

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

BILL 3

LLS NO. 18-0278.01 Michael Dohr x4347

COMMITTEE BILL

**Legislative Oversight Committee Concerning the Treatment of Persons with
Mental Health Disorders in the Criminal and Juvenile Justice Systems**

BILL TOPIC: "Restoration To Competency Services In Jail"

A BILL FOR AN ACT

101 **CONCERNING PRIORITIZING THE LOCATION OF RESTORATION TO**
102 **COMPETENCY SERVICES TO WHERE THE DEFENDANT IS IN**
103 **CUSTODY.**

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://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems. The bill directs a court, when deciding where to have a defendant receive restoration to competency services, to prioritize the place where the defendant is in custody, if appropriate.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-8.5-111, **amend**
3 (2)(b) as follows:

4 **16-8.5-111. Procedure after determination of competency or**
5 **incompetency.** (2) If the final determination made pursuant to section
6 16-8.5-103 is that the defendant is incompetent to proceed, the court has
7 the following options:

8 (b) If the court finds that the defendant is not eligible for release
9 from custody, the court may commit the defendant to the custody of the
10 department, in which case the executive director has the same powers
11 with respect to commitment as the executive director has following a
12 commitment under section 16-8-105.5 (4). IN DETERMINING THE PLACE
13 WHERE RESTORATION SERVICES ARE TO BE PROVIDED, THE COURT SHALL
14 GIVE PRIORITY TO THE PLACE WHERE THE DEFENDANT IS IN CUSTODY,
15 UNLESS THE DEFENDANT'S CLINICAL CONDITION IS SUCH THAT IT REQUIRES
16 A DIFFERENT LEVEL OF CARE TO EFFECT COMPETENCY RESTORATION OR TO
17 SATISFACTORILY MEET THE DEFENDANT'S CURRENT CLINICAL NEEDS. IF IT
18 IS DETERMINED BY THE DEPARTMENT THAT THE DEFENDANT CAN BE
19 RESTORED TO COMPETENCY WHILE IN THE CUSTODY OF THE JAIL, THE
20 DEPARTMENT SHALL PROVIDE COMPETENCY EDUCATION SERVICES IN THE
21 JAIL. At such time as the department recommends to the court that the
22 defendant is restored to competency, the defendant may be returned to
23 custody of the county jail or to previous bond status.

24 **SECTION 2. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2018 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.