

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0784.01 Michael Dohr x4347

SENATE BILL 12-163

SENATE SPONSORSHIP

Mitchell and Steadman, Aguilar, Cadman, Grantham, Guzman, Jahn, Neville, Spence

HOUSE SPONSORSHIP

Beezley and Levy, Barker, DelGrosso, Ferrandino, Massey, McCann, Nikkel, Singer, Vigil

Senate Committees

Judiciary
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO IMPROVE OUTCOMES FOR PERSONS**
102 **CONVICTED OF POSSESSION OF CERTAIN CONTROLLED**
103 **SUBSTANCES CRIMES.**

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 reduces the penalty for possession of 4 grams or less of certain drugs from a class 6 felony to a class 1 misdemeanor and reduces the penalty for possession of more than 4 grams of those certain drugs from a class 4 felony to a class 6 felony. The bill appropriates the savings

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.

from the reduction in the criminal penalties to substance abuse treatment programs. The department of human services will develop a trauma-informed substance abuse treatment and best practices training program. The bill requires a post-enactment review after two years that addresses the impact of the bill on jails and the amount of funding for jail-based treatment.

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

2 **SECTION 1. Legislative declaration.** (1) The General
3 Assembly hereby finds and declares that:

4 (a) In 2007, it created the Colorado commission on criminal and
5 juvenile justice, referred to in this section as the "commission", in House
6 Bill 07-1358.

7 (b) The commission was tasked with enhancing public safety,
8 ensuring justice, and ensuring protection of the right of victims through
9 the cost-effective use of public resources by studying evidence-based
10 recidivism reduction initiatives that ensure the cost-effective expenditure
11 of limited criminal justice funds;

12 (c) The commission has determined that it is sound public policy
13 that the criminal justice system treat drug offenders who are primarily
14 users and addicts differently than those more serious offenders who
15 engage in distribution, manufacturing, and trafficking of controlled
16 substances;

17 (d) It is important and necessary that the General Assembly
18 consider drug policy changes in the criminal justice system during the
19 first regular session of the Sixty-ninth General Assembly.

20 (2) Therefore, the General Assembly determines that it is necessary
21 to direct the commission to prioritize the development of a
22 comprehensive drug sentencing scheme that better differentiates drug

1 offenders who are primarily users and addicts from those involved in
2 distribution and trafficking of controlled substances and that focuses
3 efforts on funding interventions, supervision, and treatment in the
4 community for addicts and abusers rather than the use of the current
5 system of escalating punishment that can result in the ineffective use of
6 the state's prison resources.

7 **SECTION 2.** In Colorado Revised Statutes, 16-11.3-103, **add**
8 **(2.7)** as follows:

9 **16-11.3-103. Duties of the commission - mission - staffing -**
10 **repeal.** **(2.7) (a) USING EMPIRICAL ANALYSIS AND EVIDENCE-BASED DATA**
11 **AND RESEARCH, THE COMMISSION SHALL CONSIDER THE DEVELOPMENT OF**
12 **A COMPREHENSIVE DRUG SENTENCING SCHEME FOR ALL DRUG CRIMES**
13 **DESCRIBED IN ARTICLE 18 OF TITLE 18, C.R.S. THE SENTENCING SCHEME**
14 **SHALL CONSIDER:**

15 **(I) DEVELOPMENT OF A SENTENCING STRUCTURE THAT BETTER**
16 **DIFFERENTIATES DRUG OFFENDERS WHO ARE PRIMARILY USERS AND**
17 **ADDICTS FROM THOSE MORE SERIOUS OFFENDERS WHO ARE INVOLVED IN**
18 **DRUG DISTRIBUTION, MANUFACTURING, OR TRAFFICKING;**

19 **(II) DEVELOPMENT OF RESOURCES THROUGH CHANGES IN THE**
20 **CRIMINAL CODE THAT WILL ENHANCE INTERVENTION, SUPERVISION, AND**
21 **TREATMENT IN THE COMMUNITY AND ENHANCE PUBLIC SAFETY BY**
22 **ADDRESSING DRUG ABUSE AND ADDICTION AND BY DECREASING CRIME**
23 **THROUGH DRUG ABUSE RECOVERY;**

24 **(III) METHODS BY WHICH OFFENDERS CAN GAIN ACCESS TO**
25 **ASSESSMENT-BASED TREATMENT SERVICES THAT ARE BASED ON**
26 **TREATMENT NEED REGARDLESS OF THE LEVEL OR CLASSIFICATION OF THE**
27 **CRIME;**

1 (IV) CREATION OF EQUIVALENT PENALTIES FOR CRIMES THAT POSE
2 SIMILAR RISKS TO PUBLIC SAFETY;

3 (V) ENHANCEMENT OF PENALTIES WHEN BEHAVIORS CLEARLY
4 PRESENT A PUBLIC SAFETY RISK;

5 (VI) DEVELOPMENT OF RESOURCES FOR ADDITIONAL PRE-FILLING
6 DIVERSION PROGRAMS AROUND THE STATE FOR DRUG OFFENDERS;

7 (VII) USE OF DRUG COURTS AND HOW LEGISLATIVE CHANGES
8 COULD SUPPORT MORE EFFECTIVE USE OF THOSE RESOURCES;

9 (VIII) RELEVANT NEGATIVE IMPACTS RELATED TO CRIMINAL
10 CONVICTIONS; AND

11 (IX) ANY OTHER ISSUES THAT THE COMMISSION DETERMINES TO
12 BE IMPORTANT AND RELEVANT TO THE GOALS OF THE COMMISSION AND
13 THE LEGISLATIVE INTENT OF SENATE BILL 12-163, ENACTED IN 2012.

14 (b) BY DECEMBER 15, 2012, THE COMMISSION SHALL PROVIDE TO
15 THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
16 SENATE, OR THEIR SUCCESSOR COMMITTEES, A WRITTEN REPORT OF THE
17 COMMISSION'S RECOMMENDATIONS FOR A COMPREHENSIVE DRUG
18 SENTENCING SCHEME. IF THE COMMISSION IS UNABLE TO BRING FORTH ANY
19 RECOMMENDATIONS FOR THE GENERAL ASSEMBLY TO CONSIDER, THE
20 COMMISSION SHALL PROVIDE IN THE REPORT THE REASONS THE
21 COMMISSION COULD NOT MAKE ANY RECOMMENDATIONS AND, IF
22 POSSIBLE, DESCRIBE THE SPECIFIC AREAS OF DISAGREEMENT THAT
23 PREVENTED THE COMMISSION FROM MAKING ANY RECOMMENDATIONS.

24 (c) THIS SUBSECTION (2.7) IS REPEALED, EFFECTIVE JULY 1, 2013.

25 **SECTION 3. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.