

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

BILL C

LLS NO. 20-0294.01 Shelby Ross x4510

HOUSE BILL

HOUSE SPONSORSHIP

Herod and Kennedy,

SENATE SPONSORSHIP

Donovan and Priola, Pettersen

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TREATMENT OF INDIVIDUALS WITH SUBSTANCE USE**
102 **DISORDERS WHO COME INTO CONTACT WITH THE CRIMINAL**
103 **JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

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 requires the department of corrections, local jails, multijurisdictional jails, municipal jails, and state department of human

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.

services facilities to make available at least one opioid agonist and one opioid antagonist to a person in custody with an opioid use disorder throughout the duration of the person's incarceration or commitment.

The bill allows a person to dispose of any controlled substances at a safe station and request assistance in gaining access to treatment for a substance use disorder. The bill defines a "safe station" as any municipal police station; county sheriff's office; or municipal, county, or fire protection district fire station.

The bill requires the department of corrections and jails to ensure that continuity of care is provided to inmates prior to release.

The bill requires the executive director of the department of corrections, in consultation with the offices of behavioral health and economic security in the department of human services, the department of health care policy and financing, the department of local affairs, and local service providers to develop resources for inmates post-release that provide information to help prepare inmates for release and reintegration into their communities.

If a person who is the subject of a petition to seal criminal records has entered into or successfully completed a licensed substance use disorder treatment program, the court is required to consider such factor favorably in determining whether to issue the order.

The bill allows the office of behavioral health in the department of human services to contract with cities and counties for the creation, maintenance, or expansion of criminal justice diversion programs. The bill requires the department of human services to include an update regarding the current status of funding and implementation of the criminal justice diversion programs in its annual SMART presentation.

The bill appropriates money to the office of behavioral health in the department of human services for criminal justice diversion programs.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 17-1-113.4 as
3 follows:

4 **17-1-113.4. Opioid treatment for a person in custody -**
5 **definitions.** (1) A CORRECTIONAL FACILITY OR PRIVATE CONTRACT
6 PRISON SHALL MAKE AVAILABLE AT LEAST ONE OPIOID AGONIST AND AT
7 LEAST ONE OPIOID ANTAGONIST TO A PERSON IN CUSTODY WITH AN OPIOID
8 USE DISORDER THROUGHOUT THE DURATION OF THE PERSON'S

1 INCARCERATION.

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

4 (a) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT
5 IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE
6 TREATMENT OF AN OPIOID USE DISORDER.

7 (b) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY
8 ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS
9 APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE
10 TREATMENT OF AN OPIOID USE DISORDER.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 17-26-104.9 as
12 follows:

13 **17-26-104.9. Opioid treatment for a person in custody -**
14 **definitions.** (1) A FACILITY, WHETHER OPERATED BY A GOVERNMENTAL
15 ENTITY OR A PRIVATE CONTRACTOR, SHALL MAKE AVAILABLE AT LEAST
16 ONE OPIOID AGONIST AND AT LEAST ONE OPIOID ANTAGONIST TO A PERSON
17 IN CUSTODY WITH AN OPIOID USE DISORDER THROUGHOUT THE DURATION
18 OF THE PERSON'S INCARCERATION.

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

21 (a) "FACILITY" MEANS:

22 (I) A LOCAL JAIL, AS DEFINED IN SECTION 17-1-102 (7);

23 (II) A MULTIJURISDICTIONAL JAIL, AS DESCRIBED IN SECTION
24 17-26.5-101; AND

25 (III) A MUNICIPAL JAIL, AS AUTHORIZED IN SECTION 31-15-401
26 (1)(j).

27 (b) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT

1 IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE
2 TREATMENT OF AN OPIOID USE DISORDER.

3 (c) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY
4 ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS
5 APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE
6 TREATMENT OF AN OPIOID USE DISORDER.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 26-1-136.7 as
8 follows:

9 **26-1-136.7. Opioid treatment for a person in custody -**
10 **definitions.** (1) A STATE DEPARTMENT FACILITY SHALL MAKE AVAILABLE
11 AT LEAST ONE OPIOID AGONIST AND AT LEAST ONE OPIOID ANTAGONIST TO
12 A PERSON COMMITTED TO OR PLACED WITH THE FACILITY WITH AN OPIOID
13 USE DISORDER THROUGHOUT THE DURATION OF THE PERSON'S
14 COMMITMENT OR PLACEMENT.

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

17 (a) "OPIOID AGONIST" MEANS A FULL OR PARTIAL AGONIST THAT
18 IS APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE
19 TREATMENT OF AN OPIOID USE DISORDER.

20 (b) "OPIOID ANTAGONIST" MEANS NALTREXONE OR ANY SIMILARLY
21 ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE AND THAT IS
22 APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE
23 TREATMENT OF AN OPIOID USE DISORDER.

24 **SECTION 4.** In Colorado Revised Statutes, **add** 31-15-405 as
25 follows:

26 **31-15-405. Opioid treatment for a person in custody.** A
27 MUNICIPALITY THAT CHOOSES TO ESTABLISH AND OPERATE A JAIL, AS

1 AUTHORIZED IN SECTION 31-15-401 (1)(j), SHALL COMPLY WITH THE
2 PROVISIONS OF SECTION 17-26-104.9 CONCERNING OPIOID TREATMENT FOR
3 A PERSON IN CUSTODY.

4 **SECTION 5.** In Colorado Revised Statutes, **add** 18-18-607 as
5 follows:

6 **18-18-607. Safe stations - disposal of controlled substances -**
7 **medical evaluation - definition.** (1) (a) UPON ARRIVAL TO A SAFE
8 STATION, A PERSON MAY TURN IN ANY CONTROLLED SUBSTANCES AND
9 REQUEST ASSISTANCE IN GAINING ACCESS TO TREATMENT FOR A
10 SUBSTANCE USE DISORDER. SAFE STATION PERSONNEL SHALL EITHER
11 DISPOSE OF THE CONTROLLED SUBSTANCES OR DELIVER THE CONTROLLED
12 SUBSTANCES TO A MUNICIPAL POLICE STATION OR COUNTY SHERIFF'S
13 OFFICE FOR DISPOSAL PURPOSES ONLY.

14 (b) A PERSON WHO TURNS IN ONE OR MORE CONTROLLED
15 SUBSTANCES PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION IS NOT
16 SUBJECT TO ARREST OR PROSECUTION FOR POSSESSION OF SUCH
17 CONTROLLED SUBSTANCES.

18 (2) REASONABLE EFFORTS SHOULD BE TAKEN BY SAFE STATION
19 PERSONNEL TO DETERMINE IF THE PERSON IS IN NEED OF IMMEDIATE
20 MEDICAL ATTENTION AND FACILITATE TRANSPORTATION TO AN
21 APPROPRIATE MEDICAL FACILITY, IF NECESSARY. IF THE PERSON DOES NOT
22 REQUIRE IMMEDIATE MEDICAL ATTENTION, THE SAFE STATION PERSONNEL
23 SHALL WORK WITH THE PERSON TO IDENTIFY THE BEST DESTINATION FOR
24 TREATMENT OF A SUBSTANCE USE DISORDER.

25 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
26 REQUIRES, A "SAFE STATION" MEANS ANY MUNICIPAL POLICE STATION;
27 COUNTY SHERIFF'S OFFICE; OR MUNICIPAL, COUNTY, OR FIRE PROTECTION

1 DISTRICT FIRE STATION.

2 **SECTION 6.** In Colorado Revised Statutes, **add** 17-26-140 as
3 follows:

4 **17-26-140. Continuity of care for persons released from jail.**

5 (1) IF A PERSON IS TREATED FOR A SUBSTANCE USE DISORDER
6 THROUGHOUT THE PERSON'S INCARCERATION, THE COUNTY JAIL SHALL
7 CONDUCT THE FOLLOWING BEFORE RELEASING THE PERSON FROM THE
8 COUNTY JAIL'S CUSTODY:

9 (a) SCHEDULE APPOINTMENTS WITH THE PERSON'S BEHAVIORAL
10 HEALTH PROVIDER OR LICENSED HEALTH CARE PROVIDER;

11 (b) ENSURE TREATMENT SERVICES ARE READILY AVAILABLE;

12 (c) PROVIDE POST-RELEASE RESOURCES DEVELOPED PURSUANT TO
13 SECTION 17-1-103 (1)(r) TO THE PERSON;

14 (d) ENSURE THE PERSON'S MEDICAID IS REINSTATED, IF
15 APPLICABLE; AND

16 (e) IF THE PERSON HAS A HISTORY OF OPIOID USE DISORDER,
17 DEVELOP A MEDICATION-ASSISTED TREATMENT PLAN AND PROVIDE AN
18 OPIOID ANTAGONIST TO THE PERSON.

19 **SECTION 7.** In Colorado Revised Statutes, **add** 17-1-113.2 as
20 follows:

21 **17-1-113.2. Continuity of care for persons released from**
22 **correctional facility.** BEFORE A PERSON IS RELEASED FROM THE CUSTODY
23 OF A CORRECTIONAL FACILITY, THE CORRECTIONAL FACILITY SHALL
24 COMPLY WITH THE PROVISIONS OF SECTION 17-26-140 CONCERNING
25 CONTINUITY OF CARE FOR PERSONS WITH A SUBSTANCE USE DISORDER.

26 **SECTION 8.** In Colorado Revised Statutes, 17-1-103, **amend** (1)
27 introductory portion; and **add** (1)(r) as follows:

1 **17-1-103. Duties of the executive director.** (1) The duties of the
2 executive director ~~shall be~~ ARE:

3 (r) IN CONSULTATION WITH THE OFFICES OF BEHAVIORAL HEALTH
4 AND ECONOMIC SECURITY IN THE DEPARTMENT OF HUMAN SERVICES, THE
5 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT
6 OF LOCAL AFFAIRS, AND LOCAL SERVICE PROVIDERS, TO DEVELOP
7 RESOURCES FOR INMATES POST-RELEASE THAT PROVIDE INFORMATION TO
8 HELP PREPARE INMATES FOR RELEASE AND SUCCESSFUL REINTEGRATION
9 INTO THEIR COMMUNITIES. THE RESOURCES MUST REFLECT THE NEEDS OF
10 DIVERSE AND UNDERSERVED POPULATIONS AND COMMUNITIES.

11 **SECTION 9.** In Colorado Revised Statutes, 24-72-703, **add**
12 (10.5) as follows:

13 **24-72-703. Sealing of arrest and criminal records - general**
14 **provisions - order applicability - discovery and advisements.** (10.5) IF
15 THE PERSON IN INTEREST HAS ENTERED INTO OR SUCCESSFULLY
16 COMPLETED A SUBSTANCE USE DISORDER TREATMENT PROGRAM LICENSED
17 PURSUANT TO SECTION 27-80-205 IN THE CASE THAT IS THE SUBJECT OF
18 THE PETITION TO SEAL, THE COURT SHALL CONSIDER SUCH FACTOR
19 FAVORABLY IN DETERMINING WHETHER TO ISSUE AN ORDER TO SEAL
20 RECORDS PURSUANT TO THIS SECTION.

21 **SECTION 10.** In Colorado Revised Statutes, **add** 27-60-106.5 as
22 follows:

23 **27-60-106.5. Criminal justice diversion programs - rules -**
24 **report.** (1) THE OFFICE OF BEHAVIORAL HEALTH IN THE STATE
25 DEPARTMENT MAY CONTRACT WITH CITIES AND COUNTIES FOR THE
26 CREATION, MAINTENANCE, OR EXPANSION OF CRIMINAL JUSTICE DIVERSION
27 PROGRAMS. THE GOAL OF EACH PROGRAM CREATED PURSUANT TO THIS

1 SECTION SHOULD BE TO CONNECT LAW ENFORCEMENT OFFICERS WITH
2 BEHAVIORAL HEALTH PROVIDERS TO ASSIST INDIVIDUALS IN NEED OF
3 BEHAVIORAL HEALTH INTERVENTION OR TO DIVERT INDIVIDUALS FROM
4 THE CRIMINAL JUSTICE SYSTEM.

5 (2) ON OR BEFORE NOVEMBER 1, 2021, AND ON OR BEFORE EACH
6 NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL INCLUDE AN
7 UPDATE REGARDING THE CURRENT STATUS OF FUNDING AND THE CRIMINAL
8 JUSTICE DIVERSION PROGRAMS IMPLEMENTED PURSUANT TO THIS SECTION
9 IN ITS REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE
10 HOUSE OF REPRESENTATIVES, THE HEALTH AND HUMAN SERVICES
11 COMMITTEE OF THE SENATE, THE PUBLIC HEALTH CARE AND HUMAN
12 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY
13 SUCCESSOR COMMITTEES, AS PART OF ITS "STATE MEASUREMENT FOR
14 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
15 GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203.

16 (3) THE STATE BOARD OF HUMAN SERVICES, CREATED IN SECTION
17 26-1-107, MAY PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF
18 THIS SECTION.

19 **SECTION 11. Appropriation.** For the 2020-21 state fiscal year,
20 \$1,150,000 is appropriated to the department of human services for use
21 by the office of behavioral health. This appropriation is from the general
22 fund. The office may use this appropriation for criminal justice diversion
23 programs established pursuant to section 27-60-106.5, C.R.S.

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