

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0725.01 Jerry Barry x4341

HOUSE BILL 15-1267

HOUSE SPONSORSHIP

Salazar, Saine, Duran, Esgar, Garnett, Ginal, Kagan, Lee, McCann, Melton, Mitsch Bush, Moreno, Rosenthal, Singer, Vigil, Williams, Winter

SENATE SPONSORSHIP

Guzman, Aguilar

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CONDITIONS OF PROBATION RELATING TO MEDICAL**
102 **MARIJUANA.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, a person on probation is prohibited from committing another offense. The possession and use of marijuana is an offense under federal law.

The bill makes an exception to the probation conditions for the possession and use of medical marijuana pursuant to the state constitution unless the person is convicted of an offense related to medical marijuana.

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

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-204, **amend**
3 (1) and (2) (a) (VIII) as follows:

4 **18-1.3-204. Conditions of probation - interstate compact**
5 **probation transfer cash fund - creation.** (1) (a) The conditions of
6 probation shall be such as the court in its discretion deems reasonably
7 necessary to ensure that the defendant will lead a law-abiding life and to
8 assist the defendant in doing so. The court shall provide as explicit
9 conditions of every sentence to probation that the defendant not commit
10 another offense during the period for which the sentence remains subject
11 to revocation, that the defendant make restitution pursuant to part 6 of this
12 article and article 18.5 of title 16, C.R.S., that the defendant comply with
13 any court orders regarding substance abuse testing and treatment issued
14 pursuant to sections 18-1.3-209 and 18-1.3-211 and article 11.5 of title
15 16, C.R.S., and that the defendant comply with any court orders regarding
16 the treatment of sex offenders issued pursuant to article 11.7 of title 16,
17 C.R.S. The court shall provide as an explicit condition of every sentence
18 to probation that the defendant not harass, molest, intimidate, retaliate
19 against, or tamper with the victim of or any prosecution witnesses to the
20 crime, unless the court makes written findings that such condition is not
21 necessary.

22 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
23 THIS SUBSECTION (1), UNLESS THE DEFENDANT IS SENTENCED TO
24 PROBATION FOR A CONVICTION OF A CRIME UNDER ARTICLE 43.3 OF TITLE
25 12, C.R.S., THE POSSESSION OR USE OF MEDICAL MARIJUANA, AS
26 AUTHORIZED PURSUANT TO SECTION 14 OF ARTICLE XVIII OF THE STATE

1 CONSTITUTION, SHALL NOT BE CONSIDERED ANOTHER OFFENSE SUCH THAT
2 ITS USE CONSTITUTES A VIOLATION OF THE TERMS OF PROBATION.

3 (2) (a) When granting probation, the court may, as a condition of
4 probation, require that the defendant:

5 (VIII) Refrain from excessive use of alcohol or any unlawful use
6 of controlled substances, as defined in section 18-18-102 (5), or of any
7 other dangerous or abusable drug without a prescription; EXCEPT THAT,
8 THE COURT SHALL NOT, AS A CONDITION OF PROBATION, PROHIBIT THE
9 POSSESSION OR USE OF MEDICAL MARIJUANA, AS AUTHORIZED PURSUANT
10 TO SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, UNLESS:

11 (A) THE DEFENDANT IS SENTENCED TO PROBATION FOR
12 CONVICTION OF A CRIME UNDER ARTICLE 43.3 OF TITLE 12, C.R.S.; OR

13 (B) THE COURT DETERMINES, BASED ON THE ASSESSMENT AS
14 REQUIRED BY SECTION 18-1.3-209, A PROHIBITION AGAINST THE
15 POSSESSION OR USE OF MEDICAL MARIJUANA IS NECESSARY AND
16 APPROPRIATE TO ACCOMPLISH THE GOALS OF SENTENCING AS STATED IN
17 18-1-102.5.

18 **SECTION 2. Applicability.** This act applies to persons on
19 probation on or after the effective date of this act.

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