

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0464.01 Jerry Barry x4341

HOUSE BILL 20-1054

HOUSE SPONSORSHIP

Soper and Roberts,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A CLARIFICATION OF THE AUTHORITY OF EITHER PARTY
102 TO WITHDRAW FROM A PLEA AGREEMENT WHEN ANY CONDITION
103 AGREED TO BY THE PARTIES IS REJECTED BY THE COURT.

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>.)

Under current law, if a judge decides not to accept specific conditions of a plea agreement, only the defendant is permitted to withdraw from the agreement. The bill allows either the defendant or the prosecution to withdraw from such a plea agreement.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-7-302, **amend** (2)
3 as follows:

4 **16-7-302. Responsibilities of the trial judge with respect to**
5 **plea discussions and agreements.** (2) If a tentative plea agreement has
6 been reached ~~which~~ THAT contemplates entry of a plea of guilty or nolo
7 contendere (no contest) in the expectation that other charges before that
8 court will be dismissed or that sentence concessions will be granted, the
9 trial judge may, upon request of the parties, permit the disclosure to ~~him~~
10 THE JUDGE of the tentative agreement and the reasons therefor in advance
11 of the time for tender of the plea. ~~He~~ THE JUDGE may then indicate to the
12 district attorney and defense counsel or defendant whether ~~he~~ THE JUDGE
13 will concur in the proposed disposition if the information in the
14 presentence report is consistent with the representations made to ~~him~~ THE
15 JUDGE. If the trial judge concurs but later decides that the final disposition
16 should not include the charge or sentence concessions contemplated by
17 the plea agreement, ~~he~~ THE JUDGE shall so advise the ~~defendant and then~~
18 ~~call upon the defendant to either affirm or withdraw his~~ PARTIES AND
19 ALLOW EITHER PARTY TO WITHDRAW FROM THE PLEA AGREEMENT. IF
20 EITHER PARTY ELECTS TO WITHDRAW FROM THE PLEA AGREEMENT, THE
21 JUDGE SHALL VACATE ANY PREVIOUSLY ENTERED plea of guilty or nolo
22 contendere (no contest) BY THE DEFENDANT AND REINSTATE ALL CHARGES
23 EXISTING PRIOR TO THE PLEA AGREEMENT.

24 **SECTION 2. Applicability.** This act applies to plea agreements
25 entered into on or after the effective date of this act.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.