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STATE OF COLORADO

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Bill 5

LLS NO. 24-0317.01 Kristen Forrestal x4217

INTERIM COMMITTEE BILL

Opioid and Other Substance Use Disorders Study Committee

BILL TOPIC: Overdose Prevention Centers

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF AUTHORIZED OVERDOSE**
102 **PREVENTION CENTERS PURSUANT TO SAFETY STANDARDS**
103 **ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND**
104 **ENVIRONMENT.**

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 creates a pilot program to establish overdose prevention centers in areas of the state that have received municipal authorization and

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

approval and meet the minimum standards adopted by rules of the executive director of the department of public health and environment (department). The pilot program and the operation of overdose prevention centers are scheduled to end 5 years after the date that the first overdose prevention center begins operation, unless further authorized by the general assembly. The purpose of the overdose prevention centers is to provide the necessary health care and health-care professionals to prevent drug overdoses and to provide referrals for counseling or other medical treatment.

The bill creates an overdose prevention centers advisory committee to make recommendations to the executive director of the department regarding minimum standards for the operation of the overdose prevention centers. The executive director of the department is required to promulgate rules to set the standards.

The bill exempts overdose prevention centers from the "Colorado Clean Indoor Air Act" and clarifies that overdose prevention centers are not a public nuisance.

The bill requires the department to conduct a community impact study of the area surrounding each overdose prevention center in Colorado.

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) Preventable drug overdoses are a public health crisis that
5 impact every Colorado community and are a matter of both local and state
6 concern. For far too long, Colorado has disproportionately favored a
7 criminal justice approach to substance use disorders instead of prioritizing
8 public health.

9 (b) Overdose deaths in Colorado have skyrocketed in recent years,
10 with rates remaining at high levels, claiming 1,799 lives in 2022. The
11 increase in overdose deaths demands a comprehensive response by
12 communities and elected officials, designed to reduce harm to people who
13 use illegal drugs and to improve community safety and quality of life.

14 (c) Colorado has not yet authorized its municipalities, cities,

1 counties, city and counties, city or town councils, or the equivalent
2 governing bodies to fully consider evidence-based behavioral health
3 interventions or to permit the overdose prevention programs that research
4 demonstrates save lives and support the recovery of people who use
5 controlled substances; and

6 (d) It is in the public interest and would serve Colorado's goal of
7 saving lives and preventing overdose deaths to affirm that overdose
8 prevention centers are permissible under Colorado law.

9 (2) (a) Public health crises require public health solutions.

10 (b) Overdose deaths cannot be prevented by criminalizing
11 substance use or by incarcerating people who use illegal drugs.

12 (c) Overdose prevention centers are proven to save lives and
13 increase community safety. Over 200 overdose prevention centers operate
14 in 14 countries globally and there has never been an overdose fatality at
15 any of these sites.

16 (d) Research shows that overdose prevention centers reduce the
17 spread of communicable diseases, reduce drug consumption in public
18 places, reduce public litter of drug consumption equipment, and increase
19 referrals to treatment for people who use controlled substances.

20 (e) There is no evidence that overdose prevention centers lead to
21 an increase in drug distribution or property and violent crimes.

22 (3) (a) While the drug overdose crisis impacts all Coloradans, its
23 impact in Colorado's capital city has been particularly devastating.

24 (b) Every day, at least 5 Coloradans die of a preventable drug
25 overdose, and every day, at least one of those preventable deaths occurs
26 in Denver.

27 (c) In 2018, Denver enacted ordinance 18-1292, becoming the

1 first Colorado city to authorize an overdose prevention center pilot
2 program.

3 (d) Six years later, statutory confirmation is urgently needed to
4 clarify that Denver and every other municipality is empowered to
5 authorize overdose prevention centers in their communities.

6 (4) (a) A balanced approach, combining local control and state
7 oversight, will ensure the successful implementation of overdose
8 preventions centers in Colorado.

9 (b) Home rule, as enshrined in the Colorado constitution,
10 encourages communities to foster innovation and empowers local
11 governments to tailor solutions to their own needs.

12 (c) House Bill 23-1202, which was postponed indefinitely, was
13 met with concerns about a lack of state oversight as it would have
14 allowed municipalities to authorize overdose prevention centers and tailor
15 their implementation.

16 (d) While public health solutions should be tailored to fit each
17 municipality's particular circumstances, state oversight can ensure that
18 local governments adhere to standardized guidelines and regulations,
19 promoting consistency and quality in public health efforts.

20 (e) Other states are recognizing the importance of balancing state
21 oversight and local control when considering overdose prevention
22 centers.

23 (f) Rhode Island established a pilot program in 2021 for overdose
24 prevention centers, which required the development of state regulations
25 and the approval of municipalities for each operating site.

26 (5) Therefore, it is the intent of the general assembly to permit
27 each municipality, city, county, city and county, city or town council, or

1 other equivalent governing body to authorize overdose prevention centers
2 as part of a locally controlled, comprehensive public health strategy to
3 save lives and reduce overdose deaths.

4 **SECTION 2.** In Colorado Revised Statutes, **add** article 59 to title
5 25 as follows:

6 **ARTICLE 59**

7 **Overdose Prevention Centers**

8 **25-59-101. Definitions.** AS USED IN THIS ARTICLE 59, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "ADVISORY COMMITTEE" MEANS THE OVERDOSE PREVENTION
11 CENTERS ADVISORY COMMITTEE CREATED IN SECTION 25-59-103.

12 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
13 AND ENVIRONMENT.

14 (3) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
15 THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

16 (4) "MUNICIPAL AUTHORIZATION AND APPROVAL" MEANS AN
17 EXPRESS AFFIRMATIVE VOTE BY A MUNICIPALITY, CITY, COUNTY, CITY AND
18 COUNTY, CITY OR TOWN COUNCIL, OR THE EQUIVALENT GOVERNING BODY
19 OF ANY MUNICIPALITY WHERE AN OVERDOSE PREVENTION CENTER IS
20 PROPOSED TO BE LOCATED, WHICH AFFIRMATIVE VOTE APPROVES:

21 (a) THE OPENING AND OPERATION OF THE PROPOSED OVERDOSE
22 PREVENTION CENTER;

23 (b) (I) THE EXACT LOCATION OF THE PROPOSED OVERDOSE
24 PREVENTION CENTER, WHICH MUST INCLUDE THE STREET ADDRESS AND
25 PLAT AND LOT NUMBER OR OTHER APPLICABLE NUMBER AS USED BY THE
26 APPROPRIATE GOVERNING AUTHORITY'S TAX ASSESSOR; OR

27 (II) IF THE OVERDOSE PREVENTION CENTER IS A MOBILE UNIT, THE

1 AREA IN WHICH THE UNIT WILL BE OPERATING; AND

2 (c) AN EXPRESS AUTHORIZATION AS TO THE HOURS OF OPERATION
3 OF THE PROPOSED OVERDOSE PREVENTION CENTER.

4 (5) "OVERDOSE PREVENTION CENTER" MEANS A
5 COMMUNITY-BASED RESOURCE FOR HEALTH SCREENING, DISEASE
6 PREVENTION, AND RECOVERY ASSISTANCE WHERE PERSONS MAY SAFELY
7 CONSUME PREOBTAINED SUBSTANCES.

8 **25-59-102. Overdose prevention centers - purpose - creation**
9 **- municipal authorization and approval required - rules.** (1) THE
10 PURPOSE OF THIS ARTICLE 59 IS TO AUTHORIZE A PILOT PROGRAM TO
11 PREVENT DRUG OVERDOSES THROUGH THE ESTABLISHMENT OF OVERDOSE
12 PREVENTION CENTERS.

13 (2) EACH OVERDOSE PREVENTION CENTER ESTABLISHED IN
14 ACCORDANCE WITH THIS ARTICLE 59 SHALL PROVIDE THE NECESSARY
15 HEALTH CARE AND HEALTH-CARE PROFESSIONALS TO PREVENT DRUG
16 OVERDOSES AND SHALL PROVIDE REFERRALS FOR COUNSELING OR OTHER
17 MEDICAL TREATMENT THAT MAY BE APPROPRIATE FOR PERSONS UTILIZING
18 THE OVERDOSE PREVENTION CENTER.

19 (3) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES TO
20 AUTHORIZE THE PILOT PROGRAM. THIS SUBSECTION (3) DOES NOT
21 AUTHORIZE AN OVERDOSE PREVENTION CENTER WITHOUT MUNICIPAL
22 AUTHORIZATION AND APPROVAL.

23 (4) AN OVERDOSE PREVENTION CENTER PROPOSED TO BE
24 OPERATED PURSUANT TO THIS ARTICLE 59 SHALL OBTAIN MUNICIPAL
25 AUTHORIZATION AND APPROVAL PRIOR TO OPENING OR OPERATING IN ANY
26 AREA WITHIN THIS STATE.

27 (5) AN OVERDOSE PREVENTION CENTER APPROVED FOR OPERATION

1 PURSUANT TO THIS ARTICLE 59 MAY OPERATE FOR FIVE YEARS FROM THE
2 DATE THAT THE FIRST OVERDOSE PREVENTION CENTER BEGINS OPERATION
3 IN THE STATE, UNLESS AN ACT OF THE GENERAL ASSEMBLY EXPRESSLY
4 AUTHORIZES THE CONTINUATION OF THE OPERATION OF THE OVERDOSE
5 PREVENTION CENTER.

6 **25-59-103. Overdose prevention centers advisory committee**
7 **- created - members - duties.** (1) THERE IS CREATED THE OVERDOSE
8 PREVENTION CENTERS ADVISORY COMMITTEE TO ADVISE THE EXECUTIVE
9 DIRECTOR ON THE PROMULGATION OF RULES NECESSARY TO EFFECTUATE
10 THE PURPOSE OF THIS ARTICLE 59. THE EXECUTIVE DIRECTOR SHALL SERVE
11 AS CHAIR OF THE ADVISORY COMMITTEE. THE ADVISORY COMMITTEE
12 CONSISTS OF NINE ADDITIONAL MEMBERS AS FOLLOWS:

13 (a) FOUR MEMBERS APPOINTED BY THE CHAIR OF THE ADVISORY
14 COMMITTEE AS FOLLOWS:

15 (I) A DISTRICT ATTORNEY FROM A JURISDICTION THAT HAS TAKEN
16 ANY ACTION TOWARDS MUNICIPAL AUTHORIZATION AND APPROVAL;

17 (II) ONE MEMBER WHO REPRESENTS A STATEWIDE MEDICAL
18 SOCIETY;

19 (III) ONE MEMBER WHO REPRESENTS A STATEWIDE HOSPITAL
20 ASSOCIATION;

21 (IV) ONE MEMBER WHO REPRESENTS THE STATE CHAPTER OF A
22 NATIONAL SOCIETY OF ADDICTION MEDICINE;

23 (b) ONE MEMBER WHO REPRESENTS THE COLORADO MUNICIPAL
24 LEAGUE, OR ITS SUCCESSOR ORGANIZATION, APPOINTED BY ITS EXECUTIVE
25 DIRECTOR OR EQUIVALENT AUTHORITY; AND

26 (c) FOUR MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

27 (I) ONE MEMBER WHO IS A PERSON WITH A SUBSTANCE USE

1 DISORDER;

2 (II) ONE MEMBER WHO IS A PERSON WORKING IN OVERDOSE
3 PREVENTION;

4 (III) ONE MEMBER WHO IS A CURRENT OR FORMER LAW
5 ENFORCEMENT OFFICIAL; AND

6 (IV) ONE MEMBER WHO IS A PERSON WHO HAS SUFFERED A DRUG
7 OVERDOSE OR IS A FAMILY MEMBER OF A PERSON WHO SUFFERED A FATAL
8 DRUG OVERDOSE.

9 (2) THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS
10 TO THE EXECUTIVE DIRECTOR WITH RESPECT TO THE FOLLOWING:

11 (a) MAXIMIZING THE POTENTIAL PUBLIC HEALTH AND SAFETY
12 BENEFITS OF OVERDOSE PREVENTION CENTERS;

13 (b) THE PROPER DISPOSAL OF HYPODERMIC NEEDLES, PIPES, AND
14 SYRINGES;

15 (c) THE RECOVERY OF PERSONS UTILIZING OVERDOSE PREVENTION
16 CENTERS;

17 (d) FEDERAL, STATE, AND LOCAL LAWS IMPACTING THE CREATION
18 AND OPERATION OF THE OVERDOSE PREVENTION CENTERS;

19 (e) APPROPRIATE GUIDANCE TO RELEVANT PROFESSIONAL
20 LICENSING BOARDS;

21 (f) POTENTIAL COLLABORATION WITH OTHER PUBLIC HEALTH
22 EFFORTS;

23 (g) VENTILATION REQUIREMENTS FOR OVERDOSE PREVENTION
24 CENTERS; AND

25 (h) CONSIDERATION OF ANY OTHER FACTORS BENEFICIAL TO
26 PROMOTING THE PUBLIC HEALTH AND SAFETY.

27 **25-59-104. Liability protections.** NOTWITHSTANDING ANY OTHER

1 LAW TO THE CONTRARY, A PERSON OR ENTITY, INCLUDING PROPERTY
2 OWNERS, MANAGERS, EMPLOYEES, VOLUNTEERS, CLIENTS OR
3 PARTICIPANTS, AND EMPLOYEES OF ANY MUNICIPALITY, CITY, COUNTY,
4 CITY AND COUNTY, CITY OR TOWN COUNCIL, OR THE EQUIVALENT
5 GOVERNING BODY OF ANY MUNICIPALITY ACTING IN THE COURSE AND
6 SCOPE OF EMPLOYMENT, SHALL NOT BE ARRESTED, CHARGED, OR
7 PROSECUTED OR HAVE THEIR PROPERTY SUBJECT TO FORFEITURE; BE
8 SUBJECT TO ANY CIVIL OR ADMINISTRATIVE PENALTY, INCLUDING
9 DISCIPLINARY ACTION BY A PROFESSIONAL LICENSING BOARD OR OTHER
10 EMPLOYMENT ACTION; OR BE DENIED ANY RIGHT OR PRIVILEGE FOR
11 ACTIONS, CONDUCT, OR OMISSIONS RELATING TO THE APPROVAL OR
12 OPERATION OF AN OVERDOSE PREVENTION CENTER IN COMPLIANCE WITH
13 THIS ARTICLE 59 AND ANY RULES PROMULGATED PURSUANT TO THIS
14 ARTICLE 59.

15 **25-59-105. Exemption from Colorado clean indoor air act -**
16 **public nuisance clarification.** (1) AN OVERDOSE PREVENTION CENTER
17 THAT IS OPERATING WITH MUNICIPAL AUTHORIZATION AND APPROVAL AND
18 IN CONFORMANCE WITH THE RULES PROMULGATED BY THE EXECUTIVE
19 DIRECTOR PURSUANT TO THIS ARTICLE 59 IS:

20 (a) EXEMPT FROM THE "COLORADO CLEAN INDOOR AIR ACT" IN
21 ACCORDANCE WITH SECTION 25-14-205; EXCEPT THAT TOBACCO
22 PRODUCTS SHALL NOT BE USED ON THE PREMISES OF THE OVERDOSE
23 PREVENTION CENTER; AND

24 (b) NOT CONSIDERED A PUBLIC NUISANCE PURSUANT TO PART 3 OF
25 ARTICLE 13 OF TITLE 16.

26 **25-59-106. Community impact study - community survey -**
27 **follow-up survey - data - report.** (1) (a) THE DEPARTMENT SHALL

1 CONDUCT A COMMUNITY IMPACT STUDY OF THE ONE-MILE AREA
2 SURROUNDING EACH OVERDOSE PREVENTION CENTER LOCATED IN THE
3 STATE. THE STUDY SHALL BEGIN WITH A COMMUNITY SURVEY OF THE
4 RESIDENTIAL NEIGHBORHOODS AND BUSINESSES IN THE DESIGNATED AREA
5 TO CAPTURE IMPRESSIONS BEFORE EACH OVERDOSE PREVENTION CENTER
6 BEGINS OPERATION.

7 (b) AFTER AN OVERDOSE PREVENTION CENTER HAS BEEN IN
8 OPERATION FOR ONE YEAR, THE DEPARTMENT SHALL FOLLOW UP THE
9 INITIAL SURVEY AND COLLECT THE FOLLOWING DATA ON AN ANNUAL
10 BASIS:

11 (I) FROM THE ONE-MILE AREA SURROUNDING THE OVERDOSE
12 PREVENTION CENTER:

13 (A) COMPREHENSIVE CRIME STATISTICS, INCLUDING THEFT,
14 ASSAULT, RIGHT-OF-WAY INFRINGEMENTS, AND ANY OTHER CRIME
15 STATISTICS FOR THE AREA AS COMPARED TO THE PRIOR THREE YEARS OF
16 DATA IN THE SAME AREA;

17 (B) AN ACCOUNTING OF ENVIRONMENTAL HAZARDS, INCLUDING
18 WASTE, PROPANE, NEEDLES, AND BIOHAZARDS;

19 (C) THE NUMBER OF TIMES LAW ENFORCEMENT WAS CALLED TO
20 RESPOND TO AN INCIDENT AS COMPARED TO THE PRIOR THREE YEARS OF
21 DATA FOR THE SAME AREA;

22 (D) OVERDOSE STATISTICS IN THE AREA;

23 (E) THE PROPERTY VALUES IN THE AREA SURROUNDING THE
24 OVERDOSE PREVENTION CENTER AS COMPARED TO THEIR VALUE PRIOR TO
25 THE OPERATION OF THE OVERDOSE PREVENTION CENTER; AND

26 (F) THE STATE AND LOCAL RESOURCES AND BUDGET ALLOCATION
27 FOR HEALTH CARE TO THE AREA SURROUNDING THE OVERDOSE

1 PREVENTION CENTER; AND

2 (II) FROM INSIDE THE OVERDOSE PREVENTION CENTER, AT A
3 MINIMUM, THE NUMBER OF:

4 (A) OVERDOSE DEATHS;

5 (B) OVERDOSE MEDICATIONS ADMINISTERED; AND

6 (C) REFERRALS TO TREATMENT MADE BY THE STAFF OF THE
7 OVERDOSE PREVENTION CENTER.

8 (c) AS PART OF THE FOLLOW-UP SURVEY, THE DEPARTMENT SHALL
9 ALSO DETERMINE IF BUSINESS SALES AND REVENUES IN THE AREA ARE
10 IMPACTED BY THE OPERATION OF THE OVERDOSE PREVENTION CENTER.

11 (2) AS EACH ANNUAL STUDY CONCERNING EACH OVERDOSE
12 PREVENTION CENTER IS COMPLETED, THE DEPARTMENT SHALL REPORT ITS
13 FINDINGS TO THE HOUSE OF REPRESENTATIVES PUBLIC AND BEHAVIORAL
14 HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE HEALTH AND
15 HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

16 **25-59-107. Rules.** ON OR BEFORE OCTOBER 1, 2024, THE
17 EXECUTIVE DIRECTOR SHALL PROMULGATE RULES PURSUANT TO THE
18 RECOMMENDATIONS OF THE ADVISORY COMMITTEE TO ESTABLISH
19 MINIMUM STANDARDS FOR OVERDOSE PREVENTION CENTERS THAT HAVE
20 RECEIVED MUNICIPAL AUTHORIZATION AND APPROVAL AND THAT WILL
21 ENSURE SERVICES ARE PROVIDED IN A MANNER TO SAFEGUARD THE
22 HEALTH, SAFETY, AND WELFARE OF CLIENTS.

23 **SECTION 3.** In Colorado Revised Statutes, 25-14-205, **amend**
24 (1)(i) and (1)(l); and **add** (1)(m) as follows:

25 **25-14-205. Exceptions to smoking restrictions.** (1) This part 2
26 does not apply to:

27 (i) A private, nonresidential building on a farm or ranch, as

1 defined in section 39-1-102, that has annual gross income of less than five
2 hundred thousand dollars; ~~or~~

3 (l) If authorized by local ordinance, license, or regulation, the
4 licensed premises of a marijuana hospitality business licensed pursuant
5 to section 44-10-609 or a retail marijuana hospitality and sales business
6 licensed pursuant to section 44-10-610; except that this exception only
7 applies to the smoking of marijuana and does not allow the smoking of
8 tobacco within such premises; OR

9 (m) AN OVERDOSE PREVENTION CENTER OPERATING PURSUANT TO
10 ARTICLE 59 OF TITLE 25.

11 **SECTION 4. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.