

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 22-0975.01 Conrad Imel x2313

SENATE BILL 22-188

SENATE SPONSORSHIP

Fields and Coram, Buckner, Fenberg, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Sonnenberg, Story, Winter, Zenzinger

HOUSE SPONSORSHIP

Roberts and Titone,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING BEHAVIORAL HEALTH SUPPORT FOR ADVOCATES IN THE**
102 **CRIMINAL JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH,**
103 **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 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,

HOUSE
2nd Reading Unamended
May 9, 2022

SENATE
3rd Reading Unamended
April 13, 2022

SENATE
Amended 2nd Reading
April 12, 2022

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.

including reimbursements for the costs of counseling services; training 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** **program - policies - report - fund - repeal.** (1) (a) 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 PROGRAM TO PROVIDE FUNDING TO THE
9 OFFICE OF THE STATE PUBLIC DEFENDER AND DISTRICT ATTORNEY'S
10 OFFICES FOR THE PURPOSES DESCRIBED IN SUBSECTION (2) OF THIS
11 SECTION.

12 (b) THE DEPARTMENT SHALL ALLOCATE FIFTY PERCENT OF THE
13 MONEY APPROPRIATED FOR THE PROGRAM AND ANY GIFTS, GRANTS, AND
14 DONATIONS RECEIVED BY THE DEPARTMENT FOR THE PROGRAM TO THE
15 OFFICE OF THE STATE PUBLIC DEFENDER AND THE REMAINING FIFTY
16 PERCENT TO THE COLORADO DISTRICT ATTORNEYS' COUNCIL, REFERRED
17 TO IN THIS SECTION AS THE "COUNCIL", TO AWARD GRANTS TO DISTRICT
18 ATTORNEY'S OFFICES PURSUANT TO SUBSECTION (3) OF THIS SECTION.

19 (2) THE OFFICE OF THE STATE PUBLIC DEFENDER MAY USE MONEY
20 ALLOCATED TO IT PURSUANT TO THIS SECTION, AND A GRANT RECIPIENT

1 1 MAY USE A GRANT AWARD, FOR THE FOLLOWING:

2 2 (a) COUNSELING SERVICES FOR PUBLIC DEFENDERS, PROSECUTORS,
3 3 AND OTHER EMPLOYEES OF A PUBLIC DEFENDER'S OR DISTRICT ATTORNEY'S
4 4 OFFICE, INCLUDING REIMBURSEMENTS FOR THOSE WHO HAVE PAID THE
5 5 COSTS OF THEIR OWN COUNSELING SERVICES PROVIDED BY A LICENSED
6 6 MENTAL HEALTH PROFESSIONAL;

7 7 (b) TRAINING AND EDUCATION PROGRAMS THAT TEACH PUBLIC
8 8 DEFENDERS, PROSECUTORS, AND EMPLOYEES OF A PUBLIC DEFENDER'S OR
9 9 DISTRICT ATTORNEY'S OFFICE THE SYMPTOMS OF JOB-RELATED TRAUMA
10 10 AND HOW TO PREVENT AND TREAT TRAUMA; AND

11 11 (c) PEER SUPPORT PROGRAMS FOR EMPLOYEES OF THE OFFICE OF
12 12 THE STATE PUBLIC DEFENDER OR A DISTRICT ATTORNEY'S OFFICE.

13 13 (3) (a) THE COUNCIL SHALL ADMINISTER A GRANT PROGRAM TO
14 14 AWARD GRANTS TO INDIVIDUAL DISTRICT ATTORNEY'S OFFICES. THE
15 15 COUNCIL SHALL DEVELOP POLICIES FOR THE GRANT PROGRAM, WHICH
16 16 MUST SPECIFY THE FORM AND DEADLINES FOR GRANT APPLICATIONS, THE
17 17 CRITERIA FOR AWARDING GRANTS, THE TIME FRAMES FOR AWARDING
18 18 GRANTS AND DISTRIBUTING GRANT MONEY, AND ANY INFORMATION A
19 19 GRANT RECIPIENT MUST REPORT TO THE COUNCIL.

20 20 (b) IN ORDER TO RECEIVE A GRANT AWARD, A DISTRICT
21 21 ATTORNEY'S OFFICE MUST SUBMIT AN APPLICATION TO THE COUNCIL IN
22 22 ACCORDANCE WITH THE COUNCIL'S POLICIES. THE COUNCIL SHALL REVIEW
23 23 APPLICATIONS. ON OR BEFORE OCTOBER 1 OF EACH YEAR AND SUBJECT TO
24 24 AVAILABLE MONEY, THE COUNCIL SHALL AWARD GRANTS.

25 25 (4) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE OFFICE OF THE
26 26 STATE PUBLIC DEFENDER AND THE COUNCIL SHALL EACH REPORT ABOUT
27 27 THE PROGRAM TO THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE

1 AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR
2 COMMITTEES.

3 (5) (a) THE PUBLIC DEFENDER AND PROSECUTOR BEHAVIORAL
4 HEALTH SUPPORT FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS
5 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF GIFTS, GRANTS,
6 AND DONATIONS CREDITED TO THE FUND PURSUANT TO SUBSECTION (5)(d)
7 OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY
8 MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER
9 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
10 AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

11 (b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
12 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND FOR
13 THE PURPOSES OF THIS SECTION.

14 (c) (I) FOR STATE FISCAL YEAR 2022-23, THE GENERAL ASSEMBLY
15 SHALL APPROPRIATE FIVE HUNDRED THOUSAND DOLLARS TO THE
16 DEPARTMENT FOR THE PURPOSES OF THIS SECTION.

17 (II) THIS SUBSECTION (5)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

18 (d) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS,
19 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE
20 PURPOSES OF THIS SECTION. THE DEPARTMENT SHALL TRANSMIT ALL
21 MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE
22 TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

23 (6) THE OFFICE OF THE STATE PUBLIC DEFENDER MAY RECEIVE AND
24 EXPEND MONEY PURSUANT TO THIS SECTION WITHOUT FURTHER
25 APPROPRIATION.

26 **SECTION 2.** In Colorado Revised Statutes, 13-90-107, **amend**
27 (1)(m)(III) and (1)(m)(IV)(A); and **add** (1)(m)(I.6) and (1)(m)(II)(A.3)

1 as follows:

2 **13-90-107. Who may not testify without consent - definitions.**

3 (1) There are particular relations in which it is the policy of the law to
4 encourage confidence and to preserve it inviolate; therefore, a person
5 must not be examined as a witness in the following cases:

6 (m) (I.6) A DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER
7 SUPPORT TEAM MEMBER SHALL NOT BE EXAMINED WITHOUT THE CONSENT
8 OF THE PERSON TO WHOM PEER SUPPORT SERVICES HAVE BEEN PROVIDED
9 AS TO ANY COMMUNICATION MADE BY THE PERSON TO THE PEER SUPPORT
10 TEAM MEMBER UNDER THE CIRCUMSTANCES DESCRIBED IN SUBSECTION
11 (1)(m)(III) OF THIS SECTION; NOR SHALL A RECIPIENT OF PEER SUPPORT
12 SERVICES BE EXAMINED AS TO ANY SUCH COMMUNICATION WITHOUT THE
13 RECIPIENT'S CONSENT.

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

16 (A.3) "DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT
17 TEAM MEMBER" MEANS AN EMPLOYEE OF A DISTRICT ATTORNEY'S OFFICE
18 OR A PUBLIC DEFENDER'S OFFICE WHO HAS BEEN TRAINED IN PEER SUPPORT
19 SKILLS AND WHO IS OFFICIALLY DESIGNATED BY A DISTRICT ATTORNEY OR
20 THE STATE PUBLIC DEFENDER AS A MEMBER OF A DISTRICT ATTORNEY'S
21 OFFICE PEER SUPPORT TEAM OR AN OFFICE OF THE STATE PUBLIC DEFENDER
22 PEER SUPPORT TEAM.

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

26 (A) Acting in the person's official capacity as a law enforcement
27 or firefighter peer support team member, ~~or an~~ emergency medical service

1 provider or rescue unit peer support team member, OR DISTRICT
2 ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT TEAM MEMBER; and

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

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

8 (A) A law enforcement or firefighter peer support team member,
9 or emergency medical service provider or rescue unit peer support team
10 member, OR DISTRICT ATTORNEY OR PUBLIC DEFENDER PEER SUPPORT
11 TEAM MEMBER was a witness or a party to an incident which prompted the
12 delivery of peer support services;

13 **SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal
14 year, \$500,000 is appropriated to the public defender and prosecutor
15 behavioral health support fund created in section 24-32-3502 (5)(a),
16 C.R.S. This appropriation is from the general fund. The department of
17 local affairs is responsible for the accounting related to this appropriation.

18 (2) For the 2022-23 state fiscal year, \$500,000 is appropriated to
19 the department of local affairs. This appropriation is from reappropriated
20 funds in the public defender and prosecutor behavioral health support
21 fund under subsection (1) of this section. To implement this act, the
22 department may use this appropriation for the public defender and
23 prosecutor behavioral health support program.

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25 **SECTION 4. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly; except

1 that, if a referendum petition is filed pursuant to section 1 (3) of article V
2 of the state constitution against this act or an item, section, or part of this
3 act within such period, then the act, item, section, or part will not take
4 effect unless approved by the people at the general election to be held in
5 November 2022 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.