

CHAPTER 320

CORRECTIONS

SENATE BILL 18-249

BY SENATOR(S) Gardner and Lambert, Jahn, Lundberg, Moreno, Aguilar, Coram, Court, Crowder, Fenberg, Fields, Guzman, Kagan, Kefalas, Kerr, Marble, Martinez Humenik, Merrifield, Neville T., Tate, Todd, Williams A., Grantham; also REPRESENTATIVE(S) Lee and Young, Hamner, Rankin, Singer, Benavidez, Bridges, Coleman, Esgar, Exum, Foote, Garnett, Gray, Herod, Jackson, Kennedy, Kraft-Tharp, Lontine, McLachlan, Melton, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Salazar, Valdez, Weissman, Winter, Duran.

AN ACT

CONCERNING ESTABLISHING ALTERNATIVE PROGRAMS IN THE CRIMINAL JUSTICE SYSTEM TO DIVERT INDIVIDUALS WITH A MENTAL HEALTH CONDITION TO COMMUNITY TREATMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 18-1.3-101.5 as follows:

18-1.3-101.5. Alternative pilot programs to divert individuals with mental health conditions - legislative intent - eligibility - process of diversion - grant program - program management - definitions - repeal. (1) THE INTENT OF THIS SECTION IS TO ESTABLISH AND FACILITATE FOUR PRE-PLEA LOCAL-LEVEL MENTAL HEALTH PILOT PROGRAMS IN SELECTED JUDICIAL DISTRICTS THAT WILL IDENTIFY INDIVIDUALS WITH MENTAL HEALTH CONDITIONS WHO HAVE BEEN CHARGED WITH A LOW-LEVEL CRIMINAL OFFENSE AND DIVERT SUCH INDIVIDUALS OUT OF THE CRIMINAL JUSTICE SYSTEM AND INTO COMMUNITY TREATMENT PROGRAMS IN ACCORDANCE WITH THE PRINCIPLES AND PROPOSED MODEL RECOMMENDED BY THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE, ADOPTED ON JANUARY 12, 2018. IN ADDITION, PROCEEDING PURSUANT TO THE MODEL RECOMMENDED BY THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE ENCOURAGES AND FACILITATES FLEXIBLE AND LOCALLY CONTROLLED PROGRAMS IN A MANNER THAT CAN ACCOMMODATE AND RESPECT THE AVAILABILITY OR LIMITATION OF RESOURCES IN EACH JURISDICTION WHILE STILL MAINTAINING THE CORE INTEGRITY AND OBJECTIVES OF THE EFFORT TO FOSTER THE USE OF MENTAL HEALTH DIVERSION PROGRAMS THROUGHOUT THE STATE.

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

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

(a) "COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE" MEANS THE COMMISSION ESTABLISHED PURSUANT TO SECTION 16-11.3-102.

(b) "GRANT PROGRAM" MEANS THE MENTAL HEALTH CRIMINAL JUSTICE DIVERSION GRANT PROGRAM ESTABLISHED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(c) "LOW-LEVEL CRIMINAL OFFENSE" MEANS ANY PETTY OFFENSE OR MISDEMEANOR, EXCLUDING THOSE OFFENSES ENUMERATED IN SECTION 24-4.1-302 (1). "LOW-LEVEL CRIMINAL OFFENSE" MAY ALSO INCLUDE, IF AGREED TO BY THE DISTRICT ATTORNEY IN A GIVEN PILOT PROGRAM SITE, ANY CLASS 4, CLASS 5, OR CLASS 6 FELONY OR ANY LEVEL 3 OR LEVEL 4 FELONY DRUG OFFENSE, EXCLUDING ANY FELONY OFFENSES ENUMERATED IN SECTION 24-4.1-302 (1).

(d) "PILOT PROGRAM" MEANS ANY ALTERNATIVE PROGRAM CREATED PURSUANT TO THIS SECTION THAT DIVERTS INDIVIDUALS WITH MENTAL HEALTH CONDITIONS INTO COMMUNITY TREATMENT PROGRAMS.

(e) "STATE COURT ADMINISTRATOR" MEANS THE STATE COURT ADMINISTRATOR ESTABLISHED PURSUANT TO SECTION 13-3-101.

(3) THERE ARE CREATED UP TO FOUR PILOT PROGRAMS IN JUDICIAL DISTRICTS IN THE STATE. THE STATE COURT ADMINISTRATOR AND THE COLORADO DISTRICT ATTORNEYS' COUNCIL SHALL COLLABORATE TO IDENTIFY POTENTIAL PILOT PROGRAM SITES WITH THE AGREEMENT OF THE ELECTED DISTRICT ATTORNEYS AND CHIEF JUDGES IN A JUDICIAL DISTRICT. THE STATE COURT ADMINISTRATOR AND THE COLORADO DISTRICT ATTORNEYS' COUNCIL SHALL CONSIDER GEOGRAPHIC DIVERSITY IN IDENTIFYING PILOT PROGRAM SITES. THE PURPOSE OF THE PILOT PROGRAMS IS TO IDENTIFY INDIVIDUALS WITH MENTAL HEALTH CONDITIONS WHO HAVE BEEN CHARGED WITH A LOW-LEVEL CRIMINAL OFFENSE AND DIVERT SUCH INDIVIDUALS OUT OF THE CRIMINAL JUSTICE SYSTEM AND INTO COMMUNITY TREATMENT PROGRAMS. THE DISTRICT ATTORNEY AND THE CHIEF JUDGE FOR A JUDICIAL DISTRICT SELECTED AS A PILOT PROGRAM SITE PURSUANT TO THIS SUBSECTION (3) SHALL WORK COLLABORATIVELY AND THROUGH CONSENSUS WITH INTERESTED AND NECESSARY PARTICIPANTS WITHIN THE JUDICIAL DISTRICT, INCLUDING BUT NOT LIMITED TO LAW ENFORCEMENT, JAIL OFFICIALS, PUBLIC DEFENDERS, JUDGES, PRETRIAL SERVICE PROVIDERS, AND LOCAL COMMUNITY MENTAL AND BEHAVIORAL HEALTH SERVICE PROVIDERS, TO DECIDE WHICH COURTS AND COUNTIES WITHIN THE JUDICIAL DISTRICT ARE BEST SUITED TO IMPLEMENT THE PILOT PROGRAM.

(4) THE CHIEF JUDGE OR HIS OR HER DESIGNEE OF ANY COUNTY OR DISTRICT COURT WHERE A PILOT PROGRAM IS CREATED PURSUANT TO SUBSECTION (3) OF THIS SECTION IS RESPONSIBLE FOR ESTABLISHING AND FACILITATING THE PILOT PROGRAM IN COMPLIANCE WITH THE PRINCIPLES AND MODEL ADOPTED BY THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE ON JANUARY 12, 2018. THE DUTIES OF THE CHIEF JUDGE WITH RESPECT TO THE PILOT PROGRAM MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) INITIATING AND COORDINATING ORGANIZATION MEETINGS AMONG THE VARIOUS LOCAL ENTITIES NECESSARY TO THE IMPLEMENTATION OF THE PILOT PROGRAM;

(b) ESTABLISHING POLICIES FOR THE PILOT PROGRAM;

(c) FACILITATING ANY FORMAL AGREEMENTS OR MEMORANDA OF UNDERSTANDING REQUIRED TO CREATE THE PILOT PROGRAM;

(d) BROKERING SERVICES THROUGH CONTRACTING WITH LOCAL COMMUNITY TREATMENT PROGRAMS THAT PROVIDE A CONTINUUM OF COMMUNITY-BASED MENTAL HEALTH CARE AND TREATMENT TO ACCOMPLISH THE GOALS OF THE PILOT PROGRAM; AND

(e) ADMINISTERING THE PILOT PROGRAM ONCE IT IS IMPLEMENTED.

(5) THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR ADMINISTRATION AND OVERSIGHT OF THE PILOT PROGRAMS, INCLUDING CERTIFYING THAT, ON OR BEFORE JANUARY 1, 2019, EACH PILOT PROGRAM SITE IMPLEMENTS A DESIGN THAT IS CONSISTENT WITH THE PRINCIPLES AND PROPOSED MODEL ADOPTED BY THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE AND THE LEGISLATIVE INTENT OF THIS SECTION. THE DUTIES OF THE STATE COURT ADMINISTRATOR WITH RESPECT TO THE PILOT PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:

(a) ESTABLISHING PILOT PROGRAM PROCEDURES AND TIMELINES; AND

(b) ESTABLISHING GRANT FUNDING GUIDELINES AND ACCEPTABLE EXPENSES FOR THE DISTRIBUTION OF GRANT PROGRAM GRANT MONEY TO THE PILOT PROGRAM SITES BASED UPON SPECIFIC ALLOCATIONS REQUIRED BY THE GRANT PROGRAM AND OTHER PILOT PROGRAM NEEDS AND ANY OTHER CRITERIA, SUCH AS CASE VOLUME, GEOGRAPHICAL COMPLEXITY, AND DENSITY OF NEED.

(6) THERE IS CREATED IN THE OFFICE OF THE STATE COURT ADMINISTRATOR THE MENTAL HEALTH CRIMINAL JUSTICE DIVERSION GRANT PROGRAM. THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR ADMINISTERING AND MONITORING THE GRANT PROGRAM INCLUDING, BUT NOT LIMITED TO:

(a) ESTABLISHING GRANT FUNDING GUIDELINES AND ACCEPTABLE EXPENSES FOR THE DISTRIBUTION OF GRANT PROGRAM GRANT MONEY TO THE PILOT PROGRAM SITES BASED UPON SPECIFIC ALLOCATIONS REQUIRED BY THE GRANT PROGRAM, THE SPECIFIC AWARD TO THE DISTRICT ATTORNEY'S OFFICE IN EACH OF THE FOUR DESIGNATED JUDICIAL DISTRICTS, OTHER PILOT PROGRAM NEEDS, AND ANY OTHER CRITERIA, SUCH AS CASE VOLUME, GEOGRAPHICAL COMPLEXITY, AND DENSITY OF NEED. IN ADDITION TO ANY OTHER ALLOWABLE EXPENSES TO BE PAID FOR BY THE GRANT PROGRAM, EACH DISTRICT ATTORNEY'S OFFICE PARTICIPATING IN THE PILOT PROGRAM SHALL RECEIVE FIFTY THOUSAND DOLLARS PER YEAR FROM THE GRANT FUNDING FOR EACH OF THE TWO YEARS OF THE GRANT PROGRAM. SUCH MONEY MUST BE USED TO ASSIST IN COVERING THE COSTS RELATED TO PERSONNEL AND ADMINISTRATIVE REQUIREMENTS TO ESTABLISH AND OPERATE PILOT PROGRAMS IN FOUR DESIGNATED JUDICIAL DISTRICTS.

(b) AWARDING ANNUAL GRANTS TO THE PILOT PROGRAMS; EXCEPT THAT THE TOTAL OF ALL GRANTS AWARDED PER YEAR MUST NOT EXCEED SEVEN HUNDRED FIFTY THOUSAND DOLLARS;

(c) DISBURSING GRANT MONEY; EXCEPT THAT THE STATE COURT ADMINISTRATOR SHALL DISTRIBUTE THE FIRST ROUND OF GRANT AWARDS ON OR BEFORE JANUARY 1, 2019.

(7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 1, 2021.

SECTION 2. Appropriation. For the 2018-19 state fiscal year, \$750,000 is appropriated to the judicial department. This appropriation is from the general fund and is based on an assumption that the department will require an additional 0.9 FTE. To implement this act, the department may use this appropriation for the mental health criminal justice diversion grant program.

SECTION 3. 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 30, 2018