

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0701.04 Michael Dohr

SENATE BILL 09-286

SENATE SPONSORSHIP

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Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING CRIMINAL LAW, AND, IN CONNECTION THEREWITH,**
102 **CHANGING THE PROVISIONS RELATED TO LEGAL**
103 **REPRESENTATION OF INDIGENT DEFENDANTS FOR CERTAIN**
104 **MISDEMEANOR CASES; CHANGING THE OFFENSE LEVEL OR**
105 **SENTENCING OPTIONS FOR SELECT NONVIOLENT OFFENSES,**
106 **PROPERTY OFFENSES, AND DRUG OFFENSES; CHANGING THE**
107 **PRESUMPTIVE SENTENCING RANGES FOR CERTAIN FELONY**
108 **OFFENSES; REPEALING CERTAIN EXTRAORDINARY RISK**
109 **SENTENCING PROVISIONS; MAKING CHANGES TO THE HABITUAL**
110 **OFFENDER STATUTE; AND ALLOWING FOR CERTAIN SENTENCING**
111 **TIME CREDITS FOR CERTAIN OFFENDERS.**

Bill Summary

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Sections 2-4. Repeals the requirement that a defendant engage in plea negotiations with the district attorney for certain offenses before state-supported legal representation may be supplied.

Sections 5-35. Changes the offense level for certain criminal offenses. For certain offenses, eliminates incarceration as a sentencing option for a first offense. Limits the applicability of the "little" and "big" habitual offender statutes to crimes of violence.

Sections 36-40. Changes the presumptive sentencing ranges for felonies committed on or after July 1, 2009.

Section 41. Allows the court to grant the defendant a deferred judgment under certain circumstances without district attorney consent.

Sections 42-43. Permits the court to waive the prohibition on probation for a defendant with 2 previous felony convictions under certain circumstances.

Sections 44-52. Eliminates certain extraordinary risk sentencing provisions.

Sections 53-56. Limits the escape and attempt to escape offenses to correctional facilities and jails, and repeals the consecutive sentencing provisions. Creates a new offense for escape from confinement.

Sections 57-58. Prohibits the court from imposing a sentence of incarceration for a probation violation unless it is a new crime. Increases the amount of time the court may sentence a defendant to county jail under a probation sentence to 180 days.

Section 59. Increases the amount of earned time that may be earned on a monthly basis from 10 days to 12 days. Permits the executive director of the department of corrections to deduct up to 60 days from a nonviolent offender's sentence based on progress made on the criteria in the earned time statute.

Sections 60-61. Requires a group or individual seeking to create a new crime or increase the penalty of an existing crime to present its proposal to the Colorado commission on criminal and juvenile justice for its review and recommendation.

Makes conforming amendments.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

1 (a) Colorado's prison budget has grown at a tremendous and
2 unsustainable rate;

3 (b) While serious, chronic, and violent offenders should serve
4 significant prison sentences and the expense of incarcerating them is
5 justified many times over, for lower-level, nonviolent offenders,
6 incarceration costs taxpayers far more than it saves in prevented crime
7 and in the loss of human potential;

8 (c) People do not live in a vacuum; they live in communities that
9 play an important role in enhancing public safety and providing
10 opportunities for crime prevention and successful integration of people
11 following incarceration;

12 (d) Colorado is initiating the process of reducing spending on
13 incarceration and prisons and investing the savings in the infrastructure
14 of communities to provide for programs that enhance public safety and
15 serve the communities and the people that live in them; and

16 (e) This reinvestment should also include programs that are shown
17 to prevent crime, such as substance abuse treatment, mental health
18 treatment, employment training, education, and early intervention and
19 reentry programs.

20 **SECTION 2.** 16-5-501, Colorado Revised Statutes, is amended
21 to read:

22 **16-5-501. Prosecuting attorney - incarceration - legal**
23 **representation and supporting services at state expense.** ~~Except as~~
24 ~~otherwise provided,~~ In any criminal prosecution for ~~class 2 and class 3~~
25 misdemeanors, petty offenses, class 1 and class 2 misdemeanor traffic
26 offenses, or municipal or county ordinance violations, the prosecuting
27 attorney may, at any time during the prosecution, state in writing whether

1 or not he or she will seek incarceration as part of the penalty upon
2 conviction of an offense for which the defendant has been charged. If the
3 prosecuting attorney does not seek incarceration as part of ~~such~~ THE
4 penalty, legal representation and supporting services need not thereafter
5 be provided for the defendant at state expense, and ~~no such~~ THE defendant
6 shall NOT be incarcerated if found guilty of the charges against him or her
7 ~~but the defendant shall be subject to all alternatives available to the court~~
8 ~~under section 18-1.3-702, C.R.S., and to alternatives available to each~~
9 ~~municipality under its municipal ordinances for failure to pay fines and~~
10 ~~costs~~ AT ANY STAGE OF THE PROCEEDINGS.

11 **SECTION 3.** The introductory portion to 16-7-207 (1) and
12 16-7-207 (1) (c), Colorado Revised Statutes, are amended to read:

13 **16-7-207. Court's duty to inform on first appearance in court**
14 **and on pleas of guilty.** (1) At the first appearance of the defendant in
15 court or upon arraignment, whichever is first in time, it is the duty of the
16 judge to inform the defendant and make certain that he OR SHE
17 understands the following:

18 (c) If ~~he~~ THE DEFENDANT is an indigent person, he OR SHE may
19 ~~make application~~ APPLY for a court-appointed attorney and ~~upon payment~~
20 ~~of the application fee he will~~ SHALL be assigned counsel as provided by
21 law or applicable rule of criminal procedure; except that, if ~~the defendant~~
22 ~~is charged with an offense described in section 16-7-301 (4) (a), and, after~~
23 ~~conferring with the defendant pursuant to section 16-7-301 (4), the~~
24 prosecutor files a written statement that incarceration is not being sought
25 as provided in section 16-5-501, counsel will not be provided to the
26 defendant.

27 **SECTION 4.** 16-7-301 (1) and the introductory portion to

1 16-7-301 (4) (a), Colorado Revised Statutes, are amended to read:

2 **16-7-301. Propriety of plea discussions and plea agreements.**

3 (1) Where it appears that the effective administration of criminal justice
4 will thereby be served, the district attorney may engage in plea
5 discussions for the purpose of reaching a plea agreement. ~~He~~ THE
6 DISTRICT ATTORNEY should engage in plea discussions or reach plea
7 agreements with the defendant only through or in the presence of defense
8 counsel ~~except where~~ WHEN the defendant is not eligible for OR REFUSES
9 appointment of counsel ~~or refuses appointment of counsel~~ and has not
10 retained counsel. ~~or except as provided in subsection (4) of this section.~~

11 (4) (a) In misdemeanors, petty offenses, or offenses under title 42,
12 C.R.S., the prosecuting attorney is obligated to tell the defendant any
13 offer that can be made based on the facts as known by the prosecuting
14 attorney at that time. The defendant and the prosecuting attorney may
15 engage in further plea discussions about the case, but the defendant is
16 under no obligation to talk to the prosecuting attorney. The prosecuting
17 attorney shall advise the defendant that the defendant has the right to
18 retain counsel or seek appointment of counsel. ~~The application for~~
19 ~~appointment of counsel and the payment of the application fee shall be~~
20 ~~deferred until after the prosecuting attorney has spoken with the~~
21 ~~defendant as provided in this subsection (4).~~ Upon completion of the
22 discussions, the prosecutor shall inform the court of whether a plea
23 agreement has been reached, and:

24 **SECTION 5.** 12-56-104 (5), Colorado Revised Statutes, is
25 amended to read:

26 **12-56-104. Prohibited acts - penalties.** (5) Any customer who
27 knowingly gives false information with respect to the information

1 required by section 12-56-103 (1) commits a ~~class 6 felony~~ CLASS 1
2 MISDEMEANOR and shall be punished as provided in section ~~18-1.3-401~~
3 18-1.3-501, C.R.S.; EXCEPT THAT, IF THE DEFENDANT HAS NO PRIOR
4 FELONY OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT
5 SENTENCE THE DEFENDANT TO INCARCERATION.

6 **SECTION 6.** 18-1.3-801 (1.5) and (2), Colorado Revised
7 Statutes, are amended to read:

8 **18-1.3-801. Punishment for habitual criminals.** (1.5) Every
9 person convicted in this state of ~~any class 1, 2, 3, 4, or 5 felony~~ A CRIME
10 OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406, who, within ten years of
11 the date of the commission of the said offense, has been twice previously
12 convicted upon charges separately brought and tried, and arising out of
13 separate and distinct criminal episodes, either in this state or elsewhere,
14 of a ~~felony~~ CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406 or,
15 under the laws of any other state, the United States, or any territory
16 subject to the jurisdiction of the United States, of a crime ~~which~~ THAT, if
17 committed within this state, would be a ~~felony~~ CRIME OF VIOLENCE AS
18 DEFINED IN SECTION 18-1.3-406, shall be adjudged an habitual criminal
19 and shall be punished for the ~~felony offense~~ CRIME OF VIOLENCE of which
20 ~~such~~ THE person is convicted by imprisonment in the department of
21 corrections for a term of three times the maximum of the presumptive
22 range pursuant to section 18-1.3-401 for the class of ~~felony~~ OFFENSE of
23 which ~~such~~ THE person is convicted.

24 (2) Every person convicted in this state of ~~any felony~~ A CRIME OF
25 VIOLENCE AS DEFINED IN SECTION 18-1.3-406, who has been three times
26 previously convicted, upon charges separately brought and tried, and
27 arising out of separate and distinct criminal episodes, either in this state

1 or elsewhere, of a ~~felony~~ CRIME OF VIOLENCE AS DEFINED IN SECTION
2 18-1.3-406 or, under the laws of any other state, the United States, or any
3 territory subject to the jurisdiction of the United States, of a crime ~~which~~
4 THAT, if committed within this state, would be a ~~felony~~ CRIME OF
5 VIOLENCE AS DEFINED IN SECTION 18-1.3-406, shall be adjudged an
6 habitual criminal and shall be punished for the ~~felony offense~~ CRIME OF
7 VIOLENCE of which ~~such~~ THE person is convicted by imprisonment in the
8 department of corrections for a term of four times the maximum of the
9 presumptive range pursuant to section 18-1.3-401 for the class of felony
10 of which ~~such~~ THE person is convicted. ~~Such~~ THE former conviction or
11 convictions and judgment or judgments shall be set forth in apt words in
12 the indictment or information. Nothing in this ~~part~~ PART 8 shall
13 abrogate or affect the punishment by death in any and all crimes
14 punishable by death on or after July 1, 1972.

15 **SECTION 7.** 18-4-204 (2), Colorado Revised Statutes, is
16 amended to read:

17 **18-4-204. Third degree burglary.** (2) Third degree burglary is
18 a ~~class 5 felony~~ CLASS 1 MISDEMEANOR, but it is a ~~class 4~~ CLASS 5 felony
19 if it is a burglary, the objective of which is the theft of a controlled
20 substance, as defined in section 12-22-303 (7), C.R.S., lawfully kept in
21 or upon the property burglarized.

22 **SECTION 8.** 18-4-205 (2), Colorado Revised Statutes, is
23 amended to read:

24 **18-4-205. Possession of burglary tools.** (2) Possession of
25 burglary tools is a ~~class 5 felony~~ CLASS 6 FELONY.

26 **SECTION 9.** 18-4-401 (2) and (4), Colorado Revised Statutes,
27 are amended to read:

1 **18-4-401. Theft.** (2) Theft is:

2 (a) (Deleted by amendment, L. 2007, p. 1690, § 3, effective July
3 1, 2007.)

4 (a.5) A CLASS 2 PETTY OFFENSE IF THE VALUE OF THE THING
5 INVOLVED IS ONE HUNDRED DOLLARS OR LESS.

6 (b) A ~~class 2~~ CLASS 3 misdemeanor if the value of the thing
7 involved is less than five hundred dollars BUT MORE THAN ONE HUNDRED
8 DOLLARS. IF THE DEFENDANT HAS NO PRIOR FELONY OR MISDEMEANOR
9 CONVICTIONS, THE COURT SHALL NOT SENTENCE THE DEFENDANT TO
10 INCARCERATION.

11 (b.5) A ~~class 1~~ CLASS 2 misdemeanor if the value of the thing
12 involved is five hundred dollars or more but less than one thousand
13 dollars. IF THE DEFENDANT HAS NO PRIOR FELONY OR MISDEMEANOR
14 CONVICTIONS, THE COURT SHALL NOT SENTENCE THE DEFENDANT TO
15 INCARCERATION.

16 (c) A ~~class 4~~ CLASS 5 felony if the value of the thing involved is
17 one thousand dollars or more but less than twenty thousand dollars;

18 (d) A ~~class 3~~ CLASS 4 felony if the value of the thing involved is
19 twenty thousand dollars or more.

20 (4) When a person commits theft twice or more within a period of
21 six months without having been placed in jeopardy for the prior offense
22 or offenses, and the aggregate value of the things involved is one
23 thousand dollars or more but less than twenty thousand dollars, it is a
24 ~~class 4~~ CLASS 5 felony; however, if the aggregate value of the things
25 involved is twenty thousand dollars or more, it is a ~~class 3~~ CLASS 4 felony.

26 **SECTION 10.** 18-4-402 (3), (3.5), (4), (5), and (6), Colorado
27 Revised Statutes, are amended, and the said 18-4-402 is further amended

1 BY THE ADDITION OF A NEW SUBSECTION, to read:

2 **18-4-402. Theft of rental property.** (2.5) THEFT OF RENTAL
3 PROPERTY IS A CLASS 2 PETTY OFFENSE WHERE THE VALUE OF THE
4 PROPERTY INVOLVED IS ONE HUNDRED DOLLARS OR LESS.

5 (3) Theft of rental property is a ~~class 2~~ CLASS 3 misdemeanor
6 where the value of the property involved is less than five hundred dollars
7 BUT MORE THAN ONE HUNDRED DOLLARS. IF THE DEFENDANT HAS NO
8 PRIOR FELONY OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT
9 SENTENCE THE DEFENDANT TO INCARCERATION.

10 (3.5) Theft of rental property is a ~~class 1~~ CLASS 2 misdemeanor
11 where the value of the property involved is five hundred dollars or more
12 but less than one thousand dollars. IF THE DEFENDANT HAS NO PRIOR
13 FELONY OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT
14 SENTENCE THE DEFENDANT TO INCARCERATION.

15 (4) Theft of rental property is a ~~class 5~~ CLASS 6 felony where the
16 value of the property involved is one thousand dollars or more but less
17 than twenty thousand dollars.

18 (5) Theft of rental property is a ~~class 3~~ CLASS 4 felony where the
19 value of the property involved is twenty thousand dollars or more.

20 (6) When a person commits theft of rental property twice or more
21 within a period of six months without having been placed in jeopardy for
22 the prior offense or offenses, and the aggregate value of the property
23 involved is one thousand dollars or more but less than twenty thousand
24 dollars, it is a ~~class 5~~ CLASS 6 felony; however, if the aggregate value of
25 the property involved is twenty thousand dollars or more, it is a ~~class 3~~
26 CLASS 4 felony.

27 **SECTION 11.** 18-4-410 (3), (3.5), (4), (5), (6), and (7), Colorado

1 Revised Statutes, are amended, and the said 18-4-410 is further amended
2 BY THE ADDITION OF A NEW SUBSECTION, to read:

3 **18-4-410. Theft by receiving.** (2.5) WHERE THE VALUE OF THE
4 THING INVOLVED IS ONE HUNDRED DOLLARS OR LESS, THEFT BY RECEIVING
5 IS A CLASS 2 PETTY OFFENSE.

6 (3) Where the value of the thing involved is less than five hundred
7 dollars BUT MORE THAN ONE HUNDRED DOLLARS, theft by receiving is a
8 ~~class 2~~ CLASS 3 misdemeanor. IF THE DEFENDANT HAS NO PRIOR FELONY
9 OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT SENTENCE THE
10 DEFENDANT TO INCARCERATION.

11 (3.5) Where the value of the thing involved is five hundred dollars
12 or more but less than one thousand dollars, theft by receiving is a ~~class 1~~
13 CLASS 2 misdemeanor. IF THE DEFENDANT HAS NO PRIOR FELONY OR
14 MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT SENTENCE THE
15 DEFENDANT TO INCARCERATION.

16 (4) Where the value of the thing involved is one thousand dollars
17 or more but less than twenty thousand dollars, theft by receiving is a ~~class~~
18 4 CLASS 5 felony.

19 (5) Where the value of the thing involved is twenty thousand
20 dollars or more, theft by receiving is a ~~class 3~~ CLASS 4 felony.

21 (6) When the aggregate value of the thing or things involved is
22 one thousand dollars or more and the person committing theft by
23 receiving is engaged in the business of buying, selling, or otherwise
24 disposing of stolen goods for a profit, theft by receiving is a ~~class 3~~ CLASS
25 4 felony.

26 (7) When a person commits theft by receiving twice or more
27 within a period of six months without having been placed in jeopardy for

1 the prior offenses and the aggregate value of the things involved is one
2 thousand dollars or more but less than twenty thousand dollars, it is a
3 ~~class 4~~ CLASS 5 felony; however, if the aggregate value of the things
4 involved is twenty thousand dollars or more, it is a ~~class 3~~ CLASS 4 felony.

5 **SECTION 12.** 18-4-501 (1), Colorado Revised Statutes, is
6 amended to read:

7 **18-4-501. Criminal mischief.** (1) A person who knowingly
8 damages the real or personal property of one or more other persons,
9 including property owned by the person jointly with another person or
10 property owned by the person in which another person has a possessory
11 or proprietary interest, in the course of a single criminal episode commits:

12 (a) A class 2 ~~misdemeanor~~ PETTY OFFENSE, WHEN THE
13 AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS ONE
14 HUNDRED DOLLARS OR LESS;

15 (b) ~~Where~~ A CLASS 3 MISDEMEANOR, WHEN the aggregate damage
16 to the real or personal property is less than five hundred dollars BUT MORE
17 THAN ONE HUNDRED DOLLARS. IF THE DEFENDANT HAS NO PRIOR FELONY
18 OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT SENTENCE THE
19 DEFENDANT TO INCARCERATION.

20 (c) ~~Where~~ A CLASS 2 MISDEMEANOR, WHEN the aggregate damage
21 to the real or personal property is five hundred dollars or more but less
22 than one thousand dollars. ~~the person commits a class 1 misdemeanor.~~ IF
23 THE DEFENDANT HAS NO PRIOR FELONY OR MISDEMEANOR CONVICTIONS,
24 THE COURT SHALL NOT SENTENCE THE DEFENDANT TO INCARCERATION.

25 (d) ~~Where~~ A CLASS 5 FELONY, WHEN the aggregate damage to the
26 real or personal property is one thousand dollars or more but less than
27 twenty thousand dollars; ~~the person commits a class 4 felony.~~

1 (e) ~~Where~~ A CLASS 4 FELONY, WHEN the aggregate damage to the
2 real or personal property is twenty thousand dollars or more. ~~the person~~
3 ~~commits a class 3 felony.~~

4 **SECTION 13.** 18-4-502, Colorado Revised Statutes, is amended
5 to read:

6 **18-4-502. First degree criminal trespass.** A person commits the
7 crime of first degree criminal trespass if ~~such~~ THE person knowingly and
8 unlawfully enters or remains in a dwelling of another or if ~~such~~ THE
9 person enters any motor vehicle with intent to commit a crime therein.
10 First degree criminal trespass is a ~~class 5 felony~~ CLASS 1 MISDEMEANOR;
11 EXCEPT THAT A THIRD OR SUBSEQUENT CONVICTION FOR FIRST DEGREE
12 CRIMINAL TRESPASS IS A CLASS 5 FELONY. IF THE DEFENDANT HAS NO
13 PRIOR FELONY OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT
14 SENTENCE THE DEFENDANT TO INCARCERATION.

15 **SECTION 14.** 18-5-102 (2), Colorado Revised Statutes, is
16 amended to read:

17 **18-5-102. Forgery.** (2) Forgery is a ~~class 5 felony~~ CLASS 1
18 MISDEMEANOR. IF THE DEFENDANT HAS NO PRIOR FELONY OR
19 MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT SENTENCE THE
20 DEFENDANT TO INCARCERATION.

21 **SECTION 15.** 18-5-104 (2), Colorado Revised Statutes, is
22 amended to read:

23 **18-5-104. Second degree forgery.** (2) Second degree forgery is
24 a ~~class 1~~ CLASS 2 misdemeanor.

25 **SECTION 16.** 18-5-105, Colorado Revised Statutes, is amended
26 to read:

27 **18-5-105. Criminal possession of a forged instrument.** A

1 person commits a ~~class 6 felony~~ CLASS 1 MISDEMEANOR when, with
2 knowledge that it is forged and with intent to use to defraud, ~~such~~ THE
3 person possesses any forged instrument of a kind described in section
4 18-5-102. IF THE DEFENDANT HAS NO PRIOR FELONY OR MISDEMEANOR
5 CONVICTIONS, THE COURT SHALL NOT SENTENCE THE DEFENDANT TO
6 INCARCERATION.

7 **SECTION 17.** 18-5-113 (2), Colorado Revised Statutes, is
8 amended to read:

9 **18-5-113. Criminal impersonation.** (2) Criminal impersonation
10 is a ~~class 6 felony~~ CLASS 1 MISDEMEANOR; EXCEPT THAT A THIRD OR
11 SUBSEQUENT CONVICTION FOR CRIMINAL IMPERSONATION IS A CLASS 5
12 FELONY. IF THE DEFENDANT HAS NO PRIOR FELONY OR MISDEMEANOR
13 CONVICTIONS, THE COURT SHALL NOT SENTENCE THE DEFENDANT TO
14 INCARCERATION.

15 **SECTION 18.** 18-5-205 (3), Colorado Revised Statutes, is
16 amended to read:

17 **18-5-205. Fraud by check - definitions - penalties.** (3) Fraud
18 by check is:

19 (a) (Deleted by amendment, L. 2007, p. 1693, § 8, effective July
20 1, 2007.)

21 (b) A ~~class 2~~ CLASS 3 misdemeanor if the fraudulent check was for
22 the sum of less than five hundred dollars or if the offender is convicted
23 of fraud by check involving the issuance of two or more checks within a
24 sixty-day period in the state of Colorado totaling less than five hundred
25 dollars in the aggregate. IF THE DEFENDANT HAS NO PRIOR FELONY OR
26 MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT SENTENCE THE
27 DEFENDANT TO INCARCERATION.

1 (b.5) A ~~class 1~~ CLASS 2 misdemeanor if the fraudulent check was
2 for the sum of five hundred dollars or more but less than one thousand
3 dollars or if the offender is convicted of fraud by check involving the
4 issuance of two or more checks within a sixty-day period in the state of
5 Colorado totaling five hundred dollars or more but less than one thousand
6 dollars in the aggregate. IF THE DEFENDANT HAS NO PRIOR FELONY OR
7 MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT SENTENCE THE
8 DEFENDANT TO INCARCERATION.

9 (c) A ~~class 6 felony~~ CLASS 1 MISDEMEANOR if the fraudulent check
10 was for the sum of one thousand dollars or more, or if the offender is
11 convicted of fraud by check involving the issuance of two or more checks
12 within a sixty-day period in the state of Colorado totaling one thousand
13 dollars or more in the aggregate, or if the offender has been twice
14 previously convicted under this section or a former statute of this state of
15 similar content and purport;

16 (d) A ~~class 6 felony~~ CLASS 1 MISDEMEANOR if the fraudulent
17 check was drawn on an account ~~which~~ THAT did not exist or ~~which~~ THAT
18 has been closed for a period of thirty days or more prior to the issuance
19 of said check.

20 **SECTION 19.** 18-6-801, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **18-6-801. Domestic violence - sentencing.**

23 (4.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
24 CONTRARY, ANY PERSON WHO IS CONVICTED OF A MISDEMEANOR CRIME
25 OTHER THAN THIRD DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-204,
26 THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE
27 COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS

1 DEFINED IN SECTION 18-6-800.3 (1), AND WHO HAS NO PRIOR FELONY OR
2 MISDEMEANOR CONVICTIONS SHALL NOT BE SENTENCED TO
3 INCARCERATION.

4 **SECTION 20.** 18-7-302 (2) (b), Colorado Revised Statutes, is
5 amended to read:

6 **18-7-302. Indecent exposure.** (2) (b) Indecent exposure is a
7 ~~class 1~~ CLASS 2 misdemeanor.

8 **SECTION 21.** 18-8-111 (2), Colorado Revised Statutes, is
9 amended to read:

10 **18-8-111. False reporting to authorities.** (2) False reporting to
11 authorities is a ~~class 3 misdemeanor~~ CLASS 2 PETTY OFFENSE.

12 **SECTION 22.** 18-8-204 (3), Colorado Revised Statutes, is
13 amended to read:

14 **18-8-204. Introducing contraband in the second degree.**
15 (3) Introducing contraband in the second degree is a ~~class 6 felony~~ CLASS
16 2 MISDEMEANOR.

17 **SECTION 23.** 18-8-204.2 (2), Colorado Revised Statutes, is
18 amended to read:

19 **18-8-204.2. Possession of contraband in the second degree.**
20 (2) Possession of contraband in the second degree is a ~~class 1~~ CLASS 2
21 misdemeanor.

22 **SECTION 24.** 18-8-208 (2), (3), (6) (c), (8), and (9), Colorado
23 Revised Statutes, are amended to read:

24 **18-8-208. Escapes.** (2) A person commits a ~~class 3~~ CLASS 4
25 felony if, while being in custody or confinement following conviction of
26 a felony other than a class 1 or class 2 felony, he OR SHE knowingly
27 escapes from ~~said~~ THE custody or confinement.

1 (3) A person commits a ~~class 4~~ CLASS 5 felony if, while being in
2 custody or confinement and held for or charged with but not convicted of
3 a felony, he OR SHE knowingly escapes from ~~said~~ THE custody or
4 confinement.

5 (6) A person who knowingly escapes confinement while being
6 confined pursuant to a commitment under article 8 of title 16, C.R.S.:

7 (c) Commits a ~~class 5~~ CLASS 6 felony if the person had been
8 charged with a felony at the proceeding in which the person was
9 committed, if in the escape the person travels outside of the state of
10 Colorado.

11 (8) A person commits a ~~class 5~~ CLASS 6 felony if he OR SHE
12 knowingly escapes while in custody or confinement pursuant to the
13 provisions of article 19 of title 16, C.R.S.

14 (9) ~~The minimum sentences provided by sections 18-1.3-401,
15 18-1.3-501, and 18-1.3-503, respectively, for violation of the provisions
16 of this section shall be mandatory, and the court shall not grant probation
17 or a suspended sentence, in whole or in part, except that the court may
18 grant a suspended sentence if the court is sentencing a person to the
19 youthful offender system pursuant to section 18-1.3-407.~~

20 **SECTION 25.** 18-8-208.1 (1), (2), (3), (4), and (5), Colorado
21 Revised Statutes, are amended to read:

22 **18-8-208.1. Attempt to escape.** (1) If a person, while in custody
23 or confinement following conviction of a felony, knowingly attempts to
24 escape from ~~said~~ THE custody or confinement, he OR SHE commits a ~~class~~
25 4 CLASS 5 felony. ~~The sentence imposed pursuant to this subsection (1)
26 shall run consecutively with any sentences being served by the offender.~~

27 (2) If a person, while in custody or confinement and held for or

1 charged with but not convicted of a felony, knowingly attempts to escape
2 from ~~said~~ THE custody or confinement, he OR SHE commits a ~~class-5~~
3 CLASS 6 felony. ~~If the person is convicted of the felony or other crime for~~
4 ~~which he was originally in custody or confinement, the sentence imposed~~
5 ~~pursuant to this subsection (2) shall run consecutively with any sentences~~
6 ~~being served by the offender.~~

7 (3) If a person, while in custody or confinement following
8 conviction of a misdemeanor or petty offense, knowingly attempts to
9 escape from ~~said~~ THE custody or confinement, he OR SHE is guilty of a
10 misdemeanor and, upon conviction thereof, shall be punished by
11 imprisonment in the county jail for not less than two months nor more
12 than four months. ~~The sentence imposed pursuant to this subsection (3)~~
13 ~~shall run consecutively with any sentences being served by the offender.~~

14 (4) If a person, while in custody or confinement and held for or
15 charged with but not convicted of a misdemeanor or petty offense,
16 knowingly attempts to escape from ~~said~~ THE custody or confinement, he
17 OR SHE is guilty of a petty offense and, upon conviction thereof, shall be
18 punished by imprisonment in the county jail for not less than two months
19 nor more than four months. ~~If the person is convicted of the~~
20 ~~misdemeanor or petty offense for which he was originally in custody or~~
21 ~~confinement, the sentence imposed pursuant to this subsection (4) shall~~
22 ~~run consecutively with any sentences being served by the offender.~~

23 (5) ~~The sentences imposed by subsections (1) and (2) of this~~
24 ~~section and the minimum sentences imposed by subsections (3) and (4)~~
25 ~~of this section shall be mandatory, and the court shall not grant probation~~
26 ~~or a suspended sentence, in whole or in part; except that the court may~~
27 ~~grant a suspended sentence if the court is sentencing a person to the~~

1 youthful offender system pursuant to section ~~18-1.3-407~~.

2 **SECTION 26.** 18-8-212 (1) and (3), Colorado Revised Statutes,
3 are amended to read:

4 **18-8-212. Violation of bail bond conditions.** (1) A person who
5 is released on bail bond of whatever kind, and either before, during, or
6 after release is accused by complaint, information, indictment, or the
7 filing of a delinquency petition of any felony arising from the conduct for
8 which he OR SHE was arrested, commits a ~~class 6 felony~~ CLASS 1
9 MISDEMEANOR if he OR SHE knowingly fails to appear for trial or other
10 proceedings in the case in which the bail bond was filed or if he OR SHE
11 knowingly violates the conditions of the bail bond.

12 (3) ~~A person convicted under this section shall not be eligible for~~
13 ~~probation or a suspended sentence and shall be sentenced to~~
14 ~~imprisonment of not less than one year for violation of subsection (1) of~~
15 ~~this section and not less than six months for violation of subsection (2) of~~
16 ~~this section. Any such sentence shall be served consecutively with any~~
17 ~~sentence for the offense on which the person is on bail.~~

18 **SECTION 27.** 18-9-106 (3) (b), Colorado Revised Statutes, is
19 amended to read:

20 **18-9-106. Disorderly conduct.** (3) (b) An offense under
21 paragraph (d) of subsection (1) of this section is a ~~class 3 misdemeanor~~
22 CLASS 2 PETTY OFFENSE.

23 **SECTION 28.** 18-18-404 (1) (a) and (4), Colorado Revised
24 Statutes, are amended to read:

25 **18-18-404. Unlawful use or possession of a controlled**
26 **substance.** (1) (a) Except as is otherwise provided for offenses
27 concerning marihuana and marihuana concentrate in sections 18-18-406

1 and 18-18-406.5, any person who uses OR POSSESSES any controlled
2 substance, except when it is dispensed by or under the direction of a
3 person licensed or authorized by law to prescribe, administer, or dispense
4 such controlled substance for bona fide medical needs, commits:

5 (I) ~~A class 6 felony, if the controlled substance is listed in~~
6 ~~schedule I or II of part 2 of this article;~~

7 (II) A class 1 misdemeanor. ~~if the controlled substance is listed~~
8 ~~in schedule III, IV, or V of part 2 of this article~~ IF THE DEFENDANT HAS
9 NO PRIOR FELONY OR MISDEMEANOR CONVICTIONS, THE COURT SHALL NOT
10 SENTENCE THE DEFENDANT TO INCARCERATION.

11 (4) ~~In addition to any other penalty imposed by this section, upon~~
12 ~~each conviction, entry of plea of guilty or nolo contendere, or receipt of~~
13 ~~a deferred sentence for a nonfelony violation of this section or~~
14 ~~adjudication as a delinquent for an act that would constitute a nonfelony~~
15 ~~violation of this section if committed by an adult, any driver's permit or~~
16 ~~minor driver's license held by the offender shall be suspended as provided~~
17 ~~in section 42-2-127.3, C.R.S.~~

18 **SECTION 29.** 18-18-405 (1) (a), Colorado Revised Statutes, is
19 amended to read:

20 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
21 **or sale.** (1) (a) Except as authorized by part 3 of article 22 of title 12,
22 C.R.S., or by part 2 or 3 of this article, it is unlawful for any person
23 knowingly to manufacture, dispense, sell, OR distribute ~~possess~~; or to
24 possess with intent to manufacture, dispense, sell, or distribute a
25 controlled substance; or TO induce, attempt to induce, or conspire with
26 one or more other persons, to manufacture, dispense, sell, OR distribute
27 ~~possess~~; or TO possess with intent to manufacture, dispense, sell, or

1 distribute a controlled substance; or TO possess one or more chemicals or
2 supplies or equipment with intent to manufacture a controlled substance.

3 **SECTION 30.** 18-18-406 (1), (3) (a), and (4) (a), Colorado
4 Revised Statutes, are amended to read:

5 **18-18-406. Offenses relating to marihuana and marihuana**
6 **concentrate.** (1) Any person who possesses not more than ~~one ounce~~
7 TWO OUNCES of marihuana commits a class 2 petty offense and, upon
8 conviction thereof, shall be punished by a fine of not more than ~~one~~ TWO
9 hundred dollars.

10 (3) (a) (I) Any person who openly and publicly displays,
11 consumes, or uses not more than ~~one ounce~~ TWO OUNCES of marihuana
12 commits a class 2 petty offense and, upon conviction thereof, shall be
13 punished, at a minimum, by a fine of not less than ~~one~~ TWO hundred
14 dollars. ~~or, at a maximum, by a fine of not more than one hundred dollars~~
15 ~~and, notwithstanding the provisions of section 18-1.3-503, by fifteen days~~
16 ~~in the county jail.~~

17 (II) Open and public display, consumption, or use of more than
18 ~~one ounce~~ TWO OUNCES of marihuana or any amount of marihuana
19 concentrate shall be deemed possession thereof, and violations shall be
20 punished as provided for in subsection (4) of this section.

21 (4) (a) Any person who possesses more than ~~one ounce~~ TWO
22 OUNCES of marihuana but less than eight ounces of marihuana commits:

23 (I) A class 1 misdemeanor; or

24 (II) A ~~class 5~~ CLASS 6 felony, if the violation is committed
25 subsequent to a prior conviction in this or any other state, the United
26 States, or any territory subject to the jurisdiction of the United States of
27 a violation to which this subsection (4) applies or would apply if

1 convicted in this state.

2 **SECTION 31.** 18-18-406.5 (1), Colorado Revised Statutes, is
3 amended to read:

4 **18-18-406.5. Unlawful use of marihuana in a detention facility.**

5 (1) Any person confined in any detention facility in this state who
6 possesses or uses up to eight ounces of marihuana commits a ~~class-6~~
7 ~~felony~~ CLASS 1 MISDEMEANOR; except that, if the person commits a
8 second or subsequent violation where both the initial and subsequent
9 violations involved more than ~~one ounce~~ TWO OUNCES of marihuana, the
10 person commits a ~~class-5~~ CLASS 6 felony.

11 **SECTION 32.** 18-18-415 (2) (a), Colorado Revised Statutes, is
12 amended to read:

13 **18-18-415. Fraud and deceit.** (2) Any person who violates any
14 provision of this section commits:

15 (a) A ~~class-5~~ CLASS 6 felony and shall be punished as provided in
16 section 18-1.3-401; or

17 **SECTION 33.** 18-18-422 (1) (b) (I), Colorado Revised Statutes,
18 is amended to read:

19 **18-18-422. Imitation controlled substances - violations -**
20 **penalties.** (1) (b) Any person who violates the provisions of paragraph
21 (a) of this subsection (1) commits:

22 (I) A ~~class-5~~ CLASS 6 felony; or

23 **SECTION 34.** 18-18-423 (3), Colorado Revised Statutes, is
24 amended to read:

25 **18-18-423. Counterfeit substances prohibited - penalty.**

26 (3) Any person who violates this section commits a ~~class-5~~ CLASS 6
27 felony.

1 **SECTION 35.** 42-2-138 (1) (a), Colorado Revised Statutes, is
2 amended to read:

3 **42-2-138. Driving under restraint - penalty.** (1)(a) Any person
4 who drives a motor vehicle or off-highway vehicle upon any highway of
5 this state with knowledge that the person's license or privilege to drive,
6 either as a resident or a nonresident, is under restraint for any reason other
7 than conviction of DUI, DUI per se, DWAI, habitual user, or UDD is
8 guilty of a misdemeanor and, upon conviction thereof, shall be punished
9 by A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE
10 HUNDRED DOLLARS FOR A FIRST OFFENSE AND, FOR A SECOND OR
11 SUBSEQUENT OFFENSE, BY imprisonment in the county jail for not less
12 than five days nor more than six months. ~~and~~; In the discretion of the
13 court, a fine of not less than fifty dollars nor more than five hundred
14 dollars may ALSO be imposed FOR A SECOND OR SUBSEQUENT OFFENSE.
15 The minimum sentence imposed by this paragraph (a) shall be mandatory,
16 and the court shall not grant probation or a suspended sentence, in whole
17 or in part, or reduce or suspend the fine under this paragraph (a); but, in
18 a case where the defendant is convicted although the defendant
19 established that he or she had to drive the motor vehicle in violation of
20 this paragraph (a) because of an emergency, the mandatory jail sentence
21 or the fine, if any, shall not apply, and the court may impose a sentence
22 of imprisonment in the county jail for a period of not more than six
23 months and a fine of not more than five hundred dollars. ~~Such~~ THE
24 minimum sentence need not be five consecutive days but may be served
25 during any thirty-day period.

26 **SECTION 36.** The introductory portion to 18-1.3-401 (1) (a) (V)
27 (A) and 18-1.3-401 (1) (a) (VI) and (4) (b) (I), Colorado Revised Statutes,

1 are amended, and the said 18-1.3-401 (1) (a) is further amended BY THE
2 ADDITION OF A NEW SUBPARAGRAPH, to read:

3 **18-1.3-401. Felonies classified - presumptive penalties.**

4 (1) (a) (V) (A) As to any person sentenced for a felony committed on or
5 after July 1, 1993, AND BEFORE JULY 1, 2009, felonies are divided into six
6 classes which are distinguished from one another by the following
7 presumptive ranges of penalties which are authorized upon conviction:

8 (VI) Any person sentenced for a class 2, 3, 4, or 5 felony, or a
9 class 6 felony that is the offender's second or subsequent felony offense,
10 committed on or after July 1, 1998, AND BEFORE JULY 1, 2009, regardless
11 of the length of the person's sentence to incarceration and the mandatory
12 period of parole, shall not be deemed to have fully discharged his or her
13 sentence until ~~said~~ THE person has either completed or been discharged
14 by the state board of parole from the mandatory period of parole imposed
15 pursuant to subparagraph (V) of this paragraph (a).

16 (VII) (A) AS TO ANY PERSON SENTENCED FOR A FELONY
17 COMMITTED ON OR AFTER JULY 1, 2009, FELONIES ARE DIVIDED INTO SIX
18 CLASSES WHICH ARE DISTINGUISHED FROM ONE ANOTHER BY THE
19 FOLLOWING PRESUMPTIVE RANGES OF PENALTIES WHICH ARE AUTHORIZED
20 UPON CONVICTION:

21	CLASS	MINIMUM	MAXIMUM	MANDATORY PERIOD
22		SENTENCE	SENTENCE	OF PAROLE
23	1	LIFE	DEATH	NONE
24		IMPRISONMENT		
25	2	EIGHT YEARS	TWENTY-FOUR	FIVE YEARS
26		IMPRISONMENT	YEARS	
27			IMPRISONMENT	

1	3	FOUR YEARS	TEN YEARS	FIVE YEARS
2		IMPRISONMENT	IMPRISONMENT	
3	4	TWO YEARS	FOUR YEARS	THREE YEARS
4		IMPRISONMENT	IMPRISONMENT	
5	5	ONE YEAR	TWO YEARS	TWO YEARS
6		IMPRISONMENT	IMPRISONMENT	
7	6	SIX MONTHS	ONE YEAR	ONE YEAR
8		IMPRISONMENT	IMPRISONMENT	

9 (B) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH
10 (A) OF THIS SUBPARAGRAPH (VII), A PERSON SENTENCED FOR A SEX
11 OFFENSE, AS DEFINED IN SECTION 18-1.3-1003 (5), COMMITTED ON OR
12 AFTER NOVEMBER 1, 1998, SHALL BE SENTENCED PURSUANT TO THE
13 PROVISIONS OF PART 10 OF THIS ARTICLE.

14 (4) (b) (I) Notwithstanding the provisions of sub-subparagraph
15 (A) of subparagraph (V) of paragraph (a) of subsection (1) of this section
16 AND SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (VII) OF PARAGRAPH (a)
17 OF SUBSECTION (1) OF THIS SECTION, and notwithstanding the provisions
18 of paragraph (a) of this subsection (4), as to a person who is convicted as
19 an adult of a class 1 felony following direct filing of an information or
20 indictment in the district court pursuant to section 19-2-517, C.R.S., or
21 transfer of proceedings to the district court pursuant to section 19-2-518,
22 C.R.S., the district court judge shall sentence the person to a term of life
23 imprisonment with the possibility of parole after serving a period of forty
24 calendar years. Regardless of whether the state board of parole releases
25 the person on parole, the person shall remain in the legal custody of the
26 department of corrections for the remainder of the person's life and shall
27 not be discharged.

1 **SECTION 37.** 17-2-201 (5) (a.3) (I) and (5) (a.6), Colorado
2 Revised Statutes, are amended to read:

3 **17-2-201. State board of parole.** (5) (a.3) (I) Any person
4 sentenced as a habitual criminal pursuant to section 18-1.3-801 (1.5) or
5 (2), C.R.S., for an offense committed on or after July 1, 2003, shall be
6 subject to the mandatory parole set forth in section 18-1.3-401 (1) (a) (V)
7 (A) OR (1) (a) (VII) (A), C.R.S., WHICHEVER IS APPLICABLE, for the class
8 of felony of which the person is convicted.

9 (a.6) As to any person who is sentenced for conviction of an
10 offense committed on or after July 1, 2002, involving unlawful sexual
11 behavior, as defined in section 16-22-102 (9), C.R.S., or for conviction
12 of an offense committed on or after July 1, 2002, the underlying factual
13 basis of which involved unlawful sexual behavior, and who is not subject
14 to the provisions of part 10 of article 1.3 of title 18, C.R.S., ~~such~~ THE
15 person shall be subject to the mandatory period of parole set forth in
16 section 18-1.3-401 (1) (a) (V) (A) OR (1) (a) (VII) (A), C.R.S.,
17 WHICHEVER IS APPLICABLE.

18 **SECTION 38.** 17-22.5-403 (3.5) (a), (7) (a), and (8) (a), Colorado
19 Revised Statutes, are amended to read:

20 **17-22.5-403. Parole eligibility.** (3.5) (a) Notwithstanding
21 subsection (1) or (2.5) of this section, any person convicted and sentenced
22 for any crime enumerated in subsection (2.5) of this section, committed
23 on or after July 1, 2004, who has previously been convicted for a crime
24 ~~which~~ THAT would have been a crime of violence as defined in section
25 18-1.3-406, C.R.S., shall be eligible for parole after ~~such~~ THE person has
26 served seventy-five percent of the sentence served upon ~~such~~ THE person,
27 at which time ~~such~~ THE person shall be referred by the department to the

1 state board of parole, which may place the person on parole for the period
2 of time specified in section 18-1.3-401 (1) (a) (V) (A) OR (1) (a) (VII)
3 (A), C.R.S., WHICHEVER IS APPLICABLE. Section 17-22.5-402 (2) shall not
4 apply to any such offender.

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

1 defined in section 18-1.3-406, C.R.S., the board need only reconsider
2 granting parole to ~~such~~ THE person once every five years, until the board
3 grants ~~such~~ THE person parole or until ~~such~~ THE person is discharged
4 pursuant to law.

5 (8) (a) For persons who are granted parole pursuant to paragraph
6 (a) of subsection (7) of this section, the division of adult parole shall
7 provide parole supervision and assistance in securing employment,
8 housing, and such other services as may affect the successful
9 reintegration of ~~such~~ THE offender into the community while recognizing
10 the need for public safety. The conditions for parole for any such
11 offender under this paragraph (a) shall be established pursuant to section
12 17-22.5-404 by the state board of parole prior to ~~such~~ THE offender's
13 release from incarceration. Upon a determination that the conditions of
14 parole have been violated in a parole revocation proceeding, the state
15 board of parole shall continue the parole in effect, modify the conditions
16 of parole if circumstances then shown to exist require such modifications,
17 which circumstances shall be set forth in writing, or revoke the parole and
18 order the return of the offender to a place of confinement designated by
19 the executive director for any period of time up to the period remaining
20 on ~~such person's~~ THE OFFENDER'S mandatory period of parole established
21 in section 18-1.3-401 (1) (a) (V) (A) OR (1) (a) (VII) (A), C.R.S.,
22 WHICHEVER IS APPLICABLE. Any offender who has been reincarcerated
23 due to a parole revocation pursuant to this paragraph (a) shall be eligible
24 for parole at any time during such reincarceration. The state board of
25 parole may discharge an offender granted parole under this section at any
26 time during the term of parole upon a determination that the offender has
27 been sufficiently rehabilitated and reintegrated into society and can no

1 longer benefit from parole supervision. In making any such
2 determination, the state board of parole shall make written findings as to
3 why ~~such~~ THE offender is no longer in need of parole supervision.

4 **SECTION 39.** 17-22.5-405 (5) (a) and (5) (a.5), Colorado
5 Revised Statutes, are amended to read:

6 **17-22.5-405. Earned time.** (5) (a) Notwithstanding subsections
7 (1), (2), and (3) of this section, ~~no~~ AN offender who is sentenced and
8 paroled for a felony offense other than a nonviolent felony committed on
9 or after July 1, 1993, shall NOT be eligible to receive any earned time
10 while ~~such~~ THE offender is on parole or while ~~such~~ THE offender is
11 reincarcerated after a revocation of the mandatory period of parole
12 pursuant to section 18-1.3-401 (1) (a) (V) (A) OR (1) (a) (VII) (A), C.R.S.,
13 WHICHEVER IS APPLICABLE. An offender who is sentenced and paroled
14 for a nonviolent felony offense committed on or after July 1, 1993, shall
15 be eligible to receive any earned time while ~~such~~ THE offender is on
16 parole but shall not be eligible for earned time while ~~such~~ THE offender
17 is reincarcerated after a revocation of the mandatory period of parole
18 pursuant to section 18-1.3-401 (1) (a) (V) (A) OR (1) (a) (VII) (A),
19 C.R.S.,WHICHEVER IS APPLICABLE.

20 (a.5) Notwithstanding the provisions of paragraph (a) of this
21 subsection (5), an offender who is sentenced for a felony committed on
22 or after July 1, 1993, and paroled on or after January 1, 2009, shall be
23 eligible to receive any earned time while on parole or after reparole
24 following a parole revocation. The offender shall not be eligible for
25 earned time while the offender is reincarcerated after revocation of the
26 mandatory period of parole pursuant to section 18-1.3-401 (1) (a) (V) (A)
27 OR (1) (a) (VII) (A), C.R.S., WHICHEVER IS APPLICABLE.

1 **SECTION 40.** 18-1.3-406 (1) (b), Colorado Revised Statutes, is
2 amended to read:

3 **18-1.3-406. Mandatory sentences for violent crimes.**
4 (1) (b) Notwithstanding the provisions of paragraph (a) of this subsection
5 (1), any person convicted of a sex offense, as defined in section
6 18-1.3-1003 (5), committed on or after November 1, 1998, that
7 constitutes a crime of violence shall be sentenced to the department of
8 corrections for an indeterminate term of incarceration of at least the
9 midpoint in the presumptive range specified in section 18-1.3-401 (1) (a)
10 (V) (A) OR (1) (a) (VII) (A), WHICHEVER IS APPLICABLE, up to a maximum
11 of the person's natural life, as provided in section 18-1.3-1004 (1).

12 **SECTION 41.** 18-1.3-102, Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW SUBSECTION to read:

14 **18-1.3-102. Deferred sentencing of defendant.** (2.5) IN ANY
15 CASE IN WHICH THE DEFENDANT HAS ENTERED A PLEA OF GUILTY, THE
16 COURT ACCEPTING THE PLEA HAS THE POWER, UPON THE PETITION OF THE
17 DEFENDANT, TO CONTINUE THE CASE FOR A PERIOD NOT TO EXCEED FOUR
18 YEARS FROM THE DATE OF ENTRY OF A PLEA TO A FELONY OR TWO YEARS
19 FROM THE DATE OF ENTRY OF A PLEA TO A MISDEMEANOR, PETTY OFFENSE,
20 OR TRAFFIC OFFENSE FOR THE PURPOSE OF ENTERING THE JUDGMENT AND
21 SENTENCE UPON SUCH PLEA OF GUILTY; EXCEPT THAT THE PERIOD MAY BE
22 EXTENDED FOR AN ADDITIONAL PERIOD OF UP TO ONE HUNDRED EIGHTY
23 DAYS IF THE DEFENDANT'S FAILURE TO PAY RESTITUTION IS THE SOLE
24 CONDITION OF SUPERVISION THAT HAS NOT BEEN FULFILLED BECAUSE OF
25 INABILITY TO PAY AND IF THE DEFENDANT HAS SHOWN A FUTURE ABILITY
26 TO PAY. DURING THE TIME OF CONTINUANCE, THE COURT MAY PLACE THE
27 DEFENDANT UNDER THE SUPERVISION OF THE PROBATION DEPARTMENT.

1 IN DETERMINING WHETHER A DEFERRED JUDGMENT AND SENTENCE IS
2 APPROPRIATE, WITHOUT THE CONSENT OF THE DISTRICT ATTORNEY, THE
3 COURT SHALL CONSIDER ALL RELEVANT CRITERIA FOR GRANTING
4 PROBATION AND ALL OTHER RELEVANT SENTENCING FACTORS, INCLUDING
5 BUT NOT LIMITED TO THE SERIOUSNESS OF THE CASE AND THE HARM TO
6 THE VICTIM. IF THE COURT GRANTS THE DEFENDANT A DEFERRED
7 JUDGMENT AND SENTENCE, THE TERMS AND CONDITIONS SPECIFIED IN
8 SUBSECTION (2) OF THIS SECTION SHALL APPLY.

9 **SECTION 42.** 18-1.3-201 (2) (a), (2) (b), and (4) (a), Colorado
10 Revised Statutes, are amended to read:

11 **18-1.3-201. Application for probation.** (2) (a) EXCEPT AS
12 PROVIDED IN SUBSECTION (4) OF THIS SECTION, a person who has been
13 twice convicted of a felony under the laws of this state, any other state,
14 or the United States prior to the conviction on which his or her
15 application is based shall not be eligible for probation.

16 (b) Notwithstanding any other provision of law except the
17 provisions of paragraph (c) of this subsection (2) AND SUBSECTION (4) OF
18 THIS SECTION, a person who has been convicted of one or more felonies
19 under the laws of this state, any other state, or the United States within ten
20 years prior to a class 1, 2, or 3 felony conviction on which his or her
21 application is based shall not be eligible for probation.

22 (4) (a) (I) ~~The restrictions upon eligibility for probation in~~
23 ~~subsection (2) of this section may be waived by the sentencing court~~
24 ~~regarding a particular defendant upon recommendation of the district~~
25 ~~attorney approved by an order of the sentencing court~~ THE RESTRICTIONS
26 UPON ELIGIBILITY FOR PROBATION IN SUBSECTION (2) OF THIS SECTION
27 MAY BE WAIVED BY THE SENTENCING COURT FOR A PARTICULAR

1 DEFENDANT UPON THE RECOMMENDATION OF THE DISTRICT ATTORNEY OR
2 UPON A FINDING BY THE COURT THAT PROBATION IS THE APPROPRIATE
3 SENTENCE AFTER CONSIDERATION OF ALL OF THE FACTS AND
4 CIRCUMSTANCES OF THE CASE AND THE RISK AND NEEDS OF THE
5 DEFENDANT AND A FINDING THAT PROBATION WITH THE APPROPRIATE
6 TREATMENT PLAN MEETS THE NEEDS OF COMMUNITY SAFETY AND
7 REHABILITATION OF THE OFFENDER.

8 (II) The restrictions upon eligibility for probation in subsection (2)
9 of this section may be waived ~~upon a recommendation of the district~~
10 ~~attorney approved~~ by an order of the sentencing court after a ~~showing~~
11 FINDING that the defendant is a nonviolent offender, as defined in section
12 18-1.3-104 (1) (b.5) (II) (B), and that any prior felony conviction for the
13 defendant was not for a crime of violence, as defined in section
14 18-1.3-406 (2), one of the felonies set forth in section 18-3-104,
15 18-4-203, 18-4-301, or 18-4-401 (2) (c), (2) (d), or (5), or a felony offense
16 committed against a child as set forth in articles 3, 6, and 7 of this title,
17 or under the laws of another state or the United States that, if committed
18 in this state, would be a crime of violence, manslaughter, second degree
19 burglary, robbery, theft of property worth five hundred dollars or more,
20 theft from the person of another by means other than the use of force,
21 threat, or intimidation, or a felony offense committed against a child.

22 **SECTION 43.** 18-1.3-401 (1) (b) (II), Colorado Revised Statutes,
23 is amended to read:

24 **18-1.3-401. Felonies classified - presumptive penalties.**
25 (1) (b) (II) As to any person sentenced for a felony committed on or after
26 July 1, 1985, a person may be sentenced to imprisonment as described in
27 subparagraph (I) of this paragraph (b) or to pay a fine that is within the

1 presumptive ranges set forth in subparagraph (III) of paragraph (a) of this
2 subsection (1) or to both such fine and imprisonment. ~~except that any~~
3 ~~person who has been twice convicted of a felony under the laws of this~~
4 ~~state, any other state, or the United States prior to the conviction for~~
5 ~~which he or she is being sentenced shall not be eligible to receive a fine~~
6 ~~in lieu of any sentence to imprisonment as described in subparagraph (I)~~
7 ~~of this paragraph (b) but shall be sentenced to at least the minimum~~
8 ~~sentence specified in subparagraph (V) of paragraph (a) of this subsection~~
9 ~~(1) and may receive a fine in addition to said sentence.~~

10 **SECTION 44. Repeal.** 18-1.3-401 (10), Colorado Revised
11 Statutes, is repealed as follows:

12 **18-1.3-401. Felonies classified - presumptive penalties.**

13 (10) (a) ~~The general assembly hereby finds that certain crimes which are~~
14 ~~listed in paragraph (b) of this subsection (10) present an extraordinary~~
15 ~~risk of harm to society and therefore, in the interest of public safety, for~~
16 ~~such crimes which constitute class 3 felonies, the maximum sentence in~~
17 ~~the presumptive range shall be increased by four years; for such crimes~~
18 ~~which constitute class 4 felonies, the maximum sentence in the~~
19 ~~presumptive range shall be increased by two years; for such crimes which~~
20 ~~constitute class 5 felonies, the maximum sentence in the presumptive~~
21 ~~range shall be increased by one year; for such crimes which constitute~~
22 ~~class 6 felonies, the maximum sentence in the presumptive range shall be~~
23 ~~increased by six months.~~

24 (b) ~~Crimes that present an extraordinary risk of harm to society~~
25 ~~shall include the following:~~

26 (I) to (VIII) ~~Repealed.~~

27 (IX) ~~Aggravated robbery, as defined in section 18-4-302;~~

- 1 ~~(X) Child abuse, as defined in section 18-6-401;~~
2 ~~(XI) Unlawful distribution, manufacturing, dispensing, sale, or~~
3 ~~possession of a controlled substance with the intent to sell, distribute,~~
4 ~~manufacture, or dispense, as defined in section 18-18-405;~~
5 ~~(XII) Any crime of violence, as defined in section 18-1.3-406;~~
6 ~~(XIII) Stalking, as described in section 18-9-111 (4); and~~
7 ~~(XIV) Sale or distribution of materials to manufacture controlled~~
8 ~~substances, as described in section 18-18-412.7.~~

9 ~~(c) Repealed.~~

10 **SECTION 45.** 18-1.3-406 (1) (a), Colorado Revised Statutes, is
11 amended to read:

12 **18-1.3-406. Mandatory sentences for violent crimes.**

13 (1) (a) Any person convicted of a crime of violence shall be sentenced
14 pursuant to the provisions of section 18-1.3-401 (8) to the department of
15 corrections for a term of incarceration of at least the midpoint in, but not
16 more than twice the maximum of, the presumptive range provided for
17 such offense in section 18-1.3-401 (1) (a), ~~as modified for an~~
18 ~~extraordinary risk crime pursuant to section 18-1.3-401 (10);~~ without
19 suspension; except that, within ninety days after he or she has been placed
20 in the custody of the department of corrections, the department shall
21 transmit to the sentencing court a report on the evaluation and diagnosis
22 of the violent offender, and the court, in a case ~~which~~ THAT it considers
23 to be exceptional and to involve unusual and extenuating circumstances,
24 may thereupon modify the sentence, effective not earlier than one
25 hundred twenty days after his or her placement in the custody of the
26 department. ~~Such~~ THE modification may include probation if the person
27 is otherwise eligible therefor. Whenever a court finds that modification

1 of a sentence is justified, the judge shall notify the state court
2 administrator of his or her decision and shall advise ~~said~~ THE
3 administrator of the unusual and extenuating circumstances that justified
4 ~~such~~ THE modification. The state court administrator shall maintain a
5 record, which shall be open to the public, summarizing all modifications
6 of sentences and the grounds therefor for each judge of each district court
7 in the state. A person convicted of two or more separate crimes of
8 violence arising out of the same incident shall be sentenced for ~~such~~ THE
9 crimes so that sentences are served consecutively rather than
10 concurrently.

11 **SECTION 46.** 18-4-302 (3), Colorado Revised Statutes, is
12 amended to read:

13 **18-4-302. Aggravated robbery.** (3) Aggravated robbery is a
14 class 3 felony. ~~and is an extraordinary risk crime that is subject to the~~
15 ~~modified presumptive sentencing range specified in section 18-1.3-401~~
16 ~~(10).~~

17 **SECTION 47.** 18-6-401 (7.3), Colorado Revised Statutes, is
18 amended to read:

19 **18-6-401. Child abuse.** (7.3) ~~Felony child abuse is an~~
20 ~~extraordinary risk crime that is subject to the modified presumptive~~
21 ~~sentencing range specified in section 18-1.3-401 (10).~~ Misdemeanor
22 child abuse is an extraordinary risk crime that is subject to the modified
23 sentencing range specified in section 18-1.3-501 (3).

24 **SECTION 48. Repeal.** 18-9-111 (5) (a.7), Colorado Revised
25 Statutes, is repealed as follows:

26 **18-9-111. Harassment - stalking.** (5) Where a person commits
27 stalking under paragraph (b) of subsection (4) of this section, the

1 following shall apply:

2 (a.7) ~~Stalking is an extraordinary risk crime that is subject to the~~
3 ~~modified presumptive sentencing range specified in section 18-1.3-401~~
4 ~~(10).~~

5 **SECTION 49.** 18-18-405 (3) (a) and (3.5), Colorado Revised
6 Statutes, are amended to read:

7 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
8 **sale, or possession.** (3) (a) Unless a greater sentence is required
9 pursuant to the provisions of another statute, any person convicted
10 pursuant to subparagraph (I) of paragraph (a) of subsection (2) of this
11 section for knowingly manufacturing, dispensing, selling, distributing,
12 possessing, or possessing with intent to manufacture, dispense, sell, or
13 distribute, or inducing, attempting to induce, or conspiring with one or
14 more other persons, to manufacture, dispense, sell, distribute, possess, or
15 possess with intent to manufacture, dispense, sell, or distribute an amount
16 that is or has been represented to be:

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

1 manufacturing, dispensing, selling, distributing, or possessing with intent
2 to manufacture, dispense, sell, or distribute;

3 (II) At least four hundred fifty grams or one pound but less than
4 one thousand grams of any material, compound, mixture, or preparation
5 that contains a schedule I or schedule II controlled substance as listed in
6 section 18-18-203 or 18-18-204 shall be sentenced to the department of
7 corrections for a term of at least the midpoint of the presumptive range
8 but not more than twice the maximum presumptive range provided for
9 such offense in section 18-1.3-401 (1) (a) with regard to offenses other
10 than manufacturing, dispensing, selling, distributing, or possessing with
11 intent to manufacture, dispense, sell, or distribute, and for a term of at
12 least the midpoint of the presumptive range but not more than twice the
13 maximum presumptive range provided for such offense in section
14 18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with
15 regard to manufacturing, dispensing, selling, distributing, or possessing
16 with intent to manufacture, dispense, sell, or distribute;

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

1 ~~18-1.3-401 (10)~~ with regard to manufacturing, dispensing, selling,
2 distributing, or possessing with intent to manufacture, dispense, sell, or
3 distribute.

4 (3.5) ~~The felony offense of unlawfully manufacturing, dispensing,~~
5 ~~selling, distributing, or possessing with intent to unlawfully manufacture,~~
6 ~~dispense, sell, or distribute a controlled substance is an extraordinary risk~~
7 ~~crime that is subject to the modified presumptive sentencing range~~
8 ~~specified in section 18-1.3-401 (10).~~

9 **SECTION 50.** 18-18-412.7 (2), Colorado Revised Statutes, is
10 amended to read:

11 **18-18-412.7. Sale or distribution of materials to manufacture**
12 **controlled substances.** (2) A violation of this section is a class 3 felony.
13 ~~A violation of this section is an extraordinary risk crime that is subject to~~
14 ~~the modified presumptive sentencing range specified in section~~
15 ~~18-1.3-401 (10).~~

16 **SECTION 51. Repeal.** 18-1.3-501 (3) (b) (I), Colorado Revised
17 Statutes, is repealed as follows:

18 **18-1.3-501. Misdemeanors classified - penalties.**
19 (3) (b) Misdemeanors that present an extraordinary risk of harm to
20 society shall include the following:

21 (I) ~~Assault in the third degree, as defined in section 18-3-204;~~

22 **SECTION 52.** 18-3-204, Colorado Revised Statutes, is amended
23 to read:

24 **18-3-204. Assault in the third degree.** A person commits the
25 crime of assault in the third degree if the person knowingly or recklessly
26 causes bodily injury to another person or with criminal negligence the
27 person causes bodily injury to another person by means of a deadly

1 weapon. Assault in the third degree is a class 1 misdemeanor. ~~and is an~~
2 ~~extraordinary risk crime that is subject to the modified sentencing range~~
3 ~~specified in section 18-1.3-501 (3).~~

4 **SECTION 53.** 18-8-208 (1), (2), (3), (4), (5), and (8), Colorado
5 Revised Statutes, are amended to read:

6 **18-8-208. Escapes.** (1) A person commits a class 2 felony if,
7 while being in custody or confinement IN A CORRECTIONAL FACILITY
8 DESCRIBED IN SECTION 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY
9 following conviction of a class 1 or class 2 felony, he OR SHE knowingly
10 escapes from ~~said custody or confinement~~ THE CORRECTIONAL FACILITY
11 OR THE COUNTY JAIL FACILITY.

12 (2) A person commits a class 3 felony if, while being in custody
13 or confinement IN A CORRECTIONAL FACILITY DESCRIBED IN SECTION
14 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY following conviction of
15 a felony other than a class 1 or class 2 felony, he OR SHE knowingly
16 escapes from ~~said custody or confinement~~ THE CORRECTIONAL FACILITY
17 OR THE COUNTY JAIL FACILITY.

18 (3) A person commits a class 4 felony if, while being in custody
19 or confinement IN A CORRECTIONAL FACILITY DESCRIBED IN SECTION
20 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY and held for or charged
21 with but not convicted of a felony, he OR SHE knowingly escapes from
22 ~~said custody or confinement~~ THE CORRECTIONAL FACILITY OR THE
23 COUNTY JAIL FACILITY.

24 (4) A person commits a class 3 misdemeanor if, while being in
25 custody or confinement IN A CORRECTIONAL FACILITY DESCRIBED IN
26 SECTION 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY following
27 conviction of a misdemeanor or petty offense or a violation of a

1 municipal ordinance, he or she knowingly escapes from ~~said place of~~
2 ~~custody or confinement~~ THE CORRECTIONAL FACILITY OR THE COUNTY
3 JAIL FACILITY.

4 (5) A person commits a class 1 petty offense if, while being in
5 custody or confinement IN A CORRECTIONAL FACILITY DESCRIBED IN
6 SECTION 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY and held for or
7 charged with but not convicted of a misdemeanor or petty offense or
8 violation of a municipal ordinance, he or she knowingly escapes from
9 ~~said custody or confinement~~ THE CORRECTIONAL FACILITY OR THE
10 COUNTY JAIL FACILITY.

11 (8) A person commits a class 5 felony if he OR SHE knowingly
12 escapes FROM A CORRECTIONAL FACILITY DESCRIBED IN SECTION
13 17-1-104.3, C.R.S., OR THE COUNTY JAIL FACILITY while in custody or
14 confinement IN THE CORRECTIONAL FACILITY OR THE COUNTY JAIL
15 FACILITY pursuant to the provisions of article 19 of title 16, C.R.S.

16 **SECTION 54.** 18-8-208.1 (1), (2), (3), (4), and (6), Colorado
17 Revised Statutes, are amended to read:

18 **18-8-208.1. Attempt to escape.** (1) If a person, while in custody
19 or confinement IN A CORRECTIONAL FACILITY DESCRIBED IN SECTION
20 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY following conviction of
21 a felony, knowingly attempts to escape from ~~said custody or confinement~~
22 THE CORRECTIONAL FACILITY OR THE COUNTY JAIL FACILITY, he OR SHE
23 commits a class 4 felony. ~~The sentence imposed pursuant to this~~
24 ~~subsection (1) shall run consecutively with any sentences being served by~~
25 ~~the offender.~~

26 (2) If a person, while in custody or confinement IN A
27 CORRECTIONAL FACILITY DESCRIBED IN SECTION 17-1-104.3, C.R.S., OR A

1 COUNTY JAIL FACILITY and held for or charged with but not convicted of
2 a felony, knowingly attempts to escape from ~~said custody or confinement~~
3 THE CORRECTIONAL FACILITY OR THE COUNTY JAIL FACILITY, he OR SHE
4 commits a class 5 felony. ~~If the person is convicted of the felony or other~~
5 ~~crime for which he was originally in custody or confinement, the sentence~~
6 ~~imposed pursuant to this subsection (2) shall run consecutively with any~~
7 ~~sentences being served by the offender.~~

8 (3) If a person, while in custody or confinement IN A
9 CORRECTIONAL FACILITY DESCRIBED IN SECTION 17-1-104.3, C.R.S., OR A
10 COUNTY JAIL FACILITY following conviction of a misdemeanor or petty
11 offense, knowingly attempts to escape from ~~said custody or confinement~~
12 THE CORRECTIONAL FACILITY OR THE COUNTY JAIL FACILITY, he OR SHE
13 is guilty of a misdemeanor and, upon conviction thereof, shall be
14 punished by imprisonment in the county jail for not less than two months
15 nor more than four months. ~~The sentence imposed pursuant to this~~
16 ~~subsection (3) shall run consecutively with any sentences being served by~~
17 ~~the offender.~~

18 (4) If a person, while in custody or confinement IN A
19 CORRECTIONAL FACILITY DESCRIBED IN SECTION 17-1-104.3, C.R.S., OR A
20 COUNTY JAIL FACILITY and held for or charged with but not convicted of
21 a misdemeanor or petty offense, knowingly attempts to escape from ~~said~~
22 ~~custody or confinement~~ THE CORRECTIONAL FACILITY OR THE COUNTY
23 JAIL FACILITY, he OR SHE is guilty of a petty offense and, upon conviction
24 thereof, shall be punished by imprisonment in the county jail for not less
25 than two months nor more than four months. ~~If the person is convicted~~
26 ~~of the misdemeanor or petty offense for which he was originally in~~
27 ~~custody or confinement, the sentence imposed pursuant to this subsection~~

1 ~~(4) shall run consecutively with any sentences being served by the~~
2 ~~offender.~~

3 ~~(6) A person who participates in a work release program, a home~~
4 ~~detention program, as defined in section 18-1.3-106 (1.1), a furlough, an~~
5 ~~intensive supervision program, or any other similar authorized supervised~~
6 ~~or unsupervised absence from a detention facility, as defined in section~~
7 ~~18-8-203 (3), and who is required to report back to the detention facility~~
8 ~~at a specified time shall be deemed to be in custody.~~

9 **SECTION 55.** Part 2 of article 8 of title 18, Colorado Revised
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
11 read:

12 **18-8-208.5. Escape from confinement.** (1) A PERSON COMMITS
13 ESCAPE FROM CONFINEMENT IF, WHILE IN CUSTODY OR CONFINEMENT
14 OTHER THAN IN A CORRECTIONAL FACILITY DESCRIBED IN SECTION
15 17-1-104.3, C.R.S., OR A COUNTY JAIL FACILITY, HE OR SHE KNOWINGLY
16 ESCAPES FROM SAID CUSTODY OR CONFINEMENT.

17 (2) ESCAPE FROM CONFINEMENT IS A CLASS 1 MISDEMEANOR.

18 **SECTION 56.** 18-8-209, Colorado Revised Statutes, is amended
19 to read:

20 **18-8-209. Consecutive sentences.** Any sentence imposed
21 following conviction of an offense under sections 18-8-201 to ~~18-8-208~~
22 18-8-207 or section 18-8-211 shall run consecutively and not concurrently
23 with any sentence ~~which~~ THAT the offender was serving at the time of the
24 conduct prohibited by those sections.

25 **SECTION 57.** 16-11-206 (5), Colorado Revised Statutes, is
26 amended to read:

27 **16-11-206. Revocation hearing.** (5) If the court determines that

1 a violation of a condition of probation has been committed, it shall, within
2 five days after the said hearing, either revoke or continue the probation.
3 If probation is revoked, the court may then impose any sentence or grant
4 any probation pursuant to the provisions of this part 2 ~~which~~ THAT might
5 originally have been imposed or granted; EXCEPT THAT, IF THE COURT
6 REVOKES A DEFENDANT'S PROBATION AFTER CONVICTION OF A
7 NONVIOLENT FELONY OFFENSE AS DEFINED IN SECTION 17-22.5-405 (5),
8 C.R.S., FOR A VIOLATION OF A CONDITION OF PROBATION OTHER THAN
9 COMMISSION OF A CRIME, IT SHALL NOT IMPOSE A SENTENCE OF
10 INCARCERATION TO THE DEPARTMENT OF CORRECTIONS BUT SHALL
11 SENTENCE THE DEFENDANT TO ALTERNATIVE SANCTIONS COMMENSURATE
12 WITH THE SERIOUSNESS OF THE VIOLATION.

13 **SECTION 58.** 18-1.3-202 (1), Colorado Revised Statutes, is
14 amended to read:

15 **18-1.3-202. Probationary power of court.** (1) When it appears
16 to the satisfaction of the court that the ends of justice and the best interest
17 of the public, as well as the defendant, will be served thereby, the court
18 may grant the defendant probation for such period and upon such terms
19 and conditions as it deems best. The length of probation shall be subject
20 to the discretion of the court and may exceed the maximum period of
21 incarceration authorized for the classification of the offense of which the
22 defendant is convicted but shall not exceed five years for any
23 misdemeanor or petty offense. If the court chooses to grant the defendant
24 probation, the order placing the defendant on probation shall take effect
25 upon entry and, if any appeal is brought, shall remain in effect pending
26 review by an appellate court unless the court grants a stay of probation
27 pursuant to section 16-4-201, C.R.S. Unless an appeal is filed that raises

1 a claim that probation was granted contrary to the provisions of this title,
2 the trial court shall retain jurisdiction of the case for the purpose of
3 adjudicating complaints filed against the defendant that allege a violation
4 of the terms and conditions of probation. In addition to imposing other
5 conditions, the court has the power to commit the defendant to any jail
6 operated by the county or city and county in which the offense was
7 committed during such time or for such intervals within the period of
8 probation as the court determines. The aggregate length of any such
9 commitment whether continuous or at designated intervals shall not
10 exceed ~~ninety~~ ONE HUNDRED EIGHTY days for a felony, sixty days for a
11 misdemeanor, or ten days for a petty offense unless it is a part of a work
12 release program pursuant to section 18-1.3-207. That the defendant
13 submit to commitment imposed under this section shall be deemed a
14 condition of probation.

15 **SECTION 59.** The introductory portion to 17-22.5-405 (1) and
16 17-22.5-405 (4), Colorado Revised Statutes, are amended, and the said
17 17-22.5-405 is further amended BY THE ADDITION OF A NEW
18 SUBSECTION, to read:

19 **17-22.5-405. Earned time.** (1) Earned time, not to exceed ~~ten~~
20 TWELVE days for each month of incarceration or parole, may be deducted
21 from the inmate's sentence upon a demonstration to the department by the
22 inmate, which is certified by the inmate's case manager or community
23 parole officer, that he or she has made consistent progress in the
24 following categories as required by the department of corrections:

25 (4) ~~Notwithstanding any other provision of this section, earned~~
26 ~~time may not reduce the sentence of any inmate as defined in section~~
27 ~~17-22.5-402 (1) by a period of time which is more than twenty-five~~

1 ~~percent of the sentence.~~

2 (6) IN ADDITION TO ANY OTHER TIME DEDUCTIONS ALLOWED BY
3 LAW, THE EXECUTIVE DIRECTOR MAY DEDUCT UP TO SIXTY DAYS FROM
4 THE SENTENCE OF AN OFFENDER WHO IS SERVING A SENTENCE FOR A
5 NONVIOLENT FELONY OFFENSE, AS DEFINED BY SECTION 17-22.5-406 (5)
6 (b), IF THE EXECUTIVE DIRECTOR DETERMINES THE OFFENDER IS MAKING
7 CONSISTENT PROGRESS IN THE CATEGORIES IDENTIFIED IN SUBSECTION (1)
8 OF THIS SECTION. THE EXECUTIVE DIRECTOR MAY GRANT THE DEDUCTION
9 PURSUANT TO THIS SUBSECTION (6) ONLY ONCE DURING THE OFFENDER'S
10 SENTENCE. THIS SUBSECTION (6) SHALL NOT APPLY TO AN OFFENDER
11 SERVING A SENTENCE FOR A PAROLE REVOCATION.

12 **SECTION 60.** Article 1.3 of title 18, Colorado Revised Statutes,
13 is amended BY THE ADDITION OF A NEW PART to read:

14 PART 15

15 CRIMES AND SENTENCING SUNRISE REVIEW

16 **18-1.3-1501. General assembly sunrise review of new crimes**
17 **or increased penalties.** (1) THE GENERAL ASSEMBLY FINDS THAT IT
18 ESTABLISHED THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE
19 JUSTICE IN 2007. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE
20 COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE IS UNIQUELY
21 QUALIFIED TO DETERMINE THE NECESSITY OF NEW CRIMES AND INCREASED
22 PENALTIES TO CURRENT CRIMES IN THE STATE. THE GENERAL ASSEMBLY
23 THEREFORE DECLARES THAT, IN ORDER TO MAINTAIN CLEAR STANDARDS
24 FOR NEW CRIMES AND INCREASED PENALTIES, IT IS NECESSARY FOR THE
25 COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE TO REVIEW
26 ALL PROPOSALS FOR NEW CRIMES OR INCREASED PENALTIES TO EXISTING
27 CRIMES.

1 (2) BEGINNING NOVEMBER 1, 2009, AND NO LATER THAN
2 NOVEMBER 1 OF ANY YEAR THEREAFTER, A GROUP THAT HAS A PROPOSAL
3 FOR A NEW CRIME OR AN INCREASE TO A PENALTY FOR AN EXISTING CRIME
4 SHALL SUBMIT ITS PROPOSAL TO THE COLORADO COMMISSION ON
5 CRIMINAL AND JUVENILE JUSTICE.

6 (3) AFTER RECEIVING THE INFORMATION SPECIFIED IN SUBSECTION
7 (2) OF THIS SECTION, THE COLORADO COMMISSION ON CRIMINAL AND
8 JUVENILE JUSTICE SHALL PREPARE AN ANALYSIS, EVALUATION, AND
9 RECOMMENDATION OF THE PROPOSAL.

10 (4) THE GROUP SEEKING THE NEW CRIME OR INCREASED PENALTY
11 MAY REQUEST A MEMBER OF THE GENERAL ASSEMBLY TO PRESENT
12 APPROPRIATE LEGISLATION TO THE GENERAL ASSEMBLY DURING EACH OF
13 THE TWO REGULAR SESSIONS THAT IMMEDIATELY SUCCEED THE DATE OF
14 THE REPORT REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION
15 WITHOUT HAVING TO COMPLY AGAIN WITH THE PROVISIONS OF
16 SUBSECTION (2) OF THIS SECTION. BILLS INTRODUCED PURSUANT TO THIS
17 SUBSECTION (4) SHALL COUNT AGAINST THE NUMBER OF BILLS TO WHICH
18 MEMBERS OF THE GENERAL ASSEMBLY ARE LIMITED BY JOINT RULE OF THE
19 SENATE AND THE HOUSE OF REPRESENTATIVES.

20 (5) THIS SECTION IS EXEMPT FROM THE PROVISIONS OF SECTION
21 24-1-136 (11), C.R.S., AND THE PERIODIC REPORTING REQUIREMENT OF
22 THIS SECTION SHALL REMAIN IN EFFECT UNTIL CHANGED BY THE GENERAL
23 ASSEMBLY ACTING BY BILL.

24 **SECTION 61.** 16-11.3-103 (2), Colorado Revised Statutes, is
25 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26 **16-11.3-103. Duties of the commission - mission - staffing.**

27 (2) The commission shall have the following duties:

1 (g) TO REVIEW AND MAKE RECOMMENDATIONS ON PROPOSALS
2 SUBMITTED TO THE COMMISSION PURSUANT TO SECTION 18-1.3-1501,
3 C.R.S.

4 **SECTION 62. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.