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## MEMORANDUM (2)(b)<sup>1</sup>

TO: Statutory Revision Committee

FROM: Jane M. Ritter, Office of Legislative Legal Services

DATE: November 9, 2017

SUBJECT: Follow-up to S.B. 17-242

### Summary and Analysis

In 2017, the General Assembly enacted S.B. 17-242, which was a lengthy bill to modernize terminology in the Colorado Revised Statutes related to behavioral health issues, including mental illness and addiction. "Person first" language was used, as well as the most currently accepted way of referencing certain disorders.

For instance, S.B. 17-242 updated terms such as "a person with a mental illness" and "the mentally ill," as appropriate given the usage, to "a person with a mental health disorder" or "mental health disorders." S.B. 17-242 also updated terms such as "addict," "drunkard," and "alcoholic," as appropriate given the usage, to "a person with an alcohol use disorder" or "a person with a substance use disorder." Collectively, when appropriate given the usage, the terminology became "a person with a behavioral health disorder" or "behavioral health disorders."

S.B. 17-242 was lengthy (240 pages at introduction), and several places in statute that needed to be updated were missed. Additionally, other legislation passed during the

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<sup>1</sup> This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

2017 session that did not conform to the language used in S.B. 17-242. Therefore, a follow-up and clean-up bill to S.B. 17-242 is necessary to make the language in the statutes conform in this area.

## **Statutory Charge<sup>2</sup>**

Updating and modernizing outdated references to "the mentally ill," "drunkard," "alcoholic," "addict," and related terms, as was done through S.B. 17-242, enacted in 2017, meets the Statutory Revision Committee's statutory charge to modernize outdated language and to bring the law of this state into harmony with modern conditions.

## **Proposed Bill**

The attached bill draft (See **Addendum A**) makes the necessary changes to modernize outdated statutory references to "the mentally ill," "drunkard," "alcoholic," "addict," and related terms, as was done through S.B. 17-242, enacted in 2017.

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<sup>2</sup> The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

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LLS NO. 18-####.## Jane Ritter x4342

**COMMITTEE BILL**

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**Statutory Revision Committee**

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**A BILL FOR AN ACT**

101 **CONCERNING MODERNIZING TERMINOLOGY IN THE COLORADO**  
102 **REVISED STATUTES RELATED TO BEHAVIORAL HEALTH.**

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**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/>.)*

**Statutory Revision Committee.** The bill is a follow-up and clean-up to Senate Bill 17-242, which updated and modernized terminology in the Colorado Revised Statutes related to behavioral health, including mental health disorders, alcohol use disorders, and substance use disorders.

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

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 declares that the purpose of House Bill/Senate Bill 18-\_\_\_, enacted in  
4 2018, is to effect a nonsubstantive change in statute to modernize the  
5 outdated use of the terms related to behavioral health, mental health,  
6 alcohol abuse, and substance abuse. The general assembly further  
7 declares that these terminology changes do not in any way alter the scope  
8 or applicability of the statutory sections in which the terminology appears.

9           **SECTION 2.** In Colorado Revised Statutes, 8-73-108, **amend** (4)  
10 introductory portion, (4)(b)(IV) introductory portion, (4)(b)(IV)(A),  
11 (4)(b)(IV)(B), (4)(b)(V), (5)(e) introductory portion, and (5)(e)(XXIV) as  
12 follows:

13           **8-73-108. Benefit awards - repeal.** (4) **Full award.** An  
14 individual separated from a job ~~shall~~ **MUST** be given a full award of  
15 benefits if THE DIVISION DETERMINES THAT any of the following reasons  
16 and pertinent RELATED conditions ~~related thereto are determined by the~~  
17 ~~division to have existed~~ EXIST. The determination of whether or not the  
18 separation from employment ~~shall~~ **MUST** result in a full award of benefits  
19 ~~shall be~~ IS the responsibility of the division. The following reasons ~~shall~~  
20 **MUST** be considered, along with any other factors that may be pertinent  
21 to such determination:

22           (b) (IV) The off-the-job or on-the-job use of not medically  
23 prescribed intoxicating beverages or controlled substances, as defined in  
24 section 18-18-102 (5), ~~C.R.S.~~, may be reason for a determination for a  
25 full award pursuant to this ~~paragraph (b)~~ SUBSECTION (4)(b), but only if:

26           (A) The worker has declared to the division that he or she is

1 ~~addicted to intoxicating beverages or controlled substances~~ HAS AN  
2 ALCOHOL OR SUBSTANCE USE DISORDER;

3 (B) The worker has substantiated the ~~addiction~~ ALCOHOL OR  
4 SUBSTANCE USE DISORDER by a competent written medical statement  
5 issued by a physician licensed to practice medicine pursuant to article 36  
6 of title 12, ~~C.R.S.~~; or by a licensed physician assistant authorized under  
7 section 12-36-106 (5), ~~C.R.S.~~; or has substantiated the successful  
8 completion of, or ongoing participation in, a treatment program as  
9 described in ~~sub-paragraph (C) of this subparagraph (IV)~~ SUBSECTION  
10 (4)(b)(IV)(C) OF THIS SECTION within four weeks after the claimant's  
11 admission. ~~Such~~ THE substantiation ~~shall~~ MUST be in writing to the  
12 division and signed by an authorized representative of the approved  
13 treatment program.

14 (V) A potentially chargeable employer may notify the division  
15 concerning the failure of the worker to participate in or complete an  
16 approved program of corrective action to deal with the ~~addiction~~  
17 ALCOHOL OR SUBSTANCE USE DISORDER within fifteen calendar days after  
18 the date on which he OR SHE discovers ~~such a condition to exist~~ THE  
19 EXISTENCE OF SUCH A DISORDER. The worker ~~shall~~ MUST be given an  
20 opportunity to respond to the employer's allegations. The division, upon  
21 review of additional information, may modify a prior decision pursuant  
22 to ~~subparagraph (XXIV) of paragraph (e) of subsection (5)~~ SUBSECTION  
23 (5)(e)(XXIV) of this section.

24 (5) **Disqualification.** (e) Subject to the maximum reduction  
25 consistent with federal law, and insofar as consistent with interstate  
26 agreements, if a separation from employment occurs for any of the  
27 following reasons, the employer from whom such separation occurred

1 ~~shall~~ MUST not be charged for benefits which are attributable to such  
2 employment and, because any payment of benefits which are attributable  
3 to such employment out of the fund as defined in section 8-70-103 (13)  
4 ~~shall be~~ IS deemed to have an adverse effect on ~~such~~ THE employer's  
5 account in such fund, ~~no~~ A payment of such benefits ~~shall~~ MUST NOT be  
6 made from such fund:

7 (XXIV) Failure to participate in or failure to complete an  
8 approved program of corrective action to deal with an ~~addiction~~ ALCOHOL  
9 OR SUBSTANCE USE DISORDER pursuant to ~~subparagraph (IV) of paragraph~~  
10 ~~(b) of subsection (4)~~ SUBSECTION (4)(b)(IV) of this section. The  
11 determination of whether or not an individual has failed to participate in  
12 or complete an approved program of corrective action to deal with an  
13 ~~addiction shall be~~ ALCOHOL OR SUBSTANCE USE DISORDER IS the  
14 responsibility of the division. In making such a decision, the division may  
15 consider extenuating circumstances for the individual's failure to  
16 participate in or complete the approved program of corrective action  
17 which would justify a decision not to disqualify the individual from  
18 receiving benefits, but only if the individual presents a program of  
19 corrective action in accordance with ~~sub-subparagraph (C) of~~  
20 ~~subparagraph (IV) of paragraph (b) of subsection (4)~~ SUBSECTION  
21 (4)(b)(IV)(C) of this section. The only extenuating circumstances which  
22 may be considered by the division ~~shall be~~ IS whether the individual  
23 suffered an illness not related to the ~~addiction~~ ALCOHOL OR SUBSTANCE  
24 USE DISORDER or received incapacitating injuries in an accident or  
25 whether the death of an immediate family member of the individual  
26 occurred which contributed to the failure of the individual to participate  
27 in or complete the program of corrective action. The burden of proof that

1 an extenuating circumstance existed lies with the claimant.

2 **SECTION 3.** In Colorado Revised Statutes, 10-16-102, **amend**  
3 (37)(b) as follows:

4 **10-16-102. Definitions.** As used in this article 16, unless the  
5 context otherwise requires:

6 (37) "Health-status-related factor" means any of the following  
7 factors:

8 (b) Medical condition, including both physical ILLNESSES and  
9 mental ~~illnesses~~ HEALTH DISORDERS;

10 **SECTION 4.** In Colorado Revised Statutes, 12-10-107.1, **amend**  
11 (1)(d) as follows:

12 **12-10-107.1. Grounds for discipline.** (1) The director may deny,  
13 suspend, revoke, place on probation, or issue a letter of admonition  
14 against a license or an application for a license if the applicant or  
15 licensee:

16 (d) Has an alcohol use disorder, as defined in section 27-81-102,  
17 or a substance use disorder, as defined in section 27-82-102, or is an  
18 excessive or a habitual user or abuser of alcohol or habit-forming drugs  
19 or is a habitual user of a controlled substance, as defined in section  
20 18-18-102 (5), if the use, ~~addiction~~ DISORDER, or dependency is a danger  
21 to other licensees;

22 **SECTION 5.** In Colorado Revised Statutes, 12-42.5-201, **amend**  
23 (1) as follows:

24 **12-42.5-201. Legislative declaration.** (1) The general assembly  
25 ~~hereby~~ finds, determines, and declares that the creation of a pharmacy  
26 peer health assistance diversion program for those persons subject to the  
27 jurisdiction of the board will serve to safeguard the life, health, property,

1 and public welfare of the people of this state. A pharmacy peer health  
2 assistance diversion program will help practitioners experiencing  
3 impaired practice due to psychiatric, psychological, or emotional  
4 problems; ~~or~~ excessive alcohol or drug use; or ~~addiction~~ ALCOHOL OR  
5 SUBSTANCE USE DISORDERS. The general assembly further declares that  
6 a pharmacy peer health assistance diversion program will protect the  
7 privacy and welfare of those persons who provide services and at the  
8 same time assist the board in carrying out its duties and responsibilities  
9 to ensure that only qualified persons are allowed to engage in providing  
10 those services that are under the jurisdiction of the board.

11 **SECTION 6.** In Colorado Revised Statutes, 12-42.5-202, **amend**  
12 (1) and (3) as follows:

13 **12-42.5-202. Definitions.** As used in this part 2, unless the  
14 context otherwise requires:

15 (1) "Impaired practice" means a licensee's inability to meet the  
16 requirements of the laws of this state and the rules of the board governing  
17 his or her practice when the licensee's cognitive, interpersonal, or  
18 psychomotor skills are affected by psychiatric, psychological, or  
19 emotional problems; ~~or~~ excessive alcohol or drug use; or ~~addiction~~  
20 ALCOHOL OR SUBSTANCE USE DISORDERS.

21 (3) "Peer health assistance organization" means an organization  
22 that provides a formal, structured program that meets the requirements  
23 specified in this part 2 and is administered by appropriate professionals  
24 for the purpose of assisting licensees experiencing impaired practice to  
25 obtain evaluation, treatment, short-term counseling, monitoring of  
26 progress, and ongoing support for the purpose of arresting and treating  
27 the licensee's psychiatric, psychological, or emotional problems; ~~or~~

1 excessive alcohol or drug use; or ~~addiction~~ ALCOHOL OR SUBSTANCE USE  
2 DISORDERS.

3 **SECTION 7.** In Colorado Revised Statutes, 12-43-803, **amend**  
4 (2)(a) and (2)(b) as follows:

5 **12-43-803. Practice of addiction counseling defined - scope of**  
6 **practice.** (2) The scope of practice of addiction counseling focuses on  
7 the following four trans-disciplinary foundations that underlie the work  
8 of all addiction counselors:

9 (a) **Understanding addiction:** Includes knowledge of models and  
10 theories of addiction, INCLUDING ALCOHOL AND SUBSTANCE USE  
11 DISORDERS; recognition of social, political, economic, and cultural  
12 contexts within which addiction exists; understanding the behavioral,  
13 psychological, physical health, and social effects of using addictive  
14 substances or engaging in addictive behaviors; and recognizing and  
15 understanding co-occurring disorders.

16 (b) **Treatment knowledge:** Includes the philosophies, practices,  
17 policies, and outcomes of the most generally accepted and scientifically  
18 supported models, along with research and outcome data, of treatment,  
19 recovery, relapse prevention, and continuing care for addictive disorders,  
20 INCLUDING ALCOHOL AND SUBSTANCE USE DISORDERS. Treatment  
21 knowledge includes the ability to work effectively with families,  
22 significant others, social networks, and community systems in the  
23 treatment process and understanding the value of a multidisciplinary  
24 approach to ~~addiction~~ treatment OF ADDICTIVE DISORDERS, INCLUDING  
25 ALCOHOL AND SUBSTANCE USE DISORDERS.

26 **SECTION 8.** In Colorado Revised Statutes, 13-5-142, **amend**  
27 (1)(c) and (3)(b)(III) as follows:

1           **13-5-142. National instant criminal background check system**

2   **- reporting.** (1) On and after March 20, 2013, the state court  
3 administrator shall send electronically the following information to the  
4 Colorado bureau of investigation created pursuant to section 24-33.5-401,  
5 referred to in this section as the "bureau":

6           (c) The name of each person with respect to whom the court has  
7 entered an order for involuntary certification for short-term treatment of  
8 ~~mental illness~~ A MENTAL HEALTH DISORDER pursuant to section  
9 27-65-107, ~~C.R.S.~~, for extended certification for treatment of ~~mental~~  
10 ~~illness~~ A MENTAL HEALTH DISORDER pursuant to section 27-65-108,  
11 ~~C.R.S.~~, or for long-term care and treatment of ~~mental illness~~ A MENTAL  
12 HEALTH DISORDER pursuant to section 27-65-109. ~~C.R.S.~~

13           (3) The state court administrator shall take all necessary steps to  
14 cancel a record made by the state court administrator in the national  
15 instant criminal background check system if:

16           (b) No less than three years before the date of the written request:

17           (III) The record in the case was sealed pursuant to section  
18 27-65-107 (7), ~~C.R.S.~~, or the court entered an order discharging the  
19 person from commitment in the nature of habeas corpus pursuant to  
20 section 27-65-113, ~~C.R.S.~~, if the record in the national instant criminal  
21 background check system is based on a court order for involuntary  
22 certification for short-term treatment of ~~mental illness~~ A MENTAL HEALTH  
23 DISORDER.

24           **SECTION 9.** In Colorado Revised Statutes, 13-5-142.5, **amend**  
25 (2)(a)(III) as follows:

26           **13-5-142.5. National instant criminal background check**  
27 **system - judicial process for awarding relief from federal**

1 **prohibitions - legislative declaration. (2) Eligibility.** A person may  
2 petition for relief pursuant to this section if:

3 (a) (III) The court has entered an order for the person's involuntary  
4 certification for short-term treatment of ~~mental illness~~ A MENTAL HEALTH  
5 DISORDER pursuant to section 27-65-107, ~~C.R.S.~~, for extended  
6 certification for treatment of ~~mental illness~~ A MENTAL HEALTH DISORDER  
7 pursuant to section 27-65-108, ~~C.R.S.~~, or for long-term care and treatment  
8 of ~~mental illness~~ A MENTAL HEALTH DISORDER pursuant to section  
9 27-65-109; ~~C.R.S.~~; and

10 **SECTION 10.** In Colorado Revised Statutes, 13-9-123, **amend**  
11 (1)(c) and (3)(b)(III) as follows:

12 **13-9-123. National instant criminal background check system**  
13 **- reporting.** (1) On and after March 20, 2013, the state court  
14 administrator shall send electronically the following information to the  
15 Colorado bureau of investigation created pursuant to section 24-33.5-401,  
16 referred to in this section as the "bureau":

17 (c) The name of each person with respect to whom the court has  
18 entered an order for involuntary certification for short-term treatment of  
19 ~~mental illness~~ A MENTAL HEALTH DISORDER pursuant to section  
20 27-65-107, ~~C.R.S.~~, for extended certification for treatment of ~~mental~~  
21 ~~illness~~ A MENTAL HEALTH DISORDER pursuant to section 27-65-108,  
22 ~~C.R.S.~~, or for long-term care and treatment of ~~mental illness~~ A MENTAL  
23 HEALTH DISORDER pursuant to section 27-65-109. ~~C.R.S.~~

24 (3) The state court administrator shall take all necessary steps to  
25 cancel a record made by the state court administrator in the national  
26 instant criminal background check system if:

27 (b) No less than three years before the date of the written request:

28 (III) The record in the case was sealed pursuant to section

1 27-65-107 (7), ~~C.R.S.~~, or the court entered an order discharging the  
2 person from commitment in the nature of habeas corpus pursuant to  
3 section 27-65-113, ~~C.R.S.~~, if the record in the national instant criminal  
4 background check system is based on a court order for involuntary  
5 certification for short-term treatment of ~~mental illness~~ A MENTAL HEALTH  
6 DISORDER.

7 **SECTION 11.** In Colorado Revised Statutes, 13-9-124, **amend**  
8 (2)(a)(III) as follows:

9 **13-9-124. National instant criminal background check system**  
10 **- judicial process for awarding relief from federal prohibitions -**  
11 **legislative declaration. (2) Eligibility.** A person may petition for relief  
12 pursuant to this section if:

13 (a) (III) The court has entered an order for the person's involuntary  
14 certification for short-term treatment of ~~mental illness~~ A MENTAL HEALTH  
15 DISORDER pursuant to section 27-65-107, ~~C.R.S.~~, for extended  
16 certification for treatment of ~~mental illness~~ A MENTAL HEALTH DISORDER  
17 pursuant to section 27-65-108, ~~C.R.S.~~, or for long-term care and treatment  
18 of ~~mental illness~~ A MENTAL HEALTH DISORDER pursuant to section  
19 27-65-109; ~~C.R.S.~~; and

20 **SECTION 12.** In Colorado Revised Statutes, **amend** 13-21-103  
21 as follows:

22 **13-21-103. Damages for selling liquor to an intoxicated person.**

23 Every husband, wife, child, parent, guardian, employer, or other person  
24 who is injured in person, or property, or means of support by any  
25 intoxicated person, or in consequence of the intoxication of any person,  
26 has a right of action, in his name, against any person who, by selling or  
27 giving away intoxicating liquors to any ~~habitual drunkard~~ HABITUALLY  
28 INTOXICATED PERSON OR PERSON WITH AN ALCOHOL USE DISORDER,

1 causes the intoxication, in whole or in part, of such ~~habitual drunkard~~  
2 HABITUALLY INTOXICATED PERSON OR PERSON WITH AN ALCOHOL USE  
3 DISORDER; and all damages recovered by a minor ~~under~~ PURSUANT TO this  
4 section ~~shall~~ MUST be paid either to the minor or to his OR HER parent,  
5 guardian, or next friend, as the court directs. The unlawful sale or giving  
6 away of intoxicating liquors works a forfeiture of all rights of the lessee  
7 or tenant under any lease or contract of rent upon the premises. ~~No~~  
8 Liability ~~shall~~ MUST NOT accrue against any such person as provided  
9 unless the husband, wife, child, parent, guardian, or employer first, by  
10 written or printed notice, has notified such person, or his OR HER agents  
11 or employees, not to sell or give away any intoxicating liquors to any  
12 ~~habitual drunkard~~ HABITUALLY INTOXICATED PERSON OR PERSON WITH AN  
13 ALCOHOL USE DISORDER.

14 **SECTION 13.** In Colorado Revised Statutes, 13-21-117, **amend**  
15 (3) as follows:

16 **13-21-117. Civil liability - mental health providers - duty to**  
17 **warn - definitions.** (3) The provisions of this section do not apply to the  
18 negligent release of a patient from any mental health hospital or ward or  
19 to the negligent failure to initiate involuntary seventy-two-hour treatment  
20 and evaluation after a personal patient evaluation determining that the  
21 person appears to have a mental ~~illness~~ HEALTH DISORDER and, as a result  
22 of the mental ~~illness~~ HEALTH DISORDER, appears to be an imminent danger  
23 to others.

24 **SECTION 14.** In Colorado Revised Statutes, 16-5-402, **amend**  
25 (2) introductory portion and (2)(c) as follows:

26 **16-5-402. Limitation for collateral attack upon trial judgment.**  
27 (2) In recognition of the difficulties attending the litigation of stale  
28 claims and the potential for frustrating various statutory provisions

1 directed at repeat offenders, former offenders, and habitual offenders, the  
2 only exceptions to the time limitations specified in subsection (1) of this  
3 section ~~shall be~~ ARE:

4 (c) Where the court hearing the collateral attack finds by a  
5 preponderance of the evidence that the failure to seek relief within the  
6 applicable time period was caused by an adjudication of incompetence or  
7 by commitment of the defendant or juvenile to an institution for treatment  
8 as a person with a mental ~~illness~~ HEALTH DISORDER; or

9 **SECTION 15.** In Colorado Revised Statutes, 17-1-113.9, **amend**  
10 (1) as follows:

11 **17-1-113.9. Use of administrative segregation for state inmates**  
12 **- reporting.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or  
13 before January 1, 2012, and each January 1 thereafter, the executive  
14 director shall provide a written report to the judiciary committees of the  
15 senate and house of representatives, or any successor committees,  
16 concerning the status of administrative segregation; reclassification  
17 efforts for offenders with mental ~~illnesses~~ or HEALTH DISORDERS OR  
18 INTELLECTUAL AND developmental disabilities, including duration of stay,  
19 reason for placement, and number and percentage discharged; and any  
20 internal reform efforts since July 1, 2011.

21 **SECTION 16.** In Colorado Revised Statutes, 17-2-103, **amend**  
22 (11)(c)(I) and (11)(c)(II)(A) as follows:

23 **17-2-103. Arrest of parolee - revocation proceedings.**  
24 (11) (c) If the board determines that the parolee is in need of treatment  
25 and is amenable to treatment, the board shall consider placing the parolee  
26 in one of the following treatment options and, if appropriate, may modify  
27 the conditions of parole to include:

28 (I) Participation in an outpatient program for the treatment of

1 substance abuse OR SUBSTANCE USE DISORDERS, mental ~~illness~~ HEALTH  
2 DISORDERS, or OTHER co-occurring OR BEHAVIORAL HEALTH disorders; or

3 (II) (A) Placement in a residential treatment program for the  
4 treatment of substance abuse, SUBSTANCE USE DISORDERS, mental ~~illness~~  
5 HEALTH DISORDERS, or OTHER co-occurring OR BEHAVIORAL HEALTH  
6 disorders, which program is under contract with the department of public  
7 safety and may include, but need not be limited to, intensive residential  
8 treatment, therapeutic community, and mental health programs.

9 SECTION 17. In Colorado Revised Statutes, 17-27.1-101,  
10 amend (2)(d) as follows:

11 17-27.1-101. Nongovernmental facilities for offenders -  
12 registration - notifications - penalties - definitions. (2) As used in this  
13 section, unless the context otherwise requires:

14 (d) "Private treatment program" means any residential or  
15 nonresidential program that provides services, treatment, rehabilitation,  
16 education, or criminal history-related treatment for supervised or  
17 unsupervised persons but does not include a private contract prison  
18 facility, a prison facility operated by a political subdivision of the state,  
19 a facility providing treatment for persons with mental ~~illness~~ HEALTH  
20 DISORDERS or INTELLECTUAL AND developmental disabilities, or a  
21 community corrections program established pursuant to article 27 of this  
22 title TITLE 17.

23 SECTION 18. In Colorado Revised Statutes, 17-27.7-103,  
24 amend (1) as follows:

25 17-27.7-103. Regimented inmate training program - eligibility  
26 of offenders. (1) The executive director may assign an inmate to a  
27 regimented inmate training program pursuant to section 17-40-102 (2).  
28 The executive director shall assign to a regimented inmate training

1 program only those inmates who are nonviolent offenders thirty years of  
2 age or younger who are not serving a sentence, and have not served a  
3 previous sentence, in a correctional facility for an unlawful sexual  
4 behavior offense described in section 16-22-102 (9), a crime of violence  
5 described in section 18-1.3-406, an assault offense described in part 2 of  
6 article 3 of title 18, or a child abuse offense described in part 4 of article  
7 6 of title 18, or who are not presently serving a sentence for a nonviolent  
8 offense that was reduced from an unlawful sexual behavior offense  
9 described in section 16-22-102 (9), a crime of violence described in  
10 section 18-1.3-406, an assault offense described in part 2 of article 3 of  
11 title 18, or a child abuse offense described in part 4 of article 6 of title 18,  
12 as a result of a plea agreement or who are not aliens subject to a removal  
13 order. Any offender assigned to the program ~~shall~~ MUST be free of any  
14 physical or mental disability that could jeopardize his or her ability to  
15 complete the program. The department may eliminate any offender from  
16 the program upon a determination by the department that a physical  
17 disability or a mental ~~illness~~ HEALTH DISORDER will prevent full  
18 participation in the program by the offender. The department is absolved  
19 of liability for participation in the program.

20 **SECTION 19.** In Colorado Revised Statutes, 18-12-202, **amend**  
21 (3)(a) and (3)(b)(I) as follows:

22 **18-12-202. Definitions.** As used in this part 2, unless the context  
23 otherwise requires:

24 (3) "Chronically and habitually uses alcoholic beverages to the  
25 extent that the applicant's normal faculties are impaired" means:

26 (a) The applicant has at any time been committed as ~~an alcoholic~~  
27 A PERSON WITH AN ALCOHOL USE DISORDER pursuant to section 27-81-111  
28 or 27-81-112; ~~C.R.S.~~; or

1 (b) Within the ten-year period immediately preceding the date on  
2 which the permit application is submitted, the applicant:

3 (I) Has been committed as ~~an alcoholic~~ A PERSON WITH AN  
4 ALCOHOL USE DISORDER pursuant to section 27-81-109 or 27-81-110;  
5 ~~C.R.S.~~; or

6 **SECTION 20.** In Colorado Revised Statutes, 24-34-501, **amend**  
7 (1.3)(b)(I) as follows:

8 **24-34-501. Definitions.** As used in this part 5, unless the context  
9 otherwise requires:

10 (1.3) (b) (I) On and after July 1, 1990, as to this part 5, "disability"  
11 also includes a person who has a mental impairment, but the term does  
12 not include any person currently involved in the illegal use of ~~or addiction~~  
13 ~~to~~ a controlled substance OR A SUBSTANCE USE DISORDER WITH RESPECT  
14 TO A CONTROLLED SUBSTANCE.

15 **SECTION 21.** In Colorado Revised Statutes, 25-1-801, **amend**  
16 (1)(d) as follows:

17 **25-1-801. Patient records in custody of health care facility -**  
18 **definitions.** (1) (d) Nothing in this section requires a person responsible  
19 for the diagnosis or treatment of sexually transmitted infections, ~~or~~  
20 ~~addiction to~~ A SUBSTANCE USE DISORDER, or THE use of drugs in the case  
21 of minors pursuant to sections 13-22-102 ~~C.R.S.~~, and 25-4-409 to release  
22 patient records of such diagnosis or treatment to a parent, guardian, or  
23 person other than the minor or his or her designated representative.

24 **SECTION 22.** In Colorado Revised Statutes, 25-1-802, **amend**  
25 (2) as follows:

26 **25-1-802. Patient records in custody of individual health care**  
27 **providers.** (2) Nothing in this section requires a person responsible for  
28 the diagnosis or treatment of sexually transmitted infections, ~~or addiction~~

1 to SUBSTANCE USE DISORDERS, or THE use of drugs in the case of minors  
2 pursuant to sections 13-22-102 ~~C.R.S.~~, and 25-4-409 to release patient  
3 records of such diagnosis or treatment to a parent, guardian, or person  
4 other than the minor or his or her designated representative.

5 **SECTION 23.** In Colorado Revised Statutes, 25-3.5-804, **amend**  
6 (3)(a) as follows:

7 **25-3.5-804. Tobacco education, prevention, and cessation**  
8 **programs - review committee - grants.** (3) (a) The division shall  
9 review the applications received pursuant to this part 8 and make  
10 recommendations to the state board regarding those entities that may  
11 receive grants and the amounts of said grants. On and after October 1,  
12 2005, the review committee shall review the applications received  
13 pursuant to this part 8 and submit to the state board and the director of the  
14 department recommended grant recipients, grant amounts, and the  
15 duration of each grant. Within thirty days after receiving the review  
16 committee's recommendations, the director shall submit his or her  
17 recommendations to the state board. The review committee's  
18 recommendations regarding grantees of the Tony Grampsas youth  
19 services program, section 26-6.8-102, pursuant to section 25-3.5-805 (5)  
20 shall be submitted to the state board and the Tony Grampsas youth  
21 services board. Within thirty days after receiving the review committee's  
22 recommendations, the Tony Grampsas youth services board shall submit  
23 its recommendations to the state board. The state board has the final  
24 authority to approve the grants under this part 8. If the state board  
25 disapproves a recommendation for a grant recipient, the review  
26 committee may submit a replacement recommendation within thirty days.  
27 In reviewing grant applications for programs to provide tobacco  
28 education, prevention, and cessation programs for persons with

1 behavioral or mental health disorders, the division or the review  
2 committee shall consult with the programs for public psychiatry at the  
3 university of Colorado health sciences center, the national alliance for the  
4 ~~mentally ill~~ ON MENTAL ILLNESS, the mental health association of  
5 Colorado, and the department of human services.

6 **SECTION 24.** In Colorado Revised Statutes, 25-49-102, **amend**  
7 (6)(a)(II) as follows:

8 **25-49-102. Definitions.** [*Editor's note: This section is effective*  
9 *January 1, 2018.*] As used in this article 49, unless the context otherwise  
10 requires:

11 (6) (a) "Health care services" or "services" means services  
12 included in, or incidental to, furnishing to an individual:

13 (II) Other services for the purpose of preventing, alleviating,  
14 curing, or healing a physical ~~or mental illness or~~ ILLNESS, AN injury, OR  
15 A MENTAL HEALTH DISORDER.

16 **SECTION 25.** In Colorado Revised Statutes, 25.5-5-202, **amend**  
17 (1)(c) introductory portion and (1)(c)(IV) as follows:

18 **25.5-5-202. Basic services for the categorically needy - optional**  
19 **services.** (1) Subject to the provisions of subsection (2) of this section,  
20 the following are services for which federal financial participation is  
21 available and that Colorado has selected to provide as optional services  
22 under the medical assistance program:

23 (c) Home- and community-based services, as specified in article  
24 6 of this ~~title~~ TITLE 25.5, which include:

25 (IV) Home- and community-based services for persons with major  
26 mental ~~illnesses~~ HEALTH DISORDERS, as specified in part 6 of article 6 of  
27 this ~~title~~ TITLE 25.5;

28 **SECTION 26.** In Colorado Revised Statutes, 25.5-5-203, **amend**

1 (1)(e) as follows:

2 **25.5-5-203. Optional programs with special state provisions.**

3 (1) Subject to the provisions of subsection (2) of this section, this section  
4 specifies programs developed by Colorado to increase federal financial  
5 participation through selecting optional services or optional eligible  
6 groups. These programs include but are not limited to:

7 (e) The home- and community-based services program for persons  
8 with major mental ~~illnesses~~ HEALTH DISORDERS, as specified in part 6 of  
9 article 6 of this ~~title~~ TITLE 25.5;

10 **SECTION 27.** In Colorado Revised Statutes, **amend** 25.5-6-601  
11 as follows:

12 **25.5-6-601. Short title.** ~~This part 6 shall be known and may be~~  
13 ~~cited as~~ THE SHORT TITLE OF THIS PART 6 IS the "Home- and  
14 Community-based Services for Persons with Major Mental ~~Illnesses~~  
15 HEALTH DISORDERS Act".

16 **SECTION 28.** In Colorado Revised Statutes, 25.5-6-602, **amend**  
17 (1) as follows:

18 **25.5-6-602. Legislative declaration - no entitlement created.**

19 (1) The general assembly ~~hereby~~ finds and declares that the purpose of  
20 this part 6 is to provide, under federal authorization and subject to  
21 available appropriations, home- and community-based services for  
22 persons with major mental ~~illnesses~~ HEALTH DISORDERS.

23 **SECTION 29.** In Colorado Revised Statutes, **amend** 25.5-6-604  
24 as follows:

25 **25.5-6-604. Cost of services.** Home- and community-based  
26 services for persons with major mental ~~illnesses shall~~ HEALTH DISORDERS  
27 MUST meet aggregate federal waiver budget neutrality requirements.

28 **SECTION 30.** In Colorado Revised Statutes, **amend** 25.5-6-605

1 as follows:

2 **25.5-6-605. Relationship to single entry point for long-term**  
3 **care.** The home- and community-based services program for persons with  
4 major mental illnesses ~~shall~~ HEALTH DISORDERS MUST not be considered  
5 a publicly funded long-term care program for the purposes of sections  
6 25.5-6-105 to 25.5-6-107, concerning the single entry point system,  
7 unless and until the departments of health care policy and financing and  
8 human services provide in the memorandum of understanding between  
9 the departments for the inclusion of the program in the single entry point  
10 system.

11 **SECTION 31.** In Colorado Revised Statutes, 25.5-6-606, **amend**  
12 (1) as follows:

13 **25.5-6-606. Implementation of program for persons with**  
14 **mental health disorders authorized - federal waiver - duties of the**  
15 **department of health care policy and financing and the department**  
16 **of human services.** (1) The state department is hereby authorized to seek  
17 any necessary waiver from the federal government to develop and  
18 implement a home- and community-based services program for persons  
19 with major mental illnesses HEALTH DISORDERS. The program ~~shall~~ MUST  
20 be designed to provide home- and community-based services to eligible  
21 persons. Eligibility may be limited to persons who meet the level of  
22 services provided in a nursing facility, and services for eligible persons  
23 may be established in state board rules to the extent such eligibility  
24 criteria and services are authorized or required by federal waiver. The  
25 program ~~shall~~ MUST include services provided under the  
26 consumer-directed care service model, part 11 of this ~~article~~ ARTICLE 6.

27 **SECTION 32.** In Colorado Revised Statutes, 25.5-6-1201,  
28 **amend** (2) as follows:

1           **25.5-6-1201. Legislative declaration.** (2) The general assembly  
2 further finds that allowing clients more self-direction in their care is a  
3 more effective way to deliver home- and community-based services to  
4 clients with major mental illnesses ~~illnesses~~ HEALTH DISORDERS and brain injuries,  
5 as well as to clients receiving home- and community-based supportive  
6 living services and children's extensive support services. Therefore, the  
7 general assembly declares that it is appropriate for the state department  
8 to develop a plan for expanding the availability of in-home support  
9 services to include these clients.

10           **SECTION 33.** In Colorado Revised Statutes, 26-2-111, **amend**  
11 (4) introductory portion and (4)(f) as follows:

12           **26-2-111. Eligibility for public assistance - rules - repeal.**

13 (4) **Aid to the needy disabled.** Public assistance in the form of aid to the  
14 needy disabled ~~shall~~ MUST be granted to any person who meets the  
15 requirements of subsection (1) of this section and all of the following  
16 requirements:

17           (f) A person who is disabled as a result of a primary diagnosis of  
18 ~~alcoholism or a controlled substance addiction shall~~ AN ALCOHOL OR  
19 SUBSTANCE USE DISORDER IS not be eligible for aid to the needy disabled  
20 based upon that primary diagnosis if the person has received aid to the  
21 needy disabled based upon such diagnosis for any cumulative  
22 twelve-month period in the person's lifetime.

23           **SECTION 34.** In Colorado Revised Statutes, 26-3.1-111, **amend**  
24 (7)(g) as follows:

25           **26-3.1-111. Access to CAPS - employment checks -**  
26 **confidentiality - fees - rules - legislative declaration - definitions.**

27 (7) The following employers shall request a CAPS check pursuant to this  
28 section:

1 (g) A facility operated by the state department for the care and  
2 treatment of persons with mental ~~illness~~ HEALTH DISORDERS pursuant to  
3 article 65 of title 27;

4 **SECTION 35.** In Colorado Revised Statutes, 27-65-121, **amend**  
5 (1)(i) as follows:

6 **27-65-121. Records.** (1) Except as provided in subsection (2) of  
7 this section, all information obtained and records prepared in the course  
8 of providing any services pursuant to this article 65 to individuals  
9 pursuant to any provision of this article 65 are confidential and privileged  
10 matter. The information and records may be disclosed only:

11 (i) In accordance with state and federal law to the agency  
12 designated pursuant to the federal "Protection and Advocacy for ~~Mentally~~  
13 ~~HH~~ Individuals WITH MENTAL ILLNESS Act", 42 U.S.C. sec. 10801, et seq.,  
14 as the governor's protection and advocacy system for Colorado.

15 **SECTION 36.** In Colorado Revised Statutes, 42-4-1705, **amend**  
16 (3) as follows:

17 **42-4-1705. Person arrested to be taken before the proper**  
18 **court.** (3) Any other provision of law to the contrary notwithstanding, a  
19 police officer may place a person who has been arrested and charged with  
20 DUI, DUI per se, or UDD and who has been given a written notice or  
21 summons to appear in court as provided in section 42-4-1707 in a  
22 state-approved treatment facility for ~~alcoholism~~ ALCOHOL USE DISORDERS  
23 even though entry or other record of such arrest and charge has been  
24 made. ~~Such Placement shall be~~ IS governed by article 81 of title 27,  
25 ~~C.R.S.~~, except where in conflict with this section.

26 **SECTION 37. Act subject to petition - effective date.** This act  
27 takes effect at 12:01 a.m. on the day following the expiration of the  
28 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
2 referendum petition is filed pursuant to section 1 (3) of article V of the  
3 state constitution against this act or an item, section, or part of this act  
4 within such period, then the act, item, section, or part will not take effect  
5 unless approved by the people at the general election to be held in  
6 November 2018 and, in such case, will take effect on the date of the  
7 official declaration of the vote thereon by the governor.