

CHAPTER 333

CRIMINAL LAW AND PROCEDURE

SENATE BILL 13-250

BY SENATOR(S) Steadman and King, Aguilar, Guzman, Newell, Ulibarri, Kefalas, Tochtrop;
also REPRESENTATIVE(S) Levy and DelGrosso, Gerou, Hullinghorst, Kagan, Labuda, Lawrence, Melton, Rosenthal, Schafer,
Singer, Vigil, Young.

AN ACT

CONCERNING CHANGES TO SENTENCING OF PERSONS CONVICTED OF DRUG CRIMES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 18-1.3-103.5 as follows:

18-1.3-103.5. Felony convictions - vacate and enter conviction on misdemeanor after successful completion. (1) IN ORDER TO EXPAND OPPORTUNITIES FOR OFFENDERS TO AVOID A DRUG FELONY CONVICTION, TO REDUCE THE SIGNIFICANT NEGATIVE CONSEQUENCES OF THAT FELONY CONVICTION, AND TO PROVIDE POSITIVE REINFORCEMENT FOR DRUG OFFENDERS WHO WORK TO SUCCESSFULLY COMPLETE ANY COMMUNITY-BASED SENTENCE IMPOSED BY THE COURT, THE LEGISLATURE HEREBY CREATES AN ADDITIONAL OPPORTUNITY FOR THOSE DRUG OFFENDERS WHO MAY NOT OTHERWISE HAVE BEEN ELIGIBLE FOR OR SUCCESSFUL IN OTHER STATUTORILY CREATED PROGRAMS THAT ALLOW THE DRUG OFFENDER TO AVOID A FELONY CONVICTION, SUCH AS DIVERSION OR DEFERRED JUDGMENT.

(2) (a) IN A CASE IN WHICH THE DEFENDANT ENTERS A PLEA OF GUILTY OR IS FOUND GUILTY BY THE COURT OR A JURY FOR A CRIME LISTED IN SUBSECTION (3) OF THIS SECTION, THE COURT SHALL ORDER, UPON SUCCESSFUL COMPLETION OF ANY COMMUNITY-BASED SENTENCE TO PROBATION OR TO A COMMUNITY CORRECTIONS PROGRAM, THE FELONY CONVICTION VACATED AND SHALL ENTER A CONVICTION FOR A LEVEL 1 MISDEMEANOR DRUG OFFENSE OF POSSESSION OF A CONTROLLED SUBSTANCE PURSUANT TO SECTION 18-18-403.5. UPON ENTRY OF THE JUDGMENT OF CONVICTION PURSUANT TO SECTION 18-18-403.5, THE COURT SHALL INDICATE IN ITS ORDER THAT THE JUDGMENT OF CONVICTION IS ENTERED PURSUANT TO THE

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

PROVISIONS OF THIS SECTION.

(b) WHETHER A SENTENCE IS SUCCESSFULLY COMPLETED SHALL BE DETERMINED BY THE COURT WITHOUT A JURY WITH NOTICE TO THE DISTRICT ATTORNEY AND THE DEFENDANT OR THE DEFENDANT'S ATTORNEY OF RECORD. A COMMUNITY-BASED SENTENCE IS NOT SUCCESSFULLY COMPLETED IF THE DEFENDANT HAS NOT SUCCESSFULLY COMPLETED THE TREATMENT AS ORDERED BY THE COURT AND DETERMINED APPROPRIATE TO ADDRESS THE DEFENDANT'S TREATMENT NEEDS.

(3) THIS SECTION APPLIES TO CONVICTIONS FOR THE FOLLOWING OFFENSES:

(a) POSSESSION OF A CONTROLLED SUBSTANCE; BUT ONLY WHEN THE QUANTITY OF THE CONTROLLED SUBSTANCE IS NOT MORE THAN FOUR GRAMS OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, NOT MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE, OR NOT MORE THAN FOUR MILLIGRAMS OF FLUNITRAZEPAM. THE DISTRICT ATTORNEY AND DEFENDANT MAY STIPULATE TO THE AMOUNT OF THE CONTROLLED SUBSTANCE POSSESSED BY THE DEFENDANT AT THE TIME OF SENTENCING, OR THE COURT SHALL DETERMINE THE AMOUNT AT THE TIME OF SENTENCING.

(b) A LEVEL 4 DRUG FELONY FOR DISTRIBUTION PURSUANT TO THE PROVISIONS OF SECTION 18-18-405 (2) (c) (II);

(c) POSSESSION OF TWELVE OUNCES OR MORE OF MARIJUANA OR THREE OUNCES OR MORE OF MARIJUANA CONCENTRATE; OR

(d) A VIOLATION OF SECTION 18-18-415.

(4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, A DEFENDANT IS NOT ELIGIBLE FOR RELIEF UNDER THIS SECTION IF:

(a) THE DEFENDANT HAS A PRIOR CONVICTION FOR A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406 OR A PRIOR CONVICTION FOR AN OFFENSE THAT IS REQUIRED TO BE SENTENCED PURSUANT TO THE PROVISIONS OF SECTION 18-1.3-406 IN THIS STATE, OR A CRIME IN ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES THAT WOULD BE A CRIME OF VIOLENCE OR ANY OFFENSE REQUIRED TO BE SENTENCED PURSUANT TO THE PROVISIONS OF SECTION 18-1.3-406 IN THIS STATE;

(b) THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT TO SECTION 18-1.3-201; OR

(c) (I) THE DEFENDANT HAS TWO OR MORE PRIOR FELONY CONVICTIONS FOR A DRUG OFFENSE PURSUANT TO THIS ARTICLE, OR A CRIME IN ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES THAT WOULD BE A DRUG OFFENSE VIOLATION OF THIS ARTICLE.

(II) FOR PURPOSES OF THIS PARAGRAPH (c), A PRIOR DRUG FELONY CONVICTION INCLUDES ANY PRIOR DIVERSION, DEFERRED PROSECUTION, OR DEFERRED JUDGMENT AND SENTENCE FOR FELONY OR ANY FELONY OFFENSE FOR WHICH RELIEF WAS PREVIOUSLY GRANTED PURSUANT TO THIS SECTION OR ANY MISDEMEANOR DRUG

CONVICTION THAT WAS ORIGINALLY CHARGED AS A DRUG FELONY OFFENSE.

SECTION 2. In Colorado Revised Statutes, **add** 18-1.3-104.5 as follows:

18-1.3-104.5. Alternatives in imposition of sentence in drug felony cases - exhaustion of remedies. (1) THE GENERAL ASSEMBLY FINDS THAT IT IS ESSENTIAL IN CERTAIN LEVEL 4 DRUG FELONY CASES THAT THE COURT CONSIDER ALL SENTENCING OPTIONS TO ENSURE THAT THE STATE'S COSTLY PRISON RESOURCES ARE USED FOR THOSE OFFENDERS FOR WHOM ANOTHER SENTENCE IS NOT APPROPRIATE OR WILL NOT PROPERLY MEET THE GOALS OF COMMUNITY SAFETY AND REHABILITATION OF THE OFFENDER.

(2) (a) PRIOR TO THE IMPOSITION OF ANY SENTENCE TO THE DEPARTMENT OF CORRECTIONS FOR A LEVEL 4 DRUG FELONY OFFENSE AT SENTENCING OR AT RESENTENCING AFTER A REVOCATION OF PROBATION OR COMMUNITY CORRECTIONS SENTENCE, THE COURT SHALL EXHAUST ALL REASONABLE AND APPROPRIATE ALTERNATIVE SENTENCES FOR THE OFFENSE CONSIDERING ALL FACTORS OUTLINED IN PARAGRAPH (b) OF THIS SUBSECTION (2).

(b) IF THE COURT SENTENCES THE DEFENDANT TO THE DEPARTMENT OF CORRECTIONS FOR A LEVEL 4 DRUG FELONY OFFENSE, IT MUST DETERMINE THAT INCARCERATION IS THE MOST SUITABLE OPTION GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE DEFENDANT'S WILLINGNESS TO PARTICIPATE IN TREATMENT. FURTHER, THE COURT MUST ALSO DETERMINE THAT ALL OTHER REASONABLE AND APPROPRIATE SANCTIONS AND RESPONSES TO THE VIOLATION THAT ARE AVAILABLE TO THE COURT HAVE BEEN TRIED AND FAILED, DO NOT APPEAR LIKELY TO BE SUCCESSFUL IF TRIED, OR PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY.

(c) IN MAKING THE DETERMINATION IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE COURT SHALL REVIEW, TO THE EXTENT AVAILABLE, THE INFORMATION PROVIDED BY THE SUPERVISING AGENCY, WHICH INCLUDES, BUT IS NOT LIMITED TO, A COMPLETE STATEMENT AS TO WHAT TREATMENT AND SENTENCING OPTIONS HAVE BEEN TRIED AND HAVE FAILED, WHAT OTHER COMMUNITY OPTIONS ARE AVAILABLE AND THE REASONS WHY ANY OTHER AVAILABLE COMMUNITY OPTIONS APPEAR TO BE UNLIKELY TO BE SUCCESSFUL. THE SUPERVISING AGENCY SHALL PROVIDE TO THE COURT THE RISK LEVEL OF THE OFFENDER AS DETERMINED BY AN EVIDENCE-BASED RISK ASSESSMENT TOOL EMPLOYED BY THE SUPERVISING AGENCY AND ANY OTHER INFORMATION RELEVANT TO THE DEFENDANT'S RISK TO PUBLIC SAFETY.

SECTION 3. In Colorado Revised Statutes, 18-1.3-301, **amend** (4); and **add** (1) (g.5) as follows:

18-1.3-301. Authority to place offenders in community corrections programs. (1) (g.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF AN OFFENDER IS TERMINATED OR REJECTED FROM A COMMUNITY CORRECTIONS PROGRAM AFTER HAVING BEEN SENTENCED TO THE PROGRAM FOR A LEVEL 4 DRUG FELONY, THE COURT SHALL CONDUCT A RESENTENCING HEARING IN ORDER TO COMPLY WITH EACH EXHAUSTION OF REMEDY PROVISION IN SECTION 18-1.3-405.5 OR SHALL MAKE WRITTEN FINDINGS REGARDING RESENTENCING AFTER CONSIDERATION OF ALL THE INFORMATION PROVIDED TO THE COURT PURSUANT TO

SECTION 18-1.3-104.5 (2) (c). NOTHING IN THIS SECTION REQUIRES THAT A COMMUNITY CORRECTIONS PROGRAM ACCEPT OR MAINTAIN AN OFFENDER WHO HAS BEEN TERMINATED FROM A COMMUNITY CORRECTIONS PROGRAM.

(4)(a) District courts, county courts, and other local criminal justice officials may enter into agreements with community corrections programs which include the use of such programs to supervise offenders awaiting trial for felony or misdemeanor offenses, offenders convicted of misdemeanors, or offenders under deferred judgments. Such agreements are subject to review and approval by the community corrections board of the jurisdiction in which any community corrections program making such agreement is located. Any such use of a community corrections program may be supported with funding from local governments, public or private grants, offender fees, and other sources other than the state general fund.

(b) A DISTRICT COURT, COUNTY COURT, AND ANY OTHER CRIMINAL JUSTICE OFFICIAL MAY ENTER INTO AGREEMENTS WITH COMMUNITY CORRECTIONS PROGRAMS THAT PROVIDE RESIDENTIAL TREATMENT, FOR THE PLACEMENT AND SUPERVISION OF DRUG OFFENDERS AS A TERM AND CONDITION OF PROBATION WHEN ASSESSED TREATMENT NEED LEVELS INDICATE THAT RESIDENTIAL TREATMENT IS NECESSARY AND APPROPRIATE. THE AGREEMENT IS SUBJECT TO REVIEW AND APPROVAL BY THE COMMUNITY CORRECTIONS BOARD IN THE JURISDICTION WHERE A COMMUNITY CORRECTIONS PROGRAM IS LOCATED. A COMMUNITY CORRECTIONS PROGRAM USED PURSUANT TO THIS PARAGRAPH (b) MAY RECEIVE FUNDS FROM THE CORRECTIONAL TREATMENT CASH FUND, AS WELL AS LOCAL FUNDING, PUBLIC OR PRIVATE GRANTS, OR OFFENDER FEES.

SECTION 4. In Colorado Revised Statutes, **add** 18-1.3-401.5 as follows:

18-1.3-401.5. Drug felonies classified - presumptive and aggravated penalties. (1) THE PROVISIONS OF THIS SECTION ONLY APPLY TO A CONVICTION FOR A DRUG FELONY OFFENSE DESCRIBED IN ARTICLE 18 OF THIS TITLE COMMITTED ON OR AFTER OCTOBER 1, 2013. FOR PURPOSES OF THIS SECTION, "FELONY" MEANS ANY FELONY OR DRUG FELONY DEFINED IN THE STATE STATUTES.

(2) (a) FOR OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2013, DRUG FELONIES ARE DIVIDED INTO FOUR LEVELS THAT ARE DISTINGUISHED FROM ONE ANOTHER BY THE RANGES OF PENALTIES, WHICH ARE AUTHORIZED UPON CONVICTION OF A DRUG FELONY:

LEVEL	PRESUMPTIVE RANGE		PERIOD OF PAROLE
DF1	EIGHT YEARS	THIRTY-TWO YEARS	THREE YEARS
DF2	FOUR YEARS	EIGHT YEARS	TWO YEARS
DF3	TWO YEARS	FOUR YEARS	ONE YEAR
DF4	SIX MONTHS	ONE YEAR	ONE YEAR

LEVEL AGGRAVATED RANGE

DF2	EIGHT YEARS	SIXTEEN YEARS	TWO YEARS
DF3	FOUR YEARS	SIX YEARS	ONE YEAR
DF4	ONE YEAR	TWO YEARS	ONE YEAR

(b) (I) AS TO ANY PERSON SENTENCED FOR A DRUG FELONY COMMITTED ON OR AFTER OCTOBER 1, 2013, AS OTHERWISE PROVIDED IN SECTION 18-1.3-401 (1) (a) (III), IN ADDITION TO, OR IN LIEU OF, ANY SENTENCE TO IMPRISONMENT, PROBATION, COMMUNITY CORRECTIONS, OR WORK RELEASE, A FINE WITHIN THE FOLLOWING RANGES MAY BE IMPOSED FOR THE SPECIFIED LEVEL OF DRUG FELONIES:

LEVEL	MINIMUM SENTENCE	MAXIMUM SENTENCE
DF1	FIVE THOUSAND DOLLARS	ONE MILLION DOLLARS
DF2	THREE THOUSAND DOLLARS	SEVEN HUNDRED FIFTY THOUSANDS DOLLARS
DF3	TWO THOUSAND DOLLARS	FIVE HUNDRED THOUSAND DOLLARS
DF4	ONE THOUSAND DOLLARS	ONE HUNDRED THOUSAND DOLLARS

(II) FAILURE TO PAY A FINE IMPOSED PURSUANT TO THIS PARAGRAPH (b) IS GROUNDS FOR REVOCATION OF PROBATION, COMMUNITY CORRECTIONS, OR A SUSPENDED SENTENCE, IF THE DEFENDANT HAS THE ABILITY TO PAY THE FINE.

(III) IF A REVOCATION OCCURS PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), THE COURT MAY IMPOSE ANY SENTENCE LEGALLY AVAILABLE, SUBJECT TO THE PROVISIONS OF SECTION 18-1.3-104.5 (2).

(IV) ALL FINES COLLECTED PURSUANT TO THIS PARAGRAPH (b) MUST BE DEPOSITED IN THE FINES COLLECTION FUND CREATED IN SECTION 18-1.3-401 (1) (a) (III) (D) AND ARE SUBJECT TO THE PROVISIONS OF THAT SECTION.

(3) A PERSON WHO IS PAROLED PURSUANT TO SECTION 17-22.5-403, C.R.S., OR ANY PERSON WHO IS NOT PAROLED AND IS DISCHARGED PURSUANT TO LAW, SHALL BE SUBJECT TO THE MANDATORY PERIOD OF PAROLE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION. THE MANDATORY PERIOD OF PAROLE MAY NOT BE WAIVED BY THE OFFENDER OR WAIVED OR SUSPENDED BY THE COURT AND IS SUBJECT TO THE PROVISIONS OF SECTION 17-22.5-403 (8), C.R.S., WHICH PERMITS THE STATE BOARD OF PAROLE TO DISCHARGE THE OFFENDER AT ANY TIME DURING THE TERM OF PAROLE UPON A DETERMINATION THAT THE OFFENDER HAS BEEN SUFFICIENTLY REHABILITATED AND REINTEGRATED INTO SOCIETY AND CAN NO LONGER BENEFIT FROM PAROLE SUPERVISION.

(4) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION COMMENCES IMMEDIATELY UPON THE DISCHARGE OF AN OFFENDER FROM IMPRISONMENT IN THE CUSTODY OF THE

DEPARTMENT OF CORRECTIONS. IF THE OFFENDER HAS BEEN GRANTED RELEASE TO PAROLE SUPERVISION BY THE STATE BOARD OF PAROLE, THE OFFENDER IS DEEMED TO HAVE DISCHARGED THE OFFENDER'S SENTENCE TO IMPRISONMENT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION IN THE SAME MANNER AS IF SUCH SENTENCE WERE DISCHARGED PURSUANT TO LAW. WHEN AN OFFENDER IS RELEASED BY THE STATE BOARD OF PAROLE OR RELEASED BECAUSE THE OFFENDER'S SENTENCE WAS DISCHARGED PURSUANT TO LAW, THE MANDATORY PERIOD OF PAROLE MUST BE SERVED BY THE OFFENDER. AN OFFENDER SENTENCED FOR A DRUG FELONY MAY RECEIVE EARNED TIME PURSUANT TO SECTION 17-22.5-405, C.R.S., AND WHILE SERVING A MANDATORY PAROLE PERIOD IN ACCORDANCE WITH THIS SECTION.

(5) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO SENTENCING PROVISIONS IN THIS SECTION OR SECTION 18-1.3-401, THE MANDATORY PERIOD OF PAROLE FOR THE OFFENDER MUST BE THE LONGEST MANDATORY PERIOD OF PAROLE ESTABLISHED FOR A FELONY FOR WHICH THE OFFENDER WAS CONVICTED.

(6) ANY PERSON SENTENCED FOR A LEVEL 1, 2, 3, OR 4 DRUG FELONY THAT IS THE OFFENDER'S SECOND OR SUBSEQUENT FELONY OR DRUG FELONY OFFENSE, REGARDLESS OF THE LENGTH OF THE PERSON'S SENTENCE TO INCARCERATION AND THE MANDATORY PERIOD OF PAROLE, IS NOT DEEMED TO HAVE FULLY DISCHARGED HIS OR HER SENTENCE UNTIL THE PERSON EITHER COMPLETES, OR IS DISCHARGED BY THE STATE BOARD OF PAROLE FROM, THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE DEFENDANT IS CONVICTED A LEVEL 1 DRUG FELONY, THE COURT SHALL SENTENCE THE DEFENDANT TO A PERIOD OF AT LEAST EIGHT YEARS IN THE DEPARTMENT OF CORRECTIONS.

(8) IN IMPOSING A SENTENCE TO INCARCERATION, THE COURT SHALL IMPOSE A DEFINITE SENTENCE THAT IS WITHIN THE PRESUMPTIVE RANGES SET FORTH IN SUBSECTION (2) OF THIS SECTION; EXCEPT THAT, FOR LEVEL 2, LEVEL 3, AND LEVEL 4 DRUG FELONIES, THE COURT MAY SENTENCE THE DEFENDANT IN THE AGGRAVATED RANGE IF IT CONCLUDES AGGRAVATING CIRCUMSTANCES EXIST. THE AGGRAVATING CIRCUMSTANCES MUST BE BASED ON EVIDENCE IN THE RECORD OF THE SENTENCING HEARING, THE PRESENTENCE REPORT, AND ANY FACTORS AGREED TO BY THE PARTIES AND MUST SUPPORT A DIFFERENT SENTENCE THAT BETTER SERVES THE PURPOSES OF THIS CODE WITH RESPECT TO SENTENCING, AS SET FORTH IN SECTION 18-1-102.5.

(9) IN ALL CASES, EXCEPT AS PROVIDED IN SUBSECTION (10) OF THIS SECTION, IN WHICH A SENTENCE THAT IS NOT WITHIN THE PRESUMPTIVE RANGE IS IMPOSED, THE COURT SHALL MAKE SPECIFIC FINDINGS ON THE RECORD, DETAILING THE AGGRAVATING CIRCUMSTANCES THAT CONSTITUTE THE REASONS FOR VARYING FROM THE PRESUMPTIVE SENTENCE.

(10) (a) EXCEPT FOR A LEVEL 1 DRUG FELONY, THE PRESENCE OF ONE OR MORE OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES AT THE TIME OF THE COMMISSION OF A DRUG FELONY OFFENSE REQUIRES THE COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, TO SENTENCE THE DEFENDANT TO A TERM OF AT LEAST THE MIDPOINT IN THE PRESUMPTIVE RANGE BUT NOT MORE THAN THE

MAXIMUM TERM OF THE AGGRAVATED RANGE:

(I) THE DEFENDANT WAS ON PAROLE FOR ANOTHER FELONY;

(II) THE DEFENDANT WAS ON PROBATION OR WAS ON BOND WHILE AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR ANOTHER FELONY;

(III) THE DEFENDANT WAS UNDER CONFINEMENT, IN PRISON, OR IN ANY CORRECTIONAL INSTITUTION AS A CONVICTED FELON, OR AN ESCAPEE FROM ANY CORRECTIONAL INSTITUTION FOR ANOTHER FELONY; OR

(IV) THE DEFENDANT WAS ON PROBATION FOR OR ON BOND WHILE AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT.

(b) IN ANY CASE IN WHICH ONE OR MORE OF THE AGGRAVATING CIRCUMSTANCES PROVIDED FOR IN PARAGRAPH (a) OF THIS SUBSECTION (10) EXIST, THE PROVISIONS OF SUBSECTION (9) OF THIS SECTION DO NOT APPLY.

(c) NOTHING IN THIS SUBSECTION (10) PRECLUDES THE COURT FROM CONSIDERING AGGRAVATING CIRCUMSTANCES OTHER THAN THOSE STATED IN PARAGRAPH (a) OF THIS SUBSECTION (10) AS THE BASIS FOR SENTENCING THE DEFENDANT TO A TERM GREATER THAN THE PRESUMPTIVE RANGE FOR THE DRUG FELONY.

(11) EXCEPT FOR A LEVEL 1 DRUG FELONY, THE PRESENCE OF ANY ONE OR MORE OF THE FOLLOWING SENTENCE-ENHANCING CIRCUMSTANCES AT THE TIME OF THE COMMISSION OF THE DRUG FELONY ALLOWS THE COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, TO SENTENCE THE DEFENDANT TO A TERM IN THE PRESUMPTIVE OR AGGRAVATED RANGE:

(a) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A FELONY IN A PREVIOUS CASE AND THE DEFENDANT WAS CONVICTED OF ANY FELONY IN THE PREVIOUS CASE;

(b) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

(c) THE DEFENDANT WAS ON BOND FOR HAVING PLED GUILTY TO A LESSER OFFENSE WHEN THE ORIGINAL OFFENSE CHARGED WAS A FELONY;

(d) THE DEFENDANT WAS ON BOND IN A JUVENILE PROSECUTION UNDER TITLE 19, C.R.S., FOR HAVING PLED GUILTY TO A LESSER DELINQUENT ACT WHEN THE ORIGINAL DELINQUENT ACT CHARGED WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

(e) THE DEFENDANT WAS UNDER A DEFERRED JUDGMENT AND SENTENCE FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT; OR

(f) THE DEFENDANT WAS ON PAROLE FOR HAVING BEEN ADJUDICATED A DELINQUENT CHILD FOR AN OFFENSE THAT WOULD CONSTITUTE A FELONY IF

COMMITTED BY AN ADULT.

(12) WHEN IT APPEARS TO THE SATISFACTION OF THE COURT THAT THE ENDS OF JUSTICE AND THE BEST INTEREST OF THE PUBLIC, AS WELL AS THE DEFENDANT, WILL BE BEST SERVED THEREBY, THE COURT HAS THE POWER TO SUSPEND THE IMPOSITION OR EXECUTION OF SENTENCE FOR SUCH PERIOD AND UPON SUCH TERMS AND CONDITIONS AS IT MAY DEEM BEST; EXCEPT THAT THE COURT MAY NOT SUSPEND A SENTENCE TO THE MINIMUM TERM OF INCARCERATION WHEN THE DEFENDANT IS CONVICTED OF A LEVEL 1 DRUG FELONY. IN NO INSTANCE MAY A SENTENCE BE SUSPENDED IF THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT TO SECTION 18-1.3-201, EXCEPT UPON AN EXPRESS WAIVER BEING MADE BY THE SENTENCING COURT REGARDING A PARTICULAR DEFENDANT UPON RECOMMENDATION OF THE DISTRICT ATTORNEY AND APPROVAL OF SUCH RECOMMENDATION BY AN ORDER OF THE SENTENCING COURT PURSUANT TO SECTION 18-1.3-201 (4).

(13) EVERY SENTENCE ENTERED UNDER THIS SECTION MUST INCLUDE CONSIDERATION OF RESTITUTION AS REQUIRED BY PART 6 OF THIS ARTICLE AND BY ARTICLE 18.5 OF TITLE 16, C.R.S.

SECTION 5. In Colorado Revised Statutes, 18-1.3-501, **amend** (1) (a) introductory portion; and **add** (1) (d) and (1) (e) as follows:

18-1.3-501. Misdemeanors classified - drug misdemeanors and drug petty offenses classified - penalties. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1), misdemeanors are divided into three classes ~~which~~ THAT are distinguished from one another by the following penalties ~~which~~ THAT are authorized upon conviction except as provided in subsection (1.5) of this section:

(d) FOR PURPOSES OF SENTENCING A PERSON CONVICTED OF A MISDEMEANOR DRUG OFFENSE DESCRIBED IN ARTICLE 18 OF THIS TITLE, COMMITTED ON OR AFTER OCTOBER 1, 2013, DRUG MISDEMEANORS ARE DIVIDED INTO TWO LEVELS THAT ARE DISTINGUISHED FROM ONE ANOTHER BY THE FOLLOWING PENALTIES AND THAT ARE AUTHORIZED UPON CONVICTION:

LEVEL	MINIMUM SENTENCE	MAXIMUM SENTENCE
DM1	SIX MONTHS IMPRISONMENT, FIVE HUNDRED DOLLARS FINE, OR BOTH	EIGHTEEN MONTHS IMPRISONMENT, FIVE THOUSAND DOLLARS FINE, OR BOTH
DM2	NO IMPRISONMENT, FIFTY DOLLARS FINE	TWELVE MONTHS IMPRISONMENT, SEVEN HUNDRED FIFTY DOLLARS FINE

(e) FOR EACH DRUG PETTY OFFENSE, THE SENTENCING RANGE IS STATED IN THE OFFENSE STATUTE.

SECTION 6. In Colorado Revised Statutes, **amend** 18-18-101 as follows:

18-18-101. Short title. This article shall be known and may be cited as the "Uniform Controlled Substances Act of ~~1992~~ 2013".

SECTION 7. In Colorado Revised Statutes, 18-18-401, **amend** (1) as follows:

18-18-401. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The regulation of controlled substances in this state is important and necessary for the preservation of public safety and public health;

(b) MEETING THE PUBLIC SAFETY AND PUBLIC HEALTH NEEDS OF OUR COMMUNITIES DEMANDS A COLLABORATIVE EFFORT INVOLVING PRIMARY HEALTH CARE, BEHAVIORAL HEALTH, CRIMINAL JUSTICE, AND SOCIAL SERVICE SYSTEMS;

~~(b)~~ (c) Successful, community-based substance abuse treatment and education programs, in conjunction with mental health treatment as necessary, provide effective tools in the effort to reduce drug usage ~~and criminal behavior in communities~~ AND ENHANCE PUBLIC SAFETY BY REDUCING THE LIKELIHOOD THAT DRUG USERS WILL HAVE FURTHER CONTACT WITH THE CRIMINAL JUSTICE SYSTEM. Therapeutic intervention and ongoing individualized treatment plans prepared through the use of meaningful and proven assessment tools and evaluations offer a ~~potential~~ AN EFFECTIVE alternative to incarceration in appropriate circumstances and should be utilized accordingly.

~~(c)~~ (d) Savings recognized from reductions in incarceration rates should be dedicated toward funding community-based treatment options and other mechanisms that are accessible to all of the state's counties for the implementation and continuation of such programs.

(e) THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE SUBMITTED A REPORT TO THE GENERAL ASSEMBLY ON DECEMBER 15, 2012, AFTER SIGNIFICANT STUDY OF EFFECTIVE APPROACHES TO REDUCED DRUG ABUSE AND USE OF CRIMINAL JUSTICE SANCTIONS THAT RECOMMENDS MULTIPLE CHANGES TO THE CRIMINAL LAW RELATING TO CONTROLLED SUBSTANCES. THE COMMISSION CONTINUES WORK TO DEVELOP A MORE EFFECTIVE TREATMENT SYSTEM IN COLORADO AND CONTINUES TO COLLECT DATA TO MEASURE THE IMPACT OF THE CHANGES TO THIS PART 4 ENACTED IN 2013.

SECTION 8. In Colorado Revised Statutes, 18-18-403.5, **amend** (2) as follows:

18-18-403.5. Unlawful possession of a controlled substance. (2) A person who violates subsection (1) of this section by possessing:

(a) ~~(f)~~ Any material, compound, mixture, or preparation weighing four grams or less that contains any quantity of flunitrazepam, ketamine, or a controlled substance listed in schedule I or II of part 2 of this article ~~except methamphetamine~~ commits a ~~class 6 felony~~ LEVEL 4 DRUG FELONY.

~~(f)~~ Any material, compound, mixture, or preparation weighing more than four grams that contains any quantity of flunitrazepam, ketamine, or a controlled substance listed in schedule I or II of part 2 of this article ~~except methamphetamine~~ commits a class 4 felony.

~~(b) (f) Any material, compound, mixture, or preparation weighing two grams or less that contains any quantity of methamphetamine commits a class 6 felony.~~

~~(H) Any material, compound, mixture, or preparation weighing more than two grams that contains any quantity of methamphetamine commits a class 4 felony.~~

(c) Any material, compound, mixture, or preparation that contains any quantity of a controlled substance listed in schedule III, IV, or V of part 2 of this article except flunitrazepam or ketamine commits a ~~class 1 misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

SECTION 9. In Colorado Revised Statutes, 18-18-404, **amend** (1) (a) as follows:

18-18-404. Unlawful use of a controlled substance. (1) (a) Except as is otherwise provided for offenses concerning marijuana and marijuana concentrate in sections 18-18-406 and 18-18-406.5, any person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense the controlled substance for bona fide medical needs, commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR.

SECTION 10. In Colorado Revised Statutes, 18-18-405, **amend** (2) and (5); and **repeal** (2.5), (3), (3.5), and (7) as follows:

18-18-405. Unlawful distribution, manufacturing, dispensing, or sale. ~~(2) (a) Except as is otherwise provided for offenses concerning marijuana and marijuana concentrate in section 18-18-406 and for offenses involving minors in section 18-18-407 (1) (g), any person who violates any of the provisions of subsection (1) of this section:~~

~~(f) In the case of a controlled substance listed in schedule I or II of part 2 of this article, commits:~~

~~(A) A class 3 felony; or~~

~~(B) A class 2 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which this subparagraph (f) applies or would apply if convicted in this state;~~

~~(H) In the case of a controlled substance listed in schedule III of part 2 of this article, commits:~~

~~(A) A class 4 felony; or~~

~~(B) A class 3 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which subparagraph (f) of this paragraph (a) or this subparagraph (H) applies or would apply if convicted in this state;~~

~~(III) In the case of a controlled substance listed in schedule IV of part 2 of this article, commits:~~

~~(A) A class 5 felony; or~~

~~(B) A class 4 felony, if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which subparagraph (I) or (II) of this paragraph (a) or this subparagraph (III) applies or would apply if convicted in this state;~~

~~(IV) In the case of a controlled substance listed in schedule V of part 2 of this article, commits:~~

~~(A) A class 1 misdemeanor; or~~

~~(B) A class 5 felony, if the violation is committed subsequent to any prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation to which subparagraph (I), (II), or (III) of this paragraph (a) or this subparagraph (IV) applies or would apply if convicted in this state.~~

(2) EXCEPT AS OTHERWISE PROVIDED, FOR AN OFFENSE CONCERNING MARIJUANA AND MARIJUANA CONCENTRATE IN SECTION 18-18-406 AND FOR SPECIAL OFFENDERS AS PROVIDED IN SECTION 18-18-407, ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION:

(a) COMMITS A LEVEL 1 DRUG FELONY AND IS SUBJECT TO THE MANDATORY SENTENCING PROVISIONS IN SECTION 18-1.3-401.5 (7) IF:

(I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT WEIGHS:

(A) MORE THAN TWO HUNDRED TWENTY-FIVE GRAMS AND CONTAINS A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE; OR

(B) MORE THAN ONE HUNDRED TWELVE GRAMS AND CONTAINS METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE; OR

(C) MORE THAN FIFTY MILLIGRAMS AND CONTAINS FLUNITRAZEPAM; OR

(II) AN ADULT SELLS, DISPENSES, DISTRIBUTES, OR OTHERWISE TRANSFERS ANY QUANTITY OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE OR ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS ANY AMOUNT OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, OTHER THAN MARIJUANA OR MARIJUANA CONCENTRATE, TO A MINOR AND THE ADULT IS AT LEAST TWO YEARS OLDER THAN THE MINOR;

(b) COMMITS A LEVEL 2 DRUG FELONY IF:

(I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND, MIXTURE, OR

PREPARATION THAT WEIGHS:

(A) MORE THAN FOURTEEN GRAMS, BUT NOT MORE THAN TWO HUNDRED TWENTY-FIVE GRAMS, AND CONTAINS A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE;

(B) MORE THAN SEVEN GRAMS, BUT NOT MORE ONE HUNDRED TWELVE GRAMS, AND CONTAINS METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE; OR

(C) MORE THAN TEN MILLIGRAMS, BUT NOT MORE THAN FIFTY MILLIGRAMS, AND CONTAINS FLUNITRAZEPAM;

(II) AN ADULT SELLS, DISPENSES, DISTRIBUTES, OR OTHERWISE TRANSFERS ANY QUANTITY OF A SCHEDULE III OR SCHEDULE IV CONTROLLED SUBSTANCE OR ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS ANY QUANTITY OF A SCHEDULE III OR SCHEDULE IV CONTROLLED SUBSTANCE TO A MINOR AND THE ADULT IS AT LEAST TWO YEARS OLDER THAN THE MINOR;

(c) COMMITS A LEVEL 3 DRUG FELONY IF:

(I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT WEIGHS:

(A) NOT MORE THAN FOURTEEN GRAMS AND CONTAINS A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE;

(B) NOT MORE THAN SEVEN GRAMS AND CONTAINS METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE;

(C) NOT MORE THAN TEN MILLIGRAMS AND CONTAINS FLUNITRAZEPAM; OR

(D) MORE THAN FOUR GRAMS AND CONTAINS A SCHEDULE III OR SCHEDULE IV CONTROLLED SUBSTANCE.

(d) COMMITS A LEVEL 4 DRUG FELONY IF:

(I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT WEIGHS NOT MORE THAN FOUR GRAMS AND CONTAINS A SCHEDULE III OR SCHEDULE IV CONTROLLED SUBSTANCE; OR

(II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (2), THE VIOLATION INVOLVES DISTRIBUTION OR TRANSFER OF THE CONTROLLED SUBSTANCE FOR THE PURPOSE OF CONSUMING ALL OF THE CONTROLLED SUBSTANCE WITH ANOTHER PERSON OR PERSONS AT A TIME SUBSTANTIALLY CONTEMPORANEOUS WITH THE TRANSFER; EXCEPT THAT THIS SUBPARAGRAPH (II) APPLIES ONLY IF THE DISTRIBUTION OR TRANSFER INVOLVES NOT MORE THAN FOUR GRAMS OF A SCHEDULE I OR II CONTROLLED SUBSTANCE OR NOT MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE.

(e) COMMITS A LEVEL 1 DRUG MISDEMEANOR IF THE VIOLATION INVOLVES:

(I) A SCHEDULE V CONTROLLED SUBSTANCE; OR

(II) A TRANSFER WITH NO REMUNERATION OF NOT MORE THAN FOUR GRAMS OF A SCHEDULE III OR SCHEDULE IV CONTROLLED SUBSTANCE.

(2.5) (a) ~~Notwithstanding the provisions of subparagraph (III) of paragraph (a) of subsection (2) of this section, a person who violates the provisions of subsection (1) of this section with regard to flunitrazepam or ketamine commits a class 3 felony; except that the person commits a class 2 felony if the violation is committed subsequent to a prior conviction in this or any other state, the United States, or any territory subject to the jurisdiction of the United States of a violation involving flunitrazepam or ketamine or to which subparagraph (I) of paragraph (a) of subsection (2) of this section applies or would apply if convicted in this state.~~

~~(b) Any person convicted of violating the provisions of subsection (1) of this section with regard to flunitrazepam or ketamine shall be subject to the mandatory sentencing provisions of subsection (3) of this section.~~

~~(3) (a) Unless a greater sentence is required pursuant to the provisions of another statute, any person convicted pursuant to subparagraph (I) of paragraph (a) of subsection (2) of this section for knowingly manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute; or inducing, attempting to induce, or conspiring with one or more other persons, to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute an amount that is or has been represented to be:~~

~~(I) At least twenty-five grams or one ounce but less than four hundred fifty grams of any material, compound, mixture, or preparation that contains a schedule I or schedule II controlled substance as listed in section 18-18-203 or 18-18-204 shall be sentenced to the department of corrections for at least the minimum term of incarceration in the presumptive range provided for such offense in section 18-1.3-401 (1) (a) with regard to offenses other than manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute, and for at least the minimum term of incarceration in the presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with regard to manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute;~~

~~(II) At least four hundred fifty grams or one pound but less than one thousand grams of any material, compound, mixture, or preparation that contains a schedule I or schedule II controlled substance as listed in section 18-18-203 or 18-18-204 shall be sentenced to the department of corrections for a term of at least the midpoint of the presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) with regard to offenses other than manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute, and for a term of at least the midpoint of the presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with regard to manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute;~~

~~(III) One thousand grams or one kilogram or more of any material, compound, mixture, or preparation that contains a schedule I or schedule II controlled substance as listed in section 18-18-203 or 18-18-204 shall be sentenced to the department of corrections for a term greater than the maximum presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) with regard to offenses other than manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute, and for a term greater than the maximum presumptive range but not more than twice the maximum presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with regard to manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute.~~

~~(b) In addition to any other penalty imposed under this subsection (3), upon conviction, a person who violates this subsection (3) shall be fined not less than one thousand dollars but not more than five hundred thousand dollars. For offenses committed on or after July 1, 1985, the fine shall be in an amount within the presumptive range set out in section 18-1.3-401 (1) (a) (III).~~

~~(3.5) The felony offense of unlawfully manufacturing, dispensing, selling, distributing, or possessing with intent to unlawfully manufacture, dispense, sell, or distribute a controlled substance is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401 (10).~~

~~(5) When a person commits unlawful distribution, manufacture, dispensing, sale, or possession with intent to manufacture, dispense, sell, or distribute any schedule I or schedule II controlled substance, as listed in section 18-18-203 or 18-18-204, flunitrazepam, or ketamine, OR CONSPIRES WITH ONE OR MORE PERSONS TO COMMIT THE OFFENSE, pursuant to subsection (1) of this section, twice or more within a period of six months, without having been placed in jeopardy for the prior offense or offenses, and the aggregate amount of the schedule I or schedule II controlled substance, flunitrazepam, or ketamine involved equals or exceeds twenty-five grams, the defendant shall be sentenced pursuant to the mandatory sentencing requirements specified in subsection (3) of this section MAY BE USED TO DETERMINE THE LEVEL OF DRUG OFFENSE.~~

~~(7) Notwithstanding the provisions of subsection (2) of this section, and except as otherwise provided in sub-subparagraph (B) of subparagraph (I) of paragraph (a) of subsection (2) or paragraph (a) of subsection (2.5) of this section, a person who violates subsection (1) of this section by selling, dispensing, or distributing a controlled substance other than marijuana or marijuana concentrate to a minor under eighteen years of age and who is at least eighteen years of age and at least two years older than the minor commits a class 3 felony and, unless a greater sentence is provided under any other statute, shall be sentenced to the department of corrections for a term of at least the minimum, but not more than twice the maximum, of the presumptive range provided for such offense in section 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10).~~

SECTION 11. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 18-18-406 as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate.

(1) (a) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN TWO AND ONE HALF POUNDS OF MARIJUANA OR MORE THAN ONE POUND OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 1 DRUG FELONY SUBJECT TO THE MANDATORY SENTENCING PROVISION IN SECTION 18-1.3-401.5 (7).

(b) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN SIX OUNCES, BUT NOT MORE THAN TWO AND ONE-HALF POUNDS OF MARIJUANA OR MORE THAN THREE OUNCES, BUT NOT MORE THAN ONE POUND OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 2 DRUG FELONY.

(c) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN ONE OUNCE, BUT NOT MORE THAN SIX OUNCES OF MARIJUANA OR MORE THAN ONE-HALF OUNCE, BUT NOT MORE THAN THREE OUNCES, OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 3 DRUG FELONY.

(d) THE SALE, TRANSFER, OR DISPENSING OF NOT MORE THAN ONE OUNCE OF MARIJUANA OR NOT MORE THAN ONE-HALF OUNCE OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 4 DRUG FELONY.

(2) (a) (I) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY PROCESS OR MANUFACTURE ANY MARIJUANA OR MARIJUANA CONCENTRATE OR KNOWINGLY ALLOW TO BE PROCESSED OR MANUFACTURED ON LAND OWNED, OCCUPIED, OR CONTROLLED BY HIM OR HER ANY MARIJUANA OR MARIJUANA CONCENTRATE EXCEPT AS AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 42.5 OF TITLE 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

(II) A PERSON WHO VIOLATES THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) COMMITS A LEVEL 3 DRUG FELONY.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7) OF THIS SECTION AND EXCEPT AS AUTHORIZED BY PART 1 OF ARTICLE 42.5 OF TITLE 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., OR PART 2 OR 3 OF THIS ARTICLE, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE MARIJUANA OR MARIJUANA CONCENTRATE; OR ATTEMPT, INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE WITH ONE OR MORE OTHER PERSONS, TO DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE MARIJUANA OR MARIJUANA CONCENTRATE.

(II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), "DISPENSE" DOES NOT INCLUDE LABELING, AS DEFINED IN SECTION 12-42.5-102 (18), C.R.S.

(III) A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) COMMITS:

(A) A LEVEL 1 DRUG FELONY AND IS SUBJECT TO THE MANDATORY SENTENCING

PROVISION IN SECTION 18-1.3-401.5 (7) IF THE AMOUNT OF MARIJUANA IS MORE THAN FIFTY POUNDS OR THE AMOUNT OF MARIJUANA CONCENTRATE IS MORE THAN TWENTY-FIVE POUNDS;

(B) A LEVEL 2 DRUG FELONY IF THE AMOUNT OF MARIJUANA IS MORE THAN FIVE POUNDS BUT NOT MORE THAN FIFTY POUNDS OR THE AMOUNT OF MARIJUANA CONCENTRATE IS MORE THAN TWO AND ONE-HALF POUNDS BUT NOT MORE THAN TWENTY-FIVE POUNDS;

(C) A LEVEL 3 DRUG FELONY IF THE AMOUNT IS MORE THAN TWELVE OUNCES BUT NOT MORE THAN FIVE POUNDS OF MARIJUANA OR MORE THAN SIX OUNCES BUT NOT MORE THAN TWO AND ONE-HALF POUNDS OF MARIJUANA CONCENTRATE;

(D) A LEVEL 4 DRUG FELONY IF THE AMOUNT IS MORE THAN FOUR OUNCES, BUT NOT MORE THAN TWELVE OUNCES OF MARIJUANA OR MORE THAN TWO OUNCES BUT NOT MORE THAN SIX OUNCES OF MARIJUANA CONCENTRATE; OR

(E) A LEVEL 1 DRUG MISDEMEANOR IF THE AMOUNT IS NOT MORE THAN FOUR OUNCES OF MARIJUANA OR NOT MORE THAN TWO OUNCES OF MARIJUANA CONCENTRATE.

(3) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY CULTIVATE, GROW, OR PRODUCE A MARIJUANA PLANT OR KNOWINGLY ALLOW A MARIJUANA PLANT TO BE CULTIVATED, GROWN, OR PRODUCED ON LAND THAT THE PERSON OWNS, OCCUPIES, OR CONTROLS. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION (3) COMMITS:

(a) A LEVEL 3 DRUG FELONY IF THE OFFENSE INVOLVES MORE THAN THIRTY PLANTS;

(b) A LEVEL 4 DRUG FELONY IF THE OFFENSE INVOLVES MORE THAN SIX BUT NOT MORE THAN THIRTY PLANTS; OR

(c) A LEVEL 1 DRUG MISDEMEANOR IF THE OFFENSE INVOLVES NOT MORE THAN SIX PLANTS.

(4) (a) A PERSON WHO POSSESSES MORE THAN TWELVE OUNCES OF MARIJUANA OR MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE COMMITS A LEVEL 4 DRUG FELONY.

(b) A PERSON WHO POSSESSES MORE THAN SIX OUNCES OF MARIJUANA BUT NOT MORE THAN TWELVE OUNCES OF MARIJUANA OR NOT MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE COMMITS A LEVEL 1 DRUG MISDEMEANOR.

(c) A PERSON WHO POSSESSES MORE THAN TWO OUNCES OF MARIJUANA BUT NOT MORE THAN SIX OUNCES OF MARIJUANA COMMITS A LEVEL 2 DRUG MISDEMEANOR.

(5) (a) (I) EXCEPT AS DESCRIBED IN SECTION 18-1-711, A PERSON WHO POSSESSES NOT MORE THAN TWO OUNCES OF MARIJUANA COMMITS A DRUG PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

(II) WHENEVER A PERSON IS ARRESTED OR DETAINED FOR A VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE ARRESTING OR DETAINING OFFICER SHALL PREPARE A WRITTEN NOTICE OR SUMMONS FOR THE PERSON TO APPEAR IN COURT. THE WRITTEN NOTICE OR SUMMONS MUST CONTAIN THE NAME AND ADDRESS OF THE ARRESTED OR DETAINED PERSON, THE DATE, TIME, AND PLACE WHERE SUCH PERSON SHALL APPEAR, AND A PLACE FOR THE SIGNATURE OF THE PERSON INDICATING THE PERSON'S WRITTEN PROMISE TO APPEAR ON THE DATE AND AT THE TIME AND PLACE INDICATED ON THE NOTICE OR SUMMONS. ONE COPY OF THE NOTICE OR SUMMONS MUST BE GIVEN TO THE PERSON ARRESTED OR DETAINED, ONE COPY MUST BE SENT TO THE COURT WHERE THE ARRESTED OR DETAINED PERSON IS TO APPEAR, AND SUCH OTHER COPIES AS MAY BE REQUIRED BY THE LAW ENFORCEMENT AGENCY EMPLOYING THE ARRESTING OR DETAINING OFFICER MUST BE SENT TO THE PLACES DESIGNATED BY SUCH LAW ENFORCEMENT AGENCY. THE DATE SPECIFIED IN THE NOTICE OR SUMMONS TO APPEAR MUST BE AT LEAST SEVEN DAYS AFTER THE ARREST OR DETENTION UNLESS THE PERSON ARRESTED OR DETAINED DEMANDS AN EARLIER HEARING. THE PLACE SPECIFIED IN THE NOTICE OR SUMMONS TO APPEAR MUST BE BEFORE A JUDGE HAVING JURISDICTION OF THE DRUG PETTY OFFENSE WITHIN THE COUNTY IN WHICH THE DRUG PETTY OFFENSE CHARGED IS ALLEGED TO HAVE BEEN COMMITTED. THE ARRESTED OR DETAINED PERSON, IN ORDER TO SECURE RELEASE FROM ARREST OR DETENTION, MUST PROMISE IN WRITING TO APPEAR IN COURT BY SIGNING THE NOTICE OR SUMMONS PREPARED BY THE ARRESTING OR DETAINING OFFICER. ANY PERSON WHO DOES NOT HONOR THE WRITTEN PROMISE TO APPEAR COMMITS A CLASS 3 MISDEMEANOR.

(b) (I) EXCEPT AS DESCRIBED IN SECTION 18-1-711, A PERSON WHO OPENLY AND PUBLICLY DISPLAYS, CONSUMES, OR USES TWO OUNCES OR LESS OF MARIJUANA COMMITS A DRUG PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF UP TO ONE HUNDRED DOLLARS AND UP TO TWENTY-FOUR HOURS OF COMMUNITY SERVICE.

(II) OPEN AND PUBLIC DISPLAY, CONSUMPTION, OR USE OF MORE THAN TWO OUNCES OF MARIJUANA OR ANY AMOUNT OF MARIJUANA CONCENTRATE IS DEEMED POSSESSION THEREOF, AND VIOLATIONS SHALL BE PUNISHED AS PROVIDED FOR IN SUBSECTION (4) OF THIS SECTION.

(III) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), CONSUMPTION OR USE OF MARIJUANA OR MARIJUANA CONCENTRATE IS DEEMED POSSESSION THEREOF, AND VIOLATIONS MUST BE PUNISHED AS PROVIDED FOR IN PARAGRAPH (a) OF THIS SUBSECTION (5) AND SUBSECTION (4) OF THIS SECTION.

(c) TRANSFERRING OR DISPENSING NOT MORE THAN TWO OUNCES OF MARIJUANA FROM ONE PERSON TO ANOTHER FOR NO CONSIDERATION IS A DRUG PETTY OFFENSE AND IS NOT DEEMED DISPENSING OR SALE THEREOF.

(6) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY PERSON WHO POSSESSES, USES, PRESCRIBES, DISPENSES, OR ADMINISTERS ANY DRUG CLASSIFIED UNDER GROUP C GUIDELINES OF THE NATIONAL CANCER INSTITUTE, AS AMENDED, APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION.

(7) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY PERSON WHO

POSSESSES, USES, PRESCRIBES, DISPENSES, OR ADMINISTERS DRONABINOL (SYNTHETIC) IN SESAME OIL AND ENCAPSULATED IN A SOFT GELATIN CAPSULE IN A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED DRUG PRODUCT, PURSUANT TO PART 1 OF ARTICLE 42.5 OF TITLE 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

SECTION 12. In Colorado Revised Statutes, 18-18-406.1, **amend** (2) as follows:

18-18-406.1. Unlawful use or possession of synthetic cannabinoids or salvia divinorum. (2) A person who violates any provision of subsection (1) of this section commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR.

SECTION 13. In Colorado Revised Statutes, 18-18-406.2, **amend** (2) and (3) as follows:

18-18-406.2. Unlawful distribution, manufacturing, dispensing, sale, or cultivation of synthetic cannabinoids or salvia divinorum. (2) A person who violates any provision of subsection (1) of this section commits a ~~class 5 felony~~ LEVEL 3 DRUG FELONY.

(3) Notwithstanding the provisions of subsection (2) of this section, a person who violates any provision of subsection (1) of this section by dispensing, selling, or distributing any amount of any synthetic cannabinoid or salvia divinorum commits a ~~class 4 felony~~ LEVEL 2 DRUG FELONY if the person:

(a) Dispenses, sells, or distributes the synthetic cannabinoid or salvia divinorum to a minor who is less than eighteen years of age; and

(b) Is at least eighteen years of age and at least two years older than said minor.

SECTION 14. In Colorado Revised Statutes, 18-18-406.5, **amend** (1) as follows:

18-18-406.5. Unlawful use of marijuana in a detention facility. (1) ~~Any~~ A person confined in ~~any~~ A detention facility in this state who possesses or uses up to eight ounces of marijuana commits a ~~class 6 felony~~; ~~except that, if the person commits a second or subsequent violation where both the initial and subsequent violations involved more than one ounce of marijuana, the person commits a class 5 felony~~ LEVEL 1 DRUG MISDEMEANOR.

SECTION 15. In Colorado Revised Statutes, **repeal** 18-18-406.7 and 18-18-406.8.

SECTION 16. In Colorado Revised Statutes, **amend** 18-18-407 as follows:

18-18-407. Special offenses - definitions. (1) ~~Upon a felony conviction under this part 4, the presence of any one or more of the following extraordinary aggravating circumstances designating the defendant a special offender shall require the court to sentence the defendant to the department of corrections for a term of at least the minimum term of years within the presumptive range for a class 2 felony but not more than twice the maximum term of years within the presumptive range for a class 2 felony:~~

~~(a) The defendant was previously convicted in courts of the United States or a state or any political subdivision thereof for two or more offenses involving the manufacture, sale, dispensing, or distribution of controlled substances, which offenses did not arise from the same criminal episode or course of events and differ from the pending felony and which were punishable by imprisonment in excess of one year;~~

~~(b) The defendant committed an offense as part of a pattern of manufacturing, sale, dispensing, or distributing controlled substances, which offense is a felony under applicable laws of Colorado, which constituted a substantial source of that person's income, and in which that person manifested special skill or expertise;~~

~~(c) The defendant committed a felony which was, or was in furtherance of, a conspiracy with one or more persons to engage in a pattern of manufacturing, sale, dispensing, or distributing a controlled substance, which offense is a felony under applicable laws of Colorado, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or manufacture, sale, dispensing, or distributing, or give or receive a bribe, or use force in connection with such manufacture, sale, dispensing, or distribution;~~

~~(d) The defendant unlawfully introduced, distributed, or imported into the state of Colorado more than four grams of any schedule I or II controlled substance listed in part 2 of this article or more than two grams of methamphetamine;~~

~~(e) The defendant unlawfully sold, dispensed, distributed, possessed, or imported into the state of Colorado a quantity in excess of one hundred pounds of marijuana or marijuana concentrate;~~

~~(f)(I) The defendant used, displayed, or possessed on his or her person or within his or her immediate reach, a deadly weapon as defined in section 18-1-901 (3) (e) at the time of the commission of a violation of this part 4; or~~

~~(II) The defendant or a confederate of the defendant possessed a firearm, as defined in section 18-1-901 (3) (h), to which the defendant or confederate had access in a manner that posed a risk to others or in a vehicle the defendant was occupying during the commission of a violation of this part 4;~~

~~(g) The defendant solicited, induced, encouraged, intimidated, employed, hired, or procured a child, as defined in section 19-1-103 (18), C.R.S., to act as his agent to assist in the unlawful distribution, manufacturing, dispensing, sale, or possession for the purposes of sale of any controlled substance in violation of section 18-18-405. It shall not be a defense under this paragraph (g) that the defendant did not know the age of any such individual.~~

~~(h)(I) The defendant engaged in a continuing criminal enterprise by violating any provision of this part 4 which is a felony; and~~

~~(II) The violation is a part of a continuing series of two or more violations of this part 4 on separate occasions;~~

~~(A) Which are undertaken by that person in concert with five or more other persons with respect to whom that person occupies a position of organizer, supervisor, or any other position of management; and~~

~~(B) From which that person obtained substantial income or resources.~~

~~(2) (a) A defendant shall be a special offender if the defendant is convicted of selling, distributing, possessing with intent to distribute, manufacturing, or attempting to manufacture any controlled substance in violation of section 18-18-405 either within or upon the grounds of any public or private elementary, middle, junior high, or high school, vocational school, or public housing development, or within one thousand feet of the perimeter of any such school or public housing development grounds on any street, alley, parkway, sidewalk, public park, playground, or other area or premises that is accessible to the public, or within any private dwelling that is accessible to the public for the purpose of the sale, distribution, use, exchange, manufacture, or attempted manufacture of controlled substances in violation of this article, or in any school vehicle, as defined in section 42-1-102 (88.5), C.R.S., while such school vehicle is engaged in the transportation of persons who are students. The court is required in addition to imposing the sentence to imprisonment in the department of corrections required by subsection (1) of this section, to fine the defendant without suspension at least twice the minimum fine provided for in section 18-1.3-401 (1) (a) (III) if the defendant's offense is a felony or in section 18-1.3-501 (1) if the defendant's offense is a misdemeanor.~~

~~(b) The department of education may cooperate with local boards of education and the officials of public housing developments, and make recommendations regarding the uniform implementation and furnishing of notice of the provisions of this subsection (2). Such recommendations may include, but shall not be limited to, the uniform use of signs and other methods of notification which may be used to implement this subsection (2).~~

~~(c) For the purposes of this section, the term "public housing development" means any low-income housing project of any state, county, municipal, or other governmental entity or public body owned and operated by a public housing authority that has an on-site manager. "Public housing development" shall not include single-family dispersed housing or small or large clusters of dispersed housing having no on-site manager.~~

~~(1) UPON A FELONY CONVICTION UNDER THIS PART 4, THE PRESENCE OF ANY ONE OR MORE OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES DESIGNATED THE DEFENDANT A SPECIAL OFFENDER SHALL REQUIRE THE COURT TO SENTENCE THE DEFENDANT TO THE DEPARTMENT OF CORRECTIONS FOR AT LEAST THE MINIMUM TERM OF YEARS WITHIN THE PRESUMPTIVE RANGE FOR A LEVEL 1 DRUG FELONY:~~

~~(a) THE DEFENDANT COMMITTED THE VIOLATION AS PART OF A PATTERN OF MANUFACTURING, SALE, DISPENSING, OR DISTRIBUTING CONTROLLED SUBSTANCES, WHICH VIOLATION IS A FELONY UNDER APPLICABLE LAWS OF COLORADO, WHICH CONSTITUTED A SUBSTANTIAL SOURCE OF THAT PERSON'S INCOME, AND IN WHICH THAT PERSON MANIFESTED SPECIAL SKILL OR EXPERTISE;~~

(b) THE DEFENDANT COMMITTED THE VIOLATION IN THE COURSE OF, OR IN FURTHERANCE OF, A CONSPIRACY WITH ONE OR MORE PERSONS TO ENGAGE IN A PATTERN OF MANUFACTURING, SALE, DISPENSING, OR DISTRIBUTING A CONTROLLED SUBSTANCE, WHICH OFFENSE IS A FELONY UNDER APPLICABLE LAWS OF COLORADO, AND THE DEFENDANT DID, OR AGREED THAT HE OR SHE WOULD, INITIATE, ORGANIZE, PLAN, FINANCE, DIRECT, MANAGE, OR SUPERVISE ALL OR PART OF SUCH CONSPIRACY OR MANUFACTURE, SALE, DISPENSING, OR DISTRIBUTING, OR GIVE OR RECEIVE A BRIBE, OR USE FORCE IN CONNECTION WITH SUCH MANUFACTURE, SALE, DISPENSING, OR DISTRIBUTION;

(c) THE DEFENDANT COMMITTED THE VIOLATION AND IN THE COURSE OF THAT VIOLATION IMPORTED INTO THE STATE OF COLORADO MORE THAN FOURTEEN GRAMS OF ANY SCHEDULE I OR II CONTROLLED SUBSTANCE LISTED IN PART 2 OF THIS ARTICLE OR MORE THAN SEVEN GRAMS OF METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE, OR TEN MILLIGRAMS OF FLUNITRAZEPAM;

(d) (I) THE DEFENDANT USED, DISPLAYED, OR POSSESSED ON HIS OR HER PERSON OR WITHIN HIS OR HER IMMEDIATE REACH, A DEADLY WEAPON AS DEFINED IN SECTION 18-1-901 (3) (e) AT THE TIME OF THE COMMISSION OF A VIOLATION; OR

(II) THE DEFENDANT OR A CONFEDERATE OF THE DEFENDANT POSSESSED A FIREARM, AS DEFINED IN SECTION 18-1-901 (3) (h), TO WHICH THE DEFENDANT OR CONFEDERATE HAD ACCESS IN A MANNER THAT POSED A RISK TO OTHERS OR IN A VEHICLE THE DEFENDANT WAS OCCUPYING AT THE TIME OF THE COMMISSION OF THE VIOLATION OF SUBSECTION (1) OF THIS SECTION;

(e) THE DEFENDANT SOLICITED, INDUCED, ENCOURAGED, INTIMIDATED, EMPLOYED, HIRED, OR PROCURED A CHILD, AS DEFINED IN SECTION 19-1-103 (18), C.R.S., TO ACT AS HIS OR HER AGENT TO ASSIST IN THE UNLAWFUL DISTRIBUTION, MANUFACTURING, DISPENSING, SALE, OR POSSESSION FOR THE PURPOSES OF SALE OF ANY CONTROLLED SUBSTANCE AT THE TIME OF THE COMMISSION OF THE VIOLATION. IT SHALL NOT BE A DEFENSE UNDER THIS PARAGRAPH (e) THAT THE DEFENDANT DID NOT KNOW THE AGE OF ANY SUCH CHILD.

(f) (I) THE DEFENDANT ENGAGED IN A CONTINUING CRIMINAL ENTERPRISE BY VIOLATING ANY FELONY PROVISION; AND

(II) THE VIOLATION IS A PART OF A CONTINUING SERIES OF TWO OR MORE VIOLATIONS OF THIS PART 4 ON SEPARATE OCCASIONS:

(A) WHICH ARE UNDERTAKEN BY THAT PERSON IN CONCERT WITH FIVE OR MORE OTHER PERSONS WITH RESPECT TO WHOM THAT PERSON OCCUPIES A POSITION OF ORGANIZER, SUPERVISOR, OR ANY OTHER POSITION OF MANAGEMENT; AND

(B) FROM WHICH THAT PERSON OBTAINED SUBSTANTIAL INCOME OR RESOURCES.

(g) (I) THE DEFENDANT IS CONVICTED OF SELLING, DISTRIBUTING, POSSESSING WITH INTENT TO DISTRIBUTE, MANUFACTURING, OR ATTEMPTING TO MANUFACTURE ANY CONTROLLED SUBSTANCE EITHER WITHIN OR UPON THE GROUNDS OF ANY PUBLIC OR PRIVATE ELEMENTARY SCHOOL, MIDDLE SCHOOL, JUNIOR HIGH SCHOOL, OR HIGH SCHOOL, VOCATIONAL SCHOOL, OR PUBLIC HOUSING DEVELOPMENT; WITHIN

ONE THOUSAND FEET OF THE PERIMETER OF ANY SUCH SCHOOL OR PUBLIC HOUSING DEVELOPMENT GROUNDS ON ANY STREET, ALLEY, PARKWAY, SIDEWALK, PUBLIC PARK, PLAYGROUND, OR OTHER AREA OR PREMISES THAT IS ACCESSIBLE TO THE PUBLIC; WITHIN ANY PRIVATE DWELLING THAT IS ACCESSIBLE TO THE PUBLIC FOR THE PURPOSE OF THE SALE, DISTRIBUTION, USE, EXCHANGE, MANUFACTURE, OR ATTEMPTED MANUFACTURE OF CONTROLLED SUBSTANCES IN VIOLATION OF THIS ARTICLE; OR IN ANY SCHOOL VEHICLE, AS DEFINED IN SECTION 42-1-102 (88.5), C.R.S., WHILE SUCH SCHOOL VEHICLE IS ENGAGED IN THE TRANSPORTATION OF PERSONS WHO ARE STUDENTS.

(II) THE DEPARTMENT OF EDUCATION MAY COOPERATE WITH LOCAL BOARDS OF EDUCATION AND THE OFFICIALS OF PUBLIC HOUSING DEVELOPMENTS AND MAKE RECOMMENDATIONS REGARDING THE UNIFORM IMPLEMENTATION AND FURNISHING OF NOTICE OF THE PROVISIONS OF THIS PARAGRAPH (g). SUCH RECOMMENDATIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE UNIFORM USE OF SIGNS AND OTHER METHODS OF NOTIFICATION THAT MAY BE USED TO IMPLEMENT THIS PARAGRAPH (g).

(III) FOR THE PURPOSES OF THIS SECTION, THE TERM "PUBLIC HOUSING DEVELOPMENT" MEANS ANY LOW-INCOME HOUSING PROJECT OF ANY STATE, COUNTY, MUNICIPAL, OR OTHER GOVERNMENTAL ENTITY OR PUBLIC BODY OWNED AND OPERATED BY A PUBLIC HOUSING AUTHORITY THAT HAS AN ON-SITE MANAGER. "PUBLIC HOUSING DEVELOPMENT" DOES NOT INCLUDE SINGLE-FAMILY DISPERSED HOUSING OR SMALL OR LARGE CLUSTERS OF DISPERSED HOUSING HAVING NO ON-SITE MANAGER.

(2) (a) In support of the findings under paragraph (b) (a) of subsection (1) of this section, it may be shown that the defendant has had in his OR HER own name or under his OR HER control income or property not explained as derived from a source other than such manufacture, sale, dispensing, or distribution of controlled substances.

(b) For the purposes of paragraph (b) (a) of subsection (1) of this section only, a "substantial source of that person's income" means a source of income which, for any period of one year or more, exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, or which, for the same period, exceeds fifty percent of the defendant's declared adjusted gross income under Colorado or any other state law or under federal law, whichever adjusted gross income is less.

(c) For the purposes of paragraph (b) (a) of subsection (1) of this section, "special skill or expertise" in such manufacture, sale, dispensing, or distribution includes any unusual knowledge, judgment, or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, directing, managing, supervising, executing, or concealing of such manufacture, sale, dispensing, or distributing, the enlistment of accomplices in such manufacture, sale, dispensing, or distribution, the escape from detection or apprehension for such manufacture, sale, dispensing, or distribution, or the disposition of the fruits or proceeds of such manufacture, sale, dispensing, or distribution.

(d) For the purposes of paragraphs (a) AND (b) and (c) of subsection (1) of this

section, such manufacture, sale, dispensing, or distribution forms a pattern if it embraces criminal acts which have the same or similar purposes, results, participants, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated events.

~~(4) Nothing in this section shall preclude the court from considering aggravating circumstances other than those stated in subsection (1) of this section as a basis for sentencing the defendant to a term greater than the presumptive range for the felony.~~

~~(5) If a defendant who is subject to the provisions of this section is subject to a greater sentence pursuant to the provisions of another statute, the court shall impose sentence pursuant to that statute. The prosecution shall not be forced to elect under which statute to proceed.~~

SECTION 17. In Colorado Revised Statutes, 18-18-411, **amend** (4) as follows:

18-18-411. Keeping, maintaining, controlling, renting, or making available property for unlawful distribution or manufacture of controlled substances.

~~(4) A person who violates this section commits a class 1 misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

SECTION 18. In Colorado Revised Statutes, 18-18-412, **amend** (2) as follows:

18-18-412. Abusing toxic vapors - prohibited. (2) ~~Any~~ A person who knowingly violates the provisions of subsection (1) of this section commits the offense of abusing toxic vapors. Abusing toxic vapors is a ~~class 1 petty offense~~ LEVEL 2 DRUG MISDEMEANOR; except that ~~no~~ A person shall NOT receive a sentence to confinement in jail for being convicted of a first offense pursuant to this subsection (2). ~~Any~~ A person convicted of a second or ~~any~~ subsequent offense pursuant to this subsection (2) may receive a sentence to confinement in jail.

SECTION 19. In Colorado Revised Statutes, 18-18-412.5, **amend** (3) as follows:

18-18-412.5. Unlawful possession of materials to make methamphetamine and amphetamine - penalty. (3) A person who violates the provisions of this section commits a ~~class 3 felony~~ LEVEL 2 DRUG FELONY.

SECTION 20. In Colorado Revised Statutes, 18-18-412.7, **amend** (2) as follows:

18-18-412.7. Sale or distribution of materials to manufacture controlled substances. (2) A violation of this section is a ~~class 3 felony~~. A violation of this section is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section ~~18-1.3-401(10)~~ LEVEL 2 DRUG FELONY.

SECTION 21. In Colorado Revised Statutes, 18-18-412.8, **amend** (3) (a) as follows:

18-18-412.8. Retail sale of methamphetamine precursor drugs - unlawful acts - penalty. (3) (a) A person who knowingly violates a provision of this section commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR and, upon conviction, shall be punished as provided in section 18-1.3-501.

SECTION 22. In Colorado Revised Statutes, **amend** 18-18-413 as follows:

18-18-413. Authorized possession of controlled substances. A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner may lawfully possess it, but only in the container in which it was delivered to him unless he is able to show that he is the legal owner or a person acting at the direction of the legal owner of the controlled substance. Any person convicted of violating this section commits a ~~class 4~~ DRUG petty offense, AND THE COURT SHALL IMPOSE A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

SECTION 23. In Colorado Revised Statutes, 18-18-414, **amend** (3), (4), and (5) as follows:

18-18-414. Unlawful acts - licenses - penalties. (3) ~~Any~~ A person who violates paragraph (a), (b), (c), or (d) of subsection (1) of this section ~~shall be punished as provided for in section 18-18-405 or 18-18-406~~ COMMITS A LEVEL 4 DRUG FELONY.

(4) ~~Any~~ A person who violates paragraph (e), (f), (g), (h), (i), (j), (k), (l), (m), or (n) of subsection (1) of this section or subsection (2) of this section or any other provision of this part 4 for which a penalty is not specified is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment LEVEL 2 DRUG MISDEMEANOR.

(5) ~~Any~~ A person who violates paragraph (o), (q), (r), or (t) of subsection (1) of this section commits a ~~class 4 felony~~ LEVEL 3 DRUG FELONY.

SECTION 24. In Colorado Revised Statutes, 18-18-415, **amend** (2) (a) as follows:

18-18-415. Fraud and deceit. (2) Any person who violates any provision of this section commits:

(a) A ~~class 6 felony~~ LEVEL 4 DRUG FELONY and shall be punished as provided in section ~~18-1.3-401~~ 18-1.3-401.5.

SECTION 25. In Colorado Revised Statutes, 18-18-416, **amend** (2) as follows:

18-18-416. Controlled substances - inducing consumption by fraudulent means. (2) ~~Any~~ A person who violates the provisions of this section commits a ~~class 4 felony~~ LEVEL 3 DRUG FELONY.

SECTION 26. In Colorado Revised Statutes, 18-18-422, **amend** (1), (2), and (3) as follows:

18-18-422. Imitation controlled substances - violations - penalties. (1) (a) Except as provided in section 18-18-424, it is unlawful for ~~any~~ A person to manufacture, distribute, or possess with intent to distribute an imitation controlled substance.

(b) ~~Any~~ A person who violates the provisions of paragraph (a) of this subsection

(1) commits:

(I) ~~A class 5 felony; or~~ LEVEL 4 DRUG FELONY.

(II) ~~A class 4 felony, if the violation is committed subsequent to a prior conviction for a violation of this subsection (1).~~

(2) (a) ~~It is unlawful for a person eighteen years of age or over to distribute~~ IF AN ADULT DISTRIBUTES an imitation controlled substance to a ~~person under eighteen years of age~~ MINOR AND THE ADULT IS AT LEAST TWO YEARS OLDER THAN THE MINOR, THE ADULT COMMITS A LEVEL 3 DRUG FELONY.

(b) ~~Any person who violates the provisions of paragraph (a) of this subsection (2) commits:~~

(I) ~~A class 3 DRUG felony; or~~

(II) ~~A class 3 felony, if the violation is committed subsequent to a prior conviction for a violation of this subsection (2).~~

(3) (a) It is unlawful for ~~any~~ A person to place in a newspaper, magazine, handbill, or other publication or to post or distribute in ~~any~~ A public place ~~any~~ AN advertisement or solicitation ~~which he~~ THAT THE PERSON knows will promote the distribution of imitation controlled substances.

(b) ~~Any~~ A person who violates the provisions of paragraph (a) of this subsection (3) commits a ~~class 1 misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

SECTION 27. In Colorado Revised Statutes, 18-18-423, **amend** (3) as follows:

18-18-423. Counterfeit substances prohibited - penalty. (3) ~~Any~~ A person who violates this section commits a ~~class 5 felony~~ LEVEL 3 DRUG FELONY.

SECTION 28. In Colorado Revised Statutes, 18-18-428, **amend** (2) as follows:

18-18-428. Possession of drug paraphernalia - penalty. (2) Any person who commits possession of drug paraphernalia commits a ~~class 2~~ DRUG petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

SECTION 29. In Colorado Revised Statutes, **amend** 18-18-429 as follows:

18-18-429. Manufacture, sale, or delivery of drug paraphernalia - penalty. Any person who sells or delivers, possesses with intent to sell or deliver, or manufactures with intent to sell or deliver equipment, products, or materials knowing, or under circumstances where one reasonably should know, that such equipment, products, or materials could be used as drug paraphernalia commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR.

SECTION 30. In Colorado Revised Statutes, **amend** 18-18-430 as follows:

18-18-430. Advertisement of drug paraphernalia - penalty. Any person who places an advertisement in ~~any~~ A newspaper, magazine, handbill, or other publication and who intends thereby to promote the sale in this state of equipment, products, or materials designed and intended for use as drug paraphernalia commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR.

SECTION 31. In Colorado Revised Statutes, **add** 18-18-433 as follows:

18-18-433. Constitutional provisions. THE PROVISIONS OF THIS PART 4 DO NOT APPLY TO A PERSON TWENTY-ONE YEARS OF AGE OR OLDER ACTING IN CONFORMANCE WITH SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION AND DO NOT APPLY TO A PERSON ACTING IN CONFORMANCE WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

SECTION 32. In Colorado Revised Statutes, 16-7-301, **add** (5) as follows:

16-7-301. Propriety of plea discussions and plea agreements. (5) ANY PLEA AGREEMENT IN A CASE INVOLVING A PLEA TO A VIOLATION OF ARTICLE 18 OF TITLE 18, C.R.S., MAY NOT REQUIRE A WAIVER BY THE DEFENDANT OF THE RIGHT TO PETITION TO HAVE THE DEFENDANT'S CRIMINAL CONVICTION RECORDS SEALED PURSUANT TO PART 3 OF ARTICLE 72 OF TITLE 24, C.R.S.

SECTION 33. In Colorado Revised Statutes, 18-1.3-204, **add** (2.2) as follows:

18-1.3-204. Conditions of probation - interstate compact probation transfer cash fund - creation. (2.2) IF A DEFENDANT IS SENTENCED TO PROBATION FOR A DRUG OFFENSE, THE COURT MAY INCLUDE AS A CONDITION OF PROBATION A REQUIREMENT THAT THE DEFENDANT PARTICIPATE IN DRUG TREATMENT. IF THE DEFENDANT'S ASSESSED TREATMENT NEED IS FOR RESIDENTIAL TREATMENT, THE COURT MAY MAKE RESIDENTIAL DRUG TREATMENT A CONDITION OF PROBATION AND MAY PLACE THE OFFENDER IN A COMMUNITY CORRECTIONS PROGRAM THAT CAN PROVIDE THE APPROPRIATE LEVEL OF TREATMENT SUBJECT TO THE PROVISION OF SECTION 18-1.3-301 (4).

SECTION 34. In Colorado Revised Statutes, 18-8-208, **add** (11) as follows:

18-8-208. Escapes. (11) A PERSON WHO IS PLACED IN A COMMUNITY CORRECTIONS PROGRAM FOR PURPOSES OF OBTAINING RESIDENTIAL TREATMENT AS A CONDITION OF PROBATION PURSUANT TO SECTION 18-1.3-204 (2.2) OR 18-1.3-301 (4) (b) IS NOT IN CUSTODY OR CONFINEMENT FOR PURPOSES OF THIS SECTION.

SECTION 35. In Colorado Revised Statutes, **amend** 18-1.3-208, as follows:

18-1.3-208. Intensive supervision probation programs - legislative declaration. (1) The general assembly finds and declares that intensive supervision probation programs are an effective and desirable alternative to sentences to imprisonment, ~~or~~ community corrections, OR JAIL. It is the purpose of this section to encourage the judicial department to establish programs for the intensive supervision of selected probationers. It is the intent of the general assembly that such programs be formulated so that they protect the safety and welfare of the public in the community where the programs are operating and throughout the state

of Colorado.

(2) The judicial department may establish an intensive supervision probation program in any judicial district or combination of judicial districts in order to provide an alternative to the sentencing of selected offenders to the department of corrections; SUPERVISION TAILORED TO THE SPECIFIC CHARACTERISTICS THAT PRODUCE A RISK CLASSIFICATION REQUIRING INTENSIVE SERVICES FOR THE OFFENDER AND TO FACILITATE THE OFFENDER'S PARTICIPATION IN REHABILITATIVE PROGRAMS INTENDED TO ADDRESS THOSE CHARACTERISTICS. When establishing such programs, the judicial department shall seek the counsel of the chief judge of the district court, the office of the district attorney, the state public defender or his or her designee, the county sheriff, the chief probation officer in the judicial district, the department of corrections, the local community corrections board, and members of the public at-large.

(3) The judicial department shall require that offenders in the program receive at least the highest level of supervision that is provided to probationers. ~~Such programs are to include highly restricted activities, daily contact between the offender and the probation officer, monitored curfew, home visitation, employment visitation and monitoring, drug and alcohol screening, treatment referrals and monitoring, and restitution and community service and shall minimize any risk to the public.~~

(4) ~~The court may sentence~~ WHEN THE COURT SENTENCES any offender who is otherwise eligible for TO probation, and who would otherwise be sentenced to the department of corrections, TO THE PROBATION DEPARTMENT SHALL COMPLETE AN INITIAL ASSESSMENT OF THE OFFENDER'S RISK AND NEEDS, USING VALID ASSESSMENT TOOLS APPROVED BY THE STATE COURT ADMINISTRATOR'S OFFICE. OFFENDERS WHO ARE DETERMINED THROUGH ASSESSMENT TO BE HIGH RISK AND WHO MEET THE ACCEPTANCE CRITERIA MAY BE PLACED IN an intensive supervision probation program BY PROBATION. ~~if the court determines that such offender is not a threat to society.~~ FURTHERMORE, INTENSIVE SUPERVISION PROBATION MAY BE USED FOR AN OFFENDER WHO HAS BEEN UNDER THE SUPERVISION OF PROBATION FOR A PERIOD OF TIME AND A REASSESSMENT INDICATES THE OFFENDER'S RISK OF REOFFENSE HAS INCREASED TO HIGH AND THE OFFENDER MEETS THE ACCEPTANCE CRITERIA OF THE INTENSIVE PROGRAM. For purposes of this section, "offender" shall have the same meaning as that set forth in section 17-27-102 (6), C.R.S.

(5) The judicial department shall have the power to establish and enforce standards and criteria for the administration of intensive supervision probation programs.

(6) (a) It is the intent of the general assembly in enacting this subsection (6) to ~~address a portion of the projected state inmate bedspace requirements through expansion of intensive supervision probation programs authorized by this section~~ RECOGNIZE THAT HIGH-RISK OFFENDERS CAN BE MANAGED IN THE COMMUNITY WITH THE APPROPRIATE SUPERVISION AND THE USE OF EVIDENCE-BASED TREATMENT PROGRAMS AND PRACTICES.

(b) The judicial department is directed to CREATE AND implement a ~~three-phase expansion of intensive supervision probation programs in fiscal years 1995-96 and 1996-97 to include an additional seven hundred fifty participants over the number~~

~~of participants in such programs on July 1, 1995~~ INTENSIVE SUPERVISION PROBATION PROGRAMS BASED ON THE CURRENT EVIDENCE FOR REDUCING RECIDIVISM BY OCTOBER 1, 2013. INTENSIVE SUPERVISION PROBATION PROGRAMS MUST REQUIRE THE USE OF VALIDATED ASSESSMENTS TO DETERMINE THE OFFENDER'S RISK OF REOFFENDING. THE JUDICIAL DEPARTMENT SHALL DEVELOP ACCEPTANCE CRITERIA FOR PLACEMENT IN ALL INTENSIVE SUPERVISION PROBATION PROGRAMS. THE JUDICIAL DEPARTMENT SHALL DEVELOP CRITERIA FOR OFFENDERS TO TRANSITION FROM INTENSIVE SUPERVISION PROBATION PROGRAMS TO REGULAR PROBATION, BASED ON ASSESSMENT OF RISK AND NEED AND PROGRAM COMPLIANCE. AN OFFENDER MAY NOT BE PLACED IN OR TRANSFERRED OUT OF AN INTENSIVE SUPERVISION PROBATION PROGRAM WITHOUT MEETING ESTABLISHED CRITERIA.

SECTION 36. In Colorado Revised Statutes, 18-1.3-801, **amend** (1) (a) (I) (A), (1.5), (2), and (4) as follows:

18-1.3-801. Punishment for habitual criminals. (1) (a) A person shall be adjudged an habitual criminal and shall be punished by a term in the department of corrections of life imprisonment if the person:

(I) Is convicted of:

(A) Any class 1 or 2 felony OR LEVEL 1 DRUG FELONY; or

(1.5) Except as otherwise provided in subsection (5) of this section, every person convicted in this state of any class 1, 2, 3, 4, or 5 felony OR LEVEL 1, 2, OR 3 DRUG FELONY who, within ten years of the date of the commission of the said offense, has been twice 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:

(a) For the felony offense of which such person is convicted by imprisonment in the department of corrections for a term of three times the maximum of the presumptive range pursuant to section 18-1.3-401 for the class OR LEVEL of felony of which such person is convicted; OR

(b) FOR THE LEVEL 1 DRUG FELONY OFFENSE OF WHICH SUCH PERSON IS CONVICTED BY IMPRISONMENT IN THE DEPARTMENT OF CORRECTIONS FOR A TERM OF FORTY-EIGHT YEARS.

(2) (a) (I) Except as otherwise provided in paragraph (b) of this subsection (2) and in subsection (5) of this section, 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:

(A) 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 OR LEVEL of felony of which such person is convicted; OR

(B) FOR THE LEVEL 1 DRUG FELONY OFFENSE OF WHICH SUCH PERSON IS CONVICTED BY IMPRISONMENT IN THE DEPARTMENT OF CORRECTIONS FOR A TERM OF SIXTY-FOUR YEARS.

(II) 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 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~~ LEVEL 4 DRUG felony pursuant to section 18-18-403.5 (2) ~~(a) (f) or (2) (b) (f)~~, or a conviction for a ~~class 6~~ LEVEL 4 DRUG felony for attempt or conspiracy to commit unlawful possession of a controlled substance, as described in section 18-18-403.5 (2) ~~(a) (f) or (2) (b) (f)~~, IF THE AMOUNT OF THE SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE POSSESSED IS NOT MORE THAN FOUR GRAMS OR NOT MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN, CATHINONE, KETAMINE OR NOT MORE FOUR MILLIGRAMS OF FLUNITRAZEPAM, even if the person has been previously convicted of three or more qualifying felony convictions.

SECTION 37. In Colorado Revised Statutes, 16-4-203, **amend** (5) as follows:

16-4-203. Appeal bond hearing - order. (5) If the defendant has been charged with committing another felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor while he OR SHE is at liberty on an appeal bond, and probable cause has been found with respect to such other felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor or the defendant has waived his OR HER right to a probable cause determination as to the felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor, the court shall revoke his OR HER appeal bond on motion of the attorney general or district attorney.

SECTION 38. In Colorado Revised Statutes, 16-5-206, **amend** (1) as follows:

16-5-206. Summons in lieu of warrant. (1) Except in class 1, class 2, and class 3 felonies, LEVEL 1 AND LEVEL 2 DRUG FELONIES, and in unclassified felonies punishable by a maximum penalty of more than ten years, if an indictment is returned or an information, felony complaint, or complaint has been filed prior to the arrest of the person named as defendant therein, the court has power to issue a summons commanding the appearance of the defendant in lieu of a warrant for his or her arrest unless a law enforcement officer presents in writing a basis to believe there is a significant risk of flight or that the victim or public safety may be compromised.

SECTION 39. In Colorado Revised Statutes, 16-5-207, **amend** (2) introductory portion as follows:

16-5-207. Standards and criteria relating to issuance of summons in lieu of warrant. (2) Except in class 1, class 2, and class 3 felonies OR LEVEL 1 OR LEVEL 2 DRUG FELONIES, the general policy shall favor issuance of a summons instead of a warrant for the arrest of the defendant except where there is reasonable ground to believe that, unless taken into custody, the defendant will flee to avoid prosecution or will fail to respond to a summons. The court shall issue a summons instead of an arrest warrant when the prosecuting attorney so requests. When an application is made to a court for issuance of an arrest warrant or summons, the court may require the applicant to provide such information as reasonably is available concerning the following:

SECTION 40. In Colorado Revised Statutes, 16-5-301, **amend** (1) (a) and (1) (b) (II) as follows:

16-5-301. Preliminary hearing or waiver - dispositional hearing.

(1) (a) Every person accused of a class 1, 2, or 3 felony OR LEVEL 1 OR LEVEL 2 DRUG FELONY by direct information or felony complaint has the right to demand and receive a preliminary hearing within a reasonable time to determine whether probable cause exists to believe that the offense charged in the information or felony complaint was committed by the defendant. In addition, only those persons accused of a class 4, 5, or 6 felony by direct information or felony complaint which felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406, C.R.S., or is a sexual offense under part 4 of article 3 of title 18, C.R.S., shall have the right to demand and receive a preliminary hearing within a reasonable time to determine whether probable cause exists to believe that the offense charged in the information or felony complaint was committed by the defendant. The procedure to be followed in asserting the right to a preliminary hearing and the time within which demand therefor must be made, as well as the time within which the hearing, if demanded, shall be had, shall be as provided by applicable rule of the supreme court of Colorado. A failure to observe and substantially comply with such rule shall be deemed a waiver of this right to a preliminary hearing.

(b) (II) Any defendant accused of a class 4, 5, or 6 felony OR LEVEL 3 OR LEVEL 4 DRUG FELONY who is not otherwise entitled to a preliminary hearing pursuant to subparagraph (I) of this paragraph (b), may demand and shall receive a preliminary hearing within a reasonable time pursuant to paragraph (a) of this subsection (1), if the defendant is in custody for the offense for which the preliminary hearing is requested; except that, upon motion of either party, the court shall vacate the preliminary hearing if there is a reasonable showing that the defendant has been released from custody prior to the preliminary hearing.

SECTION 41. In Colorado Revised Statutes, **amend** 16-5-501 as follows:

16-5-501. Prosecuting attorney - incarceration - legal representation and supporting services at state expense. Except as otherwise provided, in any criminal prosecution for class 2 and class 3 misdemeanors, LEVEL 1 AND LEVEL 2 DRUG MISDEMEANORS, petty offenses, class 1 and class 2 misdemeanor traffic offenses, or municipal or county ordinance violations, the prosecuting attorney may, at any time during the prosecution, state in writing whether or not he or she will seek incarceration as part of the penalty upon conviction of an offense for which the defendant has been charged. If the prosecuting attorney does not seek incarceration

as part of such penalty, legal representation and supporting services need not thereafter be provided for the defendant at state expense, and no such defendant shall be incarcerated if found guilty of the charges against him or her, but the defendant shall be subject to all alternatives available to the court under section 18-1.3-702, C.R.S., and to alternatives available to each municipality under its municipal ordinances for failure to pay fines and costs.

SECTION 42. In Colorado Revised Statutes, 16-7-202, **amend** (1) as follows:

16-7-202. Presence of defendant. (1) If the offense charged is a felony, A LEVEL 1 DRUG MISDEMEANOR, or a class 1 misdemeanor or if the maximum penalty for the offense charged is more than one year's imprisonment, the defendant must be personally present for arraignment; except that the court, for good cause shown, may accept a plea of not guilty made by an attorney representing the defendant without requiring the defendant to be personally present. In all prosecutions for lesser offenses, the defendant may appear by his or her attorney who may enter a plea on his or her behalf. If the defendant appears personally for a charge that is not in title 42, C.R.S., the court may advise the defendant of the possibility that restorative justice practices may be part of a sentence, if available in the jurisdiction and requested by the victim who has been informed about the restorative justice practices pursuant to section 24-4.1-303 (1) (g), C.R.S.

SECTION 43. In Colorado Revised Statutes, 16-7-206, **amend** (1) (c) as follows:

16-7-206. Guilty pleas - procedure and effect. (1) Every person charged with an offense shall be permitted to tender a plea of guilty to that offense if the following conditions have been satisfied:

(c) In all felony, LEVEL 1 DRUG MISDEMEANOR, and class 1 misdemeanor cases, the defendant shall be represented by counsel or waive his right thereto in open court, and the guilty plea shall be tendered in open court by the defendant in the presence of counsel, if any.

SECTION 44. In Colorado Revised Statutes, **amend** 16-10-105 as follows:

16-10-105. Alternate jurors. The court may direct that a sufficient number of jurors in addition to the regular jury be called and impaneled to sit as Alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror shall be discharged when the jury retires to consider its verdict or at such time as determined by the court. When alternate jurors are impaneled, each side is entitled to one peremptory challenge in addition to those otherwise allowed by law. In a case in which a class 1, 2, or 3 felony, as described in section 18-1.3-401 (1) (a) (IV) and (1) (a) (V), C.R.S., is charged, AND IN A CASE IN WHICH A LEVEL 1 OR LEVEL 2 DRUG FELONY AS DESCRIBED IN SECTION 18-1.3-401.5, C.R.S., and in any case in which a felony listed in section 24-4.1-302 (1), C.R.S., is charged, the court shall impanel at least one

juror to sit as an alternate if requested by any party.

SECTION 45. In Colorado Revised Statutes, 16-11-209, **amend** (1), (2) introductory portion, (2) (b), and (3) (c) as follows:

16-11-209. Duties of probation officers. (1) It is the duty of a probation officer to investigate and report upon any case referred to him OR HER by the court for investigation. The probation officer shall furnish to each person released on probation under his OR HER supervision a written statement of the conditions of probation and shall instruct ~~him~~ THE PERSON regarding the same. The officer shall keep informed concerning the conduct and condition of each person on probation under his OR HER supervision and shall report thereon to the court at such times as it directs. Such officers shall use all suitable methods, not inconsistent with the conditions imposed by the court, to aid persons on probation and to bring about improvement in their conduct and condition. Each officer shall keep records of his OR HER work; ~~shall keep accurate and complete accounts of all moneys collected from persons under his supervision; shall give receipts therefor and shall make at least monthly returns thereof into the registry of the court or as he may be ordered;~~ shall make such reports to the court as are required; and shall perform such other duties as the court may direct.

(2) Any probationer, on probation as a result of a conviction, ~~of any felony except a class 1 felony;~~ who is under the supervision of a probation officer pursuant to this part 2 and who is initially tested for the illegal or unauthorized use of a controlled substance and the result of such test is positive shall be subject to any or all of the following actions:

(b) An immediate increase in the level of supervision; ~~including but not limited to intensive supervision;~~

(3) If any probationer described in subsection (2) of this section is subjected to a second or subsequent test for the illegal or unauthorized use of a controlled substance and the result of such test is positive, the probation officer shall take one or more of the following actions:

(c) Immediately increase the level of supervision; ~~including but not limited to intensive supervision;~~

SECTION 46. In Colorado Revised Statutes, 17-2-103, **amend** (11) (b) (III) and (11) (b) (III.5) as follows:

17-2-103. Arrest of parolee - revocation proceedings. (11) (b) (III) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a crime, the parolee has no active felony warrant, felony detainer, or pending felony criminal charge, and the parolee was on parole for an offense that was A LEVEL 4 DRUG FELONY OR class 5 or class 6 nonviolent felony as defined in section 17-22.5-405 (5) (b), except for menacing as defined in section 18-3-206, C.R.S., or any unlawful sexual behavior contained in section 16-22-102 (9), C.R.S., or unless the parolee was subject to article 6.5 of title 18, C.R.S., or section 18-6-801, C.R.S., the board may revoke parole for a period not to exceed one hundred eighty days and request the sheriff of the county in which the hearing

is held to transport the parolee to the facility described in section 17-1-206.5 (3).

(III.5) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a crime, the parolee has no active felony warrant, felony detainer, or pending felony criminal charge, and the parolee was on parole for an offense that was A LEVEL 3 DRUG FELONY OR a class 4 nonviolent felony as defined in section 17-22.5-405 (5) (b), except for stalking as described in section 18-9-111 (4), C.R.S., as it existed prior to August 11, 2010, or section 18-3-602, C.R.S., or any unlawful sexual behavior described in section 16-22-102 (9), C.R.S., or unless the parolee was subject to article 6.5 of title 18, C.R.S., or section 18-6-801, C.R.S., and the board revokes parole, the board may request the sheriff of the county in which the hearing is held to transport the parolee to the facility described in section 17-1-206.5 (3) for a period not to exceed one hundred eighty days.

SECTION 47. In Colorado Revised Statutes, 17-2-201, **amend** (3) (h.1) (I) as follows:

17-2-201. State board of parole. (3) The chairperson, in addition to other provisions of law, has the following powers and duties:

(h.1) To contract with qualified individuals to serve as release hearing officers:

(I) To conduct parole application hearings for inmates convicted of class 4, class 5, or class 6 felonies OR LEVEL 3 OR LEVEL 4 DRUG FELONIES who have been assessed to be less than high risk by the Colorado risk assessment scale developed pursuant to section 17-22.5-404 (2) (a), C.R.S., pursuant to rules adopted by the parole board; and

SECTION 48. In Colorado Revised Statutes, **amend** 17-2-213 as follows:

17-2-213. Application of part. Effective July 1, 1979, the provisions of this part 2 relating to the power of the state board of parole to grant parole and to establish the duration of the term of parole shall apply only to persons sentenced for conviction of a felony committed prior to July 1, 1979, persons sentenced for conviction of a misdemeanor, persons sentenced for conviction of a sex offense, as defined in section 18-1.3-903 (5), C.R.S., or a class 1 felony, and persons sentenced as habitual criminals pursuant to section 18-1.3-801, C.R.S. Parole for persons sentenced for conviction of a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1979, OR A LEVEL 1, LEVEL 2, LEVEL 3, OR LEVEL 4 DRUG FELONY COMMITTED ON OR AFTER OCTOBER 1, 2013, shall be as provided in ~~section~~ SECTIONS 18-1.3-401 AND 18-1.3-401.5, C.R.S., and article 22.5 of this title.

SECTION 49. In Colorado Revised Statutes, 17-22.5-403, **amend** (1), (7) (a), and (8) (a) as follows:

17-22.5-403. Parole eligibility. (1) Any person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony, OR A LEVEL 1, LEVEL 2, LEVEL 3, OR LEVEL 4 DRUG FELONY, or any unclassified felony, shall be eligible for parole after such person has served fifty percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405. However, the

date established by this subsection (1) upon which any person shall be eligible for parole may be extended by the executive director for misconduct during incarceration. The executive director shall promulgate rules and regulations concerning when and under what conditions any inmate's parole eligibility date may be extended. Such rules and regulations shall be promulgated in such a manner as to promote fairness and consistency in the treatment of all inmates.

(7) (a) For any offender who is incarcerated for an offense committed on or after July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole. The state board of parole, if it determines that placing an offender on parole is appropriate, shall set the length of the period of parole at the mandatory period of parole established in section 18-1.3-401 (1) (a) (V) OR 18-1.3-401.5 (2) (a), C.R.S., except as otherwise provided for specified offenses in section 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that, if the inmate applying for parole was convicted of any sex offense, as defined in section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the requirements of section 18-1.3-904, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law, or if the person applying for parole was convicted of a class 2 felony that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., the board need only reconsider granting parole to such person once every five years, until the board grants such person parole or until such person is discharged pursuant to law.

(8) (a) For persons who are granted parole pursuant to paragraph (a) of subsection (7) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this paragraph (a) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's mandatory period of parole established in section 18-1.3-401 (1) (a) (V) OR 18-1.3-401.5 (2) (a), C.R.S. Any offender who has been reincarcerated due to a parole revocation pursuant to this paragraph (a) shall be eligible for parole at any time during such reincarceration. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision. In making any such determination, the state board of parole shall make

written findings as to why such offender is no longer in need of parole supervision.

SECTION 50. In Colorado Revised Statutes, 17-22.5-404, **amend** (3) as follows:

17-22.5-404. Parole guidelines. (3) For a person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony OR LEVEL 1, LEVEL 2, LEVEL 3, OR LEVEL 4 DRUG FELONY who is eligible for parole pursuant to section 17-22.5-403, or a person who is eligible for parole pursuant to section 17-22.5-403.7, the state board of parole may consider all applications for parole, as well as all persons to be supervised under any interstate compact. The state board of parole may parole any person who is sentenced or committed to a correctional facility when the board determines, by using, where available, evidence-based practices and the guidelines established by this section, that there is a reasonable probability that the person will not violate the law while on parole and that the person's release from institutional custody is compatible with public safety and the welfare of society. The state board of parole shall first consider the risk of reoffense in every release decision it makes.

SECTION 51. In Colorado Revised Statutes, 17-22.5-405, **amend** (1.5) (a) (I) and (6) introductory portion as follows:

17-22.5-405. Earned time - earned release time - achievement earned time. (1.5) (a) Earned time, not to exceed twelve days for each month of incarceration or parole, may be deducted from an inmate's sentence if the inmate:

(I) Is serving a sentence for a class 4, class 5, or class 6 felony OR LEVEL 3 OR LEVEL 4 DRUG FELONY;

(6) Earned release time shall be scheduled by the state board of parole and the time computation unit in the department of corrections for inmates convicted of class 4 and class 5 felonies OR A LEVEL 3 DRUG FELONY up to sixty days prior to the mandatory release date and for inmates convicted of class 6 felonies OR LEVEL 4 DRUG FELONY up to thirty days prior to the mandatory release date for inmates who meet the following criteria:

SECTION 52. In Colorado Revised Statutes, 18-1-711, **amend** (3) (c), (3) (d), and (3) (e) as follows:

18-1-711. Immunity for persons who suffer or report an emergency drug or alcohol overdose event - definitions. (3) The immunity described in subsection (1) of this section shall apply to the following criminal offenses:

(c) Unlawful possession of two ounces or less of marijuana, as described in ~~section 18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I); or more than two ounces of marijuana but no more than six ounces of marijuana, as described in ~~section 18-18-406 (4) (a)~~ SECTION 18-18-406 (4) (c); or more than six ounces of marijuana but no more than twelve ounces of marijuana or three ounces or less of marijuana concentrate as described in section 18-18-406 (4) (b);

(d) Open and public display, consumption, or use of less than two ounces of marijuana as described in ~~section 18-18-406 (3) (a) (I)~~ SECTION 18-18-406 (5) (b) (I);

(e) Transferring or dispensing two ounces or less of marijuana from one person to another for no consideration, as described in ~~section 18-18-406 (5)~~ SECTION 18-18-406 (5) (c);

SECTION 53. In Colorado Revised Statutes, 18-1.3-104, **amend** (1) (b); and **repeal** (2) (b) as follows:

18-1.3-104. Alternatives in imposition of sentence. (1) Within the limitations of the applicable statute pertaining to sentencing and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(b) Subject to the provisions of section 18-1.3-401, in class 2, class 3, class 4, class 5, and class 6 felonies AND SECTION 18-1.3-401.5 FOR LEVEL 1, LEVEL 2, LEVEL 3, AND LEVEL 4 DRUG FELONIES, the defendant may be sentenced to imprisonment for a definite period of time.

~~(2)(b) A nonviolent offender may be granted probation pursuant to paragraph (a) of subsection (1) of this section and, as a condition of probation, be required to participate in an intensive supervision program pursuant to section 18-1.3-208.~~

SECTION 54. In Colorado Revised Statutes, 18-1.3-201, **amend** (3) as follows:

18-1.3-201. Application for probation. (3) An application for probation shall be in writing upon forms furnished by the court, but, when the defendant has been convicted of a misdemeanor or a ~~class 1~~ ANY petty offense, the court, in its discretion, may waive the written application for probation.

SECTION 55. In Colorado Revised Statutes, 18-19-103, **amend** (1) and (2); and **add** (3.5) (c) as follows:

18-19-103. Source of revenues - allocation of moneys. (1) For offenses committed on and after July 1, 1996, each drug offender who is convicted, or receives a deferred sentence pursuant to section 18-1.3-102, shall be required to pay a surcharge to the clerk of the court in the county in which the conviction occurs or in which the deferred sentence is entered. Such surcharge shall be in the following amounts:

(a) For each class 2 felony OR LEVEL 1 DRUG FELONY of which a person is convicted, four thousand five hundred dollars;

(b) For each class 3 felony OR LEVEL 2 DRUG FELONY of which a person is convicted, three thousand dollars;

(c) For each class 4 felony OR LEVEL 3 DRUG FELONY of which a person is convicted, two thousand dollars;

(d) For each class 5 felony OR LEVEL 4 DRUG FELONY of which a person is convicted, one thousand five hundred dollars;

(e) For each class 6 felony of which a person is convicted, one thousand two

hundred fifty dollars;

(f) For each class 1 misdemeanor or LEVEL 1 DRUG MISDEMEANOR of which a person is convicted, one thousand dollars;

(g) For each class 2 misdemeanor of which a person is convicted, six hundred dollars;

(h) For each class 3 misdemeanor OR LEVEL 2 DRUG MISDEMEANOR of which a person is convicted, three hundred dollars.

(2) Each drug offender convicted of a violation of ~~section 18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I), or who receives a deferred sentence pursuant to section 18-1.3-102 for a violation of ~~section 18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I), shall be assessed a surcharge of two hundred dollars.

(3.5) (c) THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE CORRECTIONAL TREATMENT CASH FUND CREATED PURSUANT TO SUBSECTION (4) OF THIS SECTION AT LEAST THREE MILLION FIVE HUNDRED THOUSAND DOLLARS IN FISCAL YEAR 2014-15 FROM THE GENERAL FUND GENERATED FROM ESTIMATED SAVINGS FROM SENATE BILL 13-250, ENACTED IN 2013.

SECTION 56. In Colorado Revised Statutes, 19-2-104, **amend** (1) (a) (I) and (5) as follows:

19-2-104. Jurisdiction. (1) Except as otherwise provided by law, the juvenile court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any juvenile ten years of age or older who has violated:

(I) Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or rules, the offenses specified in section 18-13-121, C.R.S., concerning tobacco products, the offense specified in section 18-13-122, C.R.S., concerning the illegal possession or consumption of ethyl alcohol by an underage person, and the offenses specified in section 18-18-406 ~~(1)~~ (5) (a) (I), (5) (b) (I), and (5) (b) (II) ~~and (3)~~; C.R.S., concerning marijuana and marijuana concentrate;

(5) Notwithstanding any other provision of this section to the contrary, the juvenile court and the county court shall have concurrent jurisdiction over a juvenile who is under eighteen years of age and who is charged with a violation of section 18-13-122, 18-18-406 ~~(1)~~ (5) (a) (I), (5) (b) (I), and (5) (b) (II) ~~and (3)~~; 18-18-428, 18-18-429, 18-18-430, or 42-4-1301, C.R.S.; except that, if the juvenile court accepts jurisdiction over such a juvenile, the county court jurisdiction shall terminate.

SECTION 57. In Colorado Revised Statutes, 24-72-308.6, **add** (2) (a) (II.5) and (2) (a) (III.5) as follows:

24-72-308.6. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2011.

(2) Sealing of conviction records. (a) (II.5) (A) IF THE OFFENSE IS A PETTY DRUG OFFENSE IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED ONE YEAR AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

(B) IF THE OFFENSE IS A LEVEL 2 OR LEVEL 3 DRUG MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED THREE YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

(C) IF THE OFFENSE IS A LEVEL 1 DRUG MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED FIVE YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

(D) IF THE OFFENSE IS A LEVEL 4 DRUG FELONY, THE PETITION MAY BE FILED SEVEN YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

(E) FOR ALL OTHER FELONY DRUG OFFENSES IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED TEN YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

(III.5) (A) IF A PETITION IS FILED FOR THE SEALING OF A PETTY DRUG OFFENSE IN ARTICLE 18 OF TITLE 18, C.R.S., THE COURT SHALL ORDER THE RECORD SEALED AFTER THE PETITION IS FILED, THE FILING FEE IS PAID, AND THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) DOCUMENTS TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER.

(B) IF A PETITION IS FILED FOR THE SEALING OF A LEVEL 1, LEVEL 2, OR LEVEL 3 DRUG MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S., THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE COURT SHALL ORDER THAT THE RECORD BE SEALED AFTER THE DEFENDANT DOCUMENTS TO THE COURT THAT HE OR SHE HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT SHALL SET THE MATTER FOR HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT

TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED WITH OR CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

(C) IF A PETITION IS FILED FOR THE SEALING OF A LEVEL 4 DRUG FELONY POSSESSION OFFENSE DESCRIBED IN SECTION 18-18-403.5, C.R.S., THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE COURT MAY DECIDE THE PETITION WITH OR WITHOUT THE BENEFIT OF A HEARING. IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT SHALL SET THE MATTER FOR HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

(D) IF A PETITION IS FILED FOR ANY OTHER FELONY DRUG OFFENSE IN ARTICLE 18 OF TITLE 18, C.R.S., THAT IS NOT COVERED BY SUB-SUBPARAGRAPHS (A) TO (C) OF THIS SUBPARAGRAPH (III.5), THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE COURT SHALL DISMISS THE PETITION. IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE COURT SHALL SET THE PETITION FOR A HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

SECTION 58. In Colorado Revised Statutes, add 18-18-606 as follows:

18-18-606. Drug case data collection. (1) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL COLLECT THE DATA SPECIFIED IN SUBSECTION (2) OF THIS SECTION FOR THE PERIOD BETWEEN OCTOBER 1, 2013, AND SEPTEMBER 30, 2016, AND ISSUE A REPORT BY DECEMBER 31, 2016, ON THE IMPACT OF SENATE BILL 13-250, ENACTED IN 2013.

(2) THE DATA MUST INCLUDE, BUT IS NOT LIMITED TO:

(a) THE TOTAL NUMBER OF DRUG CASES DIVERTED FROM PROSECUTION PRIOR TO FILING THROUGH REFERRAL TO LAW ENFORCEMENT OR DISTRICT ATTORNEY DIVERSION PROGRAMS;

(b) THE TOTAL NUMBER OF DRUG CASES FILED STATEWIDE BY JURISDICTION;

(c) ALL DEMOGRAPHIC INFORMATION AND RELEVANT BACKGROUND INFORMATION ON THE DEFENDANTS FOR WHICH A DRUG CASE HAS BEEN FILED OR DIVERTED INCLUDING PRIOR CRIMINAL HISTORY; AND

(d) FOR ALL CASES FILED, THE NATURE OF THE CHARGES BY STATUTORY CITATION AND THE OUTCOME OR DISPOSITION INFORMATION ON ALL THE CASES FILED WHICH SHALL INCLUDE BUT NOT BE LIMITED TO:

(I) DISMISSAL WITHOUT PROSECUTION;

(II) DISMISSAL AS A RESULT OF A PLEA BARGAIN;

(III) DEFERRED JUDGMENT TO THE ORIGINAL CHARGE OR A LESSER CHARGE;

(IV) ANY PLEA BARGAIN THAT REDUCES THE ORIGINAL CHARGE OR CHARGES FILED;

(V) ANY SENTENCE BARGAIN INCLUDING, BUT NOT LIMITED TO, A STIPULATION TO A CERTAIN SENTENCE OR A LIMIT ON THE AMOUNT OF JAIL OR DEPARTMENT OF CORRECTIONS IMPOSED;

(VI) ANY PLEA BARGAIN THAT INVOLVES MULTIPLE CASES;

(VII) ANY SENTENCE BARGAIN THAT INVOLVES CONCURRENT OR CONSECUTIVE TIME IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS;

(VIII) ANY PROBATION OR DEFERRED JUDGMENT REVOCATION FILED AND THE RESULT OF ANY REVOCATION;

(IX) ANY SUCCESSFUL COMPLETION OF PROBATION OR A DEFERRED JUDGMENT; AND

(X) ANY SUCCESSFUL COMPLETION OF SUPERVISION RESULTING IN CONVERSION OF THE FELONY TO A MISDEMEANOR PURSUANT TO THE PROVISIONS OF 18-1.3-103.5 (2).

SECTION 59. In Colorado Revised Statutes, 12-64-111, **amend** (1) (p) as follows:

12-64-111. Discipline of licensees. (1) Upon receipt of a signed complaint by a complainant or upon its own motion, the board may proceed to a hearing in conformity with section 12-64-112. After a hearing, and by a concurrence of a majority of members, the board may deny a license to an applicant or revoke or suspend the license of, place on probation, or otherwise discipline or fine, a licensed veterinarian for any of the following reasons:

(p) Conviction of a violation of the "Uniform Controlled Substances Act of ~~1992~~ 2013", article 18 of title 18, C.R.S., the federal "Controlled Substances Act", or the federal "Controlled Substances Import and Export Act", or any of them;

SECTION 60. In Colorado Revised Statutes, **amend** 18-18-602 as follows:

18-18-602. Continuation of rules - application to existing relationships. Any orders and rules adopted under any law affected by this article and in effect on July 1, 1992, and not in conflict with this article continue in effect until modified, superseded, or repealed. Rights and duties that matured, penalties that were incurred, and proceedings that were begun prior to July 1, 1992, are not affected by the enactment of the "Uniform Controlled Substances Act of ~~1992~~ 2013" or the corresponding repeal of provisions in article 42.5 of title 12, C.R.S., and part 6 of article 5 of this title.

SECTION 61. In Colorado Revised Statutes, **amend** 18-18-604 as follows:

18-18-604. Uniformity of interpretation. To the extent that this article is uniform, the judiciary may look to decisions regarding the "Uniform Controlled Substances Act of ~~1990~~ 2013" among states enacting it, subject to rights and obligations provided under other Colorado statutes and the state constitution.

SECTION 62. In Colorado Revised Statutes, 25-1.5-302, **amend** (1) (b) as follows:

25-1.5-302. Administration of medications - powers and duties of department - criminal history record checks. (1) The department has, in addition to all other powers and duties imposed upon it by law, the power and duty to establish and maintain by rule and regulation a program for the administration of medications in facilities, which program shall be developed and conducted by the department of human services and the department of corrections, as provided in this part 3, within the following guidelines:

(b) Any individual who is not otherwise authorized by law to administer medication in a facility shall be allowed to perform such duties only after passing a competency evaluation. An individual who administers medications in facilities in compliance with the provisions of this part 3 shall be exempt from the licensing requirements of the "Colorado Medical Practice Act", the "Nurse Practice Act", and the laws of this state pertaining to possession of controlled substances as contained in article 42.5 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., or the "Uniform Controlled Substances Act of ~~1992~~ 2013", article 18 of title 18, C.R.S.

SECTION 63. In Colorado Revised Statutes, 24-72-308.6, **amend** (2)(a) (II) (C) and (2) (a) (III) (C) as follows:

24-72-308.6. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2011. (2) **Sealing of conviction records.** (a) (II) (C) If the offense is a class 5 felony or class 6 felony drug possession offense described in section 18-18-403.5, C.R.S., AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (C), AS AMENDED, or 18-18-404, C.R.S., or section 18-18-405, C.R.S., as it existed prior to August 11, 2010, the petition may be filed seven years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction.

(III) (C) If a petition is filed for the sealing of a class 5 or class 6 felony possession offense described in section 18-18-403.5, C.R.S., AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (C), AS AMENDED, or 18-18-404, C.R.S., or section 18-18-405, C.R.S., as it existed prior to August 11, 2010, the defendant shall pay the filing fee and provide notice of the petition to the district attorney. The district attorney shall determine whether to object to the petition after considering the factors in section 24-72-308.5 (2) (c). If the district attorney does not object, the court may decide the petition with or without the benefit of a hearing. If the district attorney objects to the petition, the court shall set the matter for hearing. To order the record sealed, the criminal history filed with the petition as required by paragraph (b) of this subsection (2) shall document to the court that the defendant has not been charged or convicted for a criminal offense since the date of the final disposition of all criminal proceedings against him or her or since the date of the defendant's release from supervision, whichever is later. The court shall decide the petition after considering the factors in section 24-72-308.5 (2) (c).

SECTION 64. In Colorado Revised Statutes, 18-1.3-102, **amend** (2) as follows:

18-1.3-102. Deferred sentencing of defendant. (2) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the district attorney, in the course of plea discussion as provided in sections 16-7-301 and 16-7-302, C.R.S., is authorized to enter into a written stipulation, to be signed by the defendant, the defendant's attorney of record, and the district attorney, under which the defendant is obligated to adhere to such stipulation. The conditions imposed in the stipulation shall be similar in all respects to conditions permitted as part of probation. ~~Any~~ A person convicted of a crime, the underlying factual basis of which included an act of domestic violence, as defined in section 18-6-800.3 (1), shall stipulate to the conditions specified in section 18-1.3-204 (2) (b). In addition, the stipulation may require the defendant to perform community or charitable work service projects or make donations thereto. Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn and the charge upon which the judgment and sentence of the court was deferred shall be dismissed with prejudice. ~~Such~~ THE stipulation shall specifically provide that, upon a breach by the defendant of any condition regulating the conduct of the defendant, the court shall enter judgment and impose sentence upon ~~such~~ THE guilty plea; EXCEPT THAT, IF THE OFFENSE IS A VIOLATION OF ARTICLE 18 OF THIS TITLE, THE COURT MAY ACCEPT AN ADMISSION OR FIND A VIOLATION OF THE STIPULATION WITHOUT ENTERING JUDGMENT AND IMPOSING SENTENCE IF THE COURT FIRST MAKES FINDINGS OF FACT ON THE RECORD STATING THE ENTRY OF JUDGMENT AND SENTENCING WOULD NOT BE CONSISTENT WITH THE PURPOSES OF SENTENCING, THAT THE DEFENDANT WOULD BE BETTER SERVED BY CONTINUING THE DEFERRED JUDGMENT PERIOD, AND THAT PUBLIC SAFETY WOULD NOT BE JEOPARDIZED BY THE CONTINUATION OF THE DEFERRED JUDGMENT. IF THE COURT MAKES THOSE FINDINGS AND CONTINUES THE DEFERRED JUDGMENT OVER THE OBJECTION OF THE PROSECUTION, THE COURT SHALL ALSO IMPOSE ADDITIONAL AND IMMEDIATE SANCTIONS UPON THE DEFENDANT TO ADDRESS THE VIOLATION, TO INCLUDE, BUT NOT BE LIMITED TO, THE IMPOSITION OF FURTHER TERMS AND CONDITIONS THAT WILL ENHANCE THE LIKELIHOOD OF THE DEFENDANT'S SUCCESS, RESPOND TO THE DEFENDANT'S NON-COMPLIANCE, AND PROMOTE FURTHER INDIVIDUAL ACCOUNTABILITY, INCLUDING EXTENDING THE TIME PERIOD OF THE DEFERRED

JUDGMENT FOR UP TO TWO ADDITIONAL YEARS OR INCARCERATION IN THE COUNTY JAIL FOR A PERIOD NOT TO EXCEED NINETY DAYS CONSISTENT WITH THE PROVISIONS OF SECTION 18-1.3-202 (1), OR BOTH. When, as a condition of the deferred sentence, the court orders the defendant to make restitution, evidence of failure to pay the ~~said~~ restitution shall constitute prima facie evidence of a violation. Whether a breach of condition has occurred shall be determined by the court without a jury upon application of the district attorney or a probation officer and upon notice of hearing thereon of not less than seven days to the defendant or the defendant's attorney of record. Application for entry of judgment and imposition of sentence may be made by the district attorney or a probation officer at any time within the term of the deferred judgment or within thirty-five days thereafter. The burden of proof at ~~such~~ THE hearing shall be by a preponderance of the evidence, and the procedural safeguards required in a revocation of probation hearing shall apply.

SECTION 65. In Colorado Revised Statutes, 2-4-401, **add** (3.5) as follows:

2-4-401. Definitions. The following definitions apply to every statute, unless the context otherwise requires:

(3.5) "FELONY" INCLUDES A DRUG FELONY DESCRIBED IN ARTICLE 18 OF TITLE 18, C.R.S.

SECTION 66. In Colorado Revised Statutes, 18-2-101, **add** (10) as follows:

18-2-101. Criminal attempt. (10)(a) EXCEPT AS OTHERWISE PROVIDED BY LAW, CRIMINAL ATTEMPT TO COMMIT A LEVEL 1 DRUG FELONY IS A LEVEL 2 DRUG FELONY; CRIMINAL ATTEMPT TO COMMIT A LEVEL 2 DRUG FELONY IS A LEVEL 3 DRUG FELONY; CRIMINAL ATTEMPT TO COMMIT A LEVEL 3 DRUG FELONY IS A LEVEL 4 DRUG FELONY; AND CRIMINAL ATTEMPT TO COMMIT A LEVEL 4 DRUG FELONY IS A LEVEL 1 DRUG MISDEMEANOR.

(b) EXCEPT AS OTHERWISE PROVIDED BY LAW, CRIMINAL ATTEMPT TO COMMIT A LEVEL 1 DRUG MISDEMEANOR IS A LEVEL 2 DRUG MISDEMEANOR; AND CRIMINAL ATTEMPT TO COMMIT A LEVEL 2 MISDEMEANOR IS A LEVEL 2 MISDEMEANOR.

SECTION 67. In Colorado Revised Statutes, 18-2-206, **add** (7) as follows:

18-2-206. Penalties for criminal conspiracy - when convictions barred. (7)(a) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONSPIRACY TO COMMIT A LEVEL 1 DRUG FELONY IS A LEVEL 2 DRUG FELONY; CONSPIRACY TO COMMIT A LEVEL 2 DRUG FELONY IS A LEVEL 3 DRUG FELONY; CONSPIRACY TO COMMIT A LEVEL 3 DRUG FELONY IS A LEVEL 4 DRUG FELONY; AND CONSPIRACY TO COMMIT A LEVEL 4 DRUG FELONY IS A LEVEL 1 DRUG MISDEMEANOR.

(b) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONSPIRACY TO COMMIT A LEVEL 1 DRUG MISDEMEANOR IS A LEVEL 2 DRUG MISDEMEANOR; AND CONSPIRACY TO COMMIT A LEVEL 2 DRUG MISDEMEANOR IS A LEVEL 2 DRUG MISDEMEANOR.

SECTION 68. In Colorado Revised Statutes, 18-1.3-202, **amend** (2) as follows:

18-1.3-202. Probationary power of court. (2) The probation department in

each judicial district may enter into agreements with any state agency or other public agency, any corporation, and any private agency or person to provide supervision or other services for defendants placed on probation by the court. THE AGREEMENTS SHALL NOT INCLUDE MANAGEMENT OF ANY INTENSIVE SUPERVISION PROBATION PROGRAMS CREATED PURSUANT TO SECTION 18-1.3-208.

SECTION 69. In Colorado Revised Statutes, 20-1-111, **add** (4) as follows:

20-1-111. District attorneys may cooperate or contract - contents. (4) THE STATEWIDE ORGANIZATION REPRESENTING DISTRICT ATTORNEYS OR ANY OTHER ORGANIZATION ESTABLISHED PURSUANT TO THIS ARTICLE MAY RECEIVE, MANAGE, AND EXPEND STATE FUNDS IN THE MANNER PRESCRIBED BY THE GENERAL ASSEMBLY ON BEHALF OF THE DISTRICT ATTORNEYS WHO ARE MEMBERS OF THE ORGANIZATION.

SECTION 70. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2013, the sum of \$339,764 and 4.8 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

- (a) \$111,407 and 1.5 FTE for general courts administration, personal services;
- (b) \$1,425 for general courts administration, operating expenses;
- (c) \$24,195 for courthouse capital/infrastructure maintenance;
- (d) \$194,202 and 3.3 FTE for probation programs, personal services; and
- (e) \$8,535 for probation programs, operating expenses.

(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, 2013, the sum of \$521,850, or so much thereof as may be necessary, for allocation to the information systems subprogram for the purchase of computer center services.

(3) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$521,850 and 1.5 FTE, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of corrections related to the implementation of this act. Said sum is from reappropriated funds received from the department of corrections out of the appropriation made in subsection (2) of this section.

SECTION 71. Effective date - applicability. This act takes effect October 1, 2013, and applies to offenses committed on or after said date.

SECTION 72. 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 28, 2013