

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0773.01 Jane Ritter x4342

HOUSE BILL 14-1271

HOUSE SPONSORSHIP

Melton, Buckner, Fields, Williams

SENATE SPONSORSHIP

Newell,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING EXTENDING A MENTAL HEALTH PROVIDER'S DUTY TO
102 WARN TO INCLUDE SPECIFIC ENTITIES THAT, IF PURPOSEFULLY
103 DAMAGED OR ATTACKED AS A RESULT OF A MENTAL HEALTH
104 PATIENT'S VIOLENT BEHAVIOR, WOULD JEOPARDIZE PUBLIC
105 HEALTH AND SAFETY.

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/bills summaries>.)

Current law grants immunity from liability to a mental health

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.

provider (provider) who has a duty to warn a specific person or persons when a patient has communicated to the provider a serious threat of imminent physical violence against that person or persons. The bill would extend that immunity and duty to warn to include specific entities that, if purposefully damaged or attacked as a result of a mental health patient's violence, would jeopardize public health and safety if the patient has communicated to the provider a serious threat of imminent physical violence against that entity.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 13-21-117 as follows:

4 **13-21-117. Civil liability - mental health providers - duty to**
5 **warn - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "MENTAL HEALTH PROVIDER" MEANS A PHYSICIAN, SOCIAL
8 WORKER, PSYCHIATRIC NURSE, PSYCHOLOGIST, OR OTHER MENTAL HEALTH
9 PROFESSIONAL, OR A MENTAL HEALTH HOSPITAL, COMMUNITY MENTAL
10 HEALTH CENTER OR CLINIC, INSTITUTION, OR THEIR STAFF.

11 (b) "PSYCHIATRIC NURSE" MEANS A REGISTERED PROFESSIONAL
12 NURSE AS DEFINED IN SECTION 12-38-103 (11), C.R.S., WHO BY VIRTUE OF
13 POSTGRADUATE EDUCATION AND ADDITIONAL NURSING PREPARATION HAS
14 GAINED KNOWLEDGE, JUDGMENT, AND SKILL IN PSYCHIATRIC OR MENTAL
15 HEALTH NURSING.

16 (c) "TARGET ENTITY" MEANS A SPECIFIC ENTITY OR PLACE THAT,
17 IF PURPOSEFULLY DAMAGED OR ATTACKED AS A RESULT OF A MENTAL
18 HEALTH PATIENT'S VIOLENT BEHAVIOR, HAS THE POTENTIAL TO
19 JEOPARDIZE THE PUBLIC HEALTH AND SAFETY.

20 (2) (a) A MENTAL HEALTH PROVIDER IS NOT LIABLE FOR DAMAGES
21 IN ANY CIVIL ACTION FOR FAILURE TO WARN OR PROTECT A SPECIFIC

1 PERSON, PERSONS, OR TARGET ENTITY AGAINST A MENTAL HEALTH
2 PATIENT'S VIOLENT BEHAVIOR, AND ANY SUCH MENTAL HEALTH PROVIDER
3 MUST NOT BE HELD CIVILLY LIABLE FOR FAILURE TO PREDICT SUCH
4 VIOLENT BEHAVIOR EXCEPT WHERE THE PATIENT HAS COMMUNICATED TO
5 THE MENTAL HEALTH PROVIDER A SERIOUS THREAT OF IMMINENT
6 PHYSICAL VIOLENCE AGAINST A SPECIFIC PERSON, PERSONS, OR TARGET
7 ENTITY.

8 (b) WHEN THERE IS A DUTY TO WARN AND PROTECT UNDER THE
9 PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE MENTAL
10 HEALTH PROVIDER SHALL MAKE REASONABLE AND TIMELY EFFORTS TO
11 NOTIFY THE PERSON, PERSONS, OR TARGET ENTITY SPECIFICALLY
12 THREATENED, AS WELL AS TO NOTIFY AN APPROPRIATE LAW ENFORCEMENT
13 AGENCY OR TO TAKE OTHER APPROPRIATE ACTION, INCLUDING BUT NOT
14 LIMITED TO HOSPITALIZING THE PATIENT. A MENTAL HEALTH PROVIDER IS
15 NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR WARNING A SPECIFIC
16 PERSON, PERSONS, OR TARGET ENTITY AGAINST OR PREDICTING A MENTAL
17 HEALTH PATIENT'S VIOLENT BEHAVIOR.

18 (c) A MENTAL HEALTH PROVIDER MUST NOT BE SUBJECT TO
19 PROFESSIONAL DISCIPLINE WHEN THERE IS A DUTY TO WARN AND PROTECT
20 PURSUANT TO THIS SECTION.

21 (3) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE
22 NEGLIGENT RELEASE OF A MENTAL HEALTH PATIENT FROM ANY MENTAL
23 HEALTH HOSPITAL OR WARD OR TO THE NEGLIGENT FAILURE TO INITIATE
24 INVOLUNTARY SEVENTY-TWO-HOUR TREATMENT AND EVALUATION AFTER
25 A PERSONAL PATIENT EVALUATION DETERMINING THAT THE PERSON
26 APPEARS TO HAVE A MENTAL ILLNESS AND, AS A RESULT OF THE MENTAL
27 ILLNESS, APPEARS TO BE AN IMMINENT DANGER TO OTHERS.

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