

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0513.01 Christy Chase x2008

HOUSE BILL 16-1063

HOUSE SPONSORSHIP

Foote,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AN EXCEPTION TO THE PROHIBITION AGAINST
102 DISCLOSING CONFIDENTIAL COMMUNICATIONS WITH A MENTAL
103 HEALTH PROFESSIONAL WHEN SCHOOL SAFETY IS AT RISK.

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>.)

Except under limited circumstances, current law prohibits a licensed, registered, or certified mental health professional from disclosing, without the client's consent, confidential communications made by, or advice given to, the client in the course of the professional relationship.

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.

The bill grants an exception to the prohibition against disclosure when the mental health professional's client either:

- ! Makes a direct threat against a school or its occupants; or
- ! Exhibits behavior that, in the mental health professional's reasonable judgment, creates a dangerous environment in a school that may jeopardize the safety or well being of students, faculty, staff, parents, or the general public.

The mental health professional must limit the disclosure to appropriate school district personnel and maintain confidentiality of the disclosure.

A mental health professional is not liable for disclosing or failing to disclose a confidential communication, except to the extent the mental health professional has a duty under current law to warn and protect.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43-218, **add** (2)
3 (d) as follows:

4 **12-43-218. Disclosure of confidential communications.**

5 (2) Subsection (1) of this section does not apply when:

6 (d) (I) A CLIENT, REGARDLESS OF AGE:

7 (A) MAKES A THREAT AGAINST A SCHOOL OR THE OCCUPANTS OF
8 A SCHOOL; OR

9 (B) EXHIBITS BEHAVIORS THAT, IN THE REASONABLE JUDGMENT
10 OF THE LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER, CREATES A
11 DANGEROUS ENVIRONMENT IN A SCHOOL THAT MAY JEOPARDIZE THE
12 SAFETY OR WELL BEING OF CHILDREN, STUDENTS, TEACHERS,
13 ADMINISTRATORS, PARENTS, OR OTHER MEMBERS OF THE SCHOOL FACULTY
14 OR THE GENERAL PUBLIC.

15 (II) A LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER WHO
16 DISCLOSES INFORMATION UNDER THIS PARAGRAPH (d) SHALL LIMIT THE
17 DISCLOSURE TO APPROPRIATE SCHOOL DISTRICT PERSONNEL, AND THE
18 LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER AND SCHOOL DISTRICT

1 PERSONNEL SHALL MAINTAIN CONFIDENTIALITY OF THE DISCLOSURE.

2 (III) A LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER WHO
3 DISCLOSES OR FAILS TO DISCLOSE A CONFIDENTIAL COMMUNICATION WITH
4 A CLIENT IN ACCORDANCE WITH THIS PARAGRAPH (d) IS NOT LIABLE FOR
5 DAMAGES IN ANY CIVIL ACTION FOR DISCLOSING OR NOT DISCLOSING THE
6 COMMUNICATION. THIS SUBPARAGRAPH (III) DOES NOT RESCIND ANY
7 STATUTORY DUTY TO WARN AND PROTECT SPECIFIED IN SECTION
8 13-21-117, C.R.S.

9 **SECTION 2. 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, and safety.