

## CHAPTER 298

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**HUMAN SERVICES - BEHAVIORAL HEALTH**

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**HOUSE BILL 14-1338**

BY REPRESENTATIVE(S) May and Gerou, Duran, Becker, Conti, Court, Exum, Ginal, Hullinghorst, Kraft-Tharp, Labuda, Lee, Melton, Moreno, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Scott, Singer, Tyler, Williams, Wright, Young; also SENATOR(S) Hodge and Lambert, Steadman, Aguilar, Crowder, Guzman, Heath, Herpin, Jahn, Jones, Kefalas, Kerr, Newell, Nicholson, Rivera, Tochtrop, Todd, Zenzinger.

**AN ACT**

**CONCERNING PLANNING FOR THE EFFECTIVE USE OF COLORADO'S REGIONAL CENTERS FOR PERSONS WITH INTELLECTUAL DISABILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 27-10.5-310 as follows:

**27-10.5-310. Regional centers task force - creation - members - recommendations - utilization study - reporting - repeal.** (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 2-3-303.3, C.R.S., TO THE CONTRARY, THERE IS HEREBY CREATED THE REGIONAL CENTERS TASK FORCE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL STUDY, MAKE RECOMMENDATIONS ON, AND REPORT FINDINGS ON MATTERS RELATING TO STATE-OPERATED INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, ESTABLISHED AS REGIONAL CENTERS PURSUANT TO THIS PART 3, WHICH MATTERS INCLUDE, BUT ARE NOT LIMITED TO:

(a) A NEEDS ASSESSMENT CONCERNING THE NUMBER OF INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES BEDS, REFERRED TO IN THIS SECTION AS "ICF/IID BEDS", THAT THE STATE NEEDS TO ADEQUATELY SERVE INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES REQUIRING THIS HIGHER LEVEL OF CARE;

(b) WHETHER THE STATE SHOULD OPERATE BEDS LICENSED PURSUANT TO THE HOME- AND COMMUNITY-BASED SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES WAIVER;

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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.*

(c) BASED UPON THE NEEDS ASSESSMENT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE NUMBER OF CURRENT ICF/IID BEDS THAT THE STATE SHOULD SELL, ADD, OR CLOSE;

(d) IF ONE OR MORE REGIONAL CENTERS SHOULD BE CLOSED, A STRATEGIC PLAN FOR CLIENT TRANSITIONS TO COMMUNITY PLACEMENTS;

(e) A STRATEGIC PLAN FOR THE FUTURE USE OF THE REGIONAL CENTERS, INCLUDING THE MOST EFFICIENT USE OF THE BUILDINGS AND FACILITIES AND THE STAFFING LEVELS AT EACH REGIONAL CENTER; AND

(f) ANY OTHER MATTERS RELEVANT TO THE STATE'S CURRENT AND FUTURE USE OF THE REGIONAL CENTERS.

(2) (a) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING FIFTEEN MEMBERS:

(I) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE MEMBER TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE MEMBER TO BE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(II) TWO MEMBERS OF THE SENATE, ONE MEMBER TO BE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE MEMBER TO BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(III) A REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR;

(IV) A REPRESENTATIVE OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(V) A REPRESENTATIVE OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

(VI) AN ADVOCATE FOR PERSONS RECEIVING SERVICES FROM THE REGIONAL CENTERS, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR;

(VII) A FAMILY MEMBER OF AN INDIVIDUAL WHO RESIDES IN THE WHEAT RIDGE REGIONAL CENTER, A FAMILY MEMBER OF AN INDIVIDUAL WHO RESIDES IN THE GRAND JUNCTION REGIONAL CENTER, AND A FAMILY MEMBER OF AN INDIVIDUAL WHO RESIDES IN THE PUEBLO REGIONAL CENTER, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR;

(VIII) A REPRESENTATIVE OF A COMMUNITY-CENTERED BOARD, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR;

(IX) A PROVIDER OF COMMUNITY SERVICES, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR;

(X) A REPRESENTATIVE OF AN ORGANIZATION IN COLORADO THAT EXISTS FOR THE PURPOSE OF DEALING WITH THE STATE AS AN EMPLOYER CONCERNING ISSUES OF MUTUAL CONCERN BETWEEN EMPLOYEES AND THE STATE; AND

(XI) A REPRESENTATIVE OF A BEHAVIORAL HEALTH ORGANIZATION WITH EXPERTISE IN INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AND CO-OCCURRING DISORDERS, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR.

(b) ALL APPOINTMENTS TO THE TASK FORCE MUST BE MADE ON OR BEFORE JUNE 15, 2014.

(c) THE EXECUTIVE DIRECTOR SHALL APPOINT THE CHAIR AND VICE CHAIR OF THE TASK FORCE.

(d) LEGISLATIVE AND NONLEGISLATIVE MEMBERS OF THE TASK FORCE ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES, AND LEGISLATIVE MEMBERS OF THE TASK FORCE ARE ENTITLED TO PER DIEM COMPENSATION PURSUANT TO SECTION 2-2-307, C.R.S.

(3) THE DEPARTMENT SHALL RETAIN A FACILITATOR TO FACILITATE THE WORK OF THE TASK FORCE. THE FACILITATOR SHALL PREPARE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY'S COMMITTEES OF REFERENCE WITH OVERSIGHT OF THE REGIONAL CENTERS AND TO THE JOINT BUDGET COMMITTEE CONCERNING THE PROGRESS OF THE TASK FORCE IN MEETING ITS OBJECTIVES.

(4) THE FIRST MEETING OF THE TASK FORCE MUST OCCUR NO LATER THAN JULY 15, 2014, WITH THE TASK FORCE MEETING AS NECESSARY TO COMPLETE ITS DUTIES PRIOR TO ITS REPEAL.

(5) THE TASK FORCE MAY INVITE PRIVATE CITIZENS, REPRESENTATIVES FROM STATE AND LOCAL GOVERNMENTAL ENTITIES, AND REPRESENTATIVES FROM PUBLIC OR PRIVATE ORGANIZATIONS TO PARTICIPATE IN THE MEETINGS OF THE TASK FORCE, AS DEEMED NECESSARY AND APPROPRIATE BY THE MEMBERS OF THE TASK FORCE. THE TASK FORCE MAY ALSO SOLICIT AND ACCEPT REPORTS, WRITTEN COMMENTS, PUBLIC TESTIMONY, AND OTHER DATA RELEVANT TO THE TASK FORCE.

(6) THE CHAIR OF THE TASK FORCE MAY ESTABLISH ONE OR MORE SUBCOMMITTEES AS NECESSARY TO FOCUS ON MATTERS RELATING TO THE DUTIES OF THE TASK FORCE. THE CHAIR SHALL APPOINT SUBCOMMITTEE MEMBERS, WHICH MEMBERS MAY INCLUDE PERSONS WHO ARE NOT TASK FORCE MEMBERS.

(7) THE TASK FORCE SHALL SUBMIT WRITTEN REPORTS, INCLUDING THE TASK FORCE'S FINDINGS AND RECOMMENDATIONS CONCERNING THE STATE'S REGIONAL CENTERS, TO THE DEPARTMENT, TO THE GENERAL ASSEMBLY'S COMMITTEES OF REFERENCE WITH OVERSIGHT OF THE REGIONAL CENTERS, AND TO THE JOINT BUDGET COMMITTEE TO BE PRESENTED IN 2014 AND 2015 AS PART OF THE DEPARTMENTAL PRESENTATIONS TO THE LEGISLATIVE COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203, C.R.S.

(8) THE TASK FORCE'S RECOMMENDATIONS MAY INCLUDE RECOMMENDATIONS

FOR LEGISLATION TO THE LEGISLATIVE COUNCIL IN CONFORMANCE WITH RULE 24 OF THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES. LEGISLATION RECOMMENDED BY THE TASK FORCE SHALL BE TREATED AS LEGISLATION RECOMMENDED BY AN INTERIM COMMITTEE FOR PURPOSES OF INTRODUCTION DEADLINES OR BILL LIMITATIONS IMPOSED BY THE JOINT RULES OF THE GENERAL ASSEMBLY. A MAJORITY OF THE LEGISLATIVE MEMBERS OF THE TASK FORCE MUST APPROVE THE TASK FORCE'S RECOMMENDATIONS FOR LEGISLATION TO THE LEGISLATIVE COUNCIL.

(9) THE DEPARTMENT SHALL PROVIDE SUPPORT STAFF TO THE TASK FORCE AND THE TASK FORCE FACILITATOR.

(10)(a) AS SOON AS POSSIBLE THEREAFTER, THE DEPARTMENT SHALL CONTRACT FOR A UTILIZATION STUDY OF THE STATE'S REGIONAL CENTERS ESTABLISHED PURSUANT TO THIS PART 3 WITH RESPECT TO THE NEEDS OF THE STATE FOR REGIONAL CENTERS AND THE MOST APPROPRIATE AND COST-EFFECTIVE USE OF THE REGIONAL CENTERS' BEDS AND FACILITIES. THE UTILIZATION STUDY MUST ADDRESS:

(I) THE ISSUES SET FORTH IN SUBSECTION (1) OF THIS SECTION;

(II) THE ABILITY OF THE COMMUNITY TO PROVIDE SERVICES TO INDIVIDUALS ABLE TO TRANSITION TO THE COMMUNITY PURSUANT TO THE UNITED STATES SUPREME COURT'S RULING IN *OLMSTEAD V. L. C.*, 527 U.S. 581 (1999); AND

(III) ANY OTHER MATTERS THAT THE DEPARTMENT DETERMINES ARE RELEVANT TO THE STATE'S CURRENT AND FUTURE USE OF THE REGIONAL CENTERS.

(b) THE DEPARTMENT SHALL NOT SELECT A VENDOR TO PERFORM THE CONTRACT IF THE VENDOR HAS A KNOWN CONFLICT OF INTEREST THAT MAY INTERFERE WITH ITS ABILITY TO PERFORM AN OBJECTIVE ANALYSIS.

(c) THE VENDOR SHALL PRESENT THE COMPLETED UTILIZATION STUDY, INCLUDING ITS ANALYSIS, FINDINGS, AND RECOMMENDATIONS, TO THE DEPARTMENT NO LATER THAN DECEMBER 1, 2014. THE DEPARTMENT SHALL PRESENT THE UTILIZATION STUDY TO THE TASK FORCE AT A TASK FORCE MEETING SCHEDULED FOR THAT PURPOSE.

(d) THE DEPARTMENT SHALL PRESENT THE UTILIZATION STUDY TO THE GENERAL ASSEMBLY'S COMMITTEES OF REFERENCE WITH OVERSIGHT OF THE REGIONAL CENTERS AND TO THE JOINT BUDGET COMMITTEE AS PART OF THE DEPARTMENTAL PRESENTATIONS TO THE LEGISLATIVE COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203, C.R.S.

(11) PRIOR TO DECEMBER 31, 2015, THE DEPARTMENT SHALL NOT SELL ANY STATE-OPERATED REGIONAL CENTERS AND SHALL MAINTAIN AN ADEQUATE NUMBER OF BEDS AT THE REGIONAL CENTERS FOR INDIVIDUALS WHO TRANSITIONED TO THE COMMUNITY WITHIN THE PRECEDING SIX MONTHS, BUT WHO HAVE BEEN IDENTIFIED BY A COMMUNITY-CENTERED BOARD AND THE INDIVIDUAL'S LEGAL GUARDIAN AS HAVING HAD AN UNSUCCESSFUL TRANSITION. THE DEPARTMENT SHALL PERMIT THE INDIVIDUAL TO RETURN TO A STATE-OPERATED REGIONAL CENTER BED PURSUANT TO SECTION 27-10.5-110 AND APPLICABLE FEDERAL LAW.

(12) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2015.

**SECTION 2. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2014, the sum of \$250,000, or so much thereof as may be necessary, for allocation to the special purpose subdivision of the executive director's office for expenses related to the regional center task force and utilization study.

**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: May 31, 2014