

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 5, 2013  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB13-1156 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, line 13, after the period add "A DISTRICT
- 2 ATTORNEY'S OFFICE MAY DEVELOP OR CONTINUE TO OPERATE ITS OWN
- 3 DIVERSION PROGRAM THAT IS NOT SUBJECT TO THE PROVISIONS OF THIS
- 4 SECTION. IF A DISTRICT ATTORNEY'S OFFICE ACCEPTS STATE MONEYS TO
- 5 CREATE OR OPERATE A DIVERSION PROGRAM PURSUANT TO THIS SECTION,
- 6 THE DISTRICT ATTORNEY'S OFFICE MUST COMPLY WITH THE PROVISIONS OF
- 7 THIS SECTION."
- 8 Page 2, line 14, strike "EXCEPT AS OTHERWISE PROVIDED IN".
- 9 Page 2, line 15, strike "SECTION 18-6-801(4), IN" and substitute "IN".
- 10 Page 2, line 16, strike "WITH THE CONSENT OF THE DEFENDANT AND THE".
- 11 Page 2, line 17, strike "PROSECUTION,".
- 12 Page 3, line 3, after "ATTORNEY" insert "THAT USES STATE MONEYS FOR
- 13 A DIVERSION PROGRAM PURSUANT TO THIS SECTION".
- 14 Page 3, line 18, strike "REQUESTING".
- 15 Page 3, line 19, strike "DIVERSION".
- 16 Page 3, strike lines 26 and 27 and substitute:

1           "(5) IN A JURISDICTION THAT RECEIVES STATE MONEYS FOR THE  
2 CREATION OR OPERATION OF DIVERSION PROGRAMS PURSUANT TO THIS  
3 SECTION, AN INDIVIDUAL ACCUSED OF AN OFFENSE, THE UNDERLYING  
4 FACTUAL BASIS OF WHICH INVOLVES DOMESTIC VIOLENCE AS DEFINED IN  
5 SECTION 18-6-800.3 (1), C.R.S., IS NOT ELIGIBLE FOR PRETRIAL DIVERSION  
6 UNLESS THAT INDIVIDUAL HAS COMPLETED A TREATMENT EVALUATION  
7 CONDUCTED BY A DOMESTIC VIOLENCE EVALUATOR APPROVED BY THE  
8 DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD AS REQUIRED BY  
9 SECTION 16-11.8-103 (4), C.R.S., AND THAT EVALUATION FINDS THAT THE  
10 INDIVIDUAL IS APPROPRIATE FOR THE DIVERSION PROGRAM ESTABLISHED  
11 BY THE DISTRICT ATTORNEY PURSUANT TO THIS SECTION. A DISTRICT  
12 ATTORNEY SHALL NOT PLACE AN INDIVIDUAL IN A DIVERSION PROGRAM  
13 ESTABLISHED PURSUANT TO THIS SECTION UNLESS THE EVALUATION FINDS  
14 THE INDIVIDUAL APPROPRIATE FOR SUCH A PLACEMENT.

15           (6) IN A JURISDICTION THAT RECEIVES STATE MONEYS FOR THE  
16 CREATION OR OPERATION OF DIVERSION PROGRAMS PURSUANT TO THIS  
17 SECTION, AN INDIVIDUAL ACCUSED OF A SEX OFFENSE AS DEFINED IN  
18 SECTION 18-1.3-1003 (5), C.R.S., IS NOT ELIGIBLE FOR PRETRIAL  
19 DIVERSION UNLESS THAT INDIVIDUAL HAS SUBMITTED TO A RISK AND  
20 TREATMENT EVALUATION CONDUCTED BY A SEX OFFENDER EVALUATOR  
21 APPROVED BY THE SEX OFFENDER MANAGEMENT BOARD AS REQUIRED BY  
22 SECTION 16-11.7-103 (4), C.R.S., AND THAT EVALUATION FINDS THAT THE  
23 INDIVIDUAL IS APPROPRIATE FOR THE DIVERSION PROGRAM ESTABLISHED  
24 BY THE DISTRICT ATTORNEY PURSUANT TO THIS SECTION. A DISTRICT  
25 ATTORNEY SHALL NOT PLACE AN INDIVIDUAL IN A DIVERSION PROGRAM  
26 ESTABLISHED PURSUANT TO THIS SECTION UNLESS THE EVALUATION FINDS  
27 THE INDIVIDUAL APPROPRIATE FOR SUCH A PLACEMENT. IF A DIVERSION  
28 AGREEMENT IS ENTERED AND SUCCESSFULLY COMPLETED, THE CRIMES  
29 CHARGED OR FACTS ALLEGED DO NOT CONSTITUTE A HISTORY OF SEX  
30 OFFENSES FOR PURPOSES OF SECTION 16-11.7-102 (2) (a) (II), C.R.S."

31 Page 4, strike lines 1 through 3.

32 Renumber succeeding subsections accordingly.

33 Page 4, line 13, strike "A" and substitute "AN INDIVIDUALIZED".

34 Page 5, line 26, after "AGREEMENT," insert "INCLUDING AN EVALUATION  
35 PERFORMED PURSUANT TO SUBSECTIONS (5) AND (6) OF THIS SECTION,".

36 Page 6, line 1, strike "(7)," and substitute "(8),".

- 1 Page 6, line 20, after "DIVERSION" insert "AGREEMENT".
- 2 Page 7, line 9, strike "DEFENDANT" and substitute "DEFENDANT, THE  
3 DISTRICT ATTORNEY,".
- 4 Page 7, line 20, after "HEARING" insert "PURSUANT TO SECTION 16-11-206,  
5 C.R.S.,".
- 6 Page 8, line 5, strike "(7)" and substitute "(8)".
- 7 Page 8, line 7, after "PROGRAM," insert "INCLUDING AN EVALUATION  
8 PERFORMED PURSUANT TO SUBSECTIONS (5) AND (6) OF THIS SECTION.".
- 9 Page 8, line 15, strike "13-\_\_\_\_," and substitute "13-1156,".
- 10 Page 8, strike line 27.
- 11 Page 9, strike lines 1 through 12.
- 12 Renumber succeeding sections accordingly.
- 13 Page 12, line 2, strike "(8)" and substitute "(9)".

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