

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0001.03 Michael Dohr x4347

SENATE BILL 21-056

SENATE SPONSORSHIP

Holbert and Gonzales,

HOUSE SPONSORSHIP

Van Winkle and Gray,

Senate Committees
Education

House Committees

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.

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, possession, and administration of cannabis-based medicine on school grounds by school personnel. The bill removes the discretion from the

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.

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:

19 (I) Provide for the administration of medical marijuana at school

1 to any student with a valid recommendation for medical marijuana who
2 is registered with the department of public health and environment;

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

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

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

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

18 **22-1-119.3. Policy for student possession and administration**
19 **of prescription medication - rules - definitions.** (1) A school district
20 board of education ~~may~~ SHALL adopt and implement a policy whereby,
21 except as described in subsection (3) of this section, a student enrolled in
22 a school of the school district may possess and self-administer on school
23 grounds, upon a school bus, or at any school-sponsored event any
24 medication that is prescribed by a licensed health care practitioner to be
25 used by the student AND SHALL ADOPT AND IMPLEMENT A POLICY
26 CONSISTENT WITH SUBSECTIONS (3)(c), (3)(d), AND (3)(d.5) OF THIS
27 SECTION.

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

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

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

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

25 (d) (I) ~~(A)~~ A primary caregiver may possess, and administer to a
26 student who holds a valid recommendation for medical marijuana,
27 medical marijuana in a nonsmokeable form upon the grounds of the

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

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

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

16 (B) The school district or charter school can reasonably
17 demonstrate that it lost federal funding DIRECTLY as a result of
18 implementing this ~~paragraph (d)~~ SUBSECTION (3)(d); and

19 (d.5) (I) Medical marijuana in a nonsmokeable form shall ~~not~~ be
20 administered at a school pursuant to this subsection (3)(d.5) ~~unless~~
21 ACCORDING TO a written plan for the administration of medical marijuana
22 in a nonsmokeable form THAT is agreed to and signed by the school
23 principal or his or her designee and a parent or legal guardian THAT IS
24 CONSISTENT WITH THE SCHOOL BOARD'S ADOPTED POLICY REQUIRED BY
25 SUBSECTION (3)(a)(III) OF THIS SECTION.

26 (III) (B) Nothing in this subsection (3)(d.5) requires any school
27 personnel to administer medical marijuana. ~~Administration of medical~~

1 ~~marijuana in a nonsmokeable form is at the discretion of the parent or~~
2 ~~legal guardian, the school principal or his or her designee, or the~~
3 ~~designated school personnel.~~

4 (D) A SCHOOL DISTRICT BOARD OF EDUCATION OR A SCHOOL
5 ADMINISTRATION SHALL NOT DISCIPLINE OR RETALIATE AGAINST ANY
6 SCHOOL PERSONNEL WHO VOLUNTEERS TO POSSESS, ADMINISTER, OR
7 ASSIST IN THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
8 NONSMOKEABLE FORM AS ALLOWED BY THIS SUBSECTION (3)(d.5).

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

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

16 (B) The school can reasonably demonstrate that it lost federal
17 funding DIRECTLY as a result of implementing this subsection (3)(d.5);
18 and

19 (VII) The student's parent, guardian, or designee shall deliver the
20 student's medical marijuana in a nonsmokeable form, in a container that
21 contains clearly labeled instructions or the plan for administration must
22 clearly specify instructions for the dosing, timing, and delivery route
23 instructions from one of the student's recommending physicians, to the
24 ~~person~~ VOLUNTEER OR SCHOOL PERSONNEL designated by the school as
25 the person who secures the medical marijuana before the student attends
26 school for the school day. The ~~person~~ VOLUNTEER OR SCHOOL PERSONNEL
27 who secures the medical marijuana in a nonsmokeable form shall place

1 the medical marijuana in a locked storage container ~~After the school~~
2 ~~personnel administers the medical marijuana in a nonsmokeable form, the~~
3 ~~school personnel shall place the medical marijuana in a locked medical~~
4 ~~marijuana storage container designated by the school~~ THAT DOES NOT
5 SIGNIFICANTLY DELAY ACCESS TO OR THE ADMINISTRATION OF THE
6 MEDICAL MARIJUANA IN A NONSMOKEABLE FORM IN A MEDICAL
7 EMERGENCY. The person who secures the medical marijuana in a
8 nonsmokeable form ~~shall~~ MAY return any unused medical marijuana to
9 the student's parent, guardian, or designee at the end of each school day,
10 ~~The student shall not handle the medical marijuana in a nonsmokeable~~
11 ~~form on the grounds of the school, school bus, or school-sponsored event.~~
12 OR, IF ALLOWED BY THE TREATMENT PLAN, THE MEDICAL MARIJUANA IN
13 A NONSMOKEABLE FORM MAY BE KEPT ON SCHOOL GROUNDS OVERNIGHT
14 IN A LOCKED STORAGE CONTAINER.

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

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

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

25 **12-255-120. Grounds for discipline - definitions.** (1) "Grounds
26 for discipline", as used in this part 1, means any action by any person
27 who:

1 (p) Has prescribed, distributed, or given to himself or herself or
2 a family member any controlled substance as defined in part 2 of article
3 18 of title 18 or as contained in schedule II of 21 U.S.C. sec. 812, EXCEPT
4 FOR MEDICAL MARIJUANA LAWFULLY RECOMMENDED AND OBTAINED
5 PURSUANT TO THE LAWS OF THE STATE OF COLORADO;

6 (s) Has administered, dispensed, or prescribed any habit-forming
7 drug or any controlled substance, as defined in section 18-18-102 (5),
8 other than in the course of legitimate professional practice, WHICH
9 INCLUDES THE RECOMMENDATION, ADMINISTRATION, OR DISPENSATION OF
10 MEDICAL MARIJUANA;

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

13 **12-255-127. Exclusions.** (1) This part 1 does not prohibit:

14 (p) THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
15 NONSMOKEABLE FORM BY A LICENSEE IN A PUBLIC SCHOOL OR NONPUBLIC
16 SCHOOL PURSUANT TO A POLICY ADOPTED PURSUANT TO SECTION
17 22-1-119.3 (3)(d.5);

18 (q) THE TRAINING BY A LICENSEE OF SCHOOL PERSONNEL OR
19 VOLUNTEERS ON THE ADMINISTRATION OF MEDICAL MARIJUANA IN A
20 NONSMOKEABLE FORM IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL TO A
21 STUDENT WITH A VALID MEDICAL MARIJUANA RECOMMENDATION
22 PURSUANT TO A POLICY ADOPTED PURSUANT TO SECTION 22-1-119.3
23 (3)(d.5).

24 **SECTION 5. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2022 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.