

**Legislative Oversight Committee Concerning the
Treatment of Persons with Mental Illness 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.

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 three times in 2016 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;
- discussed the Collaborative Management Program, which allows county departments of human or social services to partner with various public and private entities to provide comprehensive services to children and families in the child welfare system;

- heard presentations related to housing, the juvenile sex offender registry, competency restoration, and development of a medication consistency formulary; and
- considered legislation.

Advisory task force updates. The oversight committee received updates on recent activities of the task force and its subcommittees, which focused on housing, data and information sharing, and competency restoration, as those topics relate to persons with mental illness who are involved in the criminal and juvenile justice systems. The data and information sharing activities focused on the feasibility of developing a statewide, electronic, criminal justice health information exchange. The updates on housing and competency restoration are discussed below. Finally, the advisory task force discussed the challenges that the lack of staffing for the advisory task force presents with preparing timely minutes, orienting new task force members, monitoring legislation, and researching relevant topics. Bill A modifies the current law concerning funding and staffing for the advisory task force.

Housing. The housing subcommittee of the advisory task force presented a draft concept paper proposing changes to the state's housing voucher programs to expand housing options for persons with mental illness who are involved in the criminal and juvenile justice systems. In addition to the information from the housing subcommittee, the oversight committee heard presentations regarding state-owned vacant buildings and housing voucher programs administered by the state. Bill D addresses providing reentry services for persons with mental illness in the criminal justice system, including housing vouchers.

Juvenile sex offender registry. The Office of the Alternate Defense Counsel and Department of Public Safety presented information to the oversight committee about the juvenile sex offender registry and the federal Sex Offender Registration and Notification Act. Any temporary or permanent resident in the state, including juveniles, convicted in Colorado or any other jurisdiction of an unlawful sexual offense, enticement of a child, or internet luring of a child must register on Colorado's sex offender registry. The court can exempt juveniles from registration under certain conditions, and a juvenile may petition the court for removal from the registry upon completion of his or her sentence. The committee considered, but did not recommend, two bills related to the juvenile sex offender registry.

Competency restoration. For several years, the advisory task force has discussed issues concerning juvenile justice and the standard for measuring competency in juveniles. Throughout the year, a subcommittee of the advisory task force met and developed a memorandum addressing the essential components of restoration legislation for both adults and juveniles. The memorandum was presented to the oversight committee and identified the lack of a responsible entity for providing outpatient restoration services in either adult or juvenile proceedings. Bill C addresses competency restoration services and education.

Medication consistency formulary. Members of the advisory task force and the Behavioral Health Transformation Council presented information to the oversight committee about efforts to establish a statewide formulary for psychotropic medication for criminal justice and public health facilities. Bill B addresses establishing a medication formulary for use by various state and local entities.

Letters sent by the oversight committee. Based on the information presented to the oversight committee, the committee sent the following:

- a letter of support as part of the Department of Public Safety's U.S. Department of Justice's Bureau of Justice Assistance Second Chance Act Statewide Adult Recidivism

Reduction Strategic Program implementation grant application to implement a statewide, electronic, criminal justice health information exchange;

- a letter to the Chief Justice of the Colorado Supreme Court encouraging additional judicial trainings on management plans for juveniles found incompetent to proceed and who cannot be restored to competency;
- a letter to the State Board of Human Services on behalf of Park County, requesting that the rules surrounding Collaborative Management Program incentive funding be reviewed and the potential for an administrative appeal process be explored; and
- a letter to the Capital Development Committee requesting that the two committees explore the idea of repurposing state-owned vacant buildings to provide housing to persons with mental illness who are involved in the criminal and juvenile justice systems.

Advisory Task Force Activities

The advisory task force met monthly in 2016. The advisory task force received regular updates from task force members serving on subcommittees addressing competency restoration, data and information sharing, and housing, as those topics relate to persons with mental illness who are involved in the criminal and juvenile justice systems. Members of the advisory task force who also serve on the Behavioral Health Transformation Council provided periodic updates about the efforts to establish a statewide formulary for psychotropic medication for criminal justice and public health facilities. Additionally, the task force received outside presentations about the CDHS's recent activities related to competency evaluations and the Colorado Crisis Services System.

Committee Recommendations

As a result of committee discussion and deliberation, the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems recommends the following six bills for consideration in the 2017 legislative session.

Bill A – Staffing Task Force Mental Illness Justice System – The bill modifies current law concerning funding and staff support for the advisory task force. Specifically, the bill:

- allows the Office of Behavioral Health in the CDHS and any other state agency with an active representative on the task force to receive and expend gifts, grants, and donations in support of the task force;
- permits the Office of Behavioral Health in the CDHS to provide staff assistance to the task force within existing appropriations;
- clarifies that the existing Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems Cash Fund may receive moneys appropriated or transferred by the General Assembly; and
- removes language that prohibits the transfer of unexpended moneys in the fund to the General Fund or another fund.

Bill B – Medication Mental Illness in Justice Systems – The bill requires CDHS and Department of Corrections to promulgate rules to require providers under each department's authority to use a medication formulary that has been developed collaboratively by departments, agencies, and providers. The bill allows for patient-specific information to be shared between various entities for the sole purpose of ensuring medication consistency. CDHS, along with other state entities, must develop a plan by which patient-specific information can be shared

electronically, while still complying with confidentiality requirements. The department is to encourage certain providers to utilize cooperative purchasing for the medication formulary, unless the provider can obtain the medication elsewhere at a lower cost and is required to conduct annual and biannual reviews of the formulary to address any urgent concerns related to the formulary, update the formulary, and ensure compliance with the formulary.

Bill C – Competency Restoration Services and Education – The bill establishes the Office of Behavioral Health in CDHS as the agency responsible for restoration education and the coordination of competency restoration services and sets forth the duties, responsibilities, and reporting requirements of the office. The bill adds the requirement that provision of restoration services and a juvenile’s participation in those services occur in a timely manner. The bill requires the court to review cases for juveniles in custody every 30 days. The bill also directs the court to consider whether restoration of competency should occur on an out-patient or out-of-custody basis for defendants on bond or summons.

Bill D – Assistance To Released Mentally Ill Offenders – The bill directs the Division of Housing in the Department of Local Affairs to establish a program to provide vouchers and supportive services to persons with mental illness who are being released from the Department of Corrections or jails. CDHS, in conjunction with the Department of Corrections, is to implement reentry programs to assist persons with a mental illness who are being released from the Department of Corrections or jail.