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SENATE BILL 22-188

BY SENATOR(S) Fields and Coram, Buckner, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Sonnenberg, Story, Winter, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Roberts and Titone, Bernett, Bird, Boesenecker, Cutter, Daugherty, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jodeh, Lindsay, Lontine, McLachlan, Michaelson Jenet, Mullica, Sirota, Valdez A., Weissman, Young.

CONCERNING BEHAVIORAL HEALTH SUPPORT FOR ADVOCATES IN THE
CRIMINAL JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH,
MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 24-32-3502 as follows:

24-32-3502. Public defender and prosecutor behavioral health support program - policies - report - fund - repeal. (1) (a) THERE IS CREATED IN THE DEPARTMENT OF LOCAL AFFAIRS, REFERRED TO IN THIS SECTION AS THE "DEPARTMENT", THE PUBLIC DEFENDER AND PROSECUTOR BEHAVIORAL HEALTH SUPPORT PROGRAM TO PROVIDE FUNDING TO THE OFFICE OF THE STATE PUBLIC DEFENDER AND DISTRICT ATTORNEY'S OFFICES

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

FOR THE PURPOSES DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(b) THE DEPARTMENT SHALL ALLOCATE FIFTY PERCENT OF THE MONEY APPROPRIATED FOR THE PROGRAM AND ANY GIFTS, GRANTS, AND DONATIONS RECEIVED BY THE DEPARTMENT FOR THE PROGRAM TO THE OFFICE OF THE STATE PUBLIC DEFENDER AND THE REMAINING FIFTY PERCENT TO THE COLORADO DISTRICT ATTORNEYS' COUNCIL, REFERRED TO IN THIS SECTION AS THE "COUNCIL", TO AWARD GRANTS TO DISTRICT ATTORNEY'S OFFICES PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(2) THE OFFICE OF THE STATE PUBLIC DEFENDER MAY USE MONEY ALLOCATED TO IT PURSUANT TO THIS SECTION, AND A GRANT RECIPIENT MAY USE A GRANT AWARD, FOR THE FOLLOWING:

(a) COUNSELING SERVICES FOR PUBLIC DEFENDERS, PROSECUTORS, AND OTHER EMPLOYEES OF A PUBLIC DEFENDER'S OR DISTRICT ATTORNEY'S OFFICE, INCLUDING REIMBURSEMENTS FOR THOSE WHO HAVE PAID THE COSTS OF THEIR OWN COUNSELING SERVICES PROVIDED BY A LICENSED MENTAL HEALTH PROFESSIONAL;

(b) TRAINING AND EDUCATION PROGRAMS THAT TEACH PUBLIC DEFENDERS, PROSECUTORS, AND EMPLOYEES OF A PUBLIC DEFENDER'S OR DISTRICT ATTORNEY'S OFFICE THE SYMPTOMS OF JOB-RELATED TRAUMA AND HOW TO PREVENT AND TREAT TRAUMA; AND

(c) PEER SUPPORT PROGRAMS FOR EMPLOYEES OF THE OFFICE OF THE STATE PUBLIC DEFENDER OR A DISTRICT ATTORNEY'S OFFICE.

(3) (a) THE COUNCIL SHALL ADMINISTER A GRANT PROGRAM TO AWARD GRANTS TO INDIVIDUAL DISTRICT ATTORNEY'S OFFICES. THE COUNCIL SHALL DEVELOP POLICIES FOR THE GRANT PROGRAM, WHICH MUST SPECIFY THE FORM AND DEADLINES FOR GRANT APPLICATIONS, THE CRITERIA FOR AWARDING GRANTS, THE TIME FRAMES FOR AWARDING GRANTS AND DISTRIBUTING GRANT MONEY, AND ANY INFORMATION A GRANT RECIPIENT MUST REPORT TO THE COUNCIL.

(b) IN ORDER TO RECEIVE A GRANT AWARD, A DISTRICT ATTORNEY'S OFFICE MUST SUBMIT AN APPLICATION TO THE COUNCIL IN ACCORDANCE WITH THE COUNCIL'S POLICIES. THE COUNCIL SHALL REVIEW APPLICATIONS. ON OR BEFORE OCTOBER 1 OF EACH YEAR AND SUBJECT TO AVAILABLE

MONEY, THE COUNCIL SHALL AWARD GRANTS.

(4) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE OFFICE OF THE STATE PUBLIC DEFENDER AND THE COUNCIL SHALL EACH REPORT ABOUT THE PROGRAM TO THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

(5) (a) THE PUBLIC DEFENDER AND PROSECUTOR BEHAVIORAL HEALTH SUPPORT FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF GIFTS, GRANTS, AND DONATIONS CREDITED TO THE FUND PURSUANT TO SUBSECTION (5)(d) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR THE PURPOSES OF THIS SECTION.

(c) (I) FOR STATE FISCAL YEAR 2022-23, THE GENERAL ASSEMBLY SHALL APPROPRIATE FIVE HUNDRED THOUSAND DOLLARS TO THE DEPARTMENT FOR THE PURPOSES OF THIS SECTION.

(II) THIS SUBSECTION (5)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

(d) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. THE DEPARTMENT SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(6) THE OFFICE OF THE STATE PUBLIC DEFENDER MAY RECEIVE AND EXPEND MONEY PURSUANT TO THIS SECTION WITHOUT FURTHER APPROPRIATION.

SECTION 2. In Colorado Revised Statutes, 13-90-107, **amend** (1)(m)(II) introductory portion, (1)(m)(III), and (1)(m)(IV)(A); and **add** (1)(m)(I.6) and (1)(m)(II)(A.3) as follows:

13-90-107. Who may not testify without consent - definitions.

(1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person must not be examined as a witness in the following cases:

(m) (I.6) A DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT TEAM MEMBER SHALL NOT BE EXAMINED WITHOUT THE CONSENT OF THE PERSON TO WHOM PEER SUPPORT SERVICES HAVE BEEN PROVIDED AS TO ANY COMMUNICATION MADE BY THE PERSON TO THE PEER SUPPORT TEAM MEMBER UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (1)(m)(III) OF THIS SECTION; NOR SHALL A RECIPIENT OF PEER SUPPORT SERVICES BE EXAMINED AS TO ANY SUCH COMMUNICATION WITHOUT THE RECIPIENT'S CONSENT.

(II) ~~For purposes of this paragraph (m)~~ AS USED IN THIS SUBSECTION (1)(m):

(A.3) "DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT TEAM MEMBER" MEANS AN EMPLOYEE OF A DISTRICT ATTORNEY'S OFFICE OR A PUBLIC DEFENDER'S OFFICE WHO HAS BEEN TRAINED IN PEER SUPPORT SKILLS AND WHO IS OFFICIALLY DESIGNATED BY A DISTRICT ATTORNEY OR THE STATE PUBLIC DEFENDER AS A MEMBER OF A DISTRICT ATTORNEY'S OFFICE PEER SUPPORT TEAM OR AN OFFICE OF THE STATE PUBLIC DEFENDER PEER SUPPORT TEAM.

(III) ~~The provisions of This subsection (1)(m) apply~~ APPLIES only to communications made during interactions conducted by a peer support team member:

(A) Acting in the person's official capacity as a law enforcement or firefighter peer support team member, ~~or an~~ emergency medical service provider or rescue unit peer support team member, OR DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT TEAM MEMBER; and

(B) Functioning within the written peer support guidelines that are in effect for the person's respective law enforcement agency, fire department, emergency medical service agency, ~~or~~ rescue unit, DISTRICT ATTORNEY'S OFFICE, OR PUBLIC DEFENDER'S OFFICE.

(IV) This subsection (1)(m) does not apply in cases in which:

(A) A law enforcement or firefighter peer support team member, or emergency medical service provider or rescue unit peer support team member, OR DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT TEAM MEMBER was a witness or a party to an incident which prompted the delivery of peer support services;

SECTION 3. Appropriation. (1) For the 2022-23 state fiscal year, \$500,000 is appropriated to the public defender and prosecutor behavioral health support fund created in section 24-32-3502 (5)(a), C.R.S. This appropriation is from the general fund. The department of local affairs is responsible for the accounting related to this appropriation.

(2) For the 2022-23 state fiscal year, \$500,000 is appropriated to the department of local affairs. This appropriation is from reappropriated funds in the public defender and prosecutor behavioral health support fund under subsection (1) of this section. To implement this act, the department may use this appropriation for the public defender and prosecutor behavioral health support program.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Steve Fenberg
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO