A BILL FOR AN ACT

CONCERNING TREATMENT OF INDIVIDUALS WITH SUBSTANCE USE
DISORDERS WHO COME INTO CONTACT WITH THE CRIMINAL
JUSTICE SYSTEM, AND, IN CONNECTION THERewith, MAKING AN
APPROPRIATION.

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/.)

Opioid and Other Substance Use Disorders Study Committee. The bill requires the department of corrections, local jails, multijurisdictional jails, municipal jails, and state department of human
services facilities to make available at least one opioid agonist and one opioid antagonist to a person in custody with an opioid use disorder throughout the duration of the person's incarceration or commitment.

The bill allows a person to dispose of any controlled substances at a safe station and request assistance in gaining access to treatment for a substance use disorder. The bill defines a "safe station" as any municipal police station; county sheriff's office; or municipal, county, or fire protection district fire station.

The bill requires the department of corrections and jails to ensure that continuity of care is provided to inmates prior to release.

The bill requires the executive director of the department of corrections, in consultation with the offices of behavioral health and economic security in the department of human services, the department of health care policy and financing, the department of local affairs, and local service providers to develop resources for inmates post-release that provide information to help prepare inmates for release and reintegration into their communities.

If a person who is the subject of a petition to seal criminal records has entered into or successfully completed a licensed substance use disorder treatment program, the court is required to consider such factor favorably in determining whether to issue the order.

The bill allows the office of behavioral health in the department of human services to contract with cities and counties for the creation, maintenance, or expansion of criminal justice diversion programs. The bill requires the department of human services to include an update regarding the current status of funding and implementation of the criminal justice diversion programs in its annual SMART presentation.

The bill appropriates money to the office of behavioral health in the department of human services for criminal justice diversion programs.

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

SECTION 1. In Colorado Revised Statutes, add 17-1-113.4 as follows:

17-1-113.4. Opioid treatment for a person in custody - definitions. (1) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON SHALL MAKE AVAILABLE AT LEAST ONE OPIOID AGONIST TO A PERSON IN CUSTODY WITH AN OPIOID USE DISORDER. THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON SHALL DIAGNOSE AND BEGIN
PROCURING THE OPIOID AGONIST AS SOON AS PRACTICABLE, BUT NO LATER THAN THREE DAYS AFTER THE PERSON IS TAKEN INTO CUSTODY. THE CORRECTIONAL FACILITY OR PRIVATE CONTRACT PRISON SHALL MAINTAIN THE TREATMENT OF THE PERSON THROUGHOUT THE DURATION OF THE PERSON'S INCARCERATION, AS MEDICALLY NECESSARY. THE PERSON MAY TRANSITION FROM AN OPIOID AGONIST TO AN OPIOID ANTAGONIST IF A MEDICAL PROFESSIONAL DETERMINES SUCH A TRANSITION IS MEDICALLY APPROPRIATE.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

(b) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OF AN OPIOID USE DISORDER.

SECTION 2. In Colorado Revised Statutes, add 17-26-104.9 as follows:

17-26-104.9. Opioid treatment for a person in custody - definitions. (1) A FACILITY, WHETHER OPERATED BY A GOVERNMENTAL ENTITY OR A PRIVATE CONTRACTOR, SHALL MAKE AVAILABLE AT LEAST ONE OPIOID AGONIST TO A PERSON IN CUSTODY WITH AN OPIOID USE DISORDER. THE FACILITY SHALL DIAGNOSE AND BEGIN PROCURING THE OPIOID AGONIST AS SOON AS PRACTICABLE, BUT NO LATER THAN THREE DAYS AFTER THE PERSON IS TAKEN INTO CUSTODY. THE FACILITY SHALL MAINTAIN THE TREATMENT OF THE PERSON THROUGHOUT THE DURATION
of the person's incarceration, as medically necessary. The person may transition from an opioid agonist to an opioid antagonist if a medical professional determines such a transition is medically appropriate.

(2) As used in this section, unless the context otherwise requires:

(a) "Facility" means:
   (I) A local jail, as defined in section 17-1-102 (7);
   (II) A multijurisdictional jail, as described in section 17-26.5-101; and
   (III) A municipal jail, as authorized in section 31-15-401.

(b) "Opioid agonist" means a full or partial agonist that is approved by the Federal Food and Drug Administration for the treatment of an opioid use disorder.

(c) "Opioid antagonist" means naltrexone or any similarly acting drug that is not a controlled substance and that is approved by the Federal Food and Drug Administration for the treatment of an opioid use disorder.

SECTION 3. In Colorado Revised Statutes, add 26-1-136.7 as follows:

26-1-136.7. Opioid treatment for a person in custody - definitions. (1) A state department facility shall make available at least one opioid agonist to a person committed to or placed with the facility with an opioid use disorder. The facility shall diagnose and begin procuring the opioid agonist as soon as practicable, but no later than three days after the person is
COMMITTED TO OR PLACED WITH THE FACILITY. THE FACILITY SHALL 
MAINTAIN THE TREATMENT OF THE PERSON THROUGHOUT THE DURATION 
of the person's commitment or placement, as medically 
NECESSARY. THE PERSON MAY TRANSITION FROM AN OPIOID AGONIST TO 
an opioid antagonist if a medical professional determines such 
a transition is medically appropriate.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE 
REQUIRES:

(a) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT 
is approved by the federal food and drug administration for the 
treatment of an opioid use disorder.

(b) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY 
ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS 
APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE 
treatment of an opioid use disorder.

SECTION 4. In Colorado Revised Statutes, add 31-15-405 as 
follows:

31-15-405. Opioid treatment for a person in custody. A 
municipality that chooses to establish and operate a jail, as 
authorized in section 31-15-401 (1)(j), shall comply with the 
provisions of section 17-26-104.9 concerning opioid treatment for 
a person in custody.

SECTION 5. In Colorado Revised Statutes, add 18-18-607 as 
follows:

18-18-607. Safe stations - disposal of controlled substances - 
medical evaluation - definition. (1) (a) UPON ARRIVAL TO A SAFE 
STATION, A PERSON MAY TURN IN ANY CONTROLLED SUBSTANCES AND
REQUEST ASSISTANCE IN GAINING ACCESS TO TREATMENT FOR A
SUBSTANCE USE DISORDER. SAFE STATION PERSONNEL SHALL UTILIZE
CURRENT PROCEDURES AND PROTOCOLS FOR THE DISPOSAL OF THE
CONTROLLED SUBSTANCES.

(b) A PERSON WHO TURNS IN ONE OR MORE CONTROLLED
SUBSTANCES PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION IS NOT
SUBJECT TO ARREST OR PROSECUTION FOR POSSESSION OF SUCH
CONTROLLED SUBSTANCES.

(2) REASONABLE EFFORTS SHOULD BE TAKEN BY SAFE STATION
PERSONNEL TO DETERMINE IF THE PERSON IS IN NEED OF IMMEDIATE
MEDICAL ATTENTION AND FACILITATE TRANSPORTATION TO AN
APPROPRIATE MEDICAL FACILITY, IF NECESSARY. IF THE PERSON DOES NOT
REQUIRE IMMEDIATE MEDICAL ATTENTION, THE SAFE STATION PERSONNEL
SHALL PROVIDE THE PERSON WITH INFORMATION ABOUT THE BEHAVIORAL
HEALTH CRISIS RESPONSE SYSTEM, CREATED IN SECTION 27-60-103, TO
HELP IDENTIFY AVAILABLE TREATMENT OPTIONS AND, IF PRACTICABLE,
PROVIDE TRANSPORTATION FOR THE PERSON TO THE MOST APPROPRIATE
FACILITY FOR TREATMENT OF A SUBSTANCE USE DISORDER. THE
INFORMATION ABOUT THE CRISIS HOTLINE MUST BE DEVELOPED BY THE
OFFICE OF BEHAVIORAL HEALTH IN THE STATE DEPARTMENT AND BE
PROVIDED TO SAFE STATIONS FOR DISTRIBUTION.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
REQUIRES, A "SAFE STATION" MEANS ANY MUNICIPAL POLICE STATION;
COUNTY SHERIFF'S OFFICE; OR MUNICIPAL, COUNTY, OR FIRE PROTECTION
DISTRICT FIRE STATION.

SECTION 6. In Colorado Revised Statutes, add 17-26-140 as
follows:
17-26-140. Continuity of care for persons in custody. (1) If a person is receiving medication-assisted treatment for a substance use disorder while the person is incarcerated, continuity of care must be provided to the person based on the following levels of treatment:

(a) **Level one stabilization.** Level one stabilization refers to a person who is in custody for less than thirty days, is receiving medication-assisted treatment, and is being monitored by medical personnel and assessed for additional medical or mental health needs while in custody. Persons identified as level one shall receive information containing treatment options available in the community upon release.

(b) **Level two treatment.** Level two treatment refers to a person who is in custody for more than thirty days, is stabilized on medication-assisted treatment, is receiving medical and mental health follow up treatment as needed, and is receiving counseling and support. Persons identified as level two will be followed by a case manager to identify treatment needs while in custody. Once a release date is established, the person shall receive reentry services. If the person is bonded or released during level two treatment, jail personnel will attempt to identify and reinstate the person's Medicaid, identify treatment services, and schedule appointments as time permits. At a minimum, persons identified as level two shall receive information containing treatment options available in the community upon release.

(c) **Level three reentry services.** Level three reentry
SERVICES REFERS TO A PERSON WHO IS WITHIN SIXTY DAYS OF RELEASE AND WHO HAS COMPLETED LEVEL ONE STABILIZATION, LEVEL TWO TREATMENT, HAS BEEN MAINTAINED ON MEDICATION-ASSISTED TREATMENT, AND RECEIVED COUNSELING AND TREATMENT FOR A SUBSTANCE USE DISORDER WHILE IN CUSTODY. THE COUNTY JAIL SHALL CONDUCT THE FOLLOWING BEFORE RELEASING THE PERSON FROM THE COUNTY JAIL’S CUSTODY:

(I) ENSURE THAT THE PERSON'S MEDICAID IS REINSTATED, IF APPLICABLE;

(II) ENSURE THAT TREATMENT SERVICES ARE READILY AVAILABLE;

(III) SCHEDULE APPOINTMENTS WITH THE PERSON'S BEHAVIORAL HEALTH CARE PROVIDER OR LICENSED HEALTH CARE PROVIDER;

(IV) PROVIDE POST-RELEASE RESOURCES DEVELOPED PURSUANT TO SECTION 17-1-103 (1)(r); AND

(V) ADDRESS TRANSPORTATION NEEDS.

SECTION 7. In Colorado Revised Statutes, add 17-1-113.2 as follows:

17-1-113.2. Continuity of care for persons released from correctional facility. BEFORE A PERSON IS RELEASED FROM THE CUSTODY OF A CORRECTIONAL FACILITY, THE CORRECTIONAL FACILITY SHALL COMPLY WITH THE PROVISIONS OF SECTION 17-26-140 CONCERNING CONTINUITY OF CARE FOR PERSONS WITH A SUBSTANCE USE DISORDER.

SECTION 8. In Colorado Revised Statutes, 17-1-103, amend (1) introductory portion; and add (1)(r) as follows:

17-1-103. Duties of the executive director. (1) The duties of the executive director shall be:

(r) IN CONSULTATION WITH THE OFFICES OF BEHAVIORAL HEALTH
AND ECONOMIC SECURITY IN THE DEPARTMENT OF HUMAN SERVICES, THE
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT
OF LOCAL AFFAIRS, AND LOCAL SERVICE PROVIDERS, TO DEVELOP
RESOURCES FOR INMATES POST-RELEASE THAT PROVIDE INFORMATION TO
HELP PREPARE INMATES FOR RELEASE AND SUCCESSFUL REINTEGRATION
INTO THEIR COMMUNITIES. THE RESOURCES MUST REFLECT THE NEEDS OF
DIVERSE AND UNDERSERVED POPULATIONS AND COMMUNITIES.

SECTION 9. In Colorado Revised Statutes, 24-72-703, add
(10.5) as follows:

24-72-703. Sealing of arrest and criminal records - general
provisions - order applicability - discovery and advisements. (10.5) If
the person in interest has entered into or successfully
completed a substance use disorder treatment program licensed
pursuant to section 27-80-205 in the case that is the subject of
the petition to seal, the court shall consider such factor
favorably in determining whether to issue an order to seal
records pursuant to this section.

SECTION 10. In Colorado Revised Statutes, add 27-60-106.5 as
follows:

27-60-106.5. Criminal justice diversion programs - rules -
report. (1) The office of behavioral health in the state
department may contract with cities and counties for the
creation, maintenance, or expansion of criminal justice diversion
programs. The goal of each program created pursuant to this
section should be to connect law enforcement officers with
behavioral health providers to assist individuals in need of
behavioral health intervention or to divert individuals from
THE CRIMINAL JUSTICE SYSTEM.

(2) ON OR BEFORE NOVEMBER 1, 2021, AND ON OR BEFORE EACH
NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL INCLUDE AN
UPDATE REGARDING THE CURRENT STATUS OF FUNDING AND THE CRIMINAL
JUSTICE DIVERSION PROGRAMS IMPLEMENTED PURSUANT TO THIS SECTION
IN ITS REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE
HOUSE OF REPRESENTATIVES, THE HEALTH AND HUMAN SERVICES
COMMITTEE OF THE SENATE, THE PUBLIC HEALTH CARE AND HUMAN
SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY
SUCCESSOR COMMITTEES, AS PART OF ITS "STATE MEASUREMENT FOR
ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203.

(3) THE STATE BOARD OF HUMAN SERVICES, CREATED IN SECTION
26-1-107, MAY PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF
THIS SECTION.

SECTION 11. Appropriation. For the 2020-21 state fiscal year,
$1,150,000 is appropriated to the department of human services for use
by the office of behavioral health. This appropriation is from the general
fund. The office may use this appropriation for criminal justice diversion
programs established pursuant to section 27-60-106.5, C.R.S.

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