

HOUSE COMMITTEE OF REFERENCE REPORT

March 1, 2019

Chair of Committee

Date

Committee on Public Health Care & Human Services.

After consideration on the merits, the Committee recommends the following:

HB19-1120 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute:
- 3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds that:
- 5 (a) The federal centers for disease control and prevention found
6 suicide to be the tenth leading cause of death for all ages in 2017 and is
7 currently the leading cause of death for Colorado youth who are ten
8 through fourteen years of age;
- 9 (b) According to the Colorado Health Institute, Colorado has the
10 tenth highest suicide rate in the nation, and rates of suicide in the eastern
11 plains of Colorado doubled from 2016 to 2017;
- 12 (c) According to the national institute of mental health,
13 approximately twenty-one-point-four percent of youth who are eight
14 through fifteen years of age experience a severe mental health disorder;
- 15 (d) According to the American Association of Suicidology, the
16 suicide rate for youth who are ten through fourteen years of age has
17 increased by more than fifty percent over the past three decades; and
- 18 (e) Youth who are ten through fourteen years of age often avoid
19 obtaining, or are legally unable to obtain without parental consent,
20 outpatient psychotherapy services that would help them prior to reaching
21 crisis levels because they are embarrassed or concerned about speaking
22 with their parent or legal guardian about their mental health concerns and
23 situations.
- 24 (2) The general assembly therefore declares that it is a matter of

1 statewide concern to allow youth who are twelve years of age or older to
2 have legal access to outpatient psychotherapy services that might
3 otherwise be unavailable without the consent of or notification to the
4 youth's parent or legal guardian. Providing these youth with access to
5 outpatient psychotherapy services is intended to reduce youth suicides and
6 allow registered psychotherapists and licensed social workers to work
7 with youth to teach them functional coping skills. Mental health
8 professionals would have further opportunity to help these youth build
9 healthy connections with parents or legal guardians by increasing
10 communication and strengthening the bond between parent and child,
11 thus building an ongoing nonclinical support system for youth to use to
12 manage their mental health concerns.

13 **SECTION 2.** In Colorado Revised Statutes, 12-43-201, **amend**
14 (9)(a) as follows:

15 **12-43-201. Definitions.** As used in this article 43, unless the
16 context otherwise requires:

17 (9) (a) "Psychotherapy", OR "PSYCHOTHERAPY SERVICES", means
18 the treatment, diagnosis, testing, assessment, or counseling in a
19 professional relationship to assist individuals or groups to alleviate
20 behavioral and mental health disorders; understand unconscious or
21 conscious motivation; resolve emotional, relationship, or attitudinal
22 conflicts; or modify behaviors that interfere with effective emotional,
23 social, or intellectual functioning. Psychotherapy follows a planned
24 procedure of intervention that takes place on a regular basis, over a period
25 of time, or in the cases of testing, assessment, and brief psychotherapy,
26 psychotherapy can be a single intervention.

27 **SECTION 3.** In Colorado Revised Statutes, **add** 12-43-202.5 as
28 follows:

29 **12-43-202.5. Minors - consent for outpatient psychotherapy**
30 **services - immunity - definition.** (1) AS USED IN THIS SECTION, UNLESS
31 THE CONTEXT OTHERWISE REQUIRES, "MENTAL HEALTH PROFESSIONAL"
32 INCLUDES A PROFESSIONAL PERSON AS DEFINED IN SECTION 27-65-102
33 (17); A MENTAL HEALTH PROFESSIONAL LICENSED PURSUANT TO PART 3,
34 4, 5, 6, OR 8 OF THIS ARTICLE 43; OR A SCHOOL SOCIAL WORKER LICENSED
35 BY THE DEPARTMENT OF EDUCATION.

36 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MENTAL
37 HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION (1) OF THIS SECTION
38 MAY PROVIDE PSYCHOTHERAPY SERVICES, AS DEFINED IN SECTION
39 12-43-201 (9)(a), TO A MINOR WHO IS TWELVE YEARS OF AGE OR OLDER,
40 WITH OR WITHOUT THE CONSENT OF THE MINOR'S PARENT OR LEGAL
41 GUARDIAN, IF THE MENTAL HEALTH PROFESSIONAL DETERMINES THAT:

1 (a) THE MINOR IS KNOWINGLY AND VOLUNTARILY SEEKING SUCH
2 SERVICES; AND

3 (b) THE PROVISION OF PSYCHOTHERAPY SERVICES IS CLINICALLY
4 INDICATED AND NECESSARY TO THE MINOR'S WELL-BEING.

5 (3) (a) THE MENTAL HEALTH PROFESSIONAL MAY NOTIFY THE
6 MINOR'S PARENT OR LEGAL GUARDIAN OF THE PSYCHOTHERAPY SERVICES
7 GIVEN OR NEEDED, WITH THE MINOR'S CONSENT, OR, WITH THE CONSENT
8 OF THE INDIVIDUAL WHO A COURT HAS ORDERED HOLDS THE MINOR'S
9 THERAPEUTIC PRIVILEGE, UNLESS NOTIFYING THE PARENT OR LEGAL
10 GUARDIAN WOULD BE INAPPROPRIATE OR DETRIMENTAL TO THE MINOR'S
11 CARE AND TREATMENT.

12 (b) THE MENTAL HEALTH PROFESSIONAL SHALL ENGAGE THE
13 MINOR IN A DISCUSSION ABOUT THE IMPORTANCE OF INVOLVING AND
14 NOTIFYING THE MINOR'S PARENT OR LEGAL GUARDIAN AND SHALL
15 ENCOURAGE SUCH NOTIFICATION TO HELP SUPPORT THE MINOR'S CARE AND
16 TREATMENT.

17 (c) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3)(a) OF
18 THIS SECTION, A MENTAL HEALTH PROFESSIONAL MAY NOTIFY THE MINOR'S
19 PARENT OR LEGAL GUARDIAN OF THE PSYCHOTHERAPY SERVICES GIVEN OR
20 NEEDED, WITHOUT THE MINOR'S CONSENT, IF IN THE PROFESSIONAL
21 OPINION OF THE MENTAL HEALTH PROFESSIONAL, THE MINOR IS UNABLE TO
22 MANAGE THE MINOR'S CARE OR TREATMENT.

23 (4) A MENTAL HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION
24 (1) OF THIS SECTION SHALL FULLY DOCUMENT WHEN THE MENTAL HEALTH
25 PROFESSIONAL ATTEMPTS TO CONTACT OR NOTIFY THE MINOR'S PARENT OR
26 LEGAL GUARDIAN, AND WHETHER THE ATTEMPT WAS SUCCESSFUL OR
27 UNSUCCESSFUL, OR THE REASON WHY, IN THE MENTAL HEALTH
28 PROFESSIONAL'S OPINION, IT WOULD BE INAPPROPRIATE TO CONTACT OR
29 NOTIFY THE MINOR'S PARENT OR LEGAL GUARDIAN. DOCUMENTATION
30 MUST BE INCLUDED IN THE MINOR'S CLINICAL RECORD, ALONG WITH A
31 WRITTEN STATEMENT SIGNED BY THE MINOR INDICATING THAT THE MINOR
32 IS VOLUNTARILY SEEKING PSYCHOTHERAPY SERVICES.

33 (5) PSYCHOTHERAPY SERVICES MUST BE PROVIDED IN A
34 CULTURALLY APPROPRIATE MANNER. WRITTEN AND ORAL INSTRUCTION,
35 TRAINING OF PROVIDERS AND STAFF, AND THE OVERALL PROVISION OF
36 SERVICES MUST BE CULTURALLY APPROPRIATE AND PROVIDED IN A
37 MANNER AND FORMAT TO SUPPORT INDIVIDUALS WITH LIMITED ENGLISH
38 PROFICIENCY OR CHALLENGES WITH ACCESSIBILITY RELATED TO A
39 DISABILITY AND WITH RESPECT FOR DIVERSE BACKGROUNDS, INCLUDING
40 INDIVIDUALS WITH DIFFERENT CULTURAL ORIGINS AND INDIVIDUALS WHO
41 ARE LESBIAN, GAY, BISEXUAL, OR TRANSGENDER.

1 (6) AS USED IN THIS SECTION, PSYCHOTHERAPY SERVICES DO NOT
2 INCLUDE INPATIENT PSYCHOTHERAPY SERVICES. PSYCHOTROPIC
3 MEDICATION MAY NOT BE PRESCRIBED TO A MINOR WHO IS FOURTEEN
4 YEARS OF AGE OR YOUNGER WITHOUT PARENTAL CONSENT.

5 (7) IF A MINOR WHO IS RECEIVING PSYCHOTHERAPY SERVICES
6 PURSUANT TO THIS SECTION COMMUNICATES A CLEAR AND IMMEDIATE
7 INTENT OR THREAT TO INFLICT SERIOUS BODILY HARM ON THEMSELVES OR
8 OTHERS, THE MENTAL HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION
9 (1) OF THIS SECTION IS SUBJECT TO THE NOTIFICATION PROVISIONS OF
10 SECTION 13-21-117 (2).

11 (8) IF A MINOR WHO IS RECEIVING PSYCHOTHERAPY SERVICES
12 PURSUANT TO THIS SECTION COMMUNICATES AN INTENT TO COMMIT
13 SUICIDE, THE MENTAL HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION
14 (1) OF THIS SECTION SHALL NOTIFY THE MINOR'S PARENT OR LEGAL
15 GUARDIAN OF SUCH SUICIDOLGY.

16 **SECTION 4.** In Colorado Revised Statutes, **add 22-2-127.9** as
17 follows:

18 **22-2-127.9. Mental health education literacy - resource bank**
19 **- technical assistance.** (1) THE DEPARTMENT, WITH ASSISTANCE FROM
20 THE OFFICE OF SUICIDE PREVENTION CREATED PURSUANT TO SECTION
21 25-1.5-101 (1)(w)(I), THE COLORADO YOUTH ADVISORY COUNCIL
22 CREATED PURSUANT TO SECTION 2-2-1302, AND THE SUICIDE PREVENTION
23 COMMISSION CREATED PURSUANT TO SECTION 25-1.5-111, SHALL CREATE
24 AND MAINTAIN A RESOURCE BANK OF EVIDENCE-BASED, RESEARCH-BASED,
25 AND PROMISING PROGRAM MATERIALS AND CURRICULA PERTAINING TO
26 MENTAL HEALTH, WHICH MATERIALS AND CURRICULA MAY BE USED IN
27 ELEMENTARY AND SECONDARY SCHOOLS IN THE STATE. THE RESOURCE
28 BANK AND CURRICULA MUST BE YOUTH-FRIENDLY, CULTURALLY
29 SENSITIVE, AND AVAILABLE IN BOTH ENGLISH AND SPANISH. IN CREATING
30 THE RESOURCE BANK AND CURRICULA, THE DEPARTMENT MAY PROVIDE
31 INTERNET LINKS TO RESOURCES AND MATERIALS PERTAINING TO MENTAL
32 HEALTH AVAILABLE FROM OTHER ENTITIES THAT THE DEPARTMENT FINDS
33 RELIABLE. ADDITIONALLY, THE DEPARTMENT SHALL SOLICIT INPUT FROM
34 PERSONS, INCLUDING YOUTH, WITHIN AND OUTSIDE OF THE MENTAL
35 HEALTH PROFESSION, INCLUDING BOTH COMMUNITY AND SCHOOL MENTAL
36 HEALTH PROFESSIONALS. SUBJECT TO AVAILABLE APPROPRIATIONS, THE
37 DEPARTMENT SHALL SOLICIT REQUESTS FOR INFORMATION AND MAY
38 CONTRACT FOR:

39 (a) THE ORGANIZATION AND ENHANCEMENT OF THE RESOURCE
40 BANK, INCLUDING MATERIALS ON THE PREVENTION OF SUICIDE AND
41 EDUCATION ON MENTAL HEALTH;

1 (b) THE DEVELOPMENT OF MENTAL HEALTH CURRICULA FOR
2 SCHOOLS AND PROVIDING SUCH CURRICULA TO SCHOOLS; AND

3 (c) TRAINING FOR EDUCATORS AND SCHOOL STAFF CONCERNING
4 MENTAL HEALTH.

5 (2) ON AND AFTER JULY 1, 2020, THE DEPARTMENT SHALL MAKE
6 MATERIAL IN THE RESOURCE BANK AVAILABLE WITHOUT CHARGE TO
7 SCHOOL DISTRICTS, CHARTER SCHOOLS, INSTITUTE CHARTER SCHOOLS,
8 BOARDS OF COOPERATIVE SERVICES, PROFESSIONAL EDUCATORS, PARENTS
9 OR GUARDIANS OF YOUTH, STUDENTS, AND COMMUNITY PROVIDERS. AT
10 THE REQUEST OF A SCHOOL DISTRICT, CHARTER SCHOOL, INSTITUTE
11 CHARTER SCHOOL, OR BOARD OF COOPERATIVE SERVICES, THE
12 DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO THE SCHOOL
13 DISTRICT, CHARTER SCHOOL, INSTITUTE CHARTER SCHOOL, OR BOARD OF
14 COOPERATIVE SERVICES IN DESIGNING AGE-APPROPRIATE CURRICULA
15 PERTAINING TO MENTAL HEALTH.

16 (3) THE MATERIALS AND RESOURCES AVAILABLE TO STUDENTS
17 MUST BE DEVELOPED AND UPDATED WITH INPUT FROM YOUTH.

18 (4) SCHOOL DISTRICTS, CHARTER SCHOOLS, INSTITUTE CHARTER
19 SCHOOLS, AND BOARDS OF COOPERATIVE SERVICES ARE ENCOURAGED TO
20 REPORT TO THE DEPARTMENT ON THE EFFECTIVENESS OF THE RESOURCE
21 BANK AND CURRICULA AND TO RECOMMEND CHANGES TO IMPROVE THE
22 RESOURCE BANK OR CURRICULA. THE DEPARTMENT IS ENCOURAGED TO
23 UPDATE THE RESOURCE BANK AND CURRICULA BASED ON
24 RECOMMENDATIONS FROM SCHOOL DISTRICTS, CHARTER SCHOOLS,
25 INSTITUTE CHARTER SCHOOLS, BOARDS OF COOPERATIVE SERVICES,
26 PROFESSIONAL EDUCATORS, PARENTS OR GUARDIANS OF YOUTH,
27 STUDENTS, AND COMMUNITY PROVIDERS.

28 **SECTION 5.** In Colorado Revised Statutes, 22-7-1005, **add** (2.3)
29 as follows:

30 **22-7-1005. Preschool through elementary and secondary**
31 **education - aligned standards - adoption - revisions.** (2.3) ON OR
32 BEFORE JULY 1, 2020, THE STATE BOARD SHALL ADOPT STANDARDS THAT
33 IDENTIFY THE KNOWLEDGE AND SKILLS THAT AN ELEMENTARY THROUGH
34 SECONDARY EDUCATION STUDENT SHOULD ACQUIRE RELATED TO MENTAL
35 HEALTH, INCLUDING SUICIDE PREVENTION. WHEN THE STATE BOARD IS
36 ADOPTING STANDARDS, THE STATE BOARD SHALL TAKE INTO ACCOUNT
37 WHAT LOCAL EDUCATION PROVIDERS ARE CURRENTLY TEACHING WITH
38 REGARD TO MENTAL HEALTH.

39 **SECTION 6.** In Colorado Revised Statutes, **amend as relocated**
40 **by House Bill 19-1172** 12-245-202 (14)(a) as follows:

41 **12-245-202. Definitions.** As used in this article 245, unless the

1 context otherwise requires:
2 (14) (a) "Psychotherapy" OR "PSYCHOTHERAPY SERVICES" means
3 the treatment, diagnosis, testing, assessment, or counseling in a
4 professional relationship to assist individuals or groups to alleviate
5 behavioral and mental health disorders, understand unconscious or
6 conscious motivation, resolve emotional, relationship, or attitudinal
7 conflicts, or modify behaviors that interfere with effective emotional,
8 social, or intellectual functioning. Psychotherapy follows a planned
9 procedure of intervention that takes place on a regular basis, over a period
10 of time, or in the cases of testing, assessment, and brief psychotherapy,
11 psychotherapy can be a single intervention.

12 **SECTION 7.** In Colorado Revised Statutes, **add to article 245**
13 **as relocated by House Bill 19-1172** 12-245-203.5 as follows:

14 **12-245-203.5. Minors - consent for outpatient psychotherapy**
15 **services - immunity - definition.** (1) AS USED IN THIS SECTION, UNLESS
16 THE CONTEXT OTHERWISE REQUIRES, "MENTAL HEALTH PROFESSIONAL"
17 INCLUDES A PROFESSIONAL PERSON AS DEFINED IN SECTION 27-65-102
18 (17); A MENTAL HEALTH PROFESSIONAL LICENSED PURSUANT TO PART 3,
19 4, 5, 6, OR 8 OF THIS ARTICLE 245; OR A SCHOOL SOCIAL WORKER LICENSED
20 BY THE DEPARTMENT OF EDUCATION.

21 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MENTAL
22 HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION (1) OF THIS SECTION
23 MAY PROVIDE PSYCHOTHERAPY SERVICES, AS DEFINED IN SECTION
24 12-245-202 (14)(a), TO A MINOR WHO IS TWELVE YEARS OF AGE OR OLDER,
25 WITH OR WITHOUT THE CONSENT OF THE MINOR'S PARENT OR LEGAL
26 GUARDIAN, IF THE MENTAL HEALTH PROFESSIONAL DETERMINES THAT:

27 (a) THE MINOR IS KNOWINGLY AND VOLUNTARILY SEEKING SUCH
28 SERVICES; AND

29 (b) THE PROVISION OF PSYCHOTHERAPY SERVICES IS CLINICALLY
30 INDICATED AND NECESSARY TO THE MINOR'S WELL-BEING.

31 (3) (a) THE MENTAL HEALTH PROFESSIONAL MAY NOTIFY THE
32 MINOR'S PARENT OR LEGAL GUARDIAN OF THE PSYCHOTHERAPY SERVICES
33 GIVEN OR NEEDED, WITH THE MINOR'S CONSENT, UNLESS NOTIFYING THE
34 PARENT OR LEGAL GUARDIAN WOULD BE INAPPROPRIATE OR DETRIMENTAL
35 TO THE MINOR'S CARE AND TREATMENT.

36 (b) THE MENTAL HEALTH PROFESSIONAL SHALL ENGAGE THE
37 MINOR IN A DISCUSSION ABOUT THE IMPORTANCE OF INVOLVING AND
38 NOTIFYING THE MINOR'S PARENT OR LEGAL GUARDIAN AND SHALL
39 ENCOURAGE SUCH NOTIFICATION TO HELP SUPPORT THE MINOR'S CARE AND
40 TREATMENT.

41 (c) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (3)(a) OF

1 THIS SECTION, A MENTAL HEALTH PROFESSIONAL MAY NOTIFY THE MINOR'S
2 PARENT OR LEGAL GUARDIAN OF THE PSYCHOTHERAPY SERVICES GIVEN OR
3 NEEDED, WITHOUT THE MINOR'S CONSENT, IF IN THE PROFESSIONAL
4 OPINION OF THE MENTAL HEALTH PROFESSIONAL, THE MINOR IS UNABLE TO
5 MANAGE THE MINOR'S CARE OR TREATMENT.

6 (4) A MENTAL HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION
7 (1) OF THIS SECTION SHALL FULLY DOCUMENT WHEN THE MENTAL HEALTH
8 PROFESSIONAL ATTEMPTS TO CONTACT OR NOTIFY THE MINOR'S PARENT OR
9 LEGAL GUARDIAN, AND WHETHER THE ATTEMPT WAS SUCCESSFUL OR
10 UNSUCCESSFUL, OR THE REASON WHY, IN THE MENTAL HEALTH
11 PROFESSIONAL'S OPINION, IT WOULD BE INAPPROPRIATE TO CONTACT OR
12 NOTIFY THE MINOR'S PARENT OR LEGAL GUARDIAN. DOCUMENTATION
13 MUST BE INCLUDED IN THE MINOR'S CLINICAL RECORD, ALONG WITH A
14 WRITTEN STATEMENT SIGNED BY THE MINOR INDICATING THAT THE MINOR
15 IS VOLUNTARILY SEEKING PSYCHOTHERAPY SERVICES.

16 (5) PSYCHOTHERAPY SERVICES MUST BE PROVIDED IN A
17 CULTURALLY APPROPRIATE MANNER. WRITTEN AND ORAL INSTRUCTION,
18 TRAINING OF PROVIDERS AND STAFF, AND THE OVERALL PROVISION OF
19 SERVICES MUST BE CULTURALLY APPROPRIATE AND PROVIDED IN A
20 MANNER AND FORMAT TO SUPPORT INDIVIDUALS WITH LIMITED ENGLISH
21 PROFICIENCY OR CHALLENGES WITH ACCESSIBILITY RELATED TO A
22 DISABILITY AND WITH RESPECT FOR DIVERSE BACKGROUNDS, INCLUDING
23 INDIVIDUALS WITH DIFFERENT CULTURAL ORIGINS AND INDIVIDUALS WHO
24 ARE LESBIAN, GAY, BISEXUAL, OR TRANSGENDER.

25 (6) AS USED IN THIS SECTION, PSYCHOTHERAPY SERVICES DO NOT
26 INCLUDE INPATIENT PSYCHOTHERAPY SERVICES. PSYCHOTROPIC
27 MEDICATION MAY NOT BE PRESCRIBED TO A MINOR WHO IS FOURTEEN
28 YEARS OF AGE OR YOUNGER WITHOUT PARENTAL CONSENT.

29 (7) IF A MINOR WHO IS RECEIVING PSYCHOTHERAPY SERVICES
30 PURSUANT TO THIS SECTION COMMUNICATES A CLEAR AND IMMINENT
31 INTENT OR THREAT TO INFLICT SERIOUS BODILY HARM ON THEMSELVES OR
32 OTHERS, THE MENTAL HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION
33 (1) OF THIS SECTION IS SUBJECT TO THE NOTIFICATION PROVISIONS OF
34 SECTION 13-21-117 (2).

35 (8) IF A MINOR WHO IS RECEIVING PSYCHOTHERAPY SERVICES
36 PURSUANT TO SUBSECTIONS (2) AND (3) OF THIS SECTION COMMUNICATES
37 AN INTENT TO COMMIT SUICIDE, THE MENTAL HEALTH PROFESSIONAL
38 DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL NOTIFY THE
39 MINOR'S PARENT OR LEGAL GUARDIAN OF SUCH SUICIDOLOGY.

40 **SECTION 8. Effective date.** This act takes effect upon passage;
41 except that sections 6 and 7 of this act take effect only if House Bill

1 19-1172 becomes law, in which case sections 6 and 7 take effect on
2 October 1, 2019.

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

** ** ** ** **