

SB124_L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.SB21-124 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 18-3-102, **repeal**
4 (1)(b) and (2) as follows:

5 **18-3-102. Murder in the first degree.** (1) A person commits the
6 crime of murder in the first degree if:

7 ~~(b) Acting either alone or with one or more persons, he or she~~
8 ~~commits or attempts to commit arson, robbery, burglary, kidnapping,~~
9 ~~sexual assault as prohibited by section 18-3-402, sexual assault in the first~~
10 ~~or second degree as prohibited by section 18-3-402 or 18-3-403 as those~~
11 ~~sections existed prior to July 1, 2000, or a class 3 felony for sexual assault~~
12 ~~on a child as provided in section 18-3-405 (2), or the crime of escape as~~
13 ~~provided in section 18-8-208, and, in the course of or in furtherance of the~~
14 ~~crime that he or she is committing or attempting to commit, or of~~
15 ~~immediate flight therefrom, the death of a person, other than one of the~~
16 ~~participants, is caused by anyone; or~~

17 ~~(2) It is an affirmative defense to a charge of violating subsection~~
18 ~~(1)(b) of this section that the defendant:~~

19 ~~(a) Was not the only participant in the underlying crime; and~~
20 ~~(b) Did not commit the homicidal act or in any way solicit,~~
21 ~~request, command, importune, cause, or aid the commission thereof; and~~
22 ~~(c) Was not armed with a deadly weapon; and~~
23 ~~(d) Had no reasonable ground to believe that any other participant~~
24 ~~was armed with such a weapon, instrument, article, or substance; and~~
25 ~~(e) Did not engage himself in or intend to engage in and had no~~
26 ~~reasonable ground to believe that any other participant intended to engage~~
27 ~~in conduct likely to result in death or serious bodily injury; and~~
28 ~~(f) Endeavored to disengage himself from the commission of the~~
29 ~~underlying crime or flight therefrom immediately upon having reasonable~~
30 ~~grounds to believe that another participant is armed with a deadly~~
31 ~~weapon, instrument, article, or substance, or intended to engage in~~
32 ~~conduct likely to result in death or serious bodily injury.~~

33 **SECTION 2.** In Colorado Revised Statutes, 18-3-103, **amend** (1);
34 and **add** (1.5) as follows:

35 **18-3-103. Murder in the second degree - definitions.** (1) A
36 person commits the crime of murder in the second degree if:

37 (a) The person knowingly causes the death of a person; OR
38 (b) ACTING EITHER ALONE OR WITH ONE OR MORE PERSONS, HE OR
39 SHE COMMITS OR ATTEMPTS TO COMMIT FELONY ARSON, ROBBERY,

1 BURGLARY, KIDNAPPING, SEXUAL ASSAULT AS PROHIBITED BY SECTION
2 18-3-402, SEXUAL ASSAULT IN THE FIRST OR SECOND DEGREE AS
3 PROHIBITED BY SECTION 18-3-402 OR 18-3-403 AS THOSE SECTIONS
4 EXISTED PRIOR TO JULY 1, 2000, OR A CLASS 3 FELONY FOR SEXUAL
5 ASSAULT ON A CHILD AS PROVIDED IN SECTION 18-3-405 (2), OR THE
6 FELONY CRIME OF ESCAPE AS PROVIDED IN SECTION 18-8-208, AND, IN THE
7 COURSE OF OR IN FURTHERANCE OF THE CRIME THAT HE OR SHE IS
8 COMMITTING OR ATTEMPTING TO COMMIT, OR OF IMMEDIATE FLIGHT
9 THEREFROM, THE DEATH OF A PERSON, OTHER THAN ONE OF THE
10 PARTICIPANTS, IS CAUSED BY ANY PARTICIPANT;

11 (1.5) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING
12 SUBSECTION (1)(b) OF THIS SECTION THAT THE DEFENDANT:

13 (a) WAS NOT THE ONLY PARTICIPANT IN THE UNDERLYING CRIME;
14 AND

15 (b) DID NOT COMMIT THE HOMICIDAL ACT OR IN ANY WAY SOLICIT,
16 REQUEST, COMMAND, IMPORTUNE, CAUSE, OR AID THE COMMISSION
17 THEREOF; AND

18 (c) WAS NOT ARMED WITH A DEADLY WEAPON; AND

19 (d) DID NOT ENGAGE HIMSELF OR HERSELF IN OR INTEND TO
20 ENGAGE IN AND HAD NO REASONABLE GROUND TO BELIEVE THAT ANY
21 OTHER PARTICIPANT INTENDED TO ENGAGE IN CONDUCT LIKELY TO RESULT
22 IN DEATH OR SERIOUS BODILY INJURY.

23 **SECTION 3.** In Colorado Revised Statutes, 17-34-101, **amend**
24 (1)(a)(II) and (1)(a)(III) as follows:

25 **17-34-101. Juveniles who are convicted as adults in district**
26 **court - eligibility for specialized program placement - petitions.**

27 (1) (a) Notwithstanding any other provision of law, an offender serving
28 a sentence in the department for a felony offense as a result of the filing
29 of criminal charges by an information or indictment pursuant to section
30 19-2-517, or the transfer of proceedings to the district court pursuant to
31 section 19-2-518, or pursuant to either of these sections as they existed
32 prior to their repeal and reenactment, with amendments, by House Bill
33 96-1005, and who remains in the custody of the department for that
34 felony offense may petition for placement in the specialized program
35 described in section 17-34-102, referred to within this section as the
36 "specialized program", as follows:

37 (II) If the felony of which the person was convicted was murder
38 in the first degree, as described in section 18-3-102 (1)(b), AS IT EXISTED
39 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II) AS
40 AMENDED, or (1)(d), ~~C.R.S.~~ OR MURDER IN THE SECOND DEGREE, AS
41 DESCRIBED IN SECTION 18-3-103 (1)(b), then the offender may petition for
42 placement in the specialized program after serving twenty years of his or
43 her sentence if he or she satisfies the criteria described in