

CHAPTER 1

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 93S-1001

BY REPRESENTATIVES Adkins, Grampas, Owen, Romero, Allen, Armstrong, Blue, DeGette, Eisenach, Fleming, Friednash, Gordon, Hagedorn, R. Hernandez, June, Kaufman, Keller, Kerns, Kreutz, Lawrence, Lyle, Mattingly, Pierson, Reeser, Shoemaker, and Snyder;
also SENATORS Wham, Blickensderfer, Owens, Casey, Feeley, Gallagher, Johnson, Mares, Meiklejohn, Norton, Ruddick, Traylor, and Wells.

AN ACT

CONCERNING THE COMMISSION OF CRIMINAL ACTS BY JUVENILES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 18-12-101 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 18-12-101 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

18-12-101. Definitions. (1) As used in this article, unless the context otherwise requires:

(a) ~~"Ballistic knife" means any knife that has a blade which is forcefully projected from the handle by means of a spring loaded device or explosive charge.~~ "ADULT" MEANS ANY PERSON EIGHTEEN YEARS OF AGE OR OLDER.

(a.3) "BALLISTIC KNIFE" MEANS ANY KNIFE THAT HAS A BLADE WHICH IS FORCEFULLY PROJECTED FROM THE HANDLE BY MEANS OF A SPRING-LOADED DEVICE OR EXPLOSIVE CHARGE.

(e.5) "HANDGUN" MEANS A PISTOL, REVOLVER, OR OTHER FIREARM OF ANY DESCRIPTION, LOADED OR UNLOADED, FROM WHICH ANY SHOT, BULLET, OR OTHER MISSILE CAN BE DISCHARGED, THE LENGTH OF THE BARREL OF WHICH, NOT INCLUDING ANY REVOLVING, DETACHABLE, OR MAGAZINE BREECH, DOES NOT EXCEED TWELVE INCHES.

(e.7) "JUVENILE" MEANS ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS.

SECTION 2. Article 12 of title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

18-12-108.5. Possession of handguns by juveniles - prohibited - exceptions - penalty. (1) (a) EXCEPT AS PROVIDED IN THIS SECTION, IT IS UNLAWFUL FOR ANY PERSON WHO HAS NOT ATTAINED THE AGE OF EIGHTEEN YEARS KNOWINGLY TO HAVE ANY HANDGUN IN SUCH PERSON'S POSSESSION.

(b) ANY PERSON POSSESSING ANY HANDGUN IN VIOLATION OF PARAGRAPH (a) OF THIS SUBSECTION (1) COMMITS THE OFFENSE OF ILLEGAL POSSESSION OF A HANDGUN BY A JUVENILE.

(c) (I) ILLEGAL POSSESSION OF A HANDGUN BY A JUVENILE IS A CLASS 2 MISDEMEANOR.

(II) FOR ANY SECOND OR SUBSEQUENT OFFENSE, ILLEGAL POSSESSION OF A HANDGUN BY A JUVENILE IS A CLASS 5 FELONY.

(d) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO IS TAKEN INTO CUSTODY BY A LAW ENFORCEMENT OFFICER FOR AN OFFENSE PURSUANT TO THIS SECTION SHALL BE TAKEN INTO TEMPORARY CUSTODY IN THE MANNER DESCRIBED IN PART 2 OF ARTICLE 2 OF TITLE 19, C.R.S.

(2) THIS SECTION SHALL NOT APPLY TO:

(a) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO IS:

(I) IN ATTENDANCE AT A HUNTER'S SAFETY COURSE OR A FIREARMS SAFETY COURSE; OR

(II) ENGAGING IN PRACTICE IN THE USE OF A FIREARM OR TARGET SHOOTING AT AN ESTABLISHED RANGE AUTHORIZED BY THE GOVERNING BODY OF THE JURISDICTION IN WHICH SUCH RANGE IS LOCATED OR ANY OTHER AREA WHERE THE DISCHARGE OF A FIREARM IS NOT PROHIBITED; OR

(III) ENGAGING IN AN ORGANIZED COMPETITION INVOLVING THE USE OF A FIREARM, OR PARTICIPATING IN OR PRACTICING FOR A PERFORMANCE BY AN ORGANIZED GROUP UNDER 501 (c) (3) AS DETERMINED BY THE FEDERAL INTERNAL REVENUE SERVICE WHICH USES FIREARMS AS A PART OF SUCH PERFORMANCE; OR

(IV) HUNTING OR TRAPPING PURSUANT TO A VALID LICENSE ISSUED TO SUCH PERSON PURSUANT TO ARTICLE 4 OF TITLE 33, C.R.S.; OR

(V) TRAVELING WITH ANY HANDGUN IN SUCH PERSON'S POSSESSION BEING UNLOADED TO OR FROM ANY ACTIVITY DESCRIBED IN SUBPARAGRAPH (I), (II), (III), OR (IV) OF THIS PARAGRAPH (a).

(b) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO IS ON REAL PROPERTY UNDER THE CONTROL OF SUCH PERSON'S PARENT, LEGAL GUARDIAN, OR GRANDPARENT AND WHO HAS THE PERMISSION OF SUCH PERSON'S PARENT OR LEGAL GUARDIAN TO POSSESS A HANDGUN;

(c) ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS WHO IS AT SUCH PERSON'S RESIDENCE AND WHO, WITH THE PERMISSION OF SUCH PERSON'S PARENT OR LEGAL GUARDIAN, POSSESSES A HANDGUN FOR THE PURPOSE OF EXERCISING THE RIGHTS CONTAINED IN SECTION 18-1-704 OR SECTION 18-1-704.5.

(3) FOR THE PURPOSES OF SUBSECTION (2) OF THIS SECTION, A HANDGUN IS "LOADED" IF:

(a) THERE IS A CARTRIDGE IN THE CHAMBER OF THE HANDGUN; OR

(b) THERE IS A CARTRIDGE IN THE CYLINDER OF THE HANDGUN, IF THE HANDGUN IS A REVOLVER; OR

(c) THE HANDGUN, AND THE AMMUNITION FOR SUCH HANDGUN, ARE CARRIED ON THE PERSON OF A PERSON UNDER THE AGE OF EIGHTEEN YEARS OR ARE IN SUCH CLOSE PROXIMITY TO SUCH PERSON THAT SUCH PERSON COULD READILY GAIN ACCESS TO THE HANDGUN AND THE AMMUNITION AND LOAD THE HANDGUN.

(4) FOR THE PURPOSES OF DETERMINING THE NECESSITY OF CONSTRUCTING ADDITIONAL FACILITIES, AND THE NECESSARY CAPACITY OF SUCH FACILITIES, THE JUDICIAL DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 15, 1994, REGARDING THE NUMBER OF PERSONS CHARGED IN JUVENILE COURT WITH THE COMMISSION OF THE OFFENSE CREATED IN THIS SECTION, THE NUMBER OF PERSONS ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF THE OFFENSE CREATED IN THIS SECTION, THE DISPOSITION OF SUCH CASES, AND ANY OTHER INFORMATION DEEMED RELEVANT BY THE JUDICIAL DEPARTMENT REGARDING THE ENFORCEMENT OF THIS SECTION. THE JUDICIAL DEPARTMENT SHALL REPORT THE SAME INFORMATION TO THE GENERAL ASSEMBLY ON OR BEFORE FEBRUARY 15, 1994, MARCH 15, 1994, AND ON THE FIFTEENTH DAY OF THE MONTH EVERY THREE MONTHS THEREAFTER.

18-12-108.7. Unlawfully providing or permitting a juvenile to possess a handgun - penalty. (1) (a) ANY PERSON WHO INTENTIONALLY, KNOWINGLY, OR RECKLESSLY PROVIDES A HANDGUN WITH OR WITHOUT REMUNERATION TO ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS IN VIOLATION OF SECTION 18-12-108.5, OR ANY PARENT OR LEGAL GUARDIAN OF A PERSON UNDER EIGHTEEN YEARS OF AGE WHO KNOWS OF SUCH JUVENILE'S CONDUCT WHICH VIOLATES SECTION 18-12-108.5 AND FAILS TO MAKE REASONABLE EFFORTS TO PREVENT SUCH VIOLATION, COMMITS THE CRIME OF UNLAWFULLY PROVIDING OR PERMITTING A JUVENILE TO POSSESS A HANDGUN.

(b) UNLAWFULLY PROVIDING OR PERMITTING A JUVENILE TO POSSESS A HANDGUN IN VIOLATION OF THIS SUBSECTION (1) IS A CLASS 4 FELONY.

(2) (a) ANY PARENT OR GUARDIAN WHO INTENTIONALLY, KNOWINGLY, OR RECKLESSLY PROVIDES A HANDGUN TO A JUVENILE OR PERMITS A JUVENILE TO POSSESS A HANDGUN, EVEN THOUGH SUCH PARENT OR GUARDIAN IS AWARE OF A SUBSTANTIAL RISK THAT SUCH JUVENILE WILL USE A HANDGUN TO COMMIT A FELONY OFFENSE, OR WHO, BEING AWARE OF SUCH SUBSTANTIAL RISK, FAILS TO MAKE REASONABLE EFFORTS TO PREVENT THE COMMISSION OF THE OFFENSE, COMMITS THE CRIME OF UNLAWFULLY PROVIDING OR PERMITTING A JUVENILE TO POSSESS A HANDGUN. A PARENT OR GUARDIAN SHALL BE DEEMED TO HAVE VIOLATED THIS PARAGRAPH (a) IF SUCH PARENT OR GUARDIAN PROVIDES A HANDGUN TO, OR PERMITS THE POSSESSION OF A HANDGUN BY, ANY JUVENILE WHO HAS BEEN CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S., OR ANY JUVENILE WHO HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR AN OFFENSE WHICH WOULD CONSTITUTE A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S., IF SUCH JUVENILE WERE AN ADULT.

(b) UNLAWFULLY PROVIDING OR PERMITTING A JUVENILE TO POSSESS A HANDGUN IN VIOLATION OF THIS SUBSECTION (2) IS A CLASS 4 FELONY.

SECTION 3. 18-12-108, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-12-108. Possession of weapons by previous offenders. (1) Any person previously convicted of burglary, arson, or a felony involving the use of force or violence or the use of a deadly weapon, or attempt or conspiracy to commit such offenses, under the laws of the United States of America, the state of Colorado, or another state, within the ten years next preceding or within ten years of his release or escape from incarceration, whichever is greater, who possesses, uses, or carries upon his person a firearm or other weapon mentioned in section 18-1-901 (3) (h) or sections 18-12-101 to 18-12-106 commits a class 4 felony. A second or subsequent offense under this section is a class 4 felony.

(2) ANY PERSON PREVIOUSLY ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF ANY CRIME WHICH WOULD HAVE CONSTITUTED THE OFFENSE OF BURGLARY, ARSON, OR A FELONY INVOLVING THE USE OF FORCE OR VIOLENCE OR THE USE OF A DEADLY WEAPON, OR ATTEMPT OR CONSPIRACY TO COMMIT ANY SUCH OFFENSE, IF SUCH PERSON WERE AN ADULT WHO, WITHIN TEN YEARS OF SUCH ADJUDICATION OR RELEASE OR ESCAPE FROM CUSTODY PURSUANT TO SUCH ADJUDICATION, POSSESSES, USES, OR CARRIES UPON SUCH JUVENILE'S PERSON A FIREARM OR OTHER WEAPON MENTIONED IN SECTION 18-1-901 (3) (h) OR SECTIONS 18-12-101 TO 18-12-106 COMMITS A CLASS 5 FELONY. A SECOND OR SUBSEQUENT OFFENSE UNDER THIS SECTION IS A CLASS 4 FELONY.

SECTION 4. 19-2-204 (3) (a) (III), (3) (a) (IV), (3) (a) (V), and (3) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-2-204. Detention and shelter - hearing - time limits - confinement with adult offenders - restrictions. (3) (a) (III) With respect to this section, the court may further detain the juvenile if the court is satisfied from the information provided at the hearing that the juvenile is a danger to himself or herself or to the community. Any information having probative value shall be received

regardless of its admissibility under the rules of evidence. In determining whether a child requires detention, the court shall consider any record of any prior adjudications of the juvenile. THERE SHALL BE A REBUTTABLE PRESUMPTION THAT A JUVENILE IS A DANGER TO HIMSELF OR HERSELF OR TO THE COMMUNITY IF:

(A) THE JUVENILE IS ALLEGED TO HAVE COMMITTED A FELONY ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION 16-11-309, C.R.S.; OR

(B) THE JUVENILE IS ALLEGED TO HAVE USED, OR POSSESSED AND THREATENED TO USE, A FIREARM DURING THE COMMISSION OF ANY FELONY OFFENSE AGAINST A PERSON, AS SUCH OFFENSES ARE DESCRIBED IN ARTICLE 3 OF TITLE 18, C.R.S.; OR

(C) THE JUVENILE IS ALLEGED TO HAVE COMMITTED POSSESSING A DANGEROUS OR ILLEGAL WEAPON, AS DESCRIBED IN SECTION 18-12-102, C.R.S.; POSSESSION OF A DEFACED FIREARM, AS DESCRIBED IN SECTION 18-12-103, C.R.S.; UNLAWFULLY CARRYING A CONCEALED WEAPON, AS DESCRIBED IN SECTION 18-12-105, C.R.S.; UNLAWFULLY CARRYING A CONCEALED WEAPON ON SCHOOL, COLLEGE, OR UNIVERSITY GROUNDS, AS DESCRIBED IN SECTION 18-12-105.5, C.R.S.; PROHIBITED USE OF WEAPONS, AS DESCRIBED IN SECTION 18-12-106, C.R.S.; ILLEGAL DISCHARGE OF A FIREARM, AS DESCRIBED IN SECTION 18-12-107.5, C.R.S.; OR ILLEGAL POSSESSION OF A HANDGUN BY A JUVENILE, AS DESCRIBED IN SECTION 18-12-108.5, C.R.S.

(IV) At the conclusion of the hearing, the court shall enter one of the following orders:

(A) That the juvenile be released to the custody of a parent, guardian, or legal custodian without the posting of bond;

(B) That the juvenile be placed in a shelter facility;

(C) That bail be set and that the juvenile be released upon the posting of that bail;

(D) That no bail be set and that the juvenile be detained without bail upon a finding that such juvenile is a danger to himself or herself or to the community. Any juvenile who is detained without bail must be tried on the charges in the petition filed pursuant to subparagraph (V) of this paragraph (a) within the time limits set forth in section 19-2-205 (3);

(E) That no bail be set and that, upon the court's finding that the juvenile is a danger to himself or herself or to the community, the juvenile be placed in a preadjudication service program established pursuant to section 19-2-205 (6). THIS SUB-SUBPARAGRAPH (E) SHALL NOT APPLY TO ANY CASE IN WHICH THE JUVENILE'S ALLEGED OFFENSE IS ONE OF THE OFFENSES DESCRIBED IN SUB-SUBPARAGRAPH (A), (B), OR (C) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (a).

(V) When the court orders further detention of the juvenile or placement of

the juvenile in a preadjudication service program after a detention hearing, a petition alleging the juvenile to be a delinquent shall be filed without unnecessary delay, and the juvenile shall be held or shall participate in a preadjudication service program pending a hearing on the petition. IF THE JUVENILE IS DETAINED FOR ONE OF THE OFFENSES DESCRIBED IN SUB-SUBPARAGRAPH (A), (B), OR (C) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (a), THE DISTRICT ATTORNEY SHALL FILE CHARGES WITHIN SEVENTY-TWO HOURS AFTER THE DETENTION HEARING, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS. UPON A SHOWING OF GOOD CAUSE, THE COURT MAY EXTEND SUCH TIME FOR THE FILING OF CHARGES.

(c) No juvenile taken to a detention or shelter facility or a temporary holding facility pursuant to section 19-2-201 as the result of an allegedly delinquent act which constitutes a felony which is a crime of violence as defined in section 16-11-309 (2), C.R.S., ANY OF THE OFFENSES DESCRIBED IN SUB-SUBPARAGRAPH (A), (B), OR (C) OF SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (3) shall be released from such facility if a law enforcement agency has requested that a detention hearing be held to determine whether the juvenile's immediate welfare or the protection of the community requires that the juvenile be detained. No such juvenile shall thereafter be released from detention except after a hearing, reasonable advance notice of which has been given to the district attorney, alleging new circumstances concerning the further detention of the juvenile. No juvenile being held when the juvenile is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall be held at any facility intended to be utilized by juvenile offenders, unless the district attorney and the defense counsel agree otherwise. Said juvenile shall be segregated from the adult offenders of the facility in which such juvenile is held.

SECTION 5. 19-2-703 (1) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-703. Juvenile delinquent - sentencing - disposition - restitution - parental liability. (1) (e) In the case of a juvenile who has been adjudicated a juvenile delinquent for an act which constitutes a violation of section 18-12-105, C.R.S., THE COMMISSION OF ONE OF THE MISDEMEANOR OFFENSES DESCRIBED IN SECTION 19-2-204 (3) (a) (III) (C), the court shall impose a ~~commitment, placement, or~~ MINIMUM MANDATORY PERIOD OF detention of not less than ten FIVE days. ~~which may be suspended upon condition that the juvenile report for assignment to a supervised work program of ten days of useful public service consistent with the conditions in subparagraphs (I) and (II) of paragraph (i) of this subsection (1).~~

SECTION 6. 19-2-1602 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, as it exists until July 1, 1994, is amended to read:

19-2-1602. Development of criteria for placement of juvenile offenders. (1) The executive director of the department of institutions, the executive director of the department of social services, and the state court administrator of the judicial department, or any designees of such persons, in consultation with the division of criminal justice of the department of public safety, the office of state planning and budgeting, the Colorado district attorneys council, law

enforcement representatives, representatives of local and county governments, and the criminal justice commission and any subcommittee of such commission relating to juvenile issues, shall form a working group which shall carry out the following duties:

(a) The working group established pursuant to this subsection (1) shall establish a set of criteria for both detention and commitment determining which juvenile offenders are appropriate for placement in the physical custody of the department of institutions or in the custody of the department of social services. SUCH CRITERIA SHALL CONFORM WITH SECTION 19-2-204. This set of criteria, when adopted by the department of institutions, the department of social services, and the judicial department, shall be used to promote a more uniform system of determining which juveniles should be placed in the physical custody of the department of institutions or in the custody of the department of social services so that decisions for such placement of a juvenile are made based upon a uniform set of criteria throughout the state. In developing such set of criteria, the working group shall utilize any existing risk scale devised by the department of institutions or any other measures to determine when it is appropriate to place a juvenile in the physical custody of the department of institutions or in the custody of the department of social services.

SECTION 7. 19-2-1602 (1) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, as it will become effective July 1, 1994, is amended to read:

19-2-1602. Development of criteria for placement of juvenile offenders. (1) The executive director of the department of human services and the state court administrator of the judicial department, or any designees of such persons, in consultation with the division of criminal justice of the department of public safety, the office of state planning and budgeting, the Colorado district attorneys council, law enforcement representatives, representatives of local and county governments, and the criminal justice commission and any subcommittee of such commission relating to juvenile issues, shall form a working group which shall carry out the following duties:

(a) The working group established pursuant to this subsection (1) shall establish a set of criteria for both detention and commitment determining which juvenile offenders are appropriate for placement in the physical or legal custody of the department of human services. SUCH CRITERIA SHALL CONFORM WITH SECTION 19-2-204. This set of criteria, when adopted by the department of human services and the judicial department, shall be used to promote a more uniform system of determining which juveniles should be placed in the physical custody of the department of human services or in the legal custody of the department of human services so that decisions for such placement of a juvenile are made based upon a uniform set of criteria throughout the state. In developing such set of criteria, the working group shall utilize any existing risk scale devised by the department of human services or any other measures to determine when it is appropriate to place a juvenile in the physical custody of the department of human services or in the legal custody of the department of human services.

SECTION 8. 16-11-501 (1), Colorado Revised Statutes, 1986 Repl. Vol., as

amended, is amended to read:

16-11-501. Judgment for costs and fines. (1) Where any person, association, or corporation is convicted of an offense, OR ANY JUVENILE IS ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF AN ACT WHICH WOULD HAVE BEEN A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT, the court shall give judgment in favor of the state of Colorado, the appropriate prosecuting attorney, or the appropriate law enforcement agency, and against the offender OR JUVENILE for the amount of the costs of prosecution and any fine imposed. No fine shall be imposed for conviction of a felony except as provided in section 18-1-105, C.R.S. Such judgments shall be enforceable in the same manner as are civil judgments, and, in addition, the provisions of section 16-11-502 shall be applicable. Any judgments collected pursuant to this section for fees for interpreters appointed pursuant to section 13-90-204, C.R.S., and reimbursed pursuant to section 13-90-210, C.R.S., shall be remitted to the division of rehabilitation in the department of social services.

SECTION 9. 19-2-205 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-205. Bail. (3) In setting, modifying, or continuing any bail bond, it shall be a condition that the released juvenile appear at any place and upon any date to which the proceeding is transferred or continued. Further conditions of every bail bond shall be that the released juvenile not commit any delinquent acts or harass, intimidate, or threaten any potential witnesses. The judge or magistrate may set any other conditions or limitations on the release of the juvenile as are reasonably necessary for the protection of the juvenile and the community. Any juvenile who is held without bail or whose bail or bail bond is revoked or increased under an order entered pursuant to subsection (2) of this section and who remains in custody or detention must be tried on the charges on which the bail is denied or the bail or bail bond is revoked or increased within ~~ninety~~ SIXTY days after the entry of such order or within six months after the juvenile's entry of a plea, whichever date is earlier.

SECTION 10. Article 1 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-116. Corrections expansion reserve fund. THERE IS HEREBY CREATED IN THE STATE TREASURY THE CORRECTIONS EXPANSION RESERVE FUND. MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSE OF COMPLYING WITH THE PROVISIONS OF SECTION 2-2-703, C.R.S., WHICH REQUIRES THAT ANY BILL WHICH RESULTS IN A NET INCREASE IN PERIODS OF IMPRISONMENT IN STATE CORRECTIONAL FACILITIES PROVIDE FOR THE FUNDING OF ANY INCREASED CAPITAL CONSTRUCTION COSTS OR INCREASED OPERATING COSTS ASSOCIATED THEREWITH. ANY UNEXPENDED OR UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO OR BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND OF THE STATE.

SECTION 11. 24-75-302 (2) (f), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-75-302. Capital construction fund - capital assessment fees - calculation. (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 1995, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(f) On July 1, 1993, twenty-five million dollars PLUS TWENTY-ONE MILLION SIX HUNDRED FORTY-ONE THOUSAND DOLLARS PURSUANT TO H.B. 93S-1001, ENACTED AT THE FIRST EXTRAORDINARY SESSION OF THE FIFTY-NINTH GENERAL ASSEMBLY;

SECTION 12. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of institutions for allocation to the division of youth services, for the fiscal year beginning July 1, 1993, the sum of six million one hundred sixty-three thousand five hundred thirty-two dollars (\$6,163,532), or so much thereof as may be necessary, for the purpose of contracting for additional detention beds, and out of any moneys in the capital construction fund not otherwise appropriated, to the department of institutions for allocation to the division of youth services, for the fiscal year beginning July 1, 1993, the sum of twenty-one million four hundred seventy thousand dollars (\$21,470,000), or so much thereof as may be necessary, for the purpose of constructing or using alternative methods of providing additional juvenile detention beds.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 1993, the sum of one million eighty-three thousand two hundred sixty-six dollars (\$1,083,266) and 46.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department for allocation to the office of the state public defender, for the fiscal year beginning July 1, 1993, the sum of three hundred sixty-four thousand thirty-five dollars (\$364,035) and 9.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the capital construction fund not otherwise appropriated, to the corrections expansion reserve fund, for the fiscal year beginning July 1, 1993, the sum of one hundred seventy-one thousand dollars (\$171,000), or so much thereof as may be necessary, for the implementation of this act.

(5) Pursuant to section 2-2-703, Colorado Revised Statutes, implementation of this act during the fiscal year beginning July 1, 1994, will require an appropriation from the general fund, to the corrections expansion reserve fund, for said fiscal year in an amount estimated to be fifty-seven thousand six hundred eighty-seven dollars (\$57,687).

(6) Pursuant to section 2-2-703, Colorado Revised Statutes, implementation of this act during the fiscal year beginning July 1, 1995, will require an appropriation from the general fund, to the corrections expansion reserve fund, for said fiscal year in an amount estimated to be forty-six thousand four hundred seventy dollars (\$46,470).

(7) Pursuant to section 2-2-703, Colorado Revised Statutes, implementation of this act during the fiscal year beginning July 1, 1996, will require an appropriation from the general fund, to the corrections expansion reserve fund, for said fiscal year in an amount estimated to be nineteen thousand two hundred twenty-nine dollars (\$19,229).

(8) Pursuant to section 2-2-703, Colorado Revised Statutes, implementation of this act during the fiscal year beginning July 1, 1997, will require an appropriation from the general fund, to the corrections expansion reserve fund, for said fiscal year in an amount estimated to be nineteen thousand two hundred twenty-nine dollars (\$19,229).

SECTION 13. Review of spending by capital development committee.

Prior to spending the amount appropriated pursuant to subsection (1) of section 11 of this act for the purposes of constructing detention facilities, the division of youth services of the department of institutions shall submit plans for construction of such facilities, or alternative plans to the capital development committee of the general assembly for review. Subsequent to such review, the capital development committee shall make recommendations to the joint budget committee of the general assembly, who in turn shall submit recommendations to the general assembly for approval of such construction or alternative plans. Such construction or alternative plans shall be submitted not later than January 1, 1994.

SECTION 14. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 15. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses committed on or after said date.

SECTION 16. 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: September 13, 1993