

CHAPTER 23

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 99-1162

BY REPRESENTATIVES Lawrence, Hagedorn, Kaufman, Swenson, Tool, and Witwer;
also SENATORS Arnold and Powers.

AN ACT

CONCERNING PROCEDURAL CHANGES FOR THE STRENGTHENING OF THE CRIMINAL LAWS.

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

SECTION 1. 13-71-120, Colorado Revised Statutes, is amended to read:

13-71-120. Length of juror service. Trial juror service shall be for a one-day term unless a juror is assigned to or impaneled on an incompleated trial when the one-day term ends, or unless the court orders otherwise. Nothing shall prevent a trial juror from serving on more than one jury or participating in more than one trial during the term; except that a trial juror whose deliberation ended with a verdict shall not be required to participate in a second trial even though the juror may not have completed the first day of juror service at the time of the commencement of the second trial. Jurors awaiting assignment to a trial shall be discharged as early as possible after it has been determined that their services will not be needed. Grand juror service shall be for a term of twelve months unless the court DISCHARGES THE JURORS EARLIER OR enlarges such term upon a finding that the efficient administration of justice so requires; EXCEPT THAT IN NO EVENT SHALL A GRAND JURY SERVE FOR LONGER THAN EIGHTEEN MONTHS.

SECTION 2. 13-72-101 (1), Colorado Revised Statutes, is amended to read:

13-72-101. Grand jurors - term - additional juries. (1) Grand juries shall not be drawn, summoned, or required to attend the sitting of any court in any county in this state unless specially ordered by the court having jurisdiction to make such an order and except as provided in subsection (2) of this section. ~~Grand juries shall serve until discharged by the court; except that no grand jury shall sit for a period in excess of eighteen months. The length of term for grand jury service shall be the~~

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

~~length set forth in section 13-71-120.~~ THE LENGTH OF TERM SERVED BY A GRAND JURY SHALL BE AS PROVIDED IN SECTION 13-71-120.

SECTION 3. 13-72-103, Colorado Revised Statutes, is amended to read:

13-72-103. Selection of jury panel. In drawing the list of jurors, the court shall select from no less than seventy-five names thereon and from such additional lists of names as the court may order, or from such lesser number as may be called to serve as jurors, the names of either twelve or twenty-three persons who shall constitute a grand jury and four alternate grand jurors. The members of the county grand jury shall be selected by the chief judge with the advice of the district attorney. ~~and shall serve for eighteen months following selection unless discharged sooner by the chief judge.~~ THE COURT MAY CLOSE TO THE PUBLIC PART OR ALL OF THE SELECTION PROCESS WHEN REASONABLY NECESSARY TO PROTECT THE GRAND JURY PROCESS OR THE SECURITY OF THE GRAND JURORS. THE LENGTH OF TERM SERVED BY A COUNTY GRAND JURY SHALL BE AS PROVIDED IN SECTION 13-71-120. The court, ~~shall, upon request of any person, immediately make available the names and addresses of all selected jurors~~ UPON ITS OWN MOTION OR AT THE REQUEST OF THE DISTRICT ATTORNEY, SHALL ENTER AN ORDER TO PRESERVE THE CONFIDENTIALITY OF ALL INFORMATION THAT MIGHT IDENTIFY GRAND JURORS WHEN REASONABLY NECESSARY TO PROTECT THE GRAND JURY PROCESS OR THE SECURITY OF THE GRAND JURORS. IN THE ABSENCE OF SUCH AN ORDER, UPON REQUEST, THE JURY COMMISSIONER SHALL MAKE AVAILABLE FOR INSPECTION BY MEMBERS OF THE PUBLIC A LIST OF GRAND JURORS CONTAINING ONLY THE GRAND JURORS' NAMES AND JUROR NUMBERS. The court may strike the name of any juror who appears to the court to be incompetent or unqualified to serve.

SECTION 4. 13-73-103, Colorado Revised Statutes, is amended to read:

13-73-103. List of prospective jurors - selection - membership - term. The state court administrator, upon receipt of an order of a chief judge of the district court granting a petition to impanel a state grand jury, shall prepare a list of prospective state grand jurors drawn from existing jury lists of the several counties. In preparing the list of prospective state grand jurors, the state court administrator need not include names of jurors from every county within the state, but ~~he~~ THE STATE COURT ADMINISTRATOR may select jurors from counties near the county in which the chief judge requesting the list presides. The chief judge granting the order shall impanel the state grand jury from the list compiled by the state court administrator. A state grand jury shall be composed of twelve or twenty-three members, as provided in section 13-72-102, but not more than one-fourth of the members of the state grand jury shall be residents of any one county. The members of the state grand jury shall be selected by the chief judge with the advice of the attorney general. ~~and shall serve for one year following selection unless discharged sooner by the chief judge.~~ THE CHIEF JUDGE MAY CLOSE TO THE PUBLIC PART OR ALL OF THE SELECTION PROCESS WHEN REASONABLY NECESSARY TO PROTECT THE GRAND JURY PROCESS OR THE SECURITY OF THE GRAND JURORS. THE LENGTH OF TERM SERVED BY A STATE GRAND JURY SHALL BE AS PROVIDED IN SECTION 13-71-120. THE COURT, UPON ITS OWN MOTION OR AT THE REQUEST OF THE ATTORNEY GENERAL, SHALL ENTER AN ORDER TO PRESERVE THE CONFIDENTIALITY OF ALL INFORMATION THAT MIGHT IDENTIFY STATE GRAND JURORS WHEN REASONABLY NECESSARY TO PROTECT THE STATE GRAND JURY PROCESS OR THE SECURITY OF THE STATE GRAND JURORS. IN THE ABSENCE OF SUCH

AN ORDER, UPON REQUEST, THE STATE COURT ADMINISTRATOR SHALL MAKE AVAILABLE FOR INSPECTION BY MEMBERS OF THE PUBLIC A LIST OF STATE GRAND JURORS CONTAINING ONLY THE STATE GRAND JURORS' NAMES AND JUROR NUMBERS.

SECTION 5. 13-74-103, Colorado Revised Statutes, is amended to read:

13-74-103. List of prospective jurors - selection - membership - term. The state court administrator, upon receipt of an order of a chief judge of the district court granting a petition to impanel a judicial district grand jury, shall prepare a list of prospective judicial district grand jurors drawn from existing jury lists of the several counties within the district. In preparing the list of prospective judicial district grand jurors, the state court administrator need not include names of jurors from every county within the district, but ~~he~~ THE STATE COURT ADMINISTRATOR may select jurors from counties near the county in which the chief judge requesting the list presides. The chief judge granting the order shall impanel the judicial district grand jury from the list compiled by the state court administrator. A judicial district grand jury shall be composed of twelve or twenty-three members, as provided in section 13-72-102. The members of the judicial district grand jury shall be selected by the chief judge with the advice of the district attorney. ~~and shall serve for one year following selection unless discharged sooner by the chief judge.~~ THE CHIEF JUDGE MAY CLOSE TO THE PUBLIC PART OR ALL OF THE SELECTION PROCESS WHEN REASONABLY NECESSARY TO PROTECT THE GRAND JURY PROCESS OR THE SECURITY OF THE GRAND JURORS. THE LENGTH OF TERM SERVED BY A JUDICIAL DISTRICT GRAND JURY SHALL BE AS PROVIDED IN SECTION 13-71-120. THE COURT, UPON ITS OWN MOTION OR AT THE REQUEST OF THE DISTRICT ATTORNEY, SHALL ENTER AN ORDER TO PRESERVE THE CONFIDENTIALITY OF ALL INFORMATION THAT MIGHT IDENTIFY JUDICIAL DISTRICT GRAND JURORS WHEN REASONABLY NECESSARY TO PROTECT THE JUDICIAL DISTRICT GRAND JURY PROCESS OR THE SECURITY OF THE JUDICIAL DISTRICT GRAND JURORS. IN THE ABSENCE OF SUCH AN ORDER, UPON REQUEST, THE STATE COURT ADMINISTRATOR SHALL MAKE AVAILABLE FOR INSPECTION BY MEMBERS OF THE PUBLIC A LIST OF JUDICIAL DISTRICT GRAND JURORS CONTAINING ONLY THE JUDICIAL DISTRICT GRAND JURORS' NAMES AND JUROR NUMBERS.

SECTION 6. Repeal. 16-11-501 (2) (m), Colorado Revised Statutes, is repealed as follows:

16-11-501. Judgment for costs and fines. (2) The costs assessed pursuant to subsection (1) of this section or section 16-18-101 may include:

(m) ~~Any amount spent in making undercover purchases of controlled substances to obtain evidence used against the defendant;~~

SECTION 7. 16-11-101.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-11-101.5. Collection of restitution. (1.5) ANY ORDER OF RESTITUTION TO BE PAID BY A PERSON OR ENTITY SENTENCED FOR A CRIME OR WHO PLEADS GUILTY TO A CRIME PURSUANT TO A DEFERRED JUDGEMENT AND SENTENCE MAY INCLUDE ANY AMOUNT SPENT BY ANY LAW ENFORCEMENT AGENCY IN MAKING UNDERCOVER PURCHASES OF CONTROLLED SUBSTANCES TO OBTAIN EVIDENCE USED AGAINST THE DEFENDANT.

SECTION 8. Part 2 of article 4 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-4-201.5. Right to bail after a conviction - exceptions. (1) THE COURT MAY GRANT BAIL AFTER A PERSON IS CONVICTED, PENDING SENTENCING OR APPEAL, ONLY AS PROVIDED BY THIS PART 2; EXCEPT THAT NO BAIL IS ALLOWED FOR PERSONS CONVICTED OF:

(a) MURDER;

(b) ANY FELONY SEXUAL ASSAULT INVOLVING THE USE OF A DEADLY WEAPON;

(c) ANY FELONY SEXUAL ASSAULT COMMITTED AGAINST A CHILD WHO IS UNDER FIFTEEN YEARS OF AGE;

(d) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309; OR

(e) ANY FELONY DURING THE COMMISSION OF WHICH THE PERSON USED A FIREARM.

(2) THE COURT SHALL NOT SET BAIL THAT IS OTHERWISE ALLOWED PURSUANT TO SUBSECTION (1) OF THIS SECTION UNLESS THE COURT FINDS THAT:

(a) THE PERSON IS UNLIKELY TO FLEE AND DOES NOT POSE A DANGER TO THE SAFETY OF ANY PERSON OR THE COMMUNITY; AND

(b) THE APPEAL IS NOT FRIVOLOUS OR IS NOT PURSUED FOR THE PURPOSE OF DELAY.

(3) THE PROVISIONS OF THIS SECTION SHALL APPLY TO OFFENSES COMMITTED ON OR AFTER JANUARY 1, 1995.

SECTION 9. 16-11-202 (1), Colorado Revised Statutes, is amended to read:

16-11-202. Probationary power of court. (1) When it appears to the satisfaction of the court that the ends of justice and the best interest of the public, as well as the defendant, will be served thereby, the court may grant the defendant probation for such period and upon such terms and conditions as it deems best. If the court chooses to grant the defendant probation, the order placing the defendant on probation shall take effect upon entry and, if any appeal is brought, shall remain in effect pending review by an appellate court unless the court grants a stay of probation pursuant to section 16-4-201. UNLESS AN APPEAL IS FILED THAT RAISES A CLAIM THAT PROBATION WAS GRANTED CONTRARY TO THE PROVISIONS OF THIS TITLE, THE TRIAL COURT SHALL RETAIN JURISDICTION OF THE CASE FOR THE PURPOSE OF ADJUDICATING COMPLAINTS FILED AGAINST THE DEFENDANT THAT ALLEGE A VIOLATION OF THE TERMS AND CONDITIONS OF PROBATION. In addition to imposing other conditions, the court has the power to commit the defendant to any jail operated by the county or city and county in which the offense was committed during such time or for such intervals within the period of probation as the court determines. The aggregate length of any such commitment whether continuous or at designated intervals shall not exceed ninety days for a felony, sixty days for a misdemeanor, or ten days for a petty offense unless it is a part of a work release program pursuant to

section 16-11-212. That the defendant submit to commitment imposed under this section shall be deemed a condition of probation.

SECTION 10. 24-4.1-102 (10) (d), Colorado Revised Statutes, is amended to read:

24-4.1-102. Definitions. As used in this part 1, unless the context otherwise requires:

(10) (d) "Victim" also means a person who is a resident of this state who is injured or killed by an act of international terrorism, as defined in ~~18 U.S.C. sec. 2671~~ 18 U.S.C. SEC. 2331, committed outside of the United States.

SECTION 11. 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: March 15, 1999