

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 18, 2017
Date

Committee on Public Health Care & Human Services.

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

HB17-1320 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, line 1, strike "THIRD-LEADING" and substitute
2 "LEADING".
- 3 Page 3, lines 14 and 15, strike "TEN THROUGH FOURTEEN YEARS OF AGE"
4 and substitute "TWELVE YEARS OF AGE AND OLDER".
- 5 Page 4, line 1, strike "TEN" and substitute "TWELVE".
- 6 Page 4, lines 5 and 6, strike "OR NOTIFICATION TO".
- 7 Page 4, line 8, after "MINOR." insert "EXCEPT AS PROVIDED IN SUBSECTION
8 (3) OF THIS SECTION AND IN SECTION 13-21-117 (2), THE MENTAL HEALTH
9 PROFESSIONAL WHO IS PROVIDING OUTPATIENT PSYCHOTHERAPY SERVICES
10 TO A MINOR PURSUANT TO THIS SECTION IS NOT REQUIRED TO PROVIDE
11 NOTIFICATION OF SUCH PROVISION OF PSYCHOTHERAPY SERVICES TO THE
12 MINOR'S PARENT, PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON
13 HAVING CUSTODY OR DECISION-MAKING RESPONSIBILITY WITH RESPECT TO
14 THE MINOR."
- 15 Page 4, after line 16 insert:
16 "(3) IF A MINOR WHO IS RECEIVING PSYCHOTHERAPY SERVICES
17 PURSUANT TO THIS SECTION COMMUNICATES TO THE MENTAL HEALTH
18 PROFESSIONAL A CLEAR AND IMMINENT INTENT OR THREAT TO INFLICT

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

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

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

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

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

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

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

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

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

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

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

8 (c) A mental health provider must not be subject to professional
9 discipline when there is a duty to warn and protect pursuant to this
10 section."

11 Renumber succeeding sections accordingly.

12 Page 5, strike lines 23 through 25 and substitute:

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

15 **27-65-121. Records.** (1) Except as provided in subsection (2) of
16 this section, all information obtained and records prepared in the course
17 of providing any services ~~under~~ PURSUANT TO this ~~article~~ ARTICLE 65 to
18 individuals ~~under~~ PURSUANT TO any provision of this ~~article shall be~~
19 ARTICLE 65 ARE confidential and privileged matter. The information and
20 records may be disclosed only:

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

22 **SECTION 6. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act
28 within such period, then the act, item, section, or part will not take effect
29 unless approved by the people at the general election to be held in
30 November 2018 and, in such case, will take effect on the date of the
31 official declaration of the vote thereon by the governor."

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