

HB1042_L.004

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB15-1042 be amended as follows:

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

3 "SECTION 1. In Colorado Revised Statutes, 16-11-102, amend
4 (1) (a) as follows:

5 **16-11-102. Presentence or probation investigation.**
6 (1) (a) (I) Following the return of a verdict of guilty of a felony, other
7 than a class 1 felony, or following a finding of guilt on such charge where
8 the issues were tried to the court, or on a plea of guilty or nolo contendere
9 to such a charge, or upon order of the court in any misdemeanor
10 conviction, the probation officer shall make an investigation and written
11 report to the court before the imposition of sentence. Each presentence
12 report shall MUST include a substance abuse assessment or evaluation
13 made pursuant to article 11.5 of this title and, unless waived by the court,
14 shall MUST include, but not be limited to, information as to the defendant's
15 family background, educational history, employment record, and past
16 criminal record, including the defendant's past juvenile delinquency
17 record, if any; if INFORMATION INDICATING WHETHER the defendant has
18 been convicted of unlawful sexual behavior as defined in section
19 16-22-102 (9); an evaluation of the alternative dispositions available for
20 the defendant; the information required by the court pursuant to article
21 18.5 of this title; a victim impact statement; and such other information
22 as the court may require.

23 (II) EXCEPT AS DESCRIBED IN SUBPARAGRAPH (VI) OF THIS
24 PARAGRAPH (a), IF THE DEFENDANT IS CONVICTED OF A FELONY THAT
25 OCCURRED AFTER JULY 1, 2004, AND HE OR SHE IS ELIGIBLE TO RECEIVE A
26 SENTENCE TO THE DEPARTMENT OF CORRECTIONS, THE REPORT
27 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) MUST INCLUDE
28 THE FOLLOWING STATEMENT:

29 "IF THE DEFENDANT IS SENTENCED TO THE DEPARTMENT OF
30 CORRECTIONS, HE OR SHE MAY NOT SERVE HIS OR HER ENTIRE SENTENCE
31 IN PRISON BUT MAY BE RELEASED TO COMMUNITY CORRECTIONS OR
32 PAROLE. THE DEFENDANT'S PAROLE ELIGIBILITY DATE (PED) OCCURS
33 AFTER HE OR SHE HAS SERVED FIFTY OR SEVENTY-FIVE PERCENT OF HIS OR
34 HER SENTENCE, AS PROVIDED IN SECTION 17-22.5-403, C.R.S., LESS ANY
35 AUTHORIZED EARNED TIME.

36 IF THE DEFENDANT IS SENTENCED TO THE DEPARTMENT OF
37 CORRECTIONS, HE OR SHE MAY BE ELIGIBLE FOR A REDUCTION IN THE
38 LENGTH OF HIS OR HER SENTENCE BY EARNED TIME. REGULAR EARNED



1 TIME IS UP TO TEN OR TWELVE DAYS PER MONTH, NOT TO EXCEED THIRTY
2 PERCENT OF THE DEFENDANT'S SENTENCE; HOWEVER, THE DEFENDANT
3 MAY BE ELIGIBLE FOR FURTHER REDUCTIONS THROUGH THE APPLICATION
4 OF VARIOUS TYPES OF EARNED TIME PROVIDED IN STATUTE AND
5 ADMINISTERED PURSUANT TO THE POLICY OF THE DEPARTMENT OF
6 CORRECTIONS.

7 IF THE DEFENDANT IS SENTENCED TO THE DEPARTMENT OF
8 CORRECTIONS, HE OR SHE MAY BE ELIGIBLE FOR AN EARLY RELEASE, TO
9 AWAIT PAROLE IN A COMMUNITY CORRECTIONS FACILITY, IF SUCH EARLY
10 RELEASE IS APPROVED BY THE LOCAL COMMUNITY CORRECTIONS BOARD.
11 IF THE DEFENDANT WAS NOT CONVICTED OF A CRIME OF VIOLENCE, AS
12 DEFINED IN SECTION 18-1.3-406 (2), C.R.S., HE OR SHE MAY BE MOVED TO
13 A COMMUNITY CORRECTIONS PLACEMENT AS EARLY AS SIXTEEN MONTHS
14 PRIOR TO HIS OR HER PED. IF THE DEFENDANT WAS CONVICTED OF A CRIME
15 OF VIOLENCE, HE OR SHE CANNOT BE MOVED TO A COMMUNITY
16 CORRECTIONS PLACEMENT EARLIER THAN ONE HUNDRED EIGHTY DAYS
17 PRIOR TO HIS OR HER PED.

18 A DEFENDANT'S ELIGIBILITY FOR COMMUNITY CORRECTIONS OR
19 PAROLE DOES NOT NECESSARILY MEAN THAT COMMUNITY CORRECTIONS
20 OR PAROLE WILL BE GRANTED. THE INMATE LOCATOR ON THE INTERNET
21 WEB SITE OF THE DEPARTMENT OF CORRECTIONS CAN ASSIST WITH THE
22 COMPUTATION OF TIME RELATING TO THE SENTENCE OF AN INDIVIDUAL
23 DEFENDANT."

24 (III) THE DISTRICT ATTORNEY'S OFFICE SHALL PREPARE a victim
25 impact statement. ~~shall be prepared by the district attorney's office on and~~
26 ~~after September 1, 1985.~~ The department of human services shall provide
27 the district attorney's office with the information necessary for the
28 preparation of a victim impact statement. In addition, the court, in cases
29 that it deems appropriate, may require the presentence report to include
30 the findings and results of a professionally conducted psychiatric
31 examination of the defendant.

32 (IV) No less than seventy-two hours prior to the sentencing
33 hearing, THE PROBATION DEPARTMENT SHALL PROVIDE copies of the
34 presentence report, including any recommendations as to probation, ~~shall~~
35 ~~be furnished~~ to the prosecuting attorney and defense counsel or to the
36 defendant if he or she is unrepresented. Upon request of either the
37 defense or the district attorney, the probation department shall provide the
38 presentence report at least seven days prior to the sentencing hearing. If
39 the probation department informs the court it cannot provide the report at
40 least seven days prior to the sentencing hearing, the court shall grant the
41 probation department additional time to complete the report and shall



1 reset the sentencing hearing so that the hearing is held at least seven days
2 after the probation department provides the report.

3 (V) THE COURT SHALL TRANSMIT a copy of the presentence report
4 ~~shall be transmitted~~ to the department of corrections together with the
5 mittimus.

6 (VI) THE REPORT DESCRIBED IN SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH (a) NEED NOT INCLUDE THE STATEMENT DESCRIBED IN
8 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) IF:

9 (A) THE DEFENDANT IS A SEX OFFENDER FOR WHOM THE SEX
10 OFFENDER MANAGEMENT BOARD HAS ESTABLISHED SEPARATE AND
11 DISTINCT RELEASE GUIDELINES PURSUANT TO SECTION 18-1.3-1009,
12 C.R.S.;

13 (B) THE DEFENDANT HAS AT LEAST ONE PREVIOUS CONVICTION
14 FOR A CRIME OF VIOLENCE AND MUST BE REFERRED BY THE DEPARTMENT
15 TO THE STATE BOARD OF PAROLE PURSUANT TO SECTION 17-22.5-403
16 (3.5), C.R.S.;

17 (C) THE DEFENDANT IS A JUVENILE CONVICTED AS AN ADULT OF A
18 CLASS I FELONY; OR

19 (D) THE PROBATION DEPARTMENT HAS REASONABLE GROUNDS TO
20 BELIEVE THAT THE LANGUAGE OF THE STATEMENT IS INAPPLICABLE TO THE
21 DEFENDANT. IF THE PROBATION DEPARTMENT ELECTS TO OMIT THE
22 STATEMENT PURSUANT TO THIS SUB-SUBPARAGRAPH (D), THE PROBATION
23 DEPARTMENT SHALL DOCUMENT ITS GROUNDS FOR DOING SO.

24 **SECTION 2. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
28 referendum petition is filed pursuant to section 1 (3) of article V of the
29 state constitution against this act or an item, section, or part of this act
30 within such period, then the act, item, section, or part will not take effect
31 unless approved by the people at the general election to be held in
32 November 2016 and, in such case, will take effect on the date of the
33 official declaration of the vote thereon by the governor."

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