

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0419.01 Julie Pelegrin

SENATE BILL 08-066

SENATE SPONSORSHIP

Williams, Boyd, and Shaffer

HOUSE SPONSORSHIP

Marshall, Madden, and Todd

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING A REDUCTION OF THE PENALTY FOR FIRST DEGREE
102 MURDER FOR CERTAIN JUVENILES CONVICTED AS ADULTS OF
103 FIRST DEGREE MURDER.

Bill Summary

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

Reduces first degree murder to a class 2 felony if the defendant was under 18 years of age at the time of the offense, was convicted as an adult, and did not commit or assist in committing the homicidal act. Makes a defendant convicted of class 2 felony first degree murder eligible for sentencing to the youthful offender system. Makes conforming amendments.

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.

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

2 **SECTION 1.** 18-3-102 (3), Colorado Revised Statutes, is
3 amended to read:

4 **18-3-102. Murder in the first degree.** (3) (a) EXCEPT AS
5 OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), murder
6 in the first degree is a class 1 felony.

7 (b) MURDER IN THE FIRST DEGREE AS DESCRIBED IN PARAGRAPH
8 (b) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 2 FELONY IF THE
9 DEFENDANT:

10 (I) WAS UNDER EIGHTEEN YEARS OF AGE AT THE TIME THE
11 OFFENSE WAS COMMITTED;

12 (II) IS CONVICTED AS AN ADULT FOLLOWING DIRECT FILING OF AN
13 INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO
14 SECTION 19-2-517, C.R.S., OR TRANSFER OF PROCEEDINGS TO THE
15 DISTRICT COURT PURSUANT TO SECTION 19-2-518, C.R.S.; AND

16 (III) DID NOT COMMIT THE HOMICIDAL ACT; OR, WITH THE INTENT
17 TO PROMOTE OR FACILITATE THE COMMISSION OF THE HOMICIDAL ACT, DID
18 NOT AID, ABET, ADVISE, OR ENCOURAGE THE PRINCIPAL IN THE PLANNING
19 OR COMMISSION OF THE HOMICIDAL ACT.

20 **SECTION 2.** 19-2-517 (3), Colorado Revised Statutes, is
21 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22 **19-2-517. Direct filing.** (3) (a.5) NOTWITHSTANDING THE
23 PROVISIONS OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS
24 SUBSECTION (3), A JUVENILE WHO IS CONVICTED OF CLASS 2 FELONY
25 MURDER IN THE FIRST DEGREE AS DESCRIBED IN SECTION 18-3-102 (3) (b),
26 C.R.S., IS ELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM

1 IF THE JUVENILE WOULD BE ELIGIBLE FOR SENTENCING TO THE YOUTHFUL
2 OFFENDER SYSTEM FOR A CONVICTION OF THE FELONY UNDERLYING THE
3 CONVICTION OF CLASS 2 FELONY MURDER IN THE FIRST DEGREE.

4 **SECTION 3.** 19-2-518 (1), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **19-2-518. Transfers.** (1) (d.5) NOTWITHSTANDING THE
7 PROVISIONS OF SUBPARAGRAPH (II) OF PARAGRAPH (d) OF THIS
8 SUBSECTION (1), A JUVENILE WHO IS CONVICTED OF CLASS 2 FELONY
9 MURDER IN THE FIRST DEGREE AS DESCRIBED IN SECTION 18-3-102 (3) (b),
10 C.R.S., IS ELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM
11 IF THE JUVENILE WOULD BE ELIGIBLE FOR SENTENCING TO THE YOUTHFUL
12 OFFENDER SYSTEM FOR A CONVICTION OF THE FELONY UNDERLYING THE
13 CONVICTION OF CLASS 2 FELONY MURDER IN THE FIRST DEGREE.

14 **SECTION 4.** 18-1.3-407 (1) (b) and (2) (a) (I), Colorado Revised
15 Statutes, are amended to read:

16 **18-1.3-407. Sentences - youthful offenders - legislative**
17 **declaration - powers and duties of district court - authorization for**
18 **youthful offender system - powers and duties of department of**
19 **corrections.** (1) (b) It is the further intent of the general assembly in
20 enacting this section that female and male offenders for whom charges
21 have been directly filed in the district court and who have been convicted
22 in the district court receive equitable treatment in sentencing, particularly
23 in regard to the option of being sentenced to the youthful offender system
24 pursuant to section 19-2-517 (3) or ~~19-2-518 (1) (d) (II)~~ 19-2-518 (1) (d)
25 (II) OR (1) (d.5), C.R.S. Accordingly, it is the general assembly's intent
26 that necessary measures be taken by the department of corrections to
27 establish separate housing for female and male offenders who are

1 sentenced to the youthful offender system without compromising the
2 equitable treatment of either.

3 (2) (a) (I) A juvenile may be sentenced to the youthful offender
4 system created pursuant to this section under the circumstances set forth
5 in ~~section 19-2-517 (3) (a) (II) or 19-2-518 (1) (d) (II)~~ SECTION 19-2-517
6 (3) (a) (II) OR (3) (a.5) OR 19-2-518 (1) (d) (II) OR (1) (d.5), C.R.S. In
7 order to sentence a juvenile to the youthful offender system, the court
8 shall first impose upon such person a sentence to the department of
9 corrections in accordance with section 18-1.3-401. The court shall
10 thereafter suspend such sentence conditioned on completion of a sentence
11 to the youthful offender system, including a period of community
12 supervision. The court shall impose any such sentence to the youthful
13 offender system for a determinate period of not fewer than two years nor
14 more than six years; except that a juvenile convicted of a class 2 felony
15 may be sentenced for a determinate period of up to seven years. In
16 imposing such sentence, the court shall grant authority to the department
17 of corrections to place a youthful offender under a period of community
18 supervision for a period of not fewer than six months and up to twelve
19 months any time after the date on which the youthful offender has twelve
20 months remaining to complete the determinate sentence. The court may
21 award a juvenile sentenced to the youthful offender system credit for
22 presentence confinement; except that such credit shall not reduce the
23 juvenile's actual time served in the youthful offender system to fewer than
24 two years. The court shall have a presentence investigation conducted
25 before sentencing a juvenile pursuant to this section.

26 **SECTION 5. Effective date - applicability.** This act shall take
27 effect upon passage and shall apply to offenses committed on or after said

1 date.

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