

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0970.01 Michael Dohr x4347

SENATE BILL 13-253

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Levy,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING A DEFERRED JUDGMENT FOR A DRUG OFFENSE WHEN
102 THERE IS A VIOLATION OF THE DEFERRED JUDGMENT.

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>.)

Under current law, a violation of the terms of a deferred judgment requires the court to enter the defendant's guilty plea. The bill allows the court to continue deferred judgment after a violation in a drug case and impose new conditions that may assist the defendant in successfully completing the deferred judgment.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-102, **amend**
3 (2) as follows:

4 **18-1.3-102. Deferred sentencing of defendant.** (2) Prior to entry
5 of a plea of guilty to be followed by deferred judgment and sentence, the
6 district attorney, in the course of plea discussion as provided in sections
7 16-7-301 and 16-7-302, C.R.S., is authorized to enter into a written
8 stipulation, to be signed by the defendant, the defendant's attorney of
9 record, and the district attorney, under which the defendant is obligated
10 to adhere to such stipulation. The conditions imposed in the stipulation
11 shall be similar in all respects to conditions permitted as part of probation.
12 ~~Any~~ A person convicted of a crime, the underlying factual basis of which
13 included an act of domestic violence, as defined in section 18-6-800.3 (1),
14 shall stipulate to the conditions specified in section 18-1.3-204 (2) (b). In
15 addition, the stipulation may require the defendant to perform community
16 or charitable work service projects or make donations thereto. Upon full
17 compliance with such conditions by the defendant, the plea of guilty
18 previously entered shall be withdrawn and the charge upon which the
19 judgment and sentence of the court was deferred shall be dismissed with
20 prejudice. ~~Such~~ THE stipulation shall specifically provide that, upon a
21 breach by the defendant of any condition regulating the conduct of the
22 defendant, the court shall enter judgment and impose sentence upon ~~such~~
23 THE guilty plea; EXCEPT THAT, IF THE OFFENSE IS A VIOLATION OF ARTICLE
24 18 OF THIS TITLE, THE COURT MAY ACCEPT AN ADMISSION OR FIND A
25 VIOLATION OF THE STIPULATION WITHOUT ENTERING JUDGMENT AND
26 SENTENCING THE DEFENDANT. IN THAT CASE, THE COURT MAY CONTINUE

1 THE DEFERRED JUDGMENT PERIOD AND IMPOSE ANY ADDITIONAL
2 CONDITIONS UPON THE DEFENDANT THAT MAY ASSIST IN THE DEFENDANT'S
3 SUCCESSFUL COMPLETION OF THE DEFERRED JUDGMENT PERIOD. When, as
4 a condition of the deferred sentence, the court orders the defendant to
5 make restitution, evidence of failure to pay the ~~said~~ restitution shall
6 constitute prima facie evidence of a violation. Whether a breach of
7 condition has occurred shall be determined by the court without a jury
8 upon application of the district attorney or a probation officer and upon
9 notice of hearing thereon of not less than seven days to the defendant or
10 the defendant's attorney of record. Application for entry of judgment and
11 imposition of sentence may be made by the district attorney or a probation
12 officer at any time within the term of the deferred judgment or within
13 thirty-five days thereafter. The burden of proof at ~~such~~ THE hearing shall
14 be by a preponderance of the evidence, and the procedural safeguards
15 required in a revocation of probation hearing shall apply.

16 **SECTION 2. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.