Final
STAFF SUMMARY OF MEETING

TREATMENT OF PERSONS WITH MENTAL ILLNESS IN THE CRIMINAL JUSTICE SYSTEM

Date: 10/29/2015

ATTENDANCE

Time: 01:05 PM to 03:35 PM

Humphrey X
Lee X
Newell *
Woods X
Singer X
Martinez Humenik X

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed: Action Taken:
Call to Order Witness Testimony and/or Committee Discussion Only
Update from Advisory Task Force Witness Testimony and/or Committee Discussion Only
Discussion of Advisory Task Force Vacancies Witness Testimony and/or Committee Discussion Only
Public Comment Witness Testimony and/or Committee Discussion Only
Bill 1 - Workers Compensation For PTSD Witness Testimony and/or Committee Discussion Only
Bill 2 - Competency To Proceed For Juveniles Witness Testimony and/or Committee Discussion Only
Bill 3 - Law Enforcement Mental Health Collaboration Grants Witness Testimony and/or Committee Discussion Only
Bill 4 - Mental Health and Collaborative Management Teams Recommendation(s) Approved

01:06 PM -- Call to Order

Senator Martinez Humenik called the meeting to order. The meeting agenda [Attachment A] was distributed.

01:06 PM -- Update from Advisory Task Force

Susie Walton, Advisory Task Force Chair, and Camille Harding, Advisory Task Force Co-chair, introduced themselves. Senator Martinez Humenik asked whether the minutes from the July and August task force meetings had been prepared, to which Ms. Walton responded affirmatively.
01:08 PM

Ms. Walton discussed the September 25, 2015 retreat held by the task force. She referenced the minutes that were compiled from the retreat. She said that there was discussion about the bills the oversight committee proposed at the September 21, 2015 committee meeting. She stated that housing, restoration services, and juvenile competency issues were determined to be the focus points for the task force. Ms. Walton said that the housing subgroup met in October and discussed conducting a Lean event concerning housing. Ms. Harding outlined the Lean event process. Ms. Walton discussed the stakeholders that they hope to be engaged in the Lean event for housing. Senator Martinez Humenik suggesting additional stakeholders to engage in the event, such as people who work in jails and with local organizations that assist with housing issues.

01:15 PM

Tariq Sheikh, 17th Judicial District, discussed House Bill 15-1025, concerning juvenile competency. He discussed the need to focus on restoration services for juveniles. Mr. Sheikh discussed situations when competency was an issue in cases involving juveniles in various counties. He discussed looking at who is providing the restoration services. He referenced the use of case management plans for juveniles, and the lack of funding for those plans. Mr. Sheikh answered questions about what types of services and treatments are involved in restoration. Senator Martinez Humenik asked about data collection concerning restoration services. Mr. Sheikh answered questions about restoration services and the treatment of mental health needs. Senator Newell commented on her involvement with previous legislation to address juvenile competency.

01:33 PM

Mr. Sheikh discussed establishing a statute outlining restoration services requirements. He reiterated the lack of funding for case management plans. Mr. Sheikh answered questions about the components of a management plan. Senator Martinez Humenik discussed her concerns about juveniles having criminal records for minor offenses. Mr. Sheikh discussed the ability to expunge certain offenses from juveniles' records.

01:41 PM

Ms. Walton discussed local jurisdictions that are addressing sexting by juveniles. She discussed restoration services provided at the Colorado Mental Health Institute at Pueblo versus community-based services. Discussion about restoration services and juvenile competency ensued. Ms. Walton discussed the action steps the task force will be taking to address restoration services. There was discussion about the task force's charge and the size of the task force. A copy of the task force's charge was distributed to the committee. Ms. Walton discussed the possibility of adding a representative from the Department of Public Health and Environment to the task force. She discussed the engagement of outside stakeholders with the task force. Mr. Sheikh responded to questions about the sexting program in Adams and Jefferson counties. Senator Newell discussed changes to the task force composition that occurred in 2014. Mr. Sheikh provided further information about the Adams county program to address sexting by juveniles. Committee discussion about the program ensued.
02:03 PM

Ms. Walton reiterated the focus by the task force on housing and restoration services. She mentioned possible changes to the task force's charge. Senator Martinez Humenik suggested having quarterly updates from the task force in the future. There was further discussion about the composition of the task force.

02:09 PM  --  Discussion of Advisory Task Force Vacancies

Ms. Walton discussed the existing task force vacancies. A list of the current task force members and vacancies was distributed [Attachment C]. She discussed the current vacancy for the Division of Parole in the Department of Corrections. Amanda King, Legislative Council Staff, provided an update on the status of that vacancy. Senator Martinez Humenik discussed the importance of task force members attending the task force meetings. Ms. Walton discussed the local law enforcement vacancies, and stated that Commander Tom DeLuca from the El Paso County Sheriff's Office and Chris Johnson from the County Sheriffs of Colorado have expressed interest as possible appointees. Commander DeLuca's resume was distributed [Attachment D]. Senator Martinez Humenik suggested additional people for the local law enforcement vacancies, including Jim Alderman, retired Larimer County Sheriff; Loveland Police Chief Luke Hecker; and Delta County Sheriff Fred McKee. Ms. Walton discussed the possible appointment of Jagruti Shah to represent the Division of Behavioral Health in the Department of Human Services. Ms. Walton discussed the possible resignation of Michele Manchester from the task force, which would result in a vacancy for the representative for the Colorado Mental Health Institute at Pueblo.

02:15 PM

Ms. Walton discussed the pending appointment of Cynthia Kowert to represent the Colorado Attorney General's Office. Ms. Kowert expressed her interest in being appointed to the task force and discussed her professional experience. Ms. Kowert's recommendation letter and resume were distributed [Attachment E].

02:19 PM

There was discussion about the appointment process. Ms. King provided information about the the pending appointment of Ms. Shah and the statutory qualification for the local law enforcement representative. Ms. Walton further discussed the local law enforcement candidates. Ms. Walton discussed the resignation of District Attorney Dave Young, who had been the representative of the district attorneys in the state. She discussed Pat Coyle, who represents a person with knowledge of public benefits and public housing within the state, and continues to be absent from task force meetings. Ms. Walton discussed the vacancy for a public member who has an adult family member who has mental illness and has been involved in the criminal justice system. Ms. Walton discussed the potential resignation of Pat Teegarden, who represents the Department of Labor and Employment. She discussed the resignation of Brenidy Rice, who represented the Judicial Department. Ms. King clarified that the Chief Justice of the Colorado Supreme Court makes the appointments for the representative from the Judicial Department.
02:23 PM

Senator Martinez Humenik clarified the statutory qualification for the member representing the district attorneys within the state. She announced that Commander DeLuca and Ms. Kowert would be appointed to the task force. She asked for resumes and recommendation letters for the remaining potential candidates before their appointments would be made.

02:28 PM

Senator Martinez Humenik discussed the staffing for the task force. Ms. Walton stated that Hannah Tochtrop from Department of Health Care Policy and Financing will be providing staff support to the task force. There was discussion about the collaborative relationship between the task force and committee.

02:29 PM –– Public Comment

No one signed up to testify before the committee.

02:30 PM –– Bill 1 - Workers Compensation For PTSD

Kristen Forrestal, Office of Legislative Legal Services, provided an overview of Bill 1 (Attachment F). The bill includes post-traumatic stress disorder (PTSD) as a covered workers' compensation disability for certain peace officers, emergency medical service providers, and firefighters (public safety professionals). The bill requires an insurer or employer to pay all authorized medical expenses of a public safety professional alleged to suffer from work-related PTSD. The bill limits the dissemination of health information by health care providers to information directly related to the cause or aggravating factors of the patient's PTSD. The bill creates an expedited review process for the determination of diagnosis of work-related PTSD.

02:35 PM

Senator Woods discussed the peace officers who are excluded from the bill. Senator Martinez Humenik discussed the exclusion of victims' advocates from the bill. Ms. Forrestal and Representative Singer addressed questions about the peace officers who are excluded from the bill. Committee discussion about the bill ensued. Ms. Forrestal responded to questions about the bill.
02:45 PM

The committee discussed the bill's components addressing deaths due to suicide. At the request of the committee, Ms. Forrestal read aloud the statutory definitions of peace officer.

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<td>Lee</td>
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<td>MOTION:</td>
<td>Moved a conceptual amendment to include all Department of Corrections' employees in the draft bill. The motion failed on a 3-3 vote.</td>
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02:52 PM

Ms. Forrestal discussed the technical amendment (Attachment G) she prepared for the draft bill to correct a drafting error.

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<td>MOTION:</td>
<td>Moved amendment #1 (Attachment G). The motion passed without objection.</td>
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02:53 PM

Committee discussion occurred about expanding the bill to include victims' advocates.

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02:57 PM

Bill Zepernick, Legislative Council Staff, explained the fiscal note for the bill (Attachment H). Representative Singer, who initially suggested the bill draft, asked to withdraw Bill 1. Committee discussion about the bill ensued. No motion was made to forward the bill to Legislative Council.

03:02 PM -- Bill 2 - Competency To Proceed For Juveniles

Senator Newell, who initially suggested the bill draft, asked that Bill 2 (Attachment I) be withdrawn. The bill establishes a juvenile-specific definition of "competent to proceed" and "incompetent to proceed" for juveniles involved in the juvenile justice system, as well as specific definitions for "developmental disability", "mental capacity", and "mental disability" when used in this context. The bill clarifies the procedures for establishing incompetency, as well as for establishing the restoration of competency. No motion was made to forward the bill to Legislative Council.
03:03 PM  --  Bill 3 - Law Enforcement Mental Health Collaboration Grants

Jane Ritter, Office of Legislative Legal Services, provided an overview of Bill 3 (Attachment J). The bill creates a grant program in the Department of Public Safety (DPS) to provide local law enforcement agencies with funding to hire mental health professionals. These additional mental health staff will provide immediate services and assistance to persons exhibiting signs of mental illness or substance abuse who are involved in an investigation by a law enforcement agency. Grant recipients are required to collect data on the program and provide this to the DPS. The DPS cannot spend more than 5 percent of program funds for administrative purposes. Representative Singer commented on the bill and discussed the handouts he provided on Project EDGE (Attachment K, Attachment L, and Attachment M), which is a similar program to the one outlined in the bill.

03:10 PM

The committee discussed the bill and the fiscal note for the bill (Attachment N). Representative Singer answered questions about whether similar programs as the one outlined in the bill exist in other parts of the country or in Colorado. He further discussed the bill.
03:18 PM

Mr. Zepernick responded to questions about the bill's fiscal note. Representative Singer outlined how the bill could create cost savings for the state. He responded to questions about the bill and Project EDGE. Committee discussion about the bill ensued.

**BILL:** Bill 3 - Law Enforcement Mental Health Collaboration Grants

**TIME:** 03:27:33 PM

**MOVED:** Singer

**MOTION:** Moved that Bill 3 (Attachment J) be included as one of the bills forward by the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems to Legislative Council. The motion failed on a 3-3 vote.

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**VOTE:**

- Final YES: 3  NO: 3  EXC: 0  ABS: 0  FINAL ACTION: TIE
03:28 PM  --  Bill 4 - Mental Health and Collaborative Management Teams

Senator Newell explained Bill 4 [Attachment O] and discussed collaborative management teams. Ms. Ritter provided an overview of the bill. The bill adds mental health professionals to the list of persons that must be included in any memorandum of understanding entered into between county departments of human or social services and other local-level service providers. Lauren Schreier, Legislative Council Staff, explained the fiscal note for the bill [Attachment P].

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<td>MOTION:</td>
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Final  YES: 6  NO: 0  EXC: 0  ABS: 0  FINAL ACTION: PASS

03:33 PM

Senator Martinez Humenik determined that the bill would start in the Senate. The bill sponsors will be Senator Newell and and Senator Martinez Humenik, as co-prime sponsors in the Senate, and Representative Lee in House. Representative Singer will be listed as a co-sponsor on the bill. The bill will not contain a safety clause.

03:35 PM

The committee adjourned.
AGENDA

Legislative Oversight Committee Concerning the Treatment of Persons With Mental Illness in the Criminal and Juvenile Justice Systems

Thursday, October 29, 2015
1:00 p.m.
House Committee Room 0112
State Capitol Building

1:00 p.m. Call to Order
• Senator Beth Martinez Humenik, Legislative Oversight Committee Chair

1:05 p.m. Update from Advisory Task Force
• Susan Walton, Advisory Task Force Chair and Director of Park County Department of Human Services

1:50 p.m. Discussion of Advisory Task Force Vacancies
• Susan Walton, Advisory Task Force Chair and Director of Park County Department of Human Services

2:15 p.m. Public Comment

2:30 p.m. Discussion and Votes on Proposed Legislation
• Bill 1 - Workers Compensation For PTSD
• Bill 2 - Competency To Proceed For Juveniles
• Bill 3 - Law Enforcement Mental Health Collaboration Grants
• Bill 4 - Mental Health and Collaborative Management Teams

4:00 p.m. Adjourn
18-1.9-104. Task force concerning treatment of persons with mental illness in the criminal and juvenile justice systems - creation - membership - duties

(1) Creation. (a) There is hereby created a task force concerning treatment of persons with mental illness in the criminal and juvenile justice systems in Colorado. The task force shall consist of thirty-two 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-eight 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) Five 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;

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

(XVII) One member who represents the office of the child’s representative; and

(XVIII) One member who represents the office of the alternate defense counsel.

(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:

(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:
(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:

(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:

(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:

(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;

(g) On or after July 1, 2014:

(I) Housing for a person with mental illness after his or her release from the criminal or juvenile justice system;

(II) Medication consistency, delivery, and availability;
(III) Best practices for suicide prevention, within and outside of correctional facilities;

(IV) Treatment of co-occurring disorders;

(V) Awareness of and training for enhanced staff safety, including expanding training opportunities for providers; and

(VI) Enhanced data collection related to issues affecting persons with mental illness in the criminal and juvenile justice systems.

(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, select a chair and a vice-chair from among its members;

(b) Meet at least six times each year, or more often as directed by the chair of the committee;

(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, that, at a minimum, specifies:

(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 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. However, members of the task force appointed pursuant to subparagraph (XIV) of paragraph (c) of subsection (1) of this section may receive reimbursement for actual and necessary expenses associated with their duties on the task force.

(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.

HISTORY: 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)(e)(IV)(A), (1)(e)(IV)(D), (1)(e)(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 L. 2014: (1)(a), IP(1)(c), IP(1)(e)(IV), (1)(e)(XV), IP(2)(a), IP (2)(b), IP(2)(c), IP(2)(e), IP(2)(f), (3), and (5) amended and (1)(c)(XVII), (1)(c)(XVIII), and (2)(g) added, (SB 14-021), ch. 348, p. 1563, § 3, effective July 1.

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.)
## MICJS Advisory Task Force Members

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<th>State or Private Agency</th>
<th>Representative(s) and Affiliation(s)</th>
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<tr>
<td>Department of Public Safety (1)</td>
<td>Peggy Hall  Division of Criminal Justice</td>
</tr>
<tr>
<td>Department of Corrections (2)</td>
<td>Kerry Pruett  Mental Health Programs Administrator</td>
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<td>Local Law Enforcement (2) - one of whom will be in</td>
<td>vacant  Division of Parole</td>
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<td>active service and one of whom shall have experience</td>
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<td>dealing with juveniles in the juvenile justice system</td>
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<td>Department of Human Services (5)</td>
<td>vacant  Division of Behavioral Health</td>
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<tr>
<td></td>
<td>Ashley Tunstall  Division of Youth Corrections</td>
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<td>Melinda Cox  Division of Child Welfare</td>
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<tr>
<td></td>
<td>Michele Manchester  Colorado Mental Health Institute at Pueblo</td>
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<tr>
<td></td>
<td>Mee Keller  Mental Health Planning and Advisory Council</td>
</tr>
<tr>
<td>County Department of Social Services (1)</td>
<td>Susan Walton, chair  Park County Department of Human Services</td>
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<tr>
<td>Department of Education (1)</td>
<td>Michael Ramirez  Teaching and Learning Unit</td>
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<td>State Attorney General's Office (1)</td>
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<td>District Attorneys (1)</td>
<td>Dave Young  17th Judicial District Attorney’s Office</td>
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<tr>
<td>Criminal Defense Bar (2)</td>
<td>Karen Knickerbocker  Office of the Colorado State Public Defender</td>
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<td>Gine Shimmaill  Criminal Defense Bar</td>
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<tr>
<td>Practicing Mental Health Professionals (2)</td>
<td>Fernando Martinez  San Luis Valley Mental Health Center</td>
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<td>Lisa Thompson  Colorado Coalition for the Homeless</td>
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<td>Community Mental Health Centers in Colorado (1)</td>
<td>Harriet Hall  Jefferson Center for Mental Health</td>
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<tr>
<td>Person with Knowledge of Public Benefits and Public</td>
<td>Pat Coyle  Colorado Department of Local Affairs, Division of Housing</td>
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<td>Housing in Colorado (1)</td>
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<tr>
<td>Colorado Department of Health Care Policy &amp; Financing</td>
<td>Camilo Harding, co-chair  Clinical Services Office</td>
</tr>
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<td>(1)</td>
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<td>Practicing Forensic Professional (1)</td>
<td>Richard Martinez, M.D.  Colorado Office of Behavioral Health/MUCDSOM</td>
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<tr>
<td>Members of the Public (3)</td>
<td>Bethe Feltman  Member with a mental illness who has been involved in the Colorado criminal justice system</td>
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<td></td>
<td>Deirdre Parker  Parent of a child who has a mental illness and who has been involved in the Colorado criminal justice system</td>
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<td></td>
<td>vacant  Member with an adult family member who has a mental illness and who has been involved in the Colorado criminal justice system</td>
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<td>Office of the Child's Representative (1)</td>
<td>Sheri Danz  Deputy Director</td>
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<td>Office of the Alternate Defense Counsel (1)</td>
<td>Kathy McGuire  Private attorney</td>
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<tr>
<td>Colorado Department of Labor and Employment (1)</td>
<td>Patrick Teegarden  Director of Policy and Legislation</td>
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<td>Judicial Branch (4)</td>
<td>vacant</td>
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<td>Judge K.J. Moore  1st Judicial District</td>
</tr>
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<td></td>
<td>Susan Colling  Juvenile Programs Coordinator, Probation Services</td>
</tr>
<tr>
<td></td>
<td>Tobin Wright  Chief Probation Officer in the 19th Judicial District</td>
</tr>
</tbody>
</table>

*Updated: October 28, 2015*
THOMAS G. DELUCA

EXPERIENCE

El Paso County Sheriff’s Office January 1, 2015 to Present
- Operations Division Commander responsible for Intake/Release, Court and Transport/ Special Response Team.

- Supervise all East Side Schools to include Elementary, Middle and High Schools for the East Side of District 11. Respond to any Security concerns for all Schools and supervise the High School and Middle School Security Teams assigned to my Area of Supervision.

- Provide Campus Security for Coronado High School.

El Paso County Sheriff’s Office April 1988 – June 30, 2012
Criminal Justice Center Division Commander February 2011 to June 30, 2012
- Detention Security Division Commander responsible for the care and security of all the inmates who in the lawful custody of the Sheriff at the Criminal Justice Center. Retired.

Court Services Lieutenant, January 1, 2007-February 2011
- Watch Commander for Court Services Section.

CJC Detention Division Lieutenant, January 15, 2003-January 1, 2007
- Watch Commander for CJC Detention Division Security and Intake. Investigative coordinator for Detention Investigative Team.

Promoted to Rank of Lieutenant January 15, 2003

- Supervision of the Traffic Section, Grant Coordinator for LEAF Grant and Aggressive Driving Grant.

Community Support Sergeant, January 02, 2001 – August 01, 2002
- Supervision of the Community Support Unit, to include SRO’s, DARE Deputies, and CRO Deputies. Also supervised the POSSE Unit and P.O.S.T. Reserve Academy Coordinator.

Training Sergeant, January 01, 1998 – January 02, 2001
- Supervision of the Training Section, to include new recruits, as well as in-service training for Sheriff’s office employees. Academy P.O.S.T. Director.

- Supervised all civilian staff assigned to Intake/Release and supervised the overall Intake/Release Section.

Floor Security Shift Sergeant, September 1994 – April 1996
- Supervised shift of sworn and civilian staff at the Metro Detentions Training Facility.

Promoted to Rank of Sergeant, September 01, 1994 Intake/Release

- Performed duties of Shift Supervisor, designated Detention Training Officer.

Detention Deputy, April 1988 – January 1992
- Performed all duties as assigned to a Detention Deputy and maintained safety and security of the facility. Also acted as Lead III in the Supervisors absence. Designated Detention Training Officer.
EDUCATION

**FBI National Academy Graduate September 26, 2010**
through December 10, 2010 Session 243.

**University of Southern Colorado**
122 Credits toward Bachelor’s Degree in Criminal Justice.

**Colorado Springs Police Department Reserve Class**
Honors Graduate in 1988

**Pikes Peak Community College, 1993 – 1994**

ADDITIONAL ACTIVITIES

- Special Response Team (SRT) member since the team’s inception in May, 1993 through April, 1999. SRT Team Leader effective February 2008 to Present
- Law Enforcement Instructor, El Paso County Sheriff’s Office
- In Service Instructor, El Paso County Sheriff’s Office
- El Paso County Drug Court Steering Committee
- Numerous Community Committees

PROFESSIONAL TRAINING

- Special Response Team Training
- Board of Peace Officer Standards and Training
- Supervisory Training, “Commitment to Excellence”
- Calibre Press Street Survival
- P.O.S.T. Certified Instructor Development Course
- Colorado regional Community Policing Institute, Middle Management and Organizational Change
- International Association of Chiefs of Police, “Managing the Training Unit”
- Reid Interview and Interrogation Course
- Incident Command Training
- Internet Crimes Against Children
- Penn State University, “Providing Police Leadership for the Next Century”
- ALERT Court Security Seminar
- Objective Pre-Employment Interviewing
- County Sheriff’s of Colorado, “First Line Supervisor”
- Key Elements for Effective School / Policing
- Crime Scene Response for New Detectives
- Standardized Field Sobriety Training
- Tactical Risk Management

AWARDS and RECOGNITION

- Letters of Commendation
- Commanders Commendation from CSPD
- Letters of Appreciation
- Employee of the Month, 1999
Susie Walton Chair Person  
Task Force for Mental Illness  
In the Criminal Justice System

Dear Chair Person Walton

I am writing this letter on behalf of Cynthia J. Kowert, who is applying to become a member of the Task Force for Mental Illness in the Criminal Justice System.

Cynthia is the Assistant Deputy for the Criminal Justice Section of the Attorney General’s Office. In this capacity, she is the number two person for the Criminal Justice Section and is responsible for supervision of our First Assistant AG’s and three Criminal Justice Units. She also participates in and is a member of numerous committees and handles several special projects.

Cynthia has a long and distinguished career as a litigator. She spent almost 19 years with the 17th Judicial District as a prosecutor. She was Chief of Felony Units, the Juvenile Unit and Child Victim’s Unit at different times during her tenure at the 17th Judicial District.

There have been numerous times when Cynthia has dealt with cases involving individuals who were incompetent to stand trial or the issue of sanity was raised. She is very cognizant of the role mental health issues play in our Criminal Justice System and how mental health issues can effect people’s lives.
Cynthia is a motivated, reliable and responsible attorney who would be a great asset to your team. I highly recommend her for this position.

Sincerely,

Scott Turner, Deputy Attorney General,
Criminal Justice Section
Attorney General’s Office, State of Colorado
1300 Broadway, 9th Floor Denver, CO 80203
Resume
Cynthia J. Kowert
Attorney at Law

Work Experience

June 8, 2015 – Present: Assistant Deputy AG for the Criminal Justice Section. Number two position in the Criminal Justice Section of the Attorney General’s Office. Management and personnel responsibilities along with a small case load.

July 16, 2012 – June 8, 2015: Assistant Attorney General in the Financial Fraud Unit of the Colorado Attorney General’s Office. Case load included mostly insurance fraud with some securities fraud cases.


July 12, 1993 to December 31, 2011: Served as a prosecutor with the 17th Judicial District Attorney’s Office, Adams and Broomfield Counties. Positions included:

• County Court Deputy DA
• Juvenile Court Deputy DA
• District Court (felony) Deputy DA
• Child Victim Unit Deputy DA
• Chief Trial Deputy for County Court
• Chief Trial Deputy for District Court
• Chief Trial Deputy for the Child Victim Unit and Juvenile Court
• Assistant District Attorney

February 1992 to July 1993: Deputy DA in the 14th Judicial District, Grand County, handled felonies, juvenile, and county court cases simultaneously.

June 1990 to January 1992: Deputy State Public Defender. Handled a county, juvenile and then felony case load.


Prosecution Experience
1. As a criminal prosecutor I handled over 100 jury trials including several first and second degree murder cases, physical and sexual assaults on children, financial crimes, drug offenses and many others.

2. I have handled numerous cases involving mental health issues, including competency and insanity.

Management Experience

1. In my experience as a Chief Trial Deputy and Assistant District Attorney I managed attorneys from the county court level to the chief trial deputy level. I was in the 17th Judicial District for almost 19 years and spent approximately 10 of those years managing people.

2. Managed a Flight (approximately 40 people) in the United States Military

Educational Experience


2. Lamar University, Beaumont, TX, August 1977 to May 1980.

3. Texas Woman's University, Denton, TX, August 1980 to December 1982, B.S. in Government, Magna Cum Laude.


Licenses

1. Licensed to practice law in Colorado since May 1990

2. Licensed to practice in United States Federal Court in 2015.

Teaching/Training
• Taught a one-hour lecture on the admission of evidence at trial to Insurance Fraud Investigators – February 2015.

• Along with a colleague, taught a 1.5 hour training on worker’s compensation law to public and private investigators - July 2014.

• Along with another attorney, taught a four hour constitutional law training session to the Colorado State Patrol, focusing on searches of dwellings and vehicles - February, 2014.

• Taught a two hour training session on custodial interrogation to members of the Division of Insurance (DOI) - 2013

• Six times I taught a two hour class on vehicle searches for the Adams County Sheriff’s Police Academy. I did this twice a year for three years - 2008, 2009, 2010.

• Taught a one-hour training on the Victim's rights Act - 2005.

• Taught a one-hour training for prosecutors on closing arguments - 2004.

• Taught a one-hour training for prosecutors on expert witnesses - 2002.

• Taught a two-hour search and seizure class to the Thornton Police Department - 1999.

• Taught a two-hour session on the legislative up-date to members of the Northglenn Police Department – May 1996.

Community Involvement

1. Access Housing Board of Directors: March 2009 to April 2011.

2. Was on the Board for the Sexual Assault Nurse Examiners (SANE) program though St. Anthony’s Hospital from 2004 to 2008.


5. Served on the selection committee for the Victim Rights Week Award winners from Adams and Broomfield Counties four times in the 2000’s.

6. Organized, directed and facilitated the high School Mock Trial Competition for Adams and Broomfield Counties in February of 2009 and 2010.
Summary

I would be proud to serve as a member of the Task Force for Mental Illness and would greatly appreciate the opportunity to do so.
Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems

BILL TOPIC: "Workers' Compensation For PTSD"

A BILL FOR AN ACT
101 Concerning workers' compensation coverage for
102 post-traumatic stress disorder.

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://www.leg.state.co.us/billssummaries.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems. The bill includes post-traumatic stress disorder (PTSD) as a covered workers' compensation disability for a peace officer, emergency
medical service provider, or firefighter. The bill requires an insurer or employer to pay all authorized medical expenses of a peace officer, emergency medical service provider, or firefighter alleged to suffer from work-related PTSD.

The bill limits the dissemination of health information by health care providers to information directly related to the cause or aggravating factors of the patient's PTSD. The bill creates an expedited review process for the determination of the diagnosis of work-related PTSD.

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

SECTION 1. In Colorado Revised Statutes, add 8-41-212 as follows:

8-41-212. Coverage for post-traumatic stress disorder - peace officers, emergency medical service providers, firefighters - legislative declaration - definitions. (1) Legislative declaration. The General Assembly hereby finds and declares that:

(a) Peace officers, emergency medical service providers, and firefighters are exposed in the line of duty to certain traumatic work-related events that can lead to a diagnosis of post-traumatic stress disorder;

(b) A peace officer, emergency medical service provider, or firefighter should not be discouraged from seeking treatment for PTSD. Therefore, it is important that:

(I) Limitations be placed on information given to third parties by health care providers and other persons or entities regarding PTSD; and

(II) Judicial review for a PTSD claim should be expedited;

and

(c) PTSD is a workplace injury that should be covered by the "Workers' Compensation Act of Colorado" for peace
OFFICERS, EMERGENCY MEDICAL SERVICE PROVIDERS, AND FIREFIGHTERS,
AND THIS ISSUE IS A MATTER OF STATEWIDE CONCERN.

(2) **Definitions.** As used in this section:

(a) "EMERGENCY MEDICAL SERVICE PROVIDER" means a person
certified pursuant to part 2 of article 3.5 of title 25, C.R.S.

(b) "FIREFIGHTER" means an officer or member of a fire
department or fire protection or fire-fighting agency of the
state, or of any municipal or quasi-municipal corporation in this
state, who receives compensation for services rendered as a
fiREFIGHTER.

(c) "HEALTH CARE PROVIDER" means a physician or
psychiatrist licensed pursuant to article 36 of title 12, C.R.S., a
psychologist licensed pursuant to part 3 of article 43 of title 12,
C.R.S., or a person working under the supervision of a licensed
physician, psychiatrist, or psychologist.

(d) "LINE OF DUTY" means an action or activity that a peace
officer, emergency medical service provider, or firefighter is
normally required to perform in the course of his or her
employment. The line of duty includes crime control or
reduction; enforcement of criminal law; provision of medical
services; emergency response; rescue; firefighting; and actions
that a peace officer, emergency medical service provider, or
firefighter is authorized or obligated by law, rule, or condition
of employment or service to perform or for which the person is
compensated by the public or private agency he or she serves.

(e) "PEACE OFFICER" means a peace officer as described in
sections 16-2.5-102, 16-2.5-103, 16-2.5-105, 16-2.5-108, 16-2.5-114,
16-2.5-146, and 16-2.5-148, C.R.S.

(f) "Post-traumatic stress disorder" or "PTSD" has the same meaning as set forth in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) provided by the American Psychiatric Association.

(g) "Serious bodily injury" means an injury that involves a risk of:

(I) Death;

(II) Serious permanent disfigurement; or

(III) Protracted loss or impairment of the function of any part or organ of the body.

(3) Benefits. If a peace officer, emergency medical service provider, or firefighter seeks treatment for PTSD, the employer or workers' compensation insurer shall pay all authorized medical expenses even if it is subsequently determined that the officer, provider, or firefighter was not diagnosed with PTSD.

(4) Reporting of information. Notwithstanding any other provision of law, a health care provider or other person or entity shall report information about a peace officer's, emergency medical service provider's, or firefighter's claim for PTSD benefits to the employer or insurer, subject to the following limitations:

(a) The information reported must encompass specific events and circumstances directly related to the sole cause of PTSD in the line of duty or a substantial aggravation of a preexisting condition where the aggravating condition is the cause of PTSD. The health care provider shall use the most
RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF
MENTAL DISORDERS (DSM) PROVIDED BY THE AMERICAN PSYCHIATRIC
ASSOCIATION FOR THE DIAGNOSIS AND TREATMENT OF PTSD. A HEALTH
CARE PROVIDER OR OTHER PERSON OR ENTITY SHALL NOT INCLUDE
ADDITIONAL MEDICAL INFORMATION IN THE DIAGNOSIS, TREATMENT, AND
REPORTING OF PTSD UNLESS THE INCLUSION IS NECESSARY FOR PROPER
DIAGNOSIS OR TREATMENT.

(b) A HEALTH CARE PROVIDER SHALL NOT REPORT THE PERSONAL
HISTORY OF A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER,
OR FIREFIGHTER EXCEPT IN THE CIRCUMSTANCES DESCRIBED IN
SUBSECTION (5) OF THIS SECTION.

(5) Hearing. (a) An employer, insurer, or a majority of the
MENTAL HEALTH PANEL MEMBERS SELECTED IN ACCORDANCE WITH
SUBSECTION (6) OF THIS SECTION MAY PETITION A DISTRICT OR CIRCUIT
COURT FOR AN IN CAMERA HEARING FOR THE PURPOSE OF REQUESTING AN
ORDER FOR THE RELEASE OF INFORMATION BEYOND THE SCOPE PERMITTED
BY SUBSECTION (4) OF THIS SECTION. THE HEARING MUST BE HELD WITHIN
THIRTY CALENDAR DAYS AFTER THE DATE THE PETITION IS FILED. NO
CONTINUANCE OF THE HEARING IS PERMITTED EXCEPT FOR GOOD CAUSE
SHOWN. THE COURT MAY ORDER AND REVIEW MEDICAL RECORDS AND
REPORTS BEFORE AND DURING THE IN CAMERA HEARING. COUNSEL OF
RECORD MUST HAVE THE OPPORTUNITY TO PRESENT OPENING AND
CLOSING STATEMENTS.

(b) A HEALTH CARE PROVIDER SHALL NOT PROVIDE AN EMPLOYER,
INSURER, OR MENTAL HEALTH PANEL MEMBER ANY PERSONAL HISTORY OF
A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER, OR
FIREFIGHTER OR INFORMATION REQUIRING A COURT ORDER FROM OTHER
PERSONS OR ENTITIES UNLESS THE COURT FINDS THAT THERE IS CLEAR AND
CONVINCING EVIDENCE THAT THE DISCLOSURE OF INFORMATION IS
NECESSARY.

(c) The court shall rule on the petition no later than ten
calendar days after the close of evidence. The order must
designate the specific persons, including counsel of record, who
are permitted to view information released under this
subsection (5). A person who is permitted to view the information
designated in the order is subject to contempt proceedings if the
person releases all or part of the information to a third party
not designated by the court. The order is final and not subject
to appeal.

(d) Counsel of record are permitted to share the contents
of the released information with the trial court judge and the
health care providers who are licensed physicians, psychiatrists,
and psychologists. The selected health care providers may
comment on the released information in a sealed, written
report. The health care providers shall provide a copy of any
sealed, written report that is submitted as evidence to the
counsel of record and the trial court judge. All open court
references to the released information and the content of the
sealed reports must be referred to by the exhibit designation.
The decision of the court must reference the released
information and the content of the sealed reports in general
terms when paying benefits pursuant to subsection (3) of this
section.

(6) Rights of dependents - mental health panel. (a) A
DEPENDENT ENTITLED TO WORKERS' COMPENSATION BENEFITS MAY FILE
A CLAIM IF A PEACE OFFICER, EMERGENCY MEDICAL SERVICE PROVIDER, OR
FIREFIGHTER COMMITS SUICIDE AS A RESULT OF PTSD.

(b) The chief administrative law judge employed by the
office of administrative courts in the department of personnel
shall randomly select a panel consisting of two licensed
psychiatrists and one licensed mental health care provider
qualified to diagnose PTSD from a list of volunteers.

(c) The panel shall issue a written decision determining
whether the peace officer's, emergency medical service
provider's, or firefighter's death is a suicide caused by PTSD
within one hundred twenty days after the claim is filed. The
decision of the panel is final and not subject to appeal.

(d) The panel may subpoena witnesses and hear testimony,
subpoena and receive records and reports as evidence, and
allow counsel the opportunity to present opening and closing
statements.

(7) A peace officer, emergency medical service provider,
or firefighter must file a claim for workers' compensation
benefits within twenty-four months after the date of the event
or circumstances alleged to have caused post-traumatic stress
disorder in the line of duty in order to be eligible for the
benefits.

SECTION 2. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly (August
10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
date constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2016 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.
LLS NO. 16-0314_AMENDMENT # 1
INTERIM COMMITTEE AMENDMENT
Legislative Oversight Committee Concerning the Treatment of Persons
with Mental Illness in the Criminal and Juvenile Justice Systems.
BY REPRESENTATIVE SINGER
LLS No. 16-0314 be amended as follows:

1 Amend LLS No. 16-0314, page 4, strike lines 6 through 11.

*************
FISCAL NOTE

FISCAL IMPACT: ☐ State ☑ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number: LLS 16-0314  Date: October 26, 2015
Prime Sponsor(s):  Bill Status: Legislative Oversight Committee
Concerning the Treatment of Persons
with Mental Illness in the Criminal and
Juvenile Justice Systems Bill Request
Fiscal Analyst: Bill Zepernick (303-866-4777)

BILLTOPIC: WORKERS' COMPENSATION FOR PTSD

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<th>Fiscal Impact Summary</th>
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<th>FY 2017-2018</th>
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<td>General Fund</td>
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<tr>
<td>State Expenditures</td>
<td>Increased state expenditures.</td>
<td>See State Expenditures section.</td>
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<td>General Fund / Cash Funds / Federal Funds</td>
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<td>FTE Position Change</td>
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<td>Appropriation Required: None.</td>
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<td>Future Year Impacts: Ongoing state expenditure impact.</td>
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Summary of Legislation

Under current law, post-traumatic stress disorder (PTSD) is not covered by workers' compensation insurance for peace officers, emergency medical service providers, and firefighters (public safety professionals) unless the PTSD was caused by an event outside of the employee's typical job responsibilities. The bill removes this restriction and includes PTSD as a covered workers' compensation disability for these public safety professionals.

Under the bill, eligible public safety professionals must file a workers' compensation claim within 24 months of the event. For the claim to be considered compensable, the healthcare provider must submit specific information to the employer or insurer. The healthcare provider must use the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders to substantiate the claim. If the claim is approved, the employer or insurer of the public safety professional must cover all medical costs related to PTSD treatment, even if it is later determined the public safety professional was not diagnosed with PTSD.

Under the bill, a dependent of an public safety professional entitled to workers' compensation benefits may file a claim if the covered employee commits suicide as a result of PTSD. In this situation, the Chief Administrative Law Judge employed by the Department of Personnel (DPA) must randomly select a panel of volunteer licensed mental health professionals.
as specified in the bill. Within 120 days of the claim’s filing, the panel will issue a written decision determining whether the suicide was a result of PTSD. The panel may subpoena records, witnesses, and testimony as deemed necessary. The decision is final and not subject to appeal.

The bill permits an employer, insurer, or the majority of mental health panel members to petition a district court for an in camera hearing in order to receive additional information beyond the scope of what is required to consider a claim. The hearing must occur within 30 days of the petition filing. The court may also require and review medical records prior to and during the in camera hearing. The court must rule on the petition within 10 calendar days after the closing of evidence. Counsel of record may share released information with the judge and the licensed health care providers. The decision of the court must reference the released information.

Background

Worker’s compensation for state employees is self-funded, with state agencies paying into the Workers’ Compensation Fund based on risk and actuarial analyses. The Workers’ Compensation Fund is managed by the Division of Risk Management in the DPA and employee claims are processed by a third-party administrator. The Workers’ Compensation Fund currently insures more than 2,000 peace officers and firefighters. State institutions of higher education, local governments, special districts, and other public jurisdictions may choose to self fund their workers’ compensation obligations or obtain private workers’ compensation insurance.

State Expenditures

The bill will increase expenditures and workload for certain state agencies, as discussed below.

*Department of Personnel and Administration.* The DPA will have increased costs to process and pay for workers’ compensation claims for state employees under the bill. The bill creates a new condition for workers’ compensation claims to be filed for those suffering from PTSD as a result of a trauma experienced while on the job. While the exact number of cases and costs may vary, the following costs may be incurred by the DPA:

- *Medical claims costs.* Medical costs are anticipated to average $10,000 per claim for medication and counseling expenses;
- *Death benefit claims by dependents.* The cost per death benefit payment is anticipated to be $1.7 million;
- *Legal services.* The bill allows for claims to be challenged in district courts. Legal service costs are dependent on the number of claims challenged, and cannot be estimated at this time; and
- *Mental health panel per diems.* The bill requires the Chief Administrative Law Judge in Office of Administrative Courts within the DPA to convene a panel of three volunteer licensed mental health professionals as needed. The DPA maintains similar programs for other fields and provides per diem to the volunteers.

At this time, the number of potential PTSD-related claims by state public safety employees is not known. As claims are incurred, assessments on state agencies to fund the Workers’ Compensation Fund likely will increase. If a significant number of claims are filed in the first year, additional appropriations may be required through the annual budget process to ensure solvency of the Workers’ Compensation Fund.
Department of Labor and Employment. The department may need to conduct rulemaking to expand workers' compensation eligibility materials and communicate about changes to state law under the bill. This workload is expected to be minimal and does not require new appropriations.

Institutions of higher education. State institutions of higher education employ peace officers and generally self-fund their workers' compensation obligations. If eligible peace officers file PTSD claims, the university systems may experience an increase in insurance premiums. Given the unknown number of individuals who may file a PTSD claim and be approved, the potential fiscal impact of the bill cannot be estimated at this time.

Judicial Branch. The bill permits employers, insurers, or mental health panel members to petition a district court for a hearing. As a result, the Judicial Branch may see an increase in workload to the courts. However, the fiscal note assumes any workload increase can be absorbed within existing resources and no new appropriations are required.

Other state agencies. Various state agencies that employ eligible public safety professionals may experience increased costs under the bill. For example, the Department of Natural Resources (DNR) employs about 360 peace officers. Although the potential number of PTSD claims is not known at this time, the bill will increase costs for the DNR, the Department of Human Services, and other state agencies that employ public safety professional through increased risk management assessments to the DPA.

Local Government Impact

The bill will likely increase expenditures for local governments that employ covered public safety professionals, as they will be liable for any costs associated with increased workers' compensation disability claims resulting from PTSD. Local governments will likely experience an increase in workers compensation claims, which will result in increased insurance premiums and court-related costs.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

<table>
<thead>
<tr>
<th>Personnel</th>
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<td>Special Districts</td>
<td>Sheriffs</td>
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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit www.colorado.gov/fiscainotes.
BILL TOPIC: "Competency To Proceed For Juveniles"

A BILL FOR AN ACT

CONCERNING COMPETENCY TO PROCEED FOR JUVENILES INVOLVED IN
THE JUVENILE JUSTICE SYSTEM.

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://www.leg.state.co.us/billsummaries.)

Legislative Oversight Committee Concerning the Treatment
of Persons With Mental Illness in the Criminal and Juvenile Justice
Systems. The bill establishes a juvenile-specific definition of "competent
to proceed" and "incompetent to proceed" for juveniles involved in the

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
juvenile justice system, as well as specific definitions for "developmental disability", "mental capacity", and "mental disability" when used in this context. The bill clarifies the procedures for establishing incompetency, as well as for establishing the restoration of competency.

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

SECTION 1. In Colorado Revised Statutes, 19-2-103, add (3.3), (5.5), (9.5), (12.3), (12.4), and (14.3) as follows:

19-2-103. Definitions. For purposes of this article:

(3.3) "Competent to proceed" means that a juvenile has sufficient present ability to consult with his or her attorney with a reasonable degree of rational understanding in order to assist in the defense and that he or she has a rational as well as a factual understanding of the proceedings against him or her.

(5.5) "Developmental disability" means a disability that is manifested before the person reaches his or her twenty-first birthday, that constitutes a substantial disability to the affected individual, and that is attributable to an intellectual disability or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual disability. Unless otherwise specifically stated, the federal definition of "developmental disability", 42 U.S.C. sec. 15001 et seq., shall not apply.

(9.5) "Incompetent to proceed" means that, based on a developmental disability, mental disability, or lack of mental capacity, a juvenile does not have sufficient present ability to consult with his or her attorney with a reasonable degree of
RATIONAL UNDERSTANDING IN ORDER TO ASSIST IN THE DEFENSE OR THAT
HE OR SHE DOES NOT HAVE A RATIONAL AS WELL AS A FACTUAL
UNDERSTANDING OF THE PROCEEDINGS AGAINST HIM OR HER.

(12.3) "MENTAL CAPACITY" MEANS A JUVENILE'S CAPACITY TO
MEET ALL OF THE FOLLOWING CRITERIA:

(a) APPRECIATE THE CHARGES OR ALLEGATIONS AGAINST HIM OR
HER;

(b) APPRECIATE THE NATURE OF THE ADVERSARIAL PROCESS AND
PROCEEDINGS, INCLUDING:

(I) HAVING A FACTUAL UNDERSTANDING OF THE PARTICIPANTS IN
THE PROCEEDING, INCLUDING THE JUDGE; DEFENSE COUNSEL; ATTORNEY
FOR THE STATE; MENTAL HEALTH EXPERT; AND GUARDIAN AD LITEM,
WHEN APPLICABLE; AND

(II) HAVING A RATIONAL UNDERSTANDING OF THE ROLE OF EACH
PARTICIPANT IN THE PROCEEDINGS;

(c) APPRECIATE THE RANGE AND NATURE OF ALLOWABLE
DISPOSITIONS THAT MAY BE IMPOSED AGAINST THE JUVENILE IN THE
PROCEEDINGS;

(d) DISCLOSE TO COUNSEL FACTS PERTINENT TO THE PROCEEDINGS
AT ISSUE;

(e) GENERALLY DISPLAY APPROPRIATE COURTROOM BEHAVIOR;

AND

(f) TESTIFY RELEVANTLY.

(12.4) "MENTAL DISABILITY" MEANS A SUBSTANTIAL DISORDER OF
THOUGHT, MOOD, PERCEPTION, OR COGNITIVE ABILITY THAT RESULTS IN
MARKED FUNCTIONAL DISABILITY AND SIGNIFICANTLY INTERFERES WITH
ADAPTIVE BEHAVIOR. "MENTAL DISABILITY" DOES NOT INCLUDE ACUTE
INTOXICATION FROM ALCOHOL OR OTHER SUBSTANCES, ANY CONDITION MANIFESTED ONLY BY ANTISOCIAL BEHAVIOR, OR ANY SUBSTANCE ABUSE IMPAIRMENT RESULTING FROM RECENT USE OR WITHDRAWAL. HOWEVER, SUBSTANCE ABUSE THAT RESULTS IN A LONG-TERM, SUBSTANTIAL DISORDER OF THOUGHT, MOOD, OR COGNITIVE ABILITY MAY CONSTITUTE A MENTAL DISABILITY.

(14.3) "RESTORATION TO COMPETENCY HEARING" MEANS A HEARING TO DETERMINE WHETHER A JUVENILE WHO HAS PREVIOUSLY BEEN DETERMINED TO BE INCOMPETENT TO PROCEED HAS ACHIEVED OR IS RESTORED TO COMPETENCY.

SECTION 2. In Colorado Revised Statutes, add 19-2-1300.2 as follows:

19-2-1300.2. Legislative declaration. (1) The general assembly finds and declares that:

(a) The juvenile justice system is civil in nature and focused on treatment rather than punishment;

(b) Juveniles differ in significant and substantive ways from adults; therefore, different standards for competency are necessary for juveniles and adults;

(c) Juveniles, like adults, are presumed competent to proceed until such time as they are found incompetent to proceed through a decision by the court; and

(d) Age alone is not determinative of incompetence without a finding that the youth actually lacks the relevant capacities for competence.

SECTION 3. In Colorado Revised Statutes, 19-2-1301, amend (2) as follows:
19-2-1301. Incompetency to proceed - effect - how and when raised. (2) A juvenile shall not be tried or sentenced if the juvenile is incompetent to proceed, as defined in section 16-8.5-101(11), C.R.S. SECTION 19-2-103 (9.5), at that stage of the proceedings against him or her. A DETERMINATION OF COMPETENCY MUST INCLUDE AN EVALUATION OF DEVELOPMENTAL DISABILITIES, MENTAL DISABILITIES, AND MENTAL CAPACITY.

SECTION 4. In Colorado Revised Statutes, 19-2-1302, amend (3), (4) (a), and (4) (c) as follows:

19-2-1302. Determination of incompetency to proceed. (3) If the question of a juvenile's incompetency to proceed is raised after a jury is impaneled to try the issues raised by a plea of not guilty or after the court as the finder of fact begins to hear evidence and the court determines that the juvenile is incompetent to proceed or orders the juvenile referred for a competency examination, the court may declare a mistrial. If the court declares a mistrial under these circumstances, the juvenile shall must not be deemed to have been placed in jeopardy with regard to the charges at issue. The juvenile may be tried on, and sentenced if adjudicated for, the same charges after he or she has achieved or been found to be restored to competency.

(4) (a) If the court orders a competency evaluation, the court shall order that the competency evaluation be conducted in the least-restrictive environment, INCLUDING HOME OR COMMUNITY PLACEMENT IF APPROPRIATE, taking into account the public safety and the best interests of the juvenile.

(c) The competency evaluation shall must, at a minimum, include an opinion regarding whether the juvenile is competent incompetent to
proceed as defined in section 16-8.5-101 (4), C.R.S. SECTION 19-2-103 (9.5). If the evaluation concludes the juvenile is incompetent to proceed, the evaluation shall MUST include a recommendation as to whether there is a likelihood that the juvenile may achieve or be restored to competency and identify appropriate services to restore the juvenile to competency.

SECTION 5. In Colorado Revised Statutes, 19-2-1304, amend (1) and (3) as follows:

19-2-1304. Restoration to competency hearing. (1) The court may order a restoration to competency hearing, as defined in section 16-8.5-101 (13), C.R.S. SECTION 19-2-103 (14.3), at any time on its own motion, on motion of the prosecuting attorney, or on motion of the juvenile. The court shall order a restoration of competency hearing if a mental health professional who has been treating the juvenile files a report certifying that the juvenile is mentally competent to proceed.

(3) At the restoration to competency hearing, the court shall determine whether the juvenile has achieved or is restored to competency.

SECTION 6. In Colorado Revised Statutes, 19-2-1305, amend (1) and (2) as follows:

19-2-1305. Procedure after restoration to competency hearing. (1) If a juvenile is found to be have achieved or been restored to competency after a restoration to competency hearing, as provided in section 19-2-1304, or by the court during a review, as provided in section 19-2-1303 (2), the court shall resume or recommence the trial or sentencing proceeding or order the sentence carried out. The court may credit any time the juvenile spent in confinement or detention while
incompetent TO PROCEED against any term of commitment imposed after
ACHIEVEMENT OF OR restoration to competency.

(2) If the court determines that the juvenile remains mentally
incompetent to proceed and the delinquency petition is not dismissed, the
court may continue or modify any orders entered at the time of the
original determination of incompetency or enter any new order necessary
to facilitate the juvenile's ACHIEVEMENT OF OR restoration to mental
competency.

SECTION 7. Effective date. This act takes effect July 1, 2016.

SECTION 8. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety. <\{Safety clause
OK?\}>
BILL TOPIC: "Law Enforcement Mental Health Collaboration Grants"

A BILL FOR AN ACT

CONCERNING THE CREATION OF THE LAW ENFORCEMENT AND MENTAL HEALTH COLLABORATION GRANT 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://www.leg.state.co.us/billssummaries.)

Legislative Oversight Committee Concerning the Treatment of Persons With Mental Illness in the Criminal and Juvenile Justice Systems. The bill creates the law enforcement and mental health collaboration grant program (grant program) in the division of criminal

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
justice (division). The purpose of the grant program is to allow an interested local law enforcement agency (agency) to apply for a grant to have one or more mental health professionals on its permanent staff. The goal of the grant program is to provide immediate services and assistance in situations where an individual involved in an investigation by an agency exhibits signs of a mental illness or substance abuse issue.

The division shall administer the program, including establishing guidelines and timelines for the grant program and determining recipients. Agencies that are awarded a grant through the grant program shall, as a condition of the grant, track data on the types and numbers of incidents and outcomes.

The law enforcement and mental health collaboration grant program fund is created.

---

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

2. SECTION 1. In Colorado Revised Statutes, add part 19 to article 33.5 of title 24 as follows:

3. PART 19

4. LAW ENFORCEMENT AND MENTAL HEALTH COLLABORATION GRANT PROGRAM

5. 24-33.5-1901. Short title. This part 19 is known and may be cited as the "Law Enforcement and Mental Health Collaboration Grant Program".

6. 24-33.5-1902. Definitions. As used in this part 19, unless the context otherwise requires:

7. (1) "Division" means the division of criminal justice created within the department pursuant to section 24-33.5-103.

8. (2) "Fund" means the law enforcement and mental health collaboration grant program fund created in section 24-33.5-1904.

9. (3) "Grant program" means the law enforcement and mental health collaboration grant program created in section

-2-
(4) "LOCAL LAW ENFORCEMENT AGENCY" MEANS A POLICE DEPARTMENT IN INCORPORATED MUNICIPALITIES, THE OFFICE OF THE COUNTY SHERIFF, OR A CAMPUS POLICE AGENCY.

(5) "MENTAL HEALTH PROFESSIONAL" MEANS ANY ONE OF THE FOLLOWING:

(a) A PERSON LICENSED TO PRACTICE MEDICINE IN THIS STATE OR LICENSED AND IN GOOD STANDING TO PRACTICE MEDICINE IN ANOTHER STATE AND WHO IS PROVIDING MEDICAL OR CLINICAL SERVICES IN THIS STATE;

(b) A PSYCHOLOGIST CERTIFIED TO PRACTICE IN THIS STATE OR CERTIFIED TO PRACTICE AND IN GOOD STANDING IN ANOTHER STATE AND WHO IS PROVIDING CLINICAL SERVICES IN THIS STATE;

(c) A REGISTERED PROFESSIONAL NURSE AS DEFINED IN SECTION 12-38-103 (11), C.R.S., WHO BY REASON OF POSTGRADUATE EDUCATION AND ADDITIONAL NURSING PREPARATION HAS GAINED KNOWLEDGE, JUDGMENT, AND SKILL IN PSYCHIATRIC OR MENTAL HEALTH NURSING;

(d) A LICENSED MARRIAGE AND FAMILY THERAPIST, LICENSED PROFESSIONAL COUNSELOR, OR ADDICTION COUNSELOR LICENSED UNDER PART 5, 6, OR 8 OF ARTICLE 43 OF TITLE 12, C.R.S., WHO BY REASON OF POSTGRADUATE EDUCATION AND ADDITIONAL PREPARATION HAS GAINED KNOWLEDGE, JUDGMENT, AND SKILL IN PSYCHIATRIC OR MENTAL HEALTH THERAPY, FORENSIC PSYCHOTHERAPY, OR THE EVALUATION OF MENTAL DISORDERS; OR

(e) A LICENSED CLINICAL SOCIAL WORKER LICENSED UNDER THE PROVISIONS OF PART 4 OF ARTICLE 43 OF TITLE 12, C.R.S.

24-33.5-1903. Law enforcement and mental health
collaboration grant program - created - administration. (1) The law enforcement and mental health collaboration grant program is created in the division of criminal justice for the purpose of providing grants to any local law enforcement agency seeking to include one or more mental health professionals on the agency's permanent staff. The goal of the grant program is to provide immediate services and assistance in situations where an individual involved in an investigation by the local law enforcement agency exhibits signs of a mental illness or substance abuse issue.

(2) The division shall administer the grant program. The division shall establish procedures, timelines, and guidelines for awards for grant applications by local law enforcement agencies seeking to begin or continue a law enforcement and mental health collaboration. At a minimum, the procedures and guidelines must require the grant applicant to provide a collaboration plan for the use of any grant dollars, length of the proposed collaboration with the mental health professional, and an estimate of the number of individuals the local law enforcement agency hopes to serve through the grant and collaboration.

(3) All local law enforcement agencies that receive a grant shall agree to keep data on:

(a) The number of calls on which the mental health professional assisted;

(b) The number of individuals reached through the collaboration;
(c) A breakdown of the general types of incidents involved;

(d) A breakdown of the general types of mental health or substance abuse issues involved; and

(e) An aggregate summary of outcomes. The summary may not include any type of confidential or identifying information.

(4) Subject to available appropriations, the division shall select those local law enforcement agencies that will receive grants through the grant program and the amount of each grant.

24-33.5-1904. Law enforcement and mental health collaboration grant program fund - creation. (1) (a) The law enforcement and mental health collaboration grant program fund is created in the state treasury. The principal of the fund consists of moneys appropriated or transferred to the fund by the general assembly. The purpose of the fund is to provide grants to successful applicants pursuant to section 24-33.5-1903.

(b) The division of criminal justice is authorized to seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of the grant program; except that the division may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The division shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(c) (1) The moneys in the fund are continuously
APPRIORIATED TO THE DIVISION FOR THE PURPOSE OF AWARDING GRANTS AS ALLOWED BY THIS PART 19 AND FOR ANY ADMINISTRATIVE COSTS ASSOCIATED WITH THE GRANT PROGRAM. THE DIVISION'S ADMINISTRATIVE EXPENSES FOR THE GRANT PROGRAM IN A FISCAL YEAR MUST NOT EXCEED FIVE PERCENT OF THE MONEYS TRANSFERRED OR APPROPRIATED IN THAT FISCAL YEAR.

(II) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF THE FUND AND ALL UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
Overview:
- Initially funded as three-year, $966,666 federal grant from the Substance Abuse and Mental Health Administration (SAMHSA)
- Boulder County one of three sites nationwide to receive this early diversion grant award
- SAMHSA’s goal/program design to divert individuals with mental health and/or substance use disorders from the criminal justice system before arrest
- Clinicians accompany law enforcement officers to respond to calls in the community which involve an individual with suspected or diagnosed behavioral health conditions

Collaborative Partners:
- Mental Health Partners
- Boulder County Sheriff’s Office
- City of Boulder Policy Department
- City of Longmont Police Department

EDGE Team Response:
- 6 behavioral health clinicians and 2 part-time peer support specialists
- Provides coverage in the cities of Boulder and Longmont, as well as county-wide response with Sheriff’s Office; hours 8am-10pm/7 days/week
- Assists client in accessing behavioral health services including psychotherapy/counseling, substance use & detoxification treatment, case management, housing & employment support
- Assists client and law enforcement in accessing other community-based services

Additional Project Goals:
- Reduce ED visits and 72-hour holds
- Increase law enforcement capacity in crisis intervention

Demographic Experience to Date:
- > 800 encounters from 3/2014 – 7/2015; avg: 70 encounters/month (40 Longmont, 30 Boulder)
- Approx. 23% are 18-29 years; range from 14 to 60+; genders roughly equal in total
- Nearly 44% of encounters complete at least one visit with behavioral health provider

For More Information Contact:
Bill Myers, Chief Community Engagement Officer
Mental Health Partners, 1333 Iris Avenue, Boulder, CO 80304
720.737.8024 or bmyers@mhpcolorado.org
Mental Health PARTNERS
Healthy Minds, Healthy Communities

Project EARLY DIVERSION, GET ENGAGED (EDGE)

Overview:
- Initially funded as three-year, $966,666 federal grant from the Substance Abuse and Mental Health Administration (SAMHSA)
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For More Information Contact:
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Mental Health Partners, 1333 Iris Avenue, Boulder, CO 80304
720.737.8024 or bmyers@mhpcolorado.org
Project EDGE Outcomes Data

Precipitating Event for Call to Law Enforcement

- EDGE is often called out to respond to situations where there is no criminal activity, but where law enforcement needs assistance deescalating a situation with a mentally ill individual. Despite the lack of clear criminal activity, these cases are difficult and time consuming for law enforcement staff to find a way to help the person in crisis.

- When there is the possibility of a low-level criminal charge resulting from the individual’s symptom presentation in the situation, the most common precipitating events are: trespassing, assault, harassment, disturbance, theft, criminal mischief, domestic violence, destruction of property, child neglect, obstruction. Other charges include public indecency, prohibited occupancy and disorderly conduct.

- EDGE is also called out for situations in which law enforcement would previously have sent the individual to the emergency room or put them on a 72-hour M1 Hold for Evaluation in which behavioral health treatment may be mandated. EDGE clinicians can work to connect the client to community-based, rather than institutional, behavioral healthcare.

Presenting Status

Project EDGE is a crisis response initiative, intended to function as a referral program in partnership with law enforcement. EDGE clinicians conduct a brief assessment of the individual’s situation to determine their needs, but do not make a diagnosis of a behavioral health condition in the field. Anecdotally, the most common
symptom presentations in the field are suicidality and delusions.

**Trend in Number of Arrests**
- Once a client is contacted by EDGE there are several possible outcomes depending on whether or not the charges can be diverted, and whether or not the individual agrees to participate in the EDGE program. EDGE participation and use of referral to treatment is voluntary.

- Overall, the number of EDGE encounters continues to increase, and the majority of individuals contacted agree to EDGE and are diverted from criminal charges.

Key: LPD (Longmont Police Department); BPD (Boulder Police Department); BCSO (Boulder County Sheriff's Office)

- Most individuals have one EDGE contact *and then have no further documented law enforcement contact*; however, some individuals receive repeat contacts. The program has anecdotal evidence that the number of these “frequent flyer” or high utilizers has decreased with EDGE contacts, resulting in an overall decrease in repeat calls.

- EDGE also responds to a high number of youth under age 18 and has an important impact in prevention of law enforcement contacts early on.

**Hospital Diversion**
- To date, of the 98 instances where a M1 hold was considered, EDGE was able to divert 68 individuals (69%) into community-based treatment instead of hospitalization. This results in significant savings for the hospital system.

**Emergency Department Diversion**
• Approximately 20% of all individuals contacted by EDGE have at least one emergency department visit before or after EDGE contact. Of those individuals, each individuals averages 1 fewer emergency department visit post EDGE contact.

**Trend in Number of Suicides**
- EDGE is often called to respond to situations where the person presents with suicidality or active suicide ideation. Of the limited number of clients with trackable data regarding suicide, zero individuals contacted by EDGE have committed suicide.

**Trends in Substances Used**
- EDGE does not track the type of substance an individual may have used at the time of the encounter. This information may be included in the narrative of the clinical notes but is not in a reportable field.
- As evidenced above, 10.6% of individuals contacted by EDGE are sent to detoxification.

**Homeless Individuals**
EDGE additionally serves a significant number of homeless individuals who receive law enforcement contact due to lack of shelter (e.g., trespassing, unlawful camping) or symptom presentation. Approximately 16% of the 1,046 EDGE clients to date reported they are homeless.

**For More Information Contact:**
Bill Myers, Chief Community Engagement Officer
Mental Health Partners, 1333 Iris Avenue, Boulder, CO 80304
720.737.8024 or bmyers@mhpcolorado.org

Prepared 10/2015 by Mental Health Partners
**Colorado Legislative Council Staff**

**FISCAL NOTE**

**FISCAL IMPACT:**  State □ Local □ Statutory Public Entity □ Conditional □ No Fiscal Impact

| Drafting Number: | LLS 16-0315 | Date: | October 26, 2015 |
| Prime Sponsor(s): | | Bill Status: | Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems Bill Request |
| Fiscal Analyst: | Bill Zepernick (303-866-4777) |

**BILL TOPIC:** LAW ENFORCEMENT MENTAL HEALTH COLLABORATION GRANTS

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<th>Fiscal Impact Summary</th>
<th>FY 2016-2017</th>
<th>FY 2017-2018</th>
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<tr>
<td>Cash Funds</td>
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<td>Potential increase - gifts, grants, and donations.</td>
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<td>TABOR Impact</td>
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<tr>
<td>Potential increase.</td>
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<td>FTE Position Change</td>
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<td>Appropriation Required:</td>
<td>at least $500,000 - Department of Public Safety (FY 2016-17)</td>
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<tr>
<td>Future Year Impacts:</td>
<td>Ongoing state expenditure impact and potential state revenue impact.</td>
<td></td>
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</table>

**Summary of Legislation**

This bill, requested by the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems, creates a grant program in the Department of Public Safety (DPS) to provide local law enforcement agencies with funding to hire mental health professionals. These additional mental health staff will provide immediate services and assistance to persons exhibiting signs of mental illness or substance abuse who are involved in an investigation by a law enforcement agency. Grant recipients are required to collect data on the program and provide this to the DPS. The DPS cannot spend more than 5 percent of program funds for administrative purposes.

**State Revenue**

The bill potentially increases cash fund revenue to the DPS from gifts, grants, and donations beginning in FY 2016-17. At this time, no source of such revenue has been identified. Revenue received or transferred to the grant program cash fund are continuously appropriated to the DPS.
TABOR Impact

This bill potentially increases state revenue from gifts, grants, and donations, which may increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

The costs to implement the grant program depend on the intended scope of the program. The fiscal note provides two cost scenarios in the DPS to implement the grant program:

- **Scenario 1 - $500,000 and 0.3 FTE** per year beginning in FY 2016-17 for a viable grant program with limited scope; and
- **Scenario 2 - $2.2 million and 1.5 FTE** per year beginning in FY 2016-17 for a grant program with a wider statewide impact.

The exact funding level for the grant program may be set at the discretion of the General Assembly. Depending on the intended level of grant funding, program administration costs should be adjusted accordingly. Assuming no sources of gifts, grants, or donations are identified, grant program costs must be paid using General Fund. The costs of both a limited grant program and a broader statewide program are shown in Table 1 and discussed below.

<table>
<thead>
<tr>
<th>Table 1. Expenditures Under LLS 16-0315</th>
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<td>Cost Components</td>
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<td>----------------------------------------</td>
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<tr>
<td>Scenario 1 - Limited Grant Program</td>
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<td>Personal Services</td>
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<td>FTE</td>
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<td>Operating Expenses</td>
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<td>Grants to Local Law Enforcement Agencies</td>
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<td>Centrally Appropriated Costs*</td>
</tr>
<tr>
<td><strong>Scenario 2 - Statewide Grant Program</strong></td>
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<tr>
<td>Personal Services</td>
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<tr>
<td>FTE</td>
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<tr>
<td>Operating Expenses and Capital Outlay</td>
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<tr>
<td>Grants to Local Law Enforcement Agencies</td>
</tr>
<tr>
<td>Centrally Appropriated Costs*</td>
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</tbody>
</table>

*Centrally appropriated costs are not included in the bill’s appropriation.

Assumptions. For both funding scenarios the fiscal note assumes the following:

- an appropriation of General Fund is required for the program to begin operating in FY 2016-17; and
- the grant program begins operating on July 1, 2016.
Grant administration. To implement a limited grant program, $19,999 and 0.3 FTE per year beginning in FY 2016-17 is required for administration. To support a broader statewide grant program, $97,222 and 1.5 FTE is required in the first year and $90,167 and 1.5 FTE in future years.

Grant administration costs, which include personal services, operating expenses, and capital outlay costs, are shown in Table 1 on the previous page. To the extent the General Assembly provides a different level of funding than the scenarios contemplated in this fiscal note, the required staffing and grant administration costs will need to scale accordingly. These administrative costs cannot exceed 5 percent of total program funding.

Grants to local law enforcement agencies. In the limited program scenario, approximately $475,000 per year is required for grants to local law enforcement agencies. For the broader program, the fiscal note estimates that $2.1 million per year will be required. The exact number and amount of grants will vary depending on the amount appropriated and the priorities of the grant program and local agencies. The potential number of grants under each funding scenario are discussed below.

Limited grant program. For a limited grant program, the fiscal note anticipates between 6 and 10 grants ranging between $50,000 and $75,000 per year. Under this scenario, most grants will primarily cover the cost of hiring a single mental health professional and some grants could include funding for planning and training.

Statewide grant program. For a broader grant program, the fiscal note estimates that between 15 and 25 grants, ranging between $75,000 and $250,000 per year, will be disbursed. This funding will allow larger jurisdictions to hire multiple mental health professionals and for grant awards to address planning and training costs.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

| Table 2. Centrally Appropriated Costs Under LLS 16-0315 |
|-----------------------------------------------|-----------------|-----------------|
| Cost Components                               | FY 2016-17      | FY 2017-18      |
| Scenario 1 - Limited Grant Program            | $4,099          | $4,179          |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | $2,412          | $2,412          |
| Supplemental Employee Retirement Payments     | 1,687           | 1,767           |
| Scenario 2 - Statewide Grant Program          | $19,636         | $19,994         |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | $12,042         | $12,042         |
| Supplemental Employee Retirement Payments     | 7,594           | 7,962           |
Local Government Impact

The bill potentially increases revenue to local law enforcement agencies to pay for mental health professionals on their staffs. Participation in the grant program is voluntary and the decision on which local agencies receive funding is at the discretion of the DPS. Participating local law enforcement agencies will have a minimal increase in workload to apply for grant funding and to collect and report data to the DPS if a grant is received.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

At a minimum, the bill requires an appropriation of at least $500,000 General Fund to the Law Enforcement and Mental Health Collaboration Grant Program Fund in the DPS in FY 2016-17. Moneys in the fund are continuously appropriated to the DPS. The DPS also requires an allocation of at least 0.3 FTE.

Departmental Difference

The DPS estimates that the cost of the bill is $2.1 million and 2.0 FTE per year beginning in FY 2016-17. The fiscal note concurs that this level of funding would allow for implementation of an effective grant program. However, fiscal note policy is to provide an estimate of the least cost alternative for implementing legislation. Thus, the fiscal note estimates minimum costs of the grant program at $500,000 and 0.3 FTE, which would allow for a limited, but functional, grant program. As discussed in the State Expenditures section, the fiscal note includes an estimate similar to the DPS estimate as an option for the General Assembly to consider, with certain technical adjustments and slightly reduced staff in order to conform to the bill’s 5 percent limit on administrative costs.

State and Local Government Contacts

Public Safety   Municipalities   Counties   Sheriffs

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: www.colorado.gov/fiscalinotes.
INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning the Treatment of Persons With Mental Illness in the Criminal and Juvenile Justice Systems

BILL TOPIC: "Mental Health And Collaborative Management Teams"

A BILL FOR AN ACT

CONCERNING INCLUDING A MENTAL HEALTH PROFESSIONAL IN THE MEMORANDUM OF UNDERSTANDING RELATING TO A LOCAL-LEVEL COLLABORATIVE MANAGEMENT PROCESS FOR CHILDREN AND FAMILIES.

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://www.leg.state.co.us/billssummaries.)

Legislative Oversight Committee Concerning the Treatment of Persons With Mental Illness in the Criminal and Juvenile Justice

Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
**Systems.** The bill adds a mental health professional to the list of persons to be included in any memorandum of understanding entered into between interested county departments of social or human services and other local-level service providers when the memorandum of understanding is established as a means of promoting a collaborative system of local-level interagency oversight and services to children and families.

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

**SECTION 1.** In Colorado Revised Statutes, 24-1.9-102, amend (1) (a) and (1) (c) as follows:

24-1.9-102. Memorandum of understanding - local-level interagency oversight groups - individualized service and support teams - coordination of services for children and families - requirements - waiver. (1) (a) INDIVIDUALS, local representatives of each of the agencies specified in this paragraph (a) AND PARAGRAPH (a.5) OF THIS SUBSECTION (1), IF APPLICABLE, and county departments of HUMAN OR SOCIAL services may enter into memorandums of understanding that are designed to promote a collaborative system of local-level interagency oversight groups and individualized service and support teams to coordinate and manage the provision of services to children and families who would benefit from integrated multi-agency services. The memorandums of understanding entered into pursuant to this subsection (1) shall be between interested county departments of HUMAN OR SOCIAL services and local representatives of each of the following: agencies or entities:

(I) A REPRESENTATIVE OF the local judicial districts, including probation services;

(II) A REPRESENTATIVE OF the health department, whether a county or district public health agency;
(III) A REPRESENTATIVE OF the local school district or school districts;

(IV) Each A REPRESENTATIVE FROM THE LOCAL community mental health center OR A MENTAL HEALTH PROFESSIONAL DESIGNATED BY THE PERSON OR ENTITY THAT CONVENES THE GROUP. For purposes of this subsection (1), a "mental health professional" may include any person licensed by the state of Colorado as a psychiatrist, psychologist, mental health counselor, or clinical social worker.

(V) Each A REPRESENTATIVE FROM THE LOCAL behavioral health organization;

(VI) A REPRESENTATIVE FROM the division of youth corrections;

(VII) A REPRESENTATIVE FROM a designated managed service organization for the provision of treatment services for alcohol and drug abuse pursuant to section 27-80-107, C.R.S.; and

(VIII) A REPRESENTATIVE FROM a domestic abuse program as defined in section 26-7.5-102, C.R.S., if representation from such a program is available.

(c) Notwithstanding the provisions of paragraph (b) of this subsection (1), the INDIVIDUALS AND agencies specified in paragraphs (a) and (a.5) of this subsection (1) may enter into memorandums of understanding involving only one or more county departments of HUMAN OR social services, not necessarily by region, as may be appropriate to ensure the effectiveness of local-level interagency oversight groups and individualized service and support teams in the county or counties.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August
10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2016 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor. <{Or safety
clause?}>
FISCAL IMPACT: ☒ State  ☒ Local  ☐ Statutory Public Entity  ☐ Conditional  ☐ No Fiscal Impact

Drafting Number: LLS 16-0313
Prime Sponsor(s):

Date: October 21, 2015
Bill Status: Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems Interim Committee Bill Request

Fiscal Analyst: Lauren Schreier, 303-866-3523

BILL TOPIC: MENTAL HEALTH AND COLLABORATIVE MANAGEMENT TEAMS

<table>
<thead>
<tr>
<th>Fiscal Impact Summary</th>
<th>FY 2016-2017</th>
<th>FY 2017-2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Revenue</td>
<td></td>
<td></td>
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<tr>
<td>General Fund</td>
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<tr>
<td>State Expenditures</td>
<td></td>
<td></td>
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<tr>
<td>General Fund</td>
<td></td>
<td>Minimal workload increase.</td>
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<tr>
<td>TABOR Impact</td>
<td></td>
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<tr>
<td>FTE Position Change</td>
<td></td>
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<tr>
<td>Appropriation Required: None.</td>
<td></td>
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<td>Future Year Impacts: None.</td>
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</tbody>
</table>

Summary of Legislation

This bill, requested by the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems, adds mental health professionals to the list of persons that must be included in any memorandum of understanding entered into between county departments of human or social services and other local-level service providers.

Background

State law specifies a uniform collaborative management process that integrates the oversight of services from multiple state and county agencies. These voluntary agreements are initiated to improve the quality and efficiency of care provided to Colorado children and families.
State Expenditures

The bill may increase workload in the Department of Human Services (DHS) by a minimal amount, beginning in FY 2016-17. The DHS must share information concerning the collaborative management process with mental health professionals. Any increase in workload in the DHS is anticipated to be minimal and will not require new appropriations.

Local Government Impact

The bill may increase workload for counties by a minimal amount. Under the bill, county departments of human or social services and other local-level service providers must incorporate the relevant mental health professionals when entering into memorandums of understanding.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Human Services                        Judicial
Public Health and Environment          Education

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: www.colorado.gov/fiscalnotes.