

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0001.03 Michael Dohr x4347

SENATE BILL 21-056

SENATE SPONSORSHIP

Holbert and Gonzales, Bridges, Buckner, Coram, Ginal, Hansen, Jaquez Lewis, Kirkmeyer, Kolker, Moreno, Rodriguez, Simpson, Story, Winter

HOUSE SPONSORSHIP

Van Winkle and Gray,

Senate Committees

Education
Appropriations

House Committees

Education
Appropriations

A BILL FOR AN ACT

101 **CONCERNING EXPANSION OF THE OPPORTUNITIES TO ADMINISTER**
102 **MEDICAL MARIJUANA AT SCHOOL TO A STUDENT WITH A VALID**
103 **MEDICAL MARIJUANA RECOMMENDATION, AND, IN CONNECTION**
104 **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>.)

Under current law, school districts must permit primary caregivers to possess and administer cannabis-based medicine on school grounds and school principals are given the discretion to permit the storage,

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

HOUSE
2nd Reading Unamended
April 16, 2021

SENATE
3rd Reading Unamended
March 17, 2021

SENATE
Amended 2nd Reading
March 16, 2021

possession, and administration of cannabis-based medicine on school grounds by school personnel. The bill removes the discretion from the school principals and requires school boards to implement policies allowing for the storage, possession, and administration of cannabis-based medicine by school personnel. The bill allows school personnel to volunteer to possess, administer, or assist in administration of cannabis-based medicine and protects those who do from retaliation. The bill imposes a duty on school principals to create a written treatment plan for the administration of cannabis-based medicine and on school boards to adopt policies regarding actual administration.

The bill provides disciplinary protection to nurses who administer cannabis-based medicine to students at school. The bill requires schools to treat cannabis-based medicine recommendations like prescriptions.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) It is the policy of this state:

5 (I) To provide safe and fair public education to all its children;

6 (II) That students with disabilities have equal access to state
7 education; and

8 (III) That students not be required to choose between state
9 education and vital medication;

10 (b) Current law, enacted in 2018 in House Bill 18-1286, grants
11 school principals the authority to approve or disapprove of a plan
12 allowing for the administration of medical marijuana in a nonsmokeable
13 form to a student by school personnel;

14 (c) Since the passage of this law, local school boards and the state
15 board of education have refused to implement the law and have, in some
16 cases, promulgated rules and policies contrary to current law; and

17 (d) In order to clarify and strengthen current law and effect its
18 original purpose, it is necessary and appropriate to:

1 (I) Provide for the administration of medical marijuana at school
2 to any student with a valid recommendation for medical marijuana who
3 is registered with the department of public health and environment;

4 (II) Remove the school principal's discretion whether to
5 implement a plan allowing for the administration of medical marijuana in
6 a nonsmokeable form to a student by designated school personnel;

7 (III) Require local school boards of education to adopt policies
8 establishing procedures for the safe storage, possession, and
9 administration of medical marijuana in a nonsmokeable form to students
10 by school personnel; and

11 (IV) Protect school personnel, including school nurses, or
12 volunteers from professional discipline or retaliation as a result of their
13 choice to administer medical marijuana in a nonsmokeable form to
14 students on school grounds pursuant to Colorado law.

15 **SECTION 2.** In Colorado Revised Statutes, 22-1-119.3, **amend**
16 (1), (3)(a), (3)(d)(I), (3)(d)(IV) introductory portion, (3)(d)(IV)(A),
17 (3)(d)(IV)(B), (3)(d.5)(I), (3)(d.5)(III)(B), (3)(d.5)(IV), (3)(d.5)(V)(A),
18 (3)(d.5)(V)(B), (3)(d.5)(VII), and (3)(d.5)(IX); and **add** (3)(d.5)(III)(D),
19 (6), (7), (8), (9), and (10) as follows:

20 **22-1-119.3. Policy for student possession and administration**
21 **of prescription medication - rules - definitions.** (1) A school district
22 board of education ~~may~~ SHALL adopt and implement a policy whereby,
23 except as described in subsection (3) of this section, a student enrolled in
24 a school of the school district may possess and self-administer on school
25 grounds, upon a school bus, or at any school-sponsored event any
26 medication that is prescribed by a licensed health care practitioner to be
27 used by the student AND SHALL ADOPT AND IMPLEMENT A POLICY

1 CONSISTENT WITH SUBSECTIONS (3)(c), (3)(d), AND (3)(d.5) OF THIS
2 SECTION.

3 (3) (a) A policy adopted by a school district board of education
4 pursuant to subsection (1) of this section ~~shall~~ MUST include but need not
5 be limited to:

6 (I) A process by which a school may restrict a student from
7 possessing and self-administering on school grounds, on a school bus, or
8 at a school-sponsored event a medication that is prescribed by a licensed
9 health care practitioner to be used by the student. The process ~~shall~~ MUST
10 require the school administration to make a determination as to whether
11 a student's possession or self-administration of the medication poses a
12 significant risk of harm to the student or to other students.

13 (II) A requirement that if a student has medication prescribed for
14 a life-threatening condition, a sufficient supply of the medication is
15 provided to the school by the student's parent or legal guardian, stored
16 safely at the school, and kept readily available to be administered to the
17 student in a timely fashion in the event of a health emergency; AND

18 (III) PROCESSES FOR THE STORAGE, POSSESSION, AND
19 ADMINISTRATION OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM TO
20 A STUDENT WHO HOLDS A VALID RECOMMENDATION FOR MEDICAL
21 MARIJUANA UPON THE GROUNDS OF THE PRESCHOOL OR PRIMARY OR
22 SECONDARY SCHOOL IN WHICH THE STUDENT IS ENROLLED. FOR PURPOSES
23 OF THIS SECTION, A PUBLIC SCHOOL SHALL TREAT A RECOMMENDATION
24 FOR A NONSMOKEABLE FORM OF MEDICAL MARIJUANA FROM A LICENSED
25 PHYSICIAN AS MEDICATION THAT IS PRESCRIBED BY A LICENSED HEALTH
26 CARE PRACTITIONER.

27 (d) (I) ~~(A)~~ A primary caregiver may possess, and administer to a

1 student who holds a valid recommendation for medical marijuana,
2 medical marijuana in a nonsmokeable form upon the grounds of the
3 preschool or primary or secondary school in which the student is enrolled,
4 or upon a school bus or at a school-sponsored event. SCHOOL PERSONNEL
5 MAY VOLUNTEER TO POSSESS, ADMINISTER, OR ASSIST IN THE
6 ADMINISTRATION OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM TO
7 ANY STUDENT WITH A VALID RECOMMENDATION FOR MEDICAL
8 MARIJUANA. The primary caregiver OR VOLUNTEER shall not administer
9 the nonsmokeable medical marijuana in a manner that creates disruption
10 to the educational environment or causes exposure to other students.

11 ~~(B) After the primary caregiver administers the medical marijuana~~
12 ~~in a nonsmokeable form, the primary caregiver shall remove any~~
13 ~~remaining medical marijuana in a nonsmokeable form from the grounds~~
14 ~~of the preschool or primary or secondary school, the school bus, or~~
15 ~~school-sponsored event.~~

16 (IV) This ~~paragraph (d)~~ SUBSECTION (3)(d) does not apply to a
17 school district or charter school if:

18 (A) The school district or charter school loses OR WILL LOSE
19 federal funding as a result of implementing this ~~paragraph (d)~~
20 SUBSECTION (3)(d);

21 (B) The school district or charter school can reasonably
22 demonstrate that it A REASONABLE, DOCUMENTED EXPECTATION OF lost
23 federal funding BASED ON FEDERAL GUIDANCE OR GRANT REQUIREMENTS
24 is DIRECTLY as a result of implementing this ~~paragraph (d)~~ SUBSECTION
25 (3)(d); and

26 (d.5) (I) Medical marijuana in a nonsmokeable form shall ~~not~~ be
27 administered at a school pursuant to this subsection (3)(d.5) ~~unless~~

1 ACCORDING TO a written plan for the administration of medical marijuana
2 in a nonsmokeable form THAT is agreed to and signed by the school
3 principal or his or her designee and a parent or legal guardian THAT IS
4 CONSISTENT WITH THE SCHOOL BOARD'S ADOPTED POLICY REQUIRED BY
5 SUBSECTION (3)(a)(III) OF THIS SECTION AND THE INSTRUCTIONS OR PLAN
6 FOR ADMINISTRATION FROM ONE OF THE STUDENT'S RECOMMENDING
7 PHYSICIANS, INCLUDING DOSING, TIMING, AND DELIVERY ROUTE
8 INSTRUCTION.

9 (III) (B) Nothing in this subsection (3)(d.5) requires any school
10 personnel to administer medical marijuana. ~~Administration of medical~~
11 ~~marijuana in a nonsmokeable form is at the discretion of the parent or~~
12 ~~legal guardian, the school principal or his or her designee, or the~~
13 ~~designated school personnel.~~

14 (D) A SCHOOL DISTRICT BOARD OF EDUCATION OR A SCHOOL
15 ADMINISTRATION SHALL NOT DISCIPLINE OR RETALIATE AGAINST ANY
16 SCHOOL PERSONNEL WHO VOLUNTEERS TO POSSESS, ADMINISTER, OR
17 ASSIST IN THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
18 NONSMOKEABLE FORM PURSUANT TO THE INSTRUCTIONS OR PLAN FOR
19 ADMINISTRATION FROM ONE OF THE STUDENT'S RECOMMENDING
20 PHYSICIANS, INCLUDING DOSING, TIMING, AND DELIVERY ROUTE
21 INSTRUCTION.

22 (IV) A school may adopt policies regarding ~~who may act as school~~
23 ~~personnel pursuant to this subsection (3)(d.5) and~~ the reasonable
24 parameters of the administration and use of medical marijuana in a
25 nonsmokeable form upon the grounds of the preschool or primary or
26 secondary school in which the student is enrolled, or upon a school bus
27 or at a school-sponsored event.

1 (V) This subsection (3)(d.5) does not apply to a school if:

2 (A) The school loses OR WILL LOSE federal funding as a result of
3 implementing this subsection (3)(d.5);

4 (B) The school can reasonably demonstrate that it A REASONABLE,
5 DOCUMENTED EXPECTATION OF lost federal funding BASED ON FEDERAL
6 GUIDANCE OR GRANT REQUIREMENTS is DIRECTLY as a result of
7 implementing this subsection (3)(d.5); and

8 (VII) The student's parent, guardian, or designee shall deliver the
9 student's medical marijuana in a nonsmokeable form, in a container that
10 contains clearly labeled instructions or the plan for administration must
11 clearly specify instructions for the dosing, timing, and delivery route
12 instructions from one of the student's recommending physicians, to the
13 ~~person~~ VOLUNTEER OR SCHOOL PERSONNEL designated by the school as
14 the person who secures the medical marijuana before the student attends
15 school for the school day. THE VOLUNTEER OR SCHOOL PERSONNEL SHALL
16 ADMINISTER THE MEDICAL MARIJUANA PURSUANT TO THE INSTRUCTIONS
17 OR PLAN FOR ADMINISTRATION FROM ONE OF THE STUDENT'S
18 RECOMMENDING PHYSICIANS, INCLUDING DOSING, TIMING, AND DELIVERY
19 ROUTE INSTRUCTION. The ~~person~~ VOLUNTEER OR SCHOOL PERSONNEL who
20 secures the medical marijuana in a nonsmokeable form shall place the
21 medical marijuana in a locked storage container ~~After the school~~
22 ~~personnel administers the medical marijuana in a nonsmokeable form, the~~
23 ~~school personnel shall place the medical marijuana in a locked medical~~
24 ~~marijuana storage container designated by the school~~ THAT DOES NOT
25 SIGNIFICANTLY DELAY ACCESS TO OR THE ADMINISTRATION OF THE
26 MEDICAL MARIJUANA IN A NONSMOKEABLE FORM IN A MEDICAL
27 EMERGENCY. The person who secures the medical marijuana in a

1 nonsmokeable form ~~shall~~ MAY return any unused medical marijuana to
2 the student's parent, guardian, or designee at the end of each school day,
3 ~~The student shall not handle the medical marijuana in a nonsmokeable~~
4 ~~form on the grounds of the school, school bus, or school-sponsored event.~~
5 OR, IF ALLOWED BY THE TREATMENT PLAN, THE MEDICAL MARIJUANA IN
6 A NONSMOKEABLE FORM MAY BE KEPT ON SCHOOL GROUNDS OVERNIGHT
7 IN A LOCKED STORAGE CONTAINER.

8 (IX) For purposes of this subsection (3)(d.5), "school personnel"
9 means school personnel designated by agreement between the principal
10 or his or her designee and a parent or legal guardian, INCLUDING ANY
11 SCHOOL PERSONNEL ACTING AS A VOLUNTEER PURSUANT TO SUBSECTION
12 (3)(d)(I) OF THIS SECTION.

13 (6) FOR PURPOSES OF THIS SECTION, "MEDICATION" AND "MEDICAL
14 MARIJUANA" DO NOT INCLUDE A PHYSICAL, BEHAVIORAL, PSYCHOLOGICAL,
15 VERBAL, OR ANY OTHER NONTANGIBLE THERAPY COURSE OF TREATMENT.

16 (7) NOTHING IN THIS SECTION REQUIRES SCHOOL PERSONNEL TO
17 VOLUNTEER TO POSSESS, ADMINISTER, OR ASSIST IN THE ADMINISTRATION
18 OF MEDICAL MARIJUANA IN A NONSMOKEABLE FORM TO ANY STUDENT
19 WITH A VALID RECOMMENDATION FOR MEDICAL MARIJUANA. A SCHOOL
20 MAY NOT REQUIRE SCHOOL PERSONNEL TO POSSESS, ADMINISTER, OR
21 ASSIST IN THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
22 NONSMOKEABLE FORM AGAINST THEIR WILL, NOR MAY A SCHOOL
23 DISCIPLINE SCHOOL PERSONNEL FOR REFUSING TO POSSESS, ADMINISTER,
24 OR ASSIST IN THE ADMINISTRATION OF MEDICAL MARIJUANA UNDER THIS
25 SECTION.

26 (8) THIS SECTION DOES NOT APPLY TO A PRIVATE OR NONPUBLIC
27 SCHOOL.

1 (9) A SCHOOL LOCATED ON FEDERAL LAND IS EXEMPT FROM THE
2 PROVISIONS OF THIS SECTION RELATED TO THE ADMINISTRATION OF
3 MEDICAL MARIJUANA IF THE FEDERAL GOVERNMENT PROHIBITS THE
4 ADMINISTRATION OF MEDICAL MARIJUANA AT A SCHOOL LOCATED ON
5 FEDERAL LAND.

6 (10) THE DEPARTMENT OF EDUCATION SHALL NOT SUBJECT ANY
7 PERSON LICENSED PURSUANT TO ARTICLE 60.5 OF TITLE 22 TO ANY
8 DISCIPLINARY ACTION RELATED TO THE POSSESSION, ADMINISTRATION, OR
9 ASSISTANCE IN THE ADMINISTRATION OF CANNABIS-BASED MEDICINE AS
10 ALLOWED BY THIS SECTION.

11 (11) A SCHOOL, SCHOOL DISTRICT, SCHOOL DISTRICT DIRECTOR,
12 SCHOOL OR SCHOOL DISTRICT EMPLOYEE, OR VOLUNTEER ACTING IN GOOD
13 FAITH IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION IS IMMUNE
14 FROM CRIMINAL PROSECUTION AND CIVIL SUIT FOR SUCH ACTIONS.

15 **SECTION 3.** In Colorado Revised Statutes, 12-255-120, **amend**
16 (1)(p) and (1)(s) as follows:

17 **12-255-120. Grounds for discipline - definitions.** (1) "Grounds
18 for discipline", as used in this part 1, means any action by any person
19 who:

20 (p) Has prescribed, distributed, or given to himself or herself or
21 a family member any controlled substance as defined in part 2 of article
22 18 of title 18 or as contained in schedule II of 21 U.S.C. sec. 812, EXCEPT
23 FOR MEDICAL MARIJUANA LAWFULLY RECOMMENDED AND OBTAINED
24 PURSUANT TO THE LAWS OF THE STATE OF COLORADO;

25 (s) Has administered, dispensed, or prescribed any habit-forming
26 drug or any controlled substance, as defined in section 18-18-102 (5),
27 other than in the course of legitimate professional practice, WHICH

1 INCLUDES THE RECOMMENDATION, ADMINISTRATION, OR DISPENSATION OF
2 MEDICAL MARIJUANA;

3 **SECTION 4.** In Colorado Revised Statutes, 12-255-127, **add**
4 (1)(p) and (1)(q) as follows:

5 **12-255-127. Exclusions.** (1) This part 1 does not prohibit:

6 (p) THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
7 NONSMOKEABLE FORM BY A LICENSEE IN A PUBLIC SCHOOL OR NONPUBLIC
8 SCHOOL PURSUANT TO A POLICY ADOPTED PURSUANT TO SECTION
9 22-1-119.3 (3)(d.5);

10 (q) THE TRAINING BY A LICENSEE OF SCHOOL PERSONNEL OR
11 VOLUNTEERS ON THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
12 NONSMOKEABLE FORM IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL TO A
13 STUDENT WITH A VALID MEDICAL MARIJUANA RECOMMENDATION
14 PURSUANT TO A POLICY ADOPTED PURSUANT TO SECTION 22-1-119.3
15 (3)(d.5).

16 **SECTION 5.** In Colorado Revised Statutes, **add 12-30-116 as**
17 **follows:**

18 **12-30-116. Protection for administering medical marijuana at**
19 **school.** A PERSON LICENSED PURSUANT TO THIS TITLE 12 IS NOT SUBJECT
20 TO ANY DISCIPLINARY ACTION RELATED TO THE ADMINISTRATION OF
21 MEDICAL MARIJUANA IN A NONSMOKEABLE FORM IN A SCHOOL TO A
22 STUDENT WITH A VALID MEDICAL MARIJUANA RECOMMENDATION
23 PURSUANT TO SECTION 22-1-119.3.

24 **SECTION 6. Appropriation.** (1) For the 2021-22 state fiscal
25 year, \$15,419 is appropriated to the department of education. This
26 appropriation is from the general fund. To implement this act, the
27 department may use this appropriation for the purchase of legal services.

1 (2) For the 2021-22 state fiscal year, \$15,419 is appropriated to
2 the department of law. This appropriation is from reappropriated funds
3 received from the department of education under subsection (1) of this
4 section and is based on an assumption that the department of law will
5 require an additional 0.1 FTE. To implement this act, the department of
6 law may use this appropriation to provide legal services for the
7 department of education.

8 **SECTION 7. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2022 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.