

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0298.01 Richard Sweetman

SENATE BILL 11-085

SENATE SPONSORSHIP

Shaffer B.,

HOUSE SPONSORSHIP

McCann,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING A DIVERSION PROGRAM FOR PERSONS WHO COMMIT
102 PROSTITUTION-RELATED OFFENSES.

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://www.leg.state.co.us/billssummaries>.)

The bill authorizes one or more municipal courts to create and administer a program for persons who are charged with prostitution-related offenses (program). The program shall permit enrollment only by a person who has agreed to a deferred sentencing arrangement and who has no prior conviction for a prostitution-related

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

offense. Each person who enrolls in the program shall pay an administration fee, which fee the municipal court or courts shall use to pay the costs of administering the program. To the extent practicable, the program shall be available to offenders, courts, and prosecutors of other jurisdictions. The program shall be administered by the municipal court with assistance from one or more municipal prosecutor's offices, one or more district attorney's offices, one or more state or local law enforcement agencies, and one or more nonprofit corporations that have a stated mission to reduce human trafficking or prostitution.

Enrollment in the program shall be offered to each offender at the sole discretion of the prosecuting attorney in each offender's case. If the prosecuting attorney offers enrollment in the program to an offender as a condition of a plea bargain agreement, the agreement shall include the following stipulations:

- ! The offender shall enter a plea of guilty to the prostitution-related charge or charges;
- ! The court shall defer judgment and sentencing of the offender for a period not to exceed 2 years, during which time the offender shall enroll in and complete the program;
- ! Upon the offender's satisfactory completion of the program, the prostitution-related charge or charges shall be dismissed with prejudice;
- ! The offender shall waive his or her right to a speedy trial; and
- ! If the offender fails to complete the program or fails to satisfy any other condition of the plea bargain agreement, he or she shall be sentenced for the offenses to which he or she has pleaded guilty and shall be required to pay a fine in addition to any other sentence imposed by the court.

If one or more municipal courts creates and administers a program, the municipal court shall prepare and submit a report to the judiciary committees of the house of representatives and senate concerning the effectiveness of the program. The municipal court shall submit the report not less than 2 years nor more than 3 years after the creation of the program. The report shall include information concerning the cost of the program, the extent to which the cost is mitigated by the imposition of the administration fees, and the effectiveness of the program in reducing recidivism among offenders of the prostitution-related crimes.

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

2 **SECTION 1.** Article 10 of title 13, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

1 **13-10-126. Prostitution offender program authorized -**

2 **reports.** (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, A MUNICIPAL
3 COURT OR MULTIPLE MUNICIPAL COURTS MAY CREATE AND ADMINISTER
4 A PROGRAM FOR PERSONS WHO ARE CHARGED WITH SOLICITING FOR
5 PROSTITUTION, AS DESCRIBED IN SECTION 18-7-202, C.R.S., PANDERING,
6 AS DESCRIBED IN SECTION 18-7-203, C.R.S., PATRONIZING A PROSTITUTE,
7 AS DESCRIBED IN SECTION 18-7-205, C.R.S., OR ANY CORRESPONDING
8 MUNICIPAL CODE OR ORDINANCE, AND WHO HAVE NO PRIOR CONVICTIONS
9 FOR ANY SUCH OFFENSES.

10 (2) A PROGRAM CREATED AND ADMINISTERED BY A MUNICIPAL
11 COURT OR MULTIPLE MUNICIPAL COURTS PURSUANT TO SUBSECTION (1) OF
12 THIS SECTION SHALL:

13 (a) PERMIT ENROLLMENT IN THE PROGRAM ONLY BY AN OFFENDER
14 WHO:

15 (I) HAS NO PRIOR CONVICTIONS FOR ANY OF THE OFFENSES
16 DESCRIBED IN SUBSECTION (1) OF THIS SECTION OR FOR ANY OFFENSE
17 COMMITTED IN ANOTHER STATE THAT WOULD CONSTITUTE SUCH AN
18 OFFENSE IF COMMITTED IN THIS STATE; AND

19 (II) HAS BEEN OFFERED AND HAS AGREED TO A DEFERRED
20 SENTENCING ARRANGEMENT AS DESCRIBED IN SUBSECTION (3) OF THIS
21 SECTION;

22 (b) REQUIRE EACH OFFENDER WHO ENROLLS IN THE PROGRAM TO
23 PAY AN ADMINISTRATION FEE, WHICH FEE THE MUNICIPAL COURT OR
24 COURTS SHALL USE TO PAY THE COSTS OF ADMINISTERING THE PROGRAM;

25 (c) TO THE EXTENT PRACTICABLE, BE AVAILABLE TO OFFENDERS,
26 COURTS, AND PROSECUTORS OF OTHER JURISDICTIONS; AND

27 (d) BE ADMINISTERED BY THE MUNICIPAL COURT OR COURTS WITH

1 ASSISTANCE FROM ONE OR MORE MUNICIPAL PROSECUTOR'S OFFICES, ONE
2 OR MORE DISTRICT ATTORNEY'S OFFICES, ONE OR MORE STATE OR LOCAL
3 LAW ENFORCEMENT AGENCIES, AND ONE OR MORE NONPROFIT
4 CORPORATIONS, AS DEFINED IN SECTION 7-121-401, C.R.S., WHICH
5 NONPROFIT CORPORATIONS HAVE A STATED MISSION TO REDUCE HUMAN
6 TRAFFICKING OR PROSTITUTION. THE MUNICIPAL COURT IS ENCOURAGED
7 TO CONSULT, IN ADDITION TO THE AFOREMENTIONED ENTITIES,
8 RECOGNIZED CRIMINOLOGY EXPERTS AND MENTAL HEALTH
9 PROFESSIONALS.

10 (3) (a) ENROLLMENT IN THE PROGRAM SHALL BE OFFERED TO EACH
11 OFFENDER AT THE SOLE DISCRETION OF THE PROSECUTING ATTORNEY IN
12 EACH OFFENDER'S CASE.

13 (b) IF THE PROSECUTING ATTORNEY OFFERS ENROLLMENT IN THE
14 PROGRAM TO AN OFFENDER AS A CONDITION OF A PLEA BARGAIN
15 AGREEMENT, THE AGREEMENT SHALL INCLUDE AT A MINIMUM THE
16 FOLLOWING STIPULATIONS:

17 (I) THE OFFENDER SHALL ENTER A PLEA OF GUILTY TO THE
18 PROSTITUTION-RELATED OFFENSE OR OFFENSES WITH WHICH HE OR SHE IS
19 CHARGED;

20 (II) THE COURT SHALL DEFER JUDGMENT AND SENTENCING OF THE
21 OFFENDER FOR A PERIOD NOT TO EXCEED TWO YEARS, AS DESCRIBED IN
22 SECTION 18-1.3-102 (1), C.R.S., DURING WHICH TIME THE OFFENDER
23 SHALL ENROLL IN AND COMPLETE THE PROGRAM;

24 (III) UPON THE OFFENDER'S SATISFACTORY COMPLETION OF THE
25 PROGRAM, THE COURT SHALL DISMISS WITH PREJUDICE THE
26 PROSTITUTION-RELATED CHARGE OR CHARGES;

27 (IV) THE OFFENDER SHALL WAIVE HIS OR HER RIGHT TO A SPEEDY

1 TRIAL;

2 (V) IF THE OFFENDER FAILS TO COMPLETE THE PROGRAM OR FAILS
3 TO SATISFY ANY OTHER CONDITION OF THE PLEA BARGAIN AGREEMENT, HE
4 OR SHE SHALL BE SENTENCED FOR THE OFFENSES TO WHICH HE OR SHE HAS
5 PLEADED GUILTY AND SHALL BE REQUIRED TO PAY A FINE OF FIVE
6 HUNDRED DOLLARS IN ADDITION TO ANY OTHER SENTENCE IMPOSED BY
7 THE COURT.

8 (4) IF A MUNICIPAL COURT OR MULTIPLE MUNICIPAL COURTS
9 CREATE AND ADMINISTER A PROGRAM PURSUANT TO SUBSECTION (1) OF
10 THIS SECTION, THE MUNICIPAL COURT OR COURTS SHALL PREPARE AND
11 SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
12 REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES,
13 CONCERNING THE EFFECTIVENESS OF THE PROGRAM. THE MUNICIPAL
14 COURT OR COURTS SHALL SUBMIT THE REPORT NOT LESS THAN TWO YEARS
15 NOR MORE THAN THREE YEARS AFTER THE CREATION OF THE PROGRAM.
16 THE REPORT SHALL INCLUDE INFORMATION CONCERNING:

17 (a) THE COST OF THE PROGRAM AND THE EXTENT TO WHICH THE
18 COST IS MITIGATED BY THE IMPOSITION OF THE FEES DESCRIBED IN
19 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION; AND

20 (b) THE EFFECTIVENESS OF THE PROGRAM IN REDUCING
21 RECIDIVISM AMONG PERSONS WHO COMMIT PROSTITUTION-RELATED
22 OFFENSES.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part shall not take effect
3 unless approved by the people at the general election to be held in
4 November 2012 and shall take effect on the date of the official
5 declaration of the vote thereon by the governor.