

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

PREAMENDED

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

LLS NO. 25-0371.01 Jacob Baus x2173

HOUSE BILL 25-1183

HOUSE SPONSORSHIP

Gilchrist and Bacon, Carter, Espenozza, Mabrey, Zokaie

SENATE SPONSORSHIP

Ball and Daugherty,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A WORKING GROUP TO STUDY THE USE**
102 **OF COLORIMETRIC FIELD DRUG TESTS.**

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 creates a working group to make findings and recommendations concerning the use of colorimetric field drug tests in the various stages of criminal proceedings and carceral settings. The bill specifies the working group's membership and appointing authority, as applicable. The working group is required to:

- Make findings concerning the prevalence of the

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

administration of colorimetric field drug tests in Colorado and the potential harms that result from such administration;

- Make findings and recommendations for legislation or policy solutions for alternatives to administering colorimetric field drug tests, administering the tests for presumptive purposes only, and how to prevent future harms resulting from administering such tests; and
- On or before December 1, 2025, submit a report of its findings and recommendations to the judiciary committees of the house of representatives and the senate.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Each year, over 750,000 people in the United States are
5 arrested for drug possession based upon colorimetric field drug test
6 results;

7 (b) A colorimetric field drug test is a small plastic pouch that
8 contains a chemical reagent that reacts with aspects of certain compounds
9 that are often found in drugs. The test is administered by placing a
10 suspected controlled substance in the chemicals in the pouch to see if the
11 chemical reagent changes to a specific color.

12 (c) Colorimetric field drug test results are often inaccurate in the
13 identification of controlled substances because they are incapable of
14 identifying the specific chemical structure of a controlled substance.
15 Rather, they identify only aspects of a chemical compound, many of
16 which are shared by both controlled substances and common household
17 items including sugar, sugar substitutes, items containing sugar or sugar
18 substitutes, soap, coffee, nutritional supplements, and over-the-counter
19 medications.

1 (d) A recent study published by the Quattrone Center for the Fair
2 Administration of Justice at the University of Pennsylvania Carey Law
3 School states:

4 (I) Presumptive field drug tests, like the colorimetric field drug
5 test, "[are] one of the largest, if not the largest, known contributing factor
6 to wrongful arrests and convictions in the United States";

7 (II) Approximately "[thirty thousand] arrests each year involve
8 people who do not possess illegal substances but who are nonetheless
9 falsely implicated by color-based presumptive tests"; and

10 (III) "On a per capita basis, Black Americans experience these
11 erroneous drug arrests at a rate [three times] higher than White
12 Americans";

13 (e) Vendors of colorimetric field drug tests caution that the tests
14 are recommended only for presumptive purposes absent confirmation
15 from a crime lab that uses more advanced testing methods;

16 (f) People regularly plead guilty to drug possession offenses
17 absent confirmation from a crime lab that uses more advanced testing
18 methods. A plea may be made to avoid prolonged detention while
19 awaiting advanced testing results from a crime lab. Consequently, the
20 plea and its collateral consequences burden the person indefinitely, based
21 on the error-prone colorimetric field drug test.

22 (g) Colorimetric field drug tests are also used in a variety of other
23 settings in Colorado, including correctional systems, possibly resulting in
24 unfair disciplinary sanctions. The extent of use in these settings is
25 unknown.

26 (2) Therefore, the general assembly declares that convening a
27 working group to make findings and recommendations concerning the use

1 of colorimetric field drug tests is necessary to improve judicial system
2 outcomes, including preventing wrongful convictions, coercive plea
3 agreements, and negative correctional outcomes.

4 **SECTION 2.** In Colorado Revised Statutes, **add** part 24 to article
5 2 of title 2 as follows:

6 PART 24

7 COLORIMETRIC FIELD DRUG TEST

8 WORKING GROUP

9 **2-2-2401. Colorimetric field drug test working group -**
10 **creation - members - duties - report - repeal.** (1) NOTWITHSTANDING
11 SECTION 2-3-303.3, THERE IS CREATED THE WORKING GROUP TO MAKE
12 FINDINGS AND RECOMMENDATIONS CONCERNING THE USE OF
13 COLORIMETRIC FIELD DRUG TESTS IN THE VARIOUS STAGES OF CRIMINAL
14 PROCEEDINGS AND IN CARCERAL SETTINGS.

15 (2) (a) THE WORKING GROUP CONSISTS OF:

16 (I) ONE MEMBER OF THE MAJORITY PARTY OF THE HOUSE OF
17 REPRESENTATIVES, APPOINTED BY THE SPEAKER OF THE HOUSE OF
18 REPRESENTATIVES, WHO SHALL SERVE AS CHAIR;

19 (II) ONE MEMBER OF THE MINORITY PARTY OF THE SENATE,
20 APPOINTED BY THE PRESIDENT OF THE SENATE, WHO SHALL SERVE AS
21 VICE-CHAIR;

22 (III) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES,
23 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

24 (IV) THE ATTORNEY GENERAL OR THEIR DESIGNEE;

25 (V) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
26 OR THEIR DESIGNEE;

27 (VI) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT

1 WORKS TO EXONERATE PEOPLE WHO WERE WRONGFULLY CONVICTED,
2 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

3 (VII) THE STATE PUBLIC DEFENDER OR THEIR DESIGNEE;

4 (VIII) ONE MEMBER WHO REPRESENTS THE COLORADO CRIMINAL
5 DEFENSE BAR, APPOINTED BY THE SPEAKER OF THE HOUSE OF
6 REPRESENTATIVES;

7 (IX) ONE MEMBER WHO REPRESENTS THE ALTERNATE DEFENSE
8 COUNSEL, APPOINTED BY THE SPEAKER OF THE HOUSE OF
9 REPRESENTATIVES;

10 (X) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
11 ATTORNEYS' COUNCIL OR THEIR DESIGNEE;

12 (XI) THE PRESIDENT OF THE COUNTY SHERIFFS OF COLORADO OR
13 THEIR DESIGNEE;

14 (XII) THE PRESIDENT OF THE COLORADO ASSOCIATION OF CHIEFS
15 OF POLICE OR THEIR DESIGNEE;

16 (XIII) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
17 CORRECTIONS OR THEIR DESIGNEE;

18
19 (XIV) ONE MEMBER WHO IS AN INSTRUCTOR AT AN INSTITUTION
20 OF HIGHER EDUCATION IN COLORADO AND HAS EXPERT KNOWLEDGE OF,
21 AND RESEARCH EXPERIENCE WITH, FORENSIC SCIENCE, APPOINTED BY THE
22 PRESIDENT OF THE SENATE;

23 (XV) ONE MEMBER WHO IS A PERSON WHO WAS IMPACTED BY A
24 FALSE POSITIVE TEST RESULT FROM THE USE OF A COLORIMETRIC FIELD
25 DRUG TEST, OR THEIR DESIGNEE, APPOINTED BY THE SPEAKER OF THE
26 HOUSE OF REPRESENTATIVES; AND

27 (XVI) ONE MEMBER WHO IS A NATIONAL EXPERT ON WRONGFUL

1 CONVICTIONS CAUSED BY THE USE OF COLORIMETRIC FIELD DRUG TESTS,
2 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

3 (b) THE APPOINTING AUTHORITY SHALL MAKE APPOINTMENTS TO
4 THE WORKING GROUP NO LATER THAN JULY 1, 2025.

5 (c) BEGINNING IN JULY OF 2025, THE WORKING GROUP SHALL MEET
6 THREE TIMES USING AUDIO-VISUAL COMMUNICATION TECHNOLOGY AND
7 SHALL COMPLETE ITS DUTIES NO LATER THAN DECEMBER 1, 2025.

8 (d) MEMBERS SERVE AT THE PLEASURE OF THEIR RESPECTIVE
9 APPOINTING AUTHORITIES. IF A VACANCY OCCURS, THE APPROPRIATE
10 APPOINTING AUTHORITY SHALL PROMPTLY APPOINT A NEW MEMBER WHO
11 SATISFIES THE MEMBERSHIP REQUIREMENT OF THE VACATED SEAT.

12 (e) MEMBERS SERVE WITHOUT COMPENSATION BUT MAY BE
13 REIMBURSED FOR EXPENSES DIRECTLY RELATING TO THEIR SERVICE TO THE
14 WORKING GROUP.

15 (f) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF
16 LEGISLATIVE LEGAL SERVICES SHALL ASSIST THE WORKING GROUP IN
17 PERFORMING AND COMPLETING ITS DUTIES PURSUANT TO THIS SECTION.

18 (3) THE WORKING GROUP SHALL MAKE:

19 (a) FINDINGS CONCERNING THE PREVALENCE AND CIRCUMSTANCES
20 WHEN COLORIMETRIC FIELD DRUG TESTS ARE USED IN THE VARIOUS
21 STAGES OF CRIMINAL PROCEEDINGS AND IN CARCERAL SETTINGS;

22 (b) FINDINGS CONCERNING THE POTENTIAL HARMS THAT RESULT
23 FROM USING COLORIMETRIC FIELD DRUG TESTS IN THE VARIOUS STAGES OF
24 CRIMINAL PROCEEDINGS AND IN CARCERAL SETTINGS, INCLUDING THE
25 POTENTIAL FOR UNJUST PRETRIAL DETENTION, COERCIVE GUILTY PLEAS,
26 AND WRONGFUL CONVICTIONS;

27 (c) FINDINGS AND RECOMMENDATIONS FOR LEGISLATION OR

1 POLICY SOLUTIONS TO ELIMINATE HARMS FROM THE USE OF COLORIMETRIC
2 FIELD DRUG TESTS IN THE VARIOUS STAGES OF CRIMINAL PROCEEDINGS
3 AND IN CARCERAL SETTINGS; AND

4 (d) FINDINGS AND RECOMMENDATIONS FOR LEGISLATION OR
5 ALTERNATIVE POLICY SOLUTIONS CONCERNING USING COLORIMETRIC
6 FIELD DRUG TESTS FOR PRESUMPTIVE PURPOSES ONLY IN THE VARIOUS
7 STAGES OF CRIMINAL PROCEEDINGS AND IN CARCERAL SETTINGS,
8 INCLUDING COLLATERAL CONSEQUENCES, IN ORDER TO PREVENT FUTURE
9 HARMS.

10 (4) THE WORKING GROUP SHALL NOT RECOMMEND BILL DRAFTS AS
11 PART OF ITS RECOMMENDATIONS.

12 (5) THE WORKING GROUP MAY COLLABORATE WITH ANY PERSON
13 OR ENTITY THAT THE WORKING GROUP DEEMS APPROPRIATE TO ASSIST THE
14 WORKING GROUP IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION.
15 A STATE ENTITY THAT IS REQUESTED TO PROVIDE ASSISTANCE TO THE
16 WORKING GROUP IN PERFORMING ITS DUTIES SHALL ASSIST THE WORKING
17 GROUP, TO THE EXTENT THE ASSISTANCE PROVIDED BY THE STATE ENTITY
18 IS CONSISTENT WITH THE STATE ENTITY'S DUTIES AND LAW. AT A
19 MINIMUM, THE STATE ENTITY MUST PROVIDE TO THE WORKING GROUP,
20 UPON REQUEST, ANY EXISTING INFORMATION REGARDING THE
21 PREVALENCE AND CIRCUMSTANCES WHEN COLORIMETRIC FIELD DRUG
22 TESTS ARE USED AND ANY EXISTING POLICIES CONCERNING THE USE OF
23 COLORIMETRIC FIELD DRUG TESTS.

24 (6) ON OR BEFORE DECEMBER 1, 2025, THE WORKING GROUP
25 SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE JUDICIARY
26 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY
27 SUCCESSOR COMMITTEES. AT A MINIMUM, THE REPORT MUST INCLUDE THE

1 WORKING GROUP'S FINDINGS AND RECOMMENDATIONS REQUIRED
2 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

3 (7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

4 **SECTION 3. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.