

CHAPTER 199

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 24-1079

BY REPRESENTATIVE(S) Amabile and English, Bradfield, Bacon, Boesenecker, Brown, Clifford, deGruy Kennedy, Garcia, Herod, Jodeh, Lindsay, Mabrey, Ricks, Rutinel, Story, Vigil, Weissman, Joseph, Lieder, Woodrow, McCluskie; also SENATOR(S) Fields, Cutter, Michaelson Jenet.

AN ACT

CONCERNING PERSONS DETAINED IN JAIL WHO ARE HELD ON AN EMERGENCY COMMITMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 27-81-102, **add** (6.8) as follows:

27-81-102. Definitions. As used in this article 81, unless the context otherwise requires:

(6.8) "EMERGENCY MEDICAL SERVICES FACILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 27-65-102.

SECTION 2. In Colorado Revised Statutes, 27-81-111, **amend** (1); and **add** (8) as follows:

27-81-111. Emergency commitment. (1) (a) When a person is under the influence of or incapacitated by substances and is clearly dangerous to the health and safety of ~~himself, herself,~~ THE PERSON'S SELF or others, law enforcement authorities or an emergency service patrol, acting with probable cause, shall take the person into protective custody in an approved treatment facility. If no such facilities are available, the person may be detained in an emergency medical SERVICES facility, or jail, but only for so AS long as may be necessary to prevent injury to ~~himself, herself,~~ THE PERSON'S SELF or others or to prevent a breach of the peace. ~~If the person being detained is a juvenile, as defined in section 19-2.5-102, the juvenile must be placed in a setting that is nonsecure and physically segregated by sight and sound from the adult offenders.~~ A law enforcement officer or emergency service patrol officer, in detaining the person, is taking the person into protective custody. In so doing, the detaining officer may protect ~~himself or herself~~ THE OFFICER'S SELF

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

by reasonable methods but shall make every reasonable effort to protect the detainee's health and safety. ~~A~~ Taking a PERSON into protective custody pursuant to this section is not an arrest, and an entry or other record shall not be made to indicate that the person has been arrested or charged with a crime. Law enforcement or emergency service personnel who act in compliance with this section are acting in the course of their official duties and are not criminally or civilly liable. Nothing in this subsection (1) precludes a person intoxicated by alcohol, under the influence of drugs, or incapacitated by substances who is not dangerous to the health and safety of ~~himself, herself,~~ THE PERSON'S SELF or others from being assisted to the person's home or like location by the law enforcement officer or emergency service patrol officer.

~~(b) A sheriff or police chief who violates the provisions of subsection (1)(a) of this section related to detaining juveniles may be subject to a civil fine of no more than one thousand dollars. The decision to fine shall be based on prior violations of the provisions of subsection (1)(a) of this section by the sheriff or police chief and the willingness of the sheriff or police chief to address the violations in order to comply with subsection (1)(a) of this section.~~

~~(c) A LAW ENFORCEMENT OFFICER OR EMERGENCY SERVICE PATROL OFFICER WHO TAKES A JUVENILE INTO PROTECTIVE CUSTODY PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION SHALL NOT DETAIN THE JUVENILE IN JAIL.~~

(8) (a) ON OR BEFORE JULY 1, 2024, AND EACH JULY 1 THEREAFTER, EACH LOCAL LAW ENFORCEMENT AGENCY THAT HAS TAKEN A PERSON INTO PROTECTIVE CUSTODY PURSUANT TO THIS SECTION SHALL PROVIDE AN ANNUAL REPORT TO THE BHA THAT INCLUDES ONLY DISAGGREGATED AND NONIDENTIFYING INFORMATION CONCERNING PERSONS WHO WERE TAKEN INTO PROTECTIVE CUSTODY IN AN APPROVED TREATMENT FACILITY OR DETAINED IN AN EMERGENCY MEDICAL SERVICES FACILITY OR JAIL. THE REPORT MUST COMPLY WITH SECTION 24-1-136 (9) AND IS EXEMPT FROM SECTION 24-1-136 (11)(a)(I). THE REPORT MUST CONTAIN THE FOLLOWING:

(I) THE NAMES AND COUNTIES OF THE FACILITIES AND JAILS;

(II) THE TOTAL NUMBER OF PERSONS TAKEN INTO PROTECTIVE CUSTODY PURSUANT TO THIS SECTION, INCLUDING A SUMMARY OF DEMOGRAPHIC INFORMATION;

(III) A SUMMARY REGARDING THE DIFFERENT REASONS FOR WHICH PERSONS WERE TAKEN INTO PROTECTIVE CUSTODY PURSUANT TO THIS SECTION; AND

(IV) THE LENGTH OF TIME EACH PERSON WAS HELD UNDER PROTECTIVE CUSTODY.

(b) EACH EMERGENCY MEDICAL SERVICES FACILITY THAT DETAINS A PERSON UNDER PROTECTIVE CUSTODY OR DETAINS OR HOLDS A PERSON ON AN EMERGENCY COMMITMENT SHALL PROVIDE A QUARTERLY REPORT TO THE BHA WITH THE FOLLOWING INFORMATION:

(I) THE TOTAL NUMBER OF PERSONS DETAINED UNDER PROTECTIVE CUSTODY AND THE TOTAL NUMBER OF PERSONS HELD IN THE EMERGENCY MEDICAL SERVICES FACILITY ON AN EMERGENCY COMMITMENT;

(II) THE TOTAL NUMBER OF DAYS EACH PERSON WAS DETAINED OR HELD;

(III) WHETHER EACH PERSON WAS TRANSFERRED TO ANOTHER FACILITY, RELEASED, OR PLACED ON AN INVOLUNTARY COMMITMENT; AND

(IV) WHETHER THE EMERGENCY MEDICAL SERVICES FACILITY TRANSFERRED

EACH PERSON TO THE LOCAL JAIL TO BE DETAINED UNDER PROTECTIVE CUSTODY OR FOR AN EMERGENCY COMMITMENT AND THE REASON FOR THE TRANSFER.

(c) ANY INFORMATION DISAGGREGATED AND PROVIDED TO THE BHA PURSUANT TO THIS SUBSECTION (8) IS PRIVILEGED AND CONFIDENTIAL. THE BHA SHALL NOT MAKE THE INFORMATION AVAILABLE TO THE PUBLIC EXCEPT IN AN AGGREGATE FORMAT THAT CANNOT BE USED TO IDENTIFY AN INDIVIDUAL FACILITY. THE INFORMATION IS NOT SUBJECT TO CIVIL SUBPOENA AND IS NOT DISCOVERABLE OR ADMISSIBLE IN ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE PROCEEDING AGAINST AN APPROVED TREATMENT FACILITY, EMERGENCY MEDICAL SERVICES FACILITY, JAIL, LAW ENFORCEMENT OFFICER, OR EMERGENCY SERVICE PATROL OFFICER. THE BHA SHALL ONLY USE THE INFORMATION TO ASSESS STATEWIDE BEHAVIORAL HEALTH SERVICES NEEDS AND WITHDRAWAL MANAGEMENT NEEDS AND TO PLAN FOR SUFFICIENT LEVELS OF STATEWIDE BEHAVIORAL HEALTH AND WITHDRAWAL MANAGEMENT SERVICES. IN COLLECTING THE DATA PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (8), THE BHA SHALL PROTECT THE CONFIDENTIALITY OF PATIENT RECORDS, IN ACCORDANCE WITH STATE AND FEDERAL LAWS, AND SHALL NOT DISCLOSE ANY PUBLIC IDENTIFYING OR PROPRIETARY INFORMATION OF ANY APPROVED TREATMENT FACILITY OR EMERGENCY MEDICAL SERVICES FACILITY. THIS SUBSECTION (8)(c) DOES NOT APPLY TO INFORMATION THAT IS OTHERWISE AVAILABLE FROM A SOURCE OUTSIDE OF THE DATA COLLECTION ACTIVITIES REQUIRED PURSUANT TO SUBSECTION (8)(a) OF THIS SECTION.

SECTION 3. Appropriation. (1) For the 2024-25 state fiscal year, \$64,738 is appropriated to the department of human services for use by the behavioral health administration. This appropriation is from the general fund. To implement this act, the administration may use this appropriation as follows:

(a) \$45,793 for use by the community behavioral health administration for program administration, which amount is based on an assumption that the administration will require an additional 0.5 FTE; and

(b) \$18,945 for use by the community behavioral health administration for emergency commitment data collection and storage.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 17, 2024