

CHAPTER 176

HUMAN SERVICES - BEHAVIORAL HEALTH

SENATE BILL 17-246

BY SENATOR(S) Martinez Humenik, Fields, Gardner, Guzman, Jahn, Jones, Kefalas, Kerr, Todd;
 also REPRESENTATIVE(S) Michaelson Jenet and Singer, Becker K., Benavidez, Bridges, Buckner, Gray, Herod, Hooton,
 Kraft-Tharp, Lontine, Rosenthal, Winter.

AN ACT

CONCERNING MODERNIZING TERMINOLOGY RELATING TO MENTAL HEALTH DISORDERS, AND, IN CONNECTION THEREWITH, RENAMING THE "LEGISLATIVE OVERSIGHT COMMITTEE CONCERNING THE TREATMENT OF PERSONS WITH MENTAL ILLNESS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS" TO THE "LEGISLATIVE OVERSIGHT COMMITTEE CONCERNING THE TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS" AND MAKING A CORRESPONDING CHANGE TO THE NAME OF THE ASSOCIATED TASK FORCE.

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

SECTION 1. In Colorado Revised Statutes, **amend** 18-1.9-101 as follows:

18-1.9-101. Legislative declaration. (1) The general assembly ~~hereby~~ finds that:

(a) In November of 1998, the Colorado department of corrections reported that ten percent of its correctional population met the diagnostic criteria for HAVING A serious mental ~~illness, which~~ HEALTH DISORDER. THAT number was double the number identified two years earlier, and five to six times the number documented in 1988, only ten years earlier.

(b) The Colorado department of corrections estimates that in 2002, sixteen percent of its inmate population met the diagnostic criteria for HAVING A major mental ~~illness~~ HEALTH DISORDER;

(c) The Colorado division of youth corrections estimates that twenty-four percent of juveniles in the juvenile justice system are diagnosed with A mental ~~illness~~ HEALTH DISORDER;

(d) A study conducted in 1995 found that approximately six percent of the

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

persons held in county jails and in community corrections throughout the state had been diagnosed as persons with a serious mental ~~illness~~ HEALTH DISORDER;

(e) It is estimated that nationally, nearly nine percent of all adults and juveniles on probation have been identified as having A serious mental ~~illness~~ HEALTH DISORDER;

(f) For the 1998-99 fiscal year, approximately forty-four percent of the inpatient population at the Colorado mental health institute at Pueblo had been committed following the return of a verdict of not guilty by reason of insanity or a determination by the court that the person was incompetent to stand trial due to A mental ~~illness~~ HEALTH DISORDER;

(g) ~~Persons~~ A PERSON with A mental ~~illness~~ HEALTH DISORDER, as a direct or indirect result of ~~their~~ HIS OR HER condition, ~~are in many instances~~ IS OFTEN more likely than ~~persons who do~~ A PERSON WHO DOES NOT HAVE A mental ~~illness~~ HEALTH DISORDER to be involved in the criminal and juvenile justice systems;

(h) The existing procedures and diagnostic tools used by persons working in the criminal and juvenile justice systems may not be sufficient to identify appropriately and diagnose persons with mental ~~illness~~ HEALTH DISORDERS who are involved in the criminal and juvenile justice systems;

(i) The criminal and juvenile justice systems may not be structured in such a manner as to provide the level of treatment and care for persons with mental ~~illness~~ HEALTH DISORDERS that is necessary to ensure the safety of these persons, of other persons in the criminal and juvenile justice systems, and of the community at large;

(j) Studies show that, for offenders under community supervision, treatment of the OFFENDER'S mental ~~illness of the offender~~ HEALTH DISORDER decreases repeat arrests by forty-four percent; and

(k) The ongoing supervision, care, and monitoring, especially with regard to medication, of persons with mental ~~illness~~ HEALTH DISORDERS who are released from incarceration are crucial to ensuring the safety of the community.

(2) The general assembly further finds that pursuant to the findings in a report requested by the joint budget committee in 1999 that recommended cross-system collaboration and communication as a method for reducing the number of persons with mental ~~illness~~ HEALTH DISORDERS who are involved in the criminal and juvenile justice systems, the legislative oversight committee and advisory task force for the examination of the treatment of persons with mental illness who are involved in the criminal justice system were created in 1999 and extended for an additional three years in 2000. Over the course of four years, the legislative oversight committee and advisory task force began to address, but did not finish addressing, the issues specified in subsection (1) of this section, through both legislative and non-legislative solutions including, but not limited to:

(a) Community-based intensive treatment management programs for juveniles involved in the juvenile justice system;

(b) An expedited application process for aid to the needy disabled benefits for persons with mental ~~illness~~ HEALTH DISORDERS upon release from incarceration;

(c) Standardized inter-agency screening to detect mental ~~illness~~ HEALTH DISORDERS in adults who are involved in the criminal justice system and juveniles who are involved in the juvenile justice system;

(d) Training of law enforcement officers to recognize and safely deal with persons who have mental ~~illness~~ HEALTH DISORDERS through the use of crisis intervention teams; and

(e) Creating local initiative committee pilot programs for the management of community-based programs for adults with mental ~~illness~~ HEALTH DISORDERS who are involved in the criminal justice system.

(3) Experts involved in cross-system collaboration and communication to reduce the number of persons with mental ~~illness~~ HEALTH DISORDERS who are involved in the criminal and juvenile justice systems recommend a five-year plan to continue the work of the task force and the legislative oversight committee in order to more fully effectuate solutions to these issues.

(4) Therefore, the general assembly declares that it is necessary to create a task force to continue to examine the identification, diagnosis, and treatment of persons with mental ~~illness~~ HEALTH DISORDERS who are involved in the state criminal and juvenile justice systems and to make additional recommendations to a legislative oversight committee for the continuing development of legislative proposals related to this issue.

SECTION 2. In Colorado Revised Statutes, **amend** 18-1.9-102 as follows:

18-1.9-102. Definitions. As used in this ~~article~~ ARTICLE 1.9, unless the context otherwise requires:

(1) "Committee" means the legislative oversight committee CONCERNING THE TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS established ~~pursuant to~~ IN section 18-1.9-103.

(1.5) "Co-occurring disorder" means a disorder that commonly coincides with mental ~~illness~~ HEALTH DISORDERS and may include, but is not limited to, substance abuse AND SUBSTANCE USE DISORDERS, BEHAVIORAL HEALTH DISORDERS, INTELLECTUAL AND developmental ~~disability~~ DISABILITIES, fetal alcohol syndrome, and traumatic brain injury.

(2) "Task force" means the task force concerning the treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and juvenile justice systems established ~~pursuant to~~ IN section 18-1.9-104.

SECTION 3. In Colorado Revised Statutes, 18-1.9-103, **amend** (1)(a), (1)(d), and (2)(c)(I) as follows:

18-1.9-103. Legislative oversight committee concerning the treatment of

persons with mental health disorders in the criminal and juvenile justice systems - creation - duties. (1) **Creation.** (a) There is ~~hereby~~ created a legislative oversight committee concerning the treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and juvenile justice systems.

(d) (I) Members of the committee may receive payment of per diem and reimbursement for actual and necessary expenses authorized pursuant to section 2-2-307. ~~C.R.S.~~

(II) The director of research of the legislative council and the director of the office of legislative legal services may supply staff assistance to the committee as they deem appropriate, within existing appropriations. If staff assistance is not available within existing appropriations, then the director of research of the legislative council and the director of the office of legislative legal services may supply staff assistance to the task force only if ~~moneys are~~ MONEY IS credited to the treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and juvenile justice systems ~~cash~~ fund created in section 18-1.9-106 in an amount sufficient to fund staff assistance.

(2) **Duties.** (c) (I) The committee shall submit a report to the general assembly by January 15, 2005, and by each January 15 thereafter. The annual reports must summarize the issues addressing the treatment of persons with mental ~~illness~~ HEALTH DISORDERS who are involved in the criminal and juvenile justice systems that have been considered and recommended legislative proposals, if any. THE REPORTS MUST COMPLY WITH THE PROVISIONS OF SECTION 24-1-136 (9). NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT IN THIS SECTION TO REPORT TO THE GENERAL ASSEMBLY CONTINUES INDEFINITELY.

SECTION 4. In Colorado Revised Statutes, 18-1.9-104, **amend** (1)(a), (1)(c)(IV)(A), (1)(c)(XIV), (1)(f), (2), and (3) introductory portion as follows:

18-1.9-104. Task force concerning treatment of persons with mental health disorders in the criminal and juvenile justice systems - creation - membership - duties. (1) **Creation.** (a) There is ~~hereby~~ created a task force concerning treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and juvenile justice systems in Colorado. The task force ~~shall consist~~ CONSISTS of thirty-two members appointed as provided in ~~paragraphs (b) and (c) of this subsection (1)~~ SUBSECTIONS (1)(b) AND (1)(c) OF THIS SECTION AND ANY STAFF SUPPORT AS PROVIDED FOR IN SECTION 18-1.9-105.

(c) The chair and vice-chair of the committee shall appoint twenty-eight members as follows:

(IV) Five members who represent the department of human services, as follows:

(A) One member who represents the ~~unit within the department of human services that is responsible for mental health and drug and alcohol abuse services~~ OFFICE OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES;

(XIV) Three members of the public as follows:

(A) One member who has A mental ~~illness~~ HEALTH DISORDER and has been involved in the criminal justice system in this state;

(B) One member who has an adult family member who has A mental ~~illness~~ HEALTH DISORDER and has been involved in the criminal justice system in this state; and

(C) One member who is the parent of a child who has A mental ~~illness~~ HEALTH DISORDER and has been involved in the juvenile justice system in this state;

(f) In making appointments to the task force, the appointing authorities shall ensure that the membership of the task force reflects the ethnic, cultural, and gender diversity of the state; ~~and~~ includes representation of all areas of the state; AND, TO THE EXTENT PRACTICABLE, INCLUDES PERSONS WITH DISABILITIES.

(2) **Issues for study.** The task force shall examine the identification, diagnosis, and treatment of persons with mental ~~illness~~ HEALTH DISORDERS who are involved in the state criminal and juvenile justice systems, including an examination of liability, safety, and cost as they relate to these issues. The task force shall specifically consider, but need not be limited to, the following issues,

(a) ~~On or before July 1, 2005:~~

~~(f) The diagnosis, treatment, and housing of juveniles with mental illness who are involved in the criminal justice system or the juvenile justice system; and~~

~~(H) The adoption of a common framework for effectively addressing the mental health issues, including competency and co-occurring disorders, of juveniles who are involved in the criminal justice system or the juvenile justice system;~~

(b) ~~On or before July 1, 2006:~~

~~(f) The prosecution of and sentencing alternatives for persons with mental illness that may involve treatment and ongoing supervision;~~

~~(H) The civil commitment of persons with mental illness who have been criminally convicted, found not guilty by reason of insanity, or found to be incompetent to stand trial; and~~

~~(HH) The development of a plan to most effectively and collaboratively serve the population of juveniles involved in the criminal justice system or the juvenile justice system;~~

~~(b.5) Repealed.~~

(c) ~~On or before July 1, 2007:~~

~~(f) The diagnosis, treatment, and housing of adults with mental illness who are involved in the criminal justice system;~~

~~(H) The ongoing treatment, housing, and supervision, especially with regard to~~

medication, of adults and juveniles who are involved in the criminal and juvenile justice systems and who are incarcerated or housed within the community and the availability of public benefits for such persons;

~~(III) The ongoing assistance and supervision, especially with regard to medication, of persons with mental illness after discharge from sentence; and~~

~~(IV) The identification of alternative entities to exercise jurisdiction regarding release for persons found not guilty by reason of insanity, such as the development and use of a psychiatric security review board, including recommendations related to the indeterminate nature of the commitment imposed;~~

~~(d) On or before July 1, 2008, the identification, diagnosis, and treatment of minority persons with mental illness, women with mental illness, and persons with co-occurring disorders, in the criminal and juvenile justice systems;~~

~~(e) On or before July 1, 2009:~~

~~(I) The early identification, diagnosis, and treatment of adults and juveniles with mental illness who are involved in the criminal and juvenile justice systems;~~

~~(II) The modification of the criminal and juvenile justice systems to most effectively serve adults and juveniles with mental illness who are involved in these systems;~~

~~(III) The implementation of appropriate diagnostic tools to identify persons in the criminal and juvenile justice systems with mental illness; and~~

~~(IV) Any other issues concerning persons with mental illness who are involved in the state criminal and juvenile justice systems that arise during the course of the task force study;~~

~~(f) Beginning July 1, 2011, through July 1, 2014:~~

~~(I) The diagnosis, treatment, and housing of persons with mental illness or co-occurring disorders who are convicted of crimes, or incarcerated or who plead guilty, nolo contendere, or not guilty by reason of insanity or who are found to be incompetent to stand trial;~~

~~(II) The diagnosis, treatment, and housing of juveniles with mental illness or co-occurring disorders who are adjudicated, detained, or committed for offenses that would constitute crimes if committed by adults or who plead guilty, nolo contendere, or not guilty by reason of insanity or who are found to be incompetent to stand trial;~~

~~(III) The ongoing treatment, housing, and supervision, especially with regard to medication, of adults and juveniles who are involved in the criminal and juvenile justice systems and who are incarcerated or housed within the community and the availability of public benefits for these persons; and~~

~~(IV) The safety of the staff who treat or supervise persons with mental illness and~~

~~the use of force against persons with mental illness;~~

~~(g)~~ On or after July 1, 2014:

~~(H)~~ (a) Housing for a person with A mental ~~illness~~ HEALTH DISORDER after his or her release from the criminal or juvenile justice system;

~~(HH)~~ (b) Medication consistency, delivery, and availability;

~~(HHH)~~ (c) Best practices for suicide prevention, within and outside of correctional facilities;

~~(HVV)~~ (d) Treatment of co-occurring disorders;

~~(V)~~ (e) Awareness of and training for enhanced staff safety, including expanding training opportunities for providers; ~~and~~

~~(VI)~~ (f) Enhanced data collection related to issues affecting persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and juvenile justice systems; ~~AND~~

(g) ANY OTHER ISSUE RELATED TO THE TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS.

(3) **Additional duties of the task force.** The task force shall provide guidance and make findings and recommendations to the committee for its development of reports and legislative recommendations for modification of the criminal and juvenile justice systems, with respect to persons with mental ~~illness~~ HEALTH DISORDERS who are involved in these systems. In addition, the task force shall:

SECTION 5. In Colorado Revised Statutes, 18-1.9-106, **amend as amended by House Bill 17-1020** (1); and **add** (1.3) as follows:

18-1.9-106. Treatment of persons with mental health disorders in the criminal and juvenile justice systems fund - repeal. (1) The treatment of persons with mental ~~illness~~ HEALTH DISORDERS in the criminal and juvenile justice systems ~~cash~~ fund, referred to in this section as the "fund", is ~~hereby~~ created in the state treasury. The fund consists of money appropriated or transferred to the fund by the general assembly and any private and public funds received through gifts, grants, or donations for the purpose of implementing the provisions of this ~~article~~ ARTICLE 1.9. Money in the fund is subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this ~~article~~ ARTICLE 1.9. Money in the fund not expended for the purpose of implementing this article 1.9 may be invested by the state treasurer as provided by law. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. The state treasurer shall transfer all unexpended and unencumbered money remaining in the fund as of July 1, 2020, to the general fund.

(1.3) (a) ALL UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE TREATMENT OF PERSONS WITH MENTAL ILLNESS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS CASH FUND AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (1.3)

SHALL BE TRANSFERRED TO THE TREATMENT OF PERSONS WITH MENTAL HEALTH DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS FUND.

(b) THIS SUBSECTION (1.3) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

SECTION 6. 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: April 28, 2017