UNREVISED
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4.13.12

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 12-0667.01 Brita Darling x2241 **SENATE BILL**

SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

(None),

SHORT TITLE: "Long-term Services Relocation To DHCPF"

A BILL FOR AN ACT

101 **CONCERNING THE TRANSFER OF PROGRAMS RELATED TO LONG-TERM**
102 **SERVICES AND SUPPORTS FROM THE DEPARTMENT OF HUMAN**
103 **SERVICES TO THE DEPARTMENT OF HEALTH CARE POLICY AND**
104 **FINANCING.**

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/billsummaries.)

The bill summary for this measure has been intentionally omitted

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

and will appear on future redrafts of this measure.

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

SECTION 1. In Colorado Revised Statutes, **add** part 6 to article 1 of title 25.5 as follows:

PART 6

OFFICE OF LONG-TERM SERVICES AND SUPPORTS

25.5-1-601. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) AN EFFECTIVE SYSTEM OF LONG-TERM SERVICES AND SUPPORTS IS ESSENTIAL TO ENABLE OLDER ADULTS AND ADULTS AND CHILDREN WITH DISABILITIES TO LIVE IN THE COMMUNITY;

(b) THE DEMAND FOR HIGH-QUALITY, LONG-TERM SERVICES AND SUPPORTS IS EXPECTED TO GROW;

(c) THE STATE NEEDS A LONG-TERM PLAN AND STRATEGIC VISION THAT IMPROVES OUTCOMES FOR THESE INDIVIDUALS, BUT THAT ALSO RECOGNIZES LIMITED RESOURCES;

(d) FURTHER, THE STATE NEEDS A SYSTEM THAT PROMOTES SELF-DIRECTED SERVICES AND IS DESIGNED TO IMPROVE OUTCOMES OF THE INDIVIDUALS BEING SERVED; AND

(e) STATE AGENCIES, INDIVIDUALS WHO RECEIVE OR ARE ELIGIBLE TO RECEIVE LONG-TERM SERVICES AND SUPPORTS, ADVOCATES, AND PROVIDERS SHOULD CREATE THE STATE'S PLAN AND DEFINE ITS VISION.

(2) THEREFORE, THE GENERAL ASSEMBLY HEREBY DECLARES THAT:

(a) STATE AGENCIES SHOULD BE ORGANIZED IN A MANNER THAT ALLOWS FOR IMPROVED DELIVERY OF LONG-TERM SERVICES AND

1 SUPPORTS FOR INDIVIDUALS AND PROVIDERS;
2 (b) THE REORGANIZATION OF STATE AGENCY DUTIES SHOULD NOT
3 AFFECT CURRENT GRANTS OR CONTRACTS OR THE CONTINUITY OF
4 SERVICES AND RELATIONSHIPS, AND SHOULD BE DESIGNED TO MINIMIZE
5 DISRUPTIONS TO THE GREATEST DEGREE POSSIBLE;
6 (c) FUNDING THROUGH THE OLDER COLORADANS' ACT FOR
7 SERVICES FOR SENIORS THROUGH THE AREA AGENCIES ON AGING SHOULD
8 NOT BE USED FOR OTHER PURPOSES AS A RESULT OF THE REORGANIZATION
9 OF STATE AGENCY DUTIES;
10 (d) FUNDING APPROPRIATED BY THE GENERAL ASSEMBLY FOR
11 COMMUNITY SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES
12 PURSUANT TO SECTION 25.5-10-105, SHOULD NOT BE USED FOR OTHER
13 PURPOSES AS A RESULT OF THE TRANSFER OF STATE AGENCY DUTIES;
14 (e) FUNDING APPROPRIATED BY THE GENERAL ASSEMBLY FOR
15 SERVICES PROVIDED BY THE SIXTEEN AREA AGENCIES ON AGING AND THE
16 AGING POLICY ADVISORY COMMITTEE SHOULD NOT BE USED FOR OTHER
17 PURPOSES AS A RESULT OF THE TRANSFER OF STATE AGENCY DUTIES; AND
18 (f) THE STATE DEPARTMENT SHOULD INCLUDE AN OFFICE OF
19 LONG-TERM SERVICES AND SUPPORTS THAT WILL REPORT DIRECTLY TO THE
20 EXECUTIVE DIRECTOR.
21 **25.5-1-602. Transfer of functions - rules.** (1) ON AND AFTER
22 JULY 1, 2013, THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE
23 PROGRAMS, SERVICES, AND SUPPORTS CONTAINED IN ARTICLES 9, 10, AND
24 11 OF THIS TITLE ARE TRANSFERRED FROM THE DEPARTMENT OF HUMAN
25 SERVICES TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
26 BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN THE
27 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24,

1 C.R.S.

2 (2) ALL RULES AND ORDERS OF THE DEPARTMENT OF HUMAN
3 SERVICES AND THE STATE BOARD OF HUMAN SERVICES IN CONNECTION
4 WITH THE PROGRAMS TRANSFERRED TO THE DEPARTMENT OF HEALTH
5 CARE POLICY AND FINANCING SHALL CONTINUE TO BE EFFECTIVE UNTIL
6 REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.

7 **25.5-1-603. Office of long-term services and supports -**
8 **creation.** (1) THERE IS HEREBY CREATED WITHIN THE STATE DEPARTMENT
9 THE OFFICE OF LONG-TERM SERVICES AND SUPPORTS, REFERRED TO IN THIS
10 PART 6 AS "THE OFFICE". THE OFFICE IS HEADED BY THE DIRECTOR OF
11 LONG-TERM SERVICES AND SUPPORTS APPOINTED BY THE EXECUTIVE
12 DIRECTOR IN ACCORDANCE WITH SECTION 13 OF ARTICLE XII OF THE
13 STATE CONSTITUTION. THE DIRECTOR OF LONG-TERM SERVICES AND
14 SUPPORTS SHALL REPORT DIRECTLY TO THE EXECUTIVE DIRECTOR.

15 (2) THE OFFICE SHALL EXERCISE ITS POWERS AND PERFORM ITS
16 DUTIES AND FUNCTIONS SPECIFIED IN THIS PART 6 UNDER THE STATE
17 DEPARTMENT AS IF THEY WERE TRANSFERRED TO THE STATE DEPARTMENT
18 BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN THE
19 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24,
20 C.R.S.

21 **25.5-1-604. Office of long-term services and supports -**
22 **functions - repeal.** (1) THE OFFICE HAS THE FOLLOWING FUNCTIONS:

23 (a) TO ADMINISTER THE LONG-TERM SERVICES AND SUPPORTS
24 PROGRAMS CONTAINED IN ARTICLES 9 AND 10 OF THIS TITLE AND SUCH
25 OTHER LONG-TERM SERVICES AND SUPPORTS PROGRAMS AS MAY BE
26 CREATED IN OR TRANSFERRED TO THE OFFICE BY THE EXECUTIVE
27 DIRECTOR;

1 (b) TO ADMINISTER THE "OLDER COLORADANS' ACT", AS
2 SPECIFIED IN ARTICLE 9 OF THIS TITLE;
3 (c) TO ADMINISTER PROGRAMS FOR THE CARE AND TREATMENT OF
4 PERSONS WITH DEVELOPMENTAL DISABILITIES AS SPECIFIED IN ARTICLE 10
5 OF THIS TITLE;
6 (d) TO ADMINISTER THE "COLORADO LONG-TERM CARE
7 OMBUDSMAN ACT", AS SPECIFIED IN ARTICLE 11 OF THIS TITLE;
8 (e) TO ADMINISTER THE RESIDENTIAL CHILD HEALTH CARE
9 PROGRAM CREATED IN SECTION 25.5-5-306;
10 (f) TO COLLABORATE WITH OTHER OFFICES WITHIN THE STATE
11 DEPARTMENT THAT PROVIDE SERVICES TO OR ADMINISTER PROGRAMS
12 RELATED TO LONG-TERM SERVICES AND SUPPORTS AND WITH OTHER STATE
13 AGENCIES THAT PROVIDE SERVICES TO OR ADMINISTER PROGRAMS FOR
14 INDIVIDUALS IN NEED OF LONG-TERM SERVICES AND SUPPORTS;
15 (g) TO COORDINATE WITH THE LONG-TERM CARE ADVISORY
16 COMMITTEE AND OTHER PLANNING GROUPS TO ENSURE A COORDINATED,
17 COHESIVE PLANNING PROCESS FOR COLORADO; AND
18 (h) (I) TO COORDINATE WITH THE LONG-TERM SERVICES AND
19 SUPPORTS TRANSFORMATIONAL COUNCIL CREATED PURSUANT TO SECTION
20 25.5-1-605;
21 (II) THIS PARAGRAPH (h) IS REPEALED, EFFECTIVE JULY 1, 2015.
22 (2) THE REORGANIZATION OF STATE AGENCY DUTIES SHALL NOT
23 AFFECT CURRENT GRANTS OR CONTRACTS OR THE CONTINUITY OF
24 SERVICES AND RELATIONSHIPS, AND SHALL BE DESIGNED TO MINIMIZE
25 DISRUPTIONS TO THE GREATEST DEGREE POSSIBLE;
26 (3) FUNDING THROUGH THE "OLDER COLORADANS' ACT", ARTICLE
27 9 OF THIS TITLE, FOR SERVICES FOR SENIORS THROUGH THE AREA

1 AGENCIES ON AGING SHALL NOT BE USED FOR OTHER PURPOSES AS A
2 RESULT OF THE REORGANIZATION OF STATE AGENCY DUTIES;
3 (4) FUNDING APPROPRIATED BY THE GENERAL ASSEMBLY FOR
4 COMMUNITY SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES
5 PURSUANT TO SECTION 25.5-10-105, SHALL NOT BE USED FOR OTHER
6 PURPOSES AS A RESULT OF THE TRANSFER OF STATE AGENCY DUTIES;
7 (5) FUNDING APPROPRIATED BY THE GENERAL ASSEMBLY FOR
8 SERVICES PROVIDED BY THE SIXTEEN AREA AGENCIES ON AGING AND THE
9 AGING POLICY ADVISORY COMMITTEE SHALL NOT BE USED FOR OTHER
10 PURPOSES AS A RESULT OF THE TRANSFER OF STATE AGENCY DUTIES
11 **25.5-1-605. Long-term services and supports transformational**
12 **council - legislative declaration - creation - membership - duties -**
13 **reports - staff - repeal.** (1) **Legislative declaration.** (a) THE GENERAL
14 ASSEMBLY FINDS THAT:
15 (I) AN EFFECTIVE SYSTEM OF LONG-TERM SERVICES AND SUPPORTS
16 IS ESSENTIAL TO ENABLE OLDER ADULTS AND ADULTS AND CHILDREN WITH
17 DISABILITIES TO LIVE IN THE COMMUNITY;
18 (II) THE DEMAND FOR HIGH-QUALITY, LONG-TERM SERVICES AND
19 SUPPORTS IS EXPECTED TO GROW;
20 (III) THE STATE NEEDS A LONG-TERM PLAN AND STRATEGIC VISION
21 THAT IMPROVES OUTCOMES FOR THESE INDIVIDUALS BUT THAT ALSO
22 RECOGNIZES LIMITED RESOURCES;
23 (IV) FURTHER, THE STATE NEEDS A SYSTEM THAT IS
24 PERSON-CENTERED, PROMOTES SELF-DIRECTED SERVICES, AND IS
25 DESIGNED TO IMPROVE OUTCOMES OF THE INDIVIDUALS BEING SERVED;
26 AND
27 (V) STATE AGENCIES, INDIVIDUALS WHO RECEIVE OR ARE ELIGIBLE

1 TO RECEIVE LONG-TERM SERVICES AND SUPPORTS, THEIR FAMILIES,
2 ADVOCATES, AND PROVIDERS SHOULD CREATE THE STATE'S PLAN AND
3 DEFINE ITS VISION.
4 (b) THEREFORE, THE GENERAL ASSEMBLY HEREBY DECLARES
5 THAT:
6 (I) THE CREATION OF A LONG-TERM SERVICES AND SUPPORTS
7 TRANSFORMATIONAL COUNCIL TO CONSIDER AND RECOMMEND NECESSARY
8 CHANGES TO THE SYSTEM TO ENSURE RESPONSIVENESS, FLEXIBILITY,
9 ACCOUNTABILITY, AND SELF-DIRECTED LONG-TERM SERVICES AND
10 SUPPORTS FOR ALL ELIGIBLE PERSONS IS BENEFICIAL TO THE CITIZENS OF
11 COLORADO;
12 (II) STATE AGENCIES SHOULD BE ORGANIZED IN A MANNER THAT
13 ALLOWS FOR IMPROVED DELIVERY OF LONG-TERM SERVICES AND
14 SUPPORTS FOR INDIVIDUALS AND PROVIDERS;
15 (III) THE REORGANIZATION OF STATE AGENCY DUTIES SHOULD NOT
16 AFFECT CURRENT GRANTS OR CONTRACTS OR THE CONTINUITY OF
17 SERVICES AND RELATIONSHIPS, AND SHOULD BE DESIGNED TO MINIMIZE
18 DISRUPTIONS TO THE GREATEST DEGREE POSSIBLE; AND
19 (IV) THE LONG-TERM SERVICES AND SUPPORTS
20 TRANSFORMATIONAL COUNCIL SHOULD COLLABORATE WITH THE
21 COMMISSION ON THE AGING, THE LONG-TERM CARE ADVISORY COMMITTEE,
22 AND OTHER PLANNING GROUPS TO ENSURE A COORDINATED, COHESIVE
23 PLANNING PROCESS FOR COLORADO.
24 (2) **Creation.** THERE IS HEREBY CREATED IN THE STATE
25 DEPARTMENT THE LONG-TERM SERVICES AND SUPPORTS
26 TRANSFORMATIONAL COUNCIL, REFERRED TO IN THIS SECTION AS THE
27 "COUNCIL".

1 (3) **Membership.** (a) THE COUNCIL CONSISTS OF TWENTY-SEVEN
2 MEMBERS THAT REFLECT THE GEOGRAPHIC AND ETHNIC DIVERSITY OF THE
3 STATE, AS FOLLOWS:
4 (I) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
5 HOUSE OF REPRESENTATIVES SHALL EACH APPOINT ONE MEMBER OF THE
6 GENERAL ASSEMBLY TO THE COUNCIL;
7 (II) THE MINORITY LEADER OF THE SENATE AND THE MINORITY
8 LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT ONE
9 MEMBER OF THE GENERAL ASSEMBLY TO THE COUNCIL
10 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN
11 SERVICES, OR HIS OR HER DESIGNEE;
12 (IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH
13 CARE POLICY AND FINANCING, OR HIS OR HER DESIGNEE; AND
14 (V) THE GOVERNOR SHALL APPOINT TWENTY-ONE MEMBERS TO
15 THE COUNCIL.
16 (b) THE MEMBERS APPOINTED BY THE GOVERNOR SHALL CONSIST
17 OF THE FOLLOWING:
18 (I) ONE MEMBER OF THE BEHAVIORAL HEALTH
19 TRANSFORMATIONAL COUNCIL;
20 (II) ONE MEMBER REPRESENTING THE COLORADO COMMISSION ON
21 THE AGING;
22 (III) TWO MEMBERS REPRESENTING THE AREA AGENCIES ON AGING;
23 (IV) TWO MEMBERS REPRESENTING COMMUNITY-CENTERED
24 BOARDS;
25 (V) ONE RESEARCHER WITH EXPERTISE IN THE AREA OF THE CARE
26 AND TREATMENT OF PERSONS WITH DEVELOPMENTAL DISABILITIES;
27 (VI) TWO SERVICE PROVIDERS REPRESENTING OLDER ADULTS AND

1 ADULTS AND CHILDREN WITH DISABILITIES;

2 (VII) TWO MEMBERS REPRESENTING COUNTY DEPARTMENTS OF
3 SOCIAL SERVICES; AND

4 (VIII) TEN MEMBERS WHO RECEIVE OR ARE ELIGIBLE TO RECEIVE
5 LONG-TERM CARE SERVICES AND SUPPORTS, OR THEIR FAMILIES, OR WHO
6 REPRESENT AN ADVOCACY GROUP THAT REPRESENTS PERSONS ELIGIBLE TO
7 RECEIVE LONG-TERM CARE SERVICES AND SUPPORTS. TWO OF THESE TEN
8 MEMBERS SHALL HAVE EXPERTISE IN HOUSING AND ADVOCACY FOR
9 RESIDENTS OF LONG-TERM CARE FACILITIES.

10 (c) THE APPOINTING AUTHORITIES SHALL ESTABLISH A PROCESS
11 FOR PERSONS INTERESTED IN SERVING ON THE COUNCIL TO SEEK AN
12 APPOINTMENT. THE APPOINTING AUTHORITIES SHALL MAKE THE INITIAL
13 APPOINTMENTS TO THE COUNCIL NO LATER THAN JULY 1, 2012, AND SHALL
14 PROMPTLY FILL ANY VACANCIES THAT OCCUR AFTER THE INITIAL
15 APPOINTMENTS.

16 (d) MEMBERS SERVE AT THE PLEASURE OF THE APPOINTING
17 AUTHORITY FOR THE DURATION OF THE COUNCIL.

18 (e) THE COUNCIL SHALL ELECT A CHAIR AND VICE-CHAIR FROM
19 AMONG ITS MEMBERS.

20 (f) THE LEGISLATIVE AND NONLEGISLATIVE MEMBERS OF THE
21 COUNCIL SHALL SERVE WITHOUT COMPENSATION AND WITHOUT
22 REIMBURSEMENT FOR EXPENSES.

23 (g) (I) THE COUNCIL SHALL MEET AS DETERMINED BY ITS
24 MEMBERS.

25 (II) COUNCIL MEETINGS SHALL BE OPEN TO THE PUBLIC, AND THE
26 COUNCIL SHALL SET ASIDE A PORTION OF EACH MEETING TO RECEIVE
27 PUBLIC COMMENT.

1 (III) THE COUNCIL SHALL PROVIDE NOTICE OF THE DATE AND TIME
2 OF ANY MEETING NO LATER THAN TEN DAYS PRIOR TO THE MEETING DATE
3 AND SHALL POST A MEETING AGENDA ON-LINE PRIOR TO THE MEETING.
4 (IV) THE COUNCIL SHALL POST THE MINUTES OF EACH MEETING
5 ON-LINE INCLUDING, TO THE EXTENT PRACTICABLE, ANY MATERIALS
6 DISTRIBUTED AT THE MEETING.
7 (4) **Duties of the council.** (a) THE COUNCIL SHALL HAVE THE
8 FOLLOWING DUTIES:
9 (I) TO CONDUCT A THOROUGH AND COMPREHENSIVE REVIEW OF
10 THE SYSTEMS THAT PROVIDE SERVICES AND SUPPORTS TO OLDER ADULTS
11 AND ADULTS AND CHILDREN WITH DISABILITIES;
12 (II) TO REVIEW RECENT AUDITS, REPORTS, STUDIES, PROPOSALS,
13 SATISFACTION SURVEYS, AND OTHER CONTEMPORARY POLICY DISCUSSIONS
14 TO FRAME A PLAN FOR THE EFFECTIVE DELIVERY OF LONG-TERM CARE
15 SERVICES AND SUPPORTS;
16 (III) TO IDENTIFY THEMES AND RECOMMEND PRIORITIES,
17 RESOURCES, AND GOALS FOR SYSTEM REDESIGN WITH A FOCUS ON
18 SELF-DIRECTION;
19 (IV) TO ANALYZE AND MAKE RECOMMENDATIONS CONCERNING
20 EXISTING OR NEW BUSINESS PROGRAMS, MODELS, AND TECHNOLOGY
21 NEEDS, KEEPING IN MIND THE POTENTIAL IMPACT ON PEOPLE, RESOURCES,
22 AND REGULATIONS;
23 (V) TO MAKE RECOMMENDATIONS THAT ADDRESS STRUCTURAL
24 AND SYSTEMIC CONFLICTS OF INTEREST;
25 (VI) TO DEVELOP PLANS AND MAKE RECOMMENDATIONS THAT
26 SUPPORT INDIVIDUALS WHO ARE ON WAITING LISTS FOR SERVICES AND
27 SUPPORTS;

1 (VII) TO FORM SUBGROUPS OR INVITE ASSISTANCE FROM
2 ADDITIONAL ORGANIZATIONS OR INDIVIDUALS AS NEEDED; AND
3 (VIII) TO MAKE RECOMMENDATIONS FOR THE TRANSFER OF
4 FUNCTIONS FROM THE DEPARTMENT OF HUMAN SERVICES TO THE
5 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.
6 (b) ADDITIONALLY, AS PART OF ANY RECOMMENDATION ADOPTED
7 BY THE COUNCIL PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4),
8 THE COUNCIL MAY RECOMMEND REVISIONS TO THE COLORADO REVISED
9 STATUTES AND TO EXECUTIVE AGENCY OR STATE BOARD RULES AS
10 NECESSARY TO IMPLEMENT THE COUNCIL'S RECOMMENDATIONS.
11 (c) THE COUNCIL SHALL REPORT ITS FINDINGS AND
12 RECOMMENDATIONS PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE
13 COUNCIL SHALL SEEK CONSENSUS ON ALL RECOMMENDATIONS. IN THE
14 ABSENCE OF CONSENSUS, COUNCIL RECOMMENDATIONS SHALL BE
15 ADOPTED BY AT LEAST A TWO-THIRDS MAJORITY VOTE OF MEMBERS
16 PRESENT AT THE MEETING DESIGNATED FOR VOTING ON COUNCIL
17 RECOMMENDATIONS.
18 (5) **Reports.** PURSUANT TO THE PROVISIONS OF SECTION 24-1-136
19 (9), C.R.S., THE COUNCIL SHALL SUBMIT A WRITTEN REPORT TO THE
20 HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY
21 SUCCESSOR COMMITTEE, THE HEALTH AND ENVIRONMENT COMMITTEE OF
22 THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE, AND
23 TO THE JOINT BUDGET COMMITTEE, AS FOLLOWS:
24 (a) ON OR BEFORE JANUARY 31, 2013, CONCERNING THE COUNCIL'S
25 PROGRESS WITH RESPECT TO ITS DUTIES AS SET FORTH IN SUBSECTION (4)
26 OF THIS SECTION, INCLUDING ANY RECOMMENDATIONS RELATING TO
27 REVISIONS TO THE COLORADO REVISED STATUTES OR TO EXECUTIVE

1 AGENCY OR STATE BOARD RULES;
2 (b) ON OR BEFORE JANUARY 31, 2014, CONCERNING THE COUNCIL'S
3 PROGRESS AND RECOMMENDATIONS WITH RESPECT TO ITS DUTIES AS SET
4 FORTH IN SUBSECTION (4) OF THIS SECTION, INCLUDING ANY
5 RECOMMENDATIONS RELATING TO REVISIONS TO THE COLORADO REVISED
6 STATUTES OR EXECUTIVE AGENCY RULES; AND
7 (c) ON OR BEFORE SEPTEMBER 1, 2014, CONCERNING THE
8 COUNCIL'S FINAL RECOMMENDATIONS WITH RESPECT TO ITS DUTIES AS SET
9 FORTH IN SUBSECTION (4) OF THIS SECTION, INCLUDING ANY
10 RECOMMENDATIONS RELATING TO REVISIONS TO THE COLORADO REVISED
11 STATUTES OR TO EXECUTIVE AGENCY OR STATE BOARD RULES.
12 (6) **Council staff.** (a) THE STATE DEPARTMENT SHALL PROVIDE
13 ADMINISTRATIVE SUPPORT, INCLUDING STAFF AND MATERIALS, TO THE
14 COUNCIL WITHIN EXISTING APPROPRIATIONS, BUT SHALL NOT BE REQUIRED
15 TO PROVIDE STAFF SUPPORT FOR ANY SUBCOMMITTEES CREATED BY THE
16 COUNCIL. ADDITIONALLY, THE COUNCIL MAY ACCEPT ADMINISTRATIVE
17 SUPPORT FROM THE PRIVATE SECTOR.
18 (b) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL
19 AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES MAY
20 PROVIDE STAFF ASSISTANCE TO THE COUNCIL AS THEY DEEM APPROPRIATE
21 WITHIN EXISTING APPROPRIATIONS. IF A REQUEST FOR STAFF ASSISTANCE
22 CANNOT BE ACCOMMODATED WITHIN EXISTING APPROPRIATIONS, THEN
23 THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL AND THE
24 DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES MAY PROVIDE
25 STAFF ASSISTANCE TO THE COUNCIL ONLY IF MONEYS ARE CREDITED TO
26 THE LEGISLATIVE DEPARTMENT CASH FUND CREATED IN SECTION 2-2-1601,
27 C.R.S., IN AN AMOUNT SUFFICIENT TO FUND STAFF ASSISTANCE.

1 (7) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.
2 **SECTION 2.** In Colorado Revised Statutes, **add, with amended**
3 **and relocated provisions,** articles 9, 10, and 11 to title 25.5 as follows:
4 **ARTICLE 9**
5 **Older Coloradans' Act**
6 PART 1
7 COLORADO COMMISSION ON THE AGING
8 **25.5-9-101. [Formerly 26-11-100.1.] Short title.** This article
9 shall be known and may be cited as the "Older Coloradans' Act".
10 **25.5-9-102. [Formerly 26-11-100.2.] Legislative declaration.**
11 (1) The general assembly hereby finds and declares that older Coloradans
12 constitute a fundamental resource of this state. Often, their competence,
13 experience, and wisdom are underutilized, and a means must be found to
14 use their abilities more effectively for the benefit of all Coloradans. The
15 number of persons in this state sixty years of age or older is increasing
16 rapidly, and, of these persons, the number of women, minorities, and
17 persons seventy-five years of age or older is expanding at an even greater
18 rate. Among those persons seventy-five years of age or older, there is a
19 higher incidence of functional disability. The social and health problems
20 of older people are compounded by the lack of access to existing services
21 and by the unavailability of a complete range of services in all areas of
22 the state. The ability of older people to maintain self-sufficiency and
23 personal well-being with the dignity to which their years of labor entitle
24 them and to realize their maximum potential as creative and productive
25 individuals are matters of profound importance and concern for all
26 Coloradans.
27 (2) The general assembly further declares that it is the policy of

1 this state: To protect older Coloradans from abuse, neglect, or
2 exploitation; to involve older Coloradans in the planning and operation
3 of all programs and services that may affect them; to encourage agencies
4 at all levels of government, as well as in the private sector, to develop
5 alternative services and forms of care that would provide a range of
6 services to be delivered in the community and in the home and that would
7 facilitate access to other services which support independent living and
8 prevent unnecessary institutionalization; to give priority in planning
9 services and programs to those older Coloradans with the greatest
10 economic need or the greatest social need; and to facilitate and encourage
11 joint program planning and policy development among state and local
12 agencies which recognize and strengthen the community and personal
13 support networks to which people belong and on which they depend and
14 which administer programs and deliver services to the older population.
15 **25.5-9-103. [Formerly 26-11-101.] Commission on the aging**
16 **created.** (1) There is hereby created in the state department the Colorado
17 commission on the aging, referred to in this article as the "commission",
18 which shall consist of seventeen members appointed by the governor,
19 with the consent of the senate. Two members shall be appointed from
20 each congressional district of the state, one of whom shall be from each
21 major political party, and, after July 1, 1976, and thereafter when a
22 vacancy occurs, one of such members shall be from west of the
23 continental divide. A vacancy on the commission occurs whenever any
24 member moves out of the congressional district from which he or she was
25 appointed. Any member who moves out of such congressional district
26 shall promptly notify the governor of the date of such move, but such
27 notice is not a condition precedent to the occurrence of the vacancy. The

1 governor shall fill the vacancy as provided in subsection (2) of this
2 section. Appointments made to take effect on January 1, 1983, shall be
3 made in accordance with section 24-1-135, C.R.S. No more than nine
4 members of the commission shall be members of the same major political
5 party. One member shall be appointed from the state at large, one member
6 shall be appointed from among the membership of the senate, and one
7 member shall be appointed from among the membership of the house of
8 representatives. Appointments to the commission shall comply with the
9 requirements of the rules and regulations of the United States department
10 of health and human services promulgated pursuant to Public Law 93-29,
11 known as the "Older Americans Comprehensive Services Amendments
12 of 1973", as such rules and regulations appear in section 903.50 (c) of
13 title 45 of the code of federal regulations. In making appointments to the
14 commission, the governor is encouraged to include representation by at
15 least one member who is a person with a disability, a family member of
16 a person with a disability, or a member of an advocacy group for persons
17 with disabilities, provided that the other requirements of this subsection
18 (1) are met.
19 (2) All members of the commission shall be appointed for terms
20 of four years each, commencing July 1 in the year of appointment.
21 Appointments to fill vacancies shall be for the unexpired term of the
22 vacated office and shall be made in the same manner as original
23 appointments. Whenever a member of the senate or house of
24 representatives serving as a member of the commission ceases to hold his
25 OR HER office in the senate or house of representatives, a vacancy on the
26 commission shall occur, and the governor shall fill the vacancy by the
27 appointment of a similarly qualified person who at the time is holding

1 office, as the case may be, in the senate or house of representatives.

2 **25.5-9-104. [Formerly 26-11-102.] Organization of commission.**
3 The commission shall elect from its membership a chairman, a
4 vice-chairman, and such other officers as it deems necessary. The
5 vice-chairman shall act as chairman in the absence or disability of the
6 chairman. The commission shall meet on call of the chairman but not less
7 than once every three months. A majority of the members of the
8 commission shall constitute a quorum for the transaction of business.

9 **25.5-9-105. [Formerly 26-11-103.] Compensation - expenses.**
10 The members of the commission shall not receive compensation for their
11 services, but they shall be reimbursed for expenses incurred by them in
12 the performance of their official duties.

13 **25.5-9-106. [Formerly 26-11-104.] Director - staff.** Pursuant to
14 section 13 of article XII of the state constitution, the executive director
15 shall appoint the director of the commission and such clerical and
16 professional staff as may be necessary to carry out the purposes of this
17 article. The director of the commission shall be the chief administrative
18 officer for the commission and shall be a person who is professionally
19 qualified to assume the responsibilities of the position.

20 **25.5-9-107. [Formerly 26-11-105.] Duties of commission.**
21 (1) The commission, through its director, shall carry out the following
22 purposes:

23 (a) Conduct, and encourage other organizations to conduct,
24 studies of the problems of the state's older people;

25 (b) Assist governmental and private agencies to coordinate their
26 efforts on behalf of the aging and aged in order that such efforts be
27 effective and that duplication and waste of effort be eliminated;

1 (c) Promote and aid in the establishment of local programs and
2 services for the aging and aged. The commission shall assist
3 governmental and private agencies by designing surveys that may be used
4 locally to determine needs of older people; by recommending the creation
5 of services; by collection and distribution of information on aging; and by
6 assisting public and private organizations in all ways the commission may
7 deem appropriate.
8 (d) Conduct promotional activities and programs of public
9 education on problems of the aging;
10 (e) Review existing programs for the aging and make
11 recommendations to the governor and the general assembly for
12 improvements in such programs;
13 (f) Advise and make recommendations to the state department and
14 the state office on aging, created pursuant to part 2 of this article, on the
15 problems of and programs and services for the aging and aged.
16 **25.5-9-108. [Formerly 26-11-106.] Gifts - grants.** The state
17 department, acting for and on behalf of the state, may receive and accept
18 title to any grant or gift from any source, including the federal
19 government, and all grants, grants-in-aid, and gifts shall be deposited with
20 the state treasurer and shall be continuously available to the state
21 department to carry out the purposes of this article.
22 PART 2
23 STATE OFFICE ON AGING
24 **25.5-9-201. [Formerly 26-11-201.] Definitions.** As used in this
25 part 2, unless the context otherwise requires:
26 (1) "Advisory council" means a representative body of laypersons
27 and service providers which represents the interests of the older persons

1 within the boundaries of a planning and service area and which is
2 designated by the area agency on aging pursuant to section ~~26-11-205~~
3 25.5-9-205.
4 (2) "Area agency on aging" means an identifiable private
5 nonprofit or public agency designated by the state office on aging which
6 works for the interests of older Coloradans within a planning and service
7 area and which engages in community planning, coordination, and
8 program development and provides a broad array of social and nutritional
9 services.
10 (3) "Area plan" means a comprehensive and coordinated system
11 of programs in a planning and service area.
12 ~~(3.5)~~ (4) "Child" means a person who is not more than eighteen
13 years of age.
14 ~~(4)~~ (5) "Comprehensive and coordinated system of programs"
15 means programs of interrelated social and nutritional services designed
16 to meet the needs of older persons.
17 ~~(4.5)~~ (6) "Family caregiver" means an adult family member, or
18 another individual, who is an informal provider of in-home and
19 community care to an older individual who is sixty years of age or older.
20 ~~(4.7)~~ (7) "Grandparent or older individual who is a relative
21 caregiver" means a grandparent or step-grandparent of a child, or a
22 relative of a child by blood or marriage, who is sixty years of age or older
23 and who:
24 (a) Lives with the child;
25 (b) Is the primary caregiver of the child because the biological or
26 adoptive parents are unable or unwilling to serve as the primary caregiver
27 of the child; and

1 (c) Has a legal relationship to the child, such as legal custody or
2 guardianship, or is raising the child informally.
3 ~~(5)~~ (8) "Greatest economic need" means the need resulting from
4 an income level at or below the poverty threshold established by the
5 United States bureau of the census.
6 ~~(6)~~ (9) "Greatest social need" means the need caused by
7 noneconomic factors which include physical and mental disabilities,
8 language barriers, and cultural or social isolation, including that caused
9 by racial and ethnic status, which restrict an individual's ability to perform
10 normal daily tasks or which threaten his OR HER capacity to live
11 independently.
12 ~~(7)~~ (10) "Planning and service area" means a geographical area
13 within the state, designated by the state office on aging, in which the area
14 agency on aging shall carry out the area plan.
15 ~~(8)~~ (11) "State office" means the state office on aging within the
16 state department.
17 **25.5-9-202. [Formerly 26-11-202.] State office on aging.** The
18 executive director shall create within the state department a state office
19 on aging, the head of which shall be the director of the state office, who
20 shall be appointed by the executive director. The state office and the
21 director of the state office shall exercise their powers and perform their
22 duties and functions under the state department as if the same were
23 transferred to the state department by a **type 2** transfer, as such transfer
24 is defined in the "Administrative Organization Act of 1968", article 1 of
25 title 24, C.R.S.
26 **25.5-9-203. [Formerly 26-11-203.] Duties of the state office.**
27 (1) In addition to such other duties and functions as the executive

1 director may allocate to the state office, the state office shall have the
2 following duties and functions:
3 (a) To develop and administer a state plan on aging, which
4 includes input from area agencies on aging;
5 (b) To establish a process that encourages local, regional, and
6 statewide participation in the development stages of the state plan on
7 aging, which shall be coordinated with the area agencies on aging, the
8 commission established under part 1 of this article, and other persons or
9 entities involved in programs for older persons;
10 (c) To assist public and nonprofit private agencies in planning and
11 developing programs to facilitate a statewide network of comprehensive,
12 coordinated services and opportunities for older persons, giving priority
13 to those agencies, programs, services, and activities that support
14 independent living;
15 (d) To study those aspects of the problems of aging necessary to
16 accomplish the purpose of state policy through such activities as
17 conducting research, computing statistics, and holding hearings;
18 (e) To maintain a clearinghouse of information related to the
19 interests and needs of older persons and act as a referral service for the
20 dissemination of said information;
21 (f) To assess the need for services to be provided to the older
22 population within the state and determine the extent to which the state's
23 service delivery system serves said population, with particular emphasis
24 on older persons with the greatest economic and social needs;
25 (g) To encourage and support the involvement of volunteers and
26 seek ways to utilize the private sector to assume greater responsibility in
27 meeting the needs of older persons; and

1 (h) To designate area agencies on aging to assist the state office
2 in carrying out its functions in specified geographic areas within the state.
3 **25.5-9-204. [Formerly 26-11-204.] Area agency on aging -**
4 **duties.** (1) An area agency on aging shall have the following duties:
5 (a) To develop and administer an area plan, consistent with the
6 state plan, for a comprehensive and coordinated system of programs in
7 the planning and service area;
8 (b) To assist older persons in obtaining their rights, benefits, and
9 entitlements currently available under the law;
10 (c) To identify special needs or barriers to maintaining personal
11 independence;
12 (d) To involve older persons in the area in the development and
13 planning of services delivered within the area;
14 (e) To assess the needs for services within the planning and
15 service area to determine the effectiveness of existing services available
16 within the area;
17 (f) To conduct public hearings on the needs and problems of older
18 persons and on the area plan in conjunction with the area's advisory
19 council;
20 (g) To designate an interagency committee composed of public or
21 private nonprofit agencies within the planning and service area, including,
22 but not limited to, health systems agencies and health transportation
23 agencies, private service providers, and senior citizen organizations in
24 order to improve the coordination of services;
25 (h) To review and provide comment on program plans of other
26 agencies that affect older persons;
27 (i) To provide information to the state office on the special needs

1 of older persons within the planning and service area;
2 (j) To establish communication with the local news media to
3 inform the public of available services and opportunities to contribute to
4 the planning and implementation of said services;
5 (k) To coordinate and assist local public and nonprofit private
6 agencies in the planning and development of programs to establish a
7 comprehensive and coordinated system of programs and opportunities for
8 older persons;
9 (l) To act as an advocate for and represent the issues and concerns
10 of older persons; and
11 (m) To provide services or to contract with local providers to
12 provide services under the family caregiver support program.
13 **25.5-9-205. [Formerly 26-11-205.] Area agency on aging**
14 **advisory council.** (1) Each area agency on aging, designated pursuant to
15 section ~~26-11-203~~ 25.5-9-203 (1) (h), shall designate an advisory council
16 consisting of a representative body of laypersons and service providers
17 which represent the interests of older persons within the planning and
18 service area. Said advisory council shall:
19 (a) Serve to advise the area agency on aging;
20 (b) Actively seek advice from community organizations on aging,
21 senior advocacy organizations, and other persons or entities interested in
22 the needs and problems of older persons;
23 (c) Act as an advocate for and represent the issues and concerns
24 of older persons; and
25 (d) Take an active role in the development, planning, and
26 implementation of the area plan.
27 **25.5-9-206. [Formerly 26-11-205.5.] Older Coloradans**

1 **program - distribution formula.** (1) There is hereby created in the state
2 department the older Coloradans program, referred to in this section as
3 the "program". The program shall provide moneys to area agencies on
4 aging to provide grants to provide community-based services to persons
5 sixty years of age or older to assist such persons to live in their own
6 homes and communities for as long as possible. Such services shall
7 include but are not limited to congregate nutrition, home-delivered meals,
8 transportation services, in-home services, ombudsman services, legal
9 services, elder abuse prevention, outreach, and information and referral
10 services.
11 (2) Moneys appropriated for the program shall be distributed to
12 area agencies on aging using the same formula that the state office uses
13 to distribute moneys available under Title III, parts (B), (C), (D), and (F)
14 of the federal "Older Americans Act of 1965", as amended, but such
15 moneys shall be allocated as a whole and not allocated to individual parts
16 of Title III; except that appropriations from the fund of accumulated
17 interest are not subject to the restriction that requires allocations as a
18 whole. An area agency on aging shall use no more than ten percent of the
19 moneys received from the program for administrative expenses.
20 (3) The proposed uses of moneys from the program shall be
21 included in each area agency on aging's area plan developed pursuant to
22 section ~~26-11-204~~ 25.5-9-204 (1) (a).
23 (4) ~~(a)~~ On or before August 1, 2002, and each August 1 thereafter,
24 each area agency on aging shall submit a report to the state office
25 detailing the use of moneys from the program for the previous fiscal year,
26 including an itemization of how many more persons received each service
27 because of such moneys.

1 ~~(b) Repealed.~~

2 (5) There is hereby created the older Coloradans cash fund,
3 referred to in this subsection (5) as the "fund". The fund shall consist of
4 moneys allocated and credited to the fund from sales and use taxes
5 pursuant to the provisions of section 39-26-123 (3) (a) (III), C.R.S., and
6 any moneys appropriated to the fund by the general assembly. In addition,
7 the state treasurer may credit to the fund any public or private gifts,
8 grants, or donations received by the state department for implementation
9 of the program. The fund shall be subject to annual appropriation by the
10 general assembly to the state department. Notwithstanding the provisions
11 of section 24-36-114, C.R.S., all interest derived from the deposit and
12 investment of moneys in the fund shall be credited to the fund. Any
13 amount remaining in the fund at the end of any fiscal year shall remain in
14 the fund and not be transferred or credited to the general fund or any other
15 fund.

16 **25.5-9-207. [Formerly 26-11-206.] Federal requirements -**
17 **compliance.** Nothing in this part 2 shall be construed to prevent the state
18 department from complying with the requirements of the rules and
19 regulations of the United States department of health and human services
20 promulgated pursuant to the federal "Older Americans Act of 1965", as
21 amended.

22 **25.5-9-208. [Formerly 26-11-207.] Family caregiver support**
23 **program - creation.** (1) The general assembly hereby finds, determines,
24 and declares that it would be beneficial to the state to develop a service
25 delivery system to respond to the needs of caregivers who care for frail,
26 elderly persons or to the needs of grandparents and relative caregivers
27 who have taken on the challenge and responsibility of raising children.

1 The general assembly also finds that the federal "Older Americans Act of
2 2000", Pub.L. 106-501, has authorized a family caregiver support
3 program to be administered by area agencies on aging. The general
4 assembly finds that by implementing the family caregiver support
5 program support can be given to caregivers so that elderly individuals
6 may be able to remain in their homes and support may be provided to
7 grandparents or older individuals who are relative caregivers of children.
8 (2) There is hereby created in the state department the family
9 caregiver support program, referred to in this section as the "program".
10 The program shall allocate available moneys to area agencies on aging to
11 provide support services to the following caregivers:
12 (a) Family caregivers of older individuals; and
13 (b) Grandparents or older individuals who are relative caregivers
14 of children.
15 (3) Subject to available appropriations, services to caregivers shall
16 be provided by an area agency on aging or by an entity with which the
17 area agency on aging has contracted. The services to caregivers under the
18 program shall include:
19 (a) Information to caregivers about available services;
20 (b) Assistance to caregivers in gaining access to the services;
21 (c) Individual counseling, organization of support groups, and
22 caregiver training to assist the caregivers in making decisions and solving
23 problems relating to their caregiving responsibilities;
24 (d) Respite care to enable caregivers to be temporarily relieved
25 from their caregiving responsibilities; and
26 (e) Supplemental services, on a limited basis, to complement the
27 care provided by caregivers.

1 (4) In the case of a family caregiver of an older individual, respite
2 care, as described in paragraph (d) of subsection (3) of this section, and
3 supplemental services, as described in paragraph (e) of subsection (3) of
4 this section, shall be provided only if the older individual meets the
5 conditions specified in the federal law under the definition of the term
6 "frail" which states that the older individual is functionally impaired
7 because the individual either:
8 (a) Is unable to perform at least two activities of daily living
9 without substantial human assistance, including verbal reminding,
10 physical cuing, or supervision; or
11 (b) Due to a cognitive or other mental impairment, requires
12 substantial supervision because the individual behaves in a manner that
13 poses a serious health or safety hazard to the individual or to another
14 individual.
15 (5) The area agency on aging shall give priority for services under
16 the program to older individuals with greatest social and economic need,
17 with particular attention to low-income older individuals, and to older
18 individuals providing care and support to persons with mental retardation
19 and related developmental disabilities.
20 (6) Each area agency on aging shall coordinate the activities of the
21 agency or any contractors with whom the agency has contracted with the
22 activities of other community agencies and volunteer organizations
23 providing the types of support services described in subsection (3) of this
24 section.
25 (7) The state shall not use more than ten percent of the total
26 federal and state share of the moneys available to the state for the
27 program to provide support services to grandparents and older individuals

1 who are relative caregivers of children.

2 **ARTICLE 10**

3 **Care and Treatment of Persons With Developmental Disabilities**

4 PART 1

5 RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES

6 **25.5-10-101. [Formerly 27-10.5-101.] Legislative declaration.**
7 (1) In recognition of the varied, extensive, and substantial needs of
8 persons with developmental disabilities, including the urgent need to
9 enhance the development of children with developmental disabilities, the
10 general assembly, subject to available appropriations and subject to the
11 existence of appropriate services and supports with available resources,
12 hereby declares that the purposes of this article are:
13 (a) To provide appropriate services and supports to persons with
14 developmental disabilities throughout their lifetimes regardless of their
15 age or degree of disability;
16 (b) To prohibit deprivation of liberty of persons with
17 developmental disabilities, except when such deprivation is for the
18 purpose of providing services and supports which constitute the least
19 restrictive available alternative adequate to meet the person's needs, and
20 to ensure that these services and supports afford due process protections;
21 (c) To ensure the fullest measure of privacy, dignity, rights, and
22 privileges to persons with developmental disabilities;
23 (d) To ensure the provision of services and supports to all persons
24 with developmental disabilities on a statewide basis;
25 (e) To enable persons with developmental disabilities to remain
26 with their families and in their home communities, to minimize the
27 likelihood of out-of-home placement, and to enhance the capacity of

1 families to meet the needs of children with developmental disabilities;
2 (f) To provide community services and supports for persons with
3 developmental disabilities which reflect typical patterns of everyday
4 living;
5 (g) To encourage state and local agencies to provide a wide array
6 of innovative and cost-effective services and supports for persons with
7 developmental disabilities;
8 (h) To ensure that persons with developmental disabilities receive
9 services and supports which encourage and build on existing social
10 networks and natural sources of support, and result in increased
11 interdependence, contribution, and inclusion in community life; and
12 (i) To recognize the efficacy of early intervention services and
13 supports in minimizing developmental delays and reducing the future
14 education costs to our society.
15 **25.5-10-102. [Similar to 27-10.5-102.] Definitions.** AS USED IN
16 THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
17 (1) "AUTHORIZED REPRESENTATIVE" MEANS AN INDIVIDUAL
18 DESIGNATED BY THE PERSON RECEIVING SERVICES, OR BY THE PARENT OR
19 GUARDIAN OF THE PERSON RECEIVING SERVICES, IF APPROPRIATE, TO
20 ASSIST THE PERSON RECEIVING SERVICES IN ACQUIRING OR UTILIZING
21 SERVICES OR SUPPORTS PURSUANT TO THIS ARTICLE. THE EXTENT OF THE
22 AUTHORIZED REPRESENTATIVE'S INVOLVEMENT SHALL BE DETERMINED
23 UPON DESIGNATION.
24 (2) "CASE MANAGEMENT SERVICES" MEANS THE FOLLOWING:
25 (a) THE DETERMINATION OF ELIGIBILITY FOR SERVICES AND
26 SUPPORTS;
27 (b) SERVICE AND SUPPORT COORDINATION; AND

1 (c) THE MONITORING OF ALL SERVICES AND SUPPORTS DELIVERED
2 PURSUANT TO THE INDIVIDUALIZED PLAN, AND THE EVALUATION OF
3 RESULTS IDENTIFIED IN THE INDIVIDUALIZED PLAN.
4 (3) "CASE MANAGER" MEANS AN INDIVIDUAL WHO ASSISTS WITH
5 CASE MANAGEMENT SERVICES AND SUPPORTS PROVIDED PURSUANT TO
6 THIS ARTICLE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.
7 (4) "COMMUNITY-CENTERED BOARD" MEANS A PRIVATE
8 CORPORATION, FOR-PROFIT OR NOT-FOR-PROFIT, THAT, WHEN DESIGNATED
9 PURSUANT TO SECTION 25.5-10-108, PROVIDES CASE MANAGEMENT
10 SERVICES TO PERSONS WITH DEVELOPMENTAL DISABILITIES, IS
11 AUTHORIZED TO DETERMINE ELIGIBILITY OF THOSE PERSONS WITHIN A
12 SPECIFIED GEOGRAPHICAL AREA, SERVES AS THE SINGLE POINT OF ENTRY
13 FOR PERSONS TO RECEIVE SERVICES AND SUPPORTS UNDER THIS ARTICLE,
14 AND PROVIDES AUTHORIZED SERVICES AND SUPPORTS TO THOSE PERSONS
15 EITHER DIRECTLY OR BY PURCHASING SERVICES AND SUPPORTS FROM
16 SERVICE AGENCIES.
17 (5) "COMMUNITY RESIDENTIAL HOME" MEANS A GROUP LIVING
18 SITUATION ACCOMMODATING AT LEAST FOUR BUT NO MORE THAN EIGHT
19 PERSONS, WHICH IS LICENSED BY THE STATE AND IN WHICH SERVICES AND
20 SUPPORTS ARE PROVIDED TO PERSONS WITH DEVELOPMENTAL
21 DISABILITIES.
22 (6) "CONSENT" MEANS AN INFORMED ASSENT THAT IS EXPRESSED
23 IN WRITING AND FREELY GIVEN. CONSENT SHALL ALWAYS BE PRECEDED BY
24 THE FOLLOWING:
25 (a) A FAIR EXPLANATION OF THE PROCEDURES TO BE FOLLOWED,
26 INCLUDING AN IDENTIFICATION OF PROCEDURES THAT ARE EXPERIMENTAL;
27 (b) A DESCRIPTION OF THE ATTENDANT DISCOMFORTS AND RISKS;

1 (c) A DESCRIPTION OF THE EXPECTED BENEFITS;
2 (d) A DISCLOSURE OF APPROPRIATE ALTERNATIVE PROCEDURES
3 TOGETHER WITH AN EXPLANATION OF THE RESPECTIVE BENEFITS,
4 DISCOMFORTS, AND RISKS;
5 (e) AN OFFER TO ANSWER ANY INQUIRIES CONCERNING
6 PROCEDURES;
7 (f) AN INSTRUCTION THAT THE PERSON GIVING CONSENT IS FREE TO
8 WITHDRAW CONSENT AND TO DISCONTINUE PARTICIPATION IN THE PROJECT
9 OR ACTIVITY AT ANY TIME; AND
10 (g) A STATEMENT THAT WITHHOLDING OR WITHDRAWAL OF
11 CONSENT SHALL NOT PREJUDICE FUTURE PROVISION OF APPROPRIATE
12 SERVICES AND SUPPORTS TO INDIVIDUALS.
13 (7) "CONTRIBUTION" MEANS THE BENEFITS GAINED BY THE
14 HOUSEHOLD OR COMMUNITY IN WHICH A PERSON LIVES AS THE RESULT OF
15 THE PERSON ENGAGING IN MEANINGFUL ACTIVITIES, INCLUDING, BUT NOT
16 LIMITED TO, INCOME-PRODUCING WORK, VOLUNTEER WORK, CONTINUING
17 EDUCATION, AND PARTICIPATION IN COMMUNITY ACTIVITIES.
18 (8) "COURT" MEANS A DISTRICT COURT OF THE STATE OF
19 COLORADO OR THE PROBATE COURT IN THE CITY AND COUNTY OF DENVER.
20 (9) "DESIGNATED SERVICE AREA" MEANS THE GEOGRAPHICAL
21 AREA SPECIFIED BY THE EXECUTIVE DIRECTOR TO BE SERVED BY A
22 DESIGNATED COMMUNITY-CENTERED BOARD.
23 (10) "DEVELOPMENTAL DISABILITIES PROFESSIONAL" MEANS A
24 PERSON WHO HAS PROFESSIONAL TRAINING AND EXPERIENCE IN THE
25 DEVELOPMENTAL DISABILITIES FIELD, AS DEFINED BY THE STATE
26 DEPARTMENT.
27 (11) (a) "DEVELOPMENTAL DISABILITY" MEANS A DISABILITY THAT

1 IS MANIFESTED BEFORE THE PERSON REACHES TWENTY-TWO YEARS OF
2 AGE, THAT CONSTITUTES A SUBSTANTIAL DISABILITY TO THE AFFECTED
3 PERSON, AND THAT IS ATTRIBUTABLE TO MENTAL RETARDATION OR
4 RELATED CONDITIONS WHICH INCLUDE CEREBRAL PALSY, EPILEPSY,
5 AUTISM, OR OTHER NEUROLOGICAL CONDITIONS WHEN THOSE CONDITIONS
6 RESULT IN IMPAIRMENT OF GENERAL INTELLECTUAL FUNCTIONING OR
7 ADAPTIVE BEHAVIOR SIMILAR TO THAT OF A PERSON WITH MENTAL
8 RETARDATION. UNLESS OTHERWISE SPECIFICALLY STATED, THE FEDERAL
9 DEFINITION OF "DEVELOPMENTAL DISABILITY" FOUND IN 42 U.S.C. SEC.
10 15001 ET SEQ. SHALL NOT APPLY.
11 (b) "PERSON WITH A DEVELOPMENTAL DISABILITY" MEANS A
12 PERSON DETERMINED BY A COMMUNITY-CENTERED BOARD TO HAVE A
13 DEVELOPMENTAL DISABILITY AND SHALL INCLUDE A CHILD WITH A
14 DEVELOPMENTAL DELAY.
15 (c) "CHILD WITH A DEVELOPMENTAL DELAY" MEANS:
16 (I) A PERSON LESS THAN FIVE YEARS OF AGE WITH DELAYED
17 DEVELOPMENT AS DEFINED BY THE STATE DEPARTMENT; OR
18 (II) A PERSON LESS THAN FIVE YEARS OF AGE WHO IS AT RISK OF
19 HAVING A DEVELOPMENTAL DISABILITY AS DEFINED BY THE STATE
20 DEPARTMENT.
21 (12) "EARLY INTERVENTION SERVICES AND SUPPORTS" HAS THE
22 SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.
23 (13) "ELIGIBLE FOR SUPPORTS AND SERVICES" REFERS TO ANY
24 PERSON WITH A DEVELOPMENTAL DISABILITY AS DETERMINED ELIGIBLE BY
25 THE COMMUNITY-CENTERED BOARDS, PURSUANT TO SECTION 25.5-10-110.
26 (14) "ENROLLED" MEANS THAT A PERSON WITH A DEVELOPMENTAL
27 DISABILITY WHO IS ELIGIBLE FOR SUPPORTS AND SERVICES HAS BEEN

1 AUTHORIZED, AS DEFINED BY RULES PROMULGATED BY THE APPROPRIATE
2 STATE AGENCY OR STATE BOARD, TO PARTICIPATE IN A PROGRAM.
3 (15) (a) "FAMILY" MEANS THE INTERDEPENDENT GROUP OF
4 PERSONS THAT CONSISTS OF:
5 (I) A PARENT, CHILD, SIBLING, GRANDPARENT, AUNT, UNCLE,
6 SPOUSE, OR ANY COMBINATION THEREOF AND A FAMILY MEMBER WITH A
7 DEVELOPMENTAL DISABILITY;
8 (II) AN ADOPTIVE PARENT OF AND A FAMILY MEMBER WITH A
9 DEVELOPMENTAL DISABILITY;
10 (III) ONE OR MORE PERSONS TO WHOM LEGAL CUSTODY OF A
11 PERSON WITH A DEVELOPMENTAL DISABILITY HAS BEEN GIVEN BY A COURT
12 AND IN WHOSE HOME SUCH PERSON RESIDES; OR
13 (IV) ANY OTHER FAMILY UNIT AS MAY BE DEFINED IN RULES
14 DEVELOPED PURSUANT TO SECTION 25.5-10-206.
15 (b) THE APPROPRIATE STATE AGENCY OR STATE BOARD RULES
16 SHALL DEFINE THE FAMILIES THAT ARE ELIGIBLE TO RECEIVE SERVICES
17 AND SUPPORTS.
18 (16) "FAMILY CAREGIVER" MEANS A FAMILY MEMBER OF THE
19 PERSON WITH A DEVELOPMENTAL DISABILITY WHO PROVIDES CARE TO THE
20 PERSON WITH A DEVELOPMENTAL DISABILITY IN THE FAMILY HOME, WHO
21 MEETS THE REQUIREMENTS FOR A QUALIFIED FAMILY CAREGIVER, AS
22 ESTABLISHED BY RULE OF THE STATE BOARD, AND WHO IS WORKING
23 THROUGH A PROGRAM-APPROVED SERVICE AGENCY, AS ESTABLISHED BY
24 RULE OF THE STATE BOARD.
25 (17) "GASTROSTOMY TUBE" MEANS A TUBE THAT HAS BEEN
26 SURGICALLY INSERTED INTO THE STOMACH THROUGH THE ABDOMINAL
27 WALL OR A TUBE THAT HAS BEEN INSERTED THROUGH THE NASAL PASSAGE

1 INTO THE STOMACH, OR BOTH.

2 (18) "HUMAN RIGHTS COMMITTEE" MEANS A THIRD-PARTY
3 MECHANISM TO ADEQUATELY SAFEGUARD THE LEGAL RIGHTS OF PERSONS
4 RECEIVING SERVICES BY PARTICIPATING IN THE GRANTING OF INFORMED
5 CONSENT, MONITORING THE SUSPENSION OF RIGHTS OF PERSONS RECEIVING
6 SERVICES, MONITORING BEHAVIOR DEVELOPMENT PROGRAMS IN WHICH
7 PERSONS WITH DEVELOPMENTAL DISABILITIES ARE INVOLVED,
8 MONITORING THE USE OF PSYCHOTROPIC MEDICATION BY PERSONS WITH
9 DEVELOPMENTAL DISABILITIES, AND AT THE COMMITTEE'S OPTION, EITHER
10 PROVIDING OR ENSURING THE INVESTIGATION OF ALLEGATIONS OF ABUSE
11 OR NEGLECT OF PERSONS WITH DEVELOPMENTAL DISABILITIES WHO ARE
12 RECEIVING SERVICES OR SUPPORTS UNDER THIS ARTICLE.

13 (19) "IDEA" HAS THE SAME MEANING AS SET FORTH IN SECTION
14 27-10.5-102, C.R.S.

15 (20) "INCLUSION" MEANS:

16 (a) THE USE BY PERSONS WITH DEVELOPMENTAL DISABILITIES OF
17 THE SAME COMMUNITY RESOURCES THAT ARE USED BY AND AVAILABLE TO
18 OTHER PERSONS;

19 (b) THE PARTICIPATION BY PERSONS WITH DEVELOPMENTAL
20 DISABILITIES IN THE SAME COMMUNITY ACTIVITIES IN WHICH PERSONS
21 WITHOUT DEVELOPMENTAL DISABILITIES PARTICIPATE. PARTICIPATION
22 INCLUDES REGULAR CONTACT WITH PERSONS WITHOUT DEVELOPMENTAL
23 DISABILITIES.

24 (c) VOCATIONAL EXPERIENCES FOR PERSONS WITH
25 DEVELOPMENTAL DISABILITIES IN COMMUNITY SETTINGS THAT OFFER
26 OPPORTUNITIES TO ASSOCIATE WITH OTHER INDIVIDUALS WHO DO NOT
27 HAVE DEVELOPMENTAL DISABILITIES; AND

1 (d) LIVING IN HOMES THAT ARE IN RESIDENTIAL NEIGHBORHOODS
2 AND IN PROXIMITY TO COMMUNITY RESOURCES.
3 (21) "INDEPENDENT RESIDENTIAL SUPPORT SERVICES" MEANS A
4 COMMUNITY LIVING SITUATION, DEFINED BY THE STATE DEPARTMENT, IN
5 WHICH SERVICES AND SUPPORTS ARE PROVIDED TO NO MORE THAN THREE
6 PERSONS WITH DEVELOPMENTAL DISABILITIES AND FOR WHICH A STATE
7 LICENSE IS NOT REQUIRED.
8 (22) "INDIVIDUALIZED FAMILY SERVICE PLAN" OR "IFSP" HAS THE
9 SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.
10 (23) (a) "INDIVIDUALIZED PLAN" MEANS A WRITTEN PLAN
11 DESIGNED BY AN INTERDISCIPLINARY TEAM FOR THE PURPOSE OF
12 IDENTIFYING:
13 (I) THE NEEDS OF THE PERSON OR FAMILY RECEIVING SERVICES;
14 (II) THE SPECIFIC SERVICES AND SUPPORTS APPROPRIATE TO MEET
15 THOSE NEEDS;
16 (III) THE PROJECTED DATE FOR INITIATION OF SERVICES AND
17 SUPPORTS; AND
18 (IV) THE ANTICIPATED RESULTS TO BE ACHIEVED BY RECEIVING
19 THE SERVICES AND SUPPORTS.
20 (b) EVERY INDIVIDUALIZED PLAN SHALL INCLUDE A STATEMENT OF
21 AGREEMENT WITH THE PLAN, SIGNED BY THE PERSON RECEIVING SERVICES
22 OR OTHER SUCH PERSON LEGALLY AUTHORIZED TO SIGN ON BEHALF OF THE
23 PERSON AND BY A REPRESENTATIVE OF THE COMMUNITY-CENTERED
24 BOARD.
25 (c) ANY OTHER SERVICE OR SUPPORT PLAN, DESIGNATED BY THE
26 STATE DEPARTMENT, THAT MEETS ALL OF THE REQUIREMENTS OF AN
27 INDIVIDUALIZED PLAN IS CONSIDERED TO BE AN INDIVIDUALIZED PLAN

1 PURSUANT TO THIS ARTICLE.

2 (d) (I) EVERY INDIVIDUALIZED PLAN THAT INCLUDES THE
3 PROVISION OF RESPITE CARE FOR MEDICAL PURPOSES, PURSUANT TO
4 SECTION 25.5-10-105, SHALL INCLUDE A PROCESS BY WHICH THE PERSON
5 RECEIVING SERVICES AND SUPPORTS MAY RECEIVE NECESSARY CARE IF
6 THE PERSON'S FAMILY OR CAREGIVER IS UNAVAILABLE DUE TO AN
7 EMERGENCY SITUATION OR UNFORESEEN CIRCUMSTANCES. THE FAMILY OR
8 CAREGIVER SHALL BE DULY INFORMED BY THE INTERDISCIPLINARY TEAM
9 OF THESE ALTERNATIVE CARE PROVISIONS AT THE TIME THE
10 INDIVIDUALIZED PLAN IS INITIATED.

11 (II) NOTHING IN THIS PARAGRAPH (d) REQUIRES THE PROVISION OF
12 RESPITE CARE. HOWEVER, ANY INDIVIDUAL PLAN THAT INCLUDES THE
13 PROVISION OF RESPITE CARE FOR MEDICAL PURPOSES MUST CONTAIN A
14 CONTINGENCY PLAN.

15 (24) "INTERDEPENDENCE" MEANS THOSE MULTIPLE INTERACTIVE
16 RELATIONSHIPS THAT ARE NECESSARY TO CREATE A SENSE OF BELONGING
17 AND SUPPORT BETWEEN PEOPLE THAT ARE MUTUALLY SOUGHT, SUSTAINED
18 OVER TIME, AND BENEFICIAL TO THOSE INVOLVED.

19 (25) "INTERDISCIPLINARY TEAM" MEANS A GROUP OF PEOPLE
20 CONVENED BY A DESIGNATED COMMUNITY-CENTERED BOARD THAT SHALL
21 INCLUDE THE PERSON RECEIVING SERVICES, THE PARENTS OR GUARDIAN
22 OF A MINOR, A GUARDIAN OR AN AUTHORIZED REPRESENTATIVE, AS
23 APPROPRIATE, THE PERSON WHO COORDINATES THE PROVISIONS OF
24 SERVICES AND SUPPORTS, AND OTHERS AS DETERMINED BY THE PERSON'S
25 NEEDS AND PREFERENCE, WHO ARE ASSEMBLED TO WORK IN A
26 COOPERATIVE MANNER TO DEVELOP OR REVIEW THE INDIVIDUALIZED
27 PLAN.

1 (26) "LEAST RESTRICTIVE ENVIRONMENT" MEANS AN
2 ENVIRONMENT THAT REPRESENTS THE LEAST DEPARTURE FROM THE
3 NORMAL PATTERNS OF LIVING AND THAT EFFECTIVELY MEETS THE NEEDS
4 OF THE PERSON RECEIVING SERVICES. LEAST RESTRICTIVE ENVIRONMENT
5 MAY INCLUDE, BUT NEED NOT BE LIMITED TO, RECEIVING SERVICES FROM
6 A COMMUNITY-CENTERED BOARD, SERVICE AGENCY, OR A FAMILY
7 CAREGIVER IN THE FAMILY HOME.
8 (27) "PERSON RECEIVING SERVICES" MEANS A PERSON WITH A
9 DEVELOPMENTAL DISABILITY WHO IS ENROLLED IN A PROGRAM FUNDED
10 PURSUANT TO THIS ARTICLE.
11 (28) "PROGRAM" MEANS A SPECIFIC GROUP OF SERVICES OR
12 SUPPORTS AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD AND
13 FOR WHICH FUNDING IS AVAILABLE PURSUANT TO THIS ARTICLE TO A
14 PERSON WITH A DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE FOR
15 SUPPORTS AND SERVICES.
16 (29) "REGIONAL CENTER" HAS THE SAME MEANING AS SET FORTH
17 IN SECTION 27-10.5-102, C.R.S.
18 (30) "SERVICE AGENCY" MEANS AN INDIVIDUAL OR ANY PUBLICLY
19 OR PRIVATELY OPERATED PROGRAM, ORGANIZATION, OR BUSINESS
20 PROVIDING SERVICES OR SUPPORTS FOR PERSONS WITH DEVELOPMENTAL
21 DISABILITIES.
22 (31) "SERVICE AND SUPPORT COORDINATION" MEANS PLANNING,
23 LOCATING, FACILITATING ACCESS TO, COORDINATING, AND REVIEWING ALL
24 ASPECTS OF NEEDED SERVICES, SUPPORTS, AND RESOURCES THAT ARE
25 PROVIDED IN COOPERATION WITH THE PERSON RECEIVING SERVICES, THE
26 PERSON'S FAMILY, AS APPROPRIATE, THE FAMILY OF A CHILD WITH A
27 DEVELOPMENTAL DELAY, AND THE INVOLVED PUBLIC OR PRIVATE

1 AGENCIES. PLANNING INCLUDES THE DEVELOPMENT OR REVIEW OF AN
2 EXISTING INDIVIDUALIZED PLAN. "SERVICE AND SUPPORT COORDINATION"
3 ALSO INCLUDES THE REASSESSMENT OF THE NEEDS OF THE PERSON
4 RECEIVING SERVICES OR THE NEEDS OF THE FAMILY OF THE PERSON, WITH
5 MAXIMUM PARTICIPATION OF THE PERSON RECEIVING SERVICES AND THE
6 PERSON'S PARENTS, GUARDIAN, OR AUTHORIZED REPRESENTATIVE, AS
7 APPROPRIATE.
8 (32) "SERVICES AND SUPPORTS" MEANS ONE OR MORE OF THE
9 FOLLOWING: EDUCATION, TRAINING, INDEPENDENT OR SUPPORTED LIVING
10 ASSISTANCE, THERAPIES, IDENTIFICATION OF NATURAL SUPPORTS, AND
11 OTHER ACTIVITIES PROVIDED:
12 (a) TO ENABLE PERSONS WITH DEVELOPMENTAL DISABILITIES TO
13 MAKE INCREASINGLY RESPONSIBLE CHOICES, EXERT GREATER CONTROL
14 OVER THEIR LIVES, EXPERIENCE PRESENCE AND INCLUSION IN THEIR
15 COMMUNITIES, DEVELOP THEIR COMPETENCIES AND TALENTS, MAINTAIN
16 RELATIONSHIPS, FOSTER A SENSE OF BELONGING, AND EXPERIENCE
17 PERSONAL SECURITY AND SELF-RESPECT;
18 (b) TO ENHANCE CHILD DEVELOPMENT AND HEALTHY
19 PARENT-CHILD AND FAMILY INTERACTION FOR ELIGIBLE PERSONS AND
20 THEIR FAMILIES; AND
21 (c) TO ENABLE FAMILIES, WHO CHOOSE OR DESIRE TO MAINTAIN A
22 FAMILY MEMBER WITH A DEVELOPMENTAL DISABILITY AT HOME, TO
23 OBTAIN SUPPORT AND TO ENJOY A TYPICAL LIFESTYLE.
24 (33) "STERILIZATION" MEANS ANY SURGICAL OR OTHER MEDICAL
25 PROCEDURE THAT HAS AS ITS PRIMARY PURPOSE TO RENDER A PERSON
26 PERMANENTLY INCAPABLE OF REPRODUCTION.
27 (34) "WAITING LIST" MEANS THE LIST OF PERSONS WITH

1 DEVELOPMENTAL DISABILITIES WHO ARE WAITING FOR ENROLLMENT INTO
2 A PROGRAM PROVIDED PURSUANT TO THIS ARTICLE.
3 **25.5-10-103. [Similar to 27-10.5-103.] Duties of the executive**
4 **director - rules.** (1) IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS
5 ARTICLE, THE EXECUTIVE DIRECTOR SHALL, SUBJECT TO AVAILABLE
6 APPROPRIATIONS, CARRY OUT THE FOLLOWING DUTIES:
7 (a) PREPARE A STATEWIDE PLAN FOR THE PROVISION OF SERVICES
8 AND SUPPORTS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES BASED
9 UPON INPUT FROM PERSONS WITH DEVELOPMENTAL DISABILITIES, THEIR
10 FAMILIES, COMMUNITY-CENTERED BOARDS, SERVICE AGENCIES, AND
11 OTHER INTERESTED PERSONS. THE STATEWIDE PLAN SHALL CONSIDER
12 STATE AND LOCAL NEEDS.
13 (b) CONDUCT MONITORING AND REVIEW ACTIVITIES THAT INCLUDE
14 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES;
15 (c) PROVIDE OR OBTAIN TRAINING AND TECHNICAL ASSISTANCE
16 THROUGH COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES IN
17 ORDER TO IMPROVE THE QUALITY OF SERVICES AND SUPPORTS PROVIDED
18 TO PERSONS WITH DEVELOPMENTAL DISABILITIES;
19 (d) PREPARE AND TRANSMIT ANNUALLY TO THE GOVERNOR AND
20 THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, IN THE FORM
21 AND MANNER PRESCRIBED PURSUANT TO SECTION 24-1-136, C.R.S., A
22 REPORT DETAILING THE FOLLOWING INFORMATION, AS AVAILABLE AND
23 APPROPRIATE, THAT IS BROKEN DOWN INTO DESIGNATED SERVICE AREAS
24 AS WELL AS PROVIDED IN AN OVERALL STATEWIDE FORMAT:
25 (I) THE TOTAL NUMBER OF PERSONS RECEIVING SERVICES
26 PURSUANT TO THIS ARTICLE;
27 (II) THE TYPES OF SERVICES AND SUPPORTS PROVIDED;

1 (III) THE COSTS OF SERVICES AND SUPPORTS REGARDLESS OF
2 FUNDING SOURCE;
3 (IV) AN EVALUATION OF THE QUALITY OF THE SERVICES AND
4 SUPPORTS RENDERED;
5 (V) AN EVALUATION OF THE EFFECTIVENESS OF THE SERVICES AND
6 SUPPORTS RENDERED IN IMPLEMENTING THE INDIVIDUALIZED PLANS OF
7 PERSONS RECEIVING SERVICES;
8 (VI) THE NUMBERS, TYPES, AND RESOLUTION OF APPEALS THAT
9 WERE HEARD BY THE STATE DEPARTMENT ARISING FROM DISPUTES
10 SPECIFIED IN SECTION 25.5-10-111; AND
11 (VII) THE NUMBER OF PERSONS DETERMINED TO BE ELIGIBLE TO
12 RECEIVE SERVICES AND SUPPORTS WHO ARE NOT RECEIVING SERVICES OR
13 SUPPORTS PURSUANT TO THIS ARTICLE ALONG WITH AN ANALYSIS OF THE
14 REASONS THEY ARE NOT RECEIVING SERVICES AND SUPPORTS;
15 (e) DESIGNATE A COMMUNITY-CENTERED BOARD IN EACH
16 DESIGNATED SERVICE AREA IN THE STATE;
17 (f) IMPLEMENT THE PROVISION OF HOME- AND COMMUNITY-BASED
18 SERVICES TO ELIGIBLE PERSONS WITH DEVELOPMENTAL DISABILITIES AND
19 PURSUE OTHER MEDICAID-FUNDED SERVICES DETERMINED BY THE STATE
20 DEPARTMENT TO BE APPROPRIATE FOR PERSONS WITH DEVELOPMENTAL
21 DISABILITIES, PURSUANT TO PART 4 OF ARTICLE 6 OF THIS TITLE AND
22 SUBJECT TO AVAILABLE APPROPRIATIONS; AND
23 (g) PROMOTE EFFECTIVE COORDINATION WITH AGENCIES SERVING
24 PERSONS WITH DEVELOPMENTAL DISABILITIES IN ORDER TO IMPROVE
25 CONTINUITY OF SERVICES AND SUPPORTS FOR PERSONS FACING LIFE
26 TRANSITIONS FROM TODDLER TO PRESCHOOL, SCHOOL TO ADULT LIFE, AND
27 WORK TO RETIREMENT.

1 (2) THE STATE BOARD SHALL ADOPT SUCH RULES, IN ACCORDANCE
2 WITH SECTION 24-4-103, C.R.S., AS ARE NECESSARY TO CARRY OUT THE
3 PROVISIONS AND PURPOSES OF THIS ARTICLE, INCLUDING BUT NOT LIMITED
4 TO THE FOLLOWING SUBJECTS:
5 (a) STANDARDS FOR SERVICES AND SUPPORTS, INCLUDING
6 PREPARATION OF INDIVIDUALIZED PLANS;
7 (b) THE DESIGNATION OF COMMUNITY-CENTERED BOARDS AND THE
8 ORGANIZATION OF THOSE ENTITIES, INCLUDING STANDARDS OF
9 ORGANIZATION, STAFF QUALIFICATIONS, AND OTHER FACTORS NECESSARY
10 TO ENSURE PROGRAM INTEGRITY;
11 (c) PURCHASE OF SERVICES AND SUPPORTS AND FINANCIAL
12 ADMINISTRATION;
13 (d) PROCEDURES FOR RESOLVING DISPUTES OVER ELIGIBILITY
14 DETERMINATION AND THE MODIFICATION, DENIAL, OR TERMINATION OF
15 SERVICES;
16 (e) ELIGIBILITY DETERMINATION, THE CRITERIA FOR
17 DETERMINATION, AND ADMISSION TO THE PROGRAM;
18 (f) SYSTEMS OF QUALITY ASSURANCE AND DATA COLLECTION;
19 (g) THE RIGHTS OF A PERSON RECEIVING SERVICES;
20 (h) CONFIDENTIALITY OF RECORDS OF A PERSON RECEIVING
21 SERVICES;
22 (i) DESIGNATION OF AUTHORIZED REPRESENTATIVES AND
23 DELINEATION OF THEIR RIGHTS AND DUTIES PURSUANT TO THIS ARTICLE;
24 (j) (I) THE ESTABLISHMENT OF GUIDELINES AND PROCEDURES FOR
25 AUTHORIZATION OF INDIVIDUALS FOR ADMINISTRATION OF NUTRITION AND
26 FLUIDS THROUGH GASTROSTOMY TUBES.
27 (II) THE STATE DEPARTMENT SHALL REQUIRE THAT A SERVICE

1 AGENCY PROVIDING RESIDENTIAL OR DAY PROGRAM SERVICES OR
2 SUPPORTS HAVE A STAFF MEMBER QUALIFIED PURSUANT TO
3 SUBPARAGRAPH (III) OF THIS PARAGRAPH (j) ON DUTY AT ANY TIME THE
4 FACILITY ADMINISTERS SAID NUTRITION AND FLUIDS THROUGH
5 GASTROSTOMY TUBES, AND THAT THE FACILITY MAINTAIN A WRITTEN
6 RECORD OF EACH NUTRIENT OR FLUID ADMINISTERED TO EACH PERSON
7 RECEIVING SERVICES, INCLUDING THE TIME AND THE AMOUNT OF THE
8 NUTRIENT OR FLUID.
9 (III) AN INDIVIDUAL WHO IS NOT OTHERWISE AUTHORIZED BY LAW
10 TO ADMINISTER NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES
11 SHALL BE ALLOWED TO PERFORM THE DUTIES ONLY UNDER THE
12 SUPERVISION OF A LICENSED NURSE OR PHYSICIAN. AN INDIVIDUAL WHO
13 ADMINISTERS NUTRITION AND FLUIDS IN COMPLIANCE WITH THE
14 PROVISIONS OF THIS PARAGRAPH (j) SHALL BE EXEMPT FROM THE
15 LICENSING REQUIREMENTS OF THE "COLORADO MEDICAL PRACTICE ACT",
16 ARTICLE 36 OF TITLE 12, C.R.S., AND THE "NURSE PRACTICE ACT",
17 ARTICLE 38 OF TITLE 12, C.R.S. NOTHING IN THIS PARAGRAPH (j) SHALL
18 BE DEEMED TO AUTHORIZE THE ADMINISTRATION OF MEDICATIONS
19 THROUGH GASTROSTOMY TUBES. AN INDIVIDUAL ADMINISTERING
20 MEDICATIONS THROUGH GASTROSTOMY TUBES IS SUBJECT TO THE
21 REQUIREMENTS OF PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.
22 (IV) FOR PURPOSES OF THIS PARAGRAPH (j), "ADMINISTRATION"
23 MEANS ASSISTING A PERSON IN THE INGESTION OF NUTRITION OR FLUIDS
24 ACCORDING TO THE DIRECTION AND SUPERVISION OF A LICENSED NURSE OR
25 PHYSICIAN.
26 **25.5-10-104. [Formerly 27-10.5-103.5.] Community-centered**
27 **boards and service agencies - local public procurement units.** For

1 purposes of entering into a cooperative purchasing agreement pursuant to
2 section 24-110-201, C.R.S., a nonprofit community-centered board or a
3 nonprofit service agency may be certified as a local public procurement
4 unit as provided in section 24-110-207.5, C.R.S.

5 **25.5-10-105. [Similar to 27-10.5-104.] Authorized services and**
6 **supports - conditions of funding - purchase of services and supports**
7 **- boards of county commissioners - appropriation.** (1) SUBJECT TO
8 ANNUAL APPROPRIATIONS BY THE GENERAL ASSEMBLY, THE STATE
9 DEPARTMENT SHALL PROVIDE OR PURCHASE, PURSUANT TO SUBSECTION
10 (4) OF THIS SECTION, AUTHORIZED SERVICES AND SUPPORTS FROM
11 COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES FOR PERSONS WHO
12 HAVE BEEN DETERMINED TO BE ELIGIBLE FOR SUCH SERVICES AND
13 SUPPORTS PURSUANT TO SECTION 25.5-10-110, AND AS SPECIFIED IN THE
14 ELIGIBLE PERSON'S INDIVIDUALIZED PLAN. THOSE SERVICES AND SUPPORTS
15 MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

16 (a) FAMILY SUPPORT SERVICES, INCLUDING AN ARRAY OF
17 SUPPORTIVE SERVICES PROVIDED TO THE PERSON RECEIVING SERVICES AND
18 THE PERSON'S FAMILY, THAT ENABLE THE FAMILY TO MAINTAIN THE
19 PERSON IN THE FAMILY HOME, THEREBY PREVENTING OR DELAYING THE
20 NEED FOR OUT-OF-HOME PLACEMENT THAT IS UNWANTED BY THE PERSON
21 OR THE FAMILY, PURSUANT TO SECTION 25.5-10-201;

22 (b) CASE MANAGEMENT SERVICES;

23 (c) RESPITE CARE SERVICES, INCLUDING TEMPORARY CARE OF A
24 PERSON WITH A DEVELOPMENTAL DISABILITY TO OFFER RELIEF TO THE
25 PERSON'S FAMILY OR CAREGIVER OR TO ALLOW THE FAMILY OR CAREGIVER
26 TO DEAL WITH EMERGENCY SITUATIONS OR TO ENGAGE IN PERSONAL,
27 SOCIAL, OR ROUTINE ACTIVITIES AND TASKS THAT OTHERWISE MAY BE

1 NEGLECTED, POSTPONED, OR CURTAILED DUE TO THE DEMANDS OF CARING
2 FOR A PERSON WHO HAS A DEVELOPMENTAL DISABILITY;
3 (d) DAY SERVICES AND SUPPORTS THAT OFFER OPPORTUNITIES FOR
4 PERSONS WITH DEVELOPMENTAL DISABILITIES TO EXPERIENCE AND
5 ACTIVELY PARTICIPATE IN VALUED ADULT ROLES IN THE COMMUNITY.
6 THESE SERVICES AND SUPPORTS WILL ENABLE PERSONS RECEIVING
7 SERVICES TO ACCESS AND PARTICIPATE IN COMMUNITY ACTIVITIES, SUCH
8 AS WORK, RECREATION, HIGHER EDUCATION, AND SENIOR CITIZEN
9 ACTIVITIES. DAY SERVICES MAY ALSO INCLUDE THE ADMINISTRATION OF
10 NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED
11 BY AN INDIVIDUAL AUTHORIZED PURSUANT TO SECTION 25.5-10-103 (2)
12 (j) AND SUPERVISED BY A LICENSED NURSE OR PHYSICIAN.
13 (e) RESIDENTIAL SERVICES AND SUPPORTS, INCLUDING AN ARRAY
14 OF TRAINING, LEARNING, EXPERIENTIAL, AND SUPPORT ACTIVITIES
15 PROVIDED IN LIVING ALTERNATIVES DESIGNED TO MEET THE INDIVIDUAL
16 NEEDS OF PERSONS RECEIVING SERVICES AND MAY INCLUDE THE
17 ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY
18 TUBES, IF ADMINISTERED BY AN INDIVIDUAL AUTHORIZED PURSUANT TO
19 SECTION 25.5-10-103 (2) (j) AND SUPERVISED BY A LICENSED NURSE OR
20 PHYSICIAN; AND
21 (f) ANCILLARY SERVICES, INCLUDING ACTIVITIES THAT ARE
22 SECONDARY BUT INTEGRAL TO THE PROVISION OF THE SERVICES AND
23 SUPPORTS SPECIFIED IN THIS SUBSECTION (1).
24 (2) SERVICE AGENCIES RECEIVING FUNDS PURSUANT TO
25 SUBSECTION (1) OF THIS SECTION SHALL COMPLY WITH ALL OF THE
26 PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED
27 THEREUNDER.

1 (3) SERVICE AND SUPPORT COORDINATION SHALL BE PURCHASED
2 FROM THE COMMUNITY-CENTERED BOARD DESIGNATED PURSUANT TO
3 SECTION 25.5-10-108 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)
4 OF THIS SECTION.
5 (4) (a) THE STATE DEPARTMENT MAY PURCHASE SERVICES AND
6 SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, DIRECTLY
7 FROM SERVICE AGENCIES IF:
8 (I) REQUIRED BY THE FEDERAL REQUIREMENTS FOR THE STATE TO
9 QUALIFY FOR FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL
10 SECURITY ACT", AS AMENDED, INCLUDING PROGRAMS AUTHORIZED
11 PURSUANT TO PART 4 OF ARTICLE 6 OF THIS TITLE; OR
12 (II) THE EXECUTIVE DIRECTOR HAS DETERMINED THAT A SERVICE
13 OR SUPPORT PROVIDED OR PURCHASED BY A DESIGNATED
14 COMMUNITY-CENTERED BOARD DOES NOT MEET ESTABLISHED STANDARDS
15 AND THE CONTINUATION OF PURCHASE OF THE SERVICE OR SUPPORT
16 THROUGH THE COMMUNITY-CENTERED BOARD IS NOT IN THE BEST
17 INTERESTS OF THE PERSONS RECEIVING SERVICES.
18 (b) THE STATE DEPARTMENT SHALL ONLY PURCHASE SERVICES
19 AND SUPPORTS DIRECTLY FROM THOSE COMMUNITY-CENTERED BOARDS OR
20 SERVICE AGENCIES THAT MEET ESTABLISHED STANDARDS.
21 (c) THE STATE DEPARTMENT MAY PURCHASE SERVICES AND
22 SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, FROM A
23 FAMILY CAREGIVER IF THE EXECUTIVE DIRECTOR HAS DETERMINED THAT
24 THE PROVISION OF A SERVICE OR SUPPORT BY A FAMILY CAREGIVER IN THE
25 FAMILY HOME WOULD PROVIDE THE PERSON RECEIVING THE SERVICE OR
26 SUPPORT WITH THE LEAST RESTRICTIVE ENVIRONMENT.
27 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT

1 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
2 MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT OF HUMAN
3 SERVICES THROUGH REGIONAL CENTERS, FOR PERSONS RECEIVING
4 SERVICES IN REGIONAL CENTERS.
5 (e) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
6 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
7 MANAGEMENT SERVICES, DIRECTLY BY THE STATE DEPARTMENT.
8 (5) GOVERNMENTAL UNITS, INCLUDING BUT NOT LIMITED TO
9 COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, HEALTH SERVICE
10 DISTRICTS, AND STATE INSTITUTIONS OF HIGHER EDUCATION, ARE
11 AUTHORIZED AT THEIR OWN EXPENSE TO FURNISH MONEY, MATERIALS, OR
12 SERVICES AND SUPPORTS TO PERSONS WITH DEVELOPMENTAL DISABILITIES,
13 OR TO PURCHASE SERVICES AND SUPPORTS FOR SUCH PERSONS THROUGH
14 DESIGNATED COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES, SO
15 LONG AS NO CONDITIONS OR REQUIREMENTS IMPOSED AS A RESULT OF THE
16 PROVISION OR PURCHASE THROUGH A COMMUNITY-CENTERED BOARD OR
17 SERVICE AGENCY ARE IN CONFLICT WITH THE PROVISIONS OF THIS ARTICLE
18 OR THE RULES PROMULGATED THEREUNDER.
19 (6) BOARDS OF COUNTY COMMISSIONERS MAY LEVY UP TO ONE
20 MILL FOR THE PURPOSE OF PURCHASING SERVICES AND SUPPORTS FOR
21 PERSONS WITH DEVELOPMENTAL DISABILITIES. TO THE EXTENT
22 AUTHORIZED BY FEDERAL LAW, AND SUBJECT TO ANNUAL APPROPRIATION
23 BY THE GENERAL ASSEMBLY, AND PURSUANT TO RULES ESTABLISHED BY
24 THE STATE BOARD, A COUNTY MAY TRANSFER THE REVENUE RAISED
25 PURSUANT TO THE MILL LEVY TO THE STATE DEPARTMENT TO RECEIVE
26 MATCHING FEDERAL FUNDS TO PROVIDE MEDICAID-APPROVED WAIVER
27 SERVICES TO PERSONS WITH DEVELOPMENTAL DISABILITIES.

1 (7) (a) EACH YEAR THE GENERAL ASSEMBLY SHALL APPROPRIATE
2 FUNDS TO THE STATE DEPARTMENT TO PROVIDE OR PURCHASE SERVICES
3 AND SUPPORTS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES
4 PURSUANT TO THIS SECTION. UNLESS SPECIFICALLY PROVIDED OTHERWISE,
5 SERVICES AND SUPPORTS SHALL BE PURCHASED ON THE BASIS OF STATE
6 FUNDING LESS ANY FEDERAL OR CASH FUNDS RECEIVED FOR GENERAL
7 OPERATING EXPENSES FROM ANY OTHER STATE OR FEDERAL SOURCE, LESS
8 FUNDS AVAILABLE TO A PERSON RECEIVING RESIDENTIAL SERVICES OR
9 SUPPORTS AFTER SUCH PERSON RECEIVES AN ALLOWANCE FOR PERSONAL
10 NEEDS OR FOR MEETING OTHER OBLIGATIONS IMPOSED BY FEDERAL OR
11 STATE LAW, AND LESS THE REQUIRED LOCAL SCHOOL DISTRICT FUNDS
12 SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (7). THE YEARLY
13 APPROPRIATION, WHEN COMBINED WITH ALL OTHER SOURCES OF FUNDS,
14 SHALL IN NO CASE EXCEED ONE HUNDRED PERCENT OF THE APPROVED
15 PROGRAM COSTS AS DETERMINED BY THE GENERAL ASSEMBLY.
16 (b) EACH SCHOOL DISTRICT SHALL PAY TO THE
17 COMMUNITY-CENTERED BOARD PROVIDING PROGRAMS ATTENDED BY A
18 STUDENT WITH A DEVELOPMENTAL DISABILITY, WHO IS DOMICILED IN THE
19 SCHOOL DISTRICT AND MAY BE COUNTED IN THE DISTRICT'S PUPIL
20 ENROLLMENT, AN AMOUNT AT LEAST EQUAL TO THE DISTRICT'S PER PUPIL
21 REVENUES AS DETERMINED PURSUANT TO THE "PUBLIC SCHOOL FINANCE
22 ACT OF 1994", ARTICLE 54 OF TITLE 22, C.R.S. THIS SUBSECTION (7)
23 APPLIES TO STUDENTS WHO ARE LESS THAN TWENTY-TWO YEARS OF AGE.
24 **25.5-10-106. [Formerly 27-10.5-104.2.] Services and supports**
25 **- waiting list reduction - cash fund.** (1) There is hereby created in the
26 state treasury the developmental disabilities services cash fund, consisting
27 of moneys appropriated thereto by the general assembly. Any interest

1 derived from the deposit and investment of moneys in the developmental
2 disabilities services cash fund shall be credited to the fund. Any moneys
3 remaining in the fund at the end of a fiscal year shall remain in the fund
4 and shall not revert to the general fund or any other fund.
5 (2) During each regular session of the general assembly, the joint
6 budget committee and the health and human services committees of the
7 senate and the house of representatives, or any successor committees,
8 shall hold a joint hearing and take public testimony on the status of the
9 waiting lists for adult comprehensive services, adult supported living
10 services, and family support services for persons with developmental
11 disabilities and the availability of general fund moneys to reduce the
12 number of persons on the waiting lists and the amount of time eligible
13 persons wait for such services. The goal of the hearing shall be to propose
14 an appropriation from the general fund to the developmental disabilities
15 services cash fund.
16 (3) The general assembly may annually appropriate moneys in the
17 developmental disabilities services cash fund ~~to:~~
18 ~~(a)~~ TO the STATE department for program costs for adult
19 comprehensive services, adult supported living services, and family
20 support services for persons with developmental disabilities provided
21 pursuant to this article or part 4 of article 6 of THIS title. ~~25.5, C.R.S.; and~~
22 ~~(b) The department of health care policy and financing for~~
23 ~~program costs for adult comprehensive services and adult supported~~
24 ~~living services for persons with developmental disabilities provided~~
25 ~~pursuant to this article or part 4 of article 6 of title 25.5, C.R.S.~~
26 (4) Any moneys appropriated from the developmental disabilities
27 services cash fund pursuant to subsection (3) of this section that are

1 unexpended at the end of a fiscal year shall revert to the fund.
2 (5) It is the intent of the general assembly that the moneys in the
3 developmental disabilities services cash fund be used to reduce the
4 number of persons on the waiting lists for such services and the amount
5 of time eligible persons wait for such services.
6 **25.5-10-107. [Similar to 27-10.5-104.5.] Service agencies -**
7 **moneys - rules.** (1) A SERVICE AGENCY, INCLUDING A
8 COMMUNITY-CENTERED BOARD WHEN ACTING AS A SERVICE AGENCY,
9 SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ARTICLE AND
10 THE RULES PROMULGATED THEREUNDER.
11 (2) THE STATE BOARD SHALL PROMULGATE RULES TO IMPLEMENT
12 THE PURCHASE OF SERVICES AND SUPPORTS FROM A
13 COMMUNITY-CENTERED BOARD, SERVICE AGENCY, OR FAMILY CAREGIVER.
14 THE RULES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:
15 (a) TERMS AND CONDITIONS NECESSARY TO PROMOTE THE
16 EFFECTIVE DELIVERY OF SERVICES AND SUPPORTS, INCLUDING THOSE
17 SERVICES AND SUPPORTS DELIVERED BY A FAMILY CAREGIVER;
18 (b) PROCEDURES FOR OBTAINING AN ANNUAL AUDIT OF
19 DESIGNATED COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES NOT
20 AFFILIATED WITH A DESIGNATED COMMUNITY-CENTERED BOARD TO
21 PROVIDE FINANCIAL INFORMATION DEEMED NECESSARY BY THE STATE
22 DEPARTMENT TO ESTABLISH COSTS OF SERVICES AND SUPPORTS AND TO
23 ENSURE PROPER MANAGEMENT OF MONEYS RECEIVED PURSUANT TO
24 SECTION 25.5-10-105;
25 (c) DELINEATION OF A SYSTEM TO RESOLVE CONTRACTUAL
26 DISPUTES BETWEEN THE STATE DEPARTMENT AND DESIGNATED
27 COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES AND BETWEEN

1 DESIGNATED COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES,
2 INCLUDING THE CONTESTING OF ANY RATES THAT THE DESIGNATED
3 COMMUNITY-CENTERED BOARDS CHARGE TO SERVICE AGENCIES BASED
4 UPON A PERCENTAGE OF THE RATES THAT SERVICE AGENCIES CHARGE FOR
5 SERVICES AND SUPPORTS;
6 (d) SPECIFICATION OF WHAT SERVICES AND SUPPORTS ARE TO BE
7 REIMBURSED BY THE STATE DEPARTMENT AND SECONDARILY BY THE
8 COMMUNITY-CENTERED BOARD, THE SOURCE OF REIMBURSEMENT, ACTUAL
9 SERVICE OR SUPPORT COSTS, INCENTIVES, AND PROGRAM SERVICE
10 OBJECTIVES WHICH AFFECT REIMBURSEMENT;
11 (e) THE METHODS OF COORDINATING THE PURCHASE OF SERVICES
12 AND SUPPORTS, INCLUDING, BUT NOT LIMITED TO, SERVICE AND SUPPORT
13 COORDINATION, WITH OTHER FEDERAL, STATE, AND LOCAL PROGRAMS
14 THAT PROVIDE FUNDING FOR AUTHORIZED SERVICES AND SUPPORTS; AND
15 (f) CRITERIA FOR AND LIMITATIONS ON ANY RATES THAT
16 DESIGNATED COMMUNITY-CENTERED BOARDS CHARGE TO SERVICE
17 AGENCIES BASED UPON A PERCENTAGE OF THE RATES THAT SERVICE
18 AGENCIES CHARGE FOR SERVICES AND SUPPORTS.
19 (3) ANY INCORPORATED SERVICE AGENCY THAT IS REGISTERED IN
20 COLORADO AS A FOREIGN CORPORATION SHALL ORGANIZE A LOCAL
21 ADVISORY BOARD CONSISTING OF INDIVIDUALS WHO RESIDE WITHIN THE
22 DESIGNATED SERVICE AREA. SUCH ADVISORY BOARD SHALL BE
23 REPRESENTATIVE OF THE COMMUNITY AT LARGE AND PERSONS RECEIVING
24 SERVICES AND THEIR FAMILIES.
25 (4) UPON A DETERMINATION BY THE EXECUTIVE DIRECTOR THAT
26 SERVICES OR SUPPORTS HAVE NOT BEEN PROVIDED IN ACCORDANCE WITH
27 THE PROGRAM OR FINANCIAL ADMINISTRATION STANDARDS SPECIFIED IN

1 THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER, THE
2 EXECUTIVE DIRECTOR MAY REDUCE, SUSPEND, OR WITHHOLD PAYMENT TO
3 A DESIGNATED COMMUNITY-CENTERED BOARD, SERVICE AGENCY UNDER
4 CONTRACT WITH A DESIGNATED COMMUNITY-CENTERED BOARD, OR
5 SERVICE AGENCY FROM WHICH THE STATE DEPARTMENT PURCHASED
6 SERVICES OR SUPPORTS DIRECTLY. WHEN THE EXECUTIVE DIRECTOR
7 DECIDES TO REDUCE, SUSPEND, OR WITHHOLD PAYMENT, THE EXECUTIVE
8 DIRECTOR SHALL SPECIFY THE REASONS THEREFOR AND THE ACTIONS THAT
9 ARE NECESSARY TO BRING THE SERVICE AGENCY INTO COMPLIANCE.
10 (5) NOTHING IN THIS ARTICLE OR IN ANY RULES PROMULGATED
11 PURSUANT THERETO AND NO ACTIONS TAKEN BY THE EXECUTIVE
12 DIRECTOR PURSUANT TO THIS ARTICLE SHALL BE CONSTRUED TO AFFECT
13 THE OBTAINING OF FUNDS FROM LOCAL AUTHORITIES, INCLUDING THOSE
14 FUNDS OBTAINED FROM A MILL LEVY ASSESSED BY A COUNTY OR
15 MUNICIPALITY FOR THE PURPOSE OF PURCHASING SERVICES OR SUPPORTS
16 FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, OR TO REQUIRE THAT
17 SUCH FUNDS FROM LOCAL AUTHORITIES BE USED TO SUPPLANT STATE OR
18 FEDERAL FUNDS AVAILABLE FOR PURCHASING SERVICES AND SUPPORTS
19 FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.
20 **25.5-10-108. [Similar to 27-10.5-105.] Community-centered**
21 **boards - designation - purchase of services and supports by**
22 **community-centered boards.** (1) IN ORDER TO BE DESIGNATED AS THE
23 COMMUNITY-CENTERED BOARD IN A PARTICULAR DESIGNATED SERVICE
24 AREA, A PRIVATE CORPORATION, FOR-PROFIT OR NOT-FOR-PROFIT, SHALL
25 ANNUALLY APPLY FOR SUCH DESIGNATION TO THE STATE DEPARTMENT IN
26 THE FORM AND MANNER SPECIFIED BY THE EXECUTIVE DIRECTOR.
27 DESIGNATION SHALL BE BASED ON THE FOLLOWING FACTORS:

1 (a) UTILIZATION OF EXISTING SERVICE AGENCIES OR EXISTING
2 SOCIAL NETWORKS OR NATURAL SOURCES OF SUPPORT IN THE DESIGNATED
3 SERVICE AREA;
4 (b) ENCOURAGEMENT OF COMPETITION AMONG SERVICE AGENCIES
5 WITHIN THE DESIGNATED SERVICE AREA TO PROVIDE NEWLY IDENTIFIED
6 SERVICES OR SUPPORTS, THE VARIETY OF SERVICE AGENCIES AVAILABLE
7 TO THE PERSON RECEIVING SERVICES WITHIN THE DESIGNATED SERVICE
8 AREA, AND THE DEMONSTRATED EFFORT TO PURCHASE NEW OR EXPANDED
9 SERVICES OR SUPPORTS FROM SERVICE AGENCIES OTHER THAN THOSE
10 AFFILIATED WITH THE COMMUNITY-CENTERED BOARD;
11 (c) UTILIZATION OF STATE-FUNDED SERVICES AND SUPPORTS
12 ADMINISTERED AT THE LOCAL LEVEL, INCLUDING BUT NOT LIMITED TO
13 PUBLIC EDUCATION, SOCIAL SERVICES, PUBLIC HEALTH, AND
14 REHABILITATION PROGRAMS;
15 (d) QUALITY OF SERVICES AND SUPPORTS PROVIDED DIRECTLY OR
16 BY CONTRACT FOR PERSONS WITH DEVELOPMENTAL DISABILITIES;
17 (e) THE ESTABLISHMENT OF NEW SERVICES AND SUPPORTS FOR THE
18 PREVENTION OF INSTITUTIONALIZATION, THE SUPPORT OF
19 DEINSTITUTIONALIZATION, AND A COMMITMENT TO INNOVATIVE,
20 EFFECTIVE, AND INCLUSIVE SERVICES AND SUPPORTS FOR PERSONS WITH
21 DEVELOPMENTAL DISABILITIES;
22 (f) THE WILLINGNESS OF THE APPLICANT TO PURSUE AUTHORIZED
23 SERVICES AND SUPPORTS FROM ALL ELIGIBLE PERSONS WITHIN THE
24 DESIGNATED SERVICE AREA.
25 (2) ONCE A COMMUNITY-CENTERED BOARD HAS BEEN DESIGNATED
26 PURSUANT TO THIS SECTION, IT SHALL, SUBJECT TO AVAILABLE
27 APPROPRIATIONS:

1 (a) BE UNDER THE CONTROL AND DIRECTION OF A BOARD OF
2 DIRECTORS OR TRUSTEES COMPOSED OF ONE OR MORE PERSONS FROM
3 EACH OF THE FOLLOWING CATEGORIES:
4 (I) INTERESTED PERSONS REPRESENTING THE COMMUNITY AT
5 LARGE;
6 (II) FAMILY MEMBERS OF PERSONS WITH DEVELOPMENTAL
7 DISABILITIES WHO ARE RECEIVING SERVICES OR SUPPORTS; AND
8 (III) PERSONS WITH DEVELOPMENTAL DISABILITIES WHO ARE
9 RECEIVING SERVICES OR SUPPORTS;
10 (b) ADOPT BY-LAW PROVISIONS TO ENSURE THAT:
11 (I) MEMBERS OF THE GOVERNING BOARD ARE PROHIBITED FROM
12 VOTING ON ISSUES IN WHICH THEY HAVE A CONFLICT OF INTEREST;
13 (II) STAFF MEMBERS OF THE COMMUNITY-CENTERED BOARD AND
14 EMPLOYEES OR BOARD MEMBERS OF SERVICE AGENCIES SHALL NOT SERVE
15 ON THE GOVERNING BOARD;
16 (III) STAFF MEMBERS OF THE COMMUNITY-CENTERED BOARD AND
17 EMPLOYEES OR BOARD MEMBERS OF SERVICE AGENCIES ARE PROHIBITED
18 FROM VOTING IN ELECTIONS FOR MEMBERS OF THE GOVERNING BOARD;
19 AND
20 (IV) BOARD MEETINGS SHALL BE SCHEDULED AFTER ADEQUATE
21 NOTICE AND SHALL BE OPEN TO THE PUBLIC; EXCEPT THAT BY VOTE OF A
22 TWO-THIRDS MAJORITY OF MEMBERS PRESENT THE BOARD MAY ELECT TO
23 ADDRESS THE FOLLOWING MATTERS IN EXECUTIVE SESSION:
24 (A) THE PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF
25 ANY REAL, PERSONAL, OR OTHER PROPERTY INTEREST;
26 (B) CONFERENCES WITH AN ATTORNEY FOR THE PURPOSE OF
27 RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS;

1 (C) MATTERS REQUIRED TO BE KEPT CONFIDENTIAL BY FEDERAL
2 OR STATE LAW OR RULES OR REGULATIONS;
3 (D) SPECIALIZED DETAILS OF SECURITY ARRANGEMENTS OR
4 INVESTIGATIONS;
5 (E) DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE
6 SUBJECT TO NEGOTIATIONS;
7 (F) DEVELOPING STRATEGY FOR NEGOTIATIONS AND INSTRUCTING
8 NEGOTIATORS; AND
9 (G) PERSONNEL MATTERS;
10 (c) DETERMINE THE NEEDS OF ELIGIBLE PERSONS WITHIN THE
11 COMMUNITY-CENTERED BOARD DESIGNATED SERVICE AREA AND PREPARE
12 AND IMPLEMENT A LONG-RANGE PLAN AND ANNUAL UPDATES TO THAT
13 PLAN FOR THE DEVELOPMENT AND COORDINATION OF SERVICES AND
14 SUPPORTS TO ADDRESS THOSE NEEDS. THE NEEDS DETERMINATION AND
15 DESIGNATED SERVICE AREA PLANS OR ANNUAL UPDATE SHALL BE
16 SUBMITTED TO THE STATE DEPARTMENT.
17 (d) DETERMINE ELIGIBILITY AND DEVELOP AN INDIVIDUALIZED
18 PLAN FOR EACH PERSON WHO RECEIVES SERVICES OR SUPPORTS PURSUANT
19 TO SECTION 25.5-10-110; EXCEPT THAT, FOR A CHILD FROM BIRTH
20 THROUGH TWO YEARS OF AGE, ELIGIBILITY DETERMINATION AND
21 DEVELOPMENT OF AN INDIVIDUALIZED FAMILY SERVICE PLAN SHALL BE
22 MADE PURSUANT TO THE PROVISIONS OF PART 7 OF ARTICLE 10.5 OF TITLE
23 27, C.R.S.
24 (e) PROVIDE CASE MANAGEMENT SERVICES, INCLUDING SERVICE
25 AND SUPPORT COORDINATION AND PERIODIC REVIEWS, FOR PERSONS
26 RECEIVING SERVICES AND FAMILIES WITH CHILDREN WITH
27 DEVELOPMENTAL DISABILITIES;

1 (f) OBTAIN OR PROVIDE EARLY INTERVENTION SERVICES AND
2 SUPPORTS PURSUANT TO THE PROVISIONS OF PART 7 OF ARTICLE 10.5 OF
3 TITLE 27, C.R.S.;
4 (g) TAKE STEPS TO NOTIFY ELIGIBLE PERSONS, AND THEIR FAMILIES
5 AS APPROPRIATE, REGARDING THE AVAILABILITY OF SERVICES AND
6 SUPPORTS; AND
7 (h) ESTABLISH A HUMAN RIGHTS COMMITTEE. THE HUMAN RIGHTS
8 COMMITTEE SHALL, TO THE EXTENT POSSIBLE, BE COMPOSED OF TWO
9 PROFESSIONAL PERSONS TRAINED IN THE APPLICATION OF BEHAVIOR
10 DEVELOPMENT TECHNIQUES AND THREE REPRESENTATIVES OF PERSONS
11 RECEIVING SERVICES, THEIR PARENTS, LEGAL GUARDIANS, OR AUTHORIZED
12 REPRESENTATIVES. NO EMPLOYEE OR BOARD MEMBER OF A SERVICE
13 AGENCY WITHIN THE COMMUNITY-CENTERED BOARD'S DESIGNATED
14 SERVICE AREA SHALL SERVE AS A MEMBER OF THE HUMAN RIGHTS
15 COMMITTEE.
16 (3) THE EXECUTIVE DIRECTOR SHALL REVIEW EACH DESIGNATED
17 COMMUNITY-CENTERED BOARD PROGRAM TO ENSURE THAT THE PROGRAM
18 COMPLIES WITH THE REQUIREMENTS AND STANDARDS SET FORTH IN THIS
19 ARTICLE AND THE RULES PROMULGATED THEREUNDER.
20 **25.5-10-109. [Formerly 27-10.5-105.5.] Revocation of**
21 **designation.** (1) The executive director may revoke the designation of
22 a community-centered board upon a finding that the community-centered
23 board is in violation of the provisions of this article and the rules ~~and~~
24 ~~regulations~~ promulgated thereunder. Such revocation shall conform to the
25 provisions and procedures specified in article 4 of title 24, C.R.S., and
26 shall be made only after a hearing is provided as specified in that article.
27 (2) Once a designation has been revoked pursuant to subsection

1 (1) of this section, the executive director may designate a service agency
2 to perform the case management services of the designated
3 community-centered board pending designation of a new
4 community-centered board.

5 ~~(3) (Deleted by amendment, L. 92, p. 1368, § 7, effective July 1,~~
6 ~~1992.)~~

7 **25.5-10-110. [Similar to 27-10.5-106.] Eligibility determination**
8 **- individualized plan - periodic review - rules.** (1) (a) ANY PERSON
9 MAY REQUEST AN EVALUATION TO DETERMINE WHETHER HE OR SHE HAS
10 A DEVELOPMENTAL DISABILITY AND IS ELIGIBLE TO RECEIVE SERVICES AND
11 SUPPORTS PURSUANT TO THIS ARTICLE. APPLICATION FOR ELIGIBILITY
12 DETERMINATION SHALL BE MADE TO THE DESIGNATED
13 COMMUNITY-CENTERED BOARD IN THE DESIGNATED SERVICE AREA WHERE
14 THE PERSON RESIDES.

15 (b) PURSUANT TO THE CONTRACT WITH THE STATE DEPARTMENT,
16 DESIGNATED COMMUNITY-CENTERED BOARDS SHALL DETERMINE
17 WHETHER A PERSON IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS
18 PURSUANT TO THIS ARTICLE AND, IF SO, SHALL DEVELOP AN
19 INDIVIDUALIZED PLAN FOR HIM OR HER AS PART OF HIS OR HER
20 ENROLLMENT INTO A PROGRAM. THE STATE BOARD SHALL PROMULGATE
21 RULES, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH THE
22 PROCEDURE AND CRITERIA FOR DETERMINATION OF ELIGIBILITY AND
23 INDIVIDUALIZED PLAN DEVELOPMENT. THE PROCEDURE AND CRITERIA
24 SHALL BE UNIFORM IN NATURE AND APPLIED THROUGHOUT THE STATE IN
25 A CONSISTENT MANNER.

26 (2) FOLLOWING INTAKE AND ASSESSMENT BY THE DESIGNATED
27 COMMUNITY-CENTERED BOARD, AN INDIVIDUALIZED PLAN SHALL BE

1 DEVELOPED AS PROVIDED BY RULES PROMULGATED BY THE STATE BOARD.
2 THE INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD WITH
3 DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE SHALL BE
4 DEVELOPED PURSUANT TO SECTION 27-10.5-703, C.R.S.
5 (3) SUBJECT TO AVAILABLE APPROPRIATIONS PURSUANT TO
6 SECTION 25.5-10-105 AND TO THE AVAILABILITY OF SPACE WITHIN AN
7 INDIVIDUAL SERVICE AGENCY, THE PERSON WITH A DEVELOPMENTAL
8 DISABILITY SHALL BE PROVIDED OPTIONS FOR SERVICES AND SUPPORTS
9 WITHIN THE DESIGNATED SERVICE AREA THAT CAN APPROPRIATELY MEET
10 THE PERSON'S IDENTIFIED NEEDS, AS IDENTIFIED PURSUANT TO SUBSECTION
11 (2) OF THIS SECTION, AND MAY SELECT THE SERVICE AGENCY FROM WHICH
12 TO RECEIVE SERVICES OR SUPPORTS.
13 (4) (a) EACH PERSON RECEIVING SERVICES SHALL RECEIVE
14 PERIODIC AND ADEQUATE REVIEWS TO ASCERTAIN WHETHER THE SERVICES
15 AND SUPPORTS SPECIFIED IN HIS OR HER INDIVIDUALIZED PLAN HAVE BEEN
16 PROVIDED, DETERMINE THE APPROPRIATENESS OF CURRENT SERVICES AND
17 SUPPORTS, IDENTIFY WHETHER THE RESULTS SPECIFIED IN THE PERSON'S
18 INDIVIDUALIZED PLAN HAVE BEEN ACHIEVED, AND MODIFY AND REVISE
19 CURRENT SERVICES OR SUPPORTS TO MEET THE IDENTIFIED NEEDS OF THE
20 PERSON RECEIVING SERVICES. MODIFICATIONS OR REVISIONS TO THE
21 INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD WITH DISABILITIES
22 FROM BIRTH THROUGH TWO YEARS OF AGE SHALL BE DEVELOPED
23 PURSUANT TO SECTION 27-10.5-703, C.R.S.
24 (b) IN ORDER TO ACCURATELY REVIEW THE SERVICES AND
25 SUPPORTS BEING PROVIDED, THE COMMUNITY-CENTERED BOARD OR
26 REGIONAL CENTER MAY MAKE COGNITIVE, PHYSICAL, MEDICAL,
27 BEHAVIORAL, SOCIAL, VOCATIONAL, EDUCATIONAL, OR OTHER NECESSARY

1 TYPES OF EVALUATIONS OF A PERSON RECEIVING SERVICES. THE REVIEWS
2 SHALL BE SUPERVISED BY A DEVELOPMENTAL DISABILITIES PROFESSIONAL.
3 THE PERSON RECEIVING SERVICES, THE PARENTS OR GUARDIAN OF A
4 MINOR, OR THE GUARDIAN OF THE PERSON RECEIVING SERVICES, AND THE
5 AUTHORIZED REPRESENTATIVE OF THE PERSON RECEIVING SERVICES MAY
6 ATTEND AND SHALL RECEIVE ADEQUATE ADVANCE NOTICE OF THE
7 REVIEWS. PARENTAL OR LEGAL GUARDIAN CONSENT MUST BE OBTAINED
8 PRIOR TO ADMINISTERING EVALUATIONS FOR PROGRAM REVIEW TO
9 MINORS. THE RESULTS OF A REVIEW SHALL BE GIVEN TO THE PERSON
10 RECEIVING SERVICES AND TO THE PERSON'S PARENT, OR GUARDIAN, AS
11 APPROPRIATE, AND SHALL BE MADE A PART OF THE PERSON'S RECORD.
12 (c) A PERSON'S INDIVIDUALIZED PLAN SHALL BE REVIEWED AT
13 LEAST ANNUALLY; EXCEPT THAT AN INDIVIDUALIZED FAMILY SERVICE
14 PLAN FOR A CHILD WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS
15 OF AGE SHALL BE REVIEWED AS REQUIRED PURSUANT TO PART 7 OF
16 ARTICLE 10.5 OF TITLE 27, C.R.S.
17 (5) AN INDIVIDUALIZED PLAN SHALL NOT BE REQUIRED FOR A
18 PERSON WITH DEVELOPMENTAL DISABILITIES WHO IS ELIGIBLE FOR
19 SUPPORTS AND SERVICES AND WHO IS ON A WAITING LIST FOR
20 ENROLLMENT INTO A PROGRAM FUNDED PURSUANT TO THIS ARTICLE.
21 EACH COMMUNITY-CENTERED BOARD SHALL PROVIDE INFORMATION AND
22 REFERRAL SERVICES TO EACH PERSON ON THE WAITING LIST FOR
23 ENROLLMENT IN A PROGRAM, AT THE TIME OF HIS OR HER ELIGIBILITY AND
24 ANNUALLY THEREAFTER, REGARDING SERVICES AND SUPPORTS THAT ARE
25 RELEVANT TO THE INDIVIDUAL AND ARE COMMONLY USED BY PERSONS
26 WITH DEVELOPMENTAL DISABILITIES AS PROVIDED BY RULES
27 PROMULGATED BY THE STATE BOARD. THE CRITERIA FOR INFORMATION

1 AND REFERRAL SHALL BE UNIFORM IN NATURE AND APPLIED THROUGHOUT
2 THE STATE IN A CONSISTENT MANNER.
3 **25.5-10-111. [Similar to 27-10.5-107.] Procedure for resolving**
4 **disputes over eligibility, modification of services or supports, and**
5 **termination of services or supports.** (1) EVERY STATE OR LOCAL
6 SERVICE AGENCY RECEIVING STATE MONEYS PURSUANT TO SECTION
7 25.5-10-105 SHALL ADOPT A PROCEDURE FOR THE RESOLUTION OF
8 DISPUTES ARISING BETWEEN THE SERVICE AGENCY AND ANY RECIPIENT OF,
9 OR APPLICANT FOR, SERVICES OR SUPPORTS AUTHORIZED UNDER SECTION
10 25.5-10-105. PROCEDURES FOR THE RESOLUTION OF DISPUTES REGARDING
11 EARLY INTERVENTION SERVICES SHALL BE IN COMPLIANCE WITH IDEA
12 AND WITH PART 7 OF ARTICLE 10.5 OF TITLE 27, C.R.S. THE PROCEDURES
13 SHALL BE CONSISTENT WITH RULES PROMULGATED BY THE STATE BOARD
14 PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE APPLICABLE
15 TO THE FOLLOWING DISPUTES:
16 (a) A CONTESTED DECISION THAT THE APPLICANT IS NOT ELIGIBLE
17 FOR SERVICES OR SUPPORTS;
18 (b) A CONTESTED DECISION TO PROVIDE, MODIFY, REDUCE, OR
19 DENY SERVICES OR SUPPORTS SET FORTH IN THE INDIVIDUALIZED PLAN OR
20 INDIVIDUALIZED FAMILY SERVICE PLAN OF THE PERSON RECEIVING
21 SERVICES;
22 (c) A CONTESTED DECISION TO TERMINATE SERVICES OR SUPPORTS;
23 (d) A CONTESTED DECISION THAT THE PERSON RECEIVING
24 SERVICES IS NO LONGER ELIGIBLE FOR SERVICES OR SUPPORTS.
25 (2) THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO
26 ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH PROCEDURES FOR THE
27 RESOLUTION OF DISPUTES SPECIFIED IN SUBSECTION (1) OF THIS SECTION

1 THAT SHALL:

2 (a) REQUIRE THAT ALL APPLICANTS FOR SERVICES AND SUPPORTS
3 AND THE PARENTS OR GUARDIAN OF A MINOR, THE GUARDIAN, OR AN
4 AUTHORIZED REPRESENTATIVE BE INFORMED ORALLY AND IN WRITING, IN
5 THEIR NATIVE LANGUAGE, OF THE DISPUTE RESOLUTION PROCEDURES AT
6 THE TIME OF APPLICATION, AT THE TIME THE INDIVIDUALIZED PLAN IS
7 DEVELOPED, AND ANY TIME CHANGES IN THE PLAN ARE CONTEMPLATED;

8 (b) REQUIRE THAT A SERVICE AGENCY KEEP A WRITTEN RECORD OF
9 ALL PROCEEDINGS SPECIFIED PURSUANT TO THIS SECTION;

10 (c) REQUIRE THAT NO PERSON RECEIVING SERVICES BE
11 TERMINATED FROM SUCH SERVICES OR SUPPORTS DURING THE RESOLUTION
12 PROCESS;

13 (d) REQUIRE THAT UTILIZING THE DISPUTE RESOLUTION
14 PROCEDURE SHALL NOT PREJUDICE THE FUTURE PROVISION OF
15 APPROPRIATE SERVICES OR SUPPORTS TO INDIVIDUALS; AND

16 (e) REQUIRE THAT THE INTENDED ACTION NOT OCCUR UNTIL
17 AFTER REASONABLE NOTICE HAS BEEN PROVIDED TO THE PERSON, THE
18 PARENTS OR GUARDIAN OF A MINOR, THE GUARDIAN, OR AN AUTHORIZED
19 REPRESENTATIVE, ALONG WITH AN OPPORTUNITY TO UTILIZE THE
20 RESOLUTION PROCESS, EXCEPT IN EMERGENCY SITUATIONS, AS
21 DETERMINED BY THE STATE DEPARTMENT.

22 (3) THE RESOLUTION PROCESS NEED NOT CONFORM TO THE
23 REQUIREMENTS OF SECTION 24-4-105, C.R.S., AS LONG AS THE RULES
24 ADOPTED BY THE STATE BOARD INCLUDE PROVISIONS SPECIFICALLY
25 SETTING FORTH PROCEDURES, TIME FRAMES, NOTICE, AN OPPORTUNITY TO
26 BE HEARD AND TO PRESENT EVIDENCE, AND THE OPPORTUNITY FOR
27 IMPARTIAL REVIEW OF THE DECISION IN DISPUTE BY THE EXECUTIVE

1 DIRECTOR OR DESIGNEE, IF THE RESOLUTION PROCESS HAS FAILED.

2 **25.5-10-112. [Similar to 27-10.5-108] Discharge.** (1) A PERSON
3 RECEIVING SERVICES SHALL BE DISCHARGED FROM SERVICES OR SUPPORTS
4 UPON A DETERMINATION, MADE PURSUANT TO THE INDIVIDUALIZED
5 PLANNING PROCESS, THAT THE SERVICES OR SUPPORTS ARE NO LONGER
6 APPROPRIATE. AT LEAST TEN DAYS PRIOR TO EFFECTUATION OF THE
7 DISCHARGE, NOTIFICATION OF DISCHARGE SHALL BE GIVEN TO THE PERSON
8 RECEIVING SERVICES, THE PARENTS OR GUARDIAN OF SUCH A PERSON WHO
9 IS A MINOR, AND THE PERSON'S LEGAL GUARDIAN AND AUTHORIZED
10 REPRESENTATIVE WHEN APPLICABLE.

11 (2) WHEN A PERSON RECEIVING SERVICES NOTIFIES A SERVICE
12 AGENCY THAT THE PERSON NO LONGER WISHES TO RECEIVE A SERVICE OR
13 SUPPORT, THE PERSON SHALL BE DISCHARGED FROM THE SERVICE OR
14 SUPPORT UNLESS THE PERSON IS SUBJECT TO A PETITION TO IMPOSE A
15 LEGAL DISABILITY OR TO REMOVE A LEGAL RIGHT, FILED PURSUANT TO
16 SECTION 25.5-10-115, OR FOR WHOM A LEGAL GUARDIAN HAS BEEN
17 APPOINTED, AFFECTING THE PERSON'S ABILITY TO VOLUNTARILY
18 TERMINATE SERVICES OR SUPPORTS. THE PARENTS OF THE PERSON
19 RECEIVING SERVICES WHO IS A MINOR AND SUCH PERSON'S GUARDIAN
20 SHALL BE NOTIFIED OF THE PERSON'S WISH TO TERMINATE SERVICES OR
21 SUPPORTS, BUT NO MINOR WILL BE DISCHARGED WITHOUT THE CONSENT
22 OF THE PARENT OR LEGAL GUARDIAN.

23 **25.5-10-113. [Formerly 27-10.5-109.] Community residential**
24 **home - licenses - rules.** ~~(1) (Deleted by amendment, L. 92, p. 1371, § 11,~~
25 ~~effective July 1, 1992.)~~

26 ~~(2)~~ (1) The department of public health and environment and the
27 STATE department ~~of human services~~ shall implement a system of joint

1 licensure and certification of community residential homes. Independent
2 residential support services provided by the STATE department ~~of human~~
3 ~~services~~ do not require licensure by the department of public health and
4 environment.

5 ~~(3)~~ (2) The department of public health and environment and the
6 STATE department ~~of human services~~ shall develop standards for the
7 licensure and certification of community residential homes. Such
8 standards shall include health, life, and fire safety, as well as standards to
9 ensure the effective delivery of services and supports to residents; except
10 that any community residential home must comply with local codes.
11 These standards shall, as appropriate, be adopted in rule by the
12 ~~department of human services~~ STATE BOARD or the state board of health
13 and shall specify the responsibilities of each department in the program.
14 Surveys undertaken to ensure compliance with these standards shall, as
15 appropriate, be undertaken as joint surveys by the departments.

16 ~~(4)~~ (3) Any community residential home applying for a license or
17 certification on or after January 1, 1986, shall accommodate at least four
18 but no more than eight persons with developmental disabilities. All
19 licenses and certificates issued by the department of public health and
20 environment or the STATE department ~~of human services~~ shall bear the
21 date of issuance and shall be valid for not more than a twenty-four-month
22 period.

23 ~~(5)~~ (4) The issuance, suspension, revocation, modification,
24 renewal, or denial of a license or certification shall be governed by the
25 provisions of section 24-4-104, C.R.S. The failure of a community
26 residential home to comply with the provisions of this article and the rules
27 promulgated thereunder, or any local fire, safety, and health codes shall

be sufficient grounds for the department of public health and environment or the STATE department ~~of human services~~ to deny, suspend, revoke, or modify the community residential home's license or certification.

~~(6)~~ (5) The STATE department ~~of human services~~ and the state board of health shall promulgate such rules as are necessary to implement this section, pursuant to the provisions specified in article 4 of title 24, C.R.S. The rules shall include, but shall not be limited to, the following:

~~(a) (Deleted by amendment, L. 92, p. 1371, § 11, effective July 1, 1992.)~~

~~(b)~~ (a) Requirements concerning the distance between the location of community residential homes and factors to be considered in waiving such requirements for existing community residential homes;

~~(c)~~ (b) Procedures to secure the health and safety of persons receiving services or supports residing in a community residential home in the event the community residential home closes or its license is denied, suspended, or revoked pursuant to this section.

25.5-10-114. [Formerly 27-10.5-109.5.] Compliance with local government zoning regulations - notice to local governments - provisional licensure. (1) The STATE department shall require any community residential home seeking licensure pursuant to section ~~27-10.5-109~~ 25.5-10-113 to comply with any applicable zoning regulations of the municipality, city and county, or county where the home is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of a license to a home; except that nothing in this section shall be construed to supersede the provisions of sections 30-28-115 (2), 31-23-301 (4), and 31-23-303 (2), C.R.S.

(2) The STATE department shall assure ENSURE that timely written

notice is provided to the municipality, city and county, or county where a community residential home is situated, including the address of the home and the population and number of persons to be served by the home, when any of the following occurs:

(a) An application for a license to operate a community residential home pursuant to section ~~27-10.5-109~~ 25.5-10-113 is made;

(b) A license is granted to a community residential home pursuant to section ~~27-10.5-109~~ 25.5-10-113;

(c) A change in the license of a community residential home occurs; or

(d) The license of a community residential home is revoked or otherwise terminated for any reason.

(3) In the event of a zoning or other delay or dispute between a community residential home and the municipality, city and county, or county where the home is situated, the STATE department may grant a provisional license to the home for up to one hundred twenty days pending resolution of the delay or dispute.

25.5-10-115. [Similar to 27-10.5-110.] Imposition of legal disability - removal of legal right. (1) ANY INTERESTED PERSON MAY PETITION THE COURT TO IMPOSE A LEGAL DISABILITY ON OR TO REMOVE A LEGAL RIGHT FROM A PERSON WITH A DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 25.5-10-102. THE PETITION SHALL SET FORTH THE DISABILITY TO BE IMPOSED OR THE LEGAL RIGHT TO BE REMOVED AND THE REASONS THEREFOR. THE PETITION MAY AFFECT THE RIGHT TO CONTRACT, THE RIGHT TO DETERMINE PLACE OF ABODE OR PROVISIONS OF SERVICES AND SUPPORTS, THE RIGHT TO OPERATE A MOTOR VEHICLE, AND OTHER SIMILAR RIGHTS.

1 (2) (a) PRIOR TO GRANTING THE PETITION, THE COURT SHALL FIND:
2 (I) THAT THE PERSON SUBJECT TO THE PETITION HAS BEEN
3 DETERMINED TO BE A PERSON WITH A DEVELOPMENTAL DISABILITY
4 PURSUANT TO THE PROVISIONS OF THIS ARTICLE; AND
5 (II) THAT THE REQUESTED DISABILITY OR REMOVAL IS BOTH
6 NECESSARY AND DESIRABLE TO IMPLEMENT THE INDIVIDUALIZED PLAN
7 DEVELOPED FOR THE PERSON RECEIVING SERVICES OR SUPPORTS UNDER
8 THE SUPERVISION OF A DEVELOPMENTAL DISABILITIES PROFESSIONAL AND
9 THE INTERDISCIPLINARY TEAM. SUCH PROFESSIONAL SHALL HAVE AN
10 UNDERSTANDING OF THE RIGHTS OF PERSONS RECEIVING SERVICES AS SET
11 FORTH IN SECTIONS 25.5-10-117 TO 25.5-10-128. SUCH PLAN SHALL BE
12 SUBMITTED TO THE COURT AND SHALL BE SIGNED BY THE DEVELOPMENTAL
13 DISABILITIES PROFESSIONAL.
14 (b) WHEN A PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
15 SECTION SEEKS TO IMPOSE A DISABILITY OR TO REMOVE A LEGAL RIGHT,
16 RELATED TO THE SELECTION OF PLACE OF ABODE BY THE PERSON WITH A
17 DEVELOPMENTAL DISABILITY, THE COURT SHALL ALSO FIND:
18 (I) THAT, BASED ON THE RECENT OVERT ACTIONS OR OMISSIONS OF
19 THE PERSON SUBJECT TO THE PETITION, AND BECAUSE OF THE PRESENCE OF
20 A DEVELOPMENTAL DISABILITY, WITHOUT THE RELIEF PRAYED FOR IN THE
21 PETITION SUCH PERSON POSES A PROBABLE THREAT OF SERIOUS PHYSICAL
22 HARM TO SUCH PERSON OR OTHERS OR IS UNABLE TO CARE FOR SUCH
23 PERSON'S OWN NEEDS TO THE EXTENT THAT SUCH PERSON'S OWN LIFE OR
24 SAFETY IS SERIOUSLY THREATENED; AND
25 (II) THAT THE PLACE OF ABODE REQUESTED IN THE PETITION IS THE
26 LEAST RESTRICTIVE RESIDENTIAL SETTING THAT IS APPROPRIATE FOR THE
27 INDIVIDUAL NEEDS OF THE PERSON WITH A DEVELOPMENTAL DISABILITY.

1 (3) WITHIN SIX MONTHS AFTER A LEGAL DISABILITY HAS BEEN
2 IMPOSED OR A LEGAL RIGHT HAS BEEN REMOVED, THE COURT SHALL HOLD
3 A HEARING TO REVIEW ITS ORDER AND EITHER REAFFIRM THE FINDINGS
4 MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION AND CONTINUE THE
5 LEGAL DISABILITY OR REMOVAL OR REMOVE THE LEGAL DISABILITY OR
6 RESTORE THE LEGAL RIGHTS TO THE PERSON SUBJECT TO THE PETITION.
7 THE COURT MAY REMOVE A LEGAL DISABILITY FROM OR RESTORE A LEGAL
8 RIGHT TO A PERSON WITHOUT A HEARING UPON THE FILING OF A MOTION
9 REQUESTING SUCH RELIEF CONTAINING AFFIDAVITS IN SUPPORT OF THE
10 MOTION SIGNED BY ALL OF THE PARTIES.
11 (4) ANY INTERESTED PERSON MAY MOVE THAT THE COURT
12 REMOVE A LEGAL DISABILITY OR RESTORE A LEGAL RIGHT. IF SUCH
13 MOTION IS CONTESTED, IT SHALL BE SERVED ON THE PERSON WHOSE
14 RIGHTS ARE AFFECTED AND UPON THE PARTY WHO FILED THE ORIGINAL
15 PETITION IF THE PERSON IS NOT THE MOVING PARTY.
16 (5) THE FOLLOWING PROCEDURES SHALL APPLY TO ANY
17 PROCEEDINGS INSTITUTED PURSUANT TO THIS SECTION:
18 (a) WHEN A PETITION IS FILED PURSUANT TO SUBSECTION (1) OF
19 THIS SECTION, THE PERSON SUBJECT TO THE PETITION SHALL BE ADVISED
20 BY THE COURT OF SUCH PERSON'S RIGHT TO RETAIN AND CONSULT WITH AN
21 ATTORNEY AT ANY TIME, AND THAT IF SUCH PERSON CANNOT AFFORD TO
22 PAY AN ATTORNEY, ONE WILL BE APPOINTED BY THE COURT WITHOUT
23 COST. ATTORNEY FEES FOR COURT-APPOINTED COUNSEL SHALL BE PAID BY
24 THE COURT.
25 (b) UPON THE REQUEST OF AN INDIGENT RESPONDENT OR SUCH
26 RESPONDENT'S ATTORNEY, THE COURT SHALL APPOINT ONE OR MORE
27 DEVELOPMENTAL DISABILITIES PROFESSIONALS OF THE RESPONDENT'S

1 CHOICE TO ASSIST THE RESPONDENT IN THE PREPARATION OF THE
2 RESPONDENT'S CASE. FEES FOR SUCH DEVELOPMENTAL DISABILITIES
3 PROFESSIONALS SHALL BE PAID BY THE COURT.
4 (c) THE COURT MAY ISSUE A TEMPORARY ORDER IMPOSING A
5 LEGAL DISABILITY OR REMOVING A LEGAL RIGHT, PENDING A HEARING, FOR
6 A PERIOD NOT TO EXCEED TEN DAYS, BASED UPON THE STANDARDS
7 REQUIRED FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER. NO
8 INDIVIDUALIZED PLAN SHALL BE REQUIRED BY THE COURT TO SUPPORT THE
9 ISSUANCE OF SUCH ORDER.
10 (d) THE BURDEN OF PROOF SHALL AT ALL TIMES BE UPON THE
11 PARTY SEEKING IMPOSITION OF A DISABILITY OR REMOVAL OF A LEGAL
12 RIGHT OR OPPOSING REMOVAL OF A DISABILITY OR RESTORATION OF A
13 LEGAL RIGHT, AND THE STANDARD OF PROOF SHALL BE BY CLEAR AND
14 CONVINCING EVIDENCE.
15 (e) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (5), ALL
16 PROCEEDINGS SHALL BE HELD IN CONFORMANCE WITH THE COLORADO
17 RULES OF CIVIL PROCEDURE, BUT NO COSTS SHALL BE ASSESSED AGAINST
18 THE RESPONDENT.
19 (6) IN ORDER TO PROVIDE REPRESENTATION TO ELIGIBLE PERSONS
20 AS PROVIDED IN THIS SECTION, THE JUDICIAL DEPARTMENT IS AUTHORIZED
21 TO PAY MONEYS, OUT OF APPROPRIATIONS MADE THEREFOR BY THE
22 GENERAL ASSEMBLY, DIRECTLY TO APPOINTED COUNSEL OR
23 DEVELOPMENTAL DISABILITIES PROFESSIONALS ON A CASE-BY-CASE BASIS
24 OR, ON BEHALF OF THE STATE, TO CONTRACT WITH INDIVIDUAL
25 ATTORNEYS, LEGAL PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS,
26 PUBLIC INTEREST LAW FIRMS, OR NONPROFIT LEGAL SERVICES
27 CORPORATIONS TO PROVIDE LEGAL REPRESENTATION FOR AN

1 AGREED-UPON LUMP SUM.

2 (7) NO PERSON SHALL BE ADMITTED TO A REGIONAL CENTER, AS
3 DEFINED IN SECTION 27-10.5-102, C.R.S., WITHOUT A COURT ORDER
4 ISSUED PURSUANT TO THIS SECTION EXCEPT IN AN EMERGENCY OR FOR THE
5 PURPOSE OF TEMPORARY RESPITE CARE.

6 **25.5-10-116. [Formerly 27-10.5-111.] Conduct of court**
7 **proceedings.** All court proceedings arising under section ~~27-10.5-110~~
8 25.5-10-115 shall be conducted by the district attorney of the county
9 where the proceeding is held or by a qualified attorney acting for the
10 district attorney appointed by the district court for that purpose; except
11 that, in any county or in any city and county having a population
12 exceeding one hundred thousand persons, the proceedings shall be
13 conducted by the county attorney or by a qualified attorney acting for the
14 county attorney appointed by the district court. In any case in which there
15 has been a change of venue to a county other than the county of residence
16 of the respondent or the county in which the proceeding was commenced,
17 the county from which the proceeding was transferred shall either
18 reimburse the county in which the proceeding was held for the reasonable
19 costs incurred in conducting the proceeding or conduct the proceeding
20 itself using its own personnel and resources, including its own district or
21 county attorney, as the case may be.

22 **25.5-10-117. [Formerly 27-10.5-112.] Individuals' rights.**
23 (1) Unless a person's rights are modified by court order, a person with a
24 developmental disability shall have the same legal rights and
25 responsibilities guaranteed to all other individuals under the federal and
26 state constitutions and federal and state laws. No otherwise qualified
27 person, by reason of having a developmental disability, shall be excluded

1 from participation in, denied the benefits of, or subjected to
2 discrimination under any program or activity which receives public funds.
3 (2) The receipt of services and supports pursuant to this article
4 shall not operate to deprive any person of any other rights, benefits, or
5 privileges or cause the person to be declared legally incompetent.
6 (3) The rights of any person receiving services which are specified
7 in this article may be suspended to protect the person receiving services
8 from endangering such person, others, or property. Such rights may be
9 suspended only by the developmental disabilities professional with
10 subsequent review by the interdisciplinary team and by the human rights
11 committee in order to provide specific services or supports to the person
12 receiving services, which will promote the least restriction on the person's
13 rights. Such person's legal rights may be removed by a court pursuant to
14 section ~~27-10.5-110~~ 25.5-10-115.
15 (4) None of the rights established pursuant to this article shall be
16 construed to interfere with the rights and privileges of parents regarding
17 their minor child.
18 **25.5-10-118. [Formerly 27-10.5-113.] Right to individualized**
19 **plan or individualized family service plan.** (1) Each person receiving
20 services shall have an individualized plan, an individualized family
21 service plan, or a similar plan specified by the STATE department that
22 qualifies as an individualized plan, that is developed by the person's
23 interdisciplinary team. The individualized family service plan for a child
24 with disabilities from birth through two years of age shall be developed
25 in compliance with part 7 of ~~this~~ article 10.5 OF TITLE 27, C.R.S.
26 (2) Pursuant to section ~~27-10.5-106~~ 25.5-10-110, the
27 individualized plan for each person who receives services or supports

1 shall be reviewed at least annually and modified as necessary or
2 appropriate; except that an individualized family service plan for a child
3 with disabilities from birth through two years of age shall be reviewed as
4 required pursuant to part 7 of ~~this~~ article 10.5 OF TITLE 27, C.R.S. A
5 review shall consist of, but is not limited to, the determination by the
6 interdisciplinary team as to whether the needs of the person receiving
7 services or supports are accurately reflected in the plan, whether the
8 services and supports provided pursuant to the plan are appropriate to
9 meet the person's needs, and what actions are necessary for the plan to be
10 achieved.

11 **25.5-10-119. [Formerly 27-10.5-114.] Right to medical care**
12 **and treatment.** (1) Each person receiving services shall have access to
13 appropriate dental and medical care and treatment for any physical
14 ailments and for the prevention of any illness or disability.

15 (2) No medication for which a prescription is required shall be
16 administered without the written order of a physician. A physician shall
17 conduct a review of all prescriptions and other orders for medications in
18 order to determine the appropriateness of the person's medication regimen
19 annually, or more often, if required by law.

20 (3) All service agencies which administer medication shall require
21 that notation of the medication of a person receiving services be kept in
22 the person's medical records. All medications shall be administered
23 pursuant to part 3 of article 1.5 of title 25, C.R.S.

24 (4) Persons receiving services shall have a right to be free from
25 unnecessary or excessive medication. The service agency's records shall
26 state the effects of psychoactive medication if administered to the person
27 receiving services. When dosages of such are changed or other

1 psychoactive medications are prescribed, a notation shall be made in such
2 person's record concerning the effect of the new medication or new
3 dosages and the behavior changes, if any, which occur.
4 (5) Medication shall not be used for the convenience of the staff,
5 for punishment, as a substitute for a treatment program, or in quantities
6 that interfere with the treatment program of the person receiving services.
7 (6) Only appropriately trained staff shall be allowed to administer
8 drugs.
9 ~~(6.5)~~ (7) The executive director has the power to direct the
10 administration or monitoring of medications to persons being cared for
11 and treated in centers for ~~the developmentally disabled~~ PERSONS WITH
12 DEVELOPMENTAL DISABILITIES pursuant to section 25-1.5-301 (2) (h),
13 C.R.S.
14 ~~(7)~~ (8) No person receiving services shall be subjected to any
15 experimental research or hazardous treatment procedures without the
16 consent of such person, if the person is over eighteen years of age and is
17 able to give such consent, or of the person's parent, if the person is under
18 eighteen years of age, or of the person's legal guardian. Such consent may
19 be given only after consultation with the interdisciplinary team and a
20 developmental disabilities professional not affiliated with the facility or
21 community residential home in which the person receiving services
22 resides. However, no such person of any age shall be subjected to
23 experimental research or hazardous treatment procedures if said person
24 implicitly or expressly objects to such procedure.
25 ~~(8)~~ (9) No person receiving services shall have any organs
26 removed for the purpose of transplantation without the consent of such
27 person, if the person is over eighteen years of age and is able to give such

1 consent. If the person's ability to give consent to the medical procedure
2 is challenged by the physician, the same procedures as those set forth in
3 section ~~27-10.5-129~~ 25.5-10-131 shall be followed. Consent for the
4 removal of organs for transplantation may be given by the parents of a
5 person receiving services, if the person is under eighteen years of age, or
6 by the person's legal guardian. Such consent may be given only after
7 consultation with the interdisciplinary team and a developmental
8 disabilities professional not affiliated with the facility or community
9 residential home in which the person receiving services resides. However,
10 no person receiving services of any age shall be a donor of an organ if the
11 person implicitly or expressly objects to such procedure.
12 ~~(9)~~ (10) (a) As used in subsections ~~(7) and (8)~~ (8) AND (9) of this
13 section, consent also shall require that the person whose consent is sought
14 has been adequately and effectively informed as to the:
15 (I) Method of experimental research, hazardous treatment, or
16 transplantation;
17 (II) Nature and consequence of such procedures; and
18 (III) Risks, benefits, and purposes of such procedures.
19 (b) The consent of any person may be revoked at any time.
20 ~~(10)~~ (11) Subsections ~~(7), (8), and (9)~~ (8), (9), AND (10) of this
21 section shall not apply when a physician renders emergency medical care
22 or treatment to any resident.
23 **25.5-10-120. [Formerly 27-10.5-115.] Right to humane care**
24 **and treatment.** (1) Corporal punishment of persons with a
25 developmental disability shall not be permitted.
26 (2) All service agencies shall prohibit mistreatment, exploitation,
27 neglect, or abuse in any form of any person receiving services.

1 (3) Service agencies shall provide every person receiving services
2 with a humane physical environment.
3 (4) Each person receiving services shall be attended to by
4 qualified staff in numbers sufficient to provide appropriate services and
5 supports.
6 (5) Seclusion, defined as the placement of a person receiving
7 services alone in a closed room for the purpose of punishment, is
8 prohibited.
9 (6) "Time out" procedures, defined as separation from other
10 persons receiving services and group activities, may be employed under
11 close and direct professional supervision, as defined by the STATE
12 department, and only as a technique in behavior-shaping programs.
13 Behavior-shaping programs utilizing a "time out" procedure shall be
14 implemented only when it incorporates a positive approach designed to
15 result in the acquisition of adaptive behaviors. Such behavior programs
16 shall only be implemented following the completion of a comprehensive
17 functional analysis, when alternative nonrestrictive procedures have been
18 proven to be ineffective, and only with the informed consent of the
19 individual, parents, or legal guardian. Such behavior programs shall be
20 implemented only following the review and approval process defined in
21 rules. ~~and regulations.~~ Behavior development programs shall be
22 developed in conjunction with the interdisciplinary team and implemented
23 only following review by the human rights committee. Behavior
24 development programs involving the use of the procedure in a "time out
25 room" are prohibited.
26 (7) Behavior development programs involving the use of aversive
27 or noxious stimuli are prohibited.

(8) Physical restraint, defined as the use of manual methods intended to restrict the movement or normal functioning of a portion of an individual's body through direct contact by staff, shall be employed only when necessary to protect the person receiving services from injury to self or others. Physical restraint shall not be employed as punishment, for the convenience of staff, or as a substitute for a program of services and supports. Physical guidance or prompting techniques of short duration such as those employed in training techniques are not considered physical restraint. Physical restraint shall be applied only if alternative techniques have failed and only if such restraint imposed the least possible restriction consistent with its purpose. If physical restraint is used in an emergency or on a continuing basis its use shall be reviewed by the interdisciplinary team and the human rights committee in accordance with the rules ~~and regulations~~ of the ~~department~~ STATE BOARD.

(9) The use of a mechanical restraint, defined as the use of mechanical devices intended to restrict the movement or normal functioning of a portion of an individual's body, is subject to special review and oversight, as defined in rules. ~~and regulations.~~ Use of mechanical restraints shall be applied only in an emergency if alternative techniques have failed and in conjunction with a behavior development program. Mechanical restraints shall be designed and used so as not to cause physical injury to the person receiving services and so as to cause the least possible discomfort. The use of mechanical restraints shall be reviewed by the human rights committee. The use of posey vests, straight jackets, ankle and wrist restraints, and other devices defined in rules ~~and regulations~~ is prohibited.

1 (10) A record shall be maintained of all physical injuries to any
2 person receiving services, all incidents of mistreatment, exploitation,
3 neglect, or abuse, and all uses of physical or mechanical restraint. All
4 records shall be subject to review by the human rights committee.
5 (11) Behavior development programs shall be supervised by a
6 developmental disabilities professional having specific knowledge and
7 skills to develop and implement positive behavioral intervention
8 strategies.
9 **25.5-10-121. [Formerly 27-10.5-116.] Right to religious belief,**
10 **practice, and worship.** No person receiving services shall be required to
11 perform any act or be subject to any procedure whatsoever which is
12 contrary to the person's religious belief, and each such person shall have
13 the right to practice such religious belief and be accorded the opportunity
14 for religious worship. Provisions for religious worship shall be made
15 available to all persons receiving services on a nondiscriminatory basis.
16 No such person shall be coerced into engaging in or refraining from any
17 religious activity, practice, or belief.
18 **25.5-10-122. [Formerly 27-10.5-117.] Rights to**
19 **communications and visits.** (1) Each person receiving services has the
20 right to communicate freely and privately with others of the person's own
21 choosing.
22 (2) Each person receiving services has the right to receive and
23 send sealed, unopened correspondence. No such person's incoming or
24 outgoing correspondence shall be opened, delayed, held, or censored by
25 any person.
26 (3) Each person receiving services shall have the right to receive
27 and send packages. No such person's outgoing packages shall be opened,

1 delayed, held, or censored by any person.

2 ~~(4) Repealed.~~

3 ~~(5)~~ (4) Each person receiving services shall have reasonable
4 access to telephones, both to make and to receive calls in privacy, and
5 shall be afforded reasonable and frequent opportunities to meet with
6 visitors.

7 ~~(6)~~ (5) All service agencies shall ensure that persons receiving
8 services have suitable opportunities for interaction with persons of their
9 choice. Nothing in this section will limit the protections provided under
10 article 3.1 of title 26, C.R.S.

11 ~~(7) Repealed.~~

12 **25.5-10-123. [Formerly 27-10.5-118.] Right to fair employment**
13 **practices.** (1) No person receiving services shall be required to perform
14 labor; except that persons receiving services may voluntarily engage in
15 such labor if the labor is compensated in accordance with applicable
16 minimum wage laws.

17 (2) No person receiving services shall be involved in the physical
18 care, care and treatment, training, or supervision of other persons
19 receiving services unless such person has volunteered, has been
20 specifically trained in the necessary skills, and has the judgment required
21 for such activities, is adequately supervised, and is reimbursed in
22 accordance with the applicable minimum wage laws.

23 (3) Each person receiving services may perform vocational
24 training tasks, subject to a presumption that an assignment longer than
25 three months to any task is not a training task, if the specific task or any
26 change in task assignment is an integral part of such person's
27 individualized plan. If such person performs vocational training tasks for

1 which the service agency is receiving compensation from any outside
2 source, the person shall be compensated in accordance with the applicable
3 minimum wage laws.
4 (4) Each person receiving services may voluntarily engage in
5 labor for which the service agency would otherwise have to pay an
6 employee if the specific labor or any change in labor is an integral part of
7 such person's individualized plan and the person is compensated in
8 accordance with the applicable minimum wage laws.
9 (5) Each person receiving services may be required to perform
10 tasks of a personal housekeeping nature or tasks oriented to improving
11 community living skills in accordance with the person's individualized
12 plan.
13 (6) Payment to persons receiving services pursuant to this section
14 shall not be collected by the service agency to offset the costs of
15 providing services and supports to such person.
16 **25.5-10-124. [Formerly 27-10.5-119.] Right to vote.** Each
17 person receiving services who is eligible to vote according to law has the
18 right to vote in all primary and general elections. As necessary, all service
19 agencies shall assist such persons to register to vote, to obtain
20 applications for mail-in ballots and to obtain mail-in ballots, to comply
21 with other requirements which are prerequisite to voting, and to vote.
22 **25.5-10-125. [Formerly 27-10.5-120.] Records and**
23 **confidentiality of information pertaining to eligible persons or their**
24 **families.** (1) A record for each person receiving services shall be
25 diligently maintained by the community-centered board. The record shall
26 include, but not be limited to, information pertaining to the determination
27 of eligibility for services and the individualized plan. The record shall not

be a public record.

(2) Except as otherwise provided by law, all information obtained and any records prepared in the course of determining eligibility or providing services and supports pursuant to this article shall be confidential and subject to the evidentiary privileges established by law. The disclosure of this information and these records in any manner shall be permitted only:

(a) To the applicant or person receiving services, to the parents of a minor, such person's legal guardian, and to any person authorized by the above named person;

(b) In communications between qualified professional personnel, including the board of directors of community-centered boards and service agencies providing services to persons with developmental disabilities, to the extent necessary for the acquisition, provision, oversight, or referral of services and supports;

~~(c) (Deleted by amendment, L. 92, p. 1380, § 21, effective July 1, 1992.)~~

~~(d)~~ (c) To the extent necessary to make claims for aid, insurance, or medical assistance to which a person receiving services may be entitled, or to access services and supports pursuant to the individualized plan;

~~(e)~~ (d) For the purposes of evaluation, gathering statistics, or research when no identifying information concerning an individual person or family is disclosed. Identifying information is information which could reasonably be expected to identify a specific individual and includes, but is not limited to, name, address, telephone number, social security number, medicaid number, household number, and photograph.

1 ~~(f)~~ (e) To the court when necessary to implement the provisions
2 of this article;
3 ~~(g)~~ (f) To persons authorized by an order of court issued after a
4 hearing, notice of which was given to the person, parents or legal
5 guardian, where appropriate, and the custodian of the information;
6 ~~(h)~~ (g) To the agency designated pursuant to 42 U.S.C. sec. 6012
7 as the protection and advocacy system for Colorado when:
8 (I) A complaint has been received by the protection and advocacy
9 system from or on behalf of a person with a developmental disability; and
10 (II) Such person does not have a legal guardian or the state or the
11 designee of the state is the legal guardian of such person;
12 ~~(i)~~ (h) To the STATE department or its designees as deemed
13 necessary by the executive director to fulfill the duties prescribed by this
14 article.
15 (3) Nothing in this section shall be construed to limit access by a
16 person receiving services to such person's records.
17 (4) Nothing in this section shall be construed to interfere with the
18 protections afforded to a person under the federal "Health Insurance
19 Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320d, and
20 the federal "Family Education Rights and Privacy Act of 1974", 20
21 U.S.C. sec. 1232g.
22 **25.5-10-126. [Formerly 27-10.5-121.] Right to personal**
23 **property.** (1) Each person receiving services has the right to the
24 possession and use of such person's own clothing and personal effects. If
25 the service agency holds any of such person's personal effects for any
26 reason, such retention shall be promptly recorded in such person's record
27 and the reason for retention shall also be recorded.

1 (2) Upon the request of a person receiving services, a service
2 agency may hold money or funds belonging to the person receiving
3 services, received by such person, or received by the service agency for
4 such person. All such money or funds shall be held by the service agency
5 as trustee for the person receiving services. Upon request, an accounting
6 shall be rendered by the service agency.
7 (3) Upon request, a person receiving services shall be entitled to
8 receive reasonable amounts of such person's money or funds held in trust.
9 **25.5-10-127. [Formerly 27-10.5-122.] Right to influence policy.**
10 The persons receiving services of a service agency shall be entitled to
11 establish a committee to hear the views and represent the interests of all
12 such persons served by the agency and to attempt to influence the policies
13 of the agency to the extent that they influence provision of services and
14 supports.
15 **25.5-10-128. [Formerly 27-10.5-123.] Right to notification.**
16 Each person receiving services shall have the right to read or have
17 explained, in each person's or family's native language, any rules ~~or~~
18 ~~regulations~~ adopted by the service agency and pertaining to such person's
19 activities.
20 **25.5-10-129. [Formerly 27-10.5-124.] Discrimination.** No
21 person who has received services or supports under any provision of this
22 article shall be discriminated against because of such status. For purposes
23 of this section, "discrimination" means the giving of any unfavorable
24 weight to the fact that a person has received such services or supports.
25 **25.5-10-130. [Formerly 27-10.5-128.] Sterilization rights.** (1) It
26 is the intent of the general assembly that the procedures set forth in the
27 following subsections be utilized when sterilization is being considered

1 for the primary purpose of rendering the individual incapable of
2 reproduction.
3 (2) Any person with a developmental disability over eighteen
4 years of age who has given informed consent has the right to be sterilized,
5 subject to the following:
6 (a) Prior to the procedure, competency to give informed consent
7 and assurance that such consent is voluntarily and freely given shall be
8 evaluated by the following:
9 (I) A psychiatrist, psychologist, or physician who does not provide
10 services or supports to the person and who has consulted with and
11 interviewed the person with a developmental disability; and
12 (II) A developmental disabilities professional who does not
13 provide services or supports in which said person participates, and who
14 has consulted with and interviewed the person with a developmental
15 disability.
16 (b) The professionals who conducted the evaluation pursuant to
17 paragraph (a) of this subsection (2) shall consult with the physician who
18 is to perform the operation concerning each professional's opinion in
19 regard to the informed consent of the person requesting the sterilization.
20 (3) Any person with a developmental disability whose capacity to
21 give an informed consent is challenged by the developmental disabilities
22 professional or the physician may file a petition with the court to declare
23 competency to give consent pursuant to the procedures set forth in section
24 ~~27-10.5-129~~ 25.5-10-131.
25 (4) No person with a developmental disability who is over
26 eighteen years of age and has the capacity to participate in the
27 decision-making process regarding sterilization shall be sterilized in the

1 absence of the person's informed consent. No minor may be sterilized
2 without a court order pursuant to section ~~27-10.5-130~~ 25.5-10-132.
3 (5) Sterilization conducted pursuant to this section shall be legal.
4 Consent given by any person pursuant to subsection (2) of this section
5 shall not be revocable after sterilization, and no person shall be liable for
6 acting pursuant to such consent.
7 **25.5-10-131. [Formerly 27-10.5-129.] Competency to give**
8 **consent to sterilization.** (1) If the competency of the person with a
9 developmental disability to give consent to sterilization is disputed by the
10 developmental disabilities professional, the psychiatrist or psychologist,
11 or physician, said person may file a petition for declaration of competency
12 to give consent to sterilization with the court. Upon the filing of a petition
13 which shows that said person is over eighteen years of age and desires to
14 give consent to sterilization, the court shall immediately set a hearing to
15 determine the person's competency to give such consent. For the purpose
16 of determining competency, the court shall appoint two or more
17 independent professional persons with expertise in the field of
18 developmental disabilities who do not provide services and supports to
19 said person to examine said person and to present their findings as to said
20 person's competency to give consent to sterilization at the competency
21 hearing.
22 (2) If the court determines that the person has given consent to
23 sterilization and is competent to give such consent, the court shall order
24 that the sterilization be performed unless the person withdraws consent
25 to sterilization prior to the sterilization being performed. If the court
26 determines that the person is incompetent to give consent to sterilization,
27 the court shall order that no sterilization be performed without further

1 court proceedings pursuant to section ~~27-10.5-130~~ 25.5-10-132.
2 (3) Determination of competency in these proceedings is specific
3 to the ability to give consent to sterilization and does not determine legal
4 competency for any other purpose.
5 **25.5-10-132. [Formerly 27-10.5-130.] Court-ordered**
6 **sterilization.** (1) A person with a developmental disability who has been
7 determined to be incompetent to give consent, the person's legal guardian,
8 or the parents of a minor with a developmental disability, may petition the
9 court to hold a hearing to determine whether said person should be
10 ordered to be sterilized. The petition shall set forth the following:
11 (a) The name, age, and residence of the person to be sterilized;
12 (b) The name, address, and relation to said person of the
13 petitioner;
14 (c) The names and addresses of any parents, spouse, legal
15 guardian, or custodian of said person;
16 (d) The mental condition of the person to be sterilized;
17 (e) A statement that the sterilization is medically necessary to
18 preserve the life or physical or mental health of the person, including a
19 short and plain description of the reasons behind the determination of
20 medical necessity;
21 (f) A statement that other less intrusive measures were considered
22 and the reasons behind the determination that less intrusive means would
23 not protect the interests of the individual.
24 (2) Upon petition to the court, the court shall appoint an attorney
25 who will represent the interests of the person with a developmental
26 disability and one or more experts in the developmental disability field to
27 examine the person and to give testimony at the hearing regarding the

1 person's mental and physical status and other relevant matters.

2 (3) The hearing on the petition shall be held promptly. The person
3 with a developmental disability shall be represented by an attorney and
4 shall have the opportunity to present testimony and to cross-examine
5 witnesses.

6 (4) Copies of the petition and notices of the time and place of the
7 hearing shall be mailed, not less than ten days prior to the hearing, to the
8 person with a developmental disability, that person's attorney, a parent or
9 next of kin, and legal guardian or custodian.

10 (5) Reasonable fees and costs incurred pursuant to this section
11 shall be paid by the court for a person who is indigent.

12 (6) Prior to ordering sterilization, the court must find:

13 (a) That the person lacks the capacity to effectively participate in
14 the decision-making process regarding sterilization or is a minor with a
15 developmental disability;

16 (b) That the court has heard from the person regarding that
17 person's desires, if possible, and the court has considered the desires of
18 the person;

19 (c) That the person lacks the capacity to make a decision
20 regarding sterilization and that the person's capacity to make such a
21 decision is unlikely to improve in the future;

22 (d) That the person is capable of reproduction and is likely to
23 engage in activities at the present or in the near future which could result
24 in pregnancy;

25 (e) By clear and convincing evidence, that the sterilization is
26 medically necessary to preserve the life or physical or mental health of the
27 person, including a short and plain description of the reasons behind the

1 determination of medical necessity;

2 (f) That other less intrusive measures were considered and the
3 reasons behind the determination that less intrusive means would not
4 protect the interests of the person.

5 **25.5-10-133. [Formerly 27-10.5-131.] Confidentiality of**
6 **sterilization proceedings.** All records, hearings, and proceedings
7 pursuant to sections ~~27-10.5-128~~ 25.5-10-130 to ~~27-10.5-130~~ 25.5-10-132
8 shall be strictly confidential unless requested to be open to the public by
9 the person with a developmental disability or the person's legal guardian.

10 **25.5-10-134. [Formerly 27-10.5-132.] Limitations on**
11 **sterilization.** (1) Consent to sterilization shall be made neither a
12 condition for release from any institution nor a condition for the exercise
13 of any right, privilege, or freedom.

14 (2) Nothing in this article shall require any hospital or any person
15 to participate in any sterilization, nor shall any hospital or any person be
16 civilly or criminally liable for refusing to participate in any sterilization.

17 **25.5-10-135. [Formerly 27-10.5-134.] Civil action and attorney**
18 **fees.** A violation of any provision of this article shall give rise to a civil
19 cause of action by the person adversely affected by such violation, and
20 any judgment may include plaintiff's reasonable attorney fees.

21 **25.5-10-136. [Formerly 27-10.5-135.] Terminology.**
22 (1) Whenever the terms "insane", "insanity", "mentally or mental
23 incompetent", "mental incompetency", or "of unsound mind" are used in
24 the laws of the state of Colorado, they shall be deemed to refer to the
25 insane, as defined in section 16-8-101, C.R.S., or to a person with a
26 developmental disability, as defined in section ~~27-10.5-102~~ 25.5-10-102,
27 as the context of the particular law requires.

1 (2) Whenever the term "mentally deficient person" is used in the
2 laws of the state of Colorado, it shall be deemed to mean and be included
3 with the term "person with a developmental disability", as defined in
4 section ~~27-10.5-102 (11) (b)~~ 25.5-10-102.

5 **25.5-10-137. [Formerly 27-10.5-137.] Federal funds.** The STATE
6 department is authorized to accept, on behalf of the state, any grants of
7 federal funds made available for any purposes consistent with the
8 provisions of this article. The executive director of the STATE department,
9 with the approval of the governor, shall have power to direct the
10 disposition of any such grants so accepted in conformity with the terms
11 and conditions under which they are given.

12 **25.5-10-138. [Formerly 27-10.5-139.] Evaluations to determine**
13 **whether a defendant is mentally retarded for purposes of class 1**
14 **felony trials.** Upon request of the court, the executive director, or his or
15 her designee, shall recommend specific professionals who are qualified
16 to perform an evaluation to determine whether a defendant is mentally
17 retarded, as defined in section 18-1.3-1101, C.R.S. Any professional who
18 is recommended shall be licensed as a psychologist in the state of
19 Colorado and shall have experience in and shall have demonstrated
20 competence in determination and evaluation of persons with mental
21 retardation. The executive director shall convene a panel of not fewer
22 than three individuals with expertise in mental retardation who shall
23 assess the qualifications of licensed psychologists and make
24 recommendations to the executive director.

25 **25.5-10-139. [Formerly 27-10.5-141.] Retaliation prohibited.**
26 No person shall be discriminated against because he or she has made a
27 complaint, testified, assisted, or participated in any manner in an

1 investigation, proceeding, or hearing pursuant to this article, including the
2 dispute resolution procedures in section 25.5-10-111 AND SECTION
3 27-10.5-107, C.R.S. A service agency, including the department and any
4 community-centered board, shall not coerce, intimidate, threaten, or
5 interfere with any individual in the exercise or enjoyment of any right
6 pursuant to this article, or on account of his or her having exercised or
7 enjoyed any right pursuant to this article, or on account of his or her
8 having aided or encouraged any other individual in the exercise or
9 enjoyment of any right pursuant to this article.

10 **25.5-10-140. [Formerly 27-10.5-142.] Caregiver abuse - duties**
11 **of the department - working group - issues - report - funding.** (1) The
12 general assembly hereby finds and declares that:

13 (a) Persons with developmental disabilities are four to ten times
14 more likely to be victims of crime than the general population. Studies
15 have shown that most crimes against persons with developmental
16 disabilities are unreported, and, for those that are reported, there are
17 excessively low rates of prosecution and conviction.

18 (b) Persons with developmental disabilities frequently depend
19 upon others to meet their basic needs, leading to a power imbalance
20 between the caregiver and the client with developmental disabilities.

21 (c) The general assembly is especially concerned by the
22 prevalence of abuse, neglect, and exploitation of persons with
23 developmental disabilities by caregivers who are in a position of trust.
24 Studies estimate that most perpetrators who abuse persons with
25 developmental disabilities had access to their victims through their work
26 providing care for those persons.

27 (d) The protection of populations who are at risk due to advanced

1 age or developmental disabilities requires the creation of a system to
2 protect these vulnerable populations from those who abuse or neglect
3 them.
4 (e) Therefore, the general assembly hereby determines that it is
5 necessary to create a caregiver abuse registry to track those persons who
6 abuse, neglect, or exploit at-risk adults and, to that end, tasks the
7 department of human services to develop a plan to create and implement
8 such a registry.
9 (2) On or before August 30, 2008, the department shall convene
10 a working group to make recommendations for the development of a plan
11 by the department to implement a registry of caregivers who have a
12 substantiated allegation of exploitation, mistreatment, neglect, physical
13 abuse, or sexual abuse of a person with a developmental disability. The
14 working group shall include representation from interested parties,
15 including but not limited to the division for developmental disabilities,
16 community-centered boards, service providers, family members,
17 advocates for persons with developmental disabilities, the judicial
18 department, law enforcement, and any other experts as determined by the
19 department. In developing the plan, the department and the working
20 group shall consider existing registry models in Colorado, as well as
21 statutory models for caregiver abuse registries in other states.
22 (3) In developing the plan, the department and the working group
23 shall consider, at a minimum, the following issues related to the creation
24 and implementation of a registry of caregivers who have a substantiated
25 allegation of exploitation, mistreatment, neglect, physical abuse, or sexual
26 abuse of a person with a developmental disability:
27 (a) A review and evaluation of existing processes to determine

1 current best practices and how to build on the existing system;
2 (b) Clear and consistent standards concerning what constitutes a
3 substantiated allegation of exploitation, mistreatment, neglect, physical
4 abuse, or sexual abuse of a person with a developmental disability;
5 (c) A definition of family and a determination of whether a family
6 member who acts as a caregiver to a person with a developmental
7 disability should be included on the registry;
8 (d) Due process considerations for individuals whose names are
9 on the registry or are going to be placed on the registry, including the
10 right to be advised of any allegations and an opportunity to be heard,
11 request a hearing, and be represented by legal counsel;
12 (e) The need for thorough and fair investigations, including who
13 would perform the investigations and uniform standards and training for
14 those investigators;
15 (f) Any statutes that need modification due to the creation of a
16 caregiver abuse registry;
17 (g) Information technology needs and personnel services
18 associated with the creation, implementation, and ongoing administration
19 of a caregiver abuse registry;
20 (h) The costs associated with creating and implementing a
21 caregiver abuse registry, including whether federal funds or other
22 potential funding sources may be available to cover any part of such
23 costs; and
24 (i) A process and timeline to phase in the registry.
25 (4) On or before January 30, 2009, the department shall submit a
26 report to the health and human services committees of the senate and the
27 house of representatives, or any successor committees, summarizing the

1 work of the department pursuant to this section. The report shall include
2 the department's plan for a caregiver abuse registry and any
3 recommendations for implementing legislation.
4 (5) The department is authorized to seek and accept gifts, grants,
5 or donations from private or public sources for the purposes of this
6 section. All private and public funds received through gifts, grants, or
7 donations shall be transmitted to the state treasurer, who shall credit the
8 same to the caregiver abuse registry fund, which fund is hereby created
9 and referred to in this section as the "fund". The moneys in the fund shall
10 be subject to annual appropriation by the general assembly for the direct
11 and indirect costs associated with the implementation of this section. Any
12 moneys in the fund not expended for the purpose of this section may be
13 invested by the state treasurer as provided by law. All interest and income
14 derived from the investment and deposit of moneys in the fund shall be
15 credited to the fund. Any unexpended and unencumbered moneys
16 remaining in the fund at the end of a fiscal year shall remain in the fund
17 and shall not be credited or transferred to the general fund or another
18 fund. All unexpended and unencumbered moneys remaining in the fund
19 as of June 30, 2010, shall be transferred to the general fund.
20 (6) The department shall not be obligated to implement the
21 provisions of this section until such time as there is at least thirty-three
22 thousand dollars in the fund, whether received from gifts, grants,
23 donations, or other sources.
24 (7) THE DUTIES IMPOSED BY THIS SECTION ARE TRANSFERRED TO
25 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, EFFECTIVE
26 JULY 1, 2013, PURSUANT TO SENATE BILL 12-_____, ENACTED IN 2012.
27 ALL REFERENCES TO THE "DEPARTMENT" IN THIS SECTION AS IT EXISTED

1 BEFORE JULY 1, 2013, ARE REFERENCES TO THE DEPARTMENT OF HUMAN
2 SERVICES.
3 **25.5-10-141. [Formerly 27-10.5-143.] Caregiver abuse - task**
4 **force.** (1) There is hereby created a task force to study and make
5 recommendations for developing a plan for the department to implement
6 a registry of caregivers who have a substantiated allegation of
7 exploitation, mistreatment, neglect, physical abuse, or sexual abuse of a
8 person with a developmental disability, referred to in this section as a
9 "registry". The task force shall be limited to twenty members and may
10 include voluntary representation from interested parties, including but not
11 limited to persons with disabilities, members of the general assembly, the
12 division for developmental disabilities in the department,
13 community-centered boards, service providers, family members,
14 advocates for persons with developmental disabilities, the judicial
15 department, law enforcement agencies, persons with legal or judicial
16 expertise in abuse registries, and any other interested party. The members
17 of the task force shall select a chair and vice-chair at the first meeting. In
18 developing the plan, the task force may consider existing registry models
19 in Colorado, as well as statutory models for caregiver abuse registries in
20 other states. The department shall not provide staff support to the task
21 force. Members of the task force shall serve without pay and without
22 compensation for expenses. Members of the task force are encouraged to
23 meet monthly, beginning on or before June 2009 and ending June 2010,
24 at which time the task force shall make a report of its activities and
25 findings to the department of human services.
26 (2) In developing the plan, the task force is encouraged to
27 consider the following issues related to the creation and implementation

1 of a registry:

2 (a) A review and evaluation of existing processes to determine
3 current best practices and ways to build on the existing system;

4 (b) Clear and consistent standards concerning what constitutes a
5 substantiated allegation of exploitation, mistreatment, neglect, physical
6 abuse, or sexual abuse of a person with a developmental disability;

7 (c) A definition of family and a determination of whether a family
8 member who acts as a caregiver to a person with a developmental
9 disability should be included on the registry;

10 (d) Due process considerations for individuals whose names are
11 on the registry or are going to be placed on the registry, including the
12 right to be advised of any allegations and an opportunity to be heard,
13 request a hearing, and be represented by legal counsel;

14 (e) The need for thorough and fair investigations, including who
15 would perform the investigations and uniform standards and training for
16 those investigators;

17 (f) Any statutes that need modification due to the creation of a
18 registry;

19 (g) Information technology needs and personnel services
20 associated with the creation, implementation, and ongoing administration
21 of a registry;

22 (h) The costs associated with creating and implementing a
23 registry, including whether federal funds or other potential funding
24 sources may be available to cover any portion of such costs; and

25 (i) A process and timeline to phase in a registry.

26 (3) THE DUTIES IMPOSED BY THIS SECTION ARE TRANSFERRED TO
27 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, EFFECTIVE

1 JULY 1, 2013, PURSUANT TO SENATE BILL 12-_____, ENACTED IN 2012.
2 ALL REFERENCES TO THE "DEPARTMENT" IN THIS SECTION AS IT EXISTED
3 BEFORE JULY 1, 2013, ARE REFERENCES TO THE DEPARTMENT OF HUMAN
4 SERVICES.

5 PART 2

6 FAMILY SUPPORT SERVICES

7 **25.5-10-201. [Formerly 27-10.5-401.] Legislative declaration.**
8 (1) It is the intent of the general assembly that the service delivery system
9 for individuals with developmental disabilities emphasize community
10 living for persons with developmental disabilities and provide supports
11 to individuals that enable them to enjoy typical lifestyles. One way to
12 accomplish this is to recognize that families are the greatest resource
13 available to individuals who have a developmental disability and that
14 families must be supported in their role as primary care givers. The
15 general assembly finds that supporting families in their effort to care for
16 their family members at home is more efficient, cost-effective, and
17 humane than maintaining people with developmental disabilities in
18 out-of-home residential settings. In recognition of the importance of
19 families, the general assembly states that the following principles should
20 be used as guidelines in developing programs to support families who
21 have children with disabilities:
22 (a) Families of individuals with developmental disabilities are best
23 able to determine their own needs and should be empowered to make
24 decisions concerning necessary, desirable, and appropriate services and
25 supports;
26 (b) Families must receive the services and supports necessary to
27 care for their children at home;

1 (c) Family support must be responsive to the needs of the entire
2 family unit;
3 (d) Family support must be sensitive to the unique strengths and
4 needs of individual families;
5 (e) Family support must build on existing social networks and
6 natural sources of support;
7 (f) Family support is needed throughout the lifespan of the
8 individual who is disabled;
9 (g) Family support must encourage the inclusion of people with
10 developmental disabilities within the community;
11 (h) Family support services must be flexible enough to
12 accommodate unique needs of families as they evolve over time;
13 (i) Family support services must be consistent with the cultural
14 preferences and orientations of individual families;
15 (j) Family support services should be comprehensive and
16 coordinated across the numerous agencies likely to provide resources,
17 supports, or services to families;
18 (k) Family support services should be based on the principles of
19 sharing ordinary places, developing meaningful relationships, learning
20 things that are useful, making choices, as well as increasing the status and
21 enhancing the reputation of people served;
22 (l) Supports should be developed by the state that are necessary,
23 desirable, and appropriate to support families;
24 (m) Developmental disabilities programs and policies must
25 enhance the development of the individual with a developmental
26 disability and the family;
27 (n) State programs should provide sufficient services and supports

1 to enable families to keep their family members with developmental
2 disabilities at home;
3 (o) A comprehensive, coordinated system of supports to families
4 effectively uses existing resources and minimizes gaps in supports to
5 families and individuals in all areas of the state;
6 (p) Services and supports provided through the family support
7 program shall be closely coordinated with early intervention services and
8 shall foster collaboration and cooperation with all agencies providing
9 services and supports to infants and preschool children; and
10 (q) Any rights, entitlements, services, or supports created by this
11 ~~part 4~~ PART 2 are not to be considered a limitation, modification, or
12 infringement on any existing rights, entitlements, services, or supports,
13 otherwise expressly provided by this article.
14 (2) In addition, the general assembly recognizes that the STATE
15 department has for several years developed and maintained a family
16 resource service program that provides support services to families of
17 children with developmental disabilities who are at risk of out-of-home
18 placement. Because of the success of this program the general assembly
19 recommends that this valuable program be continued and expanded so
20 that more families in this state are able to receive appropriate services,
21 supports, and assistance needed to stabilize the family unit. In recognition
22 of the basic goal to support families, on an individual family basis, in
23 maintaining a person with a developmental disability at home and in
24 recognition of the principles stated in subsection (1) of this section, the
25 general assembly declares that its purpose in enacting this ~~part 4~~ PART 2
26 is to create, subject to annual appropriation, a comprehensive statewide
27 family support service program.

1 **25.5-10-202. [Formerly 27-10.5-402.] Purpose.** The purpose of
2 the family support services program created in this ~~part 4~~ PART 2 is to
3 provide support to families in their role as primary care givers for a
4 family member with a developmental disability.
5 **25.5-10-203. [Formerly 27-10.5-404.] Administration - duties**
6 **of the state department.** (1) Subject to annual appropriation by the
7 general assembly, the STATE department shall administer the family
8 support services program and shall coordinate family support services
9 with other existing services provided to families and individuals. Family
10 support services shall be provided in a manner which develops
11 comprehensive, responsive, and flexible support to families in their role
12 as the primary care givers for a family member with a developmental
13 disability.
14 (2) The STATE department is authorized to contract with
15 community-centered boards and other service providers approved by the
16 STATE department to provide family support services in accordance with
17 this ~~part 4~~ PART 2. Programs developed shall be flexible in order to
18 address individual family needs.
19 (3) In administering the family support services program, the
20 STATE department shall have the following duties:
21 (a) To design the program;
22 (b) To pursue a family support model 200 waiver for approval by
23 the federal health care financing administration in order to utilize
24 medicaid funds for the provision of family support services, implemented
25 subject to appropriation;
26 (c) To develop and promulgate rules ~~and regulations~~ pursuant to
27 section ~~27-10.5-407~~ 25.5-10-206, with consultation from service

1 providers, including representatives of families of persons with
2 developmental disabilities;
3 (d) To allocate funds;
4 (e) To coordinate training and provide technical assistance to
5 community-centered boards and service providers;
6 (f) To monitor and evaluate the program;
7 (g) To coordinate contracts, expenditures, and billing of the
8 program; and
9 (h) To recommend changes in the program.
10 (4) Subject to annual appropriation by the general assembly, out
11 of the appropriation to the STATE department ~~of human services~~ for
12 community programs in the general appropriation act, the STATE
13 department is authorized to use up to seven percent of such appropriation
14 allocated for family support services to pay for administrative costs
15 within the STATE department and the community-centered boards.
16 **25.5-10-204. [Formerly 27-10.5-405.] Family support councils.**
17 (1) The STATE department shall assure that each community-centered
18 board establishes a family support council in each community-centered
19 board designated service area. The family support councils shall consist
20 of professionals, interested citizens, family members of persons with a
21 developmental disability, and persons with a developmental disability
22 with a majority of the council being made up of family members.
23 (2) The family support council shall:
24 (a) Provide direction and assistance to the community-centered
25 board in the development of a family support plan for the designated
26 service area;
27 (b) Make recommendations regarding other family supports or

1 services not specifically listed in this ~~part 4~~ PART 2;

2 (c) Monitor the implementation of the supports or services

3 provided pursuant to the plan;

4 (d) Provide a written report to the STATE department of its

5 involvement in the duties specified in this subsection (2).

6 **25.5-10-205. [Formerly 27-10.5-406.] Authorized family**

7 **support services.** (1) The family support services included in this

8 program include, but are not limited to, family support grants, family

9 support services coordination, information and referral, educational

10 materials, emergency and outreach services, and other individual and

11 family centered assistance services such as:

12 (a) Medical and dental expenses not covered by medical or health

13 insurance or other programs;

14 (b) Insurance expenses;

15 (c) Respite, child care, and sitter services;

16 (d) Mobility aids; adaptive equipment; assistive technology,

17 including the cost of therapies essential for a child's development, as

18 prescribed by a physician or specialized therapist; and home adaptations;

19 (e) Home health services and therapies;

20 (f) Family counseling, training, and support groups;

21 (g) Recreation and leisure needs;

22 (h) Transportation;

23 (i) Special diets, clothing, materials, and equipment;

24 (j) Homemaker services.

25 **25.5-10-206. [Formerly 27-10.5-407.] Rules.** (1) The

26 ~~department~~ STATE BOARD shall develop rules ~~and regulations~~ concerning:

27 (a) Further definition of services and supports to be provided by

1 the family support services program described in this ~~part 4~~ PART 2;
2 (b) The requirements for eligibility for services and supports;
3 (c) The manner of providing services and supports; and
4 (d) The size, makeup, and duties of family support councils.
5 PART 3
6 COLORADO FAMILY SUPPORT LOAN FUND
7 **25.5-10-301. [Formerly 27-10.5-501.] Legislative declaration.**
8 The general assembly hereby finds and declares that there is a need to
9 establish a Colorado family support loan fund to assist families in
10 obtaining family support services for those families who choose to
11 maintain a dependent family member with a developmental disability in
12 their home setting.
13 **25.5-10-302. [Formerly 27-10.5-502.] Colorado family support**
14 **loan fund - creation - loans to families.** (1) There is hereby created in
15 the state treasury a fund to be known as the Colorado family support loan
16 fund, referred to in this ~~part 5~~ PART 3 as the "fund", which shall be
17 administered by the STATE department and which shall consist of moneys
18 appropriated to the fund by the general assembly, interest earned on loans
19 made out of the fund, and any moneys received pursuant to subsection (5)
20 of this section.
21 (2) Moneys in the fund shall be continuously appropriated to the
22 STATE department for the purposes of this ~~part 5~~ PART 3. At the end of any
23 fiscal year, all unexpended and unencumbered moneys in the fund shall
24 remain in the fund and shall not be credited or transferred to the general
25 fund or any other fund. All interest derived from the deposit and
26 investment of moneys in the fund shall be credited to the fund.
27 (3) The STATE department is authorized to make loans, up to a

maximum amount of eight thousand dollars, out of the moneys in the fund to eligible families in order to enable them to obtain family short-term support services or equipment as defined in section ~~27-10.5-406~~ 25.5-10-205. For purposes of this section, "families" has the same meaning as defined in section ~~27-10.5-102 (15)~~ 25.5-10-102. The STATE department shall only approve loans to families who maintain a person or persons with a developmental disability at home. The STATE department may establish whatever terms and conditions it deems appropriate in making such loans. The loan amount and any interest assessed to families shall be paid back to the STATE department. All moneys received from families to pay back loans, including the interest assessed thereon, shall be transmitted to the state treasurer, who shall credit the same to the fund. All moneys in the fund may be used by the STATe department to make loans as provided in this subsection (3).

(4) Subject to annual appropriation by the general assembly, the STATE department ~~of human services~~ is hereby authorized to transfer from the appropriation for community programs in the general appropriation act up to three percent of such appropriation allocated for family short-term support services or equipment to the Colorado family support loan fund. Any moneys received as a result of this subsection (4) shall be transmitted to the state treasurer and credited to the fund.

(5) The STATE department is hereby authorized to receive contributions, grants, services, in-kind donations, and property from federal agencies, local governments, or private sources for use in carrying out the purposes of this ~~part 5~~ PART 3. Any moneys received as a result of this subsection (5) shall be transmitted to the state treasurer and credited to the fund.

1 **25.5-10-303. [Formerly 27-10.5-503.] Duties of the state**
2 **department with regard to the fund.** (1) The STATE department has the
3 following duties with regard to the fund:
4 (a) To develop rules ~~and regulations~~ and guidelines for the
5 administration of the fund;
6 (b) To adopt eligibility requirements for access to the fund;
7 (c) To develop application and review criteria for the approval of
8 loans from the fund;
9 (d) To establish a low-cost fixed interest rate to be applied to all
10 loans made from the fund;
11 (e) To determine effective ways to communicate the availability
12 of the fund to eligible families;
13 (f) To account for the expenditures and to develop a system to
14 ensure timely payback of any loans made pursuant to this ~~part 5~~ PART 3;
15 (g) To perform a yearly audit of the fund; and
16 (h) To take other measures as needed to ensure the intent and
17 success of this ~~part 5~~ PART 3.
18 **ARTICLE 11**
19 **Colorado Long-term Care Ombudsman Act**
20 **25.5-11-101. [Formerly 26-11.5-101.] Short title.** This article
21 shall be known and may be cited as the "Colorado Long-term Care
22 Ombudsman Act".
23 **25.5-11-102. [Formerly 26-11.5-102.] Legislative declaration.**
24 (1) The general assembly hereby recognizes that the former state
25 department of social services, currently the state department of human
26 services, pursuant to the federal "Older Americans Act of 1965", as
27 amended, ~~has~~ established a state long-term care ombudsman program.

1 (2) The general assembly finds, determines, and declares that it is
2 the public policy of this state to encourage community contact and
3 involvement with patients, residents, and clients of long-term care
4 facilities.
5 (3) The general assembly further finds, determines, and declares
6 that in order to comply with the federal "Older Americans Act of 1965",
7 as amended, and effectively assist patients, residents, and clients of
8 long-term care facilities in the assertion of their civil, human, and legal
9 rights, the structure of a state long-term care ombudsman program and the
10 powers and duties thereunder shall be specifically defined.
11 **25.5-11-103. [Formerly 26-11.5-103.] Definitions.** As used in
12 this article, unless the context otherwise requires:
13 (1) "Elderly resident" means any individual who is sixty years of
14 age or older who is a current or prospective or former patient or client of
15 any long-term care facility.
16 (2) "Local ombudsman" means an individual trained and
17 designated as qualified by the state long-term care ombudsman to act as
18 a representative of the office of the state long-term care ombudsman.
19 (3) "Long-term care facility" or "facility" means:
20 (a) A nursing ~~care~~ facility as defined in section 25.5-4-103 (14);
21 (b) An assisted living residence as defined in section 25-27-102
22 (1.3), C.R.S.;
23 (c) Any swing bed in an extended care facility.
24 (4) "Office" means the state long-term care ombudsman office.
25 (5) "Older Americans act" means the federal "Older Americans
26 Act of 1965", as amended, 42 U.S.C. sec. 3001.
27 (6) "Resident" means any individual who is a current or

1 prospective or former patient or client of any long-term care facility.
2 (7) "State long-term care ombudsman" means the person
3 designated to implement the state long-term care ombudsman program
4 and to perform the duties and functions required under this article.
5 **25.5-11-104. [Formerly 26-11.5-104.] Creation of state**
6 **long-term care ombudsman program.** (1) Pursuant to the older
7 Americans act, there is hereby established a state long-term care
8 ombudsman program which shall ~~be comprised~~ CONSIST of a state
9 long-term care ombudsman office and local ombudsman offices
10 established throughout the state.
11 (2) The state long-term care ombudsman office shall be
12 ~~established and~~ operated under the state department ~~of human services~~
13 either directly or by contract with or grant to any public agency or other
14 appropriate private nonprofit organization; except that such office shall
15 not be administered by any agency or organization responsible for
16 licensing or certifying long-term care services in the state. The office
17 shall be administered by a full-time qualified state long-term care
18 ombudsman who shall be designated in accordance with rules and
19 regulations promulgated by the ~~state department~~ STATE BOARD.
20 (3) Local ombudsman programs shall be established statewide.
21 Such programs shall be operated by the state department under contract,
22 grant, or agreement between the state department and a public agency or
23 an appropriate private nonprofit organization. Personnel of local
24 programs shall be trained and designated as qualified representatives of
25 the office in accordance with section ~~26-11.5-105 (1) (b)~~ 25.5-11-105 (1)
26 (b).
27 **25.5-11-105. [Formerly 26-11.5-105.] Duties of state long-term**

1 **care ombudsman.** (1) In addition to such other duties and functions as
2 the state department may allocate to the office, the state long-term care
3 ombudsman shall have the following duties and functions in
4 implementing a statewide long-term care ombudsman program:
5 (a) (I) Establish statewide policies and procedures for operating
6 the state long-term care ombudsman program including procedures to
7 identify, investigate, and seek the resolution or referral of complaints
8 made by or on behalf of any elderly resident related to any action,
9 inaction, or decision of any provider of long-term care services or of any
10 public agency, including the state department of human services and
11 county departments of social services, that may adversely affect the
12 health, safety, welfare, or rights of such elderly resident.
13 (II) The policies and procedures adopted pursuant to subparagraph
14 (I) of this paragraph (a) may be applied to complaints by or on behalf of
15 any resident of a long-term care facility where the provision of
16 ombudsman services will either benefit elderly residents of the facility
17 involved in the complaint or elderly residents of long-term care facilities
18 in general, or where ombudsman service is the only viable avenue of
19 assistance available to the resident and such service will not significantly
20 diminish the program's effort on behalf of elderly residents.
21 (b) Provide training and technical assistance to personnel of local
22 ombudsman programs. Upon successful completion of such training the
23 office may designate such personnel as qualified representatives of the
24 office and shall issue to such representatives long-term care ombudsman
25 identification cards.
26 (c) Establish procedures to analyze and monitor the development
27 and implementation of federal, state, and local laws, regulations, and

1 policies with respect to long-term care facilities and services. On the basis
2 of such analysis and monitoring, the office shall recommend changes to
3 such laws, regulations, and policies to the appropriate governing body.
4 (d) Prepare a notice informing residents of ombudsman services
5 for posting at long-term care facilities.
6 (2) In addition to the duties and functions under subsection (1) of
7 this section, the office and its representatives shall have the authority to
8 pursue administrative, legal, or other appropriate remedies on behalf of
9 residents for the purpose of effectively carrying out the provisions of
10 paragraph (a) of subsection (1) of this section.
11 **25.5-11-106. [Formerly 26-11.5-106.] Local ombudsmen -**
12 **representatives of office.** (1) A local ombudsman, whether an employee
13 or volunteer of a local ombudsman program, shall be considered a
14 representative of the office for the purposes of carrying out policies and
15 procedures adopted by the state long-term care ombudsman in accordance
16 with this article, but only upon the completion of training and designation
17 as a qualified representative by the state long-term care ombudsman. As
18 a representative of the office, a local ombudsman shall follow rules and
19 regulations of the state ~~department~~ BOARD and policies and procedures
20 established by the state long-term care ombudsman.
21 (2) Each local ombudsman shall carry an identification card issued
22 annually and signed by the state long-term care ombudsman and shall,
23 upon the request of a supervisory staff member of a facility, present such
24 card in order to obtain access to residents and records of such facility.
25 **25.5-11-107. [Formerly 26-11.5-107.] Notice of ombudsman**
26 **services.** (1) Every long-term care facility shall post in a conspicuous
27 place a notice with the name, address, and phone number of the office and

1 the name, address, and phone number of the nearest available local
2 ombudsman program. Such notice shall be provided by the state
3 long-term care ombudsman.
4 (2) Each long-term care facility shall provide, in writing, to any
5 resident eligible for ombudsman services pursuant to this article who is
6 subject to an involuntary transfer from such facility the name, address,
7 and phone number of the nearest available local ombudsman and the
8 name, address, and phone number of the office. Such information shall
9 be included on the notice required under section 25-1-120 (1) (k), C.R.S.
10 **25.5-11-108. [Formerly 26-11.5-108.] Access to facility -**
11 **residents - records - confidentiality.** (1) An ombudsman, upon
12 presenting a long-term care ombudsman identification card, shall have
13 immediate access to a long-term care facility and to its residents eligible
14 for ombudsman services pursuant to this article for the purposes of
15 effectively carrying out the provisions of this article.
16 (2) In performing ombudsman duties and functions in accordance
17 with this article an ombudsman shall have access to review the medical
18 and social records of a resident eligible for ombudsman services pursuant
19 to this article, provided the resident has consented to such review. In the
20 event consent to such review is not available because the resident is
21 incapable of consenting and has no guardian to provide such consent,
22 inspection of such records may be made by the state long-term care
23 ombudsman.
24 (3) In carrying out the provisions of this section, each ombudsman
25 shall follow procedures of confidentiality in accordance with the older
26 Americans act.
27 **25.5-11-109. [Formerly 26-11.5-109.] Interference with**

1 **ombudsmen prohibited - civil penalty.** (1) No person shall willfully
2 interfere with an ombudsman in the ombudsman's performance of duties
3 and functions under this article.
4 (2) No person shall take any discriminatory, disciplinary, or
5 retaliatory action against the following individuals for any communication
6 with an ombudsman or for any information provided in good faith to the
7 office in carrying out its duties and responsibilities under this article:
8 (a) Any resident eligible for ombudsman services pursuant to this
9 article;
10 (b) Any officer or employee of a facility or governmental agency
11 providing services to residents of long-term care facilities.
12 (3) Any person who commits a violation under subsection (1) or
13 (2) of this section shall be subject to the following civil penalties:
14 (a) For a violation of subsection (1) of this section, a penalty of
15 not more than two thousand five hundred dollars per violation;
16 (b) For a violation of subsection (2) of this section, a penalty of
17 not more than five thousand dollars per violation.
18 (4) (a) Any person listed in paragraphs (a) and (b) of subsection
19 (2) of this section, or any person acting on such person's behalf, including
20 the state or a local ombudsman, may file a complaint with the ~~department~~
21 ~~of human services~~ STATE DEPARTMENT against any person who violates
22 subsection (1) or (2) of this section. The ~~said~~ STATE department shall
23 investigate such a complaint and, if there is sufficient evidence of a
24 violation, shall be authorized to assess, enforce, and collect the
25 appropriate penalty set forth in subsection (3) of this section.
26 (b) Prior to the assessment of a penalty, the STATE department ~~of~~
27 ~~human services~~ shall give written notice to the person against whom a

1 penalty will be assessed, stating the basis for the violation and the amount
2 of the penalty to be assessed. Such person, upon request, shall be given
3 a hearing in accordance with section 24-4-105, C.R.S., which hearing
4 shall constitute final agency action. Such agency action shall be subject
5 to judicial review in accordance with section 24-4-106, C.R.S.
6 (c) The ~~department of human services~~ STATE BOARD shall
7 promulgate rules ~~and regulations~~ necessary for the implementation of this
8 subsection (4).
9 (d) All penalties collected pursuant to this section shall be
10 transmitted to the state treasurer, who shall credit the same to the general
11 fund. Penalties provided under this section shall be in addition to and not
12 in lieu of any other remedy provided by law.
13 **25.5-11-110. [Formerly 26-11.5-110.] Immunity from liability.**
14 Any ombudsman who, in good faith, acts within the scope of the duties
15 and functions of this article shall be immune from civil or criminal
16 liability. For the purposes of this section, there shall be a rebuttable
17 presumption that, when acting within the scope of the duties and
18 functions of this article, an ombudsman acts in good faith. Nothing in this
19 section shall be construed to abrogate or limit the immunity or exemption
20 from civil liability of any agency, entity, or person under any statute,
21 including the "Colorado Governmental Immunity Act", article 10 of title
22 24, C.R.S.
23 **25.5-11-111. [Formerly 26-11.5-111.] Duties of state**
24 **department.** (1) In order to implement the provisions of this article, the
25 state department shall carry out the following duties:
26 (a) Establish a statewide uniform reporting system to collect and
27 analyze data relating to complaints and conditions in long-term care

1 facilities for the purpose of identifying and resolving significant
2 problems, with specific provision for the submission of such data on a
3 regular basis to the state agency responsible for licensing or certifying
4 long-term care facilities;
5 (b) Establish procedures to assure that information contained in
6 any files maintained in accordance with the state long-term care
7 ombudsman program shall be disclosed only at the discretion of the state
8 long-term care ombudsman and that the identity of a complainant be
9 disclosed only with the written consent of such complainant or in
10 accordance with a court order;
11 (c) Ensure that no individual involved in the designation of the
12 state long-term care ombudsman, nor any officer, employee, or volunteer
13 of the statewide program in performing ombudsman functions, is subject
14 to any conflict of interest;
15 (d) Ensure that adequate legal counsel is available to an
16 ombudsman for advice and counseling concerning the performance of
17 ombudsman duties and functions and for legal representation of an
18 ombudsman against whom legal action is brought in connection with the
19 performance of ombudsman duties and functions provided for under this
20 article;
21 (e) Promulgate rules and regulations necessary for the efficient
22 administration and operation of the state long-term care ombudsman
23 program.
24 **25.5-11-112. [Formerly 26-11.5-112.] Federal requirements -**
25 **compliance.** Nothing in this article shall be construed to prevent the state
26 department or the office from complying with the requirements of the
27 rules and regulations of the United States department of health and human

1 services promulgated pursuant to the older Americans act.

2 **SECTION 3.** In Colorado Revised Statutes, **amend** 27-10.5-102

3 as follows:

4 **27-10.5-102. Definitions.** As used in this article, unless the

5 context otherwise requires:

6 (1) "Authorized representative" ~~means an individual designated~~

7 ~~by the person receiving services, or by the parent or guardian of the~~

8 ~~person receiving services, if appropriate, to assist the person receiving~~

9 ~~services in acquiring or utilizing services or supports pursuant to this~~

10 ~~article. The extent of the authorized representative's involvement shall be~~

11 ~~determined upon designation~~ HAS THE SAME MEANING AS SET FORTH IN

12 SECTION 25.5-10-102, C.R.S.

13 (2) "Case management services" ~~means the following:~~

14 ~~(a) The determination of eligibility for services and supports;~~

15 ~~(b) Service and support coordination; and~~

16 ~~(c) The monitoring of all services and supports delivered pursuant~~

17 ~~to the individualized plan, and the evaluation of results identified in the~~

18 ~~individualized plan~~ HAS THE SAME MEANING AS SET FORTH IN SECTION

19 25.5-10-102, C.R.S.

20 (2.3) "Case manager" ~~means an individual who assists with case~~

21 ~~management services and supports provided pursuant to this article for~~

22 ~~persons with developmental disabilities~~ HAS THE SAME MEANING AS SET

23 FORTH IN SECTION 25.5-10-102, C.R.S.

24 (2.5) (Deleted by amendment, L. 2008, p. 1442, § 1, effective

25 August 5, 2008.)

26 (3) "Community-centered board" ~~means a private corporation, for~~

27 ~~profit or not for profit, that, when designated pursuant to section~~

1 ~~27-10.5-105, provides case management services to persons with~~
2 ~~developmental disabilities, is authorized to determine eligibility of those~~
3 ~~persons within a specified geographical area, serves as the single point of~~
4 ~~entry for persons to receive services and supports under this article, and~~
5 ~~provides authorized services and supports to those persons either directly~~
6 ~~or by purchasing services and supports from service agencies~~ HAS THE
7 SAME MEANING AS SET FORTH IN SECTION 25.5-10-102, C.R.S.
8 (4) ~~"Community residential home" means a group living situation~~
9 ~~accommodating at least four but no more than eight persons, licensed by~~
10 ~~the state, where services and supports are provided to persons with~~
11 ~~developmental disabilities.~~
12 (5) "Consent" ~~means an informed assent that is expressed in~~
13 ~~writing and freely given. Consent shall always be preceded by the~~
14 ~~following:~~
15 ~~(a) A fair explanation of the procedures to be followed, including~~
16 ~~an identification of procedures that are experimental;~~
17 ~~(b) A description of the attendant discomforts and risks;~~
18 ~~(c) A description of the expected benefits;~~
19 ~~(d) A disclosure of appropriate alternative procedures together~~
20 ~~with an explanation of the respective benefits, discomforts, and risks;~~
21 ~~(e) An offer to answer any inquiries concerning procedures;~~
22 ~~(f) An instruction that the person giving consent is free to~~
23 ~~withdraw consent and to discontinue participation in the project or~~
24 ~~activity at any time; and~~
25 ~~(g) A statement that withholding or withdrawal of consent shall~~
26 ~~not prejudice future provision of appropriate services and supports to~~
27 ~~individuals~~ HAS THE SAME MEANING AS SET FORTH IN SECTION

1 25.5-10-102, C.R.S.

2 (6) "Contribution" ~~means the benefits gained by the household or~~
3 ~~community in which a person lives as the result of the person engaging~~
4 ~~in meaningful activities, including, but not limited to, income producing~~
5 ~~work, volunteer work, continuing education, and participation in~~
6 ~~community activities~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
7 25.5-10-102, C.R.S.

8 (7) "Court" ~~means a district court of the state of Colorado or the~~
9 ~~probate court in the city and county of Denver~~ HAS THE SAME MEANING
10 AS SET FORTH IN SECTION 25.5-10-102, C.R.S.

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

12 (9) "Designated service area" ~~means the geographical area~~
13 ~~specified by the executive director to be served by a designated~~
14 ~~community-centered board~~ HAS THE SAME MEANING AS SET FORTH IN
15 SECTION 25.5-10-102, C.R.S.

16 (10) "Developmental disabilities professional" means a person
17 who has professional training and experience in the developmental
18 disabilities field, as defined by the department.

19 (11) (a) "Developmental disability" ~~means a disability that is~~
20 ~~manifested before the person reaches twenty-two years of age, that~~
21 ~~constitutes a substantial disability to the affected individual, and that is~~
22 ~~attributable to mental retardation or related conditions which include~~
23 ~~cerebral palsy, epilepsy, autism, or other neurological conditions when~~
24 ~~those conditions result in impairment of general intellectual functioning~~
25 ~~or adaptive behavior similar to that of a person with mental retardation.~~
26 ~~Unless otherwise specifically stated, the federal definition of~~
27 ~~"developmental disability" found in 42 U.S.C. sec. 15001 et seq. shall not~~

1 ~~apply~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-102,
2 C.R.S.
3 (b) "Person with a developmental disability" ~~means a person~~
4 ~~determined by a community-centered board to have a developmental~~
5 ~~disability and shall include a child with a developmental delay.~~
6 (c) "Child with a developmental delay" ~~means:~~
7 ~~(I) A person less than five years of age with delayed development~~
8 ~~as defined by the department; or~~
9 ~~(II) A person less than five years of age who is at risk of having~~
10 ~~a developmental disability as defined by the department~~ HAS THE SAME
11 MEANING AS SET FORTH IN SECTION 25.5-10-102, C.R.S.
12 (12) "Early intervention services and supports" means services
13 described in and provided pursuant to part 7 of this article, including
14 education, training, and assistance in child development, parent
15 education, therapies, and other activities for infants and toddlers and their
16 families that are designed to meet the developmental needs of infants and
17 toddlers including, but not limited to, cognition, speech, communication,
18 physical, motor, vision, hearing, social-emotional, and self-help skills.
19 (13) "Eligible for supports and services" refers to any person with
20 a developmental disability as determined eligible by the
21 community-centered boards, pursuant to section 27-10.5-106.
22 (13.5) (Deleted by amendment, L. 2008, p. 1442, § 1, effective
23 August 5, 2008.)
24 (13.7) "Enrolled" means that a person with a developmental
25 disability who is eligible for supports and services has been authorized,
26 as defined by rules promulgated by the ~~department~~ APPROPRIATE STATE
27 AGENCY OR STATE BOARD, to participate in a program funded pursuant to

1 this article.

2 (14) "Executive director" means the executive director of the
3 department of human services.

4 (15) ~~(a)~~ "Family" ~~means the interdependent group of persons that~~
5 ~~consists of:~~

6 ~~(I) A parent, child, sibling, grandparent, aunt, uncle, spouse, or~~
7 ~~any combination thereof and a family member with a developmental~~
8 ~~disability;~~

9 ~~(II) An adoptive parent of and a family member with a~~
10 ~~developmental disability;~~

11 ~~(III) One or more persons to whom legal custody of a person with~~
12 ~~a developmental disability has been given by a court and in whose home~~
13 ~~such person resides; or~~

14 ~~(IV) Any other family unit as may be defined in rules developed~~
15 ~~pursuant to section 27-10.5-407.~~

16 ~~(b) Department rules shall define the families that are eligible to~~
17 ~~receive services and supports pursuant to this article~~ HAS THE SAME
18 MEANING AS SET FORTH IN SECTION 25.5-10-102, C.R.S.

19 (15.5) ~~"Family caregiver" means a family member of the person~~
20 ~~with a developmental disability who provides care to the person with a~~
21 ~~developmental disability in the family home, who meets the requirements~~
22 ~~for a qualified family caregiver, as established by rule of the department,~~
23 ~~and who is working through a program-approved service agency, as~~
24 ~~established by rule of the department.~~

25 (16) "Gastrostomy tube" ~~means a tube that has been surgically~~
26 ~~inserted into the stomach through the abdominal wall, or a tube that has~~
27 ~~been inserted through the nasal passage into the stomach, or both~~ HAS THE

1 SAME MEANING AS SET FORTH IN SECTION 25.5-10-102, C.R.S.

2 (17) "Human rights committee" ~~means a third-party mechanism~~
3 ~~to adequately safeguard the legal rights of persons receiving services by~~
4 ~~participating in the granting of informed consent, monitoring the~~
5 ~~suspension of rights of persons receiving services, monitoring behavior~~
6 ~~development programs in which persons with developmental disabilities~~
7 ~~are involved, monitoring the use of psychotropic medication by persons~~
8 ~~with developmental disabilities, and at the committee's option, either~~
9 ~~providing or ensuring the investigation of allegations of abuse or neglect~~
10 ~~of persons with developmental disabilities who are receiving services or~~
11 ~~supports under this article.~~ HAS THE SAME MEANING AS SET FORTH IN
12 SECTION 25.5-10-102, C.R.S.

13 (17.5) "IDEA" means the federal "Individuals with Disabilities
14 Education Improvement Act of 2004", 20 U.S.C. sec. 1400 et seq., as
15 amended, and its implementing regulations, 34 CFR part 303.

16 (18) "Inclusion" ~~means:~~

17 ~~(a) The use by persons with developmental disabilities of the same~~
18 ~~community resources that are used by and available to other persons;~~

19 ~~(b) The participation by persons with developmental disabilities~~
20 ~~in the same community activities in which persons without developmental~~
21 ~~disabilities participate. Participation includes regular contact with persons~~
22 ~~without developmental disabilities.~~

23 ~~(c) Vocational experiences for persons with developmental~~
24 ~~disabilities in community settings that offer opportunities to associate~~
25 ~~with other individuals who do not have developmental disabilities; and~~

26 ~~(d) Living in homes that are in residential neighborhoods and in~~
27 ~~proximity to community resources~~ HAS THE SAME MEANING AS SET FORTH

1 IN SECTION 25.5-10-102, C.R.S.

2 (19) ~~"Independent residential support services" means a~~
3 ~~community living situation, defined by the department, where services~~
4 ~~and supports are provided to no more than three persons with~~
5 ~~developmental disabilities and that is not required to be licensed by the~~
6 ~~state.~~

7 (19.5) "Individualized family service plan" or "IFSP" means a
8 written plan developed pursuant to 20 U.S.C. sec. 1436 and 34 CFR
9 303.340 that authorizes the provision of early intervention services to an
10 eligible child and the child's family. An IFSP shall serve as the
11 individualized plan, pursuant to paragraph (c) of subsection (20) of this
12 section, for a child from birth through two years of age.

13 (20) (a) "Individualized plan" means a written plan designed by
14 an interdisciplinary team for the purpose of identifying:

15 (I) The needs of the person or family receiving services;

16 (II) The specific services and supports appropriate to meet those
17 needs;

18 (III) The projected date for initiation of services and supports; and

19 (IV) The anticipated results to be achieved by receiving the
20 services and supports.

21 (b) Every individualized plan will include a statement of
22 agreement with the plan, signed by the person receiving services or other
23 such person legally authorized to sign on behalf of the person and a
24 representative of the community-centered board.

25 (c) Any other service or support plan, designated by the
26 department, that meets all of the requirements of an individualized plan
27 will be considered to be an individualized plan pursuant to this article.

1 (d) ~~(I) Every individualized plan that includes the provision of~~
2 ~~respite care for medical purposes, pursuant to section 27-10.5-104, shall~~
3 ~~include a process by which the person receiving services and supports~~
4 ~~may receive necessary care if the person's family or caregiver is~~
5 ~~unavailable due to an emergency situation or unforeseen circumstances.~~
6 ~~The family or caregiver shall be duly informed by the interdisciplinary~~
7 ~~team of these alternative care provisions at the time the individualized~~
8 ~~plan is initiated.~~
9 ~~(II) Nothing in this paragraph (d) requires the provision of respite~~
10 ~~care, only that each individual plan that includes the provision of respite~~
11 ~~care for medical purposes have a contingency plan.~~
12 (21) "Infants and toddlers" means a child with a developmental
13 delay from birth through two years of age.
14 (22) "Interdependence" ~~means those multiple interactive~~
15 ~~relationships that are necessary to create a sense of belonging and support~~
16 ~~between people that are mutually sought, sustained over time, and~~
17 ~~beneficial to those involved~~ HAS THE SAME MEANING AS SET FORTH IN
18 SECTION 25.5-10-102, C.R.S.
19 (23) "Interdisciplinary team" ~~means a group of people convened~~
20 ~~by a designated community-centered board that shall include the person~~
21 ~~receiving services, the parents or guardian of a minor, a guardian or an~~
22 ~~authorized representative, as appropriate, the person who coordinates the~~
23 ~~provisions of services and supports, and others as determined by the~~
24 ~~person's needs and preference, who are assembled to work in a~~
25 ~~cooperative manner to develop or review the individualized plan~~ HAS THE
26 SAME MEANING AS SET FORTH IN SECTION 25.5-10-102, C.R.S.
27 (24) "Least restrictive environment" ~~means an environment that~~

1 ~~represents the least departure from the normal patterns of living and that~~
2 ~~effectively meets the needs of the person receiving services. Least~~
3 ~~restrictive environment may include, but need not be limited to, receiving~~
4 ~~services from a community-centered board, service agency, or a family~~
5 ~~caregiver in the family home~~ HAS THE SAME MEANING AS SET FORTH IN
6 SECTION 25.5-10-102, C.R.S.
7 (25) "Person receiving services" means a person with a
8 developmental disability who is enrolled in a program funded pursuant to
9 this article.
10 (25.5) "Program" means a specific group of services or supports
11 as defined by rules promulgated by the department and for which funding
12 is available pursuant to this article to a person with a developmental
13 disability who is eligible for supports and services.
14 (26) Repealed.
15 (27) "Regional center" means a facility or program operated
16 directly by the department that provides services and supports to persons
17 with developmental disabilities.
18 (28) "Service agency" ~~means an individual or any publicly or~~
19 ~~privately operated program, organization, or business providing services~~
20 ~~or supports for persons with developmental disabilities~~ HAS THE SAME
21 MEANING AS SET FORTH IN SECTION 25.5-10-102, C.R.S.
22 (29) "Service and support coordination" means planning, locating,
23 facilitating access to, coordinating, and reviewing all aspects of needed
24 services, supports, and resources that are provided in cooperation with the
25 person receiving services, the person's family, as appropriate, the family
26 of a child with a developmental delay, and the involved public or private
27 agencies. Planning includes the development or review of an existing

1 individualized plan. "Service and support coordination" also includes the
2 reassessment of the needs of the person receiving services or the needs of
3 the family of the person, with maximum participation of the person
4 receiving services and the person's parents, guardian, or authorized
5 representative, as appropriate.
6 (30) "Services and supports" means one or more of the following:
7 Education, training, ~~independent or supported living assistance,~~ therapies,
8 identification of natural supports, and other activities provided to:
9 (a) Enable persons with developmental disabilities to make
10 increasingly responsible choices, exert greater control over their lives,
11 experience presence and inclusion in their communities, develop their
12 competencies and talents, maintain relationships, foster a sense of
13 belonging, and experience personal security and self-respect;
14 (b) Enhance child development and healthy parent-child and
15 family interaction for eligible infants and toddlers and their families
16 pursuant to part 7 of this article; and
17 (c) Enable families, who choose or desire to maintain a family
18 member with a developmental disability at home, to obtain support and
19 to enjoy a typical lifestyle.
20 (31) "Sterilization" ~~means any surgical or other medical procedure~~
21 ~~that has as its primary purpose to render a person permanently incapable~~
22 ~~of reproduction~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
23 25.5-10-102, C.R.S.
24 (32) ~~"Waiting list" means the list of persons with developmental~~
25 ~~disabilities who are waiting for enrollment into a program provided~~
26 ~~pursuant to this article.~~
27 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**

1 **with amendments,** 27-10.5-103 as follows:

2 **27-10.5-103. Duties of the executive director - rules.** (1) IN
3 ORDER TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE, THE EXECUTIVE
4 DIRECTOR SHALL, SUBJECT TO AVAILABLE APPROPRIATIONS, CARRY OUT
5 THE FOLLOWING DUTIES:

6 (a) PROMOTE EFFECTIVE COORDINATION WITH AGENCIES SERVING
7 PERSONS WITH DEVELOPMENTAL DISABILITIES IN ORDER TO IMPROVE
8 CONTINUITY OF SERVICES AND SUPPORTS FOR PERSONS FACING LIFE
9 TRANSITIONS FROM TODDLER TO PRESCHOOL, SCHOOL TO ADULT LIFE, AND
10 WORK TO RETIREMENT;

11 (b) CONDUCT APPROPRIATE PART C CHILD FIND ACTIVITIES AS
12 DESCRIBED IN SECTION 27-10.5-704. PART C CHILD FIND ACTIVITIES
13 CONDUCTED BY THE DEPARTMENT SHALL INCLUDE, BUT NEED NOT BE
14 LIMITED TO, CASE MANAGEMENT, REFERRAL, TRANSITIONS, AND PUBLIC
15 EDUCATION OUTREACH AND AWARENESS OF EARLY INTERVENTION
16 SERVICES; AND

17 (c) OPERATE REGIONAL CENTERS PURSUANT TO PART 3 OF THIS
18 ARTICLE.

19 (2) IN ACCORDANCE WITH SECTION 24-4-103, C.R.S., AND IN
20 COORDINATION WITH THE REQUIREMENTS OF ARTICLE 10 OF TITLE 25.5,
21 C.R.S., THE DEPARTMENT SHALL ADOPT SUCH RULES AS ARE NECESSARY
22 TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ARTICLE,
23 INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

24 (a) STANDARDS FOR SERVICES AND SUPPORTS, INCLUDING
25 PREPARATION OF INDIVIDUALIZED PLANS;

26 (b) PURCHASE OF SERVICES AND SUPPORTS AND FINANCIAL
27 ADMINISTRATION;

1 (c) PROCEDURES FOR RESOLVING DISPUTES OVER ELIGIBILITY
2 DETERMINATION AND THE MODIFICATION, DENIAL, OR TERMINATION OF
3 SERVICES;
4 (d) PROCEDURES FOR ADMISSION TO PROGRAMS CONTAINED IN
5 THIS ARTICLE;
6 (e) SYSTEMS OF QUALITY ASSURANCE AND DATA COLLECTION;
7 (f) THE RIGHTS OF A PERSON RECEIVING SERVICES;
8 (g) CONFIDENTIALITY OF RECORDS OF A PERSON RECEIVING
9 SERVICES;
10 (h) DESIGNATION OF AUTHORIZED REPRESENTATIVES AND
11 DELINEATION OF THEIR RIGHTS AND DUTIES PURSUANT TO THIS ARTICLE;
12 (i) (I) THE ESTABLISHMENT OF GUIDELINES AND PROCEDURES FOR
13 AUTHORIZATION OF INDIVIDUALS FOR ADMINISTRATION OF NUTRITION AND
14 FLUIDS THROUGH GASTROSTOMY TUBES.
15 (II) THE DEPARTMENT SHALL REQUIRE THAT A SERVICE AGENCY
16 PROVIDING RESIDENTIAL OR DAY PROGRAM SERVICES OR SUPPORTS HAVE
17 A STAFF MEMBER QUALIFIED PURSUANT TO SUBPARAGRAPH (III) OF THIS
18 PARAGRAPH (i) ON DUTY AT ANY TIME THE FACILITY ADMINISTERS SAID
19 NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES, AND THAT THE
20 FACILITY MAINTAIN A WRITTEN RECORD OF EACH NUTRIENT OR FLUID
21 ADMINISTERED TO EACH PERSON RECEIVING SERVICES, INCLUDING THE
22 TIME AND THE AMOUNT OF THE NUTRIENT OR FLUID.
23 (III) AN INDIVIDUAL WHO IS NOT OTHERWISE AUTHORIZED BY LAW
24 TO ADMINISTER NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES
25 SHALL BE ALLOWED TO PERFORM THE DUTIES ONLY UNDER THE
26 SUPERVISION OF A LICENSED NURSE OR PHYSICIAN. AN INDIVIDUAL WHO
27 ADMINISTERS NUTRITION AND FLUIDS IN COMPLIANCE WITH THE

1 PROVISIONS OF THIS PARAGRAPH (i) SHALL BE EXEMPT FROM THE
2 LICENSING REQUIREMENTS OF THE "COLORADO MEDICAL PRACTICE ACT",
3 ARTICLE 36 OF TITLE 12, C.R.S., AND THE "NURSE PRACTICE ACT",
4 ARTICLE 38 OF TITLE 12, C.R.S. NOTHING IN THIS PARAGRAPH (i) SHALL
5 BE DEEMED TO AUTHORIZE THE ADMINISTRATION OF MEDICATIONS
6 THROUGH GASTROSTOMY TUBES. AN INDIVIDUAL ADMINISTERING
7 MEDICATIONS THROUGH GASTROSTOMY TUBES SHALL BE SUBJECT TO THE
8 REQUIREMENTS OF PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.
9 (IV) FOR PURPOSES OF THIS PARAGRAPH (i), "ADMINISTRATION"
10 MEANS ASSISTING A PERSON IN THE INGESTION OF NUTRITION OR FLUIDS
11 ACCORDING TO THE DIRECTION AND SUPERVISION OF A LICENSED NURSE OR
12 PHYSICIAN; AND
13 (j) CHILD FIND ACTIVITIES, AS DESCRIBED IN SECTION 27-10.5-704.
14 **SECTION 5.** In Colorado Revised Statutes, **repeal and reenact,**
15 **with amendments,** 27-10.5-104 as follows:
16 **27-10.5-104. Authorized services and supports - conditions of**
17 **funding - purchase of services and supports - boards of county**
18 **commissioners - appropriation.** (1) SUBJECT TO ANNUAL
19 APPROPRIATIONS BY THE GENERAL ASSEMBLY, THE DEPARTMENT SHALL
20 PROVIDE OR PURCHASE, PURSUANT TO SUBSECTION (4) OF THIS SECTION,
21 AUTHORIZED SERVICES AND SUPPORTS FROM COMMUNITY-CENTERED
22 BOARDS OR SERVICE AGENCIES FOR PERSONS WHO HAVE BEEN
23 DETERMINED TO BE ELIGIBLE FOR SUCH SERVICES AND SUPPORTS
24 PURSUANT TO SECTION 27-10.5-106, AND AS SPECIFIED IN THE ELIGIBLE
25 PERSON'S INDIVIDUALIZED PLAN. THOSE SERVICES AND SUPPORTS MAY
26 INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:
27 (a) EARLY INTERVENTION SERVICES AND SUPPORTS THAT OFFER

1 INFANTS AND TODDLERS AND THEIR FAMILIES SERVICES AND SUPPORTS TO
2 ENHANCE CHILD DEVELOPMENT IN THE AREAS OF COGNITION, SPEECH,
3 COMMUNICATION, PHYSICAL, MOTOR, VISION, HEARING,
4 SOCIAL-EMOTIONAL DEVELOPMENT, AND SELF-HELP SKILLS; PARENT-CHILD
5 OR FAMILY INTERACTION; AND EARLY IDENTIFICATION, SCREENING, AND
6 ASSESSMENT SERVICES THAT ARE PROVIDED PURSUANT TO PART 7 OF THIS
7 ARTICLE;
8 (b) CASE MANAGEMENT SERVICES;
9 (c) DAY SERVICES AND SUPPORTS THAT OFFER OPPORTUNITIES FOR
10 PERSONS WITH DEVELOPMENTAL DISABILITIES TO EXPERIENCE AND
11 ACTIVELY PARTICIPATE IN VALUED ADULT ROLES IN THE COMMUNITY.
12 THESE SERVICES AND SUPPORTS WILL ENABLE PERSONS RECEIVING
13 SERVICES TO ACCESS AND PARTICIPATE IN COMMUNITY ACTIVITIES, SUCH
14 AS WORK, RECREATION, HIGHER EDUCATION, AND SENIOR CITIZEN
15 ACTIVITIES. DAY SERVICES AND SUPPORTS, INCLUDING EARLY
16 INTERVENTION SERVICES, MAY ALSO INCLUDE THE ADMINISTRATION OF
17 NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED
18 BY AN INDIVIDUAL AUTHORIZED PURSUANT TO SECTION 27-10.5-103 (2)
19 (i) AND SUPERVISED BY A LICENSED NURSE OR PHYSICIAN.
20 (d) RESIDENTIAL SERVICES AND SUPPORTS, INCLUDING AN ARRAY
21 OF TRAINING, LEARNING, EXPERIENTIAL, AND SUPPORT ACTIVITIES
22 PROVIDED IN LIVING ALTERNATIVES DESIGNED TO MEET THE INDIVIDUAL
23 NEEDS OF PERSONS RECEIVING SERVICES AND MAY INCLUDE THE
24 ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY
25 TUBES, IF ADMINISTERED BY AN INDIVIDUAL AUTHORIZED PURSUANT TO
26 SECTION 27-10.5-103 (2) (i) AND SUPERVISED BY A LICENSED NURSE OR
27 PHYSICIAN;

1 (e) ANCILLARY SERVICES, INCLUDING ACTIVITIES THAT ARE
2 SECONDARY BUT INTEGRAL TO THE PROVISION OF THE SERVICES AND
3 SUPPORTS SPECIFIED IN THIS SUBSECTION (1).
4 (2) SERVICE AGENCIES RECEIVING FUNDS PURSUANT TO
5 SUBSECTION (1) OF THIS SECTION SHALL COMPLY WITH ALL OF THE
6 PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED
7 THEREUNDER.
8 (3) SERVICE AND SUPPORT COORDINATION SHALL BE PURCHASED
9 PURSUANT TO PART 7 OF THIS ARTICLE.
10 (4) (a) THE DEPARTMENT MAY PURCHASE SERVICES AND
11 SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, DIRECTLY
12 FROM SERVICE AGENCIES IF:
13 (I) REQUIRED BY THE FEDERAL REQUIREMENTS FOR THE STATE TO
14 QUALIFY FOR FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL
15 SECURITY ACT", AS AMENDED, INCLUDING PROGRAMS AUTHORIZED
16 PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S.; OR
17 (II) THE EXECUTIVE DIRECTOR HAS DETERMINED THAT A SERVICE
18 OR SUPPORT PROVIDED OR PURCHASED BY A DESIGNATED
19 COMMUNITY-CENTERED BOARD DOES NOT MEET ESTABLISHED STANDARDS
20 AND THE CONTINUATION OF PURCHASE OF THE SERVICE OR SUPPORT
21 THROUGH THE COMMUNITY-CENTERED BOARD IS NOT IN THE BEST
22 INTERESTS OF THE PERSONS RECEIVING SERVICES.
23 (b) THE DEPARTMENT SHALL ONLY PURCHASE SERVICES AND
24 SUPPORTS DIRECTLY FROM THOSE COMMUNITY-CENTERED BOARDS OR
25 SERVICE AGENCIES THAT MEET ESTABLISHED STANDARDS.
26 (c) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
27 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE

1 MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT THROUGH
2 REGIONAL CENTERS, FOR PERSONS RECEIVING SERVICES IN REGIONAL
3 CENTERS.
4 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
5 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
6 MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT.
7 (5) (a) EACH YEAR THE GENERAL ASSEMBLY SHALL APPROPRIATE
8 FUNDS TO THE DEPARTMENT TO PROVIDE OR PURCHASE SERVICES AND
9 SUPPORTS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES PURSUANT
10 TO THIS SECTION. UNLESS SPECIFICALLY PROVIDED OTHERWISE, SERVICES
11 AND SUPPORTS SHALL BE PURCHASED ON THE BASIS OF STATE FUNDING
12 LESS ANY FEDERAL OR CASH FUNDS RECEIVED FOR GENERAL OPERATING
13 EXPENSES FROM ANY OTHER STATE OR FEDERAL SOURCE, LESS FUNDS
14 AVAILABLE TO A PERSON RECEIVING RESIDENTIAL SERVICES OR SUPPORTS
15 AFTER SUCH PERSON RECEIVES AN ALLOWANCE FOR PERSONAL NEEDS OR
16 FOR MEETING OTHER OBLIGATIONS IMPOSED BY FEDERAL OR STATE LAW.
17 THE YEARLY APPROPRIATION, WHEN COMBINED WITH ALL OTHER SOURCES
18 OF FUNDS, SHALL IN NO CASE EXCEED ONE HUNDRED PERCENT OF THE
19 APPROVED PROGRAM COSTS AS DETERMINED BY THE GENERAL ASSEMBLY.
20 FUNDS RECEIVED FOR CAPITAL CONSTRUCTION SHALL NOT BE CONSIDERED
21 IN THE CALCULATION FOR THE DISTRIBUTION OF FUNDS UNDER THE
22 PROVISIONS OF THIS SECTION.
23 (b) THE DEPARTMENT IS AUTHORIZED TO USE UP TO THREE
24 PERCENT OF THE APPROPRIATION ALLOCATED FOR EARLY INTERVENTION
25 SERVICES AND SUPPORTS FOR TRAINING AND TECHNICAL ASSISTANCE TO
26 ENSURE THAT THE LATEST DEVELOPMENTS FOR EARLY INTERVENTION
27 SERVICES AND SUPPORTS ARE RAPIDLY INTEGRATED INTO SERVICE

1 PROVISION THROUGHOUT THE STATE.

2 **SECTION 6.** In Colorado Revised Statutes, 27-10.5-104.5,
3 **amend** (3) as follows:

4 **27-10.5-104.5. Service agencies - moneys - rules.** (3) The
5 department shall promulgate rules to implement the purchase of services
6 and supports from a community-centered board OR A service agency. ~~or~~
7 ~~family caregiver.~~ The rules shall include, but need not be limited to:

8 (a) Terms and conditions necessary to promote the effective
9 delivery of services and supports; ~~including those services and supports~~
10 ~~delivered by a family caregiver;~~

11 (b) Procedures for obtaining an annual audit of designated
12 community-centered boards and service agencies not affiliated with a
13 designated community-centered board to provide financial information
14 deemed necessary by the department to establish costs of services and
15 supports and to ensure proper management of moneys received pursuant
16 to section 27-10.5-104;

17 (c) Delineation of a system to resolve contractual disputes
18 between the department and designated community-centered boards or
19 service agencies and between designated community-centered boards and
20 service agencies, including the contesting of any rates that the designated
21 community-centered boards charge to service agencies based upon a
22 percentage of the rates that service agencies charge for services and
23 supports;

24 (d) Specification of what services and supports are to be
25 reimbursed by the department ~~of human services~~ and secondarily by the
26 community-centered board, the source of reimbursement, actual service
27 or support costs, incentives, and program service objectives which affect

1 reimbursement;

2 (e) The methods of coordinating the purchase of services and
3 supports, including, but not limited to, service and support coordination,
4 with other federal, state, and local programs which provide funding for
5 authorized services and supports;

6 (f) (Deleted by amendment, L. 92, p. 1363, § 5, effective July 1,
7 1992.)

8 (g) and (h) (Deleted by amendment, L. 2008, p. 2219, § 2,
9 effective June 5, 2008.)

10 (i) Criteria for and limitations on any rates that designated
11 community-centered boards charge to service agencies based upon a
12 percentage of the rates that service agencies charge for services and
13 supports.

14 **SECTION 7.** In Colorado Revised Statutes, **repeal and reenact,**
15 **with amendments,** 27-10.5-105 as follows:

16 **27-10.5-105. Community-centered boards - purchase of**
17 **services and supports by community-centered boards.** (1) ONCE A
18 COMMUNITY-CENTERED BOARD HAS BEEN DESIGNATED PURSUANT TO
19 SECTION 25.5-10-108, C.R.S., IT SHALL, SUBJECT TO AVAILABLE
20 APPROPRIATIONS:

21 (a) DETERMINE ELIGIBILITY AND DEVELOP AN INDIVIDUALIZED
22 PLAN FOR EACH PERSON WHO RECEIVES SERVICES OR SUPPORTS PURSUANT
23 TO SECTION 25.5-10-110, C.R.S.; EXCEPT THAT, FOR A CHILD FROM BIRTH
24 THROUGH TWO YEARS OF AGE, ELIGIBILITY DETERMINATION AND
25 DEVELOPMENT OF AN INDIVIDUALIZED FAMILY SERVICE PLAN SHALL BE
26 MADE PURSUANT TO PART 7 OF THIS ARTICLE;

27 (b) PROVIDE CASE MANAGEMENT SERVICES, INCLUDING SERVICE

1 AND SUPPORT COORDINATION AND PERIODIC REVIEWS, FOR PERSONS
2 RECEIVING SERVICES AND FAMILIES WITH CHILDREN WITH
3 DEVELOPMENTAL DISABILITIES;
4 (c) OBTAIN OR PROVIDE EARLY INTERVENTION SERVICES AND
5 SUPPORTS PURSUANT TO PART 7 OF THIS ARTICLE;
6 (d) TAKE STEPS TO NOTIFY ELIGIBLE PERSONS, AND THEIR FAMILIES
7 AS APPROPRIATE, REGARDING THE AVAILABILITY OF SERVICES AND
8 SUPPORTS;
9 (e) PURSUANT TO SECTION 27-10.5-704, COLLABORATE WITH THE
10 DEPARTMENT AS IT DEVELOPS AND IMPLEMENTS A STATEWIDE PLAN FOR
11 PUBLIC EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO
12 PART C CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION
13 SERVICES.
14 **SECTION 8.** In Colorado Revised Statutes, **repeal and reenact,**
15 **with amendments,** 27-10.5-106 as follows:
16 **27-10.5-106. Eligibility determination.** ANY PERSON MAY
17 REQUEST AN EVALUATION PURSUANT TO SECTION 25.5-10-110, C.R.S., TO
18 DETERMINE WHETHER HE OR SHE HAS A DEVELOPMENTAL DISABILITY AND
19 IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO THIS
20 ARTICLE. APPLICATION FOR ELIGIBILITY DETERMINATION SHALL BE MADE
21 TO THE DESIGNATED COMMUNITY-CENTERED BOARD IN THE DESIGNATED
22 SERVICE AREA WHERE THE PERSON RESIDES.
23 **SECTION 9.** In Colorado Revised Statutes, 27-10.5-107, **amend**
24 (1) introductory portion as follows:
25 **27-10.5-107. Procedure for resolving disputes over eligibility,**
26 **modification of services or supports, and termination of services or**
27 **supports.** (1) Every state or local service agency receiving state moneys

1 pursuant to section 27-10.5-104 AND SECTION 25.5-10-105, C.R.S., shall
2 adopt a procedure for the resolution of disputes arising between the
3 service agency and any recipient of, or applicant for, services or supports
4 authorized under section 27-10.5-104 AND SECTION 25.5-10-105, C.R.S.
5 Procedures for the resolution of disputes regarding early intervention
6 services shall be in compliance with IDEA. The procedures shall be
7 consistent with rules promulgated by the department pursuant to article
8 4 of title 24, C.R.S., and shall be applicable to the following disputes:
9 **SECTION 10.** In Colorado Revised Statutes, 27-10.5-108,
10 **amend** (2) as follows:
11 **27-10.5-108. Discharge.** (2) When a person receiving services
12 notifies a service agency that such person no longer wishes to receive a
13 service or support, the person shall be discharged from such service or
14 support unless the person is subject to a petition to impose a legal
15 disability or to remove a legal right, filed pursuant to section 27-10.5-110
16 OR SECTION 25.5-10-115, C.R.S., or for whom a legal guardian has been
17 appointed, affecting the person's ability to voluntarily terminate services
18 or supports. The parents of the person receiving services who is a minor
19 and such person's guardian shall be notified of the person's wish to
20 terminate services or supports, but no minor will be discharged without
21 the consent of the parent or legal guardian.
22 **SECTION 11.** In Colorado Revised Statutes, **repeal and reenact,**
23 **with amendments,** 27-10.5-110 as follows:
24 **27-10.5-110. Imposition of legal disability - removal of legal**
25 **right.** (1) ANY INTERESTED PERSON MAY PETITION THE COURT PURSUANT
26 TO SECTION 25.5-10-115, C.R.S., TO IMPOSE A LEGAL DISABILITY ON OR TO
27 REMOVE A LEGAL RIGHT FROM A PERSON WITH A DEVELOPMENTAL

1 DISABILITY AS DEFINED IN SECTION 25.5-10-102, C.R.S. THE PETITION
2 SHALL SET FORTH THE DISABILITY TO BE IMPOSED OR THE LEGAL RIGHT TO
3 BE REMOVED AND THE REASONS THEREFOR. THE PETITION MAY AFFECT
4 THE RIGHT TO CONTRACT, THE RIGHT TO DETERMINE PLACE OF ABODE OR
5 PROVISIONS OF SERVICES AND SUPPORTS, THE RIGHT TO OPERATE A MOTOR
6 VEHICLE, AND OTHER SIMILAR RIGHTS.
7 (2) NO PERSON SHALL BE ADMITTED TO A REGIONAL CENTER
8 WITHOUT A COURT ORDER ISSUED PURSUANT TO SECTION 25.5-10-115,
9 C.R.S., EXCEPT IN AN EMERGENCY OR FOR THE PURPOSE OF TEMPORARY
10 RESPITE CARE.
11 **SECTION 12.** In Colorado Revised Statutes, **add** 27-10.5-110.5
12 as follows:
13 **27-10.5-110.5. Rights of persons with developmental**
14 **disabilities.** EACH PERSON RECEIVING SERVICES PURSUANT TO THIS
15 ARTICLE AND ARTICLE 10 OF TITLE 25.5, C.R.S., SHALL HAVE THE RIGHTS
16 SET FORTH IN SECTIONS 25.5-10-117 TO 25.5-10-139, C.R.S.
17 **SECTION 13. Repeal of provisions being relocated in this act.**
18 In Colorado Revised Statutes, **repeal** part 1 of article 11 of title 26,
19 sections 26-11-201, 26-11-202, 26-11-203, 26-11-204, 26-11-205,
20 26-11-205.5, 26-11-206, 26-11-207, article 11.5 of title 26, 27-10.5-101,
21 27-10.5-103.5, 27-10.5-104.2, 27-10.5-105.5, 27-10.5-109,
22 27-10.5-109.5, 27-10.5-111, 27-10.5-112, 27-10.5-113, 27-10.5-114,
23 27-10.5-115, 27-10.5-116, 27-10.5-117, 27-10.5-118, 27-10.5-119,
24 27-10.5-120, 27-10.5-121, 27-10.5-122, 27-10.5-123, 27-10.5-124,
25 27-10.5-128, 27-10.5-129, 27-10.5-130, 27-10.5-131, 27-10.5-132,
26 27-10.5-134, 27-10.5-135, 27-10.5-137, 27-10.5-139, 27-10.5-141,
27 27-10.5-142, and 27-10.5-143, and parts 4 and 5 of article 10.5 of

1 title 27.

2 **SECTION 14.** In Colorado Revised Statutes, 1-1-104, **amend**
3 (18.5) as follows:

4 **1-1-104. Definitions.** As used in this code, unless the context
5 otherwise requires:

6 (18.5) "Group residential facility" means a nursing home, a
7 nursing care facility licensed pursuant to part 1 of article 3 of title 25,
8 C.R.S., a home for persons with developmental disabilities as defined in
9 section ~~27-10.5-102,~~ 25.5-10-102, C.R.S., an assisted living residence
10 licensed pursuant to section 25-27-105, C.R.S., or a residential treatment
11 facility for mental illness.

12 **SECTION 15.** In Colorado Revised Statutes, 8-2-111.7, **amend**
13 (2), (5) (a), and (5) (b) as follows:

14 **8-2-111.7. Employees working with persons with**
15 **developmental disabilities - immunity from civil liability -**
16 **requirements - exception to blacklisting prohibition - legislative**
17 **declaration - definitions.** (2) In response to a request by a current or
18 prospective employer of a caregiver, it is neither unlawful nor a violation
19 of the prohibitions against blacklisting specified in sections 8-2-110 and
20 8-2-111 for an employer, when acting in good faith, to disclose
21 information known about any involvement in the mistreatment,
22 exploitation, neglect, or abuse of persons with developmental disabilities
23 as prohibited by section ~~27-10.5-115, C.R.S.,~~ 25.5-10-120, C.R.S., by a
24 caregiver.

25 (5) For the purposes of this section:

26 (a) "Caregiver" means an individual currently or formerly
27 employed to work with a person with a developmental disability or a

1 person who provides host home services by contract as part of residential
2 services and supports as described in section ~~27-10.5-104 (1) (f),~~
3 25.5-10-105 (1) (e), C.R.S. "Caregiver" does not mean a person who is
4 employed by or who has contracted to work with a school district.
5 (b) "Person with a developmental disability" has the same
6 meaning as defined in section ~~27-10.5-102 (11) (b),~~ 25.5-10-102, C.R.S.
7 **SECTION 16.** In Colorado Revised Statutes, 8-40-301, **amend**
8 (7) as follows:
9 **8-40-301. Scope of term "employee".** (7) Persons who provide
10 host home services as part of residential services and supports, as
11 described in section ~~27-10.5-104 (1) (f),~~ 25.5-10-105 (1) (e), C.R.S., for
12 an eligible person, as defined in section 25.5-6-403 (2) (a), C.R.S.,
13 pursuant to the "Home- and Community-based Services for Persons with
14 Developmental Disabilities Act", part 4 of article 6 of title 25.5, C.R.S.,
15 and pursuant to a contract with a community-centered board designated
16 pursuant to section ~~27-10.5-105,~~ 25.5-10-108, C.R.S., or a contract with
17 a service agency as defined in section ~~27-10.5-102 (28),~~ 25.5-10-102,
18 C.R.S., shall not be considered employees of the community-centered
19 board or the service agency.
20 **SECTION 17.** In Colorado Revised Statutes, 10-16-104, **amend**
21 (1.4) (a) (VII) as follows:
22 **10-16-104. Mandatory coverage provisions - definitions.**
23 (1.4) **Autism spectrum disorders.** (a) As used in this subsection (1.4),
24 unless the context otherwise requires:
25 (VII) "Individualized plan" shall have the same meaning as
26 provided in section ~~27-10.5-102,~~ 25.5-10-102, C.R.S.
27 **SECTION 18.** In Colorado Revised Statutes, 12-36-106, **amend**

1 (3) (q) (I) as follows:

2 **12-36-106. Practice of medicine defined - exemptions from**
3 **licensing requirements - unauthorized practice by physician**
4 **assistants - penalties - rules.** (3) A person may engage in, and shall not
5 be required to obtain a license or a physician training license under this
6 article with respect to, any of the following acts:

7 (q) (I) The administration of nutrition or fluids through
8 gastrostomy tubes as provided in SECTION 25.5-10-103 (2) (j), C.R.S.,
9 AND section 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S., as a part of residential or
10 day program services provided through service agencies approved by the
11 department of ~~human services~~ HEALTH CARE POLICY AND FINANCING
12 pursuant to section ~~27-10.5-104.5~~ 25.5-10-107, C.R.S.;

13 **SECTION 19.** In Colorado Revised Statutes, 12-38-125, **amend**
14 (1) (i) (I) as follows:

15 **12-38-125. Exclusions.** (1) No provision of this article shall be
16 construed to prohibit:

17 (i) (I) The administration of nutrition or fluids through
18 gastrostomy tubes as provided in SECTION 25.5-10-103 (2) (j), C.R.S.,
19 AND section 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S., as a part of residential or
20 day program services provided through service agencies approved by the
21 department of ~~human services~~ HEALTH CARE POLICY AND FINANCING
22 pursuant to section ~~27-10.5-104,~~ 25.5-10-107, C.R.S.

23 **SECTION 20.** In Colorado Revised Statutes, 12-38-132, **amend**
24 (6) as follows:

25 **12-38-132. Delegation of nursing tasks.** (6) The board may
26 promulgate rules pursuant to this section, including but not limited to
27 standards on the assessment of the proficiency of the delegatee to perform

1 delegated tasks, and standards for accountability of any nurse who
2 delegates nursing tasks. Such rules shall be consistent with the provisions
3 of part 3 of article 1.5 of title 25, ~~and~~ C.R.S., SECTION 25.5-10-103 (2) (j),
4 C.R.S., AND section 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S.; AND
5 **SECTION 21.** In Colorado Revised Statutes, 12-38.1-117,
6 **amend** (1) (f) as follows:
7 **12-38.1-117. Exclusions.** (1) This article shall not be construed
8 to affect or apply to:
9 (f) Any person performing services pursuant to sections
10 12-38-132, 25.5-10-103 (2) (j), ~~and~~ 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S.,
11 and part 3 of article 1.5 of title 25, C.R.S.
12 **SECTION 22.** In Colorado Revised Statutes, 13-21-117.5,
13 **amend** (2) (a), (2) (c), and (2) (e) as follows:
14 **13-21-117.5. Civil liability - service providers for persons with**
15 **developmental disabilities.** (2) **Definitions.** As used in this section,
16 unless the context otherwise requires:
17 (a) "Community-centered board" means a private corporation,
18 for-profit or not-for-profit, which, when designated pursuant to section
19 ~~27-10.5-105,~~ 25.5-10-108, C.R.S., provides case management to persons
20 with developmental disabilities, is authorized to determine eligibility of
21 such persons within a specified geographical area, serves as the single
22 point of entry for persons to receive services and supports under ~~article~~
23 ~~10.5 of title 27~~ ARTICLE 10 OF TITLE 25.5, C.R.S., and provides authorized
24 services and supports to such persons either directly or by purchasing
25 such services and supports from service agencies.
26 (c) "Developmental disability" ~~shall have~~ HAS the same meaning
27 as defined in section ~~27-10.5-102 (11),~~ 25.5-10-102, C.R.S.

1 (e) "Host home" means a private home that houses up to three
2 persons with developmental disabilities and whose owner or renter
3 provides residential services, as described in section ~~27-10.5-104 (1) (f),~~
4 25.5-10-105 (1) (e), C.R.S., to those persons as an independent contractor
5 of a community-centered board or service agency.
6 **SECTION 23.** In Colorado Revised Statutes, 15-14-310, **amend**
7 (5) (a) introductory portion and (5) (b) as follows:
8 **15-14-310. Who may be guardian - priorities - prohibition of**
9 **dual roles.** (5) (a) Unless the court makes specific findings for good
10 cause shown or the person is a family caregiver as defined in section
11 ~~27-10.5-102 (15.5),~~ 25.5-10-102, C.R.S., the same professional may not
12 act as an incapacitated person's or a protected person's:
13 (b) In addition, a guardian or conservator may not employ the
14 same person to act as both care manager and direct service provider for
15 the incapacitated person or protected person unless the person is a family
16 caregiver as defined in section ~~27-10.5-102 (15.5),~~ 25.5-10-102, C.R.S.
17 **SECTION 24.** In Colorado Revised Statutes, 15-14-316, **amend**
18 (4) as follows:
19 **15-14-316. Rights and immunities of guardian - limitations.**
20 (4) A guardian may not initiate the commitment of a ward to a mental
21 health-care institution or facility except in accordance with the state's
22 procedure for involuntary civil commitment. To obtain hospital or
23 institutional care and treatment for mental illness of a ward, a guardian
24 shall proceed as provided under article 65 of title 27, C.R.S. To obtain
25 care and treatment from an approved service agency as defined in section
26 ~~27-10.5-102,~~ 25.5-10-102, C.R.S., for a ward with developmental
27 disabilities, a guardian shall proceed under ~~article 10.5 of title 27,~~

1 ARTICLE 10 OF TITLE 25.5, C.R.S. To obtain care and treatment for
2 alcoholism or substance abuse, a guardian shall proceed as provided
3 under article 80 of title 27, C.R.S. No guardian shall have the authority
4 to consent to any such care or treatment against the will of the ward.
5 **SECTION 25.** In Colorado Revised Statutes, 15-14-413, **amend**
6 (6) (a) introductory portion and (6) (b) as follows:
7 **15-14-413. Who may be conservator - priorities - prohibition**
8 **of dual roles.** (6) (a) Unless the court makes specific findings for good
9 cause shown or the person is a family caregiver as defined in section
10 ~~27-10.5-102 (15.5),~~ 25.5-10-102, C.R.S., the same professional may not
11 act as an incapacitated person's or a protected person's:
12 (b) In addition, a guardian or conservator may not employ the
13 same person to act as both care manager and direct service provider for
14 the incapacitated person or protected person unless the person is a family
15 caregiver as defined in section ~~27-10.5-102 (15.5),~~ 25.5-10-102, C.R.S.
16 **SECTION 26.** In Colorado Revised Statutes, 16-10-402, **amend**
17 (1) (a) introductory portion as follows:
18 **16-10-402. Use of closed-circuit television - child or witness**
19 **with developmental disabilities.** (1) (a) When a witness at the time of
20 a trial is a child less than twelve years of age, or is a person who has a
21 developmental disability as defined in section ~~27-10.5-102 (11) (a),~~
22 25.5-10-102, C.R.S., the court may, upon motion of a party or upon its
23 own motion, order that the witness's testimony be taken in a room other
24 than the courtroom and be televised by closed-circuit television in the
25 courtroom if:
26 **SECTION 27.** In Colorado Revised Statutes, 18-1.3-1104,
27 **amend** (2) as follows:

1 **18-1.3-1104. Evaluation and report.** (2) In ordering an
2 evaluation of the defendant pursuant to subsection (1) of this section, the
3 court shall specify the place where the evaluation is to be conducted and
4 the period of time allocated for the evaluation. In determining the place
5 where the evaluation is to be conducted, the court shall give priority to the
6 place where the defendant is in custody, unless the nature and
7 circumstances of the evaluation requires designation of a different
8 location. The court shall direct one or more psychologists who are
9 recommended by the executive director of the department of ~~human~~
10 ~~services~~ HEALTH CARE POLICY AND FINANCING pursuant to section
11 ~~27-10.5-139,~~ 25.5-10-138, C.R.S., or his or her designee, to evaluate the
12 defendant. For good cause shown, upon motion of the prosecution or the
13 defendant or upon the court's own motion, the court may order such
14 further or other evaluation as it deems necessary. Nothing in this section
15 shall abridge the right of the defendant to procure an evaluation as
16 provided in section 18-1.3-1105.
17 **SECTION 28.** In Colorado Revised Statutes, 18-6.5-102, **amend**
18 (3) (d) as follows:
19 **18-6.5-102. Definitions.** As used in this article, unless the context
20 otherwise requires:
21 (3) "Person with a disability" means any person who:
22 (d) Is ~~developmentally disabled~~ A PERSON WITH A
23 DEVELOPMENTAL DISABILITY as defined in section ~~27-10.5-102 (11),~~
24 25.5-10-102, C.R.S.; or
25 **SECTION 29.** In Colorado Revised Statutes, 19-1-103, **amend**
26 (58) as follows:
27 **19-1-103. Definitions.** As used in this title or in the specified

1 portion of this title, unless the context otherwise requires:
2 (58) "Group care facilities and homes" means places other than
3 foster family care homes providing care for small groups of children that
4 are licensed as provided in article 6 of title 26, C.R.S., or meet the
5 requirements of section ~~27-10.5-109,~~ 25.5-10-113, C.R.S.
6 **SECTION 30.** In Colorado Revised Statutes, 22-20-107, **amend**
7 (1) as follows:
8 **22-20-107. Authority to contract with institutions of higher**
9 **education or community-centered boards.** (1) An administrative unit
10 may contract with an institution of higher education, or a
11 community-centered board, as provided in section ~~27-10.5-104,~~
12 25.5-10-105, C.R.S., for the provision by the administrative unit of an
13 education and training program for children with disabilities. If an
14 agreement is arrived at by the two agencies, the administrative unit shall
15 place the responsibility for administering the program with the director
16 of special education of the administrative unit.
17 **SECTION 31.** In Colorado Revised Statutes, 22-20-118, **amend**
18 (1) (c) (I) and (2) (a) as follows:
19 **22-20-118. Child find from birth through two years of age -**
20 **responsibilities - rules - interagency operating agreements - transition**
21 **meetings - funding.** (1) The department shall have the following
22 responsibilities concerning part C child find:
23 (c) To establish state-level interagency operating agreements,
24 including but not limited to:
25 (I) Working with the department of human services as necessary
26 and within existing resources to assist in developing and implementing
27 the department of ~~human services'~~ HEALTH CARE POLICY AND FINANCING'S

1 statewide plan described in section ~~27-10.5-103,~~ 25.5-10-103, C.R.S., for
2 community education outreach and awareness efforts related to part C
3 child find and the availability of early intervention services. The
4 department's responsibilities shall be limited to those activities that relate
5 to facilitating the implementation of part C child find activities and a
6 collaborative system of early intervention services.
7 (2) The administrative units shall:
8 (a) Establish local-level interagency operating agreements with
9 community-centered boards, as described in section 27-10.5-102, C.R.S.,
10 as necessary to assist in developing and implementing the department of
11 human services' statewide plan defined in section ~~27-10.5-103,~~
12 25.5-10-103, C.R.S., for community education outreach and awareness
13 efforts related to part C child find and the availability of early
14 intervention services. The administrative units' responsibilities shall be
15 limited to those activities that relate to facilitating the implementation of
16 part C child find activities and a collaborative system of early intervention
17 services.
18 **SECTION 32.** In Colorado Revised Statutes, 24-1-119.5, **add** (8),
19 (9), and (10) as follows:
20 **24-1-119.5. Department of health care policy and financing -**
21 **creation - repeal.** (8) THE POWERS, DUTIES, AND FUNCTIONS RELATING
22 TO THE "OLDER COLORADANS' ACT", AS SPECIFIED IN ARTICLE 9 OF TITLE
23 25.5, ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF
24 HEALTH CARE POLICY AND FINANCING.
25 (9) THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE CARE
26 AND TREATMENT OF PERSONS WITH DEVELOPMENTAL DISABILITIES, AS
27 SPECIFIED IN ARTICLE 10 OF TITLE 25.5, ARE TRANSFERRED BY A **TYPE 2**

1 TRANSFER TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.
2 (10) THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE
3 "COLORADO LONG-TERM CARE OMBUDSMAN ACT", AS SPECIFIED IN
4 ARTICLE 11 OF TITLE 25.5, ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO
5 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.
6 **SECTION 33.** In Colorado Revised Statutes, 24-1-120 **repeal** (5)
7 (a) and (5) (f) as follows:
8 **24-1-120. Department of human services - creation - repeal.**
9 (5) The department of human services shall include the following:
10 (a) ~~The Colorado commission on the aging and the office of the~~
11 ~~director thereof. Said office and director and their powers, duties, and~~
12 ~~functions are transferred by a **type 2** transfer to the department of human~~
13 ~~services.~~
14 (f) ~~The state office on aging, created by part 2 of article 11 of title~~
15 ~~26, C.R.S. Said state office and its powers, duties, and functions are~~
16 ~~transferred by a **type 2** transfer to the department of human services.~~
17 **SECTION 34.** In Colorado Revised Statutes, **amend** 24-1-135 as
18 follows:
19 **24-1-135. Effect of congressional redistricting.** (1) Effective
20 January 1, 1983, the terms of office of persons appointed pursuant to
21 sections 11-2-102, 12-22-104, 12-35-104, 12-65-102, 17-2-102, and
22 23-60-104, C.R.S., sections 24-32-308 and 24-32-706, and ~~sections~~
23 ~~25-1-103, 25-1-902, 25-3.5-104, 26-11-101, 33-11-105, 34-60-104, and~~
24 ~~35-65-105, C.R.S.~~ SECTIONS 25-1-103, 25-1-902, 25-3.5-104, 25.5-9-103,
25 33-11-105, 34-60-104, AND 35-65-105, C.R.S., shall terminate. Prior
26 thereto, the appointing authority designated by law shall appoint members
27 to such boards, commissions, and committees for terms to commence on

January 1, 1983, and to expire on the date the terms of the predecessors in office of such members would have expired, and any person whose term of office is terminated by this section may be reappointed effective January 1, 1983, and, for the purposes of such reappointment, shall not be deemed to succeed himself OR HERSELF. Appointments thereafter shall be made as prescribed by law.

(2) Any member of a board, commission, or committee who was appointed or elected to such office as a resident of a designated congressional district pursuant to section 24 (2) of article VI of the state constitution or section 11-2-102, 12-22-104, 12-35-104, 12-47.1-301, 22-2-105, 23-1-102, 23-20-102, 23-21-503, or 23-60-104, C.R.S., or section 24-32-308 or 24-32-706, or ~~section 25-1-103, 25-1-902, 25-3.5-104, 26-11-101, 33-11-105, 34-60-104, or 35-65-401, C.R.S.~~ SECTION 25-1-103, 25-1-902, 25-3.5-104, 25.5-9-103, 33-11-105, 34-60-104, OR 35-65-401, C.R.S., and who no longer resides in such congressional district solely because of a change made to the boundaries of such district subsequent to the 1990 federal decennial census is eligible to hold office for the remainder of the term to which the member was elected or appointed, notwithstanding such nonresidency.

SECTION 35. In Colorado Revised Statutes, 24-1-135.1, **amend** (1) (a) as follows:

24-1-135.1. Effect of congressional redistricting related to 2000 federal decennial census. (1) (a) The appointing authority of the boards, commissions, or committees established pursuant to ~~sections 13-91-104, 14-10-115, 21-2-101, 23-1-102, 23-21-503, 23-60-104, 24-32-706, 25-1-103, 25-1-902, 25-32-104, 25.5-1-301, 26-11-101, 33-11-105, and 35-65-401, C.R.S.~~ SECTIONS 13-91-104, 14-10-115, 21-2-101, 23-1-102,

1 23-21-503, 23-60-104, 24-32-706, 25-1-103, 25-1-902, 25-32-104,
2 25.5-1-301, 25.5-9-103, 33-11-105, AND 35-65-401, C.R.S., which require
3 members to be appointed as residents of designated congressional
4 districts, shall determine whether the current appointments to such
5 boards, commissions, or committees adequately represent Colorado's new
6 congressional districts. Notwithstanding any provision of law to the
7 contrary, such appointing authority shall terminate the terms of current
8 members and appoint new members to replace such members on the
9 boards, commissions, or committees as is necessary to ensure proper
10 representation from the new congressional districts; except that the term
11 of a member who continues to reside in the district that such member was
12 designated to represent shall not be terminated. Such changes shall be
13 made no later than January 1, 2003. If the current members adequately
14 represent the new congressional districts, the membership of the board,
15 commission, or committee shall remain unchanged. Any member who
16 continues to serve on a board, commission, or committee shall not be
17 required to be reappointed.
18 **SECTION 36.** In Colorado Revised Statutes, 24-103-803, **amend**
19 (2) (d) as follows:
20 **24-103-803. Nonprofit agencies - self-certified vendor list -**
21 **creation.** (2) The department shall accept applications from any
22 nonprofit agency that seeks to become a self-certified vendor to bid on
23 certain services solicitations. In order for a nonprofit agency to become
24 a self-certified vendor, the nonprofit agency shall certify that:
25 (d) The nonprofit agency would be capable of hiring and would
26 employ people to perform any service for which the nonprofit agency
27 bids, and that of those people employed a total of seventy-five percent

1 would be persons with severe disabilities and a minimum of twenty
2 percent would be persons with severe disabilities who have
3 developmental disabilities as defined in section ~~27-10.5-102,~~
4 25.5-10-102, C.R.S.; and
5 **SECTION 37.** In Colorado Revised Statutes, 24-110-207.5,
6 **amend** (1) (a) as follows:
7 **24-110-207.5. Certification of certain entities as local public**
8 **procurement units - rules - report.** (1) The executive director may
9 certify any of the following entities as a local public procurement unit:
10 (a) Any nonprofit community mental health center, as defined in
11 section 27-66-101, C.R.S., any nonprofit community mental health clinic,
12 as defined in section 27-66-101, C.R.S., any nonprofit
13 community-centered board, as defined in section ~~27-10.5-102,~~
14 25.5-10-102, C.R.S., or any nonprofit service agency, as defined in
15 section ~~27-10.5-102,~~ 25.5-10-102, C.R.S., if the entity uses the supplies,
16 services, or construction procured for the public mental health system or
17 the public ~~developmentally disabled~~ DEVELOPMENTAL DISABILITY system;
18 **SECTION 38.** In Colorado Revised Statutes, 25-1-107.5, **amend**
19 (4) (c) (II) (B) as follows:
20 **25-1-107.5. Additional authority of department - rules -**
21 **remedies against nursing facilities - criteria for recommending**
22 **assessments for civil penalties - cooperation with department of**
23 **health care policy and financing - nursing home penalty cash fund -**
24 **accountability board - reports - repeal.** (4) (c) The departments shall
25 consider, as a basis for distribution from the nursing home penalty cash
26 fund, the following:
27 (II) Measures that will benefit residents of nursing facilities by

1 improving their quality of life at the facilities, including:
2 (B) Training for state surveyors, supervisors, and the state and
3 local long-term care ombudsman, established pursuant to article ~~11.5 of~~
4 ~~title 26~~ 11 OF TITLE 25.5, C.R.S., regarding resident-centered care in
5 nursing facilities;
6 **SECTION 39.** In Colorado Revised Statutes, 25-1.5-103, **amend**
7 (2) (c) as follows:
8 **25-1.5-103. Health facilities - powers and duties of department**
9 **- limitations on rules promulgated by department.** (2) For purposes
10 of this section, unless the context otherwise requires:
11 (c) "Facility for persons with developmental disabilities" means
12 a facility specially designed for the active treatment and habilitation of
13 persons with developmental disabilities or a community residential home,
14 as defined in section ~~27-10.5-102 (4)~~ 25.5-10-102, C.R.S., which is
15 licensed and certified pursuant to section ~~27-10.5-109~~ 25.5-10-113,
16 C.R.S.
17 **SECTION 40.** In Colorado Revised Statutes, 25-1.5-301, **amend**
18 (1) as follows:
19 **25-1.5-301. Definitions.** As used in this part 3, unless the context
20 otherwise requires:
21 (1) "Administration" means assisting a person in the ingestion,
22 application, inhalation, or, using universal precautions, rectal or vaginal
23 insertion of medication, including prescription drugs, according to the
24 legibly written or printed directions of the attending physician or other
25 authorized practitioner or as written on the prescription label and making
26 a written record thereof with regard to each medication administered,
27 including the time and the amount taken, but "administration" does not

include judgment, evaluation, or assessments or the injections of medication, the monitoring of medication, or the self-administration of medication, including prescription drugs and including the self-injection of medication by the resident. "Administration" also means ingestion through gastrostomy tubes or naso-gastric tubes, if administered by an individual authorized pursuant to SECTION 25.5-10-103 (2) (j), C.R.S., AND section 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S., as part of residential or day program services provided through service agencies approved by the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING and supervised by a licensed physician or nurse.

SECTION 41. In Colorado Revised Statutes, 25-3-102, **amend** (1) as follows:

25-3-102. License - application - issuance. (1) An application for a license described in section 25-3-101 shall be made to the department of public health and environment annually upon such form and in such manner as prescribed by the department; except that a community residential home shall make application for a license pursuant to section ~~27-10.5-109~~ 25.5-10-113, C.R.S. The department has authority to administer oaths, subpoena witnesses or documents, and take testimony in all matters relating to issuing, denying, limiting, suspending, or revoking such license. The department shall issue licenses to applicants furnishing satisfactory evidence of fitness to conduct and maintain a facility described in section 25-3-101 in accordance with the provisions of this part 1 and the rules ~~and regulations~~ adopted by such department. The license shall be signed by the president and attested by the secretary of the state board of health and have the seal thereof affixed thereto. Such license expires one year from the date of issuance.

1 **SECTION 42.** In Colorado Revised Statutes, 25-3-102.5, **amend**
2 (2) (b) (I) as follows:
3 **25-3-102.5. Nursing facilities - consumer satisfaction survey -**
4 **pilot survey.** (2) (b) (I) The state and local long-term care ombudsman,
5 established pursuant to article ~~11.5 of title 26~~ 11 OF TITLE 25.5, C.R.S., in
6 compliance with the federal "Older Americans Act of 1965",
7 ("ombudsman") shall refer to the state department for investigation and
8 resolution all complaints received by the ombudsman involving possible
9 licensure violations in nursing homes that are exclusively private pay
10 facilities.
11 **SECTION 43.** In Colorado Revised Statutes, 25-27-104, **amend**
12 (2) (d) as follows:
13 **25-27-104. Minimum standards for assisted living residences**
14 **- rules.** (2) Rules promulgated by the state board pursuant to subsection
15 (1) of this section shall include, as a minimum, provisions requiring the
16 following:
17 (d) That the Colorado long-term care ombudsman, designated by
18 the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING,
19 have access to the premises and residents during reasonable hours for the
20 purposes set out in the federal "Older Americans Act of 1965";
21 **SECTION 44.** In Colorado Revised Statutes, 25-27.5-102,
22 **amend** (1.5) and (6.7) as follows:
23 **25-27.5-102. Definitions.** As used in this article, unless the
24 context otherwise requires:
25 (1.5) "Community-centered board" has the meaning set forth in
26 section ~~27-10.5-102,~~ 25.5-10-102, C.R.S.
27 (6.7) "Service agency" has the meaning set forth in section

1 ~~27-10.5-102,~~ 25.5-10-102, C.R.S.

2 **SECTION 45.** In Colorado Revised Statutes, 25-27.5-103,
3 **amend** (1.5) (a) (I) as follows:

4 **25-27.5-103. License required - civil and criminal penalties.**
5 (1.5) (a) Notwithstanding any provision of law to the contrary, by March
6 1, 2011, the following providers of skilled home health services or
7 in-home personal care services shall apply for licensure as a home care
8 agency to the department:

9 (I) Community-centered boards designated pursuant to section
10 ~~27-10.5-105~~ 25.5-10-108, C.R.S.; and

11 **SECTION 46.** In Colorado Revised Statutes, 25-39-104, **amend**
12 (2) (a) (XI) as follows:

13 **25-39-104. Colorado Alzheimer's coordinating council -**
14 **creation - membership - procedures.** (2) The council shall be
15 composed of twenty-two members as follows:

16 (a) The president of the senate and the speaker of the house of
17 representatives shall jointly appoint eleven members as follows:

18 (XI) The state long-term care ombudsman, as defined in section
19 ~~26-11.5-103,~~ 25.5-11-103, C.R.S., or a local ombudsman, as defined in
20 section ~~26-11.5-103,~~ 25.5-11-103, C.R.S., that is recommended to the
21 president and the speaker by the state long-term care ombudsman;

22 **SECTION 47.** In Colorado Revised Statutes, 25.5-1-201, **amend**
23 (1) (e) and (1) (f); and **add** (1) (g), (1) (h), and (1) (i) as follows:

24 **25.5-1-201. Programs to be administered by the department**
25 **of health care policy and financing.** (1) Programs to be administered
26 and functions to be performed by the department of health care policy and
27 financing shall be as follows:

1 (e) The "Children's Basic Health Plan Act", as specified in article
2 8 of this title; ~~and~~
3 (f) The old age pension health and medical care program and the
4 supplemental old age pension health and medical care program, as
5 specified in section 25.5-2-101;
6 (g) THE "OLDER COLORADANS' ACT", AS SPECIFIED IN ARTICLE 9
7 OF THIS TITLE;
8 (h) PROGRAMS FOR THE CARE AND TREATMENT OF PERSONS WITH
9 DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN ARTICLE 10 OF THIS TITLE;
10 AND
11 (i) THE "COLORADO LONG-TERM CARE OMBUDSMAN ACT", AS
12 SPECIFIED IN ARTICLE 11 OF THIS TITLE.
13 **SECTION 48.** In Colorado Revised Statutes, 25.5-1-303, **add** (1)
14 (f), (1) (g), (1) (h), and (9) as follows:
15 **25.5-1-303. Powers and duties of the board - scope of authority**
16 **- rules.** (1) The board shall have the authority set forth in subsection (3)
17 of this section over the following programs administered by the state
18 department:
19 (f) THE "OLDER COLORADANS' ACT", AS SPECIFIED IN ARTICLE 9
20 OF THIS TITLE;
21 (g) PROGRAMS FOR THE CARE AND TREATMENT OF PERSONS WITH
22 DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN ARTICLE 10 OF THIS TITLE;
23 AND
24 (h) THE "COLORADO LONG-TERM CARE OMBUDSMAN ACT", AS
25 SPECIFIED IN ARTICLE 11 OF THIS TITLE.
26 (9) THE RULES AND ORDERS OF THE DEPARTMENT OF HUMAN
27 SERVICES AND THE STATE BOARD OF HUMAN SERVICES IN CONNECTION

1 WITH THE PROGRAMS SPECIFIED IN PARAGRAPHS (f), (g), AND (h) OF
2 SUBSECTION (1) OF THIS SECTION SHALL CONTINUE TO BE EFFECTIVE UNTIL
3 REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.
4 **SECTION 49.** In Colorado Revised Statutes, 25.5-4-103, **amend**
5 (3) and (9) (a) as follows:
6 **25.5-4-103. Definitions.** As used in this article and articles 5 and
7 6 of this title, unless the context otherwise requires:
8 (3) "Case management services" means services provided by
9 community-centered boards, as defined by section ~~27-10.5-102 (3),~~
10 ~~C.R.S.~~ 25.5-10-102, and community mental health centers and community
11 mental health clinics, as defined by section 27-66-101, C.R.S., to assist
12 ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES,
13 as defined by section ~~27-10.5-102 (11), C.R.S.~~ 25.5-10-102, and persons
14 with mental illness, as defined by section 27-65-102 (14), C.R.S., by case
15 management agencies, as defined in section 25.5-6-303 (5), providing
16 services, as defined in sections 25.5-6-104 (2) (b) and 25.5-6-303 (6), to
17 PERSONS WHO ARE elderly, blind, and disabled ~~persons~~ and long-term care
18 clients, in gaining access to needed medical, social, educational, and other
19 services.
20 (9) "Intermediate nursing facility for ~~the mentally retarded~~
21 PERSONS WITH INTELLECTUAL DISABILITIES" means a tax-supported,
22 state-administered intermediate nursing facility, or a distinct part of such
23 facility, which meets the state nursing home licensing standards set forth
24 in section 25-1.5-103 (1) (a) (I), C.R.S., and the requirements in 42
25 U.S.C. sec. 1396d and which:
26 (a) Is maintained primarily to provide health-related care on a
27 regular basis for ~~the mentally retarded~~ PERSONS WITH INTELLECTUAL

1 DISABILITIES or for persons with developmental disabilities, as defined in
2 section ~~27-10.5-102 (11), C.R.S.~~ 25.5-10-102, who do not require the
3 degree of care and treatment which a hospital or skilled nursing facility
4 can provide but who, because of their mental or physical condition,
5 require care and services above the level of room and board, which can
6 be made available only through institutional facilities; and
7 **SECTION 50.** In Colorado Revised Statutes, 25.5-5-306, **amend**
8 (1) as follows:
9 **25.5-5-306. Residential child health care - waiver - program**
10 **- rules.** (1) The state department, in cooperation with the department of
11 human services, shall implement a program concerning residential child
12 health care under this article and articles 4 and 6 of this title to provide
13 services pursuant to article 67 of title 27, C.R.S., to medicaid-eligible
14 children residing in residential child care facilities, as that term is defined
15 in section 26-6-102 (8), C.R.S., to medicaid-eligible children residing in
16 psychiatric residential treatment facilities, and children placed by the
17 department of human services or through county departments of social
18 services in licensed or certified out-of-home placement facilities.
19 Children with developmental disabilities, as defined in section
20 ~~27-10.5-102 (11), C.R.S.~~ 25.5-10-102, who are placed in such facilities
21 shall meet the out-of-home placement criteria described in section
22 19-1-107, C.R.S., and shall be neglected or dependent as described in
23 section 19-3-102, C.R.S. The state board shall establish the type of
24 rehabilitative or medical assistance services to be provided under the
25 program as described in subsection (3) of this section, to the extent such
26 services are cost-efficient, and the recipient eligibility criteria that may
27 include, but are not limited to, a medical necessity determination and a

1 financial eligibility determination. The state board shall define in rule the
2 staff permitted to order, monitor, and assess seclusion and restraint in
3 psychiatric residential treatment facilities, and the corresponding
4 restrictions on the use of seclusion and restraint.
5 **SECTION 51.** In Colorado Revised Statutes, 25.5-6-204, **amend**
6 (1) (b), (1) (c) (I), and (1) (c) (II) as follows:
7 **25.5-6-204. Providers - reimbursement - intermediate care**
8 **facility for persons with intellectual disabilities - reimbursement -**
9 **maximum allowable.** (1) (b) State-operated intermediate care facilities
10 for ~~the mentally retarded~~ PERSONS WITH INTELLECTUAL DISABILITIES shall
11 be reimbursed based on the actual costs of administration, property,
12 including capital-related assets, and room and board, and the actual costs
13 of providing health care services, and such costs shall be projected by
14 such facilities and submitted to the state department by July 1 of each year
15 for the ensuing twelve-month period. Reimbursement to state-operated
16 intermediate care facilities for ~~the mentally retarded~~ PERSONS WITH
17 INTELLECTUAL DISABILITIES shall be adjusted retrospectively at the close
18 of each twelve-month period. The state board shall adopt rules to be
19 effective by June 30, 1988, implementing the provisions of this paragraph
20 (b). In the implementation of such rules, the state department shall ensure,
21 by the establishment of classes of facilities, that the reimbursement to
22 private, nonprofit, or proprietary state-operated intermediate care
23 facilities for ~~the mentally retarded or developmentally disabled~~ PERSONS
24 WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES, as defined in
25 section ~~27-10.5-102 (11), C.R.S.~~ 25.5-10-102, is not adversely impacted.
26 (c) (I) Beginning in fiscal year 2003-04, and for each fiscal year
27 thereafter, the STATE department ~~of human services~~ is authorized to

1 charge both privately owned intermediate care facilities for ~~the mentally~~
2 ~~retarded~~ PERSONS WITH INTELLECTUAL DISABILITIES and state-operated
3 intermediate care facilities for ~~the mentally retarded~~ PERSONS WITH
4 INTELLECTUAL DISABILITIES a service fee for the purposes of maintaining
5 the quality and continuity of services provided by intermediate care
6 facilities for ~~the mentally retarded~~ PERSONS WITH INTELLECTUAL
7 DISABILITIES. The service fee charged by the STATE department ~~of human~~
8 ~~services~~ pursuant to this paragraph (c) shall not exceed five percent of the
9 costs incurred by each intermediate care facility for the fiscal year in
10 which the service fee is charged. The state board ~~of human services~~ shall
11 adopt rules consistent with federal law in order to implement the
12 provisions of this paragraph (c).
13 (II) The moneys collected in each fiscal year pursuant to
14 subparagraph (I) of this paragraph (c) shall be transmitted by the STATE
15 department ~~of human services~~ to the state treasurer, who shall credit the
16 same to the service fee fund, which fund is hereby created and referred to
17 in this paragraph (c) as the "fund". The moneys in the fund shall be
18 subject to annual appropriation by the general assembly to the state
19 department to be used toward the state match for the federal financial
20 participation to reimburse intermediate care facilities for ~~the mentally~~
21 ~~retarded~~ PERSONS WITH INTELLECTUAL DISABILITIES pursuant to this
22 section. Any unexpended and unencumbered moneys remaining in the
23 fund at the end of any fiscal year shall remain in the fund and not be
24 credited or transferred to the general fund or any other fund.
25 **SECTION 52.** In Colorado Revised Statutes, 25.5-6-403, **amend**
26 (1), (3), (5) (a) (II), and (5) (b) as follows:
27 **25.5-6-403. Definitions.** As used in this part 4, unless the context

otherwise requires:

(1) ~~"Developmentally disabled person" means a person with a developmental disability as defined~~ "DEVELOPMENTAL DISABILITY" HAS THE SAME MEANING AS SET FORTH in section ~~27-10.5-102, C.R.S.~~ 25.5-10-102.

(3) "In-home services" means those services described in section ~~27-10.5-406, C.R.S.~~ 25.5-10-205 provided to support individuals living with their family.

(5) (a) "Services for persons with developmental disabilities" means those services:

(II) Necessary to prevent a person, eligible for services under subsection (2) of this section, from being subjected to placement in an intermediate care facility for ~~the mentally retarded~~ PERSONS WITH INTELLECTUAL DISABILITIES.

(b) "Services for ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES" includes, but is not limited to, social, habilitative, remedial, residential, health services, and services provided under the consumer-directed care service model, part 11 of this article, which shall include the selection, from a list of qualified entities, of an organization of the eligible person's choice to provide financial management services for the eligible person.

SECTION 53. In Colorado Revised Statutes, 25.5-6-409, **amend** (1) and (4), introductory portion as follows:

25.5-6-409. Services for persons with developmental disabilities. (1) A program to provide home- and community-based services to persons with developmental disabilities who are in need of the level of care available in an intermediate care facility for ~~the mentally~~

1 ~~retarded~~ PERSONS WITH INTELLECTUAL DISABILITIES is hereby established
2 pursuant to the federal "Social Security Act", as amended. This program
3 shall provide for the social, habilitative, remedial, residential, health, and
4 other needs of persons with developmental disabilities to avoid placement
5 in an intermediate care facility for ~~the mentally retarded~~ PERSONS WITH
6 INTELLECTUAL DISABILITIES.
7 (4) Any services for ~~the developmentally disabled~~ PERSONS WITH
8 DEVELOPMENTAL DISABILITIES provided through this program shall be set
9 forth in a plan of care developed and managed by a community-centered
10 board and subject to review and approval pursuant to section 25.5-6-404.
11 The plan of care shall:
12 **SECTION 54.** In Colorado Revised Statutes, 26-1-201, **repeal** (1)
13 (s), (1) (t), and (1) (y) as follows:
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 (s) ~~The "Older Coloradans' Act", as specified in article 11 of this~~
19 ~~title;~~
20 (t) ~~The "Colorado Long-term Care Ombudsman Act", as specified~~
21 ~~in article 11.5 of this title;~~
22 (y) ~~Programs for the care and treatment of the developmentally~~
23 ~~disabled, as specified in article 10.5 of title 27, C.R.S.;~~
24 **SECTION 55.** In Colorado Revised Statutes, 26-2-122.3, **amend**
25 (1) (a) (I) as follows:
26 **26-2-122.3. Adult foster care and home care allowance.**
27 (1) (a) (I) The state department, subject to available appropriations, may

1 provide adult foster care for persons eligible to receive old age pension,
2 aid to the needy disabled, or aid to the blind. For purposes of this
3 paragraph (a), "adult foster care" means care and services that, in addition
4 to room and board, may include, but are not limited to, personal services,
5 recreational opportunities, transportation, utilization of volunteer services,
6 and special diets. Such care and services are provided to recipients of
7 federal supplemental security income benefits who are also eligible for
8 the Colorado supplement program for aid to the needy disabled or aid to
9 the blind and who do not require skilled nursing care or intermediate
10 health care and cannot remain in or return to their residences but who
11 need to reside in a supervised nonmedical setting on a twenty-four-hour
12 basis. Those persons with developmental disabilities as defined in section
13 ~~27-10.5-102,~~ 25.5-10-102, C.R.S., or who are receiving or are eligible to
14 receive services pursuant to ARTICLE 10 OF TITLE 25.5, C.R.S., OR any
15 provision of title 27, C.R.S., do not qualify for adult foster care under this
16 paragraph (a).
17 **SECTION 56.** In Colorado Revised Statutes, 26-12-402, **amend**
18 (3) (b) (III) as follows:
19 **26-12-402. Board of commissioners of state and veterans**
20 **nursing homes - creation - powers and duties.** (3) (b) The governor
21 shall appoint the seven members of the board of commissioners as
22 follows:
23 (III) The state long-term care ombudsman, as defined in section
24 ~~26-11.5-103 (7)~~ 25.5-11-103, C.R.S., or a local ombudsman, as defined
25 in section ~~26-11.5-103 (2)~~ 25.5-11-103 (2), C.R.S., that is recommended
26 to the governor by the state long-term care ombudsman.
27 **SECTION 57.** In Colorado Revised Statutes, 27-10.5-702,

1 **amend** (3), (9), and (11) as follows:

2 **27-10.5-702. Definitions.** As used in this part 7, unless the
3 context otherwise requires:

4 (3) "Certified early intervention service broker" or "broker" means
5 a community-centered board or other entity designated by the department
6 OF HEALTH CARE POLICY AND FINANCING PURSUANT TO SECTION
7 25.5-10-108, C.R.S., to perform the duties and functions specified in
8 section 27-10.5-708 in a particular designated service area.
9 Notwithstanding the provisions of section 27-10.5-104 (4), if the
10 department OF HEALTH CARE POLICY AND FINANCING is unable to
11 designate a community-centered board or other entity to serve as the
12 broker for a particular designated service area, the department shall serve
13 as the broker for the designated service area and may contract directly
14 with early intervention service providers to provide early intervention
15 services to eligible children in the designated service area.

16 (9) "Eligible child" means an infant or toddler, from birth through
17 two years of age, who, as defined by the department in accordance with
18 part C, has significant delays in development or has a diagnosed physical
19 or mental condition that has a high probability of resulting in significant
20 delays in development or who is eligible for services pursuant to section
21 ~~27-10.5-102 (11) (c)~~ 25.5-10-102 (11) (c), C.R.S..

22 (11) "Individualized family service plan" or "IFSP" means a
23 written plan developed pursuant to 20 U.S.C. sec. 1436 and 34 CFR
24 303.340 that authorizes the provision of early intervention services to an
25 eligible child and the child's family. An IFSP shall serve as the
26 individualized plan, pursuant to section ~~27-10.5-102 (20) (c),~~ 25.5-10-102
27 (23) (c), C.R.S., for a child from birth through two years of age.

1 **SECTION 58.** In Colorado Revised Statutes, 30-28-115, **amend**
2 (2) (a) as follows:
3 **30-28-115. Public welfare to be promoted - legislative**
4 **declaration - construction.** (2) (a) The general assembly hereby finds
5 and declares that it is the policy of the state to assist ~~developmentally~~
6 ~~disabled~~ persons WHO ARE DEVELOPMENTALLY DISABLED to live in normal
7 residential surroundings. Further, the general assembly declares that the
8 establishment of state-licensed group homes for the exclusive use of
9 developmentally disabled persons, which are known as community
10 residential homes as defined in section ~~27-10.5-102 (4),~~ 25.5-10-102,
11 C.R.S., is a matter of statewide concern and that a state-licensed group
12 home for eight developmentally disabled persons is a residential use of
13 property for zoning purposes. The phrase "residential use of property for
14 zoning purposes", as used in this subsection (2), includes all forms of
15 residential zoning and specifically, although not exclusively,
16 single-family residential zoning. ~~"Developmentally disabled"~~ AS USED in
17 this section, ~~means a~~ "person with a developmental disability" ~~as defined~~
18 ~~in~~ HAS THE SAME MEANING AS SET FORTH IN section ~~27-10.5-102,~~
19 25.5-10-102, C.R.S.
20 **SECTION 59.** In Colorado Revised Statutes, 31-23-303, **amend**
21 (2) (a) as follows:
22 **31-23-303. Legislative declaration.** (2) (a) The general assembly
23 declares that the establishment of state-licensed group homes for the
24 exclusive use of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL
25 DISABILITIES, which HOMES are known as community residential homes
26 as defined in section ~~27-10.5-102 (4),~~ 25.5-10-102, C.R.S., is a matter of
27 statewide concern and that a state-licensed group home for eight

1 ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES is
2 a residential use of property for zoning purposes. As used in this
3 subsection (2), the phrase "residential use of property for zoning
4 purposes" includes all forms of residential zoning and specifically,
5 although not exclusively, single-family residential zoning.
6 ~~"Developmentally disabled"~~ AS USED in this section, ~~means a person with~~
7 ~~a developmental disability as defined~~ "PERSONS WITH DEVELOPMENTAL
8 DISABILITIES HAS THE SAME MEANING AS SET FORTH in section
9 ~~27-10.5-102,~~ 25.5-10-102, C.R.S.
10 **SECTION 60.** In Colorado Revised Statutes, 39-3.7-101, **amend**
11 (1.5) as follows:
12 **39-3.7-101. Definitions.** As used in this article, unless the context
13 otherwise requires:
14 (1.5) "Person with a disability" means any individual with a
15 physical impairment, a developmental disability as defined in section
16 ~~27-10.5-102 (11) (a),~~ 25.5-10-102, C.R.S., or ~~mental retardation~~ AN
17 INTELLECTUAL DISABILITY that substantially limits one or more of the
18 major life activities of the individual.
19 **SECTION 61.** In Colorado Revised Statutes, 39-22-530, **amend**
20 (1) (b) and (1) (c) as follows:
21 **39-22-530. Credit for employers that hire persons with**
22 **developmental disabilities - definitions.** (1) As used in this section,
23 unless the context otherwise requires:
24 (b) "Developmental disability" ~~shall have~~ HAS the same meaning
25 as set forth in section ~~27-10.5-102 (11) (a),~~ 25.5-10-102, C.R.S., and in
26 the rules adopted by the department of ~~human services~~ HEALTH CARE
27 POLICY AND FINANCING pursuant to section ~~27-10.5-103 (2),~~ 25.5-10-103

1 (2), C.R.S.

2 (c) "Person with a developmental disability" ~~shall have~~ HAS the

3 same meaning as set forth in section ~~27-10.5-102 (11) (b),~~ 25.5-10-102,

4 C.R.S.

5 **SECTION 62.** In Colorado Revised Statutes, 39-26-123, **amend**

6 (3) (a) introductory portion as follows:

7 **39-26-123. Receipts - disposition - transfers of general fund**

8 **surplus - sales tax holding fund - creation - definitions.** (3) (a) For any

9 state fiscal year commencing on or after July 1, 2006, eighty-five percent

10 of all net revenue collected under the provisions of this article shall be

11 credited to the old age pension fund created in section 1 of article XXIV

12 of the state constitution. The remaining fifteen percent shall be allocated

13 between the general fund and the older Coloradans cash fund created in

14 section ~~26-11-205.5~~ 25.5-9-206 (5), C.R.S., and credited to the funds by

15 the state treasurer as follows: ***<{ This section amends 39-26-123 as it***

16 ***becomes effective on July 1, 2012. If this bill uses a safety clause, we***

17 ***will also need to edit the version of 39-26-123 as it is effective until July***

18 ***1. }>***