

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 13-1296

BY REPRESENTATIVE(S) McCann and Kraft-Tharp, Court, Fields, Hullinghorst, Labuda, Pabon, Primavera, Ryden, Young, Gardner, Gerou, Kagan, Peniston, Pettersen, Schafer, Singer;
also SENATOR(S) Newell, Hudak, Jahn, Todd.

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

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

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

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

(2) THE TASK FORCE SHALL STUDY AND PREPARE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RECOMMENDATIONS CONCERNING THE IMPLEMENTATION OF THE CONSOLIDATION OF THE MENTAL HEALTH, ALCOHOL, AND SUBSTANCE USE DISORDER STATUTES RELATED TO CIVIL COMMITMENTS. AT A MINIMUM, THE TASK FORCE SHALL STUDY AND MAKE SPECIFIC RECOMMENDATIONS ON THE FOLLOWING ISSUES:

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

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

(c) INVOLUNTARY COMMITMENT FOR TREATMENT;

(d) ALIGNMENT OF THE CIVIL COMMITMENT STATUTES WITH THE STATEWIDE BEHAVIORAL HEALTH CRISIS SERVICES DELIVERY SYSTEM;

(e) THE NEED TO CLARIFY AND CODIFY DEFINITIONS IN THE BEHAVIORAL HEALTH STATUTES, INCLUDING BUT NOT LIMITED TO "ADVANCED DIRECTIVES FOR PERSONS WITH BEHAVIORAL HEALTH ILLNESSES", AND, AS THEY RELATE TO SUBSTANCE USE DISORDERS, THE TERMS "DANGER TO SELF OR OTHERS"; AND "GRAVELY DISABLED";

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

(g) PATIENT RIGHTS AND ADVOCACY RESOURCES; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ALL APPOINTMENTS TO THE TASK FORCE MUST BE MADE ON OR

BEFORE JUNE 15, 2013.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(H) Lacks judgment in the management of his or her resources and~~

~~in the conduct of his or her social relations to the extent that his or her health or safety is significantly endangered and lacks the capacity to understand that this is so.~~

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

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

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

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

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

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

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

SECTION 3. Appropriation. In addition to any other

appropriation, there is hereby appropriated to the legislative department, for the fiscal year beginning July 1, 2013, the sum of \$5,000, or so much thereof as may be necessary, for allocation to legislative council, for reimbursement and compensation of task force members related to the implementation of this act. Said sum is from reappropriated funds received from the department of human services' executive director's office.

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

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

SECTION 5. 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.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John P. Morse
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO