



**Report to the
Colorado General Assembly**

**Legislative Oversight
Committee
Concerning the
Treatment of Persons
with Mental Illness in
the Criminal and
Juvenile Justice
Systems**

Prepared by

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**Legislative Oversight Committee
Concerning the Treatment of Persons with
Mental Illness in the Criminal and
Juvenile Justice Systems**

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December 2015

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December 2015

To Members of the Seventieth General Assembly:

Submitted herewith is the final report of the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems. This committee was created pursuant to Article 1.9 of Title 18, C.R.S. The purpose of this committee is to oversee an advisory task force that studies and makes recommendations concerning the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems in Colorado.

At its meeting on November 10, 2015, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bill therein for consideration in the 2016 session was approved.

Sincerely,

/s/ Senator Bill Cadman
Chairman

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This report is also available on line at:

<https://www.colorado.gov/pacific/cga-legislativecouncil/mental-illness-criminal-justice-system>

Legislative Oversight Committee Charge

Pursuant to Article 1.9 of Title 18, C.R.S., a legislative oversight committee and an advisory task force concerning the treatment of persons with mental illness in the criminal and juvenile justice systems are established.

History

The advisory task force and legislative oversight committee first met in the summer of 1999. In 2000, the task force and oversight committee were reauthorized, and the reestablished task force met on a monthly basis through June 2003. The General Assembly considered legislation to continue the study of the mentally ill in the justice system beyond the 2003 repeal date, but the bill failed. In FY 2003-04, the task force continued its meetings and discussion at the request of the oversight committee. The task force and oversight committee were reauthorized and reestablished in 2004 through the passage of Senate Bill 04-037 and again in 2009 with the passage of House Bill 09-1021. The oversight committee was subject to Senate Bill 10-213, which suspended interim activities during the 2010 interim. During the 2014 legislative session, the task force and legislative oversight committee were once again reauthorized and reestablished by Senate Bill 14-021. The committee and advisory task force are set to repeal on July 1, 2020.

General Charge

The committee is responsible for appointing a task force that represents all areas of the state and is diverse in ethnicity, culture, and gender. The task force is directed to examine the identification, diagnosis, and treatment of persons with mental illness who are involved in the criminal and juvenile justice systems, including the examination of liability, safety, and cost as they relate to these issues.

Advisory Task Force Charge

General Charge

The authorizing legislation directs the task force, after July 1, 2014, to consider, at a minimum, the following issues:

- housing for a person with mental illness after his or her release from the criminal and juvenile justice system;
- medication consistency, delivery, and availability;
- best practices for suicide prevention, within and outside of correctional facilities;
- treatment of co-occurring disorders;
- awareness of and training for enhanced staff safety, including expanding training opportunities for providers; and
- enhanced data collection related to issues affecting persons with mental illness in the criminal and juvenile justice systems.

The legislation authorizes the task force to work with other task forces, committees, or organizations that are pursuing policy initiatives similar to those listed above. The task force is required to consider developing relationships with other groups to facilitate policy-making opportunities through collaborative efforts.

Recommendations and Reports

The task force is required to submit a report of its findings and recommendations to the legislative oversight committee annually by October 1. Typically, this report is made orally at the legislative oversight committee meetings throughout the year.

All legislative proposals of the task force must note the policy issues involved, the agencies responsible for implementing the changes, and the funding sources required for such implementation. The task force did not recommend any legislation to the legislative oversight committee during the 2015 interim; however, the legislative oversight committee did consider four pieces of legislation suggested by oversight committee members. These are discussed in the Committee Activities section of this report. The oversight committee is required to submit an annual report to the General Assembly by January 15 of each year regarding the recommended legislation resulting from the work of the task force.

Membership

Table 1 lists the members of the advisory task force and the agencies they represent. The advisory task force consists of 32 members, 4 of whom are appointed by the Chief Justice of the Colorado Supreme Court. The 28 remaining members are appointed by the chair and vice-chair of the legislative oversight committee.

**Table 1
MICJS Advisory Task Force Members**

State or Private Agency	Representative(s) and Affiliation(s)	
Department of Public Safety (1)	Peggy Heil	Division of Criminal Justice
Department of Corrections (2)	Kerry Pruett	Mental Health Programs Administrator
	Susan White	Division of Parole
Local Law Enforcement (2) - one of whom will be in active service and one of whom shall have experience dealing with juveniles in the juvenile justice system	Commander Thomas DeLuca	El Paso County Sheriff's Office (active service representative)
	Vacant	
Department of Human Services (5)	Vacant	Office of Behavioral Health
	Ashley Tunstall	Division of Youth Corrections
	Melinda Cox	Division of Child Welfare
	Vacant	Colorado Mental Health Institute at Pueblo
	Moe Keller	Mental Health Planning and Advisory Council
County Department of Social Services (1)	Susan Walton, chair	Park County Department of Human Services
Department of Education (1)	Michael Ramirez	Teaching and Learning Unit
State Attorney General's Office (1)	Cynthia Kowert	Assistant Deputy Attorney General
District Attorneys (1)	Vacant	
Criminal Defense Bar (2)	Karen Knickerbocker	Office of the Colorado State Public Defender
	Gina Shimeall	Criminal Defense Bar
Practicing Mental Health Professionals (2)	Fernando Martinez	San Luis Valley Mental Health Center
	Lisa Thompson	Colorado Coalition for the Homeless
Community Mental Health Centers in Colorado (1)	Harriet Hall	Jefferson Center for Mental Health
Person with Knowledge of Public Benefits and Public Housing in Colorado (1)	Pat Coyle	Colorado Department of Local Affairs, Division of Housing
Colorado Department of Health Care Policy & Financing (1)	Camille Harding, Co-chair	Clinical Services Office
Practicing Forensic Professional (1)	Richard Martinez, M.D.	Colorado Office of Behavioral Health/UCDSOM
Members of the Public (3)	Bethe Feltman	Member with a mental illness who has been involved in the Colorado criminal justice system
	Deirdre Parker	Parent of a child who has a mental illness and who has been involved in the Colorado criminal justice system
	Vacant	Member with an adult family member who has a mental illness and who has been involved in the Colorado criminal justice system
Office of the Child's Representative (1)	Sheri Danz	Deputy Director
Office of the Alternate Defense Counsel (1)	Kathy McGuire	Private attorney
Colorado Department of Labor and Employment (1)	Patrick Teegarden	Director of Policy and Legislation
Judicial Branch (4)	Vacant	
	Judge K.J. Moore	1st Judicial District
	Susan Colling	Juvenile Programs Coordinator, Probation Services
	Tobin Wright	Chief Probation Officer in the 16th Judicial District

Committee Activities

The legislative oversight committee met three times in 2015 to monitor and examine the work, findings, and recommendations of the advisory task force. Specifically, the committee:

- received updates on the activities of the advisory task force;
- heard presentations from Project EDGE, The Link, and Arapahoe House; and
- considered legislation.

Advisory Task Force Updates

The oversight committee received three updates from members of the advisory task force about recent activities of the task force. The following topics were addressed during those updates:

- housing for a person with mental illness after his or her release from the criminal and juvenile justice system, including efforts of the Department of Health Care Policy and Financing to establish a Housing First model to provide wrap-around services when someone exits the criminal justice system, and the action steps identified at the September 25, 2015, retreat related to housing issues;
- medication consistency, delivery, and availability, including the efforts of the Behavioral Health Transformation Council to establish a statewide formulary for psychotropic medication for criminal justice and public health facilities;
- enhanced data collection related to issues affecting persons with mental illness in the criminal and juvenile justice systems, including discussion of the Colorado Children and Youth Information Sharing Initiative;
- recidivism, including discussion of the focus group being conducted in 2015 by the advisory task force to identify the challenges in defining recidivism and severe mental illness, and a U.S. Department of Justice's Bureau of Justice Assistance grant received by the Department of Public Safety (DPS) related to information sharing to reduce recidivism; and
- juvenile competency and restorative services, including further study of these issues as outlined in the action steps identified at the September 25, 2015, retreat.

At the oversight committee's October 29, 2015, meeting, the committee considered a bill draft addressing juvenile competency. The bill was withdrawn before the committee took action on the bill.

Project EDGE Presentation

At the September 21 meeting of the oversight committee, Bill Myers, Chief Community Engagement Officer for Project Early Diversion, Get Engaged (Project EDGE), and Charlie Davis, Community Crisis Connection Program Manager for Project EDGE, provided the oversight committee with information about Project EDGE, which is a pilot program in Boulder County that aims to divert individuals who have behavioral health issues from the criminal justice system, and instead engage them in appropriate treatment. The program is funded through a three-year grant from the federal Substance Abuse and Mental Health Administration,

and is one of three sites nationwide to receive this early diversion grant award. The program costs are about \$525,000 per year, covered both by the federal grant and by Mental Health Partners. Through the program, mental health professionals engage with law enforcement officers in Boulder County to provide diversion services when an incident occurs. Peer support specialists who are involved in the program follow up with the clients to provide support and guidance.

At the oversight committee's October 29, 2015, meeting, the committee considered, but did not approve, a bill draft that would have created a grant program in the DPS to provide local law enforcement agencies with funding to hire mental health professionals.

The Link Presentation

At the September 21 meeting of the oversight committee, Lonnie Matz, Program Manager for The Link, provided an overview of the organization, which is a community assessment and resource center for youth and families that serves Adams and Broomfield counties. The Link uses evidence-based assessment tools to determine appropriate services for youth for mental health; substance use; and school, behavioral, and family concerns. The types of services recommended to youth and families vary depending on individual needs. These services may include, but are not limited to: drug and alcohol intervention; mental health services; life skills training; tutoring; mentoring; aggression and anger management; relationship building; communication in the home; and parenting support. Staff will also assist families in meeting basic needs such as long-term shelter, utilities, food, medical care, and transportation in an effort to create a stable living environment.

Arapahoe House Presentation

At the September 21 meeting of the oversight committee, Michelle Flake and Caroline Chadima, representing Arapahoe House, presented to the oversight committee. Arapahoe House provides a continuum of both inpatient and outpatient services for individuals and families with alcohol, drug, and other behavioral health problems. The presentation highlighted the Short-Term Intensive Residential Remedial Treatment (STIRRT) Program, which is a nine-month program. The program begins with two-weeks of residential treatment that includes over 100 therapeutic hours during the residential stay, and eight to nine months of continuing care services that include continued group education, therapy, and ancillary services that the offender may need to help ensure success. The program is designed specifically for substance-abusing adult offenders who have at least one prior felony conviction; are facing jail or prison time if not compliant with the STIRRT Program; and meet other treatment and supervision criteria. The STIRRT Program is funded through the Office of Behavioral Health (OBH) in the Department of Human Services (DHS), and is typically court-ordered.

Other Topics Considered

In addition to the bill drafts previously discussed, at the October 29 meeting of the oversight committee, the committee approved a bill draft adding mental health professionals to the list of persons that must be included in any memorandum of understanding established as a means of promoting a collaborative system of local-level interagency oversight to coordinate and manage the provision of services to children and families. The memoranda of understanding are entered into by between county departments of human or social services and other local-level service providers.

Additionally, the committee considered a bill draft that would have included post-traumatic stress disorder as a covered workers' compensation disability for certain public safety professionals. The bill was withdrawn before the oversight committee took action on the bill.

Advisory Task Force Activities

The advisory task force met monthly in 2015. The advisory task force received regular updates from various task force members on efforts to address data and information sharing, housing, and a medication consistency formulary, as those topics relate to persons with mental illness who are involved in the criminal and juvenile justice systems. Additionally, the advisory task force heard a presentation about the Behavioral Health Needs Analysis, and monitored legislation addressing juvenile competency. Finally, the advisory task force held an all-day retreat to focus on the study issues of the advisory task force, where housing and juvenile competency and restoration were determined to be the two priority issues for the task force.

Behavioral Health Needs Analysis Presentation

In August, Dr. Patrick Fox, Chief Medical Officer, of the DHS, briefed the task force on the Behavioral Health Needs Analysis. The OBH conducted a study of existing behavioral health resources in the state and to project future needs. The purpose of the study was to identify and assess existing state and community resources and to recommend strategic future planning, taking into account the many constituent variables associated with the changing behavioral health care system. The Western Interstate Commission for Higher Education Mental Health Program, in partnership with the National Association of State Mental Health Program Directors Research Institute and Advocates for Human Potential, formed a team of Colorado and national behavioral health experts to complete this study for OBH.

The analysis made recommendations concerning the following topics:

- the Governor's plan to strengthen Colorado's behavioral health system;
- service needs, including the current need, by region and by select demographic groups, and the projected need, based on population forecast data;
- aligning and maximizing OBH resources and payer sources;
- regional behavioral health service distribution;
- Colorado mental health institutes;
- community integration;
- telehealth;
- housing and employment;
- peer mentors, recovery coaches, and family advocates;
- individuals with mental illness who are physically compromised;
- behavioral health services delivery for specific populations;
- whole health integration;
- legal marijuana and prescription drug abuse;
- drug possession sentencing reform; and
- Medicaid expansion.

The full analysis can be viewed at:

<http://www.colorado.gov/cs/Satellite/CDHS-BehavioralHealth/CBON/1251662741340>.

Study of Housing Issues

The advisory task force conducted an all-day retreat on September 25, 2015, to provide focus on the study issues outlined in state law for the advisory task force to address. Small group discussions of priority issues occurred. One of the priority issues identified for the coming year was housing. The following action steps to address housing issues were identified:

- conducting a review of prior legislation run by the oversight committee concerning housing;
- convening an initial meeting with stakeholders within and outside of the advisory task force to develop a housing focus group;
- researching a Lean event, a process used to determine actionable items for study by the housing focus group; and
- determining areas for legislative or other action on the part of the oversight committee.

Study of Juvenile Competency and Restorative Services Issues

For several years the advisory task force has discussed issues concerning juvenile justice and the standard for measuring competency in juveniles. In 2015, House Bill 15-1025, concerning competency to proceed for juveniles involved in the juvenile justice system, was introduced on the recommendation of the advisory task force and oversight committee. The bill was postponed indefinitely in the House Judiciary Committee. Throughout the legislative session, the advisory task force monitored the progress of the bill, and discussed how to proceed with the bill in the future.

At the September 25, 2015, retreat a small group was convened to address juvenile competency and restoration. Concerning these topics, the following action steps were identified:

- convening a group to review adult and juvenile competency statutes;
- conducting a formal needs assessment about data collection concerning existing restoration services and processes;
- reviewing statutes concerning management plans for youth and exploring funding for management plans;
- standardizing a curriculum for restoration for both juveniles and adults;
- exploring funding for both inpatient and outpatient restoration services;
- standardizing qualifications for professionals delivering restoration services;
- understanding the existing backlog for competency evaluations;
- updating the advisory task force's statutory areas of study to include restoration services; and
- determining areas for legislative or other action on the part of the oversight committee.

Summary of Recommendations

As a result of the discussion and deliberation of the task force, the legislative oversight committee recommends the following bill for consideration in the 2016 legislative session. At its meeting on November 10, 2015, the Legislative Council approved the bill for introduction.

Bill A — Mental Health and Collaborative Management Teams

Bill A adds mental health professionals to the list of persons that must be included in any memorandum of understanding established as a means of promoting a collaborative system of local-level interagency oversight to coordinate and manage the provision of services to children and families. The memoranda of understanding are entered into by between county departments of human or social services and other local-level service providers.

Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://www.colorado.gov/pacific/cga-legislativecouncil/mental-illness-criminal-justice-system>

Meeting Dates and Topics Discussed

Legislative Oversight Committee

August 18, 2015

- ◆ Review of legislative oversight committee and advisory task force charges
- ◆ Review of the history of advisory task force
- ◆ Update on recent advisory task force activities and short-term and long-term goals
- ◆ Discussion of advisory task force vacancies and task force resources
- ◆ Review of interim committee bill drafting guidelines
- ◆ Discussion of recent legislative proposals and possible 2016 legislation

September 21, 2015

- ◆ Presentation by Project EDGE
- ◆ Presentation by The Link
- ◆ Presentation by Arapahoe House
- ◆ Discussion of future activities of the advisory task force
- ◆ Committee discussion and votes on motions to request bill drafts

October 29, 2015

- ◆ Update from advisory task force
- ◆ Discussion of advisory task force vacancies
- ◆ Discussion and votes on proposed legislation

Advisory Task Force

January 15, 2015

- ◆ Review of juvenile competency legislation
- ◆ Data and information sharing update
- ◆ Affordable Care Act update
- ◆ Behavioral Health Transformation Council update

February 19, 2015

- ◆ Review of juvenile competency legislation
- ◆ Data and information sharing update
- ◆ Affordable Care Act update
- ◆ Behavioral Health Transformation Council update
- ◆ Housing update
- ◆ Jail-based behavioral health services update
- ◆ Update on topic area – safety of staff who work with individuals with a mental illness

March 19, 2015

- ◆ Review of juvenile competency legislation
- ◆ Data and information sharing update
- ◆ Affordable Care Act update
- ◆ Review of documents from the Joint Budget Committee concerning Department of Corrections
- ◆ Behavioral Health Transformation Council update
- ◆ Housing update
- ◆ Update on topic area – safety of staff who work with individuals with a mental illness
- ◆ Discussion of advisory task force membership and vacancies
- ◆ Legislative update

April 16, 2015

- ◆ Housing update
- ◆ Data and information sharing update
- ◆ Affordable Care Act update
- ◆ Behavioral Health Transformation Council update
- ◆ Review of juvenile competency legislation

May 21, 2015

- ◆ Housing update
- ◆ Data and information sharing update
- ◆ Department of Health Care Policy and Financing Medicaid update
- ◆ Discussion of House Bill 15-1287, concerning measures to improve peace officer training

June 18, 2015

- ◆ Housing update
- ◆ Data and information sharing update
- ◆ Department of Health Care Policy and Financing Medicaid update
- ◆ Behavioral Health Transformation Council update
- ◆ Discussion of the Joint Budget Committee approval of additional funds for competency assessments
- ◆ Discussion of field trip to Fort Lyon Supportive Residential Community
- ◆ Discussion of advisory task force staffing
- ◆ Discussion of upcoming selection of advisory task force chair and vice-chair

July 16, 2015

- ◆ Legislative oversight committee update
- ◆ Housing update
- ◆ Data and information sharing update
- ◆ Behavioral Health Transformation Council update
- ◆ Election of advisory task force chair and vice-chair
- ◆ Discussion of field trip to Fort Lyon Supportive Residential Community

August 20, 2015

- ◆ Presentation on the Behavioral Health Needs Analysis
- ◆ Legislative oversight committee update
- ◆ Housing update
- ◆ Data and information sharing update

September 25, 2015 (off-site retreat)

- ◆ Discussion of legislative oversight committee priorities
- ◆ Feedback from task force members on legislative oversight committee priority areas and next steps
- ◆ Discussion of priority issues from advisory task force members
- ◆ Development of payoff matrix and decision making on future areas of focus

October 15, 2015

- ◆ Legislative oversight committee update and bill draft discussion
- ◆ Retreat summary and subcommittee discussion
- ◆ Discussion of potential modifications to Senate Bill 14-021
- ◆ Data and information sharing update
- ◆ Behavioral Health Transformation Council update

November 19, 2015

- ◆ Legislative oversight committee update and bill draft discussion
- ◆ Housing update
- ◆ Competency and restoration update
- ◆ Data and information sharing update
- ◆ Behavioral Health Transformation Council update
- ◆ Membership update and discussion of vacancies

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

BILL A

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(2015)\Oversight Committee\Reports\Bill A.wpd*

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SENATE BILL

SENATE SPONSORSHIP

Newell and Martinez Humenik,

HOUSE SPONSORSHIP

Lee, Singer

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCLUDING A MENTAL HEALTH PROFESSIONAL IN THE**
102 **MEMORANDUM OF UNDERSTANDING RELATING TO A**
103 **LOCAL-LEVEL COLLABORATIVE MANAGEMENT PROCESS FOR**
104 **CHILDREN AND FAMILIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

**Legislative Oversight Committee Concerning the Treatment
of Persons With Mental Illness in the Criminal and Juvenile Justice**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.

DRAFT *Dashes through the words indicate deletions from existing statute.*

15

Systems. The bill adds a mental health professional to the list of persons to be included in any memorandum of understanding entered into between interested county departments of social or human services and other local-level service providers when the memorandum of understanding is established as a means of promoting a collaborative system of local-level interagency oversight and services to children and families.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-1.9-102, **amend**
3 (1) (a) and (1) (c) as follows:

4 **24-1.9-102. Memorandum of understanding - local-level**
5 **interagency oversight groups - individualized service and support**
6 **teams - coordination of services for children and families -**
7 **requirements - waiver.** (1) (a) INDIVIDUALS, local representatives of
8 each of the agencies specified in this paragraph (a) AND PARAGRAPH (a.5)
9 OF THIS SUBSECTION (1), IF APPLICABLE, and county departments of
10 HUMAN OR social services may enter into memorandums of understanding
11 that are designed to promote a collaborative system of local-level
12 interagency oversight groups and individualized service and support
13 teams to coordinate and manage the provision of services to children and
14 families who would benefit from integrated multi-agency services. The
15 memorandums of understanding entered into pursuant to this subsection
16 (1) shall be between interested county departments of HUMAN OR social
17 services and ~~local representatives of each of the following: agencies or~~
18 ~~entities:~~

19 (I) A REPRESENTATIVE OF the local judicial districts, including
20 probation services;

21 (II) A REPRESENTATIVE OF the health department, whether a
22 county or district public health agency;

1 (III) A REPRESENTATIVE OF the local school district or school
2 districts;

3 (IV) ~~Each~~ A REPRESENTATIVE FROM THE LOCAL community
4 mental health center OR A MENTAL HEALTH PROFESSIONAL DESIGNATED
5 BY THE PERSON OR ENTITY THAT CONVENES THE GROUP. For purposes of
6 this subsection (1), a "mental health professional" may include any person
7 licensed by the state of Colorado as a psychiatrist, psychologist, mental
8 health counselor, or clinical social worker.

9 (V) ~~Each~~ A REPRESENTATIVE FROM THE LOCAL behavioral health
10 organization;

11 (VI) A REPRESENTATIVE FROM the division of youth corrections;

12 (VII) A REPRESENTATIVE FROM a designated managed service
13 organization for the provision of treatment services for alcohol and drug
14 abuse pursuant to section 27-80-107, C.R.S.; and

15 (VIII) A REPRESENTATIVE FROM a domestic abuse program as
16 defined in section 26-7.5-102, C.R.S., if representation from such a
17 program is available.

18 (c) Notwithstanding the provisions of paragraph (b) of this
19 subsection (1), the INDIVIDUALS AND agencies specified in paragraphs (a)
20 and (a.5) of this subsection (1) may enter into memorandums of
21 understanding involving only one or more county departments of HUMAN
22 OR social services, not necessarily by region, as may be appropriate to
23 ensure the effectiveness of local-level interagency oversight groups and
24 individualized service and support teams in the county or counties.

25 **SECTION 2. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly
28 (August 10, 2016, if adjournment sine die is on May 11, 2016); except

1 that, if a referendum petition is filed pursuant to section 1 (3) of article V
2 of the state constitution against this act or an item, section, or part of this
3 act within such period, then the act, item, section, or part will not take
4 effect unless approved by the people at the general election to be held in
5 November 2016 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.