

<p><b>EIGHTEENTH JUDICIAL DISTRICT: ARAPAHOE, DOUGLAS, ELBERT and LINCOLN COUNTIES, COLORADO</b></p> <p>Arapahoe County Justice Center 7325 South Potomac Street Centennial, Colorado 80112</p> <p>Arapahoe County Courthouse 1790 West Littleton Boulevard Littleton, Colorado 80120</p> <p>Douglas County Justice Center 4000 Justice Way #2009 Castle Rock, Colorado 80109</p> <p>Elbert County Courthouse PO Box 232, 751 Ute Street Kiowa, Colorado 80117</p> <p>Lincoln County Courthouse PO Box 128, 103 Third Avenue Hugo, Colorado 80821</p>	<p style="text-align: center;"><b>• COURT USE ONLY •</b></p> <hr/> <p style="text-align: center;"><b>Chief Judge Order 23-08 Division 201, Arapahoe County</b></p>
<p style="text-align: center;"><b>CHIEF JUDGE ORDER 23-08 IMPLEMENTING PROCEDURES FOR OBTAINING A COURT ORDER FOR RESTRICTIVE HOUSING IN JAILS PURSUANT TO C.R.S. § 17-26-301, ET SEQ.</b></p>	

Pursuant to the authority granted to chief judges of the judicial districts of the State of Colorado by Chief Justice Directive 95-01, the undersigned, in her capacity as Chief Judge of the Eighteenth Judicial District, enters the following Chief Judge Order (“CJO”) 23-08. C.R.S. § 17-26-301, et seq.<sup>1</sup> impacts the court and multiple jails within the Eighteenth Judicial District, and thus, the undersigned

<sup>1</sup> C.R.S. § 17-26-301, et seq. are effective July 1, 2023.

implements the following procedures for the court to comply with issuing any appropriate court orders with respect to restrictive housing.

The legislative declaration contained within C.R.S. § 17-26-301 includes that “due to the substantial negative impacts of placing juveniles and adults with specific health conditions in restrictive housing, the state must take immediate steps to end and prohibit the use of restrictive housing of juveniles and adults with specific health conditions in Colorado jails.” C.R.S. § 17-26-301(2). Thus, C.R.S. § 17-26-301, et seq., outlines procedures to be followed regarding placement of certain individuals in restrictive housing in a local jail. A local jail is defined as “a jail or an adult detention center of a county or city and county with a capacity of more than four hundred beds.” C.R.S. § 17-26-302(2). When an individual meets certain conditions set out in C.R.S. § 17-26-303, “the local jail shall not hold the individual in restrictive housing for more than fifteen days in a thirty-day time period **without a written court order.**” C.R.S. § 17-26-303(2)(i)(I) (emphasis added). Accordingly,

(II) If a local jail wants to hold an individual placed in restrictive housing pursuant to subsection (2)(a) of this section for more than fifteen days in a thirty-day period, the local jail must obtain a written court order. A court shall grant the court order if the court finds by clear and convincing evidence that:

- (A) The individual poses an imminent danger to himself or herself or others;
- (B) No alternative less-restrictive placement is available;
- (C) The jail has exhausted all other placement alternatives; and
- (D) No other options exist, including release from custody.

C.R.S. § 17-26-303(2)(i)(II).

While the statute describes the findings that must be made in a court order to place an individual in restrictive housing, the statute is silent as to the administrative aspects of case management for a restrictive housing order. Thus, the undersigned finds it important to establish a consistent procedure for the Eighteenth Judicial District, given that this procedure will impact both the Arapahoe County Jail and the Douglas County Jail as both meet the definition of “local jail” per C.R.S. § 17-26-302(2).

Accordingly, when a local jail in the Eighteenth Judicial District wants to hold certain individuals in restrictive housing for more than fifteen days in a thirty-day time period, then it must obtain a court order per C.R.S. § 17-26-303(2)(i)(I)-(II) through the following procedure:

1. The County Attorney will initiate a new action by filing a Petition for Extension of Restrictive Housing (“Petition”) and a sworn affidavit (“Affidavit”) with the applicable court in the Eighteenth Judicial District. The Petition should be filed as a public court document and should not include any medical and/or mental health information regarding the individual. The Affidavit should be filed in suppressed status and can contain medical and/or mental health information regarding the individual.<sup>2</sup>
2. The filing County Attorney must include a certificate of service indicating that the individual and, if represented, the individual’s counsel have been served with the Petition and the Affidavit.

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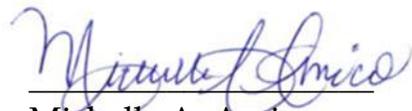
<sup>2</sup> The undersigned anticipates that these cases will contain protected mental health information and that is it likely that these individuals will have pending or recently resolved criminal cases. Accordingly, the undersigned finds that the Affidavit should be maintained in suppressed status. *See* Chief Justice Directive 05-01 § 3.08 (defining suppressed court records).

3. When the Clerk's Office receives that Petition, they will open a new civil (CV) case for the action, in which the County Attorney will be entered as a party to the proceeding.
4. After the court enters its order on the Petition, the court will set a twenty-one-day review.
5. If there are no further filings after twenty-one days, then the case will be closed.

While the statute mandates that the local jail needs a court order to hold an individual in restrictive housing for more than fifteen days in a thirty-day period without a written court order, it is silent for how long beyond fifteen days the local jail may hold the individual in restrictive housing once it receives the court order. Given the legislative declaration seeking to end and prohibit the use of restrictive housing of inmates with certain health conditions, if the local jail determines that it needs to keep the individual in restrictive housing for longer than ordered by the court, then it must file another Petition and Affidavit within the existing CV case prior to the expiration of the order.<sup>3</sup>

Dated June 28, 2023, effective July 1, 2023.

**BY THE COURT:**



Michelle A. Amico

Chief Judge

Eighteenth Judicial District

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<sup>3</sup> If the circumstances have not changed for needing to keep the individual in restrictive housing, then the local jail may file only a Petition representing that there have been no change in circumstances from the original filing. If circumstances have changed and/or there is additional information the local jail believes the court should be apprised of, then the local jail shall file another suppressed Affidavit with the Petition.