

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0398.01 Jane Ritter x4342

HOUSE BILL 17-1320

HOUSE SPONSORSHIP

Michaelson Jenet,

SENATE SPONSORSHIP

Coram and Fenberg,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

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

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.*

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.

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.