[As Approved]

MENTAL HEALTH / POINT OF CONTACT THROUGH JAIL RELEASE TASK FORCE

FINAL RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
January 13, 2017

FY17-MH #01. Strengthen a Community-Based Crisis Response

Recommendation FY17-MH #01

Position the Colorado Crisis Services System as the comprehensive response to behavioral health emergencies in all Colorado communities by making the following reforms: a) Strengthen and enhance existing crisis services and resources; b) Amend §27-60-103 to clarify the intent of the crisis system; c) Undertake conforming regulatory changes to crisis system contracting; and d) Commit resources to incentivize the development and expansion of the crisis services provider network.

- Strengthen and enhance existing crisis services and provide resources to expand the system to ensure an appropriate health care response to behavioral health crises across Colorado.
- Amend statute (§27-60-103, C.R.S, enacted by SB13-266) to clarify the intent of the crisis system and formally introduce the responsibilities of being the preferred response to behavioral health crises across the state, and for engaging in community partnerships that facilitate such a response.
- Crisis System contracting and regulatory reform should specify the operational components necessary to achieve these responsibilities. **View APPENDIX A**
- The general assembly should commit resources to incentivize the development and expansion of an adequate crisis services provider network. **View APPENDIX B**

Proposed Statutory Language

Clarify the intent of the crisis system in legislation (§27-60-103, C.R.S; see SB13-266) to add:

- First line of response to individuals in need of an M-1 hold
- Eliminate the criminalized experience and restricted access to treatment that can occur in jails for those with mental illness by leading the development of a partnership-supported network of crisis services.

A proposed bill draft is appended below as APPENDIX C.

Discussion

Colorado's Crisis System was developed to create an appropriate response to behavioral health crises and thereby reduce utilization of the criminal justice system and emergency departments to house or treat individuals with mental illness. To ensure that this system is effective in achieving its intended purpose, resources must be dedicated to cross-system collaboration as well as independent expansion. By taking steps to strengthen and enhance the Crisis System, Colorado will ensure that peace officers and other first responders are equipped with a variety of options when encountering behavioral health crises in the community. Enhancing this system will ensure that Colorado citizens who experience mental health crises are cared for by healthcare professionals, in turn relieving the criminal justice system.

APPENDIX A:

To ensure operational functionality of the crisis system in this proposed role, the following should be **pursued in contracting and regulation**.

Decriminalization of Mental Illness in all Crisis Regions:

- Minimum of 1.0 FTE Justice Liaison/Community Coordinator per contractor (4.0 FTE total in the state) to oversee the contractors' engagement initiatives with key community partners, (criminal justice agencies, emergency departments (EDs)s, hospitals, primary care facilities, etc.)
  - To be fully effective, a community resource team should be considered, to include the following positions:
    - Director/Program Oversight
    - Marketing/Community Relations
    - Training Director
    - Peer Specialist Program Director
- Formalize relationships with all law-enforcement departments in region and continue pursuit of collaborative community programming.
- Ability to intervene in behavioral health crises in the community as soon as they are identified to prevent a criminalized experience and/or the potential for a criminalization trajectory.
  - Build close relationships with first responders/dispatch centers to facilitate this.

Management of M1 Holds in all Colorado Communities:

- Specify that all Walk-in-Centers are prepared to take individuals on M1 holds and are 27-65 designated. Formalize partnerships to prioritize caring for high-acuity individuals in the least restrictive environment and without the use of law enforcement.
- Ensure all crisis services facilities, regardless of facility licensure, are able to adequately care for individuals on an M1 hold. Initiatives should focus on appropriate staff ratios, training of staff, and adequate reform to increase security.
  - Introduce a CSU facility licensure category and standardize expectations/involvement.
- Introduce regulations that formalize the expectation that rural crisis facilities engage with 24/7 facilities in their region (including but not limited to rural hospitals, EMS, medical labs, emergency clinics, primary care facilities, etc.) to form facility placement agreements and other local arrangements.
  - Regulations must be bi-directional to ensure engagement by both entities who are entering into agreements.
- Create a state-wide 27-65 web-based portal for data submission to support designated facilities by decreasing administrative workload and increasing capacity.
- Seek guidance from the 27-65 Board that allows providers to utilize telehealth for crisis services including emergency assessment & evaluation for treatment.

APPENDIX B:

To ensure an adequate crisis response network in all Colorado communities, the following should be **prioritized for additional funding**.

- Expand existing facilities and operations to reach 24/7 capacity in all counties
    - Mobile Response Units – 24/7 capacity.
        - Fiscal supports & incentives (both to the crisis contractor and community partners) to purchase, install, and use of tele-health for mobile crisis evaluations in partnership settings (e.g. hospitals, health clinics, law enforcement facilities, and other crisis service locations.)
    - Walk-in-Centers – 24/7 ability to manage high-acuity encounters.
        - Fiscal supports & incentives (both to the crisis contractor and community partners) to purchase, install, and use of tele-health for walk-in crisis evaluations in partnership settings.
        - Expand crisis services network in each crisis region by incentivizing the partnering with or designating of 24/7 and tele-health capable walk-in-centers at existing facilities in rural communities:
            - Allow crisis contractors to subcontract with rural providers.
                - Target areas: Western Slope, NE region, SE region
            - Potential subcontracted providers may include:
                - Existing Crisis Contractor facilities that are not currently crisis services (i.e. ATU, outpatient offices)
                - Other CMHC outpatient facilities/clinics
                - SUD treatment facilities
                - Law enforcement substation with CMHC or crisis staff conducting services via tele-health
                - Other primary care facilities

- Incentivize local partnerships between law enforcement, behavioral health, and other first responders.
    - Fund new and existing joint programs that match community need and density using the Bureau of Justice Assistance's Police Mental Health Coordination Toolkit (PMHC toolkit), state (e.g., EDGE, CRT) and national models.
        - Embed crisis clinicians/consultants in first response systems (law enforcement ride-along, dispatch centers, etc.)
    - Provide resources to support crisis contractors' employee (minimum 1 FTE) community coordinator to facilitate relationship building and program oversight.

- Develop and install additional tele-suites (equipment, training, other supports) to ensure 24/7 crisis tele-assessment capacity in every county. Funding to promote joint-utilization between systems (criminal justice agencies, hospitals, etc.)
    - Provide the crisis system with the capacity to install, market, and provide technical assistance for this capacity.
    - Create a state-level coordinator position (e.g., Office of IT – *State Telehealth Coordinator*) to oversee piloting, utilization, and outcomes.

- Support crisis contractors to expand mobile capacity in rural areas as appropriate.
    - Allow for crisis clinicians to respond to more incidents independently or jointly with first responders.
    - These teams should have a primary role in outreach, dispatch, community-coordination, etc. to match the rural communities' needs.

- Develop, as needed, data collection and outcome evaluation systems.
    - Analysis to focus on clinical outcomes, cross-systemic cost-avoidance, best-practice development, contract compliance, etc.

- Explore development of new crisis facilities and services to ensure adequate capacity in all regions of Colorado.
    - Increase ATU, CSU, WIC, respite capacity where need is determined.
    - Expand resources for peer services and explore increasing the scope of work for peers.

APPENDIX C:

Tentative bill draft begins on the following page.

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT

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LLS NO. 17-####.## Jane Ritter x4342 **HOUSE BILL**

HOUSE SPONSORSHIP

None

SENATE SPONSORSHIP

None

House Committees **Senate Committees**

A BILL FOR AN ACT

101 **CONCERNING .**

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.)

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly

1 finds and declares that:

2 (a) Behavioral health and behavioral health crises are healthcare
3 issues;

4 (b) As such, Colorado should immediately end the use of facilities
5 within the criminal justice system as placement options for individuals
6 who have been placed on an emergency seventy-two-hour mental health
7 hold but who have not been charged with nor convicted of a crime;

8 (c) The behavioral health coordinated crisis response system was
9 created in 2013 to address behavioral health crises and should be utilized
10 throughout the state as the preferred response to such crises; and

11 (d) The behavioral health coordinated crisis response system
12 should be responsible for engaging in community partnerships that
13 facilitate a coordinated healthcare response for individuals in a behavioral
14 health crisis.

15 (2) Therefore, the general assembly finds that steps should be
16 taken to strengthen the ability of the behavioral health coordinated crisis
17 response system to respond to behavioral health crises in all Colorado
18 communities. These steps include ending the use of jails and other
19 correctional facilities for placement of emergency seventy-two-hour
20 mental health holds; ensuring the adequacy of community-based options
21 for persons on an emergency seventy-two-hour mental health hold; and
22 dedicating resources to incentivize collaboration and formal partnerships
23 between appropriate local healthcare providers.

24 **SECTION 2.** In Colorado Revised Statutes, 27-60-101, **amend**
25 (1)(b) and **add** (1)(c) as follows:

26 **27-60-101. Behavioral health coordinated crisis response**
27 **system - legislative declaration - report by department.** (1) (b) The

general assembly therefore finds that A BEHAVIORAL HEALTH COORDINATED CRISIS RESPONSE SYSTEM:

(I) ~~A coordinated crisis response system~~ Provides for early intervention and effective treatment of persons in mental health or substance abuse crisis;

(II) ~~A coordinated crisis response system~~ Should involve first responders and include information technology systems to integrate available crisis responses;

(III) ~~A coordinated crisis response system~~ Should be available in all communities statewide; and

(IV) ~~A coordinated crisis response system~~ May include community-based crisis centers where persons in mental health or substance abuse crisis may be stabilized and receive short-term treatment.

(c) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE INTENT BEHIND THE DEVELOPMENT OF A BEHAVIORAL HEALTH COORDINATED CRISIS RESPONSE SYSTEM WAS TO:

(I) CREATE AN APPROPRIATE AND PREFERRED RESPONSE TO BEHAVIORAL HEALTH CRISES THAT WOULD ELIMINATE THE USE OF THE CRIMINAL JUSTICE SYSTEM AND REDUCE THE USE OF EMERGENCY DEPARTMENTS AS TREATMENT OR HOUSING OPTIONS FOR PERSONS WITH MENTAL ILLNESS OR PERSONS EXPERIENCING A BEHAVIORAL HEALTH CRISIS;

(II) PROVIDE AN APPROPRIATE FIRST LINE OF RESPONSE TO INDIVIDUALS IN NEED OF AN EMERGENCY SEVENTY-TWO-HOUR MENTAL HEALTH HOLD;

(III) DECRIMINALIZE MENTAL ILLNESS BY LEADING THE DEVELOPMENT OF A PARTNERSHIP-SUPPORTED NETWORK OF CRISIS

1 SERVICES; AND

2 (IV) CREATE A FRAMEWORK TO CREATE, STRENGTHEN, AND
3 ENHANCE COMMUNITY PARTNERSHIPS THAT FACILITATE THE PREFERRED
4 RESPONSE TO BEHAVIORAL HEALTH CRISES, INCLUDING ENSURING THAT
5 PEACE OFFICERS AND OTHER FIRST RESPONDERS ARE EQUIPPED WITH A
6 VARIETY OF OPTIONS WHEN THEY ENCOUNTER A BEHAVIORAL HEALTH
7 CRISIS.

8 **SECTION 3.** In Colorado Revised Statutes, 27-65-102, **add** 11.3
9 as follows:

10 **27-65-102. Definitions.** As used in this article, unless the context
11 otherwise requires:

12 (11.3) "INTERVENING PROFESSIONAL" MEANS A PERSON DESCRIBED
13 IN SECTION 27-65-105 (1)(a)(II) WHO MAY EFFECT A SEVENTY-TWO-HOUR
14 HOLD UNDER THE PROVISIONS OUTLINED IN SECTION 27-65-105.

15 **SECTION 4.** In Colorado Revised Statutes, 27-65-105, **amend**
16 (1)(a), (2), and (3); and **add** (1)(c) as follows:

17 **27-65-105. Emergency procedure.** (1) Emergency procedure
18 may be invoked under ~~either~~ ANY one of the following ~~two~~ conditions:

19 (a) (I) When any person appears to have a mental illness and, as
20 a result of such mental illness, appears to be an imminent danger to others
21 or to himself or herself or appears to be gravely disabled, then ~~a person~~
22 ~~specified in subparagraph (II) of this paragraph (a), each of whom is~~
23 ~~referred to in this section as the "intervening professional"~~ AN
24 INTERVENING PROFESSIONAL, AS SPECIFIED IN SUBSECTION (1)(a)(II) OF
25 THIS SECTION, upon probable cause and with such assistance as may be
26 required, may take the person into custody, or cause the person to be
27 taken into custody, and placed in a facility designated or approved by the

1 executive director for a seventy-two-hour treatment and evaluation.
2 (I.5) WHEN ANY PERSON APPEARS TO HAVE A MENTAL ILLNESS
3 AND, AS A RESULT OF SUCH MENTAL ILLNESS, IS IN NEED OF IMMEDIATE
4 EVALUATION FOR TREATMENT IN ORDER TO PREVENT PHYSICAL OR
5 PSYCHIATRIC HARM TO OTHERS OR TO HIMSELF OR HERSELF, THEN AN
6 INTERVENING PROFESSIONAL, AS SPECIFIED IN SUBSECTION (1)(a)(II) OF
7 THIS SECTION, UPON PROBABLE CAUSE AND WITH SUCH ASSISTANCE AS
8 MAY BE REQUIRED, MAY IMMEDIATELY TRANSPORT THE PERSON TO AN
9 OUTPATIENT MENTAL HEALTH FACILITY DESIGNATED OR APPROVED BY THE
10 EXECUTIVE DIRECTOR FOR A SEVENTY-TWO-HOUR TREATMENT AND
11 EVALUATION.
12 (II) The following persons may effect a seventy-two-hour hold as
13 provided in ~~subparagraph (I) of this paragraph (a)~~ SUBSECTIONS (1)(a)(I)
14 AND (1)(a)(I.5) OF THIS SECTION:
15 (A) A certified peace officer;
16 (B) A professional person;
17 (C) A registered professional nurse as defined in section
18 12-38-103 (11) ~~C.R.S.,~~ who by reason of postgraduate education and
19 additional nursing preparation has gained knowledge, judgment, and skill
20 in psychiatric or mental health nursing;
21 (D) A licensed marriage and family therapist, licensed
22 professional counselor, or addiction counselor licensed under part 5, 6, or
23 8 of article 43 of title 12 ~~C.R.S.,~~ who by reason of postgraduate education
24 and additional preparation has gained knowledge, judgment, and skill in
25 psychiatric or clinical mental health therapy, forensic psychotherapy, or
26 the evaluation of mental disorders; or
27 (E) A licensed clinical social worker licensed under the provisions

1 of part 4 of article 43 of title 12. ~~C.R.S.~~

2 (b) Upon an affidavit sworn to or affirmed before a judge that
3 relates sufficient facts to establish that a person appears to have a mental
4 illness and, as a result of the mental illness, appears to be an imminent
5 danger to others or to himself or herself or appears to be gravely disabled,
6 the court may order the person described in the affidavit to be taken into
7 custody and placed in a facility designated or approved by the executive
8 director for a seventy-two-hour treatment and evaluation. ~~Whenever in~~
9 ~~this article a facility is to be designated or approved by the executive~~
10 ~~director, hospitals, if available, shall be approved or designated in each~~
11 ~~county before other facilities are approved or designated. Whenever in~~
12 ~~this article a facility is to be designated or approved by the executive~~
13 ~~director as a facility for a stated purpose and the facility to be designated~~
14 ~~or approved is a private facility, the consent of the private facility to the~~
15 ~~enforcement of standards set by the executive director shall be a~~
16 ~~prerequisite to the designation or approval.~~

17 (c) UPON AN AFFIDAVIT SWORN TO OR AFFIRMED BEFORE A JUDGE
18 THAT RELATES SUFFICIENT FACTS TO ESTABLISH THAT A PERSON APPEARS
19 TO HAVE A MENTAL ILLNESS AND, AS A RESULT OF THE MENTAL ILLNESS,
20 IS IN NEED OF IMMEDIATE EVALUATION FOR TREATMENT TO PREVENT
21 PHYSICAL OR PSYCHIATRIC HARM TO OTHERS OR TO HIMSELF OR HERSELF,
22 THE COURT MAY ORDER THE PERSON DESCRIBED IN THE AFFIDAVIT TO BE
23 TRANSPORTED TO AN OUTPATIENT MENTAL HEALTH FACILITY DESIGNATED
24 OR APPROVED BY THE EXECUTIVE DIRECTOR FOR A SEVENTY TWO HOUR
25 TREATMENT AND EVALUATION.

26 (d) WHENEVER IN THIS ARTICLE 65 A FACILITY IS TO BE
27 DESIGNATED OR APPROVED BY THE EXECUTIVE DIRECTOR, HOSPITALS, IF

1 AVAILABLE, SHALL BE APPROVED OR DESIGNATED IN EACH COUNTY
2 BEFORE OTHER FACILITIES ARE APPROVED OR DESIGNATED. WHENEVER IN
3 THIS ARTICLE 65 A FACILITY IS TO BE DESIGNATED OR APPROVED BY THE
4 EXECUTIVE DIRECTOR AS A FACILITY FOR A STATED PURPOSE AND THE
5 FACILITY TO BE DESIGNATED OR APPROVED IS A PRIVATE FACILITY, THE
6 CONSENT OF THE PRIVATE FACILITY TO THE ENFORCEMENT OF STANDARDS
7 SET BY THE EXECUTIVE DIRECTOR IS A PREREQUISITE TO THE DESIGNATION
8 OR APPROVAL.
9 (2) ~~(a)~~ When a person is taken into custody pursuant to subsection
10 (1) of this section, ~~such person shall~~ HE OR SHE MUST not be detained in
11 a jail, lockup, or other place used for the confinement of persons charged
12 with or convicted of penal offenses. ~~except that such place may be used~~
13 ~~if no other suitable place of confinement for treatment and evaluation is~~
14 ~~readily available. In such situation the person shall be detained separately~~
15 ~~from those persons charged with or convicted of penal offenses and shall~~
16 ~~be held for a period not to exceed twenty-four hours, excluding Saturdays,~~
17 ~~Sundays, and holidays, after which time he or she shall be transferred to~~
18 ~~a facility designated or approved by the executive director for a~~
19 ~~seventy-two-hour treatment and evaluation. If the person being detained~~
20 ~~is a juvenile, as defined in section 19-1-103 (68), C.R.S., the juvenile~~
21 ~~shall be placed in a setting that is nonsecure and physically segregated by~~
22 ~~sight and sound from the adult offenders. When a person is taken into~~
23 ~~custody and confined pursuant to this subsection (2), such person shall be~~
24 ~~examined at least every twelve hours by a certified peace officer, nurse,~~
25 ~~or physician or by an appropriate staff professional of the nearest~~
26 ~~designated or approved mental health treatment facility to determine if the~~
27 ~~person is receiving appropriate care consistent with his or her mental~~

1 ~~condition.~~

2 ~~(b) A sheriff or police chief who violates the provisions of~~
3 ~~paragraph (a) of this subsection (2), related to detaining juveniles may be~~
4 ~~subject to a civil fine of no more than one thousand dollars. The decision~~
5 ~~to fine shall be based on prior violations of the provisions of paragraph~~
6 ~~(a) of this subsection (2) by the sheriff or police chief and the willingness~~
7 ~~of the sheriff or police chief to address the violations in order to comply~~
8 ~~with paragraph (a) of this subsection (2).~~

9 (3) ~~Such~~ A facility shall require an application in writing, stating
10 the circumstances under which the person's condition was called to the
11 attention of the intervening professional and further stating sufficient
12 facts, obtained from the personal observations of the intervening
13 professional or obtained from others whom he or she reasonably believes
14 to be reliable, to establish that the person has a mental illness and, as a
15 result of the mental illness, is an imminent danger to others or to himself
16 or herself, ~~or~~ is gravely disabled, OR IN NEED OF IMMEDIATE EVALUATION
17 FOR TREATMENT. The application ~~shall~~ MUST indicate when the person
18 was taken into custody and who brought the person's condition to the
19 attention of the intervening professional. A copy of the application shall
20 be furnished to the person being evaluated, and the application ~~shall~~ MUST
21 be retained in accordance with the provisions of section 27-65-121 (4).