

ARTICLE 1.9
CONTINUING EXAMINATION OF THE TREATMENT OF PERSONS
WITH MENTAL ILLNESS WHO ARE INVOLVED IN THE JUSTICE
SYSTEM

Section

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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 serious mental illness, which 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 major mental illness;

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

(d) A study conducted in 1995 found that approximately six percent of the persons held in county jails and in community corrections throughout the state had been diagnosed as persons with serious mental illness;

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

(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 mental illness;

(g) Persons with mental illness, as a direct or indirect result of their condition, are in many instances more likely than persons who do not have mental illness 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 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 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 mental illness of the offender 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 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 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 upon release from incarceration;

(c) Standardized inter-agency screening to detect mental illness 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 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 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 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 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.

Source: L. 2004: Entire article added, p. 1866, § 1, effective June 4.

18-1.9-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Committee" means the legislative oversight committee established pursuant to section 18-1.9-103.

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

(2) "Task force" means the task force for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems established pursuant to section 18-1.9-104.

Source: L. 2004: Entire article added, p. 1868, § 1, effective June 4. **L. 2009:** (1.5) added, (HB 09-1021), ch. 33, p. 139, § 1, effective August 5.

18-1.9-103. Legislative oversight committee for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems - creation - duties.

(1) **Creation.** (a) There is hereby created a legislative oversight committee for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems.

(b) The committee shall consist of six members. The president of the senate, the minority

leader of the senate, and the speaker of the house of representatives shall appoint the members of the committee, as follows:

(I) The president of the senate shall appoint two senators to serve on the committee, and the minority leader of the senate shall appoint one senator to serve on the committee;

(II) The speaker of the house of representatives shall appoint three representatives to serve on the committee, no more than two of whom shall be members of the same political party;

(III) The terms of the members appointed by the speaker of the house of representatives, the president of the senate, and the minority leader of the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker, the president, and the minority leader of the senate shall each appoint or reappoint members in the same manner as provided in subparagraphs (I) and (II) of this paragraph (b). Thereafter, the terms of members appointed or reappointed by the speaker, the president, and the minority leader of the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker, the president, and the minority leader of the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker, the president, and the minority leader of the senate shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(c) The president of the senate shall select the first chair of the committee, and the speaker of the house of representatives shall select the first vice-chair. The chair and vice-chair shall alternate annually thereafter between the two houses. The chair and vice-chair of the committee may establish such organizational and procedural rules as are necessary for the operation of the committee.

(d) (I) Notwithstanding the provisions of section 2-2-307, C.R.S., the committee may receive payment of per diem and reimbursement for actual and necessary expenses authorized pursuant to said section and any other direct or indirect costs associated with the duties of the committee set forth in this article only from moneys appropriated from the examination of the treatment of persons with mental illness in the criminal justice system cash fund created in section 18-1.9-106.

(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 credited to the

examination of the treatment of persons with mental illness in the criminal justice system cash fund created in section 18-1.9-106 in an amount sufficient to fund staff assistance.

(2) **Duties.** (a) The committee shall meet at least once on or before August 1, 2004. Beginning in 2005 and continuing each year thereafter through 2014, the committee shall meet at least three times each year and at such other times as it deems necessary; except that the committee shall not meet during the 2010 interim.

(b) (I) The committee shall be responsible for the oversight of the task force and shall submit annual reports to the general assembly regarding the findings and recommendations of the task force. In addition, the committee may recommend legislative changes that shall be treated as bills recommended by an interim legislative committee for purposes of any introduction deadlines or bill limitations imposed by the joint rules of the general assembly.

(II) The provisions of subparagraph (I) of this paragraph (b) shall not apply during the suspension of the committee during the 2010 interim.

(c) (I) The committee shall submit a report to the general assembly by January 15, 2005, by each January 15 thereafter through January 15, 2010, and by January 15, 2012, and by each January 15 thereafter through January 15, 2015. The annual reports shall summarize the issues addressing the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems that have been considered and any recommended legislative proposals.

(II) The general assembly reviewed the reporting requirements in subparagraph (I) of this paragraph (c) during the 2008 regular session and continued the requirements.

Source: L. 2004: Entire article added, p. 1868, § 1, effective June 4. L. 2007: (1)(b)(III) added, p. 178, § 8, effective March 22. L. 2008: (2)(c) amended, p. 1267, § 1, effective August 5. L. 2009: (2)(a) and (2)(c)(I) amended, (HB 09-1021), ch. 33, p. 139, § 2, effective August 5. L. 2010: (2)(a), (2)(b), and (2)(c)(I) amended, (SB 10-213), ch. 375, p. 1761, § 6, effective June 7.

18-1.9-104. Mentally ill offender task force - creation - membership - duties.

(1) **Creation.** (a) There is hereby created a task force for the continuing examination of the treatment of persons with mental illness who are involved in the criminal and juvenile justice systems in Colorado. The task force shall consist of thirty members appointed as provided in paragraphs (b) and (c) of this subsection (1).

(b) The chief justice of the Colorado supreme court shall appoint four members who represent the judicial department, two of whom shall represent the division of probation within the department, one of whom shall have experience handling juvenile justice matters within the department, and one of whom shall have experience handling adult criminal justice matters within the department.

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

(I) One member who represents the division of criminal justice within the department of public safety;

(II) Two members who represent the department of corrections, one of whom represents the division of parole within the department;

(III) Two members who represent local law enforcement agencies, one of whom shall be in active service and the other one of whom shall have experience dealing with juveniles in the juvenile justice system;

(IV) Six 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;

(B) One member who represents the division of youth corrections;

(C) One member who represents the unit within the department of human services that is responsible for child welfare services;

(D) (Deleted by amendment, L. 2009, p. 140, § 3, effective August 5, 2009.)

(E) One member who represents the Colorado mental health institute at Pueblo; and

(F) One member who represents the mental health planning and advisory committee within the department of human services;

(V) One member who represents the interests of county departments of social services;

(VI) One member who represents the department of education;

(VII) One member who represents the state attorney general's office;

(VIII) One member who represents the district attorneys within the state;

(IX) Two members who represent the criminal defense bar within the state, one of whom shall have experience representing juveniles in the juvenile justice system;

(X) Two members who are licensed mental health professionals practicing within the state, one of whom shall have experience treating juveniles;

(XI) One member who represents community mental health centers within the state;

(XII) One member who is a person with knowledge of public benefits and public housing within the state;

(XIII) One member who is a practicing forensic professional within the state;

(XIV) Three members of the public as follows:

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

(B) One member who has an adult family member who has mental illness 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 mental illness and has been involved in the juvenile justice system in this state;

(XV) One member who represents the department of health care policy and financing; and

(XVI) One member who represents the department of labor and employment.

(d) A vacancy occurring in a position filled by the chief justice of the Colorado supreme court pursuant to paragraph (b) of this subsection (1) shall be filled as soon as possible by the chief justice of the Colorado supreme court in accordance with the limitations specified in paragraph (b) of this subsection (1). In addition, the chief justice of the Colorado supreme court may remove and replace any appointment to the task force made pursuant to paragraph (b) of this subsection (1).

(e) A vacancy occurring in a position filled by the chair and vice-chair of the committee pursuant to paragraph (c) of this subsection (1) shall be filled as soon as possible by the chair and vice-chair of the committee in accordance with the limitations specified in paragraph (c) of this subsection (1). In addition, the chair and vice-chair of the committee may remove and replace any appointment to the task force made pursuant to paragraph (c) of this subsection (1).

(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.

(2) **Issues for study.** The task force shall examine the identification, diagnosis, and treatment of persons with mental illness 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, the following issues:

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

(II) 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, the following issues:

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

(II) 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

(III) 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, the following issues:

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

(II) 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, the following issues:

(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, the following issues:

(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.

(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 who are involved in these systems. In addition, the task force shall:

(a) On or before August 1, 2004, and by each August 1 thereafter through August 1, 2013, except during the suspension of the committee during the 2010 interim, select a chair and a vice-chair from among its members;

(b) Meet at least six times each year from the date of the first meeting until January 1, 2015, or more often as directed by the chair of the committee; except that the committee shall not meet during the 2010 interim;

(c) Communicate with and obtain input from groups throughout the state affected by the issues identified in subsection (2) of this section;

(d) Create subcommittees as needed to carry out the duties of the task force. The subcommittees may consist, in part, of persons who are not members of the task force. Such persons may vote on issues before the subcommittee but shall not be entitled to a vote at meetings of the task force.

(e) Submit a report to the committee by October 1, 2004, and by each October 1 thereafter through October 1, 2009, and by October 1, 2011, and by each October 1 thereafter through

October 1, 2014, at a minimum specifying the following:

- (I) Issues to be studied in upcoming task force meetings and a prioritization of those issues;
- (II) Findings and recommendations regarding issues of prior consideration by the task force;
- (III) Legislative proposals of the task force that identify the policy issues involved, the agencies responsible for the implementation of the changes, and the funding sources required for such implementation.

(4) **Flexibility.** No requirement set forth in subsection (2) of this section shall prohibit the task force from studying, presenting findings and recommendations on, or requesting permission to draft legislative proposals concerning any issue described in subsection (2) of this section at any time during the existence of the task force.

(5) **Compensation.** Members of the task force shall serve without compensation.

(6) **Coordination.** The task force may work with other task forces, committees, or organizations that are pursuing policy initiatives similar to those addressed in subsection (2) of this section. The task force shall consider developing relationships with other task forces, committees, and organizations to leverage efficient policy-making opportunities through collaborative efforts.

Source: L. 2004: Entire article added, p. 1870, § 1, effective June 4. L. 2006: (2)(b.5) added, p. 528, § 1, effective April 18. L. 2008: (1)(a) and IP(1)(c) amended and (1)(c)(XV) added, p. 105, § 1, effective March 19. L. 2009: (1)(c)(IV)(A), (1)(c)(IV)(D), (1)(c)(XV), (3), and (4) amended and (1)(c)(XVI), (2)(f), and (6) added, (HB 09-1021), ch. 33, pp. 140, 141, §§ 3, 4, 5, effective August 5. L. 2010: IP(2)(f), (3)(a), (3)(b), and IP(3)(e) amended, (SB 10-213), ch. 375, p. 1762, § 7, effective June 7.

Editor's note: Subsection (2)(b.5)(IV) provided for the repeal of subsection (2)(b.5), effective December 30, 2006. (See L. 2006, p. 528.)

18-1.9-105. Task force funding - staff support.

(1) The division of criminal justice of the department of public safety, on behalf of the task force, is authorized to receive and expend contributions, grants, services, and in-kind donations from any public or private entity for any direct or indirect costs associated with the duties of the task force set forth in this article.

(2) The director of research of the legislative council, the director of the office of legislative legal services, the director of the division of criminal justice within the department of public safety, and the executive directors of the departments represented on the task force may supply staff assistance to the task force as they deem appropriate within existing appropriations. If staff

assistance is not available from a governmental agency within existing appropriations, then the executive directors of the departments represented on the task force, 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 credited to the examination of the treatment of persons with mental illness in the criminal justice system cash fund created in section 18-1.9-106 in an amount sufficient to fund staff assistance. The task force may also accept staff support from the private sector.

Source: L. 2004: Entire article added, p. 1874, § 1, effective June 4.

18-1.9-106. Cash fund.

(1) All private and public funds received through grants, contributions, and donations pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the examination of the treatment of persons with mental illness in the criminal justice system cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. All moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. All unexpended and unencumbered moneys remaining in the fund as of July 1, 2015, shall be transferred to the general fund.

(2) Compensation as provided in sections 18-1.9-103 (1) (d) and 18-1.9-105 (2) for members of the general assembly and for staff assistance to the committee and task force provided by the director of research of the legislative council and the director of the office of legislative legal services shall be approved by the chair of the legislative council and paid by vouchers and warrants drawn as provided by law from moneys appropriated for such purpose and allocated to the legislative council from the fund.

Source: L. 2004: Entire article added, p. 1875, § 1, effective June 4. **L. 2009:** (1) amended, (HB 09-1021), ch. 33, p. 142, § 6, effective August 5.

18-1.9-107. Repeal of article.

This article is repealed, effective July 1, 2015.

Source: L. 2004: Entire article added, p. 1875, § 1, effective June 4. **L. 2009:** Entire section amended, (HB 09-1021), ch. 33, p. 142, § 7, effective August 5.

