

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
10.13.17

BILL 11

LLS NO. 18-0307.01 Jerry Barry x4341

INTERIM COMMITTEE BILL

Sentencing in the Criminal Justice System Interim Study Committee

BILL TOPIC: "Extraordinary Mitigating Circumstances"

A BILL FOR AN ACT

101 **CONCERNING A CLARIFICATION OF THE USE OF EXTRAORDINARY**
102 **MITIGATING CIRCUMSTANCES IN CRIMINAL SENTENCING.**

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/>.)

Sentencing in the Criminal Justice System Interim Study Committee. Under current law, a judge may sentence a defendant to incarceration for as low as one-half of the presumptive range if he or she finds extraordinary mitigating circumstances. The bill specifies that a

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

judge shall find extraordinary mitigating circumstances if he or she finds that a sentence within the presumptive range would result in substantial injustice to the defendant and is not necessary for the protection of the public.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-401, **amend**
3 (6) as follows:

4 **18-1.3-401. Felonies classified - presumptive penalties.** (6) In
5 imposing a sentence to incarceration, the court shall impose a definite
6 sentence ~~which~~ THAT is within the presumptive ranges set forth in
7 subsection (1) of this section unless it concludes that extraordinary
8 mitigating or aggravating circumstances are present, are based on
9 evidence in the record of the sentencing hearing and the presentence
10 report, and support a different sentence ~~which~~ THAT better serves the
11 purposes of this code with respect to sentencing, as set forth in section
12 18-1-102.5. A COURT SHALL FIND EXTRAORDINARY MITIGATING
13 CIRCUMSTANCES IF, BASED ON THE INFORMATION DESCRIBED IN THIS
14 SUBSECTION (6), THE COURT FINDS THAT A SENTENCE IN THE PRESUMPTIVE
15 RANGE WOULD RESULT IN SUBSTANTIAL INJUSTICE TO THE DEFENDANT
16 AND IS NOT NECESSARY FOR THE PROTECTION OF THE PUBLIC. If the court
17 finds such extraordinary mitigating or aggravating circumstances, it may
18 impose a sentence ~~which~~ THAT is lesser or greater than the presumptive
19 range; except that in no case shall the term of sentence be greater than
20 twice the maximum nor less than one-half the minimum term authorized
21 in the presumptive range for the punishment of the offense.

22 **SECTION 2. Effective date - applicability.** This act takes effect
23 July 1, 2018, and applies to offenses committed on or after said date.

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