

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 17-0398.01 Jane Ritter x4342

**HOUSE BILL 17-1320**

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**HOUSE SPONSORSHIP**

**Michaelson Jenet,**

**SENATE SPONSORSHIP**

**Coram and Fenberg,**

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**House Committees**

Public Health Care & Human Services

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING LOWERING THE AGE OF CONSENT FOR MINORS SEEKING**  
102 **OUTPATIENT PSYCHOTHERAPY.**

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**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 lowers the age of consent from 15 years of age and older to 10 years of age and older for a minor to seek and obtain outpatient psychotherapy services from a licensed mental health professional. The bill allows a minor 10 years of age or older to receive such outpatient psychotherapy services without the consent of his or her parent or guardian. The licensed mental health professional is immune from civil

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.*

HOUSE  
3rd Reading Unamended  
April 26, 2017

HOUSE  
Amended 2nd Reading  
April 25, 2017

or criminal liability for providing outpatient psychotherapy services unless he or she acts negligently or outside the scope of his or her practice.

The bill clarifies that the age of consent for a minor seeking inpatient psychotherapy or other inpatient mental health services without the consent of a parent or legal guardian remains 15 years of age or older.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43-201, **amend**  
3 the introductory portion and (9)(a) as follows:

4 **12-43-201. Definitions.** As used in this ~~article~~ ARTICLE 43, unless  
5 the context otherwise requires:

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

16 **SECTION 2.** In Colorado Revised Statutes, **add** 12-43-202.5 as  
17 follows:

18 **12-43-202.5. Minors - consent for outpatient psychotherapy -**  
19 **legislative declaration - immunity.** (1) (a) THE GENERAL ASSEMBLY  
20 FINDS AND DECLARES THAT:

21 (I) THE CENTERS FOR DISEASE CONTROL FOUND SUICIDE TO BE THE  
22 TENTH-LEADING CAUSE OF DEATH FOR ALL AGES IN 2013 AND IS

1 CURRENTLY THE LEADING CAUSE OF DEATH IN COLORADO YOUTH WHO  
2 ARE TEN THROUGH FOURTEEN YEARS OF AGE;

3 (II) ACCORDING TO THE AMERICAN ASSOCIATION OF SUICIDOLOGY,  
4 THE SUICIDE RATE FOR YOUTH WHO ARE TEN THROUGH FOURTEEN YEARS  
5 OF AGE HAS INCREASED BY MORE THAN FIFTY PERCENT OVER THE PAST  
6 THREE DECADES; AND

7 (III) YOUTH WHO ARE TEN THROUGH FOURTEEN YEARS OF AGE  
8 OFTEN AVOID OBTAINING, OR ARE LEGALLY UNABLE TO OBTAIN WITHOUT  
9 PARENTAL CONSENT, OUTPATIENT PSYCHOTHERAPY SERVICES THAT  
10 WOULD HELP THEM PRIOR TO REACHING CRISIS LEVELS BECAUSE THEY ARE  
11 EMBARRASSED OR CONCERNED ABOUT SPEAKING WITH THEIR PARENTS  
12 ABOUT THEIR MENTAL HEALTH CONCERNS AND SITUATION.

13 (b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS A  
14 MATTER OF STATEWIDE CONCERN TO ALLOW YOUTH WHO ARE TWELVE  
15 YEARS OF AGE AND OLDER TO HAVE LEGAL ACCESS TO OUTPATIENT  
16 PSYCHOTHERAPY SERVICES WITHOUT THE CONSENT OF OR NOTIFICATION  
17 TO THE YOUTH'S PARENT OR LEGAL GUARDIAN. PROVIDING THESE YOUTH  
18 WITH ACCESS TO OUTPATIENT PSYCHOTHERAPY SERVICES IS INTENDED TO  
19 REDUCE YOUTH SUICIDES AND ALLOW MENTAL HEALTH PROVIDERS TO  
20 WORK WITH YOUTH TO TEACH THEM FUNCTIONAL COPING SKILLS. MENTAL  
21 HEALTH PROVIDERS WOULD FURTHER HAVE THE OPPORTUNITY TO HELP  
22 THESE YOUTH BUILD HEALTHY CONNECTIONS WITH PARENTS OR LEGAL  
23 GUARDIANS BY INCREASING COMMUNICATION AND STRENGTHENING THE  
24 BOND BETWEEN PARENT AND CHILD, THUS BUILDING AN ONGOING,  
25 NONCLINICAL SUPPORT SYSTEM FOR THE YOUTH TO USE TO MANAGE HIS OR  
26 HER MENTAL HEALTH CONCERNS.

27 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE

1 CONTRARY, A MINOR TWELVE YEARS OF AGE AND OLDER MAY REQUEST  
2 AND CONSENT TO OUTPATIENT PSYCHOTHERAPY SERVICES, AS DEFINED IN  
3 SECTION 12-43-201 (9), PROVIDED BY ANY MENTAL HEALTH PROFESSIONAL  
4 LICENSED PURSUANT TO THIS ARTICLE 43. THE MINOR MAY OBTAIN SUCH  
5 OUTPATIENT PSYCHOTHERAPY SERVICES WITHOUT THE CONSENT OF HIS  
6 OR HER PARENT, PARENTS, OR LEGAL GUARDIAN, OR TO ANY OTHER  
7 PERSON HAVING CUSTODY OR DECISION-MAKING RESPONSIBILITY WITH  
8 RESPECT TO THE MINOR. EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS  
9 SECTION AND IN SECTION 13-21-117 (2), THE MENTAL HEALTH  
10 PROFESSIONAL WHO IS PROVIDING OUTPATIENT PSYCHOTHERAPY SERVICES  
11 TO A MINOR PURSUANT TO THIS SECTION IS NOT REQUIRED TO PROVIDE  
12 NOTIFICATION OF SUCH PROVISION OF PSYCHOTHERAPY SERVICES TO THE  
13 MINOR'S PARENT, PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON  
14 HAVING CUSTODY OR DECISION-MAKING RESPONSIBILITY WITH RESPECT TO  
15 THE MINOR. IN ANY SUCH CASE, THE MENTAL HEALTH PROFESSIONAL WHO  
16 IS LICENSED PURSUANT TO THIS ARTICLE 43 AND IS PROVIDING THE MINOR  
17 WITH OUTPATIENT PSYCHOTHERAPY SERVICES IS IMMUNE FROM CIVIL OR  
18 CRIMINAL LIABILITY, UNLESS THE MENTAL HEALTH PROFESSIONAL ACTED  
19 NEGLIGENTLY OR OUTSIDE THE SCOPE OF HIS OR HER PRACTICE. THE  
20 PROVISIONS OF THIS SECTION DO NOT APPLY TO INPATIENT  
21 PSYCHOTHERAPY OR OTHER INPATIENT MENTAL HEALTH SERVICES  
22 PROVIDED IN A HOSPITAL, FACILITY, OR OTHER INPATIENT SETTING  
23 PURSUANT TO SECTION 27-65-103 (2).

24 (3) IF A MINOR WHO IS RECEIVING PSYCHOTHERAPY SERVICES  
25 PURSUANT TO THIS SECTION COMMUNICATES TO THE MENTAL HEALTH  
26 PROFESSIONAL A CLEAR AND IMMINENT INTENT OR THREAT TO INFLICT  
27 SERIOUS BODILY HARM ON HIMSELF OR HERSELF OR OTHERS, THE MENTAL

1 HEALTH PROFESSIONAL IS SUBJECT TO THE PROVISIONS OF SECTION  
2 13-21-117 (2) AND SHALL IMMEDIATELY NOTIFY THE MINOR PATIENT'S  
3 PARENT, PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON HAVING  
4 CUSTODY OR DECISION-MAKING RESPONSIBILITY WITH RESPECT TO THE  
5 MINOR, OF SUCH COMMUNICATION.

6 **SECTION 3.** In Colorado Revised Statutes, 13-21-117, **amend**  
7 (2) as follows:

8 **13-21-117. Civil liability - mental health providers - duty to**  
9 **warn - definitions.** (2) (a) A mental health provider is not liable for  
10 damages in any civil action for failure to warn or protect a specific person  
11 or persons, including those identifiable by their association with a specific  
12 location or entity, against the violent behavior of a person receiving  
13 treatment from the mental health provider, and any such mental health  
14 provider must not be held civilly liable for failure to predict such violent  
15 behavior except where:

16 (I) The patient has communicated to the mental health provider a  
17 serious threat of imminent physical violence against a specific person or  
18 persons, including those identifiable by their association with a specific  
19 location or entity; OR

20 (II) THE PATIENT HAS COMMUNICATED TO THE MENTAL HEALTH  
21 PROVIDER A CLEAR AND IMMINENT INTENT OR THREAT TO INFLICT SERIOUS  
22 BODILY HARM ON HIMSELF OR HERSELF OR OTHERS.

23 (b) When there is a duty to warn and protect under the provisions  
24 of ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS  
25 SECTION, the mental health provider shall make reasonable and timely  
26 efforts to notify EACH OF THE FOLLOWING PERSONS, AS APPLICABLE TO  
27 THE SPECIFIC CIRCUMSTANCES OF THE SITUATION:

1 (I) The person or persons THREATENED; ~~or~~

2 (II) The person or persons responsible for a specific location or  
3 entity, that is specifically threatened, as well as to notify an appropriate  
4 law enforcement agency; ~~or to~~ AND

5 (III) IN THE CASE OF A MINOR RECEIVING PSYCHOTHERAPY  
6 SERVICES PURSUANT TO SECTION 12-43-202.5, THE MINOR'S PARENT,  
7 PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON HAVING CUSTODY OR  
8 DECISION-MAKING RESPONSIBILITY WITH RESPECT TO THE MINOR.

9 (b.3) WHEN THERE IS A DUTY TO WARN AND PROTECT UNDER THE  
10 PROVISIONS OF SUBSECTION (2)(a) OF THIS SECTION, THE MENTAL HEALTH  
11 PROVIDER MAY, IN ADDITION TO THE NOTIFICATION PROVISIONS OF  
12 SUBSECTION (2)(b) OF THIS SECTION, take other appropriate action,  
13 including but not limited to hospitalizing the patient.

14 (b.5) A mental health provider is not liable for damages in any  
15 civil action for warning a specific person or persons; A MINOR'S PARENT,  
16 PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON HAVING CUSTODY OR  
17 DECISION-MAKING RESPONSIBILITY WITH RESPECT TO THE MINOR; or a  
18 person or persons responsible for a specific location or entity, against or  
19 predicting the violent behavior of a person receiving treatment from the  
20 mental health provider.

21 (c) A mental health provider must not be subject to professional  
22 discipline when there is a duty to warn and protect pursuant to this  
23 section.

24 **SECTION 4.** In Colorado Revised Statutes, 27-65-103, **amend**  
25 (1) and (2) as follows:

26 **27-65-103. Voluntary application for inpatient mental health**  
27 **services in hospitals, facilities, or other inpatient setting - consent by**

1 **minor - mandatory reviews.** (1) (a) ~~Nothing in this article shall be~~  
2 ~~construed in any way as limiting~~ THIS ARTICLE 65 DOES NOT LIMIT the  
3 right of any person to ~~make voluntary application~~ VOLUNTARILY APPLY  
4 at any time to any public or private ~~agency or professional person~~  
5 HOSPITAL, FACILITY, OR OTHER INPATIENT SETTING for INPATIENT mental  
6 health services, either by direct application in person or by referral from  
7 any other public or private agency or professional person.

8 (b) Subject to section 15-14-316 (4), ~~C.R.S.~~, a ward, as defined in  
9 section 15-14-102 (15), ~~C.R.S.~~, may be admitted to A hospital, ~~or~~  
10 ~~institutional~~ FACILITY, OR OTHER INPATIENT SETTING FOR INPATIENT care  
11 and treatment ~~for~~ OF A mental illness by consent of the guardian for so  
12 long as the ward agrees to such care and treatment. Within ten days of ~~any~~  
13 ~~such~~ THE WARD'S admission ~~of the ward for such hospital or institutional~~  
14 FOR care and treatment OF A MENTAL ILLNESS, the guardian shall notify,  
15 in writing, the court that appointed the guardian of the admission.

16 (2) FOR THE PURPOSES OF THIS ARTICLE 65 ONLY, AND  
17 notwithstanding any other provision of law, a minor who is fifteen years  
18 of age or older ~~whether with or without the consent of a parent or legal~~  
19 ~~guardian~~, may consent, WITH OR WITHOUT THE CONSENT OF A PARENT OR  
20 LEGAL GUARDIAN, to receive INPATIENT mental health services ~~to be~~  
21 rendered by a HOSPITAL, facility, OR OTHER INPATIENT SETTING. ~~or by a~~  
22 ~~professional person or mental health professional licensed pursuant to~~  
23 ~~part 3, 4, 5, 6, or 8 of article 43 of title 12, C.R.S., in any practice setting.~~  
24 Such consent ~~shall not be~~ IS NOT subject to disaffirmance because of  
25 minority. The ~~professional person or licensed mental health professional~~  
26 ~~rendering~~ HOSPITAL, FACILITY, OR OTHER INPATIENT FACILITY PROVIDING  
27 INPATIENT mental health services to a minor may, with or without the

1 consent of the minor, advise the parent or legal guardian of the minor of  
2 the services given or needed.

3 **SECTION 5.** In Colorado Revised Statutes, 27-65-121, **amend**  
4 (1) introductory portion; and **add** (1)(j) as follows:

5 **27-65-121. Records.** (1) Except as provided in subsection (2) of  
6 this section, all information obtained and records prepared in the course  
7 of providing any services ~~under~~ PURSUANT TO this ~~article~~ ARTICLE 65 to  
8 individuals ~~under~~ PURSUANT TO any provision of this ~~article~~ shall be  
9 ARTICLE 65 ARE confidential and privileged matter. The information and  
10 records may be disclosed only:

11 (j) PURSUANT TO THE PROVISIONS OF SECTION 13-21-117 (2).

12 **SECTION 6. Act subject to petition - effective date.** This act  
13 takes effect at 12:01 a.m. on the day following the expiration of the  
14 ninety-day period after final adjournment of the general assembly (August  
15 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
16 referendum petition is filed pursuant to section 1 (3) of article V of the  
17 state constitution against this act or an item, section, or part of this act  
18 within such period, then the act, item, section, or part will not take effect  
19 unless approved by the people at the general election to be held in  
20 November 2018 and, in such case, will take effect on the date of the  
21 official declaration of the vote thereon by the governor.