

CHAPTER 13

COURTS

SENATE BILL 07-003

BY SENATOR(S) Kester, Takis, and Windels;
also REPRESENTATIVE(S) Jahn, Solano, Stafford, Carroll T., Green, Labuda, Stephens, and Todd.

AN ACT

**CONCERNING THE CREATION OF AN ADVISORY BOARD TO MAKE RECOMMENDATIONS CONCERNING
COMPETENCY EVALUATIONS IN ADULT CRIMINAL CASES.**

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

SECTION 1. Article 8 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-8-106.5. Competency evaluation advisory board - creation - membership - duties - repeal. (1) THERE IS HEREBY CREATED THE COMPETENCY EVALUATION ADVISORY BOARD, REFERRED TO IN THIS SECTION AS THE "ADVISORY BOARD", IN THE DEPARTMENT OF HUMAN SERVICES THAT SHALL STUDY AND RECOMMEND STANDARDS TO THE STATE BOARD OF HUMAN SERVICES REGARDING THE LEVEL OF TRAINING, EDUCATION, AND EXPERIENCE THAT A PSYCHIATRIST OR PSYCHOLOGIST SHALL HAVE TO BE CONSIDERED QUALIFIED TO PERFORM COMPETENCY EVALUATIONS IN CRIMINAL CASES PURSUANT TO SECTIONS 16-8-106 AND 16-8-111. THE ADVISORY BOARD SHALL ADDITIONALLY MAKE RECOMMENDATIONS TO THE STATE BOARD OF HUMAN SERVICES CONCERNING STANDARDS FOR CONDUCTING AND REPORTING THE COMPETENCY EVALUATIONS.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES, OR HIS OR HER DESIGNEE, SHALL SERVE AS CHAIR OF THE ADVISORY BOARD AND SHALL APPOINT THE REMAINING MEMBERS OF THE ADVISORY BOARD. THE ADVISORY BOARD SHALL CONSIST OF UP TO FOURTEEN MEMBERS, INCLUDING BUT NOT LIMITED TO:

- (a) A PSYCHIATRIST WHO IS TRAINED IN FORENSIC COMPETENCY ASSESSMENTS;
- (b) A LICENSED PSYCHOLOGIST WHO IS TRAINED IN FORENSIC COMPETENCY

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

ASSESSMENTS;

(c) A LICENSED CLINICAL SOCIAL WORKER WHO IS TRAINED IN FORENSIC COMPETENCY ASSESSMENTS;

(d) A LICENSED PROFESSIONAL COUNSELOR WHO IS TRAINED IN FORENSIC COMPETENCY ASSESSMENTS;

(e) A REPRESENTATIVE OF THE UNIT WITHIN THE DEPARTMENT OF HUMAN SERVICES THAT IS RESPONSIBLE FOR MENTAL HEALTH SERVICES;

(f) A PERSON WHO REPRESENTS DISTRICT ATTORNEYS WITHIN THE STATE;

(g) A PERSON WHO REPRESENTS DEFENSE ATTORNEYS WITHIN THE STATE;

(h) A REPRESENTATIVE FROM THE TASK FORCE ESTABLISHED PURSUANT TO SECTION 18-1.9-104, C.R.S.;

(i) A FAMILY MEMBER OF A PERSON WHO HAD BEEN SUBJECT TO THE COMPETENCY EVALUATION PROCESS AT SOME TIME;

(j) A REPRESENTATIVE OF THE JUDICIAL DEPARTMENT; AND

(k) A REPRESENTATIVE OF THE COLORADO MENTAL HEALTH INSTITUTE AT PUEBLO.

(3) THE ADVISORY BOARD SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE DEPARTMENT OF HUMAN SERVICES NO LATER THAN JANUARY 30, 2008, AND NO LATER THAN JANUARY 30 EACH YEAR THEREAFTER.

(4) BASED ON THE RECOMMENDATIONS OF THE ADVISORY BOARD, THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES AND ADOPT PROCEDURES TO ESTABLISH AND IMPLEMENT THE STANDARDS IDENTIFIED IN SUBSECTION (1) OF THIS SECTION.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2010.

SECTION 2. 26-1-107 (6), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-1-107. State board of human services. (6) The state board shall:

(h) ADOPT RULES CONCERNING STANDARDS FOR THE LEVEL OF TRAINING, EDUCATION, AND EXPERIENCE THAT A PSYCHIATRIST OR PSYCHOLOGIST SHALL HAVE TO BE QUALIFIED TO PERFORM COMPETENCY EVALUATIONS IN CRIMINAL CASES PURSUANT TO SECTIONS 16-8-106 AND 16-8-111, C.R.S., AND STANDARDS FOR CONDUCTING AND REPORTING COMPETENCY EVALUATIONS IN CRIMINAL CASES. PRIOR TO ADOPTING THE RULES, THE STATE BOARD SHALL CONSIDER RECOMMENDATIONS FROM THE COMPETENCY EVALUATION ADVISORY BOARD CREATED IN SECTION 16-8-106.5, C.R.S.

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 8, 2007