

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0975.01 Conrad Imel x2313

SENATE BILL 22-188

SENATE SPONSORSHIP

Fields and Coram,

HOUSE SPONSORSHIP

Roberts and Titone,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT
101 **CONCERNING BEHAVIORAL HEALTH SUPPORT FOR ADVOCATES IN THE**
102 **CRIMINAL JUSTICE SYSTEM.**

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 creates the public defender and prosecutor behavioral health support grant program (grant program) in the department of local affairs (department). The department administers the program. The office of the state public defender and district attorney offices are eligible for a grant. A grant recipient may use grant money for counseling services, including reimbursements for the costs of counseling services; training

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.

and education programs that teach the symptoms of job-related trauma; how to prevent and treat trauma; and peer support programs. The department is annually required to report to the general assembly about the grant program.

The bill prohibits a district attorney or public defender peer support team member from being examined as a witness in court about any communication between the peer support team member and a person receiving peer support services without the consent of the person who received the peer support services.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 24-32-3502** as
3 follows:

4 **24-32-3502. Public defender and prosecutor behavioral health**
5 **support grant program - policies - report - fund - repeal.** (1) THERE
6 IS CREATED IN THE DEPARTMENT OF LOCAL AFFAIRS, REFERRED TO IN THIS
7 SECTION AS THE "DEPARTMENT", THE PUBLIC DEFENDER AND PROSECUTOR
8 BEHAVIORAL HEALTH SUPPORT GRANT PROGRAM TO PROVIDE GRANTS TO
9 THE OFFICE OF THE STATE PUBLIC DEFENDER AND DISTRICT ATTORNEY'S
10 OFFICES FOR THE PURPOSES DESCRIBED IN SUBSECTION (2) OF THIS
11 SECTION.

12 (2) A GRANT RECIPIENT MAY USE A GRANT AWARD FOR THE
13 FOLLOWING:

14 (a) COUNSELING SERVICES FOR PUBLIC DEFENDERS, PROSECUTORS,
15 AND OTHER EMPLOYEES OF A PUBLIC DEFENDER'S OR DISTRICT ATTORNEY'S
16 OFFICE, INCLUDING REIMBURSEMENTS FOR THOSE WHO HAVE PAID THE
17 COSTS OF THEIR OWN COUNSELING SERVICES PROVIDED BY A LICENSED
18 MENTAL HEALTH PROFESSIONAL;

19 (b) TRAINING AND EDUCATION PROGRAMS THAT TEACH PUBLIC
20 DEFENDERS, PROSECUTORS, AND EMPLOYEES OF A PUBLIC DEFENDER'S OR

1 DISTRICT ATTORNEY'S OFFICE THE SYMPTOMS OF JOB-RELATED TRAUMA
2 AND HOW TO PREVENT AND TREAT TRAUMA; AND

3 (c) PEER SUPPORT PROGRAMS FOR EMPLOYEES OF THE OFFICE OF
4 THE STATE PUBLIC DEFENDER OR A DISTRICT ATTORNEY'S OFFICE.

5 (3) THE OFFICE OF THE STATE PUBLIC DEFENDER AND A DISTRICT
6 ATTORNEY'S OFFICE ARE ELIGIBLE TO APPLY FOR A GRANT. IN ORDER TO
7 RECEIVE A GRANT, AN ELIGIBLE ENTITY MUST SUBMIT A GRANT
8 APPLICATION TO THE DEPARTMENT IN ACCORDANCE WITH THE
9 DEPARTMENT'S POLICIES AND PROCEDURES.

10 (4) THE DEPARTMENT SHALL ADMINISTER THE GRANT PROGRAM
11 AND, SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL AWARD GRANTS AS
12 PROVIDED IN THIS SECTION FROM THE FUND CREATED IN SUBSECTION (7)
13 OF THIS SECTION.

14 (5) THE DEPARTMENT SHALL DEVELOP POLICIES AND PROCEDURES
15 NECESSARY TO IMPLEMENT AND ADMINISTER THE GRANT PROGRAM. AT A
16 MINIMUM, THE POLICIES AND PROCEDURES MUST SPECIFY:

17 (a) DEADLINES FOR APPLYING FOR GRANTS, THE FORM OF THE
18 GRANT PROGRAM APPLICATION, AND THE TIME FRAMES FOR DISTRIBUTING
19 GRANT MONEY;

20 (b) THE CRITERIA FOR THE DEPARTMENT TO USE IN AWARDING
21 GRANTS AND DETERMINING THE AMOUNT OF A GRANT; AND

22 (c) A SCHEDULE FOR A GRANT RECIPIENT TO REPORT TO THE
23 DEPARTMENT ON THE USE OF A GRANT AWARD AND ANY ADDITIONAL
24 REPORTING REQUIREMENTS.

25 (6) (a) ON A SCHEDULE DETERMINED BY THE DEPARTMENT, EACH
26 GRANT RECIPIENT SHALL SUBMIT TO THE DEPARTMENT A REPORT THAT
27 DESCRIBES AND INCLUDES DOCUMENTATION OF THE GRANT RECIPIENT'S

1 USE OF THE GRANT MONEY AND ANY ADDITIONAL INFORMATION REQUIRED
2 BY THE DEPARTMENT. THE REPORT MUST NOT INCLUDE ANY PERSONALLY
3 IDENTIFYING INFORMATION REGARDING A PERSON WHO RECEIVED
4 SERVICES, TRAINING, OR EDUCATION WITH GRANT MONEY, INCLUDING
5 INFORMATION THAT COULD BE USED TO IDENTIFY A PERSON, AND MUST
6 NOT INCLUDE INFORMATION THAT MAY VIOLATE THE CONFIDENTIALITY OF
7 COMMUNICATIONS MADE WHILE PARTICIPATING IN A PROGRAM OR SERVICE
8 FUNDED WITH GRANT MONEY.

9 (b) BEGINNING JANUARY 1, 2023, THE DEPARTMENT SHALL
10 INCLUDE A SUMMARIZED REPORT OF THE ACTIVITIES OF THE GRANT
11 PROGRAM IN THE DEPARTMENT'S ANNUAL PRESENTATION TO THE
12 COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203.
13 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORTING
14 REQUIREMENT IN THIS SUBSECTION (6)(b) CONTINUES INDEFINITELY.

15 (7) (a) THE PUBLIC DEFENDER AND PROSECUTOR BEHAVIORAL
16 HEALTH SUPPORT FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS
17 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF GIFTS, GRANTS,
18 AND DONATIONS CREDITED TO THE FUND PURSUANT TO SUBSECTION (7)(d)
19 OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY
20 MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER
21 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
22 AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

23 (b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
24 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR
25 THE PURPOSES OF THIS SECTION. THE DEPARTMENT MAY USE UP TO FIVE
26 PERCENT OF THE MONEY ANNUALLY APPROPRIATED TO THE FUND TO PAY
27 THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PUBLIC

1 DEFENDER AND PROSECUTOR BEHAVIORAL HEALTH SUPPORT GRANT
2 PROGRAM.

3 (c) (I) WITHIN THREE DAYS OF THE EFFECTIVE DATE OF THIS
4 SUBSECTION (7)(c), THE STATE TREASURER SHALL TRANSFER FIVE
5 HUNDRED THOUSAND DOLLARS TO THE FUND FROM THE PEACE OFFICERS
6 BEHAVIORAL HEALTH SUPPORT AND COMMUNITY PARTNERSHIP FUND
7 CREATED IN SECTION 24-32-3501 (7).

8 (II) THIS SUBSECTION (7)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

9 (d) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS,
10 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE
11 PURPOSES OF THIS SECTION. THE DEPARTMENT SHALL TRANSMIT ALL
12 MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE
13 TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

14 **SECTION 2.** In Colorado Revised Statutes, 13-90-107, **amend**
15 (1)(m)(III) and (1)(m)(IV)(A); and **add** (1)(m)(I.6) and (1)(m)(II)(A.3)
16 as follows:

17 **13-90-107. Who may not testify without consent - definitions.**
18 (1) There are particular relations in which it is the policy of the law to
19 encourage confidence and to preserve it inviolate; therefore, a person
20 must not be examined as a witness in the following cases:

21 (m) (I.6) A DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER
22 SUPPORT TEAM MEMBER SHALL NOT BE EXAMINED WITHOUT THE CONSENT
23 OF THE PERSON TO WHOM PEER SUPPORT SERVICES HAVE BEEN PROVIDED
24 AS TO ANY COMMUNICATION MADE BY THE PERSON TO THE PEER SUPPORT
25 TEAM MEMBER UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION
26 (1)(m)(III) OF THIS SECTION; NOR SHALL A RECIPIENT OF PEER SUPPORT
27 SERVICES BE EXAMINED AS TO ANY SUCH COMMUNICATION WITHOUT THE

1 RECIPIENT'S CONSENT.

2 (II) ~~For purposes of this paragraph (m)~~ AS USED IN THIS
3 SUBSECTION (1)(m):

4 (A.3) "DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT
5 TEAM MEMBER" MEANS AN EMPLOYEE OF A DISTRICT ATTORNEY'S OFFICE
6 OR A PUBLIC DEFENDER'S OFFICE WHO HAS BEEN TRAINED IN PEER SUPPORT
7 SKILLS AND WHO IS OFFICIALLY DESIGNATED BY A DISTRICT ATTORNEY OR
8 THE STATE PUBLIC DEFENDER AS A MEMBER OF A DISTRICT ATTORNEY'S
9 OFFICE PEER SUPPORT TEAM OR AN OFFICE OF THE STATE PUBLIC DEFENDER
10 PEER SUPPORT TEAM.

11 (III) ~~The provisions of~~ This subsection (1)(m) ~~apply~~ APPLIES only
12 to communications made during interactions conducted by a peer support
13 team member:

14 (A) Acting in the person's official capacity as a law enforcement
15 or firefighter peer support team member, ~~or an~~ emergency medical service
16 provider or rescue unit peer support team member, OR DISTRICT
17 ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT TEAM MEMBER; and

18 (B) Functioning within the written peer support guidelines that are
19 in effect for the person's respective law enforcement agency, fire
20 department, emergency medical service agency, ~~or~~ rescue unit, DISTRICT
21 ATTORNEY'S OFFICE, OR PUBLIC DEFENDER'S OFFICE.

22 (IV) This subsection (1)(m) does not apply in cases in which:

23 (A) A law enforcement or firefighter peer support team member,
24 ~~or~~ emergency medical service provider or rescue unit peer support team
25 member, OR DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT
26 TEAM MEMBER was a witness or a party to an incident which prompted the
27 delivery of peer support services;

1 **SECTION 3. Effective date.** This act takes effect upon passage;
2 except that section 24-32-3502 (8)(c), Colorado Revised Statutes, enacted
3 in section 1 of this act, takes effect only if Senate Bill 22-005 becomes
4 law, in which case section 24-32-3502 (8)(c) takes effect on the effective
5 date of this act or Senate Bill 22-005, whichever is later.

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly; except
9 that, if a referendum petition is filed pursuant to section 1 (3) of article V
10 of the state constitution against this act or an item, section, or part of this
11 act within such period, then the act, item, section, or part will not take
12 effect unless approved by the people at the general election to be held in
13 November 2022 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.