

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-1101.01 Richard Sweetman x4333

SENATE BILL 17-289

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Lawrence,

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING ALLOWING THE DEPARTMENT OF HUMAN SERVICES TO**
102 **TRANSFER CUSTODY OF CERTAIN ADULT OFFENDERS FROM THE**
103 **DIVISION OF YOUTH CORRECTIONS UPON A COURT ORDER.**

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://leg.colorado.gov>.)

The bill states that upon a court order, the department of human services (DHS) may transfer to the department of corrections (DOC) an individual who is at least 18 years of age and committed to the custody of the division of youth corrections within the DHS if:

! The individual is convicted of possession of contraband in

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the first degree when the contraband at issue is a deadly weapon; any crime of violence; or any offense for the possession or distribution of a controlled substance; and
! The DHS has certified that the individual is no longer benefitting from its programs or is unfit or unsafe for continued placement in a juvenile facility.

Upon entering an order for such a transfer, the court shall issue a mittimus transferring all further jurisdiction over the individual to the DOC. Thereafter, the individual shall serve the unserved portion of his or her juvenile sentence as if he or she had been sentenced as an adult offender for such unserved portion.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2-921, **add** (12)
3 as follows:

4 **19-2-921. Commitment to department of human services.**

5 (12) (a) UPON A COURT ORDER, THE DEPARTMENT OF HUMAN SERVICES
6 MAY TRANSFER TO THE DEPARTMENT OF CORRECTIONS AN INDIVIDUAL
7 WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO IS COMMITTED TO
8 THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES IF:

9 (I) THE INDIVIDUAL IS CONVICTED OF COMMITTING ANY OF THE
10 FOLLOWING OFFENSES IN A DIVISION OF YOUTH CORRECTIONS FACILITY:

11 (A) POSSESSION OF CONTRABAND IN THE FIRST DEGREE, AS
12 DESCRIBED IN SECTION 18-8-204.1, WHEN THE CONTRABAND AT ISSUE IS
13 A DEADLY WEAPON, AS DEFINED IN SECTION 18-1-901 (3)(e);

14 (B) ANY CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406
15 (2);

16 (C) ASSAULT, AS DESCRIBED IN SECTION 18-3-202, 18-3-203, OR
17 18-3-204; OR

18 (D) ANY OFFENSE DESCRIBED IN ARTICLE 18 OF TITLE 18 FOR THE
19 POSSESSION OR DISTRIBUTION OF A CONTROLLED SUBSTANCE; AND

1 (II) THE DEPARTMENT OF HUMAN SERVICES HAS CERTIFIED THAT
2 THE INDIVIDUAL:

3 (A) IS NO LONGER BENEFITTING FROM ITS PROGRAMS; OR

4 (B) IS UNFIT OR UNSAFE FOR CONTINUED PLACEMENT IN A
5 JUVENILE FACILITY.

6 (b) THE DEPARTMENT OF HUMAN SERVICES SHALL INITIATE A
7 TRANSFER DESCRIBED IN SUBSECTION (12)(a) OF THIS SECTION BY FILING
8 A REQUEST WITH THE COURT OF COMMITMENT, WHICH REQUEST MUST
9 STATE THE BASIS FOR THE REQUEST. UPON RECEIPT OF SUCH A REQUEST,
10 THE COURT SHALL NOTIFY THE INTERESTED PARTIES AND SET THE MATTER
11 FOR A HEARING.

12 (c) THE COURT SHALL ORDER A TRANSFER DESCRIBED IN
13 SUBSECTION (12)(a) OF THIS SECTION UPON A FINDING BY A
14 PREPONDERANCE OF THE EVIDENCE THAT THE INDIVIDUAL:

15 (I) IS NO LONGER BENEFITTING FROM THE PROGRAMS OF THE
16 DEPARTMENT OF HUMAN SERVICES; OR

17 (II) IS UNFIT OR UNSAFE FOR CONTINUED PLACEMENT IN A
18 JUVENILE FACILITY.

19 (d) IF THE COURT ORDERS AN INDIVIDUAL BACK TO THE CUSTODY
20 OF THE DEPARTMENT OF HUMAN SERVICES, THE COURT SHALL MAKE A
21 FINAL DETERMINATION THAT THE INDIVIDUAL:

22 (I) IS SAFE AND APPROPRIATE TO RETURN TO A JUVENILE FACILITY;
23 AND

24 (II) DOES NOT POSE A SAFETY CONCERN TO OTHER YOUTH OR
25 STAFF UPON RETURNING TO SUCH CUSTODY.

26 (e) UPON ENTERING AN ORDER FOR A TRANSFER DESCRIBED IN
27 SUBSECTION (12)(a) OF THIS SECTION, THE COURT SHALL ISSUE A MITTIMUS

1 TRANSFERRING ALL FURTHER JURISDICTION OVER THE INDIVIDUAL TO THE
2 DEPARTMENT OF CORRECTIONS AND SHALL INDICATE ON SUCH MITTIMUS
3 WHETHER THE REMAINING JUVENILE SENTENCE SHALL BE SERVED
4 CONSECUTIVELY OR CONCURRENTLY. THEREAFTER, THE INDIVIDUAL'S
5 JUVENILE SENTENCE WILL BE GOVERNED BY THE PROVISIONS OF TITLES 16
6 AND 17 AS IF HE OR SHE HAD BEEN SENTENCED AS AN ADULT OFFENDER
7 FOR THE UNSERVED PORTION OF HIS OR HER JUVENILE SENTENCE.

8 (f) THE DEPARTMENT OF CORRECTIONS IS AN INTERESTED PARTY
9 AT ANY HEARING HELD PURSUANT TO THIS SUBSECTION (12), AND THE
10 COURT, PURSUANT TO SUBSECTION (12)(b) OF THIS SECTION, SHALL SEND
11 NOTICE OF ANY SUCH HEARING TO THE DEPARTMENT OF CORRECTIONS.

12 **SECTION 2. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.