

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 23, 2012
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB12-1213 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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

3 "SECTION 1. In Colorado Revised Statutes, 18-1.3-801, **amend**
4 (1.5) and (2) (a); and **add** (5) as follows:

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

19 (2) (a) Except as otherwise provided for in paragraph (b) of this
20 subsection (2) AND IN SUBSECTION (5) OF THIS SECTION, every person
21 convicted in this state of any felony, who has been three times previously
22 convicted, upon charges separately brought and tried, and arising out of
23 separate and distinct criminal episodes, either in this state or elsewhere,
24 of a felony or, under the laws of any other state, the United States, or any

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

12 (5) A CONVICTION FOR ESCAPE, AS DESCRIBED IN SECTION
13 18-8-208 (1), (2), OR (3), OR ATTEMPT TO ESCAPE, AS DESCRIBED IN
14 SECTION 18-8-208.1 (1), (1.5), OR (2), SHALL NOT BE USED FOR THE
15 PURPOSE OF ADJUDICATING A PERSON AN HABITUAL CRIMINAL AS
16 DESCRIBED IN SUBSECTION (1.5) OR SUBSECTION (2) OF THIS SECTION
17 UNLESS THE CONVICTION IS BASED ON THE OFFENDER'S ESCAPE OR
18 ATTEMPT TO ESCAPE FROM A CORRECTIONAL FACILITY, AS DEFINED IN
19 SECTION 17-1-102, C.R.S., OR FROM PHYSICAL CUSTODY WITHIN A
20 COUNTY JAIL.

21 **SECTION 2. Applicability.** The provisions of this act apply to
22 offenses committed on or after the effective date of this act.

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

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