

CHAPTER 58

COURTS

HOUSE BILL 06-1080

BY REPRESENTATIVE(S) Carroll T., Berens, Borodkin, Carroll M., Larson, and Stafford;
also SENATOR(S) Grossman, Evans, Groff, Hanna, and Williams.

AN ACT

CONCERNING AUTHORIZING FORENSICALLY TRAINED DOCTORAL LEVEL MENTAL HEALTH PROFESSIONALS TO CONDUCT COMPETENCY EXAMINATIONS FOR ADULTS CHARGED WITH CRIMES.

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

SECTION 1. 16-8-106 (1), Colorado Revised Statutes, is amended to read:

16-8-106. Examinations and report. (1) All examinations ordered by the court in criminal cases shall be accomplished by the entry of an order of the court specifying the place where such examination is to be conducted and the period of time allocated for such examination. The defendant may be committed for such examination to the Colorado psychiatric hospital in Denver, the Colorado mental health institute at Pueblo, the place where he OR SHE is in custody, or such other public institution designated by the court. In determining the place where such examination 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 examination require designation of a different facility. The defendant shall be observed and examined by one or more ~~physicians who are specialists in nervous and mental diseases~~ PSYCHIATRISTS during such period as the court directs; EXCEPT THAT, IF THE EXAMINATION IS FOR THE PURPOSE OF DETERMINING THE DEFENDANT'S COMPETENCY TO PROCEED, THEN THE COMPETENCY EVALUATION SHALL BE CONDUCTED BY A LICENSED PSYCHIATRIST OR A LICENSED PSYCHOLOGIST WHO IS TRAINED IN FORENSIC COMPETENCY ASSESSMENTS, OR A PSYCHIATRIST OR PSYCHOLOGIST WHO IS IN FORENSIC TRAINING AND PRACTICING UNDER THE SUPERVISION OF A LICENSED PSYCHIATRIST WITH EXPERTISE IN FORENSIC PSYCHIATRY OR A LICENSED PSYCHOLOGIST WITH EXPERTISE IN FORENSIC PSYCHOLOGY. For good cause shown, upon motion of the prosecution or defendant, or upon the court's own motion, the court may order such further or other examination, including services of psychologists, as is advisable under the

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

circumstances. Nothing in this section shall abridge the right of the defendant to procure a psychiatric examination as provided in section 16-8-108.

SECTION 2. 16-8-111 (1), Colorado Revised Statutes, is amended, and the said 16-8-111 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-8-111. Determination of incompetency to proceed. (1) Whenever the question of a defendant's incompetency to proceed is raised, the court shall make a preliminary finding ~~either~~ that the defendant is OR IS NOT competent to proceed. ~~or that the defendant is not.~~ If the court feels that the information available to it is inadequate for making such finding, it may order a competency examination or such other investigation as it deems advisable.

(3.5) A COMPETENCY EXAMINATION SHALL BE CONDUCTED BY A LICENSED PSYCHIATRIST OR A LICENSED PSYCHOLOGIST WHO IS TRAINED IN FORENSIC COMPETENCY ASSESSMENTS, OR A PSYCHIATRIST OR PSYCHOLOGIST WHO IS IN FORENSIC TRAINING AND PRACTICING UNDER THE SUPERVISION OF A LICENSED PSYCHIATRIST WITH EXPERTISE IN FORENSIC PSYCHIATRY OR A LICENSED PSYCHOLOGIST WITH EXPERTISE IN FORENSIC PSYCHOLOGY.

SECTION 3. 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.

Approved: March 31, 2006