

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

February 14, 2023  
Date

Committee on Judiciary.

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

HB23-1138 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, line 27, strike "WHETHER THE DEFENDANT  
2 HAS" and substitute "HAS".

3 Page 4, line 3, strike "IS" and substitute "MAY BE".

4 Page 8, line 16, strike "IS" and substitute "MAY BE".

5 Page 14, after line 26 add:

6 "SECTION 6. In Colorado Revised Statutes, 13-5-142, amend  
7 (1)(c) as follows:

8 **13-5-142. National instant criminal background check system**  
9 **- reporting.** (1) On and after March 20, 2013, the state court  
10 administrator shall send electronically the following information to the  
11 Colorado bureau of investigation created pursuant to section 24-33.5-401,  
12 referred to in this section as the "bureau":

13 (c) The name of each person with respect to whom the court has  
14 entered an order for involuntary certification for short-term treatment of  
15 a mental health disorder pursuant to section 27-65-108.5 OR 27-65-109,  
16 for extended certification for treatment of a mental health disorder  
17 pursuant to section 27-65-109 (10), or for long-term care and treatment  
18 of a mental health disorder pursuant to section 27-65-110.

19 **SECTION 7.** In Colorado Revised Statutes, 13-5-142.5, amend  
20 (2)(a)(III) as follows:

21 **13-5-142.5. National instant criminal background check**  
22 **system - judicial process for awarding relief from federal**  
23 **prohibitions - legislative declaration.** (2) **Eligibility.** A person may  
24 petition for relief pursuant to this section if:

1 (a) (III) The court has entered an order for the person's involuntary  
2 certification for short-term treatment of a mental health disorder pursuant  
3 to section 27-65-108.5 OR 27-65-109, for extended certification for  
4 treatment of a mental health disorder pursuant to section 27-65-109 (10),  
5 or for long-term care and treatment of a mental health disorder pursuant  
6 to section 27-65-110; and

7 **SECTION 8.** In Colorado Revised Statutes, **amend** 13-5-142.8  
8 as follows:

9 **13-5-142.8. Notice by professional persons.** Under sections  
10 13-9-123 (1), 13-9-124 (2), 13-5-142 (1), and 13-5-142.5 (2), an order for  
11 involuntary certification for short-term treatment of a mental health  
12 disorder pursuant to section 27-65-108.5 OR 27-65-109 must also include  
13 a notice filed by a professional person pursuant to section 27-65-108.5 OR  
14 27-65-109, and an order for extended certification for treatment of a  
15 mental health disorder pursuant to section 27-65-109 (10) must also  
16 include a notice filed by a professional person pursuant to section  
17 27-65-109 (10).

18 **SECTION 9.** In Colorado Revised Statutes, 13-9-123, **amend**  
19 (1)(c) as follows:

20 **13-9-123. National instant criminal background check system**  
21 **- reporting.** (1) On and after March 20, 2013, the state court  
22 administrator shall send electronically the following information to the  
23 Colorado bureau of investigation created pursuant to section 24-33.5-401,  
24 referred to in this section as the "bureau":

25 (c) The name of each person with respect to whom the court has  
26 entered an order for involuntary certification for short-term treatment of  
27 a mental health disorder pursuant to section 27-65-108.5 OR 27-65-109,  
28 for extended certification for treatment of a mental health disorder  
29 pursuant to section 27-65-109 (10), or for long-term care and treatment  
30 of a mental health disorder pursuant to section 27-65-110.

31 **SECTION 10.** In Colorado Revised Statutes, 13-9-124, **amend**  
32 (2)(a)(III) as follows:

33 **13-9-124. National instant criminal background check system**  
34 **- judicial process for awarding relief from federal prohibitions -**  
35 **legislative declaration.** (2) **Eligibility.** A person may petition for relief  
36 pursuant to this section if:

37 (a) (III) The court has entered an order for the person's involuntary  
38 certification for short-term treatment of a mental health disorder pursuant  
39 to section 27-65-108.5 OR 27-65-109, for extended certification for  
40 treatment of a mental health disorder pursuant to section 27-65-109 (10),  
41 or for long-term care and treatment of a mental health disorder pursuant  
42 to section 27-65-110; and

43 **SECTION 11.** In Colorado Revised Statutes, 25-3-102.1, **amend**

1 (1)(c) as follows:

2 **25-3-102.1. Deemed status for certain facilities.** (1) (c) Upon  
3 submission of a completed application for license renewal, the department  
4 of public health and environment shall accept proof of the accreditation  
5 in lieu of licensing inspections or other requirements. Nothing in this  
6 section exempts an accredited health facility from inspections or from  
7 other forms of oversight by the department as necessary to ensure public  
8 health and safety. Nothing in this section prevents the department of  
9 public health and environment from conducting an inspection of a  
10 hospital or other health facility described in section 25-3-101 to  
11 investigate a complaint regarding the provisions of section 27-65-106,  
12 27-65-107, **27-65-108.5**, 27-65-109, 27-65-110, or 27-65-119 to the  
13 extent the complaint is applicable to health facilities licensed by the  
14 department of public health and environment.

15 **SECTION 12.** In Colorado Revised Statutes, 26-20-103, **amend**  
16 (3) as follows:

17 **26-20-103. Basis for use of restraint or seclusion.** (3) In  
18 addition to the circumstances described in subsection (1) of this section,  
19 a facility, as defined in section 27-65-102, that is designated by the  
20 commissioner of the behavioral health administration in the state  
21 department to provide treatment pursuant to section 27-65-106,  
22 27-65-108, **27-65-108.5**, 27-65-109, or 27-65-110 to an individual with  
23 a mental health disorder, as defined in section 27-65-102, may use  
24 seclusion to restrain an individual with a mental health disorder when the  
25 seclusion is necessary to eliminate a continuous and serious disruption of  
26 the treatment environment."

27 Renumber succeeding sections accordingly.

28 Page 16, after line 4, insert:

29 **"SECTION 15.** In Colorado Revised Statutes, 27-65-112, **amend**  
30 **as it will become effective July 1, 2024,** (1) as follows:

31 **27-65-112. Termination of certification for short-term and**  
32 **long-term treatment.** (1) An original or extended certification for  
33 short-term treatment issued pursuant to section 27-65-108.5 OR  
34 27-65-109, or an order or extension for certification for long-term care  
35 and treatment pursuant to section 27-65-110 terminates as soon as the  
36 professional person in charge of treatment of the respondent and the BHA  
37 determine the respondent has received sufficient benefit from the  
38 treatment for the respondent to end involuntary treatment. Whenever a  
39 certification or extended certification is terminated pursuant to this  
40 section, the professional person in charge of providing treatment shall

1 notify the court in writing within five days after the termination."

2 Renumber succeeding sections accordingly.

3 Page 17, after line 15, insert:

4 "SECTION 17. In Colorado Revised Statutes, 27-65-119, **amend**  
5 **as it will become effective July 1, 2023**, (1) introductory portion as  
6 follows:

7 **27-65-119. Rights of respondents certified for short-term**  
8 **treatment or long-term care and treatment.** (1) ~~Each~~ EACH respondent  
9 certified for short-term treatment or long-term care and treatment on an  
10 inpatient basis pursuant to sections **27-65-108.5**, 27-65-109, and  
11 27-65-110 has the following rights and shall be advised of such rights by  
12 the facility:

13 **SECTION 18.** In Colorado Revised Statutes, 27-66.5-102,  
14 **amend** (3)(a)(II) as follows:

15 **27-66.5-102. Definitions.** As used in this article 66.5, unless the  
16 context otherwise requires:

17 (3) "High-risk individual" means a person who:

18 (a) Has a significant mental health or substance use disorder, as  
19 evidenced by:

20 (II) A certification for short-term treatment or extended short-term  
21 treatment pursuant to section 27-65-108.5 OR 27-65-109;

22 **SECTION 19.** In Colorado Revised Statutes, 27-80-303, **amend**  
23 (3)(c) as follows:

24 **27-80-303. Office of ombudsman for behavioral health access**  
25 **to care - creation - appointment of ombudsman - duties.** (3) The  
26 ombudsman shall:

27 (c) Receive and assist consumers and providers in reporting  
28 concerns and filing complaints with appropriate regulatory or oversight  
29 agencies relating to inappropriate care, a procedure for an emergency  
30 mental health hold pursuant to section 27-65-106, a certification for  
31 short-term treatment pursuant to section 27-65-108.5 OR 27-65-109, or a  
32 certification for long-term care and treatment pursuant to section  
33 27-65-110;"

34 Renumber succeeding sections accordingly.

35 Page 17, line 23, strike "January" and substitute "July".

- 1 Page 17, line 25, strike "such period," and substitute "the ninety-day
- 2 period after final adjournment of the general assembly,".

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