

First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 07-0296.01 Michael Dohr

HOUSE BILL 07-1094

---

HOUSE SPONSORSHIP

Weissmann,

SENATE SPONSORSHIP

(None),

---

House Committees

Judiciary  
Appropriations

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING CAPITAL CRIMES, AND MAKING AN APPROPRIATION IN  
102 CONNECTION THEREWITH.

---

Bill Summary

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

Repeals the death penalty in Colorado. Declares the intent of the general assembly to use the savings from the abolition of the death penalty to fund the forensic unit, chemistry lab, and cold case unit in the Colorado bureau of investigation ("CBI").

Creates the cold case unit ("unit") in the CBI. Allows law enforcement agencies to request help from the unit on homicide investigation. Permits a family member to request that the unit assist

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.*

local law enforcement officers with a homicide investigation that has been open for more than one year. Requires the local law enforcement agency to determine whether to accept the assistance of the unit and notify the family member of its decision.

Makes conforming amendments.

Makes an appropriation.

---

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

2 **SECTION 1. Legislative declaration.** (1) It is the intent of the  
3 general assembly to abolish the death penalty in the state of Colorado.

4 (2) It is the further intent of the general assembly to use the  
5 anticipated general fund savings from the abolition of the death penalty  
6 to increase funding to the forensics unit and chemistry lab in the Colorado  
7 bureau of investigation and to fund a cold case unit in the Colorado  
8 bureau of investigation that is created pursuant to this act.

9 **SECTION 2.** Article 11 of title 16, Colorado Revised Statutes, is  
10 amended BY THE ADDITION OF A NEW PART to read:

11

PART 9

12

REPEAL OF THE DEATH PENALTY

13 **16-11-901. Death penalty repeal - applicability - current**  
14 **sentences.** AS OF THE EFFECTIVE DATE OF THIS PART 9, FOR OFFENSES  
15 COMMITTED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS PART 9,  
16 THE DEATH PENALTY SHALL NOT BE A SENTENCING OPTION FOR  
17 DEFENDANTS CONVICTED OF CLASS 1 FELONIES IN THE STATE OF  
18 COLORADO.

19 **SECTION 3.** Part 4 of article 33.5 of title 24, Colorado Revised  
20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
21 read:

22 **24-33.5-425. Cold case homicide unit.** (1) THERE IS HEREBY

1       CREATED A COLD CASE HOMICIDE UNIT IN THE BUREAU, REFERRED IN THIS  
2       SECTION AS THE "UNIT".

3               (2) (a) THE UNIT SHALL PROVIDE ASSISTANCE TO LOCAL LAW  
4       ENFORCEMENT AGENCIES, UPON REQUEST, ON HOMICIDE INVESTIGATIONS.

5               (b) UPON REQUEST TO THE UNIT BY A FAMILY MEMBER OF A  
6       HOMICIDE VICTIM , THE UNIT MAY PROVIDE ASSISTANCE TO A LOCAL LAW  
7       ENFORCEMENT AGENCY, IF THE AGENCY ACCEPTS THE ASSISTANCE, ON A  
8       HOMICIDE INVESTIGATION THAT HAS BEEN OPEN IN A COLORADO  
9       JURISDICTION FOR MORE THAN ONE YEAR FROM THE DATE OF THE  
10       COMMISSION OF THE CRIME. WITHIN THREE DAYS AFTER RECEIVING  
11       NOTIFICATION OF THE REQUEST FROM THE UNIT, THE LOCAL LAW  
12       ENFORCEMENT AGENCY SHALL NOTIFY THE FAMILY MEMBER AND THE UNIT  
13       REGARDING WHETHER THE LOCAL LAW ENFORCEMENT AGENCY WILL  
14       ACCEPT OR REJECT THE ASSISTANCE OF THE UNIT. IF THE LOCAL LAW  
15       ENFORCEMENT AGENCY REJECTS THE ASSISTANCE, IT SHALL INFORM THE  
16       FAMILY MEMBER OF THE REASONS FOR REJECTING THE ASSISTANCE.

17               **SECTION 4. Repeal.** 13-4-102 (1) (h), 16-8-111 (4), 16-10-110,  
18       16-12-101.5, part 2 of article 12 of title 16, 16-17-101, 18-1-410 (1.5), (2)  
19       (b), and (3), 18-1.3-104 (1) (c), 18-1.3-801 (1) (e), parts 11, 12, 13, and  
20       14 of article 1.3 of title 18, part 1 of article 1.4 of title 18, 18-3-107 (4),  
21       21-1-104 (3), and 27-10.5-139, Colorado Revised Statutes, are repealed.

22               **SECTION 5.** 16-4-101 (1) (a), (3), and (4), Colorado Revised  
23       Statutes, are amended to read:

24               **16-4-101. Bailable offenses.** (1) All persons shall be bailable by  
25       sufficient sureties except:

26               (a) For ~~capital offenses~~ CLASS 1 FELONIES when proof is evident  
27       or presumption is great; or

1           (3) In any ~~capital~~ case INVOLVING A CLASS 1 FELONY, the  
2 defendant may make a written motion for admission to bail upon the  
3 ground that the proof is not evident or that presumption is not great, and  
4 the court shall promptly conduct a hearing upon such motion. At such  
5 hearing, the burden shall be upon the people to establish that the proof is  
6 evident or that the presumption is great. The court may combine in a  
7 single hearing the questions as to whether the proof is evident or the  
8 presumption great with the determination of the existence of probable  
9 cause to believe that the defendant committed the crime charged.

10           (4) Except in the case of a ~~capital offense~~ CLASS 1 FELONY, If a  
11 person is denied bail under this section, the trial of the person shall be  
12 commenced not more than ninety days after the date on which bail is  
13 denied. If the trial is not commenced within ninety days and the delay is  
14 not attributable to the defense, the court shall immediately schedule a bail  
15 hearing and shall set the amount of the bail for the person.

16           **SECTION 6.** 16-4-201 (1) (a), Colorado Revised Statutes, is  
17 amended to read:

18           **16-4-201. Bail after conviction.** (1) (a) After conviction, either  
19 before or after sentencing, the defendant may orally, or in writing, move  
20 for release on bail pending determination of a motion for a new trial or  
21 motion in arrest of judgment or during any stay of execution or pending  
22 review by an appellate court, and except in cases where the defendant has  
23 been convicted of a ~~capital offense~~ CLASS 1 FELONY, the trial court, in its  
24 discretion, may continue the bond given for pretrial release, or may  
25 release the defendant on increased bail, or require bond under one or  
26 more of the alternatives set forth in section 16-4-104.

27           **SECTION 7.** 16-8-103.6 (1) (a) and (2) (a), Colorado Revised

1 Statutes, are amended to read:

2 **16-8-103.6. Waiver of privilege.** (1) (a) A defendant who places  
3 his or her mental condition at issue by pleading not guilty by reason of  
4 insanity pursuant to section 16-8-103, asserting the affirmative defense  
5 of impaired mental condition pursuant to section 16-8-103.5, OR raising  
6 the question of incompetency to proceed pursuant to section 16-8-110 ~~or~~  
7 ~~disclosing witnesses who may provide evidence concerning the~~  
8 ~~defendant's mental condition during a sentencing hearing held pursuant~~  
9 ~~to section 18-1.3-1201 or 18-1.3-1302, C.R.S.,~~ waives any claim of  
10 confidentiality or privilege as to communications made by the defendant  
11 to a physician or psychologist in the course of an examination or  
12 treatment for ~~such~~ THE mental condition for the purpose of any trial OR  
13 hearing on the issue of ~~such~~ THE mental condition. ~~or sentencing hearing~~  
14 ~~conducted pursuant to section 18-1.3-1201 or 18-1.3-1302, C.R.S.~~ The  
15 court shall order both the prosecutor and the defendant to exchange the  
16 names, addresses, reports, and statements of any physician or  
17 psychologist who has examined or treated the defendant for ~~such~~ THE  
18 mental condition.

19 (2) (a) A defendant who places his or her mental condition at issue  
20 by pleading not guilty by reason of insanity pursuant to section 16-8-103,  
21 BY raising the question of incompetency to proceed pursuant to section  
22 16-8-110, ~~or disclosing witnesses who may provide evidence concerning~~  
23 ~~the defendant's mental condition during a sentencing hearing held~~  
24 ~~pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S.,~~ or, for offenses  
25 committed on or after July 1, 1999, by seeking to introduce evidence  
26 concerning his or her mental condition pursuant to section 16-8-107 (3)  
27 waives any claim of confidentiality or privilege as to communications

1 made by the defendant to a physician or psychologist in the course of an  
2 examination or treatment for ~~such~~ THE mental condition for the purpose  
3 of any trial OR hearing on the issue of ~~such~~ THE mental condition. ~~or~~  
4 ~~sentencing hearing conducted pursuant to section 18-1.3-1201 or~~  
5 ~~18-1.4-102, C.R.S.~~ The court shall order both the prosecutor and the  
6 defendant to exchange the names, addresses, reports, and statements of  
7 any physician or psychologist who has examined or treated the defendant  
8 for ~~such~~ THE mental condition.

9 **SECTION 8.** 16-8-106 (2), (3) (a), and (3) (b), Colorado Revised  
10 Statutes, are amended to read:

11 **16-8-106. Examinations and report.** (2) (a) The defendant shall  
12 have a privilege against self-incrimination during the course of an  
13 examination under this section. The fact of the defendant's  
14 noncooperation with psychiatrists and other personnel conducting the  
15 examination may be admissible in the defendant's trial on the issues of  
16 insanity, competency, or impaired mental condition. ~~and in any sentencing~~  
17 ~~hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302, C.R.S.~~ This  
18 paragraph (a) shall apply only to offenses committed before July 1, 1995.

19 (b) The defendant shall have a privilege against self-incrimination  
20 during the course of an examination under this section. The fact of the  
21 defendant's noncooperation with psychiatrists and other personnel  
22 conducting the examination may be admissible in the defendant's trial on  
23 the issues of insanity or competency. ~~and in any sentencing hearing held~~  
24 ~~pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S.~~ This paragraph (b)  
25 shall apply to offenses committed on or after July 1, 1995, but prior to  
26 July 1, 1999.

27 (c) The defendant shall cooperate with psychiatrists and other

1 personnel conducting any examination ordered by the court pursuant to  
2 this section. Statements made by the defendant in the course of ~~such~~ THE  
3 examination shall be protected as provided in section 16-8-107. If the  
4 defendant does not cooperate with psychiatrists and other personnel  
5 conducting the examination, the court shall not allow the defendant to call  
6 any psychiatrist or other expert witness to provide evidence at the  
7 defendant's trial concerning the defendant's mental condition, including  
8 but not limited to providing evidence on the issues of insanity or  
9 competency. ~~or at any sentencing hearing held pursuant to section~~  
10 ~~18-1.3-1201 or 18-1.4-102, C.R.S.~~ In addition, the fact of the defendant's  
11 noncooperation with psychiatrists and other personnel conducting the  
12 examination may be admissible in the defendant's trial to rebut any  
13 evidence introduced by the defendant with regard to the defendant's  
14 mental condition, including but not limited to the issues of insanity and  
15 competency. ~~and in any sentencing hearing held pursuant to section~~  
16 ~~18-1.3-1201 or 18-1.4-102, C.R.S.~~ This paragraph (c) shall apply to  
17 offenses committed on or after July 1, 1999.

18 (3) (a) To aid in forming an opinion as to the mental condition of  
19 the defendant, it is permissible in the course of an examination under this  
20 section to use confessions and admissions of the defendant and any other  
21 evidence of the circumstances surrounding the commission of the offense,  
22 as well as the medical and social history of the defendant, in questioning  
23 the defendant. When the defendant is noncooperative with psychiatrists  
24 and other personnel conducting the examination, an opinion of the mental  
25 condition of the defendant may be rendered by ~~such~~ THE psychiatrists or  
26 other personnel based upon such confessions, admissions, and any other  
27 evidence of the circumstances surrounding the commission of the offense,

1 as well as the known medical and social history of the defendant, and  
2 ~~such~~ THE opinion may be admissible into evidence at trial. ~~and in any~~  
3 ~~sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302,~~  
4 ~~C.R.S.~~ It shall also be permissible to conduct a narcoanalytic interview  
5 of the defendant with ~~such~~ drugs as THAT are medically appropriate and  
6 to subject the defendant to polygraph examination. In any trial or hearing  
7 on the issue of the defendant's sanity, eligibility for release, impaired  
8 mental condition, or competency to proceed, ~~and in any sentencing~~  
9 ~~hearing held pursuant to section 18-1.3-1201 or 18-1.3-1302, C.R.S.,~~ the  
10 physicians and other personnel conducting the examination may testify to  
11 the results of any ~~such~~ procedures and the statements and reactions of the  
12 defendant insofar as the same entered into the formation of their opinions  
13 as to the mental condition of the defendant both at the time of the  
14 commission of the alleged offense and at the present time. This  
15 paragraph (a) shall apply only to offenses committed before July 1, 1995.

16 (b) To aid in forming an opinion as to the mental condition of the  
17 defendant, it is permissible in the course of an examination under this  
18 section to use confessions and admissions of the defendant and any other  
19 evidence of the circumstances surrounding the commission of the offense,  
20 as well as the medical and social history of the defendant, in questioning  
21 the defendant. When the defendant is noncooperative with psychiatrists  
22 and other personnel conducting the examination, an opinion of the mental  
23 condition of the defendant may be rendered by ~~such~~ THE psychiatrists or  
24 other personnel based upon ~~such~~ confessions, admissions, and any other  
25 evidence of the circumstances surrounding the commission of the offense,  
26 as well as the known medical and social history of the defendant, and  
27 ~~such~~ THE opinion may be admissible into evidence at trial. ~~and in any~~



1 ~~sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.4-102,~~  
2 ~~C.R.S.~~ It shall also be permissible to conduct a narcoanalytic interview  
3 of the defendant with ~~such drugs as~~ THAT are medically appropriate and  
4 to subject the defendant to polygraph examination. In any trial or hearing  
5 on the issue of the defendant's sanity, eligibility for release, or  
6 competency to proceed, ~~and in any sentencing hearing held pursuant to~~  
7 ~~section 18-1.3-1201 or 18-1.4-102, C.R.S.,~~ the physicians and other  
8 personnel conducting the examination may testify to the results of any  
9 ~~such~~ procedures and the statements and reactions of the defendant insofar  
10 as the same entered into the formation of their opinions as to the mental  
11 condition of the defendant both at the time of the commission of the  
12 alleged offense and at the present time. This paragraph (b) shall apply to  
13 offenses committed on or after July 1, 1995.

14 **SECTION 9.** 16-8-107 (1) (b), (1) (c), and (1.5) (b), Colorado  
15 Revised Statutes, are amended to read:

16 **16-8-107. Evidence.** (1) (b) ~~Evidence acquired directly or~~  
17 ~~indirectly for the first time from a communication derived from the~~  
18 ~~defendant's mental processes during the course of a court-ordered~~  
19 ~~examination under section 16-8-108 or acquired pursuant to section~~  
20 ~~16-8-103.6 is admissible at any sentencing hearing held pursuant to~~  
21 ~~section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, C.R.S., only to prove~~  
22 ~~the existence or absence of any mitigating factor.~~

23 (c) If the defendant testifies in his or her own behalf upon the trial  
24 of the issues raised by the plea of not guilty, ~~or at a sentencing hearing~~  
25 ~~held pursuant to section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, C.R.S.,~~  
26 the provisions of this section shall not bar any evidence used to impeach  
27 or rebut the defendant's testimony.

1           (1.5) (b) Evidence acquired directly or indirectly for the first time  
2 from a communication derived from the defendant's mental processes  
3 during the course of a court-ordered examination under section 16-8-106  
4 or acquired pursuant to section 16-8-103.6 is admissible at any sentencing  
5 hearing held pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S., only  
6 to prove the existence or absence of any mitigating factor.

7           **SECTION 10.** 16-8-110 (1), (2) (c), and (3), Colorado Revised  
8 Statutes, are amended to read:

9           **16-8-110. Mental incompetency to proceed - effect - how and**  
10 **when raised.** (1) (a) No person shall be tried OR sentenced ~~or executed~~  
11 if ~~such~~ THE person is incompetent to proceed at that stage of the  
12 proceedings against him or her. This paragraph (a) shall apply only to  
13 offenses committed before July 1, 1995.

14           (b) No person shall be tried OR sentenced ~~or executed~~ if ~~such~~ THE  
15 person is incompetent to proceed at that stage of the proceedings against  
16 him or her. This paragraph (b) shall apply to offenses committed on or  
17 after July 1, 1995.

18           (2) The question of the defendant's competency to proceed shall  
19 be raised in the following manner:

20           (c) ~~By the affidavit of any chief officer of an institution having~~  
21 ~~custody of a defendant awaiting execution.~~

22           (3) ~~Notwithstanding any provision of this part 1 or part 2 of this~~  
23 ~~article to the contrary, the question of whether a convicted person is~~  
24 ~~mentally incompetent to be executed shall be raised and determined as~~  
25 ~~provided in part 14 of article 1.3 of title 18, C.R.S.~~

26           **SECTION 11.** 16-10-104 (1), Colorado Revised Statutes, is  
27 amended to read:

1           **16-10-104. Peremptory challenges.** (1) ~~In capital cases, the~~  
2 ~~state and the defendant, when there is one defendant, shall each be~~  
3 ~~entitled to ten peremptory challenges.~~ In all other cases, where there is  
4 one defendant and the punishment may be by imprisonment in the  
5 correctional facilities operated by the department of corrections, the state  
6 and the defendant shall each be entitled to five peremptory challenges,  
7 and in all other cases to three peremptory challenges. ~~If WHERE~~ there is  
8 more than one defendant ~~each side shall be entitled to an additional three~~  
9 ~~peremptory challenges for every defendant after the first in capital cases,~~  
10 ~~but not exceeding twenty peremptory challenges to each side; in all other~~  
11 ~~cases, where~~ AND the punishment may be by imprisonment in the  
12 correctional facilities operated by the department of corrections, EACH  
13 SIDE SHALL BE ENTITLED to two additional peremptory challenges for  
14 every defendant after the first, not exceeding fifteen peremptory  
15 challenges to each side; and in all other cases, to one additional  
16 peremptory challenge for every defendant after the first, not exceeding ten  
17 peremptory challenges to each side. In ~~any~~ A case where there are  
18 multiple defendants, every peremptory challenge shall be made and  
19 considered as the joint peremptory challenge of all defendants. In case  
20 of the consolidation of any indictments, informations, complaints, or  
21 summonses and complaints for trial, ~~such~~ THE consolidated cases shall be  
22 considered, for all purposes concerning peremptory challenges, as though  
23 the defendants had been joined in the same indictment, information,  
24 complaint, or summons and complaint. When trial is held on a plea of not  
25 guilty by reason of insanity, the number of peremptory challenges shall  
26 be the same as if trial were on the issue of substantive guilt.

27           **SECTION 12.** 16-12-102 (1), Colorado Revised Statutes, is

1 amended to read:

2           **16-12-102. Appeals by the prosecution.** (1) The prosecution  
3 may appeal any decision of a court in a criminal case upon any question  
4 of law. Any order of a court that either dismisses one or more counts of  
5 a charging document prior to trial or grants a new trial after the entry of  
6 a verdict or judgment shall constitute a final order that shall be  
7 immediately appealable pursuant to this subsection (1). If any act of the  
8 general assembly is adjudged inoperative or unconstitutional in any  
9 criminal case, it is the duty of the district attorney of the judicial district  
10 in which the court making such decision is situated to appeal on behalf of  
11 the people of the state of Colorado, unless the same issue of  
12 constitutionality is already pending before a reviewing court in another  
13 case. Nothing in this section shall authorize placing the defendant in  
14 jeopardy a second time for the same offense. No docket fee shall be  
15 required of the people upon an appeal under this section. The procedure  
16 to be followed in filing and prosecuting appeals under this section shall  
17 be as provided by applicable rule of the supreme court of Colorado.  
18 ~~However, if a statute providing for the imposition of the death penalty is~~  
19 ~~adjudged inoperative or inapplicable for any reason, such adjudication~~  
20 ~~shall constitute a final order that shall be immediately appealable to the~~  
21 ~~supreme court of Colorado, notwithstanding any statute or court rule to~~  
22 ~~the contrary.~~

23           **SECTION 13.** The introductory portion to 17-32-105 (3) (b) and  
24 17-32-105 (3) (b) (I), Colorado Revised Statutes, are amended to read:

25           **17-32-105. Development of correctional education program -**  
26 **goals and objectives.** (3) (b) A person in a correctional facility who  
27 lacks basic and functional literacy skills shall be required to attend adult

1 basic education instruction unless ~~such~~ THE person:

2 (I) Is serving a life sentence; ~~or is under sentence of death;~~

3 **SECTION 14.** 18-1.3-401 (1) (a) (I), (1) (a) (II), (1) (a) (IV), (1)  
4 (a) (V) (A), (4) (a), and (5), Colorado Revised Statutes, are amended to  
5 read:

6 **18-1.3-401. Felonies classified - presumptive penalties.**

7 (1) (a) (I) As to any person sentenced for a felony committed after July  
8 1, 1979, and before July 1, 1984, felonies are divided into five classes  
9 ~~which~~ THAT are distinguished from one another by the following  
10 presumptive ranges of penalties which are authorized upon conviction:

11	<b>Class</b>	<b>Presumptive Range</b>
12	1	Life imprisonment <del>or death</del>
13	2	Eight to twelve years plus one year of parole
14	3	Four to eight years plus one year of parole
15	4	Two to four years plus one year of parole
16	5	One to two years plus one year of parole

17 (II) As to any person sentenced for a felony committed on or after  
18 July 1, 1984, and before July 1, 1985, felonies are divided into five  
19 classes ~~which~~ THAT are distinguished from one another by the following  
20 presumptive ranges of penalties which are authorized upon conviction:

21	<b>Class</b>	<b>Presumptive Range</b>
22	1	Life imprisonment <del>or death</del>
23	2	Eight to twelve years
24	3	Four to eight years
25	4	Two to four years
26	5	One to two years

27 (IV) As to any person sentenced for a felony committed on or

1 after July 1, 1985, but prior to July 1, 1993, felonies are divided into six  
 2 classes ~~which~~ THAT are distinguished from one another by the following  
 3 presumptive ranges of penalties which are authorized upon conviction:

4	<b>Class</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>
5	1	Life imprisonment	<del>Death</del>
6	2	Eight years imprisonment	Twenty-four years imprisonment
7	3	Four years imprisonment	Sixteen years imprisonment
8	4	Two years imprisonment	Eight years imprisonment
9	5	One year imprisonment	Four years imprisonment
10	6	One year imprisonment	Two years imprisonment

11 (V) (A) As to any person sentenced for a felony committed on or  
 12 after July 1, 1993, felonies are divided into six classes ~~which~~ THAT are  
 13 distinguished from one another by the following presumptive ranges of  
 14 penalties which are authorized upon conviction:

15	<b>Class</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>	<b>Mandatory Period of Parole</b>
16				
17	1	Life imprisonment	<del>Death</del>	None
18	2	Eight years imprisonment	Twenty-four years imprisonment	Five years
19				
20	3	Four years imprisonment	Twelve years imprisonment	Five years
21				
22	4	Two years imprisonment	Six years imprisonment	Three years
23				
24	5	One year imprisonment	Three years imprisonment	Two years
25				
26	6	One year imprisonment	Eighteen months imprisonment	One year
27				

1           (4) (a) A person who has been convicted of a class 1 felony shall  
2 be punished by life imprisonment in the department of corrections. ~~unless~~  
3 ~~a proceeding held to determine sentence according to the procedure set~~  
4 ~~forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, results in a~~  
5 ~~verdict that requires imposition of the death penalty, in which event such~~  
6 ~~person shall be sentenced to death.~~ As to any person sentenced for a class  
7 1 felony, for an act committed on or after July 1, 1985, and before July 1,  
8 1990, life imprisonment shall mean imprisonment without the possibility  
9 of parole for forty calendar years. As to any person sentenced for a class  
10 1 felony, for an act committed on or after July 1, 1990, life imprisonment  
11 shall mean imprisonment without the possibility of parole.

12           (5) ~~In the event the death penalty as provided for in this section is~~  
13 ~~held to be unconstitutional by the Colorado supreme court or the United~~  
14 ~~States supreme court, a person convicted of a crime punishable by death~~  
15 ~~under the laws of this state shall be punished by life imprisonment. In~~  
16 ~~such circumstance, the court which previously sentenced a person to~~  
17 ~~death shall cause such person to be brought before the court, and the court~~  
18 ~~shall sentence such person to life imprisonment.~~

19           **SECTION 15.** 18-1-409 (1), Colorado Revised Statutes, is  
20 amended to read:

21           **18-1-409. Appellate review of sentence for a felony.** (1) When  
22 A sentence is imposed upon any person following a conviction of any  
23 felony, ~~other than a class 1 felony in which a death sentence is~~  
24 ~~automatically reviewed pursuant to section 18-1.3-1201 (6), 18-1.3-1302~~  
25 ~~(6), or 18-1.4-102 (6),~~ the person convicted shall have the right to one  
26 appellate review of the propriety of the sentence, having regard to the  
27 nature of the offense, the character of the offender, and the public

1 interest, and the manner in which the sentence was imposed, including the  
2 sufficiency and accuracy of the information on which it was based; except  
3 that, if the sentence is within a range agreed upon by the parties pursuant  
4 to a plea agreement, the defendant shall not have the right of appellate  
5 review of the propriety of the sentence. The procedures to be employed  
6 in the review shall be as provided by supreme court rule.

7 **SECTION 16. Repeal.** 18-3-102 (1) (c), Colorado Revised  
8 Statutes, is repealed as follows:

9 **18-3-102. Murder in the first degree.** (1) A person commits the  
10 crime of murder in the first degree if:

11 (c) ~~By perjury or subornation of perjury he procures the~~  
12 ~~conviction and execution of any innocent person; or~~

13 **SECTION 17.** 18-3-107 (3), Colorado Revised Statutes, is  
14 amended to read:

15 **18-3-107. First degree murder of a peace officer or firefighter**  
16 **- legislative declaration.** (3) A person convicted of first degree murder  
17 of a peace officer or firefighter shall be punished by life imprisonment  
18 without the possibility of parole for the rest of his or her natural life.  
19 ~~unless a proceeding held to determine sentence according to the~~  
20 ~~procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102~~  
21 ~~results in a verdict that requires imposition of the death penalty, in which~~  
22 ~~event such person shall be sentenced to death.~~ Nothing in this subsection  
23 (3) shall be construed as limiting the power of the governor to grant  
24 reprieves, commutations, and pardons pursuant to section 7 of article IV  
25 of the Colorado constitution.

26 **SECTION 18.** 18-3-301 (2), Colorado Revised Statutes, is  
27 amended to read:



1           **18-3-301. First degree kidnapping.** (2) Whoever commits first  
2 degree kidnapping is guilty of a class 1 felony if the person kidnapped  
3 shall have suffered bodily injury. ~~but no person convicted of first degree~~  
4 ~~kidnapping shall suffer the death penalty if the person kidnapped was~~  
5 ~~liberated alive prior to the conviction of the kidnapper.~~

6           **SECTION 19.** 24-4.1-302.5 (1) (g), Colorado Revised Statutes,  
7 is amended to read:

8           **24-4.1-302.5. Rights afforded to victims.** (1) In order to  
9 preserve and protect a victim's rights to justice and due process, each  
10 victim of a crime shall have the following rights:

11           (g) The right to be present at the sentencing hearing ~~including any~~  
12 ~~hearing conducted pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S.,~~  
13 ~~for cases involving class 1 felonies,~~ of any person convicted of a crime  
14 against ~~such~~ THE victim, and to inform the district attorney and the court,  
15 in writing, by a victim impact statement, and by an oral statement, of the  
16 harm that the victim has sustained as a result of the crime, with the  
17 determination of whether the victim makes written input or oral input, or  
18 both, to be made at the sole discretion of the victim;

19           **SECTION 20.** 24-4.1-303 (4), Colorado Revised Statutes, is  
20 amended to read:

21           **24-4.1-303. Procedures for assuring rights of victims of crimes.**

22 (4) After a crime has been charged, unless inconsistent with the  
23 requirements of investigative activities, the district attorney shall consult,  
24 where practicable, with the victim concerning the reduction of charges,  
25 negotiated pleas, diversion, dismissal, ~~seeking of death penalty,~~ or other  
26 disposition. Failure to comply with this subsection (4) shall not invalidate  
27 any decision, agreement, or disposition. This subsection (4) shall not be

1 construed as a restriction on or delegation of the district attorney's  
2 authority under the constitution and laws of this state.

3 **SECTION 21. Appropriation.** In addition to any other  
4 appropriation, there is hereby appropriated, out of any moneys in the  
5 general fund not otherwise appropriated, to the department of public  
6 safety, for allocation to forensic and chemical labs in the Colorado  
7 Bureau of Investigation, for the fiscal year beginning July 1, 2007, the  
8 sum of \_\_\_\_\_ dollars (\$) and \_\_\_\_\_ FTE, or so much thereof as may  
9 be necessary, for the implementation of this act.

10 **SECTION 22. Safety clause.** The general assembly hereby finds,  
11 determines, and declares that this act is necessary for the immediate  
12 preservation of the public peace, health, and safety.