

CHAPTER 194

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 02-1229

BY REPRESENTATIVE(S) Veiga, Groff, Hefley, Lawrence, Smith, Borodkin, Jahn, Jameson, Sanchez, and Williams S.;
also SENATOR(S) Tate.

AN ACT

CONCERNING CONTINUATION OF THE REGULATION OF CONTROLLED SUBSTANCES, AND, IN CONNECTION THEREWITH, UPDATING THE STATUTES TO REFLECT THE REGULATORY FUNCTIONS WITHIN THE DEPARTMENT OF HUMAN SERVICES, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-22-303 (9), Colorado Revised Statutes, is amended to read:

12-22-303. Definitions. As used in this part 3, unless the context otherwise requires:

(9) "Department" means the department of ~~public health and environment~~ HUMAN SERVICES.

SECTION 2. 12-22-304 (1), Colorado Revised Statutes, is amended to read:

12-22-304. License required - controlled substances - drug precursors - fund created - repeal. (1) In accordance with part 3 of article 18 of title 18, C.R.S., a license issued by the department shall be obtained annually for each place of business or professional practice located in this state by:

(a) (I) Every researcher, including analytical laboratories, experimenting with, studying, or testing any controlled substance.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2002.

(b) (I) Every addiction program which compounds, administers, or dispenses a controlled substance.

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

(II) (A) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2007.

(B) PRIOR TO SUCH REPEAL, THE LICENSING FUNCTIONS OF THE DEPARTMENT SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

SECTION 3. 12-22-306, Colorado Revised Statutes, is amended to read:

12-22-306. Controlled substances program fund - disposition of fees. THERE IS HEREBY CREATED IN THE STATE TREASURY THE CONTROLLED SUBSTANCES PROGRAM FUND. All moneys collected by the department shall be transmitted to the state treasurer, who shall credit the same to the ~~general~~ CONTROLLED SUBSTANCES PROGRAM fund. The general assembly shall make annual appropriations from the ~~general~~ CONTROLLED SUBSTANCES PROGRAM fund TO THE DEPARTMENT for the purposes authorized by this part 3. ~~Expenditures from such appropriations shall be made upon vouchers and warrants drawn pursuant to law.~~ ALL MONEYS CREDITED TO THE CONTROLLED SUBSTANCES PROGRAM FUND AND ANY INTEREST EARNED ON SUCH FUND SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

SECTION 4. 12-22-318 (1) (a), Colorado Revised Statutes, is amended to read:

12-22-318. Records to be kept - order forms - repeal. (1) (a) Each person licensed or otherwise authorized under this part 3 or other laws of this state to manufacture, purchase, distribute, dispense, administer, store, ~~use in research,~~ or otherwise handle controlled substances shall keep and maintain separate detailed and accurate records and inventories relating to controlled substances and retain all such records and inventories for a period of two years after the respective dates of such transactions as shown on such records and inventories.

SECTION 5. 18-18-102 (8), Colorado Revised Statutes, is amended to read:

18-18-102. Definitions. As used in this article:

(8) "Department" means the department of ~~public health and environment~~ HUMAN SERVICES.

SECTION 6. Repeal. 24-34-104 (31.5) (a), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (31.5) The following agencies, functions, or both, shall terminate on July 1, 2002:

(a) ~~The recordkeeping functions of the department of human services relating to controlled substances in accordance with part 3 of article 22 of title 12, C.R.S.;~~

SECTION 7. 24-34-104 (38), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (38) The following agencies,

functions, or both, shall terminate on July 1, 2007:

(d) THE RECORD-KEEPING AND LICENSING FUNCTIONS OF THE DEPARTMENT OF HUMAN SERVICES RELATING TO ADDICTION PROGRAMS UNDER WHICH CONTROLLED SUBSTANCES ARE COMPOUNDED, ADMINISTERED, OR DISPENSED IN ACCORDANCE WITH PART 3 OF ARTICLE 22 OF TITLE 12, C.R.S.

SECTION 8. 16-7-402 (2), Colorado Revised Statutes, is amended to read:

16-7-402. Counseling or treatment for alcohol or drug abuse. (2) In any case in which treatment or counseling for alcohol or drug abuse is authorized in connection with a deferred prosecution or probation, the court may require the defendant to obtain counseling or treatment for such condition. If the court orders such counseling or treatment, the court shall order that the counseling or treatment be obtained from a treatment facility or person approved by the division of alcohol and drug abuse, established in part 2 of ~~article 2~~ ARTICLE 1 of title 25, C.R.S., unless the court makes a finding that counseling or treatment in another facility or with another person is warranted. If the defendant voluntarily submits himself or herself for such treatment or counseling, the district attorney and the court may consider his or her willingness to correct his or her condition as a basis for granting deferred prosecution.

SECTION 9. 16-11-204 (2) (c) (I), Colorado Revised Statutes, is amended to read:

16-11-204. Conditions of probation. (2) (c) If the court orders counseling or treatment as a condition of probation, unless the court makes a specific finding that treatment in another facility or with another person is warranted, the court shall order that such treatment or counseling be at a facility or with a person:

(I) Approved by the division of alcohol and drug abuse established in part 2 of ~~article 2~~ ARTICLE 1 of title 25, C.R.S., if the treatment is for alcohol or drug abuse;

SECTION 10. 16-11.5-104, Colorado Revised Statutes, is amended to read:

16-11.5-104. Sentencing of felons - parole of felons - treatment and testing based upon assessment required. (1) Each person sentenced by the court for a felony committed on or after July 1, 1992, shall be required, as a part of any sentence to probation, community corrections, or incarceration with the department of corrections, to undergo periodic testing and treatment for substance abuse ~~which~~ THAT is appropriate to such felon based upon the recommendations of the assessment made pursuant to section 16-11.5-103, or based upon any subsequent recommendations by the department of corrections, the judicial department, or the division of criminal justice of the department of public safety, whichever is appropriate. Any such testing or treatment shall be at a facility or with a person approved by the division of alcohol and drug abuse, established in part 2 of ~~article 2~~ ARTICLE 1 of title 25, C.R.S., and at such felon's own expense, unless such felon is indigent.

(2) Each person placed on parole by the state board of parole on or after July 1, 1992, shall be required, as a condition of such parole, to undergo periodic testing and treatment for substance abuse ~~which~~ THAT is appropriate to such parolee based upon

the recommendations of the assessment made pursuant to section 16-11.5-103 or any assessment or subsequent reassessment made regarding such parolee during his or her incarceration or any period of parole. Any such testing or treatment shall be at a facility or with a person approved by the division of alcohol and drug abuse, established in part 2 of ~~article 2~~ ARTICLE 1 of title 25, C.R.S., and at such parolee's own expense, unless such parolee is indigent.

SECTION 11. 17-2-201 (5.7) (a), Colorado Revised Statutes, is amended to read:

17-2-201. State board of parole. (5.7) If, as a condition of parole, an offender is required to undergo counseling or treatment, unless the parole board determines that treatment at another facility or with another person is warranted, such treatment or counseling shall be at a facility or with a person:

(a) Approved by the division of alcohol and drug abuse established in part 2 of ~~article 2~~ ARTICLE 1 of title 25, C.R.S., if the treatment is for alcohol or drug abuse;

SECTION 12. 17-27.1-101 (5) (a) (I), Colorado Revised Statutes, is amended to read:

17-27.1-101. Nongovernmental facilities for offenders - registration - notifications - penalties. (5) No private treatment program in Colorado shall admit or accept a supervised or unsupervised person into the program unless that program:

(a) Is registered with the administrator of the interstate compact, and, if the person is a supervised person, the private treatment program is:

(I) Approved by the division of alcohol and drug abuse established in part 2 of ~~article 2~~ ARTICLE 1 of title 25, C.R.S., if the program provides alcohol or drug abuse treatment;

SECTION 13. 24-1-120 (6) (d), Colorado Revised Statutes, is amended to read:

24-1-120. Department of human services - creation. (6) The department shall consist of the following divisions:

(d) The division of alcohol and drug abuse, created pursuant to ~~part 1~~ PART 2 of article 1 of title 25, C.R.S. The division of alcohol and drug abuse and its powers, duties, and functions, including the powers, duties, and functions relating to the alcohol and drug driving safety program specified in section 42-4-1301 (10), C.R.S., are transferred by a **type 2** transfer to the department of human services.

SECTION 14. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the controlled substances program fund created in section 12-22-306, Colorado Revised Statutes, not otherwise appropriated, to the department of human services, for allocation to the alcohol and drug abuse division, administration section, for the fiscal year beginning July 1, 2002, the sum of five hundred dollars (\$500), or so much thereof as may be necessary, for the implementation of this act.

SECTION 15. 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 28, 2002