

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 13-0228.02 Jane Ritter x4342

HOUSE BILL 13-1296

HOUSE SPONSORSHIP

McCann and Kraft-Tharp,

SENATE SPONSORSHIP

Newell,

House Committees

Health, Insurance & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CIVIL COMMITMENT STATUTES, AND, IN CONNECTION**
102 **THEREWITH, CREATING THE CIVIL COMMITMENT STATUTE**
103 **REVIEW TASK FORCE AND REDEFINING CERTAIN TERMS RELATED**
104 **TO CIVIL COMMITMENT.**

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 creates the civil commitment statute review task force (task force). The membership and duties of the task force are detailed.

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 3rd Reading
April 19, 2013

HOUSE
Amended 2nd Reading
April 18, 2013

The bill also adds a definition of "danger to self and others" and amends the current definition of "gravely disabled", as those definitions relate to civil commitments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 27-60-102 as
3 follows:

4 **27-60-102. Civil commitment statute review task force -**
5 **legislative declaration- creation - duties - repeal.** (1) THERE IS HEREBY
6 CREATED THE CIVIL COMMITMENT STATUTE REVIEW TASK FORCE,
7 REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL MEET
8 DURING THE INTERIM AFTER THE FIRST REGULAR SESSION OF THE
9 SIXTY-NINTH GENERAL ASSEMBLY.

10 (2) THE TASK FORCE SHALL STUDY AND PREPARE
11 RECOMMENDATIONS CONCERNING THE IMPLEMENTATION OF THE
12 CONSOLIDATION OF THE MENTAL HEALTH, ALCOHOL, AND SUBSTANCE USE
13 DISORDER STATUTES RELATED TO CIVIL COMMITMENTS. AT A MINIMUM,
14 THE TASK FORCE SHALL STUDY AND MAKE SPECIFIC RECOMMENDATIONS
15 ON THE FOLLOWING ISSUES:

16 (a) THE METHOD BY WHICH THE MENTAL HEALTH, ALCOHOL, AND
17 SUBSTANCE USE DISORDER STATUTES RELATED TO CIVIL COMMITMENT
18 CAN BE CONSOLIDATED, INCLUDING POTENTIAL CHANGES TO STATUTORY
19 LANGUAGE AND THE PROMULGATION OF RULES, IF NECESSARY;

20 (b) THE EFFECT ON DETOXIFICATION FACILITIES AND EMERGENCY
21 HOLDS BY THE CONSOLIDATION OF THE MENTAL HEALTH, ALCOHOL, AND
22 SUBSTANCE USE DISORDER STATUTES RELATED TO CIVIL COMMITMENT;

23 (c) INVOLUNTARY COMMITMENT FOR TREATMENT;

24 (d) ALIGNMENT OF THE CIVIL COMMITMENT STATUTES WITH THE

1 STATEWIDE BEHAVIORAL HEALTH CRISIS SERVICES DELIVERY SYSTEM;

2 (e) THE NEED TO CLARIFY AND CODIFY DEFINITIONS IN THE

3 BEHAVIORAL HEALTH STATUTES, INCLUDING BUT NOT LIMITED TO

4 "ADVANCED DIRECTIVES FOR PERSONS WITH BEHAVIORAL HEALTH

5 ILLNESSES", AND, AS THEY RELATE TO SUBSTANCE USE DISORDERS, THE

6 TERMS "DANGER TO SELF OR OTHERS"; AND "GRAVELY DISABLED";

7 (f) THE LENGTH OF EMERGENCY AND LONG-TERM COMMITMENTS;

8 (g) PATIENT RIGHTS AND ADVOCACY RESOURCES; AND

9 (h) ANY OTHER ISSUES THE TASK FORCE DEEMS RELEVANT.

10 (3) (a) THE TASK FORCE WILL CONSIST OF THE FOLLOWING

11 TWENTY-NINE MEMBERS, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR

12 OF THE DEPARTMENT OF HUMAN SERVICES OR HIS OR HER DESIGNEE, WITH

13 THE EXCEPTION OF THE LEGISLATIVE APPOINTEES:

14 (I) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION

15 OF SOCIAL WORKERS;

16 (II) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION

17 OF LICENSED PSYCHIATRISTS;

18 (III) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION

19 OF PHYSICIANS;

20 (IV) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION

21 OF SUBSTANCE USE DISORDERS PROFESSIONALS;

22 (V) ONE MEMBER WHO REPRESENTS A STATEWIDE ASSOCIATION OF

23 COMMUNITY BEHAVIORAL HEALTH PROVIDERS;

24 (VI) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION

25 OF HOSPITALS;

26 (VII) ONE MEMBER WHO REPRESENTS A COMMUNITY SUBSTANCE

27 USE DISORDER PROVIDER;

1 (VIII) ONE MEMBER WHO REPRESENTS A STATEWIDE
2 ORGANIZATION OF PERSONS WHO PROVIDE LEGAL ADVICE TO AT-RISK
3 ADULTS;

4 (IX) ONE MEMBER WHO REPRESENTS AN ASSOCIATION WITH
5 EXPERIENCE IN CIVIL RIGHTS;

6 (X) TWO MEMBERS WHO REPRESENT STATEWIDE ORGANIZATIONS
7 THAT ADVOCATE ON BEHALF OF PERSONS WITH BEHAVIORAL HEALTH
8 DISORDERS;

9 (XI) ONE MEMBER WHO ADVOCATES ON BEHALF OF PERSONS WITH
10 BEHAVIORAL HEALTH DISORDERS BUT DOES NOT REPRESENT A STATEWIDE
11 ORGANIZATION;

12 (XII) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT
13 ADVOCATES ON BEHALF OF CHILDREN AND ADOLESCENTS;

14 (XIII) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT
15 ADVOCATES ON BEHALF OF OLDER ADULTS;

16 (XIV) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT
17 ADVOCATES ON BEHALF OF PERSONS WITH PHYSICAL DISABILITIES;

18 (XV) TWO MEMBERS WHO REPRESENT STATEWIDE ORGANIZATIONS
19 OF LAW ENFORCEMENT OR PEACE OFFICERS, ONE MEMBER BEING A SHERIFF
20 AND ONE MEMBER BEING A POLICE CHIEF;

21 (XVI) ONE MEMBER WHO REPRESENTS CITY OR COUNTY
22 ATTORNEYS;

23 (XVII) ONE MEMBER WHO REPRESENTS AN ENTITY THAT PROVIDES
24 MEDICAL MALPRACTICE INSURANCE;

25 (XVIII) ONE MEMBER WHO REPRESENTS A STATEWIDE
26 ORGANIZATION OF COUNTIES;

27 (XIX) TWO MEMBERS WHO HAVE USED THE SYSTEM IN THE PAST

1 TWO TO FIVE YEARS;

2 (XX) ONE MEMBER WHO REPRESENTS A STATEWIDE
3 ORGANIZATION OF LICENSED PSYCHOLOGISTS;

4 (XXI) ONE MEMBER WHO IS AN ADVANCED PRACTICE NURSE WITH
5 SIGNIFICANT EXPERIENCE IN THE CARE AND TREATMENT OF PERSONS WITH
6 MENTAL HEALTH OR SUBSTANCE USE ISSUES;

7 (XXII) FOUR MEMBERS FROM THE GENERAL ASSEMBLY, TWO
8 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
9 TWO APPOINTED BY THE PRESIDENT OF THE SENATE; THE APPOINTEES FROM
10 EACH CHAMBER MUST BE OF DIFFERENT POLITICAL PARTIES; AND

11 (XXIII) ONE MEMBER WHO IS A STAFF PERSON WITH THE
12 DEPARTMENT OF HUMAN SERVICES.

13 (b) ALL APPOINTMENTS TO THE TASK FORCE MUST BE MADE ON OR
14 BEFORE JUNE 15, 2013.

15 (c) AT THE TIME OF APPOINTMENT, THE EXECUTIVE DIRECTOR OF
16 THE DEPARTMENT OF HUMAN SERVICES, OR HIS OR HER DESIGNEE, SHALL
17 DESIGNATE TWO MEMBERS OF THE TASK FORCE TO SERVE AS CO-CHAIRS OF
18 THE TASK FORCE.

19 (4) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS
20 RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR AND TO THE HEALTH
21 AND HUMAN SERVICES COMMITTEE OF THE SENATE AND PUBLIC HEALTH
22 CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
23 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE
24 NOVEMBER 1, 2013.

25 (5) (a) THE FIRST MEETING OF THE TASK FORCE MUST OCCUR NO
26 LATER THAN JULY 15, 2013, AND THEREAFTER AS NECESSARY.

27 (b) MEETINGS OF THE TASK FORCE SHALL BE PUBLIC MEETINGS.

1 (6) THE TASK FORCE MAY SOLICIT AND ACCEPT REPORTS AND
2 PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE
3 TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE
4 TASK FORCE.

5 (7) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT
6 COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR
7 EXPENSES.

8 (8) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF
9 LEGISLATIVE LEGAL SERVICES SHALL NOT PROVIDE STAFF SUPPORT TO THE
10 TASK FORCE.

11 (9) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2014.

12 **SECTION 2.** In Colorado Revised Statutes, 27-65-102, **amend**
13 (9); and **add** (4.5) as follows:

14 **27-65-102. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (4.5) "DANGER TO SELF OR OTHERS" MEANS:

17 (a) WITH RESPECT TO AN INDIVIDUAL, THAT THE INDIVIDUAL POSES
18 A SUBSTANTIAL RISK OF PHYSICAL HARM TO HIMSELF OR HERSELF AS
19 MANIFESTED BY EVIDENCE OF RECENT THREATS OF OR ATTEMPTS AT
20 SUICIDE OR SERIOUS BODILY HARM TO HIMSELF OR HERSELF; OR

21 (b) WITH RESPECT TO OTHER PERSONS, THAT THE INDIVIDUAL
22 POSES A SUBSTANTIAL RISK OF PHYSICAL HARM TO ANOTHER PERSON OR
23 PERSONS, AS MANIFESTED BY EVIDENCE OF RECENT HOMICIDAL OR OTHER
24 VIOLENT BEHAVIOR BY THE PERSON IN QUESTION, OR BY EVIDENCE THAT
25 OTHERS ARE PLACED IN REASONABLE FEAR OF VIOLENT BEHAVIOR AND
26 SERIOUS PHYSICAL HARM TO THEM, AS EVIDENCED BY A RECENT OVERT
27 ACT, ATTEMPT, OR THREAT TO DO SERIOUS PHYSICAL HARM BY THE

1 PERSON IN QUESTION.

2 (9) (a) "Gravely disabled" means a condition in which a person,
3 as a result of a mental ~~illness~~: HEALTH DISORDER, IS INCAPABLE OF
4 MAKING INFORMED DECISIONS ABOUT OR PROVIDING FOR HIS OR HER
5 ESSENTIAL NEEDS WITHOUT SIGNIFICANT SUPERVISION AND ASSISTANCE
6 FROM OTHER PEOPLE. AS A RESULT OF BEING INCAPABLE OF MAKING THESE
7 INFORMED DECISIONS, A PERSON WHO IS GRAVELY DISABLED IS AT RISK OF
8 SUBSTANTIAL BODILY HARM, DANGEROUS WORSENING OF ANY
9 CONCOMITANT SERIOUS PHYSICAL ILLNESS, SIGNIFICANT PSYCHIATRIC
10 DETERIORATION, OR MISMANAGEMENT OF HIS OR HER ESSENTIAL NEEDS
11 THAT COULD RESULT IN SUBSTANTIAL BODILY HARM. A PERSON OF ANY
12 AGE MAY BE "GRAVELY DISABLED", BUT SUCH TERM DOES NOT INCLUDE
13 A PERSON WHOSE DECISION-MAKING CAPABILITIES ARE LIMITED SOLELY BY
14 HIS OR HER DEVELOPMENTAL DISABILITY.

15 ~~(I) Is in danger of serious physical harm due to his or her inability~~
16 ~~or failure to provide himself or herself with the essential human needs of~~
17 ~~food, clothing, shelter, and medical care; or~~

18 ~~(II) Lacks judgment in the management of his or her resources and~~
19 ~~in the conduct of his or her social relations to the extent that his or her~~
20 ~~health or safety is significantly endangered and lacks the capacity to~~
21 ~~understand that this is so.~~

22 ~~(b) A person who, because of care provided by a family member~~
23 ~~or by an individual with a similar relationship to the person, is not in~~
24 ~~danger of serious physical harm or is not significantly endangered in~~
25 ~~accordance with paragraph (a) of this subsection (9) may be deemed~~
26 ~~"gravely disabled" if there is notice given that the support given by the~~
27 ~~family member or other individual who has a similar relationship to the~~

1 person is to be terminated and the individual with a mental illness:

2 ~~(I) Is diagnosed by a professional person as suffering from:~~
3 ~~Schizophrenia; a major affective disorder; a delusional disorder; or~~
4 ~~another mental disorder with psychotic features; and~~

5 ~~(II) Has been certified, pursuant to this article, for treatment of the~~
6 ~~disorder or has been admitted as an inpatient to a treatment facility for~~
7 ~~treatment of the disorder at least twice during the last thirty-six months~~
8 ~~with a period of at least thirty days between certifications or admissions;~~
9 ~~and~~

10 ~~(III) Is exhibiting a deteriorating course leading toward danger to~~
11 ~~self or others or toward the conditions described in paragraph (a) of this~~
12 ~~subsection (9) with symptoms and behavior that are substantially similar~~
13 ~~to those that preceded and were associated with his or her hospital~~
14 ~~admissions or certifications for treatment; and~~

15 ~~(IV) Is not receiving treatment that is essential for his or her~~
16 ~~health or safety.~~

17 ~~(c) A person of any age may be "gravely disabled", but such term~~
18 ~~shall not include a person who has a developmental disability by reason~~
19 ~~of the person's developmental disability alone.~~

20 ~~(d) For purposes of paragraph (b) of this subsection (9), an~~
21 ~~individual with a relationship to a person that is similar to that of a family~~
22 ~~member shall not include an employee or agent of a boarding home or~~
23 ~~treatment facility.~~

24 **SECTION 3. Effective date.** (1) Except as provided in subsection
25 (2) of this section, this act takes effect upon passage.

26 (2) Section 2 of this act takes effect July 1, 2014.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.