

CHAPTER 272

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 07-1358

BY REPRESENTATIVE(S) Carroll T., King, McGihon, McFadyen, Weissmann, Buescher, Carroll M., Cerbo, Kerr A., Stafford, Todd, Casso, Gallegos, Gardner B., Jahn, Levy, Madden, Marshall, Pommer, Roberts, Stephens, Borodkin, Kefalas, Labuda, and Gibbs;
also SENATOR(S) Gordon, Bacon, Groff, Isgar, Kester, Morse, Penry, Shaffer, Tapia, Tupa, Boyd, Spence, Tochtrop, and Williams.

AN ACT

CONCERNING THE STUDY OF THE CRIMINAL JUSTICE SYSTEM, AND, IN CONNECTION THEREWITH, CREATING THE COLORADO CRIMINAL AND JUVENILE JUSTICE COMMISSION AND MAKING AN APPROPRIATION.

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

SECTION 1. Title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 11.3**Colorado Commission on Criminal and Juvenile Justice**

16-11.3-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) ENSURING PUBLIC SAFETY AND RESPECTING THE RIGHTS OF VICTIMS ARE PARAMOUNT CONCERNS OF THE CITIZENS OF COLORADO;

(b) IMPROVING THE EFFECTIVE ADMINISTRATION OF JUSTICE INVOLVES A COMPREHENSIVE EXAMINATION OF, AND RECOMMENDATIONS REGARDING, THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS;

(c) CURRENT COMMITMENTS TO THE DEPARTMENT OF CORRECTIONS REQUIRE EXPENDING A SIGNIFICANT PERCENTAGE OF THE STATE BUDGET FOR INCARCERATION OF OFFENDERS;

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

(d) THE NUMBER OF OFFENDERS PROJECTED TO BE SENTENCED IN THE FUTURE WILL REQUIRE THAT AN EVEN GREATER PERCENTAGE OF THE STATE BUDGET BE DEDICATED TO INCARCERATION;

(e) THE RATE OF RECIDIVISM IS HIGH, RESULTING IN THE RETURN OF MANY OFFENDERS TO THE JUSTICE SYSTEM WITH ADDITIONAL SIGNIFICANT EXPENSE;

(f) IT IS IN THE INTEREST OF THE PEOPLE OF THE STATE OF COLORADO TO MAINTAIN PUBLIC SAFETY THROUGH THE MOST COST-EFFECTIVE USE OF LIMITED CRIMINAL JUSTICE RESOURCES;

(g) MANY FACTORS MAY CONTRIBUTE TO AN OFFENDER'S CRIMINAL BEHAVIOR, INCLUDING BUT NOT LIMITED TO SUBSTANCE ABUSE, MENTAL ILLNESS, POVERTY, CHILD ABUSE, DOMESTIC VIOLENCE, AND EDUCATIONAL DEFICIENCIES. OFTEN TIMES, FACTORS CONTRIBUTING TO CRIMINAL CONDUCT AND RE-VICTIMIZATION ARE NOT ADDRESSED ADEQUATELY WITHIN THE JUSTICE SYSTEM.

(h) APPROPRIATE INTERVENTION IN A CHILD'S LIFE THROUGH THE JUVENILE JUSTICE SYSTEM OR PREVENTION PROGRAMS MAY LIMIT OR PREVENT FUTURE CRIMINAL CONDUCT;

(i) IT IS IN THE BEST INTEREST OF THE PUBLIC TO ENGAGE IN A COMPREHENSIVE EVIDENCE-BASED ANALYSIS OF THE CIRCUMSTANCES AND CHARACTERISTICS OF THE OFFENDERS BEING SENTENCED TO THE DEPARTMENT OF CORRECTIONS, THE ALTERNATIVES TO INCARCERATION, THE EFFECTIVENESS OF PREVENTION PROGRAMS, AND THE EFFECTIVENESS OF THE CRIMINAL CODE AND SENTENCING LAWS IN SECURING PUBLIC SAFETY.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT A COMMISSION COMPRISED OF EXPERTS IN CRIMINAL JUSTICE, CORRECTIONS, MENTAL HEALTH, DRUG ABUSE, VICTIMS' RIGHTS, HIGHER EDUCATION, JUVENILE JUSTICE, LOCAL GOVERNMENT, AND OTHER PERTINENT DISCIPLINES SHALL BE FORMED TO ENGAGE IN AN EVIDENCE-BASED ANALYSIS OF THE CRIMINAL JUSTICE SYSTEM IN COLORADO AND ANNUALLY REPORT TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE, AND THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT.

16-11.3-102. Colorado commission on criminal and juvenile justice - creation - membership - operation. (1) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF PUBLIC SAFETY THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE, REFERRED TO IN THIS ARTICLE AS THE "COMMISSION". THE COMMISSION SHALL HAVE THE POWERS AND DUTIES SPECIFIED IN THIS ARTICLE.

(b) THE COMMISSION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(2) (a) THE COMMISSION SHALL CONSIST OF TWENTY-SIX VOTING MEMBERS, AS FOLLOWS:

(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, OR HIS OR HER DESIGNEE;

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS, OR HIS OR HER DESIGNEE;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES, OR HIS OR HER DESIGNEE;

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION, OR HIS OR HER DESIGNEE;

(V) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE;

(VI) THE STATE PUBLIC DEFENDER, OR HIS OR HER DESIGNEE;

(VII) THE CHAIRPERSON OF THE STATE BOARD OF PAROLE, OR HIS OR HER DESIGNEE;

(VIII) THE CHAIRPERSON OF THE JUVENILE PAROLE BOARD, OR HIS OR HER DESIGNEE;

(IX) TWO MEMBERS APPOINTED BY THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT FROM THE JUDICIAL BRANCH, AT LEAST ONE OF WHOM SHALL BE A CURRENT OR RETIRED JUDGE;

(X) FOUR MEMBERS OF THE GENERAL ASSEMBLY APPOINTED AS FOLLOWS:

(A) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(B) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(C) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(D) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

(XI) TWELVE MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(A) A REPRESENTATIVE OF A POLICE DEPARTMENT;

(B) A REPRESENTATIVE OF A SHERIFF'S DEPARTMENT;

(C) AN EXPERT IN JUVENILE JUSTICE ISSUES;

(D) TWO ELECTED DISTRICT ATTORNEYS;

(E) A COUNTY COMMISSIONER;

(F) A CRIMINAL DEFENSE ATTORNEY;

(G) A REPRESENTATIVE OF A VICTIMS' RIGHTS ORGANIZATION;

(H) ONE MEMBER WHO SHALL BE A REPRESENTATIVE OF A COMMUNITY CORRECTIONS PROVIDER, A COMMUNITY CORRECTIONS BOARD MEMBER, OR A MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT PROVIDER; AND

(I) THREE MEMBERS WHO SHALL BE APPOINTED AT-LARGE.

(b) THE DIRECTOR OF THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL SERVE AS A NON-VOTING MEMBER OF THE COMMISSION.

(3) (a) THE APPOINTED MEMBERS OF THE COMMISSION SHALL SERVE TERMS OF THREE YEARS; EXCEPT THAT THE MEMBERS FIRST APPOINTED PURSUANT TO SUB-SUBPARAGRAPHS (D) TO (I) OF SUBPARAGRAPH (XI) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION SHALL EACH SERVE A TWO-YEAR TERM. THE MEMBERS APPOINTED AFTER THE INITIAL TWO-YEAR TERMS SHALL SERVE THREE-YEAR TERMS.

(b) EACH APPOINTING AUTHORITY SHALL APPOINT THE INITIAL APPOINTED MEMBERS OF THE COMMISSION WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE. AN APPOINTED MEMBER SHALL NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS, IN ADDITION TO ANY PARTIAL TERM. IN THE EVENT OF A VACANCY IN AN APPOINTED POSITION BY DEATH, RESIGNATION, REMOVAL FOR MISCONDUCT, INCOMPETENCE, NEGLIGENCE OF DUTY, OR OTHERWISE, THE APPOINTING AUTHORITY SHALL APPOINT A MEMBER TO FILL THE POSITION FOR THE REMAINDER OF THE UNEXPIRED TERM.

(4)(a) THE GOVERNOR SHALL SELECT THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMISSION FROM AMONG ITS MEMBERS.

(b) THE MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION; EXCEPT THAT THE MEMBERS OF THE COMMISSION MAY BE REIMBURSED FOR ANY ACTUAL AND NECESSARY TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS ARTICLE.

(5) THE COMMISSION MAY ESTABLISH BY-LAWS AS APPROPRIATE FOR ITS EFFECTIVE OPERATION.

(6) THE COMMISSION SHALL MEET AT LEAST ONCE PER MONTH OR ON A SCHEDULE DETERMINED BY THE CHAIRPERSON TO REVIEW INFORMATION NECESSARY FOR MAKING RECOMMENDATIONS.

(7) MEMBERS OF THE COMMISSION, EMPLOYEES, AND CONSULTANTS SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BASED UPON ANY OFFICIAL ACT PERFORMED IN GOOD FAITH PURSUANT TO THIS ARTICLE.

16-11.3-103. Duties of the commission - mission - staffing. (1) THE MISSION OF THE COMMISSION IS TO ENHANCE PUBLIC SAFETY, TO ENSURE JUSTICE, AND TO ENSURE PROTECTION OF THE RIGHTS OF VICTIMS THROUGH THE COST-EFFECTIVE USE OF PUBLIC RESOURCES. THE WORK OF THE COMMISSION WILL FOCUS ON EVIDENCE-BASED RECIDIVISM REDUCTION INITIATIVES AND THE COST-EFFECTIVE

EXPENDITURE OF LIMITED CRIMINAL JUSTICE FUNDS.

(2) THE COMMISSION SHALL HAVE THE FOLLOWING DUTIES:

(a) TO CONDUCT AN EMPIRICAL ANALYSIS OF AND COLLECT EVIDENCE-BASED DATA ON SENTENCING POLICIES AND PRACTICES, INCLUDING BUT NOT LIMITED TO THE EFFECTIVENESS OF THE SENTENCES IMPOSED IN MEETING THE PURPOSES OF SENTENCING AND THE NEED TO PREVENT RECIDIVISM AND RE-VICTIMIZATION;

(b) TO INVESTIGATE EFFECTIVE ALTERNATIVES TO INCARCERATION, THE FACTORS CONTRIBUTING TO RECIDIVISM, EVIDENCE-BASED RECIDIVISM REDUCTION INITIATIVES, AND COST-EFFECTIVE CRIME PREVENTION PROGRAMS;

(c) TO MAKE AN ANNUAL REPORT OF FINDINGS AND RECOMMENDATIONS, INCLUDING EVIDENCE-BASED ANALYSIS AND DATA;

(d) TO STUDY AND EVALUATE THE OUTCOMES OF COMMISSION RECOMMENDATIONS AS IMPLEMENTED;

(e) TO CONDUCT AND REVIEW STUDIES, INCLUDING BUT NOT LIMITED TO WORK AND RESOURCES COMPILED BY OTHER STATES, AND MAKE RECOMMENDATIONS CONCERNING POLICIES AND PRACTICES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS. THE COMMISSION SHALL PRIORITIZE AREAS OF STUDY BASED ON THE POTENTIAL IMPACT ON CRIME AND CORRECTIONS AND THE RESOURCES AVAILABLE FOR CONDUCTING THE WORK; AND

(f) TO WORK WITH OTHER STATE-ESTABLISHED BOARDS, TASK FORCES, OR COMMISSIONS THAT STUDY OR ADDRESS CRIMINAL JUSTICE ISSUES.

(3) THE COMMISSION SHALL ESTABLISH ADVISORY COMMITTEES THAT FOCUS ON SPECIFIC SUBJECT MATTERS AND MAKE RECOMMENDATIONS TO THE FULL COMMISSION. THE CHAIRPERSON OF THE COMMISSION SHALL SELECT THE CHAIRPERSONS FOR THE ADVISORY COMMITTEES AS WELL AS THE COMMISSION MEMBERS TO SERVE ON THE ADVISORY COMMITTEES. THE CHAIRPERSON OF AN ADVISORY COMMITTEE MAY SELECT NON-COMMISSION MEMBERS FROM INTERESTED MEMBERS OF THE COMMUNITY TO SERVE ON THE ADVISORY COMMITTEE. EACH ADVISORY COMMITTEE SHALL MAKE FINDINGS AND RECOMMENDATIONS FOR CONSIDERATION BY THE COMMISSION. NON-COMMISSION MEMBERS OF AN ADVISORY COMMITTEE SHALL SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR EXPENSES.

(4) THE COMMISSION, AT ITS DISCRETION, MAY RESPOND TO INQUIRIES REFERRED BY MEMBERS OF THE GENERAL ASSEMBLY, THE GOVERNOR, AND THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT, AS RESOURCES ALLOW.

(5) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, IN CONSULTATION WITH THE DEPARTMENT OF CORRECTIONS, SHALL PROVIDE RESOURCES FOR DATA COLLECTION, RESEARCH, ANALYSIS, AND PUBLICATION OF THE COMMISSION'S FINDINGS AND REPORTS.

16-11.3-104. Colorado commission on criminal and juvenile justice cash fund

- created - donations. (1) THE DEPARTMENT OF PUBLIC SAFETY AND THE COMMISSION ARE AUTHORIZED TO ACCEPT GIFTS, GRANTS, OR DONATIONS, INCLUDING IN-KIND DONATIONS FROM PRIVATE OR PUBLIC SOURCES, FOR THE PURPOSES OF THIS ARTICLE. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS BY THE DEPARTMENT OF PUBLIC SAFETY OR BY THE COMMISSION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS ARTICLE AS THE "CASH FUND". ANY MONEYS IN THE CASH FUND NOT EXPENDED FOR THE PURPOSES OF THIS ARTICLE SHALL BE INVESTED BY THE STATE TREASURER AS PROVIDED IN SECTION 24-36-113, C.R.S. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE CASH FUND SHALL BE CREDITED TO THE CASH FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE CASH FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE CASH FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(2) THE DEPARTMENT OF PUBLIC SAFETY SHALL NOT BE REQUIRED TO SOLICIT GIFTS, GRANTS, OR DONATIONS FROM ANY SOURCE FOR THE PURPOSES OF THIS ARTICLE.

16-11.3-105. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 2. 24-1-128.6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-1-128.6. Department of public safety - creation - repeal. (8) (a) THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE, CREATED PURSUANT TO SECTION 16-11.3-102, C.R.S., SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF PUBLIC SAFETY.

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 3. Appropriation - adjustments to the 2007 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for the fiscal year beginning July 1, 2007, the sum of ninety-two thousand six hundred fifty-seven dollars (\$92,657) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 2007, the sum of twenty-eight thousand eighty dollars (\$28,080), or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the legislative department, for the fiscal year beginning July 1, 2007, the sum of one thousand nine

hundred twenty dollars (\$1,920), or so much thereof as may be necessary, for the implementation of this act.

(4) For the implementation of this act, the appropriation made in section 21 of the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The general fund appropriation to the controlled maintenance trust fund is decreased by one hundred twenty-two thousand six hundred fifty-seven dollars (\$122,657).

SECTION 4. Effective date. (1) This act shall take effect upon passage.

(2) If Senate Bill 07-109 is enacted at the First Regular Session of the Sixty-sixth General Assembly and becomes law, then, upon the following provisions being met, the net general fund savings shall be directed to fulfilling the mission of this act:

(a) The final fiscal estimate for Senate Bill 07-109, as reflected in the appropriations clause for said act, shows a net general fund savings that is equal to or greater than the final general fund fiscal estimate for this act, as reflected in section 3 of this act;

(b) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2007, that the requirement set forth in paragraph (a) of this subsection (1) has been met.

SECTION 5. 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: May 23, 2007