

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0722.01 Jane Ritter x4342

HOUSE BILL 15-1269

HOUSE SPONSORSHIP

McCann and Ginal, Landgraf

SENATE SPONSORSHIP

Grantham,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE TRANSFER OF PERSONS WHO CANNOT BE SAFELY**
102 **CONFINED IN THEIR CURRENT FACILITY BETWEEN A**
103 **DEPARTMENT OF CORRECTIONS FACILITY AND A FACILITY**
104 **OPERATED BY THE DEPARTMENT OF HUMAN SERVICES.**

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://www.leg.state.co.us/billsummaries>.)

The bill amends the language in current law relating to the transfer of persons with a mental illness or developmental disability either to or from a facility operated by the department of corrections (DOC facility)

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.*

and a facility operated by the department of human services for treatment of mental illnesses (DHS facility). The department of corrections is required to develop, maintain, and adhere to a policy concerning the provision of due process guarantees for situations where the executive director of the department of corrections believes that a transfer of an inmate from a DOC facility to a DHS facility is necessary because the person cannot be safely confined in the DOC facility.

The bill clarifies that a transfer to a DOC facility from a DHS facility can only occur when the person is serving a sentence to the department of corrections concurrently with a commitment to the department of human services. The bill also clarifies that the department of human services may transfer an inmate back to a DOC facility if the inmate cannot be safely confined in the DHS facility.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-23-101, **amend**
3 (1) and (3) as follows:

4 **17-23-101. Transfer of an inmate who has a mental illness or**
5 **a developmental disability.** (1) (a) The executive director, in
6 coordination with the executive director of the department of human
7 services, ~~is empowered to~~ MAY ONLY transfer an inmate who has a mental
8 illness or developmental disability and WHO cannot be safely confined in
9 a correctional facility to an appropriate facility operated by the
10 department of human services for observation and stabilization IF THE
11 DEPARTMENT OF CORRECTIONS FOLLOWS THE POLICY ESTABLISHED
12 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1). The costs
13 associated with care provided in the facility operated by the department
14 of human services ~~shall continue to be~~ ARE charged to the department of
15 human services.

16 (b) ON OR BEFORE AUGUST 1, 2015, THE DEPARTMENT OF
17 CORRECTIONS SHALL DEVELOP AND MAINTAIN A POLICY THAT PROVIDES
18 FOR DUE PROCESS GUARANTEES PRIOR TO THE TRANSFER OF AN INMATE

1 WHO CANNOT BE SAFELY CONFINED IN A CORRECTIONAL FACILITY TO A
2 FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES FOR
3 OBSERVATION AND STABILIZATION.

4 (3) ~~Except when a~~ THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
5 OF HUMAN SERVICES MAY TRANSFER TO A CORRECTIONAL FACILITY A
6 PERSON WHO IS RECEIVING CARE AT THE COLORADO MENTAL HEALTH
7 INSTITUTE AT PUEBLO OR FORT LOGAN ONLY IF THE person is serving a
8 sentence to the department. ~~concurrently with a commitment to the~~
9 ~~department of human services. a person who is adjudged to have a mental~~
10 ~~illness by a court of competent jurisdiction shall not be transferred to any~~
11 ~~correctional facility, except upon a finding that the person is so dangerous~~
12 ~~that he or she cannot be safely confined in the Colorado mental health~~
13 ~~institute at Pueblo or Fort Logan. A hearing on the dangerousness of the~~
14 ~~patient shall be conducted pursuant to the provisions of section~~
15 ~~17-23-103.~~

16 **SECTION 2.** In Colorado Revised Statutes, **amend** 17-23-102 as
17 follows:

18 **17-23-102. Transfer of recovered inmate.** When the
19 superintendent of ~~any~~ AN institution or facility in which ~~any~~ A person has
20 been placed by transfer from a correctional facility, as provided in section
21 17-23-101, is of the opinion that ~~said~~ THE person is stabilized OR CANNOT
22 BE SAFELY CONFINED IN THE INSTITUTION OR FACILITY, it is the duty of
23 ~~said~~ THE superintendent to give written notice of such recovery OR
24 SAFETY CONCERNS to the executive director who shall transfer ~~said~~ THE
25 person to the place of former commitment for the purpose of serving out
26 ~~said person's~~ HIS OR HER sentence, if the same has not expired.

27 **SECTION 3.** In Colorado Revised Statutes, **repeal** 17-23-103.

1 **SECTION 4. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.