

16-5-202. Requisites of information - form. (3) AN INFORMATION MAY BE FILED USING THE LANGUAGE OF THE STATUTE DEFINING THE OFFENSE, INCLUDING EITHER CONJUNCTIVE OR DISJUNCTIVE CLAUSES. PLEADING IN EITHER THE CONJUNCTIVE OR THE DISJUNCTIVE SHALL PLACE A DEFENDANT ON NOTICE THAT THE PROSECUTION MAY RELY ON ANY OR ALL OF THE ALTERNATIVES ALLEGED.

(4) A COURT SHALL NOT REFUSE TO ACCEPT A COMPLAINT OR INFORMATION THAT CONTAINS THE REQUIREMENTS OF THIS SECTION.

SECTION 3. 19-2-513 (1), Colorado Revised Statutes, is amended to read:

19-2-513. Petition form and content. (1) The petition and all subsequent court documents in any proceedings brought under section 19-1-104 (1) (a) or (1) (b) shall be entitled "The People of the State of Colorado, in the Interest of, a juvenile (or juveniles) and Concerning, Respondent." ~~The petition shall be verified, and the statements in the petition may be made upon information and belief.~~ THE PETITION MAY BE FILED USING THE LANGUAGE OF THE STATUTES DEFINING THE OFFENSE, INCLUDING EITHER CONJUNCTIVE OR DISJUNCTIVE CLAUSES. PLEADING IN EITHER THE CONJUNCTIVE OR THE DISJUNCTIVE SHALL PLACE A RESPONDENT ON NOTICE THAT THE PROSECUTION MAY RELY ON ANY OR ALL OF THE ALTERNATIVES ALLEGED.

SECTION 4. 16-5-401 (3), Colorado Revised Statutes, is amended to read:

16-5-401. Limitation for commencing criminal proceedings and juvenile delinquency proceedings. (3) (a) The period within which a prosecution must be commenced does not include any period in which a prosecution is pending against the adult defendant or juvenile for the same conduct, even if the indictment, information, complaint, or petition in delinquency which commences the prosecution is quashed or the proceedings thereon are set aside or are reversed on appeal.

(b) THE PERIOD WITHIN WHICH A PROSECUTION MUST BE COMMENCED DOES NOT INCLUDE ANY PERIOD IN WHICH A PROSECUTION IS PENDING AGAINST THE ADULT DEFENDANT OR JUVENILE FOR THE SAME CONDUCT, EVEN IF FILED IN A COURT WITHOUT JURISDICTION, WHEN BASED ON A REASONABLE BELIEF THE COURT POSSESSES JURISDICTION.

SECTION 5. The introductory portion to 13-25-129 (1), Colorado Revised Statutes, is amended to read:

13-25-129. Statements of child victim of unlawful sexual offense against a child or of child abuse - hearsay exception. (1) An out-of-court statement made by a child, as child is defined under the statutes which are the subject of the action, describing any act of sexual contact, intrusion, or penetration, as defined in section 18-3-401, C.R.S., performed with, by, on, or in the presence of the child declarant, not otherwise admissible by a statute or court rule which provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceedings in which a child is a victim of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., OR IS A VICTIM OF INCEST, AS DEFINED IN SECTION 18-6-301, C.R.S., WHEN THE VICTIM WAS LESS THAN FIFTEEN YEARS OF AGE AT THE

TIME OF THE COMMISSION OF THE OFFENSE, or in which a child is the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., and an out-of-court statement by a child, as child is defined under the statutes which are the subject of the action, describing any act of child abuse, as defined in section 18-6-401, C.R.S., to which the child declarant was subjected or which the child declarant witnessed, not otherwise admissible by a statute or court rule which provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceedings in which a child is a victim of child abuse or the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., if:

SECTION 6. 18-3-413 (1), Colorado Revised Statutes, is amended to read:

18-3-413. Video tape depositions - children - victims of sexual offenses.

(1) When a defendant has been charged with an unlawful sexual offense, as defined in section 18-3-411 (1), OR INCEST, AS DEFINED IN SECTION 18-6-301, and when the victim at the time of the commission of the act is a child less than fifteen years of age, the prosecution may apply to the court for an order that a deposition be taken of the victim's testimony and that the deposition be recorded and preserved on video tape.

SECTION 7. The introductory portion to 18-3-413.5 (1) (a), Colorado Revised Statutes, is amended to read:

18-3-413.5. Use of closed circuit television - child victims of sexual offenses.

(1) (a) When a defendant has been charged with an unlawful sexual offense against a child, as defined in section 18-3-411 (1), OR INCEST, AS DEFINED IN SECTION 18-6-301, and when the victim at the time of the trial is a child less than twelve years of age, the court may, upon motion of any party or upon its own motion, order that any testimony taken of the child victim be taken in a room other than the courtroom and be televised by closed circuit television in the courtroom if:

SECTION 8. 18-3-414, Colorado Revised Statutes, is amended to read:

18-3-414. Payment of treatment costs for the victim or victims of a sexual offense against a child. (1) In addition to any other penalty provided by law, the court may order any person who is convicted of an unlawful sexual offense, as defined in section 18-3-411 (1), OR OF INCEST, AS DEFINED IN SECTION 18-6-301, WHEN THE VICTIM WAS UNDER THE AGE OF FIFTEEN AT THE TIME OF THE COMMISSION OF THE OFFENSE, to meet all or any portion of the financial obligations of treatment prescribed for the victim or victims of his OR HER offense.

(2) At the time of sentencing, the court may order that an offender described in subsection (1) of this section be put on a period of probation for the purpose of paying the treatment costs of the victim or victims. ~~which, when added to any time served, does not exceed the maximum sentence imposed for the offense.~~

SECTION 9. 18-9-202 (2) (b) (I), Colorado Revised Statutes, is amended to read:

18-9-202. Cruelty to animals - aggravated cruelty to animals - neglect of animals - offenses - repeal. (2) (b) (I) A second or subsequent conviction under the provisions of paragraph (a) of ~~this subsection~~ (2) (1) OF THIS SECTION is a class 6

felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

SECTION 10. 17-22.5-403 (2), Colorado Revised Statutes, is amended to read:

17-22.5-403. Parole eligibility. (2) (a) Notwithstanding subsection (1) of this section, any person convicted and sentenced for second degree murder, first degree assault, first degree kidnapping unless the first degree kidnapping is a class 1 felony, first or second degree sexual assault, first degree arson, first degree burglary, or aggravated robbery, which person has previously been convicted of a crime which would have been a crime of violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL NOT APPLY TO PERSONS SENTENCED PURSUANT TO PART 10 OF ARTICLE 1.3 OF TITLE 18, C.R.S.

SECTION 11. 18-1.3-1006 (1) (a), Colorado Revised Statutes, is amended to read:

18-1.3-1006. Release from incarceration - parole - conditions. (1) (a) On completion of the minimum period of incarceration specified in a sex offender's indeterminate sentence, less any earned time credited to the sex offender pursuant to section ~~17-22.5-403~~ or 17-22.5-405, C.R.S., the parole board shall schedule a hearing to determine whether the sex offender may be released on parole. In determining whether to release the sex offender on parole, the parole board shall determine whether the sex offender has successfully progressed in treatment and would not pose an undue threat to the community if released under appropriate treatment and monitoring requirements and whether there is a strong and reasonable probability that the person will not thereafter violate the law. The department shall make recommendations to the parole board concerning whether the sex offender should be released on parole and the level of treatment and monitoring that should be imposed as a condition of parole. The recommendation shall be based on the criteria established by the management board pursuant to section 18-1.3-1009.

SECTION 12. The introductory portion to 18-1.3-104 (1) and 18-1.3-104 (1) (a) and (1) (b), Colorado Revised Statutes, are amended to read:

18-1.3-104. Alternatives in imposition of sentence - repeal. (1) Within the limitations of the ~~penalties provided by the classification of the offense of which a person is found guilty~~, APPLICABLE STATUTE PERTAINING TO SENTENCING and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(a) The defendant may be granted probation unless ~~the offense of which he or she is convicted~~ ANY PROVISION OF LAW makes him or her ineligible for probation. The granting or denial of probation and the conditions of probation INCLUDING THE LENGTH OF PROBATION shall not be subject to appellate review unless probation is granted contrary to the provisions of this title.

(b) Subject to the provisions of section 18-1.3-401, in class 2, class 3, class 4, ~~and~~ class 5, AND CLASS 6 felonies, the defendant may be sentenced to imprisonment for a definite period of time.

SECTION 13. 18-1.3-202 (1), Colorado Revised Statutes, is amended to read:

18-1.3-202. 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. THE LENGTH OF PROBATION SHALL BE SUBJECT TO THE DISCRETION OF THE COURT AND MAY EXCEED THE MAXIMUM PERIOD OF INCARCERATION AUTHORIZED FOR THE CLASSIFICATION OF THE OFFENSE OF WHICH THE DEFENDANT IS CONVICTED BUT SHALL NOT EXCEED FIVE YEARS FOR ANY MISDEMEANOR OR PETTY OFFENSE. 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, C.R.S. 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 18-1.3-207. That the defendant submit to commitment imposed under this section shall be deemed a condition of probation.

SECTION 14. 18-6-401.4 (2), Colorado Revised Statutes, is amended to read:

18-6-401.4. Payment of treatment costs for the victim or victims of an act of child abuse. (2) At the time of sentencing, the court may order that an offender described in subsection (1) of this section be put on a period of probation for the purpose of paying the treatment costs of the victim or victims. ~~which, when added to any time served, does not exceed the maximum sentence imposable for the offense.~~

SECTION 15. 18-1-202 (7) (b) (II), Colorado Revised Statutes, is amended, and the said 18-1-202 (7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-1-202. Place of trial. (7) (b) (II) The provisions of subparagraph (I) of this paragraph (b) shall apply to the following offenses:

- (A) Theft, as defined in section 18-4-401;
- (B) Theft of rental property, as defined in section 18-4-402;
- (C) Theft by receiving, as defined in section 18-4-410;

- (D) Criminal mischief, as defined in section 18-4-501;
- (E) Fraud by check, as defined in section 18-5-205;
- (F) Defrauding a secured creditor or debtor, as defined in section 18-5-206;
- (G) Failure to pay over assigned accounts, as defined in section 18-5-502;
- (H) Concealment or removal of secured property, as defined in section 18-5-504;
- (I) Failure to pay over proceeds, as defined in section 18-5-505;
- (J) Unauthorized use of a financial transaction device, as defined in section 18-5-702;
- (K) Computer crime, as defined in section 18-5.5-102;
- (L) Procuring food or accommodation with intent to defraud, as defined in section 12-44-102, C.R.S.;
- (M) Trafficking in food stamps, as defined in section 26-2-306, C.R.S.;
- (N) Unlawful use of a patient personal needs trust fund, as defined in section 26-4-504, C.R.S.;
- (O) Criminal tampering with a motor vehicle, as defined in section 42-5-103, C.R.S.;
- (P) Theft of motor vehicle parts, as defined in section 42-5-104, C.R.S.;
- (Q) Theft in connection with assistive technology, as described in section 6-1-409, C.R.S.;
- (R) Theft of farm products, as defined in section 12-16-118, C.R.S.;
- (S) Fraud in connection with obtaining public assistance, as described in section 26-1-127, C.R.S.; ~~and~~
- (T) Fraud in connection with obtaining food stamps, as described in section 26-2-305, C.R.S.; AND
- (U) AN OFFENSE DESCRIBED IN PART 1 OF ARTICLE 5 OF THIS TITLE.

(c) (I) FOR AN INDICTMENT OR INFORMATION THAT INCLUDES AN OFFENSE DESCRIBED IN ARTICLE 5 OF THIS TITLE, THE OFFENDER MAY BE TRIED IN A COUNTY WHERE THE OFFENSE OCCURRED, OR AN ACT IN FURTHERANCE OF THE OFFENSE OCCURRED OR IN A COUNTY WHERE A BANK, SAVINGS AND LOAN, OR CREDIT UNION PROCESSED A DOCUMENT OR TRANSACTION RELATED TO THE OFFENSE.

(II) FOR THE PURPOSE OF THIS SECTION, "PROCESSED" MEANS TO PHYSICALLY HANDLE A DOCUMENT OR TO MAKE A WRITTEN OR ELECTRONIC ENTRY IN A

PERMANENT OR TEMPORARY RECORD OF THE TRANSACTION, WHETHER THE ENTRY IS MADE MANUALLY OR THROUGH AUTOMATED MEANS.

SECTION 16. 18-1.3-801 (2.5), Colorado Revised Statutes, is amended to read:

18-1.3-801. Punishment for habitual criminals. (2.5) Any person who is convicted and sentenced pursuant to subsection (2) of this section, OR SECTION 16-13-101 (2), C.R.S., AS IT EXISTED PRIOR TO OCTOBER 1, 2002, who is thereafter convicted of a felony which is a crime of violence pursuant to section 18-1.3-406, shall be adjudged an habitual criminal and shall be punished by a term of life imprisonment. No person sentenced pursuant to this subsection (2.5) shall be eligible for parole until such person has served at least forty calendar years.

SECTION 17. Part 3 of article 3 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-3-301.1. Court orders for the production of records. (1) A JUDGE OF A COURT OF RECORD MAY ORDER THE PRODUCTION OF RECORDS.

(2) A COURT MAY ORDER THE PRODUCTION OF RECORDS UNDER THIS SECTION TO REQUIRE THE PRODUCTION OF RECORDS IN THE ACTUAL OR CONSTRUCTIVE CONTROL OF A BUSINESS ENTITY:

- (a) THAT HAVE BEEN STOLEN OR EMBEZZLED;
- (b) THAT ARE DESIGNED OR INTENDED FOR USE AS A MEANS OF COMMITTING A CRIMINAL OFFENSE;
- (c) THAT ARE OR HAVE BEEN USED AS A MEANS OF COMMITTING A CRIMINAL OFFENSE;
- (d) THE POSSESSION OF WHICH IS ILLEGAL;
- (e) THAT WOULD BE MATERIAL EVIDENCE IN A SUBSEQUENT CRIMINAL PROSECUTION IN THIS STATE, ANOTHER STATE, OR FEDERAL COURT;
- (f) THE SEIZURE OF WHICH IS EXPRESSLY REQUIRED, AUTHORIZED, OR PERMITTED BY A STATUTE OF THIS STATE OR THE UNITED STATES; OR
- (g) THAT WOULD AID IN THE DETECTION OF THE WHEREABOUTS OF OR IN THE APPREHENSION OF A PERSON FOR WHOM A LAWFUL ARREST ORDER IS OUTSTANDING.

(3) (a) A COURT SHALL ORDER THE PRODUCTION OF RECORDS ONLY ON RECEIPT OF AN AFFIDAVIT SWORN TO OR AFFIRMED BEFORE THE JUDGE AND RELATING FACTS SUFFICIENT TO:

(I) IDENTIFY OR DESCRIBE, AS NEARLY AS MAY BE, THE BUSINESS ENTITY THAT IS IN ACTUAL OR CONSTRUCTIVE CONTROL OF THE RECORDS;

(II) IDENTIFY OR DESCRIBE, AS NEARLY AS MAY BE, THE RECORDS THAT SHALL BE PRODUCED;

(III) ESTABLISH THE GROUNDS FOR ISSUANCE OF THE COURT ORDER FOR PRODUCTION OF RECORDS OR PROBABLE CAUSE TO BELIEVE THE GROUNDS EXIST; AND

(IV) ESTABLISH PROBABLE CAUSE THAT THE RECORDS DESCRIBED ARE IN THE ACTUAL OR CONSTRUCTIVE CONTROL OF THE BUSINESS ENTITY.

(b) THE AFFIDAVIT REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3) MAY INCLUDE SWORN TESTIMONY REDUCED TO WRITING AND SIGNED UNDER OATH BY THE WITNESS GIVING THE TESTIMONY BEFORE THE ISSUANCE OF THE COURT ORDER FOR THE PRODUCTION OF RECORDS. A COPY OF THE AFFIDAVIT AND A COPY OF THE TRANSCRIPT OF TESTIMONY TAKEN IN SUPPORT OF THE REQUEST FOR A COURT ORDER FOR THE PRODUCTION OF RECORDS SHALL BE ATTACHED TO THE COURT ORDER FOR THE PRODUCTION OF RECORDS FILED WITH THE COURT.

(4) (a) IF THE COURT IS SATISFIED THAT GROUNDS FOR THE APPLICATION EXIST OR THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE GROUNDS EXIST, THE COURT SHALL ISSUE A COURT ORDER FOR THE PRODUCTION OF RECORDS, WHICH SHALL:

(I) IDENTIFY OR DESCRIBE, AS NEARLY AS MAY BE, THE BUSINESS ENTITY THAT IS IN ACTUAL POSSESSION OR CONSTRUCTIVE CONTROL OF THE RECORDS;

(II) IDENTIFY OR DESCRIBE, AS NEARLY AS MAY BE, THE RECORDS THAT SHALL BE PRODUCED;

(III) STATE THE GROUNDS OR PROBABLE CAUSE FOR ITS ISSUANCE; AND

(IV) STATE THE NAMES OF THE PERSONS WHOSE AFFIDAVITS OR TESTIMONY HAVE BEEN TAKEN IN SUPPORT OF THE MOTION.

(b) THE COURT ORDER FOR THE PRODUCTION OF RECORDS MAY ALSO CONTAIN OTHER AND FURTHER ORDERS THAT THE COURT DEEMS NECESSARY TO COMPLY WITH THE PROVISIONS OF THIS STATUTE, OR TO PROVIDE FOR THE CUSTODY OR DELIVERY TO THE PROPER PERSON OF THE RECORDS PRODUCED AND SEIZED UNDER THE ORDER, OR OTHERWISE TO ACCOMPLISH THE PURPOSE OF THE ORDER.

(c) UNLESS THE COURT OTHERWISE DIRECTS, EVERY COURT ORDER FOR THE PRODUCTION OF RECORDS SHALL AUTHORIZE A COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER:

(I) TO SERVE THE ORDER DURING NORMAL BUSINESS HOURS OF THE BUSINESS ENTITY THAT IS IN ACTUAL OR CONSTRUCTIVE CONTROL OF THE RECORDS; AND

(II) TO RECEIVE THE RECORDS DURING NORMAL BUSINESS HOURS OF THE BUSINESS ENTITY THAT IS IN THE ACTUAL OR CONSTRUCTIVE CONTROL OF THE RECORDS.

(5) (a) A COURT ORDER FOR THE PRODUCTION OF RECORDS MAY BE GRANTED TO A COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER WHOSE AFFIDAVIT SUPPORTS THE ISSUANCE OF THE ORDER. THE COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER GRANTED THE ORDER NEED NOT HAVE AUTHORIZATION TO EXECUTE A SEARCH WARRANT IN THE JURISDICTION IN WHICH THE BUSINESS ENTITY IS LOCATED.

(b) A COURT ORDER FOR THE PRODUCTION OF RECORDS SHALL BE SERVED UPON THE BUSINESS ENTITY TO WHOM IT IS DIRECTED WITHIN TEN DAYS AFTER ITS DATE.

(c) A COURT ORDER FOR PRODUCTION OF RECORDS MAY BE SERVED IN THE SAME MANNER AS A SUMMONS IN A CIVIL ACTION OR BY PERSONAL SERVICE ON A MANAGER OR SUPERVISOR OF THE BUSINESS ENTITY THAT IS IN ACTUAL OR CONSTRUCTIVE CONTROL OF THE RECORDS.

(6) (a) A BUSINESS ENTITY THAT IS PROPERLY SERVED WITH A COURT ORDER FOR THE PRODUCTION OF RECORDS SHALL DELIVER THE RECORDS, OR COPIES OF THE RECORDS, IDENTIFIED IN THE COURT ORDER TO THE OFFICER WHO IS DESIGNATED IN THE COURT ORDER WITHIN THIRTY DAYS AFTER THE DATE THE COURT ORDER IS SERVED. THE BUSINESS ENTITY SHALL ALSO PROVIDE A NOTARIZED STATEMENT THAT THE RECORDS PRODUCED REPRESENT COMPLETE AND ACCURATE COPIES OF ALL RECORDS IDENTIFIED IN THE COURT ORDER THAT ARE IN THE ACTUAL OR CONSTRUCTIVE CONTROL OF THE BUSINESS ENTITY. IF THE BUSINESS ENTITY DOES NOT PRODUCE ALL RECORDS IDENTIFIED IN THE COURT ORDER FOR PRODUCTION OF RECORDS, THE RECORDS NOT PRODUCED SHALL BE IDENTIFIED. THE STATEMENT SHALL BE SIGNED BY THE RECORDS CUSTODIAN, OR AN OFFICER OR DIRECTOR OF THE BUSINESS ENTITY, WHO SHALL ATTEST TO THE TRUTH OF THE STATEMENT TO THE BEST OF THE PERSON'S KNOWLEDGE, INFORMATION, AND BELIEF. THE RECORDS AND THE ATTESTATION OF ACCURACY SHALL BE SUFFICIENT TO ESTABLISH THE AUTHENTICITY OF THE RECORDS PRODUCED WITHOUT FURTHER NECESSITY OF EXTRINSIC EVIDENCE.

(b) A BUSINESS ENTITY THAT IS SERVED WITH A COURT ORDER FOR THE PRODUCTION OF RECORDS MAY FILE A MOTION IN THE COURT THAT ISSUED THE COURT ORDER TO ALLOW FOR AN EXTENSION OF TIME IN WHICH TO COMPLY WITH THE COURT ORDER. THE MOTION SHALL BE FILED WITHIN THE TIME PERIOD REQUIRED TO PRODUCE THE RECORDS. THE MOTION SHALL STATE WITH PARTICULARITY THE REASONS WHY THE BUSINESS ENTITY CANNOT COMPLY WITH THE COURT ORDER. THE MOTION SHALL BE SERVED UPON THE COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER NAMED IN THE COURT ORDER.

(c) UPON THE FILING OF A MOTION FOR AN EXTENSION OF TIME, THE COURT SHALL HOLD A HEARING WITHIN TEN DAYS, UNLESS THE BUSINESS ENTITY AND THE COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER NAMED IN THE COURT ORDER AGREE TO A LATER TIME. THE COURT MAY GRANT AN EXTENSION FOR A REASONABLE TIME FOR THE BUSINESS TO PRODUCE THE RECORDS UPON GOOD CAUSE SHOWN OR BY AGREEMENT WITH THE COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER NAMED IN THE COURT ORDER.

(d) FAILURE OF THE BUSINESS ENTITY TO COMPLY WITH THE REQUIREMENTS OF A COURT ORDER FOR THE PRODUCTION OF RECORDS SHALL SUPPORT A FINDING OF CONTEMPT OF COURT.

(e) UPON RECEIVING THE RECORDS FROM THE BUSINESS ENTITY, THE CRIMINAL INVESTIGATOR OR PEACE OFFICER NAMED IN THE COURT ORDER SHALL FILE A RETURN AND INVENTORY WITH THE COURT INDICATING THE RECORDS THAT HAVE BEEN RECEIVED, THE TOTAL NUMBER OF PAGES IF SUPPLIED ON PAPER, AND THE DATE UPON WHICH THE RECORDS WERE RECEIVED, ALONG WITH THE ORIGINAL OF THE ATTESTATION OF AUTHENTICITY AND COMPLETENESS.

(7) RECORDS PRODUCED PURSUANT TO A COURT ORDER FOR THE PRODUCTION OF RECORDS MAY BE SUPPLIED IN ANY FORM OR FORMAT THAT IS CONVENIENT FOR THE BUSINESS ENTITY AND THAT MAY BE ACCESSED BY THE COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER NAMED IN THE COURT ORDER OR HIS OR HER AGENCY OR DEPARTMENT. PRODUCTION OF RECORDS USING PROPRIETARY SOFTWARE OR ANOTHER METHOD THAT IS NOT ACCESSIBLE SHALL NOT CONSTITUTE COMPLIANCE WITH THE REQUIREMENTS OF THE COURT ORDER. THE COURT MAY ORDER THE DEFENDANT PAY THE COST OF PRODUCTION OF RECORDS.

(8) A CAUSE OF ACTION SHALL NOT LIE AGAINST A BUSINESS ENTITY OR AN OFFICER, DIRECTOR, OR EMPLOYEE, FOR PROVIDING RECORDS PURSUANT TO A COURT ORDER FOR THE PRODUCTION OF RECORDS.

(9) NOTHING IN THIS SECTION SHALL PRECLUDE A COLORADO CRIMINAL INVESTIGATOR OR PEACE OFFICER FROM SEEKING A SEARCH WARRANT.

(10) THE PROVISIONS OF THIS SECTION SHALL GOVERN THE PROCEDURES FOR COURT ORDERS FOR THE PRODUCTION OF RECORDS. MOTIONS TO SUPPRESS EVIDENCE SEIZED PURSUANT TO A COURT ORDER FOR THE PRODUCTION OF RECORDS SHALL BE GOVERNED BY THE RULES OF CRIMINAL PROCEDURE.

(11) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACTUAL OR CONSTRUCTIVE POSSESSION" MEANS THE RECORDS ARE MAINTAINED OR STORED IN ANY FORM OR FORMAT ON THE PREMISES OF THE BUSINESS ENTITY OR AT ANOTHER LOCATION OR FACILITY UNDER THE CUSTODY OR CONTROL OF THE BUSINESS ENTITY OR A PARENT OR SUBSIDIARY BUSINESS, INCLUDING PURSUANT TO AN AGREEMENT OR CONTRACT WITH THE BUSINESS ENTITY OR ANY PARENT OR SUBSIDIARY BUSINESS AND THIRD-PARTY SERVICE PROVIDER, IN COLORADO OR ELSEWHERE.

(b) "BUSINESS ENTITY" MEANS A CORPORATION OR OTHER ENTITY THAT IS SUBJECT TO THE PROVISIONS OF TITLE 7, C.R.S.; FOREIGN CORPORATIONS QUALIFIED TO DO BUSINESS IN THIS STATE PURSUANT TO ARTICLE 115 OF TITLE 7, C.R.S., SPECIFICALLY INCLUDING FEDERALLY CHARTERED OR AUTHORIZED FINANCIAL INSTITUTIONS; A CORPORATION OR OTHER ENTITY THAT IS SUBJECT TO THE PROVISIONS OF TITLE 11, C.R.S.; OR A SOLE PROPRIETORSHIP OR OTHER ASSOCIATION OR GROUP OF INDIVIDUALS DOING BUSINESS IN THE STATE.

(c) "COLORADO CRIMINAL INVESTIGATOR" MEANS AN EMPLOYEE OF THE COLORADO DEPARTMENT OF REGULATORY AGENCIES OR THE COLORADO DEPARTMENT OF REVENUE WHO HAS BEEN CLASSIFIED AS A CRIMINAL INVESTIGATOR BY THE DIRECTOR OF THE EMPLOYING DEPARTMENT.

(d) "PEACE OFFICER" MEANS A PEACE OFFICER AS DEFINED IN SECTION 18-1-901 (3) (I), C.R.S.

(e) "RECORDS" SHALL INCLUDE ALL DOCUMENTS, ELECTRONIC NOTATIONS, JOURNAL ENTRIES, DATA, REPORTS, STATEMENTS, FINANCIAL DOCUMENTATION, CORRESPONDENCE, ELECTRONIC MAIL, OR OTHER INFORMATION RETAINED BY A BUSINESS ENTITY IN CONNECTION WITH BUSINESS ACTIVITY, BUT SHALL NOT INCLUDE

AN ITEM THAT IS PRIVILEGED PURSUANT TO SECTION 13-90-107, C.R.S., UNLESS THE PERSON WHO POSSESSES THE PRIVILEGE GIVES CONSENT.

SECTION 18. 18-1-606, Colorado Revised Statutes, is amended to read:

18-1-606. Criminal liability of business entities. (1) A ~~corporation~~ BUSINESS ENTITY is guilty of an offense if:

(a) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on ~~corporations~~ THE BUSINESS ENTITY by law; or

(b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the ~~board of directors~~ GOVERNING BODY OR INDIVIDUAL AUTHORIZED TO MANAGE THE AFFAIRS OF THE BUSINESS ENTITY or by a high managerial agent acting within the scope of his OR HER employment or in behalf of the ~~corporation~~ BUSINESS ENTITY.

(2) As used in this section:

(a) "Agent" means any director, officer, or employee of a ~~corporation~~ BUSINESS ENTITY, or any other person who is authorized to act in behalf of the ~~corporation~~ BUSINESS ENTITY, and "high managerial agent" means an officer of a ~~corporation~~ BUSINESS ENTITY or any other agent in a position of comparable authority with respect to the formulation of ~~corporate~~ THE BUSINESS ENTITY'S policy or the supervision in a managerial capacity of subordinate employees.

(b) "BUSINESS ENTITY" MEANS A CORPORATION OR OTHER ENTITY THAT IS SUBJECT TO THE PROVISIONS OF TITLE 7, C.R.S.; FOREIGN CORPORATIONS QUALIFIED TO DO BUSINESS IN THIS STATE PURSUANT TO ARTICLE 115 OF TITLE 7, C.R.S., SPECIFICALLY INCLUDING FEDERALLY CHARTERED OR AUTHORIZED FINANCIAL INSTITUTIONS; A CORPORATION OR OTHER ENTITY THAT IS SUBJECT TO THE PROVISIONS OF TITLE 11, C.R.S.; OR A SOLE PROPRIETORSHIP OR OTHER ASSOCIATION OR GROUP OF INDIVIDUALS DOING BUSINESS IN THE STATE.

(3) Every offense committed by a corporation prior to July 1, 1985, which would be a felony if committed by an individual shall subject the corporation to the payment of a fine of not less than one thousand dollars nor more than fifteen thousand dollars. For such offenses committed on or after July 1, 1985, the corporation shall be subject to the payment of a fine within the presumptive ranges authorized by section 18-1.3-401 (1) (a) (III). Every offense committed by a corporation which would be a misdemeanor or petty offense if committed by an individual shall subject the corporation to the payment of a fine within the minimum and maximum fines authorized by sections 18-1.3-501 and 18-1.3-503 for the particular offense of which the corporation is convicted. FOR AN OFFENSE COMMITTED ON OR AFTER JULY 1, 2003, A BUSINESS ENTITY SHALL BE SUBJECT TO THE PAYMENT OF A FINE WITHIN THE PRESUMPTIVE RANGES AUTHORIZED BY SECTION 18-1.3-401 (1) (a) (III). AN OFFENSE COMMITTED BY A BUSINESS ENTITY THAT WOULD BE A MISDEMEANOR OR PETTY OFFENSE IF COMMITTED BY AN INDIVIDUAL SHALL SUBJECT THE BUSINESS ENTITY TO THE PAYMENT OF A FINE WITHIN THE MINIMUM AND MAXIMUM FINES AUTHORIZED BY SECTIONS 18-1.3-501 AND 18-1.3-503 FOR THE PARTICULAR OFFENSE OF WHICH THE

BUSINESS ENTITY IS CONVICTED.

SECTION 19. 18-1.3-407 (5) (c), Colorado Revised Statutes, is amended to read:

18-1.3-407. Sentences - youthful offenders - legislative declaration - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections - repeal. (5) (c) The department of corrections shall implement a procedure for returning offenders who cannot successfully complete the sentence to the youthful offender system, OR WHO FAIL TO COMPLY WITH THE TERMS OR CONDITIONS OF THE YOUTHFUL OFFENDER SYSTEM, to the district court. Any offender returned to the district court pursuant to paragraph (a) of this subsection (5) or because he or she cannot successfully complete the sentence to the youthful offender system for reasons other than mental illness or a developmental disability, OR BECAUSE HE OR SHE FAILS TO COMPLY WITH THE TERMS OR CONDITIONS OF THE YOUTHFUL OFFENDER SYSTEM, shall receive imposition of the original sentence to the department of corrections. After the executive director upholds the department's decision, the offender may be held in any correctional facility deemed appropriate by the executive director; except that any offender who cannot successfully complete the sentence to the youthful offender system for reasons other than mental illness or a developmental disability, OR BECAUSE HE OR SHE FAILS TO COMPLY WITH THE TERMS OR CONDITIONS OF THE YOUTHFUL OFFENDER SYSTEM, shall be transferred, within thirty days after the executive director upholds the department's decision, to a county jail for holding prior to resentencing. The department shall notify the district attorney of record, and the district attorney of record shall be responsible for seeking the revocation or review of the youthful offender's sentence and the imposition of the original sentence or modification of the original sentence pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (b) of this subsection (5). The district court shall review the offender's sentence within one hundred twenty days after notification to the district attorney of record by the department of corrections that the offender is not able to complete the sentence to the youthful offender system OR FAILS TO COMPLY WITH THE TERMS OR CONDITIONS OF THE YOUTHFUL OFFENDER PROGRAM.

SECTION 20. 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: April 17, 2003