

CHAPTER 291

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 02-1141

BY REPRESENTATIVE(S) Miller, Alexander, Borodkin, Boyd, Cloer, Coleman, Crane, Daniel, Dean, Garcia, Groff, Hefley, Hodge, Jahn, Kester, Larson, Lawrence, Lee, Mace, Madden, Marshall, Paschall, Ragsdale, Rippey, Romanoff, Schultheis, Smith, Snook, Spence, Spradley, Stafford, Stengel, Swenson, Tapia, Tochtrop, Veiga, Weddig, and Young;
also SENATOR(S) Chlouber and Teck.

AN ACT

CONCERNING THE PUBLIC ANNOUNCEMENT BY THE COURT AT SENTENCING OF THE MINIMUM RANGE OF ACTUAL IMPRISONMENT THAT A DEFENDANT CAN BE EXPECTED TO SERVE.

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

SECTION 1. 16-11-302, Colorado Revised Statutes, is amended to read:

16-11-302. Duration of sentences for felonies. (1) Unless otherwise provided by law and except as otherwise provided in the "Colorado Children's Code", title 19, C.R.S., courts sentencing any person for the commission of a felony to the custody of the executive director of the department of corrections shall fix a definite term as provided by section 18-1-105, C.R.S. The persons so sentenced shall be imprisoned and discharged as provided by other applicable statutes. No person sentenced to a correctional facility for the commission of a felony shall be subjected to imprisonment for a term exceeding the term provided by the statute fixing the length of the sentence for the crime of which ~~he~~ THE PERSON was convicted and for which ~~he~~ THE PERSON was sentenced.

(2) (a) IF A COURT SENTENCES A DEFENDANT TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, THE COURT SHALL, AFTER FIXING A DEFINITE TERM OF IMPRISONMENT, READ THE FOLLOWING STATEMENT:

"THE DEFENDANT MAY SPEND LESS TIME INCARCERATED THAN THE TERM ANNOUNCED HERE TODAY. THE ACTUAL TIME SERVED WILL BE INFLUENCED BY A NUMBER OF FACTORS INCLUDING, BUT NOT LIMITED TO, PREVIOUS CRIMINAL ACTIVITIES, ELIGIBILITY FOR EARNED TIME FOR GOOD BEHAVIOR, CORRECTIONAL EDUCATION PROGRAM EARNED TIME, CREDIT FOR TIME SERVED, OR COMMUNITY

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

CORRECTIONS ELIGIBILITY."

(b) BY REQUIRING THE COURT TO READ THE STATEMENT CONTAINED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE GENERAL ASSEMBLY DOES NOT INTEND TO GRANT ANY ADDITIONAL RIGHTS TO THE DEFENDANT. FAILURE OF A COURT TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL NOT BE GROUNDS FOR A DEFENDANT TO WITHDRAW A GUILTY PLEA OR IN ANY WAY GAIN A REVERSAL OF A CONVICTION OR REDUCTION IN SENTENCE.

(3) (a) NOTHING IN SUBSECTION (2) OF THIS SECTION SHALL BE CONSTRUED TO AFFECT THE DUTIES OTHERWISE IMPOSED BY LAW ON THE COURT OR ON THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS.

(b) NOTHING IN SUBSECTION (2) OF THIS SECTION SHALL BE CONSTRUED TO LIMIT, EXPAND, OR OTHERWISE AFFECT ANY PROVISION OF LAW CONCERNING THE AVAILABILITY, ADMINISTRATION, ENTITLEMENT, OR AWARD OF GOOD TIME CREDITS AND EARNED TIME CREDITS.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2002, and shall apply to sentences imposed on or after said date.

SECTION 3. 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: June 3, 2002