

CHAPTER 130

**HUMAN SERVICES - INSTITUTIONS**

**HOUSE BILL 00-1207**

BY REPRESENTATIVES Larson, Morrison, Alexander, Johnson, Keller, Witwer, Clarke, Coleman, Kaufman, Kester, Lawrence, Leyba, Mace, Tochtrop, Veiga, and Williams, S.; also SENATORS Wham, Tebedo, and Weddig.

**AN ACT**

CONCERNING THE TREATMENT OF MENTALLY ILL PERSONS IN FACILITIES LOCATED OUTSIDE OF COLORADO.

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

**SECTION 1.** Article 10 of title 27, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**27-10-121.5. Approval and designation of facilities in another state - pilot project - repeal.** (1) THERE IS HEREBY CREATED IN THE DEPARTMENT A PILOT PROJECT FOR THE PURPOSES OF ALLOWING THE TRANSFER OF PATIENTS TO AN OUT-OF-STATE FACILITY AS ALLOWED IN SECTION 27-10-122 (2). THE PILOT PROJECT SHALL ONLY BE IMPLEMENTED IN A RURAL AREA LOCATED IN THE SOUTHWEST CORNER OF THIS STATE; EXCEPT THAT IF THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE FINDS THAT THERE IS A DEMONSTRATED NEED IN ANOTHER AREA OR AREAS OF THE STATE, THE PILOT PROJECT MAY BE EXPANDED TO SERVE ANOTHER AREA OR AREAS OF THE STATE. IF THE PILOT PROJECT IS EXPANDED, THE DEPARTMENT SHALL REPORT SUCH NEED FOR EXPANSION TO THE HOUSE AND SENATE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEES. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE IS AUTHORIZED TO APPROVE AND DESIGNATE A FACILITY IN A STATE THAT IS ADJOINING TO THE RURAL AREA PARTICIPATING IN THE PILOT PROJECT FOR THE PURPOSES OF A SEVENTY-TWO HOUR TREATMENT AND EVALUATION AS DESCRIBED IN SECTION 27-10-105, FOR SHORT-TERM TREATMENT AS DESCRIBED IN SECTION 27-10-107 (1), FOR EXTENDED SHORT-TERM TREATMENT AS DESCRIBED IN SECTION 27-10-108, OR FOR LONG-TERM CARE AND TREATMENT AS DESCRIBED IN SECTION 27-10-109. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE IS AUTHORIZED TO APPROVE AND DESIGNATE A FACILITY IN THE STATE ADJOINING THE SITE OF THE PILOT PROJECT FOR

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

SUCH PURPOSES ONLY IF THE EXECUTIVE DIRECTOR OR THE DESIGNEE DETERMINES THAT:

(a) THE FACILITY HAS BEEN CERTIFIED BY THE APPROPRIATE AGENCY IN THE ADJOINING STATE IN WHICH THE FACILITY IS LOCATED; AND

(b) THE ADJOINING STATE IN WHICH THE FACILITY IS LOCATED HAS SUBSTANTIALLY THE SAME STANDARDS FOR CERTIFICATION OR DESIGNATION OF A FACILITY FOR THE CARE AND TREATMENT OF THE MENTALLY ILL AS APPLY TO FACILITIES IN THIS STATE; AND

(c) THE ADJOINING STATE IN WHICH THE FACILITY IS LOCATED HAS SUBSTANTIALLY SIMILAR STATUTES OR RULES PROTECTING PATIENTS' RIGHTS AND MONITORING QUALITY ASSURANCE; AND

(d) IF THE FACILITY TO BE APPROVED AND DESIGNATED IS A PRIVATE FACILITY, THE FACILITY HAS AGREED IN WRITING TO THE ENFORCEMENT OF STANDARDS SET BY THE ADJOINING STATE IN WHICH THE FACILITY IS LOCATED AND HAS AGREED TO MEET THE REQUIREMENTS OF COLORADO LAW AS SPECIFIED IN THIS ARTICLE.

(2) THE DEPARTMENT OF HUMAN SERVICES SHALL CONDUCT A REVIEW OF THE PILOT PROGRAM AND A REPORT OF SUCH REVIEW SHALL BE PROVIDED TO THE HOUSE AND SENATE HEALTH, ENVIRONMENT, WELFARE AND INSTITUTIONS COMMITTEES BY NOVEMBER 1, 2000, AND BY NOVEMBER 1 OF EVERY OTHER YEAR THEREAFTER. THE REPORT SHALL INCLUDE THE FOLLOWING:

(a) WHETHER THERE IS A DEMONSTRATED NEED IN ANOTHER AREA OR AREAS OF THE STATE TO EXPAND THE PILOT PROJECT;

(b) THE NUMBER OF PATIENTS TRANSFERRED TO AN OUT-OF-STATE FACILITY;

(c) THE TOTAL NUMBER OF HOSPITAL DAYS BY SUCH PATIENTS; AND

(d) THE COST-EFFECTIVENESS OF THE PILOT PROGRAM.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2007.

**SECTION 2.** 27-10-122, Colorado Revised Statutes, is amended to read:

**27-10-122. Transfer of persons into and out of Colorado - reciprocal agreements - repeal.** (1) The transfer of persons hospitalized VOLUNTARILY under the provisions of this article out of Colorado or under the laws of another jurisdiction into Colorado shall be governed by the provisions of the interstate compact on mental health.

(2) (a) ANY PATIENT WHO IS TAKEN INTO CUSTODY PURSUANT TO SECTION 27-10-105 FOR A SEVENTY-TWO HOUR TREATMENT AND EVALUATION OR CERTIFIED FOR TREATMENT PURSUANT TO SECTION 27-10-107 FOR SHORT-TERM TREATMENT, SECTION 27-10-108 FOR EXTENDED SHORT-TERM TREATMENT, OR SECTION 27-10-109 FOR LONG-TERM TREATMENT, AND WHO RESIDES IN THE AREA COVERED BY THE PILOT PROJECT DESCRIBED IN SECTION 27-10-121.5, MAY BE TRANSFERRED TO A FACILITY

LOCATED IN AN ADJOINING STATE IF THE FOLLOWING CONDITIONS HAVE BEEN MET:

(I) THE FACILITY IN THE ADJOINING STATE HAS BEEN APPROVED AND DESIGNATED BY THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE PURSUANT TO THE REQUIREMENTS OF SECTION 27-10-121.5, AND THE FACILITY HAS APPROPRIATE SPACE AVAILABLE TO TREAT THE PATIENT;

(II) A PROFESSIONAL PERSON, AS DEFINED IN SECTION 27-10-102 (11), OR THE DIRECTOR OF A DESIGNATED FACILITY HAVING CUSTODY OF THE PERSON FINDS THAT IT IS IN THE BEST INTERESTS OF THE PATIENT TO RECEIVE SERVICES OUT OF STATE BECAUSE OF THE TYPES OF SERVICES AVAILABLE IN THE OTHER STATE OR BECAUSE THE FACILITY IN THE ADJOINING STATE WOULD BE CLOSER TO THE PATIENT'S RESIDENCE AND SUPPORT SYSTEM THAN A FACILITY LOCATED IN THIS STATE;

(III) THE PATIENT HAS CONSENTED TO THE TRANSFER TO THE OUT-OF-STATE FACILITY, WITHIN THE LARGER CONTEXT OF INVOLUNTARY TREATMENT, OR THERE ARE NO APPROPRIATE BEDS AVAILABLE WITHIN COLORADO FOR TREATMENT OF THE PATIENT;

(IV) THE OUT-OF-STATE TREATMENT IS INVOKED BY AN AFFIDAVIT SWORN TO OR AFFIRMED BEFORE A JUDGE HAVING JURISDICTION OVER THE MATTER PURSUANT TO THIS ARTICLE AND THE JUDGE ORDERS THAT THE PATIENT BE TRANSFERRED TO THE APPROVED AND DESIGNATED FACILITY IN AN ADJOINING STATE.

(b) ANY PATIENT TRANSFERRED OUT OF STATE SHALL BE DEEMED TO BE IN THE CUSTODY OF THE OUT-OF-STATE FACILITY TO THE SAME EXTENT AND SUBJECT TO THE SAME LIMITATIONS AND REVIEW AND RELEASE PROCEDURES AS IF THE PATIENT HAD BEEN ORDERED TO BE PLACED IN CUSTODY IN A FACILITY LOCATED IN THIS STATE. JURISDICTION IS RETAINED IN THE APPROPRIATE COURTS OF THIS STATE AT ANY TIME TO INQUIRE INTO THE MENTAL CONDITION OF ANY PATIENT SO TRANSFERRED AND TO DETERMINE THE NECESSITY FOR CONTINUANCE OF THE COMMITMENT. IF A HEARING IS HELD PURSUANT TO SECTION 27-10-107 OR SECTION 27-10-109 TO EVALUATE THE CONTINUED CARE AND TREATMENT OF THE PATIENT, THE FACILITY IN WHICH THE PATIENT IS BEING TREATED SHALL MAKE VIDEO OR TELECONFERENCING TECHNOLOGY AVAILABLE TO ALLOW THE PATIENT AND HIS OR HER LEGAL REPRESENTATIVE TO PARTICIPATE IN THE HEARING.

(3) A PEACE OFFICER FROM THIS STATE SHALL BE PERMITTED TO TRANSPORT ANY PATIENT WHO IS TAKEN INTO CUSTODY AND TRANSFERRED TO A FACILITY IN AN ADJOINING STATE FOR CARE AND TREATMENT IF THAT FACILITY HAS BEEN APPROVED AND DESIGNATED PURSUANT TO THE REQUIREMENTS OF SECTION 27-10-121.5 AND IF THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION ARE MET.

(4) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE IS AUTHORIZED TO ENTER INTO RECIPROCAL AGREEMENTS WITH THE EXECUTIVE DIRECTORS OF SIMILAR AGENCIES OF A STATE ADJOINING THE SITE OF THE PILOT PROJECT DESCRIBED IN SECTION 27-10-121.5. SUCH RECIPROCAL AGREEMENTS SHALL GOVERN THE TRANSFER OF COLORADO RESIDENTS WHO HAVE BEEN TAKEN INTO CUSTODY UNDER SECTION 27-10-105 OR HAVE BEEN CERTIFIED FOR TREATMENT PURSUANT TO SECTION 27-10-107, 27-10-108, OR 27-10-109 IN FACILITIES APPROVED AND DESIGNATED AS PROVIDED IN SECTION 27-10-121.5. SUCH RECIPROCAL

AGREEMENTS MAY ALSO PERTAIN TO THE TRANSFER OF ANY RESIDENTS OF THE ADJOINING STATE WHO HAVE BEEN INVOLUNTARILY HOSPITALIZED UNDER EMERGENCY PROCEDURES OR FOR CARE AND TREATMENT OF MENTAL ILLNESS TO ANY FACILITY APPROVED AND DESIGNATED IN THIS STATE FOR THE CARE AND TREATMENT OF THE MENTALLY ILL.

(5) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE AND THE EXECUTIVE DIRECTOR OF A PUBLIC AGENCY OF A STATE ADJOINING THE SITE OF THE PILOT PROJECT BY CONTRACTUAL AGREEMENT MAY JOINTLY EXERCISE ANY POWER COMMON TO THE CONTRACTING PARTIES WITH RESPECT TO THE APPROVAL AND DESIGNATION OF FACILITIES TO PROVIDE EMERGENCY MENTAL HEALTH TREATMENT OR TO PROVIDE SHORT-TERM OR LONG-TERM MENTAL HEALTH TREATMENT AS PROVIDED IN THIS ARTICLE. EVERY AGREEMENT EXECUTED BY THE EXECUTIVE DIRECTOR OR DESIGNEE AND AN OFFICIAL OF A PUBLIC AGENCY OF THE ADJOINING STATE SHALL CLEARLY SPECIFY THE PURPOSES OF THE AGREEMENT AND ANY POWER WHICH IS TO BE EXERCISED AS WELL AS ANY OF THE RESTRICTIONS IMPOSED UPON THE MANNER OF EXERCISING SUCH POWER OF ONE OF THE CONTRACTING PUBLIC AGENCIES. AT A MINIMUM, THE CONTRACT SHALL SPECIFY THE FOLLOWING TERMS AND CONDITIONS:

(a) THE TYPES OF SERVICES TO BE PROVIDED;

(b) HOW THE COSTS OF HOSPITALIZATION, INCLUDING MEDICAID REIMBURSEMENT, ARE TO BE PAID;

(c) THE REQUIREMENTS OF THIS STATE TO BE FOLLOWED BY A FACILITY IN THE ADJOINING STATE;

(d) THE REQUIREMENTS OF THIS STATE TO BE FOLLOWED BY THE LOCAL MENTAL HEALTH CENTER IN THIS STATE TO ENSURE THE CONTINUITY OF CARE FOR THE PATIENT; AND

(e) THE PROCEDURES TO BE FOLLOWED IF A PATIENT TRANSFERRED TO A FACILITY IN AN ADJOINING STATE ESCAPES.

(6) THIS SUBSECTION (6) AND SUBSECTIONS (2) THROUGH (5) OF THIS SECTION ARE REPEALED, EFFECTIVE JULY 1, 2007.

**SECTION 3. 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.

Approved: April 19, 2000