

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

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

Finance

Legislative Council

Appropriations

A BILL FOR AN ACT

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

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.

SENATE
Amended 2nd Reading
May 6, 2013

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) THE TASK FORCE SHALL STUDY THE DEFINITION OF "DANGER TO
11 SELF OR OTHERS" AS SET FORTH IN SECTION 27-65-102 (4.5) AND SHALL
12 CONSIDER THE CIVIL LIBERTIES AND PUBLIC SAFETY CONCERNS OF THAT
13 DEFINITION. UPON A MAJORITY OF THE TASK FORCE MEMBERS VOTING TO
14 RATIFY THE DEFINITION SET FORTH IN SECTION 27-65-102 (4.5), THE TASK
15 FORCE SHALL SUBMIT A LETTER STATING AS SUCH TO THE EXECUTIVE
16 DIRECTOR AND THE REVISOR OF STATUTES NO LATER THAN NOVEMBER 1,
17 2013.

18 (4) (a) THE TASK FORCE WILL CONSIST OF THE FOLLOWING THIRTY
19 MEMBERS, TO BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
20 DEPARTMENT OF HUMAN SERVICES OR HIS OR HER DESIGNEE, WITH THE
21 EXCEPTION OF THE LEGISLATIVE APPOINTEES:

22 (I) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION
23 OF SOCIAL WORKERS;

24 (II) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION
25 OF LICENSED PSYCHIATRISTS;

26 (III) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION
27 OF PHYSICIANS;

1 (IV) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION
2 OF SUBSTANCE USE DISORDERS PROFESSIONALS;

3 (V) ONE MEMBER WHO REPRESENTS A STATEWIDE ASSOCIATION OF
4 COMMUNITY BEHAVIORAL HEALTH PROVIDERS;

5 (VI) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION
6 OF HOSPITALS;

7 (VII) ONE MEMBER WHO REPRESENTS A COMMUNITY SUBSTANCE
8 USE DISORDER PROVIDER;

9 (VIII) ONE MEMBER WHO REPRESENTS A STATEWIDE
10 ORGANIZATION OF PERSONS WHO PROVIDE LEGAL ADVICE TO AT-RISK
11 ADULTS;

12 (IX) TWO MEMBERS WHO REPRESENT AN ASSOCIATION WITH
13 EXPERIENCE IN CIVIL RIGHTS;

14 (X) TWO MEMBERS WHO REPRESENT STATEWIDE ORGANIZATIONS
15 THAT ADVOCATE ON BEHALF OF PERSONS WITH BEHAVIORAL HEALTH
16 DISORDERS;

17 (XI) ONE MEMBER WHO ADVOCATES ON BEHALF OF PERSONS WITH
18 BEHAVIORAL HEALTH DISORDERS BUT DOES NOT REPRESENT A STATEWIDE
19 ORGANIZATION;

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

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

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

26 (XV) TWO MEMBERS WHO REPRESENT STATEWIDE ORGANIZATIONS
27 OF LAW ENFORCEMENT OR PEACE OFFICERS, ONE MEMBER BEING A SHERIFF

1 AND ONE MEMBER BEING A POLICE CHIEF;

2 (XVI) ONE MEMBER WHO REPRESENTS CITY OR COUNTY
3 ATTORNEYS;

4 (XVII) ONE MEMBER WHO REPRESENTS AN ENTITY THAT PROVIDES
5 MEDICAL MALPRACTICE INSURANCE;

6 (XVIII) ONE MEMBER WHO REPRESENTS A STATEWIDE
7 ORGANIZATION OF COUNTIES;

8 (XIX) TWO MEMBERS WHO HAVE USED THE SYSTEM IN THE PAST
9 TWO TO FIVE YEARS;

10 (XX) ONE MEMBER WHO REPRESENTS A STATEWIDE
11 ORGANIZATION OF LICENSED PSYCHOLOGISTS;

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

15 (XXII) FOUR MEMBERS FROM THE GENERAL ASSEMBLY, TWO
16 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND
17 TWO APPOINTED BY THE PRESIDENT OF THE SENATE; THE APPOINTEES FROM
18 EACH CHAMBER MUST BE OF DIFFERENT POLITICAL PARTIES; AND

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

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

23 (c) AT THE TIME OF APPOINTMENT, THE EXECUTIVE DIRECTOR OF
24 THE DEPARTMENT OF HUMAN SERVICES, OR HIS OR HER DESIGNEE, SHALL
25 DESIGNATE TWO MEMBERS OF THE TASK FORCE TO SERVE AS CO-CHAIRS OF
26 THE TASK FORCE.

27 (d) THE LEGISLATIVE MEMBERS OF THE COMMITTEE SHALL BE

1 COMPENSATED FOR ATTENDANCE AT MEETINGS OF THE COMMITTEE AND
2 SHALL RECEIVE REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES
3 INCURRED IN THE PERFORMANCE OF THEIR DUTIES AS MEMBERS OF THE
4 COMMITTEE, AS PROVIDED IN SECTION 2-2-307, C.R.S. THE TOTAL
5 AMOUNT AVAILABLE FOR REIMBURSEMENT AND COMPENSATION
6 PURSUANT TO THIS PARAGRAPH (d) SHALL NOT EXCEED FIVE THOUSAND
7 DOLLARS.

8 (5) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS
9 RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR AND TO THE HEALTH
10 AND HUMAN SERVICES COMMITTEE OF THE SENATE AND PUBLIC HEALTH
11 CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
12 REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE
13 NOVEMBER 1, 2013.

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

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

17 (7) THE TASK FORCE MAY SOLICIT AND ACCEPT REPORTS AND
18 PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE
19 TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE
20 TASK FORCE.

21 (8) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT
22 COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR
23 EXPENSES.

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

27 (10) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2014.

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

3 **27-65-102. Definitions.** As used in this article, unless the context
4 otherwise requires:

5 (4.5) "DANGER TO SELF OR OTHERS" MEANS:

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

10 (b) WITH RESPECT TO OTHER PERSONS, THAT THE INDIVIDUAL
11 POSES A SUBSTANTIAL RISK OF PHYSICAL HARM TO ANOTHER PERSON OR
12 PERSONS, AS MANIFESTED BY EVIDENCE OF RECENT HOMICIDAL OR OTHER
13 VIOLENT BEHAVIOR BY THE PERSON IN QUESTION, OR BY EVIDENCE THAT
14 OTHERS ARE PLACED IN REASONABLE FEAR OF VIOLENT BEHAVIOR AND
15 SERIOUS PHYSICAL HARM TO THEM, AS EVIDENCED BY A RECENT OVERT
16 ACT, ATTEMPT, OR THREAT TO DO SERIOUS PHYSICAL HARM BY THE
17 PERSON IN QUESTION.

18 (9) ~~(a)~~ "Gravely disabled" means a condition in which a person,
19 as a result of a mental ~~illness~~: HEALTH DISORDER, IS INCAPABLE OF
20 MAKING INFORMED DECISIONS ABOUT OR PROVIDING FOR HIS OR HER
21 ESSENTIAL NEEDS WITHOUT SIGNIFICANT SUPERVISION AND ASSISTANCE
22 FROM OTHER PEOPLE. AS A RESULT OF BEING INCAPABLE OF MAKING THESE
23 INFORMED DECISIONS, A PERSON WHO IS GRAVELY DISABLED IS AT RISK OF
24 SUBSTANTIAL BODILY HARM, DANGEROUS WORSENING OF ANY
25 CONCOMITANT SERIOUS PHYSICAL ILLNESS, SIGNIFICANT PSYCHIATRIC
26 DETERIORATION, OR MISMANAGEMENT OF HIS OR HER ESSENTIAL NEEDS
27 THAT COULD RESULT IN SUBSTANTIAL BODILY HARM. A PERSON OF ANY

1 AGE MAY BE "GRAVELY DISABLED", BUT SUCH TERM DOES NOT INCLUDE
2 A PERSON WHOSE DECISION-MAKING CAPABILITIES ARE LIMITED SOLELY BY
3 HIS OR HER DEVELOPMENTAL DISABILITY.

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

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

11 ~~(b) A person who, because of care provided by a family member~~
12 ~~or by an individual with a similar relationship to the person, is not in~~
13 ~~danger of serious physical harm or is not significantly endangered in~~
14 ~~accordance with paragraph (a) of this subsection (9) may be deemed~~
15 ~~"gravely disabled" if there is notice given that the support given by the~~
16 ~~family member or other individual who has a similar relationship to the~~
17 ~~person is to be terminated and the individual with a mental illness:~~

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

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

26 ~~(III) Is exhibiting a deteriorating course leading toward danger to~~
27 ~~self or others or toward the conditions described in paragraph (a) of this~~

1 subsection (9) with symptoms and behavior that are substantially similar
2 to those that preceded and were associated with his or her hospital
3 admissions or certifications for treatment; and

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

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

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

13 **SECTION 3. Appropriation.** In addition to any other
14 appropriation, there is hereby appropriated to the legislative department,
15 for the fiscal year beginning July 1, 2013, the sum of \$5,000, or so much
16 thereof as may be necessary, for allocation to legislative council, for
17 reimbursement and compensation of task force members related to the
18 implementation of this act. Said sum is from reappropriated funds
19 received from the department of human services' executive director's
20 office.

21 **SECTION 4. Effective date.** (1) Except as provided in
22 subsection (2) of this section, this act takes effect upon passage.

23 (2) Section 2 of this act takes effect July 1, 2014; except that
24 section 27-65-102 (4.5), Colorado Revised Statutes, as added in section
25 2 of this act, shall only take effect upon the receipt of the letter to the
26 Revisor of Statutes required by section 27-60-102 (3), Colorado Revised
27 Statutes. If such letter is not received by November 1, 2013, section

1 27-65-102 (4.5) shall not take effect.

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