.S., shall receive twelve
18 percent of the settlement moneys, which the state treasurer shall transfer
19 thereto, for the purchase of mental health services from community
20 mental health centers for juvenile and adult offenders who have mental
21 health problems and are involved in the criminal justice system.

22 (VIII) (A) The division of alcohol and drug abuse in the
23 department of human services shall receive three percent of the settlement
24 moneys, which shall be transferred by the state treasurer to the alcohol
25 and drug abuse community prevention and treatment fund, which is
26 hereby created in the state treasury. Interest and income earned on the
27 deposit and investment of moneys in the fund shall be credited to the fund

1 and shall remain in the fund until the end of the fiscal year in which
2 credited, when it shall be transferred to the short-term innovative health
3 program grant fund created in section 25-36-101 (2), C.R.S., in
4 accordance with paragraph (b) of this subsection (1.5). The principal of
5 the fund shall be subject to annual appropriation by the general assembly
6 to provide or purchase community prevention and treatment services in
7 accordance with ~~section 25-1-206~~ SECTION 27-80-106, C.R.S.; except
8 that, at the end of the 2007-08 fiscal year and at the end of each fiscal
9 year thereafter, all unexpended and unencumbered principal of the fund
10 shall be transferred to the short-term innovative health program grant
11 fund created in section 25-36-101 (2), C.R.S., in accordance with
12 paragraph (b) of this subsection (1.5).

13 (3) Notwithstanding the provisions of subsections (1) and (1.5) of
14 this section, for purposes of ~~sections 22-7-908 (3), 23-20-136 (3.5) (a),~~
15 ~~25-4-1411 (6) (a), 25-4-1415 (2), 25-20.5-201 (2) (c), 25-23-104 (2),~~
16 ~~25-31-107 (2) (d) (I), 25.5-3-207 (3), 25.5-6-805 (2), 25.5-8-105 (3),~~
17 ~~27-10.3-106 (2) (b), and 28-5-709 (2) (a)~~ SECTIONS 22-7-908 (3),
18 23-20-136(3.5) (a), 25-4-1411 (6) (a), 25-4-1415 (2), 25-20.5-201 (2) (c),
19 25-23-104 (2), 25-31-107 (2) (d) (I), 25.5-3-207 (3), 25.5-6-805 (2),
20 25.5-8-105 (3), 27-67-106 (2) (b), AND 28-5-709 (2) (a), C.R.S.,
21 settlement moneys received and allocated by the state pursuant to said
22 subsections (1) and (1.5) during the same fiscal year shall be deemed to
23 be moneys received for or during the preceding fiscal year.

24 **SECTION 56.** 24-110-207.5 (1) (a), Colorado Revised Statutes,
25 is amended to read:

26 **24-110-207.5. Certification of certain entities as local public**
27 **procurement units - rules - report - repeal.** (1) The executive director

1 may certify any of the following entities as a local public procurement
2 unit:

3 (a) Any nonprofit community mental health center, as defined in
4 ~~section 27-1-201~~ SECTION 27-66-101, C.R.S., any nonprofit community
5 mental health clinic, as defined in ~~section 27-1-201~~ SECTION 27-66-101,
6 C.R.S., any nonprofit community centered board, as defined in section
7 27-10.5-102, C.R.S., or any nonprofit service agency, as defined in
8 section 27-10.5-102, C.R.S., if the entity uses the supplies, services, or
9 construction procured for the public mental health system or the public
10 developmentally disabled system;

11 **SECTION 57.** 25-1-1202 (1) (ss), (1) (vv), (1) (iii), and (1) (jjj),
12 Colorado Revised Statutes, are amended to read:

13 **25-1-1202. Index of statutory sections regarding medical**
14 **record confidentiality and health information.** (1) Statutory
15 provisions concerning policies, procedures, and references to the release,
16 sharing, and use of medical records and health information include the
17 following:

18 (ss) ~~Sections 25-1-309 and 25-1-312~~ SECTIONS 27-81-110 AND
19 27-81-113, C.R.S., concerning the treatment of intoxicated persons;

20 (vv) ~~Sections 25-1-1105 and 25-1-1108~~ SECTIONS 27-82-106 AND
21 27-82-109, C.R.S., concerning the treatment of drug abusers;

22 (iii) ~~Section 27-10-103 (2)~~ SECTION 27-65-103 (2), C.R.S.,
23 concerning voluntary applications for mental health services;

24 (jjj) ~~Sections 27-10-120 (1.5) and 27-10-120.5~~ SECTIONS
25 27-65-121 (2) AND 27-65-122, C.R.S., concerning records related to
26 mental health services for minor children;

27 **SECTION 58.** 25-1.5-101 (1) (i) (I), Colorado Revised Statutes,

1 is amended to read:

2 **25-1.5-101. Powers and duties of department.** (1) The
3 department has, in addition to all other powers and duties imposed upon
4 it by law, the powers and duties provided in this section as follows:

5 (i) (I) To establish sanitary standards and make sanitary, sewerage,
6 and health inspections and examinations for charitable, penal, and other
7 public institutions, and, with respect to the state institutions under the
8 department of human services specified in ~~section 27-1-104~~ SECTION
9 27-90-104, C.R.S., or under the department of corrections specified in
10 section 17-1-104.3 (1) (b), C.R.S., such inspections and examinations
11 shall be made at least once each year. Reports on such inspections of
12 institutions under control of the department of human services or the
13 department of corrections shall be made to the executive director of the
14 appropriate department for appropriate action, if any.

15 **SECTION 59.** 25-1.5-103 (3.5) (a) (I), Colorado Revised
16 Statutes, is amended to read:

17 **25-1.5-103. Health facilities - powers and duties of department**
18 **- limitations on rules promulgated by department.** (3.5) (a) (I) The
19 department of public health and environment may establish life safety
20 code and physical plant requirements for an occupancy that is contiguous
21 with an acute treatment unit if the occupancy is operated by the acute
22 treatment unit licensee and the services provided by the occupancy are
23 outpatient services certified in accordance with ~~article 10~~ ARTICLE 65 of
24 title 27, C.R.S., to determine appropriate placement or detoxification
25 services licensed by the department of human services. The services
26 provided by the occupancy shall benefit acute treatment unit clients,
27 although the occupancy may also provide such services to other

1 populations. It shall be at the discretion of the acute treatment unit
2 licensee to either construct the necessary fire safety separations between
3 the occupancy and the acute treatment unit or to assume fiscal and
4 administrative responsibility for assuring that the occupancy meets the
5 life safety code requirements as specified and verified by the department
6 of public health and environment.

7 **SECTION 60.** 25-1.5-301 (2) (g), Colorado Revised Statutes, is
8 amended to read:

9 **25-1.5-301. Definitions.** As used in this part 3, unless the context
10 otherwise requires:

11 (2) "Facility" means:

12 (g) Facilities that provide treatment for persons with mental illness
13 as defined in ~~section 27-10-102 (4.5)~~ SECTION 27-65-102 (7), C.R.S.,
14 except for those facilities which are publicly or privately licensed
15 hospitals;

16 **SECTION 61.** 25-3-102 (2), Colorado Revised Statutes, is
17 amended to read:

18 **25-3-102. License - application - issuance.** (2) In the licensing
19 of a community mental health center, acute treatment unit, or clinic,
20 satisfactory evidence that the applicant is in compliance with the
21 standards, rules, and regulations promulgated pursuant to ~~section~~
22 ~~27-1-202~~ SECTION 27-66-102, C.R.S., shall be required for licensure.

23 **SECTION 62.** 25-3.5-301 (5) (e), Colorado Revised Statutes, is
24 amended to read:

25 **25-3.5-301. License required - exceptions.** (5) The provisions
26 of subsections (1) to (3) of this section shall not apply to the following:

27 (e) Vehicles used solely for the transportation of intoxicated

1 persons or persons incapacitated by alcohol as defined in ~~section~~
2 ~~25-1-302~~ SECTION 27-81-102, C.R.S., but who are not otherwise disabled
3 or seriously injured and who would not be expected to require skilled
4 treatment or care while in the vehicle.

5 **SECTION 63.** 25-36-101 (3) and (7), Colorado Revised Statutes,
6 are amended to read:

7 **25-36-101. Short-term grants for innovative health programs**
8 **- grant fund - creation - appropriation from fund - transfer of**
9 **moneys for fiscal years 2007-08 through 2011-12.** (3) (a) For the
10 2007-08 fiscal year, of the moneys transferred pursuant to sections
11 24-22-115 (1) (b) and 24-75-1104.5 (1.5) (a) (IX) and (1.5) (b), C.R.S.,
12 the lesser of one hundred thirty-four thousand two hundred twelve dollars
13 or thirteen and four-tenths percent of the total amount transferred to the
14 fund shall be appropriated to the division of mental health in the
15 department of human services for implementation of ~~article 22 of title 26~~
16 ARTICLE 69 OF TITLE 27, C.R.S., and the lesser of thirty-eight thousand
17 five hundred three dollars or three and nine-tenths percent of the total
18 amount transferred to the fund shall be appropriated to the division of
19 criminal justice in the department of public safety for implementation of
20 ~~article 22 of title 26~~ ARTICLE 69 OF TITLE 27, C.R.S.

21 (b) For the 2008-09 fiscal year, the 2009-10 fiscal year, and the
22 2010-11 fiscal year, of the moneys transferred pursuant to sections
23 24-22-115 (1) (b) and 24-75-1104.5 (1.5) (a) (IX) and (1.5) (b), C.R.S.,
24 the lesser of one hundred eighty-five thousand seventeen dollars or eight
25 and eight-tenths percent of the total amount transferred to the fund shall
26 be annually appropriated to the division of mental health in the
27 department of human services for implementation of ~~article 22 of title 26~~

1 ARTICLE 69 OF TITLE 27, C.R.S., and the lesser of thirty-six thousand
2 seven hundred dollars or one and seven-tenths percent of the total amount
3 transferred to the fund shall be appropriated to the division of criminal
4 justice in the department of public safety for implementation of ~~article 22~~
5 ~~of title 26~~ ARTICLE 69 OF TITLE 27, C.R.S.

6 (7) Notwithstanding any other provision of this section, for the
7 2007-08, 2008-09 and 2009-10 fiscal years, the state treasurer shall
8 transfer from the short-term innovative health program grant fund to the
9 supplemental tobacco litigation settlement moneys account of the mental
10 health services pilot program fund, created in ~~section 27-1-305 (1)~~
11 SECTION 27-68-105 (1), C.R.S., the lesser of three hundred thousand
12 dollars or thirty percent of the amount allocated to the short-term
13 innovative health program grant fund for the fiscal year pursuant to
14 section 24-75-1104.5 (1.5) (a) (IX), C.R.S., enacted by Senate Bill 07-097
15 at the first regular session of the sixty-sixth general assembly.

16 **SECTION 64.** 25.5-3-110, Colorado Revised Statutes, is
17 amended to read:

18 **25.5-3-110. Effect of part 1.** This part 1 shall not affect the
19 department of human services' responsibilities for the provision of mental
20 health care in accordance with ~~part 2 of article 1~~ ARTICLE 66 of title 27,
21 C.R.S., and this part 1 shall not affect any provisions of article 22 of title
22 23, C.R.S., or any other provisions of law relating to the university of
23 Colorado psychiatric hospital.

24 **SECTION 65.** 25.5-4-103 (3), Colorado Revised Statutes, is
25 amended to read:

26 **25.5-4-103. Definitions.** As used in this article and articles 5 and
27 6 of this title, unless the context otherwise requires:

1 (3) "Case management services" means services provided by
2 community centered boards, as defined by section 27-10.5-102 (3),
3 C.R.S., and community mental health centers and community mental
4 health clinics, as defined by ~~section 27-1-201~~ SECTION 27-66-101, C.R.S.,
5 to assist developmentally disabled persons, as defined by section
6 27-10.5-102 (11), C.R.S., and persons with mental illness, as defined by
7 ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S., by case
8 management agencies, as defined in section 25.5-6-303 (5), providing
9 services, as defined in sections 25.5-6-104 (2) (b) and 25.5-6-303 (6), to
10 elderly, blind, and disabled persons and long-term care clients, in gaining
11 access to needed medical, social, educational, and other services.

12 **SECTION 66.** 25.5-4-406 (1) (a), Colorado Revised Statutes, is
13 amended to read:

14 **25.5-4-406. Rate setting - medicaid residential treatment**
15 **service providers - monitoring and auditing - report.** (1) The state
16 department shall approve a rate-setting process consistent with medicaid
17 requirements for providers of medicaid residential treatment services in
18 the state of Colorado as developed by the department of human services.
19 The rate-setting process developed pursuant to this section may include,
20 but shall not be limited to:

21 (a) A range for reimbursement that represents a base-treatment
22 rate for serving a child who is subject to out-of-home placement due to
23 dependency and neglect, a child placed in a residential child care facility
24 pursuant to the "Child Mental Health Treatment Act", ~~article 10.3~~
25 ARTICLE 67 of title 27, C.R.S., or a child who has been adjudicated a
26 delinquent, which includes a defined service package to meet the needs
27 of the child;

1 **SECTION 67.** 25.5-5-203 (1) (l), Colorado Revised Statutes, is
2 amended to read:

3 **25.5-5-203. Optional programs with special state provisions.**

4 (1) Subject to the provisions of subsection (2) of this section, this section
5 specifies programs developed by Colorado to increase federal financial
6 participation through selecting optional services or optional eligible
7 groups. These programs include but are not limited to:

8 (1) The treatment program for high-risk pregnant women, as
9 specified in ~~section 25-1-212~~ SECTION 27-80-112, C.R.S., and sections
10 25.5-5-309, 25.5-5-310, and 25.5-5-311;

11 **SECTION 68.** 25.5-5-301 (4), Colorado Revised Statutes, is
12 amended to read:

13 **25.5-5-301. Clinic services.** (4) "Clinic services" also means
14 preventive, diagnostic, therapeutic, rehabilitative, or palliative items or
15 services that are furnished to a pregnant woman who is enrolled for
16 services pursuant to section 25.5-5-205 or who is eligible for aid to
17 families with dependent children pursuant to rules in effect on July 16,
18 1996, in a facility which is not a part of a hospital but is organized and
19 operated as a freestanding alcohol or drug treatment program approved
20 and licensed by the division of alcohol and drug abuse of the department
21 of human services pursuant to ~~section 25-1-207 (1) (c)~~ SECTION
22 27-80-108 (1) (c), C.R.S.

23 **SECTION 69.** 25.5-5-306 (1), Colorado Revised Statutes, is
24 amended to read:

25 **25.5-5-306. Residential child health care - waiver - program**
26 **- rules.** (1) The state department, in cooperation with the department of
27 human services, shall implement a program concerning residential child

1 health care under this article and articles 4 and 6 of this title to provide
2 services pursuant to ~~article 10.3~~ ARTICLE 67 of title 27, C.R.S., to
3 medicaid-eligible children residing in residential child care facilities, as
4 that term is defined in section 26-6-102 (8), C.R.S., to medicaid-eligible
5 children residing in psychiatric residential treatment facilities, and
6 children placed by the department of human services or through county
7 departments of social services in licensed or certified out-of-home
8 placement facilities. Children with developmental disabilities, as defined
9 in section 27-10.5-102 (11), C.R.S., who are placed in such facilities shall
10 meet the out-of-home placement criteria described in section 19-1-107,
11 C.R.S., and shall be neglected or dependent as described in section
12 19-3-102, C.R.S. The state board shall establish the type of rehabilitative
13 or medical assistance services to be provided under the program as
14 described in subsection (3) of this section, to the extent such services are
15 cost-efficient, and the recipient eligibility criteria that may include, but
16 are not limited to, a medical necessity determination and a financial
17 eligibility determination. The state board shall define in rule the staff
18 permitted to order, monitor, and assess seclusion and restraint in
19 psychiatric residential treatment facilities, and the corresponding
20 restrictions on the use of seclusion and restraint.

21 **SECTION 70.** 25.5-5-307 (1) and (2), Colorado Revised Statutes,
22 are amended to read:

23 **25.5-5-307. Child mental health treatment and family support**
24 **program.** (1) The general assembly finds that many parents in Colorado
25 who have experienced challenging circumstances because their children
26 have significant mental health needs and who have attempted to care for
27 their children or seek services on their behalf often are burdened with the

1 excessive financial and personal costs of providing such care. Private
2 insurance companies may not cover mental health services and rarely
3 cover residential mental health treatment services; those that do seldom
4 cover a sufficient percentage of the expense to make such mental health
5 treatment a viable option for many families in need. The result is that
6 many families do not have the ability to obtain the mental health services
7 that they feel their children desperately need. The general assembly finds
8 that it is in the best interests of these families and the citizens of the state
9 to encourage the preservation of family units by making mental health
10 treatment available to these children pursuant to ~~article 10.3~~ ARTICLE 67
11 of title 27, C.R.S.

12 (2) In order to make mental health treatment available, it is the
13 intent of the general assembly that each medicaid-eligible child who is
14 diagnosed as a person with a mental illness, as that term is defined in
15 ~~section 27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S., shall receive
16 mental health treatment, which may include in-home family mental health
17 treatment, other family preservation services, residential treatment, or any
18 post-residential follow-up services, that shall be paid for through federal
19 medicaid funding.

20 **SECTION 71.** 26-1-132 (1) (a), Colorado Revised Statutes, is
21 amended to read:

22 **26-1-132. Department of human services - rate setting -**
23 **residential treatment service providers - monitoring and auditing -**
24 **report.** (1) The state department shall develop a rate-setting process
25 consistent with medicaid requirements for providers of residential
26 treatment services in the state of Colorado. Representatives of counties
27 and the provider community shall be involved in the actual development

1 of the rate-setting process. The rate-setting process for rates funded by
2 medicaid shall be approved by the department of health care policy and
3 financing. The rate-setting process developed pursuant to this section
4 may include, but shall not be limited to:

5 (a) A range for reimbursement that represents a base-treatment
6 rate for serving a child who is subject to out-of-home placement due to
7 dependency and neglect, a child placed in a residential child care facility
8 pursuant to the "Child Mental Health Treatment Act", ~~article 10.3~~
9 ARTICLE 67 of title 27, C.R.S., or a child who has been adjudicated a
10 delinquent, which includes a defined service package to meet the needs
11 of the child;

12 **SECTION 72.** 26-1-201 (1) (a), (1) (b), (1) (c), (1) (x), (1) (z), (1)
13 (aa), and (1) (bb), Colorado Revised Statutes, are amended to read:

14 **26-1-201. Programs administered - services provided -**
15 **department of human services.** (1) This section specifies the programs
16 to be administered and the services to be provided by the department of
17 human services. These programs and services include the following:

18 (a) Alcohol and drug abuse programs, as specified in ~~part 2 of~~
19 ~~article 1 of title 25~~ ARTICLE 80 OF TITLE 27, C.R.S.;

20 (b) Alcoholism and intoxication treatment programs, as specified
21 in ~~part 3 of article 1 of title 25~~ ARTICLE 81 OF TITLE 27, C.R.S.;

22 (c) Drug abuse prevention, education, and treatment programs, as
23 specified in ~~part 11 of article 1 of title 25~~ ARTICLE 82 OF TITLE 27, C.R.S.;

24 (x) Programs for the care and treatment of persons with mental
25 illness, as specified in ~~article 10~~ ARTICLE 65 of title 27, C.R.S.;

26 (z) Charges for patients, as set forth in ~~article 12~~ ARTICLE 92 of
27 title 27, C.R.S.;

1 (aa) The Colorado mental health institute at Pueblo, as specified
2 in ~~article 13~~ ARTICLE 93 of title 27, C.R.S.; and

3 (bb) The Colorado mental health institute at Fort Logan, as
4 specified in ~~article 15~~ ARTICLE 94 of title 27, C.R.S.

5 **SECTION 73.** 26-2-112 (3) (a) (III), Colorado Revised Statutes,
6 is amended to read:

7 **26-2-112. Old age pensions for inmates of public institutions.**
8 (3) (a) (III) It is the duty of such chief financial officer to pay monthly
9 from the assistance payments under the old age pension, as prior claim
10 therefrom, all lawful claims of said public institution for the care, support,
11 maintenance, education, and treatment of said inmate in accordance with
12 ~~article 12~~ ARTICLE 92 of title 27, C.R.S.

13 **SECTION 74.** 26-2-805.5 (2), Colorado Revised Statutes, is
14 amended to read:

15 **26-2-805.5. Exemptions - requirements.** (2) As a prerequisite
16 to entering into a valid Colorado child care assistance program contract
17 with a county office or to being a party to any other payment agreement
18 for the provision of care for a child whose care is funded in whole or in
19 part with moneys received on the child's behalf from publicly funded state
20 child care assistance programs, an exempt family child care home
21 provider shall sign an attestation that affirms he or she, and any qualified
22 adult residing in the exempt family child care home, has not been
23 determined to be insane or mentally incompetent by a court of competent
24 jurisdiction and a court has not entered, pursuant to part 3 or 4 of article
25 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~ SECTION
26 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding that the
27 mental incompetency or insanity is of such a degree that the provider

1 cannot safely operate an exempt family child care home.

2 **SECTION 75.** 26-6-102 (8), Colorado Revised Statutes, is
3 amended to read:

4 **26-6-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (8) "Residential child care facility" means a facility licensed by
7 the state department pursuant to this part 1 to provide twenty-four-hour
8 group care and treatment for five or more children operated under private,
9 public, or nonprofit sponsorship. "Residential child care facility" includes
10 community-based residential child care facilities, shelter facilities, and
11 therapeutic residential child care facilities as defined in rule by the state
12 board, and psychiatric residential treatment facilities as defined in section
13 25.5-4-103 (19.5), C.R.S. A residential child care facility may be eligible
14 for designation by the executive director of the state department pursuant
15 to ~~article 10~~ ARTICLE 65 of title 27, C.R.S.

16 **SECTION 76.** 26-6-104 (8) (a), Colorado Revised Statutes, is
17 amended to read:

18 **26-6-104. Licenses - out-of-state notices and consent -**
19 **demonstration pilot program.** (8) The state department, a county
20 department, or a child placement agency licensed under the provisions of
21 this part 1 shall not issue a license or certificate to operate any agency or
22 facility defined in this part 1 if the person applying for such license or
23 certificate or an affiliate of the applicant, a person employed by the
24 applicant, or a person who resides with the applicant at the facility:

25 (a) Has been determined to be insane or mentally incompetent by
26 a court of competent jurisdiction and, should a court enter, pursuant to
27 part 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4)~~

1 ~~or 27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order
2 specifically finding that the mental incompetency or insanity is of such a
3 degree that the applicant is incapable of operating a family child care
4 home, foster care home, child care center, or child placement agency, the
5 record of such determination and entry of such order being conclusive
6 evidence thereof.

7 **SECTION 77.** 26-6-108 (2) (b) and (2.5) (a) (I) (C), Colorado
8 Revised Statutes, are amended to read:

9 **26-6-108. Denial of license - suspension - revocation -**
10 **probation - refusal to renew license - fines.** (2) The department may
11 deny an application, or suspend, revoke, or make probationary the license
12 of any facility regulated and licensed under this part 1 or assess a fine
13 against the licensee pursuant to section 26-6-114 should the licensee, an
14 affiliate of the licensee, a person employed by the licensee, or a person
15 who resides with the licensee at the facility:

16 (b) Be determined to be insane or mentally incompetent by a court
17 of competent jurisdiction and, should a court enter, pursuant to part 3 or
18 part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or~~
19 ~~27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order
20 specifically finding that the mental incompetency or insanity is of such a
21 degree that the licensee is incapable of operating a family child care
22 home, foster care home, or child care center, the record of such
23 determination and entry of such order being conclusive evidence thereof;
24 or

25 (2.5) (a) (I) The state department shall deny an application for a
26 license under the circumstances described in section 26-6-104 (7). The
27 state department shall revoke or suspend a license previously issued if:

1 (C) The licensee, an affiliate of the licensee, a person employed
2 by the licensee, or a person who resides with the licensee at the facility
3 has been determined to be insane or mentally incompetent by a court of
4 competent jurisdiction and, should a court enter, pursuant to part 3 or part
5 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~
6 SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order specifically finding
7 that the mental incompetency or insanity is of such a degree that the
8 licensee is incapable of operating a family child care home, foster care
9 home, or child care center, the record of such determination and entry of
10 such order being conclusive evidence thereof.

11 **SECTION 78.** 26-6-120 (3) (b), Colorado Revised Statutes, is
12 amended to read:

13 **26-6-120. Exempt family child care home providers -**
14 **fingerprint-based criminal history records check - child care**
15 **assistance program moneys - temporary care - definitions.** (3) A
16 contract to provide moneys under the Colorado child care assistance
17 program pursuant to part 8 of article 2 of this title shall not be issued or
18 renewed by the state department or a county department to an exempt
19 family child care home provider if the provider or a qualified adult who
20 resides with the provider:

21 (b) Has been determined to be insane or mentally incompetent by
22 a court of competent jurisdiction and a court has entered, pursuant to part
23 3 or 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or~~
24 ~~27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order
25 specifically finding that the mental incompetency or insanity is of such a
26 degree that the provider cannot safely operate an exempt family child care
27 home. The record of such determination and entry of such order shall be

1 conclusive evidence thereof. An exempt family child care home provider
2 shall sign an attestation affirming the lack of such a finding prior to
3 entering into or renewing a contract for moneys under the Colorado child
4 care assistance program, pursuant to section 26-2-805.5 (2).

5 **SECTION 79.** 26-20-102 (2), Colorado Revised Statutes, is
6 amended to read:

7 **26-20-102. Definitions.** As used in this article, unless the context
8 otherwise requires:

9 (2) "Chemical restraint" means giving an individual medication
10 involuntarily for the purpose of restraining that individual; except that
11 "chemical restraint" does not include the involuntary administration of
12 medication pursuant to ~~section 27-10-111 (4.5)~~ SECTION 27-65-111 (5),
13 C.R.S., or administration of medication for voluntary or life-saving
14 medical procedures.

15 **SECTION 80.** 26-20-103 (3), Colorado Revised Statutes, is
16 amended to read:

17 **26-20-103. Basis for use of restraint.** (3) In addition to the
18 circumstances described in subsection (1) of this section, a facility, as
19 defined in ~~section 27-10-102 (4.5)~~ SECTION 27-65-102 (7), C.R.S., that is
20 designated by the executive director of the department of human services
21 to provide treatment pursuant to ~~section 27-10-105, 27-10-106,~~
22 ~~27-10-107, or 27-10-109~~ SECTION 27-65-105, 27-65-106, 27-65-107, OR
23 27-65-109, C.R.S., to a person with mental illness, as defined in ~~section~~
24 ~~27-10-102 (8.5)~~ SECTION 27-65-102 (14), C.R.S., may use seclusion to
25 restrain a person with a mental illness when the seclusion is necessary to
26 eliminate a continuous and serious disruption of the treatment
27 environment.

1 **SECTION 81.** 30-28-115 (2) (b.5), Colorado Revised Statutes,
2 is amended to read:

3 **30-28-115. Public welfare to be promoted - legislative**
4 **declaration - construction.** (2) (b.5) The general assembly declares that
5 the establishment of state-licensed group homes for the exclusive use of
6 persons with mental illness as that term is defined in ~~section 27-10-102~~
7 SECTION 27-65-102, C.R.S., is a matter of statewide concern and that a
8 state-licensed group home for eight persons with mental illness is a
9 residential use of property for zoning purposes, as defined in section
10 31-23-301 (4), C.R.S. A group home for persons with mental illness
11 established under this paragraph (b.5) shall not be located within seven
12 hundred fifty feet of another such group home or of another group home
13 as defined in paragraphs (a) and (b) of this subsection (2), unless
14 otherwise provided for by the county. A person shall not be placed in a
15 group home without being screened by either a professional person, as
16 defined in ~~section 27-10-102(11)~~ SECTION 27-65-102 (17), C.R.S., or any
17 other such mental health professional designated by the director of a
18 facility, which facility is approved by the executive director of the
19 department of human services pursuant to ~~section 27-1-103~~ SECTION
20 27-90-102, C.R.S. Persons determined to be not guilty by reason of
21 insanity to a violent offense shall not be placed in such group homes, and
22 any person who has been convicted of a felony involving a violent
23 offense shall not be eligible for placement in such group homes. The
24 provisions of this paragraph (b.5) shall be implemented, where
25 appropriate, by the rules of the department of public health and
26 environment concerning residential treatment facilities for persons with
27 mental illness. Nothing in this paragraph (b.5) shall be construed to

1 exempt such group homes from compliance with any state, county, or
2 municipal health, safety, and fire codes.

3 **SECTION 82.** 31-23-303 (2) (b.5), Colorado Revised Statutes,
4 is amended to read:

5 **31-23-303. Legislative declaration.** (2) (b.5) The general
6 assembly declares that the establishment of state-licensed group homes
7 for the exclusive use of persons with mental illness as that term is defined
8 in ~~section 27-10-102~~ SECTION 27-65-102, C.R.S., is a matter of statewide
9 concern and that a state-licensed group home for eight persons with
10 mental illness is a residential use of property for zoning purposes, as
11 defined in section 31-23-301 (4). A group home for persons with mental
12 illness established under this paragraph (b.5) shall not be located within
13 seven hundred fifty feet of another such group home, unless otherwise
14 provided for by the municipality. A person shall not be placed in a group
15 home without being screened by either a professional person, as defined
16 in ~~section 27-10-102 (11)~~ SECTION 27-65-102 (17), C.R.S., or any other
17 such mental health professional designated by the director of a facility,
18 which facility is approved by the executive director of the department of
19 human services pursuant to ~~section 27-1-103~~ SECTION 27-90-102, C.R.S.
20 Persons determined to be not guilty by reason of insanity to a violent
21 offense shall not be placed in such group homes, and any person who has
22 been convicted of a felony involving a violent offense shall not be
23 eligible for placement in such group homes. The provisions of this
24 paragraph (b.5) shall be implemented, where appropriate, by the rules of
25 the department of public health and environment concerning residential
26 treatment facilities for persons with mental illness. Nothing in this
27 paragraph (b.5) shall be construed to exempt such group homes from

1 compliance with any state, county, or municipal health, safety, and fire
2 codes.

3 **SECTION 83.** 38-1-202 (1) (b) (IV) (F), Colorado Revised
4 Statutes, is amended to read:

5 **38-1-202. Governmental entities, corporations, and persons**
6 **authorized to use eminent domain.** (1) The following governmental
7 entities, types of governmental entities, and public corporations, in
8 accordance with all procedural and other requirements specified in this
9 article and articles 2 to 7 of this title and to the extent and within any time
10 frame specified in the applicable authorizing statute may exercise the
11 power of eminent domain:

12 (b) The state:

13 (IV) By action of the general assembly or by action of any of the
14 following officers and agencies of the state:

15 (F) The governor as authorized in ~~section 27-1-103 (2)~~ SECTION
16 27-90-102 (2), C.R.S.;

17 **SECTION 84.** 42-2-116 (5), Colorado Revised Statutes, is
18 amended to read:

19 **42-2-116. Restricted license.** (5) The department is authorized
20 after examination to issue a restricted license to a person with a mental
21 illness or a developmental disability, containing such restrictions as may
22 be imposed upon said person by a court pursuant to part 3 or part 4 of
23 article 14 of title 15, C.R.S., or ~~section 27-10-109 (4) or 27-10-125~~
24 SECTION 27-65-109 (4) OR 27-65-127, C.R.S.

25 **SECTION 85.** 42-2-125 (1) (h), Colorado Revised Statutes, is
26 amended to read:

27 **42-2-125. Mandatory revocation of license and permit.**

1 (1) The department shall immediately revoke the license or permit of any
2 driver or minor driver upon receiving a record showing that such driver
3 has:

4 (h) Been determined to be mentally incompetent by a court of
5 competent jurisdiction and for whom a court has entered, pursuant to part
6 3 or part 4 of article 14 of title 15, C.R.S., or ~~section 27-10-109 (4)~~ or
7 ~~27-10-125~~ SECTION 27-65-109 (4) OR 27-65-127, C.R.S., an order
8 specifically finding that the mental incompetency is of such a degree that
9 the person is incapable of safely operating a motor vehicle;

10 **SECTION 86.** 42-4-1301 (7) (d) (IV) (A) and (7) (d) (IV) (B),
11 Colorado Revised Statutes, are amended to read:

12 **42-4-1301. Driving under the influence - driving while**
13 **impaired - driving with excessive alcoholic content - definitions -**
14 **penalties - repeal. (7) Penalties.** (d) In addition to the penalties
15 prescribed in this subsection (7):

16 (IV) (A) Persons convicted of DUI, DUI per se, DWAI, and
17 habitual user are subject to an additional penalty surcharge of not less
18 than one dollar and not more than ten dollars for programs to address
19 alcohol and substance abuse problems among persons in rural areas. The
20 minimum penalty surcharge shall be mandatory, and the court shall have
21 no discretion to suspend or waive the surcharge; except that the court may
22 suspend or waive the surcharge for a defendant determined by the court
23 to be indigent. Any moneys collected for the surcharge shall be
24 transmitted to the state treasurer, who shall credit the same to the rural
25 alcohol and substance abuse cash fund created in ~~section 25-1-217 (3)~~
26 SECTION 27-80-117 (3), C.R.S.

27 (B) This subparagraph (IV) is repealed, effective July 1, 2016,

1 unless the general assembly extends the repeal of the rural alcohol and
2 substance abuse prevention and treatment program created in ~~section~~
3 ~~25-1-217~~ SECTION 27-80-117, C.R.S.

4 **SECTION 87.** 42-4-1301.3 (4) (a), Colorado Revised Statutes, is
5 amended to read:

6 **42-4-1301.3. Alcohol and drug driving safety program.**

7 (4) (a) There is hereby created an alcohol and drug driving safety
8 program fund in the office of the state treasurer to the credit of which
9 shall be deposited all moneys as directed by this paragraph (a). The
10 assessment in effect on July 1, 1998, shall remain in effect unless the
11 judicial department and the division of alcohol and drug abuse have
12 provided to the general assembly a statement of the cost of the program,
13 including costs of administration for the past and current fiscal year to
14 include a proposed change in the assessment. The general assembly shall
15 then consider the proposed new assessment and approve the amount to be
16 assessed against each person during the following fiscal year in order to
17 ensure that the alcohol and drug driving safety program established in this
18 section shall be financially self-supporting. Any adjustment in the
19 amount to be assessed shall be so noted in the appropriation to the judicial
20 department and the division of alcohol and drug abuse as a footnote or
21 line item related to this program in the general appropriation bill. The
22 state auditor shall periodically audit the costs of the programs to
23 determine that they are reasonable and that the rate charged is accurate
24 based on these costs. Any other fines, fees, or costs levied against such
25 person shall not be part of the program fund. The amount assessed for the
26 alcohol and drug evaluation shall be transmitted by the court to the state
27 treasurer to be credited to the alcohol and drug driving safety program

1 fund. Fees charged under ~~sections 25-1-306 (1), C.R.S., and 25-1-1102~~
2 ~~(†)~~ SECTIONS 27-81-106 (1) AND 27-82-103 (1), C.R.S., to approved
3 alcohol and drug treatment facilities that provide level I and level II
4 programs as provided in paragraph (c) of subsection (3) of this section
5 shall be transmitted to the state treasurer, who shall credit the fees to the
6 alcohol and drug driving safety program fund. Upon appropriation by the
7 general assembly, these funds shall be expended by the judicial
8 department and the division of alcohol and drug abuse for the
9 administration of the alcohol and drug driving safety program. In
10 administering the alcohol and drug driving safety program, the judicial
11 department is authorized to contract with any agency for such services as
12 the judicial department deems necessary. Moneys deposited in the
13 alcohol and drug driving safety program fund shall remain in said fund to
14 be used for the purposes set forth in this section and shall not revert or
15 transfer to the general fund except by further act of the general assembly.

16 **SECTION 88.** 42-4-1701 (4) (f), Colorado Revised Statutes, is
17 amended to read:

18 **42-4-1701. Traffic offenses and infractions classified -**
19 **penalties - penalty and surcharge schedule - repeal.** (4) (f) (I) In
20 addition to the surcharge specified in sub-subparagraph (N) of
21 subparagraph (I) of paragraph (a) of this subsection (4), an additional
22 surcharge of five dollars shall be assessed for a violation of section
23 42-4-1301 (2) (a.5). Moneys collected pursuant to this paragraph (f) shall
24 be transmitted to the state treasurer who shall deposit such moneys in the
25 rural alcohol and substance abuse cash fund created in ~~section 25-1-217~~
26 ~~(‡)~~ SECTION 27-80-117 (3), C.R.S., within fourteen days after the end of
27 each quarter, to be used for the purposes set forth in ~~section 25-1-217~~

1 SECTION 27-80-117, C.R.S.

2 (II) If the additional surcharge is collected by a county court, the
3 additional surcharge shall be six dollars of which one dollar shall be
4 retained by the county and the remaining five dollars shall be transmitted
5 to the state treasurer and credited to the rural alcohol and substance abuse
6 cash fund created in ~~section 25-1-217 (3)~~ SECTION 27-80-117 (3), C.R.S.,
7 within fourteen days after the end of each quarter, to be used for the
8 purposes set forth in ~~section 25-1-217~~ SECTION 27-80-117, C.R.S.

9 (III) This paragraph (f) is repealed, effective July 1, 2016, unless
10 the general assembly extends the repeal of the rural alcohol and substance
11 abuse prevention and treatment program created in ~~section 25-1-217~~
12 SECTION 27-80-117, C.R.S.

13 **SECTION 89.** 42-4-1705 (3), Colorado Revised Statutes, is
14 amended to read:

15 **42-4-1705. Person arrested to be taken before the proper**
16 **court.** (3) Any other provision of law to the contrary notwithstanding,
17 a police officer may place a person who has been arrested and charged
18 with DUI, DUI per se, or UDD and who has been given a written notice
19 or summons to appear in court as provided in section 42-4-1707 in a
20 state-approved treatment facility for alcoholism even though entry or
21 other record of such arrest and charge has been made. Such placement
22 shall be governed by ~~part 3 of article 1 of title 25~~ ARTICLE 81 OF TITLE 27,
23 C.R.S., except where in conflict with this section.

24 **SECTION 90. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.