

CHAPTER 207

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 98-025

BY SENATORS Rizzuto and Schroeder;
also REPRESENTATIVES Owen and Hagedorn.**AN ACT**CONCERNING THE ADMINISTRATION OF THE ALCOHOL AND DRUG DRIVING SAFETY PROGRAM, AND
MAKING AN APPROPRIATION IN CONNECTION THEREWITH.*Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 42-4-1301 (10) (a), (10) (b), (10) (c), (10) (d), and (10) (e),
Colorado Revised Statutes, are amended to read:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - tests - penalties - useful public service program - alcohol and drug driving safety program. (10) (a) ~~The division of alcohol and drug abuse in the department of human services shall establish in~~ THE JUDICIAL DEPARTMENT SHALL ADMINISTER IN each judicial district an alcohol and drug driving safety program ~~which~~ THAT provides presentence AND POSTSENTENCE alcohol and drug evaluations on all persons convicted of a violation of subsection (1) or (2) of this section. The alcohol and drug driving safety program shall further provide supervision and monitoring of all such persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment.

(b) The presentence AND POSTSENTENCE alcohol and drug ~~evaluation~~ EVALUATIONS shall be conducted by such persons ~~certified by the division of alcohol and drug abuse as~~ DETERMINED BY THE JUDICIAL DEPARTMENT TO BE qualified to provide evaluation and supervision services as described in paragraph (c) of this subsection (10). ~~In establishing qualifications for such persons, the division shall give consideration to those persons who have had practical experience in alcohol and~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~drug treatment.~~

(c) ~~Upon the establishment of an alcohol and drug driving safety program,~~ An alcohol and drug evaluation shall be conducted on all persons convicted of a violation of subsection (1) or (2) of this section. The report shall be made available to and shall be considered by the court prior to sentencing unless the court proceeds to immediate sentencing pursuant to the provisions of paragraph (e) of subsection (9) of this section. The report shall contain ~~an evaluation of the defendant concerning~~ the defendant's prior traffic record, characteristics and history of alcohol or drug problems, and amenability to rehabilitation. The report shall include a recommendation as to alcohol and drug driving safety education or treatment for the defendant. The alcohol evaluation shall be CONDUCTED AND THE REPORT prepared by a person who is TRAINED AND knowledgeable in the diagnosis of chemical dependency. Such person's duties may also include appearing at sentencing and probation hearings as required, referring defendants to education and treatment agencies in accordance with orders of the court, monitoring defendants in education and treatment programs, notifying the probation department and the court of any defendant failing to meet the conditions of probation or referral to education or treatment, appearing at revocation hearings as required, and providing assistance in data reporting and program evaluation. For the purpose of this subsection (10), "alcohol and drug driving safety education or treatment" means either level I or level II education or treatment programs THAT ARE APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE. Level I programs are to be short-term, didactic education programs. Level II programs are to be therapeutically oriented education, long-term outpatient, and comprehensive ~~inpatient~~ RESIDENTIAL programs. Any defendant sentenced to level I or level II programs shall be instructed by the court to meet all financial obligations of such programs. If such financial obligations are not met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence. Nothing in this section shall prohibit treatment agencies from applying to the state for funds to recover the costs of level II treatment for defendants determined to be indigent by the court.

(d) There is hereby created an alcohol and drug driving safety program fund in the office of the state treasurer to the credit of which shall be deposited all moneys as directed by this paragraph (d). ~~Until July 1, 1980,~~ In addition to any fines, fees, or costs levied against a person convicted of a violation of subsection (1) or (2) of this section, ~~sixty dollars shall be assessed by the judge against~~ THE JUDGE SHALL ASSESS each such person for the cost of the presentence OR POSTSENTENCE alcohol and drug evaluation and supervision services. ~~After July 1, 1980, and each fiscal year thereafter, the amount shall remain at sixty dollars unless~~ THE ASSESSMENT IN EFFECT ON JULY 1, 1998, SHALL REMAIN IN EFFECT UNLESS THE JUDICIAL DEPARTMENT AND the division of alcohol and drug abuse ~~has~~ HAVE provided to the general assembly a statement of the cost of the program, including costs of administration for the past and current fiscal year to include a proposed change in the assessment. The general assembly shall then consider the proposed new assessment and approve the amount to be assessed against each person during the following fiscal year in order to ensure that the alcohol and drug driving safety program established in this subsection (10) shall be financially self-supporting. Any adjustment in the amount to be assessed shall be so noted in the appropriation to the JUDICIAL DEPARTMENT AND THE division of alcohol and drug abuse as a footnote or line item related to this program in the general appropriation bill. The state auditor shall periodically audit the costs of the

programs to determine that they are reasonable and that the rate charged is accurate based on these costs. Any other fines, fees, or costs levied against such person shall not be part of the program fund. The amount assessed for the alcohol and drug evaluation shall be transmitted by the court to the state treasurer to be credited to the alcohol and drug driving safety program fund. Fees charged under sections 25-1-306 (1), C.R.S., and 25-1-1102 (1), C.R.S., to approved alcohol and drug treatment facilities that provide level I and level II programs as provided in paragraph (c) of this subsection (10) shall be transmitted to the state treasurer, who shall credit the fees to the alcohol and drug driving safety program fund. Upon appropriation by the general assembly, these funds shall be expended by the JUDICIAL DEPARTMENT AND THE division of alcohol and drug abuse for the administration of the alcohol and drug driving safety program. In administering the alcohol and drug driving safety program, the ~~division of alcohol and drug abuse~~ JUDICIAL DEPARTMENT is authorized to contract with any agency ~~within the judicial system~~ for such services as the ~~division~~ JUDICIAL DEPARTMENT deems necessary. Moneys deposited in the alcohol and drug driving safety program fund shall remain in said fund to be used for the purposes set forth in this subsection (10) and shall not revert or transfer to the general fund except by further act of the general assembly.

(e) ~~The division of alcohol and drug abuse shall establish an alcohol and drug driving safety program suited to the needs of each judicial district. In establishing these programs, the division shall consult with local treatment programs. The division~~ JUDICIAL DEPARTMENT shall ~~also insure~~ ENSURE that qualified personnel are placed in the judicial districts. ~~and shall establish~~ THE JUDICIAL DEPARTMENT AND THE DIVISION OF ALCOHOL AND DRUG ABUSE SHALL JOINTLY DEVELOP AND MAINTAIN criteria for evaluation techniques, ~~drinker classification~~ TREATMENT REFERRAL, data reporting, ~~client supervision~~, and program evaluation.

SECTION 2. Appropriation. (1) (a) In addition to any other appropriation, the sums specified in this section, or so much thereof as may be necessary for the purposes indicated, are hereby appropriated out of any moneys in the specified funds not otherwise appropriated, for the implementation of this act for the fiscal year beginning July 1, 1998.

(b) Unless the context otherwise requires, terms and notations used in this section shall have the meanings ascribed to them in the general appropriation act for the fiscal year beginning July 1, 1998.

(c) Dollar amounts in parentheses and FTE amounts in stricken type denote reductions from the corresponding appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 1998.

ITEM & SUBTOTAL	CASH FUNDS	CASH FUNDS EXEMPT
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(2) DEPARTMENT
OF HUMAN SERVICES

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(a) Executive Director's Office Health, Life, and Dental	0	(10,283) ^a	10,283(T) ^b
(b) Health and Rehabilitation Services Administration Program Administration Personal Services	(44,743)	(309,816) ^a (4.6 FTE)	265,073(T) ^b (4.6 FTE)
Operating Expenses	(9,026)	(40,712) ^a	31,686(T) ^b
Indirect Cost Assessment	(46,953)	(46,953)	
Community Programs Other Community Programs Alcohol/Drug Driving Safety Contracts	<u>(3,724,831)</u>	<u>(3,478,280)^a</u>	<u>(246,551)^c</u>
Subtotal (Department of Human Services)	(3,825,553)	(3,886,044)	60,491

^a These amounts shall be from the alcohol and drug driving safety program fund created in section 42-4-1301 (10), Colorado Revised Statutes.

^b These amounts shall be from the judicial department pursuant to section 42-4-1301 (10), Colorado Revised Statutes.

^c This amount shall be from reserves in the alcohol and drug driving safety program fund created in section 42-4-1301 (10), Colorado Revised Statutes.

ITEM & SUBTOTAL	CASH FUNDS	CASH FUNDS EXEMPT
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(3) JUDICIAL DEPARTMENT			
(a) Courts Administration Administrative Special Purpose Health, Life, and Dental Salary Survey and Anniversary Increases	0	168,456 ^a	(168,456)(T) ^b
	0	5,166 ^a	(5,166)(T) ^b
(b) Probation and Related Services Alcohol/Drug Driving Safety Contract	(2,940,547)		(2,940,547)(T) ^b (70.2 FTE)
Alcohol/Drug Driving Safety Program	<u>3,768,497</u> <u>(70.2 FTE)</u>	3,621,858 ^a	146,639 ^c
Subtotal (Judicial Department)	827,950	3,795,480	(2,967,530)

^a These amounts shall be from the alcohol and drug driving safety program fund

created in section 42-4-1301 (10), Colorado Revised Statutes.

^b These amounts shall be from the department of human services, alcohol and drug abuse division, pursuant to section 42-4-1301 (10), Colorado Revised Statutes.

^c This amount shall be from reserves in the alcohol and drug driving safety program fund created in section 42-4-1301 (10), Colorado Revised Statutes.

SECTION 3. Effective date. This act shall take effect July 1, 1998.

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

Approved: May 18, 1998