

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0425.02 Jerry Barry x4341

SENATE BILL 20-191

SENATE SPONSORSHIP

Lee,

HOUSE SPONSORSHIP

Weissman,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A CLASS 2 FELONY OFFENSE WHEN THE
102 DEATH OF A PERSON IS CAUSED BY A PARTICIPANT WITHOUT
103 DELIBERATION IN THE COURSE OF THE COMMISSION OF
104 SPECIFIED FELONY OFFENSES.

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>.)

Under current law, it is a class 1 felony if a person commits or attempts to commit certain specified felonies and the death of a person, other than one of the participants, is caused by anyone. The bill:

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.

- ! Requires the death be caused by a participant;
- ! Repeals certain elements of the affirmative defense;
- ! Changes the penalty from a class 1 felony to a class 2 felony;
- ! Clarifies that a court shall sentence a defendant to a definite sentence within the aggravated range when the court finds certain aggravating circumstances; and
- ! Provides for a defendant to be subject to a mandatory sentence as a crime of violence if the fact finder makes specific findings of fact.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-3-102, **amend**
 3 (1)(b), (2)(e), and (3); **repeal** (2)(d) and (2)(f); and **add** (5) as follows:

4 **18-3-102. Murder in the first degree.** (1) A person commits the
 5 crime of murder in the first degree if:

6 (b) Acting either alone or with one or more persons, he or she
 7 commits or attempts to commit FELONY arson, robbery, burglary,
 8 kidnapping, sexual assault as prohibited by section 18-3-402, sexual
 9 assault in the first or second degree as prohibited by section 18-3-402 or
 10 18-3-403 as those sections existed prior to July 1, 2000, or a class 3
 11 felony for sexual assault on a child as provided in section 18-3-405 (2),
 12 or the crime of escape as provided in section 18-8-208, and, in the course
 13 of or in furtherance of the crime that he or she is committing or
 14 attempting to commit, or of immediate flight therefrom, the death of a
 15 person, other than one of the participants, is caused by ~~anyone~~ ANY
 16 PARTICIPANT; or

17 (2) It is an affirmative defense to a charge of violating subsection
 18 (1)(b) of this section that the defendant:

19 (d) ~~Had no reasonable ground to believe that any other participant~~
 20 ~~was armed with such a weapon, instrument, article, or substance; and~~

1 (e) Did not engage himself in or intend to engage in and had no
2 reasonable ground to believe that any other participant intended to engage
3 in conduct likely to result in death or serious bodily injury. and

4 ~~(f) Endeavored to disengage himself from the commission of the~~
5 ~~underlying crime or flight therefrom immediately upon having reasonable~~
6 ~~grounds to believe that another participant is armed with a deadly~~
7 ~~weapon, instrument, article, or substance, or intended to engage in~~
8 ~~conduct likely to result in death or serious bodily injury.~~

9 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS
10 SECTION, murder in the first degree is a class 1 felony.

11 (b) MURDER IN THE FIRST DEGREE IS A CLASS 2 FELONY IF
12 COMMITTED IN VIOLATION OF SUBSECTION (1)(b) OF THIS SECTION.

13 (5) IF A PERSON IS CONVICTED OF FIRST DEGREE MURDER
14 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION:

15 (a) THE DEFENDANT SHALL BE SENTENCED PURSUANT TO SECTION
16 18-1.3-401 (6); AND

17 (b) THE MANDATORY PROVISIONS OF SECTION 18-1.3-406 ONLY
18 APPLY IF THE FACT FINDER MAKES A SPECIFIC FINDING THAT THE PERSON:

19 (I) USED OR POSSESSED AND THREATENED TO USE A DEADLY
20 WEAPON;

21 (II) USED THREAT, INTIMIDATION, OR FORCE DURING THE
22 COMMISSION OF THE CRIME;

23 (III) CAUSED SERIOUS BODILY INJURY TO ANOTHER PERSON; OR

24 (IV) KNEW THAT A CO-PARTICIPANT INTENDED TO USE OR
25 THREATEN TO USE A DEADLY WEAPON DURING THE COMMISSION OF THE
26 FELONY OFFENSE.

27 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-406, **amend**

1 (2)(a)(II) introductory portion and (2)(a)(II)(B) as follows:

2 **18-1.3-406. Mandatory sentences for violent crimes -**
3 **definitions.** (2) (a) (II) ~~Subparagraph (I) of this paragraph (a)~~
4 SUBSECTION (2)(a)(I) OF THIS SECTION applies to the following crimes:

5 (B) Murder, EXCEPT AS PROVIDED IN SECTION 18-3-102 (5);

6 **SECTION 3. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect September 1, 2020; except that,
8 if a referendum petition is filed pursuant to section 1 (3) of article V of
9 the state constitution against this act or an item, section, or part of this act
10 within the ninety-day period after final adjournment of the general
11 assembly, then the act, item, section, or part will not take effect unless
12 approved by the people at the general election to be held in November
13 2020 and, in such case, will take effect on the date of the official
14 declaration of the vote thereon by the governor.

15 (2) This act applies to offenses committed on or after the
16 applicable effective date of this act.