

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-0773.01 Jane Ritter x4342

HOUSE BILL 14-1271

HOUSE SPONSORSHIP

Melton, Buckner, Fields, Williams

SENATE SPONSORSHIP

Newell,

House Committees
Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EXTENDING A MENTAL HEALTH PROVIDER'S DUTY TO**
102 **WARN TO INCLUDE SPECIFIC ENTITIES THAT, IF PURPOSEFULLY**
103 **DAMAGED OR ATTACKED AS A RESULT OF A MENTAL HEALTH**
104 **PATIENT'S VIOLENT BEHAVIOR, WOULD JEOPARDIZE PUBLIC**
105 **HEALTH AND SAFETY.**

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>.)

Current law grants immunity from liability to a mental health

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.

HOUSE
Amended 2nd Reading
March 5, 2014

provider (provider) who has a duty to warn a specific person or persons when a patient has communicated to the provider a serious threat of imminent physical violence against that person or persons. The bill would extend that immunity and duty to warn to include specific entities that, if purposefully damaged or attacked as a result of a mental health patient's violence, would jeopardize public health and safety if the patient has communicated to the provider a serious threat of imminent physical violence against that entity.


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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 13-21-117 as follows:

4 **13-21-117. Civil liability - mental health providers - duty to**
5 **warn - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "MENTAL HEALTH PROVIDER" MEANS A PHYSICIAN, SOCIAL
8 WORKER, PSYCHIATRIC NURSE, PSYCHOLOGIST, OR OTHER MENTAL HEALTH
9 PROFESSIONAL, OR A MENTAL HEALTH HOSPITAL, COMMUNITY MENTAL
10 HEALTH CENTER OR CLINIC, INSTITUTION, OR THEIR STAFF.

11 (b) "PSYCHIATRIC NURSE" MEANS A REGISTERED PROFESSIONAL
12 NURSE AS DEFINED IN SECTION 12-38-103 (11), C.R.S., WHO BY VIRTUE OF
13 POSTGRADUATE EDUCATION AND ADDITIONAL NURSING PREPARATION HAS
14 GAINED KNOWLEDGE, JUDGMENT, AND SKILL IN PSYCHIATRIC OR MENTAL
15 HEALTH NURSING.

16 

17 (2) (a) A MENTAL HEALTH PROVIDER IS NOT LIABLE FOR DAMAGES
18 IN ANY CIVIL ACTION FOR FAILURE TO WARN OR PROTECT A SPECIFIC
19 PERSON OR PERSONS, INCLUDING THOSE IDENTIFIABLE BY THEIR
20 ASSOCIATION WITH A SPECIFIC LOCATION OR ENTITY, AGAINST THE
21 VIOLENT BEHAVIOR OF A PERSON RECEIVING TREATMENT FROM THE

1 MENTAL HEALTH PROVIDER, AND ANY SUCH MENTAL HEALTH PROVIDER
2 MUST NOT BE HELD CIVILLY LIABLE FOR FAILURE TO PREDICT SUCH
3 VIOLENT BEHAVIOR EXCEPT WHERE THE PATIENT HAS COMMUNICATED TO
4 THE MENTAL HEALTH PROVIDER A SERIOUS THREAT OF IMMINENT
5 PHYSICAL VIOLENCE AGAINST A SPECIFIC PERSON OR PERSONS, INCLUDING
6 THOSE IDENTIFIABLE BY THEIR ASSOCIATION WITH A SPECIFIC LOCATION
7 OR ENTITY.

8 (b) WHEN THERE IS A DUTY TO WARN AND PROTECT UNDER THE
9 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE MENTAL
10 HEALTH PROVIDER SHALL MAKE REASONABLE AND TIMELY EFFORTS TO
11 NOTIFY THE PERSON OR PERSONS, OR THE PERSON OR PERSONS
12 RESPONSIBLE FOR A SPECIFIC LOCATION OR ENTITY, THAT IS SPECIFICALLY
13 THREATENED, AS WELL AS TO NOTIFY AN APPROPRIATE LAW ENFORCEMENT
14 AGENCY OR TO TAKE OTHER APPROPRIATE ACTION, INCLUDING BUT NOT
15 LIMITED TO HOSPITALIZING THE PATIENT. A MENTAL HEALTH PROVIDER IS
16 NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR WARNING A SPECIFIC
17 PERSON OR PERSONS, OR A PERSON OR PERSONS RESPONSIBLE FOR A
18 SPECIFIC LOCATION OR ENTITY, AGAINST OR PREDICTING THE VIOLENT
19 BEHAVIOR OF A PERSON RECEIVING TREATMENT FROM THE MENTAL
20 HEALTH PROVIDER.

21 (c) A MENTAL HEALTH PROVIDER MUST NOT BE SUBJECT TO
22 PROFESSIONAL DISCIPLINE WHEN THERE IS A DUTY TO WARN AND PROTECT
23 PURSUANT TO THIS SECTION.

24 (3) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE
25 NEGLIGENT RELEASE OF A PATIENT FROM ANY MENTAL HEALTH
26 HOSPITAL OR WARD OR TO THE NEGLIGENT FAILURE TO INITIATE
27 INVOLUNTARY SEVENTY-TWO-HOUR TREATMENT AND EVALUATION AFTER

1 A PERSONAL PATIENT EVALUATION DETERMINING THAT THE PERSON
2 APPEARS TO HAVE A MENTAL ILLNESS AND, AS A RESULT OF THE MENTAL
3 ILLNESS, APPEARS TO BE AN IMMINENT DANGER TO OTHERS.

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