

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 22, 2022

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

HB22-1326 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend the Judiciary Committee Report, dated April 13, 2022, page 1,
2 line 5, after "(2.5)" insert "(a)".
- 3 Page 1 of the report, line 9, strike "(a)" and substitute "(I)".
- 4 Page 1 of the report, line 13, strike "KNEW OR REASONABLY SHOULD HAVE
5 KNOWN" and substitute "HAD REASONABLE CAUSE TO BELIEVE".
- 6 Page 1 of the report, line 17, strike "(b)" and substitute "(II)".
- 7 Page 1 of the report, line 22, strike "(2.5)(b)" and substitute "(2.5)(a)(II)".
- 8 Page 1 of the report, after line 22, insert:
9 "(b) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JUNE 30,
10 2025."
- 11 Page 2 of the report, after line 31 insert:
12 "Page 11 of the bill, line 18, after "(2.5)" insert "and (14)".
- 13 Page 12 of the bill, after line 11 insert:
14 "(14) (a) NOTWITHSTANDING SUBSECTION (2)(a) OF THIS SECTION,
15 FOR THE PURPOSE OF SENTENCING A PERSON CONVICTED OF A LEVEL 4
16 DRUG FELONY COMMITTED ON OR AFTER JULY 1, 2022, IN VIOLATION OF
17 SECTION 18-18-403.5 (2.5), A COURT SHALL EITHER SENTENCE AN
18 OFFENDER TO PROBATION FOR UP TO TWO YEARS, WITH THE POSSIBILITY OF
19 A TOTAL OF ONE HUNDRED EIGHTY DAYS IN COUNTY JAIL, OR FOR A THIRD

1 OR SUBSEQUENT OFFENSE, A TOTAL OF UP TO THREE HUNDRED SIXTY-FOUR
2 DAYS IN COUNTY JAIL, WHICH MAY BE IMPOSED IN WHOLE OR IN PART
3 DURING THE TIME PERIOD OF PROBATION AS A CONDITION OF PROBATION
4 OR AS A SANCTION FOR A VIOLATION OF PROBATION; OR SENTENCE AN
5 OFFENDER TO UP TO ONE HUNDRED EIGHTY DAYS IN THE COUNTY JAIL;
6 EXCEPT THAT FOR A THIRD OR SUBSEQUENT OFFENSE, THE COURT MAY
7 SENTENCE AN OFFENDER TO UP TO THREE HUNDRED SIXTY-FOUR DAYS IN
8 THE COUNTY JAIL IF THE COURT SENTENCES THE OFFENDER TO JAIL. IN
9 ADDITION TO THE SENTENCE TO PROBATION OR TO THE COUNTY JAIL, THE
10 COURT MAY IMPOSE A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS.

11 (b) A COURT MAY SENTENCE A PERSON CONVICTED OF A LEVEL 4
12 DRUG FELONY COMMITTED ON OR AFTER JULY 1, 2022, IN VIOLATION OF
13 SECTION 18-18-403.5 (2.5), TO A COUNTY JAIL SENTENCING ALTERNATIVE
14 PROVIDED PURSUANT TO SECTION 18-1.3-106 OR PLACEMENT IN A
15 COMMUNITY CORRECTIONS PROGRAM AS A CONDITION OF PROBATION
16 PROVIDED PURSUANT TO SECTION 18-1.3-301 (4) AS A SENTENCING
17 ALTERNATIVE.

18 (c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
19 CONTRARY, AN OFFENDER CONVICTED OF A LEVEL 4 DRUG FELONY
20 COMMITTED ON OR AFTER JULY 1, 2022, IN VIOLATION OF SECTION
21 18-18-403.5 (2.5), IS NOT SUBJECT TO THE JURISDICTION OF THE
22 DEPARTMENT OF CORRECTIONS OR A MANDATORY PERIOD OF PAROLE."

23 Page 13 of the bill, line 15, strike "A PERSON WHO WAS REPRESENTED".

24 Page 13 of the bill, strike lines 16 and 17, and substitute "THE
25 RESIDENTIAL PLACEMENT COSTS MUST BE PAID FROM THE CORRECTIONAL
26 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
27 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
28 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
29 OTHERWISE UNABLE TO AFFORD THE COST OF THE PLACEMENT."

30 Page 14 of the bill, line 9, strike "A PERSON WHO".

31 Page 14 of the bill, strike lines 10 and 11, and substitute "THE FENTANYL
32 EDUCATION PROGRAM COSTS MUST BE PAID FROM THE CORRECTIONAL
33 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
34 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
35 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
36 OTHERWISE UNABLE TO AFFORD THE COST OF PLACEMENT."

37 Page 15 of the bill, line 15, strike "A PERSON WHO".

1 Page 15 of the bill, strike lines 16 and 17, and substitute "THE
2 RESIDENTIAL PLACEMENT COSTS MUST BE PAID FROM THE CORRECTIONAL
3 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
4 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
5 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
6 OTHERWISE UNABLE TO AFFORD THE COST OF THE PLACEMENT."

7 Page 16 of the bill, line 9, strike "A PERSON WHO".

8 Page 16 of the bill, strike lines 10 and 11, and substitute "THE FENTANYL
9 EDUCATION PROGRAM COSTS MUST BE PAID FROM THE CORRECTIONAL
10 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
11 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
12 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
13 OTHERWISE UNABLE TO AFFORD THE COST OF PLACEMENT."

14 Page 18 of the bill, line 11, strike "A PERSON WHO WAS REPRESENTED".

15 Page 18 of the bill, strike line 12 and 13 and substitute "THE RESIDENTIAL
16 PLACEMENT COSTS MUST BE PAID FROM THE CORRECTIONAL TREATMENT
17 CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4), FOR A PERSON
18 ON PROBATION AND IS DETERMINED BY THE COURT TO BE INDIGENT, IS
19 REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS OTHERWISE UNABLE
20 TO AFFORD THE COST OF THE PLACEMENT."

21 Page 19 of the bill, line 5, strike "A PERSON WHO".

22 Page 19 of the bill, strike lines 6 and 7, and substitute "THE FENTANYL
23 EDUCATION PROGRAM COSTS MUST BE PAID FROM THE CORRECTIONAL
24 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
25 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
26 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
27 OTHERWISE UNABLE TO AFFORD THE COST OF PLACEMENT."

28 Page 20 of the bill, line 11, strike "A PERSON WHO".

29 Page 20 of the bill, strike lines 12 and 13, and substitute "THE
30 RESIDENTIAL PLACEMENT COSTS MUST BE PAID FROM THE CORRECTIONAL
31 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
32 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
33 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
34 OTHERWISE UNABLE TO AFFORD THE COST OF THE PLACEMENT."

1 Page 21 of the bill, line 5, strike "A PERSON WHO".

2 Page 21 of the bill, strike lines 6 and 7, and substitute "THE FENTANYL
3 EDUCATION PROGRAM COSTS MUST BE PAID FROM THE CORRECTIONAL
4 TREATMENT CASH FUND, EXISTING PURSUANT TO SECTION 18-19-103 (4),
5 FOR A PERSON ON PROBATION AND IS DETERMINED BY THE COURT TO BE
6 INDIGENT, IS REPRESENTED BY COURT-APPOINTED COUNSEL, OR IS
7 OTHERWISE UNABLE TO AFFORD THE COST OF PLACEMENT."."

8 Page 2 of the report, strike line 33 and substitute:

9 **SECTION 31.** In Colorado Revised Statutes, 18-1.3-103.5,
10 **amend** (3)(c) and (3)(d); and **add** (3)(e) as follows:

11 **18-1.3-103.5. Felony convictions - vacate and enter conviction**
12 **on misdemeanor after successful completion.** (3) This section applies
13 to convictions for the following offenses:

14 (c) Possession of more than twelve ounces of marijuana or more
15 than three ounces of marijuana concentrate; or

16 (d) A violation of section 18-18-415; OR

17 (e) A VIOLATION OF SECTION 18-18-403.5 (2.5)(a).

18 **SECTION 32.** In Colorado Revised Statutes, 24-72-706,
19 **amend**".

20 Page 3 of the report, after line 20 insert:

21 "Page 42 of the bill, before line 14 insert:

22 **SECTION 33.** In Colorado Revised Statutes, 18-1.3-801, **amend**
23 (2)(a)(I); and **add** (2)(c) as follows:

24 **18-1.3-801. Punishment for habitual criminals.**

25 (2) (a) (I) Except as otherwise provided in ~~paragraph (b) of this~~
26 ~~subsection (2)~~ SUBSECTIONS (2)(b), (2)(c), and ~~in subsection (5)~~ of this
27 section, every person convicted in this state of any felony, who has been
28 three times previously convicted, upon charges separately brought and
29 tried, and arising out of separate and distinct criminal episodes, either in
30 this state or elsewhere, of a felony or, under the laws of any other state,
31 the United States, or any territory subject to the jurisdiction of the United
32 States, of a crime which, if committed within this state, would be a
33 felony, shall be adjudged an habitual criminal and shall be punished:

34 (2) (c) THE PROVISIONS OF SUBSECTION (2)(a) OF THIS SECTION DO
35 NOT APPLY TO A CONVICTION FOR A LEVEL 4 DRUG FELONY COMMITTED ON
36 OR AFTER JULY 1, 2022, PURSUANT TO SECTION 18-18-403.5 (2.5), OR A
37 CONVICTION FOR A LEVEL 4 DRUG FELONY COMMITTED ON OR AFTER JULY
38 1, 2022, FOR ATTEMPT OR CONSPIRACY TO COMMIT UNLAWFUL POSSESSION
39 OF FENTANYL, CARFENTANAL, OR AN ANALOG THEREOF, AS DESCRIBED IN
40 SECTION 18-18-403.5 (2.5), EVEN IF THE PERSON HAS BEEN PREVIOUSLY

1 CONVICTED OF THREE OR MORE QUALIFYING FELONY CONVICTIONS.".

2 Page 42 of the bill, strike lines 22 through 27.

3 Page 43 of the bill, strike lines 1 and 2 and substitute:

4 **"SECTION 34. Appropriation.** (1) For the 2022-23 state fiscal
5 year, \$4,033,875 is appropriated to the department of human services for
6 use by the behavioral health administration. This appropriation consists
7 of \$883,875 from the general fund, \$150,000 from the correctional
8 treatment cash fund created in section 18-19-103 (4)(a), C.R.S., and
9 \$3,000,000 from the behavioral and mental health cash fund created in
10 section 24-75-230 (2)(a), C.R.S., which is of money the state received
11 from the federal coronavirus state fiscal recovery fund. To implement this
12 act, the administration may use this appropriation as follows:

13 (a) \$183,875 from the general fund for program administration
14 related to community behavioral health administration, which amount is
15 based on an assumption that the administration will require an additional
16 1.8 FTE;

17 (b) \$700,000 from the general fund for managed service
18 organization regional evaluations related to substance use treatment and
19 prevention services;

20 (c) \$150,000 from the correctional treatment cash fund created in
21 section 18-19-103 (4)(a), C.R.S., for a fentanyl education program related
22 to substance use treatment and prevention services; and

23 (d) \$3,000,000 from the behavioral and mental health cash fund
24 created in section 24-75-230 (2)(a), C.R.S., for jail-based behavioral
25 health services related to integrated behavioral health services. Any
26 money appropriated in this subsection (1)(d) not expended prior to July
27 1, 2023, is further appropriated to the administration from July 1, 2023,
28 through December 30, 2024, for the same purpose.

29 (2) For the 2022-23 state fiscal year, \$869,288 is appropriated to
30 the judicial department for use by probation and related services. This
31 appropriation consists of \$138,362 from the general fund and \$730,926
32 from the correctional treatment cash fund created in section 18-19-103
33 (4)(a), C.R.S. To implement this act, the department may use this
34 appropriation as follows:

35 (a) \$138,362 for probation programs, which amount is based on an
36 assumption that the department will require an additional 1.6 FTE; and

37 (b) \$730,926 from the correctional treatment cash fund created in
38 section 18-19-103 (4)(a), C.R.S., for offender treatment and services.

39 (3) For the 2022-23 state fiscal year, \$1,350,365 is appropriated
40 to the department of public health and environment for use by the

1 prevention services division. This appropriation is from the general fund
2 and is based on an assumption that the division will require an additional
3 0.6 FTE. To implement this act, the division may use this appropriation
4 for administration.

5 (4) For the 2022-23 state fiscal year, \$20,000,000 is appropriated
6 to the opiate antagonist bulk purchase fund created in section 25-1.5-115
7 (1)(a), C.R.S. This appropriation is from the behavioral and mental health
8 cash fund created in section 24-75-230 (2)(a), C.R.S., and is of money the
9 state received from the federal coronavirus state fiscal recovery fund. The
10 department of public health and environment is responsible for the
11 accounting related to this appropriation.

12 (5) For the 2022-23 state fiscal year, \$6,000,000 is appropriated
13 to the harm reduction grant program cash fund created in section 25-20.5-
14 1102 (1), C.R.S. This appropriation is from the behavioral and mental
15 health cash fund created in section 24-75-230 (2)(a), C.R.S., and is of
16 money the state received from the federal coronavirus state fiscal
17 recovery fund. The department of public health and environment is
18 responsible for the accounting related to this appropriation."

19 Renumber succeeding sections accordingly".

20 Page 3 of the report, strike line 22 and substitute:
21 "Page 43 of the bill, line 5, strike "34, and 35" and substitute "34, 35, and
22 36"."

23 Page 3 of the report, after line 22 insert:

24 "Page 1 of the bill, line 113, strike "AND".

25 Page 2 of the bill, line 102, strike "ACT." and substitute "ACT; AND
26 MAKING AN APPROPRIATION."."

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