

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 28, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB21-1251 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 26-20-102, **add**
4 (3.7) and (5.1) as follows:

5 **26-20-102. Definitions.** As used in this article 20, unless the
6 context otherwise requires:

7 (3.7) "JUSTIFIABLE MEDICAL EMERGENCY" MEANS AN UNDERLYING
8 MEDICAL, TRAUMATIC, OR PSYCHIATRIC CONDITION POSING AN IMMEDIATE
9 SAFETY RISK TO THE INDIVIDUAL, EMERGENCY MEDICAL SERVICE
10 PROVIDERS, OR THE PUBLIC. EXCITED DELIRIUM, ANY SUBSEQUENT TERM
11 FOR EXCITED DELIRIUM, OR ANY ACUTE PSYCHIATRIC DIAGNOSIS NOT
12 RECOGNIZED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND
13 STATISTICAL MANUAL OF MENTAL DISORDERS IS NOT A JUSTIFIABLE
14 MEDICAL EMERGENCY.

15 (5.1) "PREHOSPITAL SETTING" HAS THE SAME MEANING AS SET
16 FORTH IN SECTION 25-3.5-206 (5)(b).

17 **SECTION 2.** In Colorado Revised Statutes, **add** 26-20-104.7 as
18 follows:

19 **26-20-104.7. Use of ketamine on individuals in prehospital**
20 **setting when peace officer present.** (1) (a) WHEN A PEACE OFFICER IS
21 PRESENT AT THE SCENE OF AN EMERGENCY, AN EMERGENCY MEDICAL
22 SERVICE PROVIDER AUTHORIZED TO ADMINISTER KETAMINE IN A
23 PREHOSPITAL SETTING SHALL ONLY ADMINISTER KETAMINE IF THE

1 PROVIDER HAS:
2 (I) WEIGHED THE INDIVIDUAL TO ENSURE ACCURATE DOSAGE. IF
3 THE EMERGENCY MEDICAL SERVICE PROVIDER IS UNABLE TO WEIGH THE
4 INDIVIDUAL, THE EMERGENCY MEDICAL SERVICE PROVIDER SHALL, PRIOR
5 TO THE ADMINISTRATION OF KETAMINE:
6 (A) ESTIMATE THE INDIVIDUAL'S WEIGHT, AND AT LEAST TWO
7 PERSONNEL WHO ARE TRAINED IN WEIGHT ASSESSMENTS MUST AGREE
8 WITH THE WEIGHT ASSESSMENT; AND
9 (B) ATTEMPT TO OBTAIN VERBAL AUTHORIZATION FROM THE
10 EMERGENCY MEDICAL SERVICE PROVIDER'S MEDICAL DIRECTOR OR THEIR
11 DESIGNEE, UNLESS THERE IS A VERIFIABLE REASON THE EMERGENCY
12 MEDICAL SERVICE PROVIDER CANNOT MAKE AN OUTGOING CALL.
13 (II) TRAINING IN THE ADMINISTRATION OF KETAMINE, INCLUDING
14 TRAINING TO ENSURE APPROPRIATE DOSAGE BASED ON THE WEIGHT OF THE
15 INDIVIDUAL;
16 (III) TRAINING IN ADVANCED AIRWAY SUPPORT TECHNIQUES;
17 (IV) EQUIPMENT AVAILABLE TO MANAGE RESPIRATORY
18 DEPRESSION; AND
19 (V) EQUIPMENT AVAILABLE TO IMMEDIATELY MONITOR THE VITAL
20 SIGNS OF THE INDIVIDUAL RECEIVING KETAMINE AND THE ABILITY TO
21 RESPOND TO ANY ADVERSE REACTIONS.
22 (b) THE MEDICAL DIRECTOR OF AN AGENCY THAT HAS A WAIVER
23 TO ADMINISTER KETAMINE SHALL DEVELOP ANY NECESSARY TRAINING FOR
24 EMERGENCY MEDICAL SERVICE PROVIDERS PURSUANT TO THIS SUBSECTION
25 (1).
26 (2) AN EMERGENCY MEDICAL SERVICE PROVIDER WHO
27 ADMINISTERS KETAMINE SHALL:
28 (a) PROVIDE URGENT TRANSPORT TO THE INDIVIDUAL RECEIVING
29 KETAMINE; AND
30 (b) RECORD ANY COMPLICATIONS ARISING OUT OF SUCH
31 ADMINISTRATION, INCLUDING BUT NOT LIMITED TO APNEA,
32 LARYNGOSPASM, HYPOXIA, HYPERTENSION, HYPOTENSION, SEIZURE, AND
33 CARDIAC ARREST.
34 (3) ABSENT A JUSTIFIABLE MEDICAL EMERGENCY, AN EMERGENCY
35 MEDICAL SERVICE PROVIDER SHALL NOT ADMINISTER KETAMINE IN A
36 PREHOSPITAL SETTING TO SUBDUE, SEDATE, OR CHEMICALLY
37 INCAPACITATE AN INDIVIDUAL FOR ALLEGED OR SUSPECTED CRIMINAL,
38 DELINQUENT, OR SUSPICIOUS CONDUCT.
39 (4) IF AN EMERGENCY MEDICAL SERVICE PROVIDER DOES NOT
40 COMPLY WITH THE PROVISIONS OF THIS SECTION, SUCH NONCOMPLIANCE
41 IS CONSIDERED MISCONDUCT, AS DEFINED IN SECTION 25-3.5-205 (5)(b).



1 **SECTION 3.** In Colorado Revised Statutes, 18-1-707, **add** (1.5)
2 as follows:

3 **18-1-707. Use of force by peace officers - definitions - repeal.**
4 (1.5) PURSUANT TO SECTION 18-8-805 (1) AND (2)(a)(I), PEACE OFFICERS
5 SHALL NOT USE, REQUEST, CAUSE, DIRECT, OR INFLUENCE THE USE OF
6 KETAMINE UPON ANOTHER PERSON NOR COMPEL, REQUEST, CAUSE,
7 DIRECT, OR INFLUENCE AN EMERGENCY MEDICAL SERVICE PROVIDER TO
8 ADMINISTER KETAMINE. IF A PEACE OFFICER VIOLATES THIS PROHIBITION,
9 THE DISTRICT ATTORNEY MAY CHARGE THE OFFICER WITH ANY CRIME
10 BASED ON THE FACTS OF THE CASE.

11 **SECTION 4.** In Colorado Revised Statutes, **amend** 18-8-801 as
12 follows:

13 **18-8-801. Definitions.** As used in this part 8, unless the context
14 otherwise requires:

15 (1) "EMERGENCY MEDICAL SERVICE PROVIDER" HAS THE SAME
16 MEANING AS SET FORTH IN SECTION 25-3.5-103 (8).

17 ~~(1)~~ (2) "Materially false statement" has the meaning set out in
18 section 18-8-501 (1).

19 ~~(2)~~ (3) "Peace officer" has the meaning set out in section
20 16-2.5-101, C.R.S.

21 **SECTION 5.** In Colorado Revised Statutes, **add** 18-8-805 as
22 follows:

23 **18-8-805. Prohibition on using or directing administration of**
24 **ketamine - duty to report - duty to intervene.** (1) A PEACE OFFICER
25 SHALL NOT USE, REQUEST, CAUSE, DIRECT, OR INFLUENCE THE USE OF
26 KETAMINE UPON ANOTHER PERSON.

27 (2) (a) (I) A PEACE OFFICER SHALL NOT COMPEL, REQUEST, CAUSE,
28 DIRECT, OR INFLUENCE AN EMERGENCY MEDICAL SERVICE PROVIDER TO
29 ADMINISTER KETAMINE.

30 (II) AN EMERGENCY MEDICAL SERVICE PROVIDER SHALL
31 CONFIDENTIALLY REPORT ANY VIOLATION OF THIS SUBSECTION (2)(a) TO
32 THE P.O.S.T. BOARD CREATED IN SECTION 24-31-302 WITHIN TEN DAYS OF
33 THE OCCURRENCE. AT A MINIMUM, THE REPORT MUST INCLUDE THE DATE,
34 TIME, AND PLACE OF THE OCCURRENCE; THE IDENTITY, IF KNOWN, AND A
35 DESCRIPTION OF THE PARTICIPANTS; AND A DESCRIPTION OF THE EVENTS.

36 (III) A PEACE OFFICER SHALL NOT RETALIATE IN ANY WAY
37 AGAINST AN EMERGENCY MEDICAL SERVICE PROVIDER FOR REPORTING THE
38 INCIDENT PURSUANT TO THIS SUBSECTION (2).

39 (b) A PEACE OFFICER SHALL NOT INFLUENCE AN EMERGENCY
40 MEDICAL SERVICE PROVIDER'S MEDICAL DECISION OR DIAGNOSIS, AND AN
41 EMERGENCY MEDICAL SERVICE PROVIDER SHALL NOT BASE ITS MEDICAL

1 DECISION OR DIAGNOSIS EXCLUSIVELY ON INFORMATION PROVIDED BY A
2 PEACE OFFICER; EXCEPT THAT A PEACE OFFICER MAY PROVIDE CRITICAL
3 MEDICAL INFORMATION OR ANY OTHER PERTINENT INFORMATION ABOUT
4 THE INDIVIDUAL OR THE SCENE OF THE EMERGENCY THAT MAY ASSIST THE
5 EMERGENCY MEDICAL SERVICE PROVIDER'S ASSESSMENT OF THE NEED TO
6 ADMINISTER KETAMINE.

7 (3) A PERSON WHO IS DIRECTED BY A PEACE OFFICER TO ASSIST THE
8 PEACE OFFICER TO EFFECT AN ARREST, DETENTION, RESTRAINT,
9 TRANSPORT, OR PUNISHMENT; TO PREVENT AN ESCAPE FROM CUSTODY; OR
10 TO FACILITATE EASE AND CONVENIENCE IN LAW ENFORCEMENT
11 ENCOUNTERS SHALL NOT USE KETAMINE TO CARRY OUT THE PEACE
12 OFFICER'S DIRECTION OR INFLUENCE.

13 (4) (a) A PEACE OFFICER WHO, IN PURSUANCE OF THE PEACE
14 OFFICER'S LAW ENFORCEMENT DUTIES, WITNESSES ANOTHER PEACE
15 OFFICER, IN PURSUANCE OF THE OTHER PEACE OFFICER'S LAW
16 ENFORCEMENT DUTIES, USE OR DIRECT THE USE OF KETAMINE ON ANOTHER
17 PERSON SHALL REPORT SUCH USE TO THE P.O.S.T. BOARD CREATED IN
18 SECTION 24-31-302.

19 (b) AT A MINIMUM, THE REPORT REQUIRED BY THIS SUBSECTION (4)
20 MUST INCLUDE THE DATE, TIME, AND PLACE OF THE OCCURRENCE; THE
21 IDENTITY, IF KNOWN, AND A DESCRIPTION OF THE PARTICIPANTS; AND A
22 DESCRIPTION OF THE EVENTS. A COPY OF AN ARREST REPORT OR OTHER
23 SIMILAR REPORT REQUIRED AS A PART OF A PEACE OFFICER'S DUTIES CAN
24 BE SUBSTITUTED FOR THE REPORT REQUIRED BY THIS SUBSECTION (4) IF IT
25 INCLUDES SUCH INFORMATION. THE REPORT MUST BE IN WRITING AND
26 MADE WITHIN TEN DAYS OF THE OCCURRENCE OF THE USE OF KETAMINE.

27 (c) ANY PEACE OFFICER WHO FAILS TO REPORT THE USE OR
28 DIRECTED USE OF KETAMINE IN THE MANNER DESCRIBED IN THIS
29 SUBSECTION (4) COMMITS A CLASS 1 MISDEMEANOR.

30 (5) (a) A PEACE OFFICER SHALL INTERVENE, WITHOUT REGARD FOR
31 CHAIN OF COMMAND, TO PREVENT OR STOP ANOTHER PEACE OFFICER FROM
32 USING OR DIRECTING THE USE OF KETAMINE IN PURSUANCE OF THE OTHER
33 PEACE OFFICER'S LAW ENFORCEMENT DUTIES TO EFFECT AN ARREST,
34 DETENTION, RESTRAINT, TRANSPORT, OR PUNISHMENT; TO PREVENT AN
35 ESCAPE FROM CUSTODY; OR TO FACILITATE EASE AND CONVENIENCE IN
36 LAW ENFORCEMENT ENCOUNTERS.

37 (b) (I) A PEACE OFFICER WHO INTERVENES AS REQUIRED BY
38 SUBSECTION (5)(a) OF THIS SECTION SHALL REPORT THE INTERVENTION TO
39 THE INTERVENING PEACE OFFICER'S IMMEDIATE SUPERVISOR.

40 (II) AT A MINIMUM, THE REPORT REQUIRED BY THIS SUBSECTION
41 (5)(b) MUST INCLUDE THE DATE, TIME, AND PLACE OF THE OCCURRENCE;



1 THE IDENTITY, IF KNOWN, AND A DESCRIPTION OF THE PARTICIPANTS; AND
2 A DESCRIPTION OF THE INTERVENTION ACTIONS TAKEN. THE REPORT MUST
3 BE IN WRITING AND MADE WITHIN TEN DAYS OF THE OCCURRENCE OF THE
4 INTERVENTION AND MUST BE INCLUDED WITH ALL OTHER REPORTS OF THE
5 INCIDENT.

6 (c) A MEMBER OF A LAW ENFORCEMENT AGENCY SHALL NOT
7 DISCIPLINE OR RETALIATE IN ANY WAY AGAINST A PEACE OFFICER FOR
8 INTERVENING AS REQUIRED BY SUBSECTION (5)(a) OF THIS SECTION, FOR
9 REPORTING ANY OTHER VIOLATION OF THIS SECTION, OR FOR FAILING TO
10 FOLLOW WHAT THE PEACE OFFICER REASONABLY BELIEVES IS AN
11 UNCONSTITUTIONAL DIRECTIVE.

12 (d) ANY PEACE OFFICER WHO FAILS TO INTERVENE TO PREVENT
13 THE USE OR DIRECT THE USE OF KETAMINE AS DESCRIBED IN THIS
14 SUBSECTION (5) COMMITS A CLASS 1 MISDEMEANOR.

15 (e) WHEN AN ADMINISTRATIVE LAW JUDGE OR INTERNAL
16 INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO INTERVENE TO
17 PREVENT THE USE OR DIRECT THE USE OF KETAMINE, THE FINDING MUST BE
18 PRESENTED TO THE DISTRICT ATTORNEY SO THAT THE DISTRICT ATTORNEY
19 CAN DETERMINE WHETHER CHARGES SHOULD BE FILED PURSUANT TO
20 SUBSECTION (5)(d) OF THIS SECTION. HOWEVER, NOTHING IN THIS
21 SUBSECTION (5)(e) PROHIBITS OR IS INTENDED TO DISCOURAGE THE
22 DISTRICT ATTORNEY FROM CHARGING AN OFFICER WITH FAILURE TO
23 INTERVENE BEFORE THE CONCLUSION OF ANY INTERNAL INVESTIGATION.

24 (f) IN A CASE IN WHICH THE PROSECUTION CHARGES A PEACE
25 OFFICER WITH OFFENSES RELATED TO AND BASED UPON THE USE OR
26 DIRECTED USE OF KETAMINE BUT DOES NOT FILE CHARGES AGAINST ANY
27 OTHER PEACE OFFICER OR OFFICERS WHO WERE AT THE SCENE DURING THE
28 USE OF KETAMINE, THE DISTRICT ATTORNEY SHALL PREPARE A WRITTEN
29 REPORT EXPLAINING THE DISTRICT ATTORNEY'S BASIS FOR THE DECISION
30 NOT TO CHARGE ANY OTHER PEACE OFFICER WITH ANY CRIMINAL CONDUCT
31 AND SHALL PUBLICLY DISCLOSE THE REPORT; EXCEPT THAT IF DISCLOSURE
32 OF THE REPORT WOULD SUBSTANTIALLY INTERFERE WITH OR JEOPARDIZE
33 AN ONGOING CRIMINAL INVESTIGATION, THE DISTRICT ATTORNEY MAY
34 DELAY PUBLIC DISCLOSURE FOR UP TO FORTY-FIVE DAYS. THE DISTRICT
35 ATTORNEY SHALL POST THE WRITTEN REPORT ON ITS WEBSITE OR, IF IT
36 DOES NOT HAVE A WEBSITE, MAKE IT PUBLICLY AVAILABLE.

37 (g) NOTHING IN THIS SUBSECTION (5) PROHIBITS OR DISCOURAGES
38 PROSECUTION OF ANY OTHER CRIMINAL OFFENSE RELATED TO UNLAWFUL
39 USE OR DIRECTED USE OF KETAMINE, FAILURE TO INTERVENE, OR FAILURE
40 TO REPORT, INCLUDING A HIGHER CHARGE, IF SUPPORTED BY THE
41 EVIDENCE.

1 (6) ANY PEACE OFFICER WHO KNOWINGLY MAKES A MATERIALLY
2 FALSE STATEMENT THAT THE OFFICER DOES NOT BELIEVE TO BE TRUE IN
3 ANY REPORT MADE PURSUANT TO SUBSECTION (4) OF THIS SECTION
4 COMMITS FALSE REPORTING TO AUTHORITIES PURSUANT TO SECTION
5 18-8-111 (1)(a)(III).

6 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-31-904 as
7 follows:

8 **24-31-904. Peace officer certification discipline.**

9 (1)(a) Notwithstanding any provision of law, THE P.O.S.T. BOARD SHALL
10 PERMANENTLY REVOKE A PEACE OFFICER'S CERTIFICATION if: ~~any~~

11 (I) THE P.O.S.T.-CERTIFIED peace officer is convicted of or pleads
12 guilty or nolo contendere to a crime involving the unlawful use ~~or~~
13 ~~threatened use~~ of physical force OR a crime involving the failure to
14 intervene in the use of unlawful force ~~or is~~ AND THE INCIDENT RESULTED
15 IN SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON;

16 (II) THE P.O.S.T.-CERTIFIED PEACE OFFICER IS found civilly liable
17 for the use of unlawful physical force, or is found civilly liable for failure
18 to intervene in the use of unlawful force ~~the P.O.S.T. board shall~~
19 ~~permanently revoke the peace officer's certification~~ AND THE INCIDENT
20 RESULTED IN SERIOUS BODILY INJURY OR DEATH TO ANOTHER PERSON; OR

21 (III) AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR
22 INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO
23 INTERVENE PURSUANT TO SECTION 18-8-805 (5) AND THE INCIDENT
24 RESULTED IN DEATH TO ANOTHER PERSON.

25 (b) The P.O.S.T. board shall not, under any circumstances,
26 reinstate the peace officer's certification or grant new certification to the
27 peace officer unless the peace officer is exonerated by ~~a~~ AN
28 ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR court. The P.O.S.T.
29 board shall record each ~~decertified~~ peace officer WHOSE CERTIFICATION
30 IS REVOKED PURSUANT TO THIS SECTION in the database created pursuant
31 to section 24-31-303 (1)(r).

32 (2) (a) NOTWITHSTANDING ANY PROVISION OF LAW, THE P.O.S.T.
33 BOARD SHALL REVOKE A PEACE OFFICER'S CERTIFICATION FOR AT LEAST
34 ONE YEAR IF AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR
35 INTERNAL INVESTIGATION FINDS THAT A PEACE OFFICER FAILED TO
36 INTERVENE PURSUANT TO SECTION 18-8-805 (5) AND THE INCIDENT DID
37 NOT RESULT IN DEATH TO ANOTHER PERSON.

38 (b) THE P.O.S.T. BOARD SHALL REINSTATE THE PEACE OFFICER'S
39 CERTIFICATION IF THE PEACE OFFICER IS EXONERATED BY AN
40 ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR COURT.

41 **SECTION 7.** In Colorado Revised Statutes, 25-3.5-206, **amend**

1 (2)(a) introductory portion, (2)(a)(II), and (3)(a); and **add** (2)(a)(IV) and
2 (2)(a)(V) as follows:

3 **25-3.5-206. Emergency medical practice advisory council -**
4 **creation - powers and duties - emergency medical service provider**
5 **scope of practice - definitions - rules.** (2) (a) The advisory council
6 consists of the following ~~eleven~~ THIRTEEN members:

7 (II) One voting member who, as of July 1, 2010, is a member of
8 the state emergency medical and trauma services advisory council,
9 appointed by the executive director of the department; ~~and~~

10 (IV) ONE VOTING MEMBER WHO IS A CLINICAL PSYCHIATRIST
11 LICENSED IN GOOD STANDING IN COLORADO, APPOINTED BY THE
12 COLORADO PSYCHIATRIC SOCIETY; AND

13 (V) ONE VOTING MEMBER WHO IS AN ANESTHESIOLOGIST LICENSED
14 IN GOOD STANDING IN COLORADO, APPOINTED BY THE COLORADO
15 SOCIETY OF ANESTHESIOLOGISTS.

16 (3) The advisory council shall provide general technical expertise
17 on matters related to the provision of patient care by emergency medical
18 service providers and shall advise or make recommendations to the
19 department in the following areas:

20 (a) The acts and medications that emergency medical service
21 providers at each level of certification or licensure are authorized to
22 perform or administer under the direction of a physician medical director.
23 THE ADVISORY COUNCIL SHALL SUBMIT A REPORT TO THE HOUSE OF
24 REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE AND THE SENATE
25 HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR
26 COMMITTEES, ANY TIME THE ADVISORY COUNCIL ADVISES OR
27 RECOMMENDS AUTHORIZING THE ADMINISTRATION OF ANY NEW CHEMICAL
28 RESTRAINT, AS DEFINED IN SECTION 26-20-102 (2). THE REPORT MUST
29 INCLUDE THE ADVISORY COUNCIL'S REASONING FOR SUCH ADVISEMENT OR
30 RECOMMENDATION.

31 **SECTION 8.** In Colorado Revised Statutes, **add** 25-3.5-209 as
32 follows:

33 **25-3.5-209. Report on statewide use of ketamine.** BEGINNING
34 JANUARY 1, 2022, AND EACH JANUARY 1 THEREAFTER, THE DEPARTMENT
35 SHALL SUBMIT A REPORT ON THE STATEWIDE USE OF KETAMINE BY
36 EMERGENCY MEDICAL SERVICE PROVIDERS AND ANY COMPLICATIONS THAT
37 ARISE OUT OF SUCH USE TO THE HOUSE OF REPRESENTATIVES JUDICIARY
38 COMMITTEE, THE HOUSE OF REPRESENTATIVES PUBLIC AND BEHAVIORAL
39 HEALTH AND HUMAN SERVICES COMMITTEE, THE SENATE HEALTH AND
40 HUMAN SERVICES COMMITTEE, AND THE SENATE JUDICIARY COMMITTEE,
41 OR THEIR SUCCESSOR COMMITTEES. THE DEPARTMENT SHALL MAKE THE

- 1 REPORT PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEBSITE.
2 **SECTION 9. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety."
- 5 Page 1, line 101, strike "A CHEMICAL RESTRAINT" and substitute
6 "KETAMINE".
- 7 Page 1, line 102, strike "NONHOSPITAL" and substitute "PREHOSPITAL".

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