

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 17-0383.01 Richard Sweetman x4333

**HOUSE BILL 17-1075**

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**HOUSE SPONSORSHIP**

**Gray,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE CONDITIONS UNDER WHICH A PROBATION OFFICER**  
102 **MAY ARREST CERTAIN DEFENDANTS.**

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**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/>.)*

The bill sets forth the conditions under which a probation officer may arrest a defendant who has been granted a deferred judgment and sentence. The bill also makes corresponding amendments to the conditions under which a probation officer may arrest a probationer.

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Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-102, **amend**  
3 (4) as follows:

4 **18-1.3-102. Deferred sentencing of defendant.** (4) (a) A warrant  
5 for the arrest of any defendant for breach of a condition of a deferred  
6 sentence may be issued by any judge of a court of record upon the report  
7 of a probation officer, or upon the verified complaint of any person,  
8 establishing to the satisfaction of the judge probable cause to believe that  
9 a condition of the deferred sentence has been violated and that the arrest  
10 of the defendant is reasonably necessary. The warrant may be executed  
11 by any probation officer or by a peace officer authorized to execute  
12 warrants in the county in which the defendant is found.

13 (b) A PROBATION OFFICER MAY ARREST A DEFENDANT WHO HAS  
14 BEEN GRANTED A DEFERRED JUDGMENT AND SENTENCE PURSUANT TO THIS  
15 SECTION WHEN:

16 (I) THE PROBATION OFFICER HAS A WARRANT COMMANDING THAT  
17 THE DEFENDANT BE ARRESTED;

18 (II) THE DEFENDANT COMMITS ANY OFFENSE UNDER THE LAWS OF  
19 THIS STATE WHILE IN THE PRESENCE OF THE PROBATION OFFICER; OR

20 (III) THE PROBATION OFFICER HAS PROBABLE CAUSE TO BELIEVE  
21 THAT:

22 (A) A WARRANT FOR THE DEFENDANT'S ARREST HAS BEEN ISSUED  
23 IN THIS STATE OR ANOTHER STATE FOR ANY CRIMINAL OFFENSE OR FOR A  
24 VIOLATION OF THE CONDITIONS OF THE DEFENDANT'S DEFERRED  
25 SENTENCE;

26 (B) THE DEFENDANT HAS COMMITTED A CRIME;

27 (C) THE DEFENDANT HAS VIOLATED THE CONDITIONS OF HIS OR

1 HER DEFERRED SENTENCE AND IS LEAVING OR ABOUT TO LEAVE THE  
2 STATE;

3 (D) THE DEFENDANT HAS VIOLATED THE CONDITIONS OF HIS OR  
4 HER DEFERRED SENTENCE AND WILL FAIL OR REFUSE TO APPEAR BEFORE  
5 THE COURT TO ANSWER CHARGES OF VIOLATING THE CONDITIONS OF HIS  
6 OR HER DEFERRED SENTENCE; OR

7 (E) THE DEFENDANT HAS VIOLATED THE CONDITIONS OF HIS OR  
8 HER DEFERRED SENTENCE AND THE ARREST OF THE DEFENDANT IS  
9 NECESSARY TO PREVENT PHYSICAL HARM TO THE DEFENDANT OR TO  
10 ANOTHER PERSON, OR TO PREVENT THE COMMISSION OF A CRIME.

11 **SECTION 2.** In Colorado Revised Statutes, 16-11-205, **amend**  
12 (1) as follows:

13 **16-11-205. Arrest of probationer - revocation.** (1) A probation  
14 officer may arrest any probationer when:

15 (a) ~~He~~ THE PROBATION OFFICER has a warrant commanding that  
16 the probationer be arrested; ~~or~~

17 (b) ~~He has probable cause to believe that a warrant for the~~  
18 ~~probationer's arrest has been issued in this state or another state for any~~  
19 ~~criminal offense or for violation of the conditions of probation~~ THE  
20 PROBATIONER COMMITS ANY OFFENSE UNDER THE LAWS OF THIS STATE  
21 WHILE IN THE PRESENCE OF THE PROBATION OFFICER; or

22 (c) ~~Any offense under the laws of this state has been or is being~~  
23 ~~committed by the probationer in his presence; or~~ THE PROBATION OFFICER  
24 HAS PROBABLE CAUSE TO BELIEVE THAT:

25 (I) A WARRANT FOR THE PROBATIONER'S ARREST HAS BEEN ISSUED  
26 IN THIS STATE OR ANOTHER STATE FOR ANY CRIMINAL OFFENSE OR FOR A  
27 VIOLATION OF THE CONDITIONS OF HIS OR HER PROBATION;

1 (II) THE PROBATIONER HAS COMMITTED A CRIME;

2 (III) THE PROBATIONER HAS VIOLATED THE CONDITIONS OF HIS OR  
3 HER PROBATION AND IS LEAVING OR ABOUT TO LEAVE THE STATE;

4 (IV) THE PROBATIONER HAS VIOLATED THE CONDITIONS OF HIS OR  
5 HER PROBATION AND WILL FAIL OR REFUSE TO APPEAR BEFORE THE COURT  
6 TO ANSWER CHARGES OF VIOLATING THE CONDITIONS OF HIS OR HER  
7 PROBATION; OR

8 (V) THE PROBATIONER HAS VIOLATED THE CONDITIONS OF HIS OR  
9 HER PROBATION AND THE ARREST OF THE PROBATIONER IS NECESSARY TO  
10 PREVENT PHYSICAL HARM TO THE PROBATIONER OR TO ANOTHER PERSON,  
11 OR TO PREVENT THE COMMISSION OF A CRIME.

12 ~~(d) He has probable cause to believe that a crime has been  
13 committed and the probationer has committed such crime; or~~

14 ~~(e) He has probable cause to believe that the conditions of  
15 probation have been violated and probable cause to believe that the  
16 probationer is leaving or about to leave the state, or that the probationer  
17 will fail or refuse to appear before the court to answer charges of  
18 violation of the conditions of probation, or that the arrest of the  
19 probationer is necessary to prevent physical harm to the probationer or  
20 another person or the commission of a crime; or~~

21 ~~(f) The probationer, who is on probation as a result of a conviction  
22 of any felony except a class 1 felony, has been tested for the illegal or  
23 unauthorized use of a controlled substance and the result of such test is  
24 positive.~~

25 **SECTION 3. Act subject to petition - effective date.** This act  
26 takes effect at 12:01 a.m. on the day following the expiration of the  
27 ninety-day period after final adjournment of the general assembly (August

1 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a  
2 referendum petition is filed pursuant to section 1 (3) of article V of the  
3 state constitution against this act or an item, section, or part of this act  
4 within such period, then the act, item, section, or part will not take effect  
5 unless approved by the people at the general election to be held in  
6 November 2018 and, in such case, will take effect on the date of the  
7 official declaration of the vote thereon by the governor.