

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0066.01 Michael Dohr x4347

SENATE BILL 17-095

SENATE SPONSORSHIP

Guzman,

HOUSE SPONSORSHIP

Garnett,

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE REPEAL OF THE DEATH PENALTY BY THE GENERAL
102 ASSEMBLY.

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 repeals the death penalty in Colorado for offenses committed on or after July 1, 2017, and makes conforming amendments.

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

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.

1 **SECTION 1. Short title - legislative declaration.** (1) The short
2 title of this act is the "Death Penalty Repeal Act".

3 (2) The general assembly hereby finds that Colorado's death
4 penalty policy is a failed public policy and should be replaced by a
5 sentence of life in prison without the possibility of parole for the
6 following reasons:

7 (a) The policy of the state of Colorado should strive to protect all
8 human life. The dignity of human life should not be taken away, even in
9 the case of a person who has committed a grave injustice. Modern society
10 possesses the means to protect itself without permanently denying
11 criminals the chance to reform.

12 (b) The death penalty risks the state of Colorado taking an
13 innocent life. Two death row inmates in Colorado have been exonerated
14 in recent years for crimes they did not commit after exhausting their
15 appellate rights; nine inmates facing the death penalty have had their
16 sentences reversed because of issues of procedural fairness; and,
17 nationally, more than one hundred forty death row inmates have been
18 exonerated after new evidence found them innocent of the crimes for
19 which they had been convicted. Our system of justice is fallible and
20 cannot ensure that the state of Colorado does not execute an innocent
21 person or execute a person pursuant to an unfair process.

22 (c) The country is moving away from employing the death
23 penalty, as evidenced by the recent repeal of the death penalty in seven
24 states and the fact that a total of nineteen states now do not impose the
25 death penalty in their criminal justice systems. In addition, four states
26 have imposed a moratorium on the death penalty. This trend reflects a
27 growing belief that the death penalty is not an effective penalty in a

1 modern criminal justice system.

2 (d) A nationwide shortage of sodium thiopental, an anesthetic that
3 is part of the three-drug cocktail used in lethal injections, has thrown
4 capital punishment in the United States into disarray, delaying executions
5 and forcing the change of execution protocols in several states, further
6 complicating the use of the death penalty;

7 (e) The death penalty does not achieve the finality many families
8 seek as a result of the protracted appellate and post-conviction remedies
9 required by the due process clause of the United States constitution.
10 Hastening execution forecloses many of the post-conviction reviews that
11 have exonerated inmates on death row.

12 (f) The death penalty is unfairly applied:

13 (I) Geography, rather than the seriousness of the offense or
14 culpability of the defendant, determines whether a person charged with
15 first degree murder will face a death penalty prosecution. For the last
16 decade, the vast majority of all Colorado capital prosecutions have been
17 limited to one judicial district, an area that encompasses about eighteen
18 percent of Colorado's population. This reflects the policies of elected
19 district attorneys in a single judicial district, rather than the relative
20 egregiousness of the offense. Geography and politics should not
21 determine who lives and who dies.

22 (II) The lack of consistency across judicial districts in seeking the
23 death penalty also reflects the way that the ethnicity and gender of the
24 homicide victim and the accused person influence charging decisions.
25 The death penalty disproportionately affects minority and low-income
26 populations.

27 (g) Death penalty cases, regardless of whether a sentence of death

1 is imposed, cost the state millions of dollars through extended trial,
2 sentencing, and appeals processes. Studies show that the death penalty
3 costs more than sentencing an offender to a sentence of life in prison
4 without possibility of parole.

5 (h) Supposed fixes that would shorten the appeals process only
6 increase the chance of executing an innocent person or executing
7 someone who did not have effective assistance of counsel;

8 (i) A sentence of life in prison without the possibility of parole
9 effectively incapacitates a murderer for the rest of his or her life at far less
10 cost than execution, allowing resources to be redirected to measures that
11 prevent people from entering the criminal justice system through early
12 treatment and intervention, bringing justice to victims, and implementing
13 more widespread public safety measures; and

14 (j) No other Western country imposes the death penalty. Retaining
15 the death penalty puts Colorado in the company of Iran, China, and Saudi
16 Arabia.

17 **SECTION 2.** In Colorado Revised Statutes, **add** part 9 to article
18 11 of title 16 as follows:

19 PART 9

20 REPEAL OF THE DEATH PENALTY

21 **16-11-901. Death penalty repeal - applicability - current**
22 **sentences.** FOR OFFENSES COMMITTED ON OR AFTER JULY 1, 2017, THE
23 DEATH PENALTY IS NOT A SENTENCING OPTION FOR A DEFENDANT
24 CONVICTED OF A CLASS 1 FELONY IN THE STATE OF COLORADO. NOTHING
25 IN THIS SECTION COMMUTES OR ALTERS THE SENTENCE OF A DEFENDANT
26 CONVICTED OF AN OFFENSE COMMITTED BEFORE JULY 1, 2017.

27 **SECTION 3.** In Colorado Revised Statutes, 13-4-102, **amend**

1 (1)(h) as follows:

2 **13-4-102. Jurisdiction.** (1) Any provision of law to the contrary
3 notwithstanding, the court of appeals shall have initial jurisdiction over
4 appeals from final judgments of, and interlocutory appeals of certified
5 questions of law in civil cases pursuant to section 13-4-102.1 from, the
6 district courts, the probate court of the city and county of Denver, and the
7 juvenile court of the city and county of Denver, except in:

8 (h) Cases appealed from the district court granting or denying
9 postconviction relief in a case in which a sentence of death has been
10 imposed FOR AN OFFENSE COMMITTED PRIOR TO JULY 1, 2017.

11 **SECTION 4.** In Colorado Revised Statutes, 16-4-101, **amend**
12 (1)(a), (3), and (4) as follows:

13 **16-4-101. Bailable offenses - definitions.** (1) All persons shall
14 be bailable by sufficient sureties except:

15 (a) For ~~capital offenses~~ CLASS 1 FELONIES when proof is evident
16 or presumption is great; or

17 (3) In any ~~capital~~ case INVOLVING A CLASS 1 FELONY, the
18 defendant may make a written motion for admission to bail upon the
19 ground that the proof is not evident or that presumption is not great, and
20 the court shall promptly conduct a hearing upon such motion. At such
21 hearing, the burden shall be upon the people to establish that the proof is
22 evident or that the presumption is great. The court may combine in a
23 single hearing the questions as to whether the proof is evident or the
24 presumption great with the determination of the existence of probable
25 cause to believe that the defendant committed the crime charged.

26 (4) Except in the case of a ~~capital offense~~ CLASS 1 FELONY, if a
27 person is denied bail under this section, the trial of the person shall be

1 commenced not more than ninety-one days after the date on which bail is
2 denied. If the trial is not commenced within ninety-one days and the delay
3 is not attributable to the defense, the court shall immediately schedule a
4 bail hearing and shall set the amount of the bail for the person.

5 **SECTION 5.** In Colorado Revised Statutes, 16-4-201, **amend**
6 (1)(a) as follows:

7 **16-4-201. Bail after conviction.** (1) (a) After conviction, either
8 before or after sentencing, the defendant may orally, or in writing, move
9 for release on bail pending determination of a motion for a new trial or
10 motion in arrest of judgment or during any stay of execution or pending
11 review by an appellate court, and, except in cases where the defendant has
12 been convicted of a ~~capital offense~~ CLASS 1 FELONY, the trial court, in its
13 discretion, may continue the bond given for pretrial release, or may
14 release the defendant on bond with additional conditions including
15 monetary conditions, or require bond under one or more of the
16 alternatives set forth in section 16-4-104.

17 **SECTION 6.** In Colorado Revised Statutes, 16-8-103.6, **amend**
18 (1)(a) and (2)(a) as follows:

19 **16-8-103.6. Waiver of privilege.** (1) (a) A defendant who places
20 his or her mental condition at issue by pleading not guilty by reason of
21 insanity pursuant to section 16-8-103, OR asserting the affirmative
22 defense of impaired mental condition pursuant to section 16-8-103.5, or
23 disclosing witnesses who may provide evidence concerning the
24 defendant's mental condition during a sentencing hearing held pursuant
25 to section 18-1.3-1201 FOR AN OFFENSE COMMITTED PRIOR TO JULY 1,
26 2017, or SECTION 18-1.3-1302, ~~C.R.S.~~, waives any claim of
27 confidentiality or privilege as to communications made by the defendant

1 to a physician or psychologist in the course of an examination or
2 treatment for ~~such~~ THE mental condition for the purpose of any trial OR
3 hearing on the issue of ~~such~~ THE mental condition or sentencing hearing
4 conducted pursuant to section 18-1.3-1201 FOR AN OFFENSE COMMITTED
5 PRIOR TO JULY 1, 2017, or SECTION 18-1.3-1302. ~~C.R.S.~~ The court shall
6 order both the prosecutor and the defendant to exchange the names,
7 addresses, reports, and statements of any physician or psychologist who
8 has examined or treated the defendant for ~~such~~ THE mental condition.

9 (2) (a) A defendant who places his or her mental condition at issue
10 by pleading not guilty by reason of insanity pursuant to section 16-8-103
11 or disclosing witnesses who may provide evidence concerning the
12 defendant's mental condition during a sentencing hearing held pursuant
13 to section 18-1.3-1201 FOR AN OFFENSE COMMITTED PRIOR TO JULY 1,
14 2017, or SECTION 18-1.4-102; ~~C.R.S.~~; or, for offenses committed on or
15 after July 1, 1999, by seeking to introduce evidence concerning his or her
16 mental condition pursuant to section 16-8-107 (3) waives any claim of
17 confidentiality or privilege as to communications made by the defendant
18 to a physician or psychologist in the course of an examination or
19 treatment for ~~such~~ THE mental condition for the purpose of any trial OR
20 hearing on the issue of ~~such~~ THE mental condition or sentencing hearing
21 conducted pursuant to section 18-1.3-1201 FOR AN OFFENSE COMMITTED
22 PRIOR TO JULY 1, 2017, or SECTION 18-1.4-102. ~~C.R.S.~~ The court shall
23 order both the prosecutor and the defendant to exchange the names,
24 addresses, reports, and statements of any physician or psychologist who
25 has examined or treated the defendant for ~~such~~ THE mental condition.

26 **SECTION 7.** In Colorado Revised Statutes, 16-8-106, **amend**
27 (2)(c), (3)(b), (6) introductory portion, (6)(b), (7) introductory portion,

1 and (7)(b) as follows:

2 **16-8-106. Examinations and report.** (2) (c) The defendant shall
3 cooperate with psychiatrists, forensic psychologists, and other personnel
4 conducting any examination ordered by the court pursuant to this section.
5 Statements made by the defendant in the course of ~~such~~ THE examination
6 shall be protected as provided in section 16-8-107. If the defendant does
7 not cooperate with psychiatrists, forensic psychologists, and other
8 personnel conducting the examination, the court shall not allow the
9 defendant to call any psychiatrist, forensic psychologists, or other expert
10 witness to provide evidence at the defendant's trial concerning the
11 defendant's mental condition including, but not limited to, providing
12 evidence on the issue of insanity or, FOR AN OFFENSE COMMITTED PRIOR
13 TO JULY 1, 2017, at any sentencing hearing held pursuant to section
14 18-1.3-1201 or 18-1.4-102. ~~C.R.S.~~ In addition, the fact of the defendant's
15 noncooperation with psychiatrists, forensic psychologists, and other
16 personnel conducting the examination may be admissible in the
17 defendant's trial to rebut any evidence introduced by the defendant with
18 regard to the defendant's mental condition including, but not limited to,
19 the issue of insanity and in any sentencing hearing held pursuant to
20 section 18-1.3-1201 FOR AN OFFENSE COMMITTED PRIOR TO JULY 1, 2017,
21 or SECTION 18-1.4-102. ~~C.R.S.~~ This paragraph (c) shall apply SUBSECTION
22 (2)(c) APPLIES to offenses committed on or after July 1, 1999.

23 (3) (b) To aid in forming an opinion as to the mental condition of
24 the defendant, it is permissible in the course of an examination under this
25 section to use confessions and admissions of the defendant and any other
26 evidence of the circumstances surrounding the commission of the offense,
27 as well as the medical and social history of the defendant, in questioning

1 the defendant. When the defendant is noncooperative with psychiatrists,
2 forensic psychologists, and other personnel conducting the examination,
3 an opinion of the mental condition of the defendant may be rendered by
4 such psychiatrists, forensic psychologists, or other personnel based upon
5 such confessions, admissions, and any other evidence of the
6 circumstances surrounding the commission of the offense, as well as the
7 known medical and social history of the defendant, and such opinion may
8 be admissible into evidence at trial and FOR AN OFFENSE COMMITTED
9 PRIOR TO JULY 1, 2017, in any sentencing hearing held pursuant to section
10 18-1.3-1201 or 18-1.4-102. ~~C.R.S.~~ It shall also be permissible to conduct
11 a narcoanalytic interview of the defendant with such drugs as are
12 medically appropriate and to subject the defendant to polygraph
13 examination. In any trial or hearing on the issue of the defendant's sanity
14 or eligibility for release, and in any sentencing hearing held pursuant to
15 section 18-1.3-1201 or 18-1.4-102, ~~C.R.S.~~, the physicians and other
16 personnel conducting the examination may testify to the results of any
17 such procedures and the statements and reactions of the defendant insofar
18 as the same entered into the formation of their opinions as to the mental
19 condition of the defendant both at the time of the commission of the
20 alleged offense and at the present time. This ~~paragraph(b) shall apply~~
21 SUBSECTION (3)(b) APPLIES to offenses committed on or after July 1,
22 1995.

23 (6) With respect to offenses committed on or after July 1, 1995,
24 the report of examination shall include, but is not limited to, the items
25 described in ~~paragraphs (a) to (c) of subsection (5)~~ SUBSECTIONS (5)(a),
26 (5)(b), AND (5)(c) of this section, and:

27 (b) Separate opinions as to whether the defendant was insane or

1 is ineligible for release, as those terms are defined in this ~~article~~ ARTICLE
2 8, and, in any class 1 felony case FOR AN OFFENSE COMMITTED PRIOR TO
3 JULY 1, 2017, an opinion as to how the mental disease or defect or the
4 condition of mind caused by mental disease or defect affects any
5 mitigating factor. The nature of the opinions required depends upon the
6 type of examination ordered by the court.

7 (7) With respect to offenses committed on or after July 1, 1999,
8 when a defendant has undergone an examination pursuant to the
9 provisions of this section because the defendant has given notice pursuant
10 to section 16-8-107 (3) that he or she intends to introduce expert opinion
11 evidence concerning his or her mental condition, the report of
12 examination shall include, but is not limited to, the items described in
13 ~~paragraphs (a) to (c) of subsection (5)~~ SUBSECTIONS (5)(a), (5)(b), AND
14 (5)(c) of this section and:

15 (b) Separate opinions as to the defendant's mental condition
16 including, but not limited to, whether the defendant was insane or is
17 ineligible for release, as those terms are defined in this ~~article~~ ARTICLE 8,
18 and, in any class 1 felony case FOR AN OFFENSE COMMITTED PRIOR TO
19 JULY 1, 2017, an opinion as to how the mental disease or defect or the
20 condition of mind caused by mental disease or defect affects any
21 mitigating factor. The nature of the opinions required depends upon the
22 type of examination ordered by the court.

23 **SECTION 8.** In Colorado Revised Statutes, 16-8-107, **amend**
24 (1)(b), (1)(c), and (1.5)(b) as follows:

25 **16-8-107. Evidence.** (1) (b) Evidence acquired directly or
26 indirectly for the first time from a communication derived from the
27 defendant's mental processes during the course of a court-ordered

1 examination under section 16-8-108 or acquired pursuant to section
2 16-8-103.6 is admissible at any sentencing hearing held pursuant to
3 section 18-1.3-1201 FOR AN OFFENSE COMMITTED PRIOR TO JULY 1, 2017,
4 SECTION 18-1.3-1302, or SECTION 18-1.4-102 ~~C.R.S.~~, only to prove the
5 existence or absence of any mitigating factor.

6 (c) If the defendant testifies in his or her own behalf upon the trial
7 of the issues raised by the plea of not guilty, or at a sentencing hearing
8 held pursuant to section 18-1.3-1201 FOR AN OFFENSE COMMITTED PRIOR
9 TO JULY 1, 2017, SECTION 18-1.3-1302, or SECTION 18-1.4-102, ~~C.R.S.~~,
10 the provisions of this section shall not bar any evidence used to impeach
11 or rebut the defendant's testimony.

12 (1.5) (b) Evidence acquired directly or indirectly for the first time
13 from a communication derived from the defendant's mental processes
14 during the course of a court-ordered examination under section 16-8-106
15 or acquired pursuant to section 16-8-103.6 is admissible at any sentencing
16 hearing held pursuant to section 18-1.3-1201 FOR AN OFFENSE
17 COMMITTED PRIOR TO JULY 1, 2017, or SECTION 18-1.4-102 ~~C.R.S.~~, only
18 to prove the existence or absence of any mitigating factor.

19 **SECTION 9.** In Colorado Revised Statutes, 16-8.5-103, **amend**
20 (8) as follows:

21 **16-8.5-103. Determination of competency to proceed.** (8) If the
22 question of the defendant's incompetency to proceed is raised after a jury
23 is impaneled to try the issues raised by a plea of not guilty and the court
24 determines that the defendant is incompetent to proceed or orders the
25 defendant committed for a court-ordered competency evaluation, the
26 court may declare a mistrial. Declaration of a mistrial under these
27 circumstances does not constitute jeopardy, nor does it prohibit the trial

1 OR sentencing ~~or execution~~ of the defendant for the same offense after he
2 or she has been found restored to competency.

3 **SECTION 10.** In Colorado Revised Statutes, 16-8.5-108, **amend**
4 (1)(b) and (1)(c) as follows:

5 **16-8.5-108. Evidence.** (1) (b) Evidence acquired directly or
6 indirectly for the first time from a communication derived from the
7 defendant's mental processes during the course of a competency
8 evaluation or involuntary medication proceeding is admissible at any
9 sentencing hearing held pursuant to section 18-1.3-1201 FOR OFFENSES
10 COMMITTED PRIOR TO JULY 1, 2017, SECTION 18-1.3-1302, or SECTION
11 18-1.4-102 ~~C.R.S.~~, only to prove the existence or absence of any
12 mitigating factor.

13 (c) If the defendant testifies on his or her own behalf upon the trial
14 of the issues raised by the plea of not guilty or, for offenses that occurred
15 before July 1, 1995, a plea of not guilty by reason of impaired mental
16 condition, or at a sentencing hearing held pursuant to section 18-1.3-1201
17 FOR AN OFFENSE COMMITTED PRIOR TO JULY 1, 2017, SECTION
18 18-1.3-1302, or SECTION 18-1.4-102, ~~C.R.S.~~, the provisions of this section
19 shall not bar any evidence used to impeach or rebut the defendant's
20 testimony.

21 **SECTION 11.** In Colorado Revised Statutes, 18-1-409, **amend**
22 (1) as follows:

23 **18-1-409. Appellate review of sentence for a felony.** (1) When
24 A sentence is imposed upon any person following a conviction of any
25 felony, other than a class 1 felony in which a death sentence is
26 automatically reviewed pursuant to section 18-1.3-1201 (6) FOR AN
27 OFFENSE COMMITTED PRIOR TO JULY 1, 2017, SECTION 18-1.3-1302 (6), or

1 SECTION 18-1.4-102 (6), the person convicted shall have the right to one
2 appellate review of the propriety of the sentence, having regard to the
3 nature of the offense, the character of the offender, and the public
4 interest, and the manner in which the sentence was imposed, including the
5 sufficiency and accuracy of the information on which it was based; except
6 that, if the sentence is within a range agreed upon by the parties pursuant
7 to a plea agreement, the defendant shall not have the right of appellate
8 review of the propriety of the sentence. The procedures to be employed
9 in the review shall be as provided by supreme court rule.

10 **SECTION 12.** In Colorado Revised Statutes, 18-1.3-104, **amend**
11 (1)(c) as follows:

12 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within
13 the limitations of the applicable statute pertaining to sentencing and
14 subject to the provisions of this title, the trial court has the following
15 alternatives in entering judgment imposing a sentence:

16 (c) The defendant shall be sentenced to death in those cases in
17 which a death sentence is required under section 18-1.3-1201 FOR
18 OFFENSES COMMITTED PRIOR TO JULY 1, 2017, SECTION 18-1.3-1302, or
19 SECTION 18-1.4-102.

20 **SECTION 13.** In Colorado Revised Statutes, 18-1.3-401, **amend**
21 (1)(a)(V)(A) and (4)(a); and **add** (1)(a)(V.5) as follows:

22 **18-1.3-401. Felonies classified - presumptive penalties.**
23 (1) (a) (V) (A) Except as otherwise provided in section 18-1.3-401.5 for
24 offenses contained in article 18 of this title committed on or after October
25 1, 2013, as to any person sentenced for a felony committed on or after
26 July 1, 1993, AND BEFORE JULY 1, 2017, felonies are divided into six
27 classes that are distinguished from one another by the following

1 presumptive ranges of penalties that are authorized upon conviction:

2	Class	Minimum	Maximum	Mandatory Period
3		Sentence	Sentence	of Parole
4	1	Life imprisonment	Death	None
5	2	Eight years	Twenty-four years	Five years
6		imprisonment	imprisonment	
7	3	Four years	Twelve years	Five years
8		imprisonment	imprisonment	
9	4	Two years	Six years	Three years
10		imprisonment	imprisonment	
11	5	One year	Three years	Two years
12		imprisonment	imprisonment	
13	6	One year	Eighteen months	One year
14		imprisonment	imprisonment	

15 (V.5) (A) AS TO ANY PERSON SENTENCED FOR A FELONY FOR AN
16 OFFENSE COMMITTED ON OR AFTER JULY 1, 2017, FELONIES ARE DIVIDED
17 INTO SIX CLASSES THAT ARE DISTINGUISHED FROM ONE ANOTHER BY THE
18 FOLLOWING PRESUMPTIVE RANGES OF PENALTIES, WHICH ARE AUTHORIZED
19 UPON CONVICTION:

20	CLASS	MINIMUM	MAXIMUM	MANDATORY
21		SENTENCE	SENTENCE	PERIOD
22				OF PAROLE
23	1	LIFE IMPRISONMENT		NONE
24	2	EIGHT YEARS	TWENTY-FOUR YEARS	FIVE YEARS
25		IMPRISONMENT	IMPRISONMENT	
26	3	FOUR YEARS	TWELVE YEARS	FIVE YEARS

1		IMPRISONMENT	IMPRISONMENT	
2	4	TWO YEARS	SIX YEARS	THREE YEARS
3		IMPRISONMENT	IMPRISONMENT	
4	5	ONE YEAR	THREE YEARS	TWO YEARS
5		IMPRISONMENT	IMPRISONMENT	
6	6	ONE YEAR	EIGHTEEN MONTHS	ONE YEAR
7		IMPRISONMENT	IMPRISONMENT	

8 (B) ANY PERSON WHO IS PAROLED PURSUANT TO SECTION
9 17-22.5-403, OR ANY PERSON WHO IS NOT PAROLED AND IS DISCHARGED
10 PURSUANT TO LAW, SHALL BE SUBJECT TO THE MANDATORY PERIOD OF
11 PAROLE ESTABLISHED PURSUANT TO SUBSECTION (1)(a)(V.5)(A) OF THIS
12 SECTION. SUCH MANDATORY PERIOD OF PAROLE MAY NOT BE WAIVED BY
13 THE OFFENDER OR WAIVED OR SUSPENDED BY THE COURT AND SHALL BE
14 SUBJECT TO THE PROVISIONS OF SECTION 17-22.5-403 (8), WHICH PERMITS
15 THE STATE BOARD OF PAROLE TO DISCHARGE THE OFFENDER AT ANY TIME
16 DURING THE TERM OF PAROLE UPON A DETERMINATION THAT THE
17 OFFENDER HAS BEEN SUFFICIENTLY REHABILITATED AND REINTEGRATED
18 INTO SOCIETY AND CAN NO LONGER BENEFIT FROM PAROLE SUPERVISION.

19 (C) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
20 (1)(a)(V.5)(A) OF THIS SECTION, ANY PERSON SENTENCED FOR A SEX
21 OFFENSE, AS DEFINED IN SECTION 18-1.3-1003 (5), COMMITTED ON OR
22 AFTER JULY 1, 2017, SHALL BE SENTENCED PURSUANT TO THE PROVISIONS
23 OF PART 10 OF THIS ARTICLE 1.3.

24 (D) ANY PERSON SENTENCED FOR A FELONY CONVICTION ENTERED
25 ON OR AFTER JULY 1, 2017, INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS
26 DEFINED IN SECTION 16-22-102 (9), OR FOR A FELONY COMMITTED ON OR
27 AFTER JULY 1, 2017, THE UNDERLYING FACTUAL BASIS OF WHICH

1 INVOLVED UNLAWFUL SEXUAL BEHAVIOR, AND WHO IS NOT SUBJECT TO
2 THE PROVISIONS OF PART 10 OF THIS ARTICLE 1.3, SHALL BE SUBJECT TO
3 THE MANDATORY PERIOD OF PAROLE SPECIFIED IN
4 SUBSECTION(1)(a)(V.5)(A) OF THIS SECTION.

5 (E) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO
6 SUBSECTION (1)(a)(V.5)(A) OF THIS SECTION SHALL COMMENCE
7 IMMEDIATELY UPON THE DISCHARGE OF AN OFFENDER FROM
8 IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS.
9 IF THE OFFENDER HAS BEEN GRANTED RELEASE TO PAROLE SUPERVISION
10 BY THE STATE BOARD OF PAROLE, THE OFFENDER SHALL BE DEEMED TO
11 HAVE DISCHARGED THE OFFENDER'S SENTENCE TO IMPRISONMENT
12 PROVIDED FOR IN SUBSECTION (1)(a)(V.5)(A) OF THIS SECTION IN THE
13 SAME MANNER AS IF SUCH SENTENCE WERE DISCHARGED PURSUANT TO
14 LAW; EXCEPT THAT THE SENTENCE TO IMPRISONMENT FOR ANY PERSON
15 SENTENCED AS A SEX OFFENDER PURSUANT TO PART 10 OF THIS ARTICLE
16 1.3 SHALL NOT BE DEEMED DISCHARGED ON RELEASE OF SAID PERSON ON
17 PAROLE. WHEN AN OFFENDER IS RELEASED BY THE STATE BOARD OF
18 PAROLE OR RELEASED BECAUSE THE OFFENDER'S SENTENCE WAS
19 DISCHARGED PURSUANT TO LAW, THE MANDATORY PERIOD OF PAROLE
20 SHALL BE SERVED BY SUCH OFFENDER. AN OFFENDER SENTENCED FOR A
21 NONVIOLENT FELONY OFFENSE, AS DEFINED IN SECTION 17-22.5-405 (5),
22 MAY RECEIVE EARNED TIME PURSUANT TO SECTION 17-22.5-405 WHILE
23 SERVING A MANDATORY PAROLE PERIOD IN ACCORDANCE WITH THIS
24 SECTION, BUT NOT WHILE SUCH OFFENDER IS REINCARCERATED AFTER A
25 REVOCATION OF THE MANDATORY PERIOD OF PAROLE. AN OFFENDER
26 SHALL BE ELIGIBLE TO RECEIVE EARNED TIME WHILE ON PAROLE OR AFTER
27 REPAROLE FOLLOWING A PAROLE REVOCATION. THE OFFENDER SHALL NOT

1 BE ELIGIBLE FOR EARNED TIME WHILE THE OFFENDER IS REINCARCERATED
2 AFTER REVOCATION OF THE MANDATORY PERIOD OF PAROLE PURSUANT TO
3 THIS SUBSECTION (1)(a)(V.5).

4 (F) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE
5 COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO
6 SUBSECTION (1)(a)(V.5)(A) OF THIS SECTION, THE MANDATORY PERIOD OF
7 PAROLE FOR SUCH OFFENDER SHALL BE THE MANDATORY PERIOD OF
8 PAROLE ESTABLISHED FOR THE HIGHEST CLASS FELONY OF WHICH SUCH
9 OFFENDER HAS BEEN CONVICTED.

10 (4) (a) A person who has been convicted of a class 1 felony shall
11 be punished by life imprisonment in the department of corrections unless
12 THE OFFENSE WAS COMMITTED PRIOR TO JULY 1, 2017, AND a proceeding
13 held to determine sentence according to the procedure set forth in section
14 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, results in a verdict that requires
15 imposition of the death penalty, in which event such person shall be
16 sentenced to death. As to any person sentenced for a class 1 felony, for an
17 act committed on or after July 1, 1985, and before July 1, 1990, life
18 imprisonment shall mean imprisonment without the possibility of parole
19 for forty calendar years. As to any person sentenced for a class 1 felony,
20 for an act committed on or after July 1, 1990, life imprisonment shall
21 mean imprisonment without the possibility of parole.

22 **SECTION 14.** In Colorado Revised Statutes, 18-1.3-801, **amend**
23 (1)(e) as follows:

24 **18-1.3-801. Punishment for habitual criminals.** (1) (e) Nothing
25 in this subsection (1) is to be construed to prohibit a person convicted of
26 a class 1 felony from being sentenced pursuant to section 18-1.3-1201
27 FOR AN OFFENSE COMMITTED PRIOR TO JULY 1, 2017, SECTION

1 18-1.3-1302, or SECTION 18-1.4-102.

2 **SECTION 15.** In Colorado Revised Statutes, **add** 18-1.3-1106 as
3 follows:

4 **18-1.3-1106. Applicability.** THIS PART 11 ONLY APPLIES TO
5 OFFENSES COMMITTED PRIOR TO JULY 1, 2017.

6 **SECTION 16.** In Colorado Revised Statutes, 18-1.3-1201, **add**
7 (9) as follows:

8 **18-1.3-1201. Imposition of sentence in class 1 felonies -**
9 **appellate review - applicability.** (9) THIS SECTION ONLY APPLIES TO
10 OFFENSES COMMITTED PRIOR TO JULY 1, 2017.

11 **SECTION 17.** In Colorado Revised Statutes, **add** 18-1.3-1408 as
12 follows:

13 **18-1.3-1408. Applicability.** THIS PART 14 ONLY APPLIES TO
14 OFFENSES COMMITTED PRIOR TO JULY 1, 2017.

15 **SECTION 18.** In Colorado Revised Statutes, 18-3-107, **amend**
16 (3) as follows:

17 **18-3-107. First degree murder of a peace officer, firefighter,**
18 **or emergency medical service provider - legislative declaration.** (3) A
19 person convicted of first degree murder of a peace officer, firefighter, or
20 emergency medical service provider shall be punished by life
21 imprisonment without the possibility of parole for the rest of his or her
22 natural life, unless THE OFFENSE WAS COMMITTED PRIOR TO JULY 1, 2017,
23 AND a proceeding held to determine sentence according to the procedure
24 set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102 results in a
25 verdict that requires imposition of the death penalty, in which event the
26 person shall be sentenced to death. Nothing in this subsection (3) is
27 construed as limiting the power of the governor to grant reprieves,

1 commutations, and pardons pursuant to section 7 of article IV of the
2 Colorado constitution.

3 **SECTION 19. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.