HOUSE BILL 17-1320

A BILL FOR AN ACT

CONCERNING LOWERING THE AGE OF CONSENT FOR MINORS SEEKING OUTPATIENT PSYCHOTHERAPY.

Bill Summary

(Note: This summary applies to this bill as introduced and does 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 lowers the age of consent from 15 years of age and older to 10 years of age and older for a minor to seek and obtain outpatient psychotherapy services from a licensed mental health professional. The bill allows a minor 10 years of age or older to receive such outpatient psychotherapy services without the consent of his or her parent or guardian. The licensed mental health professional is immune from civil...
or criminal liability for providing outpatient psychotherapy services unless he or she acts negligently or outside the scope of his or her practice.

The bill clarifies that the age of consent for a minor seeking inpatient psychotherapy or other inpatient mental health services without the consent of a parent or legal guardian remains 15 years of age or older.

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

SECTION 1. In Colorado Revised Statutes, 12-43-201, amend the introductory portion and (9)(a) as follows:

12-43-201. Definitions. As used in this article ARTICLE 43, unless the context otherwise requires:

(9)(a) "Psychotherapy", OR "PSYCHOTHERAPY SERVICES", means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, psychotherapy can be a single intervention.

SECTION 2. In Colorado Revised Statutes, add 12-43-202.5 as follows:

12-43-202.5. Minors - consent for outpatient psychotherapy - legislative declaration - immunity. (1)(a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) THE CENTERS FOR DISEASE CONTROL FOUND SUICIDE TO BE THE TENTH-LEADING CAUSE OF DEATH FOR ALL AGES IN 2013 AND IS

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CURRENTLY THE THIRD-LEADING CAUSE OF DEATH IN COLORADO YOUTH
WHO ARE TEN THROUGH FOURTEEN YEARS OF AGE;

(II) ACCORDING TO THE AMERICAN ASSOCIATION OF SUICIDOLOGY,
THE SUICIDE RATE FOR YOUTH WHO ARE TEN THROUGH FOURTEEN YEARS
OF AGE HAS INCREASED BY MORE THAN FIFTY PERCENT OVER THE PAST
THREE DECADES; AND

(III) YOUTH WHO ARE TEN THROUGH FOURTEEN YEARS OF AGE
OFTEN AVOID OBTAINING, OR ARE LEGALLY UNABLE TO OBTAIN WITHOUT
PARENTAL CONSENT, OUTPATIENT PSYCHOTHERAPY SERVICES THAT
WOULD HELP THEM PRIOR TO REACHING CRISIS LEVELS BECAUSE THEY ARE
EMBARRASSED OR CONCERNED ABOUT SPEAKING WITH THEIR PARENTS
ABOUT THEIR MENTAL HEALTH CONCERNS AND SITUATION.

(b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS A
MATTER OF STATEWIDE CONCERN TO ALLOW YOUTH WHO ARE TEN
THROUGH FOURTEEN YEARS OF AGE TO HAVE LEGAL ACCESS TO
OUTPATIENT PSYCHOTHERAPY SERVICES WITHOUT THE CONSENT OF OR
NOTIFICATION TO THE YOUTH'S PARENT OR LEGAL GUARDIAN. PROVIDING
THOSE YOUTH WITH ACCESS TO OUTPATIENT PSYCHOTHERAPY SERVICES IS
INTENDED TO REDUCE YOUTH SUICIDES AND ALLOW MENTAL HEALTH
PROVIDERS TO WORK WITH YOUTH TO TEACH THEM FUNCTIONAL COPING
SKILLS. MENTAL HEALTH PROVIDERS WOULD FURTHER HAVE THE
OPPORTUNITY TO HELP THESE YOUTH BUILD HEALTHY CONNECTIONS WITH
PARENTS OR LEGAL GUARDIANS BY INCREASING COMMUNICATION AND
STRENGTHENING THE BOND BETWEEN PARENT AND CHILD, THUS BUILDING
AN ONGOING, NONCLINICAL SUPPORT SYSTEM FOR THE YOUTH TO USE TO
MANAGE HIS OR HER MENTAL HEALTH CONCERNS.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
CONTRARY, A MINOR TEN YEARS OF AGE AND OLDER MAY REQUEST AND
CONSENT TO OUTPATIENT PSYCHOTHERAPY SERVICES, AS DEFINED IN
SECTION 12-43-201 (9), PROVIDED BY ANY MENTAL HEALTH PROFESSIONAL
LICENSED PURSUANT TO THIS ARTICLE 43. THE MINOR MAY OBTAIN SUCH
OUTPATIENT PSYCHOTHERAPY SERVICES WITHOUT THE CONSENT OF OR
NOTIFICATION TO HIS OR HER PARENT, PARENTS, OR LEGAL GUARDIAN, OR
TO ANY OTHER PERSON HAVING CUSTODY OR DECISION-MAKING
RESPONSIBILITY WITH RESPECT TO THE MINOR. IN ANY SUCH CASE, THE
MENTAL HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO THIS
ARTICLE 43 AND IS PROVIDING THE MINOR WITH OUTPATIENT
PSYCHOTHERAPY SERVICES IS IMMUNE FROM CIVIL OR CRIMINAL LIABILITY,
UNLESS THE MENTAL HEALTH PROFESSIONAL ACTED NEGLIGENTLY OR
OUTSIDE THE SCOPE OF HIS OR HER PRACTICE. THE PROVISIONS OF THIS
SECTION DO NOT APPLY TO INPATIENT PSYCHOTHERAPY OR OTHER
INPATIENT MENTAL HEALTH SERVICES PROVIDED IN A HOSPITAL, FACILITY,
OR OTHER INPATIENT SETTING PURSUANT TO SECTION 27-65-103 (2).

SECTION 3. In Colorado Revised Statutes, 27-65-103, amend
(1) and (2) as follows:

27-65-103. Voluntary application for inpatient mental health
services in hospitals, facilities, or other inpatient setting - consent by
minor - mandatory reviews. (1) (a) Nothing in this article shall be
construed in any way as limiting the right of any person to
make voluntary application to VOLUNTARILY APPLY for inpatient mental
health services, either by direct application in person or by referral from
any other public or private agency or professional person.
(b) Subject to section 15-14-316 (4), C.R.S., a ward, as defined in section 15-14-102 (15), C.R.S., may be admitted to a hospital, or institutional facility, or other inpatient setting for inpatient care and treatment for a mental illness by consent of the guardian for so long as the ward agrees to such care and treatment. Within ten days of any such the ward's admission of the ward for such hospital or institutional for care and treatment of a mental illness, the guardian shall notify, in writing, the court that appointed the guardian of the admission.

(2) For the purposes of this article 65 only, and notwithstanding any other provision of law, a minor who is fifteen years of age or older, whether with or without the consent of a parent or legal guardian, may consent, with or without the consent of a parent or legal guardian, to receive inpatient mental health services to be rendered by a hospital, facility, or other inpatient setting, or by a professional person or mental health professional licensed pursuant to part 3, 4, 5, 6, or 8 of article 43 of title 12, C.R.S., in any practice setting. Such consent shall not be subject to disaffirmance because of minority. The professional person or licensed mental health professional rendering hospital, facility, or other inpatient facility providing inpatient mental health services to a minor may, with or without the consent of the minor, advise the parent or legal guardian of the minor of the services given or needed.

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