An Act

HOUSE BILL 15-1269

BY REPRESENTATIVE(S) McCann and Ginal, Landgraf, Becker K., Esgar, Fields, Garnett, Kraft-Tharp, Lebsock, Lontine, Melton, Moreno, Pettersen, Primavera, Rosenthal, Ryden, Vigil, Williams, Young;
also SENATOR(S) Grantham, Aguilar, Guzman, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Newell, Steadman, Todd.

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

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

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

17-23-101. Transfer of an inmate who has a mental illness or a developmental disability. (1) (a) The executive director, in coordination with the executive director of the department of human services, ~~is empowered to~~ MAY ONLY transfer an inmate who has a mental illness or developmental disability and WHO cannot be safely confined in a correctional facility to an appropriate facility operated by the department of human services for observation and stabilization IF THE DEPARTMENT OF

CORRECTIONS FOLLOWS THE POLICY ESTABLISHED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1). The costs associated with care provided in the facility operated by the department of human services ~~shall continue to be~~ ARE charged to the department of human services.

(b) ON OR BEFORE AUGUST 1, 2015, THE DEPARTMENT OF CORRECTIONS SHALL DEVELOP AND MAINTAIN A POLICY THAT PROVIDES FOR DUE PROCESS GUARANTEES PRIOR TO THE TRANSFER OF AN INMATE WHO CANNOT BE SAFELY CONFINED IN A CORRECTIONAL FACILITY TO A FACILITY OPERATED BY THE DEPARTMENT OF HUMAN SERVICES FOR OBSERVATION AND STABILIZATION.

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

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

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

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

SECTION 4. 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.

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Dickey Lee Hullinghorst   Bill L. Cadman
SPEAKER OF THE HOUSE   PRESIDENT OF
OF REPRESENTATIVES   THE SENATE

_____   _____
Marilyn Eddins   Cindi L. Markwell
CHIEF CLERK OF THE HOUSE   SECRETARY OF
OF REPRESENTATIVES   THE SENATE

      APPROVED_____

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John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO