

HB1286_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB15-1286 be amended as follows:

1 Amend printed bill, page 3, strike lines 1 through 23 and substitute:

2 "(2) THE JUDGE OF A COURT HAVING JURISDICTION OF AN ALLEGED
3 OFFENSE INVOLVING THE INTENTIONAL OR RECKLESS MISCONDUCT BY A
4 PEACE OFFICER ACTING WITHIN THE SCOPE OF HIS OR HER EMPLOYMENT
5 RESULTING IN THE SERIOUS BODILY INJURY TO ANOTHER PERSON OR DEATH
6 OF ANOTHER PERSON, UPON AFFIDAVIT FILED WITH THE JUDGE ALLEGING
7 THE COMMISSION OF A CRIME AND THE UNJUSTIFIED REFUSAL OF THE
8 PROSECUTING ATTORNEY TO PROSECUTE A PEACE OFFICER FOR THE CRIME,
9 MAY REQUIRE THE PROSECUTING ATTORNEY TO APPEAR BEFORE THE JUDGE
10 AND EXPLAIN THE REFUSAL. THE JUDGE OF A COURT HAVING JURISDICTION
11 OF THE ALLEGED OFFENSE, UPON AFFIDAVIT FILED WITH THE JUDGE
12 ALLEGING THE COMMISSION OF A CRIME AND THE UNJUSTIFIED REFUSAL OF
13 THE PROSECUTING ATTORNEY TO PROSECUTE ANY PERSON FOR THE CRIME,
14 MAY REQUIRE THE PROSECUTING ATTORNEY TO APPEAR BEFORE THE JUDGE
15 AND EXPLAIN THE REFUSAL. IF AFTER THAT PROCEEDING, BASED ON THE
16 COMPETENT EVIDENCE IN THE AFFIDAVIT, THE EXPLANATION OF THE
17 PROSECUTING ATTORNEY, AND ANY ARGUMENT OF THE PARTIES, THE
18 JUDGE FINDS THAT THE REFUSAL OF THE PROSECUTING ATTORNEY TO
19 PROSECUTE WAS ARBITRARY OR CAPRICIOUS AND WITHOUT REASONABLE
20 EXCUSE, THE JUDGE MAY ORDER THE PROSECUTING ATTORNEY TO FILE AN
21 INFORMATION AND PROSECUTE THE CASE OR MAY APPOINT A SPECIAL
22 PROSECUTOR TO DO SO. THE JUDGE SHALL APPOINT THE SPECIAL
23 PROSECUTOR FROM AMONG THE FULL-TIME DISTRICT ATTORNEYS,
24 ASSISTANT DISTRICT ATTORNEYS, OR DEPUTY DISTRICT ATTORNEYS WHO
25 SERVE IN JUDICIAL DISTRICTS OTHER THAN WHERE THE APPOINTMENT IS
26 MADE; EXCEPT THAT, UPON THE WRITTEN APPROVAL OF THE CHIEF JUSTICE
27 OF THE SUPREME COURT, THE JUDGE MAY APPOINT ANY DISINTERESTED
28 PRIVATE ATTORNEY WHO IS LICENSED TO PRACTICE LAW IN THE STATE OF
29 COLORADO TO SERVE AS THE SPECIAL PROSECUTOR. ANY SPECIAL
30 PROSECUTOR APPOINTED PURSUANT TO THIS SECTION SHALL BE
31 COMPENSATED AS PROVIDED IN SECTION 20-1-308, C.R.S.

32 **SECTION 2. Effective date - applicability.** This act takes effect
33 July 1, 2015, and applies to offenses committed on or after said date."

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