

CHAPTER 366

COURTS

HOUSE BILL 16-1309

BY REPRESENTATIVE(S) Lontine, Becker K., Kagan, Kraft-Tharp, Lee, Melton, Moreno, Pabon, Pettersen, Rosenthal, Ryden, Saine, Salazar, Hullinghorst, Duran, Priola, Williams;
also SENATOR(S) Marble, Carroll, Crowder, Garcia, Guzman, Heath, Jahn, Kefalas, Lambert, Lundberg, Merrifield, Neville T., Newell, Steadman, Todd, Ulibarri.

AN ACT**CONCERNING A DEFENDANT'S RIGHT TO COUNSEL IN CERTAIN CASES CONSIDERED BY MUNICIPAL COURTS.**

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that the both the United States and Colorado constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at government expense for indigent persons in all cases in which incarceration is a possible penalty, unless there is a knowing, intelligent, and voluntary waiver of the right to counsel.

SECTION 2. In Colorado Revised Statutes, **add** 13-10-114.5 as follows:

13-10-114.5. Representation by counsel. (1) AT THE TIME OF FIRST APPEARANCE ON A MUNICIPAL CHARGE, IF THE DEFENDANT IS IN CUSTODY AND THE CHARGED OFFENSE INCLUDES A POSSIBLE SENTENCE OF INCARCERATION, THE COURT SHALL APPOINT COUNSEL TO REPRESENT THE DEFENDANT FOR PURPOSES OF THE INITIAL APPEARANCE UNLESS, AFTER A FULL ADVISEMENT PURSUANT TO C.M.C.R. 210 AND SECTION 16-7-207, C.R.S., THE DEFENDANT MAKES A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF HIS OR HER RIGHT TO COUNSEL.

(2) IF THE DEFENDANT REMAINS IN CUSTODY, THE APPOINTMENT OF COUNSEL CONTINUES UNTIL THE DEFENDANT IS RELEASED FROM CUSTODY. IF THE DEFENDANT IS RELEASED FROM CUSTODY, HE OR SHE MAY APPLY FOR COURT-APPOINTED COUNSEL, AND THE COURT SHALL APPOINT COUNSEL IF THE COURT DETERMINES

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THAT THE DEFENDANT IS INDIGENT AND THE CHARGED OFFENSE INCLUDES A POSSIBLE SENTENCE OF INCARCERATION.

SECTION 3. In Colorado Revised Statutes, 16-7-207, **add** (3) as follows:

16-7-207. Court's duty to inform on first appearance in court and on pleas of guilty. (3) THIS SECTION APPLIES TO PROSECUTIONS FOR VIOLATIONS OF MUNICIPAL CHARTERS AND PROSECUTIONS FOR VIOLATIONS OF MUNICIPAL ORDINANCES.

SECTION 4. Act subject to petition - effective date. This act takes effect May 1, 2017; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on May 1, 2017, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Became Law: June 11, 2016