

**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. 12-0426.01 Michael Dohr x4347

SENATE BILL 12-104

SENATE SPONSORSHIP

Steadman, Aguilar, Guzman, Morse, Newell, Renfroe, Roberts

HOUSE SPONSORSHIP

DelGrosso, Kerr A., Lee, Pabon, Vigil

Senate Committees

Judiciary
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING CONSOLIDATION OF DRUG TREATMENT FUNDING INTO**
102 **THE CORRECTIONAL TREATMENT FUND.**

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>.)

Currently, there are 3 major state funding sources for substance abuse treatment. The bill consolidates the 3 sources into the correctional treatment cash fund (fund). The bill creates the correctional treatment board (board) that will prepare an annual treatment plan that the judicial department shall include in its annual presentation to the joint budget

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.*

committee. The board shall review information regarding drug treatment programs in the state provided by the department of human services and suggestions from judicial district drug treatment boards before preparing the annual treatment plan.

Currently, the drug treatment board for each judicial district recommends allocations of moneys for local drug treatment needs from one of the existing treatment funds. Each judicial district drug treatment board will be expanded to include a community corrections board chair, a local parole officer, a person with expertise in juvenile matters, and a county sheriff. The judicial district drug treatment boards will make suggestions to the board regarding assessed local drug treatment needs.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-19-103, **amend**
3 (3) (d), (3.5) (b), (4) (a), (5), and (5.5); **add** (4) (a.5); and **repeal** (3.5) (a)
4 as follows:

5 **18-19-103. Source of revenues - allocation of moneys - repeal.**

6 (3) The clerk of the court shall disburse the surcharge required by
7 subsection (1) of this section as follows:

8 (d) Ninety percent shall be disbursed to the state treasurer who
9 shall credit the same to the ~~drug offender surcharge fund~~ CORRECTIONAL
10 TREATMENT CASH FUND created pursuant to subsection (4) of this section.

11 (3.5) (a) ~~Moneys appropriated by the general assembly pursuant~~
12 ~~to House Bill 10-1352, enacted in 2010, shall be deposited into the drug~~
13 ~~offender surcharge fund created pursuant to subsection (4) of this section.~~
14 ~~and shall be allocated pursuant to section 16-11.5-102 (3) (c), C.R.S.~~

15 (b) Each fiscal year, The general assembly shall appropriate to the
16 ~~drug offender surcharge fund~~ CORRECTIONAL TREATMENT CASH FUND
17 created pursuant to subsection (4) of this section the savings generated by
18 AT LEAST THIRTEEN MILLION SIX HUNDRED FORTY-NINE THOUSAND ONE
19 HUNDRED FORTY-NINE DOLLARS IN FISCAL YEAR 2012-13, AT LEAST

1 SIXTEEN MILLION FIVE HUNDRED SEVENTY-SIX THOUSAND FIVE HUNDRED
2 EIGHTY-ONE DOLLARS IN FISCAL YEAR 2013-14, AND AT LEAST SIXTEEN
3 MILLION EIGHT HUNDRED TWENTY-FIVE THOUSAND SIX HUNDRED
4 SIXTY-FIVE DOLLARS IN FISCAL YEAR 2014-15 AND EACH YEAR
5 THEREAFTER GENERATED FROM ESTIMATED SAVINGS FROM House Bill
6 10-1352, enacted in 2010. The appropriation shall be made after
7 consideration of the division of criminal justice's annual report required
8 pursuant to section 24-33.5-503 (1) (u), C.R.S.

9 (4) (a) There is hereby created in the state treasury a ~~drug offender~~
10 ~~surcharge fund~~ THE CORRECTIONAL TREATMENT CASH FUND, REFERRED TO
11 IN THIS PARAGRAPH (a) AS THE "FUND", which shall consist of moneys
12 received by the state treasurer pursuant to paragraph (d) of subsection (3)
13 of this section and subsection (3.5) of this section, AND, IN ADDITION,
14 EACH YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST TWO
15 MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM
16 ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318,
17 ENACTED IN 2003, TO THE FUND. THE MONEYS IN THE FUND SHALL BE
18 USED FOR THE PURPOSES DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (5)
19 OF THIS SECTION. All interest derived from the deposit and investment of
20 moneys in the fund shall be credited to the fund. Any moneys not
21 appropriated by the general assembly shall remain in the ~~drug offender~~
22 ~~surcharge~~ fund and shall not be transferred or revert to the general fund
23 of the state at the end of any fiscal year. ~~All moneys in the fund shall be~~
24 ~~subject to annual appropriation by the general assembly to the judicial~~
25 ~~department, the department of corrections, the division of criminal justice~~
26 ~~of the department of public safety, and the department of human services,~~
27 ~~after consideration of the plan developed pursuant to section 16-11.5-102~~

1 ~~(3), C.R.S., to cover the costs associated with substance abuse~~
2 ~~assessment, testing, education, and treatment.~~

3 (a.5) AFTER THE DRUG OFFENDER SURCHARGE FUND IS RENAMED
4 THE CORRECTIONAL TREATMENT CASH FUND, ANY APPROPRIATION MADE
5 BY THE GENERAL ASSEMBLY FROM THE DRUG OFFENDER SURCHARGE FUND
6 FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2011, IS FROM THE
7 CORRECTIONAL TREATMENT CASH FUND CREATED IN PARAGRAPH (a) OF
8 THIS SUBSECTION (4). THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE
9 JULY 1, 2012.

10 (5) ~~The department of public safety shall award such moneys~~
11 ~~received by it pursuant to subsection (4) of this section as are designated~~
12 ~~in the plan developed pursuant to section 16-11.5-102 (3), C.R.S., and~~
13 ~~appropriated by the general assembly for such purpose~~ (a) THE
14 CORRECTIONAL TREATMENT BOARD, CREATED HEREIN AND REFERRED TO
15 IN THIS SUBSECTION (5) AS THE "BOARD", SHALL PREPARE AN ANNUAL
16 TREATMENT FUNDING PLAN THAT INCLUDES A FAIR AND REASONABLE
17 ALLOCATION OF RESOURCES FOR PROGRAMS THROUGHOUT THE STATE.
18 THE JUDICIAL DEPARTMENT SHALL INCLUDE THE ANNUAL TREATMENT
19 FUNDING PLAN IN ITS ANNUAL PRESENTATION TO THE JOINT BUDGET
20 COMMITTEE.

21 (b) THE BOARD CONSISTS OF:

22 (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
23 CORRECTIONS OR HIS OR HER DESIGNEE;

24 (II) THE DIRECTOR OF THE DIVISION OF PROBATION SERVICES IN
25 THE JUDICIAL DEPARTMENT OR HIS OR HER DESIGNEE;

26 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
27 SAFETY OR HIS OR HER DESIGNEE;

1 (IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN
2 SERVICES OR HIS OR HER DESIGNEE;

3 (V) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE;

4 (VI) THE PRESIDENT OF THE STATEWIDE ASSOCIATION
5 REPRESENTING DISTRICT ATTORNEYS OR HIS OR HER DESIGNEE; AND

6 (VII) THE PRESIDENT OF THE STATEWIDE ASSOCIATION
7 REPRESENTING COUNTY SHERIFFS OR HIS OR HER DESIGNEE.

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9 (c) THE BOARD MAY DIRECT THAT MONEYS IN THE CORRECTIONAL
10 TREATMENT CASH FUND MAY BE USED FOR THE FOLLOWING PURPOSES:

11 (I) ALCOHOL AND DRUG SCREENING, ASSESSMENT, AND
12 EVALUATION;

13 (II) ALCOHOL AND DRUG TESTING;

14 (III) SUBSTANCE ABUSE EDUCATION AND TRAINING;

15 (IV) AN ANNUAL STATEWIDE CONFERENCE REGARDING
16 SUBSTANCE ABUSE TREATMENT;

17 (V) TREATMENT FOR ASSESSED SUBSTANCE ABUSE AND
18 CO-OCCURRING DISORDERS;

19 (VI) RECOVERY SUPPORT SERVICES; AND

20 (VII) DATA COLLECTION, DATA ANALYSIS, AND ADMINISTRATIVE
21 SUPPORT RELATED TO THE PROGRAMS CONSIDERED OR SUPPORTED BY THE
22 FUND.

23 (d) MONEYS FROM THE CORRECTIONAL TREATMENT CASH FUND
24 MAY BE USED TO SERVE THE FOLLOWING POPULATIONS:

25 (I) ADULTS AND JUVENILES SERVING A DIVERSION SENTENCE;

26 (II) ADULTS AND JUVENILES SERVING A PROBATION SENTENCE;

27 (III) ADULTS AND JUVENILES ON PAROLE;

1 (IV) OFFENDERS SENTENCED OR TRANSITIONED TO A COMMUNITY
2 CORRECTIONS PROGRAM; AND

3 (V) OFFENDERS SERVING A SENTENCE IN A COUNTY JAIL.

4 (e) BEFORE ADOPTING THE ANNUAL TREATMENT FUND PLAN, THE
5 BOARD SHALL REVIEW THE INFORMATION SPECIFIED IN PARAGRAPH (f) OF
6 THIS SUBSECTION (5) AND SHALL CONSIDER PROPOSALS FROM THE DRUG
7 OFFENDER TREATMENT BOARDS CREATED IN SECTION 18-19-104 FOR
8 FUNDING LOCAL ASSESSED TREATMENT NEEDS.

9 (f) THE BOARD SHALL DETERMINE THE SCOPE, METHOD, AND
10 FREQUENCY OF THE DATA COLLECTION AND THE PARTIES RESPONSIBLE FOR
11 DATA COLLECTION, ANALYSIS, AND REPORTING. THE DATA SHALL BE
12 ORGANIZED BY JUDICIAL DISTRICT AND SHALL INCLUDE, AT A MINIMUM,
13 THE FOLLOWING FROM EACH TREATMENT PROGRAM:

14 (I) NAME AND LOCATION OF THE PROGRAM, INCLUDING THE
15 COUNTY AND JUDICIAL DISTRICT;

16 (II) THE REFERRING CRIMINAL AGENCY;

17 (III) DEMOGRAPHIC INFORMATION INCLUDING GENDER AND
18 ETHNICITY;

19 (IV) LEVEL OF TREATMENT DELIVERED;

20 (V) ACTUAL LENGTH OF TIME IN TREATMENT FOR EACH CLIENT;

21 (VI) DISCHARGE STATUS AND, IF THE STATUS IS NEGATIVE, THE
22 REASON FOR THE NEGATIVE DISCHARGE; AND

23 (VII) ANY SPECIAL LICENSES HELD BY THE TREATMENT PROGRAM.

24 ~~(5.5) (a) There is hereby created in the state treasury a drug~~
25 ~~offender treatment fund that shall consist of moneys appropriated thereto.~~
26 ~~In addition, the fund may accept gifts, grants, and donations. All interest~~
27 ~~derived from the deposit and investment of moneys in the fund shall be~~

1 ~~credited to the fund. Any moneys not appropriated by the general~~
2 ~~assembly shall remain in the drug offender treatment fund and shall not~~
3 ~~be transferred or revert to the general fund of the state at the end of any~~
4 ~~fiscal year. All moneys in the fund shall be subject to annual~~
5 ~~appropriation by the general assembly to the judicial department for~~
6 ~~allocation to the interagency task force on treatment for costs associated~~
7 ~~with community-based substance abuse treatment~~ ON JULY 1, 2012, THE
8 STATE TREASURER SHALL TRANSFER ALL UNENCUMBERED MONEYS THAT
9 REMAIN IN THE DRUG OFFENDER TREATMENT FUND TO THE CORRECTIONAL
10 TREATMENT CASH FUND CREATED IN SUBSECTION (4) OF THIS SECTION.
11 THIS SUBSECTION (5.5) IS REPEALED, EFFECTIVE JULY 2, 2012.

12 ~~(b) Notwithstanding any provision of paragraph (a) of this~~
13 ~~subsection (5.5) to the contrary, on April 20, 2009, the state treasurer~~
14 ~~shall deduct three hundred fifty thousand dollars from the fund and~~
15 ~~transfer such sum to the general fund.~~

16 ~~(c) Notwithstanding any provision of paragraph (a) of this~~
17 ~~subsection (5.5) to the contrary, on June 30, 2011, the state treasurer shall~~
18 ~~deduct six hundred seventy-two thousand seven hundred twenty-five~~
19 ~~dollars from the drug offender treatment fund and transfer such sum to~~
20 ~~the general fund.~~

21 **SECTION 2.** In Colorado Revised Statutes, 18-19-104, **amend**
22 (1) and (2) and **repeal** (4) as follows:

23 **18-19-104. Judicial district drug offender treatment boards.**

24 (1) Each judicial district shall create a drug offender treatment board,
25 WHOSE MEMBERSHIP IS KNOWLEDGEABLE ABOUT ADULT CRIMINAL AND
26 JUVENILE JUSTICE MATTERS, consisting of:

27 (a) The district attorney serving the judicial district or his or her

1 designee;

2 (b) The chief public defender serving the judicial district or his or
3 her designee;

4 (c) THE CHAIR OF THE LOCAL COMMUNITY CORRECTIONS BOARD
5 OR HIS OR HER DESIGNEE;

6 (d) A PAROLE OFFICER WORKING IN THE JUDICIAL DISTRICT CHOSEN
7 BY THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR HIS OR HER
8 DESIGNEE;

9 (e) A SHERIFF THAT SERVES THE JUDICIAL DISTRICT CHOSEN BY
10 THE CHIEF JUDGE OF THE JUDICIAL DISTRICT;

11 (f) A REPRESENTATIVE OF A DRUG COURT OR SIMILAR
12 PROBLEM-SOLVING COURT IF SUCH A COURT EXISTS IN THE JUDICIAL
13 DISTRICT CHOSEN BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT;

14 (g) A PERSON WITH EXPERTISE IN JUVENILE MATTERS CHOSEN BY
15 THE CHIEF JUDGE OF THE JUDICIAL DISTRICT; AND

16 (h) A probation officer working in the judicial district chosen by
17 the chief judge of the judicial district.

18 ~~(2) Each drug offender treatment board shall receive moneys from~~
19 ~~the state drug offender treatment board pursuant to section 16-11.5-102~~
20 ~~(7) (a), C.R.S., and shall distribute those moneys to drug treatment~~
21 ~~programs based in the judicial district. No program shall receive moneys~~
22 ~~from the drug offender treatment board without a majority vote of the~~
23 ~~board. The board shall give priority to drug court funding if the~~
24 ~~jurisdiction operates a drug court~~ EACH DRUG OFFENDER TREATMENT
25 BOARD SHALL ANNUALLY MAKE RECOMMENDATIONS TO THE
26 CORRECTIONAL TREATMENT BOARD FOR FUNDING LOCAL ASSESSED
27 TREATMENT NEEDS.

1 (4) ~~Each judicial district's drug offender treatment board shall~~
2 ~~submit a report to the interagency task force on treatment created in~~
3 ~~section 16-11.5-102 (4), C.R.S., and the judiciary committees of the~~
4 ~~senate and house of representatives detailing the amount and to whom the~~
5 ~~board distributed its funding in the previous year and the amount of~~
6 ~~funding received by the board from the interagency task force on~~
7 ~~treatment by January 31 of each year beginning the first year after the~~
8 ~~judicial district drug offender treatment boards receive funding.~~

9 **SECTION 3.** In Colorado Revised Statutes, 16-11.5-102, **repeal**
10 (2), (3), (4), (5), (6), (7), and (8) as follows:

11 **16-11.5-102. Substance abuse assessment - standardized**
12 **procedure.** (2) ~~The procedures for assessment, treatment, and sanctions~~
13 ~~required to be developed by subsection (1) of this section shall be~~
14 ~~implemented only to the extent moneys are available in the drug offender~~
15 ~~surcharge fund created in section 18-19-103 (4), C.R.S., on July 1, 1992.~~

16 (3) (a) ~~The executive directors of the department of corrections,~~
17 ~~department of public safety, department of human services, and the state~~
18 ~~court administrator shall appoint six members including the directors or~~
19 ~~designees of the division of adult parole, community corrections and~~
20 ~~youthful offender system in the department of corrections, division of~~
21 ~~criminal justice of the department of public safety, the unit in the~~
22 ~~department of human services that administers behavioral health~~
23 ~~programs and services, including those related to mental health and~~
24 ~~substance abuse, youth corrections within the department of human~~
25 ~~services, and the division of probation services in the judicial department~~
26 ~~who shall cooperate to develop a plan for the allocation of moneys~~
27 ~~deposited in the drug offender surcharge fund created pursuant to section~~

1 ~~18-19-103 (4), C.R.S., among the judicial department, the department of~~
2 ~~corrections, the division of criminal justice of the department of public~~
3 ~~safety, and the department of human services. The plan developed~~
4 ~~pursuant to this subsection (3) shall be submitted to the general assembly~~
5 ~~with the judicial department's annual budget request.~~

6 ~~(b) Repealed~~

7 ~~(c) (I) The moneys allocated to the drug offender surcharge fund~~
8 ~~pursuant to section 18-19-103 (3.5), C.R.S., shall only be used to cover~~
9 ~~the costs associated with the treatment of substance abuse or co-occurring~~
10 ~~disorders of adult offenders who are assessed to be in need of treatment~~
11 ~~and who are:~~

12 ~~(A) On diversion;~~

13 ~~(B) On probation;~~

14 ~~(C) On parole;~~

15 ~~(D) In community corrections; or~~

16 ~~(E) In jail.~~

17 ~~(H) The plan to allocate moneys deposited in the drug offender~~
18 ~~surcharge fund pursuant to section 18-19-103 (3.5), C.R.S., shall be~~
19 ~~developed pursuant to paragraph (a) of this subsection (3) and shall also~~
20 ~~include a representative designated by the Colorado district attorney's~~
21 ~~council, the state public defender, a representative from a statewide~~
22 ~~association representing county sheriffs, and a representative from a~~
23 ~~statewide association representing counties.~~

24 ~~(4) There is hereby created the interagency task force on treatment~~
25 ~~that shall consist of the following members:~~

26 ~~(a) The individuals referenced in paragraph (a) of subsection (3)~~
27 ~~of this section;~~

1 ~~(b) Three elected district attorneys or their designees selected by~~
2 ~~the president of the Colorado district attorneys' council as follows:~~

3 ~~(I) One from the third, sixth, tenth, twelfth, fifteenth, sixteenth, or~~
4 ~~twenty-second judicial district;~~

5 ~~(II) One from the fifth, seventh, ninth, fourteenth, or twenty-first~~
6 ~~judicial district;~~

7 ~~(III) One from the first, second, fourth, eighth, eleventh,~~
8 ~~thirteenth, seventeenth, eighteenth, nineteenth, or twentieth judicial~~
9 ~~district; and~~

10 ~~(c) The state public defender or his or her designee.~~

11 ~~(5) The interagency task force on treatment shall elect a chairman~~
12 ~~and vice-chairman at the first meeting. The chairman shall call the~~
13 ~~meetings of the interagency task force on treatment and set the agenda for~~
14 ~~each meeting called.~~

15 ~~(6) The interagency task force on treatment's authority shall be~~
16 ~~limited to those duties specified in subsections (7) and (8) of this section.~~

17 ~~(7) (a) The interagency task force on treatment shall allocate at~~
18 ~~least eighty percent of the yearly drug offender treatment fund allocation~~
19 ~~to the judicial district drug offender treatment boards created pursuant to~~
20 ~~section 18-19-104, C.R.S. Such allocation shall be based upon a formula~~
21 ~~developed by the state drug offender treatment board. The interagency~~
22 ~~task force on treatment shall develop an allocation formula for the~~
23 ~~allocation of the moneys from the drug offender treatment fund. The~~
24 ~~formula shall only be based upon a judicial district's population and the~~
25 ~~number of use and possession drug case filings in the judicial district.~~
26 ~~Each judicial district drug treatment board shall submit a plan, based upon~~
27 ~~the proposed allocation formula, to the interagency task force on~~

1 treatment beginning September 1 of the first year funding is appropriated
2 to the judicial department from the drug offender treatment fund and
3 September 1 of each year thereafter to be included in the judicial
4 department's annual budget request. The interagency task force on
5 treatment shall not have the authority to reject the plan submitted from the
6 local judicial drug treatment boards.

7 (b) The interagency task force on treatment may allocate up to
8 twenty percent of the yearly drug offender treatment fund allocation to
9 drug treatment programs that serve more than one judicial district. When
10 allocating funds pursuant to this paragraph (b), the state drug offender
11 treatment board is encouraged to fund and develop innovative and
12 effective drug treatment programs.

13 (8) The interagency task force on treatment shall report to the
14 judiciary committees of the house of representatives and senate on or
15 before January 31, 2005, and January 31, 2007, regarding the anticipated
16 savings generated by the enactment of Senate Bill 03-318, enacted at the
17 first regular session of the sixty-fourth general assembly.

18 **SECTION 4. In Colorado Revised Statutes, repeal 24-33.5-503**
19 **(1)(u).**

20 **SECTION 5. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.