

CHAPTER 274

CRIMINAL LAW AND PROCEDURE

SENATE BILL 11-254

BY SENATOR(S) Steadman, Carroll, Aguilar, Boyd, Giron, Guzman, Heath, Newell, Williams S.;
also REPRESENTATIVE(S) Pace, Court, Duran, Ferrandino, Fischer, Hullinghorst, Labuda, Lee, Ryden, Schafer S., Todd, Tyler,
Vigil, Wilson.

AN ACT**CONCERNING STATUTORY CHANGES TO IMPROVE PRACTICES FOR PERSONS UNDER COMMUNITY SUPERVISION.**

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

SECTION 1. The introductory portion to 18-1.3-301 (1) (i) (I) and 18-1.3-301 (1) (i) (IV), (1) (i) (VI), (1) (j), and (1) (k), Colorado Revised Statutes, are amended to read:

18-1.3-301. Authority to place offenders in community corrections programs. (1) (i) (I) An offender sentenced directly to a community corrections program by the sentencing court pursuant to this subsection (1) ~~may~~ **SHALL** be eligible for time credit deductions from the offender's sentence not to exceed ten days for each month of placement upon a demonstration to the program administrator by the offender that the offender has made consistent progress in the following categories:

(IV) An offender shall not be credited with more than one-half the allowable time credits for any month or portion thereof unless the offender was employed, **WAS UNABLE TO BE EMPLOYED DUE TO A DISABILITY WAIVER**, or was participating in training, education, or treatment programs which precluded the ability to remain employed. This subparagraph (IV) shall not apply to those offenders excused from such employment or training by the program administrator or for medical reasons.

(VI) ~~Notwithstanding any other provision of this paragraph (i), time credits shall not reduce the sentence of any offender sentenced directly to a community corrections program by a period of time which is more than twenty-five percent of the sentence or twenty-five percent of the sentence after adjustments are calculated~~

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

~~for any credits outlined by the mittimus.~~

(j) Except as otherwise provided in paragraph (k) of this subsection (1), any offender sentenced to the department of corrections subsequent to placement in a community corrections program is entitled to credit against the term of confinement as described in section 17-27-104 (9), C.R.S. The court shall make a finding of the amount of such time credits and include such finding in the mittimus that orders the offender to be placed in the custody of the department of corrections. The department of corrections shall apply credits for residential ~~placement~~ AND NONRESIDENTIAL TIME COMPLETED in a community corrections program in the same manner as credits for time served in a department of corrections facility.

(k) Any offender who escapes from a residential community corrections program or who absconds from a nonresidential community corrections program shall forfeit any time credit deductions earned pursuant to paragraph (i) of this subsection (1) AND SHALL NOT BE CREDITED WITH ANY TIME ON ESCAPE OR ABSCONDER STATUS. Within thirty days after an offender's escape or abscondment, the program administrator shall submit to the sentencing court a statement on the form described in subparagraph (III) of paragraph (i) of this subsection (1) of the time credit deductions that would have been earned by the offender.

SECTION 2. 17-27-104 (9), Colorado Revised Statutes, is amended to read:

17-27-104. Community corrections programs operated by units of local government, state agencies, or nongovernmental agencies. (9) The administrator of any community corrections program shall document the number of days of residential ~~placement~~ AND NONRESIDENTIAL TIME completed by each offender sentenced directly to the community corrections program by the court and the time credits granted to such offender pursuant to section 18-1.3-301 (1) (i), C.R.S. If any such offender is rejected after acceptance by the community corrections board or the community corrections program, the program administrator shall provide a written summary of the residential days completed by such offender to the referring agency. If the offender is thereafter committed to the department of corrections, such summary shall be reported to the department of corrections to facilitate the calculation of any time credits pursuant to part 3 or part 4 of article 22.5 of this title.

SECTION 3. 18-1.3-301 (1) (h), Colorado Revised Statutes, is amended to read:

18-1.3-301. Authority to place offenders in community corrections programs. (1) (h) (I) The sentencing court shall have the authority to modify the sentence of an offender who has been directly sentenced to a community corrections program in the same manner as if the offender had been placed on probation.

(II) A DEFENDANT WHO SUCCESSFULLY COMPLETES THE RESIDENTIAL PHASE OF A COMMUNITY CORRECTIONS SENTENCE, HAS PAID THE COSTS OF THE RESIDENTIAL PROGRAM IN FULL, AND IS BEING SUPERVISED ON NONRESIDENTIAL STATUS AT EITHER A MINIMUM OR ADMINISTRATIVE LEVEL IS ELIGIBLE FOR CONSIDERATION FOR EARLY TERMINATION OF HIS OR HER COMMUNITY CORRECTIONS SENTENCE BY THE COURT.

(III) WHEN THE DEFENDANT HAS MET THE ELIGIBILITY CRITERIA ENUMERATED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (h), THE DEFENDANT'S PROBATION OFFICER SHALL SUBMIT A PETITION FOR EARLY TERMINATION OF SENTENCE TO THE COURT AND NOTIFY THE DISTRICT ATTORNEY AND THE DEFENDANT.

(IV) IF VICTIM NOTIFICATION IS REQUIRED, THE PROBATION OFFICER SHALL PROVIDE VICTIM NOTIFICATION PURSUANT TO PART 3 OF ARTICLE 4.1 OF TITLE 24, C.R.S.

(V) IN DETERMINING WHETHER TO GRANT OR DENY THE PETITION, THE COURT MAY CONSIDER THE FOLLOWING FACTORS:

(A) THE DEFENDANT'S ASSESSED RISK OF REOFFENSE;

(B) VICTIM INPUT, IF ANY;

(C) THE DEFENDANT'S COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE SENTENCE OR COMMUNITY CORRECTIONS PROGRAM;

(D) COMPLETION OF ANY TREATMENT REQUIRED BY THE COURT OR COMMUNITY CORRECTIONS PROGRAM; AND

(E) OTHER FACTORS DEEMED RELEVANT BY THE COURT.

(VI) THE FACT THAT THE DEFENDANT OWES RESTITUTION, COSTS, FEES, FINES, OR SURCHARGES SHALL NOT PROHIBIT THE COURT FROM GRANTING THE MOTION FOR EARLY TERMINATION IF THE COURT FINDS THE MOTION OTHERWISE APPROPRIATE.

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: June 2, 2011