

CHAPTER 365

CRIMINAL LAW AND PROCEDURE

SENATE BILL 08-234

BY SENATOR(S) Bacon;
 also REPRESENTATIVE(S) Kerr A., Carroll T., Casso, Green, McFadyen, Romanoff, Summers, and Todd.

AN ACT

CONCERNING PROCEDURAL MATTERS RELATED TO SUBSTANCE ABUSE TREATMENT IN CRIMINAL CASES.

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

SECTION 1. 18-1.3-209, Colorado Revised Statutes, is amended to read:

18-1.3-209. Substance abuse assessment required. (1) Each person convicted of a felony committed on or after July 1, 1992, AND EACH PERSON CONVICTED OF A MISDEMEANOR OR PETTY OFFENSE ON OR AFTER JULY 1, 2008, who is to be considered for probation OR A DEFERRED JUDGMENT AND SENTENCE THAT INCLUDES SUPERVISION BY THE PROBATION DEPARTMENT, shall be required, as a part of the presentence or probation investigation required pursuant to section 16-11-102, C.R.S., to submit to an assessment for the use of controlled substances or alcohol developed pursuant to section 16-11.5-102 (1) (a), C.R.S.

(2) ~~Each person convicted of a misdemeanor or petty offense pursuant to article 18 of this title, committed on or after July 1, 1992, shall be required to submit to an alcohol and drug evaluation pursuant to section 42-4-1301.3, C.R.S.~~ The court shall order ~~such~~ EACH person REQUIRED TO SUBMIT TO AN ASSESSMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION to comply with the recommendations of ~~such evaluation~~ THE ALCOHOL AND DRUG ASSESSMENT. If ~~such~~ THE person is sentenced to probation, ~~such~~ A DEFERRED JUDGMENT AND SENTENCE THAT INCLUDES SUPERVISION BY THE PROBATION DEPARTMENT, OR ANY OTHER SENTENCE EXCEPT A SENTENCE ONLY TO JAIL, THE person shall be ordered to comply with the recommendations as a condition ~~of probation~~ OR AS PART OF THE SENTENCE IMPOSED, at ~~such~~ THE person's own expense, unless ~~such~~ THE person is indigent. ~~If such person is not sentenced to probation, such person shall be ordered to comply with the recommendations as a part of the sentence imposed at such person's own~~

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

~~expense, unless such person is indigent.~~

~~(3) The assessment required by subsection (1) of this section or the evaluation required by subsection (2) of this section shall be at the expense of the person assessed, or evaluated, unless such THE person is indigent.~~

SECTION 2. 18-1.3-210, Colorado Revised Statutes, is amended to read:

18-1.3-210. Counseling or treatment for alcohol or drug abuse. (1) In any case in which treatment or counseling for alcohol or drug abuse is authorized in connection with a deferred prosecution, DEFERRED JUDGMENT AND SENTENCE, or probation, the court may require the defendant to obtain counseling or treatment for ~~such~~ THE condition. If the court orders ~~such~~ THE 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 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 OR DEFERRED JUDGMENT AND SENTENCE.

(2) Notwithstanding the provisions of subsection (1) of this section, in any case in which treatment or counseling for alcohol or drug abuse is authorized and ordered by the court in connection with a deferred prosecution, DEFERRED JUDGMENT AND SENTENCE, or probation for an offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., 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 1 of title 25, C.R.S.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2008, and shall apply to convictions entered on or after said date.

SECTION 4. 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: June 2, 2008