

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-1054.01 Jane Ritter x4342

SENATE BILL 17-246

SENATE SPONSORSHIP

Martinez Humenik,

HOUSE SPONSORSHIP

Michaelson Jenet and Singer,

Senate Committees
Health & Human Services

House Committees
Public Health Care & Human Services

HOUSE
3rd Reading Unamended
April 10, 2017

A BILL FOR AN ACT

101 **CONCERNING MODERNIZING TERMINOLOGY RELATING TO MENTAL**
102 **HEALTH DISORDERS, AND, IN CONNECTION THEREWITH,**
103 **RENAMING THE "LEGISLATIVE OVERSIGHT COMMITTEE**
104 **CONCERNING THE TREATMENT OF PERSONS WITH MENTAL**
105 **ILLNESS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS" TO**
106 **THE "LEGISLATIVE OVERSIGHT COMMITTEE CONCERNING THE**
107 **TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS IN**
108 **THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS" AND MAKING**
109 **A CORRESPONDING CHANGE TO THE NAME OF THE ASSOCIATED**
110 **TASK FORCE.**

HOUSE
2nd Reading Unamended
April 7, 2017

SENATE
3rd Reading Unamended
March 29, 2017

Bill Summary

(Note: This summary applies to this bill as introduced and does

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 28, 2017

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://leg.colorado.gov>.)

The bill changes the name of the "legislative oversight committee concerning the treatment of persons with mental illness in the criminal and juvenile justice systems" to the "legislative oversight committee concerning the treatment of persons with mental health disorders in the criminal and juvenile justice systems". The bill makes a corresponding change to the associated task force and cash fund. The bill also modernizes terminology related to mental health disorders.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 18-1.9-101
3 as follows:

4 **18-1.9-101. Legislative declaration.** (1) The general assembly
5 ~~hereby~~ finds that:

6 (a) In November of 1998, the Colorado department of corrections
7 reported that ten percent of its correctional population met the diagnostic
8 criteria for HAVING A serious mental ~~illness, which~~ HEALTH DISORDER.
9 THAT number was double the number identified two years earlier, and
10 five to six times the number documented in 1988, only ten years earlier.

11 (b) The Colorado department of corrections estimates that in
12 2002, sixteen percent of its inmate population met the diagnostic criteria
13 for HAVING A major mental ~~illness~~ HEALTH DISORDER;

14 (c) The Colorado division of youth corrections estimates that
15 twenty-four percent of juveniles in the juvenile justice system are
16 diagnosed with A mental ~~illness~~ HEALTH DISORDER;

17 (d) A study conducted in 1995 found that approximately six
18 percent of the persons held in county jails and in community corrections
19 throughout the state had been diagnosed as persons with a serious mental

1 ~~illness~~ HEALTH DISORDER;

2 (e) It is estimated that nationally, nearly nine percent of all adults
3 and juveniles on probation have been identified as having A serious
4 mental ~~illness~~ HEALTH DISORDER;

5 (f) For the 1998-99 fiscal year, approximately forty-four percent
6 of the inpatient population at the Colorado mental health institute at
7 Pueblo had been committed following the return of a verdict of not guilty
8 by reason of insanity or a determination by the court that the person was
9 incompetent to stand trial due to A mental ~~illness~~ HEALTH DISORDER;

10 (g) ~~Persons~~ A PERSON with A mental ~~illness~~ HEALTH DISORDER, as
11 a direct or indirect result of ~~their~~ HIS OR HER condition, ~~are in many~~
12 ~~instances~~ IS OFTEN more likely than ~~persons who do~~ A PERSON WHO DOES
13 not have A mental ~~illness~~ HEALTH DISORDER to be involved in the criminal
14 and juvenile justice systems;

15 (h) The existing procedures and diagnostic tools used by persons
16 working in the criminal and juvenile justice systems may not be sufficient
17 to identify appropriately and diagnose persons with mental ~~illness~~ HEALTH
18 DISORDERS who are involved in the criminal and juvenile justice systems;

19 (i) The criminal and juvenile justice systems may not be structured
20 in such a manner as to provide the level of treatment and care for persons
21 with mental ~~illness~~ HEALTH DISORDERS that is necessary to ensure the
22 safety of these persons, of other persons in the criminal and juvenile
23 justice systems, and of the community at large;

24 (j) Studies show that, for offenders under community supervision,
25 treatment of the OFFENDER'S mental ~~illness of the offender~~ HEALTH
26 DISORDER decreases repeat arrests by forty-four percent; and

27 (k) The ongoing supervision, care, and monitoring, especially with

1 regard to medication, of persons with mental ~~illness~~ HEALTH DISORDERS
2 who are released from incarceration are crucial to ensuring the safety of
3 the community.

4 (2) The general assembly further finds that pursuant to the
5 findings in a report requested by the joint budget committee in 1999 that
6 recommended cross-system collaboration and communication as a method
7 for reducing the number of persons with mental ~~illness~~ HEALTH
8 DISORDERS who are involved in the criminal and juvenile justice systems,
9 the legislative oversight committee and advisory task force for the
10 examination of the treatment of persons with mental illness who are
11 involved in the criminal justice system were created in 1999 and extended
12 for an additional three years in 2000. Over the course of four years, the
13 legislative oversight committee and advisory task force began to address,
14 but did not finish addressing, the issues specified in subsection (1) of this
15 section, through both legislative and non-legislative solutions including,
16 but not limited to:

17 (a) Community-based intensive treatment management programs
18 for juveniles involved in the juvenile justice system;

19 (b) An expedited application process for aid to the needy disabled
20 benefits for persons with mental ~~illness~~ HEALTH DISORDERS upon release
21 from incarceration;

22 (c) Standardized inter-agency screening to detect mental ~~illness~~
23 HEALTH DISORDERS in adults who are involved in the criminal justice
24 system and juveniles who are involved in the juvenile justice system;

25 (d) Training of law enforcement officers to recognize and safely
26 deal with persons who have mental ~~illness~~ HEALTH DISORDERS through
27 the use of crisis intervention teams; and

1 (e) Creating local initiative committee pilot programs for the
2 management of community-based programs for adults with mental illness
3 HEALTH DISORDERS who are involved in the criminal justice system.

4 (3) Experts involved in cross-system collaboration and
5 communication to reduce the number of persons with mental illness
6 HEALTH DISORDERS who are involved in the criminal and juvenile justice
7 systems recommend a five-year plan to continue the work of the task
8 force and the legislative oversight committee in order to more fully
9 effectuate solutions to these issues.

10 (4) Therefore, the general assembly declares that it is necessary to
11 create a task force to continue to examine the identification, diagnosis,
12 and treatment of persons with mental illness HEALTH DISORDERS who are
13 involved in the state criminal and juvenile justice systems and to make
14 additional recommendations to a legislative oversight committee for the
15 continuing development of legislative proposals related to this issue.

16 **SECTION 2.** In Colorado Revised Statutes, **amend** 18-1.9-102
17 as follows:

18 **18-1.9-102. Definitions.** As used in this ~~article~~ ARTICLE 1.9,
19 unless the context otherwise requires:

20 (1) "Committee" means the legislative oversight committee
21 CONCERNING THE TREATMENT OF PERSONS WITH MENTAL HEALTH
22 DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS established
23 ~~pursuant to~~ IN section 18-1.9-103.

24 (1.5) "Co-occurring disorder" means a disorder that commonly
25 coincides with mental illness HEALTH DISORDERS and may include, but is
26 not limited to, substance abuse AND SUBSTANCE USE DISORDERS,
27 BEHAVIORAL HEALTH DISORDERS, INTELLECTUAL AND developmental

1 ~~disability~~ DISABILITIES, fetal alcohol syndrome, and traumatic brain
2 injury.

3 (2) "Task force" means the task force concerning the treatment of
4 persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and
5 juvenile justice systems established ~~pursuant to~~ IN section 18-1.9-104.

6 **SECTION 3.** In Colorado Revised Statutes, 18-1.9-103, **amend**
7 (1)(a), (1)(d), and (2)(c)(I) as follows:

8 **18-1.9-103. Legislative oversight committee concerning the**
9 **treatment of persons with mental health disorders in the criminal and**
10 **juvenile justice systems - creation - duties. (1) Creation.** (a) There is
11 ~~hereby~~ created a legislative oversight committee concerning the treatment
12 of persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and
13 juvenile justice systems.

14 (d) (I) Members of the committee may receive payment of per
15 diem and reimbursement for actual and necessary expenses authorized
16 pursuant to section 2-2-307. ~~C.R.S.~~

17 (II) The director of research of the legislative council and the
18 director of the office of legislative legal services may supply staff
19 assistance to the committee as they deem appropriate, within existing
20 appropriations. If staff assistance is not available within existing
21 appropriations, then the director of research of the legislative council and
22 the director of the office of legislative legal services may supply staff
23 assistance to the task force only if ~~moneys are~~ MONEY IS credited to the
24 treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the
25 criminal and juvenile justice systems ~~cash~~ fund created in section
26 18-1.9-106 in an amount sufficient to fund staff assistance.

27 (2) **Duties.** (c) (I) The committee shall submit a report to the

1 general assembly by January 15, 2005, and by each January 15 thereafter.
2 The annual reports must summarize the issues addressing the treatment
3 of persons with mental ~~illness~~ HEALTHDISORDERS who are involved in the
4 criminal and juvenile justice systems that have been considered and
5 recommended legislative proposals, if any. THE REPORTS MUST COMPLY
6 WITH THE PROVISIONS OF SECTION 24-1-136 (9). NOTWITHSTANDING
7 SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT IN THIS SECTION TO
8 REPORT TO THE GENERAL ASSEMBLY CONTINUES INDEFINITELY.

9 **SECTION 4.** In Colorado Revised Statutes, 18-1.9-104, **amend**
10 (1)(a), (1)(c)(IV)(A), (1)(c)(XIV), (1)(f), (2), and (3) introductory portion
11 as follows:

12 **18-1.9-104. Task force concerning treatment of persons with**
13 **mental health disorders in the criminal and juvenile justice systems**
14 **- creation - membership - duties.** (1) **Creation.** (a) There is ~~hereby~~
15 created a task force concerning treatment of persons with mental ~~illness~~
16 HEALTH DISORDERS in the criminal and juvenile justice systems in
17 Colorado. The task force ~~shall consist~~ CONSISTS of thirty-two members
18 appointed as provided in ~~paragraphs (b) and (c) of this subsection (1)~~
19 SUBSECTIONS (1)(b) AND (1)(c) OF THIS SECTION AND ANY STAFF SUPPORT
20 AS PROVIDED FOR IN SECTION 18-1.9-105.

21 (c) The chair and vice-chair of the committee shall appoint
22 twenty-eight members as follows:

23 (IV) Five members who represent the department of human
24 services, as follows:

25 (A) One member who represents the ~~unit within the department~~
26 ~~of human services that is responsible for mental health and drug and~~
27 ~~alcohol abuse services~~ OFFICE OF BEHAVIORAL HEALTH IN THE

1 DEPARTMENT OF HUMAN SERVICES;

2 (XIV) Three members of the public as follows:

3 (A) One member who has A mental ~~illness~~ HEALTH DISORDER and
4 has been involved in the criminal justice system in this state;

5 (B) One member who has an adult family member who has A
6 mental ~~illness~~ HEALTH DISORDER and has been involved in the criminal
7 justice system in this state; and

8 (C) One member who is the parent of a child who has A mental
9 ~~illness~~ HEALTH DISORDER and has been involved in the juvenile justice
10 system in this state;

11 (f) In making appointments to the task force, the appointing
12 authorities shall ensure that the membership of the task force reflects the
13 ethnic, cultural, and gender diversity of the state; ~~and~~ includes
14 representation of all areas of the state; AND, TO THE EXTENT PRACTICABLE,
15 INCLUDES PERSONS WITH DISABILITIES.

16 (2) **Issues for study.** The task force shall examine the
17 identification, diagnosis, and treatment of persons with mental ~~illness~~
18 HEALTH DISORDERS who are involved in the state criminal and juvenile
19 justice systems, including an examination of liability, safety, and cost as
20 they relate to these issues. The task force shall specifically consider, but
21 need not be limited to, the following issues,

22 ~~(a) On or before July 1, 2005:~~

23 ~~(I) The diagnosis, treatment, and housing of juveniles with mental~~
24 ~~illness who are involved in the criminal justice system or the juvenile~~
25 ~~justice system; and~~

26 ~~(II) The adoption of a common framework for effectively~~
27 ~~addressing the mental health issues, including competency and~~

1 ~~co-occurring disorders, of juveniles who are involved in the criminal~~
2 ~~justice system or the juvenile justice system;~~

3 ~~(b) On or before July 1, 2006:~~

4 ~~(I) The prosecution of and sentencing alternatives for persons with~~
5 ~~mental illness that may involve treatment and ongoing supervision;~~

6 ~~(II) The civil commitment of persons with mental illness who~~
7 ~~have been criminally convicted, found not guilty by reason of insanity, or~~
8 ~~found to be incompetent to stand trial; and~~

9 ~~(III) The development of a plan to most effectively and~~
10 ~~collaboratively serve the population of juveniles involved in the criminal~~
11 ~~justice system or the juvenile justice system;~~

12 ~~(b.5) Repealed.~~

13 ~~(c) On or before July 1, 2007:~~

14 ~~(I) The diagnosis, treatment, and housing of adults with mental~~
15 ~~illness who are involved in the criminal justice system;~~

16 ~~(II) The ongoing treatment, housing, and supervision, especially~~
17 ~~with regard to medication, of adults and juveniles who are involved in the~~
18 ~~criminal and juvenile justice systems and who are incarcerated or housed~~
19 ~~within the community and the availability of public benefits for such~~
20 ~~persons;~~

21 ~~(III) The ongoing assistance and supervision, especially with~~
22 ~~regard to medication, of persons with mental illness after discharge from~~
23 ~~sentence; and~~

24 ~~(IV) The identification of alternative entities to exercise~~
25 ~~jurisdiction regarding release for persons found not guilty by reason of~~
26 ~~insanity, such as the development and use of a psychiatric security review~~
27 ~~board, including recommendations related to the indeterminate nature of~~

1 the commitment imposed;

2 ~~(d) On or before July 1, 2008, the identification, diagnosis, and~~
3 ~~treatment of minority persons with mental illness, women with mental~~
4 ~~illness, and persons with co-occurring disorders, in the criminal and~~
5 ~~juvenile justice systems;~~

6 ~~(e) On or before July 1, 2009:~~

7 ~~(I) The early identification, diagnosis, and treatment of adults and~~
8 ~~juveniles with mental illness who are involved in the criminal and~~
9 ~~juvenile justice systems;~~

10 ~~(II) The modification of the criminal and juvenile justice systems~~
11 ~~to most effectively serve adults and juveniles with mental illness who are~~
12 ~~involved in these systems;~~

13 ~~(III) The implementation of appropriate diagnostic tools to~~
14 ~~identify persons in the criminal and juvenile justice systems with mental~~
15 ~~illness; and~~

16 ~~(IV) Any other issues concerning persons with mental illness who~~
17 ~~are involved in the state criminal and juvenile justice systems that arise~~
18 ~~during the course of the task force study;~~

19 ~~(f) Beginning July 1, 2011, through July 1, 2014:~~

20 ~~(I) The diagnosis, treatment, and housing of persons with mental~~
21 ~~illness or co-occurring disorders who are convicted of crimes, or~~
22 ~~incarcerated or who plead guilty, nolo contendere, or not guilty by reason~~
23 ~~of insanity or who are found to be incompetent to stand trial;~~

24 ~~(II) The diagnosis, treatment, and housing of juveniles with~~
25 ~~mental illness or co-occurring disorders who are adjudicated, detained, or~~
26 ~~committed for offenses that would constitute crimes if committed by~~
27 ~~adults or who plead guilty, nolo contendere, or not guilty by reason of~~

- 1 insanity or who are found to be incompetent to stand trial;
- 2 ~~(HH) The ongoing treatment, housing, and supervision, especially~~
3 ~~with regard to medication, of adults and juveniles who are involved in the~~
4 ~~criminal and juvenile justice systems and who are incarcerated or housed~~
5 ~~within the community and the availability of public benefits for these~~
6 ~~persons; and~~
- 7 ~~(IV) The safety of the staff who treat or supervise persons with~~
8 ~~mental illness and the use of force against persons with mental illness;~~
- 9 ~~(g)~~ On or after July 1, 2014:
- 10 ~~(H)~~ (a) Housing for a person with A mental illness HEALTH
11 DISORDER after his or her release from the criminal or juvenile justice
12 system;
- 13 ~~(H)~~ (b) Medication consistency, delivery, and availability;
- 14 ~~(H)~~ (c) Best practices for suicide prevention, within and outside
15 of correctional facilities;
- 16 ~~(V)~~ (d) Treatment of co-occurring disorders;
- 17 ~~(V)~~ (e) Awareness of and training for enhanced staff safety,
18 including expanding training opportunities for providers; ~~and~~
- 19 ~~(VI)~~ (f) Enhanced data collection related to issues affecting
20 persons with mental illness HEALTH DISORDERS in the criminal and
21 juvenile justice systems; AND
- 22 (g) ANY OTHER ISSUE RELATED TO THE TREATMENT OF PERSONS
23 WITH MENTAL HEALTH DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE
24 SYSTEMS.

25 (3) **Additional duties of the task force.** The task force shall
26 provide guidance and make findings and recommendations to the
27 committee for its development of reports and legislative

1 recommendations for modification of the criminal and juvenile justice
2 systems, with respect to persons with mental ~~illness~~ HEALTH DISORDERS
3 who are involved in these systems. In addition, the task force shall:

4 **SECTION 5.** In Colorado Revised Statutes, 18-1.9-106, **amend**
5 **as amended by House Bill 17-1020** (1); and **add** (1.3) as follows:

6 **18-1.9-106. Treatment of persons with mental health disorders**
7 **in the criminal and juvenile justice systems fund - repeal.** (1) The
8 treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the
9 criminal and juvenile justice systems ~~cash~~ fund, referred to in this section
10 as the "fund", is ~~hereby~~ created in the state treasury. The fund consists of
11 money appropriated or transferred to the fund by the general assembly
12 and any private and public funds received through gifts, grants, or
13 donations for the purpose of implementing the provisions of this ~~article~~
14 ARTICLE 1.9. Money in the fund is subject to annual appropriation by the
15 general assembly for the direct and indirect costs associated with the
16 implementation of this ~~article~~ ARTICLE 1.9. Money in the fund not
17 expended for the purpose of implementing this article 1.9 may be invested
18 by the state treasurer as provided by law. The state treasurer shall credit
19 all interest and income derived from the deposit and investment of money
20 in the fund to the fund. The state treasurer shall transfer all unexpended
21 and unencumbered money remaining in the fund as of July 1, 2020, to the
22 general fund.

23 (1.3) (a) ALL UNEXPENDED AND UNENCUMBERED MONEY
24 REMAINING IN THE TREATMENT OF PERSONS WITH MENTAL ILLNESS IN THE
25 CRIMINAL AND JUVENILE JUSTICE SYSTEMS CASH FUND AS OF THE
26 EFFECTIVE DATE OF THIS SUBSECTION (1.3) SHALL BE TRANSFERRED TO
27 THE TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS IN THE

1 CRIMINAL AND JUVENILE JUSTICE SYSTEMS FUND.

2 (b) THIS SUBSECTION (1.3) IS REPEALED, EFFECTIVE SEPTEMBER 1,
3 2018.

4 **SECTION 6. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.