

CHAPTER 338

CRIMINAL LAW AND PROCEDURE

SENATE BILL 09-286

BY SENATOR(S) Morse and Carroll M., Bacon, Boyd, Foster, Groff, Heath, Hodge, Hudak, Isgar, Newell, Romer, Shaffer B., Tapia, Tochtrop, Veiga, Williams;
also REPRESENTATIVE(S) Levy and Merrifield, Ferrandino, Kagan, Miklosi, Pommer, Pace, Benefield, Carroll T., Court, Fischer, Green, Hullinghorst, Judd, Kerr A., Labuda, McFadyen, Middleton, Rice, Ryden, Schafer S., Solano, Todd, Kefalas, McCann.

AN ACT

CONCERNING CRIMINAL LAW, AND, IN CONNECTION THEREWITH, CHANGING THE PROVISIONS RELATED TO LEGAL REPRESENTATION OF INDIGENT DEFENDANTS FOR CERTAIN MISDEMEANOR CASES; CHANGING THE OFFENSE LEVEL OR SENTENCING OPTIONS FOR SELECT NONVIOLENT OFFENSES, PROPERTY OFFENSES, AND DRUG OFFENSES; CHANGING THE PRESUMPTIVE SENTENCING RANGES FOR CERTAIN FELONY OFFENSES; REPEALING CERTAIN EXTRAORDINARY RISK SENTENCING PROVISIONS; MAKING CHANGES TO THE HABITUAL OFFENDER STATUTE; AND ALLOWING FOR CERTAIN SENTENCING TIME CREDITS FOR CERTAIN OFFENDERS.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) In 2007, it created the Colorado commission on criminal and juvenile justice, referred to in this section as the "commission", in House Bill 07-1358;

(b) The commission was tasked with enhancing public safety, ensuring justice, and ensuring protection of the rights of victims through the cost-effective use of public resources by studying evidence-based, recidivism reduction initiatives that ensure the cost-effective expenditure of limited criminal justice funds;

(c) Based on that study and consistent with its mission, the commission developed sixty-six recommendations, including six bills referred to the general assembly during the 2009 legislative session; and

(d) The state of Colorado faces an unprecedented budget crisis during the coming fiscal year, and it is imperative that the general assembly consider cost-saving

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

measures in the criminal justice system during the second regular session of the sixty-seventh general assembly.

(2) Therefore, the general assembly determines that it is necessary to direct the commission to prioritize the study of sentencing reform while maintaining the public safety.

SECTION 2. 16-11.3-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-11.3-103. Duties of the commission - mission - staffing - repeal.

(2.5)(a) USING EMPIRICAL ANALYSIS AND EVIDENCE-BASED DATA, THE COMMISSION SHALL STUDY SENTENCES IN COLORADO.

(b) IN ADDITION TO ANY OTHER AREAS DEEMED APPROPRIATE BY THE COMMISSION, THE COMMISSION MAY STUDY THE FOLLOWING AREAS:

(I) A STATEWIDE DEPARTMENT OF CORRECTIONS CORRECTIONAL FACILITY MANAGEMENT PLAN AND POTENTIAL DEPARTMENT OF CORRECTIONS CORRECTIONAL FACILITY BED LIMITATION;

(II) SENTENCES RELATED TO THE OFFENSE OF DRIVING UNDER RESTRAINT DESCRIBED IN SECTION 42-2-138, C.R.S., AND WHETHER TO CHANGE THOSE SENTENCES;

(III) SENTENCES RELATED TO DRUG CRIMES DESCRIBED IN ARTICLE 18 OF TITLE 18, C.R.S., AND WHETHER TO CHANGE THOSE SENTENCES;

(IV) WHETHER PAROLE SHOULD BE INCLUDED IN THE SENTENCE OR OUTSIDE THE SENTENCE; AND

(V) ALTERNATIVES TO INCARCERATION FOR NONVIOLENT FIRST-TIME OFFENDERS; AND

(VI) THE CONSEQUENCES AND EFFICACY OF MANDATORY MINIMUM SENTENCES AND OTHER PROVISIONS THAT LIMIT JUDICIAL DISCRETION IN THE SENTENCING PROCESS.

(c) IN ADDITION, THE COMMISSION MAY STUDY THE IMPACT OF INCARCERATION ON CRIME RATES.

(d)(I) BY NOVEMBER 30, 2009, THE COMMISSION SHALL UPDATE THE GOVERNOR, THE ATTORNEY GENERAL, THE CHIEF JUSTICE OF THE SUPREME COURT, THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES, AND THE EXECUTIVE COMMITTEE OF THE GENERAL ASSEMBLY REGARDING THE COMMISSION'S FINDINGS, RECOMMENDATIONS, AND PROPOSED PLAN FOR THE ONGOING STUDY OF SENTENCING REFORM. ADDITIONALLY, BY FEBRUARY 1, 2010, THE COMMISSION SHALL PROVIDE THE EXECUTIVE COMMITTEE OF THE GENERAL ASSEMBLY WITH RECOMMENDATIONS REGARDING WHETHER TO MODIFY ANY SENTENCES OR SENTENCE LAWS.

(II) THIS PARAGRAPH (d) AND PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (2.5) ARE REPEALED, EFFECTIVE JULY 1, 2010.

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 1, 2009