

## CHAPTER 424

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**CRIMINAL LAW AND PROCEDURE**

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**SENATE BILL 03-318**

BY SENATOR(S) Gordon, Anderson, Chlouber, Fitz-Gerald, Groff, Hagedorn, Hanna, Isgar, Keller, Linkhart, Nichol, Phillips, Tapia, Tupa, and Windels;  
also REPRESENTATIVE(S) Hefley, Boyd, Carroll, Cloer, Crane, Frangas, Garcia, Hoppe, Jahn, Larson, Madden, Marshall, Merrifield, Paccione, Plant, Ragsdale, Rippey, Salazar, Smith, Stafford, Tochtrop, Weddig, Weissmann, and Williams S.

**AN ACT**

**CONCERNING REDUCTION OF SENTENCES FOR PARTICULAR DRUG CRIMES, AND, IN CONNECTION THEREWITH, CREATING A DRUG OFFENDER TREATMENT FUND.**

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

**SECTION 1. Legislative intent.** It is the intent of the general assembly to reduce the felony level of drug possession offenses where the defendant possesses a small amount of a controlled substance. In reducing the felony level, the general assembly intends to use the anticipated savings to fund drug offender treatment programs. By increasing the availability of funding for drug treatment, the general assembly anticipates decreasing the number of drug-dependant Coloradans. The general assembly finds that Colorado will benefit from reducing the number of drug-dependant Coloradans through a resulting reduction in the burden on the state's criminal justice system, penal system, and health care system. In addition, Colorado will experience many other social and economic benefits by reducing the number of drug-dependant Coloradans.

**SECTION 2.** 18-18-404 (1), Colorado Revised Statutes, is amended, and the said 18-18-404 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**18-18-404. Unlawful use of a controlled substance - repeal.** (1) (a) Except as is otherwise provided for offenses concerning marihuana and marihuana concentrate in sections 18-18-406 and 18-18-406.5, any person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense such controlled substance for bona fide medical needs, commits:

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

~~(a)~~ (I) A class 5 6 felony, if the controlled substance is listed in schedule I or II of part 2 of this article;

~~(b)~~ (II) A class 1 misdemeanor, if the controlled substance is listed in schedule III, IV, or V of part 2 of this article.

(b) THIS SUBSECTION (1) IS REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

(1.1) (a) EXCEPT AS IS OTHERWISE PROVIDED FOR OFFENSES CONCERNING MARIHUANA AND MARIHUANA CONCENTRATE IN SECTIONS 18-18-406 AND 18-18-406.5, ANY PERSON WHO USES ANY CONTROLLED SUBSTANCE, EXCEPT WHEN IT IS DISPENSED BY OR UNDER THE DIRECTION OF A PERSON LICENSED OR AUTHORIZED BY LAW TO PRESCRIBE, ADMINISTER, OR DISPENSE SUCH CONTROLLED SUBSTANCE FOR BONA FIDE MEDICAL NEEDS, COMMITS:

(I) A CLASS 5 FELONY, IF THE CONTROLLED SUBSTANCE IS LISTED IN SCHEDULE I OR II OF PART 2 OF THIS ARTICLE;

(II) A CLASS 1 MISDEMEANOR, IF THE CONTROLLED SUBSTANCE IS LISTED IN SCHEDULE III, IV, OR V OF PART 2 OF THIS ARTICLE.

(b) THIS SUBSECTION (1.1) SHALL TAKE EFFECT ON THE JULY 1 EFFECTIVE DATE OF THE REPEAL OF SUBSECTION (1) OF THIS SECTION AND SHALL APPLY ONLY TO OFFENSES COMMITTED ON OR AFTER THAT DATE. THIS SUBSECTION (1.1) SHALL TAKE EFFECT ONLY IF SUBSECTION (1) OF THIS SECTION IS REPEALED.

**SECTION 3.** 18-18-405 (2) and (2.5) and the introductory portion to 18-18-405 (3) (a), Colorado Revised Statutes, are amended, and the said 18-18-405 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession - repeal.** (2) (a) Except as is otherwise provided IN SUBSECTION (2.3) OF THIS SECTION FOR POSSESSION OFFENSES NOT INCLUDING POSSESSION WITH THE INTENT TO DISTRIBUTE INVOLVING ONE GRAM OR LESS OF ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS ANY QUANTITY OF A SCHEDULE I THROUGH IV CONTROLLED SUBSTANCE, AND for offenses concerning marihuana and marihuana concentrate in section 18-18-406, and FOR offenses involving minors in section 18-18-407 (1) (g), any person who violates any of the provisions of subsection (1) of this section:

~~(a)~~ (I) In the case of a controlled substance listed in schedule I or II of part 2 of this article, commits:

~~(F)~~ (A) A class 3 felony; except that a person commits a class 4 felony if such violation is based on the possession of a controlled substance listed in schedule II unless otherwise provided in paragraph (a) of subsection (3) of this section; or

~~(H)~~ (B) A class 2 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this ~~paragraph (a)~~ SUBPARAGRAPH (I) applies or would apply if convicted in this state;

~~(b)~~ (II) In the case of a controlled substance listed in schedule III of part 2 of this article, commits:

~~(F)~~ (A) A class 4 felony; or

~~(H)~~ (B) A class 3 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which SUBPARAGRAPH (I) OF THIS paragraph (a) ~~of this subsection (2) or this paragraph (b)~~ SUBPARAGRAPH (II) applies or would apply if convicted in this state;

~~(e)~~ (III) In the case of a controlled substance listed in schedule IV of part 2 of this article, commits:

~~(F)~~ (A) A class 5 felony; or

~~(H)~~ (B) A class 4 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which ~~paragraph (a) or (b) of this subsection (2) or this paragraph (c)~~ SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a) OR THIS SUBPARAGRAPH (III) applies or would apply if convicted in this state;

~~(d)~~ (IV) In the case of a controlled substance listed in schedule V of part 2 of this article, commits:

~~(F)~~ (A) A class 1 misdemeanor; or

~~(H)~~ (B) A class 5 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which ~~paragraph (a), (b), or (c) of this subsection (2) or this paragraph (d)~~ SUBPARAGRAPH (I), (II), OR (III) OF THIS PARAGRAPH (a) OR THIS SUBPARAGRAPH (IV) applies or would apply if convicted in this state.

(b) THIS SUBSECTION (2) IS REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

(2.1) (a) EXCEPT AS IS OTHERWISE PROVIDED FOR OFFENSES CONCERNING MARIHUANA AND MARIHUANA CONCENTRATE IN SECTION 18-18-406 AND OFFENSES INVOLVING MINORS IN SECTION 18-18-407 (1) (g), ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION:

(I) IN THE CASE OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULE I OR II OF PART 2 OF THIS ARTICLE, COMMITS:

(A) A CLASS 3 FELONY; EXCEPT THAT A PERSON COMMITS A CLASS 4 FELONY IF SUCH VIOLATION IS BASED ON THE POSSESSION OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULE II UNLESS OTHERWISE PROVIDED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION; OR

(B) A CLASS 2 FELONY, IF THE VIOLATION IS COMMITTED SUBSEQUENT TO A PRIOR CONVICTION IN THIS OR ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES OF A VIOLATION TO WHICH THIS SUBPARAGRAPH (I) APPLIES OR WOULD APPLY IF CONVICTED IN THIS STATE;

(II) IN THE CASE OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULE III OF PART 2 OF THIS ARTICLE, COMMITS:

(A) A CLASS 4 FELONY; OR

(B) A CLASS 3 FELONY, IF THE VIOLATION IS COMMITTED SUBSEQUENT TO ANY PRIOR CONVICTION IN THIS OR ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES OF A VIOLATION TO WHICH SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR THIS SUBPARAGRAPH (II) APPLIES OR WOULD APPLY IF CONVICTED IN THIS STATE;

(III) IN THE CASE OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULE IV OF PART 2 OF THIS ARTICLE, COMMITS:

(A) A CLASS 5 FELONY; OR

(B) A CLASS 4 FELONY, IF THE VIOLATION IS COMMITTED SUBSEQUENT TO A PRIOR CONVICTION IN THIS OR ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES OF A VIOLATION TO WHICH SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a) OR THIS SUBPARAGRAPH (III) APPLIES OR WOULD APPLY IF CONVICTED IN THIS STATE;

(IV) IN THE CASE OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULE V OF PART 2 OF THIS ARTICLE, COMMITS:

(A) A CLASS 1 MISDEMEANOR; OR

(B) A CLASS 5 FELONY, IF THE VIOLATION IS COMMITTED SUBSEQUENT TO ANY PRIOR CONVICTION IN THIS OR ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES OF A VIOLATION TO WHICH SUBPARAGRAPH (I), (II), OR (III) OF THIS PARAGRAPH (a) OR THIS SUBPARAGRAPH (IV) APPLIES OR WOULD APPLY IF CONVICTED IN THIS STATE.

(b) THIS SUBSECTION (2.1) SHALL TAKE EFFECT ON THE JULY 1 EFFECTIVE DATE OF THE REPEAL OF SUBSECTION (2) OF THIS SECTION AND SHALL APPLY ONLY TO OFFENSES COMMITTED ON OR AFTER THAT DATE. THIS SUBSECTION (2.1) SHALL TAKE EFFECT ONLY IF SUBSECTION (2) OF THIS SECTION IS REPEALED.

(2.3) (a) ANY PERSON WHO COMMITS THE OFFENSE OF POSSESSION IN VIOLATION OF THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION BY POSSESSING ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION, WEIGHING ONE GRAM OR LESS THAT CONTAINS ANY QUANTITY OF A CONTROLLED SUBSTANCE LISTED IN SCHEDULES I THROUGH IV OF PART 2 OF THIS ARTICLE COMMITS:

(I) A CLASS 6 FELONY; OR

(II) A CLASS 4 FELONY, IF THE VIOLATION IS COMMITTED SUBSEQUENT TO ANY PRIOR CONVICTION UNDER SUBPARAGRAPH (I), (II), OR (III) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION OR UNDER THIS SUBSECTION (2.3).

(b) THIS SUBSECTION (2.3) IS REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

(2.5) (a) Notwithstanding the provisions of ~~paragraph (c)~~ SUBPARAGRAPH (III) OF PARAGRAPH (a) of subsection (2) of this section, a person who violates the provisions of subsection (1) of this section with regard to flunitrazepam commits a class 3 felony; except that the person commits a class 2 felony if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation involving flunitrazepam or to which SUBPARAGRAPH (I) OF paragraph (a) of subsection (2) of this section applies or would apply if convicted in this state.

(b) Any person convicted of violating the provisions of subsection (1) of this section with regard to flunitrazepam shall be subject to the mandatory sentencing provisions of subsection (3) of this section.

(c) THIS SUBSECTION (2.5) IS REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

(2.6) (a) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (2.1) OF THIS SECTION, A PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION WITH REGARD TO FLUNITRAZEPAM

COMMITTS A CLASS 3 FELONY; EXCEPT THAT THE PERSON COMMITTS A CLASS 2 FELONY IF THE VIOLATION IS COMMITTED SUBSEQUENT TO A PRIOR CONVICTION IN THIS OR ANY OTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES OF A VIOLATION INVOLVING FLUNITRAZEPAM OR TO WHICH SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2.1) OF THIS SECTION APPLIES.

(b) ANY PERSON CONVICTED OF VIOLATING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION WITH REGARD TO FLUNITRAZEPAM SHALL BE SUBJECT TO THE MANDATORY SENTENCING PROVISIONS OF SUBSECTION (3) OF THIS SECTION.

(c) THIS SUBSECTION (2.6) SHALL TAKE EFFECT ON THE JULY 1 EFFECTIVE DATE OF THE REPEAL OF SUBSECTION (2.5) OF THIS SECTION AND SHALL APPLY ONLY TO OFFENSES COMMITTED ON OR AFTER THAT DATE. THIS SUBSECTION (2.6) SHALL TAKE EFFECT ONLY IF SUBSECTION (2.5) OF THIS SECTION IS REPEALED.

(3) (a) Except as otherwise provided in section 18-18-407 relating to special offenders, any person convicted pursuant to SUBPARAGRAPH (I) OF paragraph (a) of subsection (2) of this section for knowingly manufacturing, dispensing, selling, distributing, possessing, or possessing with intent to manufacture, dispense, sell, or distribute, or inducing, attempting to induce, or conspiring with one or more other persons, to manufacture, dispense, sell, distribute, possess, or possess with intent to manufacture, dispense, sell, or distribute an amount that is or has been represented to be:

**SECTION 4.** 18-19-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-19-103. Source of revenues - allocation of moneys.** (5.5) THERE IS HEREBY CREATED IN THE STATE TREASURY A DRUG OFFENDER TREATMENT FUND THAT SHALL CONSIST OF MONEYS APPROPRIATED THERETO. IN ADDITION, THE FUND MAY ACCEPT GIFTS, GRANTS, AND DONATIONS. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED BY THE GENERAL ASSEMBLY SHALL REMAIN IN THE DRUG OFFENDER TREATMENT FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR. ALL MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE JUDICIAL DEPARTMENT FOR ALLOCATION TO THE INTERAGENCY TASK FORCE ON TREATMENT FOR COSTS ASSOCIATED WITH COMMUNITY-BASED SUBSTANCE ABUSE TREATMENT.

**SECTION 5.** 16-11.5-102 (3) (a), Colorado Revised Statutes, is amended, and the said 16-11.5-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**16-11.5-102. Substance abuse assessment - standardized procedure - repeal.** (3) (a) ~~The judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of human services~~ THE EXECUTIVE DIRECTORS OF THE DEPARTMENT OF CORRECTIONS, DEPARTMENT OF PUBLIC SAFETY, DEPARTMENT OF HUMAN SERVICES, AND THE STATE COURT ADMINISTRATOR SHALL APPOINT SIX MEMBERS INCLUDING THE DIRECTORS OR DESIGNEES OF THE DIVISION OF ADULT PAROLE, COMMUNITY CORRECTIONS AND

YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF CORRECTIONS, DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, THE ALCOHOL AND DRUG ABUSE DIVISION IN THE DEPARTMENT OF HUMAN SERVICES, YOUTH CORRECTIONS WITHIN THE DEPARTMENT OF HUMAN SERVICES, THE DIVISION OF MENTAL HEALTH SERVICES IN THE DEPARTMENT OF HUMANS SERVICES, AND THE DIVISION OF PROBATIONS SERVICES IN THE JUDICIAL DEPARTMENT WHO shall cooperate to develop a plan for the allocation of moneys deposited in the drug offender surcharge fund created pursuant to section 18-19-103 (4), C.R.S., among the judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of human services. The plan developed pursuant to this subsection (3) shall be submitted to the general assembly ~~on or before January 1, 1992. For the fiscal year beginning July 1, 1992, the general assembly shall appropriate moneys only from the drug offender surcharge fund in accordance with such plan~~ WITH THE JUDICIAL DEPARTMENT'S ANNUAL BUDGET REQUEST.

(4) THERE IS HEREBY CREATED THE INTERAGENCY TASK FORCE ON TREATMENT THAT SHALL CONSIST OF THE FOLLOWING MEMBERS:

(a) THE INDIVIDUALS REFERENCED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION;

(b) THREE ELECTED DISTRICT ATTORNEYS OR THEIR DESIGNEES SELECTED BY THE PRESIDENT OF THE COLORADO DISTRICT ATTORNEYS' COUNCIL AS FOLLOWS:

(I) ONE FROM THE THIRD, SIXTH, TENTH, TWELFTH, FIFTEENTH, SIXTEENTH, OR TWENTY-SECOND JUDICIAL DISTRICT;

(II) ONE FROM THE FIFTH, SEVENTH, NINTH, FOURTEENTH, OR TWENTY-FIRST JUDICIAL DISTRICT;

(III) ONE FROM THE FIRST, SECOND, FOURTH, EIGHTH, ELEVENTH, THIRTEENTH, SEVENTEENTH, EIGHTEENTH, NINETEENTH, OR TWENTIETH JUDICIAL DISTRICT; AND

(c) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE.

(5) THE INTERAGENCY TASK FORCE ON TREATMENT SHALL ELECT A CHAIRMAN AND VICE-CHAIRMAN AT THE FIRST MEETING. THE CHAIRMAN SHALL CALL THE MEETINGS OF INTERAGENCY TASK FORCE ON TREATMENT AND SET THE AGENDA FOR EACH MEETING CALLED.

(6) THE INTERAGENCY TASK FORCE ON TREATMENT'S AUTHORITY SHALL BE LIMITED TO THOSE DUTIES SPECIFIED IN SUBSECTIONS (7) AND (8) OF THIS SECTION.

(7) (a) THE INTERAGENCY TASK FORCE ON TREATMENT SHALL ALLOCATE AT LEAST EIGHTY PERCENT OF THE YEARLY DRUG OFFENDER TREATMENT FUND ALLOCATION TO THE JUDICIAL DISTRICT DRUG OFFENDER TREATMENT BOARDS CREATED PURSUANT TO SECTION 18-19-104, C.R.S. SUCH ALLOCATION SHALL BE BASED UPON A FORMULA DEVELOPED BY THE STATE DRUG OFFENDER TREATMENT BOARD. THE INTERAGENCY TASK FORCE ON TREATMENT SHALL DEVELOP AN ALLOCATION FORMULA FOR THE ALLOCATION OF THE MONEYS FROM THE DRUG OFFENDER TREATMENT FUND. THE FORMULA SHALL ONLY BE BASED UPON A JUDICIAL DISTRICT'S POPULATION AND THE

NUMBER OF USE AND POSSESSION DRUG CASE FILINGS IN THE JUDICIAL DISTRICT. EACH JUDICIAL DISTRICT DRUG TREATMENT BOARD SHALL SUBMIT A PLAN, BASED UPON THE PROPOSED ALLOCATION FORMULA, TO THE INTERAGENCY TASK FORCE ON TREATMENT BEGINNING SEPTEMBER 1 OF THE FIRST YEAR FUNDING IS APPROPRIATED TO THE JUDICIAL DEPARTMENT FROM THE DRUG OFFENDER TREATMENT FUND AND SEPTEMBER 1 OF EACH YEAR THEREAFTER TO BE INCLUDED IN THE JUDICIAL DEPARTMENT'S ANNUAL BUDGET REQUEST. THE INTERAGENCY TASK FORCE ON TREATMENT SHALL NOT HAVE THE AUTHORITY TO REJECT THE PLAN SUBMITTED FROM THE LOCAL JUDICIAL DRUG TREATMENT BOARDS.

(b) THE INTERAGENCY TASK FORCE ON TREATMENT MAY ALLOCATE UP TO TWENTY PERCENT OF THE YEARLY DRUG OFFENDER TREATMENT FUND ALLOCATION TO DRUG TREATMENT PROGRAMS THAT SERVE MORE THAN ONE JUDICIAL DISTRICT. WHEN ALLOCATING FUNDS PURSUANT TO THIS PARAGRAPH (b), THE STATE DRUG OFFENDER TREATMENT BOARD IS ENCOURAGED TO FUND AND DEVELOP INNOVATIVE AND EFFECTIVE DRUG TREATMENT PROGRAMS.

(8) THE INTERAGENCY TASK FORCE ON TREATMENT SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE ON OR BEFORE JANUARY 31, 2005, AND JANUARY 31, 2007, REGARDING THE ANTICIPATED SAVINGS GENERATED BY THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY.

(9) THIS SUBSECTION (9) AND SUBSECTIONS (4), (5), (6), (7), AND (8) OF THIS SECTION ARE REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

**SECTION 6.** Article 19 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-19-104. Judicial district drug offender treatment boards - repeal.**

(1) EACH JUDICIAL DISTRICT SHALL CREATE A DRUG OFFENDER TREATMENT BOARD CONSISTING OF THE DISTRICT ATTORNEY SERVING THE JUDICIAL DISTRICT OR HIS OR HER DESIGNEE, THE CHIEF PUBLIC DEFENDER SERVING THE JUDICIAL DISTRICT OR HIS OR HER DESIGNEE, AND A PROBATION OFFICER WORKING IN THE JUDICIAL DISTRICT CHOSEN BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT.

(2) EACH DRUG OFFENDER TREATMENT BOARD SHALL RECEIVE MONEYS FROM THE STATE DRUG OFFENDER TREATMENT BOARD PURSUANT TO SECTION 18-19-104 (2) (a) AND SHALL DISTRIBUTE THOSE MONEYS TO DRUG TREATMENT PROGRAMS BASED IN THE JUDICIAL DISTRICT. NO PROGRAM SHALL RECEIVE MONEYS FROM THE DRUG OFFENDER TREATMENT BOARD WITHOUT A MAJORITY VOTE OF THE BOARD. THE BOARD SHALL GIVE PRIORITY TO DRUG COURT FUNDING IF THE JURISDICTION OPERATES A DRUG COURT.

(3) EACH JUDICIAL DISTRICT'S DRUG OFFENDER TREATMENT BOARD MAY ADOPT RULES AND GUIDELINES AS NECESSARY TO PERFORM THE FUNCTIONS OF THE BOARD.

(4) EACH JUDICIAL DISTRICT'S DRUG OFFENDER TREATMENT BOARD SHALL SUBMIT A REPORT TO THE INTERAGENCY TASK FORCE ON TREATMENT CREATED IN SECTION 16-11.5-102 (4), C.R.S., AND THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES DETAILING THE AMOUNT AND TO WHOM THE BOARD DISTRIBUTED ITS FUNDING IN THE PREVIOUS YEAR AND THE AMOUNT OF FUNDING RECEIVED BY THE BOARD FROM THE INTERAGENCY TASK FORCE ON TREATMENT BY JANUARY 31 OF EACH YEAR BEGINNING THE FIRST YEAR AFTER THE JUDICIAL DISTRICT DRUG OFFENDER TREATMENT BOARDS RECEIVE FUNDING.

(5) THIS SECTION IS REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

**SECTION 7.** 18-1.3-201 (2), Colorado Revised Statutes, is amended, and the said 18-1.3-201 is further amended BY THE ADDITION OF NEW SUBSECTION, to read:

**18-1.3-201. Application for probation.** (2) (a) A person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction on which his or her application is based shall not be eligible for probation. ~~and~~

(b) Notwithstanding any other provision of law EXCEPT THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (2), a person who has been convicted of one or more felonies under the laws of this state, any other state, or the United States within ten years prior to a class 1, 2, or 3 felony conviction on which his or her application is based shall not be eligible for probation.

(c) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) AND SUBSECTION (4) OF THIS SECTION, AN OFFENDER CONVICTED OF A VIOLATION OF SECTION 18-18-405 (2.3) MAY BE ELIGIBLE FOR PROBATION UPON RECOMMENDATION OF THE DISTRICT ATTORNEY.

(d) THIS SUBSECTION (2) IS REPEALED ON THE FIRST DAY OF JULY FOLLOWING RECEIPT BY THE REVISOR OF STATUTES OF WRITTEN NOTICE FROM THE JOINT BUDGET COMMITTEE STAFF DIRECTOR THAT AN AMOUNT OF MONEY OF AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, DURING ANY GIVEN FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2007, WAS NOT APPROPRIATED TO THE DRUG OFFENDER TREATMENT FUND FOR THE SAME FISCAL YEAR.

(2.1) (a) A PERSON WHO HAS BEEN TWICE CONVICTED OF A FELONY UNDER THE

LAW OF THIS STATE, ANY OTHER STATE, OR THE UNITED STATES PRIOR TO THE CONVICTION ON WHICH HIS OR HER APPLICATION IS BASED SHALL NOT BE ELIGIBLE FOR PROBATION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON WHO HAS BEEN CONVICTED OF ONE OR MORE FELONIES UNDER THE LAWS OF THIS STATE, ANY OTHER STATE, OR THE UNITED STATES WITHIN TEN YEARS PRIOR TO A CLASS 1, 2, OR 3 FELONY CONVICTION ON WHICH HIS OR HER APPLICATION IS BASED SHALL NOT BE ELIGIBLE FOR PROBATION.

(b) THIS SUBSECTION (2.1) SHALL TAKE EFFECT ON THE JULY 1 EFFECTIVE DATE OF THE REPEAL OF SUBSECTION (2) OF THIS SECTION AND SHALL APPLY ONLY TO OFFENSES COMMITTED ON OR AFTER THAT DATE. THIS SUBSECTION (2.1) SHALL TAKE EFFECT ONLY IF SUBSECTION (2) OF THIS SECTION IS REPEALED.

**SECTION 8.** 42-2-127.3 (1) (b), Colorado Revised Statutes, is amended to read:

**42-2-127.3. Authority to suspend license - controlled substance violations.**

(1) (b) Whenever the department receives notice that a minor driver has been convicted of or adjudicated a delinquent under title 19, C.R.S., for any offense provided for in section ~~18-18-404 (1) (b), 18-18-405 (2) (d) (I)~~, 18-18-404 (1) (a) (II), 18-18-405 (2) (a) (IV) (A), or 18-18-406 (1), (3) (a) (I), or (4) (a) (I), C.R.S., or any comparable municipal charter or ordinance offense, the department shall immediately suspend the license of the person for a period of not less than one year, unless the provisions of section 42-2-132 (2) (b) allow for a shorter period of suspension.

**SECTION 9. Effective date - applicability.** (1) This act shall take effect July 1, 2003.

(2) The amendments to section 18-18-404 (1) (a) (I), Colorado Revised Statutes, the amendments to section 18-18-405 (2) (a), Colorado Revised Statutes, the amendments to section 18-18-405 (2.5), Colorado Revised Statutes, and the provisions of section 18-18-405 (2.3), created in section 3 of this act, shall apply to offenses committed on or after said July 1, 2003.

**SECTION 10. 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.

Became Law: June 7, 2003