

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0522.01 Jane Ritter x4342

HOUSE BILL 21-1085

HOUSE SPONSORSHIP

McCluskie and Larson,

SENATE SPONSORSHIP

Bridges and Smallwood,

House Committees

Public & Behavioral Health & Human Services
Appropriations

Senate Committees

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.*

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 MENTAL HEALTH INSTITUTES WITHIN THE STATE DEPARTMENT OF
6 HUMAN SERVICES, EMERGENCY SERVICE PATROLS ESTABLISHED PURSUANT
7 TO SECTION 27-81-115, AND LAW ENFORCEMENT MAY PROVIDE SECURE
8 TRANSPORTATION SERVICES TO AN INDIVIDUAL IN NEED OF URGENT
9 BEHAVIORAL HEALTH CARE.

10 (3) EACH VEHICLE OPERATED BY A SECURE TRANSPORTATION
11 LICENSEE MUST BE ISSUED A SEPARATE PERMIT BY THE BOARD OF COUNTY
12 COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION
13 SERVICE IS BASED UPON POSITIVE REVIEW PURSUANT TO SECTION
14 25-3.5-310.

15 **25-3.5-310. Secure transportation - issuance of licenses and**
16 **permits - term - requirements.** (1) (a) AFTER RECEIPT OF AN ORIGINAL
17 APPLICATION FOR A LICENSE TO PROVIDE PUBLIC OR PRIVATE SECURE
18 TRANSPORTATION SERVICES, THE BOARD OF COUNTY COMMISSIONERS OF
19 THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED
20 SHALL REVIEW THE APPLICATION, THE APPLICANT'S RECORD, AND THE
21 APPLICANT'S EQUIPMENT, AS WELL AS THE APPLICANT'S TRAINING AND
22 OPERATING PROCEDURES. IN ORDER TO BE APPROVED FOR A LICENSE, THE
23 APPLICANT MUST PROVIDE EVIDENCE THAT THE APPLICANT'S EQUIPMENT
24 AND TRAINING AND OPERATING PROCEDURES MEET OR EXCEED THE
25 MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH
26 PURSUANT TO SECTION 25-3.5-311. THE BOARD OF COUNTY
27 COMMISSIONERS OF ANY COUNTY MAY IMPOSE, BY RESOLUTION,

1 ADDITIONAL REQUIREMENTS FOR SECURE TRANSPORTATION THAT IS BASED
2 IN THAT COUNTY.

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

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

21 (3) A LICENSEE OR PERMIT HOLDER SHALL NOT SELL, ASSIGN, OR
22 OTHERWISE TRANSFER A LICENSE OR PERMIT ISSUED PURSUANT TO THIS
23 SECTION.

24 **25-3.5-311. Secure transportation - rules.** (1) ON OR BEFORE
25 JULY 1, 2022, THE STATE BOARD OF HEALTH SHALL ADOPT RULES
26 ESTABLISHING THE MINIMUM REQUIREMENTS FOR SECURE
27 TRANSPORTATION SERVICES LICENSING, INCLUDING BUT NOT LIMITED TO:

- 1 (a) STAFFING REQUIREMENTS FOR VEHICLES;
- 2 (b) STAFF TRAINING REQUIREMENTS, INCLUDING VERBAL
- 3 DE-ESCALATION AND TRAUMA-INFORMED CARE, AS WELL AS CULTURAL
- 4 COMPETENCIES RELATED TO SUPPORTING PERSONS WITH PHYSICAL OR
- 5 COGNITIVE DISABILITIES;
- 6 (c) OPERATING PROCEDURES, INCLUDING CIRCUMSTANCES WHEN
- 7 INDIVIDUAL PHYSICAL RESTRAINT IS ALLOWED;
- 8 (d) QUALITY IMPROVEMENT AND THE PROCESS USED TO
- 9 INVESTIGATE COMPLAINTS AGAINST A LICENSEE;
- 10 (e) DATA COLLECTION AND REPORTING ON UTILIZATION TO THE
- 11 DEPARTMENT BY A LICENSEE;
- 12 (f) MINIMUM CLINICAL AND MEDICAL STANDARDS AND
- 13 PROCEDURES;
- 14 (g) THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL MAY BE
- 15 TRANSPORTED; AND
- 16 (h) CRITERIA FOR PICKUP AND DROP-OFF.

17 **25-3.5-312. Funding.** THE DEPARTMENT IS AUTHORIZED TO SEEK,
18 ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR
19 PRIVATE SOURCES FOR THE PURPOSE OF FACILITATING THE RULEMAKING
20 PROCESS SET FORTH IN SECTION 25-3.5-311.

21 **25-3.5-313. Reporting.** THE DEPARTMENT SHALL ANNUALLY
22 MAKE PUBLICLY AVAILABLE THE DATA COLLECTED FROM SECURE
23 TRANSPORTATION PROVIDERS.

24 **SECTION 3.** In Colorado Revised Statutes, 25.5-5-324, **amend**
25 (1), (2)(a), (2)(c), and (4)(a); and **add** (5) as follows:

26 **25.5-5-324. Nonemergency medical transportation - urgent**
27 **and secure transportation need - report - funding - repeal.** (1) (a) On

1 or before January 1, 2019, the state department shall create and
2 implement an efficient and cost-effective method for meeting urgent
3 transportation needs within the existing nonemergency medical
4 transportation benefit under the medical assistance program. Urgent
5 transportation needs include discharge from inpatient, emergency
6 services, and other urgent but nonemergency services, as determined by
7 the state department.

8 (b) ON OR BEFORE JANUARY 1, 2023, THE STATE DEPARTMENT
9 SHALL CREATE A BENEFIT FOR SECURE TRANSPORTATION SERVICES, AS
10 THAT TERM IS DEFINED IN SECTION 25-3.5-103 (11.4). THE STATE
11 DEPARTMENT SHALL RESEARCH AND CREATE A PLAN TO ESTABLISH
12 SECURE TRANSPORTATION SERVICES, WHICH MAY INCLUDE SUPPLEMENTAL
13 AND COORDINATED COMMUNITY RESPONSE SERVICES, TO BE IMPLEMENTED
14 ON OR BEFORE JULY 1, 2023. THE STATE DEPARTMENT SHALL
15 COLLABORATE WITH THE OFFICE OF BEHAVIORAL HEALTH IN ITS RESEARCH
16 AND PLANNING EFFORTS TO DETERMINE HOW THIS BENEFIT MAY ALIGN
17 WITH CO-RESPONDER, MOBILE CRISIS, AND EMERGENCY CRISIS DISPATCH.

18 (2) The method created by the state department must include, at
19 a minimum:

20 (a) Medical service provider or facility access to approved
21 transportation providers for patients with urgent OR SECURE transportation
22 needs;

23 (c) An efficient method for obtaining and paying for
24 transportation services for urgent OR SECURE transportation needs.

25 (4) (a) The state department shall annually report on the
26 implementation and effectiveness of the process created in this section for
27 meeting urgent AND SECURE transportation needs within the

1 nonemergency medical transportation benefit AND SECURE
2 TRANSPORTATION SERVICES BENEFIT. The state department shall present
3 the report as part of its annual ~~presentation~~ "STATE MEASUREMENT FOR
4 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
5 GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203 to the
6 health and human services committee of the senate and the public AND
7 BEHAVIORAL health and human services committee of the house of
8 representatives, or any successor committees. ~~as required pursuant to~~
9 ~~section 2-7-203.~~

10 (5) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT,
11 AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR PRIVATE
12 SOURCES FOR THE PURPOSE OF FUNDING THE URGENT TRANSPORTATION
13 NEEDS WITHIN THE EXISTING NONEMERGENCY MEDICAL TRANSPORTATION
14 BENEFIT AND SECURE TRANSPORTATION SERVICES BENEFIT UNDER THE
15 MEDICAL ASSISTANCE PROGRAM, AS SET FORTH IN SUBSECTION (1) OF THIS
16 SECTION.

17 **SECTION 4.** In Colorado Revised Statutes, 27-60-104, **amend**
18 (7) as follows:

19 **27-60-104. Behavioral health crisis response system - crisis**
20 **service facilities - walk-in centers - mobile response units - report.**

21 (7) The state department shall explore solutions for addressing secure
22 transportation, AS DEFINED IN SECTION 25-3.5-103 (11.4), of individuals
23 placed on a seventy-two-hour treatment and evaluation hold pursuant to
24 article 65 of this title 27 AND SHALL, ON OR BEFORE JANUARY 1, 2023,
25 INCLUDE THE FOLLOWING INFORMATION AS PART OF ITS "STATE
26 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
27 (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED PURSUANT TO

1 SECTION 2-7-203:

2 (a) HOW CRISIS CONTRACTORS ARE FACILITATING THE USE OF
3 SECURE TRANSPORTATION OR CONTRACTING WITH SECURE
4 TRANSPORTATION LICENSEES; AND

5 (b) HOW THE STATE DEPARTMENT HAS SUPPORTED AND
6 ENCOURAGED CRISIS CONTRACTORS TO INCLUDE SECURE TRANSPORTATION
7 IN THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM.

8 **SECTION 5.** In Colorado Revised Statutes, 27-65-107, **amend**
9 (8) as follows:

10 **27-65-107. Certification for short-term treatment - procedure.**

11 (8) Whenever it appears to the court, by reason of a report by the treating
12 professional person or any other report satisfactory to the court, that a
13 respondent detained for evaluation and treatment or certified for treatment
14 should be transferred to another facility for treatment and the safety of the
15 respondent or the public requires that the respondent be transported by
16 SECURE TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), OR
17 a sheriff, the court may issue an order directing the sheriff or ~~his or her~~
18 THE SHERIFF'S designee to deliver the respondent to the designated
19 facility.

20 **SECTION 6.** In Colorado Revised Statutes, 40-10.1-105, **amend**
21 (1) introductory portion and (1)(d) as follows:

22 **40-10.1-105. Transportation not subject to regulation.** (1) The
23 following types of transportation are not subject to regulation ~~under this~~
24 ~~article~~ PURSUANT TO THIS ARTICLE 10.1:

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

1 **SECTION 7. Appropriation.** (1) For the 2021-22 state fiscal
2 year, \$46,800 is appropriated to the department of health care policy and
3 financing for us by the executive director's office. This appropriation
4 consists of \$39,993 from the general fund and \$6,807 from the healthcare
5 affordability and sustainability fee cash fund created in section
6 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the office may use this
7 appropriation as follows:

8 (a) \$32,900, consisting of \$30,335 from the general fund and
9 \$2,565 from the healthcare affordability and sustainability fee cash fund
10 created in section 25.5-4-402.4 (5)(a), C.R.S., for personal services,
11 which amount is based on an assumption that the office will require an
12 additional 0.9 FTE;

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

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

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

- 1 (a) \$32,901 for personal services;
2 (b) \$3,775 for operating expenses; and
3 (c) \$91,125 for Medicaid management information system
4 maintenance and projects.

5 (3) For the 2021-22 state fiscal year, \$46,490 is appropriated to the
6 department of public health and environment for use by the health
7 facilities and emergency medical services division. This appropriation is
8 from the general fund and is based on an assumption that the division will
9 require an additional 0.6 FTE. To implement this act, the division may
10 use this appropriation for administration and operations.

11 **SECTION 8. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.