

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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 INCREASING THE ENFORCEMENT OF PROHIBITIONS**
102 **AGAINST CERTAIN PROSTITUTION-RELATED OFFENSES, AND, IN**
103 **CONNECTION THEREWITH, AUTHORIZING THE CREATION OF A**
104 **PROGRAM FOR CERTAIN FIRST-TIME OFFENDERS OF SUCH**
105 **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/billsummaries>.)

The bill authorizes one or more municipal courts to create and

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.

SENATE
Amended 2nd Reading
March 25, 2011

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 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:*

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

3 **13-10-126. Prostitution offender program authorized -**
4 **reports.** (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, A MUNICIPAL
5 COURT OR MULTIPLE MUNICIPAL COURTS MAY CREATE AND ADMINISTER
6 A PROGRAM FOR PERSONS WHO ARE CHARGED WITH SOLICITING FOR
7 PROSTITUTION, AS DESCRIBED IN SECTION 18-7-202, C.R.S., PANDERING,
8 AS DESCRIBED IN SECTION 18-7-203, C.R.S., PATRONIZING A PROSTITUTE,
9 AS DESCRIBED IN SECTION 18-7-205, C.R.S., OR ANY CORRESPONDING
10 MUNICIPAL CODE OR ORDINANCE, AND WHO HAVE NO PRIOR CONVICTIONS
11 FOR ANY SUCH OFFENSES.

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

15 (a) PERMIT ENROLLMENT IN THE PROGRAM ONLY BY AN OFFENDER
16 WHO:

17 (I) HAS NO PRIOR CONVICTIONS OR ANY CHARGES PENDING FOR
18 ANY FELONY; FOR ANY OFFENSE DESCRIBED IN SECTION 18-3-305,
19 18-3-306, OR 18-13-128, C.R.S., IN PART 4 OR 5 OF ARTICLE 3 OF TITLE 18,
20 C.R.S., IN PART 3, 4, 6, 7, OR 8 OF ARTICLE 6 OF TITLE 18, C.R.S., OR IN
21 PART 2, 3, 4, OR 5 OF ARTICLE 7 OF TITLE 18, C.R.S.; OR FOR ANY OFFENSE
22 COMMITTED IN ANOTHER STATE THAT WOULD CONSTITUTE SUCH AN
23 OFFENSE IF COMMITTED IN THIS STATE; AND

24 (II) HAS BEEN OFFERED AND HAS AGREED TO A DEFERRED
25 SENTENCING ARRANGEMENT AS DESCRIBED IN SUBSECTION (3) OF THIS
26 SECTION;

27 (b) REQUIRE EACH OFFENDER WHO ENROLLS IN THE PROGRAM TO

1 PAY AN ADMINISTRATION FEE, WHICH FEE THE MUNICIPAL COURT OR
2 COURTS SHALL USE TO PAY THE COSTS OF ADMINISTERING THE PROGRAM;

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

5 (d) BE ADMINISTERED BY THE MUNICIPAL COURT OR COURTS WITH
6 ASSISTANCE FROM ONE OR MORE MUNICIPAL PROSECUTOR'S OFFICES, ONE
7 OR MORE DISTRICT ATTORNEY'S OFFICES, ONE OR MORE STATE OR LOCAL
8 LAW ENFORCEMENT AGENCIES, AND ONE OR MORE NONPROFIT
9 CORPORATIONS, AS DEFINED IN SECTION 7-121-401, C.R.S., WHICH
10 NONPROFIT CORPORATIONS HAVE A STATED MISSION TO REDUCE HUMAN
11 TRAFFICKING OR PROSTITUTION. THE MUNICIPAL COURT IS ENCOURAGED
12 TO CONSULT, IN ADDITION TO THE AFOREMENTIONED ENTITIES,
13 RECOGNIZED CRIMINOLOGY EXPERTS AND MENTAL HEALTH
14 PROFESSIONALS.

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

18 (b) IF THE PROSECUTING ATTORNEY OFFERS ENROLLMENT IN THE
19 PROGRAM TO AN OFFENDER AS A CONDITION OF A PLEA BARGAIN
20 AGREEMENT, THE AGREEMENT SHALL INCLUDE AT A MINIMUM THE
21 FOLLOWING STIPULATIONS:

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

25 (II) THE COURT SHALL DEFER JUDGMENT AND SENTENCING OF THE
26 OFFENDER FOR A PERIOD NOT TO EXCEED TWO YEARS, AS DESCRIBED IN
27 SECTION 18-1.3-102 (1), C.R.S., DURING WHICH TIME THE OFFENDER

1 SHALL ENROLL IN AND COMPLETE THE PROGRAM;

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

5 (IV) THE OFFENDER SHALL WAIVE HIS OR HER RIGHT TO A SPEEDY
6 TRIAL;

7 (V) IF THE OFFENDER FAILS TO COMPLETE THE PROGRAM OR FAILS
8 TO SATISFY ANY OTHER CONDITION OF THE PLEA BARGAIN AGREEMENT, HE
9 OR SHE SHALL BE SENTENCED FOR THE OFFENSES TO WHICH HE OR SHE HAS
10 PLEADED GUILTY AND SHALL BE REQUIRED TO PAY A FINE OF NOT LESS
11 THAN TWO THOUSAND FIVE HUNDRED DOLLARS AND NOT MORE THAN FIVE
12 THOUSAND DOLLARS IN ADDITION TO ANY OTHER SENTENCE IMPOSED BY
13 THE COURT.

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

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

26 (b) THE EFFECTIVENESS OF THE PROGRAM IN REDUCING
27 RECIDIVISM AMONG PERSONS WHO COMMIT PROSTITUTION-RELATED

1 OFFENSES.

2 SECTION 2. 18-7-202 (2), Colorado Revised Statutes, is
3 amended to read:

4 18-7-202. Soliciting for prostitution. (2) Soliciting for
5 prostitution is a class 3 misdemeanor. A PERSON WHO IS CONVICTED OF
6 SOLICITING FOR PROSTITUTION SHALL BE REQUIRED TO PAY A FINE OF NOT
7 LESS THAN FIVE THOUSAND DOLLARS AND NOT MORE THAN TEN THOUSAND
8 DOLLARS IN ADDITION TO ANY PENALTY IMPOSED BY THE COURT
9 PURSUANT TO SECTION 18-1.3-501, WHICH ADDITIONAL FINE SHALL BE
10 TRANSFERRED TO THE STATE TREASURER, WHO SHALL TRANSFER THE
11 SAME TO THE PROSTITUTION ENFORCEMENT RESOURCES GRANT PROGRAM
12 CASH FUND CREATED IN SECTION 24-33.5-513, C.R.S.

13 SECTION 3. 18-7-203 (2), Colorado Revised Statutes, is
14 amended to read:

15 18-7-203. Pandering. (2) (a) Pandering under paragraph (a) of
16 subsection (1) of this section is a class 5 felony. A PERSON WHO IS
17 CONVICTED OF PANDERING UNDER PARAGRAPH (a) OF SUBSECTION (1) OF
18 THIS SECTION SHALL BE REQUIRED TO PAY A FINE OF NOT LESS THAN FIVE
19 THOUSAND DOLLARS AND NOT MORE THAN TEN THOUSAND DOLLARS IN
20 ADDITION TO ANY PENALTY IMPOSED BY THE COURT PURSUANT TO
21 SECTION 18-1.3-401, WHICH ADDITIONAL FINE SHALL BE TRANSFERRED TO
22 THE STATE TREASURER, WHO SHALL TRANSFER THE SAME TO THE
23 PROSTITUTION ENFORCEMENT RESOURCES GRANT PROGRAM CASH FUND
24 CREATED IN SECTION 24-33.5-513, C.R.S.

25 (b) Pandering under paragraph (b) of subsection (1) of this section
26 is a class 3 misdemeanor. A PERSON WHO IS CONVICTED OF PANDERING
27 UNDER PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL BE

1 REQUIRED TO PAY A FINE OF NOT LESS THAN FIVE THOUSAND DOLLARS AND
2 NOT MORE THAN TEN THOUSAND DOLLARS IN ADDITION TO ANY PENALTY
3 IMPOSED BY THE COURT PURSUANT TO SECTION 18-1.3-501, WHICH
4 ADDITIONAL FINE SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO
5 SHALL TRANSFER THE SAME TO THE PROSTITUTION ENFORCEMENT
6 RESOURCES GRANT PROGRAM CASH FUND CREATED IN SECTION
7 24-33.5-513, C.R.S.

8 **SECTION 4.** 18-7-205 (2), Colorado Revised Statutes, is
9 amended to read:

10 **18-7-205. Patronizing a prostitute.** (2) Patronizing a prostitute
11 is a class 1 petty offense; except that patronizing a prostitute is a class 1
12 misdemeanor if the violation is committed subsequent to two prior
13 convictions of a violation of this section, of a violation of a comparable
14 offense in any other state, or of a violation of a comparable municipal
15 offense. A PERSON WHO IS CONVICTED OF PATRONIZING A PROSTITUTE
16 SHALL BE REQUIRED TO PAY A FINE OF NOT LESS THAN FIVE THOUSAND
17 DOLLARS AND NOT MORE THAN TEN THOUSAND DOLLARS IN ADDITION TO
18 ANY PENALTY IMPOSED BY THE COURT PURSUANT TO SECTION 18-1.3-401
19 OR 18-1.3-503, WHICH ADDITIONAL FINE SHALL BE TRANSFERRED TO THE
20 STATE TREASURER, WHO SHALL TRANSFER THE SAME TO THE
21 PROSTITUTION ENFORCEMENT RESOURCES GRANT PROGRAM CASH FUND
22 CREATED IN SECTION 24-33.5-513, C.R.S.

23 **SECTION 5.** 18-1.3-701 (1) (a), Colorado Revised Statutes, is
24 amended to read:

25 **18-1.3-701. Judgment for costs and fines.** (1) (a) Where any
26 person, association, or corporation is convicted of an offense, or any
27 juvenile is adjudicated a juvenile delinquent for the commission of an act

1 that would have been a criminal offense if committed by an adult, the
2 court shall give judgment in favor of the state of Colorado, the
3 appropriate prosecuting attorney, or the appropriate law enforcement
4 agency and against the offender or juvenile for the amount of the costs of
5 prosecution, the amount of the cost of care, and any fine imposed. No
6 fine shall be imposed for conviction of a felony except as provided in
7 section 18-1.3-401 OR 18-7-203 (2) (a). Such judgments shall be
8 enforceable in the same manner as are civil judgments, and, in addition,
9 the provisions of section 16-11-101.6, C.R.S., and section 18-1.3-702
10 apply. A county clerk and recorder may not charge a fee for the recording
11 of a transcript or satisfaction of a judgment entered pursuant to this
12 section.

13 SECTION 6. Part 5 of article 33.5 of title 24, Colorado Revised
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
15 read:

16 **24-33.5-513. Prostitution enforcement resources grant**
17 **program - application process - cash fund - reports - rules - repeal.**

18 (1) THERE IS HEREBY CREATED IN THE DIVISION THE PROSTITUTION
19 ENFORCEMENT RESOURCES GRANT PROGRAM. UNDER THE PROGRAM, ON
20 AND AFTER JULY 1, 2013, A MUNICIPAL LAW ENFORCEMENT AGENCY MAY
21 APPLY FOR A GRANT TO FUND EFFORTS TO COMBAT
22 PROSTITUTION-RELATED OFFENSES. THE DIVISION SHALL ADMINISTER THE
23 PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION.

24 (2) THE DIVISION SHALL SOLICIT AND REVIEW APPLICATIONS FROM
25 MUNICIPAL LAW ENFORCEMENT AGENCIES FOR GRANTS PURSUANT TO THIS
26 SECTION. THE DEPARTMENT MAY AWARD GRANTS TO MUNICIPAL LAW
27 ENFORCEMENT AGENCIES FOR PERIODS OF ONE TO THREE YEARS.

1 (3) EACH APPLICATION, AT A MINIMUM, SHALL DESCRIBE HOW THE
2 APPLICANT MUNICIPAL LAW ENFORCEMENT AGENCY WILL USE ANY
3 AWARDED GRANT MONEYS TO COMBAT PROSTITUTION-RELATED OFFENSES.
4 EACH GRANT RECIPIENT SHALL USE ITS GRANT MONEYS TO SUPPLEMENT
5 AND NOT SUPPLANT ANY MONEYS CURRENTLY BEING USED BY THE GRANT
6 RECIPIENT TO COMBAT PROSTITUTION-RELATED OFFENSES.

7 (4) THE DIVISION SHALL SELECT THOSE MUNICIPAL LAW
8 ENFORCEMENT AGENCIES THAT WILL RECEIVE GRANTS PURSUANT TO THIS
9 SECTION AND THE DURATION AND AMOUNT OF EACH GRANT. IN SELECTING
10 THE GRANT RECIPIENTS, THE DIVISION, AT A MINIMUM, SHALL TAKE INTO
11 ACCOUNT THE CRITERIA ESTABLISHED BY RULES PROMULGATED BY THE
12 EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (7) OF THIS SECTION.

13 (5) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
14 PROSTITUTION ENFORCEMENT CASH FUND, REFERRED TO IN THIS SECTION
15 AS THE "FUND", TO BE ADMINISTERED BY THE DIVISION PURSUANT TO THIS
16 SECTION. THE FUND SHALL CONSIST OF MONEYS TRANSFERRED TO THE
17 FUND PURSUANT TO SECTIONS 18-7-202 (2), 18-7-203 (2) (a) AND (2) (b),
18 AND 18-7-205 (2), C.R.S.

19 (b) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL
20 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION FOR THE
21 DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS
22 SECTION. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF
23 THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED
24 BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT
25 AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.
26 ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND
27 AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT

1 BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND;
2 EXCEPT THAT, ALL UNEXPENDED AND UNENCUMBERED MONEYS
3 REMAINING IN THE FUND AS OF JULY 1, 2018, SHALL BE TRANSFERRED TO
4 THE GENERAL FUND.

5 (c) THE DIVISION MAY EXPEND UP TO THREE PERCENT OF THE
6 MONEYS ANNUALLY APPROPRIATED FROM THE FUND TO OFFSET THE COSTS
7 INCURRED IN IMPLEMENTING THIS SECTION.

8 (6) ON OR BEFORE A DATE SPECIFIED BY THE EXECUTIVE DIRECTOR
9 PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE DIVISION SHALL
10 SUBMIT ANNUALLY TO THE JUDICIARY COMMITTEES OF THE SENATE AND
11 HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, THE
12 FOLLOWING INFORMATION REGARDING THE ADMINISTRATION OF THE
13 PROGRAM IN THE PRECEDING YEAR:

14 (a) THE NUMBER OF GRANT RECIPIENTS THAT RECEIVED GRANTS
15 UNDER THE PROGRAM;

16 (b) THE AMOUNT OF EACH GRANT AWARDED TO EACH GRANT
17 RECIPIENT;

18 (c) THE AVERAGE AMOUNT OF EACH GRANT AWARDED UNDER THE
19 PROGRAM;

20 (d) THE NUMBER OF ARRESTS FOR PROSTITUTION-RELATED
21 OFFENSES MADE BY THE RECIPIENT MUNICIPAL LAW ENFORCEMENT
22 AGENCY IN THE TWELVE-MONTH PERIOD PRECEDING THE RECEIPT OF
23 GRANT MONEYS; AND

24 (e) THE NUMBER OF ARRESTS FOR PROSTITUTION-RELATED
25 OFFENSES MADE BY THE RECIPIENT MUNICIPAL LAW ENFORCEMENT
26 AGENCY SINCE RECEIVING GRANT MONEYS.

27 (7) ON OR BEFORE APRIL 1, 2012, THE EXECUTIVE DIRECTOR SHALL

1 PROMULGATE RULES FOR THE ADMINISTRATION OF THIS SECTION,
2 INCLUDING BUT NOT LIMITED TO:

3 (a) APPLICATION PROCEDURES BY WHICH A MUNICIPAL LAW
4 ENFORCEMENT AGENCY MAY APPLY FOR A GRANT PURSUANT TO THIS
5 SECTION;

6 (b) CRITERIA FOR THE DIVISION TO APPLY IN SELECTING THE
7 MUNICIPAL LAW ENFORCEMENT AGENCIES THAT SHALL RECEIVE GRANTS
8 AND DETERMINING THE AMOUNT OF GRANT MONEYS TO BE AWARDED TO
9 EACH GRANT RECIPIENT, WHICH CRITERIA, AT A MINIMUM, SHALL REQUIRE
10 EACH GRANT RECIPIENT TO USE AWARDED GRANT MONEYS FOR THE
11 PURPOSE OF COMBATING PROSTITUTION-RELATED OFFENSES; AND

12 (c) THE DESIGNATION OF A DATE BY WHICH THE DEPARTMENT
13 SHALL ANNUALLY SUBMIT TO THE JUDICIARY COMMITTEES OF THE SENATE
14 AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, THE
15 INFORMATION DESCRIBED IN SUBSECTION (6) OF THIS SECTION.

16 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018.

17 **SECTION 7. Act subject to petition - effective date.** This act
18 shall take effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part shall not take effect
24 unless approved by the people at the general election to be held in
25 November 2012 and shall take effect on the date of the official
26 declaration of the vote thereon by the governor.