

**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. 12-0480.01 Brita Darling x2241

HOUSE BILL 12-1226

HOUSE SPONSORSHIP

Barker,

SENATE SPONSORSHIP

Aguilar,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A SURCHARGE ON PERSONS CONVICTED OF CRIMES**
102 **AGAINST AT-RISK PERSONS.**

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 imposes a surcharge on persons convicted of crimes against at-risk adults and at-risk juveniles. Once collected, the surcharge is transferred to the crimes against at-risk persons surcharge fund. The state office on aging shall distribute moneys from the fund to a fiscal agent who will oversee the award of moneys to programs that provide

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.*

respite services for caregivers of at-risk adults or at-risk juveniles. Programs receiving moneys from the fund must comply with provisions concerning the use of funds and reporting requirements.

The court is permitted to waive some or all of the surcharge if the person convicted of the crime is indigent or unable to pay the surcharge.

The surcharge applies to offenses committed on or after July 1, 2012.

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

SECTION 1. In Colorado Revised Statutes, 18-6.5-102, **add** (1.7) and (1.8) as follows:

18-6.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1.7) "CONVICTED" AND "CONVICTION" MEAN A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION 18-1.3-102, A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

(1.8) "CRIME AGAINST AN AT-RISK ADULT OR AT-RISK JUVENILE" MEANS ANY OFFENSE LISTED IN SECTION 18-6.5-103, OR CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF THOSE OFFENSES.

SECTION 2. In Colorado Revised Statutes, **add** 18-6.5-107 as follows:

18-6.5-107. Surcharge - collection and distribution of funds - crimes against at-risk persons surcharge fund - creation - report.

(1) EACH PERSON WHO IS CONVICTED OF A CRIME AGAINST AN AT-RISK ADULT OR AT-RISK JUVENILE SHALL BE REQUIRED TO PAY A SURCHARGE TO THE CLERK OF THE COURT FOR THE JUDICIAL DISTRICT IN WHICH THE CONVICTION OCCURS.

1 (2) SURCHARGES PURSUANT TO SUBSECTION (1) OF THIS SECTION
2 SHALL BE IN THE FOLLOWING AMOUNTS:

3 (a) FOR EACH CLASS 2 FELONY OF WHICH A PERSON IS CONVICTED,
4 ONE THOUSAND FIVE HUNDRED DOLLARS;

5 (b) FOR EACH CLASS 3 FELONY OF WHICH A PERSON IS CONVICTED,
6 ONE THOUSAND DOLLARS;

7 (c) FOR EACH CLASS 4 FELONY OF WHICH A PERSON IS CONVICTED,
8 FIVE HUNDRED DOLLARS;

9 (d) FOR EACH CLASS 5 FELONY OF WHICH A PERSON IS CONVICTED,
10 THREE HUNDRED SEVENTY-FIVE DOLLARS;

11 (e) FOR EACH CLASS 6 FELONY OF WHICH A PERSON IS CONVICTED,
12 TWO HUNDRED FIFTY DOLLARS;

13 (f) FOR EACH CLASS 1 MISDEMEANOR OF WHICH A PERSON IS
14 CONVICTED, TWO HUNDRED DOLLARS;

15 (g) FOR EACH CLASS 2 MISDEMEANOR OF WHICH A PERSON IS
16 CONVICTED, ONE HUNDRED FIFTY DOLLARS; AND

17 (h) FOR EACH CLASS 3 MISDEMEANOR OF WHICH A PERSON IS
18 CONVICTED, SEVENTY-FIVE DOLLARS.

19 (3) THE CLERK OF THE COURT SHALL ALLOCATE THE SURCHARGE
20 REQUIRED PURSUANT TO THIS SECTION AS FOLLOWS:

21 (a) FIVE PERCENT SHALL BE RETAINED BY THE CLERK OF THE
22 COURT FOR ADMINISTRATIVE COSTS INCURRED PURSUANT TO THIS
23 SUBSECTION (3). SUCH AMOUNT RETAINED SHALL BE TRANSMITTED TO THE
24 STATE TREASURER FOR DEPOSIT IN THE JUDICIAL STABILIZATION CASH
25 FUND CREATED IN SECTION 13-32-101 (6), C.R.S.

26 (b) NINETY-FIVE PERCENT SHALL BE TRANSFERRED TO THE STATE
27 TREASURER, WHO SHALL CREDIT THE SAME TO THE CRIMES AGAINST

1 AT-RISK PERSONS SURCHARGE FUND CREATED PURSUANT TO SUBSECTION
2 (4) OF THIS SECTION.

3 (4) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
4 CRIMES AGAINST AT-RISK PERSONS SURCHARGE FUND, REFERRED TO IN
5 THIS SECTION AS THE "FUND", THAT CONSISTS OF MONEYS RECEIVED BY
6 THE STATE TREASURER PURSUANT TO THIS SECTION. THE MONEYS IN THE
7 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
8 ASSEMBLY TO THE STATE OFFICE ON AGING IN THE DEPARTMENT OF
9 HUMAN SERVICES, CREATED PURSUANT TO SECTION 26-11-202, C.R.S.,
10 FOR DISTRIBUTION TO A FISCAL AGENT THAT IS AN AFFILIATE OF A
11 NATIONAL ORGANIZATION THAT SERVES INDIVIDUALS AFFECTED BY A
12 DISABILITY AND CHRONIC CONDITION ACROSS THE LIFE SPAN AND IS
13 WORKING WITH THE STATE OF COLORADO TO IMPLEMENT THE LIFESPAN
14 RESPITE CARE PROGRAM, REFERRED TO IN THIS SECTION AS THE "FISCAL
15 AGENT". PROVIDED THAT PROGRAMS SELECTED TO RECEIVE MONEYS FROM
16 THE FUND MEET THE GUIDELINES FOR DISTRIBUTION PURSUANT TO
17 PARAGRAPH (b) OF THIS SUBSECTION (4), THE FISCAL AGENT SHALL AWARD
18 MONEYS TO PROGRAMS SELECTED BY A STATEWIDE COALITION OF
19 NONPROFIT OR NOT-FOR-PROFIT ORGANIZATIONS THAT FOCUS ON THE
20 NEEDS OF CAREGIVERS OF AT-RISK ADULTS OR AT-RISK JUVENILES.

21 (b) THE STATE OFFICE ON AGING IN THE DEPARTMENT OF HUMAN
22 SERVICES SHALL ESTABLISH GUIDELINES FOR THE DISTRIBUTION OF THE
23 MONEYS FROM THE FUND, INCLUDING BUT NOT LIMITED TO:

24 (I) PROCEDURES FOR PROGRAMS TO USE IN APPLYING FOR AN
25 AWARD OF MONEYS FROM THE FUND;

26 (II) PROCEDURES FOR THE FISCAL AGENT TO USE IN REPORTING TO
27 THE STATE OFFICE ON AGING PURSUANT TO PARAGRAPH (e) OF THIS

1 SUBSECTION (4); AND

2 (III) ACCOUNTABILITY AND PERFORMANCE STANDARDS FOR
3 PROGRAMS THAT RECEIVE MONEYS FROM THE FUND.

4 (c) NOTWITHSTANDING ANY PROVISIONS OF PARAGRAPH (a) OF
5 THIS SUBSECTION (4) TO THE CONTRARY, THE FISCAL AGENT MAY USE A
6 PORTION OF THE MONEYS THAT IT RECEIVES PURSUANT TO PARAGRAPH (a)
7 OF THIS SUBSECTION (4) FOR TRAINING AND TO FACILITATE THE
8 COORDINATION OF PROGRAMS THAT PROVIDE RESPITE SERVICES FOR
9 CAREGIVERS OF AT-RISK ADULTS OR AT-RISK JUVENILES. THE FISCAL
10 AGENT SHALL DISTRIBUTE THE REMAINDER OF THE MONEYS DIRECTLY TO
11 THE PROGRAMS.

12 (d) EACH PROGRAM THAT RECEIVES MONEYS FROM THE FUND
13 SHALL:

14 (I) PROVIDE RESPITE SERVICES THAT ALLOW A CAREGIVER TO HAVE
15 A BREAK FROM CAREGIVING;

16 (II) HAVE A SIGNED AGREEMENT AND PROTOCOL WITH THE FISCAL
17 AGENT;

18 (III) CONDUCT A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
19 CHECK OF STAFF AND PROVIDERS; AND

20 (IV) SATISFY THE ACCOUNTABILITY AND PERFORMANCE
21 STANDARDS ESTABLISHED BY THE STATE OFFICE ON AGING PURSUANT TO
22 SUBPARAGRAPH (III) OF PARAGRAPH (b) OF THIS SUBSECTION (4).

23 (e) THE FISCAL AGENT SHALL REPORT TO THE STATE OFFICE ON
24 AGING IN THE DEPARTMENT OF HUMAN SERVICES ON A REGULAR BASIS TO
25 BE SPECIFIED BY THE STATE OFFICE ON AGING. THE REPORT SHALL
26 INCLUDE, BUT NEED NOT BE LIMITED TO:

27 (I) A LIST OF ALL PROGRAMS THAT RECEIVED MONEYS FROM THE

1 FUND IN THE PRECEDING FISCAL YEAR;

2 (II) A DESCRIPTION OF HOW EACH PROGRAM THAT RECEIVED
3 MONEYS FROM THE FUND IN THE PRECEDING FISCAL YEAR USED THOSE
4 MONEYS; AND

5 (III) DOCUMENTATION DEMONSTRATING THAT EACH PROGRAM
6 THAT RECEIVED MONEYS FROM THE FUND IN THE PRECEDING FISCAL YEAR
7 SATISFIED ALL OF THE CRITERIA SPECIFIED IN PARAGRAPH (d) OF THIS
8 SUBSECTION (4).

9 (f) THE STATE OFFICE ON AGING SHALL NOT EXPEND ANY MONEYS
10 UNTIL THE FUND HAS ENOUGH MONEY TO PAY THE EXPENSES NECESSARY
11 TO ADMINISTER THE FUND.

12 (g) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT
13 OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS
14 NOT APPROPRIATED BY THE GENERAL ASSEMBLY SHALL REMAIN IN THE
15 FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND
16 OF THE STATE AT THE END OF ANY FISCAL YEAR.

17 (5) THE COURT MAY WAIVE ALL OR ANY PORTION OF THE
18 SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION IF THE COURT
19 FINDS THAT A PERSON CONVICTED OF A CRIME AGAINST AN AT-RISK ADULT
20 OR AT-RISK JUVENILE IS INDIGENT OR FINANCIALLY UNABLE TO PAY ALL OR
21 ANY PORTION OF THE SURCHARGE. THE COURT MAY WAIVE ONLY THAT
22 PORTION OF THE SURCHARGE THAT THE COURT FINDS THAT THE PERSON
23 CONVICTED OF A CRIME AGAINST AN AT-RISK ADULT OR AT-RISK JUVENILE
24 IS FINANCIALLY UNABLE TO PAY.

25 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-204, **add** (2.5)
26 (i.7) as follows:

27 **18-1.3-204. Conditions of probation.** (2.5) The order of priority

1 for any payments required of a defendant pursuant to subparagraph (IV),
2 (V), (VI), or (VI.5) of paragraph (a) of subsection (2) of this section shall
3 be as follows:

4 (i.7) PAYMENT OF A SURCHARGE FOR A CRIME AGAINST AN AT-RISK
5 PERSON PURSUANT TO SECTION 18-6.5-107.

6 **SECTION 4. Act subject to petition - effective date -**

7 **applicability.** (1) This act takes effect August 15, 2012; except that, if
8 a referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within the ninety-day period after final adjournment of the general
11 assembly, then the act, item, section, or part will not take effect unless
12 approved by the people at the general election to be held in November
13 2012 and, in such case, will take effect on the date of the official
14 declaration of the vote thereon by the governor.

15 (2) The provisions of this act apply to convictions on or after the
16 applicable effective date of this act.