

CHAPTER 168

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 15-1267

BY REPRESENTATIVE(S) Salazar, Saine, Duran, Esgar, Garnett, Ginal, Kagan, Lee, McCann, Melton, Mitsch Bush, Moreno, Rosenthal, Singer, Vigil, Williams, Winter, Kraft-Tharp, Lebsock, Ryden, Tyler, Young, Hullinghorst;
also SENATOR(S) Guzman, Aguilar, Baumgardner, Grantham, Kerr, Martinez Humenik, Steadman, Todd.

AN ACT**CONCERNING CONDITIONS OF PROBATION RELATING TO MEDICAL MARIJUANA.**

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

SECTION 1. In Colorado Revised Statutes, 18-1.3-204, **amend** (1) and (2) (a) (VIII) as follows:

18-1.3-204. Conditions of probation - interstate compact probation transfer cash fund - creation. (1) (a) The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life and to assist the defendant in doing so. The court shall provide as explicit conditions of every sentence to probation that the defendant not commit another offense during the period for which the sentence remains subject to revocation, that the defendant make restitution pursuant to part 6 of this article and article 18.5 of title 16, C.R.S., that the defendant comply with any court orders regarding substance abuse testing and treatment issued pursuant to sections 18-1.3-209 and 18-1.3-211 and article 11.5 of title 16, C.R.S., and that the defendant comply with any court orders regarding the treatment of sex offenders issued pursuant to article 11.7 of title 16, C.R.S. The court shall provide as an explicit condition of every sentence to probation that the defendant not harass, molest, intimidate, retaliate against, or tamper with the victim of or any prosecution witnesses to the crime, unless the court makes written findings that such condition is not necessary.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1), UNLESS THE DEFENDANT IS SENTENCED TO PROBATION FOR A CONVICTION OF A CRIME UNDER ARTICLE 43.3 OF TITLE 12, C.R.S., THE POSSESSION OR USE OF MEDICAL MARIJUANA, AS AUTHORIZED PURSUANT TO SECTION 14 OF ARTICLE XVIII

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

OF THE STATE CONSTITUTION, SHALL NOT BE CONSIDERED ANOTHER OFFENSE SUCH THAT ITS USE CONSTITUTES A VIOLATION OF THE TERMS OF PROBATION.

(2) (a) When granting probation, the court may, as a condition of probation, require that the defendant:

(VIII) Refrain from excessive use of alcohol or any unlawful use of controlled substances, as defined in section 18-18-102 (5), or of any other dangerous or abusable drug without a prescription; EXCEPT THAT, THE COURT SHALL NOT, AS A CONDITION OF PROBATION, PROHIBIT THE POSSESSION OR USE OF MEDICAL MARIJUANA, AS AUTHORIZED PURSUANT TO SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, UNLESS:

(A) THE DEFENDANT IS SENTENCED TO PROBATION FOR CONVICTION OF A CRIME UNDER ARTICLE 43.3 OF TITLE 12, C.R.S.; OR

(B) THE COURT DETERMINES, BASED ON THE ASSESSMENT AS REQUIRED BY SECTION 18-1.3-209, A PROHIBITION AGAINST THE POSSESSION OR USE OF MEDICAL MARIJUANA IS NECESSARY AND APPROPRIATE TO ACCOMPLISH THE GOALS OF SENTENCING AS STATED IN 18-1-102.5.

SECTION 2. Applicability. This act applies to persons on probation on or after the effective date of this act.

SECTION 3. 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 8, 2015