

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1170.01 Michael Dohr x4347

HOUSE BILL 16-1410

HOUSE SPONSORSHIP

Young, Hamner, Rankin

SENATE SPONSORSHIP

Grantham, Lambert, Steadman

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MATTERS RELATED TO THE LOCATION WHERE A**
102 **COMPETENCY EVALUATION IS CONDUCTED, AND, IN CONNECTION**
103 **THEREWITH, MAKING AND REDUCING APPROPRIATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Joint Budget Committee. Under current law, the court determines the location of a competency evaluation. The bill specifies the evaluation must be done on an outpatient basis or where the defendant is held in custody. The bill allows a defendant to be placed in the custody of the Colorado mental health institute at Pueblo (CMHIP) for purposes of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

examination if:

- ! The court finds the defendant may be a danger to self or others;
- ! The court finds that an inadequate forensic evaluation and report has been completed or two or more conflicting forensic evaluations and reports have been completed;
- ! The court finds that an observation period is necessary to determine if the defendant is competent to stand trial;
- ! The court receives a recommendation from the CMHIP court services evaluator that conducting the examination at the CMHIP is appropriate because the evaluator conducting the evaluation for the CMHIP determines that the defendant has been uncooperative or the defendant has clinical needs that warrant transfer to the CMHIP; or
- ! The court receives written approval for the evaluation to be conducted at the CMHIP from the executive director of the department of human services, or his or her designee.

The court is prohibited from considering whether the defendant is going to have a competency evaluation when deciding whether to grant bond to the defendant. If a defendant needs to return to the county jail after completing the evaluation, the bill directs the county sheriff to make all reasonable efforts to return the defendant to the jail as soon as possible after the defendant's evaluation is completed. Under current law, the CMHIP must bill the court for the costs associated with the evaluation. The bill repeals this provision.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-8.5-105, **amend**
3 (1) as follows:

4 **16-8.5-105. Evaluations and report.** (1) (a) ~~The location for~~
5 ~~competency evaluations shall be determined by the court. The defendant~~
6 ~~may be released on bond, if otherwise eligible for bond, or referred or~~
7 ~~committed for a court-ordered competency evaluation to the department,~~
8 ~~or the court may direct that the evaluation be done at the place where the~~
9 ~~defendant is residing or is in custody. In determining the place where the~~
10 ~~evaluation is to be conducted, the court shall give priority to the place~~
11 ~~where the defendant is in custody, unless the nature and circumstances of~~

1 ~~the evaluation require designation of a different facility~~ THE COURT SHALL
2 ORDER THAT THE EVALUATION BE CONDUCTED ON AN OUTPATIENT BASIS
3 OR, IF THE DEFENDANT IS IN CUSTODY, AT THE PLACE WHERE THE
4 DEFENDANT IS IN CUSTODY. THE DEFENDANT SHALL BE RELEASED ON
5 BOND IF OTHERWISE ELIGIBLE FOR BOND.

6 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
7 THIS SUBSECTION (1), THE COURT MAY ORDER THE DEFENDANT PLACED IN
8 THE CUSTODY OF THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO
9 FOR THE TIME NECESSARY TO CONDUCT THE EVALUATION IF:

10 (I) THE COURT FINDS THE DEFENDANT MAY BE A DANGER TO SELF
11 OR OTHERS AS DEFINED IN SECTION 27-65-102, C.R.S.;

12 (II) THE COURT FINDS THAT AN INADEQUATE COMPETENCY
13 EVALUATION AND REPORT HAS BEEN COMPLETED OR TWO OR MORE
14 CONFLICTING COMPETENCY EVALUATIONS AND REPORTS HAVE BEEN
15 COMPLETED;

16 (III) THE COURT FINDS THAT AN OBSERVATION PERIOD IS
17 NECESSARY TO DETERMINE IF THE DEFENDANT IS COMPETENT TO STAND
18 TRIAL;

19 (IV) THE COURT RECEIVES A RECOMMENDATION FROM THE
20 COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO COURT SERVICES
21 EVALUATOR THAT CONDUCTING THE EVALUATION AT THE COLORADO
22 MENTAL HEALTH INSTITUTE AT PUEBLO IS APPROPRIATE BECAUSE THE
23 EVALUATOR CONDUCTING THE EVALUATION FOR THE COLORADO MENTAL
24 HEALTH INSTITUTE AT PUEBLO DETERMINES THAT THE DEFENDANT HAS
25 BEEN UNCOOPERATIVE OR THE DEFENDANT HAS CLINICAL NEEDS THAT
26 WARRANT TRANSFER TO THE COLORADO MENTAL HEALTH INSTITUTE AT
27 PUEBLO; OR

1 (V) THE COURT RECEIVES WRITTEN APPROVAL FOR THE
2 EVALUATION TO BE CONDUCTED AT THE COLORADO MENTAL HEALTH
3 INSTITUTE AT PUEBLO FROM THE EXECUTIVE DIRECTOR OF THE
4 DEPARTMENT OF HUMAN SERVICES, OR HIS OR HER DESIGNEE.

5 (c) THE COURT, WHEN SETTING BOND PURSUANT TO SECTION
6 16-4-103, IF THE DEFENDANT IS ELIGIBLE FOR BOND, AND AFTER
7 RECEIVING ANY INFORMATION PURSUANT TO SECTION 16-4-106, SHALL
8 NOT CONSIDER THE NEED FOR THE DEFENDANT TO RECEIVE AN
9 EVALUATION PURSUANT TO THIS ARTICLE.

10 (d) IF A DEFENDANT IS IN CUSTODY AT THE COLORADO MENTAL
11 HEALTH INSTITUTE AT PUEBLO FOR PURPOSES OF THE EVALUATION
12 ORDERED PURSUANT TO THIS ARTICLE AND THE DEFENDANT HAS
13 COMPLETED THE EVALUATION AND MUST BE RETURNED TO A COUNTY JAIL,
14 THE COUNTY SHERIFF IN THE JURISDICTION WHERE THE DEFENDANT MUST
15 RETURN SHALL MAKE ALL REASONABLE EFFORTS TO TAKE CUSTODY OF
16 THE DEFENDANT AS SOON AS PRACTICABLE ONCE THE DEFENDANT'S
17 EVALUATION IS COMPLETED.

18 ~~(b)~~ (e) Nothing in this section shall restrict the right of the
19 defendant to procure an evaluation as provided in section 16-8.5-107.

20 **SECTION 2.** In Colorado Revised Statutes, **repeal** 16-8.5-115.

21 **SECTION 3. Appropriation - adjustments to 2016 long bill.**

22 (1) To implement this act, the general fund appropriation made in the
23 annual general appropriation act for the 2016-17 state fiscal year to the
24 judicial department for court costs, jury costs, and court-appointed
25 counsel is decreased by \$368,000.

26 (2) To implement this act, the appropriations made in the annual
27 general appropriation act for the 2016-17 state fiscal year to the

1 department of human services are adjusted as follows:

2 (a) The general fund appropriation for use by the Colorado mental
3 health institute at Pueblo for personal services is increased by \$368,000;
4 and

5 (b) The appropriation from reappropriated funds transferred from
6 the judicial department for use by the Colorado mental health institute at
7 Pueblo for personal services is decreased by \$368,000.

8 (3) For the 2016-17 state fiscal year, \$107,076 is appropriated to
9 the department of human services. This appropriation is from the general
10 fund. To implement this act, the department may use this appropriation
11 as follows:

12 (a) \$91,972 for use by the Colorado mental health institute at
13 Pueblo for personal services, which amount is based on an assumption
14 that the department will require an additional 1.8 FTE;

15 (b) \$2,580 for use by the Colorado mental health institute at
16 Pueblo for operating expenses;

17 (c) \$6,380 for use by the Colorado mental health institute at
18 Pueblo for capital outlay; and

19 (d) \$6,144 for vehicle lease payments.

20 **SECTION 4. Effective date - applicability.** This act takes effect
21 July 1, 2016, and applies to competency evaluations ordered on or after
22 said date.

23 **SECTION 5. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.