

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0957.01 Michael Dohr x4347

SENATE BILL 16-098

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING RESTORING JUDICIAL DISCRETION IN CRIMINAL
102 SENTENCING.

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>.)

The bill repeals many existing mandatory minimum sentences for imprisonment, fines, and community service. The bill repeals the extraordinary risk sentencing enhancer. The bill classifies certain child abuse crimes and stalking crimes as crimes of violence. Under current law there are numerous mandatory sentences in which the court is required to sentence to at least the midpoint of the presumptive range. The bill

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.

changes that sentencing requirement to at least the minimum of the presumptive range. The bill increases the maximum range for class 3 to 6 felony crimes of violence. The bill repeals several requirements that a court sentence a defendant to consecutive sentences rather than concurrent sentences.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-301, **amend**
3 (1) (a) as follows:

4 **18-1.3-301. Authority to place offenders in community**
5 **corrections programs.** (1) (a) Any judge of a district court may refer
6 any offender convicted of a felony to a community corrections program.
7 ~~unless such offender is required to be sentenced pursuant to section~~
8 ~~18-1.3-406 (1) or a sentencing provision that requires a sentence to the~~
9 ~~department of corrections.~~ If an offender who is sentenced pursuant to
10 section 18-1.3-406 (1) has such sentence modified upon the finding of
11 unusual and extenuating circumstances pursuant to such section, such
12 offender may be referred to a community corrections program if such
13 offender is otherwise eligible for such program and is approved for
14 placement pursuant to section 17-27-103 (5), C.R.S., and section
15 17-27-104 (3), C.R.S. For the purposes of this article, persons sentenced
16 pursuant to the provisions of sections 19-2-908 (1) (a) (I) and (1) (c) (I)
17 (B) and 19-2-910 (2), C.R.S., shall be deemed to be offenders.

18 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-302, **amend**
19 (2) (a) as follows:

20 **18-1.3-302. Legislative declaration - offenders who may be**
21 **sentenced to the specialized restitution and community service**
22 **program.** (2) Any offender shall be eligible to be placed in a specialized
23 restitution and community service program if:

1 (a) The offender is not eligible for probation pursuant to section
2 18-1.3-201, and has been convicted of an offense other than a crime of
3 violence, as described in section 18-1.3-406 (2) (a), or any felony offense
4 committed against a child set forth in articles 3, 6, and 7 of this title, ~~or~~
5 ~~an offense that requires incarceration or imprisonment in the department~~
6 ~~of corrections or community corrections~~, or any sexual offense as defined
7 in section 18-1.3-1003; and

8 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-401, **amend**
9 (1) (b) (I), (1) (b) (II), (1) (c), (8) (a) introductory portion, (8) (d) (I), (8)
10 (e) (I), (8) (e.5), (8) (g), (11), and (13) (a) introductory portion; and
11 **repeal** (1) (b) (IV) and (10) as follows:

12 **18-1.3-401. Felonies classified - presumptive penalties.**
13 (1) (b) (I) Except as provided in subsection (6) and subsection (8) of this
14 section, ~~and in section 18-1.3-804~~, a person who has been convicted of a
15 class 2, class 3, class 4, class 5, or class 6 felony shall be punished by the
16 imposition of a definite sentence which is within the presumptive ranges
17 set forth in paragraph (a) of this subsection (1). In imposing the sentence
18 within the presumptive range, the court shall consider the nature and
19 elements of the offense, the character and record of the offender, and all
20 aggravating or mitigating circumstances surrounding the offense and the
21 offender. The prediction of the potential for future criminality by a
22 particular defendant, unless based on prior criminal conduct, shall not be
23 considered in determining the length of sentence to be imposed.

24 (II) As to any person sentenced for a felony committed on or after
25 July 1, 1985, a person may be sentenced to imprisonment as described in
26 subparagraph (I) of this paragraph (b) or to pay a fine that is within the
27 presumptive ranges set forth in subparagraph (III) of paragraph (a) of this

1 subsection (1) or to both such fine and imprisonment; except that any
2 person who has been twice convicted of a felony under the laws of this
3 state, any other state, or the United States prior to the conviction for
4 which he or she is being sentenced shall not be eligible to receive a fine
5 in lieu of any sentence to imprisonment as described in subparagraph (I)
6 of this paragraph (b). ~~but shall be sentenced to at least the minimum~~
7 ~~sentence specified in subparagraph (V) of paragraph (a) of this subsection~~
8 ~~(1) and may receive a fine in addition to said sentence.~~

9 (IV) ~~If a person is convicted of assault in the first degree pursuant~~
10 ~~to section 18-3-202 or assault in the second degree pursuant to section~~
11 ~~18-3-203 (1) (c.5), and the victim is a peace officer, firefighter, or~~
12 ~~emergency medical service provider engaged in the performance of his~~
13 ~~or her duties, as defined in section 18-1.3-501 (1.5) (b), notwithstanding~~
14 ~~the provisions of subparagraph (III) of paragraph (a) of this subsection (1)~~
15 ~~and subparagraph (II) of this paragraph (b), the court shall sentence the~~
16 ~~person to the department of corrections. In addition to a term of~~
17 ~~imprisonment, the court may impose a fine on the person pursuant to~~
18 ~~subparagraph (III) of paragraph (a) of this subsection (1).~~

19 (c) Except as otherwise provided by statute, felonies are
20 punishable by imprisonment in any correctional facility under the
21 supervision of the executive director of the department of corrections.
22 Nothing in this section shall limit the authority granted in part 8 of this
23 article to increase sentences for habitual criminals. Nothing in this section
24 shall limit the authority granted in parts 9 and 10 of this article to
25 sentence sex offenders to the department of corrections or to sentence sex
26 offenders to probation for an indeterminate term. ~~Nothing in this section~~
27 ~~shall limit the authority granted in section 18-1.3-804 for increased~~

1 ~~sentences for habitual burglary offenders.~~

2 (8) (a) The presence of any one or more of the following
3 extraordinary aggravating circumstances shall require the court, if it
4 sentences the defendant to incarceration, to sentence the defendant to a
5 term of at least the ~~midpoint~~ MINIMUM in the presumptive range but not
6 more than ~~twice the maximum term authorized in the presumptive range~~
7 ~~for the punishment of a felony~~ FORTY-EIGHT YEARS FOR A CLASS 2
8 FELONY, THIRTY-TWO YEARS FOR A CLASS 3 FELONY, SIXTEEN YEARS FOR
9 A CLASS 4 FELONY, EIGHT YEARS FOR A CLASS 5 FELONY, AND FOUR YEARS
10 FOR A CLASS 6 FELONY WITHOUT SUSPENSION:

11 (d) (I) If the defendant is convicted of the class 2 or the class 3
12 felony of child abuse under section 18-6-401 (7) (a) (I) or (7) (a) (III), the
13 court, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, shall ~~be~~
14 ~~required to~~ sentence the defendant to the department of corrections for a
15 term of at least the ~~midpoint~~ MINIMUM in the presumptive range but not
16 more than ~~twice the maximum term authorized in the presumptive range~~
17 ~~for the punishment of that class felony~~ FORTY-EIGHT YEARS FOR A CLASS
18 2 FELONY OR THIRTY-TWO YEARS FOR A CLASS 3 FELONY WITHOUT
19 SUSPENSION.

20 (e) (I) If the defendant is convicted of the class 2 felony of sexual
21 assault in the first degree under section 18-3-402 (3), commission of
22 which offense occurs prior to November 1, 1998, the court shall be
23 required to sentence the defendant to a term of at least the ~~midpoint~~
24 MINIMUM in the presumptive range but not more than ~~twice the maximum~~
25 ~~term authorized in the presumptive range for the punishment of that class~~
26 ~~of felony~~ FORTY-EIGHT YEARS FOR THE CLASS 2 FELONY WITHOUT
27 SUSPENSION.

1 (e.5) If the defendant is convicted of the class 2 felony of sexual
2 assault under section 18-3-402 (5) or the class 2 felony of sexual assault
3 in the first degree under section 18-3-402 (3) as it existed prior to July 1,
4 2000, commission of which offense occurs on or after November 1, 1998,
5 the court shall be required to sentence the defendant to the department of
6 corrections for an indeterminate sentence of at least the ~~midpoint~~
7 MINIMUM in the presumptive range for the punishment of that class of
8 felony up to the defendant's natural life.

9 (g) If the defendant is convicted of class 4 or class 3 felony
10 vehicular homicide under section 18-3-106 (1) (a) or (1) (b), and while
11 committing vehicular homicide the defendant was in immediate flight
12 from the commission of another felony, the court, IF IT SENTENCES THE
13 DEFENDANT TO INCARCERATION, shall ~~be required to~~ sentence the
14 defendant to the department of corrections for a term of at least the
15 ~~midpoint~~ MINIMUM in the presumptive range but not more than ~~twice the~~
16 ~~maximum term authorized in the presumptive range for the punishment~~
17 ~~of the class of felony vehicular homicide of which the defendant is~~
18 ~~convicted~~ THIRTY-TWO YEARS FOR A CLASS 3 FELONY OR SIXTEEN YEARS
19 FOR A CLASS 4 FELONY WITHOUT SUSPENSION.

20 (10) (a) ~~The general assembly hereby finds that certain crimes~~
21 ~~which are listed in paragraph (b) of this subsection (10) present an~~
22 ~~extraordinary risk of harm to society and therefore, in the interest of~~
23 ~~public safety, for such crimes which constitute class 3 felonies, the~~
24 ~~maximum sentence in the presumptive range shall be increased by four~~
25 ~~years; for such crimes which constitute class 4 felonies, the maximum~~
26 ~~sentence in the presumptive range shall be increased by two years; for~~
27 ~~such crimes which constitute class 5 felonies, the maximum sentence in~~

1 the presumptive range shall be increased by one year; for such crimes
2 which constitute class 6 felonies, the maximum sentence in the
3 presumptive range shall be increased by six months.

4 (b) Crimes that present an extraordinary risk of harm to society
5 shall include the following:

6 (I) to (VIII) Repealed.

7 (IX) Aggravated robbery, as defined in section 18-4-302;

8 (X) Child abuse, as defined in section 18-6-401;

9 (XI) Unlawful distribution, manufacturing, dispensing, sale, or
10 possession of a controlled substance with the intent to sell, distribute,
11 manufacture, or dispense, as defined in section 18-18-405;

12 (XII) Any crime of violence, as defined in section 18-1.3-406;

13 (XIII) Stalking, as described in section 18-9-111 (4), as it existed
14 prior to August 11, 2010, or section 18-3-602;

15 (XIV) Sale or distribution of materials to manufacture controlled
16 substances, as described in section 18-18-412.7;

17 (XV) Felony invasion of privacy for sexual gratification, as
18 described in section 18-3-405.6;

19 (XVI) A class 3 felony offense of human trafficking for
20 involuntary servitude, as described in section 18-3-503; and

21 (XVII) A class 3 felony offense of human trafficking for sexual
22 servitude, as described in section 18-3-504.

23 (c) Repealed.

24 (11) When it shall appear to the satisfaction of the court that the
25 ends of justice and the best interest of the public, as well as the defendant,
26 will be best served thereby, the court shall have the power to suspend the
27 imposition or execution of sentence for such period and upon such terms

1 and conditions as it may deem best. ~~except that in no instance shall the~~
2 ~~court have the power to suspend a sentence to a term of incarceration~~
3 ~~when the defendant is sentenced pursuant to a sentencing provision that~~
4 ~~requires incarceration or imprisonment in the department of corrections,~~
5 ~~community corrections, or jail.~~ In no instance shall a sentence be
6 suspended if the defendant is ineligible for probation pursuant to section
7 18-1.3-201, except upon an express waiver being made by the sentencing
8 court regarding a particular defendant upon recommendation of the
9 district attorney and approval of such recommendation by an order of the
10 sentencing court pursuant to section 18-1.3-201 (4).

11 (13) (a) The court, if it sentences a defendant who is convicted of
12 any one or more of the offenses specified in paragraph (b) of this
13 subsection (13) to incarceration, shall sentence the defendant to a term of
14 at least the ~~midpoint~~ MINIMUM, but not more than ~~twice the maximum, of~~
15 ~~the presumptive range authorized for the punishment of the offense of~~
16 ~~which the defendant is convicted~~ FORTY-EIGHT YEARS FOR A CLASS 2
17 FELONY, THIRTY-TWO YEARS FOR A CLASS 3 FELONY, SIXTEEN YEARS FOR
18 A CLASS 4 FELONY, EIGHT YEARS FOR A CLASS 5 FELONY, AND FOUR YEARS
19 FOR A CLASS 6 FELONY WITHOUT SUSPENSION if the court makes the
20 following findings on the record:

21 **SECTION 4.** In Colorado Revised Statutes, 18-1.3-401.5, **amend**
22 (7) as follows:

23 **18-1.3-401.5. Drug felonies classified - presumptive and**
24 **aggravated penalties.** (7) Notwithstanding any provision of this section
25 to the contrary, if the defendant is convicted of a level 1 drug felony, the
26 court shall sentence the defendant to a term of incarceration in the
27 department of corrections of at least eight years but not more than

1 ~~thirty-two years.~~ The presence of one or more of the aggravating
2 circumstances provided in paragraph (a) of subsection (10) of this section
3 or in section 18-18-407 (1) requires the court, IF IT SENTENCES A
4 DEFENDANT TO INCARCERATION, to sentence a defendant convicted of a
5 level 1 drug felony to a term of incarceration in the department of
6 corrections of at least twelve years but no more than thirty-two years. The
7 court may impose a fine in addition to imprisonment.

8 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-406, **amend**
9 (1) (a), (1) (b), and (2) (a) (II) (J); **add** (2) (a) (II) (L), (2) (a) (II) (M), and
10 (2) (a) (II) (N); and **repeal** (7) as follows:

11 **18-1.3-406. Mandatory sentences for violent crimes -**
12 **definitions.** (1) (a) Any person convicted of a crime of violence, IF THE
13 COURT SENTENCES THE PERSON TO INCARCERATION, shall be sentenced
14 pursuant to the provisions of section 18-1.3-401 (8) to the department of
15 corrections for a term of incarceration of at least the ~~midpoint in, but not~~
16 ~~more than twice the maximum~~ MINIMUM of the presumptive range
17 provided for such offense in section 18-1.3-401 (1) (a), ~~as modified for~~
18 ~~an extraordinary risk crime pursuant to section 18-1.3-401 (10)~~ BUT NOT
19 MORE THAN FORTY-EIGHT YEARS FOR A CLASS 2 FELONY, THIRTY-TWO
20 YEARS FOR A CLASS 3 FELONY, SIXTEEN YEARS FOR A CLASS 4 FELONY,
21 EIGHT YEARS FOR A CLASS 5 FELONY, AND FOUR YEARS FOR A CLASS 6
22 FELONY without suspension. Except that, within ninety-one days after he
23 or she has been placed in the custody of the department of corrections, the
24 department shall transmit to the sentencing court a report on the
25 evaluation and diagnosis of the violent offender, and the court, in a case
26 which it considers to be exceptional and to involve unusual and
27 extenuating circumstances, may thereupon modify the sentence, effective

1 not earlier than one hundred nineteen days after his or her placement in
2 the custody of the department. Such modification may include probation
3 if the person is otherwise eligible therefor. Whenever a court finds that
4 modification of a sentence is justified, the judge shall notify the state
5 court administrator of his or her decision and shall advise said
6 administrator of the unusual and extenuating circumstances that justified
7 such modification. The state court administrator shall maintain a record,
8 which shall be open to the public, summarizing all modifications of
9 sentences and the grounds therefor for each judge of each district court
10 in the state. ~~A person convicted of two or more separate crimes of~~
11 ~~violence arising out of the same incident shall be sentenced for such~~
12 ~~crimes so that sentences are served consecutively rather than~~
13 ~~concurrently.~~

14 (b) Notwithstanding the provisions of paragraph (a) of this
15 subsection (1), any person convicted of a sex offense, as defined in
16 section 18-1.3-1003 (5), committed on or after November 1, 1998, that
17 constitutes a crime of violence shall be sentenced to the department of
18 corrections for an indeterminate term of incarceration of at least the
19 ~~midpoint~~ MINIMUM in the presumptive range specified in section
20 18-1.3-401 (1) (a) (V) (A) up to a maximum of the person's natural life,
21 as provided in section 18-1.3-1004 (1).

22 (2) (a) (II) Subparagraph (I) of this paragraph (a) applies to the
23 following crimes:

24 (J) Criminal extortion; ~~or~~

25 (L) ANY VIOLATION OF SECTION 18-6-401 (7) (a) (I);

26 (M) ANY VIOLATION OF SECTION 18-6-401 (7) (a) (III); OR

27 (N) ANY VIOLATION OF SECTION 18-3-602 (3) (b).

1 ~~(7) (a) In any case in which the accused is charged with a crime~~
2 ~~of violence as defined in this section and the indictment or information~~
3 ~~specifies the use of a dangerous weapon as defined in sections 18-12-101~~
4 ~~and 18-12-102, or the use of a semiautomatic assault weapon as defined~~
5 ~~in paragraph (b) of this subsection (7), upon conviction for said crime of~~
6 ~~violence, the judge shall impose an additional sentence to the department~~
7 ~~of corrections of five years for the use of such weapon. The sentence of~~
8 ~~five years shall be in addition to the mandatory sentence imposed for the~~
9 ~~substantive offense and shall be served consecutively to any other~~
10 ~~sentence and shall not be subject to suspension or probation.~~

11 ~~(b) For the purposes of this subsection (7), "semiautomatic assault~~
12 ~~weapon" means any semiautomatic center fire firearm that is equipped~~
13 ~~with a detachable magazine with a capacity of twenty or more rounds of~~
14 ~~ammunition.~~

15 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-501, **amend**
16 (1.5) (a) and (6) introductory portion as follows:

17 **18-1.3-501. Misdemeanors classified - drug misdemeanors and**
18 **drug petty offenses classified - penalties - definitions.** (1.5) (a) If a
19 defendant is convicted of assault in the third degree under section
20 18-3-204 and the victim is a peace officer, emergency medical service
21 provider, emergency medical care provider, or firefighter engaged in the
22 performance of his or her duties, notwithstanding subsection (1) of this
23 section, the court, IF IT SENTENCES THE DEFENDANT TO IMPRISONMENT,
24 shall sentence the defendant to a term of imprisonment greater than the
25 maximum sentence but no more than twice the maximum sentence
26 authorized for the same crime when the victim is not a peace officer,
27 emergency medical service provider, emergency medical care provider,

1 or firefighter engaged in the performance of his or her duties. In addition
2 to the term of imprisonment, the court may impose a fine on the
3 defendant under subsection (1) of this section. At any time after
4 sentencing and before the discharge of the defendant's sentence, the
5 victim may request that the defendant participate in restorative justice
6 practices with the victim. If the defendant accepts responsibility for and
7 expresses remorse for his or her actions and is willing to repair the harm
8 caused by his or her actions, an individual responsible for the defendant's
9 supervision shall make the necessary arrangements for the restorative
10 justice practices requested by the victim.

11 (6) For a defendant who is convicted of assault in the third degree,
12 as described in section 18-3-204, the court, in addition to any fine the
13 court may impose, IF IT SENTENCES THE DEFENDANT TO IMPRISONMENT,
14 shall sentence the defendant to a term of imprisonment of at least six
15 months, but not longer than the maximum sentence authorized for the
16 offense, as specified in this section, which sentence shall not be
17 suspended in whole or in part, if the court makes the following findings
18 on the record:

19 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-1004, **amend**
20 (1) (b) as follows:

21 **18-1.3-1004. Indeterminate sentence.** (1)(b) If the sex offender
22 committed a sex offense that constitutes a crime of violence, as defined
23 in section 18-1.3-406, the district court shall sentence the sex offender to
24 the custody of the department for an indeterminate term of at least the
25 ~~midpoint~~ MINIMUM in the presumptive range for the level of offense
26 committed and a maximum of the sex offender's natural life.

27 **SECTION 8.** In Colorado Revised Statutes, 18-3-405.6, **amend**

1 (2) (b) introductory portion as follows:

2 **18-3-405.6. Invasion of privacy for sexual gratification.**

3 (2) (b) Invasion of privacy for sexual gratification is a class 6 felony ~~and~~
4 ~~is an extraordinary risk crime subject to the modified sentencing range~~
5 ~~specified in section 18-1.3-401 (10)~~ if either of the following
6 circumstances exist:

7 **SECTION 9.** In Colorado Revised Statutes, 18-3-412.5, **amend**
8 (4) as follows:

9 **18-3-412.5. Failure to register as a sex offender.** (4) (a) Any
10 juvenile who receives a disposition or is adjudicated for a delinquent act
11 of failure to register as a sex offender that would constitute a felony if
12 committed by an adult, IF THE COURT SENTENCES THE JUVENILE TO
13 DETENTION, shall be sentenced to a forty-five-day ~~mandatory~~ minimum
14 detention sentence; except that any juvenile who receives a disposition or
15 is adjudicated for a second or subsequent delinquent act of failure to
16 register as a sex offender that would constitute a felony if committed by
17 an adult shall be placed or committed out of the home for not less than
18 one year.

19 (b) Any juvenile who receives a disposition or is adjudicated for
20 a delinquent act of failure to register as a sex offender that would
21 constitute a misdemeanor if committed by an adult, IF THE COURT IMPOSES
22 A DETENTION SENTENCE, shall be sentenced to a thirty-day ~~mandatory~~
23 minimum detention sentence; except that any juvenile who receives a
24 disposition or is adjudicated for a second or subsequent delinquent act of
25 failure to register as a sex offender that would constitute a misdemeanor
26 if committed by an adult shall be sentenced to a forty-five-day mandatory
27 minimum detention sentence.

1 **SECTION 10.** In Colorado Revised Statutes, 18-3-415.5, **amend**
2 (5) (b) as follows:

3 **18-3-415.5. Acquired immune deficiency syndrome testing for**
4 **persons charged with certain sexual offenses - mandatory sentencing.**

5 (5) (b) If the court determines that the person tested pursuant to
6 subsection (2) of this section had notice of his or her HIV infection prior
7 to the date the offense was committed, the judge, IF HE OR SHE SENTENCES
8 THE DEFENDANT TO INCARCERATION, shall sentence said person to a
9 ~~mandatory~~ term of incarceration of at least three times the upper limit of
10 the presumptive range for the level of offense committed, up to the
11 remainder of the person's natural life, as provided in section 18-1.3-1004.

12 **SECTION 11.** In Colorado Revised Statutes, 18-3-602, **repeal** (4)
13 as follows:

14 **18-3-602. Stalking - penalty - definitions - Vonnie's law.**

15 (4) ~~Stalking is an extraordinary risk crime that is subject to the modified~~
16 ~~presumptive sentencing range specified in section 18-1.3-401 (10).~~

17 **SECTION 12.** In Colorado Revised Statutes, 18-4-302, **amend**
18 (3) as follows:

19 **18-4-302. Aggravated robbery.** (3) Aggravated robbery is a
20 class 3 felony. ~~and is an extraordinary risk crime that is subject to the~~
21 ~~modified presumptive sentencing range specified in section 18-1.3-401~~
22 ~~(10).~~

23 **SECTION 13.** In Colorado Revised Statutes, 18-4-509, **amend**
24 (2) (a) (I); and **repeal** (2) (a) (III) as follows:

25 **18-4-509. Defacing property - definitions.** (2) (a) (I) Defacing
26 property is a class 2 misdemeanor; except that:

27 (A) A second or subsequent conviction for the offense of defacing

1 property is a class 1 misdemeanor; ~~and the court shall impose a~~
2 ~~mandatory minimum fine of seven hundred fifty dollars upon conviction;~~
3 and

4 (B) If a person violates paragraph (b) of subsection (1) of this
5 section twice or more within a period of six months, the damages caused
6 by two or more of the violations may be aggregated and charged in a
7 single count, in which event the violations so aggregated and charged
8 shall constitute a single offense, and, if the aggregate damages are five
9 hundred dollars or more, it is a class 1 misdemeanor. ~~and the court shall~~
10 ~~impose a mandatory minimum fine of seven hundred fifty dollars upon~~
11 ~~conviction.~~

12 (III) ~~The court may suspend all or part of the mandatory minimum~~
13 ~~fine associated with a conviction under this section upon the offender's~~
14 ~~successful completion of any sentence alternative imposed by the court~~
15 ~~pursuant to subparagraph (H) of this paragraph (a).~~

16 **SECTION 14.** In Colorado Revised Statutes, 18-5-902, **repeal** (3)
17 as follows:

18 **18-5-902. Identity theft.** (3) ~~The court shall be required to~~
19 ~~sentence the defendant to the department of corrections for a term of at~~
20 ~~least the minimum of the presumptive range and may sentence the~~
21 ~~defendant to a maximum of twice the presumptive range if:~~

22 (a) ~~The defendant is convicted of identity theft or of attempt,~~
23 ~~conspiracy, or solicitation to commit identity theft; and~~

24 (b) ~~The defendant has a prior conviction for a violation of this part~~
25 ~~9 or a prior conviction for an offense committed in any other state, the~~
26 ~~United States, or any other territory subject to the jurisdiction of the~~
27 ~~United States that would constitute a violation of this part 9 if committed~~

1 ~~in this state, or for attempt, conspiracy, or solicitation to commit a~~
2 ~~violation of this part 9 or for attempt, conspiracy, or solicitation to~~
3 ~~commit an offense in another jurisdiction that would constitute a violation~~
4 ~~of this part 9 if committed in this state.~~

5 **SECTION 15.** In Colorado Revised Statutes, 18-6-401, **amend**
6 (7.3) as follows:

7 **18-6-401. Child abuse.** (7.3) ~~Felony child abuse is an~~
8 ~~extraordinary risk crime that is subject to the modified presumptive~~
9 ~~sentencing range specified in section 18-1.3-401(10).~~ Misdemeanor child
10 abuse is an extraordinary risk crime that is subject to the modified
11 sentencing range specified in section 18-1.3-501 (3).

12 **SECTION 16.** In Colorado Revised Statutes, 18-6.5-103, **amend**
13 (4) as follows:

14 **18-6.5-103. Crimes against at-risk adults and at-risk juveniles**
15 **- classifications.** (4) Any person who commits robbery, as such crime is
16 described in section 18-4-301 (1), and the victim is an at-risk adult or an
17 at-risk juvenile, commits a class 3 felony. ~~If the offender is convicted of~~
18 ~~robbery of an at-risk adult or an at-risk juvenile, the court shall sentence~~
19 ~~the defendant to the department of corrections for at least the presumptive~~
20 ~~sentence under section 18-1.3-401(1).~~

21 **SECTION 17.** In Colorado Revised Statutes, 18-8-208.1, **amend**
22 (3) and (4) as follows:

23 **18-8-208.1. Attempt to escape.** (3) If a person, while in custody
24 or confinement following conviction of a misdemeanor or petty offense,
25 knowingly attempts to escape from said custody or confinement, he is
26 guilty of a misdemeanor and, upon conviction thereof, ~~shall~~ MAY be
27 punished by imprisonment in the county jail for not less than two months

1 nor more than four months. The sentence imposed pursuant to this
2 subsection (3) shall run consecutively with any sentences being served by
3 the offender.

4 (4) If a person, while in custody or confinement and held for or
5 charged with but not convicted of a misdemeanor or petty offense,
6 knowingly attempts to escape from said custody or confinement, he is
7 guilty of a petty offense and, upon conviction thereof, ~~shall~~ MAY be
8 punished by imprisonment in the county jail for not less than two months
9 nor more than four months. If the person is convicted of the misdemeanor
10 or petty offense for which he was originally in custody or confinement,
11 the sentence imposed pursuant to this subsection (4) shall run
12 consecutively with any sentences being served by the offender.

13 **SECTION 18.** In Colorado Revised Statutes, 18-8-211, **amend**
14 (2) (b) as follows:

15 **18-8-211. Riots in detention facilities.** (2) Active participation
16 in a riot by any person while confined in any detention facility within the
17 state:

18 (b) Is a felony if the participant does not employ any such weapon
19 or device in the course of such participation, and, upon conviction
20 thereof, the punishment ~~shall~~ MAY be imprisonment in a detention facility
21 for not less than two years nor more than ten years.

22 **SECTION 19.** In Colorado Revised Statutes, 18-8-212, **amend**
23 (3) and (3.5) as follows:

24 **18-8-212. Violation of bail bond conditions.** (3) A person who
25 fails to appear for a court proceeding with the intent to avoid prosecution
26 or sentence or a person who is convicted of committing a misdemeanor
27 or felony criminal offense committed while on bond shall not be eligible

1 for probation or a suspended sentence and ~~shall~~ MAY be sentenced to
2 imprisonment of not less than one year for violation of subsection (1) of
3 this section and not less than six months for violation of subsection (2) of
4 this section. Any such sentence shall be served consecutively with any
5 sentence for the offense on which the person is on bail.

6 (3.5) A person who is on bond for a sex offense as defined in
7 section 18-1.3-1003 who is convicted under this section for a bond
8 violation shall not be eligible for probation or a suspended sentence and
9 ~~shall~~ MAY be sentenced to imprisonment of not less than one year. Any
10 such sentence shall be served consecutively with any sentence for the
11 offense on which the person is on bail.

12 **SECTION 20.** In Colorado Revised Statutes, 18-9-202, **amend**
13 (2) (a.5) (IV) and (2) (a.5) (V) as follows:

14 **18-9-202. Cruelty to animals - aggravated cruelty to animals**
15 **- cruelty to a service animal - restitution.** (2) (a.5) (IV) Upon
16 successful completion of an anger management treatment program or any
17 other treatment program deemed appropriate by the court, the court may
18 suspend any fine imposed. ~~except for a five hundred dollar mandatory~~
19 ~~minimum fine which shall be imposed at the time of sentencing.~~

20 (V) In addition to any other sentence imposed upon a person for
21 a violation of any criminal law under this title, any person convicted of
22 a second or subsequent conviction for any crime, the underlying factual
23 basis of which has been found by the court to include an act of cruelty to
24 animals, shall be required to ~~pay a mandatory minimum fine of one~~
25 ~~thousand dollars and shall be required to~~ complete an anger management
26 treatment program or any other appropriate treatment program.

27 **SECTION 21.** In Colorado Revised Statutes, 18-12-109, **amend**

1 (5) and (5.5) as follows:

2 **18-12-109. Possession, use, or removal of explosives or**
3 **incendiary devices - possession of components thereof - chemical,**
4 **biological, and nuclear weapons - persons exempt - hoaxes.** (5) Any
5 person who removes or causes to be removed or carries away any
6 explosive or incendiary device from the premises where said explosive or
7 incendiary device is kept by the lawful user, vendor, transporter, or
8 manufacturer thereof, without the consent or direction of the lawful
9 possessor, commits a class 4 felony. ~~A person convicted of this offense~~
10 ~~shall be subjected to a mandatory minimum sentence of two years in the~~
11 ~~department of corrections.~~

12 (5.5) Any person who removes or causes to be removed or carries
13 away any chemical, biological, or radiological weapon from the premises
14 where said chemical, biological, or radiological weapon is kept by the
15 lawful user, vendor, transporter, or manufacturer thereof, without the
16 consent or direction of the lawful possessor, commits a class 3 felony. ~~A~~
17 ~~person convicted of this offense shall be subject to a mandatory minimum~~
18 ~~sentence of four years in the department of corrections.~~

19 **SECTION 22.** In Colorado Revised Statutes, 18-13-109, **amend**
20 (1) (b) as follows:

21 **18-13-109. Firing woods or prairie.** (1) (b) Any person
22 convicted under paragraph (a) of this subsection (1) ~~shall~~ MAY be
23 assessed a fine of not less than two hundred fifty dollars and not greater
24 than one thousand dollars. ~~The fine imposed by this paragraph (b) shall~~
25 ~~be mandatory and not subject to suspension. Nothing in this paragraph (b)~~
26 ~~shall be construed to limit the court's discretion in exercising other~~
27 ~~available sentencing alternatives in addition to the mandatory fine.~~

1 **SECTION 23.** In Colorado Revised Statutes, 18-13-122, **amend**
2 (4) (a), (4) (b) introductory portion, and (4) (c) introductory portion as
3 follows:

4 **18-13-122. Illegal possession or consumption of ethyl alcohol**
5 **or marijuana by an underage person - illegal possession of marijuana**
6 **paraphernalia by an underage person - definitions - adolescent**
7 **substance abuse prevention and treatment fund - legislative**
8 **declaration.** (4) (a) Upon conviction of a first offense of subsection (3)
9 of this section, the court ~~shall~~ MAY sentence the underage person to a fine
10 of not more than one hundred dollars, or the court shall order that the
11 underage person complete a substance abuse education program approved
12 by the division of behavioral health in the department of human services,
13 or both.

14 (b) Upon conviction of a second offense of subsection (3) of this
15 section, the court ~~shall~~ MAY sentence the underage person to a fine of not
16 more than one hundred dollars, and the court shall order the underage
17 person to:

18 (c) Upon conviction of a third or subsequent offense of subsection
19 (3) of this section, the court ~~shall~~ MAY sentence the defendant to a fine of
20 up to two hundred fifty dollars, and the court shall order the underage
21 person to:

22 **SECTION 24.** In Colorado Revised Statutes, 19-2-911, **amend**
23 (2) as follows:

24 **19-2-911. Sentencing - alternative services - detention.** (2) In
25 the case of a juvenile who has been adjudicated a juvenile delinquent for
26 the commission of one of the offenses described in section 19-2-508 (3)
27 (a) (III), the court ~~shall~~ MAY sentence the juvenile to a minimum

1 mandatory period of detention of not fewer than five days.

2 **SECTION 25. Effective date - applicability.** This act takes
3 effect July 1, 2016, and applies to offenses committed on or after said
4 date.

5 **SECTION 26. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.