

**NOTE: The governor signed this measure on 5/4/2016.**

# An Act

HOUSE BILL 16-1410

BY REPRESENTATIVE(S) Young, Hamner, Rankin, Esgar, Fields, Kraft-Tharp, Lontine, Mitsch Bush, Pettersen, Rosenthal;  
also SENATOR(S) Grantham, Lambert, Steadman.

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

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

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

**16-8.5-105. Evaluations and report.** (1) (a) ~~The location for competency evaluations shall be determined by the court. The defendant may be released on bond, if otherwise eligible for bond, or referred or committed for a court-ordered competency evaluation to the department, or the court may direct that the evaluation be done at the place where the defendant is residing or is in custody. In determining the place where the evaluation is to be conducted, the court shall give priority to the place where the defendant is in custody, unless the nature and circumstances of the evaluation require designation of a different facility~~ THE COURT SHALL ORDER THAT THE EVALUATION BE CONDUCTED ON AN OUTPATIENT BASIS

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

OR, IF THE DEFENDANT IS IN CUSTODY, AT THE PLACE WHERE THE DEFENDANT IS IN CUSTODY. THE DEFENDANT SHALL BE RELEASED ON BOND IF OTHERWISE ELIGIBLE FOR BOND.

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

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

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

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

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

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

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

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

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

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

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

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

(2) To implement this act, the appropriations made in the annual general appropriation act for the 2016-17 state fiscal year to the department of human services are adjusted as follows:

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

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

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

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

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

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

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

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

**SECTION 5. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Dickey Lee Hullinghorst  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Bill L. Cadman  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Effie Ameen  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO