

CHAPTER 366

CORRECTIONS

HOUSE BILL 04-1189

BY REPRESENTATIVE(S) Romanoff, Borodkin, Coleman, Fairbank, Frangas, Jahn, Marshall, Miller, Paccione, Stengel, Vigil, Williams S., Clapp, Garcia, Hefley, Johnson R., Smith, Weddig, Boyd, and McGihon;
also SENATOR(S) Dyer, Arnold, and Grossman.

AN ACT

CONCERNING CHANGES TO DECREASE THE DISPARITY BETWEEN THE TIME SENTENCED AND THE TIME SERVED BY INDIVIDUALS WHO ARE CONVICTED OF VIOLENT CRIMES.

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

SECTION 1. 17-22.5-403 (2) and (3), Colorado Revised Statutes, are amended, and the said 17-22.5-403 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, 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, COMMITTED ON OR AFTER JUNE 7, 1990, AND BEFORE JULY 1, 2004, 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.

(2.5) (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 DEGREE ARSON, FIRST DEGREE BURGLARY, OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER JULY 1, 2004, SHALL BE ELIGIBLE FOR PAROLE AFTER SUCH

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

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 (2.5) SHALL ONLY APPLY TO:

(I) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (2.5) THAT IS A CLASS 2 OR CLASS 3 FELONY OFFENSE; OR

(II) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (2.5) THAT IS A CLASS 4 OR CLASS 5 FELONY OFFENSE, WHICH PERSON HAS PREVIOUSLY BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406, C.R.S.

(3) Notwithstanding subsection (1) or (2) of this section, any person convicted and sentenced for any crime enumerated in subsection (2) of this section, COMMITTED ON OR AFTER JUNE 7, 1990, AND BEFORE JULY 1, 2004, who has twice previously been convicted for 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 served upon such person, at which time such person shall be referred by the department to the state board of parole which may place such person on parole for a period of time which does not exceed the time remaining on such person's original sentence. For offenses committed on or after July 1, 1993, such person shall be placed on parole for the period of time specified in section 18-1.3-401 (1) (a) (V), C.R.S. Section 17-22.5-402 (2) shall not apply to any such offender.

(3.5) (a) NOTWITHSTANDING SUBSECTION (1) OR (2.5) OF THIS SECTION, ANY PERSON CONVICTED AND SENTENCED FOR ANY CRIME ENUMERATED IN SUBSECTION (2.5) OF THIS SECTION, COMMITTED ON OR AFTER JULY 1, 2004, WHO HAS PREVIOUSLY BEEN CONVICTED FOR 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 SERVED UPON SUCH PERSON, AT WHICH TIME SUCH PERSON SHALL BE REFERRED BY THE DEPARTMENT TO THE STATE BOARD OF PAROLE WHICH MAY PLACE THE PERSON ON PAROLE FOR THE PERIOD OF TIME SPECIFIED IN SECTION 18-1.3-401 (1) (a) (V), C.R.S. SECTION 17-22.5-402 (2) SHALL NOT APPLY TO ANY SUCH OFFENDER.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3.5) SHALL ONLY APPLY TO:

(I) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN PARAGRAPH (a) OF SUBSECTION (2.5) OF THIS SECTION THAT IS A CLASS 2 OR CLASS 3 FELONY OFFENSE; OR

(II) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN PARAGRAPH (a) OF SUBSECTION (2.5) OF THIS SECTION THAT IS A CLASS 4 OR CLASS 5 FELONY OFFENSE, WHICH PERSON HAS TWICE PREVIOUSLY BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406, C.R.S.

SECTION 2. 17-22.5-402 (2), Colorado Revised Statutes, is amended to read:

17-22.5-402. Discharge from custody. (2) Notwithstanding subsection (1) of this section, the full term for which an inmate is sentenced shall be reduced by any earned time granted pursuant to section 17-22.5-405, except as provided in section 17-22.5-403 (3) AND (3.5).

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 4, 2004