

CHAPTER 27

---

**CRIMINAL LAW AND PROCEDURE**

---

HOUSE BILL 94-1063

BY REPRESENTATIVES Allen, George, Kaufman, and Tucker;  
also SENATOR Lacy.

**AN ACT**

**CONCERNING THE EFFECTIVENESS OF ANY ORDER GRANTING PROBATION PENDING APPELLATE REVIEW.**

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

**SECTION 1.** 16-11-202, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-11-202. Probationary power of court.** When it appears to the satisfaction of the court that the ends of justice and the best interest of the public, as well as the defendant, will be served thereby, the court may grant the defendant probation for such period and upon such terms and conditions as it deems best. IF THE COURT CHOOSES TO GRANT THE DEFENDANT PROBATION, THE ORDER PLACING THE DEFENDANT ON PROBATION SHALL TAKE EFFECT UPON ENTRY AND, IF ANY APPEAL IS BROUGHT, SHALL REMAIN IN EFFECT PENDING REVIEW BY AN APPELLATE COURT UNLESS THE COURT GRANTS A STAY OF PROBATION PURSUANT TO SECTION 16-4-201. In addition to imposing other conditions, the court has the power to commit the defendant to any jail operated by the county or city and county in which the offense was committed during such time or for such intervals within the period of probation as the court determines. The aggregate length of any such commitment whether continuous or at designated intervals shall not exceed ninety days for a felony, sixty days for a misdemeanor, or ten days for a petty offense unless it is a part of a work release program pursuant to section 16-11-212. That the defendant submit to commitment imposed under this section shall be deemed a condition of probation.

**SECTION 2.** 16-4-201, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**16-4-201. Bail after conviction.** (1) After conviction, either before or after sentencing, the defendant may orally, or in writing, move for release on bail pending determination of a motion for a new trial or motion in arrest of judgment or during any stay of execution or pending review by an appellate court, and, except in cases where the defendant has been convicted of a capital offense, the trial court, in its discretion, may continue the bond given for pretrial release, or may release the defendant on increased bail, or require bond under one or more of the alternatives set forth in section 16-4-104. The district attorney must be present at the time the court passes on a defendant's motion for release on bail after conviction. No bond shall be continued in effect following a plea of guilty or of nolo contendere or following conviction unless the written consents of the sureties, if any, are filed of record. No court shall require the posting of any form of bond which allows for the continuance of said bond after a plea of guilty or of nolo contendere or following conviction without the filing of record of written consents of the sureties, if any.

(2) AFTER CONVICTION, A DEFENDANT WHO IS GRANTED PROBATION PURSUANT TO SECTION 16-11-202 MAY ORALLY, OR IN WRITING, MOVE FOR A STAY OF PROBATION PENDING DETERMINATION OF A MOTION FOR A NEW TRIAL OR A MOTION IN ARREST OF JUDGMENT OR PENDING REVIEW BY AN APPELLATE COURT. THE TRIAL COURT, IN ITS DISCRETION, MAY GRANT A STAY OF PROBATION AND REQUIRE THE DEFENDANT TO POST AN APPEAL BOND UNDER ONE OR MORE OF THE ALTERNATIVES SET FORTH IN SECTION 16-4-104. THE DISTRICT ATTORNEY SHALL BE PRESENT AT THE TIME THE COURT PASSES ON A DEFENDANT'S MOTION FOR STAY OF PROBATION AFTER CONVICTION.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 1994, and shall apply to offenses committed on or after said date.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 18, 1994