

## CHAPTER 288

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 20-1017**

BY REPRESENTATIVE(S) Herod and Kennedy, Arndt, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jaquez Lewis, McCluskie, Michaelson Jenet, Mullica, Sirota, Titone, Valdez A., Valdez D., Weissman, Young;  
also SENATOR(S) Donovan and Priola, Pettersen, Bridges, Danielson, Fenberg, Gonzales, Lee, Moreno, Story, Todd.

**AN ACT****CONCERNING TREATMENT OF INDIVIDUALS WITH SUBSTANCE USE DISORDERS WHO COME INTO CONTACT WITH THE CRIMINAL JUSTICE SYSTEM.**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 17-1-113.4 as follows:

**17-1-113.4. Opioid treatment for a person in custody - definitions.** (1) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON MAY MAKE AVAILABLE OPIOID AGONISTS AND OPIOID ANTAGONISTS TO A PERSON IN CUSTODY WITH AN OPIOID USE DISORDER. THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON IS STRONGLY ENCOURAGED TO MAINTAIN THE TREATMENT OF THE PERSON THROUGHOUT THE DURATION OF THE PERSON'S INCARCERATION, AS MEDICALLY NECESSARY.

(2) QUALIFIED MEDICATION ADMINISTRATION PERSONNEL MAY, IN ACCORDANCE WITH A WRITTEN PHYSICIAN'S ORDER, ADMINISTER OPIOID AGONISTS AND OPIOID ANTAGONISTS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON MAY CONTRACT WITH COMMUNITY-BASED HEALTH PROVIDERS FOR THE IMPLEMENTATION OF THIS SECTION.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

USE DISORDER.

(b) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

**SECTION 2.** In Colorado Revised Statutes, **add** 17-26-104.9 as follows:

**17-26-104.9. Opioid treatment for a person in custody - definitions.** (1) A FACILITY, WHETHER OPERATED BY A GOVERNMENTAL ENTITY OR PRIVATE CONTRACTOR, MAY MAKE AVAILABLE OPIOID AGONISTS AND OPIOID ANTAGONISTS TO A PERSON IN CUSTODY WITH AN OPIOID USE DISORDER. THE FACILITY IS STRONGLY ENCOURAGED TO MAINTAIN THE TREATMENT OF THE PERSON THROUGHOUT THE DURATION OF THE PERSON'S INCARCERATION, AS MEDICALLY NECESSARY.

(2) QUALIFIED MEDICATION ADMINISTRATION PERSONNEL MAY, IN ACCORDANCE WITH A WRITTEN PHYSICIAN'S ORDER, ADMINISTER OPIOID AGONISTS AND OPIOID ANTAGONISTS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) A FACILITY MAY CONTRACT WITH COMMUNITY-BASED HEALTH PROVIDERS FOR THE IMPLEMENTATION OF THIS SECTION.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FACILITY" MEANS:

(I) A LOCAL JAIL, AS DEFINED IN SECTION 17-1-102 (7);

(II) A MULTIJURISDICTIONAL JAIL, AS DESCRIBED IN SECTION 17-26.5-101; AND

(III) A MUNICIPAL JAIL, AS AUTHORIZED IN SECTION 31-15-401 (1)(j).

(b) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

(c) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

**SECTION 3.** In Colorado Revised Statutes, **add** 26-1-136.7 as follows:

**26-1-136.7. Opioid treatment for a person in custody - definitions.** (1) A STATE DEPARTMENT FACILITY MAY MAKE AVAILABLE OPIOID AGONISTS AND OPIOID ANTAGONISTS TO A PERSON COMMITTED TO OR PLACED WITHIN THE FACILITY WITH AN OPIOID USE DISORDER. THE FACILITY IS STRONGLY ENCOURAGED TO MAINTAIN THE TREATMENT OF THE PERSON THROUGHOUT THE DURATION OF THE PERSON'S COMMITMENT, AS MEDICALLY NECESSARY.

(2) QUALIFIED MEDICATION ADMINISTRATION PERSONNEL MAY, IN ACCORDANCE WITH A WRITTEN PHYSICIAN'S ORDER, ADMINISTER OPIOID AGONISTS AND OPIOID ANTAGONISTS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) A STATE DEPARTMENT FACILITY MAY CONTRACT WITH COMMUNITY-BASED HEALTH PROVIDERS FOR THE IMPLEMENTATION OF THIS SECTION.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

(b) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

**SECTION 4.** In Colorado Revised Statutes, **add** 31-15-405 as follows:

**31-15-405. Opioid treatment for a person in custody.** A MUNICIPALITY THAT CHOOSES TO ESTABLISH AND OPERATE A JAIL, AS AUTHORIZED IN SECTION 31-15-401 (1)(j), IS STRONGLY ENCOURAGED TO COMPLY WITH THE PROVISIONS OF SECTION 17-26-104.9 CONCERNING OPIOID TREATMENT FOR A PERSON IN CUSTODY.

**SECTION 5.** In Colorado Revised Statutes, **add** 18-18-607 as follows:

**18-18-607. Safe stations - disposal of controlled substances - medical evaluation - definition.** (1) (a) UPON ARRIVAL TO A SAFE STATION, A PERSON MAY TURN IN ANY CONTROLLED SUBSTANCES AND REQUEST ASSISTANCE IN GAINING ACCESS TO TREATMENT FOR A SUBSTANCE USE DISORDER. SAFE STATION PERSONNEL SHALL UTILIZE CURRENT PROCEDURES AND PROTOCOLS FOR THE DISPOSAL OF THE CONTROLLED SUBSTANCES.

(b) A PERSON WHO TURNS IN ONE OR MORE CONTROLLED SUBSTANCES PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION IS NOT SUBJECT TO ARREST OR PROSECUTION FOR POSSESSION OF SUCH CONTROLLED SUBSTANCES.

(2) REASONABLE EFFORTS SHOULD BE TAKEN BY SAFE STATION PERSONNEL TO DETERMINE IF THE PERSON IS IN NEED OF IMMEDIATE MEDICAL ATTENTION AND FACILITATE TRANSPORTATION TO AN APPROPRIATE MEDICAL FACILITY, IF NECESSARY. IF THE PERSON DOES NOT REQUIRE IMMEDIATE MEDICAL ATTENTION, THE SAFE STATION PERSONNEL SHALL PROVIDE THE PERSON WITH INFORMATION ABOUT THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM, CREATED IN SECTION 27-60-103, TO HELP IDENTIFY AVAILABLE TREATMENT OPTIONS AND, IF PRACTICABLE, PROVIDE TRANSPORTATION FOR THE PERSON TO THE MOST APPROPRIATE FACILITY FOR TREATMENT OF A SUBSTANCE USE DISORDER. INFORMATION ABOUT THE CRISIS HOTLINE MUST BE DEVELOPED BY THE OFFICE OF BEHAVIORAL HEALTH IN THE STATE DEPARTMENT AND BE PROVIDED TO SAFE STATIONS FOR DISTRIBUTION.

(3) THIS SECTION DOES NOT APPLY IF SAFE STATION PERSONNEL ARE NOT AVAILABLE TO ASSIST A PERSON WHO ARRIVES AT A SAFE STATION FOR DISPOSAL OF A CONTROLLED SUBSTANCE.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, A "SAFE STATION" MEANS ANY MUNICIPAL POLICE STATION; COUNTY SHERIFF'S OFFICE; OR MUNICIPAL, COUNTY, OR FIRE PROTECTION DISTRICT FIRE STATION.

**SECTION 6.** In Colorado Revised Statutes, **add** 17-26-140 as follows:

**17-26-140. Continuity of care for persons released from jail.** (1) IF A PERSON IS TREATED FOR A SUBSTANCE USE DISORDER THROUGHOUT THE PERSON'S INCARCERATION, THE COUNTY JAIL SHALL, AT A MINIMUM, CONDUCT THE FOLLOWING BEFORE RELEASING THE PERSON FROM THE COUNTY JAIL'S CUSTODY:

(a) PROVIDE POST-RELEASE RESOURCES DEVELOPED PURSUANT TO SECTION 17-1-103 (1)(r) TO THE PERSON; AND

(b) PROVIDE A LIST OF AVAILABLE SUBSTANCE USE PROVIDERS, TO THE EXTENT THE OFFICE OF BEHAVIORAL HEALTH IN THE STATE DEPARTMENT HAS SUCH A LIST AVAILABLE.

(2) THE COUNTY JAIL SHALL PROVIDE MEDICAID REENROLLMENT PAPERWORK TO THE PERSON WHEN THE PERSON ENTERS THE COUNTY JAIL. THE COUNTY JAIL MUST FILE THE MEDICAID PAPERWORK WITH THE COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES UPON RELEASING THE PERSON FROM THE COUNTY JAIL'S CUSTODY.

**SECTION 7.** In Colorado Revised Statutes, **add** 17-1-113.2 as follows:

**17-1-113.2. Continuity of care for persons released from correctional facility.** BEFORE A PERSON IS RELEASED FROM THE CUSTODY OF A CORRECTIONAL FACILITY, THE CORRECTIONAL FACILITY SHALL COMPLY WITH THE PROVISIONS OF SECTION 17-26-140 CONCERNING CONTINUITY OF CARE FOR PERSONS WITH A SUBSTANCE USE DISORDER.

**SECTION 8.** In Colorado Revised Statutes, 17-1-103, **amend** (1) introductory portion; and **add** (1)(r) as follows:

**17-1-103. Duties of the executive director.** (1) The duties of the executive director ~~shall be~~ ARE:

(r) IN CONSULTATION WITH THE OFFICES OF BEHAVIORAL HEALTH AND ECONOMIC SECURITY IN THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT OF LOCAL AFFAIRS, AND LOCAL SERVICE PROVIDERS, TO DEVELOP RESOURCES FOR INMATES POST-RELEASE THAT PROVIDE INFORMATION TO HELP PREPARE INMATES FOR RELEASE AND SUCCESSFUL REINTEGRATION INTO THEIR COMMUNITIES. THE RESOURCES MUST REFLECT THE NEEDS OF DIVERSE AND UNDERSERVED POPULATIONS AND COMMUNITIES.

**SECTION 9.** In Colorado Revised Statutes, 24-72-703, **add** (10.5) as follows:

**24-72-703. Sealing of arrest and criminal records - general provisions - order applicability - discovery and advisements.** (10.5) IF THE PERSON IN INTEREST HAS ENTERED INTO OR SUCCESSFULLY COMPLETED A SUBSTANCE USE DISORDER TREATMENT PROGRAM LICENSED PURSUANT TO SECTION 27-80-205 IN THE CASE THAT IS THE SUBJECT OF THE PETITION TO SEAL, THE COURT SHALL CONSIDER SUCH FACTOR FAVORABLY IN DETERMINING WHETHER TO ISSUE AN ORDER TO SEAL RECORDS PURSUANT TO THIS SECTION.

**SECTION 10.** In Colorado Revised Statutes, **add** 27-60-106.5 as follows:

**27-60-106.5. Criminal justice diversion programs - rules - report.** (1)(a) THE OFFICE OF BEHAVIORAL HEALTH IN THE STATE DEPARTMENT MAY CONTRACT WITH CITIES AND COUNTIES FOR THE CREATION, MAINTENANCE, OR EXPANSION OF CRIMINAL JUSTICE DIVERSION PROGRAMS. THE GOAL OF EACH PROGRAM CREATED PURSUANT TO THIS SECTION SHOULD BE TO CONNECT LAW ENFORCEMENT OFFICERS WITH BEHAVIORAL HEALTH PROVIDERS TO ASSIST INDIVIDUALS IN NEED OF BEHAVIORAL HEALTH INTERVENTION OR TO DIVERT INDIVIDUALS FROM THE CRIMINAL JUSTICE SYSTEM.

(b) THE OFFICE OF BEHAVIORAL HEALTH IN THE STATE DEPARTMENT MAY REQUIRE CRIMINAL JUSTICE DIVERSION PROGRAMS CONTRACTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION TO PARTICIPATE AS A MOBILE CRISIS SERVICE IN THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM, CREATED PURSUANT TO SECTION 27-60-103.

(2) ON OR BEFORE NOVEMBER 1, 2021, AND ON OR BEFORE EACH NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL INCLUDE AN UPDATE REGARDING THE CURRENT STATUS OF FUNDING AND THE CRIMINAL JUSTICE DIVERSION PROGRAMS IMPLEMENTED PURSUANT TO THIS SECTION IN ITS REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203.

(3) THE STATE BOARD OF HUMAN SERVICES, CREATED IN SECTION 26-1-107, MAY PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

**SECTION 11.** In Colorado Revised Statutes, 27-60-100.3, **add** (1.5) as follows:

**27-60-100.3. Definitions.** (1.5) "CRIMINAL JUSTICE DIVERSION PROGRAM" MEANS A PROGRAM CREATED PURSUANT TO SECTION 27-60-106.5 OR PROGRAMS OPERATED BY CITIES OR COUNTIES THAT CONNECT LAW ENFORCEMENT OFFICERS WITH BEHAVIORAL HEALTH PROVIDERS TO ASSIST INDIVIDUALS IN NEED OF BEHAVIORAL HEALTH INTERVENTIONS OR TO DIVERT INDIVIDUALS FROM THE CRIMINAL JUSTICE SYSTEM.

**SECTION 12.** In Colorado Revised Statutes, 27-60-104, **amend** (2) as follows:

**27-60-104. Behavioral health crisis response system - crisis service facilities**

**- walk-in centers - mobile response units.** (2) (a) On or before January 1, 2018, the state department shall ensure that mobile response units are available to respond to a behavioral health crisis anywhere in the state within no more than two hours, either face-to-face or using telehealth operations, for mobile crisis evaluations.

(b) MOBILE CRISIS SERVICES MAY BE DELIVERED BY CRIMINAL JUSTICE DIVERSION PROGRAMS APPROVED BY THE STATE DEPARTMENT OR A CRISIS RESPONSE SYSTEM CONTRACTOR.

**SECTION 13. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: July 13, 2020