

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0522.01 Jane Ritter x4342

HOUSE BILL 21-1085

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A BILL FOR AN ACT

101 **CONCERNING SECURE TRANSPORTATION FOR AN INDIVIDUAL IN**
102 **BEHAVIORAL HEALTH CRISIS, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a regulatory and service system to provide secure transportation services, with different requirements from traditional ambulance services, for individuals experiencing a behavioral health crisis. The department of human services shall allow for the development of secure transportation alternatives.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
May 26, 2021

HOUSE
3rd Reading Unamended
May 10, 2021

HOUSE
Amended 2nd Reading
May 7, 2021

The board of county commissioners of the county in which the secure transportation service is based (commissioners) shall issue a license to an entity (licensee), valid for 3 years, that provides secure transportation services if the minimum requirements set by rule by the state board of health are met or exceeded. The commissioners shall also issue operating permits, valid for 12 months following issuance, to each vehicle operated by the licensee. A fee may be charged for each license to reflect the direct and indirect costs to the applicable county in implementing secure transportation services licensure. The state board of health is given authority to promulgate rules concerning secure transportation licensure.

The department of health care policy and financing (department) is directed to create and implement a secure transportation benefit on or before January 1, 2023. The department is required to include information on secure transportation services and benefits in its annual "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" report.

The bill exempts secure transportation services from regulation under the public utilities commission.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-3.5-103, **add**
3 (3.3), (8.1), and (11.4) as follows:

4 **25-3.5-103. Definitions.** As used in this article 3.5, unless the
5 context otherwise requires:

6 (3.3) "BEHAVIORAL HEALTH" HAS THE SAME MEANING AS SET
7 FORTH IN SECTION 25-27.6-102 (4).

8 (8.1) "EMERGENCY MEDICAL SERVICES FACILITY" MEANS A
9 LICENSED OR CERTIFIED FACILITY THAT PROVIDES EMERGENCY MEDICAL
10 SERVICES, INCLUDING BUT NOT LIMITED TO HOSPITALS, HOSPITAL UNITS AS
11 DEFINED IN SECTION 25-3-101, FREESTANDING EMERGENCY DEPARTMENTS
12 AS DEFINED IN SECTION 25-1.5-114, PSYCHIATRIC HOSPITALS, COMMUNITY
13 CLINICS, COMMUNITY MENTAL HEALTH CENTERS, AND ACUTE TREATMENT
14 UNITS.

1 (11.4) (a) "SECURE TRANSPORTATION" OR "SECURE
2 TRANSPORTATION SERVICES" MEANS URGENT TRANSPORTATION SERVICES
3 PROVIDED TO INDIVIDUALS EXPERIENCING A BEHAVIORAL HEALTH CRISIS.

4 (b) SECURE TRANSPORTATION INCLUDES:

5 (I) FOR AN INDIVIDUAL BEING TRANSPORTED PURSUANT TO
6 SECTION 27-65-103 OR 27-65-105 (1), TRANSPORTATION FROM THE
7 COMMUNITY TO A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF
8 THE DEPARTMENT OF HUMAN SERVICES FOR TREATMENT AND EVALUATION
9 PURSUANT TO ARTICLE 65 OF TITLE 27;

10 (II) FOR AN INDIVIDUAL IN NEED OF SERVICES PURSUANT TO
11 ARTICLES 81 AND 82 OF TITLE 27, TRANSPORTATION FROM ANY LOCATION
12 TO AN APPROVED TREATMENT FACILITY, AS DESCRIBED IN SECTION
13 27-81-106, OR A WALK-IN CRISIS CENTER THAT IS OPERATING AS PART OF
14 THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM;

15 (III) FOR AN INDIVIDUAL WHO IS RECEIVING TRANSPORTATION
16 ACROSS LEVELS OF CARE OR TO A HIGHER LEVEL OF CARE,
17 TRANSPORTATION BETWEEN ANY OF THE FOLLOWING TYPES OF FACILITIES:

18 (A) AN EMERGENCY MEDICAL SERVICES FACILITY;

19 (B) A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE
20 DEPARTMENT OF HUMAN SERVICES FOR TREATMENT AND EVALUATION
21 PURSUANT TO ARTICLE 65 OF TITLE 27;

22 (C) AN APPROVED TREATMENT FACILITY, AS DESCRIBED IN
23 SECTION 27-81-106; ■

24 (D) A WALK-IN CRISIS CENTER THAT IS OPERATING AS PART OF THE
25 BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM; OR

26 (E) A BEHAVIORAL HEALTH ENTITY LICENSED PURSUANT TO
27 SECTION 25-27.6-106 WITH A CURRENT TWENTY-FOUR-HOUR

1 **ENDORSEMENT.**

2 (c) "SECURE TRANSPORTATION" DOES NOT INCLUDE URGENT
3 TRANSPORTATION SERVICES PROVIDED BY LAW ENFORCEMENT OR
4 PERSONNEL EMPLOYED BY OR CONTRACTED WITH A LAW ENFORCEMENT
5 AGENCY TO INDIVIDUALS EXPERIENCING A BEHAVIORAL HEALTH CRISIS;
6 EXCEPT THAT ANY MEMBER OF A CO-RESPONDER TEAM WHO IS NOT LAW
7 ENFORCEMENT OR PERSONNEL EMPLOYED BY OR CONTRACTED WITH A LAW
8 ENFORCEMENT AGENCY AND WHO HOLDS A VALID LICENSE FOR SECURE
9 TRANSPORTATION BY THE COUNTY IN WHICH THE SECURE
10 TRANSPORTATION ORIGINATES, IN A VEHICLE WITH A VALID PERMIT ISSUED
11 BY THE COUNTY IN WHICH THE SECURE TRANSPORTATION ORIGINATES,
12 AND WHICH MEETS THE MINIMUM REQUIREMENTS FOR SECURE
13 TRANSPORTATION ESTABLISHED BY RULE PURSUANT TO SECTION
14 25-3.5-311 MAY PROVIDE URGENT SECURE TRANSPORTATION SERVICES.

15 **SECTION 2.** In Colorado Revised Statutes, **add** 25-3.5-309,
16 25-3.5-310, 25-3.5-311, and 25-3.5-312 as follows:

17 **25-3.5-309. Secure transportation - license required - fees -**
18 **exceptions.** (1) (a) AFTER JANUARY 1, 2023, AN ENTITY SHALL NOT
19 PROVIDE PUBLIC OR PRIVATE SECURE TRANSPORTATION SERVICES, AS
20 DEFINED IN SECTION 25-3.5-103 (11.4), IN THIS STATE UNLESS THAT
21 ENTITY HOLDS A VALID LICENSE ISSUED BY THE BOARD OF COUNTY
22 COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION
23 SERVICE IS BASED; EXCEPT THAT ENTITIES DESCRIBED IN SUBSECTION (2)
24 OF THIS SECTION MAY PROVIDE SECURE TRANSPORTATION SERVICES.

25 (b) LICENSES, PERMITS, AND RENEWALS ISSUED PURSUANT TO THIS
26 SECTION AND SECTION 25-3.5-310 REQUIRE A FEE IN AN AMOUNT TO BE
27 DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY

1 IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED TO REFLECT
2 THE DIRECT AND INDIRECT COSTS INCURRED BY THE COUNTY IN
3 IMPLEMENTING LICENSES FOR SECURE TRANSPORTATION.

4 (2) AMBULANCE AGENCIES, TRANSPORTATION SERVICES PROVIDED
5 BY THE OFFICE OF BEHAVIORAL HEALTH WITHIN THE STATE DEPARTMENT
6 OF HUMAN SERVICES, EMERGENCY SERVICE PATROLS ESTABLISHED
7 PURSUANT TO SECTION 27-81-115, AND LAW ENFORCEMENT MAY PROVIDE
8 SECURE TRANSPORTATION SERVICES TO AN INDIVIDUAL IN NEED OF
9 URGENT BEHAVIORAL HEALTH CARE.

10 (3) AN AMBULANCE AGENCY IS ELIGIBLE TO RECEIVE
11 REIMBURSEMENT PURSUANT TO SECTION 25.5-5-327 AND IS EXEMPT FROM
12 ADDITIONAL LICENSING REQUIREMENTS IF THE AGENCY MEETS THE
13 REQUIREMENTS FOR SECURE TRANSPORTATION AS ESTABLISHED BY RULE
14 PURSUANT TO SECTION 25-3.5-311.

15 (3) EACH VEHICLE OPERATED BY A SECURE TRANSPORTATION
16 LICENSEE MUST BE ISSUED A SEPARATE PERMIT BY THE BOARD OF COUNTY
17 COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION
18 SERVICE IS BASED UPON POSITIVE REVIEW PURSUANT TO SECTION
19 25-3.5-310.

20 **25-3.5-310. Secure transportation - issuance of licenses and**
21 **permits - term - requirements.** (1) (a) AFTER RECEIPT OF AN ORIGINAL
22 APPLICATION FOR A LICENSE TO PROVIDE PUBLIC OR PRIVATE SECURE
23 TRANSPORTATION SERVICES, THE BOARD OF COUNTY COMMISSIONERS OF
24 THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED
25 SHALL REVIEW THE APPLICATION, THE APPLICANT'S RECORD, AND THE
26 APPLICANT'S EQUIPMENT, AS WELL AS THE APPLICANT'S TRAINING AND
27 OPERATING PROCEDURES. IN ORDER TO BE APPROVED FOR A LICENSE, THE

1 APPLICANT MUST PROVIDE EVIDENCE THAT THE APPLICANT'S EQUIPMENT
2 AND TRAINING AND OPERATING PROCEDURES MEET OR EXCEED THE
3 MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH
4 PURSUANT TO SECTION 25-3.5-311. THE BOARD OF COUNTY
5 COMMISSIONERS OF ANY COUNTY MAY IMPOSE, BY RESOLUTION,
6 ADDITIONAL REQUIREMENTS FOR SECURE TRANSPORTATION THAT IS BASED
7 IN THAT COUNTY.

8 (b) IF AN APPLICANT IS APPROVED PURSUANT TO SUBSECTION
9 (1)(a) OF THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS OF THE
10 COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL
11 ISSUE A LICENSE, VALID FOR THREE YEARS, TO THE APPLICANT TO PROVIDE
12 SECURE TRANSPORTATION SERVICES. THE BOARD OF COUNTY
13 COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION
14 SERVICE IS BASED SHALL ALSO ISSUE A PERMIT, VALID FOR TWELVE
15 MONTHS AFTER THE DATE OF ISSUANCE, FOR EACH VEHICLE USED BY THE
16 LICENSEE IF THE VEHICLES AND EQUIPMENT MEET OR EXCEED THE
17 MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH
18 PURSUANT TO SECTION 25-3.5-311.

19 (2) ANY LICENSE OR PERMIT ISSUED PURSUANT TO THIS SECTION,
20 UNLESS REVOKED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
21 COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED, MAY
22 BE RENEWED BY FILING AN APPLICATION, AS APPLICABLE FOR AN ORIGINAL
23 LICENSE OR PERMIT. APPLICATIONS FOR PERMIT RENEWAL MUST BE FILED
24 ANNUALLY, BUT NOT LESS THAN THIRTY DAYS BEFORE THE DATE THE
25 PERMIT EXPIRES.

26 (3) A LICENSEE OR PERMIT HOLDER SHALL NOT SELL, ASSIGN, OR
27 OTHERWISE TRANSFER A LICENSE OR PERMIT ISSUED PURSUANT TO THIS

1 SECTION.

2 **25-3.5-311. Secure transportation - rules.** (1) ON OR BEFORE
3 JULY 1, 2022, THE STATE BOARD OF HEALTH SHALL ADOPT RULES
4 ESTABLISHING THE MINIMUM REQUIREMENTS FOR SECURE
5 TRANSPORTATION SERVICES LICENSING, INCLUDING BUT NOT LIMITED TO:

6 (a) STAFFING REQUIREMENTS FOR VEHICLES;

7 (b) STAFF TRAINING REQUIREMENTS, INCLUDING VERBAL
8 DE-ESCALATION AND TRAUMA-INFORMED CARE, AS WELL AS CULTURAL
9 COMPETENCIES RELATED TO SUPPORTING PERSONS WITH PHYSICAL OR
10 COGNITIVE DISABILITIES;

11 (c) OPERATING PROCEDURES, INCLUDING CIRCUMSTANCES WHEN
12 INDIVIDUAL PHYSICAL RESTRAINT IS ALLOWED;

13 (d) QUALITY IMPROVEMENT AND THE PROCESS USED TO
14 INVESTIGATE COMPLAINTS AGAINST A LICENSEE;

15 (e) DATA COLLECTION AND REPORTING ON UTILIZATION TO THE
16 DEPARTMENT BY A LICENSEE;

17 (f) MINIMUM CLINICAL AND MEDICAL STANDARDS AND
18 PROCEDURES;

19 (g) THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL MAY BE
20 TRANSPORTED; AND

21 (h) CRITERIA FOR PICKUP AND DROP-OFF.

22 **25-3.5-312. Funding.** THE DEPARTMENT IS AUTHORIZED TO SEEK,
23 ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR
24 PRIVATE SOURCES FOR THE PURPOSE OF FACILITATING THE RULEMAKING
25 PROCESS SET FORTH IN SECTION 25-3.5-311.

26 **25-3.5-313. Reporting.** THE DEPARTMENT SHALL ANNUALLY
27 MAKE PUBLICLY AVAILABLE THE DATA COLLECTED FROM SECURE

1 TRANSPORTATION PROVIDERS.

2 **SECTION 3.** In Colorado Revised Statutes, 25.5-5-324, **amend**
3 (4)(a) as follows:

4 **25.5-5-324. Nonemergency medical transportation - urgent**
5 **and secure transportation need - report - funding - repeal.** (4) (a) The
6 state department shall annually report on the implementation and
7 effectiveness of the process created in this section for meeting urgent AND
8 SECURE transportation needs within the nonemergency medical
9 transportation benefit AND SECURE TRANSPORTATION SERVICES BENEFIT.
10 The state department shall present the report as part of its annual
11 **presentation** "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE,
12 AND TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION
13 REQUIRED BY SECTION 2-7-203 to the health and human services
14 committee of the senate and the public AND BEHAVIORAL health and
15 human services committee of the house of representatives, or any
16 successor committees. ~~as required pursuant to section 2-7-203.~~

17 **SECTION 4.** In Colorado Revised Statutes, **add 25.5-5-327** as
18 follows:

19 **25.5-5-327. Secure transportation for behavioral health crises**
20 **- benefit - funding.** (1) ON OR BEFORE JANUARY 1, 2023, THE STATE
21 DEPARTMENT SHALL CREATE A BENEFIT FOR SECURE TRANSPORTATION
22 SERVICES, AS THAT TERM IS DEFINED IN SECTION 25-3.5-103 (11.4). THE
23 STATE DEPARTMENT SHALL RESEARCH AND CREATE A PLAN TO ESTABLISH
24 SECURE TRANSPORTATION SERVICES, WHICH MAY INCLUDE SUPPLEMENTAL
25 AND COORDINATED COMMUNITY RESPONSE SERVICES, TO BE IMPLEMENTED
26 ON OR BEFORE JULY 1, 2023. THE STATE DEPARTMENT SHALL
27 COLLABORATE WITH THE OFFICE OF BEHAVIORAL HEALTH IN ITS RESEARCH

1 AND PLANNING EFFORTS TO DETERMINE HOW THIS BENEFIT MAY ALIGN
2 WITH CO-RESPONDER, MOBILE CRISIS, AND EMERGENCY CRISIS DISPATCH.

3 (2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT,
4 AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR PRIVATE
5 SOURCES FOR THE PURPOSE OF FUNDING THE URGENT TRANSPORTATION
6 NEEDS WITHIN THE EXISTING NONEMERGENCY MEDICAL TRANSPORTATION
7 BENEFIT AND SECURE TRANSPORTATION SERVICES BENEFIT UNDER THE
8 MEDICAL ASSISTANCE PROGRAM, AS SET FORTH IN SUBSECTION (1) OF THIS
9 SECTION AND SECTION 25.5-5-324 (1).

10 SECTION 5. In Colorado Revised Statutes, 27-60-104, **amend**
11 (7) as follows:

12 **27-60-104. Behavioral health crisis response system - crisis**
13 **service facilities - walk-in centers - mobile response units - report.**

14 (7) The state department shall explore solutions for addressing secure
15 transportation, AS DEFINED IN SECTION 25-3.5-103 (11.4), of individuals
16 placed on a seventy-two-hour treatment and evaluation hold pursuant to
17 article 65 of this title 27, AND SHALL INCLUDE THE FOLLOWING
18 INFORMATION AS PART OF ITS 2023 "STATE MEASUREMENT FOR
19 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
20 GOVERNMENT ACT" PRESENTATION REQUIRED PURSUANT TO SECTION
21 2-7-203:

22 (a) HOW CRISIS CONTRACTORS ARE FACILITATING THE USE OF
23 SECURE TRANSPORTATION OR CONTRACTING WITH SECURE
24 TRANSPORTATION LICENSEES; AND

25 (b) HOW THE STATE DEPARTMENT HAS SUPPORTED AND
26 ENCOURAGED CRISIS CONTRACTORS TO INCLUDE SECURE TRANSPORTATION
27 IN THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM.

1 **SECTION 6.** In Colorado Revised Statutes, 27-65-107, **amend**
2 (8) as follows:

3 **27-65-107. Certification for short-term treatment - procedure.**
4 (8) Whenever it appears to the court, by reason of a report by the treating
5 professional person or any other report satisfactory to the court, that a
6 respondent detained for evaluation and treatment or certified for treatment
7 should be transferred to another facility for treatment and the safety of the
8 respondent or the public requires that the respondent be transported by
9 SECURE TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), OR
10 a sheriff, the court may issue an order directing the sheriff or ~~his or her~~
11 THE SHERIFF'S designee to deliver the respondent to the designated
12 facility.

13 **SECTION 7.** In Colorado Revised Statutes, 40-10.1-105, **amend**
14 (1) introductory portion and (1)(d) as follows:

15 **40-10.1-105. Transportation not subject to regulation.** (1) The
16 following types of transportation are not subject to regulation ~~under this~~
17 ~~article~~ PURSUANT TO THIS ARTICLE 10.1:

18 (d) Transportation by hearses, ambulances, SECURE
19 TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), or other
20 emergency vehicles;

21 **SECTION 8. Appropriation.** (1) For the 2021-22 state fiscal
22 year, \$46,800 is appropriated to the department of health care policy and
23 financing for us by the executive director's office. This appropriation
24 consists of \$39,993 from the general fund and \$6,807 from the healthcare
25 affordability and sustainability fee cash fund created in section
26 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the office may use this
27 appropriation as follows:

1 (a) \$32,900, consisting of \$30,335 from the general fund and
2 \$2,565 from the healthcare affordability and sustainability fee cash fund
3 created in section 25.5-4-402.4 (5)(a), C.R.S., for personal services,
4 which amount is based on an assumption that the office will require an
5 additional 0.9 FTE;

6 (b) \$3,775, consisting of \$3,481 from the general fund and \$294
7 from the healthcare affordability and sustainability fee cash fund created
8 in section 25.5-4-402.4 (5)(a), C.R.S., for operating expenses; and

9 (c) \$10,125, consisting of \$6,177 general fund and \$3,948 from
10 the healthcare affordability and sustainability fee cash fund created in
11 section 25.5-4-402.4 (5)(a), C.R.S., for Medicaid management
12 information system maintenance and projects.

13 (2) For the 2021-22 state fiscal year, the general assembly
14 anticipates that the department of health care policy and financing will
15 receive \$127,801 in federal funds for use by the executive director's
16 office to implement this act, which amount is subject to the "(I)" notation
17 as defined in the annual general appropriation act for the same fiscal year.
18 The appropriation in subsection (1) of this section is based on the
19 assumption that the office will receive this amount of federal funds to be
20 used as follows:

21 (a) \$32,901 for personal services;

22 (b) \$3,775 for operating expenses; and

23 (c) \$91,125 for Medicaid management information system
24 maintenance and projects.

25 (3) For the 2021-22 state fiscal year, \$46,490 is appropriated to the
26 department of public health and environment for use by the health
27 facilities and emergency medical services division. This appropriation is

1 from the general fund and is based on an assumption that the division will
2 require an additional 0.6 FTE. To implement this act, the division may
3 use this appropriation for administration and operations.

4 **SECTION 9. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.