

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems

Members of the Committee

Representative Jeanne Labuda, Chair
Senator Linda Newell, Vice-Chair

Senator Steve King
Senator Lois Tochtrop

Representative Paul Rosenthal
Representative Jared Wright

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October 2014

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems Report

Committee Charge

Senate Bill 14-021 reauthorized the establishment of a legislative oversight committee and an advisory task force concerning the treatment of persons with mental illness in the criminal and juvenile justice systems.

The committee is responsible for appointing a task force that represents all areas of the state and is diverse in ethnicity, culture, and gender. The task force is directed to examine the identification, diagnosis, and treatment of persons with mental illness who are involved in the criminal and juvenile justice systems, including the examination of liability, safety, and cost as they relate to these issues.

The authorizing legislation directs the task force, after July 1, 2014, to consider, at a minimum, the following issues:

- housing for a person with mental illness after his or her release from the criminal and juvenile justice system;
- medication consistency, delivery, and availability;
- best practices for suicide prevention, within and outside of correctional facilities;
- treatment of co-occurring disorders;
- awareness of and training for enhanced staff safety, including expanding training opportunities for providers; and
- enhanced data collection related to issues affecting persons with mental illness in the criminal and juvenile justice systems.

The legislation authorizes the task force to work with other task forces, committees, or organizations that are pursuing policy initiatives similar to those listed above. The task force is required to consider developing relationships with other groups to facilitate policy-making opportunities through collaborative efforts.

The task force is required to submit a report of its findings and recommendations to the legislative oversight committee annually by October 1. The oversight committee is required to submit an annual report to the General Assembly by January 15 of each year regarding the recommended legislation resulting from the work of the task force.

Committee Activities

History

The advisory task force and legislative oversight committee first met in the summer of 1999. In 2000, the task force and oversight committee were reauthorized, and the reestablished task force met on a monthly basis through June 2003. The General Assembly considered legislation to continue the study of the mentally ill in the justice system beyond the 2003 repeal date, but the bill failed. In FY 2003-04, the task force continued its meetings and discussion at the request of the oversight committee. The task force and oversight committee were

reauthorized and reestablished in 2004 through the passage of Senate Bill 04-037 and again in 2009 with the passage of House Bill 09-1021. The oversight committee was subject to Senate Bill 10-213, which suspended interim activities during the 2010 interim. During the 2014 legislative session, the task force and legislative oversight committee were once again reauthorized and reestablished by Senate Bill 14-021. The committee is set to repeal on July 1, 2020.

Advisory Task Force

The task force met monthly in 2014. Each month the task force received updates from various task force members on the implementation of the Affordable Care Act, medication consistency efforts that are being led by the Behavioral Health Transformation Council, and the legislative session that included the status of Senate Bill 14-021 and House Bill 14-1025, which were bills proposed by the task force. The task force regularly discussed the following areas of study with which they are charged: the safety of staff who work with individuals with a mental illness; housing; and data collection. Additionally, the task force heard presentations from outside presenters on information sharing and staff safety.

Information sharing presentation. In January, Meg Williams of the Department of Public Safety presented on the Colorado Children and Youth Information Sharing (CCYIS) Initiative, which is a collaboration between the Department of Education, Department of Health Care Policy and Financing, Department of Human Services, Department of Public Health and Environment, Department of Public Safety, and Judicial Department. The CCYIS Initiative has been in existence since 2007. The CCYIS Initiative was funded by a grant from the federal Bureau of Justice Assistance, but that granted funding ended in January 2014. Ms. Williams indicated that the CCYIS Initiative would continue even after the grant funding is exhausted. The original purpose of the CCYIS Initiative was to determine how different technology systems manage information on juveniles in the criminal justice system. The focus of the CCYIS Initiative shifted to whether the information being gathered is used legally, ethically, and efficiently. The CCYIS Initiative developed a consent form that is intended to become a standard for all agencies in the state.

In addition, the CCYIS Initiative is cross-referencing other state databases to track specific cases of children through jurisdictions. Ms. Williams said this will provide data on a previously non-trackable portion of the population: foster children who change educational districts. With the information sharing project, longitudinal studies can now be done to see how children in the foster system proceed through school.

Safety of staff who work with individuals with mental illness - presentation concerning jail issues. In August, Chief Bruce Haas of the Boulder County Sheriff's Department presented on staff safety in jail settings. He discussed the limited options available to law enforcement when encountering someone with a mental health issue. The options are usually either placement in a hospital or jail. According to Chief Haas, placement in a hospital can mean long waits for admittance, and it is likely the person will be briefly assessed and released because there are no beds available. In Boulder, there are arrest standards that law enforcement officers try to uphold, but Chief Haas reiterated that many times these individuals may end up in jail if they are a danger to themselves or others due to mental illness. According to Chief Haas, training programs have improved the interactions between law enforcement officers and individuals with mental illness in Boulder. Many officers have received crisis

intervention training, and the Boulder County Sheriff's Department is also reviewing other training programs used in Arizona and Texas as possible models.

Chief Haas briefed the task force about the booking and post-booking processes. In the booking process, there is an assessment first for mental health. If the individual is disruptive or under the influence of drugs and alcohol, he or she may be isolated temporarily until he or she is eligible for booking. The Boulder County Sheriff's Department has collected data regarding people with mental illness who are jailed, including the length of time a person with mental health issues spends in jail versus those who are not diagnosed with a mental illness.

In addition, Chief Haas outlined challenges in housing persons with mental health issues within the jail, especially because of overcrowding issues. He recognized that isolating such individuals may be the least effective method of management, but inherent in the duties of law enforcement is to maintain the safety of individuals in their custody. According to Chief Haas, the department attempts to house those with mental illness in the least restrictive environment possible.

The Boulder County Sheriff's Department is studying the use of special housing units and has created a mental health team. The primary role of this team is to assess suicide potential, hospitalization needs, and core medication requirements for people in custody. Both a mental health unit and a space to manage those inmates who are more chronically dysfunctional have been created in Boulder. A psychiatrist and nurse practitioner attend to individuals in custody for four hours and two hours per week, respectively. According to Chief Haas, there is currently a waiting list for individuals to see the psychiatrist for medication needs.

Chief Haas discussed the continuity of care in place in Boulder County when individuals are released from jail. This includes a partnership with Mental Health Partners, which is an independent nonprofit organization that provides comprehensive mental health and wellness services to the residents of Boulder and Broomfield counties. Under the partnership, when individuals are released from jail, Mental Health Partners is provided a medication list, and the released individuals are given a copy of where they need to go and whom they need to see. Chief Haas noted that it is difficult to get individuals to take advantage of this partnership, as less than 40 percent of the released individuals go to Mental Health Partners.

Chief Haas volunteered to provide data about diagnoses, clearances, suicide attempts, and competency evaluations to members of the MICJS Task Force. The task force members agreed that jails are not appropriate facilities to house individuals with mental illness and that they will continue to examine the intricacies of the issue in future meetings.

Juvenile competency. For several years the task force has discussed issues concerning juvenile justice and the standard for measuring competency in juveniles. A work group of both task force members and non-task force members was formed to develop a bill draft to address a juvenile's competency to proceed with a trial. Over the summer, the work group met to draft a bill proposal concerning juvenile competency. The work group used House Bill 14-1025, which was postponed indefinitely, as a basis for the new proposal. In August, the work group brought forth a bill draft to the MICJS Task Force. The task force met twice in August to discuss and finalize the bill draft. The bill draft was presented to the legislative oversight committee in September.

Legislative Oversight Committee

The legislative oversight committee met twice in 2014 to monitor and examine the work, findings, and recommendations of the task force. Specifically, the committee:

- made appointments to fill vacancies on the task force;
- heard a presentation on housing efforts throughout the state to assist people with mental illness who are involved in the criminal justice system; and
- considered legislation recommended by the task force.

Housing issues. At the September 12 meeting of the legislative oversight committee, Pat Coyle, director of the Division of Housing in the Department of Local Affairs and task force member, and Susan Walton, task force chair, presented on efforts to provide housing assistance to people with mental illness who are involved in the criminal justice system. Ms. Walton referenced the merger of the Division of Housing and the Division of Human Services in Boulder County. Mr. Coyle discussed the benefits that stable housing provides to an individual, including employment and education possibilities.

Mr. Coyle outlined the Colorado Second-Chance Act Housing and Reentry Program (C-SCHARP). He stated that the U.S. Department of Justice provided the Colorado Department of Local Affairs grants in 2010 and 2013 for C-SCHARP for intensive supportive services for previous offenders with co-occurring substance abuse and mental health disorders. These services include the Assertive Community Treatment (ACT) model, which is an evidence-based, outreach-oriented, service delivery model for people with severe and persistent mental illnesses. Sixty individuals were enrolled in C-SCHARP under the first grant, and an additional 30 individuals were enrolled under the second grant. Mr. Coyle discussed recidivism reduction through C-SCHARP and the potential cost savings to various state agencies. He discussed the challenges of finding neighborhoods, landlords, and property managers that are willing to allow previous offenders to live in their communities. He discussed how the Division of Housing partners with mental health providers, human services systems, and the parole system to provide supportive services to individuals so that landlords do not have to provide those services.

Mr. Coyle stated that felons can be housed in public housing, but federal law prohibits someone from living in public housing if he or she has been convicted of producing methamphetamines, arson, or certain sex offenses. Mr. Coyle said that local housing authorities can place additional restrictions on their properties. Mr. Coyle discussed housing options in rural areas, and referenced Southwest Transitions in Durango that provides transitional housing and services for homeless offenders on parole. He discussed connecting housing programs with job programs. Ms. Walton discussed expanding existing programs that are working, and possibly expanding budgets for these successful programs. Mr. Coyle referenced the existing General Fund funding for housing vouchers for individuals needing behavioral health services. Ms. Walton discussed using various moneys for housing individuals with mental illness who have been involved in the criminal justice system more effectively.

Committee Recommendations

As a result of the discussion and deliberation of the task force, the legislative oversight committee recommends the following bill for consideration in the 2015 legislative session.

Bill A — Juvenile Competency To Proceed In Criminal Justice — The bill establishes a juvenile-specific definition of “incompetent to proceed” for juveniles involved in the juvenile justice system, as well as special definitions for “developmental disability,” “intellectual disability,” “mental capacity,” and “mental disability” when used in this context. The bill clarifies the procedures for establishing incompetency and restoration of competency.

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

BILL A

LLS NO. 15-0058.01 Jane Ritter x4342

HOUSE BILL

HOUSE SPONSORSHIP

Rosenthal,

SENATE SPONSORSHIP

Newell,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING COMPETENCY TO PROCEED FOR JUVENILES INVOLVED IN**
102 **THE JUVENILE JUSTICE SYSTEM.**

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>.)

Legislative Oversight Committee for the Treatment of Persons with Mental Illness Who Are Involved in the Criminal Justice Systems. The bill establishes a juvenile-specific definition of "incompetent to proceed" for juveniles involved in the juvenile justice

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.*

system, as well as specific definitions for "developmental disability", "intellectual disability", "mental capacity", and "mental disability" when used in this context. The bill clarifies the procedures for establishing incompetency, as well as for establishing the restoration of competency.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2-103, **add** (5.5),
3 (9.5), (9.6), (12.3), (12.4), and (14.3) as follows:

4 **19-2-103. Definitions.** For purposes of this article:

5 (5.5) "DEVELOPMENTAL DISABILITY" MEANS A DISABILITY THAT
6 IS MANIFESTED BEFORE THE PERSON REACHES HIS OR HER TWENTY-FIRST
7 BIRTHDAY, THAT CONSTITUTES A SUBSTANTIAL DISABILITY TO THE
8 AFFECTED INDIVIDUAL, AND THAT IS ATTRIBUTABLE TO AN INTELLECTUAL
9 DISABILITY OR OTHER NEUROLOGICAL CONDITIONS WHEN THOSE
10 CONDITIONS RESULT IN IMPAIRMENT OF GENERAL INTELLECTUAL
11 FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR TO THAT OF A PERSON
12 WITH AN INTELLECTUAL DISABILITY. UNLESS OTHERWISE SPECIFICALLY
13 STATED, THE FEDERAL DEFINITION OF "DEVELOPMENTAL DISABILITY", 42
14 U.S.C. SEC. 15001 ET SEQ., SHALL NOT APPLY.

15 (9.5) "INCOMPETENT TO PROCEED" MEANS THAT A JUVENILE DOES
16 NOT HAVE SUFFICIENT PRESENT ABILITY TO CONSULT WITH HIS OR HER
17 ATTORNEY WITH A REASONABLE DEGREE OF RATIONAL UNDERSTANDING
18 IN ORDER TO ASSIST IN THE DEFENSE OR THAT HE OR SHE DOES NOT HAVE
19 A RATIONAL AS WELL AS A FACTUAL UNDERSTANDING OF THE
20 PROCEEDINGS AGAINST HIM OR HER.

21 (9.6) "INTELLECTUAL DISABILITY" MEANS A DISORDER WITH ONSET
22 DURING THE DEVELOPMENTAL PERIOD THAT INCLUDES BOTH
23 INTELLECTUAL AND ADAPTIVE FUNCTIONING DEFICITS IN CONCEPTUAL,

1 SOCIAL, AND PRACTICAL DOMAINS AND INCLUDES THE FOLLOWING
2 CRITERIA:

3 (a) DEFICITS IN INTELLECTUAL FUNCTIONS, SUCH AS REASONING,
4 PROBLEM SOLVING, PLANNING, ABSTRACT THINKING JUDGMENT,
5 ACADEMIC LEARNING, AND LEARNING FROM EXPERIENCE, CONFIRMED BY
6 BOTH CLINICAL ASSESSMENT AND INDIVIDUALIZED, STANDARDIZED
7 INTELLIGENCE TESTING;

8 (b) DEFICITS IN ADAPTIVE FUNCTIONING THAT RESULT IN A
9 FAILURE TO MEET DEVELOPMENTAL AND SOCIO-CULTURAL STANDARDS
10 FOR PERSONAL INDEPENDENCE AND SOCIAL RESPONSIBILITY. WITHOUT
11 ONGOING SUPPORT, THE ADAPTIVE DEFICITS LIMIT FUNCTIONING IN ONE OR
12 MORE ACTIVITIES OF DAILY LIFE, SUCH AS COMMUNICATION, SOCIAL
13 PARTICIPATION, AND INDEPENDENT LIVING, ACROSS MULTIPLE
14 ENVIRONMENTS, SUCH AS HOME, SCHOOL, WORK, AND COMMUNITY; AND
15 (c) THE ONSET OF INTELLECTUAL AND ADAPTIVE DEFICITS DURING
16 THE DEVELOPMENTAL PERIOD.

17 (12.3) "MENTAL CAPACITY" MEANS A JUVENILE'S CAPACITY TO
18 MEET ALL OF THE FOLLOWING CRITERIA:

19 (a) COMPREHEND AND APPRECIATE THE CHARGES OR ALLEGATIONS
20 AGAINST HIM OR HER;

21 (b) UNDERSTAND THE ADVERSARIAL NATURE OF THE
22 PROCEEDINGS, INCLUDING THE ROLE OF THE JUDGE, THE DEFENDANT'S
23 ATTORNEY, THE PROSECUTING ATTORNEY, THE DEFENDANT'S GUARDIAN
24 AD LITEM, IF APPLICABLE, OR WITNESSES, AND BE ABLE TO ASSIST IN HIS
25 OR HER DEFENSE;

26 (c) COMPREHEND AND APPRECIATE THE CONSEQUENCES THAT MAY
27 BE IMPOSED BY THE COURT OR RESULT FROM THE PROCEEDINGS;

1 (d) DISCLOSE TO COUNSEL FACTS PERTINENT TO THE PROCEEDINGS
2 AT ISSUE;

3 (e) DISPLAY APPROPRIATE COURTROOM BEHAVIOR; AND

4 (f) TESTIFY RELEVANTLY.

5 (12.4) "MENTAL DISABILITY" MEANS A SUBSTANTIAL DISORDER OF
6 THOUGHT, MOOD, PERCEPTION, OR COGNITIVE ABILITY THAT RESULTS IN
7 MARKED FUNCTIONAL DISABILITY AND SIGNIFICANTLY INTERFERES WITH
8 ADAPTIVE BEHAVIOR. "MENTAL DISABILITY" DOES NOT INCLUDE ACUTE
9 INTOXICATION FROM ALCOHOL OR OTHER SUBSTANCES, ANY CONDITION
10 MANIFESTED ONLY BY ANTISOCIAL BEHAVIOR, OR ANY SUBSTANCE ABUSE
11 IMPAIRMENT RESULTING FROM RECENT USE OR WITHDRAWAL. HOWEVER,
12 SUBSTANCE ABUSE THAT RESULTS IN A LONG-TERM, SUBSTANTIAL
13 DISORDER OF THOUGHT, MOOD, OR COGNITIVE ABILITY MAY CONSTITUTE
14 A MENTAL DISABILITY.

15 (14.3) "RESTORATION TO COMPETENCY HEARING" MEANS A
16 HEARING TO DETERMINE WHETHER A DEFENDANT WHO HAS PREVIOUSLY
17 BEEN DETERMINED TO BE INCOMPETENT TO PROCEED HAS ACHIEVED OR IS
18 RESTORED TO COMPETENCY.

19 **SECTION 2.** In Colorado Revised Statutes, **add** 19-2-1300.2 as
20 follows:

21 **19-2-1300.2. Legislative declaration.** (1) THE GENERAL
22 ASSEMBLY FINDS AND DECLARES THAT:

23 (a) THE JUVENILE JUSTICE SYSTEM IS CIVIL IN NATURE AND
24 FOCUSED ON TREATMENT RATHER THAN PUNISHMENT;

25 (b) IT IS CRUCIAL TO AVOID THE NEGATIVE CONSEQUENCES OF
26 PROSECUTION WHENEVER NECESSARY AND POSSIBLE, AND TO PROMOTE
27 MENTAL HEALTH TREATMENT PATHWAYS FOR JUVENILES IN THE JUVENILE

1 JUSTICE SYSTEM;

2 (c) JUVENILES DIFFER IN SIGNIFICANT AND SUBSTANTIVE WAYS
3 FROM ADULTS; THEREFORE, DIFFERENT STANDARDS FOR COMPETENCY ARE
4 NECESSARY FOR JUVENILES AND ADULTS;

5 (d) JUVENILES, LIKE ADULTS, ARE PRESUMED COMPETENT TO
6 PROCEED UNTIL SUCH TIME AS THEY ARE FOUND INCOMPETENT TO
7 PROCEED THROUGH A FORMAL COMPETENCY EVALUATION; AND

8 (e) AGE ALONE IS NOT DETERMINATIVE OF INCOMPETENCE
9 WITHOUT A FINDING THAT THE YOUTH ACTUALLY LACKS THE RELEVANT
10 CAPACITIES FOR COMPETENCE.

11 **SECTION 3.** In Colorado Revised Statutes, 19-2-1301, **amend**
12 (2) as follows:

13 **19-2-1301. Incompetency to proceed - effect - how and when**
14 **raised.** (2) A juvenile shall not be tried or sentenced if the juvenile is
15 incompetent to proceed, as defined in section ~~16-8.5-101 (11), C.R.S.~~
16 19-2-103 (9.5), at that stage of the proceedings against him or her. A
17 DETERMINATION OF COMPETENCY MUST INCLUDE AN EVALUATION OF
18 DEVELOPMENTAL DISABILITIES, MENTAL DISABILITIES, AND MENTAL
19 CAPACITY.

20 **SECTION 4.** In Colorado Revised Statutes, 19-2-1302, **amend**
21 (3), (4) (a), and (4) (c) as follows:

22 **19-2-1302. Determination of incompetency to proceed.** (3) If
23 the question of a juvenile's incompetency to proceed is raised after a jury
24 is impaneled to try the issues raised by a plea of not guilty or after the
25 court as the finder of fact begins to hear evidence and the court
26 determines that the juvenile is incompetent to proceed or orders the
27 juvenile referred for a competency examination, the court may declare a

1 mistrial. If the court declares a mistrial under these circumstances, the
2 juvenile ~~shall~~ MUST not be deemed to have been placed in jeopardy with
3 regard to the charges at issue. The juvenile may be tried on, and sentenced
4 if adjudicated for, the same charges after he or she has ACHIEVED OR been
5 ~~found to be~~ restored to competency.

6 (4) (a) If the court orders a competency evaluation, the court shall
7 order that the competency evaluation be conducted in the least-restrictive
8 environment, INCLUDING HOME OR COMMUNITY PLACEMENT IF
9 APPROPRIATE, taking into account the public safety and the best interests
10 of the juvenile.

11 (c) The competency evaluation ~~shall~~ MUST, at a minimum, include
12 an opinion regarding whether the juvenile is ~~competent~~ INCOMPETENT to
13 proceed as defined in section ~~16-8.5-101 (4), C.R.S.~~ 19-2-103 (9.5). If the
14 evaluation concludes the juvenile is incompetent to proceed, the
15 evaluation ~~shall~~ MUST include a recommendation as to whether THERE IS
16 A LIKELIHOOD THAT the juvenile may ACHIEVE OR be restored to
17 competency and identify appropriate services to restore the juvenile to
18 competency.

19 **SECTION 5.** In Colorado Revised Statutes, 19-2-1304, **amend**
20 (1) and (3) as follows:

21 **19-2-1304. Restoration to competency hearing.** (1) The court
22 may order a restoration TO COMPETENCY hearing, as defined in section
23 ~~16-8.5-101 (13), C.R.S.~~ 19-2-103 (14.3), at any time on its own motion,
24 on motion of the prosecuting attorney, or on motion of the juvenile. The
25 court shall order a RESTORATION OF COMPETENCY hearing if a mental
26 health professional who has been treating the juvenile files a report
27 certifying that the juvenile is ~~mentally~~ competent to proceed.

1 (3) At the RESTORATION TO COMPETENCY hearing, the court shall
2 determine whether the juvenile HAS ACHIEVED OR is restored to
3 competency.

4 **SECTION 6.** In Colorado Revised Statutes, 19-2-1305, **amend**
5 (1) and (2) as follows:

6 **19-2-1305. Procedure after restoration to competency hearing.**

7 (1) If a juvenile is found to ~~be~~ HAVE ACHIEVED OR BEEN restored to
8 competency after a RESTORATION TO COMPETENCY hearing, as provided
9 in section 19-2-1304, or by the court during a review, as provided in
10 section 19-2-1303 (2), the court shall resume or recommence the trial or
11 sentencing proceeding or order the sentence carried out. The court may
12 credit any time the juvenile spent in confinement or detention while
13 incompetent TO PROCEED against any term of commitment imposed after
14 ACHIEVEMENT OF OR restoration to competency.

15 (2) If the court determines that the juvenile remains ~~mentally~~
16 incompetent to proceed and the delinquency petition is not dismissed, the
17 court may continue or modify any orders entered at the time of the
18 original determination of incompetency or enter any new order necessary
19 to facilitate the juvenile's ACHIEVEMENT OF OR restoration to ~~mental~~
20 competency.

21 **SECTION 7. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.

C.R.S. 18-1.9-101

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 18. CRIMINAL CODE

ARTICLE 1.9. CONTINUING EXAMINATION OF THE TREATMENT OF PERSONS WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE JUSTICE SYSTEM

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C.R.S. 18-1.9-101 (2014)

18-1.9-101. Legislative declaration

(1) The general assembly hereby finds that:

(a) In November of 1998, the Colorado department of corrections reported that ten percent of its correctional population met the diagnostic criteria for serious mental illness, which number was double the number identified two years earlier, and five to six times the number documented in 1988, only ten years earlier;

(b) The Colorado department of corrections estimates that in 2002, sixteen percent of its inmate population met the diagnostic criteria for major mental illness;

(c) The Colorado division of youth corrections estimates that twenty-four percent of juveniles in the juvenile justice system are diagnosed with mental illness;

(d) A study conducted in 1995 found that approximately six percent of the persons held in county jails and in community corrections throughout the state had been diagnosed as persons with serious mental illness;

(e) It is estimated that nationally, nearly nine percent of all adults and juveniles on probation have been identified as having serious mental illness;

(f) For the 1998-99 fiscal year, approximately forty-four percent of the inpatient population at the Colorado mental health institute at Pueblo had been committed following the return of a verdict of not guilty by reason of insanity or a determination by the court that the person was incompetent to stand trial due to mental illness;

(g) Persons with mental illness, as a direct or indirect result of their condition, are in many instances more likely than persons who do not have mental illness to be involved in the criminal and juvenile justice systems;

(h) The existing procedures and diagnostic tools used by persons working in the criminal and juvenile justice systems may not be sufficient to identify appropriately and diagnose persons with mental illness who are involved in the criminal and juvenile justice systems;

(i) The criminal and juvenile justice systems may not be structured in such a manner as to provide the level of treatment and care for persons with mental illness that is necessary to ensure the safety of these persons, of other persons in the criminal and juvenile justice systems, and of the community at large;

(j) Studies show that, for offenders under community supervision, treatment of the mental illness of the offender decreases repeat arrests by forty-four percent; and

(k) The ongoing supervision, care, and monitoring, especially with regard to medication, of persons with mental illness who are released from incarceration are crucial to ensuring the safety of the community.

(2) The general assembly further finds that pursuant to the findings in a report requested by the joint budget committee in 1999 that recommended cross-system collaboration and communication as a method for reducing the number of persons with mental illness who are involved in the criminal and juvenile justice systems, the legislative oversight committee and advisory task force for the examination of the treatment of persons with mental illness who are involved in the criminal justice system were created in 1999 and extended for an additional three years in 2000. Over the course of four years, the legislative oversight committee and advisory task force began to address, but did not finish addressing, the issues specified in subsection (1) of this section, through both legislative and non-legislative solutions including, but not limited to:

(a) Community-based intensive treatment management programs for juveniles involved in the juvenile justice system;

(b) An expedited application process for aid to the needy disabled benefits for persons with mental illness upon release from incarceration;

(c) Standardized inter-agency screening to detect mental illness in adults who are involved in the criminal justice system and juveniles who are involved in the juvenile justice system;

(d) Training of law enforcement officers to recognize and safely deal with persons who have mental illness through the use of crisis intervention teams; and

(e) Creating local initiative committee pilot programs for the management of community-based programs for adults with mental illness who are involved in the criminal justice system.

(3) Experts involved in cross-system collaboration and communication to reduce the number of persons with mental illness who are involved in the criminal and juvenile justice systems recommend a five-year plan to continue the work of the task force and the legislative oversight committee in order to more fully effectuate solutions to these issues.

(4) Therefore, the general assembly declares that it is necessary to create a task force to continue to examine the identification, diagnosis, and treatment of persons with mental illness who are involved in the state criminal and juvenile justice systems and to make additional recommendations to a legislative oversight committee for the continuing development of legislative proposals related to this issue.

HISTORY: Source: L. 2004: Entire article added, p. 1866, § 1, effective June 4.

C.R.S. 18-1.9-102

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session
of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 18. CRIMINAL CODE

ARTICLE 1.9. CONTINUING EXAMINATION OF THE TREATMENT OF PERSONS WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE JUSTICE SYSTEM

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C.R.S. 18-1.9-102 (2014)

18-1.9-102. Definitions

As used in this article, unless the context otherwise requires:

(1) "Committee" means the legislative oversight committee established pursuant to [section 18-1.9-103](#).

(1.5) "Co-occurring disorder" means a disorder that commonly coincides with mental illness and may include, but is not limited to, substance abuse, developmental disability, fetal alcohol syndrome, and traumatic brain injury.

(2) "Task force" means the task force concerning the treatment of persons with mental

illness in the criminal and juvenile justice systems established pursuant to [section 18-1.9-104](#).

HISTORY: Source: L. 2004: Entire article added, p. 1868, § 1, effective June 4.L. 2009: (1.5) added, ([HB 09-1021](#)), [ch. 33](#), [p. 139](#), [§ 1](#), effective August 5.L. 2014: (2) amended, ([SB 14-021](#)), [ch. 348](#), [p. 1562](#), [§ 1](#), effective July 1.

C.R.S. 18-1.9-103

COLORADO REVISED STATUTES

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TITLE 18. CRIMINAL CODE

ARTICLE 1.9. CONTINUING EXAMINATION OF THE TREATMENT OF PERSONS WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE JUSTICE SYSTEM

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C.R.S. 18-1.9-103 (2014)

18-1.9-103. Legislative oversight committee concerning the treatment of persons with mental illness in the criminal and juvenile justice systems - creation - duties

(1) Creation. (a) There is hereby created a legislative oversight committee concerning the treatment of persons with mental illness in the criminal and juvenile justice systems.

(b) The committee shall consist of six members. The president of the senate, the minority leader of the senate, and the speaker of the house of representatives shall appoint the members of the committee, as follows:

(I) The president of the senate shall appoint two senators to serve on the committee, and the minority leader of the senate shall appoint one senator to serve on the committee;

(II) The speaker of the house of representatives shall appoint three representatives to serve on the committee, no more than two of whom shall be members of the same political party;

(III) The terms of the members appointed by the speaker of the house of representatives, the president of the senate, and the minority leader of the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening

date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker, the president, and the minority leader of the senate shall each appoint or reappoint members in the same manner as provided in subparagraphs (I) and (II) of this paragraph (b). Thereafter, the terms of members appointed or reappointed by the speaker, the president, and the minority leader of the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker, the president, and the minority leader of the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker, the president, and the minority leader of the senate shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(c) The president of the senate shall select the first chair of the committee, and the speaker of the house of representatives shall select the first vice-chair. The chair and vice-chair shall alternate annually thereafter between the two houses. The chair and vice-chair of the committee may establish such organizational and procedural rules as are necessary for the operation of the committee.

(d) (I) Members of the committee may receive payment of per diem and reimbursement for actual and necessary expenses authorized pursuant to [section 2-2-307, C.R.S.](#)

(II) The director of research of the legislative council and the director of the office of legislative legal services may supply staff assistance to the committee as they deem appropriate, within existing appropriations. If staff assistance is not available within existing appropriations, then the director of research of the legislative council and the director of the office of legislative legal services may supply staff assistance to the task force only if moneys are credited to the treatment of persons with mental illness in the criminal and juvenile justice systems cash fund created in [section 18-1.9-106](#) in an amount sufficient to fund staff assistance.

(2) Duties. (a) Beginning in 2005 and continuing each year thereafter, the committee shall meet at least three times each year and at such other times as it deems necessary.

(b) (I) The committee shall be responsible for the oversight of the task force and shall submit annual reports to the general assembly regarding the findings and recommendations of the task force. In addition, the committee may recommend legislative changes that shall be treated as bills recommended by an interim legislative committee for purposes of any introduction deadlines or bill limitations imposed by the joint rules of the general assembly.

(II) The provisions of subparagraph (I) of this paragraph (b) shall not apply during the suspension of the committee during the 2010 interim.

(c) (I) The committee shall submit a report to the general assembly by January 15, 2005, and by each January 15 thereafter. The annual reports must summarize the issues

addressing the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems that have been considered and recommended legislative proposals, if any.

(II) The general assembly reviewed the reporting requirements in subparagraph (I) of this paragraph (c) during the 2008 regular session and continued the requirements.

HISTORY: Source: L. 2004: Entire article added, p. 1868, § 1, effective June 4.L. 2007: (1)(b)(III) added, p. 178, § 8, effective March 22.L. 2008: (2)(c) amended, p. 1267, § 1, effective August 5.L. 2009: (2)(a) and (2)(c)(I) amended, ([HB 09-1021](#)), [ch. 33](#), [p. 139](#), [§ 2](#), effective August 5.L. 2010: (2)(a), (2)(b), and (2)(c)(I) amended, ([SB 10-213](#)), [ch. 375](#), [p. 1761](#), [§ 6](#), effective June 7.L. 2014: (1)(a), (1)(d), (2)(a), and (2)(c)(I) amended, ([SB 14-021](#)), [ch. 348](#), [p.1562](#), [§ 2](#), effective July 1.

C.R.S. 18-1.9-104

COLORADO REVISED STATUTES

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TITLE 18. CRIMINAL CODE

ARTICLE 1.9. CONTINUING EXAMINATION OF THE TREATMENT OF PERSONS WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE JUSTICE SYSTEM

[GO TO COLORADO STATUTES ARCHIVE DIRECTORY](#)

C.R.S. 18-1.9-104 (2014)

18-1.9-104. Task force concerning treatment of persons with mental illness in the criminal and juvenile justice systems - creation - membership - duties

(1) Creation. (a) There is hereby created a task force concerning treatment of persons with mental illness in the criminal and juvenile justice systems in Colorado. The task force shall consist of thirty-two members appointed as provided in paragraphs (b) and (c) of this subsection (1).

(b) The chief justice of the Colorado supreme court shall appoint four members who represent the judicial department, two of whom shall represent the division of probation within the department, one of whom shall have experience handling juvenile justice matters within the department, and one of whom shall have experience handling adult criminal

justice matters within the department.

(c) The chair and vice-chair of the committee shall appoint twenty-eight members as follows:

(I) One member who represents the division of criminal justice within the department of public safety;

(II) Two members who represent the department of corrections, one of whom represents the division of parole within the department;

(III) Two members who represent local law enforcement agencies, one of whom shall be in active service and the other one of whom shall have experience dealing with juveniles in the juvenile justice system;

(IV) Five members who represent the department of human services, as follows:

(A) One member who represents the unit within the department of human services that is responsible for mental health and drug and alcohol abuse services;

(B) One member who represents the division of youth corrections;

(C) One member who represents the unit within the department of human services that is responsible for child welfare services;

(D) (Deleted by amendment, L. 2009, p. 140, § 3, effective August 5, 2009.)

(E) One member who represents the Colorado mental health institute at Pueblo; and

(F) One member who represents the mental health planning and advisory committee within the department of human services;

(V) One member who represents the interests of county departments of social services;

(VI) One member who represents the department of education;

(VII) One member who represents the state attorney general's office;

(VIII) One member who represents the district attorneys within the state;

(IX) Two members who represent the criminal defense bar within the state, one of whom shall have experience representing juveniles in the juvenile justice system;

(X) Two members who are licensed mental health professionals practicing within the state, one of whom shall have experience treating juveniles;

(XI) One member who represents community mental health centers within the state;

(XII) One member who is a person with knowledge of public benefits and public housing within the state;

(XIII) One member who is a practicing forensic professional within the state;

(XIV) Three members of the public as follows:

(A) One member who has mental illness and has been involved in the criminal justice system in this state;

(B) One member who has an adult family member who has mental illness and has been involved in the criminal justice system in this state; and

(C) One member who is the parent of a child who has mental illness and has been involved in the juvenile justice system in this state;

(XV) One member who represents the department of health care policy and financing;

(XVI) One member who represents the department of labor and employment;

(XVII) One member who represents the office of the child's representative; and

(XVIII) One member who represents the office of the alternate defense counsel.

(d) A vacancy occurring in a position filled by the chief justice of the Colorado supreme court pursuant to paragraph (b) of this subsection (1) shall be filled as soon as possible by the chief justice of the Colorado supreme court in accordance with the limitations specified in paragraph (b) of this subsection (1). In addition, the chief justice of the Colorado supreme court may remove and replace any appointment to the task force made pursuant to paragraph (b) of this subsection (1).

(e) A vacancy occurring in a position filled by the chair and vice-chair of the committee pursuant to paragraph (c) of this subsection (1) shall be filled as soon as possible by the chair and vice-chair of the committee in accordance with the limitations specified in paragraph (c) of this subsection (1). In addition, the chair and vice-chair of the committee may remove and replace any appointment to the task force made pursuant to paragraph (c) of this subsection (1).

(f) In making appointments to the task force, the appointing authorities shall ensure that the membership of the task force reflects the ethnic, cultural, and gender diversity of the state and includes representation of all areas of the state.

(2) Issues for study. The task force shall examine the identification, diagnosis, and treatment of persons with mental illness who are involved in the state criminal and juvenile

justice systems, including an examination of liability, safety, and cost as they relate to these issues. The task force shall specifically consider, but need not be limited to, the following issues:

(a) On or before July 1, 2005:

(I) The diagnosis, treatment, and housing of juveniles with mental illness who are involved in the criminal justice system or the juvenile justice system; and

(II) The adoption of a common framework for effectively addressing the mental health issues, including competency and co-occurring disorders, of juveniles who are involved in the criminal justice system or the juvenile justice system;

(b) On or before July 1, 2006:

(I) The prosecution of and sentencing alternatives for persons with mental illness that may involve treatment and ongoing supervision;

(II) The civil commitment of persons with mental illness who have been criminally convicted, found not guilty by reason of insanity, or found to be incompetent to stand trial; and

(III) The development of a plan to most effectively and collaboratively serve the population of juveniles involved in the criminal justice system or the juvenile justice system;

(b.5) Repealed.

(c) On or before July 1, 2007:

(I) The diagnosis, treatment, and housing of adults with mental illness who are involved in the criminal justice system;

(II) The ongoing treatment, housing, and supervision, especially with regard to medication, of adults and juveniles who are involved in the criminal and juvenile justice systems and who are incarcerated or housed within the community and the availability of public benefits for such persons;

(III) The ongoing assistance and supervision, especially with regard to medication, of persons with mental illness after discharge from sentence; and

(IV) The identification of alternative entities to exercise jurisdiction regarding release for persons found not guilty by reason of insanity, such as the development and use of a psychiatric security review board, including recommendations related to the indeterminate nature of the commitment imposed;

(d) On or before July 1, 2008, the identification, diagnosis, and treatment of minority

persons with mental illness, women with mental illness, and persons with co-occurring disorders, in the criminal and juvenile justice systems;

(e) On or before July 1, 2009:

(I) The early identification, diagnosis, and treatment of adults and juveniles with mental illness who are involved in the criminal and juvenile justice systems;

(II) The modification of the criminal and juvenile justice systems to most effectively serve adults and juveniles with mental illness who are involved in these systems;

(III) The implementation of appropriate diagnostic tools to identify persons in the criminal and juvenile justice systems with mental illness; and

(IV) Any other issues concerning persons with mental illness who are involved in the state criminal and juvenile justice systems that arise during the course of the task force study;

(f) Beginning July 1, 2011, through July 1, 2014:

(I) The diagnosis, treatment, and housing of persons with mental illness or co-occurring disorders who are convicted of crimes, or incarcerated or who plead guilty, nolo contendere, or not guilty by reason of insanity or who are found to be incompetent to stand trial;

(II) The diagnosis, treatment, and housing of juveniles with mental illness or co-occurring disorders who are adjudicated, detained, or committed for offenses that would constitute crimes if committed by adults or who plead guilty, nolo contendere, or not guilty by reason of insanity or who are found to be incompetent to stand trial;

(III) The ongoing treatment, housing, and supervision, especially with regard to medication, of adults and juveniles who are involved in the criminal and juvenile justice systems and who are incarcerated or housed within the community and the availability of public benefits for these persons; and

(IV) The safety of the staff who treat or supervise persons with mental illness and the use of force against persons with mental illness;

(g) On or after July 1, 2014:

(I) Housing for a person with mental illness after his or her release from the criminal or juvenile justice system;

(II) Medication consistency, delivery, and availability;

(III) Best practices for suicide prevention, within and outside of correctional facilities;

(IV) Treatment of co-occurring disorders;

(V) Awareness of and training for enhanced staff safety, including expanding training opportunities for providers; and

(VI) Enhanced data collection related to issues affecting persons with mental illness in the criminal and juvenile justice systems.

(3) Additional duties of the task force. The task force shall provide guidance and make findings and recommendations to the committee for its development of reports and legislative recommendations for modification of the criminal and juvenile justice systems, with respect to persons with mental illness who are involved in these systems. In addition, the task force shall:

(a) On or before August 1, 2004, and by each August 1 thereafter, select a chair and a vice-chair from among its members;

(b) Meet at least six times each year, or more often as directed by the chair of the committee;

(c) Communicate with and obtain input from groups throughout the state affected by the issues identified in subsection (2) of this section;

(d) Create subcommittees as needed to carry out the duties of the task force. The subcommittees may consist, in part, of persons who are not members of the task force. Such persons may vote on issues before the subcommittee but shall not be entitled to a vote at meetings of the task force.

(e) Submit a report to the committee by October 1, 2004, and by each October 1 thereafter, that, at a minimum, specifies:

(I) Issues to be studied in upcoming task force meetings and a prioritization of those issues;

(II) Findings and recommendations regarding issues of prior consideration by the task force;

(III) Legislative proposals of the task force that identify the policy issues involved, the agencies responsible for the implementation of the changes, and the funding sources required for implementation.

(4) Flexibility. No requirement set forth in subsection (2) of this section shall prohibit the task force from studying, presenting findings and recommendations on, or requesting permission to draft legislative proposals concerning any issue described in subsection (2) of this section at any time during the existence of the task force.

(5) Compensation. Members of the task force shall serve without compensation. However, members of the task force appointed pursuant to subparagraph (XIV) of paragraph (c) of subsection (1) of this section may receive reimbursement for actual and necessary expenses

associated with their duties on the task force.

(6) Coordination. The task force may work with other task forces, committees, or organizations that are pursuing policy initiatives similar to those addressed in subsection (2) of this section. The task force shall consider developing relationships with other task forces, committees, and organizations to leverage efficient policy-making opportunities through collaborative efforts.

HISTORY: Source: L. 2004: Entire article added, p. 1870, § 1, effective June 4. L. 2006: (2)(b.5) added, p. 528, § 1, effective April 18. L. 2008: (1)(a) and IP(1)(c) amended and (1)(c)(XV) added, p. 105, § 1, effective March 19. L. 2009: (1)(c)(IV)(A), (1)(c)(IV)(D), (1)(c)(XV), (3), and (4) amended and (1)(c)(XVI), (2)(f), and (6) added, (HB 09-1021), ch. 33, pp. 140, 141, § § 3, 4, 5, effective August 5. L. 2010: IP(2)(f), (3)(a), (3)(b), and IP(3)(e) amended, ([SB 10-213](#)), [ch. 375](#), [p. 1762](#), [§ 7](#), effective June 7. L. 2014: (1)(a), IP(1)(c), IP(1)(c)(IV), (1)(c)(XV), IP(2)(a), IP(2)(b), IP(2)(c), IP(2)(e), IP(2)(f), (3), and (5) amended and (1)(c)(XVII), (1)(c)(XVIII), and (2)(g) added, ([SB 14-021](#)), [ch. 348](#), [p. 1563](#), [§ 3](#), effective July 1.

C.R.S. 18-1.9-105

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C.R.S. 18-1.9-105 (2014)

18-1.9-105. Task force funding - staff support

(1) The division of criminal justice of the department of public safety, on behalf of the task force, is authorized to receive and expend contributions, grants, services, and in-kind donations from any public or private entity for any direct or indirect costs associated with the duties of the task force set forth in this article.

(2) The director of research of the legislative council, the director of the office of legislative

legal services, the director of the division of criminal justice within the department of public safety, and the executive directors of the departments represented on the task force may supply staff assistance to the task force as they deem appropriate within existing appropriations. If staff assistance is not available from a governmental agency within existing appropriations, then the executive directors of the departments represented on the task force, the director of research of the legislative council, and the director of the office of legislative legal services may supply staff assistance to the task force only if moneys are credited to the treatment of persons with mental illness in the criminal and juvenile justice systems cash fund created in [section 18-1.9-106](#) in an amount sufficient to fund staff assistance. The task force may also accept staff support from the private sector.

HISTORY: Source: L. 2004: Entire article added, p. 1874, § 1, effective June 4. L. 2014: (2) amended, ([SB 14-021](#)), ch. 348, p. 1565, § 4, effective July 1.

C.R.S. 18-1.9-106

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C.R.S. 18-1.9-106 (2014)

18-1.9-106. Treatment of persons with mental illness in the criminal and juvenile justice systems cash fund - repeal

(1) All private and public funds received through grants, contributions, and donations pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the treatment of persons with mental illness in the criminal and juvenile justice systems cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. All moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys

remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. All unexpended and unencumbered moneys remaining in the fund as of July 1, 2020, shall be transferred to the general fund.

(1.5) (a) All unexpended and unencumbered moneys remaining in the examination of the treatment of persons with mental illness in the criminal justice system cash fund as of July 1, 2014, shall be transferred to the treatment of persons with mental illness in the criminal and juvenile justice systems cash fund.

(b) This subsection (1.5) is repealed, effective July 1, 2015.

(2) Compensation as provided in [sections 18-1.9-103 \(1\) \(d\)](#) and [18-1.9-105 \(2\)](#) for members of the general assembly and for staff assistance to the committee and task force provided by the director of research of the legislative council and the director of the office of legislative legal services shall be approved by the chair of the legislative council and paid by vouchers and warrants drawn as provided by law from moneys appropriated for such purpose and allocated to the legislative council from the fund.

HISTORY: Source: L. 2004: Entire article added, p. 1875, § 1, effective June 4. L. 2009: (1) amended, [\(HB 09-1021\)](#), ch. 33, p. 142, § 6, effective August 5. L. 2014: (1) amended and (1.5) added, [\(SB 14-021\)](#), ch. 348, p. 1565, § 5, effective July 1.

C.R.S. 18-1.9-107

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C.R.S. 18-1.9-107 (2014)

18-1.9-107. Repeal of article

This article is repealed, effective July 1, 2020.

HISTORY: Source: L. 2004: Entire article added, p. 1875, § 1, effective June 4. L. 2009: Entire section amended, (HB 09-1021), ch. 33, p. 142, § 7, effective August 5. L. 2014: Entire section amended, (SB 14-021), ch. 348, p. 1566, § 6, effective July 1.