

**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, AND, IN CONNECTION**
103 **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 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:

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.

- Make findings concerning the prevalence of the 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.**

11 (1) (a) NOTWITHSTANDING SECTION 2-3-303.3, THERE IS CREATED THE
12 WORKING GROUP TO MAKE FINDINGS AND RECOMMENDATIONS
13 CONCERNING THE USE OF COLORIMETRIC FIELD DRUG TESTS IN THE
14 VARIOUS STAGES OF CRIMINAL PROCEEDINGS AND IN CARCERAL SETTINGS.

15 (b) (I) ON OR BEFORE SEPTEMBER 1, 2025, THE DIRECTOR OF THE
16 LEGISLATIVE COUNCIL SHALL USE A REQUEST FOR PROPOSAL PROCESS TO
17 CONTRACT WITH AND DESIGNATE A NONPROFIT ORGANIZATION TO
18 PROVIDE STAFFING AND FACILITATE THE PERFORMANCE OF THE WORKING
19 GROUP'S DUTIES PURSUANT TO THIS PART 24.

20 (II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NO
21 GENERAL FUND MONEY BE APPROPRIATED FOR A CONTRACT WITH THE
22 NONPROFIT ORGANIZATION FOR THE NONPROFIT ORGANIZATION TO
23 PROVIDE STAFFING AND FACILITATE THE PERFORMANCE OF THE WORKING
24 GROUP'S DUTIES PURSUANT TO THIS PART 24. THE NONPROFIT
25 ORGANIZATION IS SOLELY RESPONSIBLE FOR THE COSTS OF PROVIDING THE
26 CONTRACTED SERVICES, PROVIDING STAFFING, AND FACILITATING THE
27 PERFORMANCE OF THE WORKING GROUP'S DUTIES PURSUANT TO THIS PART

1 24. THE NONPROFIT ORGANIZATION MAY ACCEPT MONETARY OR IN-KIND
2 GIFTS, GRANTS, AND DONATIONS TO DEFRAY THE COSTS OF PROVIDING THE
3 CONTRACTED SERVICES, PROVIDING STAFFING, AND FACILITATING THE
4 PERFORMANCE OF THE WORKING GROUP'S DUTIES PURSUANT TO THIS PART
5 24.

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

7 (I) ONE MEMBER OF THE MAJORITY PARTY OF THE HOUSE OF
8 REPRESENTATIVES, APPOINTED BY THE SPEAKER OF THE HOUSE OF
9 REPRESENTATIVES, WHO SHALL SERVE AS CHAIR;

10 (II) ONE MEMBER OF THE MINORITY PARTY OF THE SENATE,
11 APPOINTED BY THE PRESIDENT OF THE SENATE, WHO SHALL SERVE AS
12 VICE-CHAIR;

13 (III) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES,
14 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

15 (IV) THE ATTORNEY GENERAL OR THEIR DESIGNEE;

16 (V) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
17 OR THEIR DESIGNEE;

18 (VI) ONE MEMBER WHO REPRESENTS AN ORGANIZATION THAT
19 WORKS TO EXONERATE PEOPLE WHO WERE WRONGFULLY CONVICTED,
20 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

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

22 (VIII) ONE MEMBER WHO REPRESENTS THE COLORADO CRIMINAL
23 DEFENSE BAR, APPOINTED BY THE SPEAKER OF THE HOUSE OF
24 REPRESENTATIVES;

25 (IX) ONE MEMBER WHO REPRESENTS THE ALTERNATE DEFENSE
26 COUNSEL, APPOINTED BY THE SPEAKER OF THE HOUSE OF
27 REPRESENTATIVES;

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

3 (XI) THE PRESIDENT OF THE COUNTY SHERIFFS OF COLORADO OR
4 THEIR DESIGNEE;

5 (XII) THE PRESIDENT OF THE COLORADO ASSOCIATION OF CHIEFS
6 OF POLICE OR THEIR DESIGNEE;

7 (XIII) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
8 CORRECTIONS OR THEIR DESIGNEE;

9
10 (XIV) ONE MEMBER WHO IS AN INSTRUCTOR AT AN INSTITUTION
11 OF HIGHER EDUCATION IN COLORADO AND HAS EXPERT KNOWLEDGE OF,
12 AND RESEARCH EXPERIENCE WITH, FORENSIC SCIENCE, APPOINTED BY THE
13 PRESIDENT OF THE SENATE;

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

18 (XVI) ONE MEMBER WHO IS A NATIONAL EXPERT ON WRONGFUL
19 CONVICTIONS CAUSED BY THE USE OF COLORIMETRIC FIELD DRUG TESTS,
20 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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

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

26 (d) MEMBERS SERVE AT THE PLEASURE OF THEIR RESPECTIVE
27 APPOINTING AUTHORITIES. IF A VACANCY OCCURS, THE APPROPRIATE

1 APPOINTING AUTHORITY SHALL PROMPTLY APPOINT A NEW MEMBER WHO
2 SATISFIES THE MEMBERSHIP REQUIREMENT OF THE VACATED SEAT.

3 (e) MEMBERS SERVE WITHOUT COMPENSATION BUT MAY BE
4 REIMBURSED FOR EXPENSES DIRECTLY RELATING TO THEIR SERVICE TO THE
5 WORKING GROUP.

6

7 (3) THE WORKING GROUP SHALL MAKE:

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

11 (b) FINDINGS CONCERNING THE POTENTIAL HARMS THAT RESULT
12 FROM USING COLORIMETRIC FIELD DRUG TESTS IN THE VARIOUS STAGES OF
13 CRIMINAL PROCEEDINGS AND IN CARCERAL SETTINGS, INCLUDING THE
14 POTENTIAL FOR UNJUST PRETRIAL DETENTION, COERCIVE GUILTY PLEAS,
15 AND WRONGFUL CONVICTIONS;

16 (c) FINDINGS AND RECOMMENDATIONS FOR LEGISLATION OR
17 POLICY SOLUTIONS TO ELIMINATE HARMS FROM THE USE OF COLORIMETRIC
18 FIELD DRUG TESTS IN THE VARIOUS STAGES OF CRIMINAL PROCEEDINGS
19 AND IN CARCERAL SETTINGS; AND

20 (d) FINDINGS AND RECOMMENDATIONS FOR LEGISLATION OR
21 ALTERNATIVE POLICY SOLUTIONS CONCERNING USING COLORIMETRIC
22 FIELD DRUG TESTS FOR PRESUMPTIVE PURPOSES ONLY IN THE VARIOUS
23 STAGES OF CRIMINAL PROCEEDINGS AND IN CARCERAL SETTINGS,
24 INCLUDING COLLATERAL CONSEQUENCES, IN ORDER TO PREVENT FUTURE
25 HARMS.

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

1 (5) THE WORKING GROUP MAY COLLABORATE WITH ANY PERSON
2 OR ENTITY THAT THE WORKING GROUP DEEMS APPROPRIATE TO ASSIST THE
3 WORKING GROUP IN PERFORMING ITS DUTIES PURSUANT TO THIS SECTION.
4 A STATE ENTITY THAT IS REQUESTED TO PROVIDE ASSISTANCE TO THE
5 WORKING GROUP IN PERFORMING ITS DUTIES SHALL ASSIST THE WORKING
6 GROUP, TO THE EXTENT THE ASSISTANCE PROVIDED BY THE STATE ENTITY
7 IS CONSISTENT WITH THE STATE ENTITY'S DUTIES AND LAW. AT A
8 MINIMUM, THE STATE ENTITY MUST PROVIDE TO THE WORKING GROUP,
9 UPON REQUEST, ANY EXISTING INFORMATION REGARDING THE
10 PREVALENCE AND CIRCUMSTANCES WHEN COLORIMETRIC FIELD DRUG
11 TESTS ARE USED AND ANY EXISTING POLICIES CONCERNING THE USE OF
12 COLORIMETRIC FIELD DRUG TESTS.

13 (6) ON OR BEFORE DECEMBER 1, 2025, THE WORKING GROUP
14 SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE JUDICIARY
15 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY
16 SUCCESSOR COMMITTEES. AT A MINIMUM, THE REPORT MUST INCLUDE THE
17 WORKING GROUP'S FINDINGS AND RECOMMENDATIONS REQUIRED
18 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

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

20 **SECTION 3. Appropriation.** (1) For the 2025-26 state fiscal
21 year, \$1,008 is appropriated to the legislative department. This
22 appropriation is from the general fund. To implement this act, the
23 department may use this appropriation for the general assembly.

24 **SECTION 4. Safety clause.** The general assembly finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.