

## CHAPTER 50

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**GOVERNMENT - STATE**


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**HOUSE BILL 17-1046**

BY REPRESENTATIVE(S) Lebsack, Benavidez, Danielson, Esgar, Exum, Garnett, Ginal, Hamner, Hansen, Hooton, Jackson, Kraft-Tharp, Lee, Lontine, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Pettersen, Singer, Valdez, Weissman, Winter, Young, Bridges, Gray, Herod, Kennedy, Nordberg, Rankin, Rosenthal, Salazar, Wilson, Duran;  
 also SENATOR(S) Donovan, Aguilar, Court, Crowder, Fields, Garcia, Gardner, Guzman, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Smallwood, Tate, Todd, Williams A., Zenzinger.

**AN ACT**

**CONCERNING UPDATING STATUTORY REFERENCES TO CERTAIN LIMITED OUTDATED TERMS RELATING TO PEOPLE WITH DISABILITIES.**

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

**SECTION 1.** In Colorado Revised Statutes, 8-70-140, **amend** (1)(d) as follows:

**8-70-140. Employment does not include - nonprofit organizations - governmental entities - Indian tribes.** (1) For the purposes of sections 8-70-118, 8-70-119, and 8-70-125.5, "employment" does not include services performed:

(d) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical DISABILITY, or ~~mental deficiency~~ INTELLECTUAL AND DEVELOPMENTAL DISABILITY, or injury or of providing remunerative work for individuals who, because of their impaired ~~physical or mental capacity~~ ABILITIES, cannot be readily absorbed in the competitive labor market; or

**SECTION 2.** In Colorado Revised Statutes, 12-43-224, **amend** (2)(c)(II) introductory portion and (2)(c)(II)(B) as follows:

**12-43-224. Disciplinary proceedings - judicial review - mental and physical examinations - multiple licenses.** (2) (c) (II) The board that licenses, registers, or certifies a licensee, registrant, or certificate holder pursuant to this ~~article~~ ARTICLE 43 may summarily suspend the person's license, registration, or certification, subject

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

to the limitation of section 24-4-104, ~~C.R.S.~~, under the following circumstances:

(B) The licensee, registrant, or certificate holder has been adjudicated by a court of competent jurisdiction as ~~being~~ a person who is gravely disabled, ~~mentally retarded~~, mentally incompetent, or insane or as a person with a mental illness ~~by a court of competent jurisdiction~~ OR AS A PERSON WITH A DEVELOPMENTAL AND INTELLECTUAL DISABILITY; OR

**SECTION 3.** In Colorado Revised Statutes, 13-9-103, **amend** (1)(f) as follows:

**13-9-103. Jurisdiction.** (1) The probate court of the city and county of Denver has original and exclusive jurisdiction in said city and county of:

(f) The administration of guardianships of minors and of ~~mentally competent~~ persons DECLARED MENTALLY INCOMPETENT and of conservatorships of persons with a mental illness or ~~mentally deficient~~ persons WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY and of absentees;

**SECTION 4.** In Colorado Revised Statutes, 13-80-103.7, **amend** (3.5)(a) as follows:

**13-80-103.7. General limitation of actions - sexual assault or sexual offense against a child - six years.** (3.5) (a) For the purpose of this section, "person under disability" means any person who is a minor under eighteen years of age, a ~~mental incompetent~~ PERSON WHO HAS BEEN DECLARED MENTALLY INCOMPETENT, or a person under other legal disability and who does not have a legal guardian. "Person under disability" also includes a victim of a sexual assault when the victim is in a special relationship with the perpetrator of the assault or is a victim of a sexual offense against a child or is a victim who is residing in an institutional facility, such as a nursing home, regional center, or residential facility for the treatment and care of persons with a mental illness or for the care of persons with INTELLECTUAL AND developmental disabilities and where the victim is psychologically or emotionally unable to acknowledge the assault or offense and the RESULTING harm. ~~resulting therefrom.~~ For the purpose of this subsection (3.5), "special relationship" means a relationship between the victim and the perpetrator of the sexual assault which is a confidential, trust-based relationship, such as attorney-client, doctor-patient, psychotherapist-patient, minister-parishioner, teacher-student, or familial relationship. It is the intent of the general assembly to leave in place the six-year limitation for adults subjected to a sexual assault except in the situations described in this ~~paragraph (a)~~ SUBSECTION (3.5)(a) in which the victim is in a special relationship with the perpetrator of the assault. In the circumstances in which a victim is in a special relationship with the perpetrator of the assault or is a victim of a sexual offense against a child or a victim who is residing in an institutional facility, such as a nursing home, regional center, or residential facility for the treatment and care of persons with a mental illness or for the care of persons with INTELLECTUAL AND developmental disabilities and where the victim is psychologically or emotionally unable to acknowledge the assault or offense and the RESULTING harm, ~~resulting therefrom~~, the six-year limitation shall be tolled until the disability is removed. For the purpose of this section, where the plaintiff is a victim of a series of sexual assaults or sexual offenses against a child, the plaintiff need not establish which act of a series of acts caused the plaintiff's injury, and the statute of

limitations set forth in this section ~~shall commence~~ COMMENCES with the last in the series of acts, subject to the provisions of this section regarding disability. However, as elements of the cause of action, a person under disability who is psychologically or emotionally unable to acknowledge the assault or offense and the RESULTING harm ~~resulting therefrom shall have~~ HAS the burden of proving that the assault or offense occurred and that ~~such~~ THE person was actually psychologically or emotionally unable to acknowledge the assault or offense and the RESULTING harm. ~~resulting therefrom.~~

**SECTION 5.** In Colorado Revised Statutes, **amend** 13-90-109 as follows:

**13-90-109. Estates of deceased persons, infants, and persons who have been declared mentally incompetent.** Nothing in this ~~article shall~~ ARTICLE 90 in any manner ~~affect~~ AFFECTS the laws now existing relating to the settlement of estates of deceased persons, infants, or ~~mentally incompetent~~ persons WHO HAVE BEEN DECLARED MENTALLY INCOMPETENT or to the acknowledgment or proof of deeds and other conveyances relating to real estate, in order to entitle the same to be recorded, or to the attestation of the execution of the last wills and testaments or of any other instrument required by law to be attested.

**SECTION 6.** In Colorado Revised Statutes, **amend** 14-7-104 as follows:

**14-7-104. Application of article.** This ~~article shall~~ ARTICLE 7 DOES not apply to liability for the support of children admitted, committed, or transferred to any public institution of this state supervised by the department of human services for the care, support, maintenance, education, or treatment of ~~persons with mental illness or who are mentally deficient~~ A PERSON WITH A MENTAL ILLNESS OR A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

**SECTION 7.** In Colorado Revised Statutes, 15-1.5-101, **amend** the introductory portion and (8) as follows:

**15-1.5-101. Definitions.** As used in this ~~article~~ ARTICLE 1.5:

(8) "Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of A mental illness, ~~mental deficiency~~ AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, A physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

**SECTION 8.** In Colorado Revised Statutes, 15-14-118, **amend** (2) introductory portion and (2)(c) as follows:

**15-14-118. Small estate - person under disability - no personal representative.** (2) ~~Such petition shall~~ THE PETITION MUST state, so far as known to petitioner:

(c) The date upon which and the court by which the person under disability was adjudged as having a mental illness, ~~being mentally deficient, or being disabled~~ AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, OR OTHER INCAPACITATING DISABILITY;

**SECTION 9.** In Colorado Revised Statutes, 17-27.7-103, **amend** (1) as follows:

**17-27.7-103. Regimented inmate training program - eligibility of offenders.**

(1) The executive director may assign an inmate to a regimented inmate training program pursuant to section 17-40-102 (2). The executive director shall assign to a regimented inmate training program only those inmates who are nonviolent offenders thirty years of age or younger who are not serving a sentence, and have not served a previous sentence, in a correctional facility for an unlawful sexual behavior offense described in section 16-22-102 (9), ~~C.R.S.~~, a crime of violence described in section 18-1.3-406, ~~C.R.S.~~, an assault offense described in part 2 of article 3 of title 18, ~~C.R.S.~~, or a child abuse offense described in part 4 of article 6 of title 18, ~~C.R.S.~~, or who are not presently serving a sentence for a nonviolent offense that was reduced from an unlawful sexual behavior offense described in section 16-22-102 (9), ~~C.R.S.~~, a crime of violence described in section 18-1.3-406, ~~C.R.S.~~, an assault offense described in part 2 of article 3 of title 18, ~~C.R.S.~~, or a child abuse offense described in part 4 of article 6 of title 18, ~~C.R.S.~~, as a result of a plea agreement or who are not aliens subject to a removal order. Any offender assigned to the program shall be free of any physical or mental ~~defect~~ ~~which~~ ~~DISABILITY~~ THAT could jeopardize his or her ability to complete the program. The department may eliminate any offender from the program upon a determination by the department that a physical ~~DISABILITY~~ OR A mental ~~defect~~ ~~ILLNESS~~ will prevent full participation in the program by ~~such~~ ~~THE~~ offender. The department is absolved of liability for participation in the program.

**SECTION 10.** In Colorado Revised Statutes, 19-3-604, **amend** (1)(b)(I) as follows:

**19-3-604. Criteria for termination.** (1) The court may order a termination of the parent-child legal relationship upon the finding by clear and convincing evidence of any one of the following:

(b) That the child is adjudicated dependent or neglected and the court finds that no appropriate treatment plan can be devised to address the unfitness of the parent or parents. In making such a determination, the court shall find one of the following as the basis for unfitness:

(I) Emotional illness, mental illness, or ~~mental deficiency~~ ~~AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY~~ of the parent of such duration or nature as to render the parent unlikely within a reasonable time to care for the ongoing physical, mental, and emotional needs and conditions of the child;

**SECTION 11.** In Colorado Revised Statutes, 19-5-105, **amend** (3.1)(a) introductory portion and (3.1)(a)(I) as follows:

**19-5-105. Proceeding to terminate parent-child legal relationship.** (3.1) The court may order the termination of the other birth parent's parental rights upon a finding that termination is in the best interests of the child and that there is clear and convincing evidence of one or more of the following:

(a) That the parent is unfit. In considering the fitness of the child's parent, the court shall consider ~~but shall not be limited to~~, the following:

(I) Emotional illness, mental illness, or ~~mental deficiency~~ AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY of the parent of such duration or nature as to render the parent unlikely, within a reasonable period of time, to care for the ongoing physical, mental, and emotional needs of the child;

**SECTION 12.** In Colorado Revised Statutes, 25-1-124.5, **amend** (2) introductory portion and (2)(b) as follows:

**25-1-124.5. Nursing care facilities - employees - criminal history check.**

(2) As used in this section, "nursing care facility" includes: ~~but is not limited to:~~

(b) An intermediate nursing facility for ~~the mentally retarded~~ PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES as defined in section 25.5-4-103 (9); ~~C.R.S.;~~

**SECTION 13.** In Colorado Revised Statutes, 25.5-4-103, **amend** the introductory portion and (14) as follows:

**25.5-4-103. Definitions.** As used in this ~~article~~ ARTICLE 4 and articles 5 and 6 of this ~~title~~ TITLE 25.5, unless the context otherwise requires:

(14) "Nursing facility" means a facility, or a distinct part of a facility, ~~which~~ THAT meets the state nursing home licensing standards in section 25-1.5-103 (1)(a)(I), ~~C.R.S.;~~ is maintained primarily for the care and treatment of inpatients under the direction of a physician, and meets the requirements in 42 U.S.C. sec. 1396r for certification as a qualified provider of nursing facility services. The patients in such a facility require supportive, therapeutic, or compensating services and the availability of a licensed nurse for observation or treatment on a twenty-four-hour basis. Nursing care may include ~~but is not limited to~~ terminal care; extensive assistance or therapy in the activities of daily living; continual direction, supervision, or therapy; extensive assistance or therapy for loss of mobility; nursing assessment and services ~~which~~ THAT involve assessment of the total needs of the patient, planning of patient care, and observing, monitoring, and recording the patient's response to treatment; and monitoring, observing, and evaluating the drug regimen. "Nursing facility" includes private, nonprofit, or proprietary intermediate nursing facilities for ~~the mentally retarded or developmentally disabled~~ PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

**SECTION 14.** In Colorado Revised Statutes, 26-1-122, **amend** (4)(e) as follows:

**26-1-122. County appropriations and expenditures - advancements - procedures.** (4) (e) When a county department provides or purchases certain specialized social services for public assistance applicants, recipients, or others to accomplish self-support, self-care, or better family life, including ~~but not limited to~~ day care, homemaker services, foster care, and services to ~~mentally retarded~~ persons WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, in accordance with applicable rules, the state may advance funds to ~~such~~ THE county department at a rate in excess of eighty percent within available appropriations, but not to exceed the amount expended by the county department for such services. The county department contribution ~~shall be~~ for the period from January 1, 1981, through June 30, 1981, is ten percent, and beginning July 1, 1981, is five percent for the aid to the

needy disabled home care program, the special needs of the disabled program, aid to the blind home care program, the special needs of the blind program, the adult foster care program, and other programs providing public assistance in the form of social services required by the federal "Social Security Act", as amended, for the purpose of establishing services ~~which~~ THAT promote self-sufficiency for adult clients. As funds are advanced, adjustment shall be made from subsequent monthly payments for those purposes. The expenses of training personnel to provide these services as determined and approved by the state department shall be paid from whatever state and federal funds are available for such training purposes.

**SECTION 15.** In Colorado Revised Statutes, 26-2-103, **amend** the introductory portion and (11)(a) as follows:

**26-2-103. Definitions.** As used in this ~~article~~ ARTICLE 2 and article 1 of this ~~title~~ TITLE 26, unless the context otherwise requires:

(11) (a) "Social services" means services and payments for services available, directly or indirectly, through the staff of the state department of human services and county departments of HUMAN OR social services or through state designated agencies, where applicable, for the benefit of eligible persons. ~~which~~ THE services are provided pursuant to rules adopted by the state board. "Social services" may include ~~but need not be limited to~~ day care, homemaker services, foster care, and other services to individuals or families for the purpose of attaining or retaining capabilities for maximum self-care, self-support, and personal independence and services to families or members of families for the purpose of preserving, rehabilitating, reuniting, or strengthening the family. At such time as Title XX of the social security act becomes effective with respect to federal reimbursements, "social services" may include ~~but need not be limited to~~ child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, ~~the aged, the mentally retarded, the blind, the emotionally disturbed,~~ PERSONS WHO ARE ELDERLY, PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, PERSONS WHO ARE BLIND, PERSONS WITH A MENTAL ILLNESS, persons with a physical ~~disabilities~~ DISABILITY, and ~~alcoholics and~~ PERSONS INCAPACITATED BY ALCOHOLISM OR BY drug ~~addicts~~ ADDICTION.

**SECTION 16. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 16, 2017