

Health Care Legislation 2023

Some 50 bills were categorized as “Health Care & Health Insurance.” Covered topics ranged from behavioral health (see next page), Medicaid benefits and eligibility, health care costs and coverage. Because of the wide-range of topics, bills are categorized by topic area.

Cost and Transparency

Three bills focused on hospitals generated a lot of interest, testimony, lobbying and ultimately amendments (for 2 of 3) that scaled back the requirements.

[HB23-1215](#) *Limits on Hospital Facility Fees*

- Originally would have banned hospitals from charging facility fees for many out-patient services. Ultimately passed with ban on outpatient preventive services only
- Amended version requires that HCPF issue a report (by 12/1/2023) that assesses the impact of facility fees on the health care system, consumers, providers and hospitals

[HB23-1226](#) *Hospital Transparency and Reporting Requirements*

- Amends current law to add more information (including gross revenue and net profits) that hospitals must report to HCPF
- HCPF can impose corrective action plans and fines for non-compliance

[HB23-1243](#) *Hospital Community Benefit*

- For non-profit/tax-exempt hospitals that must make investments in the community, legislation dictates additional requirements for the community engagement process
- Originally would have required minimal investment thresholds, had to receive approval to spend community benefit dollars, and had strict definitions of what counted as community benefit; amended and passed version removed these provisions

Reproductive Health¹

[SB23-188](#) *Protections for Accessing Reproductive Health Care*

- Protects people who receive, provide, help or provide gender-affirming and abortion care from lawsuits filed in other states
- State courts, law enforcement and regulators are banned from recognizing or participating in any related cases filed in other states.

[SB23-189](#) *Increasing Access to Reproductive Health Care*

- Large employer health plans must cover the full cost of abortions and counseling, prevention and screening for sexually transmitted infections
- Exceptions for government employees (state cannot pay for abortions); other employers can request religious exemption

[SB23-190](#) *Deceptive Trade Practice Pregnancy-related Service*

- Anti-abortion clinics cannot falsely advertise that they provide abortions or emergency contraceptives

¹ Paul, Jesse and Wenzler, Elliot. “101 bills debated in the Colorado legislature in 2023 that you should know about.” *Colorado Sun*, May 9, 2023. <https://coloradosun.com/2023/05/09/2023-colorado-legislature-bills/>

- Outlaws “abortion pill reversal treatment” pending medical review boards determination of “generally accepted standard of practice”

Expansions to Medicaid Benefits and Eligibility

[HB23-1300](#) *Continuous Eligibility Medical Coverage*

- By April, 2024 HCPF shall seek federal approval to extend continuous coverage² for children 0-3 (regardless of immigration status) and extend eligibility for 12 months following an adults’ release from carceral settings
- HCPF must study and report on whether or not to extend continuous eligibility to other groups

[SB23-002](#) *Medicaid Reimbursement for Community Health Services*

- HCPF shall seek federal permission to pay for community health worker services
- HCPF to hold stakeholder meetings to help define the benefit

[SB23-288](#) *Coverage for Doula Services*

- HCPF shall conduct stakeholder process to develop Medicaid benefit and ask for federal authorization for it by July 1, 2024
- Creates scholarships for those pursuing doula training and certification
- Division of Insurance to a study costs and benefits of requirement for private insurance

Not all health care bills became law. There were several designed to reduce access to abortion services which never made it out of committee. [HB23-1209](#) *Analyze Statewide Publicly Financed Health-care* would have required a renewed study of a universal health care system and its impacts on insurance, health care facilities and individuals from different socioeconomic and racial groups. The measure moved through the House but ran out of time and got stuck in the Senate.

What’s Next?

- HCPF is tasked with holding several [stakeholder meetings](#) to help design the doula services and community health care workers benefits.
- HB23-1215 regarding hospital facility fees was narrowed significantly during the session. The amended version requires a study to help understand the impact on the health care system, individuals and the total amounts collected. This report, due December 1, 2023, may guide future legislation.
- HB23-1243 was also scaled back from having required a minimum amount of community investment from tax-exempt hospitals; the amended version requires more transparent reporting which can help Coloradans better understand how these dollars are spent. HCPF has additional information and links to [hospitals’ community benefit](#) pages.

² Continuous coverage means an individual remains enrolled in Medicaid regardless of changes to household income. Currently applies to children for 12 months – this change means that all children 0-3 determined eligible at any point would remain enrolled until their 3rd birthday.

Behavioral Health (BH) Legislation 2023

“BH continued to be a focus of the General Assembly. Several bills addressing behavioral health services, mental health providers, step therapy requirements for mental health drugs, substance use, and disordered eating were considered during the legislative session.”³

The following are some of the bills signed by Governor Polis.

[HB23-1003](#) *School Mental Health Assessment*

- Public schools serving kids grades 6 – 12 can conduct mental health screening
- Schools must let parents opt-out but children over age 12 can choose to be screened even if parents opt-out

[HB23-1071](#) *Licensed Psychologist Prescriptive Authority*

- Psychologists can prescribe psychotropic medications after receiving specified training
- Must have collaborative relationships with patients’ health provider, carry malpractice insurance, and meet continuing education requirements

[HB23-1236](#) *Implementation Updates to Behavioral Health Administration (BHA)*

- Extends some BHA deadlines
- Adds BHA Commissioner to state health equity commission
- Requires behavioral health safety net providers include services to address language and cultural barriers to serve communities of color and underserved populations

[HB23-1269](#) *Extended Stay and Boarding Patients*

- Includes measures to better understand and provide for child and youth behavioral health needs. Measures include:
 - HCPF to assess payment mechanisms that could increase access to services
 - CDHS to develop a working group and incentive pool program to encourage residential providers to treat children and youth
 - BHA to develop way to measure BH system effectiveness for children and youth
 - Creation of case fund to provide resources to licensed providers serving children and youth with behavioral health needs

[HB23-1202](#), *Overdose Prevention Center Authorization* would have let cities operate overdose prevention centers, sometimes called safe-use or safe-injection sites. It was voted down 6-3 by the Senate Health and Human Services Committee after having cleared the House.

What’s Next?

- [BHA](#) work implementing the Behavioral Health Administrative Services Organizations, developing rules, and implementing its strategic plan will continue.
- The [Opioid and Other Substance Use Disorder Study Committee](#) will study data, compile resources, review potential solutions in place in other states and countries, and begin drafting legislation for the 2024 session.

³ Legislative Council Staff. “Behavioral Health: Summary of Legislation 2023.”
https://leg.colorado.gov/sites/default/files/behavioral_health_hot_topics_0.pdf

Criminal Justice Legislation 2023

The General Assembly passed “an array of measures concerning the criminal and juvenile justice system. Lawmakers specifically debated policies about courts, crimes, incarceration, sentencing, behavioral health, and law enforcement.”⁴ Below, we provide a summary of some of these new laws. Note that the bills addressing gun violence are described on the next page.

[HB23-1037](#) *Department of Corrections Earned Time for College Program Completion*

- Inmates sentenced for nonviolent felonies may receive shortened sentences for completing a higher education or certification.
- Details the credit time an inmate will receive, depending on degree

[HB23-1042](#) *Admissibility Standards for Juvenile Statements*

- Limits how law enforcement can use deceptive tactics with youth
- Any statements made during interrogations are inadmissible if law enforcement knowingly provided false information
- Mandates training of law enforcement

[HB23-1133](#) *Cost of Phone Calls for Persons in Custody*

- Incarcerated people will no longer be charged for telephone calls

[HB23-1167](#) *Reporting of Emergency Overdose Events*

- Grants immunity from criminal prosecution to those who help someone experiencing a drug or alcohol overdose
- Certain drug offenses for those who report to an emergency responder are reduced from level 3 or 4 drug felony to level 1 misdemeanor

[HB23-1187](#) *Alternatives in Criminal Justice System and Pregnant Persons*

- Encourages courts to offer alternative sentencing and bond amounts for defendants who are pregnant
- A defendant in a county jail or correctional facility may request a pregnancy test and it must be provided within 24 hours of request

[HB23-1249](#) *Reduce Justice-involvement for Young Children*

- 2nd attempt in 2 years to limit the arrest of young children
- Original draft would have banned arrest of children under age 13 for most crimes; final version still allows prosecution as young as age 10 but allows law enforcement to use community programs in lieu of the juvenile justice system

What's Next?

The General Assembly designates [interim committees](#) that will meet over the summer in public forums to address issues of concern and begin drafting legislation for the 2024 session. Three of these focus on criminal justice concerns: 1) Colorado Jail Standards; 2) Recidivism; and 3) Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.

⁴ Legislative Council Staff. 2023. “Criminal and Juvenile Justice System: Summary of Legislation.” https://leg.colorado.gov/sites/default/files/hot_topic_crime_courts1docx_0.pdf

Gun Violence Legislation 2023

It was arguably the most consequential session for gun policy in state history.⁵

Five gun laws passed this year, more than in any other single year in state history. The bills passed largely on party lines in both the Senate and the House, though some Democrats did vote in opposition with Republicans. The debates were long and contentious with hundreds of Coloradans in attendance and hearings that went on for hours.

HB23-1219 *Waiting Period to Deliver a Firearm*

- Establishes a waiting period of 3 days after initiation of background check or following background check
- Includes fines for violations

SB23-168 *Gun Violence Victims' Access to Judicial System*

- Repeals current limits on claims against gun manufacturers

SB23-169 *Increasing Minimum Age to Purchase Firearms*

- Increases the minimum age to purchase firearms from 18 to 21

SB23-170 *Extreme Risk Protection*

- Expands the list of people who can petition for an extreme risk protection order (adds medical providers, mental health providers, educators and district attorneys)
- The Office of Gun Violence Prevention at the Department of Public Health and Environment received funds for a public education campaign

SB23-279 *Unserialized Firearms and Firearm Components*

- Regulates firearms and firearm frames and receivers that do not have serial numbers
- Prohibits manufacture of firearms, frames, and receivers by unlicensed persons

HB23-1230 *Prohibit Assault Weapons in Colorado* would have prohibited someone from manufacturing, importing, purchasing, selling, offering to sell, or transferring ownership of an assault weapon. After 15 hours of debate, it was stopped in committee with a vote of 8-5 (3 Democrats voted with the 5 Republicans against the legislation).

What's Next?

- Gun rights advocates have filed lawsuits to stop the waiting period and the increase in minimum age for gun purchases.
- Legislators and stakeholders may consider whether to push for an assault weapons ban during the next session, though the make-up of the members will not change until 2025 and the outcome may not differ from this year's.

⁵ Birkland, Bente and Kenney, Andrew. "Guns, housing, abortion and more: What the legislature did (and didn't) do this year." Colorado Public Radio. May 8, 2023. <https://www.cpr.org/2023/05/08/guns-housing-abortion-justice-2023-colorado-legislature/>

Housing Legislation 2023

Housing continues to be an area of focus – some 25 bills were categorized by the General Assembly as “Housing.” This focus is not surprising as many candidates had campaigned on the issue and Governor Polis also highlighted affordable housing in his State of the State address at the beginning of this legislative session.⁶ The following are summaries of some of the bills that passed.

[HB23-1068](#) *Pet Ownership in Housing*

- Insurers cannot deny a homeowner’s or fire policy based on breed or mix of dog (can deny for “dangerous dog”)
- Limits the amount of additional security deposit to \$300 and limits the additional rent a landlord can charge for a pet to \$35 per month or 1% of total rent (whichever is greater)

[HB23-1120](#) *Eviction Protections for Residential Tenants*

- Landlords cannot evict without mediation any tenant receiving Social Security income, assistance from Colorado Works, or enrolled in Temporary Assistance for Needy Families
- Rental agreements must include a statement that the tenant who receives cash assistance has a right to mediation and that the law prohibits source of income discrimination

[HB23-1255](#) *Regulating Local Housing Growth Restrictions*

- Preempts existing housing growth restrictions and forbids new ones
- Has exemptions for disaster emergency, has land use plans for residential and mixed-use development

[SB23-184](#) *Protections for Residential Tenants*

- Landlords can reject a tenant based on income if it’s less than 200% of annual rent; had been a requirement that income must be 300%
- Landlords cannot charge a security deposit that exceeds two months rent

[SB23-213](#) *Land Use* was a key component of Governor Polis’ housing policy. The bill would have required more dense residential housing around bus and train stops. Cities and counties fought back against the law which would have removed the authority to develop zoning laws from local jurisdictions. The bill had multiple iterations but ultimately couldn’t get out of the Senate.

What’s Next?

In 2023, Pulse, the Colorado Health Foundation poll found that cost of living and housing affordability are the top issues facing Colorado.⁷ Thus, it is likely that housing legislation will continue to be a focus though the proposed policies are not known yet. Colorado Public Radio does opine that “the land-use bill will return to the capitol next year – although some of the biggest ideas from this year’s bill could be split into different measures.”⁸

⁶ Neumann, Kendra; Morgan, Allie and Hanel, Joe. “2023 Legislation in Review.” Colorado Health Institute. June 26, 2023.

<https://www.coloradohealthinstitute.org/research/2023-legislation-review>

⁷ “The Colorado Health Foundation Poll: 2023 Findings” <https://www.copulsepoll.org/results>

⁸ Kenney, Andrew. “Why Jared Polis’ land-use bill imploded on the final day of Colorado’s legislative session.” Colorado Public Radio. May 24, 2023. <https://www.cpr.org/2023/05/24/colorado-land-use-bill-post-mortem/>