

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

May 1, 2024
Date

Committee on Judiciary.

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

HB24-1355 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend reengrossed bill, page 6, line 19, strike "16-8.5-116 (1)(b)" and
2 substitute "16-8.5-111 (1.6)".

3 Page 32, strike lines 18 through 27.

4 Page 33, strike lines 1 through 3 and substitute:

5 **"SECTION 12.** In Colorado Revised Statutes, 16-8.5-111, **add**
6 **as repealed and reenacted by House Bill 24-1034** (1.5) and (1.6) as
7 follows:

8 **16-8.5-111. Procedure after determination of competency or**
9 **incompetency. (1.5) Referral to wraparound care program.** IF THE
10 FINAL DETERMINATION MADE PURSUANT TO SECTION 16-8.5-103 IS THAT
11 THE DEFENDANT IS INCOMPETENT TO PROCEED AND THE DEFENDANT IS
12 ELIGIBLE FOR REFERRAL TO THE BRIDGES WRAPAROUND CARE PROGRAM
13 PURSUANT TO ARTICLE 8.6 OF THIS TITLE 16, THE COURT MAY ASK THE
14 PARTIES WHETHER THE DEFENDANT SHOULD BE REFERRED FOR
15 PARTICIPATION IN THE PROGRAM. WITH THE AGREEMENT OF THE PARTIES,
16 THE COURT MAY DELAY ORDERING RESTORATION SERVICES FOR THE
17 DEFENDANT TO ALLOW A BRIDGES WRAPAROUND CARE COORDINATOR TO
18 CONDUCT AN INITIAL INTAKE OF THE DEFENDANT PURSUANT TO SECTION
19 16-8.6-108 TO DETERMINE WHETHER THE BRIDGES WRAPAROUND CARE
20 PROGRAM IS APPROPRIATE FOR THE DEFENDANT, OR THE COURT MAY
21 ORDER RESTORATION SERVICES PURSUANT TO SUBSECTION (2) OF THIS
22 SECTION.

23 **(1.6) Mandatory dismissal.** (a) IF THE FINAL DETERMINATION
24 MADE PURSUANT TO SECTION 16-8.5-103 IS THAT THE DEFENDANT IS
25 INCOMPETENT TO PROCEED AND IF A DEFENDANT'S HIGHEST CHARGED

1 OFFENSE IS A CLASS 2 MISDEMEANOR, A PETTY OFFENSE, A DRUG
2 MISDEMEANOR, OR A TRAFFIC OFFENSE, THE COURT SHALL DISMISS THE
3 CHARGES AGAINST THE DEFENDANT UNLESS THE DISTRICT ATTORNEY
4 OBJECTS PRIOR TO THE ENTRY OF THE ORDER TO DISMISS AND MAKES A
5 PRIMA FACIE SHOWING THAT THE DEFENDANT IS A DANGER TO THE
6 DEFENDANT'S SELF OR OTHERS OR IS GRAVELY DISABLED AND THERE IS A
7 REASONABLE BELIEF THAT THE DEFENDANT WILL BE CERTIFIED FOR
8 TREATMENT AND RECEIVE THE NECESSARY SERVICES PURSUANT TO
9 ARTICLE 65 OF TITLE 27.

10 (b) IF THE DISTRICT ATTORNEY MAKES THE PRIMA FACIE SHOWING
11 PURSUANT TO SUBSECTION (1.6)(a) OF THIS SECTION, THE COURT SHALL
12 PROCEED PURSUANT TO SUBSECTION (3) OF THIS SECTION OR SECTION
13 16-8.5-116.5 (7) AND, UPON COMPLETION OF THE CERTIFICATION PROCESS,
14 THE COURT SHALL DISMISS THE CHARGES AGAINST THE DEFENDANT.

15 (c) IF THE COURT DOES NOT REFER THE DEFENDANT FOR
16 CERTIFICATION PURSUANT TO SUBSECTION (3) OF THIS SECTION OR
17 SECTION 16-8.5-116.5 (7), THE COURT MAY REFER THE DEFENDANT TO
18 VOLUNTARILY PARTICIPATE AND RECEIVE SERVICES IN THE COURT LIAISON
19 PROGRAM PURSUANT TO ARTICLE 95 OF TITLE 13.

20 **SECTION 13.** In Colorado Revised Statutes, 16-8.5-116, **amend**
21 (1), (7), and (14) as follows:

22 **16-8.5-116. Certification - reviews - termination of**
23 **proceedings - rules.** (1) (a) ~~Subject to the time periods and legal~~
24 ~~standards set forth in this section, whichever is shortest, a defendant~~
25 ~~committed to the custody of the department or otherwise confined as a~~
26 ~~result of a determination of incompetency to proceed must not remain~~
27 ~~confined for a period in excess of the maximum term of confinement that~~
28 ~~could be imposed for only the single most serious offense with which the~~
29 ~~defendant is charged, less thirty percent for a misdemeanor offense and~~
30 ~~less fifty percent for a felony offense. At the end of such time period, the~~
31 ~~court shall dismiss the charges, and certification proceedings or provision~~
32 ~~of services, if any, are governed by article 65 or 10.5 of title 27."~~

33 Renumber succeeding sections accordingly.

34 Page 37, strike lines 25 through 27.

35 Strike page 38 and substitute:

36 **"SECTION 19. Act subject to petition - effective date.** (1) This
37 act takes effect at 12:01 a.m. on the day following the expiration of the
38 ninety-day period after final adjournment of the general assembly; except
39 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2024 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.

6 (2) Section 11 of this act takes effect only if House Bill 24-1034
7 does not become law.

8 (3) Section 12 of this act takes effect only if House Bill 24-1034
9 becomes effective, in which case Section 12 takes effect on the effective
10 date of House Bill 24-1034 or on the applicable effective date of this
11 House Bill 24-1355, whichever is later.

12 (4) Section 16-8.5-116 (1)(b) as enacted in Section 13 of this act
13 takes effect only if House Bill 24-1034 does not become law."

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