FY20-PR#03. Implement Bail Bond Reform [Statutory]

Recommendation FY20-PR#03.
Amends, appends, or deletes and replaces several sections of statute related to pretrial services and bail/bond. This recommendation combines 14 pretrial and bond-related elements that address:

- pretrial risk assessment (PRA) **[ELEMENT 3.1, p.1]**
- PRA use and data collection **[ELEMENT 3.2, p.2]**
- expansion of pretrial services statewide **[ELEMENT 3.3, p.3]**
- expansion of the use of summons **[ELEMENT 3.4, p. 4]**
- bail bond violations **[ELEMENT 3.5, p. 5]**
- release conditions **[ELEMENT 3.6, p. 6]**
- expedited pretrial release process **[ELEMENT 3.7, p. 7]**
- pretrial services funding, standards, assessment and training **[ELEMENT 3.8, p. 9]**
- initial bond hearing process and monetary conditions of bond **[ELEMENT 3.9, p. 10]**
- public defender and district attorney involvement in bail hearings **[ELEMENT 3.10, p. 12]**
- training for pretrial stakeholders **[ELEMENT 3.11, p. 13]**
- expedited appeal process **[ELEMENT 3.12, p. 13]**
- telejustice program fund **[ELEMENT 3.13, p. 14]**
- pretrial community advisory boards **[ELEMENT 3.14, p. 14]**

Each "ELEMENT" (3.1 through 3.14) is described in detail below followed by "Discussion" (p. 15). Draft statutory language is included in the "Appendix" (following p. 18, see Appendix pages 1-25).

ELEMENT 3.1: Require a pretrial risk assessment instrument that will assist the court in release decisions for felony, misdemeanor and traffic level offenses that do not qualify for a mandatory summons.
Amend §16-4-103 (3) (b), C.R.S., to require that a pretrial risk assessment instrument must be available and shall be utilized by state judicial officers in all counties throughout Colorado, including Denver County Court, for the purpose of assisting in all release decisions for felony, misdemeanor and traffic cases when the offense charged does not meet the requirement for a mandatory summons.

The court shall not use the results of any such instrument as the sole basis for determining release or detention. Other criteria shall be considered, including those circumstances contained in §16-4-103 (5), C.R.S. The results of a risk assessment provided to the court must include the risk category of the defendant along with the descriptive success rates for each risk category, if available.

Effective date of this section January 1, 2021.

Draft Statutory Language [ELEMENT 3.1.]: See statutory language §16-4-103 **(Appendix, p. 1)**.

ELEMENT 3.2: Criteria for the use of a pretrial risk instrument and data collection for validation and impact of an instrument.

Any pretrial risk assessment instrument used in Colorado must meet the following criteria:

- By December 1, 2020, the Division of Criminal Justice (DCJ) shall compile an inventory of approved risk assessment instruments available and authorized for use in Colorado. Any instrument authorized and approved by DCJ must be empirically developed and validated.
- By January 1, 2021, any risk assessment instrument approved for use must have been evaluated and validated in Colorado to maximize accuracy and to statistically minimize bias of race, ethnicity and gender. Additionally, by February 1, 2022, the outcomes of the bond setting process, including the type of bond set, the amount of any secured or unsecured monetary condition of bond, and any other conditions of release on bond, if available, must be evaluated for bias on the basis of race, ethnicity, and gender by judicial district.
- The evaluations for bias based on race, ethnicity and gender shall be conducted by DCJ. DCJ shall develop a data collection process for all judicial districts in order to obtain the necessary data to conduct or have conducted the evaluation and shall report on the limits of the data, if any.
- Any approved risk assessment instrument must be re-evaluated for accuracy and for bias as described above at least once every three years. These evaluations, at a minimum, must include considerations of release rates, release conditions, technical violations or revocations and performance by race, ethnicity and gender to monitor disparate impact within the system.
- The Department of Public Safety, as part of their SMART Act hearing, shall present the findings of any study conducted to evaluate the risk assessment instrument for bias and efforts to reduce any identified bias.
- Beginning January 1, 2024, any risk assessment instrument approved for use, to the extent possible, must provide pretrial decisions-makers separate risk category information for each of the pretrial risks identified in §16-4-103(3)(a), C.R.S.
- In order to evaluate the instrument for bias and proper measurement of risk factors, beginning in January 1, 2021, each jurisdiction shall collect all relevant data as requested by DCJ. The data must, at a minimum, include the following information for each person assessed:
    - Race, ethnicity and gender
    - The pretrial risk category
    - Scores assigned to each underlying variable included in a risk assessment instrument
    - The total risk assessment instrument score
    - Any recommendation made by a structured decision-making instrument, if available
    - Whether the recommendation of the structured decision-making instrument was followed by the court, if available
    - The bond type set by the court
    - The conditions of bond set by the court, which must include, but is not limited to, whether any monetary condition was imposed
    - If the defendant failed to appear for court while on pretrial release, whether the defendant subsequently appeared in the case within 30 days, ninety days and one hundred twenty days, and, to the extent information is available, whether the appearance was voluntary, through arrest on a warrant on the case, or arrest for another criminal case
    - The pretrial supervision outcome

  - Bond revocations, if any
  - The results of any additional assessments used in order to provide additional information to the court
- DCJ shall provide technical assistance to local pretrial services program stakeholders to include training, education, informational materials and tools to track outcomes and fidelity to best practices. DCJ shall also collect, analyze, and report centralized data to identify pretrial services trends and outcomes throughout the state. The State Court Administrator's Office and the Department of Public Safety shall cooperate to develop and agree upon information sharing and reporting methodologies to be used to allow for the data collection and evaluations required pursuant to the provisions of this section.

Draft Statutory Language [ELEMENT 3.2]: See statutory language §16-4-103 **(Appendix, p. 1).**

ELEMENT 3.3: Expand pretrial services statewide and provide state resources for certain assessment and supervision costs with the priority given to assessment costs.
Amend §16-4-106, C.R.S., such that pretrial services must exist in all counties in Colorado and the Colorado General Assembly shall create a Pretrial Services Fund that consists of any money appropriated by the General Assembly to the Fund and any money received through gifts, grants or donations. The Pretrial Services Fund shall be operated by DCJ and allocation of funds to counties shall be executed by the Division in accordance with the priorities as outlined below. The money in the fund shall be subject to annual appropriation by the General Assembly for implementation of the provisions of Title 16 Article 4. The money in the fund must be used to fund individual counties or counties working in cooperation with each other that request funds to operate or assist in the operation of a pretrial services program as required by §16-4-106(1), C.R.S., and to fund the necessary program services required by this section to be conducted by DCJ.

Money may be used by counties for the administrative and personnel costs related to the operation of a pretrial service program and any adjunct services including, but not limited to, program development, assessment services, supervision services, monitoring and contract services when appropriate. **Money may be used by counties to supplant the county funds currently allocated for pretrial services program, to create a new pretrial services program or to enhance the current county pretrial services program.**

Funding priorities for pretrial services programs shall be as follows:

1. **Any cost associated with start-up of a new pretrial services program**.
2. **Assessment services allowing for the release of arrestees and the program development for these assessment services.** Program development must include plans for the collection of data as required by the provisions of CCJJ Recommendations FY20-PR#01 and FY20-PR#02. Assessments services shall be funded pursuant to a formula that estimates the average amount of time for an individual assessment plus court time, an average salary for a pretrial services worker and the number of assessments predicted for that county. No county shall be provided funds for assessment services in excess of the dollar amount that is the equivalent, to the extent possible, to the statewide average cost of two (2.0) FTEs. Assessment dollars may be provided based on the county numbers or judicial district numbers, whichever is more practicable and cost-effective as

determined by DCJ. Assessment services shall be directly provided by the county/judicial district. No costs of assessment shall be assessed against any defendant at any time.

3. **Supervision services for the higher risk offenders that require supervision**. Supervision services shall conform to the recommendation in ELEMENT 3.6. No county shall be provided funds for supervision services in excess of the dollar amount that is equivalent, to the extent possible, to the statewide average cost of one (1.0) FTE. The costs of supervision including the costs of compliance with any term or condition of supervision may only be assessed as a cost of prosecution upon conviction and only if the person does not qualify as indigent under the standards of eligibility for court-appointed counsel at the time of sentencing.

Draft Statutory Language [ELEMENT 3.3]: See statutory language §16-4-106 **(Appendix, p. 12)**. See also §16-4-106.5. Pretrial services fund created **(Appendix, p. 15).**

ELEMENT 3.4: Expand the use of summons to include mandatory summons and discretionary summons, each with appropriate public safety overrides.
Replace §16-5-206 and expand the mandatory use of summons for misdemeanors, traffic and petty offenses and give local jurisdictions discretion to use summons for felony offenses.

A summons shall be issued for all offenses for which monetary conditions of release are prohibited pursuant to §16-4-113(2), C.R.S., unless the location of the person is unknown and the issuance of an arrest warrant is necessary in order to subject the person to the jurisdiction of the court.

A summons shall be issued for misdemeanor offenses and municipal offenses for which there is a comparable state misdemeanor charge unless certain exceptions exist. Those exceptions are:

- Arrest is mandatory under another statute.
- The crime is defined as a "crime" in §24-4.1-302(1), C.R.S., for purposes of the rights of victims; or
- The facts and circumstances indicate a substantial risk that the person will attempt to flee prosecution; or
- The facts and circumstances indicate an imminent and substantial risk that a victim, witness, or any person other than the defendant may be harmed if the person is not arrested; or
- There is probable cause that the person committed an offense under §42-4-1301, C.R.S.; or
- There is probable cause that the person used or possessed a deadly weapon as defined in §18-1-901(3)(e), C.R.S., during the commission of the offense; or
- The location of the person is unknown and the issuance of an arrest warrant is necessary in order to subject the person to the jurisdiction of the court.

For felony offenses, unless there is a statutory provision mandating arrest, law enforcement officers retain the discretion to release a person pending a filing decision by the district attorney.

After the district attorney has determined a felony charge will be filed, the district attorney may request that the court issue a summons or a warrant for the person's arrest. For Class 4, 5 or 6 felonies and level 3 or 4 drug felonies, there shall be a preference and a presumption in favor of a summons instead of an arrest or arrest warrant unless certain exceptions exist. Those exceptions are:

- Arrest is mandatory under another statute.
- The crime is defined as a "crime" in § 24-4.1-302(1), C.R.S., for purposes of the rights of victims; or
- The facts and circumstances indicate a substantial risk that the person will attempt to flee prosecution; or
- The facts and circumstances indicate an imminent and substantial risk that a victim, witness, or any person other than the defendant may be harmed if the person is not arrested; or
- There is probable cause that the person committed an offense under 42-4-1301, C.R.S., or
- There is probable cause that the person used or possessed a deadly weapon as defined in 18-1-901(3)(e), C.R.S., during the commission of the offense; or
- The location of the person is unknown and the issuance of an arrest warrant is necessary in order to subject the person to the jurisdiction of the court.

Draft Statutory Language [ELEMENT 3.4]: See statutory language §16-5-206 **(Appendix, p. 21)**. See also §16-4-207 **(Appendix, p. 20).**

ELEMENT 3.5: Eliminate Section 18-8-212 (Violation of bail bond conditions) and establish the crime of violation of bail bond appearance conditions. Establish a contempt process for violation of non-appearance bail bond conditions. Clarify the crime of protection order violation.
Delete §18-8-212, regarding the crime of violation of a bail bond conditions, and add §18-8-212.5 with the following provisions:

(1) A person who is released on bond of whatever type, and either before, during or after release is accused by complaint, information, indictment or the filing of a delinquency petition of any felony arising from the conduct for which he or she was arrested, commits a class 6 felony if he knowingly fails to appear for trial or other proceedings with the intent to avoid prosecution.

(2) A person who is released on bail bond of whatever type, and either before, during or after release is accused of any felony or misdemeanor offense arising from the conduct for which he or she was arrested, commits a class 2 misdemeanor if he or she intentionally fails to appear for trial or other proceedings for which victims or witnesses have appeared in court.

(3) No violation of bail bond appearance conditions shall be brought against any person subject to the provisions of §16-4-113(2).

Insert in Article 4 of Title 16 procedures regarding bail revocations. The remedy for violation of a non-appearance bail bond condition(s) must be revocation of the bond as described below.

- It will be clarified that the remedy for violations of non-appearance bail bond conditions must include:
  - Revocation of the original bond for violation of the terms and conditions of release, and setting of a new monetary condition of bond;
  - Revocation and reinstatement of the original bond, after review of the nature of the violation, with additional non-monetary conditions designed to mitigate the risk of flight or the risk to the safety of another person; and
  - Revocation and reinstatement of the original bond after a temporary sanction of up to 72 hours when the person admits to a violation of bond conditions and agrees to a short-term sanction.

- When the violation of supervision involves substance use or abuse and the condition of bond requiring monitored sobriety or prohibited use of alcohol or other controlled substance is consistent with the requirements of ELEMENT 3.6, the court may revoke the bond and reinstate the bond with a temporary sanction as described above. As an alternative to revocation, if the defendant consents, the court may refer the person for treatment services. The court may revoke the bond and set a new bond or conditions of bond when the person refuses intermediate sanctions and has failed to comply with the conditions of bond.

Clarify in §18-1-1001(1) and (2) that a protection order issued pursuant to this section shall remain in effect from the time the person is issued a summons or advised of the protection order by the court or other judicial officer through the duration of the case, unless otherwise ordered by the court.

Clarify in §18-1-1001(3) that a protection order issued under this section is for the protection of an alleged victim or witness and not for the protection of the defendant including the protection of the defendant from the use of alcohol or other substances. Clarify that the issuance of a protection order pursuant to this section must be supported by evidence and input of the victim, when available.

Amend §18-6-803.5 to clarify that a "protected person" as defined in (1.5) (a) must not include the defendant.

Draft Statutory Language [ELEMENT 3.5]: See statutory language §18-8-212 **(Appendix, p. 22)**, §18-1-1001 **(Appendix, p. 22)**, §18-6-803.5 **(Appendix, p. 24).**

ELEMENT 3.6: Clarify conditions of release and limitations on the use of conditions.
The current language in the bail statutes requires the court to impose the least restrictive alternatives as conditions of bond. It is necessary to clarify this in order to avoid applying certain conditions, especially in the area of monitored sobriety.

Clarify in §16-4-104(1), C.R.S., that the court shall determine the type of bond and conditions of release, but that the conditions of release must be limited to requiring that the person appear at any future court date and that the person comply with current mandatory bond conditions. The court may require additional conditions of release when there is sufficient evidence that an additional condition of release will serve to mitigate:

- the risk that the person will pose a substantial risk of danger to the safety of any other person or the community,
- the risk that the person will attempt to flee prosecution, or
- the risk that the person will attempt to obstruct or otherwise willfully avoid the criminal justice process.

The statute should reflect that setting conditions of monitored sobriety without any support services or when alcohol or controlled substances are not an issue contrives an individual to failure. Therefore, monitored sobriety, prohibited use and electronic monitoring shall not be imposed as a condition of bond unless the court enters specific and individualized findings on the record that monitored sobriety or electronic monitoring is necessary in this specific case because it will mitigate a substantial risk of flight or the physical safety of any other person.

There shall be no imposition of monitored sobriety, prohibited use, or electronic monitoring for any misdemeanor case that is not a VRA case, a DUI case, or a case that involves the use or possession of illegal substances or firearms. In these cases, monitored sobriety shall not be imposed automatically. The court shall make the required specific and individualized findings on the record.

Persons committing offenses in §16-4-113(2), C.R.S., shall not be subject to any bond conditions limiting or monitoring the use of alcohol or other controlled substances or GPS supervision.

Clarify in Section §16-4-104, C.R.S., that a person cannot be revoked on pretrial supervision for failure to pay for any pretrial supervision or services that are a condition of release.

Clarify in Section §16-4-104, C.R.S. that "a governmental entity may directly operate a pretrial supervision services program approved pursuant to subsection (1) of this section or enter into a contract with a private profit or nonprofit entity or an agreement with another local governmental entity to provide pretrial supervision services in the county. Prior to entering into a contract with a private profit or nonprofit entity, the governmental entity shall ensure that private entity shall operate without an identifiable conflict. Additionally, each judge requiring pretrial services supervision shall ensure that any supervision or other conditions of release for a defendant under pretrial supervision are the least restrictive conditions of release and are not required for the purposes of financial benefit or gain by or for any entity."

No person under pretrial supervision shall be placed under any conditions that have not been directly ordered by the court. No person released on a monetary condition of bond through a commercial surety shall be required to comply with conditions of supervision that have not been directly ordered by the court.

Draft Statutory Language [ELEMENT 3.6]: See statutory language §16-4-104 **(Appendix, p. 5)** and see also §16-4-104.5. Types of Bond **(Appendix, p. 8).**

ELEMENT 3.7: Establish an expedited pretrial release process.
Modify §16-4-102 and §16-4-103, C.R.S., to establish, through a locally-determined research-based administrative order, an expedited screening process for persons arrested for an offense committed in that jurisdiction which shall be conducted as soon as practicable upon, but no later than 24 hours after, arrival of a person at the place of detention, allowing for the immediate release of certain persons. If a person does not meet the criteria for release as determined by administrative order, the person shall be held until the initial court appearance if a monetary condition of bond is not posted. Also, in §16-4-109, C.R.S., expand the definition of "bonding commissioner."

Screening Process and Criteria: Expedited Release

- Each Judicial District shall develop, by December 1, 2020, a screening process to assess a person upon arrival at the county jail for consideration of immediate release without monetary conditions (on a PR bond or on a summons), without appearing before the court, pursuant to release criteria developed within the judicial district.
- Such criteria shall be developed by each judicial district, in conjunction with all stakeholders, who must include, at a minimum, a representative of the District Attorney's Office, the Public Defender,

the Sheriff's Office within the judicial district, the chief judge or his/her designee, a representative of the pretrial services program, and a victim advocate. The criteria shall be developed in collaboration with DCJ and consistent with best practices in pretrial release. In the development of the criteria, each judicial district shall solicit and obtain the input of at least one individual, or the family member of one individual, who has been incarcerated in the judicial district due to an inability to pay a monetary condition of bond and consider that input in the development of the administrative order. The criteria shall be implemented through the administrative order. The criteria must be objective and must be guided by the principles of release as outlined in §16-4-104, C.R.S.

- The pretrial assessment process shall not involve extra-judicial decision-making by persons doing the assessment. As is current practice in many jurisdictions in Colorado, a matrix or other objective decision-making scheme should be developed to implement the statutory guiding principles.
- The screening process must occur in the jurisdiction where the offense occurred or, if under warrant, in the jurisdiction where the warrant was issued as soon as practicable, but no later than 24 hours, after the individual is received at the county jail, detention facility or other location where the screening is to occur. It is anticipated that the person will be released within 24 hours.[1]
- When developing the criteria for each judicial district, the Chief Judge and the stakeholders shall:
  - incorporate the standards as prepared by DCJ pursuant to the provisions of this section and the recommendations in ELEMENT 3.8.; and
  - consider the practices in all jurisdictions within and throughout the state to promote some statewide consistency in implementation, with deviation from core practices only to the extent that it is necessary to address unique issues that exist within the jurisdiction.
- The guiding principles for the development of the screening process criteria promulgated by the chief judge are "legal and judicial" in nature. The goals for these changes to the screening process are:
  - to provide for the release, as soon as possible, of those persons who would have been recommended for release at court hearing.
  - that decision-making remains local, but provide certain state-wide standards guiding the decision-making that will incorporate best practices and the research into locally developed criteria.
  - to allow for assessment to take place before the person is placed into regular jail pod/ population, which involves much more paperwork and processing and results in a more complicated release process.
  - to reduce the negative consequences to the person who does require placement in a jail pod/ population.
- Local law enforcement shall be provided the criteria for each judicial district they serve to allow adherence to the mandatory use of summons, as well as the discretionary arrest criteria, with respect to any person and to ensure that law enforcement can properly advise the public and any victim of the criteria used.

[1] For example, California requires release within 24 hours of booking when there is a pre-court appearance assessment providing for release, and, for some misdemeanors, within 12 hours of booking without a risk assessment (See, leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB10; California Senate Bill-10 [2017-2018]).

Administrative Order: Release Guidance

The Division of Criminal Justice (DCJ) shall be responsible for developing statewide guidance for release through a local administrative order after review of the relevant research and best practices models throughout the country. In the administrative order, the Chief Judge shall designate a person, agency or program:

- for each jail within the judicial district who shall conduct the assessment process in order to screen persons taken into custody by law enforcement officials; and
- that the delivery of these assessment services shall be accomplished by a county/judicial district employee or contract official and not by a for-profit entity. That person/entity shall be authorized to release persons assessed eligible for release pursuant to the criteria without financial conditions of bond, but with the statutorily-mandated bond conditions and other conditions as determined by statute and the administrative order. That person/entity shall be a bonding and release commissioner. The chief judge is always the final decision-maker regarding the criteria issued in accordance with the administrative order.

The development of the guidance for administrative orders by the Division of Criminal Justice should be informed by research regarding:

- The impact of detention on low-risk persons and recidivism;
- The national and state data and research regarding the use of non-financial conditions of bond as it relates to safety of any person or the community and appearance rates; and
- The relevant case law and national best practices regarding the use of financial conditions of bond.

The administrative order must comply with and implement the provisions of House Bill 19-1225.

Draft Statutory Language [ELEMENT 3.7]: See statutory language §16-4-102 **(Appendix, p. 1)** and §16-4-103 **(Appendix, p. 1)**.

ELEMENT 3.8: Division of Criminal Justice of the Department of Public Safety and duties related to the Pretrial Services Fund, pretrial services standards, pretrial risk assessment, and pretrial technical assistance.

This element includes the following components regarding duties assigned to the Division of Criminal Justice:

- The Division of Criminal Justice (DCJ) of the Department of Public Safety is authorized to administer pretrial funding from the Pretrial Services Fund that consists of any money appropriated by the General Assembly to the Fund and any money received through gifts, grants or donations and to execute all contracts with units of local government or nongovernmental agencies for the provision of pretrial service programs and services.
- DCJ is authorized to establish standards for pretrial service programs operated by units of local government or nongovernmental agencies. Such standards must prescribe minimum levels of services based upon national standards and best practices. The standards shall be promulgated or revised after consultation with representatives including, but not limited to, a pretrial service agency, the office of the state court administrator, the public defender's office, district attorney's council, local law enforcement, victim service agency, non-governmental organization with expertise in pretrial justice, and a person with lived experience in the criminal justice system.

- DCJ shall compile an inventory of approved pretrial risk assessment instruments available and authorized for use in Colorado. Any instrument authorized and approved by DCJ must be empirically developed and validated. Any approved risk assessment instrument must be re-evaluated for accuracy and for bias as described above at least once every three years. These evaluations must, at a minimum, include considerations of release rates, release conditions, technical violations or revocations and performance by race, ethnicity and gender to monitor disparate impact within the system.
- DCJ shall provide technical assistance to pretrial service programs, courts, and local jurisdictions in developing pretrial justice services.

Draft Statutory Language [ELEMENT 3.8]: See statutory language §16-4-103.5 **(Appendix, p. 3).**

ELEMENT 3.9: Revise the initial bond hearing process and the considerations of monetary conditions of bond.

For individuals who do not meet the criteria for expedited pretrial release (*see ELEMENT 3.7*), revise the following statutory elements (in §16-4-104, -107, & -109, C.R.S.) related to the initial bond hearing process, including the considerations of the conditions of monetary bond:

- Assess persons before the hearing, require the court to consider financial circumstances of persons when setting bond, and presume release on bond with the least restrictive conditions.
- The court shall further presume the release of the defendant without monetary conditions unless the court finds that one or more of the following exist:
  - No reasonable non-monetary conditions will address public safety and flight risk **[ELEMENT 3.9.A]**.
  - Require the filing of felony charges within three days, excluding Saturdays, Sundays and legal holidays, unless good cause is shown or with agreement of the parties **[ELEMENT 3.9.B]**.
  - Require reconsideration of monetary and/or non-monetary conditions of bond in both felony and misdemeanor cases (a second look) when good cause is shown and expand the definition of bonding commissioner **[ELEMENT 3.9.C]**.
  - Create an expedited docket for cases where the defendant is in custody on a monetary bond that he/she has not posted **[ELEMENT 3.9.D]**.

Each "ELEMENT" (3.9.A through 3.9.D) is described below in greater detail

ELEMENT 3.9.A: Pretrial assessment and initial considerations of monetary bond and bond conditions.

At the initial court appearance, the court shall:

- Consider the person's risk assessment as provided by an empirically-based risk assessment instrument or instruments;
- Consider the individual circumstances of the defendant including his/her financial circumstances. (This consideration is supported by all recent case law.)
- Consider the nature and severity of the alleged offense

- Consider victim input, if received. (This is always considered in bail setting, subject to the presumption of innocence.)
- Consider all of the relevant statutory factors as outlined in §16-4-103, -104 and -105, C.R.S. and §16-5-206, C.R.S. Retain the provisions that are included in current law about personal factors that the court may consider. This includes prior record and prior failures to appear (FTAs) as they relate to the statutory criteria above.
- Presume release of the person with least restrictive conditions and without the use of any financial conditions of bond, unless the court finds:
  - that the person poses a substantial risk of danger to the safety of any other person or the community; or
  - that there is a substantial risk that the person will attempt to flee prosecution; or
  - that (1) there is a substantial risk that the person will attempt to obstruct the criminal justice process, or otherwise willfully avoid the criminal justice process; and

    (2) there are no reasonable non-monetary conditions of release that will reasonably assure the safety of any person or the community, that the person will not attempt to flee prosecution or that the person will not attempt to obstruct the criminal justice process, or otherwise willfully avoid the criminal justice process.

NOTE: In drafting the language for this section, it should be noted that the following language was included or amended from these sections in H.B.19-1226:

- Delete: 5(h): "*Any facts indicating the possibility of violations of the law if the person in custody is released without certain conditions of release*".
- Strike 5(g) "*any prior failure to appear for court*" and create new subsection allowing consideration of any "*Prior failure to appear that indicate the person in custody's intent to flee or avoid prosecution*".
- Include this factor from HB19-1226: "*All methods of release to avoid unnecessary pretrial incarceration and to avoid unnecessary levels of supervision as conditions of pretrial release*".
- Delete the following language in §16-4-104(2), C.R.S., "*Unless the DA consents or unless the court imposes certain additional individualized conditions of release…a person must not be released on an unsecured PR bond under [certain] circumstances.*"

ELEMENT 3.9.B: Require the filing of felony charges within three working days.
Eliminate long and unnecessary delays in filing of felony cases after the initial advisement and bail setting by the court. Require filing within 3 working days, excluding Saturdays, and Sundays and legal holidays, unless good cause is shown.

Throughout the state, courts differ as to the amount of time the DA has to file charges. Delays in this filing cause extended and unnecessary stays for persons in jail. A significant number of jurisdictions require quick turnarounds for filing of charges. Three business days is adequate time and, if the case has complicated issues or needs more investigation due to the severity of the charges, the DA can ask for additional time for good cause shown. Additionally, the parties can agree to additional time.

ELEMENT 3.9.C: Require reconsideration of bond.
Require a reconsideration hearing of determination of monetary and/or non-monetary conditions of bond in both felony and misdemeanor cases (a second look) when good cause is shown and on an expedited basis (no greater than 3 working days after the motion is filed or the request is made if the defendant is in custody on the present case), unless otherwise agreed to by the parties. This should protect against unnecessary detentions for long periods of time where the court might think a person was able to make a monetary bond, but they cannot. Motions must be in writing in instances of a VRA case, unless the district attorney consents.

Reasonableness must always be reconsidered, as it is constitutionally required. This will also give the court a chance to review the non-monetary conditions of bond to determine if they are reasonable and necessary as well as the least restrictive. *(Note: This language will replace the 2013 language in §16-4-107, C.R.S., and merge this language with the existing language in §16-4-109, C.R.S.)*

For good cause shown, subsequent requests for reconsideration of bond conditions may be considered by the court if there is new or different information that has not been previously presented to the court. The Court may require subsequent reconsiderations be made in writing or may allow an oral motion, and shall allow the district attorney the opportunity to respond. The Court may rule on the basis of the pleadings, or may require a hearing on the matter.

ELEMENT 3.9.D: Create a docket precedence.
Create a docket precedence for cases where the defendant is in custody on a monetary bond that he/she has not posted. Defendants who are detained must have priority for trial and other evidentiary hearings over defendants who are at liberty. This priority should be reconciled with any other statutory priorities in the current law regarding speedy trial, domestic violence cases and sex assault cases.

In order to avoid unnecessary pretrial detention, persons in custody should be given priority in setting their cases. This will help reduce the length of stay for persons in the county jail.

Draft Statutory Language [ELEMENT 3.9] See statutory language §16-4-104 **(Appendix, p. 5)**, §16-4-107 **(Appendix, p. 17)**, and §16-4-109 **(Appendix, p. 17)**. See also, §16-4-105. Conditions of release **(Appendix, p. 10).**

ELEMENT 3.10: Clarify public defender and district attorney involvement in bail hearings.
Append §16-4-104, C.R.S., to clarify in statute that a person is entitled to counsel at the initial bail setting hearing. Clarify that counsel shall have adequate time to prepare for an individualized hearing on bail. Require the court to allow sufficient time on the docket to conduct an individualized hearing to receive the statutorily-mandated information from both the district attorney and defense counsel. Retain language that the district attorney has the right to appear and pretrial information shall be shared. Clarify that the district attorney and defense counsel are entitled to all risk assessment scores and individual item responses and answers on the risk assessment instruments.

Draft Statutory Language [ELEMENT 3.10]: See statutory language §16-4-104 **(Appendix, p. 5).**

ELEMENT 3.11: Comprehensive training for stakeholders.
A new section in statute must be created that requires training on pretrial practices for all relevant stakeholders, which must include judicial officers, district attorneys, public defenders, and alternative defense counsel. In 2019, the CCJJ recommended a policy that stakeholders receive pretrial practices training (see Pretrial Release Task Force Recommendation FY19-PR#08). No action in line with that policy recommendation has occurred to date and there is continuing concern regarding the failure of stakeholders, specifically within the judicial branch, to understand the law, policy and research with respect to bail reform.

The statute must require that each of these entities develop, deliver and/or make available in-depth and localized training to address the law, policy and research on pretrial practices and how each entity will work in cooperation with each other to establish pretrial practices in their jurisdiction consistent with best practices. Each entity shall be required to report to the joint judiciary committees in January 2021 describing in detail the following:

- The training curriculum, as developed by the department or agencies, and a description of how the training was delivered;
- The number of hours dedicated to the training by the state department, state agency or district attorney office and, additionally, the number of hours of training provided/supported within each jurisdiction;
- The number of persons who engaged in the training in each jurisdiction/office, specifically the number of judges, judicial officers, district attorneys and defenders trained;
- The percentage of the total judges, judicial officers, district attorneys and defenders that participated in the training;
- A description of how the jurisdiction has coordinated and jointly trained with other stakeholders and entities to ensure that pretrial practices are delivered effectively and efficiently.

Draft Statutory Language [ELEMENT 3.11]: See statutory language §16-4-xxx **(Appendix, p. 25).**

ELEMENT 3.12: Establish an expedited appeal process and a requirement for the appellate court to address constitutional issues raised in the appeal.
The current appeal process is cumbersome and does not provide adequate review of bond decisions by a higher court. Further, the appeals court is not required to legally address the legal issues raised in any bail appeal.

Create in the provisions of Title 16 an expedited appeal process that:

- Allows for persons to request reconsideration of the bond set by the court at the same time that an appeal proceeds;
- Provides sole jurisdiction for all reconsideration motions with the district court for felony cases subsequent to the first mandatory reconsideration hearing;
- Allows for an audio of the bail hearing to be provided if a transcript cannot be obtained within 72 hours;
- Requires that a subsequent reconsideration motion be ruled upon within 14 days after the deadline for the district attorney to respond;

- The appellate court shall require expedited briefing;
- The appellate court has 14 days from the conclusion of the briefing to issue an order;
- The appellate court shall issue written findings stating the state and federal reasons for decisions and questions of law shall be reviewed de novo;
- The appeal process does not stay the underlying criminal proceedings.

Draft Statutory Language [ELEMENT 3.12]: See statutory language §16-4-204 **(Appendix, p. 19).**

ELEMENT 3.13: Create a telejustice program fund.
It is essential for jurisdictions to use the best technology available to conduct bail hearing timely and efficiently. The County Courthouse and County Jail Funding and Overcrowding Solutions Interim Study Committee (July 17-October 23, 2017) recommended that a telejustice program be developed statewide and the program be funded through General Funds. That recommendation was included in House Bill 18-1131 (Court System for Remote Participation in Hearings), which did not pass the legislature.

The reengrossed version of House Bill 18-1131 properly balances the rights of the person in custody with the need for timely hearing and it enhances current practices and sets standards for best practices in telejustice. It is important that telejustice be used only when the appearance of the defendant will be delayed and the prompt administration of justice denied. However, the use of telejustice is important for the State of Colorado to develop.

Draft Statutory Language [ELEMENT 3.13]: See statutory language §13-3-117 **(Appendix, p. 24).**

ELEMENT 3.14: Increase the representation of the community on the pretrial community advisory boards.
Membership on the community advisory boards pursuant to §16-4-106, C.R.S., must include, at a minimum, a representative of a local law enforcement agency, a representative of district attorneys, a representative of public defenders, a victim representative, and an individual who has been incarcerated in the judicial district or his/her immediate family member. The Chief Judge is encouraged to appoint to the Community Advisory Board at least one county commissioner from a county within the judicial district. The Community Advisory Board may be the same board that is organized to develop the administrative order as recommended in ELEMENT 3.7.

Draft Statutory Language [ELEMENT 3.14]: See statutory language §16-4-106 **(Appendix, p. 12).**

DISCUSSION

Enacted in 2013, current statute encourages, however falls short of requiring, the use of risk assessment in all counties in Colorado. A disparity between jurisdictions that utilize pretrial risk assessment versus those that do not creates inequity at a critical stage of a criminal case (See page 17, Table 1). Research has identified that the pretrial period has significant impacts on the case and individuals accused. While the reasons that risk assessment is not available within a jurisdiction may vary and may be numerous, a common variable is the lack of resources.

A May 2015 *Issue Brief* [2] by the Pre-trial Justice Institute provides a concise overview of pretrial risk assessment and the value of identifying defendant risk for pretrial service decisions:

> An empirically-derived pretrial risk assessment tool is one that has been demonstrated through an empirical research study to accurately sort defendants into categories showing the increased likelihood of a successful pretrial release - that is, defendants make all their court appearances and are not arrested on new charges.
>
> A defendant's risk level should be used to guide two decisions: 1) the decision to release or detain pretrial; and 2) if released, the assignment of appropriate release conditions, such as pretrial supervision. Recent research has shed new light on the importance of accurately assessing risks in making these decisions.
>
> In one study, researchers found that low-risk defendants who were held in jail for just 2 to 3 days were 39% more likely to be arrested than those who were released on the first day. Those who were held 4 to 7 days were 50% more likely to be arrested, and those held 8 to 14 days were 56% more likely. The same patterns hold for medium-risk defendants held for short periods.[3]
>
> That study also found that low-risk defendants who were held in jail throughout the pretrial period were 27% more likely to recidivate within 12 months than low-risk defendants who were released pretrial.[4]
>
> Another study found that low-risk defendants who were detained pretrial were five times more likely to receive a jail sentence and four times more likely to receive a prison sentence than their low-risk counterparts who were released pretrial. Medium-risk defendants who were detained pretrial were four times more likely to get a jail sentence and three times more likely to get a prison sentence.[5]

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[2] Pretrial Justice Institute. (2015, May). *Issue Brief-Pretrial Risk Assessment: Science Provides Guidance on Assessing Defendants*. Rockville, MD: PJI. (See, university.pretrial.org/viewdocument/issue-brief-pretrial-1)

[3] Lowenkamp, C., VanNostrand, M., & Holsinger, A. (2013). *The Hidden Costs of Pretrial Detention*. Houston, TX: Laura and John Arnold Foundation. (See, nicic.gov/hidden-costs-pretrial-detention)

[4] See Footnote #2.

[5] Lowenkamp, C., VanNostrand, M., & Holsinger, A., (2013). *Investigating the Impact of Pretrial Detention on Sentencing Outcomes*. Houston, TX: Laura and John Arnold Foundation. (See, nicic.gov/investigating-impact-pretrial-detention-sentencing-outcomes)

Research has also indicated that putting conditions of non-financial release on low-risk defendants actually increases their likelihood of failure on pretrial release. Rather, the most appropriate response is to release these low-risk defendants with no or minimal specific conditions.[6]

Other studies have found that higher-risk defendants who are released with supervision have higher rates of success on pretrial release. For example, one study found that, when controlling for other factors, higher-risk defendants who were released with supervision were 33% less likely to fail to appear in court than their unsupervised counterparts.[7]

These studies, taken together, demonstrate the longer-term implications of not accurately and quickly identifying, and then acting upon to mitigate, defendants' risk.

Another reason to utilize a defendant's risk score is to make the best use of scarce resources. It is a waste of resources to over-apply conditions to people for whom those conditions are unnecessary to ensure compliance. It is a good use of resources to provide supervision in the community to someone who needs it, when compared to the cost of housing, feeding and providing medical care in jail. Supervision can cost $3 to $6 per day. On the other hand, the housing, feeding, and medical care costs of jail are approximately $50 or more per day.

A report on promising practices in pretrial services[8] by the Pretrial Justice Institute and the American Probation and Parole Association lists multiple organizations that endorse the use of pretrial risk assessment as a component of a pretrial services program to identify the appropriate options for pretrial release: the National Association of Counties, the American Bar Association, the National Association of Pretrial Services Agencies, American Probation and Parole Association, and the International Association of Chiefs of Police.

In summary, the pretrial release decision, controlling for all other factors, has a significant impact on the outcome of a case. The pretrial release decision is often made quickly, based on salient case facts that may not be effective predictors of pretrial release success with the actual release determined by the defendant's ability to pay. Charge-based bond schedules usually do not distinguish between low, medium and high-risk individuals and, as described above, very short periods of pretrial detention of lower risk defendants can result in increased chances of failure. Only evidence-based risk assessment that is provided to the court can help communities distinguish among defendants of varying risk levels.

[6] VanNostrand, M., & Keebler, G. (2009). Pretrial risk assessment in the federal court. *Federal Probation Journal*, *73* (2). (See, uscourts.gov/federal-probation-journal/2009/09/pretrial-risk-assessment-federal-court)

[7] Lowenkamp, C., & VanNostrand, M. (2013). *Exploring the Impact of Supervision on Pretrial Outcomes*. Houston, TX: Laura and John Arnold Foundation. (See, nicic.gov/exploring-impact-supervision-pretrial-outcomes)

[8] Pretrial Justice Institute & American Probation and Parole Association. (2011). *Promising Practices in Providing Pretrial Services Functions within Probation Agencies: A User's Guide.* Rockville, MD: PJI & Lexington: KY: APPA. (See, university.pretrial.org/viewdocument/promising-practices)

Table 1. Colorado counties with or without pretrial services and/or assessment (October 2017).

Summary Sheet Regarding Pretrial Services in Colorado
Colorado - 22 Judicial Districts, 64 Counties

Counties with Pretrial Service or Risk Assessment Instrument (CPAT used unless otherwise noted) (27)	Counties with NO Pretrial Services or Risk Assessment Instrument (37)	
Adams	Archuleta – no jail	Lincoln
Alamosa (contract)	Chaffee	Mineral- not using its jail
Arapahoe (uses county developed assessment tool)	Cheyenne	Montrose
Baca (supervision only through probation)	Clear Creek	Moffat
Bent (CPAT done by court, no pretrial supervision)	Conejos	Ouray – no jail
Boulder	Delta	Park
Broomfield	Dolores	Phillips
Costilla (informal through sheriff's department)	Eagle	Rio Blanco
Crowley (CPAT done by court, no pretrial supervision)	Elbert	Rio Grande
Custer (sheriff's department)	Gilpin	Routt
Denver	Grand	Saguache
Douglas (uses Arapahoe's assessment tool)	Gunnison	San Juan – no jail
El Paso (limited service through sheriff's department)	Hinsdale - no jail	San Miguel
Fremont (sheriff's department)	Huerfano	Sedgwick
Garfield	Jackson	Summit
Jefferson	Kiowa	Teller
La Plata (sheriff's department)	Kit Carson	Washington
Larimer	Lake	Yuma
Logan (contract)	Las Animas	
Mesa		
Montezuma		
Morgan (contract)		
Otero (CPAT done by court, no pretrial supervision)		
Pitkin (Garfield does CPAT with county providing contract supervision)		
Prowers (supervision only through probation)		
Pueblo (contract)		
Weld		

Prepared by: Maureen A. Cain, Colorado Criminal Defense Institute, October 2017

Positive Pretrial Outcomes. A report by the Legislative Auditor General (State of Utah) profiles jurisdictions that have undertaken pretrial reform:

> "An increasing number of jurisdictions are using risk-based decision-making instruments to enhance pretrial decision success. Studies from four jurisdictions using pretrial risk assessments, along with other pretrial programs, show enhanced court attendance and public safety while releasing more defendants and saving money:
>
> Washington DC
> - Savings – $182 a day per defendant released pretrial rather than incarcerated
> - Release Rate – 88 percent of pretrial defendants released
> - Public Safety – 91 percent of defendants remain arrest- free pretrial
> - Court Appearance – 90 percent of defendants made all scheduled court appearances
>
> Kentucky
> - Savings – Up to $25 million per year
> - Release Rate – 73 percent of pretrial defendants released
> - Public Safety – 89 percent did not commit crimes while released
> - Court Appearance – 84 percent appearance rate
>
> Mesa County, CO
> - Savings – $2 million per year
> - Release Rate – Pretrial jail population dropped by 27 percent
> - Public Safety – Uncompromised despite an increase in the number of defendants released
> - Court Appearance – 93 percent of lower-risk defendants and 87 percent of high-risk defendants made all court appearances before trial
>
> Lucas County, OH
> - Savings – not available
> - Release Rate – Doubled from 14 to 28 percent
> - Public Safety – Defendants arrested reduced by half from 20 percent to 10 percent.
> - Court Appearance – Increased by 12 percent from 59 percent to 71 percent.
>
> These examples demonstrate how jurisdictions have leveraged evidence-based decision-making tools to reduce jail populations, crime rates, and taxpayer expense while also improving court appearance rates. Therefore, a growing number of national organizations support the adoption of risk-based decision-making."[9]

The broad implication of failing to provide pretrial supervision programs in all counties is the impact on state recidivism rates and, subsequently, the long-term effect on the state budget. With pretrial detention for low risk offenders, of even two days, predicting an increase in long-term recidivism, failure to manage the pretrial population impacts state recidivism rates, prison population and costs to the entire state system. When seen in this context, from a system's forecasting perspective, the investment in pretrial services saves the state money and enhances public safety.

[9] Office of the Legislative Auditor General: State of Utah. (2017). *A Performance Audit of Utah's Monetary Bail System* (Report #2017-01). (Retrieved from, university.pretrial.org/viewdocument/a-performance-audit-of-utahs-moneta)

APPENDIX

FY20-PR #03: Draft Statutory Language

The draft statutory language below reflects the content and concepts included in the Commission recommendations above. No attempt has been made to adhere to proper bill draft format. For example, the text below does not integrate existing statutory language that has been identified for deletion that in proper bill format would be displayed using strikethroughs.

16-4-102. Right to bail before conviction.

(1) ANY PERSON WHO IS ARRESTED AND HAS NOT BEEN RELEASED PURSUANT TO SECTION 16-4-103 HAS THE RIGHT TO A HEARING TO DETERMINE THE TYPE OF BOND AND CONDITIONS OF RELEASE. THE COURT SHALL REQUIRE THE APPROPRIATE LAW ENFORCEMENT AGENCY HAVING CUSTODY OF THE ARRESTED PERSON TO BRING HIM OR HER BEFORE THE COURT FORTHWITH, AND THE COURT SHALL SET THE TYPE OF BOND AND CONDITIONS OF RELEASE IF THE OFFENSE FOR WHICH THE PERSON WAS ARRESTED IS BAILABLE. IT SHALL NOT BE A PREREQUISITE TO THE COURT SETTING THE TYPE OF BAIL AND CONDITIONS OF RELEASE THAT A CRIMINAL CHARGE OF ANY KIND HAS BEEN FILED.

16-4-103. Pretrial assessment process – Development of criteria by each judicial district – Risk assessment and release program.

(1) IN ORDER TO AVOID UNNECESSARY INCARCERATION AND DELAY IN RELEASING ARRESTED PERSONS, ON OR BEFORE MARCH 1, 2021, EACH JUDICIAL DISTRICT SHALL DEVELOP FOR IMPLEMENTATION BY APRIL 1, 2021:

(a) A PRETRIAL RELEASE ASSESSMENT PROCESS TO ASSESS ARRESTED PERSONS AS SOON AS PRACTICABLE BUT NO LATER THAN TWENTY-FOUR HOURS AFTER ADMISSION TO A DETENTION FACILITY;

(b) AN ADMINISTRATIVE ORDER OF THE CHIEF JUDGE OF THE JUDICIAL DISTRICT SPECIFYING WRITTEN CRITERIA ALLOWING FOR THE IMMEDIATE PRETRIAL RELEASE OF CERTAIN ARRESTED PERSONS ON A SUMMONS OR AN UNSECURED PERSONAL RECOGNIZANCE BOND WITHOUT ANY MONETARY CONDITION AFTER A PRETRIAL RELEASE ASSESSMENT IS COMPLETED AND WITHOUT AN INITIAL HEARING BEFORE THE COURT. THE CRITERIA FOR RELEASE MUST BE DEVELOPED IN CONJUNCTION WITH ALL LOCAL STAKEHOLDERS, WHICH SHALL INCLUDE, AT A MINIMUM, A VICTIM'S ADVOCATE, AND A REPRESENTATIVE OF: THE DISTRICT ATTORNEY'S OFFICE, THE PUBLIC DEFENDER, A SHERIFF'S DEPARTMENT WITHIN THE JUDICIAL DISTRICT, THE PRETRIAL SERVICES PROGRAM, AND THE OFFICE OF THE STATE COURT ADMINISTRATOR. EACH JUDICIAL DISTRICT SHALL ALSO, IN THE DEVELOPMENT OF THE WRITTEN CRITERIA, SOLICIT, OBTAIN AND CONSIDER THE INPUT OF AT LEAST ONE INDIVIDUAL, OR THE FAMILY MEMBER OF ONE INDIVIDUAL, WHO HAS BEEN INCARCERATED IN THE JUDICIAL DISTRICT BECAUSE OF AN INABILITY TO PAY A MONETARY CONDITION OF BOND.

(c) THE WRITTEN CRITERIA SHALL BE IMPLEMENTED THROUGH THE ADMINISTRATIVE ORDER AND SHALL BE OBJECTIVE AND GUIDED BY THE PRINCIPLES OF RELEASE AS OUTLINED IN 16-4-104 AND SHALL ADOPT THE BEST PRACTICES STANDARDS AS DEVELOPED BY THE DEPARTMENT OF

PUBLIC SAFETY PURSUANT TO THE PROVISONS OF 16-4-103.5. EACH JUDICIAL DISTRICT SHALL CONSIDER THE PRACTICES IN OTHER SIMILARLY SITUATED JUDICIAL DISTRICTS THROUGHOUT THE STATE TO PROMOTE STATEWIDE CONSISTENCY IN IMPLEMENTATION, WITH DEVIATION FROM CORE PRATICES ONLY TO THE EXTENT THAT IS NECESSARY TO ADDRESS SPECIFIC ISSUES THAT EXIST WITHIN THAT JUDICIAL DISTRICT.

(2) IN THE ADMINISTRATIVE ORDER CREATED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, THE CHIEF JUDGE OF THE JUDICIAL DISTRICT SHALL DESIGNATE A PERSON, AGENCY, OR PROGRAM FOR EACH DETENTION FACILITY WITHIN THE JUDICIAL DISTRICT TO CONDUCT THE PRETRIAL RELEASE ASSESSMENT. THE CHIEF JUDGE SHALL ALSO DESIGNATE A PERSON, AGENCY, OR PROGRAM AS A BONDING AND RELEASE COMMISSIONER, AS DEFINED IN THIS SECTION, WHO IS AUTHORIZED TO RELEASE PERSONS ELIGIBLE FOR IMMEDIATE RELEASE PURSUANT TO THE WRITTEN CRITERIA WITHOUT ANY MONETARY CONDITION OF RELEASE AND PRIOR TO ANY COURT APPEARANCE.

(3) THE PRETRIAL RELEASE ASSESSMENT SHALL BE COMPLETED BY A PRETRIAL SERVICES AGENCY OR PROGRAM, OR OTHER COUNTY EMPLOYEE OR GOVERNMENTAL CONTRACT OFFICIAL AND NOT BY ANY FOR- PROFIT OR NON-PROFIT ENTITY.

(4) ALL RELEASES ON PERSONAL RECOGNIZANCE BONDS PURSUANT TO THIS SECTION MUST INCLUDE THE STATUTORILY MANDATED CONDITIONS PURSUANT TO SECTION 16-4-105 AND MAY INCLUDE OTHER LEAST RESTRICTIVE AND NECESSARY NONMONETARY CONDITIONS AS DETERMINED BY THE PRETRIAL ASSESSMENT PROCESS AND THE WRITTEN RELEASE CRITERIA. ALL NONMONETARY CONDITIONS SHALL BE REASONABLE AND FOR THE PURPOSE OF ENSURING: THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY; THAT THE PERSON WILL NOT ATTEMPT TO FLEE PROSECUTION; AND THAT THE PERSON WILL NOT ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS. CONDITIONS OF RELEASE SHALL BE SUBJECT TO THE LIMITATIONS OF 16-4-105 REGARDING PERMISSIBLE FORMS OF SUPERVISION AND MONITORING OF ANY PERSON ON PRETRIAL RELEASE.

(5) COUNTY SHERIFF'S OFFICES AND ANY OTHER DETENTION FACILITY INTAKE PERSONNEL ARE ENCOURAGED, TO THE EXTENT PRACTICABLE, TO DELAY THE ADMISSION OF ANY PERSON INTO THE GENERAL POPULATION OF ANY DETENTION FACILITY UNTIL AFTER THE COMPLETION OF THE PRETRIAL RELEASE ASSESSMENT TO AVOID UNNECESSARY DELAYS IN THE RELEASE OF ANY PERSONS ELIGIBLE TO BE RELEASED PURSUANT TO THIS SECTION, AND THE NEGATIVE CONSEQUENCES OF UNNECESSARY INCARCERATION.

(6) THIS SECTION DOES NOT PROHIBIT THE RELEASE OF A DEFENDANT PURSUANT TO LOCAL PRETRIAL RELEASE POLICIES THAT REQUIRE PAYMENT OF A MONETARY CONDITION OF RELEASE PRIOR TO AN INDIVIDUALIZED DECISION BY A JUDGE, A PRETRIAL OFFICER, A BONDING AND RELEASE COMMISSIONER OR ANY OTHER JUDICIAL OFFICER.

(7) THIS SECTION DOES NOT CHANGE THE MANDATORY REQUIREMENTS OF SECTION 18-1-1001(5) REGARDING THE ISSUANCE OF PROTECTION ORDERS.

(8) LOCAL LAW ENFORCEMENT AGENCIES SHALL BE PROVIDED WITH THE ADMINISTRATIVE ORDER FOR THE JUDICIAL DISTRICT THEY SERVE SO THAT THE MANDATORY USE OF SUMMONS AS WELL AS THE DISCRETIONARY ARREST CRITERIA CAN BE FOLLOWED BY LAW ENFORCEMENT WITH RESPECT TO

ANY PERSON AND TO ENSURE THAT LAW ENFORCEMENT AGENCIES CAN PROPERLY ADVISE ANY VICTIM OR MEMBER OF THE PUBLIC.

(9) AS USED IN THIS ARTICLE 4, "BONDING AND RELEASE COMMISSIONER" MEANS A PERSON EMPLOYED BY A PRETRIAL SERVICES PROGRAM AS DESCRIBED IN SECTION 16-4-106, OR ANY OTHER PERSON OR PROGRAM DESIGNATED AS A BONDING AND RELEASE COMMISSIONER BY THE CHIEF OR PRESIDING JUDGE OF THE JUDICIAL DISTRICT TO CARRY OUT THE PROVISIONS OF THIS ARTICLE 4.

16-4-103.5. Duties of the Department of Public Safety - Development of best practice standards for pretrial release – Inventory and approval of pretrial assessment instruments - Measurement of risk factors and bias evaluation and monitoring.

(1) BY DECEMBER 1, 2020, THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, SHALL BE RESPONSIBLE FOR DEVELOPING STATEWIDE STANDARDS AND GUIDELINES FOR THE DEVELOPMENT OF BOTH THE PRETRIAL RELEASE ASSESSMENT PROCESS, THE WRITTEN CRITERIA FOR IMMEDIATE PRETRIAL RELEASE AS REQUIRED BY 16-4-103, AND STANDARDS FOR THE SETTING OF THE TYPE OF BOND AND CONDITIONS OF RELEASE. THE STANDARDS AND GUIDELINES SHALL BE DEVELOPED IN CONJUNCTION WITH A REVIEW OF THE RELEVANT RESEARCH AND BEST PRACTICES THROUGHOUT THE COUNTRY, WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO:

(a) STUDIES RELATED TO THE IMPACT OF PRETRIAL DETENTION ON LOW-RISK PERSONS AND RECIDIVISM;

(b) THE NATIONAL AND STATE DATA AND RESEARCH REGARDING THE USE OF MONETARY AND NONMONETARY CONDITIONS OF BOND AS THEY RELATE TO REASONABLY ENSURING THE SAFETY OF ANY PERSON OR THE COMMUNITY AND COURT APPEARANCE RATES; AND

(c) THE RELEVANT CASE LAW.

(2) THE DEVELOPMENT OF THE STANDARDS AND GUIDELINES BY THE DEPARTMENT SHALL ALSO INCLUDE CONSULTATION WITH REPRESENTATIVES OF INTERESTED STAKEHOLDERS WHICH SHALL INCLUDE, AT A MINIMUM:

(a) A PRETRIAL SERVICE AGENCY OR PROGRAM,

(b) THE OFFICE OF THE STATE COURT ADMINISTRATOR,

(c) THE PUBLIC DEFENDER'S OFFICE,

(d) THE DISTRICT ATTORNEYS COUNCIL,

(e) A LOCAL LAW ENFORCEMENT DEPARTMENT OR OFFICE,

(f) A VICTIM SERVICES AGENCY OR PROGRAM,

(g) A NON-GOVERNMENTAL ORGANIZATION WITH EXPERTISE IN PRETRIAL JUSTICE AND

(h) A PERSON WITH LIVED EXPERIENCE IN THE CRIMINAL JUSTICE SYSTEM.

(3) AS SOON AS PRACTICABLE BUT NO LATER THAN DECEMBER 1, 2020, THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, SHALL COMPILE AN INVENTORY OF APPROVED PRETRIAL

RISK ASSESSMENT INSTRUMENTS AVAILABLE FOR USE IN COLORADO. ANY INSTRUMENT APPROVED AND AUTHORIZED MUST BE EMPIRICALLY DEVELOPED AND VALIDATED.

(4) ANY PRETRIAL RISK ASSESSMENT INSTRUMENT APPROVED FOR USE SHALL BE VALIDATED IN COLORADO WITHIN THREE YEARS OF USE TO MAXIMIZE ACCURACY AND TO STATISICALLY MINIMIZE BIAS ON THE BASIS OF RACE, ETHNICITY AND GENDER.

(5) ANY OTHER INSTRUMENTS USED IN THE PRETRIAL DECISION-MAKING PROCESS SHOULD BE RESEARCH BASED AND DATA SHALL BE COLLECTED BY THE JURISDICTIONS TO STUDY AND STATISTICALLY MINIMIZE BIAS ON THE BASIS OF RACE, ETHNICITY AND GENDER.

(6) BY OCTOBER 1, 2022 AND EVERY OCTOBER 1 THEREAFTER, THE OUTCOMES OF THE BOND SETTING PROCESS, INCLUDING THE TYPE OF BOND SET, THE AMOUNT OF ANY SECURED OR UNSECURED MONETARY CONDITION OF BOND, AND ANY OTHER CONDITIONS OF RELEASE, IF AVAILABLE, MUST BE EVALUATED FOR BIAS ON THE BASIS OF RACE, ETHNICITY AND GENDER BY JUDICIAL DISTRICT.

(7) ANY EVALUATIONS AND REPORTS FOR BIAS BASED ON RACE, ETHNICITY AND GENDER MUST BE CONDUCTED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, AND THE DIVISION SHALL DEVELOP A DATA COLLECTION PROCESS FOR ALL JUDICIAL DISTRICTS IN ORDER TO OBTAIN THE NECESSARY DATA TO CONDUCT THE EVALUATION.

(8) ANY APPROVED RISK ASSESSSMENT INSTRUMENT, AS WELL AS THE OUTCOMES OF THE BOND SETTING PROCESS, MUST BE RE-EVALUATED PURSUANT TO SUBSECTIONS (3) AND (4) ABOVE AT LEAST ONCE EVERY THREE YEARS. THESE EVALUATIONS SHALL, AT A MINIMUM, CONSIDER RELEASE RATES, RELEASE CONDITIONS, IF AVAILABLE, TECHNICAL VIOLATIONS OR REVOCATIONS, AND PERFORMANCE BY RACE, ETHNICITY AND GENDER TO MONITOR DISPARATE IMPACT.

(9) THE DEPARTMENT OF PUBLIC SAFETY SHALL PRESENT THE FINDINGS OF ANY STUDY, AND THE LIMITS OF ANY DATA USED TO CONDUCT THE STUDY, CONDUCTED TO EVALUATE THE RISK ASSESSMENT INSTRUMENT AND EFFORTS TO REDUCE ANY IDENTIFIED BIAS TO THE GENERAL ASSEMBLY PURSUANT TO THE PROVISIONS OF SECTION 2-7-203.

(10) BEGINNING ON JANUARY 1, 2024, ANY RISK ASSESSMENT INSTRUMENT APPROVED FOR USE MUST PROVIDE PRETRIAL DECISION-MAKERS SEPARATE RISK CATEGORY INFORMATION FOR EACH OF THE PRETRIAL RISKS IDENTIFIED IN SECTION 16-4-104(1) (a) (I) and (II), IF STATISTICALLY POSSIBLE.

(11) IN ORDER TO EVALUATE AN APPROVED RISK ASSESSMENT INSTRUMENT FOR ACCURACY, BIAS AND PROPER MEASUREMENT OF RISK FACTORS, BEGINNING ON JANUARY 1, 2021, PRETRIAL SERVICES PROGRAMS, PERSONS COMPLETING THE PRETRIAL ASSESSMENT AND REPORT PROCESS AND THE JUDICIAL DEPARTMENT, SHALL COLLECT ALL RELEVANT DATA AS REQUESTED BY THE DIVISION OF CRIMINAL JUSTICE THIS DATA MUST INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION FOR EACH CASE ASSESSED:

(a) RACE, ETHNICITY, AND GENDER;

(b) THE PRETRIAL RISK CATEGORY;

(c) NUMBER OF POINTS ASSIGNED TO EACH UNDERLYING VARIABLE USED BY A RISK ASSESSMENT INSTRUMENT;

(d) THE TOTAL RISK ASSESSMENT INSTRUMENT SCORE;

(e) ANY RECOMMENDATION MADE BY A STRUCTURED DECISION-MAKING GUIDE OR MATRIX, IF AVAILABLE;

(f) WHETHER THE RECOMMENDATION OF A STRUCTURED DECISION-MAKING DESIGN WAS FOLLOWED BY THE COURT, IF AVAILABLE;

(g) THE TYPE OF BOND SET BY THE COURT;

(h) THE CONDITIONS OF RELEASE SET BY THE COURT, WHICH MUST INCLUDE, BUT IS NOT LIMITED TO, WHETHER A MONETARY CONDITION WAS IMPOSED AND THE AMOUNT OF ANY MONETARY CONDITION;

(i) WHETHER THE DEFENDANT WAS RELEASED PRIOR TO THE FINAL DISPOSITION OF THE CASE;

(j) IF THE DEFENDANT FAILED TO APPEAR FOR COURT, AND WHETHER THE DEFENDANT SUBSEQUENTLY APPEARED IN COURT ON THAT CASE WITHIN THIRTY DAYS, SIXTY DAYS, NINETY DAYS, AND ONE HUNDRED TWENTY DAYS;

(k) THE PRETRIAL SUPERVISION OUTCOME; AND

(l) THE RESULTS OF ANY ADDITIONAL RISK ASSESSMENTS USED IN ORDER TO PROVIDE ADDITIONAL INFORMATION TO THE COURT.

(12) UPON REQUEST BY THE DIVISION OF CRIMINAL JUSTICE, THE STATE COURT ADMINISTRATOR SHALL PROVIDE ANY AVAILABLE INFORMATION NECESSARY TO EVALUATE AN APPROVED RISK ASSESSMENT PURSUANT TO THIS SECTION. THE STATE COURT ADMINISTRATOR'S OFFICE AND THE DEPARTMENT OF PUBLIC SAFETY SHALL COOPERATE TO DEVELOP INFORMATION SHARING AND REPORTING METHODOLOGIES TO BE USED TO ALLOW FOR THE DATA COLLECTION AND EVALUATIONS REQUIRED PURSUANT TO THE PROVISION OF THIS SECTION.

(13) THE DIVISION OF CRIMINAL JUSTICE SHALL PROVIDE TECHNICAL ASSISTANCE TO LOCAL JURISDICTIONS TO INCLUDE TRAINING, EDUCATION, INFORMATIONAL MATERIALS, AND TOOLS TO TRACK OUTCOMES AND FIDELITY TO BEST PRACTICES IN PROVIDING PRETRIAL SERVICES. THE DIVISION OF CRIMNAL JUSTICE SHALL COLLECT, ANALYZE, AND REPORT CENTRALIZED DATA TO IDENTIFY PRETRIAL RELEASE TRENDS AND OUTCOMES THROUGHOUT THE STATE.

16-4-104. Initial Hearing – Factors for setting type of bond – Presumption of release – Least restrictive conditions - Presumption of release without monetary conditions – Right to competent counsel.

(1) BEGINNING JANUARY 1, 2021, IF AN ARRESTED PERSON IS NOT RELEASED PURSUANT TO THE PROVISIONS OF SECTION 16-4-103, THE COURT SHALL BRING THE PERSON BEFORE THE COURT AS SOON AS PRACTICABLE FOR AN INITIAL HEARING TO DETERMINE THE TYPE OF BOND AND THE CONDITIONS OF RELEASE. IN MAKING SUCH DETERMINATIONS, THE COURT SHALL PRESUME THE RELEASE OF THE PERSON WITH THE LEAST RESTRICTIVE CONDITIONS, WHETHER THEY ARE MONETARY, NONMONETARY OR BOTH. THE COURT SHALL SELECT A TYPE OF BOND AND IMPOSE

CONDITIONS OF RELEASE THAT REASONABLY ENSURE: THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY; THAT THE PERSON WILL NOT ATTEMPT TO FLEE PROSECUTION; THAT THE PERSON WILL NOT ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS.

(2) THE COURT SHALL PRESUME THE RELEASE OF THE DEFENDANT WITHOUT THE USE OF ANY MONETARY CONDITION OF RELEASE UNLESS THE COURT FINDS THAT ONE OR MORE OF THE FOLLOWING EXIST:

(a) THE PERSON POSES A SUBSTANTIAL RISK OF DANGER TO THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY; OR

(b) THERE IS A SUBSTANTIAL RISK THAT THE PERSON WILL ATTEMPT TO FLEE PROSECUTION; OR

(c) THERE IS A SUBSTANTIAL RISK THAT THE PERSON WILL ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS; AND

(d) THERE ARE NO NONMONETARY CONDITIONS OF RELEASE THAT WILL REASONABLY ENSURE:

(I) THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY;

(II) THAT THE PERSON WILL NOT ATTEMPT TO FLEE PROSECUTION; OR

(III) THAT THE PERSON WILL NOT ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS

(3) IN MAKING THE DETERMINATION ABOUT THE TYPE OF BOND AND CONDITIONS OF RELEASE, THE COURT SHALL CONSIDER:

(a) THE INDIVIDUAL CIRCUMSTANCES OF THE PERSON IN CUSTODY, INCLUDING HIS OR HER FINANCIAL CIRCUMSTANCES;

(b) THE NATURE AND SEVERITY OF THE ALLEGED OFFENSE;

(c) VICTIM INPUT, IF RECEIVED;

(d) ALL TYPES OF BOND AND CONDITIONS OF RELEASE AVAILABLE TO AVOID UNNECESSARY PRETRIAL INCARCERATION AND CONDITIONS;

(e) THE WRITTEN CRITERIA FOR PRETRIAL RELEASE DEVELOPED BY THE JUDICIAL DISTRICT PURSUANT TO SECTION 16-4-103 (1)(b);

(f) THE EMPLOYMENT STATUS AND HISTORY OF THE PERSON IN CUSTODY;

(g) THE NATURE AND EXTENT OF FAMILY RELATIONSHIPS OF THE PERSON IN CUSTODY;

(h) PAST AND PRESENT RESIDENCES OF THE PERSON IN CUSTODY;

(i) THE CHARACTER AND REPUTATION OF THE PERSON IN CUSTODY;

(j) IDENTITY OF PERSONS WHO AGREE TO ASSIST THE PERSON IN CUSTODY IN ATTENDING COURT AT THE PROPER TIME;

(k) THE LIKELY SENTENCE, CONSIDERING THE NATURE OF THE OFFENSE PRESENTLY CHARGED, ESPECIALLY IF THE DEFENDANT IS NOT LIKELY TO BE SENTENCED TO INCARCERATION;

(l) THE PRIOR CRIMINAL RECORD, IF ANY, OF THE PERSON IN CUSTODY;

(m) PRIOR FAILURES TO APPEAR THAT INDICATE THE PERSON'S INTENT TO FLEE OR AVOID PROSECUTION;

(n) ANY FACTS INDICATING THAT THE DEFENDANT IS LIKELY TO INTIMIDATE OR HARASS POSSIBLE WITNESSES;

(o) ANY OTHER FACTS TENDING TO INDICATE THAT THE DEFENDANT HAS STRONG TIES TO THE COMMUNITY AND IS NOT LIKELY TO FLEE THE JURISDICTION; AND

(p) THE RESULTS OF AN EMPIRICALLY DEVELOPED AND VALIDATED RISK ASSESSMENT INSTRUMENT DESIGNED TO IMPROVE PRETRIAL RELEASE DECISIONS, AVAILABLE AND APPROVED FOR USE IN COLORADO BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE PURSUANT TO THE PROVISIONS OF 16-4-103.5, THAT CLASSIFIES A PERSON IN CUSTODY BASED UPON THE PREDICTED LEVEL OF RISK OF PRETRIAL FAILURE. HOWEVER, THE RESULTS OF ANY RISK ASSESSMENT PROVIDED TO THE COURT MUST:

(I) INCLUDE THE RISK CATEGORY OF THE DEFENDANT ALONG WITH THE PREDICTED SUCCESS RATES FOR EACH RISK CATEGORY, IF AVAILABLE; AND
(II) NOT BE USED AS THE SOLE BASIS FOR SETTING THE TYPE AND CONDITIONS OF RELEASE.

(4) AT THE INITIAL HEARING, THE PERSON HAS THE RIGHT TO BE REPRESENTED BY AN ATTORNEY AND MUST BE ADVISED OF THE POSSIBLE CHARGES, PENALTIES, AND HIS OR HER RIGHTS AS SPECIFIED IN RULE 5 OF THE COLORADO RULES OF CRIMINAL PROCEDURE, UNLESS WAIVED BY THE DEFENDANT. THE COURT SHALL NOTIFY THE PUBLIC DEFENDER OF EACH PERSON IN CUSTODY BEFORE THE INITIAL HEARING, AND THE PERSON HAS THE RIGHT TO BE REPRESENTED BY THE PUBLIC DEFENDER AT THAT HEARING. THE COURT SHALL PROVIDE THE ARRESTED PERSON'S ATTORNEY SUFFICIENT TIME TO PREPARE FOR AND PRESENT AN INDIVIDUALIZED ARGUMENT REGARDING THE TYPE OF BOND AND CONDITIONS OF RELEASE AT THE INITIAL HEARING, CONSISTENT WITH THE COURT'S DOCKET AND SCHEDULING PRIORITIES.

(5) THE PROSECUTING ATTORNEY HAS THE RIGHT TO APPEAR AT ALL HEARINGS TO PROVIDE HIS OR HER POSITION REGARDING THE TYPE OF BOND AND CONDITIONS OF RELEASE, AND TO PROVIDE ANY OTHER RELEVANT INFORMATION.

(6) PRIOR TO THE INITIAL HEARING, THE PERSON, PROGRAM, OR AGENCY THAT HAS CONDUCTED THE PRETRIAL RELEASE ASSESSMENT SHALL PROVIDE TO THE COURT, PROSECUTION, AND THE ARRESTED PERSONS'S ATTORNEY, ALL INFORMATION GATHERED REGARDING THE DEFENDANT, INCLUDING, BUT NOT LIMITED TO, THE RESULTS FROM ANY EMPIRICALLY DEVELOPED AND VALIDATED RISK ASSESSMENT INSTRUMENT AND THE ARREST AFFIDAVIT OR OTHER PROBABLE CAUSE STATEMENT. THIS INFORMATION SHALL BE PROVIDED TO THE PARTIES SUFFICIENTLY IN ADVANCE OF THE INITIAL HEARING SUCH THAT THE PARTIES ARE ABLE TO ADEQUATELY PREPARE FOR THE HEARING.

(7) SHERIFF'S OFFICES AND JAIL PERSONNEL SHALL PROVIDE THE PUBLIC DEFENDER'S OFFICE OR PRIVATE COUNSEL ACCESS TO THE ARRESTED PERSON WHO WILL BE APPEARING AT THE HEARING,

AND SHALL ALLOW SUFFICIENT TIME WITH THE ARRESTED PERSON PRIOR TO THE HEARING IN ORDER TO PREPARE FOR THE HEARING PURSUANT TO THE PROVISIONS OF THIS SECTION.

(8) BECAUSE OF THE DANGER POSED TO ANY PERSON AND THE COMMUNITY, A PERSON WHO IS ARRESTED FOR AN OFFENSE UNDER SECTION 42-4-1301 (1) SHALL NOT ATTEND A BAIL HEARING UNTIL THE PERSON IS NO LONGER INTOXICATED OR UNDER THE INFLUENCE OF DRUGS. THE PERSON MUST BE HELD IN CUSTODY UNTIL THE PERSON MAY SAFELY ATTEND THE HEARING.

16-4-104.5. Types of Bond.

(1) THE TYPES OF BOND THAT MAY BE SET BY THE COURT INCLUDE:

(a) AN UNSECURED PERSONAL RECOGNIZANCE BOND, WHICH MAY INCLUDE AN AMOUNT SPECIFIED BY THE COURT. THE COURT MAY REQUIRE ADDITIONAL OBLIGATORS ON THE BOND AS A CONDITION OF THE BOND.

(b) AN UNSECURED PERSONAL RECOGNIZANCE BOND WITH ADDITIONAL NONMONETARY CONDITIONS OF RELEASE IMPOSED PURSUANT TO 16-4-105.

(c) A BOND WITH A MONETARY CONDITION IF THE COURT MAKES A DETERMINATION ON THE RECORD THAT FACTS AND CIRCUMSTANCES EXIST THAT OVERRIDE THE PRESUMPTION OF RELEASE WITHOUT A MONETARY CONDITION. HOWEVER, THE COURT MAY ONLY REQUIRE A CERTAIN METHOD OF POSTING A MONETARY CONDITION AS DESCRIBED IN PARAGRAPH (d) IF THE COURT MAKES FACTUAL FINDINGS ON THE RECORD THAT THE CERTAIN METHOD IS REASONABLE AND NECESSARY TO ENSURE:

(I) THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY;

(II) THAT THE PERSON WILL NOT ATTEMPT TO FLEE PROSECUTION; OR

(III) THAT THE PERSON WILL NOT ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS.

(d) IF A BOND WITH A SECURED MONETARY CONDITION IS SET, THE PERSON SHALL BE RELEASED FROM CUSTODY UPON EXECUTION OF THE BOND IN THE FULL AMOUNT OF MONEY TO BE SECURED BY ANY ONE OF THE FOLLOWING METHODS:

(I) BY A DEPOSIT WITH THE CLERK OF THE COURT OF AN AMOUNT OF CASH EQUAL TO THE MONETARY CONDITION OF THE BOND;

(II) BY REAL ESTATE SITUATED IN THIS STATE WITH UNENCUMBERED EQUITY NOT EXEMPT FROM EXECUTION OWNED BY THE ACCUSED OR ANY OTHER PERSON ACTING AS SURETY ON THE BOND, WHICH UNENCUMBERED EQUITY SHALL BE AT LEAST ONE AND ONE-HALF OF THE AMOUNT OF THE SECURITY SET IN THE BOND;

(III) BY SURETIES WORTH AT LEAST ONE AND ONE-HALF OF THE SECURITY SET IN THE BOND; OR

(IV) BY A BAIL BONDING AGENT, AS DEFINED IN SECTION 16-1-104 8 (3.5).

(e) A BOND WITH SECURED REAL ESTATE CONDITIONS. HOWEVER, THE CLERK OF THE COURT SHALL NOT ACCEPT A BOND SECURED BY REAL ESTATE UNLESS THE RECORD OWNER OF THE PROPERTY PRESENTS TO THE CLERK OF THE COURT THE ORIGINAL DEED OF TRUST AS DESCRIBED IN SUBSECTION (4)(d)(IV) OF THIS SECTION AND THE APPLICABLE RECORDING FEE. UPON RECEIPT OF THE DEED OF TRUST AND FEE, THE CLERK OF THE COURT SHALL RECORD THE DEED OF TRUST WITH THE CLERK AND RECORDER FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED. FOR A BOND SECURED BY REAL ESTATE, THE AMOUNT OF THE OWNER'S UNENCUMBERED EQUITY SHALL BE DETERMINED BY DEDUCTING THE AMOUNT OF ALL ENCUMBRANCES LISTED IN THE OWNER AND ENCUMBRANCES CERTIFICATE FROM THE ACTUAL VALUE OF SUCH REAL ESTATE AS SHOWN ON THE CURRENT NOTICE OF VALUATION. THE OWNER OF THE REAL ESTATE SHALL FILE WITH THE BOND ALL OF THE FOLLOWING, WHICH SHALL CONSTITUTE A MATERIAL PART OF THE BOND:

(I) THE CURRENT NOTICE OF VALUATION OF SUCH REAL ESTATE PREPARED BY THE COUNTY ASSESSOR PURSUANT TO SECTION 39-5-121;

(II) EVIDENCE OF TITLE ISSUED BY A TITLE INSURANCE COMPANY OR AGENT LICENSED PURSUANT TO ARTICLE 11 OF TITLE 10, WITHIN THIRTY-FIVE DAYS AFTER THE DATE UPON WHICH THE BOND IS FILED;

(III) A SWORN STATEMENT BY THE OWNER OF THE REAL ESTATE THAT THE REAL ESTATE IS SECURITY FOR THE COMPLIANCE BY THE DEFENDANT WITH THE PRIMARY CONDITION OF THE BOND; AND

(IV) A DEED OF TRUST TO THE PUBLIC TRUSTEE OF THE COUNTY OR 10 CITY AND COUNTY IN WHICH THE REAL ESTATE IS LOCATED THAT IS EXECUTED AND ACKNOWLEDGED BY ALL RECORD OWNERS OF THE REAL ESTATE. THE DEED OF TRUST MUST NAME THE CLERK OF THE COURT APPROVING THE BOND AS BENEFICIARY. THE DEED OF TRUST MUST SECURE AN AMOUNT EQUAL TO ONE AND ONE-HALF TIMES THE AMOUNT OF THE BOND.

(f) SHALL BE RELEASED FROM CUSTODY UPON EXECUTION OF BOND IN THE FULL AMOUNT OF MONEY TO BE SECURED BY ANY ONE OF THE FOLLOWING METHODS, AS SELECTED BY THE DEFENDANT:

(I) BY A DEPOSIT WITH THE CLERK OF THE COURT OF AN AMOUNT OF CASH EQUAL TO THE MONETARY CONDITION OF THE BOND;

(II) BY REAL ESTATE SITUATED IN THIS STATE WITH UNENCUMBERED EQUITY NOT EXEMPT FROM EXECUTION OWNED BY THE ACCUSED OR ANY OTHER PERSON ACTING AS SURETY ON THE BOND, WHICH UNENCUMBERED EQUITY SHALL BE AT LEAST ONE AND ONE-HALF OF THE AMOUNT OF THE SECURITY SET IN THE BOND;

(III) BY SURETIES WORTH AT LEAST ONE AND ONE-HALF OF THE SECURITY SET IN THE BOND; OR

(IV) BY A BAIL BONDING AGENT, AS DEFINED IN SECTION 16-1-104 8 (3.5).

(g) A BOND WITH SECURED REAL ESTATE CONDITIONS. HOWEVER, THE CLERK OF THE COURT SHALL NOT ACCEPT A BOND SECURED BY REAL ESTATE UNLESS THE RECORD OWNER OF THE PROPERTY PRESENTS TO THE CLERK OF THE COURT THE ORIGINAL DEED OF TRUST AS DESCRIBED IN

SUBSECTION (4)(d)(IV) OF THIS SECTION AND THE APPLICABLE RECORDING FEE. UPON RECEIPT OF THE DEED OF TRUST AND FEE, THE CLERK OF THE COURT SHALL RECORD THE DEED OF TRUST WITH THE CLERK AND RECORDER FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED. FOR A BOND SECURED BY REAL ESTATE, THE AMOUNT OF THE OWNER'S UNENCUMBERED EQUITY SHALL BE DETERMINED BY DEDUCTING THE AMOUNT OF ALL ENCUMBRANCES LISTED IN THE OWNER AND ENCUMBRANCES CERTIFICATE FROM THE ACTUAL VALUE OF SUCH REAL ESTATE AS SHOWN ON THE CURRENT NOTICE OF VALUATION. THE OWNER OF THE REAL ESTATE SHALL FILE WITH THE BOND ALL OF THE FOLLOWING, WHICH SHALL CONSTITUTE A MATERIAL PART OF THE BOND:

(I) THE CURRENT NOTICE OF VALUATION OF SUCH REAL ESTATE PREPARED BY THE COUNTY ASSESSOR PURSUANT TO SECTION 39-5-121;

(II) EVIDENCE OF TITLE ISSUED BY A TITLE INSURANCE COMPANY OR AGENT LICENSED PURSUANT TO ARTICLE 11 OF TITLE 10, WITHIN THIRTY-FIVE DAYS AFTER THE DATE UPON WHICH THE BOND IS FILED;

(III) A SWORN STATEMENT BY THE OWNER OF THE REAL ESTATE THAT THE REAL ESTATE IS SECURITY FOR THE COMPLIANCE BY THE DEFENDANT WITH THE PRIMARY CONDITION OF THE BOND; AND

(IV) A DEED OF TRUST TO THE PUBLIC TRUSTEE OF THE COUNTY OR 10 CITY AND COUNTY IN WHICH THE REAL ESTATE IS LOCATED THAT IS EXECUTED AND ACKNOWLEDGED BY ALL RECORD OWNERS OF THE REAL ESTATE. THE DEED OF TRUST MUST NAME THE CLERK OF THE COURT APPROVING THE BOND AS BENEFICIARY. THE DEED OF TRUST MUST SECURE AN AMOUNT EQUAL TO ONE AND ONE-HALF TIMES THE AMOUNT OF THE BOND.

16-4-105. Conditions of release.

(1) For each bond, the court shall require that the released person appear to answer the charge against the person at a place and upon a date certain and at any place or upon any date to which the proceeding is transferred or continued. This condition is the only condition for which a breach of surety or security on the bail bond may be subject to forfeiture.

(2) For a person who has been arrested for a felony offense, the court shall require as a condition of a bond that the person execute a waiver of extradition stating the person consents to extradition to this state and waives all formal procedures incidental to extradition proceedings in the event that he or she is arrested in another state while at liberty on such bail bond and acknowledging that he or she shall not be admitted to bail in any other state pending extradition to this state.

(3) Additional conditions of every bond is that the released person shall not commit any felony while free on such a bail bond, and the court in which the action is pending has the power to revoke the release of the person, to change any bond condition, including the amount of any monetary condition if it is shown that a competent court has found probable cause to believe that the defendant has committed a felony while released, pending the resolution of a prior felony charge.

(4) An additional condition of every bond in cases involving domestic violence as defined in Section 18-6-800.3 (1), C.R.S., in cases of stalking under Section 18-3-602, C.R.S., or in cases involving unlawful

sexual behavior as defined in Section 16-22-102 (9), is that the released person acknowledge the protection order as provided in Section 18-1-1001 (5), C.R.S.

(5) An additional condition of every bond in a case of an offense under Section 42-2-138 (1)(d)(i), C.R.S., of driving while such person's driver's license or privilege to drive, either as a resident or nonresident, is restrained solely or partially because of a conviction of a driving offense pursuant to Section 42-4-1301 (1) or (2)(a), C.R.S., is that such person not drive any motor vehicle during the period of such driving restraint.

(6) (a) If a person is arrested for driving under the influence or driving while ability impaired, pursuant to Section 42-4-1301, C.R.S., and the person has one or more previous convictions for an offense in Section 42-4-1301, C.R.S., or one or more convictions in any other jurisdiction that would constitute a violation of section 42-4-1301, C.R.S., as a condition of any bond, the court shall order that the person abstain from the use of alcohol or illegal drugs, and such abstinence shall be monitored.

(b) A person seeking relief from any of the conditions imposed pursuant to subsection (6)(a) of this section shall file a motion with the court, and the court shall conduct a hearing upon the motion. the court shall consider whether the condition from which the person is seeking relief is in the interest of justice and whether public safety would be endangered if the condition were not enforced. when determining whether to grant relief pursuant to this subsection (6)(b), the court shall consider whether the person has voluntarily enrolled and is participating in an appropriate substance use disorder treatment program.

(c) Notwithstanding subsection (6)(a) or any other provision of this section, if a person possesses a valid registry identification card, as defined in Section 25-1.5-106 (2)(e), that establishes that he or she is a patient who uses medical marijuana, the court shall not require as a condition of any bond that the person abstain from the use of medical marijuana.

(7) A PERSON MAY BE RELEASED ON A BOND WITH MONETARY CONDITION OF BOND ONLY AS DESCRIBED IN SECTION 16-4-104.5(1)(C).

(8) THE COURT MAY IMPOSE ADDITIONAL LEAST RESTRICTIVE NONMONETARY CONDITIONS OF RELEASE ONLY IF THEY ARE DESIGNED SPECIFICALLY TO REASONABLY ENSURE THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY; THAT THE PERSON WILL NOT ATTEMPT TO FLEE PROSECUTION; OR THAT THE PERSON WILL NOT ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS. THESE CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, SUPERVISION BY A QUALIFIED PERSON OR ORGANIZATION OR SUPERVISION BY A PRETRIAL SERVICES PROGRAM ESTABLISHED PURSUANT TO SECTION 16-4-106. WHILE UNDER SUPERVISION, THE CONDITIONS OF RELEASE IMPOSED BY THE COURT MAY INCLUDE, BUT ARE NOT LIMITED TO:

(a) PERIODIC TELEPHONE CONTACT WITH THE PROGRAM;

(b) PERIODIC OFFICE VISITS BY THE PERSON TO THE PRETRIAL SERVICES PROGRAM OR ORGANIZATION;

(c) PERIODIC ALCOHOL OR DRUG TESTING OF THE PERSON, SUBJECT TO THE LIMITATIONS IN PARAGRAPH (9);

(d) TREATMENT OF THE PERSON'S MENTAL HEALTH, BEHAVIORAL HEALTH, OR SUBSTANCE USE DISORDER IF THE PERSON CONSENTS TO THE TREATMENT;

(e) ELECTRONIC OR GLOBAL POSITION MONITORING OF THE PERSON SUBJECT TO THE LIMITATIONS IN PARAGRAPH (9);

(f) PRETRIAL WORK RELEASE FOR THE PERSON; AND

(g) OTHER SUPERVISION TECHNIQUES SHOWN BY RESEARCH TO INCREASE COURT APPEARANCE AND PUBLIC SAFETY RATES FOR PERSONS RELEASED ON BOND.

(9) THE COURT SHALL NOT ORDER ELECTRONIC MONITORING OF ANY TYPE, PERIODIC ALCOHOL OR DRUG TESTING, MONITORED SOBRIETY, OR PROHIBIT THE USE OF ALCOHOL OR ANY OTHER CONTROLLED SUBSTANCE AS A CONDITION OF RELEASE FOR ANY MUNICIPAL OFFENSE, PETTY OFFENSE, TRAFFIC OFFENSE, OR MISDEMEANOR OFFENSE UNLESS:

(a) THE CASE INVOLVES A CRIME AS ENUMERATED IN § 24-4.1-302(1) FOR PURPOSES OF VICTIMS RIGHTS; A CRIME IN VIOLATION OF 42-4-1301 (DUI OR DWAI); A CRIME INVOLVING THE USE, POSSESSION OR DISTRIBUTION OF A CONTROLLED SUBSTANCE PURSUANT TO 18-18-102(5); OR A CRIME INVOLVING THE USE OR POSSESSION OF A FIREARM AS DEFINED IN § 18-1-901(3)(h); AND

(b) THE COURT ENTERS SPECIFIC AND INDIVIDUALIZED FINDINGS ON THE RECORD THAT SUCH CONDITION IS NECESSARY IN THE INDIVIDUAL CASE BECAUSE IT WILL:

(I) MITIGATE A SUBSTANTIAL RISK OF FLIGHT OR

(II) PROTECT THE PHYSICAL SAFETY OF A PERSON OR PERSONS OTHER THAN THE DEFENDANT.

(10) NO PERSON UNDER SUPERVISION ON PRETRIAL RELEASE SHALL BE PLACED UNDER ANY CONDITIONS OF SUPERVISION THAT HAVE NOT BEEN DIRECTLY ORDERED BY THE COURT. NO PERSON RELEASED WITH A MONETARY CONDITION OF BOND THROUGH A COMMERCIAL SURETY SHALL BE REQUIRED TO COMPLY WITH CONDITIONS OF SUPERVISION THAT HAVE NOT BEEN DIRECTLY ORDERED BY THE COURT.

16-4-106. Pretrial services programs – Mandate for risk assessment and annual report.

(1) TO REDUCE BARRIERS TO PRETRIAL RELEASE, ALL COUNTIES AND CITIES AND COUNTIES SHALL DEVELOP BY APRIL 1, 2021, A PRETRIAL SERVICES PROGRAM IN CONSULTATION WITH THE CHIEF JUDGE OF THE JUDICIAL DISTRICT THAT MAY BE UTILIZED BY THE COURTS OF THE JUDICIAL DISTRICT. IN ORDER TO ESTABLISH THE PRETRIAL SERVICES PROGRAM, THE CHIEF JUDGE OF EACH JUDICIAL DISTRICT SHALL ESTABLISH A COMMUNITY PRETRIAL ADVISORY BOARD TO FORMULATE A PLAN FOR A PRETRIAL SERVICES PROGRAM. IN ADDITION TO THE CHIEF JUDGE OF THE JUDICIAL DISTRICT OR A DESIGNATED JUDICIAL OFFICER, MEMBERSHIP ON SUCH COMMUNITY PRETRIAL ADVISORY BOARD MUST INCLUDE, AT A MINIMUM: A REPRESENTATIVE OF A LOCAL LAW ENFORCEMENT AGENCY, A REPRESENTATIVE OF THE DISTRICT ATTORNEY, A REPRESENTATIVE OF THE OFFICE OF THE PUBLIC DEFENDER, A VICTIM ADVOCATE, AND AN INDIVIDUAL WHO HAS BEEN INCARCERATED IN THE JUDICIAL DISTRICT OR A FAMILY MEMBER OF AN INDIVIDUAL WHO HAS BEEN INCARCERATED IN THE JUDICIAL DISTRICT. THE CHIEF JUDGE IS ENCOURAGED TO APPOINT TO

THE COMMUNITY PRETRIAL ADVISORY BOARD AT LEAST ONE COUNTY COMMISSIONER FROM A COUNTY WITHIN THE JUDICIAL DISTRICT. THE CHIEF JUDGE OF THE JUDICIAL DISTRICT SHALL APPROVE THE PLAN FORMULATED BY THE COMMUNITY ADVISORY BOARD PRIOR TO THE ESTABLISHMENT AND UTILIZATION OF THE PRETRIAL SERVICES PROGRAM. THE PROVISION CONTAINED IN THIS SECTION THAT A PRETRIAL SERVICES PROGRAM BE ESTABLISHED PURSUANT TO A PLAN FORMULATED BY THE COMMUNITY PRETRIAL ADVISORY BOARD DOES NOT APPLY TO ANY PRETRIAL SERVICES PROGRAM THAT EXISTED BEFORE MAY 31, 1991.

(2) COUNTIES OR GOVERNMENTAL CONTRACT OFFICIALS SHALL DIRECTLY PROVIDE THE PRETRIAL ASSESSMENT SERVICES AS REQUIRED PURSUANT TO 16-4-103, AND MAY DIRECTLY PROVIDE PRETRIAL SUPERVISION SERVICES OR MAY ENTER INTO A CONTRACT WITH A PRIVATE ENTITY OR AN AGREEMENT WITH ANOTHER LOCAL GOVERNMENTAL ENTITY TO PROVIDE PRETRIAL SUPERVISION SERVICES IN THE COUNTY. PRIOR TO ENTERING INTO A CONTRACT WITH A PRIVATE ENTITY, THE COUNTY SHALL ENSURE THE PRIVATE ENTITY SHALL OPERATE WITHOUT AN IDENTIFIABLE CONFLICT. ADDITIONALLY, EACH JUDGE REQUIRING PRETRIAL SERVICES SUPERVISION FOR A PERSON RELEASED ON BOND SHALL ENSURE THAT ANY SUPERVISION OR OTHER CONDITIONS OF RELEASE FOR A DEFENDANT UNDER PRETRIAL SUPERVISION ARE THE LEAST RESTRICTIVE CONDITIONS OF RELEASE AND ARE NOT REQUIRED FOR THE PURPOSES OF FINANCIAL BENEFIT OR GAIN BY ANY PERSON, PROGRAM OR ENTITY.

(3) A PRETRIAL SERVICES PROGRAM CREATED PURSUANT TO THIS SECTION, INCLUDING ANY PROGRAM UTILIZING A PRIVATE ENTITY PURSUANT TO SUBSECTION (2), MUST MEET THE MINIMUM STANDARDS DEVELOPED BY THE DIVISION OF CRIMINAL JUSTICE PURSUANT TO 16-4-103.5. IN ADDITION, A PRETRIAL SERVICES PROGRAM SHALL MEET THE FOLLOWING CRITERIA:

(a) THE PRETRIAL SERVICES PROGRAM MUST ESTABLISH A PROCEDURE FOR THE ASSESSMENT OF PERSONS WHO ARE DETAINED DUE TO AN ARREST FOR THE ALLEGED COMMISSION OF A CRIME SO THAT SUCH ASSESSMENT AND INFORMATION MAY BE PROVIDED TO THE BONDING AND RELEASE COMMISSIONER MAKING A DETERMINATION FOR IMMEDIATE RELEASE PURSUANT TO 16-4-103 AND TO THE JUDGE OR OTHER DESIGNATED JUDICIAL OFFICER WHO IS DECIDING THE TYPE OF BOND AND CONDITIONS OF RELEASE. THE PRETRIAL SERVICES PROGRAM MUST PROVIDE INFORMATION THAT GIVES THE RELEASING AUTHORITY THE ABILITY TO MAKE A DECISION THAT IS BASED UPON ALL FACTS RELEVANT TO WHETHER THE PERSON POSES A SUBSTANTIAL RISK TO THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY, THAT THE PERSON WILL ATTEMPT TO FLEE PROSECTION, OR THAT THE PERSON WILL ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS;

(b) THE PRETRIAL SERVICES PROGRAM MUST MAKE ALL REASONABLE ATTEMPTS TO PROVIDE THE COURT, OTHER DESIGNATED PERSON OR AGENCY, THE PROSECUTING ATTORNEY AND DEFENSE COUNSEL WITH SUCH INFORMATION SPECIFIED IN THIS SECTION FOR EACH PERSON SEEKING RELEASE FROM CUSTODY FOR PURPOSES OF SETTING BOND AND CONDITIONS OF RELEASE;

(c) COMMENCING APRIL 1, 2021, IN THE COURSE OF PRETRIAL ASSESSMENT OF AN ARRESTED PERSON, THE PRETRIAL SERVICES PROGRAM MUST USE A PRETRIAL RISK ASSESSMENT TOOL THAT HAS BEEN APPROVED FOR USE BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, TO ASSESS A PERSON'S PREDICTIVE LEVEL OF PRETRIAL RISK ALONG WITH A

STRUCTURED DECISION-MAKING GUIDE OR MATRIX BASED UPON THE PERSON'S CHARGE AND THE RISK ASSESSMENT SCORE; AND

(d) THE PRETRIAL SERVICES PROGRAM MUST WORK WITH ALL APPROPRIATE AGENCIES AND ASSIST WITH ALL EFFORTS TO COMPLY WITH SECTIONS 24-4.1-302.5 AND 24-4.1-303.

(4) ANY PRETRIAL SERVICES SUPERVISION PROGRAM SHALL PROVIDE DIFFERENT METHODS AND LEVELS OF COMMUNITY-BASED SUPERVISION AS CONDITIONS OF RELEASE, AND THE PRETRIAL SERVICES SUPERVISION PROGRAM MUST USE RESEARCH-BASED METHODS FOR PERSONS WHO ARE RELEASED PRIOR TO TRIAL IN ORDER TO DECREASE UNNECESSARY PRETRIAL DETENTION. THE PRETRIAL SERVICES PROGRAM MAY INCLUDE, BUT IS NOT LIMITED TO, COURT DATE REMINDERS AND SHALL BE LIMITED TO THE LEAST RESTRICTIVE CONDITIONS OF RELEASE AS OUTLINED IN SECTION 16-4-105 (8).

(5) NO COSTS OF PRETRIAL ASSESSEMENT, PRETRIAL SUPERVISON SERVICES, OR ANY CONDITION OF PRETRIAL RELEASE SHALL BE ASSESSED AGAINST A DEFENDANT BEFORE OR DURING THE PRETRIAL SUPERVISION PERIOD OF THE DEFENDANT OR AS A CONDITION OF RELEASE FROM CUSTODY. THE COSTS OF SUPERVISION INCLUDING THE COSTS OF COMPLIANCE WITH ANY TERM AND CONDITION OF SUPERVISION MAY ONLY BE ASSESSED UPON CONVICTION AS COSTS OF PROSECUTION. HOWEVER, SUCH COSTS SHALL NOT BE ASSESSED AGAINST ANY PERSON WHO QUALIFIES AS INDIGENT UNDER THE DIRECTIVES OF THE COLORADO SUPREME COURT FOR COURT APPOINTED COUNSEL AT THE TIME OF SENTENCING ON THE CASE.

(6) COMMENCING IN 2021, EACH PRETRIAL SERVICES PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL PROVIDE AN ANNUAL CALENDAR YEAR REPORT TO THE DEPARTMENT OF PUBLIC SAFETY NO LATER THAN MARCH 1 OF EACH YEAR. THE DEPARTMENT SHALL PRESENT AN ANNUAL COMBINED REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE REPORT TO THE DEPARTMENT MUST INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING INFORMATION:

(a) THE TOTAL NUMBER OF PRETRIAL ASSESSMENTS PERFORMED BY THE PRETRIAL SERVICES PROGRAM;

(b) THE TOTAL NUMBER OF CLOSED CASES BY THE PRETRIAL SERVICES PROGRAM IN WHICH THE PERSON WAS RELEASED FROM CUSTODY AND SUPERVISED BY THE PRETRIAL SERVICES PROGRAM;

(c) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PRETRIAL SERVICES PROGRAM, AND, WHILE UNDER SUPERVISION, APPEARED FOR ALL SCHEDULED COURT APPEARANCES ON THE CASE;

(d) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PRETRIAL SERVICES PROGRAM, AND WAS NOT CHARGED WITH A NEW CRIMINAL OFFENSE THAT WAS ALLEGED TO HAVE OCCURRED WHILE UNDER SUPERVISION AND THAT CARRIED THE POSSIBILITY OF A SENTENCE TO JAIL OR IMPRISONMENT;

(e) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON WAS RELEASED FROM CUSTODY AND WAS SUPERVISED BY THE PRETRIAL SERVICES PROGRAM, AND THE PERSON'S BOND WAS

NOT REVOKED BY THE COURT DUE TO A VIOLATION OF ANY OTHER TERMS AND CONDITIONS OF SUPERVISION; AND

(f) ANY ADDITIONAL INFORMATION THE DEPARTMENT MAY REQUEST

(7) BEGINNING IN 2021 AND EACH YEAR THEREAFTER, THE ANNUAL REPORT REQUIRED BY SECTION (6) OF THIS SECTION MUST ALSO INCLUDE:

(a) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE PERSON WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PRETRIAL SERVICES PROGRAM, AND, WHILE UNDER SUPERVISION, FAILED TO APPEAR IN COURT. BASED ON INFORMATION PROVIDED BY STATE JUDICIAL, WHETHER ANY OF THE PERSONS WHO FAILED TO APPEAR IN COURT RETURNED TO COURT:

(I) WITHIN 30 DAYS;

(II) WITHIN 60 DAYS;

(III) WITHIN 90 DAYS; AND

(IV) WITHIN 120 DAYS.

(b) THE TOTAL NUMBER OF CLOSED CASES OF PERSONS RELEASED FROM CUSTODY, SUPERVISED BY THE PRETRIAL SERVICES PROGRAM, AND CHARGED WITH A NEW CRIMINAL OFFENSE THAT CONSTITUTES A FELONY OFFENSE, A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406, OR A CRIME AS DEFINED IN SECTION 24-4.1-302 (1), THAT WAS ALLEGED TO HAVE OCCURRED WHILE UNDER SUPERVISION.

(c) THE TOTAL NUMBER OF CASES IN WHICH THERE IS A DISPOSITION WHICH TERMINATES OR CLOSES THE CASE OR AN ACTION OF THE COURT SUCH AS WARRANT, FAILURES TO APPEAR (FTA), FAILURE TO COMPLY (FTC) OR REMOVAL OF SUPERVISION.

(8) IN EACH ANNUAL REPORT, THE PRETRIAL SERVICES PROGRAM MUST INCLUDE INFORMATION DETAILING THE NUMBER OF CASES SUBJECT TO PRETRIAL SUPERVISION AND RELEASED ON: A PERSONAL RECOGNIZANCE BOND, A COMMERCIAL SURETY BOND; A CASH ONLY BOND; A PRIVATE SURETY BOND; OR PROPERTY BOND.

16-4-106.5. Pretrial services fund created.

(1) THERE IS CREATED IN THE STATE TREASURY THE PRETRIAL SERVICES FUND, REFERRED TO IN THIS SECTION AS THE "FUND", THAT CONSISTS OF MONEY APPROPRIATED BY THE GENERAL ASSEMBLY TO THE FUND AND ANY MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE IMPLEMENTATION OF THIS SECTION. THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO ACCEPT ON BEHALF OF THE STATE ANY GIFTS, GRANTS, OR DONATIONS FROM ANY PRIVATE OR PUBLIC SOURCE FOR THE PURPOSE OF THIS SECTION. ALL PRIVATE AND PUBLIC MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS MUST BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(2) MONEY IN THE FUND MUST BE USED TO FUND INDIVIDUAL COUNTIES OR COUNTIES WORKING IN COOPERATION WITH EACH OTHER, THAT REQUEST FUNDS TO OPERATE OR ASSIST IN THE

OPERATION OF A PRETRIAL SERVICES PROGRAM AS REQUIRED BY SECTION 16-4-106 (1). MONEY MAY BE USED FOR THE ADMINISTRATIVE AND PERSONNEL COSTS RELATED TO THE OPERATION OF PRETRIAL SERVICES PROGRAMS AND ANY ADJUNCT SERVICES INCLUDING, BUT NOT LIMITED TO, PROGRAM DEVELOPMENT, ASSESSMENT SERVICES, CONTRACT SERVICES, AND SUPERVISION SERVICES. HOWEVER, FUNDING FOR ASSESSMENT SERVICES FOR EARLY RELEASE SHALL BE THE PRIORITY FOR ALL COUNTIES. COUNTIES AND COUNTIES WORKING IN COOPERATION WITH EACH OTHER, ARE ENCOURAGED TO SEEK FUNDING WHEN NECESSARY TO IMPLEMENT LOCALLY BASED PROGRAMS DESIGNED TO ACHIEVE THE GOALS OF EFFECTIVE PRETRIAL ASSESSMENT AND SUPERVISION.

(3) THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO ADMINISTER THE PRETRIAL SERVICES FUND AND EXECUTE ALL CONTRACTS WITH UNITS OF LOCAL GOVERNMENT OR NON-GOVERNMENTAL AGENCIES FOR THE PROVISON OF PRETRIAL ASSESSEMENT AND SUPERVISION SERVICES CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

(4) MONEY ALLOCATED TO THE COUNTIES MAY BE USED BY THE COUNTY, TO CREATE A NEW PRETRIAL SERVICES PROGRAM, TO ENHANCE THE CURRENT COUNTY PRETRIAL SERVICES PROGRAM, OR TO REPLACE COUNTY FUNDS CURRENTLY ALLOCATED TO A PRETRIAL SERVICES PROGRAM.

(5) THE DEPARTMENT OF PUBLIC SAFETY SHALL ALLOCATE FUNDS TO COUNTIES FOR PRETRIAL SERVICES SUBJECT TO THE FOLLOWING PRIORITIES AND LIMITATIONS:

(a) FUNDING FOR PRETRIAL ASSESSMENT SERVICES IN EACH COUNTY, WHICH SHALL BE CONSISTENT WITH THE PROVISONS OF 16-4-103 AND 106 AND ALLOW FOR THE EARLY RELEASE OF PERSONS ARRESTED WITHOUT MONETARY CONDITIONS OF BOND, SHALL BE PRIORITIZED BY THE DEPARTMENT. ASSESSMENT SERVICES SHALL BE FUNDED PURSUANT TO A FORMULA DEVELOPED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, THAT ESTIMATES THE AVERAGE AMOUNT OF TIME REQUIRED TO COMPLETE AN INDIVIDUALIZED ASSESSMENT, TIME IN COURT IF THE PERSON ARRESTED IS REQUIRED TO APPEAR IN COURT, THE AVERAGE STATEWIDE COST FOR A PRETRIAL SERVICES EMPLOYEE AND THE NUMBER ASSESSMENTS PREDICTED FOR THAT COUNTY BASED ON COURT FILINGS. NO COUNTY SHALL BE PROVIDED FUNDING IN EXCESS OF THE DOLLAR AMOUNT THAT IS THE EQUIVALENT, TO THE STATEWIDE AVERAGE COST OF TWO FULL TIME PRETRIAL SERVICE EMPLOYEE POSITIONS. PRETRIAL ASSESSMENT SERVICES SHALL BE PROVIDED BY THE COUNTY. NO COSTS OF PRETRIAL ASSESSMENT SHALL BE ASSESSED AGANST ANY ARRESTED PERSON AT ANY TIME.

(b) PRETRIAL SUPERVISION SERVICES SHALL BE FUNDED BY THE DEPARTMENT IN EACH COUNTY CONSISTENT WITH THE PROVISIONS OF 16-4-103 AND 106 AND WHICH ALLOW FOR THE CONTINUED RELEASE OF A PERSON. SUPERVISON SERVICES SHALL BE FUNDED FOR ONLY HIGHER RISK DEFENDANTS PURSUANT TO A FORMULA DEVELOPED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, THAT ESTIMATES THE AVERAGE AMOUNT OF TIME REQUIRED FOR SUPERVISION OF A HIGHER RISK DEFENDANT, AND THE AVERAGE DURATION OF A CASE FOR WHICH A PERSON WOULD BE UNDER PRETRIAL SUPERVISION. NO COUNTY SHALL BE PROVIDED PRETRIAL SUPERVISION SERVICES FUNDS IN EXCESS OF THE DOLLAR AMOUNT THAT IS THE EQUIVALENT, TO THE EXTENT POSSIBLE, TO THE STATEWIDE AVERAGE COST OF ONE FULL TIME EQUIVALENT POSITION.

16-4-107. Time frames for commencement of action.

(1) AFTER THE INITIAL HEARING AS PROVIDED BY SECTION 16-4-104, THE COURT SHALL ORDER THAT THE COMMENCEMENT OF THE CRIMINAL PROSECUTION BY THE FILING OF A COMPLAINT OR INFORMATION, PURSUANT TO THE PROVISIONS OF SECTION 16-5-101, MUST TAKE PLACE WITHIN THREE DAYS AFTER THE INITIAL HEARING IF THE DEFENDANT REMAINS IN CUSTODY, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, UNLESS GOOD CAUSE IS SHOWN TO THE COURT FOR ADDITIONAL TIME, OR THE PARTIES AGREE TO ADDITIONAL TIME.

(2) A DEFENDANT WHO IS UNABLE TO POST A MONETARY CONDITION OF BOND HAS SCHEDULING PRECEDENCE OVER ALL OTHER MATTERS FOR PURPOSES OF LITIGATED HEARINGS AND TRIALS, SUBJECT TO THE PROVISIONS OF SECTIONS 18-3-411 (4) AND 18 SECTION 18-1-405.

16-4-109. Reconsideration and modification of conditions of release – Hearing – Violation of conditions.

(1) THE DEFENDANT, THE PROSECUTING ATTORNEY, THE PRETRIAL SERVICES PROGRAM, OR THE BONDING AND RELEASE COMMISSIONER, MAY ASK FOR THE RECONSIDERATION AND MODIFICATION OF ANY MONETARY OR NONMONETARY CONDITION OF RELEASE IF NEW INFORMATION IS DISCOVERED THAT WAS NOT PRESENTED AT THE TIME OF THE PRIOR DECISION REGARDING THE TYPE OF BOND AND CONDITIONS OF RELEASE, OR IF CIRCUMSTANCES HAVE CHANGED SINCE THE COURT MADE THE PRIOR DECISION AND THIS NEW INFORMATION OR CHANGE IN CIRCUMSTANCES HAS A BEARING ON WHETHER THE TYPE OF BOND AND CONDITIONS OF RELEASE ARE STILL REASONABLE AND NECESSARY PURSUANT TO THE PROVISIONS OF 16-4-104, 104.5 AND 105.

(2) REQUESTS FOR RECONSIDERATION OR MODIFICATION OF A MONETARY OR NONMONETARY CONDITION OF RELEASE MAY, IN THE COURT'S DISCRETION, BE MADE ORALLY OR IN WRITING WITH REASONABLE NOTICE TO THE OPPOSING PARTY; EXCEPT THAT, IF THE CASE ALLEGES A CRIME AS DEFINED IN SECTION 24-4.1-302, THE DEFENDANT'S REQUEST FOR RECONSIDERATION MUST BE IN WRITING, UNLESS THE DISTRICT ATTORNEY CONSENTS TO AN ORAL MOTION. UNLESS THE COURT SUMMARILY DENIES THE REQUEST, THE COURT SHALL GIVE THE OPPOSING PARTY UP TO 7 DAYS TO RESPOND TO A REQUEST FOR RECONSIDERATION, IF THE OPPOSING PARTY REQUESTS TIJME TO RESPOND. THE COURT MAY RULE ON THE BASIS OF WRITTEN PLEADINGS OR MAY REQUIRE A HEARING ON THE MATTER. THE COURT SHALL RULE ON ANY REQUEST FOR RECONSIDERATION WITHIN 14 DAYS AFTER THE REQUEST IS MADE STATING ON THE RECORD, OR IN WRITING, THE REASONS FOR ANY DENIAL OF THE REQUEST AND WHY ANY MONETARY OR NONMONETARY CONDITION IS REASONABLE AND NECESSARY AND CONSISTENT WITH THE MANDATES OF THIS ARTICLE 4. THE COURT MAY DENY SUBSEQUENT REQUESTS FOR RECONSIDERATION UNLESS GOOD CAUSE IS SHOWN AND A GOOD FAITH REPRESENTATION IS MADE THAT THERE IS NEW AND RELEVANT INFORMATION, OR CHANGED CIRCUMSTANCES, THAT SUPPORT A MODIFICATION OF THE CONDITIONS OF BOND.

(3) NOTWITHSTANDING THE PROVISIONS IN PARAGRAPH (2), WHEN THE DEFENDANT REMAINS IN CUSTODY DUE TO THE INABILITY TO POST A MONETARY CONDITION OF RELEASE AND THE DEFENDANT REQUESTS A HEARING TO RECONSIDER THE MONETARY CONDITION OF RELEASE, THE COURT SHALL GRANT THE DEFENDANT'S REQUEST FOR A HEARING. UNLESS OTHERWISE AGREED TO

BY THE PARTIES, OR FOR OTHER GOOD CAUSE SHOWN, THE HEARING SHALL BE HELD AS SOON AS PRACTICABLE BUT NOT MORE THAN 3 WORKING DAYS AFTER THE MOTION IS FILED OR THE ORAL REQUEST FOR RECONSIDERATION IS MADE IN COURT. THE COURT SHALL MAKE A DETERMINATION REGARDING THE REASONS FOR THE MONETARY CONDITION AND THE REASONABLENESS OF THE MONETARY CONDITION SET BY THE COURT. IF THE COURT DOES NOT GRANT THE RECONSIDERATION OF THE MONETARY CONDITION CONSISTENT WITH THE REQUEST OF THE DEFENDANT, THE COURT SHALL STATE WHY THE COURT DID NOT GRANT THE REQUEST AND WHY THE MONETARY CONDITION OF BOND AS SET BY THE COURT IS NECESSARY AND CONSISTENT WITH THE MANDATES OF THIS ARTICLE 4. THE REASONS SHALL BE SPECIFIED ON THE RECORD OR IN WRITING IN ORDER THAT THE DEFENDANT MAY EXERCISE HIS OR HER RIGHT TO APPEAL PURSUANT TO SECTION 16-4-204, OR ANY OTHER AVAILABLE APPELLATE REMEDIES. THE DEFENDANT MAY EXERCISE THIS RIGHT TO A RECONSIDERATION HEARING PURSUANT TO THIS SECTION ONCE DURING THE PENDENCY OF THE CASE. SUBSEQUENT REQUESTS TO RECONSIDER A MONETARY CONDITION OF BOND MAY BE MADE PURSUANT TO THE PROVISIONS OF PARAGRAPHS (1) AND (2) OF THIS SECTION.

(4) UPON A MOTION FROM THE DISTRICT ATTORNEY, OR A VERIFIED APPLICATION FROM THE DISTRICT ATTORNEY, PRETRIAL SERVICES PROGRAM OR A BONDING AND RELEASE COMMISSIONER STATING FACTS OR CIRCUMSTANCES CONSTITUTING A VIOLATION OR A THREATENED VIOLATION OF ANY OF THE CONDITIONS OF RELEASE THAT CREATES A SUBSTANTIAL RISK OF DANGER TO THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY, A SUBSTANTIAL RISK THAT THE PERSON WILL ATTTEMPT TO FLEE PROSECUTION, A SUBSTANTIAL RISK THAT THE PERSON WILL ATTEMPT TO OBSTRUCT OR OTHERWISE WILLFULLY AVOID THE CRIMINAL JUSTICE PROCESS. THE COURT MAY ISSUE A WARRANT COMMANDING ANY PEACE OFFICER TO BRING THE DEFENDANT WITHOUT UNNECESSARY DELAY BEFORE THE COURT FOR A HEARING ON THE MATTERS SET FORTH IN THE MOTION OR APPLICATION. A WARRANT PURSUANT TO THIS SUBSECTION DOES NOT REVOKE THE BOND. UPON ISSUANCE OF THE WARRANT, THE PRETRIAL SERVICES PROGRAM OR THE BONDING AND RELEASE COMMISSIONER SHALL NOTIFY THE BAIL BOND AGENT OF RECORD BY ELECTRONIC MAIL TO THE AGENT IF AVAILABLE WITHIN TWENTY-FOUR HOURS OR BY CERTIFIED MAIL NOT MORE THAN FOURTEEN DAYS AFTER THE WARRANT IS ISSUED. AT THE CONCLUSION OF THE HEARING, THE COURT MAY ENTER AN ORDER AUTHORIZED BY SUBSECTION (5) OF THIS SECTION. IF A PRETRIAL SERVICES PROGRAM OR A BONDING AND RELEASE COMMISSIONER FILES A MOTION OR APPLICATION FOR A WARRANT AND HEARING PURSUANT TO THIS SUBSECTION (4), THEY SHALL NOTIFY THE DISTRICT ATTORNEY FOR THE JURISDICTION IN WHICH THE MOTION OR APPLICATION IS MADE OF THE MOTION OR APPLICATION WITHIN TWENTY-FOUR HOURS FOLLOWING THE FILING OF THE MOTION OR APPLICATION.

(5) IF THE COURT, AFTER ADMISSION FROM THE DEFENDANT, OR AFTER A HEARING, DETERMINES THAT THE DEFENDANT VIOLATED A CONDITION OF RELEASE, THE COURT MAY;

(a) CONTINUE THE BOND AND CONDITIONS OF RELEASE AFTER A DETERMINATION THAT NO FURTHER ACTION BY THE COURT WITH RESPECT TO THE TYPE OF BOND AND THE CONDITIONS OF RELEASE IS WARRANTED; OR

(b) MODIFY THE NONMONETARY CONDITIONS OF RELEASE TO INCLUDE ADDITIONAL OR CHANGED LEAST RESTRICTIVE NONMONETARY CONDITION PURSUANT TO 16-4-105; OR

(c) REVOKE THE BOND AND SET A NEW MONETARY CONDITION PURSUANT TO 16-4-104.5 WITH NONMONETARY CONDITIONS OF RELEASE PURSUANT TO 16-4-105; OR

(d) CONTINUE THE BOND AND CONDITIONS OF RELEASE AFTER A TEMPORARY SANCTION OF UP TO 72 HOURS IN CUSTODY WHEN THE DEFENDANT ADMITS TO A VIOLATION OF CONDITIONS OF RELEASE AND AGREES TO A SHORT- TERM SANCTION.

(e) NOTWITHSTANDING THE PROVISIONS IN PARAGRAPH (4) AND (5), WHEN THE VIOLATION OF THE CONDITIONS OF RELEASE INVOLVES REPEATED USE OF PROHIBITED SUBSTANCES OR REPEATED VIOLATIONS OF MONITORED SOBRIETY, AND THE BEHAVIOR HAS BEEN DETERMINED TO CREATE SUBSTANTIAL RISK OF FLIGHT OR A RISK TO THE PHYSICAL SAFETY OF A PERSON OR PERSONS OTHER THAN THE DEFENDANT, THE COURT MAY, IF THE DEFENDANT CONSENTS, CONTINUE THE ORIGINAL BOND AND CONDITIONS OF RELEASE AND IMPOSE A TEMPORARY SANCTION OF UP TO 72 HOURS IN CUSTODY AS PROVIDED IN PARAGRAPH (6)(d). AS AN ALTERNATIVE, IF THE DEFENDANT CONSENTS, THE COURT MAY REFER THE PERSON FOR TREATMENT SERVICES AS A CONDITION OF RELEASE. ONLY WHEN THE DEFENDANT REFUSES INTERMEDIATE SANCTIONS AS DESCRIBED ABOVE MAY THE COURT REVOKE THE BOND AND SET A NEW BOND PURSUANT TO 16-4-104.5 WITH CONDITIONS OF RELEASE PURSUANT TO 16-4-105.

(f) THE DISTRICT ATTORNEY AND THE DEFENDANT WITH HIS OR HER ATTORNEY HAS THE RIGHT TO APPEAR AT ALL HEARINGS REGARDING MODIFICATION OF THE TYPE OF BOND AND CONDITIONS OF RELEASE AND MAY ADVISE THE COURT ON ALL PERTINENT MATTERS DURING THE HEARING.

16-4-204. Appellate review of terms and conditions of bail or appeal bond.

(1) AFTER A RECONSIDERATION HEARING OR A DENIAL OF RECONSIDERATION OF CONDITIONS PURSUANT TO THE PROVISONS OF 16-4-109 OR ENTRY OF AN ORDER PURSUANT TO 16-4-201, THE DEFENDANT OR THE PROSECUTING ATTORNEY MAY SEEK REVIEW OF THE COURT'S ORDER BY FILING A PETITION FOR REVIEW IN THE APPELLATE COURT.

(2) THE PETITION SHALL BE IN WRITING, SHALL BE SERVED AS PROVIDED BY COURT RULE FOR SERVICE OF MOTIONS, AND SHALL HAVE APPENDED THERETO A TRANSCRIPT OF THE HEARING HELD PURSUANT TO SECTION 16-4-109 OR 16-4-203, UNLESS THE TRANSCRIPT CAN NOT BE OBTAINED WITHIN THREE DAYS AFTER PARTY REQUESTS SUCH TRANSCRIPT, EXCLUDING SATURDAYS, SUNDAYS AND LEGAL HOLIDAYS. IF THE TRANSCRIPT CANNOT BE OBTAINED WITHIN THREE DAYS, AN AUDIO RECORDING OF ALL RELEVANT BAIL HEARINGS MAY BE PROVIDED FOR APPELLATE REVIEW IN LIEU OF THE TRANSCRIPTS AND THE TRANSCRIPT SHALL BE FILED WITH THE APPELLATE COURT AS SOON AS IT IS AVAILABLE.

(3) THE OPPOSING PARTY MAY FILE A RESPONSE TO THE PETITION WITHIN SEVEN DAYS, UNLESS ADDITIONAL TIME IS PROVIDED BY THE COURT FOR GOOD CAUSE. FURTHER BRIEFING MAY BE ALLOWED BY THE COURT ON AN EXPEDITED BASIS.

(4) THE APPELLATE COURT SHALL ISSUE AN ORDER WITH WRITTEN FINDINGS AND CONCLUSIONS ADDRESSING THE FACTUAL AND LEGAL ISSUES RAISED AS SOON AS PRACTICABLE, BUT NOT LATER THAN 14 DAYS FROM THE CONCLUSION OF THE BRIEFING OF THE PARTIES. THE COURT SHALL

REVIEW ISSUES OF CONSTITUTIONAL LAW AND STATUTORY INTERPRETATION DE NOVO, AND SHALL REVIEW FACTUAL FINDINGS FOR AN ABUSE OF DISCRETION.

(5) AFTER REVIEW OF THE PETITION, THE APPELLATE COURT MAY:

(a) REMAND THE PETITION FOR A FURTHER EXPEDITED HEARING IN THE TRIAL COURT WITHIN 7 DAYS IF IT DETERMINES THAT THE RECORD DOES NOT SUFFICENTLY SPECIFY THE FINDINGS UPON WHICH THE TRIAL COURT ENTERED THE ORDER; OR

(b) ORDER THE TRIAL COURT TO MODIFY THE CONDITIONS OF RELEASE OR APPEAL BOND; OR

(c) ORDER THE TRIAL COURT TO MODIFY THE CONDITIONS OF RELEASE OR APPEAL BOND AND REMAND FOR A FURTHER HEARING ON ADDITIONAL CONDITIONS OF RELEASE OR APPEAL BOND; OR

(d) DISMISS THE PETITION WITH WRITTEN FINDINGS STATING THE REASONS FOR THE DISMISSAL AND IF CONSTITUTIONAL ISSUES ARE RAISED, ADDRESSING THE CONSTITUTIONAL ISSUES IN THE WRITTEN ORDER.

(e) ALL QUESTIONS OF CONSTITUTIONAL LAW AND STATUTORY INTERPRETATION SHALL BE REVIEWED DE NOVO BY THE APPELLATE COURT.

(6) A PETITION FOR REVIEW OF BOND CONDITIONS IN AN APPELLATE COURT SHALL NOT STAY THE UNDERLYING CRIMINAL PROCEEDINGS AND THE DEFENDANT MAY REQUEST ADDITIONAL RECONSIDERATION OF CONDITIONS OF RELEASE PURSUANT TO THE PROVISIONS OF 16-4-109 DURING THE PENDENCY OF THE APPELLATE PROCESS.

(7) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO DENY ANY PARTY THE RIGHTS SECURED BY SECTION 21 OF ARTICLE II OF THE COLORADO CONSTITUTION.

16-4-207. Contents of a summons – Court reminders.

(1) If a summons is issued in lieu of a warrant under this section:

(a) It shall be in writing.

(b) It shall state the name of the person summoned and his address.

(c) It shall identify the nature of the offense.

(d) It shall state the date when issued and the county where issued.

(e) It shall be signed by the judge or clerk of the court with the title of his office or by the law enforcement officer who issued the summons.

(f) It shall command the person to appear before the court at a certain time and place.

(g) It shall advise the person summoned that the person can elect to provide a mobile telephone number that will solely be used to provide text message reminders of future court dates and unplanned court closures, and provide an opportunity for the person to provide a mobile telephone number for that purpose.
[Editor's note: This subsection (2)(g) is effective July 1, 2020.]

(2) A summons issued under this section may be served in the same manner as the summons in a civil action or by mailing it to the defendant's last-known address by certified mail with return receipt requested not less than fourteen days prior to the time the defendant is requested to appear. Service by mail is complete upon the return of the receipt signed by the defendant.

(3) If any person summoned under this section fails to appear as commanded by the summons, the court shall forthwith issue a warrant for his arrest.

16-5-206. Summons in lieu of warrant or arrest – Mandatory summons – Exceptions - Presumptions.

(1) A SUMMONS SHALL BE ISSUED FOR ALL TRAFFIC OFFENSES, PETTY OFFENSES AND ANY COMPARABLE MUNICIPAL OFFENSES FOR WHICH MONETARY CONDITIONS OF RELEASE ARE PROHIBITED PURSUANT TO §16-4-113(2), C.R.S., UNLESS THE LOCATION OF THE PERSON IS UNKNOWN AND THE ISSUANCE OF AN ARREST WARRANT IS NECESSARY IN ORDER TO SUBJECT THE PERSON TO THE JURISDICTION OF THE COURT.

(2) A SUMMONS SHALL BE ISSUED FOR MISDEMEANOR OFFENSES AND MUNICIPAL OFFENSES FOR WHICH THERE IS A COMPARABLE STATE MISDEMEANOR CHARGE UNLESS CERTAIN EXCEPTIONS EXIST. THOSE EXCEPTIONS ARE:

   (a) ARREST IS MANDATORY PURSUANT TO THE MANDATES OF ANOTHER STATUTORY PROVISON; OR

   (b) THE OFFENSE IS DEFINED AS A “CRIME” IN §24-4.1-302(1), C.R.S., FOR PURPOSES OF THE RIGHTS OF VICTIMS; OR

   (c) THE FACTS AND CIRCUMSTANCES INDICATE A SUBSTANTIAL RISK THAT THE PERSON WILL ATTEMPT TO FLEE PROSECUTION IF NOT ARRESTED; OR

   (d) THE FACTS AND CIRCUMSTANCES INDICATE AN IMMINENT AND SUBSTANTIAL RISK THAT A VICTIM, WITNESS, OR ANY PERSON OTHER THAN THE DEFENDANT MAY BE HARMED IF THE PERSON IS NOT ARRESTED; OR

   (e) THERE IS PROBABLE CAUSE THAT THE PERSON COMMITTED AN OFFENSE UNDER §42-4-1301, C.R.S.; OR

   (f) THERE IS PROBABLE CAUSE THAT THE PERSON USED OR POSSESSED A DEADLY WEAPON AS DEFINED IN §18-1-901(3)(E), C.R.S., DURING THE COMMISSION OF THE OFFENSE; OR

   (g) THE LOCATION OF THE PERSON IS UNKNOWN AND THE ISSUANCE OF AN ARREST WARRANT IS NECESSARY IN ORDER TO SUBJECT THE PERSON TO THE JURISDICTION OF THE COURT.

(3) FOR FELONY OFFENSES, UNLESS THERE IS A STATUTORY PROVISION MANDATING ARREST, LAW ENFORCEMENT OFFICERS MAY DELAY THE ARREST OF ANY PERSON PENDING A FILING DECISION BY THE DISTRICT ATTORNEY. AFTER THE DISTRICT ATTORNEY HAS DETERMINED THAT A FELONY CHARGE WILL BE FILED, THE DISTRICT ATTORNEY MAY REQUEST THAT THE COURT ISSUE A SUMMONS OR MAY REQUEST A WARRANT BE ISSUED FOR THE PERSON’S ARREST. UNLESS THERE IS A STATUTORY PROVISION MANDATING ARREST, LAW ENFORCEMENT AGENCIES AND OFFICERS

HAVE THE AUTHORITY TO ISSUE A SUMMONS FOR A FELONY OFFENSE PURSUANT TO LOCAL POLICY AND WITH THE CONSENT OF THE DSISTRICT ATTORNEY.

(4) FOR CLASS 4, 5 AND 6 FELONY OFFENSES AND LEVEL 3 AND 4 DRUG FELONY OFFENSES, THERE SHALL BE A PREFERENCE AND A PRESUMPTION IN FAVOR OF A SUMMONS INSTEAD OF AN ARREST OR ARREST WARRANT UNLESS CERTAIN EXCEPTIONS EXIST. THOSE EXCEPTIONS ARE:

(a) ARREST IS MANDATORY PURSUANT TO THE MANDATES OF ANY STATUTORY PROVISION

(b) THE OFFENSE IS ENUMERATED AS A CRIME IN § 24-4.1-302(1), C.R.S., FOR PURPOSES OF THE RIGHTS OF VICTIMS; OR

(c) THE FACTS AND CIRCUMSTANCES INDICATE A SUBSTANTIAL RISK THAT THE PERSON WILL ATTEMPT TO FLEE PROSECUTION IF THE PERSON IS NOT ARRESTED; OR

(d) THE FACTS AND CIRCUMSTANCES INDICATE AN IMMINENT AND SUBSTANTIAL RISK THAT A VICTIM, WITNESS, OR ANY PERSON OTHER THAN THE DEFENDANT MAY BE HARMED IF THE PERSON IS NOT ARRESTED; OR

(e) THERE IS PROBABLE CAUSE THAT THE PERSON COMMITTED AN OFFENSE UNDER 42-4-1301, C.R.S., OR

(f) THERE IS PROBABLE CAUSE THAT THE PERSON USED OR POSSESSED A DEADLY WEAPON AS DEFINED IN 18-1-901(3)(E), C.R.S., DURING THE COMMISSION OF THE OFFENSE; OR

(g) THE LOCATION OF THE PERSON IS UNKNOWN AND THE ISSUANCE OF AN ARREST WARRANT IS NECESSARY IN ORDER TO SUBJECT THE PERSON TO THE JURISDICTION OF THE COURT.

18-8-212. Violation of bail bond conditions.

(1) A PERSON WHO IS RELEASED ON BOND AND IS CHARGED WITH ANY FELONY ARISING FROM THE CONDUCT FOR WHICH HE WAS ARRESTED, COMMITS A CLASS 6 FELONY IF HE KNOWINGLY FAILS TO APPEAR IN THE CASE WITH THE INTENT TO AVOID PROSECUTION.

(2) A PERSON WHO IS RELEASED ON BOND, AND IS CHARGED WITH ANY FELONY OR MISDEMEANOR ARISING FROM THE CONDUCT FOR WHICH HE WAS ARRESTED, COMMITS A CLASS 3 MISDEMEANOR IF HE INTENTIONALLY FAILS TO APPEAR IN THE CASE FOR ANY PROCEEDINGS FOR WHICH VICTIMS OR WITNESSES HAVE APPEARED IN COURT.

(3) NO VIOLATION OF BOND APPEARANCE CONDITIONS MAY BE BROUGHT AGAINST ANY PERSON SUBJECT TO THE PROVISIONS OF 16-4-113(2).

18-1-1001. Protection order against defendant.

(1) There is hereby created a mandatory protection order against any person charged with a violation of any of the provisions of this title, which order shall remain in effect from the time that the person is advised of his or her rights at arraignment or the person's first appearance before the court and informed of such order until final disposition of the action. Such order shall restrain the person charged from harassing, molesting, intimidating, retaliating against, or tampering with any witness

to or victim of the acts charged. The protection order issued pursuant to this section shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected parties.

(2) At the time of arraignment or the person's first appearance before the court, the court shall inform the defendant of the protection order effective pursuant to this section and shall inform the defendant that a violation of such order is punishable by contempt.

(3) (a) Nothing in this section precludes the defendant from applying to the court at any time for modification or dismissal of the protection order issued pursuant to this section or the district attorney from applying to the court at any time for further orders, additional provisions under the protection order, or modification or dismissal of the same. The trial court retains jurisdiction to enforce, modify, or dismiss the protection order until final disposition of the action. Upon motion of the district attorney or on the court's own motion for the protection of the alleged victim or witness, the court may, in cases involving domestic violence as defined in section 18-6-800.3 (1) and cases involving crimes listed in section 24-4.1-302, except those listed in subsections (1)(cc.5) and (1)(cc.6) of that section, enter any of the following further orders against the defendant:

(I) An order to vacate or stay away from the home of the alleged victim or witness and to stay away from any other location where the victim or witness is likely to be found;

(II) An order to refrain from contact or direct or indirect communication with the alleged victim or witness;

(III) An order prohibiting possession or control of firearms or other weapons;

(IV) An order prohibiting possession or consumption of alcohol or controlled substances;

(V) An order prohibiting the taking, transferring, concealing, harming, disposing of, or threatening to harm an animal owned, possessed, leased, kept, or held by an alleged victim or witness; and

(VI) Any other order the court deems appropriate to protect the safety of the alleged victim or witness.

(b) ANY FURTHER ORDERS ISSUED PURSUANT TO SUBSECTION (3)(a) SHALL BE FOR THE PROTECTION OF A VICTIM OR WITNESS AND NOT FOR THE PROTECTION OF THE DEFENDANT, INCLUDING FOR THE PROTECTION OF THE DEFENDANT FROM THE USE OF ALCOHOL OR OTHER SUBSTANCES.

(c) ANY FURTHER ORDERS ISSUED PURSUANT TO SUBECTION (3) THAT ARE NOT MANDATORY SHALL BE SUPPORTED SHALL BE NECESSARY TO REASONABLE ENSURE THE SAFETY OF ANY VICTIM OR WITNESS AND SHALL INCLUDE THE INPUT OF THE VICTIM OR WITNESS, WHEN AVAILABLE.

18-6-803.5. Crime of violation of a protection order - Penalty - Peace officers' duties – Definitions.

(1.5) As used in this section:

(a) "Protected person" means the person or persons identified in the protection order as the person or persons for whose benefit the protection order was issued. A PROTECTED PERSON AS USED IN THIS SECTION SHALL NOT INCLUDE THE DEFENDANT.

13-3-117. TeleJustice Program Fund.

(1) ON AND AFTER APRIL 1, 2021, THE OFFICE OF THE STATE COURT ADMINISTRATOR SHALL OPERATE A PROGRAM, REFERRED TO IN THIS SECTION AS THE "TELEJUSTICE PROGRAM", THAT IMPLEMENTS TELEPHONIC OR INTERNET-BASED NETWORKING SOFTWARE TO LET MUNICIPAL COURTS, COUNTY COURTS, AND DISTRICT COURTS OF THE STATE CONDUCT HEARINGS AND OTHER JUDICIAL PROCEDURES WITH REMOTE PARTICIPANTS. THE TELEJUSTICE PROGRAM MUST PROVIDE A TWO-WAY AUDIO AND VIDEO CONNECTION THAT ALLOWS PARTICIPANTS TO SEE AND COMMUNICATE VERBALLY WITH EACH OTHER. THE PURPOSE OF THE TELEJUSTICE PROGRAM IS TO ALLOW FOR DEFENDANTS TO APPEAR AT CERTAIN COURT PROCEEDINGS VIA THE USE OF INTERACTIVE AUDIOVISUAL DEVICES, SUBJECT TO THE PROVISIONS OF THE COLORADO CONSTITUTION AND THE COLORADO RULES OF CRIMINAL PROCEDURE. IT IS PRESUMED THAT THE PHYSICAL PRESENCE OF THE DEFENDANT IS REQUIRED AT ALL COURT PROCEEDINGS EXCEPT IN THOSE LIMITED CIRCUMSTANCES WHEN THE RIGHTS OF THE DEFENDANT AND THE FAIR ADMINISTRATION OF JUSTICE WILL NOT BE COMPROMISED BY THE USE OF AN INTERACTIVE AUDIOVISUAL DEVICE.

(2) (a) THE TELEJUSTICE PROGRAM IS SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY AND THE STATE COURT ADMINISTRATOR SHALL EXPEND MONEY APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE PURPOSES DESCRIBED IN THIS SECTION. THE MUNICIPALITIES OF EACH MUNICIPAL COURT, IF THEY CHOOSE TO PARTICIPATE IN THE TELEJUSTICE PROGRAM AT THEIR DISCRETION, ARE RESPONSIBLE FOR THE COSTS OF INSTALLING AND MAINTAINING SOFTWARE AND EQUIPMENT COMPATIBLE WITH THE TELEPHONIC OR INTERNET-BASED SOFTWARE USED BY THE COUNTY COURTS AND DISTRICT COURTS.

(3) (a) IN DETERMINING WHETHER A PROCEEDING IS ONE AT WHICH THE USE OF AN INTERACTIVE AUDIOVISUAL DEVICE IS REASONABLE AND APPROPRIATE IN LIGHT OF THE PRESUMPTION THAT THE DEFENDANT SHOULD BE PHYSICALLY PRESENT AT COURT HEARINGS, THE COURT SHALL:

(I) COMPLY WITH ANY RELEVANT RULE OF CRIMINAL PROCEDURE AND ANY CONSTITUTIONAL LIMITATIONS; AND

(II) ENSURE THAT DEFENSE COUNSEL HAS AN OPPORTUNITY TO BE HEARD REGARDING THE USE OF AN INTERACTIVE AUDIOVISUAL DEVICE, IF THE DEFENDANT OBJECTS.

(b) IF AN INTERACTIVE AUDIOVISUAL DEVICE WILL BE USED, THE COURT SHALL ALLOW COUNSEL SUFFICIENT OPPORTUNITY TO CONSULT WITH THE DEFENDANT PRIOR TO ANY HEARING.

(4) NOTHING IN THIS SECTION REQUIRES THE DIVISION OF YOUTH SERVICES WITHIN THE DEPARTMENT OF HUMAN SERVICES TO UTILIZE THE TELEJUSTICE PROGRAM.

16-4-xxx. *[Section to be determined by drafter]* **Comprehensive pretrial stakeholder training.**

(1) THE JUDICIAL DEPARTMENT, THE OFFICE OF THE PUBLIC DEFENDER, THE COLORADO DISTRICT ATTORNEYS' COUNCIL, THE OFFICE OF THE ATTORNEY GENERAL, AND THE OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL PROVIDE OR MAKE AVAILABLE TRAINING TO ATTORNEYS, JUDGES, MAGISTRATES AND OTHER EMPLOYEES, CONTRACTORS OR STAFF CONCERNING THE PRETRIAL PROCESS, THE CHANGES IN THE PRETRIAL PROCESS AS PROVIDED IN RECENT LAW CHANGES, AS WELL AS THE EMPIRICAL RESEARCH AND LAW SUPPORTING BEST PRACTICES IN PRETRIAL JUSTICE. EACH DEPARTMENT, AGENCY OR ORGANIZATION SHALL DEVELOP AND DELIVER IN DEPTH STATEWIDE TRAINING TO BE LOCALLY DELIVERED, TO THE EXTENT POSSIBLE, AND SHALL ALSO WORK IN COOPERATION WITH EACH OTHER TO DELIVER PRETRIAL JUSTICE TRAINING IN LOCAL JURISDCITIONS THAT IS CONSISTENT WITH BEST PRACTICES IN PRETRIAL JUSTICE.

(2) EACH AGENCY SHALL REPORT ANNUALLY TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY SUCCESSOR COMMITTEES, INFORMATION PROVIDING THE FOLLOWING INFORMATION:

(a) THE ENTIRE TRAINING CURRICULUM AS DEVELOPED BY THE DEPARTMENT OR AGENCIES AND A COMPLETE DESCRIPTION OF HOW THE TRAINING WAS DELIVERED STATEWIDE AND EACH JURISDICTION;

(b) THE NUMBER OF HOURS DEDICATED TO THE TRAINING BY THE STATE DEPARTMENT, STATE AGENCY OR DISTRICT ATTORNEY'S OFFICE AND ADDITIONALLY, THE NUMBER OF HOURS OF TRAINING PROVIDED OR SUPPORTED BY THE AGENCY OR OFFICE WITHIN EACH JURISDICTION;

(c) THE NUMBER OF PERSONS WHO ENGAGED IN THE TRAINING IN EACH JURISDICTION OR OFFICE, SPECIFICALLY THE NUMBER OF JUDGES, JUDICIAL OFFICERS, DISTRICT ATTORNEYS, ATTORNEYS GENERAL AND CRIMINAL DEFENSE ATTORNEYS;

(d) THE PERCENTAGE OF THE TOTAL NUMBER OF JUDGES, JUDICIAL OFFICERS, DISTRICT ATTORNEYS, ATTORNEYS GENERAL AND CRIMINAL DEFENSE ATTORNEYS IN THAT DEPARTMENT, AGENCY OR OFFICE THAT PARTICIPATED IN THE TRAINING;

(e) A DESCRIPTION OF HOW THE JURISDICTION HAS COORDINATED AND JOINTLY TRAINED WITH OTHER STAKEHOLDERS AND ENTITIES, INCLUDING PRETRIAL SERVICE PROGRAMS, TO ENSURE THAT PRETRIAL JUSTICE BEST PRACTICES ARE DELIVERED EFFECTIVELY AND EFFICIENTLY.