

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0287.01 Jerry Barry x4341

HOUSE BILL 19-1160

HOUSE SPONSORSHIP

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House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

State, Veterans, & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A MENTAL HEALTH FACILITY PILOT PROGRAM, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 creates a new 3-year mental health facility pilot program to provide residential care, treatment, and services to persons with both a mental health diagnosis and a physical health diagnosis. It contains requirements for applicants and directs the department of public health and environment to select one or 2 applicants for the pilot program.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 24, 2019

SENATE
Amended 2nd Reading
April 23, 2019

HOUSE
3rd Reading Unamended
March 20, 2019

HOUSE
Amended 2nd Reading
March 18, 2019

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares:

4 (a) There are individuals with physical health or significant mental
5 health needs who are often cared for in expensive acute care hospitals or
6 acute care psychiatric hospitals. The taxpayers of Colorado often bear the
7 costs of these individuals remaining in these expensive settings.

8 (b) Regulations limit the percentage of individuals with a mental
9 health diagnosis or intellectual and developmental disability who may
10 reside in a nursing home, further limiting the places where these
11 individuals may reside; and

12 (c) These individuals would benefit from being in a facility that,
13 in addition to serving their physical or mental health needs, may assist the
14 individuals in transitioning to living on their own, but the current federal
15 and state regulations and rules do not allow for this treatment model.

16 (2) Therefore, it is the intent of the general assembly that a pilot
17 program be established to create a new licensed facility model to provide
18 a variety of services to individuals with dual diagnosis in a less costly
19 setting that also prepares the individual to live on his or her own if
20 possible.

21 **SECTION 2.** In Colorado Revised Statutes, **add** 25-3-120 as
22 follows:

23 **25-3-120. Mental health facility pilot program - establishment**
24 **- rules - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
25 OTHERWISE REQUIRES:

26 (a) "MENTAL HEALTH FACILITY" MEANS A FACILITY APPROVED TO

1 PARTICIPATE IN THE PILOT PROGRAM PURSUANT TO SUBSECTION (2) OF
2 THIS SECTION.

3 (b) "PILOT PROGRAM" MEANS THE MENTAL HEALTH FACILITY PILOT
4 PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

5 (2) THERE IS ESTABLISHED IN THE DEPARTMENT THE MENTAL
6 HEALTH FACILITY PILOT PROGRAM TO AUTHORIZE NOT MORE THAN TWO
7 ENTITIES TO PARTICIPATE IN A THREE-YEAR PILOT PROGRAM TO ALLOW
8 INDIVIDUALS WITH EITHER A PHYSICAL HEALTH DIAGNOSIS OR SIGNIFICANT
9 MENTAL HEALTH DIAGNOSIS TO RESIDE IN A FACILITY THAT TREATS BOTH
10 THE PHYSICAL AND MENTAL HEALTH ISSUES AND PROVIDES ADDITIONAL
11 SERVICES TO HELP THE INDIVIDUAL TRANSITION TO INDEPENDENT LIVING.

12 (3) ON OR BEFORE OCTOBER 1, 2019, THE DEPARTMENT SHALL
13 DEVELOP AN APPLICATION FOR INTERESTED ENTITIES TO APPLY TO BE
14 AUTHORIZED AS A MENTAL HEALTH FACILITY. THE APPLICATION MUST
15 REQUIRE THE APPLICANT TO SHOW, AT A MINIMUM, THAT IT:

16 (a) IS SERVING INDIVIDUALS WITH PHYSICAL OR MENTAL OR BOTH
17 PHYSICAL AND MENTAL HEALTH DIAGNOSES;

18 (b) OFFERS STAFF SECURE ENVIRONMENTS RATHER THAN
19 PHYSICALLY SECURE SPACES;

20 (c) HAS THE CAPABILITY TO PROVIDE INTEGRATED SERVICES WITH
21 COMMUNITY MEDICAL AND BEHAVIORAL HEALTH PROVIDERS;

22 (d) HAS SUFFICIENT STAFFING LEVELS OF LICENSED NURSES,
23 NURSING ASSISTANTS, AND OCCUPATIONAL AND RECREATIONAL
24 PROFESSIONALS;

25 (e) HAS A PARTNERSHIP WITH EITHER AN ACUTE CARE HOSPITAL OR
26 PSYCHIATRIC HOSPITAL AND WITH A SKILLED NURSING FACILITY, SO IT HAS
27 THE ABILITY TO TRANSFER AN INDIVIDUAL IN NEED OF A HIGHER LEVEL OF

1 CARE;

2 (f) DEMONSTRATES A COLLABORATIVE RELATIONSHIP WITH THE
3 HOSPITAL, INCLUDING CONSULTATION AND TREATMENT PLAN SUPPORT,
4 ONE-ON-ONE STAFFING SUPPORT, AND ONGOING TRAINING FOR STAFF AT
5 THE MENTAL HEALTH FACILITY;

6 (g) IS IN A COMMUNITY THAT HAS RESOURCES TO SUPPORT
7 COMMUNITY ENGAGEMENT TO MOVE AN INDIVIDUAL TO LESS RESTRICTIVE
8 ENVIRONMENTS AS AN INDIVIDUAL PROGRESSES;

9 (h) DEMONSTRATES COST SAVINGS OR COST NEUTRALITY FOR THE
10 STATE MEDICAL ASSISTANCE PROGRAM;

11 (i) IS WILLING AND ABLE TO CONTRIBUTE AT LEAST ONE-THIRD OF
12 THE INCREASED COSTS THAT THE APPLICANT WILL INCUR DUE TO THE PILOT
13 PROGRAM AND HAS IDENTIFIED SOURCES FOR THE OTHER TWO-THIRDS;
14 AND

15 (j) IS WILLING TO PREPARE REPORTS ON THE PILOT PROGRAM.

16 (4) ON OR BEFORE FEBRUARY 1, 2020, THE DEPARTMENT SHALL
17 SELECT UP TO TWO APPLICANTS TO BECOME MENTAL HEALTH FACILITIES
18 UNDER THE PILOT PROGRAM; EXCEPT THAT, IF MORE THAN ONE APPLICANT
19 IS SELECTED:

20 (a) ONE APPLICANT MUST BE IN A COMMUNITY WITH A POPULATION
21 OF OVER ONE HUNDRED THOUSAND AND ONE APPLICANT IN A COMMUNITY
22 WITH A POPULATION OF UNDER ONE HUNDRED THOUSAND UNLESS THERE
23 IS NO QUALIFIED APPLICANT FROM SUCH A COMMUNITY; AND

24 (b) BOTH APPLICANTS MUST NOT BE LOCATED IN THE SAME CITY
25 AND MUST NOT BE ASSISTED LIVING FACILITIES.

26 (5) THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES TO
27 IMPLEMENT THE PILOT PROGRAM.

1 (6) THE COLORADO LONG-TERM CARE OMBUDSMAN OFFICE,
2 ESTABLISHED PURSUANT TO SECTION 26-11.5-104, HAS ACCESS TO THE
3 PREMISES AND RESIDENTS OF A MENTAL HEALTH FACILITY DURING
4 REASONABLE HOURS FOR THE PURPOSES SET OUT IN THE FEDERAL "OLDER
5 AMERICANS ACT OF 1965."

6 **SECTION 3.** In Colorado Revised Statutes, 26-11.5-103, **amend**
7 **(3)(c); and add (3)(d) as follows:**

8 **26-11.5-103. Definitions.** As used in this article 11.5, unless the
9 context otherwise requires:

10 (3) "Long-term care facility" or "facility" means:

11 (c) Any swing bed in an extended care facility; AND

12 (d) A MENTAL HEALTH FACILITY PARTICIPATING IN THE PILOT
13 PROGRAM ESTABLISHED PURSUANT TO SECTION 25-3-120.

14 **SECTION 4. Appropriation.** For the 2019-20 state fiscal year,
15 \$30,730 is appropriated to the department of public health and
16 environment for use by the health facilities and emergency medical
17 services division. This appropriation is from the general fund and is based
18 on an assumption that the division will require an additional 0.5 FTE. To
19 implement this act, the division may use this appropriation for
20 administration and operations.

21 **SECTION 5. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2020 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.