

## CHAPTER 48

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**CORRECTIONS**

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**HOUSE BILL 02-1223**

BY REPRESENTATIVE(S) Veiga, Borodkin, Boyd, Clapp, Coleman, Crane, Fritz, Groff, Grossman, Lawrence, Lee, Madden, Marshall, Miller, Mitchell, Plant, Romanoff, Sanchez, Scott, Spradley, Stafford, Stengel, Tapia, Vigil, and Williams S.; also SENATOR(S) Anderson, Hernandez, and Tupa.

**AN ACT****CONCERNING SENTENCING OF PERSONS CONVICTED OF OFFENSES COMMITTED ON OR AFTER JULY 1, 2002, INVOLVING UNLAWFUL SEXUAL BEHAVIOR.**

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

**SECTION 1.** 18-1-105 (1) (a) (V) (C) and (1) (a) (V) (C.3), Colorado Revised Statutes, are amended, and the said 18-1-105 (1) (a) (V) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

**18-1-105. Felonies classified - presumptive penalties.** (1) (a) (V) (C) Notwithstanding sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for a person convicted of a felony offense committed prior to July 1, 1996, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be five years. Notwithstanding sub-subparagraph (A) of this subparagraph (V), AND EXCEPT AS OTHERWISE PROVIDED IN SUB-SUBPARAGRAPH (C.5) OF THIS SUBPARAGRAPH (V), the period of parole for a person convicted of a felony offense committed on or after July 1, 1996, BUT PRIOR TO JULY 1, 2002, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be set by the state board of parole pursuant to section 17-2-201 (5) (a.5), C.R.S., but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

~~(C.3) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (V), the period of parole for a person convicted of a felony offense committed on or after July 1, 1996, but prior to November 1, 1998, pursuant to part 4 of article 3 of this title or part 3 of article 6 of this title, shall be set by the state board of parole pursuant to section 17-2-201 (5) (a.5), C.R.S.~~

(C.7) ANY PERSON SENTENCED FOR A FELONY COMMITTED ON OR AFTER JULY 1,

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

2002, INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 18-3-412.5 (1), OR FOR A FELONY, COMMITTED ON OR AFTER JULY 1, 2002, THE UNDERLYING FACTUAL BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL BEHAVIOR, AND WHO IS NOT SUBJECT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S., SHALL BE SUBJECT TO THE MANDATORY PERIOD OF PAROLE SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V).

**SECTION 2.** 17-2-201 (5) (a.5), Colorado Revised Statutes, is amended, and the said 17-2-201 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**17-2-201. State board of parole.** (5) (a.5) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a.7) OF THIS SUBSECTION (5), as to any person sentenced for conviction of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in section 18-3-412.5 (1), C.R.S., committed on or after July 1, 1996, BUT PRIOR TO JULY 1, 2002, the board has the sole power to grant or refuse to grant parole and to fix the condition thereof and has full discretion to set the duration of the term of parole granted, but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

(a.6) AS TO ANY PERSON WHO IS SENTENCED FOR CONVICTION OF AN OFFENSE COMMITTED ON OR AFTER JULY 1, 2002, INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 18-3-412.5 (1), C.R.S., OR FOR CONVICTION OF AN OFFENSE COMMITTED ON OR AFTER JULY 1, 2002, THE UNDERLYING FACTUAL BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL BEHAVIOR, AND WHO IS NOT SUBJECT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S., SUCH PERSON SHALL BE SUBJECT TO THE MANDATORY PERIOD OF PAROLE SET FORTH IN SECTION 18-1-105 (1) (a) (V) (A), C.R.S.

**SECTION 3.** 17-22.5-403 (7) (a), Colorado Revised Statutes, is amended to read:

**17-22.5-403. Parole eligibility.** (7) (a) For any offender who is incarcerated for an offense committed on or after July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole. The state board of parole, if it determines that placing an offender on parole is appropriate, shall set the length of the period of parole at the mandatory period of parole established in section 18-1-105 (1) (a) (V), C.R.S., EXCEPT AS OTHERWISE PROVIDED FOR SPECIFIED OFFENSES IN SECTION 17-2-201 (5) (a), (5) (a.5), AND (5) (a.7). If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that, if the inmate applying for parole was convicted of a class 1 or class 2 crime of violence, as defined in section 16-11-309, C.R.S., any sex offense, as defined in section 16-13-803 (5), C.R.S., a habitual criminal offense as defined in section 16-13-101 (2.5), C.R.S., or of any offense subject to the requirements of section 16-13-203, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law.

**SECTION 4. 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 26, 2002