

C. R. S. 27-10-101 et seq.

**Care and Treatment of the
Mentally Ill**

ARTICLE 10

CARE AND TREATMENT OF THE MENTALLY ILL

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27-10-101. Legislative declaration.

- (1) The general assembly hereby declares that, subject to available appropriations, the purposes of this article are:
 - (a) To secure for each person who may be mentally ill such care and treatment as will be suited to the needs of the person and to insure that such care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;
 - (b) To deprive a person of his liberty for purposes of treatment or care only when less restrictive alternatives are unavailable and only when his safety or the safety of others is endangered;
 - (c) To provide the fullest possible measure of privacy, dignity, and other rights to persons undergoing care and treatment for mental illness;
 - (d) To encourage the use of voluntary rather than coercive measures to secure treatment and care for mental illness;
 - (e) To provide appropriate information to family members concerning the location and fact of admission of mentally ill persons to inpatient or residential care and treatment;
 - (f) To encourage the appropriate participation of family members in the care and treatment of a mentally ill person and, when appropriate, to provide information to family members in order to facilitate such participation.
- (2) To carry out these purposes, subject to available appropriations, the provisions of this article shall be liberally construed.

27-10-102. Definitions. As used in this article, unless the context otherwise requires:

- (1) "Court" means any district court of the state of Colorado and the probate court in the city and county of Denver.
- (2) "Court-ordered evaluation" means an evaluation ordered by a court pursuant to section 27-10-106.
- (3) "Department" means the department of human services.
- (4) "Executive director" means the executive director of the department of human services.
- (4.5) "Facility" means a public hospital or a licensed private hospital, clinic, community mental health center or clinic, institution, sanitarium, or residential child care facility that provides treatment for mentally ill persons.
- (4.7) "Family member" means a spouse, parent, adult child, or adult sibling of a mentally ill person.
- (5)
 - (a) "Gravely disabled" means a condition in which a person, as a result of mental illness:
 - (I) Is in danger of serious physical harm due to his inability or failure to provide himself the essential human needs of food, clothing, shelter, and medical care; or
 - (II) Lacks judgment in the management of his resources and in the conduct of his social relations to the extent that his health or safety is significantly endangered and lacks the capacity to understand that this is so.

- (b) A person who, because of care provided by a family member or by an individual with a similar relationship to the person, is not in danger of serious physical harm or is not significantly endangered in accordance with paragraph (a) of this subsection (5) may be deemed "gravely disabled" if there is notice given that the support given by the family member or other individual who has a similar relationship to the person is to be terminated and the mentally ill individual:
 - (I) Is diagnosed by a professional person as suffering from any one of the following: Chronic schizophrenia; a chronic major affective disorder; a chronic delusional disorder; or other chronic mental disorder with psychotic features; and
 - (II) Has been certified, pursuant to this article, for treatment of such disorder or has been admitted as an inpatient to a treatment facility for treatment of such disorder at least twice during the last thirty-six months with a period of at least thirty days between certifications or admissions; and
 - (III) Is exhibiting a deteriorating course leading toward danger to self or others or toward the conditions described in paragraph (a) of this subsection (5) with symptoms and behavior which are substantially similar to those which preceded and were associated with his hospital admissions or certifications for treatment; and
 - (IV) Is not receiving treatment which is essential for his health or safety.
 - (c) A person of any age may be "gravely disabled", but such term shall not include mentally retarded persons by reason of their retardation alone.
 - (d) For purposes of paragraph (b) of this subsection (5), an individual with a relationship to a person which is similar to that of a family member shall not include an employee or agent of a boarding home or treatment facility.
- (5.5) "Hospitalization" means twenty-four-hour out-of-home placement for mental health treatment in a facility.
- (5.6) "Independent professional person" means a professional person, as defined in subsection (11) of this section, who evaluates the minor's condition as an independent decision-maker and whose recommendations are based on the standard of what is in the best interest of the minor. He may be associated with the admitting mental health facility if he is free to independently evaluate the minor's condition and need for treatment and has the authority to refuse admission to any minor who does not satisfy the statutory standards specified in section 27-10-103 (3.1).
- (6) Repealed.
- (7) "Mentally ill person" means a person with a substantial disorder of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior; mental retardation is insufficient to either justify or exclude a finding of mental illness within the provisions of this article.
- (7.2) "Minor" means a person under eighteen years of age; except that the term does not include a person who is fifteen years of age or older who is living separately and apart from his parent or legal guardian and is managing his financial affairs, regardless of his source of income, or who is married and living separately and apart from his parent or legal guardian.
- (7.5) "Patient representative" means a person designated by the mental health facility to process patient complaints or grievances or to represent patients who are minors pursuant to section 27-10-103 (3.3).

- (8) "Peace officer" means any peace officer as defined in section 18-1-901 (3) (1), C.R.S.
- (9) "Petitioner" means any person who files any petition in any proceeding in the interest of any alleged mentally ill or gravely disabled person.
- (10) "Physician" means a person licensed to practice medicine in this state.
- (11) "Professional person" means a person licensed to practice medicine in this state or a psychologist certified to practice in this state.
- (11.5) "Residential child care facility" means a facility licensed by the state department of human services pursuant to article 6 of title 26, C.R.S., to provide group care and treatment for children as such facility is defined in section 26-6-102 (8), C.R.S. A residential child care facility may be eligible for designation by the executive director of the department of human services pursuant to this article.
- (12) "Respondent" means either a person alleged in a petition filed pursuant to this article to be mentally ill or gravely disabled or a person certified pursuant to the provisions of this article.
- (13) "Screening" means a review of all petitions, to consist of an interview with the petitioner and, petition to the respondent, and a determination of whether the respondent needs and, if so, whenever possible, the respondent, an assessment of the problem, an explanation of the will accept, on a voluntary basis, comprehensive evaluation, treatment, referral, and other appropriate services, either on an inpatient or an outpatient basis.

27-10-103. Voluntary applications for mental health services.

- (1) Nothing in this article shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to section 15-14-312 (1) (a), C.R.S., a ward, as defined in section 15-14-101 (4), C.R.S., may be admitted to hospital or institutional care and treatment for mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such admission of the ward for such hospital or institutional care and treatment, the guardian shall notify in writing the court which appointed the guardian of the admission.
- (2) Notwithstanding any other provision of law, a minor who is fifteen years of age or older, whether with or without the consent of a parent or legal guardian, may consent to receive mental health services to be rendered by a facility or a professional person. Such consent shall not be subject to disaffirmance because of minority. The professional person rendering mental health services to a minor may, with or without the consent of the minor, advise the parent or legal guardian of the minor of the services given or needed.
- (3) Repealed.
- (3.1) A minor who is fifteen years of age or older or a parent or legal guardian of a minor on the minor's behalf may make voluntary application for hospitalization. Application for hospitalization on behalf of a minor who is under fifteen years of age and who is a ward of the department of human services shall not be made unless a guardian ad litem has been appointed for the minor or a petition for the same has been filed with the court by the agency having custody of the minor; except that such an application for hospitalization may be made under emergency circumstances requiring immediate hospitalization, in which case the agency shall file a petition for appointment of a guardian ad litem within seventy-two hours after application for admission is made, and the court shall appoint a guardian ad litem forthwith. Procedures for hospitalization of such minor

may proceed pursuant to this section once a petition for appointment of a guardian ad litem has been filed, if necessary. Whenever such application for hospitalization is made, an independent professional person shall interview the minor and conduct a careful investigation into the minor's background, using all available sources, including, but not limited to, the parents or legal guardian and the school and any other social agencies. Prior to admitting a minor for hospitalization, the independent professional person shall make the following findings:

- (a) That the minor is mentally ill and in need of hospitalization;
- (b) That a less restrictive treatment alternative is inappropriate or unavailable; and
- (c) That hospitalization is likely to be beneficial.

(3.2) An interview and investigation by an independent professional person shall not be required for a minor who is fifteen years of age or older and who, upon the recommendation of his treating professional person, seeks voluntary hospitalization with the consent of his parent or legal guardian. In order to assure that the minor's consent to such hospitalization is voluntary, the minor shall be advised, at or before the time of admission, of his right to refuse to sign the admission consent form and his right to revoke his consent at a later date. If a minor admitted pursuant to this subsection (3.2) subsequently revokes his consent after admission, a review of his need for hospitalization pursuant to subsection (3.3) of this section shall be initiated immediately.

(3.3)

- (a) The need for continuing hospitalization of all voluntary patients who are minors shall be formally reviewed at least every two months. Review pursuant to this subsection (3.3) shall fulfill the requirement specified in section 19-3-701, C.R.S., when the minor is fifteen years of age or older and consenting to hospitalization.
- (b) The review shall be conducted by an independent professional person who is not a member of the minor's treating team; or, if the minor, his physician, and the minor's parent or guardian do not object to the need for continued hospitalization, the review required pursuant to this subsection (3.3) may be conducted internally by the hospital staff.
- (c) The independent professional person shall determine whether the minor continues to meet the criteria specified in subsection (3.1) of this section and whether continued hospitalization is appropriate and shall at least conduct an investigation pursuant to subsection (3.1) of this section.
- (d) Ten days prior to the review, the patient representative at the mental health facility shall notify the minor of the date of the review and shall assist the minor in articulating to the independent professional person his wishes concerning continued hospitalization.
- (e) Nothing in this section shall be construed to limit a minor's right to seek release from the facility pursuant to any other provisions under the law.

(3.4) Every six months the review required pursuant to subsection (3.3) of this section shall be conducted by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to subsection (3.3) of this section.

(3.5)

- (a) When a minor does not consent to or objects to continued hospitalization, the need for such continued hospitalization shall, within ten days, be reviewed pursuant to subsection (3.3) of this section by an independent professional person who is not a member of the minor's treating team and who has not previously reviewed the child pursuant to this subsection (3.5).

The minor shall be informed of the results of such review within three days of completion of such review. If the conclusion reached by such professional person is that the minor no longer meets the standards for hospitalization specified in subsection (3.1) of this section, the minor shall be discharged.

- (b) If, twenty-four hours after being informed of the results of the review specified in paragraph (a) of this subsection (3.5), a minor continues to affirm the objection to hospitalization, the minor shall be advised by the director of the facility or his duly appointed representative that he has the right to retain and consult with an attorney at any time and that the director or his duly appointed representative shall file, within three days of the request of the minor, a statement requesting an attorney for the minor or, if the minor is under fifteen years of age, a guardian ad litem. The minor, his attorney, if any, and his parent, legal guardian, or guardian ad litem, if any, shall also be given written notice that a hearing upon the recommendation for continued hospitalization may be had before the court or a jury upon written request directed to the court pursuant to paragraph (d) of this subsection (3.5).
 - (c) Whenever such statement requesting an attorney is filed with the court, the court shall ascertain whether the minor has retained counsel, and, if he has not, the court shall, within three days, appoint an attorney to represent the minor or if the minor is under fifteen years of age a guardian ad litem. Upon receipt of a petition filed by the guardian ad litem, the court shall appoint an attorney to represent the minor under fifteen years of age.
 - (d) The minor or his attorney or guardian ad litem may, at any time after the minor has continued to affirm his objection to hospitalization pursuant to paragraph (b) of this subsection (3.5), file a written request that the recommendation for continued hospitalization be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the minor, his attorney, if any, his parents or legal guardian, his guardian ad litem, if any, the independent professional person, and the minor's treating team of the time and place thereof. The hearing shall be held in accordance with section 27-10-111; except that the court or jury shall determine that the minor is in need of care and treatment if the court or jury makes the following findings: That the minor is mentally ill and in need of hospitalization; that a less restrictive treatment alternative is inappropriate or unavailable; and that hospitalization is likely to be beneficial. At the conclusion of the hearing, the court may enter an order confirming the recommendation for continued hospitalization, discharge the minor, or enter any other appropriate order.
 - (e) For purposes of this subsection (3.5), "objects to hospitalization" means that a minor, with the necessary assistance of hospital staff, has written his or her objections to continued hospitalization and has been given an opportunity to affirm or disaffirm such objections forty-eight hours after the objections are first written.
 - (f) A minor may not again object to hospitalization pursuant to this subsection (3.5) until ninety days after conclusion of proceedings pursuant to this subsection (3.5).
 - (g) In addition to the rights specified under section 27-10-117 for persons receiving evaluation, care, or treatment, a written notice specifying the rights of minor children under this section shall be given to each minor upon admission to hospitalization.
- (3.6) A minor who no longer meets the standards for hospitalization specified in subsection (3.1) of this section shall be discharged.
- (4) For the purpose of this article, the treatment by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone for healing shall be considered a form of treatment.

- (5) The medical and legal status of all voluntary patients receiving treatment for mental illness in inpatient or custodial facilities shall be reviewed at least once every six months.
- (6) Voluntary patients shall be afforded all the rights and privileges customarily granted by hospitals to their patients.
- (7) If at any time during a seventy-two-hour evaluation of a person who is confined involuntarily the facility staff requests the person to sign in voluntarily and he elects to do so, the following advisement shall be given orally and in writing and an appropriate notation shall be made in his medical record by the professional person or his designated agent:

"NOTICE

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

27-10-104. Rights of respondents. Unless specifically stated in an order by the court, a respondent shall not forfeit any legal right or suffer legal disability by reason of the provisions of this article.

27-10-105. Emergency procedure.

- (1) Emergency procedure may be invoked under either one of the following two conditions:
 - (a) When any person appears to be mentally ill and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then a peace officer; a professional person; a registered professional nurse as defined in section 12-38-103 (11), C.R.S., who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing; a licensed marriage and family therapist or licensed professional counselor, licensed under the provisions of part 5 or 6 of article 43 of title 12, C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental disorders; or a licensed clinical social worker licensed under the provisions of part 4 of article 43 of title 12, C.R.S., each of whom is referred to in this section as the "intervening professional", upon probable cause and with such assistance as may be required, may take the person into custody, or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.
 - (b) Upon an affidavit sworn to or affirmed before a judge which relates sufficient facts to establish that a person appears to be mentally ill and, as a result of such mental illness, appears to be an imminent danger to others or to himself or appears to be gravely disabled, the court may order the person described in the affidavit to be taken into custody and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. Whenever in this article a facility is to be designated or approved by the executive director, hospitals, if available, shall be approved or designated in each county before other facilities are approved or designated. Whenever in this article a facility is to be designated or approved by the executive director as a facility for a stated purpose and the facility to be designated or approved is a private facility, the consent of the private facility to the enforcement of standards set by the executive director shall be a prerequisite to the designation or approval.

- (1.1) When a person is taken into custody pursuant to subsection (1) of this section, such person shall not be detained in a jail, lockup, or other place used for the confinement of persons charged with or convicted of penal offenses; except that such place may be used if no other suitable place of confinement for treatment and evaluation is readily available. In such situation the person shall be detained separately from those persons charged with or convicted of penal offenses and shall be held for a period not to exceed twenty-four hours, excluding Saturdays, Sundays, and holidays, after which time he shall be transferred to a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation. When a person is taken into custody and confined pursuant to this subsection (1.1), such person shall be examined at least every twelve hours by a peace officer, nurse, or physician or by an appropriate staff professional of the nearest designated or approved mental health treatment facility to determine if the person is receiving appropriate care consistent with his mental condition.
- (2) Such facility shall require an application in writing, stating the circumstances under which the person's condition was called to the attention of the intervening professional and further stating sufficient facts, obtained from the personal observations of the intervening professional or obtained from others whom he or she reasonably believes to be reliable, to establish that the person is mentally ill and, as a result of mental illness, an imminent danger to others or to such person or gravely disabled. The application shall indicate when the person was taken into custody and who brought the person's condition to the attention of the intervening professional. The application shall be kept on file by the seventy-two-hour treatment and evaluation facility for at least five years, and a copy shall be furnished to the person being evaluated.
- (3) If the seventy-two-hour treatment and evaluation facility admits the person, it may detain him for evaluation and treatment for a period not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays if evaluation and treatment services are not available on those days. For the purposes of this subsection (3), evaluation and treatment services are not deemed to be available merely because a professional person is on call during weekends or holidays. If, in the opinion of the professional person in charge of the evaluation, the person can be properly cared for without being detained, he shall be provided services on a voluntary basis.
- (4) Each person admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this article shall receive an evaluation as soon after he is admitted as possible and shall receive such treatment and care as his condition requires for the full period that he is held. Such person shall be released before seventy-two hours have elapsed if, in the opinion of the professional person in charge of the evaluation, the person no longer requires evaluation or treatment. Persons who have been detained for seventy-two-hour evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for treatment pursuant to section 27-10-107.

27-10-106. Court-ordered evaluation for mentally ill persons.

- (1) Any person alleged to be mentally ill and, as a result of mental illness, to be a danger to others or to himself or to be gravely disabled may be given an evaluation of his condition under a court order pursuant to this section.
- (2) Any individual may petition the court in the county in which the respondent resides or is physically present alleging that there is a person who appears to be mentally ill and, as a result of such mental illness, appears to be a danger to others or to himself or appears to be gravely disabled and requesting that an evaluation of the person's condition be made.
- (3) The petition for a court-ordered evaluation shall contain the following:
 - (a) The name and address of the petitioner and his interest in the case;

- (b) The name of the person for whom evaluation is sought, who shall be designated as the respondent, and, if known to the petitioner, the address, age, sex, marital status, and occupation of the respondent;
 - (c) Allegations of fact indicating that the respondent may be mentally ill and, as a result, a danger to others or to himself or gravely disabled and showing reasonable grounds to warrant an evaluation;
 - (d) The name and address of every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the respondent, if available;
 - (e) The name, address, and telephone number of the attorney, if any, who has most recently represented the respondent. If there is no attorney, there shall be a statement as to whether, to the best knowledge of the petitioner, the respondent meets the criteria established by the legal aid agency operating in the county or city and county for it to represent a client.
- (4) Upon receipt of a petition satisfying the requirements of subsection (3) of this section, the court shall designate a facility, approved by the executive director, or a professional person to provide screening of the respondent to determine whether there is probable cause to believe the allegations.
- (5) Following screening, the facility or professional person designated by the court shall file his report with the court. The report shall include a recommendation as to whether there is probable cause to believe that the respondent is mentally ill and, as a result of mental illness, is a danger to others or to himself or gravely disabled and whether the respondent will voluntarily receive evaluation or treatment. The screening report submitted to the court shall be confidential in accordance with section 27-10-120 and shall be furnished to the respondent or his attorney or personal representative.
- (6) Whenever it appears, by petition and screening pursuant to this section, to the satisfaction of the court that probable cause exists to believe that the respondent is mentally ill and, as a result of such mental illness, is a danger to others or to himself or is gravely disabled and that efforts have been made to secure the cooperation of the respondent, who has refused or failed to accept evaluation voluntarily, the court shall issue an order for evaluation authorizing a peace officer to take the respondent into custody and place him in a facility designated by the executive director for seventy-two-hour treatment and evaluation. At the time of taking the respondent into custody, a copy of the petition and the order for evaluation shall be given to the respondent, and promptly thereafter to any one person designated by such respondent and to the person in charge of the seventy-two-hour treatment and evaluation facility named in the order or his designee.
- (7) The respondent shall be evaluated as promptly as possible and shall in no event be detained longer than seventy-two hours under the court order, excluding Saturdays, Sundays, and holidays if treatment and evaluation services are not available on those days. Within that time, the respondent shall be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment.
- (8) At the time the respondent is taken into custody for evaluation or within a reasonable time thereafter, unless a responsible relative is in possession of the respondent's personal property, the peace officer taking him into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the respondent.
- (9) When a person is involuntarily admitted to a seventy-two-hour treatment and evaluation facility under the provisions of this section or section 27-10-105, such person shall be advised by the facility director or his duly appointed representative that such person is going to be examined with regard to his mental condition.

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

27-10-107. Certification for short-term treatment.

- (1) If a person detained for seventy-two hours under the provisions of section 27-10-105 or a respondent under court order for evaluation pursuant to section 27-10-106 has received an evaluation, he may be certified for not more than three months of short-term treatment under the following conditions:
 - (a) The professional staff of the agency or facility providing seventy-two-hour treatment and evaluation has analyzed the person's condition and has found the person is mentally ill and, as a result of mental illness, a danger to others or to himself or gravely disabled.
 - (b) The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, his acceptance of voluntary treatment shall not preclude certification.
 - (c) The facility which will provide short-term treatment has been designated or approved by the executive director to provide such treatment.
- (2) The notice of certification must be signed by a professional person on the staff of the evaluation facility who participated in the evaluation and shall state facts sufficient to establish reasonable grounds to believe that the person is mentally ill and, as a result of mental illness, a danger to others or to himself or gravely disabled. The certification shall be filed with the court within forty-eight hours, excluding Saturdays, Sundays, and court holidays, of the date of certification. The certification shall be filed with the court in the county in which the respondent resided or was physically present immediately prior to his being taken into custody.
- (3) Within twenty-four hours of certification, copies of the certification shall be personally delivered to the respondent, and a copy shall be kept by the evaluation facility as part of the person's record. The respondent shall also be asked to designate one other person whom he wishes informed regarding certification. If he is incapable of making such a designation at the time the certification is delivered, he shall be asked to designate such person as soon as he is capable. In addition to the copy of the certification, the respondent shall be given a written notice that a hearing upon his certification for short-term treatment may be had before the court or a jury upon written request directed to the court pursuant to subsection (6) of this section.
- (4) Upon certification of the respondent, the facility designated for short-term treatment shall have custody of the respondent.
- (5) Whenever a certification is filed with the court, the court, if it has not already done so under section 27-10-106 (10), shall forthwith appoint an attorney to represent the respondent. The court shall determine whether the respondent is able to afford an attorney. If the respondent cannot afford counsel, the court shall appoint either counsel from the legal services program operating in that jurisdiction or private counsel to represent the respondent. The attorney representing the respondent shall be provided with a copy of the certification immediately upon his appointment. Waiver of counsel must be knowingly and intelligently made in writing and filed with the court by the respondent. In the event that a respondent who is able to afford an attorney fails to pay the appointed counsel, such counsel, upon application to the court and after appropriate notice and hearing, may obtain a judgment for reasonable attorney fees against the respondent or person making request for such counsel or both the respondent and such person.

- (6) The respondent for short-term treatment or his attorney may at any time file a written request that the certification for short-term treatment or the treatment be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the respondent and his attorney and the certifying and treating professional person of the time and place thereof. The hearing shall be held in accordance with section 27-10-111. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order, subject to available appropriations.
- (7) Records and papers in proceedings under this section and section 27-10-108 shall be maintained separately by the clerks of the several courts. Upon the release of any respondent in accordance with the provisions of section 27-10-110, the facility shall notify the clerk of the court within five days of the release, and the clerk shall forthwith seal the record in the case and omit the name of the respondent from the index of cases in such court until and unless the respondent becomes subject to an order of long-term care and treatment pursuant to section 27-10-109 or until and unless the court orders them opened for good cause shown. In the event a petition is filed pursuant to section 27-10-109, such certification record may be opened and become a part of the record in the long-term care and treatment case and the name of the respondent indexed.
- (8) Whenever it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by a sheriff, the court may issue an order directing the sheriff or his designee to deliver the respondent to the designated facility.

27-10-108. Extension of short-term treatment. If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary for treatment of the respondent, he shall file with the court an extended certification. No extended certification for treatment shall be for a period of more than three months. The respondent shall be entitled to a hearing on the extended certification under the same conditions as in an original certification. The attorney initially representing the respondent shall continue to represent that person, unless the court appoints another attorney.

27-10-109. Long-term care and treatment of the mentally ill.

- (1) Whenever a respondent has received short-term treatment for five consecutive months under the provisions of sections 27-10-107 and 27-10-108, the professional person in charge of the evaluation and treatment may file a petition with the court for long-term care and treatment of the respondent under the following conditions:
 - (a) The professional staff of the agency or facility providing short-term treatment has analyzed the respondent's condition and has found that the respondent is mentally ill and, as a result of mental illness, a danger to others or to himself or gravely disabled.
 - (b) The respondent has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the respondent will not remain in a voluntary treatment program, his acceptance of voluntary treatment shall not preclude an order pursuant to this section.
 - (c) The facility which will provide long-term care and treatment has been designated or approved by the executive director to provide such care and treatment.
- (2) Every petition for long-term care and treatment shall include a request for a hearing before the court prior to the expiration of six months from the date of original certification. A copy of the

petition shall be delivered personally to the respondent for whom long-term care and treatment is sought and mailed to his attorney of record simultaneously with the filing thereof.

- (3) Within ten days after receipt of the petition, the respondent or his attorney may request a jury trial by filing a written request therefor with the court.
- (4) The court or jury shall determine whether the conditions of subsection (1) of this section are met and whether the respondent is mentally ill and, as a result, a danger to others or to himself or gravely disabled. The court shall thereupon issue an order of long-term care and treatment for a term not to exceed six months, or it shall discharge the respondent for whom long-term care and treatment was sought, or it shall enter any other appropriate order, subject to available appropriations. An order for long-term care and treatment shall grant custody of such respondent to the department for placement with an agency or facility designated by the executive director to provide long-term care and treatment. When a petition contains a request that a specific legal disability be imposed or that a specific legal right be deprived, the court may order the disability imposed or the right deprived if it or a jury has determined that the respondent is mentally ill or gravely disabled and that, by reason thereof, the person is unable to competently exercise said right or perform the function as to which the disability is sought to be imposed. Any interested person may ask leave of court to intervene as a copetitioner for the purpose of seeking the imposition of a legal disability or the deprivation of a legal right.
- (5) An original order of long-term care and treatment or any extension of such order shall expire upon the date specified therein, unless further extended as provided in this subsection (5). If an extension is being sought, the professional person in charge of the evaluation and treatment shall certify to the court at least thirty days prior to the expiration date of the order in force that an extension of such order is necessary for the care and treatment of the respondent subject to the order in force, and a copy of such certification shall be delivered to the respondent and simultaneously mailed to his attorney of record. At least twenty days before the expiration of the order, the court shall give written notice to the respondent and his attorney of record that a hearing upon the extension may be had before the court or a jury upon written request to the court within ten days after receipt of the notice. If no hearing is requested by the respondent within such time, the court may proceed ex parte. If a hearing is timely requested, it shall be held before the expiration date of the order in force. If the court or jury finds that the conditions of subsection (1) of this section continue to be met and that the respondent is mentally ill and, as a result, a danger to others or to himself or gravely disabled, the court shall issue an extension of the order. Any extension shall be for a period of not more than six months, but there may be as many extensions as the court orders pursuant to this section.

27-10-110. Termination of short-term and long-term treatment – escape.

- (1) An original certification for short-term treatment under section 27-10-107, or an extended certification under section 27-10-108, or an order for long-term care and treatment or any extension thereof shall terminate as soon as, in the opinion of the professional person in charge of treatment of the respondent, the respondent has received sufficient benefit from such treatment for him to leave. Whenever a certification or extended certification is terminated under this section, the professional person in charge of providing treatment shall so notify the court in writing within five days of such termination. Such professional person may also prescribe day care, night care, or any other similar mode of treatment prior to termination.
- (2) Before termination, an escaped respondent may be returned to the facility by order of the court without a hearing or by the superintendent or director of such facility without order of court. After termination, a respondent may be returned to the institution only in accordance with the provisions of this article.

27-10-111. Hearing procedures - jurisdiction.

- (1) Hearings before the court under section 27-10-107, 27-10-108, or 27-10-109 shall be conducted in the same manner as other civil proceedings before such court. The burden of proof shall be upon the person or facility seeking to detain the respondent. The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds such person mentally ill and, as a result of such mental illness, a danger to others or to himself or gravely disabled, by clear and convincing evidence.
- (2) The court, after consultation with respondent's counsel to obtain counsel's recommendations, may appoint a professional person to examine the respondent for whom short-term treatment or long-term care and treatment is sought and to testify at the hearing before the court as to the results of his examination. Such court-appointed professional person shall act solely in an advisory capacity, and no presumption shall attach to his findings.
- (3) Every respondent subject to an order for short-term treatment or long-term care and treatment shall be advised of his right to appeal such order by the court at the conclusion of any hearing as a result of which such an order may be entered.
- (4) The court in which the petition is filed under section 27-10-106 or the certification is filed under section 27-10-107 shall be the court of original jurisdiction and of continuing jurisdiction for any further proceedings under this article. When the convenience of the parties and the ends of justice would be promoted by a change in the court having jurisdiction, the court may order a transfer of the proceeding to another county. Until further order of the transferee court, if any, it shall be the court of continuing jurisdiction.
- (4.5)
 - (a) In the event that a respondent, a person found not guilty by reason of impaired mental condition pursuant to section 16-8-103.5 (5), C.R.S., or by reason of insanity pursuant to section 16-8-105 (4), C.R.S., or a defendant found incompetent to proceed pursuant to section 16-8-112 (2), C.R.S., refuses to accept medication, the court having jurisdiction of the action pursuant to subsection (4) of this section, the court committing the person or defendant to the custody of the department of human services pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-112 (2), C.R.S., or the court of the jurisdiction in which the designated facility treating the respondent, person, or defendant is located shall have jurisdiction and venue to accept a petition by a treating physician and to enter an order requiring that the respondent, person, or defendant accept such treatment or, in the alternative, that the medication be forcibly administered to him or her. The court of the jurisdiction in which the designated facility is located shall not exercise its jurisdiction without the permission of the court that committed the person or defendant to the custody of the department of human services. Upon the filing of such a petition, the court shall appoint an attorney, if one has not been appointed, to represent such respondent, person, or defendant and hear the matter within ten days.
 - (b) In any case brought under paragraph (a) of this subsection (4.5) in a court for the county in which the treating facility is located, the county where the proceeding was initiated pursuant to subsection (4) of this section or the court committing the person or defendant to the custody of the department of human services pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-112 (2), C.R.S., shall either reimburse the county in which the proceeding pursuant to this subsection (4.5) was filed and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be.
- (5) All proceedings under this article, including proceedings to impose a legal disability pursuant to section 27-10-125, shall be conducted by the district attorney of the county where the proceeding is held or by a qualified attorney acting for the district attorney appointed by the district court for

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

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

27-10-113. Habeas corpus. Any person detained pursuant to this article shall be entitled to an order in the nature of habeas corpus upon proper petition to any court generally empowered to issue orders in the nature of habeas corpus.

27-10-114. Restoration of rights. Any person who, by reason of a judicial decree entered by a court of this state prior to July 1, 1975, is adjudicated mentally ill shall be deemed to have been restored to legal capacity and competency.

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

27-10-116. Right to treatment.

(1)

- (a) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to medical and psychiatric care and treatment, with regard to services listed in section 27-1-201 (1) (a) to (1) (e) and services listed in rules and regulations authorized by section 27-1-202, suited to meet his individual needs, delivered in such a way as to keep him in the least restrictive environment, and delivered in such a way as to include the opportunity for participation of family members in his program of care and treatment when appropriate, all subject to available appropriations. Nothing in this paragraph (a) shall create any right with respect to any person other than the person receiving evaluation, care, or treatment. The professional person and the agency or facility providing evaluation, care, or treatment shall keep records detailing all care and treatment received by such person, and such records shall be made available, upon that person's written authorization, to his attorney or his personal physician. Such records shall be permanent records.

- (b) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to petition the court pursuant to the provisions of section 13-45-102, C.R.S., subject to available appropriations, for release to a less restrictive setting within or without a treating facility or release from a treating facility when adequate medical and psychiatric care and treatment is not administered.
- (2) The department shall adopt regulations to assure that each agency or facility providing evaluation, care, or treatment shall require the following:
- (a) Consent for specific therapies and major medical treatment in the nature of surgery. The nature of the consent, by whom it is given, and under what conditions, shall be determined by regulations of the department.
 - (b) The order of a physician for any treatment or specific therapy based on appropriate medical examinations;
 - (c) Notation in the patient's treatment record of periodic examinations, evaluations, orders for treatment, and specific therapies signed by personnel involved;
 - (d) Conduct according to the guidelines contained in the regulations of the federal government and the department with regard to clinical investigations, research, experimentation, and testing of any kind; and
 - (e) Documentation of the findings, conclusions, and decisions in any administrative review of a decision to release or withhold the information requested by a family member pursuant to section 27-10-120 (1) (g) or (1) (h) and documentation of any information given to a family member.

27-10-117. Rights of persons receiving evaluation, care, or treatment.

- (1) Each person receiving evaluation, care, or treatment under any provision of this article has the following rights and shall be advised of such rights by the facility:
- (a) To receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held, or censored by the personnel of the facility.
 - (b) To have access to letter-writing materials, including postage, and to have staff members of the facility assist him if unable to write, prepare, and mail correspondence;
 - (c) To have ready access to telephones, both to make and to receive calls in privacy;
 - (d) To have frequent and convenient opportunities to meet with visitors. Each person may see his attorney, clergyman, or physician at any time.
 - (e) To wear his own clothes, keep and use his own personal possessions, and keep and be allowed to spend a reasonable sum of his own money.
- (2) A person's rights under subsection (1) of this section may be denied for good cause only by the professional person providing treatment. Denial of any right shall in all cases be entered into the person's treatment record. Information pertaining to a denial of rights contained in the person's treatment record shall be made available, upon request, to the person or his attorney.
- (3) No person admitted to or in a facility shall be fingerprinted unless required by other provisions of law.

- (4) A person may be photographed upon admission for identification and the administrative purposes of the facility. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other nonmedical photographs shall be taken or used without appropriate consent or authorization.
- (5) Any person receiving evaluation or treatment under any of the provisions of this article is entitled to a written copy of all his rights enumerated in this section, and a minor child shall receive written notice of his rights as provided in section 27-10-103 (3.5) (g). A list of such rights shall be prominently posted in all evaluation and treatment facilities.

27-10-117.5. Administration or monitoring of medications to persons receiving care. The executive director has the power to direct the administration or monitoring of medications in conformity with section 25-1-107 (1) (ee), C.R.S., to persons receiving treatment in facilities created pursuant to this article.

27-10-118. Employment of persons in a facility. The department shall adopt regulations governing the employment and compensation therefor of persons receiving care or treatment under any provision of this article. The department shall establish standards for reasonable compensation for such employment.

27-10-119. Voting in public elections. Any person receiving evaluation, care, or treatment under any provision of this article shall be given the opportunity to exercise his right to register and to vote in primary and general elections. The agency or facility providing evaluation, care, or treatment shall assist such persons, upon their request, to obtain voter registration forms, applications for absentee ballots, and absentee ballots and to comply with any other prerequisite for voting.

27-10-120. Records.

- (1) Except as provided in subsection (2) of this section, all information obtained and records prepared in the course of providing any services under this article to individuals under any provision of this article shall be confidential and privileged matter. Such information and records may be disclosed only:
 - (a) In communications between qualified professional personnel in the provision of services or appropriate referrals;
 - (b) When the recipient of services designates persons to whom information or records may be released; but, if a recipient of services is a ward or conservatee and his guardian or conservator designates, in writing, persons to whom records or information may be disclosed, such designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional personnel to reveal information which has been given to them in confidence by members of a patient's family or other informants;
 - (c) To the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he may be entitled;
 - (d) If the department has promulgated rules for the conduct of research. Such rules shall include, but not be limited to, the requirement that all researchers must sign an oath of confidentiality. All identifying information concerning individual patients, including names, addresses, telephone numbers, and social security numbers, shall not be disclosed for research purposes.
 - (e) To the courts, as necessary to the administration of the provisions of this article;

- (f) To persons authorized by an order of court after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the Colorado rules of civil procedure;
 - (g) To adult family members upon admission of a mentally ill person for inpatient or residential care and treatment. The only information released pursuant to this paragraph (g) shall be the location and fact of admission of the mentally ill person receiving care and treatment. Such disclosure of location is governed by the procedures in section 27-10-120.5 (1) and is subject to review under section 27-10-120.5.
 - (h) To adult family members actively participating in the care and treatment of a mentally ill person regardless of the length of such participation. The information released pursuant to this paragraph (h) shall be limited to one or more of the following: The diagnosis, the prognosis, the need for hospitalization and anticipated length of stay, the discharge plan, the medication administered and side effects of such medication, and the short-term and long-term treatment goals. Such disclosure is governed by the procedures in section 27-10-120.5 (2) and is subject to review under section 27-10-120.5.
- (1.5) Nothing in paragraph (g) or (h) of subsection (1) of this section shall be deemed to preclude the release of information to a parent concerning his minor child.
- (2)
- (a) Nothing in this article shall be construed as rendering privileged or confidential any information (except written medical records and information which is privileged under section 13-90-107, C.R.S.) concerning observed behavior which constitutes a criminal offense committed upon the premises of any facility providing services under this article or any criminal offense committed against any person while performing or receiving services under this article.
 - (b) The provisions of subsection (1) of this section shall not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6, C.R.S.

27-10-120.5. Request for release of information - procedures - review of a decision concerning release of information.

- (1) When a family member requests the location and fact of admission of a mentally ill person pursuant to section 27-10-120 (1) (g), the treating professional person or his designee, who shall be a professional person, shall decide whether to release or withhold such information. The location shall be released unless the treating professional person or his designee, who shall be a professional person, determines, after an interview with the mentally ill person, that release of such information to a particular family member would not be in the best interests of the mentally ill person. Any decision to withhold information requested pursuant to section 27-10-120 (1) (g) is subject to administrative review pursuant to this section upon request of a family member or the mentally ill person. The treating facility shall make a record of the information given to a family member pursuant to this subsection (1). For the purposes of this subsection (1), an adult person having a similar relationship to a mentally ill person as a spouse, parent, child, or sibling of a mentally ill person may also request the location and fact of admission concerning a mentally ill person.
- (2)
 - (a) When a family member requests information pursuant to section 27-10-120 (1) (h) concerning a mentally ill person, the treating professional person or his designee, who shall be a

professional person, shall determine whether the mentally ill person is capable of making a rational decision in weighing his confidentiality interests and the care and treatment interests implicated by the release of information. The treating professional person or his designee, who shall be a professional person, shall then determine whether the mentally ill person consents or objects to such release. Information shall be released or withheld in the following circumstances:

- (I) If the treating professional person or his designee, who shall be a professional person, makes a finding that the mentally ill person is capable of making a rational decision concerning his interests and such person consents to the release of information, the treating professional person or his designee, who shall be a professional person, shall order the release of the information unless he determines that such release would not be in the best interests of the mentally ill person.
 - (II) If the treating professional person or his designee, who shall be a professional person, makes a finding that the mentally ill person is capable of making a rational decision concerning his interests and such person objects to the release of information, the treating professional person or his designee, who shall be a professional person, shall not order the release of the information.
 - (III) If the treating professional person or his designee, who shall be a professional person, makes a finding that the mentally ill person is not capable of making a rational decision concerning his interests, the treating professional person or his designee, who shall be a professional person, may order the release of the information if he determines that such release would be in the best interests of the mentally ill person.
 - (IV) Any determination as to capacity under this paragraph (a) shall be used only for the limited purpose of this paragraph (a).
- (b) A decision by a treating professional person or his designee, who shall be a professional person, concerning the capability of a mentally ill person under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of the mentally ill person. A decision by a treating professional person or his designee, who shall be a professional person, to order the release or withholding of information under subparagraph (III) of paragraph (a) of this subsection (2) is subject to administrative review upon the request of either a family member or the mentally ill person.
 - (c) The director of the treating facility shall make a record of any information given to a family member pursuant to paragraph (a) of this subsection (2) and section 27-10-120 (1) (h).
- (3) When administrative review is requested either under subsection (1) or paragraph (b) of subsection (2) of this section, the director of the facility providing care and treatment to the mentally ill person shall cause an objective and impartial review of the decision to withhold or release information to be provided. Such review shall be conducted by the director of the facility, if he is a professional person, or by a professional person whom he designates if the director is not available or if the director cannot provide an objective and impartial review. Such review shall include, but need not be limited to, an interview with the mentally ill person. The facility providing care and treatment shall document the review of the decision.
 - (4) If a patient objects to the release or withholding of information, the patient and his attorney, if any, shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information. Such patient shall be informed of any information proposed to be withheld or released and to whom and shall be given a reasonable opportunity to initiate the administrative review process before information concerning his care and treatment is released.

- (5) A family member whose request for information is denied shall be provided with information concerning the procedures for administrative review of a decision to release or withhold information.
- (6) A mentally ill person may file a written request for review by the court of a decision made upon administrative review to release information to a family member requested under section 27-10-120 (1) (h) and proposed to be released pursuant to subsection (2) of this section. If judicial review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the mentally ill person and his attorney, the treating professional person, and the person who made the decision upon administrative review of the time and place thereof. The hearing shall be conducted in the same manner as other civil proceedings before such court.
- (7) In order to allow a mentally ill person an opportunity to seek judicial review, the treating facility or the treating professional person or his designee, who shall be a professional person, shall not release information requested pursuant to section 27-10-120 (1) (h) until five days after the determination upon administrative review of the director or his designee, who shall be a professional person, is received by the mentally ill person, and, once judicial review is requested, information shall not be released except by court order. However, if the mentally ill person indicates an intention not to appeal a determination upon administrative review that is adverse to him concerning the release of information, such information may be released less than five days after such determination upon review is received by the mentally ill person.
- (8) This section provides for the release of information only and shall not be deemed to authorize the release of the written medical record without authorization by the patient or as otherwise provided by law.

27-10-121. Treatment in federal facilities.

- (1) If a person is certified under the provisions of this article and is eligible for hospital care or treatment by an agency of the United States and if a certificate of notification from said agency, showing that facilities are available and that the person is eligible for care or treatment therein, is received, the court may order said person to be placed in the custody of the agency for hospitalization. When any person is admitted pursuant to an order of court to any hospital or institution operated by any agency of the United States within or without this state, he shall be subject to the rules and regulations of the agency. The chief officer of any hospital or institution operated by an agency and in which the person is so hospitalized shall, with respect to the person, be vested with the same powers as the chief officer of the Colorado mental health institute at Pueblo with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction shall be retained in the appropriate courts of this state to inquire into the mental condition of persons so hospitalized and to determine the necessity for continuance of their hospitalization.
- (2) An order of a court of competent jurisdiction of another state, territory, or the District of Columbia, authorizing hospitalization of a person to any agency of the United States, shall have the same effect as to said person while in this state as in the jurisdiction in which the court entering the order is situated; the courts of the state or district issuing the order shall be deemed to have retained jurisdiction of the person so hospitalized for the purpose of inquiring into his mental condition and of determining the necessity for continuance of his hospitalization. Consent is hereby given to the application of the law of the state or district in which the court issuing the order for hospitalization is located, with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, to transfer, to conditionally release, or to discharge the person hospitalized.

27-10-122. Transfer of persons into and out of Colorado. The transfer of persons hospitalized under the provisions of this article out of Colorado or under the laws of another jurisdiction into Colorado shall be governed by the provisions of the interstated compact on mental health.

27-10-123. Criminal proceedings. Proceedings under section 27-10-105, 27-10-106, or 27-10-107 shall not be initiated or carried out involving a person charged with a criminal offense unless or until the criminal offense has been tried or dismissed; except that the judge of the court wherein the criminal action is pending may request the district or probate court to authorize and permit such proceedings.

27-10-124. Application of this article. The provisions of this article do not apply to or govern any proceedings commenced or concluded prior to July 1, 1975, with the exception of section 27-10-114. Any proceeding commenced prior to July 1, 1975, shall be administered and disposed of according to the provisions of law existing prior to July 1, 1975, in the same manner as if this article had not been enacted.

27-10-125. Imposition of legal disability - deprivation of legal right - restoration.

(1)

- (a) When any interested person wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for any person who is mentally ill and a danger to himself or others, is gravely disabled, or is insane, as defined in section 16-8-101, C.R.S., and who is not then subject to proceedings under this article or part 3 or part 4 of article 14 of title 15, C.R.S., such interested person may petition the court for a specific finding as to such disability or deprivation of a legal right. Actions commenced pursuant to this subsection (1) may include but shall not be limited to actions to determine contractual rights and rights with regard to the operation of motor vehicles.
- (b) The petition shall set forth the disability to be imposed or the legal right to be deprived and the reasons therefor.

(2)

- (a) The court may impose a disability or may deprive a person of a legal right only upon finding both of the following:
 - (I) That the respondent is mentally ill and a danger to himself or others, gravely disabled, or insane, as defined in section 16-8-101, C.R.S.;
 - (II) That the requested disability or deprivation is both necessary and desirable.

(b) Repealed.

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

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

- (a) Upon the filing of a petition, the court shall appoint an attorney-at-law to represent the respondent. The respondent may replace said attorney with an attorney of the respondent's own selection at any time. Attorney fees for an indigent respondent shall be paid by the court.
 - (b) The court, upon request of an indigent respondent or his attorney, shall appoint, at the court's expense, one or more professional persons, as defined in section 27-10-102 (11), of the respondent's selection to assist the respondent in the preparation of his case.
 - (c) Upon demand made at least five days prior to the date of hearing, the respondent shall have the right to a trial of all issues by a jury of six.
 - (d) At all times the burden shall be upon the person seeking imposition of a disability or deprivation of a legal right or opposing removal of a disability or deprivation to prove all essential elements by clear and convincing evidence.
 - (e) Pending a hearing, the court may issue an order temporarily imposing a disability or depriving the respondent of a legal right for a period of not more than ten days in conformity with the standards for issuance of ex parte temporary restraining orders in civil cases, but no individual habilitation or rehabilitation plan shall be required prior to the issuance of such order.
 - (f) Except as otherwise provided in this subsection (4), all proceedings shall be held in conformance with the Colorado rules of civil procedure, but no costs shall be assessed against the respondent.
- (5) Any person who, by reason of a judicial decree or order entered by a court of this state prior to July 1, 1979, is under the imposition of a legal disability or has been deprived of a legal right pursuant to this section as it existed prior to July 1, 1979, shall be released from such decree or order on December 31, 1979.

27-10-126. Administration. The department shall make such rules and regulations as will consistently enforce the provisions of this article.

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

27-10-128. Mental health service standards for health care facilities. (1) The advisory board created by section 27-10-129 shall be responsible for recommending standards and regulations relevant to the provisions of this article for the programs of mental health services to those patients in any health care facility that has either separate facilities for the care, treatment, and rehabilitation of persons with mental health problems or those health care facilities that have as their only purpose the treatment and care of such persons.

27-10-129. Advisory board - service standards and regulations. (1) There is hereby established an advisory board to the department for the purpose of assisting and advising the executive director in accordance with section 27-10-128 in the development of service standards and regulations. The board shall consist of not less than eleven nor more than fifteen members appointed by the governor and shall include one representative each from the division of mental health in the department, the department of human services, the department of public health and environment, the university of Colorado medical center, and a leading professional association of psychiatrists in this state; at least one member representing

proprietary skilled health care facilities; one member representing nonprofit health care facilities; one member representing the Colorado bar association; one member representing consumers of mental health services; one member representing families of persons with mental illness; one member representing childrens' health care facilities; and other persons from both the private and the public sectors who are recognized or known to be interested and informed in the area of the board's purpose and function.