

90 the subject officer's mental capacity to fulfill the essential functions of the applicable office and
91 any reasonable accommodations that would enable the subject officer to continue to function in
92 the applicable office; and

93 (b) the subject officer may bring one individual to the meeting to assist the subject
94 officer in the discussion.

95 (4) (a) After the discussion described in Subsection (3), the county legislative body
96 may exclude the subject officer and the individual described in Subsection (3)(b) from the
97 closed portion of the meeting to discuss whether the subject officer has the mental capacity to
98 fulfill the essential functions of the applicable office, with or without reasonable
99 accommodations.

100 (b) If the subject officer is a member of the county legislative body:

101 (i) the county legislative body may exclude the subject officer and the individual
102 described in Subsection (3)(b) from the portion of the closed meeting described in Subsection
103 (4)(a); and

104 (ii) the subject officer is recused from voting on any decision, described in this part, of
105 the county legislative body.

106 (c) Notwithstanding the provisions of Title 52, Chapter 4, Open and Public Meetings
107 Act, the county legislative body shall meet in a closed meeting to vote on whether the subject
108 officer has the ability to fulfill the essential functions of the applicable office, with or without
109 reasonable accommodations.

110 (5) If the county legislative body ~~H~~→ [unanimously concludes] reaches a unanimous
110a preliminary conclusion ←H that the subject officer lacks
111 the mental capacity to fulfill the essential functions of the applicable office, with or without
112 reasonable accommodations, the county legislative body shall:

113 (a) confidentially inform the subject officer of the vote; and

114 (b) allow the subject officer five calendar days, after the day on which the county
115 legislative body makes the conclusion, to:

116 (i) resign from the applicable office;

117 (ii) (A) voluntarily agree to undergo a mental capacity evaluation at the expense of the
118 county; and

119 (B) sign a waiver to disclose only the results of the mental capacity evaluation to the
120 county legislative body; or

121 (iii) refuse to take any action.

122 (6) If the county legislative body does not ~~H~~→ [~~unanimously conclude~~] reach a unanimous
 122a preliminary conclusion ←H that the subject

123 officer lacks the mental capacity to fulfill the essential functions of the applicable office, with
 124 or without reasonable accommodations:

125 (a) the county legislative body shall:

126 (i) publicly announce that the vote failed, without disclosing the number of votes for or
 127 against and without disclosing the vote of individual members of the county legislative body;

128 and

129 (ii) provide any necessary reasonable accommodations; and

130 (b) the subject officer may continue to function in the applicable office.

131 Section 3. Section **20A-1-903** is enacted to read:

132 **20A-1-903. Voluntary evaluation.**

133 (1) This section does not apply to a county, unless the county:

134 (a) has adopted the ordinance described in Subsection 20A-1-902(1)(a)(i); and

135 (b) has at least five members on the county legislative body.

136 (2) At the end of the five-day period described in Subsection 20A-1-902(5)(b), if the
 137 subject officer agrees to the voluntary mental capacity evaluation option described in

138 Subsection 20A-1-902(5)(b)(ii):

139 (a) the county legislative body and the subject officer shall mutually agree on a
 140 qualified medical professional to conduct the mental capacity evaluation; and

141 (b) the subject officer shall undergo the mental capacity evaluation within 15 calendar
 142 days after the day on which the subject officer agrees to undergo the mental capacity
 143 evaluation, or longer if the county legislative body and the subject officer agree to an extended
 144 period.

145 (3) Notwithstanding the provisions of Title 52, Chapter 4, Open and Public Meetings
 146 Act, any action taken by the county legislative body under Subsection (2) shall occur in a
 147 closed meeting.

148 (4) If the qualified medical professional concludes that the subject officer has the
 149 mental capacity to fulfill the essential functions of the applicable office, with or without
 150 reasonable accommodations:

151 (a) the county legislative body shall provide any necessary reasonable