

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 29, 2016

Date

Committee on Judiciary.

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

SB16-019 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, line 22, after "PRESERVED." insert "THE
2 COURT SHALL ADVISE THE DEFENDANT THAT ANY EXAMINATION WITH A
3 PSYCHIATRIST OR FORENSIC PSYCHOLOGIST MAY BE VIDEO AND AUDIO
4 RECORDED."

5 Page 2, line 24, after the period add "ANY JAIL OR OTHER FACILITY WHERE
6 THE COURT ORDERS THE EXAMINATION TO TAKE PLACE MUST PERMIT THE
7 RECORDING TO OCCUR AND MUST PROVIDE THE SPACE AND EQUIPMENT
8 NECESSARY FOR SUCH RECORDING, IF AVAILABLE. IF SPACE AND
9 EQUIPMENT ARE NOT AVAILABLE, THE SHERIFF OR FACILITY DIRECTOR
10 SHALL ATTEMPT TO COORDINATE A LOCATION AND THE AVAILABILITY OF
11 EQUIPMENT WITH THE COURT, WHICH MAY CONSULT WITH THE DISTRICT
12 ATTORNEY AND DEFENSE COUNSEL FOR AN AGREED UPON LOCATION. IF NO
13 AGREEMENT IS REACHED, AND UPON THE REQUEST OF EITHER THE DEFENSE
14 COUNSEL OR DISTRICT ATTORNEY, THE COURT SHALL ORDER THE
15 LOCATION OF THE EXAMINATION WHICH MAY INCLUDE THE COLORADO
16 MENTAL HEALTH INSTITUTE AT PUEBLO.

17 (c) PRIOR TO OR DURING ANY EXAMINATION REQUIRED BY THIS
18 SECTION, THE PSYCHIATRIST OR FORENSIC PSYCHOLOGIST SHALL ASSESS
19 WHETHER THE RECORDING OF THE EXAMINATION IS LIKELY TO CAUSE OR
20 IS CAUSING MENTAL OR PHYSICAL HARM TO THE DEFENDANT OR OTHERS.
21 IF SUCH A DETERMINATION IS MADE AND DOCUMENTED
22 CONTEMPORANEOUSLY IN WRITING, THE PSYCHIATRIST OR FORENSIC

1 PSYCHOLOGIST SHALL NOT RECORD THE EXAMINATION OR SHALL CEASE
2 RECORDING THE EXAMINATION, AND THE PSYCHIATRIST OR FORENSIC
3 PSYCHOLOGIST SHALL ADVISE THE COURT AND THE PARTIES OF THIS
4 DETERMINATION AND THE REASONS THEREFORE IN A WRITTEN REPORT TO
5 THE COURT. IF ONLY A PARTIAL RECORDING IS MADE, THE PSYCHIATRIST
6 OR FORENSIC PSYCHOLOGIST SHALL PROVIDE THE PARTIAL RECORDING TO
7 THE COURT AND THE PARTIES, AND THE PARTIAL RECORDING MAY BE USED
8 BY ANY PSYCHIATRIST OR FORENSIC PSYCHOLOGIST IN FORMING AN
9 OPINION, SUBMITTING A REPORT, OR TESTIFYING ON THE ISSUE OF THE
10 DEFENDANT'S MENTAL HEALTH.

11 (d) THE COURT SHALL DETERMINE THE ADMISSIBILITY OF ANY
12 RECORDING OR PARTIAL RECORDING, IN WHOLE OR IN PART, SUBJECT TO
13 ALL AVAILABLE CONSTITUTIONAL AND EVIDENTIARY OBJECTIONS."

14 Page 2, line 27, after "(1)" insert "(a)".

15 Page 3, line 7, after "PRESERVED." insert "THE COURT SHALL ADVISE THE
16 DEFENDANT THAT ANY EXAMINATION WITH A PSYCHIATRIST OR FORENSIC
17 PSYCHOLOGIST MAY BE AUDIO AND VIDEO RECORDED."

18 Page 3, line 8, after the period add "ANY JAIL OR OTHER FACILITY WHERE
19 THE COURT ORDERS THE EXAMINATION TO TAKE PLACE MUST PERMIT THE
20 RECORDING TO OCCUR AND MUST PROVIDE THE SPACE AND EQUIPMENT
21 NECESSARY FOR SUCH RECORDING, IF AVAILABLE. IF SPACE AND
22 EQUIPMENT ARE NOT AVAILABLE, THE SHERIFF OR FACILITY DIRECTOR
23 SHALL ATTEMPT TO COORDINATE A LOCATION AND THE AVAILABILITY OF
24 EQUIPMENT WITH THE COURT, WHICH MAY CONSULT WITH THE DISTRICT
25 ATTORNEY AND DEFENSE COUNSEL FOR AN AGREED UPON LOCATION. IF NO
26 AGREEMENT IS REACHED, AND UPON THE REQUEST OF EITHER THE DEFENSE
27 COUNSEL OR DISTRICT ATTORNEY, THE COURT SHALL ORDER THE
28 LOCATION OF THE EXAMINATION WHICH MAY INCLUDE THE COLORADO
29 MENTAL HEALTH INSTITUTE AT PUEBLO.

30 (b) PRIOR TO OR DURING ANY EXAMINATION REQUIRED BY THIS
31 SECTION, THE PSYCHIATRIST OR FORENSIC PSYCHOLOGIST SHALL ASSESS
32 WHETHER THE RECORDING OF THE EXAMINATION IS LIKELY TO CAUSE OR
33 IS CAUSING MENTAL OR PHYSICAL HARM TO THE DEFENDANT OR OTHERS.
34 IF SUCH A DETERMINATION IS MADE AND DOCUMENTED
35 CONTEMPORANEOUSLY IN WRITING, THE PSYCHIATRIST OR FORENSIC
36 PSYCHOLOGIST SHALL NOT RECORD THE EXAMINATION OR SHALL CEASE
37 RECORDING THE EXAMINATION, AND THE PSYCHIATRIST OR FORENSIC

1 PSYCHOLOGIST SHALL ADVISE THE COURT AND THE PARTIES OF THIS
2 DETERMINATION AND THE REASONS THEREFORE IN A WRITTEN REPORT TO
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4 OR FORENSIC PSYCHOLOGIST SHALL PROVIDE THE PARTIAL RECORDING TO
5 THE COURT AND THE PARTIES, AND THE PARTIAL RECORDING MAY BE USED
6 BY ANY PSYCHIATRIST OR FORENSIC PSYCHOLOGIST IN FORMING AN
7 OPINION, SUBMITTING A REPORT, OR TESTIFYING ON THE ISSUE OF THE
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