



Colorado
Legislative
Council
Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 FAX: 866-3855 TDD: 866-3472

MEMORANDUM

Pursuant to section 24-72-202(6.5)(b), research memoranda and other final products of Legislative Council Staff research that are not related to proposed or pending legislation are considered public records and are subject to public inspection. If you think additional research is required and this memorandum is not a final product, please call the Legislative Council Librarian at (303) 866-4011 by December 13, 2006.

January 21, 2003

Updated: December 6, 2006

TO: Legislative Oversight Committee

FROM: Jessika Shipley, Senior Research Assistant, 303-866-3528

SUBJECT: Issues and Outcomes from the Oversight Committee and Task Force for the Continuing Examination of the Treatment of Persons with Mental Illness Who Are Involved in the Justice System

This memorandum describes the issues studied by the Legislative Oversight Committee and the Task Force for the Continuing Examination of the Treatment of Persons with Mental Illness Who Are Involved in the Justice System. Table 1 lists each issue, the action taken or legislation proposed on that issue, and the outcome of that action or legislation. A history of the oversight committee and task force precedes Table 1.

History. The oversight committee and task force were first formed after the General Assembly adopted *House Joint Resolution 99-1042*. The resolution was adopted in response to reports from the Department of Corrections in 1998 that 10 percent of the correctional population had a serious mental illness. That number was double the number identified three years earlier, and nearly six times the number documented ten years earlier. That number increased to approximately 20 percent by 2006.

After its initial study during the summer of 1999, the oversight committee and task force discovered that the issue of mental illness presented a greater challenge to the criminal justice and mental health systems than originally known. They determined that a long-term study was necessary to understand the depths of this issue, and related issues, and to adequately address them. *House Bill 00-1033* reauthorized the oversight committee and reestablished the task force with additional members for greater breadth of expertise. The legislation authorized the groups to continue studying the issues before them until July 1, 2003, when the oversight committee and task force would repeal.

Pursuant to its charge, the task force authorized by House Bill 00-1033 examined the issues and proposed the legislation included in Table 1. During the 2003 legislative session, the General Assembly considered *House Bill 03-1030* to again reauthorize the oversight committee and reestablish the task force. The bill was lost in the House, and the oversight committee and task force were repealed.

The oversight committee met prior to its 2003 repeal date to determine the future of the groups' efforts. Committee members decided to introduce legislation in the 2004 legislative session to reauthorize the oversight committee and reestablish the task force. The committee directed the task force to continue its monthly meeting schedule in order to develop a five-year work plan and draft new legislation. The resulting legislation, *Senate Bill 04-037*, was adopted by the General Assembly the following year.

Since the task force was reestablished under Senate Bill 04-037, it has continued to meet monthly to fulfill its first-year charge regarding juveniles with mental illness in the justice system. The task force now begins studying the following issues, which constitute its FY 2006-07 charge:

- the diagnosis, treatment, and housing of adults with mental illness who are involved in the criminal justice system;
- 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;
- the ongoing assistance and supervision, especially with regard to medication, of persons with mental illness after discharge from sentence; and
- 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.

Issues discussed. Table 1 lists the issues studied by the task force in chronological order under four time-frame headings. The headings may not accurately reflect the time frame during which a topic was discussed because task force members discussed complex topics over long periods of time. In these cases, the text clarifies the time frame.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS IN SUMMER 1999		
Community-based intensive treatment management programs.	HB 00-1034 — The original bill proposed pilot programs for adults and juveniles. The adopted bill applied to juveniles only.	Signed into law. Reports with information on program statistics and cost-avoidance and savings dated January 15, 2003 and October 15, 2003 were delivered to the Joint Budget Committee and Judiciary Committees. In January 2005, the task force and oversight committee received a full technical report on the implementation of the pilot programs in Denver and Sterling (i.e., characteristics of clients, outcomes, cost avoidance and savings, and predictors of success).
An expedited application process for "aid to the needy disabled" benefits for persons with mental illness upon release from incarceration.	SB 00-037	Postponed indefinitely. The task force continues to study this issue.
Standardized interagency screening to detect mental illness in adults and juveniles in the criminal justice system.	SB 00-047	Signed into law. Report made to the Judiciary Committees in March 2002 on screening procedures developed and additional legislation needed to implement them (see SB 02-016 on next page).
Continuation of the oversight committee and task force.	HB 00-1033	Signed into law.
MEETINGS FROM JULY 2000 THROUGH DECEMBER 2002		
The role of Colorado's civil commitment law in coercing people with mental illness to continue treatment in order to maintain mental health.	HB 02-1104 — Although this bill was written by the task force, it addressed persons with mental illness who are <i>not</i> in the criminal justice system as well as those who are in the system and was determined to be beyond the scope of the task force's charge. The bill was carried by an oversight committee member as a non-committee bill.	Postponed indefinitely.
Community-based intensive treatment management pilot programs for adults. <i>See also:</i> Meetings In Summer 1999.	SB 02-017	Postponed indefinitely. HB 00-1034 proposed these pilot programs for adults and juveniles but was adopted for juveniles only. This was the second attempt to implement pilot programs for adults.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS FROM JULY 2000 THROUGH DECEMBER 2002 (CONTINUED)		
Implementation of the screening guidelines for adults in the criminal justice system and juveniles in the juvenile justice system pursuant to SB 00-047.	SB 02-016	Signed into law. Reports on implementation of the standardized procedures and use of the screening instrument were made to the oversight committee on September 17, 2004, and to the Judiciary Committees on January 18, 2005.
Training law enforcement officers to recognize and safely deal with persons who have mental illness (Crisis Intervention Teams, or CITs).	Task force members discussed this issue between summer 1999 and summer 2002 and determined the concept could be implemented in Colorado without legislation.	The Division of Criminal Justice has used grants and contributions to implement CIT programs throughout the state. To date (July 2005), over 1,000 law enforcement officers in 11 sheriffs departments and 31 police departments have been trained in the use of verbal de-escalation techniques in crisis situations involving persons with mental illness.
Mental health courts that would, when appropriate, channel persons with mental illness to treatment and services instead of incarceration.	Task force members traveled to examine mental health courts in other states and determined that the concept can be implemented in Colorado without legislation or additional court resources.	A subcommittee of the task force was formed to discuss and evaluate the possibility of implementing mental health courts in Colorado, and determine how to best utilize them for Colorado's diverse needs. <i>See also:</i> Meetings Beginning June 2003; Meetings Beginning July 2004.
Residential drug treatment (Therapeutic Communities) for people with mental illness.	The task force studied and discussed this issue monthly between late summer 2000 and spring 2002. The Colorado Department of Corrections was awarded a grant to develop a therapeutic community model, which is operating at the San Carlos Correctional Facility.	The task force plans to review preliminary research conducted at this program and to assess the need for future legislation.
The guilty but mentally ill verdict.	The task force studied and discussed this issue monthly between late summer 2000 and summer 2002. Because of questions about the expectation and availability of treatment, and concerns that because of sentencing, the plea would not be made in all cases in which it should, the task force voted to make no recommendation for legislation.	The task force voted to revisit the issue in the future as necessary.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS FROM JULY 2000 THROUGH DECEMBER 2002 (CONTINUED)		
Psychiatric Security Review Boards (PSRBs) to determine and order the appropriate level of treatment and supervision for offenders who are found Not Guilty by Reason of Insanity (NGRI).	The task force studied and discussed this issue monthly between late summer 2000 and spring 2002. For a variety of reasons, including budgetary limitations, the need to answer key operational questions, and the need to consider alternate mechanisms, the task force decided not to propose legislation.	The task force proposed, as part of the five-year plan to continue the oversight committee and task force starting in 2004, to continue to study the issue, answer key questions, and consider alternate mechanisms.
Local committees to manage community-based programs that treat persons with mental illness who come into contact with the criminal justice system.	SB 03-006	Signed into law.
Payment, by insurance companies, of policy-covered mental health treatment when ordered by the court.	SB 03-003	Postponed indefinitely.
Implement a five-year plan to continue the work of the oversight committee and task force.	HB 03-1030	Lost in the House.
MEETINGS BEGINNING JUNE 2003		
Mental health courts to channel appropriate persons with mental illness to treatment and services instead of incarceration. <i>See also:</i> Meetings From July 2000 through December 2002.	The task force received technical assistance from the Council of State Governments (CSG) in the form of CSG staff, a judge from New Mexico, and a court administrator from New York who met with the task force in September 2003. The task force will receive on-going technical assistance from CSG.	The task force discussed plans to visit with courts and judges who might be receptive to voluntary or pilot mental health courts. <i>See also:</i> Meetings Beginning July 2004.
Reinstatement of Medicaid benefits upon release from incarceration.	The task force received advice on this issue from the CSG technical assistance group at the September 2003 meeting.	Although legislation addressing this issue was adopted during the 2002 legislative session (the bill was not a product of the task force or Legislative oversight committee), the task force wants to continue to examine this issue as needed. <i>See also:</i> Meetings Beginning July 2004.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS BEGINNING JUNE 2003 (CONTINUED)		
Juvenile competency.	A subcommittee of the task force was formed in late summer 2002 to address juvenile justice issues in general. One issue on which that group has focused is a standard for measuring competency in juveniles.	SB 04-037 directs the task force to adopt a common framework for effectively addressing mental health issues, including competence and co-occurring disorders, in juveniles who are involved in the criminal justice and juvenile justice systems. <i>See also:</i> Meetings Beginning July 2004.
Parole eligibility for inmates with mental illness.	The task force first addressed this issue in December 2003. Subsequently, a subcommittee of the task force began meeting to design and implement a pilot program for parolees in Jefferson County.	Members of the subcommittee began working on a federal grant to fund the pilot. <i>See also:</i> Meetings Beginning July 2004.
Implement a five-year plan to continue the work of the oversight committee and task force.	SB 04-037	Signed into law.
MEETINGS BEGINNING JULY 2004		
Develop a competency process for juveniles that defines who has standing to raise an issue of competency at trial, and outlines procedures by which a court can determine competency and order restoration. <i>See also:</i> Meetings Beginning June 2003.	HB 05-1034	Signed into law.
Development of a common framework to effectively address juveniles with mental illness who are in the justice system.	SB 04-037 charged the task force with adopting a common framework for effectively addressing the mental health issues of juveniles with mental illness in the justice system. In June 2005, Consultants for Systems Integration (CSI) conducted focus groups in Fort Collins, Jefferson County, Mesa County, and the San Luis Valley on behalf of the task force. The group also surveyed state and local agencies, providers, consumers, and family members.	The focus groups and surveys uncovered various concerns about the current juvenile justice system, and highlighted areas of the system that need improvement. CSI is using the results of the focus groups and surveys to develop a framework for juveniles, which will be drafted into a legislative proposal for the 2006 session.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS BEGINNING JULY 2004 (CONTINUED)		
<p>Parole eligibility for inmates with mental illness.</p> <p><i>See also:</i> Meetings Beginning June 2003.</p>	<p>The task force finalized the design for a pilot program for 25 to 40 adult male offenders with mental illness who are released on parole in Jefferson County. A multi-agency partnership allows a team to provide residential, non-residential, case management, mental health services, substance abuse counseling, and employment and housing assistance services from one location. The pilot program will be funded by redirected state and local resources that are already providing the services (\$295,150); a federal grant (\$143,300); and a donation from pharmaceutical provider Astrazeneca (\$7,500).</p>	<p>The program was presented to the Jefferson County Commissioners and received their support. A local planning group identified 100 offenders who were eligible to enter the pilot program. The pilot program is set to launch on September 1, 2005, pending receipt of the federal grant.</p>
<p>Mental health courts that would channel eligible persons with mental illness to treatment and services instead of incarceration.</p> <p><i>See also:</i> Meetings Beginning June 2003; Meetings From July 2000 through December 2002.</p>	<p>The task force began examining this issue in 2001, but did not move forward definitively until September 2004, when the task force invited a guest speaker from California (Dr. David Arredondo of the Office of Child Development, Neuropsychiatry, and Mental Health) to facilitate a discussion on mental health courts. Following the presentation, the task force agreed that legislation was not necessary to implement mental health courts in Colorado, instead deciding to build the concept off existing drug court programs.</p>	<p>A subcommittee was formed and charged with further examining juvenile mental health courts, and designing and implementing these courts in Colorado. The group surveyed Denver, Canon City, Fort Collins, Montrose, and Durango about their interest in adding a mental health court component to their existing drug court programs. The courts expressed interest, but voiced concerns about the costs associated with additional training and extended court hours. Jefferson County expressed interest in creating a mental health court, and established a committee to coordinate logistics. The task force determined that the courts are the most appropriate entities to coordinate the next step in implementing the mental health courts.</p>
<p>Reinstatement of Medicaid benefits following release from incarceration.</p> <p><i>See also:</i> Meetings Beginning June 2003.</p>	<p>The task force continued to have briefings on this issue in 2004 and 2005.</p>	<p>A member of the task force agreed to work with efforts that are currently underway to support the suspension of Medicaid benefits during incarceration, rather than termination of benefits.</p>

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS BEGINNING JULY 2004 (CONTINUED)		
Timely access to community mental health services.	The task force was alerted to this issue in 2005. A central concern is inadequate communication between the state hospital and local mental health centers, jails, or probation officers, resulting in inaccessible mental health services for persons who are restored to competency and released from the state hospital. Another concern is that persons released from prison, jail, or the state hospital often do not have their required supply of medication or prescription for medication, even if it was given to them.	A continuity of care subcommittee was formed to discuss the issues of discharge planning and prioritization of populations with resources.
Mental health services in jails.	The task force heard from a representative of the Denver Police Department who reported that sheriffs have a different focus than police departments and thus need more specific Crisis Intervention Training (CIT). It was also suggested that mental health nurses be included on patrol with a CIT-trained officer, and that the mental health community assume a lead role in working with persons with mental illness who are in jails.	The task force began pursuing a Substance Abuse and Mental Health Services Administration (SAMHSA) grant to assist with developing jail diversion projects in Jefferson County and South Eastern Colorado. These projects will provide triage services and possibly expand the CIT concept to jail staff. The task force also believed it would be helpful to find out what other states are doing in this area. A conference call in July 2005 will provide information about the Kentucky Jail Mental Health Crisis Network, which provides arrestee screening, a telephone triage crisis line, and face-to-face mental health services for persons in jail.
Speaker's bureau presentations to outside groups.	The task force requested a presentation from two public relations consultants about developing a speaker's bureau. The speaker's bureau would train task force members to make presentations to outside groups that want to know more about the task force's work and the treatment of persons with mental illness who are involved in the justice system.	Several task force members volunteered to be part of the speaker's bureau, and worked with the public relations consultants to further develop the concept. A powerpoint presentation and a complimentary brochure are being created.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS BEGINNING JULY 2005		
John Eachon Re-entry Pilot Program.	A pilot program for Jefferson County parolees with serious mental illness was initiated in response to an increasing population of offenders with serious mental illness in the Department of Corrections and the rising number of parole revocations.	The task force continues to receive regular updates about the progress of the program, which admitted its first residents in November 2005.
Mandatory coverage of court-ordered mental health services.	SB 06-005 required health benefit plans that cover mental health services to cover those that are mandated by a court order. It only required coverage of "medically necessary" mental health services and defined what was included in that term. Nothing in the bill required a health benefit plan to provide coverage for mental health services.	Signed into law.
Demonstration programs for juvenile justice mental health family advocates.	HB 06-1070 would have created six family advocate demonstration programs to be implemented and monitored by the Division of Mental Health and the Division of Criminal Justice. The demonstration programs were supposed to focus on providing navigation assistance, crisis response, integrated planning, and diversion from the juvenile justice system for youth with mental illness and co-occurring disorders.	Postponed indefinitely. The task force continued to discuss the issue and tried again to address it through legislation. (See Meetings Beginning July 2006)
MEETINGS BEGINNING JULY 2006		
Juvenile justice.	A coalition of the task force, CSI, and other affected organizations studied juvenile justice issues, conducted focus groups, and researched best practices around the country.	The coalition produced the Colorado Juvenile Justice and Mental Health Plan, which is a comprehensive plan targeting youth with mental health issues and co-occurring disorders, including substance abuse and developmental disabilities, in the juvenile justice system.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS BEGINNING JULY 2006 (CONTINUED)		
Jail intake survey.	The task force heard a presentation on the Kentucky Jail Mental Health Crisis Network, which facilitates the cooperation of mental health professionals and jails throughout the state. As a result of the presentation, the task force voted to study the issue for application in Colorado.	The task force voted to create a new subcommittee to further study the issue of crisis management and mental health needs in jails. The subcommittee focused on the needs and associated costs of implementing such a program in Colorado jails. The task force plans to study the issue further in 2007.
Not guilty by reason of insanity.	The task force discussed the issue of individuals who are in custodial treatment due to a <i>not guilty by reason of insanity</i> verdict, including: <ul style="list-style-type: none"> • the types of risk factors for those patients, which are static and dynamic; • assessment of individualized treatment plans; • the progression of patient privileges; • community placement and intensive monitoring; • recidivism; and • the difference between competency to stand trial and not guilty by reason of insanity. 	Information was distributed to the task force regarding research conducted in 2000 and 2001 on the possibility of developing legislation to add a <i>guilty but mentally ill</i> plea to the Colorado statutes. The task force decided not to revisit the issue in the interest of spending more time on juvenile justice issues as required by the authorizing legislation.
Competency evaluations.	The oversight committee and task force recommend a bill which creates an advisory board to study and recommend standards regarding the level of training, education, and experience a psychiatrist or psychologist must have in order to be qualified to perform competency evaluations in criminal cases.	The bill is being introduced for the 2007 legislative session.
Family advocate pilot programs.	The oversight committee and task force also recommend a bill that creates six family advocate demonstration programs to be implemented and monitored by the Division of Mental Health and the Division of Criminal Justice. The demonstration programs are designed to focus on providing navigation assistance, crisis response, integrated planning, and diversion from the juvenile justice system for youth with mental illness and co-occurring disorders.	The bill is being introduced for the 2007 legislative session.

Table 1 — Issues Studied, Action Taken/Legislation Proposed, and Outcomes of the Oversight Committee and Task Force

Issue	Action/Legislative Proposal	Outcome
MEETINGS BEGINNING JULY 2006 (CONTINUED)		
Preadjudication screenings.	A third bill recommended by the oversight committee and task force requires the court, prosecution, defense, guardian ad litem, probation officer, parent, or legal guardian in a juvenile delinquency proceeding to raise the issue of emotional disturbance when appropriate. It directs the court to order an assessment when the issue of emotional disturbance is raised, unless the court already has sufficient knowledge of the emotional disturbance. The bill permits the court to order mental health treatment or services as a part of the disposition of the case if the juvenile suffers from emotional disturbance.	The bill is being introduced for the 2007 legislative session.