

CHAPTER 153

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 18-1029

BY REPRESENTATIVE(S) Weissman, Arndt, Becker K., Buckner, Coleman, Esgar, Exum, Foote, Hamner, Hansen, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, Lebsack, Lee, Lontine, Melton, Michaelson Jenet, Pabon, Pettersen, Roberts, Rosenthal, Singer, Young, Duran;
also SENATOR(S) Lundberg, Aguilar, Court, Crowder, Kagan, Kerr, Lambert, Martinez Humenik, Moreno, Neville T., Tate, Todd, Williams A.

AN ACT

CONCERNING LOWERING THE PERIOD OF MANDATORY PAROLE FROM FIVE YEARS TO THREE YEARS FOR CERTAIN FELONY OFFENSES.

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

SECTION 1. In Colorado Revised Statutes, 18-1.3-401, **amend** (1)(a)(V) as follows:

18-1.3-401. Felonies classified - presumptive penalties. (1) (a) (V) (A) Except as otherwise provided in section 18-1.3-401.5 for offenses contained in article 18 of this ~~title~~ TITLE 18 committed on or after October 1, 2013, as to any person sentenced for a felony committed on or after July 1, 1993, AND BEFORE JULY 1, 2018, felonies are divided into six classes that are distinguished from one another by the following presumptive ranges of penalties that are authorized upon conviction:

| Class | Minimum Sentence | Maximum Sentence | Mandatory Period of Parole |
|--------------|--------------------------|--------------------------------|-----------------------------------|
| 1 | Life imprisonment | Death | None |
| 2 | Eight years imprisonment | Twenty-four years imprisonment | Five Years |
| 3 | Four years imprisonment | Twelve years imprisonment | Five years |
| 4 | Two years imprisonment | Six years imprisonment | Three years |

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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|---|--------------------------|---------------------------------|-----------|
| 5 | One year imprisonment | Three years imprisonment | Two years |
| 6 | One year imprisonment | Eighteen months imprisonment | One year |

(A.1) AS TO ANY PERSON SENTENCED FOR A FELONY COMMITTED ON OR AFTER JULY 1, 2018, FELONIES ARE DIVIDED INTO SIX CLASSES THAT ARE DISTINGUISHED FROM ONE ANOTHER BY THE FOLLOWING PRESUMPTIVE RANGES OF PENALTIES THAT ARE AUTHORIZED UPON CONVICTION:

| CLASS | MINIMUM SENTENCE | MAXIMUM SENTENCE | MANDATORY PERIOD OF PAROLE |
|-------|--------------------------|--------------------------------|---|
| 1 | LIFE IMPRISONMENT | DEATH | NONE |
| 2 | EIGHT YEARS IMPRISONMENT | TWENTY-FOUR YEARS IMPRISONMENT | FIVE YEARS IF THE OFFENSE IS A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406 (2) THREE YEARS IF THE OFFENSE IS NOT A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406 (2) |
| 3 | FOUR YEARS IMPRISONMENT | TWELVE YEARS IMPRISONMENT | THREE YEARS |
| 4 | TWO YEARS IMPRISONMENT | SIX YEARS IMPRISONMENT | THREE YEARS |
| 5 | ONE YEAR IMPRISONMENT | THREE YEARS IMPRISONMENT | TWO YEARS |
| 6 | ONE YEAR IMPRISONMENT | EIGHTEEN MONTHS IMPRISONMENT | ONE YEAR |

(B) Any person who is paroled pursuant to section 17-22.5-403, ~~C.R.S.~~, or any person who is not paroled and is discharged pursuant to law, shall be subject to the mandatory period of parole established pursuant to ~~sub-paragraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION. Such mandatory period of parole may not be waived by the offender or waived or suspended by the court and shall be subject to the provisions of section 17-22.5-403 (6), ~~C.R.S.~~, which permits the state board of parole to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(C) Notwithstanding ~~sub-paragraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION, the mandatory period of parole for a person convicted of a felony offense committed prior to July 1, 1996, pursuant to part 4 of article 3 of this ~~title~~ TITLE 18, or part 3 of article 6 of this ~~title~~ TITLE 18, shall be five years. Notwithstanding ~~sub-paragraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION, and except as otherwise provided in ~~sub-paragraph (C.5) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(C.5) OF THIS SECTION, the period of parole for a person convicted of a felony offense committed on or after July 1, 1996, but

prior to July 1, 2002, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be set by the state board of parole pursuant to section 17-2-201 (5)(a.5), ~~C.R.S.~~, but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

(C.3) (Deleted by amendment, L. 2002, p. 124, § 1, effective March 26, 2002.)

(C.5) Notwithstanding the provisions of ~~sub-subparagraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION, any person sentenced for a sex offense, as defined in section 18-1.3-1003 (5), committed on or after November 1, 1998, shall be sentenced pursuant to the provisions of part 10 of this ~~article~~ ARTICLE 1.3.

(C.7) Any person sentenced for a felony committed on or after July 1, 2002, involving unlawful sexual behavior, as defined in section 16-22-102 (9), ~~C.R.S.~~, or for a felony, committed on or after July 1, 2002, the underlying factual basis of which involved unlawful sexual behavior, and who is not subject to the provisions of part 10 of this ~~article~~ ARTICLE 1.3, shall be subject to the mandatory period of parole specified in ~~sub-subparagraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION.

(D) The mandatory period of parole imposed pursuant to ~~sub-subparagraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION shall commence immediately upon the discharge of an offender from imprisonment in the custody of the department of corrections. If the offender has been granted release to parole supervision by the state board of parole, the offender shall be deemed to have discharged the offender's sentence to imprisonment provided for in ~~sub-subparagraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION in the same manner as if such sentence were discharged pursuant to law; except that the sentence to imprisonment for any person sentenced as a sex offender pursuant to part 10 of this ~~article~~ ARTICLE 1.3 shall not be deemed discharged on release of said person on parole. When an offender is released by the state board of parole or released because the offender's sentence was discharged pursuant to law, the mandatory period of parole shall be served by such offender. An offender sentenced for nonviolent felony offenses, as defined in section 17-22.5-405 (5), ~~C.R.S.~~, may receive earned time pursuant to section 17-22.5-405, ~~C.R.S.~~, while serving a mandatory parole period in accordance with this section, but not while such offender is reincarcerated after a revocation of the mandatory period of parole. An offender who is sentenced for a felony committed on or after July 1, 1993, and paroled on or after January 1, 2009, shall be eligible to receive any earned time while on parole or after reparole following a parole revocation. The offender shall not be eligible for earned time while the offender is reincarcerated after revocation of the mandatory period of parole pursuant to this ~~subparagraph (V)~~ SUBSECTION (1)(a)(V).

(E) If an offender is sentenced consecutively for the commission of two or more felony offenses pursuant to ~~sub-subparagraph (A) of this subparagraph (V)~~ SUBSECTION (1)(a)(V)(A) OR SUBSECTION (1)(a)(V)(A.1) OF THIS SECTION, the mandatory period of parole for such offender shall be the mandatory period of parole established for the highest class felony of which such offender has been

convicted.

SECTION 2. In Colorado Revised Statutes, 17-2-201, **amend** (5)(a.3)(I) and (5)(a.6) as follows:

17-2-201. State board of parole - duties - definitions. (5) (a.3) (I) Any person sentenced as a habitual criminal pursuant to section 18-1.3-801 (1.5) or (2) ~~C.R.S.~~, for an offense committed on or after July 1, 2003, shall be subject to the mandatory parole set forth in section 18-1.3-401 (1)(a)(V)(A), **18-1.3-401 (1)(a)(V)(A.1)**, or 18-1.3-401.5 ~~C.R.S.~~, for the class or level of felony of which the person is convicted.

(a.6) As to any person who is sentenced for conviction of an offense committed on or after July 1, 2002, involving unlawful sexual behavior, as defined in section 16-22-102 (9), ~~C.R.S.~~, or for conviction of an offense committed on or after July 1, 2002, the underlying factual basis of which involved unlawful sexual behavior, and who is not subject to the provisions of part 10 of article 1.3 of title 18, ~~C.R.S.~~, such person shall be subject to the mandatory period of parole set forth in section 18-1.3-401 (1)(a)(V)(A) ~~C.R.S.~~ OR **18-1.3-401 (1)(a)(V)(A.1)**.

SECTION 3. In Colorado Revised Statutes, 18-1.3-406, **amend** (1)(b) as follows:

18-1.3-406. Mandatory sentences for violent crimes - definitions. (1) (b) Notwithstanding the provisions of ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, any person convicted of a sex offense, as defined in section 18-1.3-1003 (5), committed on or after November 1, 1998, that constitutes a crime of violence shall be sentenced to the department of corrections for an indeterminate term of incarceration of at least the midpoint in the presumptive range specified in section 18-1.3-401 (1)(a)(V)(A) OR **18-1.3-401 (1)(a)(V)(A.1)** up to a maximum of the person's natural life, as provided in section 18-1.3-1004 (1).

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: April 23, 2018