

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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BILL 1

LLS NO. 20-0361.01 Michael Dohr x4347

INTERIM COMMITTEE BILL

Prison Population Management Interim Study Committee

BILL TOPIC: "Young Adult Criminal Justice Reforms"

DEADLINES: File by: 10/9/2019

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO IMPROVE OUTCOMES FOR ADULTS**
102 **BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE IN THE**
103 **CRIMINAL JUSTICE SYSTEM.**

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/>.)

Prison Population Management Interim Study Committee. The bill creates a process for an adult who is between the ages of 18 and 25 to petition to have the adult's class 3, 4, 5, or 6 felony criminal case transferred to juvenile court. The district court shall hold a hearing to consider whether:

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- There is probable cause for the offense;
- The interests of the defendant or of the community would be better served by the district court's waiving its jurisdiction over the defendant and transferring jurisdiction over the defendant to the juvenile court; and
- There is clear and convincing evidence that the defendant is developmentally functioning at a level that is similar to a juvenile, and the ability of the juvenile to function as an adult and respond to the requirements inherent in the adult criminal justice system is substantially impaired by factors that are diagnosed and verifiable.

The bill creates a list of factors the court must consider when deciding whether to transfer jurisdiction over the case to the juvenile court.

The department of corrections operates a specialized program for offenders who are serving a prison sentence for a felony offense committed while the offender was a juvenile as a result of criminal charges filed by direct file or transfer proceedings. The bill would expand program eligibility to adults serving a sentence for a felony that was committed when the person was between the ages of 18 and 25.

The bill creates a sentencing grid that applies only to adults who commit a felony and are between the ages of 18 and 25 at the time of the commission of the offense. Under the new grid, any sentence for a class 3, 4, 5, or 6 felony cannot exceed 12 years, even if aggravating factors or sentence enhancements apply. The court must sentence a defendant who is between the ages of 18 and 25 to probation if the felony is the defendant's first conviction and the felony is not a crime of violence. The bill creates a sentencing option for offenders between the ages of 18 and 25 convicted of a nonviolent class 3, 4, 5, or 6 felony that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence. The bill prohibits probation revocation for defendants between the ages of 18 and 25 for technical probation violations and requires the court to continue such probation in specified circumstances. The bill allows a court to continue rather than revoke a deferred judgment and sentence over the objection of the district attorney for a defendant between the ages of 18 and 25.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 16-5-101.5 as
3 follows:

4 **16-5-101.5. Transfers to juvenile court.** (1) (a) THE DISTRICT

1 COURT MAY ENTER AN ORDER TRANSFERRING A YOUNG ADULT TO BE HELD
2 FOR CRIMINAL PROCEEDINGS IN THE JUVENILE COURT IF:

3 (I) A PETITION FILED ON BEHALF OF THE DEFENDANT IN DISTRICT
4 COURT ALLEGES THE DEFENDANT WAS BETWEEN THE AGES OF EIGHTEEN
5 AND TWENTY-FIVE AT THE TIME OF THE COMMISSION OF THE ALLEGED
6 OFFENSE AND IS NOT CHARGED WITH A CLASS 1 OR CLASS 2 FELONY; AND

7 (II) AFTER INVESTIGATION AND A HEARING, THE DISTRICT COURT
8 FINDS IT WOULD BE CONTRARY TO THE BEST INTERESTS OF THE
9 DEFENDANT OR OF THE PUBLIC TO RETAIN JURISDICTION OVER THE
10 DEFENDANT.

11 (b) A PETITION MAY BE TRANSFERRED FROM THE DISTRICT COURT
12 TO THE JUVENILE COURT ONLY AFTER A HEARING.

13 (c) IN CASES IN WHICH CRIMINAL CHARGES ARE TRANSFERRED TO
14 THE JUVENILE COURT PURSUANT TO THIS SECTION, THE JUDGE OF THE
15 JUVENILE COURT SHALL HAS THE POWER TO MAKE ANY DISPOSITION OF
16 THE CASE THAT THE JUVENILE COURT WOULD HAVE IF THE DEFENDANT
17 WERE A JUVENILE.

18 (d) IF, FOLLOWING TRANSFER OF CRIMINAL CHARGES TO THE
19 JUVENILE COURT PURSUANT TO THIS SECTION, A DEFENDANT IS CONVICTED
20 OF A LESSER INCLUDED OFFENSE FOR WHICH CRIMINAL CHARGES COULD
21 NOT ORIGINALLY HAVE BEEN TRANSFERRED TO THE JUVENILE COURT, THE
22 COURT SHALL SENTENCE THE DEFENDANT PURSUANT TO TITLE 18.

23 (2) AT THE TRANSFER HEARING, THE DISTRICT COURT SHALL
24 CONSIDER:

25 (a) WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
26 DEFENDANT HAS COMMITTED AN ALLEGED OFFENSE FOR WHICH WAIVER
27 OF DISTRICT COURT JURISDICTION OVER THE DEFENDANT AND TRANSFER

1 OVER THE JURISDICTION TO THE JUVENILE COURT MAY BE SOUGHT
2 PURSUANT TO SUBSECTION (1) OF THIS SECTION;

3 (b) WHETHER THE INTERESTS OF THE DEFENDANT OR OF THE
4 COMMUNITY WOULD BE BETTER SERVED BY THE DISTRICT COURT WAIVING
5 ITS JURISDICTION OVER THE DEFENDANT AND TRANSFERRING JURISDICTION
6 OVER THE DEFENDANT TO THE JUVENILE COURT; AND

7 (c) WHETHER THERE IS CLEAR AND CONVINCING EVIDENCE THAT
8 THE DEFENDANT IS DEVELOPMENTALLY FUNCTIONING AT A LEVEL THAT IS
9 SIMILAR TO A JUVENILE AND THE ABILITY OF THE JUVENILE TO FUNCTION
10 AS AN ADULT AND RESPOND TO THE REQUIREMENTS INHERENT IN THE
11 ADULT CRIMINAL JUSTICE SYSTEM IS SUBSTANTIALLY IMPAIRED BY
12 FACTORS THAT ARE DIAGNOSED AND VERIFIABLE.

13 (3) (a) IN CONSIDERING WHETHER TO WAIVE DISTRICT COURT
14 JURISDICTION OVER THE DEFENDANT, THE DISTRICT COURT SHALL
15 CONSIDER THE FOLLOWING FACTORS:

16 (I) THE FUNCTIONING OF THE DEFENDANT AND THE IMPAIRMENT
17 OF THE DEFENDANT AS ESTABLISHED BY DIAGNOSED FACTORS AND THE
18 WEIGHT OF THE EVIDENCE;

19 (II) THE SERIOUSNESS OF THE OFFENSE AND WHETHER THE
20 PROTECTION OF THE COMMUNITY REQUIRES ISOLATION OF THE DEFENDANT
21 BEYOND THAT AFFORDED BY JUVENILE FACILITIES;

22 (III) WHETHER THE ALLEGED OFFENSE WAS COMMITTED IN AN
23 AGGRESSIVE, VIOLENT, PREMEDITATED, OR WILLFUL MANNER;

24 (IV) WHETHER THE ALLEGED OFFENSE WAS AGAINST PERSONS OR
25 PROPERTY;

26 (V) THE MATURITY OF THE DEFENDANT AS DETERMINED BY
27 CONSIDERATIONS OF THE DEFENDANT'S HOME, ENVIRONMENT, EMOTIONAL

1 ATTITUDE, AND PATTERN OF LIVING;

2 (VI) ANY CRIMINAL RECORD OR PREVIOUS CRIMINAL HISTORY OF
3 THE DEFENDANT;

4 (VII) THE LIKELIHOOD OF REHABILITATION OF THE DEFENDANT BY
5 USE OF FACILITIES AVAILABLE TO THE JUVENILE COURT;

6 (VIII) THE INTEREST OF THE COMMUNITY IN THE IMPOSITION OF A
7 SENTENCE, THE GOAL OF WHICH IS REHABILITATION AND REDUCTION OF
8 RECIDIVISM;

9 (IX) LACK OF A NAMED VICTIM IN THE CASE, OR WHERE THERE IS
10 A NAMED VICTIM, WHETHER THE VICTIM HAS REQUESTED THE DEFENDANT
11 NOT BE PROSECUTED, BE GIVEN A LENIENT SENTENCE, AVOID A FELONY
12 CONVICTION, OR BE PROSECUTED IN JUVENILE COURT; AND

13 (X) WHETHER THE DEFENDANT USED, OR POSSESSED AND
14 THREATENED TO USE, A DEADLY WEAPON IN THE COMMISSION OF AN
15 ALLEGED OFFENSE.

16 (b) THE INSUFFICIENCY OF EVIDENCE PERTAINING TO ANY ONE OR
17 MORE OF THE FACTORS LISTED IN SUBSECTION (3)(a) OF THIS SECTION
18 SHALL NOT BY ITSELF DETERMINE WHETHER DISTRICT COURT JURISDICTION
19 IS WAIVED.

20 (4) THE DISTRICT COURT MAY CONSIDER WRITTEN REPORTS AND
21 OTHER MATERIALS RELATING TO THE DEFENDANT'S MENTAL, PHYSICAL,
22 EDUCATIONAL, AND SOCIAL HISTORY, BUT THE COURT, IF REQUESTED BY
23 THE DEFENDANT OR PROSECUTION, SHALL REQUIRE THE PERSON OR
24 AGENCY PREPARING THE REPORT AND OTHER MATERIAL TO APPEAR AND
25 BE SUBJECT TO BOTH DIRECT AND CROSS EXAMINATION.

26 (5) (a) IF THE DISTRICT COURT FINDS THAT ITS JURISDICTION OVER
27 A DEFENDANT SHOULD BE WAIVED, IT SHALL ENTER AN ORDER TO THAT

1 EFFECT.

2 (b) AS A CONDITION OF THE WAIVER OF JURISDICTION, THE
3 DISTRICT COURT, IN ITS DISCRETION, MAY PROVIDE THAT A DEFENDANT
4 CONTINUE TO BE HELD IN CUSTODY PENDING THE TRANSFER OF THE CASE
5 TO THE JUVENILE COURT. BUT THE DEFENDANT SHALL NOT BE HELD IN
6 CUSTODY FOR LONGER THAN THREE CALENDAR DAYS AFTER ENTRY OF THE
7 ORDER WAIVING JURISDICTION BEFORE BEING BROUGHT BEFORE THE
8 JUVENILE COURT FOR A BOND HEARING. WHEN THE DEFENDANT HAS MADE
9 BOND IN PROCEEDINGS IN THE DISTRICT COURT, THE BOND MUST BE
10 CONTINUED AND MADE RETURNABLE IN AND TRANSMITTED TO THE
11 JUVENILE COURT, WHERE IT MUST CONTINUE IN FULL FORCE AND EFFECT
12 UNLESS MODIFIED BY ORDER OF THE JUVENILE COURT.

13 (6) IF THE DISTRICT COURT FINDS THAT IT IS IN THE BEST INTERESTS
14 OF THE DEFENDANT AND THE PUBLIC FOR THE DISTRICT COURT TO RETAIN
15 JURISDICTION, IT SHALL PROCEED WITH ARRAIGNMENT AND TRIAL AS
16 PROVIDED IN THIS TITLE 16.

17 **SECTION 2.** In Colorado Revised Statutes, 19-2-104, **amend** (1)
18 introductory portion; and **add** (1)(c) as follows:

19 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
20 the juvenile court ~~shall have~~ HAS exclusive original jurisdiction in
21 proceedings:

22 (c) CONCERNING ANY ADULT WHOSE CASE IS TRANSFERRED TO THE
23 JUVENILE COURT PURSUANT TO SECTION 16-5-101.5.

24 **SECTION 3.** In Session Laws of Colorado 2016, **amend** section
25 1 of chapter 352 as follows:

26 Section 1. **Legislative declaration.** (1) The general assembly
27 finds and declares that:

1 (a) The United States supreme court has held in several recent
2 decisions regarding the criminal sentencing of juveniles that children are
3 constitutionally different than adults for purposes of sentencing and
4 should be given a meaningful opportunity for release based on
5 demonstrated maturity and rehabilitation;

6 (a.5) MORE RECENT RESEARCH ABOUT BRAIN DEVELOPMENT
7 DEMONSTRATES THAT THE BRAIN FUNCTIONING THAT GUIDES AND AIDS
8 RATIONAL DECISION-MAKING DOES NOT FULLY DEVELOP UNTIL A PERSON
9 IS IN THEIR MID-TO-LATE TWENTIES, WHICH INDICATES THAT A YOUNG
10 ADULT DOES NOT OFTEN POSSESS THE DEVELOPMENTAL MATURITY AND
11 DECISION-MAKING SKILLS OF A MATURE ADULT;

12 (b) Colorado recognizes that children have not yet reached
13 developmental maturity before the age of ~~eighteen~~ TWENTY-FIVE years
14 and therefore have a heightened capacity to change behavior and a greater
15 potential for rehabilitation;

16 (c) Colorado has many offenders currently serving sentences in
17 the department of corrections who committed crimes when they were less
18 than ~~eighteen~~ TWENTY-FIVE years old and who no longer present a threat
19 to public safety; and

20 (d) Colorado is committed to research-based best practices in the
21 development and implementation of correctional policies and practices.
22 BEST PRACTICES SUPPORT THE RELEASE OF PERSONS WHO NO LONGER
23 PRESENT A THREAT TO OTHER PEOPLE OR THE COMMUNITY AND WHO HAVE
24 DEMONSTRATED THAT THROUGH OBSERVABLE AND VERIFIED POSITIVE
25 BEHAVIOR. RECONSIDERING PERSONS AFTER DECADES OF INCARCERATION
26 CREATES HOPE FOR AND HELPS DEVELOP MATURITY AND RESPONSIBILITY
27 IN PERSONS WHO WERE JUVENILES OR YOUNG ADULTS WHEN THEIR CRIMES

1 WERE COMMITTED.

2 (2) Now, therefore, Colorado desires to implement a system that
3 allows any offender who committed a serious crime as a juvenile OR WHO
4 was A YOUNG ADULT LESS THAN THE AGE OF TWENTY-FIVE treated as an
5 adult by the criminal justice system and WHO has served more than twenty
6 or twenty-five calendar years of a sentence to the department of
7 corrections, during which he or she has exhibited growth and
8 rehabilitation, the opportunity to further demonstrate rehabilitation and
9 earn early release in a specialized program in a less secure setting without
10 compromising public safety.

11 **SECTION 4.** In Colorado Revised Statutes, 17-34-101, **amend**
12 (1)(a) introductory portion as follows:

13 **17-34-101. Juveniles and young adults who are convicted as**
14 **adults in district court - eligibility for specialized program placement**
15 **- petitions.** (1) (a) Notwithstanding any other provision of law, an
16 offender serving a sentence in the department for a felony offense as a
17 result of the filing of criminal charges by an information or indictment
18 pursuant to section 19-2-517, or the transfer of proceedings to the district
19 court pursuant to section 19-2-518, or pursuant to either of these sections
20 as they existed prior to their repeal and reenactment, with amendments,
21 by House Bill 96-1005, OR AN OFFENDER SERVING A SENTENCE IN THE
22 DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE THE
23 OFFENDER WAS BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE and
24 who remains in the custody of the department for that felony offense, may
25 petition for placement in the specialized program described in section
26 17-34-102, referred to within this section as the "specialized program",
27 as follows:

1 **SECTION 5.** In Colorado Revised Statutes, 17-34-102, **amend**
2 (1) as follows:

3 **17-34-102. Specialized program for juveniles and young adults**
4 **convicted as adults - report.** (1) The department shall develop and
5 implement a specialized program for offenders who have been sentenced
6 to an adult prison for a felony offense committed while the offender was
7 less than eighteen years of age as a result of the filing of criminal charges
8 by an information or indictment pursuant to section 19-2-517, ~~C.R.S.~~, or
9 the transfer of proceedings to the district court pursuant to section
10 19-2-518, ~~C.R.S.~~, or pursuant to either of these sections as they existed
11 prior to their repeal and reenactment, with amendments, by House Bill
12 96-1005, OR OFFENDERS SERVING A SENTENCE IN THE DEPARTMENT FOR
13 A FELONY OFFENSE THAT WAS COMMITTED WHILE THE OFFENDER WAS
14 BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE, and who are
15 determined to be appropriate for placement in the specialized program.
16 The department shall implement the specialized program within or in
17 conjunction with a facility operated by, or under contract with, the
18 department.

19 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-102, **amend**
20 (2) as follows:

21 **18-1.3-102. Deferred sentencing of defendant.** (2) Prior to entry
22 of a plea of guilty to be followed by deferred judgment and sentence, the
23 district attorney, in the course of plea discussion as provided in sections
24 16-7-301 and 16-7-302, ~~C.R.S.~~, is authorized to enter into a written
25 stipulation, to be signed by the defendant, the defendant's attorney of
26 record, and the district attorney, under which the defendant is obligated
27 to adhere to such stipulation. The conditions imposed in the stipulation

1 ~~shall~~ MUST be similar in all respects to conditions permitted as part of
2 probation. A person convicted of a crime, the underlying factual basis of
3 which included an act of domestic violence, as defined in section
4 18-6-800.3 (1), shall stipulate to the conditions specified in section
5 18-1.3-204 (2)(b). In addition, the stipulation may require the defendant
6 to perform community or charitable work service projects or make
7 donations thereto. Upon full compliance with such conditions by the
8 defendant, the plea of guilty previously entered ~~shall~~ MUST be withdrawn
9 and the charge upon which the judgment and sentence of the court was
10 deferred ~~shall~~ MUST be dismissed with prejudice. The stipulation ~~shall~~
11 MUST specifically provide that, upon a breach by the defendant of any
12 condition regulating the conduct of the defendant, the court shall enter
13 judgment and impose sentence upon the guilty plea; except that, if the
14 offense is a violation of article 18 of this ~~title~~ TITLE 18 OR IS A FELONY
15 OFFENSE COMMITTED BY A DEFENDANT WHO WAS BETWEEN THE AGES OF
16 EIGHTEEN AND TWENTY-FIVE AT THE TIME OF THE OFFENSE, the court may
17 accept an admission or find a violation of the stipulation without entering
18 judgment and imposing sentence if the court first makes findings of fact
19 on the record stating the entry of judgment and sentencing would not be
20 consistent with the purposes of sentencing, that the defendant would be
21 better served by continuing the deferred judgment period, and that public
22 safety would not be jeopardized by the continuation of the deferred
23 judgment. If the court makes those findings and continues the deferred
24 judgment over the objection of the prosecution, the court shall also
25 impose additional and immediate sanctions upon the defendant to address
26 the violation, to include, but not be limited to, the imposition of further
27 terms and conditions that will enhance the likelihood of the defendant's

1 success, respond to the defendant's noncompliance, and promote further
2 individual accountability, including extending the time period of the
3 deferred judgment for up to two additional years or incarceration in the
4 county jail for a period not to exceed ninety days consistent with the
5 provisions of section 18-1.3-202 (1), or both. When, as a condition of the
6 deferred sentence, the court orders the defendant to make restitution,
7 evidence of failure to pay the restitution shall constitute prima facie
8 evidence of a violation. Whether a breach of condition has occurred shall
9 be determined by the court without a jury upon application of the district
10 attorney or a probation officer and upon notice of hearing thereon of not
11 less than seven days to the defendant or the defendant's attorney of
12 record. Application for entry of judgment and imposition of sentence may
13 be made by the district attorney or a probation officer at any time within
14 the term of the deferred judgment or within thirty-five days thereafter.
15 The burden of proof at the hearing ~~shall~~ MUST be by a preponderance of
16 the evidence, and the procedural safeguards required in a revocation of
17 probation hearing ~~shall~~ MUST apply.

18 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-103.5, **amend**
19 (3)(c) and (3)(d); and **add** (3)(e) as follows:

20 **18-1.3-103.5. Felony convictions - vacate and enter conviction**
21 **on misdemeanor after successful completion.** (3) This section applies
22 to convictions for the following offenses:

23 (c) Possession of more than twelve ounces of marijuana or more
24 than three ounces of marijuana concentrate; ~~or~~

25 (d) A violation of section 18-18-415; OR

26 (e) A CONVICTION FOR A CLASS 4, CLASS 5, OR CLASS 6
27 NONVIOLENT FELONY COMMITTED BY A DEFENDANT WHO IS BETWEEN THE

1 AGES OF EIGHTEEN AND TWENTY-FIVE.

2 **SECTION 8.** In Colorado Revised Statutes, 18-1.3-202, **add** (3)
3 as follows:

4 **18-1.3-202. Probationary power of court.** (3) IF THE COURT
5 DETERMINES THAT THE PROBATIONER HAS VIOLATED ANY CONDITION OF
6 PROBATION THAT DOES NOT INVOLVE THE COMMISSION OF A FELONY OR
7 MISDEMEANOR CRIME; THE PROBATIONER HAS NO ACTIVE FELONY
8 WARRANT, FELONY DETAINER, OR PENDING FELONY CRIMINAL CHARGE;
9 AND THE PROBATIONER WAS ON PROBATION FOR AN OFFENSE AND WAS
10 SENTENCED PURSUANT TO SECTION 18-1.3-401.7 FOR THAT OFFENSE, THE
11 COURT SHALL CONTINUE PROBATION AND ORDER ADDITIONAL CONDITIONS
12 OF PROBATION.

13 **SECTION 9.** In Colorado Revised Statutes, **add** 18-1.3-401.7 as
14 follows:

15 **18-1.3-401.7. Young adult felonies classified - presumptive**
16 **penalties.** (1) THE PROVISIONS OF THIS SECTION ONLY APPLY TO A
17 CONVICTION FOR A FELONY OFFENSE COMMITTED BY A PERSON WHO WAS
18 BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE ON OR AFTER
19 OCTOBER 1, 2020.

20 (2) (a) FOR OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2020,
21 YOUNG ADULT FELONIES ARE DIVIDED INTO SIX CLASSES THAT ARE
22 DISTINGUISHED FROM ONE ANOTHER BY THE RANGES OF PENALTIES, WHICH
23 ARE AUTHORIZED UPON CONVICTION OF A FELONY:

24	CLASS	PRESUMPTIVE RANGE		PERIOD
25				OF PAROLE
26	YAF1	LIFE	DEATH	
27	YAF2	FOUR YEARS	TWELVE YEARS	FOUR YEARS

1	YAF3	TWO YEARS	SIX YEARS	THREE YEARS
2	YAF4	ONE YEAR	TWO YEARS	TWO YEARS
3	YAF5	SIX MONTHS	ONE YEAR	ONE YEAR
4	YAF6	SIX MONTHS	NINE MONTHS	ONE YEAR

5 (b) (I) AS TO ANY PERSON SENTENCED FOR A FELONY COMMITTED
6 ON OR AFTER OCTOBER 1, 2020, AS OTHERWISE PROVIDED IN SECTION
7 18-1.3-401 (1)(a)(III), IN ADDITION TO, OR IN LIEU OF, ANY SENTENCE TO
8 IMPRISONMENT, PROBATION, COMMUNITY CORRECTIONS, OR WORK
9 RELEASE, A FINE WITHIN THE FOLLOWING RANGES MAY BE IMPOSED FOR
10 THE SPECIFIED CLASS OF YOUNG ADULT FELONIES:

11	CLASS	MINIMUM SENTENCE	MAXIMUM
12			SENTENCE
13	YAF1	NO FINE	NO FINE
14	YAF2	TWO THOUSAND FIVE HUNDRED	FIVE HUNDRED
15		DOLLARS	THOUSAND
16			DOLLARS
17	YAF3	ONE THOUSAND FIVE HUNDRED	THREE HUNDRED
18		DOLLARS	SEVENTY-FIVE
19			THOUSAND
20			DOLLARS
21	YAF4	ONE THOUSAND DOLLARS	TWO HUNDRED
22			FIFTY THOUSAND
23			DOLLARS
24	YAF5	FIVE HUNDRED DOLLARS	FIFTY THOUSAND
25			DOLLARS
26	YAF6	FIVE HUNDRED DOLLARS	FIFTY THOUSAND
27			DOLLARS

1 (II) FAILURE TO PAY A FINE IMPOSED PURSUANT TO THIS
2 SUBSECTION (2)(b) IS GROUNDS FOR REVOCATION OF PROBATION,
3 COMMUNITY CORRECTIONS, OR A SUSPENDED SENTENCE, IF THE
4 DEFENDANT HAS THE ABILITY TO PAY THE FINE.

5 (III) IF A REVOCATION OCCURS PURSUANT TO SUBSECTION
6 (2)(b)(II) OF THIS SECTION, THE COURT MAY IMPOSE ANY SENTENCE
7 LEGALLY AVAILABLE.

8 (IV) ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (2)(b)
9 MUST BE DEPOSITED IN THE FINES COLLECTION FUND CREATED IN SECTION
10 18-1.3-401 (1)(a)(III)(D) AND ARE SUBJECT TO THE PROVISIONS OF THAT
11 SECTION.

12 (3) AN OFFENDER WHO IS PAROLED PURSUANT TO SECTION
13 17-22.5-403, OR ANY OFFENDER WHO IS NOT PAROLED AND IS DISCHARGED
14 PURSUANT TO LAW, IS SUBJECT TO THE MANDATORY PERIOD OF PAROLE
15 ESTABLISHED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. THE
16 MANDATORY PERIOD OF PAROLE MAY NOT BE WAIVED BY THE OFFENDER
17 OR WAIVED OR SUSPENDED BY THE COURT AND IS SUBJECT TO THE
18 PROVISIONS OF SECTION 17-22.5-403 (8), WHICH PERMITS THE STATE
19 BOARD OF PAROLE TO DISCHARGE THE OFFENDER AT ANY TIME DURING
20 THE TERM OF PAROLE UPON A DETERMINATION THAT THE OFFENDER HAS
21 BEEN SUFFICIENTLY REHABILITATED AND REINTEGRATED INTO SOCIETY
22 AND CAN NO LONGER BENEFIT FROM PAROLE SUPERVISION.

23 (4) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO
24 SUBSECTION (2)(a) OF THIS SECTION COMMENCES IMMEDIATELY UPON THE
25 DISCHARGE OF AN OFFENDER FROM IMPRISONMENT IN THE CUSTODY OF
26 THE DEPARTMENT OF CORRECTIONS. IF THE OFFENDER HAS BEEN GRANTED
27 RELEASE TO PAROLE SUPERVISION BY THE STATE BOARD OF PAROLE, THE

1 OFFENDER IS DEEMED TO HAVE DISCHARGED THE OFFENDER'S SENTENCE
2 TO IMPRISONMENT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION IN
3 THE SAME MANNER AS IF SUCH SENTENCE WERE DISCHARGED PURSUANT
4 TO LAW. WHEN AN OFFENDER IS RELEASED BY THE STATE BOARD OF
5 PAROLE OR RELEASED BECAUSE THE OFFENDER'S SENTENCE WAS
6 DISCHARGED PURSUANT TO LAW, THE MANDATORY PERIOD OF PAROLE
7 MUST BE SERVED BY THE OFFENDER. AN OFFENDER SENTENCED FOR A
8 YOUNG ADULT FELONY MAY RECEIVE EARNED TIME PURSUANT TO SECTION
9 17-22.5-405 AND WHILE SERVING A MANDATORY PAROLE PERIOD IN
10 ACCORDANCE WITH THIS SECTION.

11 (5) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE
12 COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO
13 SENTENCING PROVISIONS IN THIS SECTION OR SECTION 18-1.3-401, THE
14 MANDATORY PERIOD OF PAROLE FOR THE OFFENDER MUST BE THE
15 LONGEST MANDATORY PERIOD OF PAROLE ESTABLISHED FOR A FELONY FOR
16 WHICH THE OFFENDER WAS CONVICTED.

17 (6) ANY OFFENDER SENTENCED FOR A YOUNG ADULT FELONY THAT
18 IS THE OFFENDER'S SECOND OR SUBSEQUENT FELONY OR YOUNG ADULT
19 FELONY OFFENSE, REGARDLESS OF THE LENGTH OF THE OFFENDER'S
20 SENTENCE TO INCARCERATION AND THE MANDATORY PERIOD OF PAROLE,
21 IS NOT DEEMED TO HAVE FULLY DISCHARGED HIS OR HER SENTENCE UNTIL
22 THE OFFENDER EITHER COMPLETES, OR IS DISCHARGED BY THE STATE
23 BOARD OF PAROLE FROM, THE MANDATORY PERIOD OF PAROLE IMPOSED
24 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

25 (7) IN IMPOSING A SENTENCE TO INCARCERATION, THE COURT
26 SHALL IMPOSE A DEFINITE SENTENCE THAT IS WITHIN THE PRESUMPTIVE
27 RANGES SET FORTH IN SUBSECTION (2) OF THIS SECTION.

1 (8) IN ALL CASES, EXCEPT AS PROVIDED IN SUBSECTION (9) OF THIS
2 SECTION, IN WHICH A SENTENCE THAT IS NOT WITHIN THE PRESUMPTIVE
3 RANGE IS IMPOSED, THE COURT SHALL MAKE SPECIFIC FINDINGS ON THE
4 RECORD DETAILING THE AGGRAVATING CIRCUMSTANCES THAT
5 CONSTITUTE THE REASONS FOR VARYING FROM THE PRESUMPTIVE
6 SENTENCE.

7 (9) (a) EXCEPT FOR A CLASS 1 YOUNG ADULT FELONY, THE
8 PRESENCE OF ONE OR MORE OF THE FOLLOWING AGGRAVATING
9 CIRCUMSTANCES AT THE TIME OF THE COMMISSION OF THE OFFENSE
10 REQUIRES THE COURT, IF IT SENTENCES THE DEFENDANT TO
11 INCARCERATION, TO SENTENCE THE DEFENDANT TO A TERM OF AT LEAST
12 THE MIDPOINT IN THE PRESUMPTIVE RANGE BUT NOT MORE THAN THE
13 MAXIMUM TERM OF THE PRESUMPTIVE RANGE:

14 (I) THE DEFENDANT WAS ON PAROLE FOR ANOTHER FELONY;

15 (II) THE DEFENDANT WAS ON PROBATION OR WAS ON BOND WHILE
16 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR
17 ANOTHER FELONY;

18 (III) THE DEFENDANT WAS UNDER CONFINEMENT, IN PRISON, OR IN
19 ANY CORRECTIONAL INSTITUTION AS A CONVICTED FELON; OR WAS AN
20 ESCAPEE FROM ANY CORRECTIONAL INSTITUTION FOR ANOTHER FELONY;
21 OR

22 (IV) THE DEFENDANT WAS ON PROBATION FOR OR ON BOND WHILE
23 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR A
24 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF
25 COMMITTED BY AN ADULT.

26 (b) IN ANY CASE IN WHICH ONE OR MORE OF THE AGGRAVATING
27 CIRCUMSTANCES PROVIDED FOR IN SUBSECTION (9)(a) OF THIS SECTION

1 EXIST, THE PROVISIONS OF THIS SUBSECTION (9) DO NOT APPLY.

2 (c) NOTHING IN THIS SUBSECTION (9) PRECLUDES THE COURT FROM
3 CONSIDERING AGGRAVATING CIRCUMSTANCES OTHER THAN THOSE STATED
4 IN SUBSECTION (9)(a) OF THIS SECTION AS THE BASIS FOR SENTENCING THE
5 DEFENDANT TO A TERM GREATER THAN THE PRESUMPTIVE RANGE FOR THE
6 FELONY.

7 (10) EXCEPT FOR A CLASS 1 YOUNG ADULT FELONY, THE PRESENCE
8 OF ANY ONE OR MORE OF THE FOLLOWING SENTENCE-ENHANCING
9 CIRCUMSTANCES AT THE TIME OF THE COMMISSION OF THE FELONY
10 ALLOWS THE COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION,
11 TO SENTENCE THE DEFENDANT TO A TERM IN THE PRESUMPTIVE RANGE:

12 (a) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A
13 FELONY IN A PREVIOUS CASE AND THE DEFENDANT WAS CONVICTED OF
14 ANY FELONY IN THE PREVIOUS CASE;

15 (b) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A
16 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF
17 COMMITTED BY AN ADULT;

18 (c) THE DEFENDANT WAS ON BOND FOR HAVING PLED GUILTY TO
19 A LESSER OFFENSE WHEN THE ORIGINAL OFFENSE CHARGED WAS A FELONY;

20 (d) THE DEFENDANT WAS ON BOND IN A JUVENILE PROSECUTION
21 PURSUANT TO TITLE 19 FOR HAVING PLED GUILTY TO A LESSER
22 DELINQUENT ACT WHEN THE ORIGINAL DELINQUENT ACT CHARGED WOULD
23 HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

24 (e) THE DEFENDANT WAS UNDER A DEFERRED JUDGMENT AND
25 SENTENCE FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A
26 FELONY IF COMMITTED BY AN ADULT; OR

27 (f) THE DEFENDANT WAS ON PAROLE FOR HAVING BEEN

1 ADJUDICATED A DELINQUENT CHILD FOR AN OFFENSE THAT WOULD
2 CONSTITUTE A FELONY IF COMMITTED BY AN ADULT.

3 (11) WHEN THE COURT IS SATISFIED THAT THE ENDS OF JUSTICE
4 AND THE BEST INTEREST OF THE PUBLIC, AS WELL AS THE DEFENDANT,
5 WILL BE BEST SERVED THEREBY, THE COURT HAS THE POWER TO SUSPEND
6 THE IMPOSITION OR EXECUTION OF SENTENCE FOR A PERIOD AND UPON THE
7 TERMS AND CONDITIONS AS IT MAY DEEM BEST; EXCEPT THAT THE COURT
8 MAY NOT SUSPEND A SENTENCE TO THE MINIMUM TERM OF
9 INCARCERATION WHEN THE DEFENDANT IS CONVICTED OF A CLASS 1
10 YOUNG ADULT FELONY. IN NO INSTANCE MAY A SENTENCE BE SUSPENDED
11 IF THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT TO SECTION
12 18-1.3-201, EXCEPT WHEN AN EXPRESS WAIVER IS MADE BY THE
13 SENTENCING COURT REGARDING A PARTICULAR DEFENDANT UPON
14 RECOMMENDATION OF THE DISTRICT ATTORNEY AND APPROVAL OF SUCH
15 RECOMMENDATION BY AN ORDER OF THE SENTENCING COURT PURSUANT
16 TO SECTION 18-1.3-201 (4).

17 (12) EVERY SENTENCE ENTERED PURSUANT TO THIS SECTION MUST
18 INCLUDE CONSIDERATION OF RESTITUTION AS REQUIRED BY PART 6 OF THIS
19 ARTICLE 1.3 AND BY ARTICLE 18.5 OF TITLE 16.

20 (13) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
21 CONTRARY, A COURT SHALL NOT IMPOSE A SENTENCE THAT EXCEEDS
22 TWELVE YEARS FOR ANY SINGLE CRIMINAL EPISODE WHEN THE CRIMES
23 INCLUDED A CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 YOUNG ADULT
24 FELONY.

25 (14) (a) THE COURT SHALL SENTENCE A DEFENDANT BETWEEN THE
26 AGES OF EIGHTEEN AND TWENTY-FIVE TO PROBATION IF THE DEFENDANT
27 HAS NOT PREVIOUSLY BEEN CONVICTED OF A FELONY OFFENSE AND THE

1 CONVICTION IS NOT FOR A FELONY CRIME OF VIOLENCE PURSUANT TO
2 SECTION 18-1.3-406.

3 (b) IF THE COURT DETERMINES THAT A PROBATIONER HAS
4 VIOLATED ANY CONDITION OF PROBATION THAT DOES NOT INVOLVE THE
5 COMMISSION OF A FELONY OR MISDEMEANOR CRIME; THE PROBATIONER
6 HAS NO ACTIVE FELONY WARRANT, FELONY DETAINER, OR PENDING
7 FELONY CRIMINAL CHARGE; AND THE PROBATIONER WAS ON PROBATION
8 FOR AN OFFENSE AND WAS SENTENCED PURSUANT TO SECTION
9 18-1.3-401.7 FOR THAT OFFENSE, THE COURT SHALL CONTINUE PROBATION
10 AND ORDER ADDITIONAL CONDITIONS OF PROBATION.

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