

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

INTRODUCED

LLS NO. 23-0955.01 Michael Dohr x4347

HOUSE BILL 23-1268

HOUSE SPONSORSHIP

Lukens and Evans,

SENATE SPONSORSHIP

Roberts and Pelton B.,

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE PROCESS FOR A PERSON SERVING A**
102 **CRIMINAL SENTENCE IN COLORADO FOR A CONVICTION IN**
103 **ANOTHER STATE TO PARTICIPATE IN A PRIVATE TREATMENT**
104 **PROGRAM.**

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>.)

Colorado participates in an interstate compact that allows a person convicted of a crime in another state to have the person's probation or parole supervised in Colorado (supervised person) and allows a person

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

convicted in another state who is not required to be supervised to complete the person's court-ordered treatment in Colorado (unsupervised person). The bill clarifies the process for treating a supervised or unsupervised person in a private treatment program in Colorado. A private treatment program is a program that provides substance use treatment, sex offender management services, or domestic violence services (program). The bill directs the program to assist the supervised or unsupervised person with registering with the interstate compact administrator. The department of corrections (department) is required to complete a criminal history records check of the supervised or unsupervised person to verify that the person is a supervised or unsupervised person. The bill specifies the requirements for programs when the participant is a supervised person.

Current law subjects a program or supervised person to a misdemeanor for violating the provisions of the interstate compact. The bill states that a violation may be reported to the program's appropriate licensing, certifying, or approving agency for potential corrective action. The bill requires the department to periodically update the out-of-state offender questionnaire used by private treatment program providers.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-27.1-101, **amend**
3 (2)(d), (2)(f), (2)(h), (3)(b), (5), (6), (7), and (9); **repeal** (4); and **add** (7.5)
4 and (13) as follows:

5 **17-27.1-101. Nongovernmental facilities for offenders -**
6 **registration - notifications - penalties - definitions.** (2) As used in this
7 section, unless the context otherwise requires:

8 (d) "Private treatment program" means any residential or
9 nonresidential program that provides services, treatment, rehabilitation,
10 education, or criminal-history-related treatment for supervised or
11 unsupervised persons ~~but does not include~~ IN NEED OF SUBSTANCE USE
12 TREATMENT, SEX OFFENDER MANAGEMENT SERVICES, OR DOMESTIC
13 VIOLENCE SERVICES REQUIRED AS PART OF THE SENDING STATE'S
14 SENTENCE. "PRIVATE TREATMENT PROGRAM" DOES NOT INCLUDE A

1 LICENSED BEHAVIORAL HEALTH ENTITY ENDORSED TO PROVIDE CRISIS
2 CARE OR WITHDRAWAL MANAGEMENT, a private contract prison facility,
3 a prison facility operated by a political subdivision of the state, a facility
4 providing treatment for persons with mental health disorders or
5 intellectual and developmental disabilities, or a community corrections
6 program established pursuant to article 27 of this title 17.

7 (f) "Supervised person" means a person eighteen years of age or
8 older who is adjudicated for or convicted of or has agreed to a deferred
9 judgment, deferred sentence, or deferred prosecution for a crime in
10 another state but is or will be under the supervision of a probation officer
11 or community parole officer in Colorado pursuant to the interstate
12 compact. "SUPERVISED INDIVIDUAL" DOES NOT INCLUDE AN INDIVIDUAL
13 CHARGED WITH A CRIME, BUT NOT CONVICTED AND SENTENCED, IN A
14 SENDING STATE.

15 (h) "Unsupervised person" means a person eighteen years of age
16 or older who, although not required to be under the jurisdiction of a
17 probation officer or community parole officer in Colorado, is adjudicated
18 for or convicted of or has agreed to a deferred judgment, deferred
19 sentence, or deferred prosecution for a crime outside of the state of
20 Colorado and is directed to attend a private treatment program in
21 Colorado by any court, department of corrections, state board of parole,
22 probation department, parole division, adult diversion program, or any
23 other similar entity or program in a state other than Colorado.
24 "UNSUPERVISED INDIVIDUAL" DOES NOT INCLUDE AN INDIVIDUAL
25 CHARGED WITH A CRIME, BUT NOT CONVICTED AND SENTENCED, IN A
26 SENDING STATE.

27 (3) (b) A sending state shall not permit travel of a supervised

1 person who is a nonresident of this state to the state of Colorado without
2 written notification from the compact administrator of acceptance of the
3 supervised person into a private treatment program WHEN TREATMENT IS
4 REQUIRED BY LAW OR AS PART OF THE SENDING STATE'S SENTENCE.

5 ~~(4) No private treatment program in Colorado shall admit or~~
6 ~~accept a supervised or unsupervised person into the program unless the~~
7 ~~supervised or unsupervised person has signed a waiver that authorizes the~~
8 ~~release of confidential information.~~

9 (5) A private treatment program in Colorado ~~shall not admit or~~
10 ~~accept~~ THAT ADMITS OR ACCEPTS a supervised or unsupervised person
11 into the program ~~unless the program:~~ SHALL, IMMEDIATELY FOLLOWING
12 INTAKE TO THE PROGRAM, NOTIFY THE SUPERVISED OR UNSUPERVISED
13 PERSON OF THE PERSON'S NEED TO REGISTER WITH THE COMPACT
14 ADMINISTRATOR AND SHALL ASSIST THE SUPERVISED OR UNSUPERVISED
15 PERSON IN PROVIDING THE PERSON'S NAME, DATE OF BIRTH, PROOF OF
16 IDENTIFICATION, AND ANY NECESSARY RELEASE OF INFORMATION TO THE
17 COMPACT ADMINISTRATOR IMMEDIATELY SO THE DEPARTMENT MAY
18 COMPLETE A COMPLETE CRIMINAL HISTORY RECORDS CHECK OF THE
19 PERSON AS SHOWN BY A NATIONAL CRIMINAL INFORMATION CHECK.

20 (a) ~~Is registered with the compact administrator, and, if the person~~
21 ~~is a supervised person, the private treatment program is:~~

22 ~~(I) Approved by the behavioral health administration in the~~
23 ~~department of human services if the program provides alcohol or drug~~
24 ~~abuse treatment;~~

25 ~~(II) Certified or approved by the sex offender management board,~~
26 ~~established in section 16-11.7-103, C.R.S., if the program provides sex~~
27 ~~offender treatment;~~

1 ~~(III) Certified or approved by a domestic violence treatment~~
2 ~~board, established pursuant to part 8 of article 6 of title 18, C.R.S., if the~~
3 ~~program provides treatment for persons who were convicted of an act of~~
4 ~~domestic violence as defined in section 18-6-800.3, C.R.S., or of an act~~
5 ~~for which the underlying factual basis included an act of domestic~~
6 ~~violence; or~~

7 ~~(IV) Licensed or certified by the division of adult parole in the~~
8 ~~department of corrections, the department of regulatory agencies, the~~
9 ~~behavioral health administration in the department of human services, the~~
10 ~~state board of nursing, or the Colorado medical board if the program~~
11 ~~provides treatment that requires certification or licensure;~~

12 ~~(b) If the person is unsupervised, has notified the compact~~
13 ~~administrator of the following information for each such unsupervised~~
14 ~~person:~~

15 ~~(I) Name, date and place of birth, and social security number;~~

16 ~~(II) Complete criminal history of the person as shown by a~~
17 ~~national criminal information check;~~

18 ~~(III) Name and address of any court, department, board of parole,~~
19 ~~probation department, parole division, adult diversion program, or other~~
20 ~~similar entity or program having jurisdiction over the person; and~~

21 ~~(IV) Terms and conditions under which the person is required or~~
22 ~~directed to attend the program; and~~

23 ~~(c) (I) If the person is supervised and is a resident of the state of~~
24 ~~Colorado, has confirmed that the sending state has provided all~~
25 ~~information concerning the supervised person required by the interstate~~
26 ~~compact to the compact administrator; and~~

27 ~~(II) If the person is supervised and is a nonresident of the state of~~

1 Colorado, has confirmed that the compact administrator has accepted the
2 person for placement in the private treatment program.

3 (6) (a) Pursuant to criteria established by the interstate compact,
4 the compact administrator shall either accept or reject the placement of
5 the supervised person in the private treatment program. THE DEPARTMENT
6 SHALL, WITHIN FORTY-EIGHT HOURS, RUN A COMPLETE CRIMINAL HISTORY
7 RECORDS CHECK ON THE INDIVIDUAL AND VERIFY THE PERSON IS A
8 SUPERVISED OR AN UNSUPERVISED PERSON. IF THE PERSON IS DETERMINED
9 TO BE A SUPERVISED OR AN UNSUPERVISED PERSON, THE DEPARTMENT
10 SHALL IMMEDIATELY NOTIFY THE PRIVATE TREATMENT PROGRAM AND THE
11 CHIEF LAW ENFORCEMENT OFFICIAL WHERE THE PRIVATE TREATMENT
12 PROGRAM IS LOCATED AND, IF SUPERVISED, THE PERSON'S PROBATION OR
13 COMMUNITY PAROLE OFFICER, OF THE PERSON'S STATUS.

14 (b) For all unsupervised persons and for supervised persons that
15 the compact administrator accepts for placement in a private treatment
16 program, the compact administrator shall immediately notify the
17 appropriate chief law enforcement official and the director of the
18 Colorado bureau of investigation. PURSUANT TO CRITERIA ESTABLISHED
19 BY THE INTERSTATE COMPACT, THE COMPACT ADMINISTRATOR SHALL
20 EITHER ACCEPT OR REJECT THE PLACEMENT OF THE SUPERVISED PERSON
21 IN THE PRIVATE TREATMENT PROGRAM.

22 (c) (Deleted by amendment, L. 2000, p. 232, § 1, effective July 1,
23 2000.)

24 (d) FOR ALL UNSUPERVISED PERSONS AND FOR SUPERVISED
25 PERSONS THAT THE COMPACT ADMINISTRATOR ACCEPTS FOR PLACEMENT
26 IN A PRIVATE TREATMENT PROGRAM, THE COMPACT ADMINISTRATOR
27 SHALL IMMEDIATELY NOTIFY THE DIRECTOR OF THE COLORADO BUREAU

1 OF INVESTIGATION.

2 (7) ~~By written policy, a local law enforcement agency shall~~
3 ~~require a supervised or unsupervised person to physically appear at the~~
4 ~~local law enforcement agency for fingerprinting and photographing.~~ THE
5 DEPARTMENT SHALL NOTIFY THE PRIVATE TREATMENT PROGRAM AND
6 CHIEF LAW ENFORCEMENT OFFICIAL WHERE THE PRIVATE TREATMENT
7 PROGRAM IS LOCATED IF THE PERSON IS DETERMINED TO BE A SUPERVISED
8 OR AN UNSUPERVISED PERSON.

9 (7.5) (a) A SUPERVISED OR AN UNSUPERVISED PERSON MAY BE
10 REQUIRED TO APPEAR AT A LAW ENFORCEMENT AGENCY FOR
11 FINGERPRINTING AND PHOTOGRAPHING. A PROBATION DEPARTMENT, THE
12 DIVISION OF PAROLE, OR OTHER AGENCY RESPONSIBLE FOR SUPERVISING
13 A SUPERVISED PERSON IS RESPONSIBLE FOR NOTIFYING THE PERSON OF THE
14 FINGERPRINTING AND PHOTOGRAPHING REQUIREMENT. THE COMPACT
15 ADMINISTRATOR SHALL ARRANGE FOR NOTIFICATION TO AN UNSUPERVISED
16 PERSON OF THE FINGERPRINTING AND PHOTOGRAPHING REQUIREMENT AND
17 MAY REQUIRE AUTHORITIES IN THE SENDING STATE TO ASSIST WITH
18 NOTIFICATION. A LAW ENFORCEMENT AGENCY SHALL TAKE PHOTOGRAPHS
19 AND FINGERPRINTS OF A SUPERVISED OR UNSUPERVISED PERSON AS
20 REQUIRED BUT MAY SET REASONABLE LIMITATIONS ON THE HOURS AND
21 LOCATION.

22 (b) FOR A SUPERVISED PERSON, THE PRIVATE TREATMENT
23 PROGRAM MUST BE:

24 (I) APPROVED BY THE BEHAVIORAL HEALTH ADMINISTRATION IN
25 THE DEPARTMENT OF HUMAN SERVICES IF THE PROGRAM PROVIDES
26 ALCOHOL OR SUBSTANCE USE TREATMENT TO A SUPERVISED PERSON IF THE
27 TREATMENT WOULD BE REQUIRED IF THE OFFENSE HAD BEEN COMMITTED

1 IN COLORADO;

2 (II) CERTIFIED OR APPROVED BY THE SEX OFFENDER MANAGEMENT
3 BOARD, ESTABLISHED IN SECTION 16-11.7-103, IF THE PROGRAM PROVIDES
4 SEX OFFENDER TREATMENT TO A SUPERVISED PERSON IF THE TREATMENT
5 WOULD BE REQUIRED IF THE OFFENSE HAD BEEN COMMITTED IN
6 COLORADO;

7 (III) CERTIFIED OR APPROVED BY THE DOMESTIC VIOLENCE
8 OFFENDER MANAGEMENT BOARD, ESTABLISHED IN SECTION 16-11.8-103,
9 IF THE PROGRAM PROVIDES TREATMENT TO A SUPERVISED PERSON IF THE
10 TREATMENT FOR AN OFFENSE IF COMMITTED IN COLORADO WOULD HAVE
11 BEEN AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3,
12 OR OF AN ACT FOR WHICH THE UNDERLYING FACTUAL BASIS INCLUDED AN
13 ACT OF DOMESTIC VIOLENCE; OR

14 (IV) LICENSED OR CERTIFIED BY THE DIVISION OF ADULT PAROLE
15 IN THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF REGULATORY
16 AGENCIES, THE BEHAVIORAL HEALTH ADMINISTRATION IN THE
17 DEPARTMENT OF HUMAN SERVICES, THE STATE BOARD OF NURSING, OR THE
18 COLORADO MEDICAL BOARD, IF THE PROGRAM PROVIDES TREATMENT
19 THAT REQUIRES CERTIFICATION OR LICENSURE.

20 (c) (I) IF THE SUPERVISED PERSON IS A RESIDENT OF THE STATE OF
21 COLORADO, THE SUPERVISED PERSON SHALL CONFIRM THAT THE SENDING
22 STATE HAS PROVIDED ALL INFORMATION CONCERNING THE SUPERVISED
23 PERSON REQUIRED BY THE INTERSTATE COMPACT TO THE COMPACT
24 ADMINISTRATOR.

25 (II) IF THE SUPERVISED PERSON IS A NONRESIDENT OF THE STATE
26 OF COLORADO, THE SUPERVISED PERSON SHALL CONFIRM THAT THE
27 COMPACT ADMINISTRATOR HAS ACCEPTED THE PERSON FOR PLACEMENT

1 IN THE PRIVATE TREATMENT PROGRAM.

2 (9) (a) Any private treatment program or supervising person that
3 violates this section ~~commits a misdemeanor. Upon a first conviction, the~~
4 ~~private treatment program or supervising person shall be punished by a~~
5 ~~fine of five hundred dollars. Upon a second conviction, a private~~
6 ~~treatment program or supervising person shall be punished by a fine of~~
7 ~~one thousand dollars. Upon a third or subsequent conviction, a private~~
8 ~~treatment program or supervising person shall be punished by a fine of~~
9 ~~five thousand dollars~~ MAY BE REPORTED TO THE APPROPRIATE LICENSING,
10 CERTIFYING, OR APPROVING AGENCY RESPONSIBLE FOR OVERSIGHT OF THE
11 PRIVATE TREATMENT PROGRAM FOR POTENTIAL CORRECTIVE ACTION.

12 (b) ~~Each failure to comply with a provision of this section by a~~
13 ~~private treatment program or supervising person relating to a different~~
14 ~~person constitutes a separate violation.~~

15 (13) THE DEPARTMENT SHALL PERIODICALLY UPDATE THE
16 OUT-OF-STATE OFFENDER QUESTIONNAIRE USED BY PRIVATE TREATMENT
17 PROVIDERS. IN UPDATING THE QUESTIONNAIRE, THE DEPARTMENT SHALL
18 ENGAGE STAKEHOLDERS, INCLUDING, BUT NOT LIMITED TO, THE
19 BEHAVIORAL HEALTH ADMINISTRATION IN THE DEPARTMENT OF HUMAN
20 SERVICES, SUBSTANCE USE TREATMENT PROVIDERS, LAW ENFORCEMENT,
21 THE OFFICE OF THE STATE PUBLIC DEFENDER, AND OTHER CONCERNED
22 STAKEHOLDERS.

23 **SECTION 2.** In Colorado Revised Statutes, 25-1-1202, **repeal**
24 (1)(bb) as follows:

25 **25-1-1202. Index of statutory sections regarding medical**
26 **record confidentiality and health information.** (1) Statutory provisions
27 concerning policies, procedures, and references to the release, sharing,

1 and use of medical records and health information include the following:

2 (bb) ~~Section 17-27.1-101 (4), C.R.S., concerning~~
3 ~~nongovernmental facilities for offenders and the waiver of confidential~~
4 ~~information;~~

5 **SECTION 3. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly; except
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V
9 of the state constitution against this act or an item, section, or part of this
10 act within such period, then the act, item, section, or part will not take
11 effect unless approved by the people at the general election to be held in
12 November 2024 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.