

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

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Committee Charge

Senate Bill 14-021 reauthorized the establishment of a legislative oversight committee and an advisory task force concerning the treatment of persons with mental illness in the criminal and juvenile justice systems.

The oversight committee is responsible for the oversight of the advisory task force and recommending legislative changes. The advisory 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.

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

Senate Bill 17-246 changed the name of this committee from “Legislative Oversight Committee Concerning the Treatment of Persons with *Mental Illness* in the Criminal and Juvenile Justice Systems” to “Legislative Oversight Committee Concerning the Treatment of Persons with *Mental Health Disorders* in the Criminal and Juvenile Justice Systems.”

The advisory task force is required to submit a report of its findings and recommendations to the legislative oversight committee annually by October 1. 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.

Committee Activities

The legislative oversight committee met four times in 2017 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 and its subcommittees, including presentations related to housing, the sex offender registry, competency restoration, electronic health record sharing, and decisional capacity; and
- considered legislation.

Advisory task force activities. The oversight committee received updates on recent activities of the task force, which met monthly throughout 2017. Task force subcommittees focused on housing, data and information sharing, and competency restoration, as those topics relate to persons with mental health disorders who are involved in the criminal and juvenile justice systems. After the task force's day-long spring retreat, a prevention subcommittee was created to focus on decisional capacity of minors, disciplinary actions, and the prevention of suspension and expulsion in school. The data and information sharing activities focused on the feasibility of developing a statewide, electronic, criminal justice health information exchange. The updates on the housing and competency restoration subcommittees are discussed below.

Members of the advisory task force who also serve on the Behavioral Health Transformation Council provided periodic updates about the council's activities. Additionally, the task force received outside presentations from the Sex Offender Management Board, the Second Chance Center, and the Department of Human Services. Finally, the advisory task force discussed the challenges faced in filling task force vacancies given the amount of time required for participation, in addition to task force members' other job duties.

Housing. The oversight committee and task force received updates throughout the year on the passage and implementation of Senate Bill 17-021, recommended by the legislative oversight committee for the 2017 legislative session, which created the Housing Assistance for Persons Transitioning from Incarceration Cash Fund. Bill B addresses ongoing funding for this program.

The advisory task force housing subcommittee also focused on rental housing applications and the fees collected by landlords for prospective tenant applications and background checks. Bill C addresses the timing of notice of a landlord's tenant selection criteria.

Competency restoration. The oversight committee and task force received updates throughout the year on the passage and implementation of SB 17-012, recommended by the legislative oversight committee for the 2017 legislative session, which established the Office of Behavioral Health in the Department of Human Services as the agency responsible for restoration education and the coordination of competency restoration services.

The task force also discussed issues concerning juvenile justice and the standard for measuring and restoring competency in juveniles. Bill A addresses competency evaluations, the definition of competency, and restoration services for juveniles.

Committee Recommendations

As a result of committee discussion and deliberation, the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems recommends the following four bills for consideration in the 2018 legislative session.

Bill A – Competency to Proceed Juvenile Justice System – The bill defines mental and developmental disabilities, competent to proceed, incompetent to proceed, and mental capacity in the children's code. Bill A also defines a restoration to competency hearing and specifies that the determination of a juvenile's competency must include an evaluation of developmental disabilities, mental disabilities, and mental capacity. The bill also states that age alone cannot be a determining factor of juvenile incompetency without a finding that the juvenile lacks relevant competence. Under current law, if the court orders a competency evaluation, the evaluation must be conducted in the least restrictive environment possible while taking public safety and the juvenile's best interests into account. Bill A specifies that the evaluation can occur in the home or in a community placement, if appropriate.

Bill B – Fund Transitioning from Criminal and Juvenile Justice Systems – Senate Bill 17-021 created a one-time General Fund transfer of unspent community corrections funding in the Department of Public Safety (DPS) to the Housing Assistance for Persons Transferring from Incarceration Cash Fund in the Department of Local Affairs (DOLA). Bill B continues this transfer of unspent community corrections funds to DOLA indefinitely.

Bill C – Rental Application Disclose Selection Criteria – The bill requires a landlord to provide each prospective tenant with written notice of the landlord's tenant selection criteria, and the grounds upon which a rental application may be denied before accepting an application or collecting an application fee. The notice must state the amount of the application fee, which must be uniform for all applicants. Bill C also defines a violation of these requirements as a deceptive trade practice.

Bill D – Inmate Treatment Incentive Plans – The bill requires the Department of Corrections (DOC) to track data on inmates who are not receiving mental health treatment specified in their rehabilitation report and to develop incentive plans to attract additional mental health providers to the geographic areas where inmates are not receiving treatment and services. Incentives may include additional fees, travel reimbursement, bonuses, and other financial incentives. The DOC must report annually to the Joint Budget Committee each December 1, starting in 2019, on the number of inmates requiring treatment and services provided by a mental health professional and the number of inmates unable to receive these services, both statewide and for any area for which an incentive plans is developed. The DOC must also report specific details about incentive plans developed under Bill D, including measures of their effectiveness.