

CHAPTER 57

CRIMINAL LAW AND PROCEDURE

SENATE BILL 11-096

BY SENATOR(S) Steadman, Bacon, Carroll, Giron, Guzman, Hodge, Hudak, Jahn, King K., King S., Mitchell, Morse, Newell, Nicholson, Roberts, Boyd, Tochtrop;
also REPRESENTATIVE(S) McCann, DelGrosso, Ferrandino, Levy, Nikkel, Fields, Fischer, Hullinghorst, Labuda, Schafer S., Todd, Vigil, Wilson.

AN ACT

CONCERNING EXCLUDING A CLASS 6 FELONY DRUG POSSESSION CONVICTION AS A QUALIFYING OFFENSE FOR THE HABITUAL CRIMINAL STATUTE.

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

SECTION 1. 18-1.3-801 (2), Colorado Revised Statutes, is amended to read:

18-1.3-801. Punishment for habitual criminals. (2) (a) EXCEPT AS OTHERWISE PROVIDED FOR IN PARAGRAPH (b) OF THIS SUBSECTION (2), every person convicted in this state of any felony, who has been three times previously convicted, upon charges separately brought and tried, and arising out of separate and distinct criminal episodes, either in this state or elsewhere, of a felony or, under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, shall be adjudged an habitual criminal and shall be punished for the felony offense of which such person is convicted by imprisonment in the department of corrections for a term of four times the maximum of the presumptive range pursuant to section 18-1.3-401 for the class of felony of which such person is convicted. Such former conviction or convictions and judgment or judgments shall be set forth in apt words in the indictment or information. Nothing in this ~~part 1~~ PART 8 shall abrogate or affect the punishment by death in any and all crimes punishable by death on or after July 1, 1972.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL NOT APPLY TO A CONVICTION FOR A CLASS 6 FELONY PURSUANT TO SECTION 18-18-403.5 (2) (a) (I) OR (2) (b) (I), OR A CONVICTION FOR A CLASS 6 FELONY FOR ATTEMPT OR CONSPIRACY TO COMMIT UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, AS

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

DESCRIBED IN SECTION 18-18-403.5 (2) (a) (I) OR (2) (b) (I), EVEN IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED OF THREE OR MORE QUALIFYING FELONY CONVICTIONS.

SECTION 2. Applicability. This act shall apply to offenses committed on or after the effective date of this act.

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: March 25, 2011