

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 27, 2012
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB12-163 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Strike the Judiciary committee report, dated March 28, 2012.
- 2 Strike the Finance committee report, dated April 10, 2012.
- 3 Amend the printed bill, strike everything below the enacting clause and
- 4 substitute:
 - 5 **"SECTION 1. Legislative declaration.** (1) The General
 - 6 Assembly hereby finds and declares that:
 - 7 (a) In 2007, it created the Colorado commission on criminal and
 - 8 juvenile justice, referred to in this section as the "commission", in House
 - 9 Bill 07-1358.
 - 10 (b) The commission was tasked with enhancing public safety,
 - 11 ensuring justice, and ensuring protection of the right of victims through
 - 12 the cost-effective use of public resources by studying evidence-based
 - 13 recidivism reduction initiatives that ensure the cost-effective expenditure
 - 14 of limited criminal justice funds;
 - 15 (c) The commission has determined that it is sound public policy
 - 16 that the criminal justice system treat drug offenders who are primarily
 - 17 users and addicts differently than those more serious offenders who
 - 18 engage in distribution, manufacturing, and trafficking of controlled
 - 19 substances;
 - 20 (d) It is important and necessary that the General Assembly
 - 21 consider drug policy changes in the criminal justice system during the
 - 22 first regular session of the Sixty-ninth General Assembly.

1 (2) Therefore, the General Assembly determines that it is necessary
2 to direct the commission to prioritize the development of a
3 comprehensive drug sentencing scheme that better differentiates drug
4 offenders who are primarily users and addicts from those involved in
5 distribution and trafficking of controlled substances and that focuses
6 efforts on funding interventions, supervision, and treatment in the
7 community for addicts and abusers rather than the use of the current
8 system of escalating punishment that can result in the ineffective use of
9 the state's prison resources.

10 **SECTION 2.** In Colorado Revised Statutes, 16-11.3-103, **add**
11 (2.7) as follows:

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

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

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

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

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

33 (V) ENHANCEMENT OF PENALTIES WHEN BEHAVIORS CLEARLY
34 PRESENT A PUBLIC SAFETY RISK;

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

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

39 (VIII) RELEVANT NEGATIVE IMPACTS RELATED TO CRIMINAL
40 CONVICTIONS; AND

41 (IX) ANY OTHER ISSUES THAT THE COMMISSION DETERMINES TO

1 BE IMPORTANT AND RELEVANT TO THE GOALS OF THE COMMISSION AND
2 THE LEGISLATIVE INTENT OF SENATE BILL 12-163, ENACTED IN 2012.

3 (b) BY DECEMBER 15, 2012, THE COMMISSION SHALL PROVIDE TO
4 THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE
5 SENATE, OR THEIR SUCCESSOR COMMITTEES, A WRITTEN REPORT OF THE
6 COMMISSION'S RECOMMENDATIONS FOR A COMPREHENSIVE DRUG
7 SENTENCING SCHEME. IF THE COMMISSION IS UNABLE TO BRING FORTH ANY
8 RECOMMENDATIONS FOR THE GENERAL ASSEMBLY TO CONSIDER, THE
9 COMMISSION SHALL PROVIDE IN THE REPORT THE REASONS THE
10 COMMISSION COULD NOT MAKE ANY RECOMMENDATIONS AND, IF
11 POSSIBLE, DESCRIBE THE SPECIFIC AREAS OF DISAGREEMENT THAT
12 PREVENTED THE COMMISSION FROM MAKING ANY RECOMMENDATIONS.

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

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

17 Page 1, strike lines 103 through 107 and substitute "SUBSTANCES
18 CRIMES."

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