

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 22-0814.01 Jerry Barry x4341

HOUSE BILL 22-1303

HOUSE SPONSORSHIP

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House Committees

Public & Behavioral Health & Human Services
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE NUMBER OF RESIDENTIAL**
102 **BEHAVIORAL HEALTH BEDS, AND, IN CONNECTION THEREWITH,**
103 **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://leg.colorado.gov/>.)

The bill requires the department of human services (department) to renovate a building at the mental health institute at Fort Logan to create at least 16 additional civil beds for persons in need of residential behavioral health treatment. The bill authorizes the new beds to be used for persons needing competency restoration services until the backlog of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 9, 2022

SENATE
Amended 2nd Reading
May 6, 2022

HOUSE
3rd Reading Unamended
April 20, 2022

HOUSE
Amended 2nd Reading
April 19, 2022

such persons is eliminated.

The bill also directs the department and the department of health care policy and financing to create, develop, or contract to add at least 125 additional beds at mental health residential treatment facilities (treatment facilities) throughout the state for adults in need of ongoing supportive services. The bill requires treatment facilities to be licensed by the department of public health and environment as an assisted living facility or by the department as a behavioral health entity during the 2022-23 state fiscal year. Starting in the 2023-24 state fiscal year, the treatment facilities must be licensed by the behavioral health administration.

The bill appropriates \$65 million for the renovation of the building and the creation, development, or contracting for the new beds at treatment facilities.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) During the COVID-19 pandemic, adults with behavioral health
5 needs have faced unprecedented challenges;

6 (b) During this time, adults and their families have needed
7 increased availability of behavioral and mental health care, including
8 residential beds;

9 (c) At least one hundred twenty-five additional residential beds for
10 adults with severe mental illness or urgent behavioral health needs that
11 require long-term services and supports or immediate intervention must
12 be created statewide and made available as long as necessary for
13 stabilization;

14 (d) The Colorado mental health institute at Fort Logan needs
15 sixteen additional beds to serve adults in need of competency services and
16 adults with serious mental illness or chronic behavioral health needs in
17 need of civil commitment;

1 (e) The federal government enacted the "American Rescue Plan
2 Act of 2021" to enable state, local, and tribal governments to provide
3 critical government services in response to the adverse impacts of the
4 COVID-19 pandemic;

5 (f) People with serious mental illness are in need of longer-term
6 treatment and stabilization services in their communities;

7 (g) The residential beds funded by this act are appropriate uses
8 of the federal money transferred to Colorado under the "American Rescue
9 Plan Act". This funding will expand access to residential beds; and

10 (h) The services described in this act are critical government
11 services.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 27-94-107 as
13 follows:

14 **27-94-107. Renovation for additional beds.** (1) THE
15 DEPARTMENT OF HUMAN SERVICES SHALL RENOVATE A BUILDING AT THE
16 CENTER TO ADD AT LEAST SIXTEEN INPATIENT BEDS. THE DEPARTMENT
17 SHALL SPEND OR OBLIGATE ALL MONEY APPROPRIATED FOR THE
18 RENOVATION BY DECEMBER 30, 2024. ANY MONEY OBLIGATED BY
19 DECEMBER 30, 2024, MUST BE EXPENDED BY DECEMBER 30, 2026.

20 (2) INITIALLY, THE BEDS MAY BE USED FOR PERSONS NEEDING
21 COMPETENCY SERVICES. WHEN THE WAIT LIST FOR COMPETENCY SERVICES
22 PROVIDED PURSUANT TO SECTION 16-8.5-111 IS ELIMINATED OR TRENDING
23 SO THAT IT CAN BE REASONABLY BE EXPECTED TO BE ELIMINATED WITHIN
24 ONE YEAR, THE DEPARTMENT OF HUMAN SERVICES SHALL IMPLEMENT A
25 PLAN TO TRANSITION THE BEDS CREATED IN SUBSECTION (1) OF THIS
26 SECTION TO SERVE CIVIL PATIENTS AND IMMEDIATELY NOTIFY THE JOINT
27 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY. WITHIN ONE YEAR

1 AFTER THE NOTIFICATION TO THE JOINT BUDGET COMMITTEE, ALL BEDS
2 CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST SERVE
3 CIVIL PATIENTS.

4 **SECTION 3.** In Colorado Revised Statutes, **add** article 71 of title
5 27 as follows:

6 **ARTICLE 71**

7 **Mental Health Residential Facility**

8 **27-71-101. Legislative declaration.** THE GENERAL ASSEMBLY
9 FINDS AND DECLARES THAT THERE IS AN URGENT NEED FOR
10 COMMUNITY-BASED MENTAL HEALTH RESIDENTIAL BEDS THROUGHOUT
11 THE STATE TO SERVE INDIVIDUALS WHO NEED THE SUPPORT OF A
12 RESIDENTIAL SETTING.

13 **27-71-102. Definitions.** AS USED IN THIS ARTICLE 71, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "ASSISTED LIVING RESIDENCE" HAS THE SAME MEANING AS
16 DEFINED IN SECTION 25-27-102 (1.3).

17 (2) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
18 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED PURSUANT TO
19 SECTION 27-60-203.

20 (3) "BEHAVIORAL HEALTH DISORDER" HAS THE SAME MEANING AS
21 DEFINED IN SECTION 25-27.6-102 (5).

22 (4) "BEHAVIORAL HEALTH ENTITY" HAS THE SAME MEANING AS
23 DEFINED IN SECTION 25-27.6-102 (6).

24 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES.

25 (6) "LEVEL OF CARE" MEANS THE INTENSITY OF EFFORT REQUIRED
26 TO DIAGNOSE, PRESERVE, OR MAINTAIN AN INDIVIDUAL'S PHYSICAL OR
27 EMOTIONAL STATUS, WITH CONSIDERATION TOWARDS CREATING A

1 MINIMALLY RESTRICTIVE AND HOMELIKE ENVIRONMENT, WHEN FEASIBLE
2 AND SAFE.

3 (7) "LONG TERM FACILITY" MEANS A RESIDENTIAL FACILITY
4 OPERATED BY A BEHAVIORAL HEALTH ENTITY OR ASSISTED LIVING
5 RESIDENCE WITH THE INTENT TO SUPPORT, STABILIZE, AND PROMOTE
6 LONG-LASTING RECOVERY BY PROVIDING THE APPROPRIATE LEVEL OF
7 CARE TO PATIENTS WITH MENTAL HEALTH DISORDERS.

8 (8) "MENTAL HEALTH RESIDENTIAL FACILITY" OR "MENTAL
9 HEALTH FACILITY" MEANS A RESIDENTIAL MENTAL HEALTH FACILITY
10 OPERATED BY A BEHAVIORAL HEALTH ENTITY OR AN ASSISTED LIVING
11 RESIDENCE TO SERVE INDIVIDUALS WITH A MENTAL HEALTH DISORDER
12 WHO NEED THE SUPPORT OF A LONG-TERM RESIDENTIAL SETTING
13 INCLUDING PERSONS COMING FROM A:

14 (a) COLORADO MENTAL HEALTH INSTITUTE;

15 (b) HOSPITAL DESIGNATED AS A PLACEMENT FACILITY FOR
16 SEVENTY-TWO HOUR EVALUATION AND TREATMENT, AND SHORT-TERM
17 AND LONG-TERM SUPPORT;

18 (c) COMMUNITY BEHAVIORAL HEALTH SAFETY NET PROVIDER;

19 (d) WALK-IN CRISIS CENTER, CRISIS STABILIZATION UNIT, OR
20 ACUTE TREATMENT UNIT OPERATING AS PART OF THE BEHAVIORAL HEALTH
21 CRISIS RESPONSE SYSTEM; OR

22 (e) HOSPITAL EMERGENCY ROOM.

23 **27-71-103. Mental health residential facilities - additional**
24 **beds.** (1) (a) ON OR BEFORE JULY 1, 2024, THE DEPARTMENT AND THE
25 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL JOINTLY
26 CREATE, DEVELOP, OR CONTRACT, WHICH MAY INCLUDE THE COST OF
27 RENOVATION AT PRIVATE FACILITIES, FOR AT LEAST AN ADDITIONAL ONE

1 HUNDRED AND TWENTY-FIVE BEDS AT MENTAL HEALTH RESIDENTIAL
2 FACILITIES THROUGHOUT THE STATE BASED ON THE GREATEST AREAS OF
3 NEED. THE BEDS IN THE MENTAL HEALTH FACILITIES ARE AVAILABLE FOR
4 ADULT INDIVIDUALS IN NEED OF ONGOING SUPPORTIVE SERVICES, BUT
5 INDIVIDUALS WITH A SEVERE MENTAL ILLNESS OR A DUAL DIAGNOSIS OF
6 MENTAL ILLNESS AND ALCOHOL OR SUBSTANCE USE DISORDER MUST BE
7 PRIORITIZED. WHEN AVAILABLE, THE DEPARTMENT SHALL USE EXISTING
8 DEPARTMENT PROPERTIES FOR THE MENTAL HEALTH FACILITIES.

9 (b) AT A MINIMUM, THE DEPARTMENT SHALL ENSURE THAT THE
10 MENTAL HEALTH RESIDENTIAL FACILITIES OFFER THE FOLLOWING
11 SERVICES:

12 (I) ASSISTANCE WITH MEDICATION;

13 (II) DIRECT SUPPORT PERSONNEL INCLUDING ASSISTANCE WITH
14 ACTIVITIES OF DAILY LIVING;

15 (III) INTENSIVE CASE MANAGEMENT SERVICES;

16 (IV) LIFE SKILLS TRAINING; AND

17 (V) NON-MEDICAL TRANSPORTATION.

18 (c) THE DEPARTMENT AND THE DEPARTMENT OF HEALTH CARE
19 POLICY AND FINANCING SHALL WORK COLLABORATIVELY TO ENSURE THE
20 BEDS IN THE MENTAL HEALTH FACILITIES ARE ELIGIBLE FOR FEDERAL
21 FUNDING THROUGH THE MEDICAL ASSISTANCE PROGRAM.

22 (2) (a) THE BEDS AT THE MENTAL HEALTH FACILITIES CREATED
23 PURSUANT TO THIS SECTION ARE INTENDED PRIMARILY FOR ADULT
24 INDIVIDUALS WITH SERIOUS MENTAL ILLNESS OR A CO-OCCURRING MENTAL
25 HEALTH AND SUBSTANCE USE DISORDER IN NEED OF SERVICES. A MENTAL
26 HEALTH FACILITY MAY ALSO PROVIDE SERVICES TO AN INDIVIDUAL IN
27 NEED OF COMPETENCY RESTORATION PURSUANT TO ARTICLE 8.5 OF TITLE

1 16 WHO DOES NOT REQUIRE IMPRISONMENT IN A JAIL.

2 (b) THE DEPARTMENT, IN COLLABORATION WITH THE BEHAVIORAL
3 HEALTH ADMINISTRATION AND THE DEPARTMENT OF HEALTH CARE POLICY
4 AND FINANCING, SHALL PRIORITIZE PLACEMENT FOR INDIVIDUALS IN THE
5 CIVIL SYSTEM WHO ARE LEAVING THE MENTAL HEALTH INSTITUTES AT
6 PUEBLO AND FORT LOGAN, CIVIL INDIVIDUALS BEING DISCHARGED FROM
7 INPATIENT SETTINGS, INDIVIDUALS RECEIVING INVOLUNTARY MENTAL
8 HEALTH TREATMENT PURSUANT TO ARTICLE 65 OF THIS TITLE 27, AND
9 CIVIL INDIVIDUALS IN NEED OF RESIDENTIAL SERVICES WHO ARE IN A
10 MENTAL HEALTH CRISIS FACILITY, ACUTE CARE HOSPITAL, OR IN THE
11 COMMUNITY.

12 (c) THE STATE DEPARTMENT, IN COLLABORATION WITH THE
13 BEHAVIORAL HEALTH ADMINISTRATION AND THE DEPARTMENT OF HEALTH
14 CARE POLICY AND FINANCING, SHALL ESTABLISH CRITERIA FOR
15 ADMISSIONS AND DISCHARGE PLANNING, QUALITY ASSURANCE
16 MONITORING, APPROPRIATE LENGTH OF STAY, AND COMPLIANCE WITH
17 APPLICABLE FEDERAL LAW. FOR THE MENTAL HEALTH RESIDENTIAL
18 FACILITIES CREATED PURSUANT TO THIS SECTION, ADMISSION CRITERIA
19 FOR FACILITIES MUST INCLUDE:

20 (I) PRIORITIZATION OF PEOPLE WITH SERIOUS MENTAL ILLNESS
21 WHO HAVE COMPLEX OR CO-OCCURRING CONDITIONS AS DEFINED BY THE
22 STATE DEPARTMENT; AND

23 (II) FOR TREATMENT BEDS THAT DO NOT SERVE INDIVIDUALS
24 COVERED UNDER A HOME- AND COMMUNITY-BASED WAIVER, OFFERING
25 PRIORITY PLACEMENT TO INDIVIDUALS UNDER A CERTIFICATION FOR
26 SHORT-TERM OR EXTENDED SHORT-TERM TREATMENT PURSUANT TO
27 SECTION 27-65-107 OR 27-65-108 AND LONG-TERM CARE AND TREATMENT

1 PURSUANT TO SECTION 27-65-109 ON AN OUTPATIENT BASIS.

2 (d) THE STATE DEPARTMENT SHALL COLLABORATE WITH
3 RELEVANT STAKEHOLDERS WHEN ESTABLISHING THE CRITERIA DESCRIBED
4 IN SUBSECTION (2)(c) OF THIS SECTION.

5 (3) THE DEPARTMENT SHALL DISTRIBUTE THE MONEY FOR THE
6 CREATION OF ADDITIONAL BEDS PURSUANT TO THIS SECTION NO LATER
7 THAN DECEMBER 30, 2024. ANY PERSON RECEIVING MONEY PURSUANT TO
8 THIS SECTION SHALL SPEND OR OBLIGATE ALL MONEY RECEIVED BY
9 DECEMBER 30, 2024. ANY MONEY OBLIGATED BY DECEMBER 30, 2024,
10 MUST BE EXPENDED BY DECEMBER 30, 2026.

11 **27-71-104. Mental health residential facilities - initial**
12 **license requirements - repeal.** (1) ON OR AFTER JULY 1, 2022, ANY
13 PERSON, PARTNERSHIP, ASSOCIATION, OR CORPORATION OPERATING A
14 MENTAL HEALTH RESIDENTIAL FACILITY SHALL OBTAIN A LICENSE FROM
15 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE
16 DEPARTMENT OF HUMAN SERVICES AS EITHER:

17 (a) AN ASSISTED LIVING RESIDENCE LICENSED PURSUANT TO
18 ARTICLE 27 OF TITLE 25; OR

19 (b) A BEHAVIORAL HEALTH ENTITY LICENSED PURSUANT TO
20 ARTICLE 27.6 OF TITLE 25.

21 (2) NOTWITHSTANDING THE REQUIREMENT OF SUBSECTION (1) OF
22 THIS SECTION, A MENTAL HEALTH FACILITY NEED NOT BE LICENSED AS
23 A MENTAL HEALTH FACILITY IF THE FACILITY IS:

24 (a) LICENSED PURSUANT TO ARTICLE 27 OF TITLE 25; AND

25 (b) PROVIDING SERVICES TO INDIVIDUALS UNDER A HOME- AND
26 COMMUNITY-BASED SERVICES FOR PERSONS WITH MAJOR MENTAL HEALTH
27 DISORDERS WAIVER PURSUANT TO PART 6 OF ARTICLE 6 OF TITLE 25.5.

1 (3) ON AND AFTER JULY 1, 2023, THE BEHAVIORAL HEALTH
2 ADMINISTRATION IS RESPONSIBLE FOR LICENSING MENTAL HEALTH HOME-
3 AND COMMUNITY-BASED WAIVER RESIDENTIAL FACILITIES.

4 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

5 **27-71-105. Mental health residential facilities - licensing**

6 **requirements - rules.** (1) ON AND AFTER JULY 1, 2023, UNLESS LICENSED

7 AS AN ASSISTED LIVING FACILITY, ANY PERSON, PARTNERSHIP,

8 ASSOCIATION, OR CORPORATION OPERATING A MENTAL HEALTH

9 RESIDENTIAL FACILITY SHALL OBTAIN A LICENSE FROM THE

10 BEHAVIORAL HEALTH ADMINISTRATION. BY JULY 1, 2023, THE BHA

11 SHALL PROMULGATE RULES ESTABLISHING MINIMUM STANDARDS FOR THE

12 OPERATION AND LICENSING OF MENTAL HEALTH FACILITIES. THE RULES

13 MUST ADDRESS, AT A MINIMUM, HEALTH, SAFETY, WELFARE, AND

14 PROGRAMMATIC AND TREATMENT CONSIDERATION.

15 (2) NOTWITHSTANDING THE REQUIREMENT OF SUBSECTION (1) OF

16 THIS SECTION, A MENTAL HEALTH FACILITY NEED NOT BE LICENSED AS

17 A MENTAL HEALTH FACILITY IF THE FACILITY IS:

18 (a) LICENSED PURSUANT TO ARTICLE 27 OF TITLE 25; AND

19 (b) PROVIDING SERVICES TO INDIVIDUALS UNDER A HOME- AND

20 COMMUNITY-BASED SERVICES FOR PERSONS WITH MAJOR MENTAL HEALTH

21 DISORDERS WAIVER PURSUANT TO PART 6 OF ARTICLE 6 OF TITLE 25.5.

22 **SECTION 4. Appropriation.** (1) For the 2022-23 state fiscal

23 year, \$728,296 is appropriated to the department of human services for

24 use by administration and finance. This appropriation is from the

25 behavioral and mental health cash fund created in section 24-75-230

26 (2)(a), C.R.S., and is of money the state received from the federal

27 coronavirus state fiscal recovery fund. Any money appropriated in this

1 section not expended prior to July 1, 2023, is further appropriated to the
2 department from July 1, 2023, through December 30, 2024, for the same
3 purpose. To implement this act, the department may use this appropriation
4 as follows:

5 (a) \$372,264 for personal services related to administration, which
6 amount is based on an assumption that the department will require 3.3
7 FTE in the 2022-23 state fiscal year and 3.3 FTE in the 2023-24 state
8 fiscal year;

9 (b) \$346,040 for operating expenses related to administration; and

10 (c) \$9,992 for vehicle lease payments.

11 (2) For the 2022-23 state fiscal year, \$9,992 is appropriated to the
12 department of personnel for use by the division of capital assets. This
13 appropriation is from reappropriated funds received from the department
14 of human services under subsection (1)(c) of this section. To implement
15 this act, the department of personnel may use this appropriation to
16 provide vehicles to the department of human services. Any money
17 appropriated in this section not expended prior to July 1, 2023, is further
18 appropriated to the department from July 1, 2023, through December 30,
19 2024, for the same purpose.

20 **SECTION 5. Appropriation.** (1) For the 2022-23 state fiscal
21 year, \$39,854,179 is appropriated to the department of human services for
22 use by the office of behavioral health. This appropriation is from the
23 behavioral and mental health cash fund created in section 24-75-230
24 (2)(a), C.R.S., and is of money the state received from the federal
25 coronavirus state fiscal recovery fund. Any money appropriated in this
26 section not expended prior to July 1, 2023, is further appropriated to the
27 office from July 1, 2023, through December 30, 2024, for the same

1 purpose. To implement this act, the department may use this appropriation
2 as follows:

3 (a) \$2,559,676 for oversight costs related to mental health
4 residential facilities, which amount is based on an assumption that the
5 office will require 7.0 FTE in the 2022-23 state fiscal year and 7.0 FTE
6 in the 2023-24 state fiscal year;

7 (b) \$3,809,582 for costs associated with mental health residential
8 facilities located in department-owned properties, which amount is based
9 on an assumption that the office will require 14.8 FTE in the 2023-24
10 state fiscal year; and

11 (c) \$33,484,921 for contract beds in and the renovation of mental
12 health residential facilities.

13 **SECTION 6. Appropriation.** For the 2022-23 state fiscal year,
14 \$6,578,266 is appropriated to the department of human services for use
15 by the office of behavioral health. This appropriation is from the
16 behavioral and mental health cash fund created in section 24-75-230
17 (2)(a), C.R.S., and is of money the state received from the federal
18 coronavirus state fiscal recovery fund. The office may use this
19 appropriation for costs associated with the operation of additional beds
20 at the Colorado mental health institute at Fort Logan established pursuant
21 to section 27-94-107, C.R.S. Any money appropriated in this section not
22 expended prior to July 1, 2023, is further appropriated to the office from
23 July 1, 2023, through December 30, 2024, for the same purpose. These
24 appropriations are based on the assumption that the office will require an
25 additional 59.2 FTE in the 2023-24 state fiscal year to implement this act.

26 **SECTION 7. Capital construction appropriation.** For the
27 2022-23 state fiscal year, \$6,991,567 is appropriated to the department of

1 human services. This appropriation is from the behavioral and mental
2 health cash fund created in section 24-75-230 (2)(a), C.R.S. To
3 implement this act, the department may use this appropriation for capital
4 construction related to the renovation for additional inpatient beds at the
5 Colorado mental health institute at Fort Logan. Any money appropriated
6 in this section not expended prior to July 1, 2023, is further appropriated
7 to the department from July 1, 2023, through December 30, 2024, for the
8 same purpose.

9 **SECTION 8. Capital construction appropriation.** For the
10 2022-23 state fiscal year, \$3,692,111 is appropriated to the department of
11 human services. This appropriation is from the behavioral and mental
12 health cash fund created in section 24-75-230 (2)(a), C.R.S. To
13 implement this act, the department may use this appropriation for capital
14 construction related to the renovation of three existing department
15 properties to create mental health residential facilities pursuant to section
16 27-71-103 (1)(a), C.R.S. Any money appropriated in this section not
17 expended prior to July 1, 2023, is further appropriated to the department
18 from July 1, 2023, through December 30, 2024, for the same purpose.

19 **SECTION 9. Appropriation.** (1) For the 2022-23 state fiscal
20 year, \$91,938 is appropriated to the department of health care policy and
21 financing for use by the executive director's office. This appropriation is
22 from the general fund. To implement this act, the office may use this
23 appropriation as follows:

24 (a) \$84,388 for personal services, which amount is based on an
25 assumption that the office will require an additional 1.8 FTE; and

26 (b) \$7,550 for operating expenses.

27 (2) For the 2022-23 state fiscal year, the general assembly

1 anticipates that the department of health care policy and financing will
2 receive \$91,937 in federal funds to implement this act, which amount is
3 subject to the "(I)" notation as defined in the annual general appropriation
4 act for the same fiscal year. The appropriation in subsection (1) of this
5 section is based on the assumption that the department will receive this
6 amount of federal funds to be used as follows:

7 (a) \$84,387 for personal services; and

8 (b) \$7,550 for operating expenses.

9 **SECTION 10. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety.