

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 15, 2018
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB18-1109 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 3, line 18, after "COMPETENCY" insert "FOR THE
2 COMPLETION OF ANY SENTENCE".

3 Page 3, line 23, after "**add**" insert "(4.5) and".

4 Page 4, strike lines 8 through 12 and substitute "PURSUANT TO SECTION
5 16-8.5-103. THE COURT SHALL APPOINT COUNSEL TO REPRESENT THE
6 OFFENDER WITH RESPECT TO THE DETERMINATION OF COMPETENCY OF THE
7 OFFENDER, BUT THE PRESENCE OF THE OFFENDER IS NOT REQUIRED FOR
8 ANY COURT PROCEEDINGS UNLESS GOOD CAUSE IS SHOWN.

9 (4.5) IF AN OFFENDER IS DETERMINED TO BE INCOMPETENT TO
10 PROCEED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE COURT MAY
11 ORDER THE DEPARTMENT TO PROVIDE OR ARRANGE FOR THE DELIVERY OF
12 APPROPRIATE RESTORATION SERVICES IN ANY SETTING AUTHORIZED BY
13 LAW, BY AN ORDER OF THE COURT, OR BY ANY OTHER ACTION AS
14 PROVIDED BY LAW. IF THE COURT DETERMINES THAT THERE IS NOT A
15 SUBSTANTIAL PROBABILITY OF THE OFFENDER BEING RESTORED TO
16 COMPETENCY, THE DEPARTMENT MAY REFER THE INMATE FOR SPECIAL
17 NEEDS PAROLE WITH A SPECIAL NEEDS PAROLE PLAN PURSUANT TO THE
18 PROVISIONS OF THIS SECTION."

19 Page 5, after line 4, insert:

20 "SECTION 3. In Colorado Revised Statutes, 16-8.5-101, **amend**
21 the introductory portion and (7) as follows:

1 **16-8.5-101. Definitions.** As used in this ~~article~~ ARTICLE 8.5,
2 unless the context otherwise requires:

3 (7) "Criminal proceedings" means trial, sentencing, SATISFACTION
4 OF THE SENTENCE, execution, and any pretrial matter that is not
5 susceptible of fair determination without the personal participation of the
6 defendant."

7 Renumber succeeding sections accordingly.

8 Page 5, after line 16 insert:

9 "**SECTION 5.** In Colorado Revised Statutes, 16-8.5-103, **add** (9)
10 as follows:

11 **16-8.5-103. Determination of competency to proceed.** (9) IN
12 ALL PROCEEDINGS UNDER THIS ARTICLE 8.5, WHEN COMPETENCY HAS BEEN
13 RAISED BY THE PAROLE BOARD PURSUANT TO SECTION 16-8.5-102 (2)(d),
14 THE COURT SHALL PAY FOR ANY EVALUATION TO DETERMINE COMPETENCY
15 PURSUANT TO THIS SECTION, AND THE EVALUATION MUST BE CONDUCTED
16 AT THE PLACE WHERE THE DEFENDANT IS IN CUSTODY."

17 Renumber succeeding sections accordingly.

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