

CHAPTER 171

CORRECTIONS

SENATE BILL 13-216

BY SENATOR(S) Giron, Aguilar, Guzman, Hodge, Hudak, Jahn, Jones, King, Newell, Nicholson, Tochtrop, Todd, Ulibarri;
also REPRESENTATIVE(S) Rosenthal, Fields, Hullinghorst, Kagan, Labuda, Levy, Melton, Singer, Young.

AN ACT

CONCERNING YOUTHFUL OFFENDERS WITHIN THE STATE DEPARTMENT OF CORRECTIONS.

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

SECTION 1. In Colorado Revised Statutes, **recreate and reenact, with amendments**, 18-1.3-407.5 as follows:

18-1.3-407.5. Sentences - young adult offenders - youthful offender system - definitions. (1) (a) A YOUNG ADULT OFFENDER MAY BE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF CORRECTIONS IN ACCORDANCE WITH SECTION 18-1.3-407, UNDER THE FOLLOWING CIRCUMSTANCES:

(I) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION 18-1.3-406;

(II) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY OFFENSE DESCRIBED IN PART 1 OF ARTICLE 12 OF THIS TITLE;

(III) THE YOUNG ADULT OFFENDER USED, OR POSSESSED AND THREATENED THE USE OF, A DEADLY WEAPON DURING THE COMMISSION OF A FELONY OFFENSE AGAINST A PERSON, AS SET FORTH IN ARTICLE 3 OF THIS TITLE;

(IV) THE YOUNG ADULT OFFENDER IS CONVICTED OF VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106, VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205, OR FELONIOUS ARSON, AS DESCRIBED IN PART 1 OF ARTICLE 4 OF THIS TITLE;

(V) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY OFFENSE

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 18-1.3-401 AS A CLASS 3 FELONY, OTHER THAN THE FELONIES DESCRIBED IN SECTION 18-3-402(1)(d) AND SECTION 18-3-403(1)(e), AS IT EXISTED PRIOR TO JULY 1, 2000, AND HAS, WITHIN THE TWO PREVIOUS YEARS, BEEN ADJUDICATED A JUVENILE DELINQUENT FOR A DELINQUENT ACT THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT; OR

(VI) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY OFFENSE, AND IS DETERMINED TO HAVE BEEN AN "HABITUAL JUVENILE OFFENDER", AS DEFINED IN SECTION 19-1-103 (61), C.R.S.

(b) THE OFFENSES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL INCLUDE THE ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT SUCH OFFENSES.

(2) (a) NOTWITHSTANDING THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (1) OF THIS SECTION, A YOUNG ADULT OFFENDER SHALL BE INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE YOUNG ADULT OFFENDER IS CONVICTED OF ANY OF THE FOLLOWING:

(I) A CLASS 1 OR CLASS 2 FELONY;

(II) A SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301, SECTION 18-6-302, OR PART 4 OF ARTICLE 3 OF THIS TITLE; OR

(III) ANY OFFENSE, IF THE YOUNG ADULT OFFENDER HAS RECEIVED A SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM FOR ANY PRIOR CONVICTION.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), A YOUNG ADULT OFFENDER WHO IS CHARGED WITH FIRST DEGREE MURDER AS DESCRIBED IN SECTION 18-3-102 (1) (b) AND PLEADS GUILTY TO A CLASS 2 FELONY AS A RESULT OF A PLEA AGREEMENT IS ELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE YOUNG ADULT OFFENDER WOULD BE ELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM FOR A CONVICTION OF THE FELONY UNDERLYING THE CHARGE OF FIRST DEGREE MURDER AS DESCRIBED IN SECTION 18-3-102 (1) (b).

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, A "YOUNG ADULT OFFENDER" MEANS A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE BUT UNDER TWENTY YEARS OF AGE AT THE TIME THE CRIME IS COMMITTED AND UNDER TWENTY-ONE YEARS OF AGE AT THE TIME OF SENTENCING PURSUANT TO THIS SECTION.

SECTION 2. In Colorado Revised Statutes, **add** 17-1-115.7 as follows:

17-1-115.7. Prevention of sexual assaults on youthful inmates - compliance with federal law - report - definitions. (1) ON OR BEFORE AUGUST 20, 2013, THE DEPARTMENT SHALL IMPLEMENT POLICIES PURSUANT TO THE FEDERAL "PRISON RAPE ELIMINATION ACT OF 2003", 42 U.S.C. 15601 ET SEQ., TO ENSURE COMPLIANCE WITH THE PROVISIONS THEREOF RELATING TO YOUTHFUL INMATES, AS CODIFIED AT 28 CFR 115.14.

(2) ON OR BEFORE OCTOBER 1, 2013, AND ON OR BEFORE EACH OCTOBER 1

THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE IMPLEMENTATION OF THE POLICIES DESCRIBED IN SUBSECTION (1) OF THIS SECTION WITHIN THE YOUTH OFFENDER SYSTEM DESCRIBED IN SECTION 18-1.3-407.5, C.R.S.

(3) AS USED IN THIS SECTION, "YOUTHFUL INMATE" MEANS ANY PERSON LESS THAN EIGHTEEN YEARS OF AGE WHO IS UNDER ADULT COURT SUPERVISION AND INCARCERATED OR DETAINED IN A CORRECTIONAL FACILITY.

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: May 10, 2013