

# 2018



## Opioid and Other Substance Use Disorders Study Committee



Prepared by Legislative Council Staff  
Research Publication No. 712  
December 2018

# **Opioid and Other Substance Use Disorders Study Committee**

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***December 2018***



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December 2018

To Members of the Seventy-second General Assembly:

Submitted herewith is the final report of the Opioid and Other Substance Use Disorders Study Committee. This committee was created pursuant to Article 22.3 of Title 10, Colorado Revised Statutes. The purpose of this committee is to study issues relating to opioid and substance use disorders in Colorado and examine potential solutions concerning prevention, intervention, harm reduction, and treatment of opioid and other substance use disorders.

At its meeting on October 15, 2018, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2019 session was approved.

Sincerely,

/s/ Representative Crisanta Duran  
Chair



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*This report is also available online at:*

*<https://leg.colorado.gov/committees/opioid-and-other-substance-use-disorders-study-committee/2018-regular-session>*









## **Committee Charge**

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The Opioid and Other Substance Use Disorders Interim Study Committee was created pursuant to Interim Committee Request Letter 2017-02 and met six times in the 2017 interim. House Bill 18-1003 continued the committee for two additional legislative interims in 2018 and 2019.

The committee is charged with the following:

- studying data, data analytics, and statistics on the scope of the substance use disorder problem in Colorado;
- studying the current prevention, intervention, harm reduction, treatment, and recovery resources;
- reviewing the availability of medication-assisted treatment and whether pharmacists can prescribe those medications through the development of collaborative pharmacy practice agreements with physicians;
- examining what other states and countries are doing to address substance use disorders;
- identifying the gaps in prevention, intervention, harm reduction, treatment, and recovery resources available to Coloradans and hurdles to accessing those resources;
- identifying possible legislative options to address gaps and hurdles to accessing prevention, intervention, harm reduction, treatment, and recovery resources; and
- examining law enforcement and criminal justice measures addressing penalties for trafficking illegal drugs, and jail-based and prison-based treatment and harm reduction programs and technologies.

## **Committee Activities**

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The committee held five meetings during the 2018 interim. Briefings and presentations were made by the following stakeholders and organizations:

- state agencies, including the Department of Public Health and Environment (CDPHE); the Department of Human Services (DHS); the Department of Health Care Policy and Financing (HCPF); the Colorado Department of Public Safety; and the Colorado Attorney General's Office;
- Colorado Attorney General Cynthia Coffman;
- the Colorado Consortium for Prescription Drug Abuse Prevention (consortium) and the Substance Abuse Trend and Response Task Force (task force);
- University of Colorado School of Medicine and School of Nursing;
- member organizations representing medical professionals, such as the Colorado Medical Society, Colorado Association of Nurse Anesthetists, American College of Emergency Physicians (Colorado Chapter), and Colorado Pharmacist Society;
- Harm Reduction Action Center;
- Colorado Municipal League;
- Colorado Association of Recovery Residences;
- Old San Rafael Neighborhood Organization;
- Mental Health Colorado;
- Pharmaceutical Research and Manufacturers of America (PhRMA);
- Signal Behavioral Health;

- local departments of public health including Boulder County Public Health, Jefferson County Public Health, and Denver Public Health;
- Community Health Partnership in El Paso County;
- Liver Health Connection;
- Illuminate Colorado; and
- members of the public.

Key topics addressed by the committee include:

- national efforts to address the opioid crisis;
- current status of programs addressing substance use disorders in Colorado;
- issues with sober living homes;
- difficulties related to tracking the cost of substance use disorder treatment;
- recovery programs and supports available in Colorado;
- alcohol abuse and binge drinking;
- challenges for pregnant women with substance use disorders and substance-exposed newborns; and
- infectious diseases related to opioid use.

The following sections discuss the committee’s activities during the 2018 interim.

## **National and State Efforts to Address the Opioid Crisis**

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Colorado Attorney General Cynthia Coffman presented on the activities of the task force. She spoke about the task force’s collaboration with local law enforcement agencies to distribute and use naloxone and collaboration with other states’ attorneys general to investigate the marketing of opioids by pharmaceutical companies. Representatives of the task force and the consortium provided information about efforts at the federal level to address the crisis, including reducing drug demand through education, awareness, and prevention, and expanding opportunities for proven treatments for opioid and other drug addictions.

The committee also heard testimony on the state’s efforts to increase awareness of and expand the Colorado Household Medication Take-Back Program (program) administered by CDPHE. Currently, there are 115 collection sites covering 56 counties. Collection sites may be located in law enforcement agencies, retail pharmacies, hospitals, or health clinics. A representative of the University of Colorado School of Medicine discussed the IT MATTTTs Colorado program. This program is designed to build primary care practice capacity to treat opioid use disorders, especially in rural areas of the state. The program has provided training to 330 medication-assisted treatment (MAT) providers, and 820 patients have benefited from the program thus far. Staff from the Office of Behavioral Health (OBH) in DHS provided information about the State Opioid Response Grant it received from the federal Substance Abuse and Mental Health Services Administration. This grant provides funding to states to address the opioid crisis by increasing access to MAT for the treatment of opioid use disorder, reducing unmet treatment need, and reducing opioid overdose-related deaths through the provision of prevention, treatment, and recovery activities for opioid use disorder. Medical professionals discussed efforts to decrease the number of opioids prescribed in emergency rooms, expand access to

naloxone in the community, and reduce the stigma associated with substance use disorders.

A representative of HCPF informed the committee about the progress the department has made in developing a waiver application for submission to the Centers for Medicare and Medicaid Services (CMS) to implement the provisions of House Bill 18-1136. The bill adds inpatient and residential substance use treatment as a covered Medicaid benefit. Program staff from the University of Colorado College of Nursing presented on Senate Bill 17-074, which established a pilot program to increase access to MAT for residents in Routt and Pueblo Counties. The program expanded the number of nurse practitioners and physician assistants who are trained and licensed to provide MAT.

## **Treatment**

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The committee heard from substance use treatment providers, including OBH, Signal Behavioral Health, the University of Colorado, and Mental Health Colorado. Presentations and discussion included information on these stakeholders' efforts to:

- provide increased access to MAT across the state through the use of the IT MATTTRs program and mobile health units;
- create a sustainable system to train the substance use disorders workforce;
- increase coordination with other state agencies to pay for care related to substance use disorders; and
- address the barriers that keep patients from selecting alternatives to opioids for the treatment of pain, such as cost and lack of insurance coverage for alternative therapies.

The committee also explored options for increasing inmate access to MAT in county jails. Mental Health Colorado presented policy ideas focused on helping individuals who are struggling with substance use disorder to access treatment, including implementing a system to track program capacity for substance use disorders treatment, and increasing the continuum of treatment capacity. Mental Health Colorado also suggested strengthening the mental health parity law to ensure that substance use disorder treatment is covered by health insurers.

*Committee recommendations.* As a result of its discussions, the committee recommended Bill A, which concerns the treatment of opioid use disorders. The bill would have established several initiatives to improve access to behavioral health and substance use disorder treatment, including:

- creating a system to track bed space use and availability at behavioral health, substance use disorder treatment, MAT, and medical detoxification facilities;
- establishing a care coordination system to assist individuals in accessing treatment;
- developing a grant program to support substance use disorder treatment capacity building in underserved communities; and
- requiring HCPF to complete an out-of-cycle review of provider rates that the department determines have an impact on access to substance use disorder treatment.

The bill was not approved by Legislative Council at its meeting on October 15, 2018.

## Recovery

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*Recovery work group.* Representatives of the Recovery Work Group (work group) of the CCPDA, discussed the Angel Initiative, a program implemented in other states that allows individuals seeking help with a substance disorder to receive assistance at local police stations, emergency rooms, fire houses, and community centers without facing charges for possession of drugs or paraphernalia. The work group members also spoke about developing a Recovery Services Strategic Plan focused on the full continuum of recovery services, including detoxification services and reintegration into the community with peer support. Information was provided about the work group's effort, in coordination with OBH, to contract with a research institution that will assist in the development of the strategic plan, as directed by House Bill 18-1003. The contractor is expected to research recovery services, policies, and practices and present a final report in March 2019. Based on the research, the work group will make recommendations regarding programs and policies related to recovery services in Colorado to be integrated into the Strategic Plan. The consortium is required to submit the Strategic Plan to the General Assembly by January 2020.

*Sober living homes.* Representatives of the work group, neighborhood associations, and the Colorado Municipal League presented on issues related to recovery residences, also known as sober living homes. Discussion focused on creating a regulatory structure for recovery residences that includes a definition of recovery residence, provides local municipalities with flexibility to create rules governing recovery residences, and upholds current standards and accreditations for recovery residences.

*Committee recommendations.* As a result of its discussions, the committee recommends Bill B, which concerns substance use disorders recovery. The bill implements several initiatives and policies relating to substance use recovery, including creation of an Opioid Crisis Recovery Fund, housing vouchers for persons with a substance use disorder, and regulation of recovery residences.

The bill was approved by Legislative Council at its meeting on October 15, 2018.

## Harm Reduction

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*Harm reduction and local programs.* Local public health officials from several counties spoke about harm reduction efforts. They discussed the effectiveness of naloxone distribution, safe syringe disposal, law enforcement diversion programs, testing for infectious diseases, and counseling services for substance use disorders. A representative from the Harm Reduction Action Center discussed the importance of syringe exchanges, naloxone, and supervised consumption sites to reduce overdose deaths. Discussion also focused on the barriers that persons with substance use disorders face in accessing health care and treatment, including stigma from health care providers and lack of identification.

*Committee recommendations.* As a result of its discussions, the committee recommended Bill C, which concerned support for harm reduction efforts in Colorado. The bill would have authorized schools districts and private schools to create a policy allowing the maintenance and administration

of opioid antagonists on school grounds. The bill also would have authorized additional syringe disposal sites and medication take-back programs, and created a state naloxone purchasing fund.

The bill was not approved by Legislative Council at its meeting on October 15, 2018.

## **Prevention**

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*Opioid prescribing and dispensing.* A representative from the American College of Emergency Physicians described a statewide program to train hospital physicians to increase the prescribing of alternatives to opioids in emergency rooms. A Colorado Medical Society representative discussed the barriers that prevent patients from selecting alternatives to opioids for the treatment of pain, such as cost and lack of insurance coverage for alternative therapies. The representative discussed the state's shortage of substance use disorder counselors, and described efforts by specialists who prescribe opioids to discuss best practices. A representative of the Colorado Pharmacists Society spoke about its current sunrise application for pharmacy technician registration and the role some pharmacy technicians have had in diverting controlled substances. Representatives of chronic pain patients spoke to the committee about their experience when restrictions are placed on the prescribing of opioid. The committee discussed the advantages and challenges of prescribing opioids electronically.

*Pharmaceutical manufacturers.* Testimony by a representative of the Pharmaceutical Research and Manufacturers of America (PhRMA) focused on efforts by manufacturers to find public policy strategies to combat the opioid crisis, including ensuring patients with legitimate medical needs have access to appropriate pain treatment options and ensuring patients vulnerable to abuse or addiction receive appropriate treatment. Committee members also discussed drug pricing and the low cost of opioids, drug abuse deterrents, and alternative pain management medications.

*Local substance use disorder prevention efforts.* Representatives from county public health agencies discussed the use of screening, brief intervention, and referral to treatment (SBIRT) models to identify youth who may be at risk of substance use disorder. Discussion also focused on the importance of local medication take-back programs.

*Substance exposed newborns.* Representatives from the Substance Exposed Newborns Steering Committee and Illuminate Colorado presented to the committee regarding pregnant and postpartum women with substance use disorders. The representatives noted the difficulties in identifying and appropriately treating newborns who are substance exposed. The representatives discussed integrating obstetric and substance use disorder care, screening pregnant women for substance use disorders before birth, and improving access to MAT in jails for pregnant women.

*Committee recommendations.* As a result of its discussions, the committee recommended Bill D, which concerned prevention of substance use disorder in Colorado. The bill would have done the following:

- required continuing education for certain opioid prescribers;
- required outpatient opioid prescriptions to bear a warning label;

- appropriated funds to the Department of Public Health and Environment for state and local substance use disorder prevention activities;
- created grants in the Department of Human Services to focus on youth substance use disorder prevention and recovery;
- appropriated funds to the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies to assist local governments in applying for grants and to study and screen for perinatal substance use disorders; and
- appropriated funds to the Office of Behavioral Health to administer a pilot program to integrate substance use disorder treatment with obstetric care.

The bill was not approved by Legislative Council at its meeting on October 15, 2018.

## **Criminal Justice**

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*Law enforcement.* Members of the law enforcement community discussed the efforts to prevent the sale and use of illegal opioids, including fentanyl and heroin. The representatives discussed funding for regional drug task forces and the use of naloxone by first responders. The committee learned about the Law Enforcement Assisted Diversion (LEAD) program. LEAD is a diversion program that connects certain offenders with case managers to address social and behavioral health needs. The law enforcement representatives also described the policing co-responder model, which involves police officers and mental health clinicians jointly responding to calls concerning mental health crises.

*Judicial system.* Testimony by a district attorney focused on the recent increase in illegal drug distribution and possession court cases. The district attorney described a court diversion program for certain individuals with substance use disorders who are involved in the judicial system, and discussed the possibility of referring persons to treatment before an arrest is made for illegal drug possession or use.

*Committee recommendations.* As a result of its discussions, the committee recommends Bill E, which concerns persons with substance use disorders in the criminal justice system. The bill does the following:

- requires the Colorado Commission on Criminal and Juvenile Justice to study criminal charges against persons with substance use disorder, best practices for investigating illegal opioid distribution, and sealing criminal records;
- requires certain county jails and the Department of Corrections to offer MAT to inmates in their custody;
- requires the Department of Health Care Policy and Financing to seek federal authorization to pay the costs of MAT for inmates in county jails using Medicaid funds;
- creates a simplified process for sealing certain criminal convictions; and
- appropriates additional funds to LEAD programs and co-responder diversion programs.

The bill was approved by Legislative Council at its meeting on October 15, 2018.

## **Final Disposition of Previous Committee Bills**

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As a result of the committee's 2017 interim activities, six bills were recommended for introduction in the 2018 legislative session. Five of these bills were enacted and one bill was postponed indefinitely. Listed below are the bill numbers and short titles for each of these bills. Summaries of these bills may be found on the committee website.

- House Bill 18-1003, concerning measures to prevent opioid misuse in Colorado, by Representative Pettersen and Senators Jahn and Priola. HB 18-1003 took effect on May 21, 2018.
- House Bill 18-1007, concerning payment issues related to substance use disorders, by Representatives Kennedy and Singer and Senators Lambert and Jahn. House Bill 18-1007 takes effect on January 1, 2019.
- Senate Bill 18-022, concerning clinical practice measures for safer opioid prescribing, by Senators Aguilar and Tate and Representatives Kennedy and Pettersen. Senate Bill 18-022 took effect on May 21, 2018.
- Senate Bill 18-024, concerning modifications to the Colorado Health Service Corps Program to expand the availability of behavioral health care providers in shortage areas in the state, by Senators Jahn and Tate and Representatives Pettersen and Singer. Senate Bill 18-024 took effect on July 1, 2018.
- House Bill 18-1136, concerning treatment for individuals with substance use disorders, and adding residential and inpatient treatment to Colorado's Medicaid program, by Representative Pettersen and Senators Priola and Jahn. House Bill 18-1136 took effect on June 5, 2018.
- Senate Bill 18-040, concerning substance use disorder harm reduction, by Senators Lambert and Jahn and Representative Singer. The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee and did not take effect.





## Summary of Recommendations

As a result of the committee's activities, the committee recommended five bills to the Legislative Council for consideration in the 2019 session. At its meeting on October 15, 2018, the Legislative Council approved two recommended bills for introduction. The approved bills are described below.

### ***Bill B — Substance Use Disorders Recovery***

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Bill B implements several initiatives relating to substance use recovery, as described below.

*Opioid Crisis Recovery Fund.* Bill B creates the Opioid Crisis Recovery Fund, which consists of the net settlement or damages awarded to the state as a result of opioid-related litigation, as well as any other money appropriated by the General Assembly. The fund is managed by a newly created Board of Governors, which consists of 7 members appointed by the Governor and 19 members representing various stakeholders. Funds in the cash fund are continuously appropriated to the board and must be distributed by the board to fund efforts that aid in prevention, treatment, and recovery efforts related to the opioid crisis. Board members are initially appointed 90 days after the state receives a settlement or damage reward. When the board receives money from a settlement or damage award, the board must review applications against standards outlined in the bill and create a formula to distribute the funds. The board must report to the health committees in the General Assembly by July 1 of each year to outline the money used from the fund.

*Housing vouchers for persons with a substance use disorder.* Under current law, the Division of Housing in the Department of Local Affairs provides vouchers and other housing support assistance for persons with a mental or behavioral health disorder who are transitioning from the Department of Corrections, youth corrections, or a county jail. Bill B specifies that vouchers may also be used to support individuals with a substance use disorder, and allows the division to provide vouchers to individuals who are transitioning from a residential treatment program or experiencing homelessness. Beginning in FY 2019-20, and for each of the following four fiscal years, the bill directs the General Assembly to appropriate \$4.3 million to the Division of Housing in the Department of Local Affairs to expand housing support assistance for these uses.

*Recovery residences.* The Bill B defines recovery residence in statute, and prohibits a recovery residence from operating unless it is licensed by the Colorado Department of Public Health and Environment (CDPHE) and accredited by the Colorado Association of Recovery Residences. The bill specifies that a recovery residence owner, employee, or administrator may not solicit or accept a commission or fee from a treatment facility in exchange for the admission of a resident to the facility or a drug-testing laboratory.

## ***Bill E — Substance Use Disorder Treatment in the Criminal Justice System***

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Bill E makes several changes concerning substance use treatment for persons in the criminal justice system, including:

- allowing counties that accept state funding for jail-based behavioral health services to provide MAT for persons confined in the county jail;
- requiring DOC to allow MAT for individuals who are transferred into the custody of the DOC if the person was receiving such treatment in a local jail prior to being transferred;
- authorizing the DOC and sheriffs who operate jails to enter into agreements with community agencies, behavioral health organizations, and substance use disorder treatment organizations to assist in the development and administration of MAT in prisons and jails;
- requiring HCPF to seek federal authorization to provide substance use disorder treatment, including MAT and withdrawal management programs, with full federal financial participation to confined persons;
- appropriating \$1.7 million for jail-based behavioral health and a total of \$4.9 million for two criminal justice diversion programs in the DHS;
- requiring the Commission on Criminal and Juvenile Justice (CCJJ) in the Department of Public Safety to study and make recommendations on various issues concerning the treatment of individuals with substance use disorders who come into contact with the criminal justice system, including alternatives to criminal charges, best practices for investigating unlawful opioid distribution, and sealing of criminal records, and to report to the General Assembly by July 1, 2020;
- establish a process for persons with a conviction for a level 4 drug felony or any drug misdemeanor to petition the district court, and persons convicted of any municipal offense involving controlled substances to petition the municipal court, for the sealing of records related to that offense; and
- adjusting the legislative declaration to add the use of drop-off treatment services, mobile and walk-in crisis centers, and withdrawal management programs, rather than continued criminal justice system involvement, for offenders of low-level drug offenses to the scope of the Substance Abuse Trend and Response Task Force.

## ***Committee Letter 1 — Letter to the Governor-Elect and the Joint Budget Committee***

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The committee approved sending a letter to the Governor-elect and the JBC requesting support for efforts in raising awareness of the opioid crisis, prioritizing financial resources to combat the crisis, removing administrative barriers to access to treatment, and facilitating departmental cooperation on substance use disorder issues.

## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/committees/opioid-and-other-substance-use-disorders-study-committee/2018-regular-session>

### Meeting Date and Topics Discussed

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July 20, 2018

- ◆ Review of 2018 committee legislation
- ◆ Overview of state and national efforts to address the opioid crisis
- ◆ Status of medication-assisted treatment in Colorado
- ◆ Status of current Colorado initiatives: SB 17-074, HB 14-1207, and SB 17-193
- ◆ Update on Colorado Consortium for Prescription Drug Abuse Prevention activities
- ◆ Tracking the cost of substance use disorder treatment
- ◆ Recovery programs and supports
- ◆ Overview

August 14, 2018

- ◆ Medicaid substance use treatment and HB 18-1136 waiver implementation
- ◆ Policy solutions to improve access to substance use disorder treatment services
- ◆ Opioid prescribing and alternatives to opioids
- ◆ Harm reduction efforts
- ◆ Sober living homes
- ◆ Local efforts to address opioid use
- ◆ Substance exposed newborns review

August 22, 2018

- ◆ Pharmaceutical manufacturers
- ◆ Perspectives from pharmacists and physicians

- ◆ Alcohol abuse and binge drinking
- ◆ Law enforcement
- ◆ Infectious diseases and the opioid epidemic
- ◆ Pain management and rural health perspectives
- ◆ Bill requests

September 18, 2018

- ◆ Update on State Opioid Response Grant Plan
- ◆ Review bill drafts

October 3, 2018

- ◆ Review and approve bill drafts

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**BILL B**

LLS NO. 19-0227.02 Yelana Love x2295

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Kennedy and Singer, Pettersen**

**SENATE SPONSORSHIP**

**Priola,**

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING SUPPORTS FOR PERSONS RECOVERING FROM SUBSTANCE**  
102            **USE DISORDERS, AND, IN CONNECTION THEREWITH, EXPANDING**  
103            **A PROGRAM IN THE DEPARTMENT OF LOCAL AFFAIRS THAT**  
104            **PROVIDES VOUCHERS FOR HOUSING ASSISTANCE TO CERTAIN**  
105            **INDIVIDUALS, REQUIRING EACH RECOVERY RESIDENCE**  
106            **OPERATING IN COLORADO TO BE LICENSED BY THE**  
107            **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND**  
108            **CREATING THE OPIOID CRISIS RECOVERY FUND.**

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**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*

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.

[http://leg.colorado.gov/.](http://leg.colorado.gov/))

**Opioid and Other Substance Use Disorders Study Committee.**

The bill:

- Expands the housing voucher program currently within the department of local affairs to include individuals with a substance use disorder and appropriates \$4.3 million each of the next 5 fiscal years to support the program (**section 1**);
- Requires each recovery residence operating in Colorado to be licensed by the department of public health and environment (**section 2**); and
- Creates the opioid crisis recovery fund for money the state receives as settlement or damage awards resulting from opioid-related litigation (**section 3**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-32-721, **amend**  
3 (4)(b); and **add** (5) and (6) as follows:

4 **24-32-721. Colorado affordable housing construction grants**  
5 **and loans - housing development grant fund - creation - housing**  
6 **assistance for a person with a behavioral, mental health, or substance**  
7 **use disorder - cash fund - definition.** (4) (b) In conjunction with its  
8 other programs to provide assistance in obtaining housing and subject to  
9 available appropriations, the division shall establish a program that  
10 provides vouchers and other support services for housing assistance for  
11 a person with a mental health disorder, SUBSTANCE USE DISORDER, or  
12 co-occurring behavioral health disorder who is transitioning from the  
13 department of corrections, the division of youth corrections in the  
14 department of human services, A MENTAL HEALTH INSTITUTE, or a county  
15 jail into the community, OR AN INDIVIDUAL WHO IS HOMELESS OR IN AN  
16 UNSTABLE HOUSING ENVIRONMENT AND IS TRANSITIONING FROM A  
17 RESIDENTIAL TREATMENT PROGRAM OR IS ENGAGED IN THE COMMUNITY

1       TRANSITION SPECIALIST PROGRAM CREATED PURSUANT TO SECTION  
2       27-66.5-103.

3               (5) FOR THE 2019-20 FISCAL YEAR, AND EACH OF THE FOLLOWING  
4       FOUR FISCAL YEARS, THE GENERAL ASSEMBLY SHALL APPROPRIATE FOUR  
5       MILLION THREE HUNDRED THOUSAND DOLLARS TO THE DIVISION FOR THE  
6       VOUCHER PROGRAM SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION.

7               (6) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL  
8       AFFAIRS SHALL REPORT TO THE SENATE COMMITTEE ON HEALTH AND  
9       HUMAN SERVICES AND THE HOUSE OF REPRESENTATIVES COMMITTEES ON  
10      HEALTH, INSURANCE, AND ENVIRONMENT AND PUBLIC HEALTH CARE AND  
11      HUMAN SERVICES, OR ANY SUCCESSOR COMMITTEES, UNDER THE "STATE  
12      MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT  
13      (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2 ON:

- 14              (a) THE NUMBER OF PROJECTS FUNDED UNDER THIS SECTION;
- 15              (b) THE NUMBER OF UNITS IN EACH PROJECT FUNDED; AND
- 16              (c) THE NUMBER OF QUALIFIED INDIVIDUALS HOUSED AS A RESULT  
17      OF THIS SECTION.

18              **SECTION 2.** In Colorado Revised Statutes, **add** 25-1.5-108.5 as  
19      follows:

20              **25-1.5-108.5. Regulation of recovery residences - stakeholder**  
21      **group - definition.** (1) AS USED IN THIS SECTION, "RECOVERY  
22      RESIDENCE" MEANS ANY PREMISES, PLACE, OR BUILDING THAT PROVIDES  
23      ALCOHOL-FREE OR DRUG-FREE HOUSING, PROMOTES INDEPENDENT LIVING  
24      AND LIFE SKILL DEVELOPMENT, AND PROVIDES STRUCTURED ACTIVITIES  
25      THAT ARE DIRECTED PRIMARILY TOWARD RECOVERY FROM SUBSTANCE  
26      USE DISORDERS IN A SUPERVISED SETTING TO A GROUP OF UNRELATED  
27      INDIVIDUALS WHO ARE RECOVERING FROM DRUG OR ALCOHOL ADDICTION



1 AND WHO ARE RECEIVING OUTPATIENT BEHAVIORAL HEALTH SERVICES FOR  
2 SUBSTANCE ABUSE OR ADDICTION TREATMENT WHILE LIVING IN THE  
3 RESIDENCE. "RECOVERY RESIDENCE" DOES NOT INCLUDE A PRIVATE  
4 RESIDENCE IN WHICH A RELATED FAMILY MEMBER IS REQUIRED TO  
5 RECEIVE OUTPATIENT BEHAVIORAL HEALTH SERVICES OR ADDICTION  
6 TREATMENT AS A CONDITION OF CONTINUING TO RESIDE IN THE FAMILY  
7 DWELLING.

8 (2) EFFECTIVE JANUARY 1, 2020, A PERSON SHALL NOT OPERATE  
9 A RECOVERY RESIDENCE UNLESS LICENSED BY THE DEPARTMENT. THE  
10 DEPARTMENT SHALL DEEM A RECOVERY RESIDENCE THAT IS ACCREDITED  
11 BY THE COLORADO ASSOCIATION OF RECOVERY RESIDENCES, OR ITS  
12 SUCCESSOR ORGANIZATION, AS SATISFYING THE REQUIREMENTS FOR  
13 INITIAL LICENSURE OR RENEWAL OF AN EXISTING LICENSE.

14 (3) A RECOVERY RESIDENCE OWNER, EMPLOYEE, OR  
15 ADMINISTRATOR, OR AN INDIVIDUAL RELATED TO A RECOVERY RESIDENCE  
16 OWNER, EMPLOYEE, OR ADMINISTRATOR, MAY NOT DIRECTLY OR  
17 INDIRECTLY:

18 (a) SOLICIT OR ACCEPT A COMMISSION, A FEE, OR ANYTHING OF  
19 MONETARY OR MATERIAL VALUE:

20 (I) FOR ADMISSION OF A RESIDENT OR RESIDENT FEES FROM A  
21 THIRD PARTY, EXCEPT FOR STATE OR FEDERAL CONTRACTS THAT  
22 SPECIFICALLY REIMBURSE FOR RESIDENT FEES; OR

23 (II) FROM A TREATMENT FACILITY THAT IS LICENSED OR CERTIFIED  
24 BY THE DEPARTMENT FOR THE TREATMENT OF SUBSTANCE USE DISORDERS  
25 FOR RESIDENT FEES; OR

26 (b) ACCEPT OR RECEIVE A PAYMENT, TRADE, COMMISSION, OR FEE  
27 FROM A TOXICOLOGY LABORATORY THAT PROVIDES CONFIRMATION

1 TESTING OR POINT-OF-CARE TESTING FOR RESIDENTS.

2 (4) THE DEPARTMENT MAY TAKE ACTION AGAINST A PERSON FOR  
3 A VIOLATION OF THIS SECTION.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 27-82-114 as  
5 follows:

6 **27-82-114. Opioid crisis recovery fund - board of governors -**  
7 **appointment - purpose.** (1) THE OPIOID CRISIS RECOVERY FUND,  
8 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE  
9 STATE TREASURY. THE FUND CONSISTS OF MONEY THAT THE GENERAL  
10 ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND AND THE NET  
11 SETTLEMENT OR DAMAGE AWARDS RECEIVED BY THE STATE AS THE  
12 RESULT OF OPIOID-RELATED LITIGATION.

13 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
14 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
15 FUND TO THE FUND.

16 (3) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE  
17 BOARD OF GOVERNORS OF THE OPIOID CRISIS RECOVERY FUND, CREATED  
18 IN SUBSECTION (4) OF THIS SECTION, FOR THE PURPOSE OF FUNDING  
19 EFFORTS TO AID IN PREVENTION, PUBLIC AWARENESS, PROVIDER  
20 EDUCATION, EARLY DETECTION AND INTERVENTION, HARM REDUCTION,  
21 TREATMENT, AND RECOVERY RELATED TO THE OPIOID CRISIS.

22 (4) THERE IS HEREBY CREATED IN THE OFFICE OF BEHAVIORAL  
23 HEALTH THE BOARD OF GOVERNORS OF THE OPIOID CRISIS RECOVERY  
24 FUND, REFERRED TO IN THIS SECTION AS THE "BOARD".

25 (5) (a) THE BOARD CONSISTS OF MEMBERS APPOINTED AS  
26 FOLLOWS:

27 (I) SEVEN MEMBERS APPOINTED BY THE GOVERNOR, INCLUDING:

1 (A) ONE MEMBER LICENSED TO PRACTICE MEDICINE PURSUANT TO  
2 ARTICLE 36 OF TITLE 12;

3 (B) ONE MEMBER LICENSED TO PRACTICE PHARMACY PURSUANT  
4 TO ARTICLE 42.5 OF TITLE 12;

5 (C) ONE MEMBER LICENSED TO PRACTICE AS A NURSE PURSUANT  
6 TO ARTICLE 38 OF TITLE 12;

7 (D) ONE MEMBER LICENSED AS A DENTIST PURSUANT TO ARTICLE  
8 35 OF TITLE 12;

9 (E) ONE MEMBER LICENSED AS A VETERINARIAN PURSUANT TO  
10 ARTICLE 64 OF TITLE 12;

11 (F) ONE MEMBER LICENSED AS A PHYSICAL THERAPIST PURSUANT  
12 TO ARTICLE 41 OF TITLE 12; AND

13 (G) ONE MEMBER REPRESENTING A LOCAL PUBLIC HEALTH  
14 AGENCY;

15 (II) ONE MEMBER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE  
16 DEPARTMENT OF HUMAN SERVICES OR THE EXECUTIVE DIRECTOR'S  
17 DESIGNEE;

18 (III) ONE MEMBER APPOINTED BY THE EXECUTIVE DIRECTOR OF  
19 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE  
20 EXECUTIVE DIRECTOR'S DESIGNEE;

21 (IV) ONE MEMBER APPOINTED BY THE EXECUTIVE DIRECTOR OF  
22 THE DEPARTMENT OF REGULATORY AGENCIES OR THE EXECUTIVE  
23 DIRECTOR'S DESIGNEE;

24 (V) ONE MEMBER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE  
25 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR THE EXECUTIVE  
26 DIRECTOR'S DESIGNEE;

27 (VI) ONE MEMBER FROM THE STATE SUBSTANCE ABUSE TREND

1 AND RESPONSE TASK FORCE, CREATED IN SECTION 18-18.5-103, APPOINTED  
2 BY THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE;

3 (VII) ONE MEMBER FROM THE CENTER FOR RESEARCH INTO  
4 SUBSTANCE USE DISORDER PREVENTION, TREATMENT, AND RECOVERY  
5 SUPPORT STRATEGIES, CREATED IN SECTION 27-80-118 (3), APPOINTED BY  
6 THE DIRECTOR OF THE CENTER OR THE DIRECTOR'S DESIGNEE;

7 (VIII) ONE MEMBER FROM EACH SAFETY NET HOSPITAL THAT  
8 PROVIDES ADDICTION SERVICES APPOINTED BY THE HOSPITAL;

9 (IX) ONE MEMBER FROM THE COLORADO DISTRICT ATTORNEYS'  
10 COUNCIL APPOINTED BY ITS EXECUTIVE DIRECTOR OR THE EXECUTIVE  
11 DIRECTOR'S DESIGNEE;

12 (X) TWO MEMBERS REPRESENTING LAW ENFORCEMENT AGENCIES,  
13 ONE OF WHOM IS APPOINTED BY THE COLORADO ASSOCIATION OF CHIEFS  
14 OF POLICE AND ONE OF WHOM IS APPOINTED BY THE COUNTY SHERIFFS OF  
15 COLORADO;

16 (XI) ONE MEMBER FROM COLORADO COUNTIES, INC., APPOINTED  
17 BY ITS EXECUTIVE DIRECTOR;

18 (XII) ONE MEMBER REPRESENTING THE COLORADO MUNICIPAL  
19 LEAGUE, OR ANY SUCCESSOR ORGANIZATION, APPOINTED BY THE  
20 PRESIDENT OF THE COLORADO MUNICIPAL LEAGUE OR THE PRESIDENT'S  
21 DESIGNEE.

22 (b) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL  
23 APPOINTMENTS TO THE BOARD NO LATER THAN NINETY DAYS AFTER THE  
24 STATE RECEIVES A SETTLEMENT OR DAMAGE AWARD.

25 (6) EACH MEMBER OF THE BOARD WHO IS APPOINTED PURSUANT TO  
26 SUBSECTION (5) OF THIS SECTION SERVES AT THE PLEASURE OF THE  
27 OFFICIAL WHO APPOINTED THE MEMBER. A VACANCY SHALL BE FILLED IN

1 THE SAME MANNER AS THE INITIAL APPOINTMENT.

2 (7) NOTWITHSTANDING SECTION 2-2-326, EACH MEMBER OF THE  
3 BOARD SERVES WITHOUT COMPENSATION BUT IS ENTITLED TO RECEIVE  
4 REIMBURSEMENT FROM MONEY IN THE FUND CREATED IN SUBSECTION (1)  
5 OF THIS SECTION FOR ACTUAL AND NECESSARY EXPENSES THE MEMBER  
6 INCURS IN THE PERFORMANCE OF HIS OR HER DUTIES AS A MEMBER OF THE  
7 BOARD.

8 (8) (a) IF THE STATE RECEIVES MONEY FROM A SETTLEMENT OR  
9 DAMAGE AWARD FROM OPIOID-RELATED LITIGATION, THE DIRECTOR SHALL  
10 ORGANIZE AND CALL THE FIRST MEETING OF THE BOARD.

11 (b) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS  
12 TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS.

13 (c) THE BOARD SHALL MEET AS NECESSARY TO COMPLETE ITS  
14 DUTIES.

15 (9) THE BOARD SHALL:

16 (a) DETERMINE A FORMULA BASED ON POPULATION SIZE,  
17 OVERDOSE DEATH RATE, AND TREATMENT NEED TO ENSURE THAT MONEY  
18 FROM THE FUND IS AVAILABLE PROPORTIONALLY TO URBAN AREAS OF THE  
19 STATE AND RURAL AND FRONTIER AREAS OF THE STATE AS DEFINED IN  
20 SECTION 39-22-538;

21 (b) REVIEW THE APPLICATIONS RECEIVED PURSUANT TO THE RULES  
22 ADOPTED IN ACCORDANCE WITH SUBSECTION (11) OF THIS SECTION; AND

23 (c) IN AWARDING MONEY, CONSIDER WHETHER THE REQUEST  
24 MEETS THE STANDARD SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

25 (10) UPON REQUEST BY THE BOARD, THE OFFICE OF BEHAVIORAL  
26 HEALTH SHALL PROVIDE OFFICE SPACE, EQUIPMENT, AND STAFF SERVICES  
27 AS MAY BE NECESSARY TO IMPLEMENT THIS SECTION.

1           (11) IF THE STATE RECEIVES MONEY FROM A SETTLEMENT OR  
2           DAMAGE AWARD FROM OPIOID-RELATED LITIGATION, THE OFFICE OF  
3           BEHAVIORAL HEALTH SHALL PROMULGATE RULES SPECIFYING THE  
4           PROCEDURE FOR ENTITIES TO REQUEST MONEY FROM THE BOARD FROM  
5           THE OPIOID CRISIS RECOVERY FUND.

6           (12) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR  
7           BEFORE JULY 1 OF EACH CALENDAR YEAR FOLLOWING THE YEAR IN WHICH  
8           THE BOARD DISPENSES MONEY FROM THE FUND, THE BOARD SHALL REPORT  
9           TO THE HEALTH, INSURANCE, AND ENVIRONMENT COMMITTEE OF THE  
10          HOUSE OF REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES  
11          COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE  
12          REPORT MUST INCLUDE EACH ENTITY THAT RECEIVED MONEY FROM THE  
13          FUND AND THE AMOUNT OF AND PURPOSE FOR THE MONEY.

14                 **SECTION 4. 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.

First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

**BILL E**

LLS NO. 19-0230.02 Conrad Imel x2313

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Moreno and Priola,**

**HOUSE SPONSORSHIP**

**Kennedy and Singer, Pettersen**

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**Senate Committees**

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING TREATMENT OF INDIVIDUALS WITH SUBSTANCE USE**  
102 **DISORDERS WHO COME INTO CONTACT WITH THE CRIMINAL**  
103 **JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH, MAKING AN**  
104 **APPROPRIATION.**

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**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/>.)*

**Opioid and Other Substance Use Disorders Study Committee.**  
**Section 1** of the bill requires the Colorado commission on criminal and juvenile justice to study and make recommendations concerning:

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.

- Alternatives to filing criminal charges against individuals with substance use disorders who have been arrested for drug-related offenses;
- Best practices for investigating unlawful opioid distribution in Colorado; and
- A process for automatically sealing criminal records for drug offense convictions.

**Section 2** of the bill requires the department of corrections (DOC) to allow medication-assisted treatment to be provided to persons who were receiving treatment in a local jail prior to being transferred to the custody of the DOC. The DOC may enter into agreements with community agencies and organizations to assist in the development and administration of medication-assisted treatment.

**Section 3** of the bill contains a legislative declaration that the substance abuse trend and response task force should formulate a response to current and emerging substance abuse problems from the criminal justice, prevention, and treatment sectors that includes the use of drop-off treatment services, mobile and walk-in crisis centers, and withdrawal management programs as an alternative to entry into the criminal justice system for offenders of low-level drug offenses.

**Section 4** of the bill directs the department of health care policy and financing to seek federal authorization under the Medicaid program for treatment of substance use disorders for persons confined in jails.

**Section 5** of the bill creates a simplified process for sealing convictions for level 4 drug felonies, all drug misdemeanors, and any offense committed prior to October 1, 2013, that would have been a level 4 drug felony or drug misdemeanor if committed on or after October 1, 2013. A defendant may file a motion to seal records 3 years or more after final disposition of the criminal proceedings. Conviction records may be sealed only after a hearing and upon court order.

**Section 6** of the bill requires jails that receive funding through the jail-based behavioral health services program to allow medication-assisted treatment to be provided to individuals in the jail. The jail may enter into agreements with community agencies and organizations to assist in the development and administration of medication-assisted treatment.

**Section 7** of the bill provides an appropriation, including for the following programs funded through the annual long appropriations act:

- Increasing from 4 to 10 the number of the law-enforcement-assisted diversion pilot programs; and
- Increasing coresponder funding for criminal justice diversion pilot programs in the office of behavioral health in the department of human services.



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

2 **SECTION 1.** In Colorado Revised Statutes, 16-11.3-103, **add**  
3 (2)(h) as follows:

4 **16-11.3-103. Duties of the commission - mission - staffing -**  
5 **report - definition - repeal.** (2) The commission shall have the  
6 following duties:

7 (h) (I) TO STUDY AND MAKE RECOMMENDATIONS ON THE  
8 FOLLOWING ISSUES CONCERNING INDIVIDUALS WITH SUBSTANCE USE  
9 DISORDERS WHO COME INTO CONTACT WITH THE CRIMINAL JUSTICE  
10 SYSTEM:

11 (A) ALTERNATIVES TO FILING CRIMINAL CHARGES AGAINST  
12 INDIVIDUALS WITH SUBSTANCE USE DISORDERS WHO HAVE BEEN ARRESTED  
13 FOR DRUG-RELATED OFFENSES;

14 (B) BEST PRACTICES FOR INVESTIGATING UNLAWFUL OPIOID  
15 DISTRIBUTION IN COLORADO, INCLUDING THE POTENTIAL CREATION OF  
16 BLACK MARKET OPIOID INVESTIGATORY ENTITIES AT THE STATE AND  
17 LOCAL LEVELS; AND

18 (C) A PROCESS FOR AUTOMATICALLY SEALING CRIMINAL RECORDS  
19 OF CONVICTIONS FOR DRUG OFFENSES.

20 (II) ON OR BEFORE JULY 1, 2020, THE COMMISSION SHALL PROVIDE  
21 A REPORT WITH ITS FINDINGS AND RECOMMENDATIONS MADE PURSUANT  
22 TO THIS SUBSECTION (2)(h) TO THE JUDICIARY AND THE PUBLIC HEALTH  
23 CARE AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF  
24 REPRESENTATIVES AND THE JUDICIARY AND THE HEALTH AND HUMAN  
25 SERVICES COMMITTEES OF THE SENATE, OR ANY SUCCESSOR COMMITTEES.

26 (III) THIS SUBSECTION (2)(h) IS REPEALED, EFFECTIVE JUNE 30,  
27 2021.

1           **SECTION 2.** In Colorado Revised Statutes, 17-1-113.8, **add** (3)  
2 as follows:

3           **17-1-113.8. Persons with serious behavioral or mental health**  
4 **disorders - long-term isolated confinement - work group -**  
5 **medication-assisted treatment.** (3) (a) THE DEPARTMENT SHALL ALLOW  
6 MEDICATION-ASSISTED TREATMENT, AS IT IS DEFINED IN SECTION  
7 23-21-803, TO BE PROVIDED TO INDIVIDUALS WHO ARE PLACED IN THE  
8 CUSTODY OF THE DEPARTMENT WHO WERE RECEIVING SUCH TREATMENT  
9 IN A LOCAL JAIL PRIOR TO BEING PLACED IN THE CUSTODY OF THE  
10 DEPARTMENT.

11           (b) THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH  
12 COMMUNITY AGENCIES, BEHAVIORAL HEALTH ORGANIZATIONS, AND  
13 SUBSTANCE USE DISORDER TREATMENT ORGANIZATIONS TO ASSIST IN THE  
14 DEVELOPMENT AND ADMINISTRATION OF MEDICATION-ASSISTED  
15 TREATMENT PURSUANT TO THIS SECTION.

16           **SECTION 3.** In Colorado Revised Statutes, 18-18.5-101, **amend**  
17 (3)(b) as follows:

18           **18-18.5-101. Legislative declaration.** (3) The general assembly,  
19 therefore, determines and declares that it is necessary to change the state  
20 methamphetamine task force into a substance abuse trend and response  
21 task force to:

22           (b) Formulate a response to current and emerging substance ~~abuse~~  
23 USE DISORDER problems from the criminal justice, prevention, and  
24 treatment sectors, INCLUDING THE USE OF DROP-OFF TREATMENT SERVICES,  
25 MOBILE AND WALK-IN CRISIS CENTERS, AND WITHDRAWAL MANAGEMENT  
26 PROGRAMS, RATHER THAN CONTINUED CRIMINAL JUSTICE INVOLVEMENT  
27 FOR OFFENDERS OF LOW-LEVEL DRUG OFFENSES; and

1           **SECTION 4.** In Colorado Revised Statutes, 25.5-4-205.5, **add** (3)  
2 as follows:

3           **25.5-4-205.5. Confined persons - suspension of benefits.**

4           (3) NO LATER THAN OCTOBER 1, 2019, THE STATE DEPARTMENT SHALL  
5 SEEK FEDERAL AUTHORIZATION TO PROVIDE TREATMENT FOR SUBSTANCE  
6 USE DISORDERS WITH FULL FEDERAL FINANCIAL PARTICIPATION TO  
7 CONFINED PERSONS. SUCH TREATMENT MUST INCLUDE  
8 MEDICATION-ASSISTED TREATMENT AND WITHDRAWAL MANAGEMENT  
9 PROGRAMS.

10           **SECTION 5.** In Colorado Revised Statutes, **add** 24-72-705.5 as  
11 follows:

12           **24-72-705.5. Sealing of criminal conviction records**  
13 **information for offenses involving possession of controlled substances**  
14 **- simplified process - processing fee. (1) Sealing of conviction**

15 **records. (a) (I) SUBJECT TO THE LIMITATIONS DESCRIBED IN SUBSECTION**  
16 **(3) OF THIS SECTION, A DEFENDANT MAY PETITION THE DISTRICT COURT OF**  
17 **THE DISTRICT, OR THE MUNICIPAL COURT IN ANY MUNICIPALITY, IN WHICH**  
18 **ANY CONVICTION RECORDS FOR CERTAIN OFFENSES INVOLVING**  
19 **CONTROLLED SUBSTANCES PERTAINING TO THE DEFENDANT ARE LOCATED**  
20 **FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT BASIC**  
21 **IDENTIFYING INFORMATION, IF:**

22           (A) THE PETITION IS FILED THREE OR MORE YEARS AFTER THE DATE  
23 OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE  
24 DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION  
25 CONCERNING A CRIMINAL CONVICTION, WHICHEVER IS LATER; AND

26           (B) THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR  
27 A CRIMINAL OFFENSE IN THE THREE OR MORE YEARS SINCE THE DATE OF

1 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR  
2 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,  
3 WHICHEVER IS LATER.

4 (II) THE PETITION SHALL BE MADE BY THE DEFENDANT THROUGH  
5 THE FILING OF A PETITION IN WRITING IN THE CRIMINAL CASE FOR WHICH  
6 THE DEFENDANT WAS CONVICTED WITH WRITTEN NOTICE AND A COPY OF  
7 THE PETITION PROVIDED TO THE PROSECUTING ATTORNEY.

8 (b) (I) UPON THE FILING OF A PETITION IN THE CRIMINAL CASE, THE  
9 COURT SHALL REVIEW THE PETITION AND DETERMINE WHETHER THERE ARE  
10 GROUNDS UNDER THIS SECTION TO PROCEED TO A HEARING ON THE  
11 PETITION. IF THE COURT DETERMINES THAT THE PETITION ON ITS FACE IS  
12 INSUFFICIENT OR IF THE COURT DETERMINES THAT, AFTER TAKING  
13 JUDICIAL NOTICE OF MATTERS OUTSIDE THE PETITION, THE DEFENDANT IS  
14 NOT ENTITLED TO RELIEF UNDER THIS SECTION, THE COURT SHALL ENTER  
15 AN ORDER DENYING THE PETITION AND MAIL A COPY OF THE ORDER TO THE  
16 DEFENDANT. THE COURT'S ORDER SHALL SPECIFY THE REASONS FOR THE  
17 DENIAL OF THE PETITION.

18 (II) IF THE COURT DETERMINES THAT THE PETITION IS SUFFICIENT  
19 ON ITS FACE AND THAT NO OTHER GROUNDS EXIST AT THAT TIME FOR THE  
20 COURT TO DENY THE PETITION UNDER THIS SECTION, THE COURT SHALL SET  
21 A DATE FOR A HEARING, AND THE COURT SHALL NOTIFY ALL PARTIES OF  
22 THE DATE OF THE HEARING.

23 (c) (I) AFTER THE HEARING DESCRIBED IN SUBSECTION (1)(b)(II)  
24 OF THIS SECTION IS CONDUCTED AND IF THE COURT FINDS THAT THE HARM  
25 TO THE PRIVACY OF THE DEFENDANT OR THE DANGERS OF UNWARRANTED,  
26 ADVERSE CONSEQUENCES TO THE DEFENDANT OUTWEIGH THE PUBLIC  
27 INTEREST IN RETAINING THE CONVICTION RECORDS, THE COURT MAY

1 ORDER THE CONVICTION RECORDS, EXCEPT BASIC IDENTIFYING  
2 INFORMATION, TO BE SEALED.

3 (II) IN MAKING A DETERMINATION PURSUANT TO THIS SUBSECTION  
4 (1)(c), THE COURT SHALL, AT A MINIMUM, CONSIDER THE SEVERITY OF THE  
5 OFFENSE THAT IS THE BASIS OF THE CONVICTION RECORDS SOUGHT TO BE  
6 SEALED, THE CRIMINAL HISTORY OF THE DEFENDANT, THE NUMBER OF  
7 CONVICTIONS AND DATES OF THE CONVICTIONS FOR WHICH THE  
8 DEFENDANT IS SEEKING TO HAVE THE RECORDS SEALED, AND THE NEED  
9 FOR THE GOVERNMENT AGENCY TO RETAIN THE RECORDS. IF THE PERSON  
10 IN INTEREST HAS SUCCESSFULLY COMPLETED A VETERANS TREATMENT  
11 PROGRAM ESTABLISHED PURSUANT TO SECTION 13-5-144 IN THE CASE  
12 THAT IS THE SUBJECT OF THE PETITION TO SEAL OR ANY OTHER SUBSTANCE  
13 USE TREATMENT PROGRAM, THE COURT SHALL CONSIDER SUCH FACTOR  
14 FAVORABLY IN DETERMINING WHETHER TO ISSUE AN ORDER TO SEAL  
15 RECORDS PURSUANT TO THIS SECTION.

16 (d) WHEN THE COURT SEALS CONVICTION RECORDS PURSUANT TO  
17 THIS SECTION, THE COURT SHALL PROVIDE A COPY OF THE COURT ORDER  
18 TO THE COLORADO BUREAU OF INVESTIGATION, AND THE DEFENDANT  
19 SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS  
20 OR HER CONVICTION RECORDS IN THE CUSTODY OF THE BUREAU. THE  
21 COURT SHALL ALSO PROVIDE A COPY OF THE COURT ORDER TO EACH  
22 CUSTODIAN WHO MAY HAVE CUSTODY OF ANY RECORDS SUBJECT TO THE  
23 ORDER. THE DEFENDANT SHALL PROVIDE TO THE COURT, IN CONJUNCTION  
24 WITH THE PETITION, A LIST OF ALL AGENCY CUSTODIANS WHO MAY HAVE  
25 CUSTODY OF ANY RECORDS SUBJECT TO THE ORDER. ADDITIONALLY, THE  
26 DEFENDANT MAY ALSO PROVIDE A COPY OF THE ORDER TO ANY OTHER  
27 CUSTODIAN OF RECORDS SUBJECT TO THE ORDER. EACH CUSTODIAN THAT

1 RECEIVES A COPY OF THE ORDER SHALL REMOVE THE RECORDS THAT ARE  
2 SUBJECT TO THE ORDER FROM ITS RECORDS.

3 (e) THE PROVISIONS OF SECTION 24-72-702 (1)(d) TO (1)(g) AND  
4 SECTION 24-72-702 (4) APPLY TO THIS SECTION.

5 (f) THIS SECTION DOES NOT APPLY TO RECORDS THAT ARE SUBJECT  
6 TO THE PROCEDURE SET FORTH IN SECTION 18-13-122 (13).

7 (2) (a) A DEFENDANT PETITIONING TO HAVE HIS OR HER  
8 CONVICTION RECORDS SEALED UNDER THIS SECTION SHALL PAY A  
9 PROCESSING FEE OF SIXTY-FIVE DOLLARS TO COVER THE ACTUAL COSTS  
10 RELATED TO THE SEALING OF THE CONVICTION RECORDS, WHICH MAY BE  
11 WAIVED BY THE COURT UPON A DETERMINATION OF INDIGENCY.

12 (b) WHEN THE MOTION TO SEAL THE CRIMINAL CASE IS FILED IN  
13 STATE COURT, THE PROCESSING FEES COLLECTED UNDER SUBSECTION  
14 (2)(a) OF THIS SECTION MUST BE TRANSMITTED TO THE STATE TREASURER  
15 AND CREDITED TO THE JUDICIAL STABILIZATION CASH FUND CREATED IN  
16 SECTION 13-32-101 (6).

17 (c) WHEN THE MOTION TO SEAL THE CRIMINAL CASE IS FILED IN  
18 MUNICIPAL COURT, THE PROCESSING FEES COLLECTED UNDER SUBSECTION  
19 (2)(a) OF THIS SECTION MUST BE REPORTED AND PAID AS MUNICIPAL COSTS  
20 AND MUST BE TRANSMITTED TO THE TREASURER OF THE MUNICIPALITY  
21 AND DEPOSITED IN THE GENERAL FUND OF THE MUNICIPALITY PURSUANT  
22 TO SECTION 13-10-115.

23 (3) **Applicability.** (a) THE PROVISIONS OF THIS SECTION APPLY  
24 ONLY TO CONVICTION RECORDS PERTAINING TO JUDGMENTS OF  
25 CONVICTION ENTERED FOR:

26 (I) ANY CONVICTION FOR A VIOLATION OF A PROVISION OF ARTICLE  
27 18 OF TITLE 18 WHEN THE CONVICTION IS FOR A LEVEL 4 DRUG FELONY OR

1 ANY DRUG MISDEMEANOR INVOLVING THE POSSESSION OF A CONTROLLED  
2 SUBSTANCE;

3 (II) ANY CONVICTION FOR A VIOLATION PRIOR TO OCTOBER 1,  
4 2013, OF A PROVISION OF ARTICLE 18 OF TITLE 18 WHEN THE CONVICTION  
5 IS FOR A FELONY OR MISDEMEANOR OFFENSE WHEN THE UNDERLYING  
6 FACTUAL BASIS OF THE OFFENSE DEMONSTRATES THAT THE OFFENSE  
7 WOULD HAVE BEEN CLASSIFIED AS A LEVEL 4 DRUG FELONY OR DRUG  
8 MISDEMEANOR INVOLVING THE POSSESSION OF A CONTROLLED SUBSTANCE  
9 IF THE OFFENSE HAD BEEN COMMITTED ON OR AFTER OCTOBER 1, 2013;  
10 AND

11 (III) ANY CONVICTION FOR A VIOLATION OF ANY MUNICIPAL CODE  
12 WHERE THE OFFENSE INVOLVES THE POSSESSION OF A CONTROLLED  
13 SUBSTANCE.

14 (b) NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
15 CONTRARY, MOTIONS FILED UNDER THIS SECTION ARE PROCEDURAL IN  
16 NATURE, AND SEALING PURSUANT TO THIS SECTION APPLIES  
17 RETROACTIVELY FOR ALL ELIGIBLE CASES.

18 (c) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO  
19 CONVICTION RECORDS THAT ARE IN THE POSSESSION OF A CRIMINAL  
20 JUSTICE AGENCY WHEN AN INQUIRY CONCERNING THE CONVICTION  
21 RECORDS IS MADE BY ANOTHER CRIMINAL JUSTICE AGENCY.

22 **SECTION 6.** In Colorado Revised Statutes, 27-60-106, **add** (5)  
23 as follows:

24 **27-60-106. Jail-based behavioral health services program -**  
25 **purpose - created - funding.** (5) (a) THE OFFICE SHALL REQUIRE A  
26 COUNTY JAIL THAT RECEIVES FUNDING THROUGH THE PROGRAM TO ALLOW  
27 MEDICATION-ASSISTED TREATMENT, AS IT IS DEFINED IN SECTION

1 23-21-803, TO BE PROVIDED, AS NECESSARY, TO INDIVIDUALS CONFINED  
2 IN THE COUNTY JAIL.

3 (b) A SHERIFF WHO IS THE CUSTODIAN OF A COUNTY JAIL OR CITY  
4 AND COUNTY JAIL MAY ENTER INTO AGREEMENTS WITH COMMUNITY  
5 AGENCIES, BEHAVIORAL HEALTH ORGANIZATIONS, AND SUBSTANCE USE  
6 DISORDER TREATMENT ORGANIZATIONS TO ASSIST IN THE DEVELOPMENT  
7 AND ADMINISTRATION OF MEDICATION-ASSISTED TREATMENT IN THE JAIL.

8 **SECTION 7. Appropriation.** (1) For the 2019-20 state fiscal  
9 year, \$1,700,000 is appropriated to the department of human services for  
10 use by the office of behavioral health. This appropriation is from the  
11 general fund. To implement this act, the office may use this appropriation  
12 for jail-based behavioral health services.

13 (2) For the 2019-20 state fiscal year, \$3,450,000 is appropriated  
14 to the department of human services for use by the office of behavioral  
15 health. This appropriation is from the general fund. To implement this act,  
16 the office may use this appropriation for criminal justice diversion  
17 programs.

18 (3) For the 2019-20 state fiscal year, \$1,450,000 is appropriated  
19 to the department of human services for use by the office of behavioral  
20 health. This appropriation is from the general fund. To implement this act,  
21 the office may use this appropriation for criminal justice diversion  
22 programs.

23 **SECTION 8. Act subject to petition - effective date.** This act  
24 takes effect at 12:01 a.m. on the day following the expiration of the  
25 ninety-day period after final adjournment of the general assembly (August  
26 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
27 referendum petition is filed pursuant to section 1 (3) of article V of the



1 state constitution against this act or an item, section, or part of this act  
2 within such period, then the act, item, section, or part will not take effect  
3 unless approved by the people at the general election to be held in  
4 November 2020 and, in such case, will take effect on the date of the  
5 official declaration of the vote thereon by the governor.

Rep. Brittany Pettersen, Chair  
Rep. Perry Buck  
Sen. Cheri Jahn  
Rep. Chris Kennedy  
Sen. Vicki Marble



## Opioid and Other Substance Use Disorders Study Committee

State Capitol Building, Room 029  
Denver, Colorado 80203-1784  
(303) 866-3521

Sen. Kevin Priola, Vice-Chair  
Sen. Dominick Moreno  
Rep. Jonathan Singer  
Sen. Jack Tate  
Rep. James Wilson



December 20, 2018

Dear Governor-Elect Polis:

We, the members of the Opioid and Other Substance Use Disorders Study Committee (Committee), urge you, in your new role as Governor of the State of Colorado, to support the concerted efforts of this Committee and the General Assembly to address the opioid crisis in this state.

Colorado is not the only state urgently addressing this issue; the crisis is being felt nationwide. President Trump declared the opioid crisis a national public health emergency and ordered the acting Health Secretary to declare a public emergency under the "Public Health Services Act." The degree of the crisis is alarming:

- In 2017, nearly 72,000 Americans died from drug overdoses, over 60,000 of those from opioids. The number of fentanyl and heroin overdoses has grown rapidly, totaling over 30,000 in 2017.
- In 2017, in Colorado, there were 1,012 drug overdose deaths, with 600 of those deaths from opioids or heroin. While fentanyl is newer to Colorado, fentanyl overdoses have risen quickly, from 41 in 2015, to 90 in 2017. Colorado is on the leading edge of a "third wave" of overdoses seen in other states: first prescription opioids, then heroin, then fentanyl.
- The Centers for Disease Control and Prevention (CDC) has declared the opioid crisis a "top four" crisis facing our nation, to be viewed as seriously as the other top national health threats: cancer, heart disease, and obesity.
- For the first time in 13 years, this year the U.S. Surgeon General issued a public health warning advising of the need to act swiftly and decisively to deploy naloxone (an overdose reversal medication) in all settings including medical, public health, harm reduction, and law enforcement settings. The goal is to provide this effective antidote to at-risk persons and stem the tide of overdose deaths as we collectively work to address the crisis from many angles.

Unfortunately, the crisis is expected to get worse before it gets better. Given that it usually takes 10 to 12 years for a person to move from "first use" to tolerance, dependence, addiction, overdose, and death, Colorado is not likely to see a downturn in the rate of overdose deaths for another seven to eight years. Many of those who died of an opioid overdose in 2017 had reported their "first use" from 2005 to 2007, and while opioid prescribing is declining, we still have tens of thousands of Coloradans who need, or will need, treatment to prevent them from suffering a similar demise.

The good news is that Colorado is moving in the right direction. Through the work of this Committee and the General Assembly, the Executive Branch Agencies, the Attorney General's Substance Abuse

Trend and Response Task Force, the Colorado Consortium for Prescription Drug Abuse Prevention, treatment providers, and many committed stakeholders, Colorado can boast some promising achievements, including:

- The only state-funded safe disposal program to put unused drugs in collection boxes, now in all 64 counties of the state;
- Robust ongoing public awareness campaigns that reduce the stigma of seeking treatment;
- Provider education programs that have trained over 5,000 physicians in the past four years and are reaching thousands more this coming year;
- Naloxone programs through the Colorado Office of the Attorney General to equip law enforcement officers with naloxone to reverse opioid overdoses;
- Strong cooperation of all major state agencies involved in the crisis, including the Office of Behavioral Health in the Department of Human Services, the Department of Public Health and Environment, the Department of Regulatory Agencies, and the Department of Health Care Policy and Financing. These agencies have collaborated, leveraged grant funding streams, eliminated duplication, and maximized federal funding for maximum impact;
- Strong collaboration with all state medical, pharmacy, nursing, dental, and behavioral health and addiction treatment providers and provider associations; and
- Committee bills and needed legislative solutions to remove barriers to access to treatment for persons experiencing substance use disorders, including legislation seeking a residential and inpatient substance use disorders treatment option in the state's Medicaid program.

While Colorado is moving in the right direction, we need to do more. It is imperative that we continue to build on our work in Colorado; we are truly saving lives. Combatting this crisis is going to take statewide commitment that lasts more than one legislative session and more than one governor's term. Therefore, the Committee urges the new Governor-Elect to make a commitment to support Colorado's efforts by:

- Raising awareness of the opioid crisis;
- Prioritizing financial and other resources towards solutions that help Coloradans receive the treatment they need when they need it;
- Removing unnecessary state-level rule and administrative barriers to access to treatment;
- Facilitating interagency cooperation on substance use disorder issues; and
- Joining in the creation of solutions.

We are learning what needs to be done in Colorado, and we have the relationships and collaboration in place at an unprecedented level to do the work. Now is the time to redouble our efforts and push even harder. The Committee urges the Governor-Elect to join in this fight; lives depend on it.

Sincerely,

Representative Brittany Pettersen, Chair

cc: Joint Budget Committee