

CHAPTER 393

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 07-1363

BY REPRESENTATIVE(S) Carroll M., Madden, Carroll T., Labuda, McGihon, and Soper;
also SENATOR(S) Tapia, Bacon, Groff, Morse, Romer, and Williams.

AN ACT

**CONCERNING AUTHORIZATION OF A DEFENDANT TO REQUEST A HEARING TO HAVE THE COURT
ACTIONS AGAINST THE DEFENDANT TERMINATED IF THERE IS A SUBSTANTIAL PROBABILITY THAT
THE DEFENDANT WILL NOT BE RESTORED TO COMPETENCY IN THE FORESEEABLE FUTURE.**

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

SECTION 1. 16-8-114.5 (2), Colorado Revised Statutes, is amended to read:

16-8-114.5. Commitment - termination of proceedings. (2) The court shall review the case of a defendant committed or confined as incompetent to proceed at least every six months with regard to the probability that the defendant will eventually be restored to competency and with regard to the justification for continued commitment or confinement. Such review may be held in conjunction with a restoration hearing under section 16-8-113. Prior to each such review, the institution treating the defendant shall provide the court with a report regarding the competency of the defendant. If, on the basis of the available evidence, not including evidence resulting from a refusal by the defendant to accept treatment, there is a substantial probability that the defendant will not be restored to competency within the foreseeable future, upon motion of the district attorney OR THE DEFENDANT, the court may terminate the criminal proceeding and the commitment or treatment order under section 16-8-112 (2) and may either order the release of the defendant or the commencement of civil proceedings under the provisions of article 10 of title 27, C.R.S. In each such case the court shall enter a written decision outlining why the court terminated the criminal proceeding or did not terminate such proceeding.

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

SECTION 2. 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: June 1, 2007