

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-1253.01 Jane Ritter x4342

SENATE BILL 18-249

SENATE SPONSORSHIP

Gardner and Lambert, Jahn, Lundberg, Moreno

HOUSE SPONSORSHIP

Lee and Young, Hamner, Rankin, Singer

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ESTABLISHING ALTERNATIVE PROGRAMS IN THE**
102 **CRIMINAL JUSTICE SYSTEM TO DIVERT INDIVIDUALS WITH A**
103 **MENTAL HEALTH CONDITION TO COMMUNITY TREATMENT, AND,**
104 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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://leg.colorado.gov>.)

The bill directs the chief judge of each judicial district in the state or the chief judge of Denver county court, or their designees (chief judge), to work with interested stakeholders to develop alternative

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 7, 2018

HOUSE
Amended 2nd Reading
May 4, 2018

SENATE
3rd Reading Unamended
May 3, 2018

SENATE
Amended 2nd Reading
May 2, 2018

programs that are unique to the judicial district that redirect individuals with low-level criminal behavior with a behavioral health condition to community resources and treatment rather than continued criminal justice involvement (program). Interested stakeholders must include law enforcement, jail officials, district attorneys, public defenders, judges, pretrial service providers when available, and local community mental and behavioral health providers within the judicial district.

The chief judges shall convene stakeholder meetings to design and develop programs, contract with local community behavioral health providers to assist in accomplishing the goals of the programs, and administer the programs after implementation.

Each program must include a standardized, evidence-based screening tool to be used by jail personnel to preliminarily identify individuals in custody who might be eligible for redirection through the program. Each program must identify existing programs and resources available for individuals with behavioral health conditions. After the prescreening, designated jail personnel shall refer individuals who might potentially be eligible for the program to a redirection specialist in the judicial district who shall, within 48 hours after arrest, evaluate the individual for eligibility based on established criteria. Upon completion of the evaluation, the redirection specialist shall notify the court and all other required parties, as determined by the program, of the evaluation results and the redirection specialist's recommendation for redirection.

Information collected from or about the individual during either the prescreening or evaluation must be kept confidential as required by law.

The court shall make a determination about redirecting an individual into the community behavioral health system. If the court orders the individual into redirection and behavioral health treatment, the criminal charges against the individual must be dismissed. Each judicial district shall establish procedures and agreements concerning how to track such individual's progress.

Local community behavioral health providers are responsible for complying with any reporting and communication requirements of the program as established by the stakeholders.

The state court administrator is responsible for overall program administration, including ensuring that, on or before January 1, 2019, each judicial district implements its own unique program.

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

2 **SECTION 1. In Colorado Revised Statutes, add 18-1.3-101.5 as**

3 **follows:**

1 **18-1.3-101.5. Alternative pilot programs to divert individuals**
2 **with mental health conditions - legislative intent - eligibility - process**
3 **of diversion - grant program - program management - definitions -**
4 **repeal.** (1) THE INTENT OF THIS SECTION IS TO ESTABLISH AND FACILITATE
5 FOUR PRE-PLEA LOCAL-LEVEL MENTAL HEALTH PILOT PROGRAMS IN
6 SELECTED JUDICIAL DISTRICTS THAT WILL IDENTIFY INDIVIDUALS WITH
7 MENTAL HEALTH CONDITIONS WHO HAVE BEEN CHARGED WITH A
8 LOW-LEVEL CRIMINAL OFFENSE AND DIVERT SUCH INDIVIDUALS OUT OF
9 THE CRIMINAL JUSTICE SYSTEM AND INTO COMMUNITY TREATMENT
10 PROGRAMS IN ACCORDANCE WITH THE PRINCIPLES AND PROPOSED MODEL
11 RECOMMENDED BY THE COLORADO COMMISSION ON CRIMINAL AND
12 JUVENILE JUSTICE, ADOPTED ON JANUARY 12, 2018. IN ADDITION,
13 PROCEEDING PURSUANT TO THE MODEL RECOMMENDED BY THE
14 COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
15 ENCOURAGES AND FACILITATES FLEXIBLE AND LOCALLY CONTROLLED
16 PROGRAMS IN A MANNER THAT CAN ACCOMMODATE AND RESPECT THE
17 AVAILABILITY OR LIMITATION OF RESOURCES IN EACH JURISDICTION WHILE
18 STILL MAINTAINING THE CORE INTEGRITY AND OBJECTIVES OF THE EFFORT
19 TO FOSTER THE USE OF MENTAL HEALTH DIVERSION PROGRAMS
20 THROUGHOUT THE STATE.

21 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES:

23 (a) "COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE"
24 MEANS THE COMMISSION ESTABLISHED PURSUANT TO SECTION
25 16-11.3-102.

26 (b) "GRANT PROGRAM" MEANS THE MENTAL HEALTH CRIMINAL
27 JUSTICE DIVERSION GRANT PROGRAM ESTABLISHED PURSUANT TO

1 SUBSECTION (6) OF THIS SECTION.

2 (c) "LOW-LEVEL CRIMINAL OFFENSE" MEANS ANY PETTY OFFENSE
3 OR MISDEMEANOR, EXCLUDING THOSE OFFENSES ENUMERATED IN SECTION
4 24-4.1-302 (1). "LOW-LEVEL CRIMINAL OFFENSE" MAY ALSO INCLUDE, IF
5 AGREED TO BY THE DISTRICT ATTORNEY IN A GIVEN PILOT PROGRAM SITE,
6 ANY CLASS 4, CLASS 5, OR CLASS 6 FELONY OR ANY LEVEL 3 OR LEVEL 4
7 FELONY DRUG OFFENSE, EXCLUDING ANY FELONY OFFENSES ENUMERATED
8 IN SECTION 24-4.1-302 (1).

9 (d) "PILOT PROGRAM" MEANS ANY ALTERNATIVE PROGRAM
10 CREATED PURSUANT TO THIS SECTION THAT DIVERTS INDIVIDUALS WITH
11 MENTAL HEALTH CONDITIONS INTO COMMUNITY TREATMENT PROGRAMS.

12 (e) "STATE COURT ADMINISTRATOR" MEANS THE STATE COURT
13 ADMINISTRATOR ESTABLISHED PURSUANT TO SECTION 13-3-101.

14 (3) THERE ARE CREATED UP TO FOUR PILOT PROGRAMS IN JUDICIAL
15 DISTRICTS IN THE STATE. THE STATE COURT ADMINISTRATOR AND THE
16 COLORADO DISTRICT ATTORNEYS' COUNCIL SHALL COLLABORATE TO
17 IDENTIFY POTENTIAL PILOT PROGRAM SITES WITH THE AGREEMENT OF THE
18 ELECTED DISTRICT ATTORNEYS AND CHIEF JUDGES IN A JUDICIAL DISTRICT.
19 THE STATE COURT ADMINISTRATOR AND THE COLORADO DISTRICT
20 ATTORNEYS' COUNCIL SHALL CONSIDER GEOGRAPHIC DIVERSITY IN
21 IDENTIFYING PILOT PROGRAM SITES. THE PURPOSE OF THE PILOT
22 PROGRAMS IS TO IDENTIFY INDIVIDUALS WITH MENTAL HEALTH
23 CONDITIONS WHO HAVE BEEN CHARGED WITH A LOW-LEVEL CRIMINAL
24 OFFENSE AND DIVERT SUCH INDIVIDUALS OUT OF THE CRIMINAL JUSTICE
25 SYSTEM AND INTO COMMUNITY TREATMENT PROGRAMS. THE DISTRICT
26 ATTORNEY AND THE CHIEF JUDGE FOR A JUDICIAL DISTRICT SELECTED AS
27 A PILOT PROGRAM SITE PURSUANT TO THIS SUBSECTION (3) SHALL WORK

1 COLLABORATIVELY AND THROUGH CONSENSUS WITH INTERESTED AND
2 NECESSARY PARTICIPANTS WITHIN THE JUDICIAL DISTRICT, INCLUDING BUT
3 NOT LIMITED TO LAW ENFORCEMENT, JAIL OFFICIALS, PUBLIC DEFENDERS,
4 JUDGES, PRETRIAL SERVICE PROVIDERS, AND LOCAL COMMUNITY MENTAL
5 AND BEHAVIORAL HEALTH SERVICE PROVIDERS, TO DECIDE WHICH COURTS
6 AND COUNTIES WITHIN THE JUDICIAL DISTRICT ARE BEST SUITED TO
7 IMPLEMENT THE PILOT PROGRAM.

8 (4) THE CHIEF JUDGE OR HIS OR HER DESIGNEE OF ANY COUNTY OR
9 DISTRICT COURT WHERE A PILOT PROGRAM IS CREATED PURSUANT TO
10 SUBSECTION (3) OF THIS SECTION IS RESPONSIBLE FOR ESTABLISHING AND
11 FACILITATING THE PILOT PROGRAM IN COMPLIANCE WITH THE PRINCIPLES
12 AND MODEL ADOPTED BY THE COLORADO COMMISSION ON CRIMINAL AND
13 JUVENILE JUSTICE ON JANUARY 12, 2018. THE DUTIES OF THE CHIEF JUDGE
14 WITH RESPECT TO THE PILOT PROGRAM MAY INCLUDE, BUT NEED NOT BE
15 LIMITED TO:

16 (a) INITIATING AND COORDINATING ORGANIZATION MEETINGS
17 AMONG THE VARIOUS LOCAL ENTITIES NECESSARY TO THE
18 IMPLEMENTATION OF THE PILOT PROGRAM;

19 (b) ESTABLISHING POLICIES FOR THE PILOT PROGRAM;

20 (c) FACILITATING ANY FORMAL AGREEMENTS OR MEMORANDA OF
21 UNDERSTANDING REQUIRED TO CREATE THE PILOT PROGRAM;

22 (d) BROKERING SERVICES THROUGH CONTRACTING WITH LOCAL
23 COMMUNITY TREATMENT PROGRAMS THAT PROVIDE A CONTINUUM OF
24 COMMUNITY-BASED MENTAL HEALTH CARE AND TREATMENT TO
25 ACCOMPLISH THE GOALS OF THE PILOT PROGRAM; AND

26 (e) ADMINISTERING THE PILOT PROGRAM ONCE IT IS IMPLEMENTED.

27 (5) THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR

1 ADMINISTRATION AND OVERSIGHT OF THE PILOT PROGRAMS, INCLUDING
2 CERTIFYING THAT, ON OR BEFORE JANUARY 1, 2019, EACH PILOT PROGRAM
3 SITE IMPLEMENTS A DESIGN THAT IS CONSISTENT WITH THE PRINCIPLES
4 AND PROPOSED MODEL ADOPTED BY THE COLORADO COMMISSION ON
5 CRIMINAL AND JUVENILE JUSTICE AND THE LEGISLATIVE INTENT OF THIS
6 SECTION. THE DUTIES OF THE STATE COURT ADMINISTRATOR WITH
7 RESPECT TO THE PILOT PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:

8 (a) ESTABLISHING PILOT PROGRAM PROCEDURES AND TIMELINES;
9 AND

10 (b) ESTABLISHING GRANT FUNDING GUIDELINES AND ACCEPTABLE
11 EXPENSES FOR THE DISTRIBUTION OF GRANT PROGRAM GRANT MONEY TO
12 THE PILOT PROGRAM SITES BASED UPON SPECIFIC ALLOCATIONS REQUIRED
13 BY THE GRANT PROGRAM AND OTHER PILOT PROGRAM NEEDS AND ANY
14 OTHER CRITERIA, SUCH AS CASE VOLUME, GEOGRAPHICAL COMPLEXITY,
15 AND DENSITY OF NEED.

16 (6) THERE IS CREATED IN THE OFFICE OF THE STATE COURT
17 ADMINISTRATOR THE MENTAL HEALTH CRIMINAL JUSTICE DIVERSION
18 GRANT PROGRAM. THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR
19 ADMINISTERING AND MONITORING THE GRANT PROGRAM INCLUDING, BUT
20 NOT LIMITED TO:

21 (a) ESTABLISHING GRANT FUNDING GUIDELINES AND ACCEPTABLE
22 EXPENSES FOR THE DISTRIBUTION OF GRANT PROGRAM GRANT MONEY TO
23 THE PILOT PROGRAM SITES BASED UPON SPECIFIC ALLOCATIONS REQUIRED
24 BY THE GRANT PROGRAM, THE SPECIFIC AWARD TO THE DISTRICT
25 ATTORNEY'S OFFICE IN EACH OF THE FOUR DESIGNATED JUDICIAL
26 DISTRICTS, OTHER PILOT PROGRAM NEEDS, AND ANY OTHER CRITERIA,
27 SUCH AS CASE VOLUME, GEOGRAPHICAL COMPLEXITY, AND DENSITY OF

1 NEED. IN ADDITION TO ANY OTHER ALLOWABLE EXPENSES TO BE PAID FOR
2 BY THE GRANT PROGRAM, EACH DISTRICT ATTORNEY'S OFFICE
3 PARTICIPATING IN THE PILOT PROGRAM SHALL RECEIVE FIFTY THOUSAND
4 DOLLARS PER YEAR FROM THE GRANT FUNDING FOR EACH OF THE TWO
5 YEARS OF THE GRANT PROGRAM. SUCH MONEY MUST BE USED TO ASSIST
6 IN COVERING THE COSTS RELATED TO PERSONNEL AND ADMINISTRATIVE
7 REQUIREMENTS TO ESTABLISH AND OPERATE PILOT PROGRAMS IN FOUR
8 DESIGNATED JUDICIAL DISTRICTS.

9 (b) AWARDING ANNUAL GRANTS TO THE PILOT PROGRAMS; EXCEPT
10 THAT THE TOTAL OF ALL GRANTS AWARDED PER YEAR MUST NOT EXCEED
11 SEVEN HUNDRED FIFTY THOUSAND DOLLARS;

12 (c) DISBURSING GRANT MONEY; EXCEPT THAT THE STATE COURT
13 ADMINISTRATOR SHALL DISTRIBUTE THE FIRST ROUND OF GRANT AWARDS
14 ON OR BEFORE JANUARY 1, 2019.

15 (7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 1, 2021.

16 **SECTION 2. Appropriation.** For the 2018-19 state fiscal year,
17 \$750,000 is appropriated to the judicial department. This appropriation
18 is from the general fund and is based on an assumption that the
19 department will require an additional 0.9 FTE. To implement this act, the
20 department may use this appropriation for the mental health criminal
21 justice diversion grant program.

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