

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-1253.01 Jane Ritter x4342

SENATE BILL 18-249

SENATE SPONSORSHIP

Gardner and Lambert, Jahn, Lundberg, Moreno

HOUSE SPONSORSHIP

Lee and Young, Hamner, Rankin, Singer

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ESTABLISHING ALTERNATIVE PROGRAMS IN THE**
102 **CRIMINAL JUSTICE SYSTEM TO DIVERT INDIVIDUALS WITH A**
103 **MENTAL HEALTH CONDITION TO COMMUNITY TREATMENT, AND,**
104 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 directs the chief judge of each judicial district in the state or the chief judge of Denver county court, or their designees (chief judge), to work with interested stakeholders to develop alternative

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

programs that are unique to the judicial district that redirect individuals with low-level criminal behavior with a behavioral health condition to community resources and treatment rather than continued criminal justice involvement (program). Interested stakeholders must include law enforcement, jail officials, district attorneys, public defenders, judges, pretrial service providers when available, and local community mental and behavioral health providers within the judicial district.

The chief judges shall convene stakeholder meetings to design and develop programs, contract with local community behavioral health providers to assist in accomplishing the goals of the programs, and administer the programs after implementation.

Each program must include a standardized, evidence-based screening tool to be used by jail personnel to preliminarily identify individuals in custody who might be eligible for redirection through the program. Each program must identify existing programs and resources available for individuals with behavioral health conditions. After the prescreening, designated jail personnel shall refer individuals who might potentially be eligible for the program to a redirection specialist in the judicial district who shall, within 48 hours after arrest, evaluate the individual for eligibility based on established criteria. Upon completion of the evaluation, the redirection specialist shall notify the court and all other required parties, as determined by the program, of the evaluation results and the redirection specialist's recommendation for redirection.

Information collected from or about the individual during either the prescreening or evaluation must be kept confidential as required by law.

The court shall make a determination about redirecting an individual into the community behavioral health system. If the court orders the individual into redirection and behavioral health treatment, the criminal charges against the individual must be dismissed. Each judicial district shall establish procedures and agreements concerning how to track such individual's progress.

Local community behavioral health providers are responsible for complying with any reporting and communication requirements of the program as established by the stakeholders.

The state court administrator is responsible for overall program administration, including ensuring that, on or before January 1, 2019, each judicial district implements its own unique program.

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

2 **SECTION 1. In Colorado Revised Statutes, add 18-1.3-101.5 as**

3 **follows:**

1 **18-1.3-101.5. Alternative pilot programs to divert individuals**
2 **with mental health conditions - legislative intent - eligibility - process**
3 **of diversion - grant program - program management - definitions -**
4 **repeal.** (1) THE INTENT OF THIS SECTION IS TO ESTABLISH AND FACILITATE
5 FOUR PRE-PLEA LOCAL-LEVEL MENTAL HEALTH PILOT PROGRAMS IN
6 SELECTED JUDICIAL DISTRICTS THAT WILL IDENTIFY INDIVIDUALS WITH
7 MENTAL HEALTH CONDITIONS WHO HAVE BEEN CHARGED WITH A
8 LOW-LEVEL CRIMINAL OFFENSE AND DIVERT SUCH INDIVIDUALS OUT OF
9 THE CRIMINAL JUSTICE SYSTEM AND INTO COMMUNITY TREATMENT
10 PROGRAMS IN ACCORDANCE WITH THE PRINCIPLES AND PROPOSED MODEL
11 RECOMMENDED BY THE COLORADO COMMISSION ON CRIMINAL AND
12 JUVENILE JUSTICE, ADOPTED ON JANUARY 12, 2018. IN ADDITION,
13 PROCEEDING PURSUANT TO THE MODEL RECOMMENDED BY THE
14 COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
15 ENCOURAGES AND FACILITATES FLEXIBLE AND LOCALLY CONTROLLED
16 PROGRAMS IN A MANNER THAT CAN ACCOMMODATE AND RESPECT THE
17 AVAILABILITY OR LIMITATION OF RESOURCES IN EACH JURISDICTION WHILE
18 STILL MAINTAINING THE CORE INTEGRITY AND OBJECTIVES OF THE EFFORT
19 TO FOSTER THE USE OF MENTAL HEALTH DIVERSION PROGRAMS
20 THROUGHOUT THE STATE.

21 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 (a) "COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE"
24 MEANS THE COMMISSION ESTABLISHED PURSUANT TO SECTION
25 16-11.3-102.

26 (b) "GRANT PROGRAM" MEANS THE MENTAL HEALTH CRIMINAL
27 JUSTICE DIVERSION GRANT PROGRAM ESTABLISHED PURSUANT TO

1 SUBSECTION (6) OF THIS SECTION.

2 (c) "LOW-LEVEL CRIMINAL OFFENSE" MEANS ANY PETTY OFFENSE
3 OR MISDEMEANOR, EXCLUDING THOSE OFFENSES ENUMERATED IN SECTION
4 24-4.1-302 (1). "LOW-LEVEL CRIMINAL OFFENSE" MAY ALSO INCLUDE, IF
5 AGREED TO BY THE DISTRICT ATTORNEY IN A GIVEN PILOT PROGRAM SITE,
6 ANY CLASS 4, CLASS 5, OR CLASS 6 FELONY OR ANY CLASS 3 OR CLASS 4
7 FELONY DRUG OFFENSE, EXCLUDING ANY FELONY OFFENSES ENUMERATED
8 IN SECTION 24-4.1-302 (1).

9 (d) "PILOT PROGRAM" MEANS ANY ALTERNATIVE PROGRAM
10 CREATED PURSUANT TO THIS SECTION THAT DIVERTS INDIVIDUALS WITH
11 MENTAL HEALTH CONDITIONS INTO COMMUNITY TREATMENT PROGRAMS.

12 (e) "STATE COURT ADMINISTRATOR" MEANS THE STATE COURT
13 ADMINISTRATOR ESTABLISHED PURSUANT TO SECTION 13-3-101.

14 (3) THERE ARE CREATED PILOT PROGRAM SITES IN THE SECOND,
15 SIXTH, SIXTEENTH, AND TWENTIETH JUDICIAL DISTRICTS TO IDENTIFY
16 INDIVIDUALS WITH MENTAL HEALTH CONDITIONS WHO HAVE BEEN
17 CHARGED WITH A LOW-LEVEL CRIMINAL OFFENSE AND DIVERT SUCH
18 INDIVIDUALS OUT OF THE CRIMINAL JUSTICE SYSTEM AND INTO
19 COMMUNITY TREATMENT PROGRAMS. THE DISTRICT ATTORNEY FOR EACH
20 OF THE DESIGNATED JUDICIAL DISTRICTS, IN COOPERATION WITH THE CHIEF
21 JUDGE AND THE PUBLIC DEFENDER FOR THE COURTS WITHIN THE JUDICIAL
22 DISTRICT, SHALL DECIDE WHICH COURT OR COURTS WITHIN THE JUDICIAL
23 DISTRICT ARE BEST SUITED TO IMPLEMENT A PILOT PROGRAM. IN THE CASE
24 OF A MULTI-COUNTY JURISDICTION, THE DISTRICT ATTORNEY MAY CHOOSE
25 TO AGREE TO ESTABLISH A PILOT PROGRAM IN A SINGLE COUNTY OR IN
26 MORE THAN ONE COUNTY.

27 (4) THE CHIEF JUDGE OF ANY COUNTY OR DISTRICT COURT WHERE

1 A PILOT PROGRAM IS CREATED PURSUANT TO SUBSECTION (3) OF THIS
2 SECTION IS RESPONSIBLE FOR ESTABLISHING AND FACILITATING THE PILOT
3 PROGRAM IN COMPLIANCE WITH THE PRINCIPLES AND MODEL ADOPTED BY
4 THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE ON
5 JANUARY 12, 2018. THE DUTIES OF THE CHIEF JUDGE WITH RESPECT TO THE
6 PILOT PROGRAM MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

7 (a) INITIATING AND COORDINATING ORGANIZATION MEETINGS
8 AMONG THE VARIOUS LOCAL ENTITIES NECESSARY TO THE
9 IMPLEMENTATION OF THE PILOT PROGRAM;

10 (b) ESTABLISHING POLICIES FOR THE PILOT PROGRAM;

11 (c) FACILITATING ANY FORMAL AGREEMENTS OR MEMORANDA OF
12 UNDERSTANDING REQUIRED TO CREATE THE PILOT PROGRAM;

13 (d) CONTRACTING WITH LOCAL COMMUNITY TREATMENT
14 PROGRAMS THAT ARE ABLE TO PARTICIPATE IN THE PILOT PROGRAM AND
15 PROVIDE A CONTINUUM OF COMMUNITY-BASED MENTAL HEALTH CARE
16 AND TREATMENT TO ACCOMPLISH THE GOALS OF THE PILOT PROGRAM; AND

17 (e) ADMINISTERING THE PILOT PROGRAM ONCE IT IS IMPLEMENTED.

18 (5) THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR
19 ADMINISTRATION AND OVERSIGHT OF THE PILOT PROGRAMS, INCLUDING
20 CERTIFYING THAT, ON OR BEFORE JANUARY 1, 2019, EACH PILOT PROGRAM
21 SITE IMPLEMENTS A DESIGN THAT IS CONSISTENT WITH THE PRINCIPLES
22 AND PROPOSED MODEL ADOPTED BY THE COLORADO COMMISSION ON
23 CRIMINAL AND JUVENILE JUSTICE AND THE LEGISLATIVE INTENT OF THIS
24 SECTION. THE DUTIES OF THE STATE COURT ADMINISTRATOR WITH
25 RESPECT TO THE PILOT PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:

26 (a) ESTABLISHING PILOT PROGRAM PROCEDURES AND TIMELINES;

27 AND

1 (b) ESTABLISHING GRANT FUNDING GUIDELINES AND ACCEPTABLE
2 EXPENSES FOR THE DISTRIBUTION OF GRANT PROGRAM GRANT MONEY TO
3 THE PILOT PROGRAM SITES BASED UPON SPECIFIC ALLOCATIONS REQUIRED
4 BY THE GRANT PROGRAM AND OTHER PILOT PROGRAM NEEDS AND ANY
5 OTHER CRITERIA, SUCH AS CASE VOLUME, GEOGRAPHICAL COMPLEXITY,
6 AND DENSITY OF NEED.

7 (6) THERE IS CREATED IN THE OFFICE OF THE STATE COURT
8 ADMINISTRATOR THE MENTAL HEALTH CRIMINAL JUSTICE DIVERSION
9 GRANT PROGRAM. THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR
10 ADMINISTERING AND MONITORING THE GRANT PROGRAM INCLUDING, BUT
11 NOT LIMITED TO:

12 (a) ESTABLISHING GRANT FUNDING GUIDELINES AND ACCEPTABLE
13 EXPENSES FOR THE DISTRIBUTION OF GRANT PROGRAM GRANT MONEY TO
14 THE PILOT PROGRAM SITES BASED UPON SPECIFIC ALLOCATIONS REQUIRED
15 BY THE GRANT PROGRAM, THE SPECIFIC AWARD TO THE DISTRICT
16 ATTORNEY'S OFFICE IN EACH OF THE FOUR DESIGNATED JUDICIAL
17 DISTRICTS, OTHER PILOT PROGRAM NEEDS, AND ANY OTHER CRITERIA,
18 SUCH AS CASE VOLUME, GEOGRAPHICAL COMPLEXITY, AND DENSITY OF
19 NEED. IN ADDITION TO ANY OTHER ALLOWABLE EXPENSES TO BE PAID FOR
20 BY THE GRANT PROGRAM, EACH DISTRICT ATTORNEY'S OFFICE
21 PARTICIPATING IN THE PILOT PROGRAM SHALL RECEIVE FIFTY THOUSAND
22 DOLLARS PER YEAR FROM THE GRANT FUNDING FOR EACH OF THE TWO
23 YEARS OF THE GRANT PROGRAM. SUCH MONEY MUST BE USED TO ASSIST
24 IN COVERING THE COSTS RELATED TO PERSONNEL AND ADMINISTRATIVE
25 REQUIREMENTS TO ESTABLISH AND OPERATE PILOT PROGRAMS IN FOUR
26 DESIGNATED JUDICIAL DISTRICTS.

27 (b) AWARDING ANNUAL GRANTS TO THE PILOT PROGRAMS; EXCEPT

1 THAT THE TOTAL OF ALL GRANTS AWARDED PER YEAR MUST NOT EXCEED
2 SEVEN HUNDRED FIFTY THOUSAND DOLLARS;

3 (c) DISBURSING GRANT MONEY; EXCEPT THAT THE STATE COURT
4 ADMINISTRATOR SHALL DISTRIBUTE THE FIRST ROUND OF GRANT AWARDS
5 ON OR BEFORE JANUARY 1, 2019.

6 (7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 1, 2021.

7 **SECTION 2. Appropriation.** For the 2018-19 state fiscal year,
8 \$750,000 is appropriated to the judicial department. This appropriation
9 is from the general fund and is based on an assumption that the
10 department will require an additional 0.5 FTE. To implement this act, the
11 department may use this appropriation for the mental health criminal
12 justice diversion grant program.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.