

**Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 26-0750.01 Conrad Imel x2313

**SENATE BILL 26-115**

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**SENATE SPONSORSHIP**

**Gonzales J. and Weissman,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING POST-CONVICTION RELIEF FOR CERTAIN OFFENDERS**  
102 **SENTENCED TO IMPRISONMENT.**

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**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>.)*

The bill sets forth a process for a person in prison to petition for resentencing and for a court to impose a new sentence if:

- The offense resulting in the conviction was committed when the petitioner was younger than 21 years old and the petitioner has served at least 20 calendar years incarcerated for the offense; or

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.

- The petitioner is 60 years old or older at the time of filing the petition and has served at least 20 calendar years incarcerated for the offense.

At the hearing on the petition, the petitioner has the burden to show by a preponderance of the evidence that the petitioner no longer presents an identifiable danger to the safety of any person or the community and that there is good cause for the court to modify the sentence. Certain offenses require that the prosecution agree that the interests of justice would be served by departure from the sentence initially imposed.

Upon the court finding that the petitioner has met their burden, the petitioner is permitted to file a motion for reconsideration and reduction of the initial sentence pursuant to the Colorado rules of criminal procedure. At the hearing on the motion, the court shall determine and impose the appropriate sentence.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) It is the responsibility of the general assembly to establish  
5 penalties for crimes, which often require long incarceration sentences to  
6 punish and incapacitate persons convicted of serious offenses;

7 (b) While long sentences are appropriate and necessary in certain  
8 cases, providing the opportunity for individuals in lower-risk populations  
9 to be considered for sentence reduction based on demonstrated  
10 rehabilitation after they have served decades in prison incentivizes  
11 positive behavior and is consistent with public safety;

12 (c) Very lengthy sentences present significant public policy issues  
13 that the general assembly must consider, including the ability of the state  
14 to meet its constitutional requirement to provide medical care to the  
15 incarcerated population and the fiscal cost of the state prison system;

16 (d) Persons sentenced while under the age of 21 who have served  
17 more than 20 years in prison should be given the opportunity for a

1 reconsideration of sentence in light of recent research that demonstrates  
2 that the brain functioning that guides and aids rational decision-making  
3 does not fully develop until a person is in their mid- to late twenties, and  
4 the commission of a serious offense as a child or young adult is not  
5 predictive of whether the individual will pose a risk to public safety when  
6 the individual is 40 years old or older;

7 (e) Persons who are over 60 years old and have been incarcerated  
8 for more than 20 years present a significantly low risk to public safety and  
9 disproportionately account for medical expenses and care utilization  
10 within the prison system;

11 (f) The interests of justice are best served by providing to persons  
12 incarcerated while in their youth and to persons who have aged out of risk  
13 to public safety the due process to have their sentences reconsidered if  
14 they can provide evidence of their rehabilitation; and

15 (g) Providing the person incarcerated, the prosecution, and any  
16 victims of the crime the opportunity to be heard at a single public hearing  
17 ensures a fair and transparent deliberative process and recognizes that  
18 hope and change have a place in our criminal legal system.

19 **SECTION 2.** In Colorado Revised Statutes, **add** 18-1.3-411 as  
20 follows:

21 **18-1.3-411. Post-conviction relief - sentence reconsideration -**  
22 **offenses committed as a youth - offenders sixty years old or older.**

23 (1) AN INDIVIDUAL SERVING A SENTENCE IN THE DEPARTMENT OF  
24 CORRECTIONS MAY FILE A PETITION WITH THE COURT WHERE THE  
25 CONVICTION WAS OBTAINED REQUESTING POST-CONVICTION RELIEF FROM  
26 THE TERMS OF THE SENTENCE IF:

27 (a) THE OFFENSE RESULTING IN THE CONVICTION WAS COMMITTED

1 WHEN THE PETITIONER WAS YOUNGER THAN TWENTY-ONE YEARS OLD AND  
2 THE PETITIONER HAS SERVED AT LEAST TWENTY CALENDAR YEARS  
3 INCARCERATED FOR THE OFFENSE; OR

4 (b) THE PETITIONER IS SIXTY YEARS OLD OR OLDER AT THE TIME OF  
5 FILING THE PETITION AND HAS SERVED AT LEAST TWENTY CALENDAR  
6 YEARS INCARCERATED FOR THE OFFENSE RESULTING IN THE CONVICTION.

7 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF  
8 THIS SECTION, AN INDIVIDUAL IS NOT ELIGIBLE FOR POST-CONVICTION  
9 RELIEF PURSUANT TO THIS SECTION IF THE INDIVIDUAL IS IN THE CUSTODY  
10 OF THE DEPARTMENT OF CORRECTIONS AS THE RESULT OF CONVICTION FOR  
11 ONE OF THE FOLLOWING OFFENSES, UNLESS THE PROSECUTION AGREES  
12 THAT THE INTERESTS OF JUSTICE WOULD BE SERVED BY GRANTING  
13 POST-CONVICTION RELIEF FROM THE TERMS OF THE SENTENCE AND THE  
14 RELIEF IS CONSISTENT WITH THE INTERESTS OF PUBLIC SAFETY:

15 (a) A SEX OFFENSE DESCRIBED IN SECTION 16-11.7-102 (3);

16 (b) HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE  
17 PURSUANT TO SECTION 18-3-503 OR HUMAN TRAFFICKING FOR SEXUAL  
18 SERVITUDE PURSUANT TO SECTION 18-3-504;

19 (c) AN OFFENSE THAT RESULTED IN A SENTENCE TO LIFE  
20 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;

21 (d) AN OFFENSE FOR WHICH THE VICTIM WAS A CHILD YOUNGER  
22 THAN TWELVE YEARS OLD; OR

23 (e) AN OFFENSE AGAINST A PEACE OFFICER, EMERGENCY MEDICAL  
24 SERVICE PROVIDER, EMERGENCY MEDICAL CARE PROVIDER, OR  
25 FIREFIGHTER ENGAGED IN THE PERFORMANCE OF THEIR DUTIES.

26 (3) (a) THE PETITIONER HAS A RIGHT TO COUNSEL FOR ALL  
27 PROCEEDINGS ARISING FROM A PETITION FILED PURSUANT TO THIS

1 SECTION. UPON RECEIPT OF A PRO SE PETITION REQUESTING  
2 POST-CONVICTION RELIEF, THE COURT SHALL APPOINT COUNSEL FROM THE  
3 OFFICE OF STATE PUBLIC DEFENDER TO REPRESENT THE PETITIONER. IF THE  
4 OFFICE OF PUBLIC DEFENDER NOTIFIES THE COURT OF A CONFLICT OF  
5 INTEREST, THE COURT SHALL APPOINT THE OFFICE OF ALTERNATE DEFENSE  
6 COUNSEL TO REPRESENT THE PETITIONER.

7 (b) THE COURT SHALL GIVE COUNSEL APPOINTED IN ACCORDANCE  
8 WITH THIS SUBSECTION (3) THE OPPORTUNITY TO AMEND, SUPPLEMENT, OR  
9 OTHERWISE FILE DOCUMENTS SUPPORTING THE PETITION. WITHIN ONE  
10 HUNDRED EIGHTY DAYS AFTER THE APPOINTMENT, APPOINTED COUNSEL  
11 SHALL, AFTER REVIEW OF THE FACTS AND EVIDENCE SUPPORTING THE  
12 PETITION, ADVISE THE COURT IN WRITING WHETHER THE PETITIONER  
13 WISHES TO PROCEED TO AN EVIDENTIARY HEARING ON THE PETITION OR  
14 WITHDRAW THE PETITION AND REFILE THE PETITION AT A LATER DATE,  
15 SUBJECT TO THE LIMITATION DESCRIBED IN SUBSECTION (5)(b) OF THIS  
16 SECTION.

17 (4) IF THE PETITIONER REQUESTS A HEARING ON A PETITION FOR  
18 POST-CONVICTION RELIEF FILED PURSUANT TO THIS SECTION, THE COURT  
19 SHALL GRANT THE DISTRICT ATTORNEY TIME TO RESPOND IN WRITING TO  
20 THE PETITION.

21 (5) (a) AFTER RECEIPT OF THE DISTRICT ATTORNEY'S RESPONSE  
22 FILED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE COURT SHALL,  
23 AS SOON AS PRACTICABLE, SET A HEARING ON THE PETITION.

24 (b) A DEFENDANT IS ENTITLED TO ONLY ONE EVIDENTIARY  
25 HEARING ON THE MERITS PURSUANT TO THIS SECTION.

26 (6) THE DISTRICT ATTORNEY SHALL NOTIFY THE VICTIM OF ANY  
27 OFFENSE IN ACCORDANCE WITH THE "VICTIM RIGHTS ACT", PART 3 OF

1 ARTICLE 4.1 OF TITLE 24, AND THE COURT SHALL PROVIDE THE VICTIM AN  
2 OPPORTUNITY TO BE HEARD AT THE HEARING.

3 (7) (a) AT THE HEARING ON THE PETITION, THE PETITIONER HAS  
4 THE BURDEN TO SHOW, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE  
5 PETITIONER NO LONGER PRESENTS A DANGER TO THE SAFETY OF ANY  
6 PERSON OR THE COMMUNITY AND THAT THERE IS GOOD CAUSE FOR THE  
7 COURT TO MODIFY THE PETITIONER'S SENTENCE. THE COURT MAY ACCEPT  
8 ANY STIPULATION OF THE PARTIES THAT THE PETITIONER HAS MET THEIR  
9 BURDEN AS DESCRIBED IN THIS SUBSECTION (7)(a) IF THE COURT  
10 DETERMINES THAT THE STIPULATION IS SUPPORTED BY THE EVIDENCE AS  
11 AGREED TO BY THE PARTIES.

12 (b) IN ORDER FOR THE COURT TO GRANT THE PETITION IF THE  
13 PETITIONER WAS CONVICTED OF AN OFFENSE DESCRIBED IN SUBSECTION (2)  
14 OF THIS SECTION, THE PROSECUTION MUST AGREE THAT THE INTERESTS OF  
15 JUSTICE WOULD BE SERVED BY DEPARTURE FROM THE SENTENCE INITIALLY  
16 IMPOSED.

17 (8) AT THE HEARING ON THE PETITION, THE COURT SHALL  
18 CONSIDER THE FOLLOWING FACTORS RELATED TO THE PETITIONER AND  
19 THE OFFENSE THAT IS THE SUBJECT OF THE PETITION AND ADMIT ANY  
20 EVIDENCE RELEVANT TO ANY OF THE FACTORS:

21 (a) THE PETITIONER'S AGE AT THE TIME OF THE OFFENSE AND THE  
22 RELATIONSHIP OF AGE TO DIMINISHED CULPABILITY;

23 (b) THE PETITIONER'S AGE OF THE TIME OF THE HEARING AND THE  
24 LIKELIHOOD OF REOFFENSE GIVEN THE CURRENT AGE OF THE PETITIONER;

25 (c) THE NATURE OF THE OFFENSE, THE EXTENT OF THE  
26 PETITIONER'S ROLE IN THE OFFENSE, AND WHETHER AND TO WHAT EXTENT  
27 ANOTHER PERSON WAS INVOLVED IN THE OFFENSE;

1 (d) THE CHARACTERISTICS OF THE PETITIONER AND THE  
2 PETITIONER'S HISTORY, INCLUDING ANY HISTORY OF TRAUMA, ABUSE,  
3 INVOLVEMENT IN THE CHILD WELFARE SYSTEM, OR OTHER MITIGATING  
4 CIRCUMSTANCES;

5 (e) THE PETITIONER'S COMPLIANCE WITH THE RULES OF THE  
6 INSTITUTIONS IN WHICH THE PETITIONER HAS BEEN CONFINED,  
7 PARTICULARLY WITHIN THE PRIOR FIVE YEARS;

8 (f) THE PETITIONER'S PARTICIPATION IN EDUCATIONAL,  
9 VOCATIONAL, OR OTHER PROGRAMS OFFERED BY THE DEPARTMENT OF  
10 CORRECTIONS OR OTHER ENTITIES;

11 (g) THE HISTORY AND CHARACTERISTICS OF THE PETITIONER AT  
12 THE TIME OF THE HEARING, INCLUDING DEMONSTRATED MATURITY,  
13 SUCCESSFUL REHABILITATION, AND FITNESS TO REENTER SOCIETY  
14 SUFFICIENT TO JUSTIFY A SENTENCE REDUCTION;

15 (h) A STATEMENT OR OTHER EVIDENCE OFFERED BY A VICTIM OR  
16 A VICTIM'S REPRESENTATIVE, INCLUDING ANY EVIDENCE OF A CONTINUING  
17 IMPACT OF THE CRIME ON THE VICTIM;

18 (i) A REPORT OF A PHYSICAL, MENTAL, OR BEHAVIORAL  
19 EXAMINATION OF THE PETITIONER CONDUCTED BY A HEALTH  
20 PROFESSIONAL; AND

21 (j) ANY OTHER FACTOR THE COURT DEEMS RELEVANT TO THE  
22 COURT'S DETERMINATION OF WHETHER THE PETITIONER HAS MET THEIR  
23 BURDEN DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION.

24 (9) (a) IF THE COURT FINDS THAT THE PETITIONER HAS NOT MET  
25 THEIR BURDEN DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION OR, IF  
26 THE PROSECUTION IS REQUIRED TO AGREE TO THE DEPARTURE FROM THE  
27 INITIAL SENTENCE PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION, THE

1 PROSECUTION DOES NOT AGREE, THE COURT SHALL DENY THE PETITION  
2 AND SET FORTH THE REASONS FOR THE FINDING IN ITS ORDER.

3 (b) UPON A FINDING THAT THE PETITIONER HAS MET THEIR BURDEN  
4 DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION AND, IF NECESSARY,  
5 THAT THE PROSECUTION AGREES TO THE DEPARTURE FROM THE INITIAL  
6 SENTENCE PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION, THE  
7 PETITIONER IS PERMITTED TO FILE A MOTION FOR RECONSIDERATION AND  
8 REDUCTION OF THE INITIAL SENTENCE PURSUANT TO RULE 35 (b) OF THE  
9 COLORADO RULES OF CRIMINAL PROCEDURE. THE MOTION IS NOT SUBJECT  
10 TO THE TIME LIMITS CONTAINED IN RULE 35 (b) OF THE COLORADO RULES  
11 OF CRIMINAL PROCEDURE AND MAY BE MADE ORALLY AT THE TIME OF THE  
12 HEARING OR SUBMITTED IN WRITING WITHIN NINETY-ONE DAYS AFTER THE  
13 COURT'S RULING.

14 (10) (a) AT THE HEARING ON THE PETITIONER'S MOTION FOR  
15 RECONSIDERATION OF THE INITIAL SENTENCE PURSUANT TO RULE 35 (b)  
16 OF THE COLORADO RULES OF CRIMINAL PROCEDURE, THE COURT SHALL  
17 DETERMINE AND IMPOSE THE APPROPRIATE SENTENCE, WHICH MUST  
18 INCLUDE, IF THE PETITIONER IS ELIGIBLE FOR RESENTENCING PURSUANT TO  
19 SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION AND NOTWITHSTANDING  
20 ANY OTHER PROVISION OF LAW, A SENTENCE TO IMPRISONMENT THAT  
21 TOTALS AT LEAST TWENTY-FIVE YEARS BUT NO LONGER THAN ORIGINALLY  
22 IMPOSED BY THE COURT, INCLUDING UP TO FIVE YEARS OF PAROLE; AN  
23 ALTERNATIVE SENTENCE PERMITTED BY LAW, INCLUDING A COMMUNITY  
24 CORRECTIONS DIRECT SENTENCE; OR A SENTENCE STIPULATED TO BY THE  
25 PARTIES; OR

26 (b) IF A PETITIONER IS ELIGIBLE FOR RESENTENCING AND IS  
27 SERVING SENTENCES FOR MULTIPLE OFFENSES, THE COURT HAS THE

1 DISCRETION TO MODIFY A SENTENCE TO BE CONCURRENT WITH ANY OTHER  
2 SENTENCE IMPOSED ON THE PETITIONER, AND THE MODIFIED SENTENCE IS  
3 NOT SUBJECT TO THE PROVISIONS OF SECTION 18-1.3-406.

4 (11) IF A PERSON IN THE CUSTODY OF THE DEPARTMENT OF  
5 CORRECTIONS IS NOT ELIGIBLE FOR POST-CONVICTION RELIEF PURSUANT  
6 TO SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION, THE DISTRICT  
7 ATTORNEY'S OFFICE THAT PROSECUTED THE OFFENSE RESULTING IN THE  
8 CONVICTION MAY PETITION THE COURT REQUESTING THAT THE COURT  
9 GRANT POST-CONVICTION RELIEF TO THE PERSON. IF THE DISTRICT  
10 ATTORNEY FILES A PETITION DESCRIBED IN THIS SUBSECTION (11), THE  
11 PROVISIONS OF SUBSECTIONS (3) TO (10) OF THIS SECTION REGARDING THE  
12 APPOINTMENT OF COUNSEL, THE BURDEN OF PROOF, THE RELEVANT  
13 EVIDENTIARY FACTORS, THE DUE PROCESS GRANTED TO THE  
14 INCARCERATED PERSON, AND THE PROSECUTION AND ANY STIPULATION OF  
15 THE PARTIES, APPLY. A DISTRICT ATTORNEY WHO FILES A PETITION  
16 PURSUANT TO THIS SUBSECTION (11) MAY FILE A MOTION REQUESTING THE  
17 COURT APPOINT COUNSEL FOR THE PERSON.

18 (12) UPON THE REQUEST OF THE PETITIONER AND EXECUTION BY  
19 THE PETITIONER OF ANY NECESSARY CONFIDENTIALITY WAIVERS, THE  
20 DEPARTMENT OF CORRECTIONS SHALL PROVIDE THE PETITIONER OR THE  
21 PETITIONER'S ATTORNEY OF RECORD WITH ANY INFORMATION IN THE  
22 POSSESSION OF THE DEPARTMENT REQUESTED FOR THE PREPARATION OF  
23 THE PETITION FOR POST-CONVICTION RELIEF, INCLUDING ALL TIME  
24 COMPUTATION INFORMATION AVAILABLE FOR THE PETITIONER, INCLUDING  
25 ALL EARNED TIME AWARDED AGAINST THE PETITIONER'S SENTENCE THAT  
26 WOULD BE CREDITED AGAINST ANY NEW SENTENCE IMPOSED AND ANY  
27 RISK ASSESSMENT SCORE PERTAINING TO THE PETITIONER.

1 (13) UPON THE REQUEST OF A PARTY, THE COURT SHALL GRANT  
2 REASONABLE DISCOVERY DISCLOSURES TO THE PARTY TO EFFECTUATE  
3 FAIR PREPARATION AND PRESENTATION OF RELEVANT EVIDENCE RELATED  
4 TO THE FACTORS SET FORTH IN SUBSECTION (8) OF THIS SECTION IN ORDER  
5 TO ENSURE A FAIR HEARING. THE COURT HAS THE DISCRETION TO ENTER  
6 ORDERS TO CURE OR REMEDY A VIOLATION OF ANY DEADLINES OR OTHER  
7 DISCOVERY REQUIREMENTS.

8 (14) BEGINNING IN JANUARY 2027, AND IN JANUARY EVERY YEAR  
9 THEREAFTER, THE JUDICIAL DEPARTMENT SHALL INCLUDE, AS PART OF ITS  
10 PRESENTATION DURING ITS "SMART ACT" HEARING REQUIRED BY  
11 SECTION 2-7-203, INFORMATION CONCERNING THE NUMBER OF PETITIONS  
12 FILED PURSUANT TO THIS SECTION, THE NUMBER OF HEARINGS SET  
13 PURSUANT TO SUBSECTION (5) OF THIS SECTION, AND THE NUMBER OF  
14 SENTENCES DETERMINED AND IMPOSED PURSUANT TO SUBSECTION (10) OF  
15 THIS SECTION.

16 **SECTION 3. Act subject to petition - effective date -**  
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
18 the expiration of the ninety-day period after final adjournment of the  
19 general assembly (August 12, 2026, if adjournment sine die is on May 13,  
20 2026); except that, if a referendum petition is filed pursuant to section 1  
21 (3) of article V of the state constitution against this act or an item, section,  
22 or part of this act within such period, then the act, item, section, or part  
23 will not take effect unless approved by the people at the general election  
24 to be held in November 2026 and, in such case, will take effect on the  
25 date of the official declaration of the vote thereon by the governor.

26 (2) This act applies to individuals convicted of an offense before,  
27 on, or after the applicable effective date of this act.