

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 13, 2022

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB22-1326 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 6, lines 6 and 7, strike "**amend** (2)(a); and".
- 2 Page 6, line 7, after "**add**" insert "(2.5), (2.7), and".
- 3 Page 6, strike lines 8 through 20 and substitute:
 - 4 "**18-18-403.5. Unlawful possession of a controlled substance -**
 - 5 **notice to revisor of statutes - repeal.** (2.5) NOTWITHSTANDING
 - 6 SUBSECTION (2)(c) OF THIS SECTION, ON OR AFTER JULY 1, 2022, A PERSON
 - 7 WHO VIOLATES SUBSECTION (1) OF THIS SECTION BY KNOWINGLY
 - 8 POSSESSING:
 - 9 (a) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT
 - 10 WEIGHS MORE THAN ONE GRAM AND NOT MORE THAN FOUR GRAMS AND
 - 11 CONTAINS ANY QUANTITY OF FENTANYL, CARFENTANAL, OR AN ANALOG
 - 12 THEREOF AS DESCRIBED IN SECTION 18-18-204 (2)(g), AND THE PERSON
 - 13 KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE MATERIAL,
 - 14 COMPOUND, MIXTURE, OR PREPARATION CONTAINED ANY QUANTITY OF
 - 15 FENTANYL, CARFENTANAL, OR AN ANALOG THEREOF AS DESCRIBED IN
 - 16 SECTION 18-18-204 (2)(g), COMMITS A LEVEL 4 DRUG FELONY.
 - 17 (b) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT
 - 18 WEIGHS NOT MORE THAN ONE GRAM AND CONTAINS ANY QUANTITY OF
 - 19 FENTANYL, CARFENTANAL, OR AN ANALOG THEREOF AS DESCRIBED IN
 - 20 SECTION 18-18-204 (2)(g), COMMITS A LEVEL 1 DRUG MISDEMEANOR;
 - 21 EXCEPT THAT A FOURTH OR SUBSEQUENT OFFENSE FOR A VIOLATION OF
 - 22 THIS SUBSECTION (2.5)(b) IS A LEVEL 4 DRUG FELONY.
 - 23 (2.7) (a) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS
 - 24 SECTION BY POSSESSING ANY MATERIAL, COMPOUND, MIXTURE, OR
 - 25 PREPARATION THAT CONTAINS A QUANTITY OF FENTANYL, CARFENTANAL,
 - 26 OR AN ANALOG THEREOF AS DESCRIBED IN SECTION 18-18-204 (2)(g),

1 THAT IS MORE THAN SIXTY PERCENT OF THE TOTAL COMPOSITION OF THE
2 MATERIAL, COMPOUND, MIXTURE, OR PREPARATION, COMMITS A LEVEL 2
3 DRUG FELONY.

4 (b) (I) THIS SUBSECTION (2.7) TAKES EFFECT AT 12:01 A.M. THIRTY
5 DAYS AFTER THE DATE IDENTIFIED IN THE NOTICE PROVIDED TO THE
6 REVISOR OF STATUTES BY THE DIRECTOR OF THE COLORADO BUREAU OF
7 INVESTIGATION THAT THE COLORADO BUREAU OF INVESTIGATION HAS THE
8 RESOURCES TO DETERMINE THE QUANTITY OF FENTANYL, CARFENTANAL,
9 OR AN ANALOG THEREOF AS DESCRIBED IN SECTION 18-18-204 (2)(g),
10 COMPARED TO THE TOTAL COMPOSITION OF THE MATERIAL, COMPOUND,
11 MIXTURE, OR PREPARATION, OR ON THE DATE OF THE NOTICE TO THE
12 REVISOR OF STATUTES IF THE NOTICE DOES NOT SPECIFY A DIFFERENT
13 DATE.

14 (II) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
15 SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING WHEN THE
16 CONDITION SPECIFIED IN SUBSECTION (2.7)(b)(I) OF THIS SECTION HAS
17 OCCURRED BY E-MAILING THE NOTICE TO
18 REVISOROFSTATUTES.GA@STATE.CO.US.

19 (III) CONCURRENT WITH THE NOTICE REQUIRED IN SUBSECTION
20 (2.7)(b)(II), THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
21 SHALL NOTIFY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
22 PRESIDENT OF THE SENATE, THE CHIEF JUSTICE OF THE SUPREME COURT,
23 THE GOVERNOR, THE ATTORNEY GENERAL, THE STATE PUBLIC DEFENDER,
24 AND EACH DISTRICT ATTORNEY IN THE STATE, THAT THE COLORADO
25 BUREAU OF INVESTIGATION HAS THE RESOURCES TO DETERMINE THE
26 QUANTITY OF FENTANYL, CARFENTANAL, OR AN ANALOG THEREOF AS
27 DESCRIBED IN SECTION 18-18-204 (2)(g), COMPARED TO THE TOTAL
28 COMPOSITION OF THE MATERIAL, COMPOUND, MIXTURE, OR PREPARATION.

29 (IV) THIS SUBSECTION (2.7)(b) IS REPEALED, EFFECTIVE ONE YEAR
30 AFTER NOTICE TO THE REVISOR OF STATUTES PURSUANT TO THIS
31 SUBSECTION (2.7)(b)(II)."

32 Page 42, after line 13 insert:

33 "SECTION 31. In Colorado Revised Statutes, 24-72-706, amend
34 (1)(b)(II) and (1)(b)(III) as follows:

35 **24-72-706. Sealing of criminal conviction records. (1) Sealing**
36 **of conviction records. (b) (II)** If the offense is a class 2 or class 3
37 misdemeanor, ~~or~~ any drug misdemeanor, OR A LEVEL 4 DRUG FELONY FOR
38 A CONVICTION PURSUANT TO SECTION 18-18-403.5 (2.5), the motion may
39 be filed two years after the later of the date of the final disposition of all
40 criminal proceedings against the defendant or the release of the defendant
41 from supervision concerning a criminal conviction.

42 (III) If the offense is a class 4, class 5, or class 6 felony, a level 3

1 or level 4 drug felony EXCEPT A LEVEL 4 DRUG FELONY FOR A CONVICTION
2 PURSUANT TO SECTION 18-18-403.5 (2.5), or a class 1 misdemeanor, the
3 motion may be filed three years after the later of the date of the final
4 disposition of all criminal proceedings against the defendant or the
5 release of the defendant from supervision concerning a criminal
6 conviction.

7 **SECTION 32.** In Colorado Revised Statutes, 1-2-103, **amend** (4)
8 as follows:

9 **1-2-103. Military service - students - inmates - persons with**
10 **behavioral or mental health disorders - confinement.** (4) No person
11 while serving a sentence of detention or confinement in a correctional
12 facility, jail, or other location for a felony conviction, EXCEPT A LEVEL 4
13 DRUG FELONY FOR A CONVICTION PURSUANT TO SECTION 18-18-403.5
14 (2.5), is eligible to register to vote or to vote in any election. A confined
15 prisoner who is awaiting trial but has not been tried or who is not serving
16 a sentence for a felony conviction shall be certified by the institutional
17 administrator, may register to vote pursuant to this article 2, and may list
18 his or her confinement location as his or her ballot address in accordance
19 with section 1-2-204 (2)(f.3). An individual serving a sentence of parole
20 is eligible to register to vote and to vote in any election."

21 Renumber succeeding sections accordingly.

22 Page 43, line 5, strike "33, and 34" and substitute "32, 35, and 36".

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