

CHAPTER 33

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 09-1021

BY REPRESENTATIVE(S) Solano, Apuan, Benefield, Carroll T., Casso, Court, Fischer, Gagliardi, Green, Hullinghorst, Kefalas, Kerr A., Kerr J., Labuda, Massey, McCann, McGihon, Merrifield, Middleton, Miklosi, Pace, Primavera, Ryden, Scanlan, Soper, Todd, Vigil, Acree, McFadyen, Peniston, Schafer S., Summers;
also SENATOR(S) Boyd, Bacon, Carroll M., Foster, Groff, Heath, Hodge, Keller, Newell, Romer, Schwartz, Tapia.

AN ACT

CONCERNING THE EXTENSION OF THE STUDY OF THE TREATMENT OF PERSONS WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS.

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

SECTION 1. 18-1.9-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-1.9-102. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "CO-OCCURRING DISORDER" MEANS A DISORDER THAT COMMONLY COINCIDES WITH MENTAL ILLNESS AND MAY INCLUDE, BUT IS NOT LIMITED TO, SUBSTANCE ABUSE, DEVELOPMENTAL DISABILITY, FETAL ALCOHOL SYNDROME, AND TRAUMATIC BRAIN INJURY.

SECTION 2. 18-1.9-103 (2) (a) and (2) (c) (I), Colorado Revised Statutes, are amended to read:

18-1.9-103. Legislative oversight committee for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems - creation - duties. (2) **Duties.** (a) The committee shall meet at least once on or before August 1, 2004. Beginning in 2005 and continuing each year thereafter through ~~2009~~ 2014, the committee shall meet at least three times each year and at such other times as it deems necessary.

(c) (I) The committee shall submit a report to the general assembly by January 15,

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

2005, and by each January 15 thereafter through January 15, ~~2010~~ 2015. The annual reports shall summarize the issues addressing the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems that have been considered and any recommended legislative proposals.

SECTION 3. 18-1.9-104 (1) (c) (IV) (A), (1) (c) (IV) (D), (1) (c) (XV), (3), and (4), Colorado Revised Statutes, are amended, and the said 18-1.9-104 (1) (c) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

18-1.9-104. Mentally ill offender task force - creation - membership - duties.

(1) **Creation.** (c) The chair and vice-chair of the committee shall appoint twenty-six members as follows:

(IV) Six members who represent the department of human services, as follows:

(A) One member who represents the unit within the department of human services that is responsible for mental health AND DRUG AND ALCOHOL ABUSE services;

(D) ~~One member who represents the alcohol and drug abuse division;~~

(XV) One member who represents the department of health care policy and financing; AND

(XVI) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(3) **Additional duties of the task force.** ~~On or before August 1, 2005, and on or before each August 1 thereafter through August 1, 2009,~~ The task force shall orally provide guidance and make findings and recommendations to the committee for its development of reports and legislative recommendations for modification of the criminal and juvenile justice systems, with respect to persons with mental illness who are involved in these systems. In addition, the task force shall:

(a) On or before August 1, 2004, and by each August 1 thereafter through August 1, ~~2008~~ 2013, select a chair and a vice-chair from among its members;

(b) Meet at least six times each year from the date of the first meeting until January 1, ~~2010~~ 2015, or more often as directed by the chair of the committee;

(c) Communicate with and obtain input from groups throughout the state affected by the issues identified in subsection (2) of this section;

(d) Create subcommittees as needed to carry out the duties of the task force. The subcommittees may consist, in part, of persons who are not members of the task force. Such persons may vote on issues before the subcommittee but shall not be entitled to a vote at meetings of the task force.

(e) Submit a ~~written~~ report to the committee by October 1, 2004, and by each October 1 thereafter through October 1, ~~2009~~ 2014, at a minimum specifying the following:

(I) Issues to be studied in upcoming task force meetings and a prioritization of those issues;

(II) Findings and recommendations regarding issues of prior consideration by the task force;

(III) Legislative proposals of the task force that identify the policy issues involved, the agencies responsible for the implementation of the changes, and the funding sources required for such implementation.

(4) **Flexibility.** No requirement set forth in ~~paragraphs (a) to (c)~~ of subsection (2) of this section shall prohibit the task force from studying, presenting findings and recommendations on, or requesting permission to draft legislative proposals concerning any issue described in subsection (2) of this section at any time during the existence of the task force.

SECTION 4. 18-1.9-104 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-1.9-104. Mentally ill offender task force - creation - membership - duties.

(2) **Issues for study.** The task force shall examine the identification, diagnosis, and treatment of persons with mental illness who are involved in the state criminal and juvenile justice systems, including an examination of liability, safety, and cost as they relate to these issues. The task force shall specifically consider, but need not be limited to, the following issues:

(f) BEGINNING JULY 1, 2009, THROUGH JULY 1, 2014, THE FOLLOWING ISSUES:

(I) THE DIAGNOSIS, TREATMENT, AND HOUSING OF PERSONS WITH MENTAL ILLNESS OR CO-OCCURRING DISORDERS WHO ARE CONVICTED OF CRIMES, OR INCARCERATED OR WHO PLEAD GUILTY, NOLO CONTENDERE, OR NOT GUILTY BY REASON OF INSANITY OR WHO ARE FOUND TO BE INCOMPETENT TO STAND TRIAL;

(II) THE DIAGNOSIS, TREATMENT, AND HOUSING OF JUVENILES WITH MENTAL ILLNESS OR CO-OCCURRING DISORDERS WHO ARE ADJUDICATED, DETAINED, OR COMMITTED FOR OFFENSES THAT WOULD CONSTITUTE CRIMES IF COMMITTED BY ADULTS OR WHO PLEAD GUILTY, NOLO CONTENDERE, OR NOT GUILTY BY REASON OF INSANITY OR WHO ARE FOUND TO BE INCOMPETENT TO STAND TRIAL;

(III) THE ONGOING TREATMENT, HOUSING, AND SUPERVISION, ESPECIALLY WITH REGARD TO MEDICATION, OF ADULTS AND JUVENILES WHO ARE INVOLVED IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS AND WHO ARE INCARCERATED OR HOUSED WITHIN THE COMMUNITY AND THE AVAILABILITY OF PUBLIC BENEFITS FOR THESE PERSONS; AND

(IV) THE SAFETY OF THE STAFF WHO TREAT OR SUPERVISE PERSONS WITH MENTAL ILLNESS AND THE USE OF FORCE AGAINST PERSONS WITH MENTAL ILLNESS.

SECTION 5. 18-1.9-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-1.9-104. Mentally ill offender task force - creation - membership - duties.

(6) **Coordination.** THE TASK FORCE MAY WORK WITH OTHER TASK FORCES, COMMITTEES, OR ORGANIZATIONS THAT ARE PURSUING POLICY INITIATIVES SIMILAR TO THOSE ADDRESSED IN SUBSECTION (2) OF THIS SECTION. THE TASK FORCE SHALL CONSIDER DEVELOPING RELATIONSHIPS WITH OTHER TASK FORCES, COMMITTEES, AND ORGANIZATIONS TO LEVERAGE EFFICIENT POLICY MAKING OPPORTUNITIES THROUGH COLLABORATIVE EFFORTS.

SECTION 6. 18-1.9-106 (1), Colorado Revised Statutes, is amended to read:

18-1.9-106. Cash fund. (1) All private and public funds received through grants, contributions, and donations pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the examination of the treatment of persons with mental illness in the criminal justice system cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. All moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. All unexpended and unencumbered moneys remaining in the fund as of July 1, ~~2010~~ 2015, shall be transferred to the general fund.

SECTION 7. 18-1.9-107, Colorado Revised Statutes, is amended to read:

18-1.9-107. Repeal of article. This article is repealed, effective July 1, ~~2010~~ 2015.

SECTION 8. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 20, 2009

Editor's note: The August 4 date specified in the effective date section of this act reflects the ninetieth day, therefore the act takes effect at 12:01 a.m. on August 5, 2009.