

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0259.01 Shelby Ross x4510

SENATE BILL 26-124

SENATE SPONSORSHIP

Wallace,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO PROVIDE LEGAL RELIEF FOR INDIVIDUALS
102 WHO ARE VICTIMS OF ACTS OF VIOLENCE.

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>.)

If a defendant raises the affirmative defense of self-defense, the bill authorizes the defendant to offer relevant evidence of an act of violence committed by the alleged victim that is known to the defendant or perpetrated against the defendant and that affects the reasonableness of the defendant's belief in their justification in using self-defense.

The bill creates an alternative mandatory sentence for a defendant

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

who is a victim of an act of violence if the court determines, based on the relevant evidence presented, that the act of violence was a significant contributing factor to the offense for which the defendant is being sentenced. If a victim-defendant meets the criteria, the court is not required to sentence the victim-defendant to the department of corrections and the victim-defendant is eligible for probation or other alternative sentences. A victim-defendant convicted of certain criminal offenses is not eligible for alternative sentencing.

The bill authorizes an individual serving a sentence with the department of corrections to file a petition with the court where the conviction was obtained requesting post-conviction relief from the terms of the sentence (petition) if the individual is a victim of an act of violence and:

- If an offense resulting in conviction was committed before July 1, 2026; and
- If the victim-petitioner received a sentence in the case of 15 years or more to the department of corrections, excluding the parole term of the sentence.

The petition must allege that the victim-petitioner was subjected to an act of violence and that the act of violence was a significant contributing factor to the offense for which the victim-petitioner was initially sentenced. The court shall determine whether to grant a hearing on the petition and, based on the evidence presented, determine by a preponderance of the evidence if the victim-petitioner was subjected to an act of violence and if the following criteria are met:

- The act of violence was a significant contributing factor to the offense; or
- The prosecution agrees that the best interests of justice and the welfare of society would be served by departure from the presumptive sentencing range initially imposed.

If the court determines the victim-petitioner meets the criteria, the victim-petitioner may file a motion for reconsideration and reduction of the initial sentence. A victim-petitioner convicted of certain criminal offenses is not eligible for post-conviction relief.

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

2 **SECTION 1. Short title.** The short title of this act is the
3 "Colorado Survivor Justice Act".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 finds that:

1 (a) Acts of violence, including domestic abuse, family violence,
2 sexual violence, human trafficking, and child abuse, all have lasting
3 impacts on survivors; and

4 (b) If a defendant is a survivor of an act of violence and has
5 experienced significant trauma, the legal system must recognize and take
6 into consideration the trauma when determining an appropriate sentence
7 for the defendant.

8 (2) Therefore, the general assembly declares that:

9 (a) Evidence related to victimization of a defendant should be
10 considered during the defendant's criminal proceedings; and

11 (b) A defendant who is a survivor of an act of violence must be
12 provided an alternative sentencing option when the act of violence is a
13 significant contributing factor to the offense committed by the defendant.

14 **SECTION 3.** In Colorado Revised Statutes, 18-1-704, **add** (4.5)
15 and (5)(b.5) as follows:

16 **18-1-704. Use of physical force in defense of a person -**
17 **definitions.**

18 (4.5) (a) DURING A CRIMINAL PROSECUTION, IF A DEFENDANT
19 RAISES THE AFFIRMATIVE DEFENSE THAT THE DEFENDANT IS JUSTIFIED IN
20 USING PHYSICAL FORCE IN DEFENSE OF A PERSON PURSUANT TO
21 SUBSECTION (1) OF THIS SECTION, THE DEFENDANT MAY OFFER ALL
22 RELEVANT EVIDENCE OF AN ACT OF VIOLENCE, INCLUDING DOMESTIC
23 ABUSE, DOMESTIC VIOLENCE, OR SEXUAL VIOLENCE, AS THOSE TERMS ARE
24 DEFINED IN SECTION 13-14-101; HUMAN TRAFFICKING, AS DESCRIBED IN
25 PART 5 OF ARTICLE 3 OF THIS TITLE 18; AND CHILD ABUSE, AS DESCRIBED
26 IN SECTION 18-6-401:

27 (I) COMMITTED BY THE ALLEGED VICTIM AND KNOWN TO THE

1 DEFENDANT; OR

2 (II) PERPETRATED AGAINST THE DEFENDANT THAT AFFECTS THE
3 REASONABLENESS OF THE DEFENDANT'S BELIEF THAT THE ALLEGED VICTIM
4 IS IMMINENTLY GOING TO USE UNLAWFUL FORCE AGAINST THE DEFENDANT
5 OR ANOTHER PERSON OR THAT THE DEFENDANT OR ANOTHER PERSON IS IN
6 IMMINENT DANGER OF SUFFERING GREAT BODILY INJURY OR BEING KILLED
7 BY THE ALLEGED VICTIM.

8 (b) FOR THE PURPOSE OF DETERMINING ADMISSIBILITY, EVIDENCE
9 OFFERED PURSUANT TO SUBSECTION (4.5)(a) OF THIS SECTION IS EVIDENCE
10 OF A PRIOR ACT OF VIOLENCE AGAINST THE DEFENDANT.

11 (c) WHEN EVIDENCE IS OFFERED PURSUANT TO SUBSECTION
12 (4.5)(a) OF THIS SECTION, THE TRIAL COURT SHALL DETERMINE WHETHER:

13 (I) THE PROBATIVE VALUE OF THE EVIDENCE SUBSTANTIALLY
14 OUTWEIGHS THE PROBABILITY THAT ITS ADMISSION WILL CREATE AN
15 UNFAIR PREJUDICE, CONFUSE THE ISSUES, OR MISLEAD OF THE JURY; AND

16 (II) CONSIDERATION OF THE EVIDENCE WILL CAUSE UNDUE DELAY,
17 WASTE OF TIME, OR PRESENTATION OF UNNECESSARY CUMULATIVE
18 EVIDENCE.

19 (5) As used in this section, unless the context otherwise requires:

20 (b.5) "RELEVANT EVIDENCE" MEANS:

21 (I) DIRECT EVIDENCE RELATING TO THE ALLEGED VICTIM'S PRIOR
22 ACTS OF VIOLENCE;

23 (II) EVIDENCE OF PRIOR LAW ENFORCEMENT INTERVENTION OR
24 ASSISTANCE INVOLVING AN ACT OF VIOLENCE COMMITTED BY THE
25 ALLEGED VICTIM;

26 (III) EVIDENCE OF MEDICAL TREATMENT OR BEHAVIORAL HEALTH
27 TREATMENT SOUGHT OR OBTAINED BY THE DEFENDANT BECAUSE OF AN

1 ALLEGED ACT OF VIOLENCE COMMITTED BY THE ALLEGED VICTIM;

2 (IV) EVIDENCE OF SERVICES SOUGHT OR OBTAINED BY THE
3 DEFENDANT FROM A COUNSELOR; A VICTIM'S ADVOCATE, AS DEFINED IN
4 SECTION 13-90-107 (1)(k)(II); OR ANOTHER RELEVANT SERVICE PROVIDER
5 TO ADDRESS TRAUMA RECOVERY BECAUSE OF AN ALLEGED ACT OF
6 VIOLENCE COMMITTED BY THE ALLEGED VICTIM;

7 (V) EVIDENCE DEMONSTRATING THE EFFECTS OF POST-TRAUMATIC
8 STRESS DISORDER ON THE DEFENDANT AS A RESULT OF THE SUSTAINED
9 ACTS OF VIOLENCE COMMITTED BY THE ALLEGED VICTIM;

10 (VI) A PETITION FOR A PROTECTION ORDER FILED BY THE
11 DEFENDANT, AND A COURT ORDER FOR THE PROTECTION OF THE
12 DEFENDANT, IN WHICH THE ALLEGED VICTIM IS THE RESPONDENT OR A
13 NAMED PARTY WHO DEMONSTRATES AN ACT OF VIOLENCE COMMITTED BY
14 THE ALLEGED VICTIM;

15 (VII) EXPERT TESTIMONY RELATING TO THE EFFECTS OF AN ACT OF
16 VIOLENCE OR AN ACT OF CHILD ABUSE ON A PERSON SUBJECTED TO SUCH
17 VIOLENCE; AND

18 (VIII) ANY OTHER EVIDENCE THAT THE COURT DETERMINES IS OF
19 SUFFICIENT CREDIBILITY OR PROBATIVE VALUE.

20 **SECTION 4.** In Colorado Revised Statutes, **add** 18-1.3-108 as
21 follows:

22 **18-1.3-108. Alternative imposition of sentence for victims of**
23 **an act of violence - definition.**

24 (1) AS USED IN THIS SECTION, "ACT OF VIOLENCE" MEANS AN ACT
25 OF DOMESTIC ABUSE, DOMESTIC VIOLENCE, OR SEXUAL VIOLENCE, AS
26 THOSE TERMS ARE DEFINED IN SECTION 13-14-101; HUMAN TRAFFICKING,
27 AS DESCRIBED IN PART 5 OF ARTICLE 3 OF THIS TITLE 18; AND CHILD

1 ABUSE, AS DESCRIBED IN SECTION 18-6-401.

2 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
3 AT THE TIME OF SENTENCING, THE COURT SHALL ALLOW THE DEFENDANT
4 TO PRESENT RELEVANT EVIDENCE THAT THE DEFENDANT WAS THE VICTIM
5 OF AN ACT OF VIOLENCE AND THAT THE ACT OF VIOLENCE WAS A
6 SIGNIFICANT CONTRIBUTING FACTOR FOR THE OFFENSE FOR WHICH THE
7 DEFENDANT IS BEING SENTENCED.

8 (b) THE FOLLOWING RELEVANT EVIDENCE MAY BE PRESENTED
9 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION:

10 (I) DIRECT EVIDENCE OF THE PRIOR ACT OF VIOLENCE
11 PERPETRATED AGAINST THE VICTIM-DEFENDANT;

12 (II) EVIDENCE THAT THE VICTIM-DEFENDANT WAS A VICTIM OF
13 HUMAN TRAFFICKING;

14 (III) EVIDENCE THAT THE VICTIM-DEFENDANT SOUGHT LAW
15 ENFORCEMENT ASSISTANCE FOR PROTECTION FROM AN ACT OF VIOLENCE;

16 (IV) EVIDENCE THAT THE VICTIM-DEFENDANT SOUGHT OR
17 OBTAINED MEDICAL OR BEHAVIORAL HEALTH TREATMENT AS A RESULT OF
18 EXPERIENCING AN ACT OF VIOLENCE;

19 (V) EVIDENCE OF PRIOR STATEMENTS MADE BY THE
20 VICTIM-DEFENDANT OR OTHER WITNESSES REGARDING AN ACT OF
21 VIOLENCE PERPETRATED AGAINST THE VICTIM-DEFENDANT AND THE
22 RELATED TRAUMA;

23 (VI) EVIDENCE OF SERVICES THE VICTIM-DEFENDANT RECEIVED OR
24 SOUGHT FROM A COUNSELOR; A VICTIM'S ADVOCATE, AS DEFINED IN
25 SECTION 13-90-107 (1)(k)(II); OR OTHER RELEVANT SERVICE PROVIDER TO
26 ADDRESS TRAUMA RECOVERY;

27 (VII) EVIDENCE DEMONSTRATING THE EFFECTS OF

1 POST-TRAUMATIC STRESS DISORDER AS A RESULT OF AN ACT OF VIOLENCE
2 PERPETRATED AGAINST THE VICTIM-DEFENDANT;

3 (VIII) A PETITION FOR A PROTECTION ORDER FILED BY THE
4 PETITIONER, AND ANY COURT ORDER, THAT ADDRESSES THE PRIOR ACT OF
5 VIOLENCE EXPERIENCED BY THE VICTIM-DEFENDANT, INCLUDING JUVENILE
6 COURT RECORDS;

7 (IX) EXPERT TESTIMONY RELATING TO THE EFFECTS OF AN ACT OF
8 VIOLENCE ON AN INDIVIDUAL SUBJECTED TO THE VIOLENCE; AND

9 (X) ANY OTHER EVIDENCE THAT THE COURT DETERMINES IS OF
10 SUFFICIENT CREDIBILITY OR PROBATIVE VALUE.

11 (3) NOTWITHSTANDING SECTION 18-1.3-401, 18-1.3-501, OR
12 18-1.3-505, THE COURT SHALL SENTENCE A VICTIM-DEFENDANT
13 CONVICTED OF A FELONY OR MISDEMEANOR OFFENSE TO INCARCERATION
14 FOR NO GREATER THAN HALF OF THE MAXIMUM TERM CURRENTLY
15 AUTHORIZED IN THE PRESUMPTIVE RANGE FOR THE PUNISHMENT OF THE
16 OFFENSE IF:

17 (a) THE COURT DETERMINES THAT A SENTENCE OF INCARCERATION
18 IS NECESSARY GIVEN THE FACTS AND CIRCUMSTANCES OF THE OFFENSE
19 AND THAT NO ALTERNATIVE TO INCARCERATION PROPERLY ADDRESSES
20 THE PURPOSES OF SENTENCING DESCRIBED IN SECTION 18-1-102.5; AND

21 (b) THE VICTIM-DEFENDANT PROVES BY A PREPONDERANCE OF THE
22 EVIDENCE THAT THE VICTIM-DEFENDANT WAS THE VICTIM OF AN ACT OF
23 VIOLENCE; AND

24 (c) (I) THE ACT OF VIOLENCE WAS A SIGNIFICANT CONTRIBUTING
25 FACTOR TO THE OFFENSE; OR

26 (II) THE PROSECUTION AGREES THAT THE BEST INTERESTS OF
27 JUSTICE AND THE WELFARE OF SOCIETY WOULD BE SERVED BY DEPARTURE

1 FROM THE PRESUMPTIVE SENTENCING RANGE.

2 (4) A VICTIM-DEFENDANT CONVICTED OF THE FOLLOWING
3 OFFENSES IS NOT ELIGIBLE FOR ALTERNATIVE SENTENCING PURSUANT TO
4 SUBSECTION (3) OF THIS SECTION:

5 (a) A CLASS 1 FELONY, EXCEPT FIRST DEGREE MURDER PURSUANT
6 TO SECTION 18-3-102 (1)(b) AS IT EXISTED PRIOR TO SEPTEMBER 15, 2021;

7 (b) AN OFFENSE THAT CONSTITUTES UNLAWFUL SEXUAL
8 BEHAVIOR, AS DEFINED IN SECTION 16-22-102;

9 (c) HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
10 SERVITUDE, AS DESCRIBED IN SECTION 18-3-503, OR HUMAN TRAFFICKING
11 OF A MINOR FOR SEXUAL SERVITUDE, AS DESCRIBED IN SECTION 18-3-504
12 (2);

13 (d) STALKING, AS DESCRIBED IN SECTION 18-3-602; OR

14 (e) FELONY CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401,
15 THAT WAS A KNOWING ACT THAT CAUSED A CHILD UNDER TWELVE YEARS
16 OLD TO SUFFER DEATH OR SERIOUS BODILY INJURY.

17 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-406, **add**
18 (1)(d.5) as follows:

19 **18-1.3-406. Mandatory sentences for violent crimes -**
20 **definitions.**

21 (1) (d.5) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION,
22 ANY PERSON DETERMINED BY THE COURT TO MEET THE CRITERIA
23 DESCRIBED IN SECTION 18-1.3-108 IS NOT REQUIRED TO BE SENTENCED TO
24 THE DEPARTMENT OF CORRECTIONS AND IS ELIGIBLE FOR PROBATION OR
25 OTHER ALTERNATIVE SENTENCES, AS DETERMINED BY THE COURT.

26 **SECTION 6.** In Colorado Revised Statutes, 18-1-102.5, **amend**
27 (1)(e) and (1)(f); and **add** (1)(g) as follows:

1 **18-1-102.5. Purposes of code with respect to sentencing.**

2 (1) The purposes of this code with respect to sentencing are:

3 (e) To select a sentence, a sentence length, and a level of
4 supervision that addresses the offender's individual characteristics and
5 reduces the potential that the offender will engage in criminal conduct
6 after completing ~~his or her~~ THE OFFENDER'S sentence; ~~and~~

7 (f) To promote acceptance of responsibility and accountability by
8 offenders and to provide restoration and healing for victims and the
9 community while attempting to reduce recidivism and the costs to society
10 by the use of restorative justice practices; AND

11 (g) TO PROVIDE AN OFFENDER WHO IS A VICTIM OF AN ACT OF
12 VIOLENCE, INCLUDING DOMESTIC ABUSE, DOMESTIC VIOLENCE, SEXUAL
13 VIOLENCE, HUMAN TRAFFICKING, AND CHILD ABUSE, WITH A SENTENCE
14 THAT TAKES INTO CONSIDERATION THE TRAUMA SUFFERED BY THE
15 VICTIM-OFFENDER IF THE ACT OF VIOLENCE CONTRIBUTED TO THE
16 COMMISSION OF THE OFFENSE.

17 **SECTION 7.** In Colorado Revised Statutes, **add** 18-1-410.8 as
18 follows:

19 **18-1-410.8. Post-conviction relief for victims of an act of**
20 **violence - report - legislative declaration - definition.**

21 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

22 (I) A SUBSTANTIAL PROPORTION OF INDIVIDUALS WHO ARE
23 INCARCERATED IN COLORADO AND THROUGHOUT THE UNITED STATES ARE
24 SURVIVORS OF TRAUMA, INCLUDING CHILDHOOD PHYSICAL ABUSE,
25 CHILDHOOD SEXUAL ABUSE, SEXUAL ASSAULT, DOMESTIC VIOLENCE,
26 DATING VIOLENCE, STALKING, AND OTHER FORMS OF INTERPERSONAL
27 VIOLENCE. RESEARCH CONSISTENTLY DEMONSTRATES THAT EXPOSURE TO

1 TRAUMA, PARTICULARLY REPEATED OR PROLONGED TRAUMA, CAN HAVE
2 PROFOUND AND LASTING EFFECTS ON AN INDIVIDUAL'S NEUROLOGICAL
3 DEVELOPMENT, PSYCHOLOGICAL FUNCTIONING, PERCEPTION OF THREAT,
4 AND RESPONSES TO PERCEIVED DANGER.

5 (II) SURVIVORS OF TRAUMA, ESPECIALLY THOSE SUBJECTED TO
6 ABUSE IN CHILDHOOD OR INTIMATE PARTNER RELATIONSHIPS, OFTEN
7 EXPERIENCE TRAUMA-RELATED CONDITIONS THAT AFFECT THEIR ABILITY
8 TO ASSESS AND RESPOND TO THREATS. THESE EXPERIENCES MAY SHAPE A
9 SURVIVOR'S PERCEPTION OF IMMINENT HARM AND MAY INFLUENCE
10 BEHAVIOR IN CIRCUMSTANCES INVOLVING SELF-DEFENSE OR
11 SURVIVAL-BASED RESPONSES.

12 (III) FOR MANY SURVIVORS, CRIMINALIZED CONDUCT IS DIRECTLY
13 CONNECTED TO THEIR VICTIMIZATION, INCLUDING ACTS COMMITTED IN
14 SELF-DEFENSE OR UNDER COERCION OR CONTROL BY AN ABUSIVE
15 PARTNER, OR ACTS OTHERWISE SIGNIFICANTLY INFLUENCED BY PRIOR
16 VIOLENCE.

17 (IV) THE CRIMINAL JUSTICE SYSTEM HAS NOT CONSISTENTLY
18 ACCOUNTED FOR THE IMPACT OF TRAUMA AND VICTIMIZATION WHEN
19 DETERMINING CULPABILITY AND SENTENCING. IN PARTICULAR, SURVIVORS
20 WHO ACT IN RESPONSE TO VIOLENCE MAY FACE BARRIERS TO PRESENTING
21 EVIDENCE NECESSARY TO EXPLAIN THE REASONABLENESS OF THEIR BELIEF
22 IN THE NEED FOR SELF-DEFENSE.

23 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT:

24 (I) WHEN A DEFENDANT IS A VICTIM OF AN ACT OF VIOLENCE AND
25 THAT VIOLENCE WAS A SIGNIFICANT CONTRIBUTING FACTOR TO THE
26 OFFENSE THAT LED TO THEIR CONVICTION, JUSTICE AND PUBLIC SAFETY
27 ARE BEST SERVED BY ALLOWING COURTS DISCRETION TO IMPOSE

1 ALTERNATIVE, FAIRER SENTENCES;

2 (II) INDIVIDUALS CURRENTLY SERVING LENGTHY SENTENCES MAY
3 HAVE BEEN SENTENCED WITHOUT ADEQUATE CONSIDERATION OF THE
4 TRAUMA AND VIOLENCE THEY EXPERIENCED THAT IMPACTED THEIR CRIME.
5 PROVIDING A MECHANISM FOR POST-CONVICTION RELIEF IN LIMITED,
6 RELEVANT CIRCUMSTANCES PROMOTES FAIRNESS, ACCOUNTABILITY, AND
7 PROPORTIONALITY IN SENTENCING WHILE PRESERVING PUBLIC SAFETY AND
8 EXCLUDING SPECIFIC SERIOUS OFFENSES FROM ELIGIBILITY.

9 (III) ESTABLISHING A PROCESS FOR POST-CONVICTION RELIEF IN
10 CERTAIN CASES PROMOTES A MORE TRAUMA-INFORMED, EQUITABLE, AND
11 JUST CRIMINAL JUSTICE SYSTEM.

12 (c) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE
13 PURPOSE OF THIS SECTION IS NOT TO DIMINISH ACCOUNTABILITY FOR
14 CRIMINAL CONDUCT BUT RATHER TO ENSURE THAT COURTS HAVE THE
15 AUTHORITY AND DISCRETION TO FULLY CONSIDER THE CONTEXT OF
16 VICTIMIZATION AND TRAUMA WHEN DETERMINING CULPABILITY AND
17 IMPOSING SENTENCES THAT ARE PROPORTIONATE, INDIVIDUALIZED, AND
18 CONSISTENT WITH THE INTERESTS OF JUSTICE AND THE WELFARE OF
19 SOCIETY.

20 (2) AS USED IN THIS SECTION, "ACT OF VIOLENCE" MEANS
21 DOMESTIC ABUSE, DOMESTIC VIOLENCE, OR SEXUAL VIOLENCE, AS THOSE
22 TERMS ARE DEFINED IN SECTION 13-14-101; HUMAN TRAFFICKING, AS
23 DESCRIBED IN PART 5 OF ARTICLE 3 OF THIS TITLE 18; AND CHILD ABUSE,
24 AS DESCRIBED IN SECTION 18-6-401.

25 (3) (a) AN INDIVIDUAL SERVING A SENTENCE IN THE DEPARTMENT
26 OF CORRECTIONS WHO IS A VICTIM OF AN ACT OF VIOLENCE MAY FILE A
27 PETITION WITH THE COURT WHERE THE CONVICTION WAS OBTAINED

1 REQUESTING RELIEF FROM THE TERMS OF THE SENTENCE TO PROVIDE
2 POST-CONVICTION RELIEF TO THE VICTIM-PETITIONER IF:

3 (I) AN OFFENSE RESULTING IN CONVICTION WAS COMMITTED
4 BEFORE JULY 1, 2026; AND

5 (II) THE VICTIM-PETITIONER RECEIVED A SENTENCE IN THE CASE
6 OF FIFTEEN YEARS OR MORE TO THE DEPARTMENT OF CORRECTIONS,
7 EXCLUDING THE PAROLE TERM OF THE SENTENCE.

8 (b) A VICTIM-PETITIONER CONVICTED OF THE FOLLOWING
9 OFFENSES IN THE CASE IS NOT ELIGIBLE FOR POST-CONVICTION RELIEF
10 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION:

11 (I) A CLASS 1 FELONY, EXCEPT FIRST DEGREE MURDER PURSUANT
12 TO SECTION 18-3-102 (1)(b) AS IT EXISTED PRIOR TO SEPTEMBER 15, 2021;

13 (II) AN OFFENSE THAT CONSTITUTES UNLAWFUL SEXUAL
14 BEHAVIOR, AS DEFINED IN SECTION 16-22-102;

15 (III) HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
16 SERVITUDE, AS DESCRIBED IN SECTION 18-3-503, OR HUMAN TRAFFICKING
17 OF A MINOR FOR SEXUAL SERVITUDE, AS DESCRIBED IN SECTION 18-3-504
18 (2);

19 (IV) STALKING, AS DESCRIBED IN SECTION 18-3-602; OR

20 (V) FELONY CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401,
21 THAT WAS A KNOWING ACT THAT CAUSED A CHILD UNDER TWELVE YEARS
22 OLD TO SUFFER DEATH OR SERIOUS BODILY INJURY.

23 (4) (a) UPON RECEIPT OF A PETITION FILED PURSUANT TO
24 SUBSECTION (3) OF THIS SECTION BY AN INDIVIDUAL SERVING A SENTENCE
25 IN THE DEPARTMENT OF CORRECTIONS, THE COURT SHALL REVIEW THE
26 PLEADING AND DETERMINE IF THE VICTIM-PETITIONER'S LENGTH OF
27 SENTENCE QUALIFIES PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION

1 AND THAT THE VICTIM-PETITIONER HAS NOT BEEN CONVICTED IN THE CASE
2 OF A DISQUALIFYING CONVICTION PURSUANT TO SUBSECTION (3)(b) OF
3 THIS SECTION. IF THE VICTIM-PETITIONER IS EXCLUDED FROM
4 POST-CONVICTION RELIEF PURSUANT TO SUBSECTION (3)(a) OR (3)(b) OF
5 THIS SECTION, THE COURT SHALL DENY THE PETITION AND ADVISE THE
6 VICTIM-PETITIONER OF THE REASONS FOR THE DENIAL. IF THE
7 VICTIM-PETITIONER SATISFIES THE REQUIREMENTS OF SUBSECTION (3) OF
8 THIS SECTION, THE COURT SHALL APPOINT COUNSEL IF THE COURT
9 DETERMINES THAT THE VICTIM-PETITIONER IS INDIGENT, AND THE COURT
10 SHALL ALLOW COUNSEL TO SUPPLEMENT OR AMEND THE PETITION.

11 (b) IF AN INDIVIDUAL SERVING A SENTENCE IN THE DEPARTMENT
12 OF CORRECTIONS IS INDIGENT AND CONTACTS THE COURT IN WRITING
13 ABOUT POST-CONVICTION RELIEF PURSUANT TO THIS SECTION WITHOUT
14 FILING A PETITION, AND IF THE COURT FINDS THAT THE INDIVIDUAL NEEDS
15 ASSISTANCE OF COUNSEL TO FILE AN INITIAL PETITION DUE TO THE
16 INDIVIDUAL'S CIRCUMSTANCES, INCLUDING ANY LACK OF EDUCATION OR
17 LANGUAGE BARRIER, THE COURT MAY APPOINT COUNSEL TO ASSIST THE
18 INDIVIDUAL.

19 (c) ONCE APPOINTED, COUNSEL FOR THE VICTIM-PETITIONER HAS
20 AN INITIAL ONE HUNDRED TWENTY-SIX DAYS TO INVESTIGATE AND FILE A
21 PETITION OR TO SUPPLEMENT OR AMEND A PETITION FILED BY THE
22 VICTIM-PETITIONER. THE COURT MAY GRANT EXTENSIONS FOR ANY
23 AMOUNT OF TIME UPON A SHOWING OF GOOD CAUSE AND SHALL ALLOW
24 TIME AS NEEDED TO INVESTIGATE A PRIOR ALLEGED ACT OR ACT OF
25 VIOLENCE. THE PETITION, AMENDED PETITION, AND ANY SUPPLEMENTAL
26 PLEADINGS MUST BE SERVED ON THE DISTRICT ATTORNEY'S OFFICE THAT
27 OBTAINED THE CONVICTION, AND THE COURT MUST GRANT THE DISTRICT

1 ATTORNEY'S OFFICE SUFFICIENT TIME TO FILE A RESPONSE TO THE
2 PLEADINGS FILED BY THE VICTIM-PETITIONER.

3 (5) THE PETITION, INCLUDING AN AMENDED PETITION, MUST, IN
4 GOOD FAITH:

5 (a) ALLEGE THAT THE VICTIM-PETITIONER WAS SUBJECTED TO ONE
6 OR MORE ACTS OF VIOLENCE;

7 (b) ALLEGE THAT THE ACTS OF VIOLENCE WERE A SIGNIFICANT
8 CONTRIBUTING FACTOR TO THE OFFENSE FOR WHICH THE
9 VICTIM-PETITIONER WAS SENTENCED; AND

10 (c) DESCRIBE THE ACTS OF VIOLENCE AND DESCRIBE WHY THE
11 ACTS OF VIOLENCE WERE A SIGNIFICANT CONTRIBUTING FACTOR IN THE
12 COMMISSION OF THE OFFENSE OF CONVICTION.

13 (6) THE PETITION MUST PROVIDE SUFFICIENT FACTS AND
14 CIRCUMSTANCES DESCRIBING THE ACTS OF VIOLENCE AND OUTLINING THE
15 TIME, LOCATION, AND NATURE OF THE ACTS OF VIOLENCE AND MUST
16 INCLUDE, WHEN AVAILABLE, ANY SUPPORTING DOCUMENTATION FOR THE
17 CLAIMS INCLUDED IN THE PETITION.

18 (7) (a) AFTER RECEIPT OF THE DISTRICT ATTORNEY'S RESPONSE
19 FILED PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION, THE COURT
20 SHALL DETERMINE WHETHER TO GRANT A HEARING ON THE PETITION AS
21 SOON AS PRACTICABLE. THERE IS A PRESUMPTION IN FAVOR OF GRANTING
22 A HEARING ON A PETITION FILED PURSUANT TO SUBSECTION (3) OF THIS
23 SECTION UNLESS THE COURT FINDS THAT THE PETITIONER HAS FAILED TO
24 ALLEGE THE PETITIONER WAS THE VICTIM OF AN ACT OF VIOLENCE PRIOR
25 TO THE CRIME OR THE COURT FINDS THAT THE ACT OF VIOLENCE WAS
26 FULLY CONSIDERED AT THE TIME OF THE INITIAL SENTENCING AND COULD
27 HAVE BEEN GIVEN LEGAL EFFECT AT THE TIME OF THE INITIAL

1 SENTENCING.

2 (b) IF THE COURT DETERMINES THAT THE VICTIM-PETITIONER IS
3 NOT ENTITLED TO A HEARING, THE COURT SHALL ENTER AN ORDER
4 DENYING RELIEF, WHICH MUST INCLUDE THE COURT'S REASONING FOR
5 DENYING THE HEARING. IF THE COURT DENIES A PETITION WITHOUT A
6 HEARING, THE DENIAL MUST BE WITHOUT PREJUDICE AND THE
7 VICTIM-PETITIONER IS PERMITTED TO FILE AN AMENDED PETITION. THE
8 COURT SHALL NOT DENY A PETITION WITHOUT A HEARING ON THE BASIS
9 THAT AN ACT OF VIOLENCE THAT THE VICTIM-PETITIONER SUFFERED DID
10 NOT SIGNIFICANTLY CONTRIBUTE TO THE OFFENSE.

11 (8) IF THE COURT GRANTS A HEARING PURSUANT TO SUBSECTION
12 (7)(a) OF THIS SECTION, THE COURT SHALL GIVE THE DISTRICT ATTORNEY
13 NOTICE AND THE OPPORTUNITY TO RESPOND AT THE HEARING. THE
14 DISTRICT ATTORNEY SHALL GIVE THE VICTIM OF THE PETITIONER'S
15 OFFENSE NOTICE IN ACCORDANCE WITH PART 3 OF ARTICLE 4.1 OF TITLE
16 24, AND THE COURT SHALL PROVIDE THE VICTIM OF THE PETITIONER'S
17 OFFENSE AN OPPORTUNITY TO BE HEARD.

18 (9) THE FOLLOWING RELEVANT EVIDENCE MAY BE PRESENTED AT
19 A HEARING GRANTED PURSUANT TO THIS SECTION:

20 (a) DIRECT EVIDENCE OF THE PRIOR ACT OF VIOLENCE
21 PERPETRATED AGAINST THE VICTIM-PETITIONER;

22 (b) EVIDENCE THAT THE VICTIM-PETITIONER WAS A VICTIM OF
23 HUMAN TRAFFICKING;

24 (c) EVIDENCE THAT THE VICTIM-PETITIONER SOUGHT LAW
25 ENFORCEMENT ASSISTANCE FOR PROTECTION FROM AN ACT OF VIOLENCE;

26 (d) EVIDENCE THAT THE VICTIM-PETITIONER SOUGHT OR OBTAINED
27 MEDICAL OR BEHAVIORAL HEALTH TREATMENT AS A RESULT OF

1 EXPERIENCING AN ACT OF VIOLENCE;

2 (e) EVIDENCE OF PRIOR STATEMENTS MADE BY THE
3 VICTIM-PETITIONER OR OTHER WITNESSES REGARDING AN ACT OF
4 VIOLENCE PERPETRATED AGAINST THE VICTIM-PETITIONER AND THE
5 RELATED TRAUMA;

6 (f) EVIDENCE OF SERVICES THE VICTIM-PETITIONER SOUGHT OR
7 OBTAINED FROM A COUNSELOR; A VICTIM'S ADVOCATE, AS DEFINED IN
8 SECTION 13-90-107 (1)(k)(II); OR OTHER RELEVANT SERVICE PROVIDER TO
9 ADDRESS TRAUMA RECOVERY;

10 (g) EVIDENCE DEMONSTRATING THE EFFECTS OF POST-TRAUMATIC
11 STRESS DISORDER AS A RESULT OF AN ACT OF VIOLENCE PERPETRATED
12 AGAINST THE VICTIM-PETITIONER;

13 (h) A PETITION FOR A PROTECTION ORDER FILED BY THE
14 VICTIM-PETITIONER, AND ANY COURT ORDER, THAT ADDRESSES THE PRIOR
15 ACT OF VIOLENCE EXPERIENCED BY THE VICTIM-PETITIONER, INCLUDING
16 JUVENILE COURT RECORDS;

17 (i) EXPERT TESTIMONY RELATING TO THE EFFECTS OF AN ACT OF
18 VIOLENCE ON AN INDIVIDUAL SUBJECTED TO THE VIOLENCE; AND

19 (j) ANY OTHER EVIDENCE THAT THE COURT DETERMINES IS OF
20 SUFFICIENT CREDIBILITY OR PROBATIVE VALUE.

21 (10) BASED ON THE EVIDENCE PRESENTED AT THE HEARING
22 PURSUANT TO SUBSECTION (9) OF THIS SECTION, THE COURT SHALL
23 DETERMINE BY A PREPONDERANCE OF THE EVIDENCE IF THE
24 VICTIM-PETITIONER WAS SUBJECTED TO AN ACT OF VIOLENCE AND IF:

25 (a) THE ACT OF VIOLENCE WAS A SIGNIFICANT CONTRIBUTING
26 FACTOR TO THE OFFENSE; OR

27 (b) THE PROSECUTION AGREES THAT THE BEST INTERESTS OF

1 JUSTICE AND THE WELFARE OF SOCIETY WOULD BE SERVED BY DEPARTURE
2 FROM THE PRESUMPTIVE SENTENCING RANGE INITIALLY IMPOSED.

3 (11) IF, AFTER A HEARING ON THE PETITION, THE COURT
4 DETERMINES THAT THE PETITION HAS NOT MET THE CRITERIA ESTABLISHED
5 IN SUBSECTION (5) OF THIS SECTION, THE COURT SHALL DENY THE PETITION
6 AND INCLUDE THE REASONING FOR THE DENIAL IN THE ORDER.

7 (12) UPON A FINDING THAT THE VICTIM-PETITIONER HAS MET THE
8 CRITERIA ESTABLISHED IN SUBSECTION (5) OF THIS SECTION, THE
9 VICTIM-PETITIONER IS PERMITTED TO FILE A MOTION FOR
10 RECONSIDERATION AND REDUCTION OF THE INITIAL SENTENCE PURSUANT
11 TO RULE 35 (b) OF THE COLORADO RULES OF CRIMINAL PROCEDURE. THE
12 MOTION IS NOT SUBJECT TO THE TIME LIMITS CONTAINED IN RULE 35 (b) OF
13 THE COLORADO RULES OF CRIMINAL PROCEDURE AND MAY BE MADE
14 ORALLY AT THE TIME OF THE HEARING OR SUBMITTED IN WRITING WITHIN
15 NINETY-ONE DAYS AFTER THE COURT'S RULING. THE COURT SHALL
16 DETERMINE AND IMPOSE THE APPROPRIATE SENTENCE CONSISTENT WITH
17 SECTION 18-1.3-108 AFTER CONSIDERATION OF ALL THE RELEVANT
18 EVIDENCE IN THE CASE.

19 (13) A VICTIM-PETITIONER IS ENTITLED TO FILE ONLY ONE
20 PETITION REQUESTING POST-CONVICTION RELIEF PURSUANT TO THIS
21 SECTION; EXCEPT THAT, IF THE VICTIM-PETITIONER WITHDRAWS THE
22 PETITION PRIOR TO A HEARING ON THE MERITS OF THE PETITION, THE
23 VICTIM-PETITIONER MAY FILE A SUBSEQUENT PETITION REQUESTING
24 POST-CONVICTION RELIEF PURSUANT TO THIS SECTION.

25 (14) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), BEGINNING
26 JULY 1, 2027, AND EACH JULY 1 THEREAFTER, THE JUDICIAL DEPARTMENT
27 SHALL REPORT ON THE NUMBER OF PETITIONS FILED PURSUANT TO

1 SUBSECTION (3) OF THIS SECTION, THE NUMBER OF HEARINGS HELD ON
2 PETITIONS FILED PURSUANT TO THIS SECTION, AND THE NUMBER OF
3 PETITIONS GRANTED AND SENTENCES IMPOSED PURSUANT TO SUBSECTION
4 (12) OF THIS SECTION TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
5 REPRESENTATIVES AND THE SENATE, OR THEIR SUCCESSOR COMMITTEES,
6 AS PART OF THE DEPARTMENT'S "SMART ACT" PRESENTATION REQUIRED
7 PURSUANT TO PART 2 OF ARTICLE 7 OF TITLE 2.

8 **SECTION 8. Effective date.** This act takes effect July 1, 2026.

9 **SECTION 9. Safety clause.** The general assembly finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety or for appropriations for
12 the support and maintenance of the departments of the state and state
13 institutions.