

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 13-0094.01 Michael Dohr x4347

SENATE BILL 13-250

SENATE SPONSORSHIP

Steadman and King, Aguilar, Guzman, Newell, Ulibarri

HOUSE SPONSORSHIP

Levy,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO SENTENCING OF PERSONS CONVICTED OF**
102 **DRUG CRIMES, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1. The bill creates a sentencing option for offenders convicted of certain drug felonies that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence.

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.*

SENATE
3rd Reading Unamended
May 1, 2013

SENATE
Amended 2nd Reading
April 30, 2013

Section 2. For level 4 drug felonies, the bill creates an exhaustion of remedies requirement prior to the court sentencing the defendant to prison.

Section 3. If an offender who is convicted of a level 4 drug felony is terminated from a community corrections sentence, the court shall hold a resentencing hearing or make written findings regarding the sentence.

Sections 4 and 5. The bill creates new felony and misdemeanor drug sentencing grids.

Sections 6 and 7. The bill amends the drug sentencing article short title and legislative declaration.

Sections 8 through 30. The bill assigns each of the drug crimes a new drug penalty based on the new felony and misdemeanor drug sentencing grids.

Section 31. The bill prohibits a plea agreement that requires the defendant to waive his or her right to petition to have the conviction record sealed.

Section 32. When a defendant is sentenced to probation for a drug misdemeanor, the court may impose residential drug treatment as a condition of probation.

Section 33. The bill amends the intensive supervision probation program to allow defendants convicted of a misdemeanor to participate if they are assessed as higher risk.

Section 34. The bill adds all drug felonies to the habitual sentencing schemes.

Sections 35 through 54. The bill makes conforming amendments.

Section 55. The bill authorizes the statewide organization representing district attorneys the ability to receive, manage, and expend state funds in the manner prescribed by the general assembly on behalf of the district attorneys who are members of the organization.

Section 56. Under current law, drug offenders convicted after July 1, 2011, have the opportunity to have their conviction sealed. The bill conforms those provisions to the new drug offense classifications.

Section 57. The bill requires the division of criminal justice in the department of public safety to collect data on drug cases and issue a report by December 31, 2016.

Sections 58 through 62. The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-1.3-103.5 as
3 follows:

4 **18-1.3-103.5. Felony convictions - vacate and enter conviction**

1 **on misdemeanor after successful completion.** (1) IN ORDER TO EXPAND
2 OPPORTUNITIES FOR OFFENDERS TO AVOID A DRUG FELONY CONVICTION,
3 TO REDUCE THE SIGNIFICANT NEGATIVE CONSEQUENCES OF THAT FELONY
4 CONVICTION, AND TO PROVIDE POSITIVE REINFORCEMENT FOR DRUG
5 OFFENDERS WHO WORK TO SUCCESSFULLY COMPLETE ANY
6 COMMUNITY-BASED SENTENCE IMPOSED BY THE COURT, THE LEGISLATURE
7 HEREBY CREATES AN ADDITIONAL OPPORTUNITY FOR THOSE DRUG
8 OFFENDERS WHO MAY NOT OTHERWISE HAVE BEEN ELIGIBLE FOR OR
9 SUCCESSFUL IN OTHER STATUTORILY CREATED PROGRAMS THAT ALLOW
10 THE DRUG OFFENDER TO AVOID A FELONY CONVICTION, SUCH AS
11 DIVERSION OR DEFERRED JUDGMENT.

12 (2) (a) IN A CASE IN WHICH THE DEFENDANT ENTERS A PLEA OF
13 GUILTY OR IS FOUND GUILTY BY THE COURT OR A JURY FOR A CRIME LISTED
14 IN SUBSECTION (3) OF THIS SECTION, THE COURT SHALL ORDER, UPON
15 SUCCESSFUL COMPLETION OF ANY COMMUNITY-BASED SENTENCE TO
16 PROBATION OR TO A COMMUNITY CORRECTIONS PROGRAM, THE FELONY
17 CONVICTION VACATED AND SHALL ENTER A CONVICTION FOR A LEVEL 1
18 MISDEMEANOR DRUG OFFENSE OF POSSESSION OF A CONTROLLED
19 SUBSTANCE PURSUANT TO SECTION 18-18-403.5. UPON ENTRY OF THE
20 JUDGMENT OF CONVICTION PURSUANT TO SECTION 18-18-403.5, THE
21 COURT SHALL INDICATE IN ITS ORDER THAT THE JUDGMENT OF CONVICTION
22 IS ENTERED PURSUANT TO THE PROVISIONS OF THIS SECTION.

23 (b) WHETHER A SENTENCE IS SUCCESSFULLY COMPLETED SHALL BE
24 DETERMINED BY THE COURT WITHOUT A JURY WITH NOTICE TO THE
25 DISTRICT ATTORNEY AND THE DEFENDANT OR THE DEFENDANT'S
26 ATTORNEY OF RECORD. A COMMUNITY-BASED SENTENCE IS NOT
27 SUCCESSFULLY COMPLETED IF THE DEFENDANT HAS NOT SUCCESSFULLY

1 COMPLETED THE TREATMENT AS ORDERED BY THE COURT AND
2 DETERMINED APPROPRIATE TO ADDRESS THE DEFENDANT'S TREATMENT
3 NEEDS.

4 (3) THIS SECTION APPLIES TO CONVICTIONS FOR THE FOLLOWING
5 OFFENSES:

6 (a) POSSESSION OF A CONTROLLED SUBSTANCE; BUT ONLY WHEN
7 THE QUANTITY OF THE CONTROLLED SUBSTANCE IS NOT MORE THAN FOUR
8 GRAMS OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, NOT
9 MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN, KETAMINE, OR
10 CATHINONE, OR NOT MORE THAN FOUR MILLIGRAMS OF FLUNITRAZEPAM.
11 THE DISTRICT ATTORNEY AND DEFENDANT MAY STIPULATE TO THE
12 AMOUNT OF THE CONTROLLED SUBSTANCE POSSESSED BY THE DEFENDANT
13 AT THE TIME OF SENTENCING, OR THE COURT SHALL DETERMINE THE
14 AMOUNT AT THE TIME OF SENTENCING.

15 (b) A LEVEL 4 DRUG FELONY FOR DISTRIBUTION PURSUANT TO THE
16 PROVISIONS OF SECTION 18-18-405 (2) (c) (II);

17 (c) POSSESSION OF TWELVE OUNCES OR MORE OF MARIJUANA OR
18 THREE OUNCES OR MORE OF MARIJUANA CONCENTRATE; OR

19 (d) A VIOLATION OF SECTION 18-18-415.

20 (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
21 CONTRARY, A DEFENDANT IS NOT ELIGIBLE FOR RELIEF UNDER THIS
22 SECTION IF:

23 (a) THE DEFENDANT HAS A PRIOR CONVICTION FOR A CRIME OF
24 VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406 OR A PRIOR CONVICTION
25 FOR AN OFFENSE THAT IS REQUIRED TO BE SENTENCED PURSUANT TO THE
26 PROVISIONS OF SECTION 18-1.3-406 IN THIS STATE, OR A CRIME IN
27 ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO

1 THE JURISDICTION OF THE UNITED STATES THAT WOULD BE A CRIME OF
2 VIOLENCE OR ANY OFFENSE REQUIRED TO BE SENTENCED PURSUANT TO
3 THE PROVISIONS OF SECTION 18-1.3-406 IN THIS STATE;

4 (b) THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT TO
5 SECTION 18-1.3-201; AND

6 (c) (I) THE DEFENDANT HAS TWO OR MORE PRIOR FELONY
7 CONVICTIONS FOR A DRUG OFFENSE PURSUANT TO THIS ARTICLE, OR A
8 CRIME IN ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY
9 SUBJECT TO THE JURISDICTION OF THE UNITED STATES THAT WOULD BE A
10 VIOLATION OF THIS ARTICLE.

11 (II) FOR PURPOSES OF THIS PARAGRAPH (c), A PRIOR DRUG FELONY
12 CONVICTION INCLUDES ANY PRIOR DIVERSION, DEFERRED PROSECUTION,
13 OR DEFERRED JUDGMENT AND SENTENCE FOR FELONY OR ANY FELONY
14 OFFENSE FOR WHICH RELIEF WAS PREVIOUSLY GRANTED PURSUANT TO THIS
15 SECTION OR ANY MISDEMEANOR DRUG CONVICTION THAT WAS ORIGINALLY
16 CHARGED AS A DRUG FELONY OFFENSE.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 18-1.3-104.5 as
18 follows:

19 **18-1.3-104.5. Alternatives in imposition of sentence in drug**
20 **felony cases - exhaustion of remedies.** (1) THE GENERAL ASSEMBLY
21 FINDS THAT IT IS ESSENTIAL IN CERTAIN LEVEL 4 DRUG FELONY CASES
22 THAT THE COURT CONSIDER ALL SENTENCING OPTIONS TO ENSURE THAT
23 THE STATE'S COSTLY PRISON RESOURCES ARE USED FOR THOSE OFFENDERS
24 FOR WHOM ANOTHER SENTENCE IS NOT APPROPRIATE OR WILL NOT
25 PROPERLY MEET THE GOALS OF COMMUNITY SAFETY AND REHABILITATION
26 OF THE OFFENDER.

27 (2) (a) PRIOR TO THE IMPOSITION OF ANY SENTENCE TO THE

1 DEPARTMENT OF CORRECTIONS FOR A LEVEL 4 DRUG FELONY OFFENSE AT
2 SENTENCING OR AT RESENTENCING AFTER A REVOCATION OF PROBATION
3 OR COMMUNITY CORRECTIONS SENTENCE, THE COURT SHALL EXHAUST ALL
4 REASONABLE AND APPROPRIATE ALTERNATIVE SENTENCES FOR THE
5 OFFENSE CONSIDERING ALL FACTORS OUTLINED IN PARAGRAPH (b) OF THIS
6 SUBSECTION (2).

7 (b) IF THE COURT SENTENCES THE DEFENDANT TO THE
8 DEPARTMENT OF CORRECTIONS FOR A LEVEL 4 DRUG FELONY OFFENSE, IT
9 MUST DETERMINE THAT INCARCERATION IS THE MOST SUITABLE OPTION
10 GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE
11 DEFENDANT'S WILLINGNESS TO PARTICIPATE IN TREATMENT. FURTHER,
12 THE COURT MUST ALSO DETERMINE THAT ALL OTHER REASONABLE AND
13 APPROPRIATE SANCTIONS AND RESPONSES TO THE VIOLATION THAT ARE
14 AVAILABLE TO THE COURT HAVE BEEN TRIED AND FAILED, DO NOT APPEAR
15 LIKELY TO BE SUCCESSFUL IF TRIED, OR PRESENT AN UNACCEPTABLE RISK
16 TO PUBLIC SAFETY.

17 (c) IN MAKING THE DETERMINATION IN PARAGRAPH (b) OF THIS
18 SUBSECTION (2), THE COURT SHALL REVIEW, TO THE EXTENT AVAILABLE,
19 THE INFORMATION PROVIDED BY THE SUPERVISING AGENCY, WHICH
20 INCLUDES, BUT IS NOT LIMITED TO, A COMPLETE STATEMENT AS TO WHAT
21 TREATMENT AND SENTENCING OPTIONS HAVE BEEN TRIED AND HAVE
22 FAILED, WHAT OTHER COMMUNITY OPTIONS ARE AVAILABLE AND THE
23 REASONS WHY ANY OTHER AVAILABLE COMMUNITY OPTIONS APPEAR TO
24 BE UNLIKELY TO BE SUCCESSFUL. THE SUPERVISING AGENCY SHALL
25 PROVIDE TO THE COURT THE RISK LEVEL OF THE OFFENDER AS DETERMINED
26 BY AN EVIDENCE-BASED RISK ASSESSMENT TOOL EMPLOYED BY THE
27 SUPERVISING AGENCY AND ANY OTHER INFORMATION RELEVANT TO THE

1 DEFENDANT'S RISK TO PUBLIC SAFETY.

2 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-301, **amend**
3 (4); and **add** (1) (g.5) as follows:

4 **18-1.3-301. Authority to place offenders in community**
5 **corrections programs.** (1) (g.5) NOTWITHSTANDING ANY OTHER
6 PROVISION OF LAW TO THE CONTRARY, IF AN OFFENDER IS TERMINATED OR
7 REJECTED FROM A COMMUNITY CORRECTIONS PROGRAM AFTER HAVING
8 BEEN SENTENCED TO THE PROGRAM FOR A LEVEL 4 DRUG FELONY, THE
9 COURT SHALL CONDUCT A RESENTENCING HEARING IN ORDER TO COMPLY
10 WITH EACH EXHAUSTION OF REMEDY PROVISION IN SECTION 18-1.3-405.5
11 OR SHALL MAKE WRITTEN FINDINGS REGARDING RESENTENCING AFTER
12 CONSIDERATION OF ALL THE INFORMATION PROVIDED TO THE COURT
13 PURSUANT TO SECTION 18-1.3-104.5 (2) (c). NOTHING IN THIS SECTION
14 REQUIRES THAT A COMMUNITY CORRECTIONS PROGRAM ACCEPT OR
15 MAINTAIN AN OFFENDER WHO HAS BEEN TERMINATED FROM A COMMUNITY
16 CORRECTIONS PROGRAM.

17 (4) (a) District courts, county courts, and other local criminal
18 justice officials may enter into agreements with community corrections
19 programs which include the use of such programs to supervise offenders
20 awaiting trial for felony or misdemeanor offenses, offenders convicted of
21 misdemeanors, or offenders under deferred judgments. Such agreements
22 are subject to review and approval by the community corrections board
23 of the jurisdiction in which any community corrections program making
24 such agreement is located. Any such use of a community corrections
25 program may be supported with funding from local governments, public
26 or private grants, offender fees, and other sources other than the state
27 general fund.

1 (b) A DISTRICT COURT, COUNTY COURT, AND ANY OTHER CRIMINAL
 2 JUSTICE OFFICIAL MAY ENTER INTO AGREEMENTS WITH COMMUNITY
 3 CORRECTIONS PROGRAMS THAT PROVIDE RESIDENTIAL TREATMENT, FOR
 4 THE PLACEMENT AND SUPERVISION OF DRUG OFFENDERS AS A TERM
 5 AND CONDITION OF PROBATION WHEN ASSESSED TREATMENT NEED LEVELS
 6 INDICATE THAT RESIDENTIAL TREATMENT IS NECESSARY AND
 7 APPROPRIATE. THE AGREEMENT IS SUBJECT TO REVIEW AND APPROVAL BY
 8 THE COMMUNITY CORRECTIONS BOARD IN THE JURISDICTION WHERE A
 9 COMMUNITY CORRECTIONS PROGRAM IS LOCATED. A COMMUNITY
 10 CORRECTIONS PROGRAM USED PURSUANT TO THIS PARAGRAPH (b) MAY
 11 RECEIVE FUNDS FROM THE CORRECTIONAL TREATMENT CASH FUND, AS
 12 WELL AS LOCAL FUNDING, PUBLIC OR PRIVATE GRANTS, OR OFFENDER FEES.

13 **SECTION 4.** In Colorado Revised Statutes, **add** 18-1.3-401.5 as
 14 follows:

15 **18-1.3-401.5. Drug felonies classified - presumptive and**
 16 **aggravated penalties.** (1) THE PROVISIONS OF THIS SECTION ONLY APPLY
 17 TO A CONVICTION FOR A DRUG FELONY OFFENSE DESCRIBED IN ARTICLE 18
 18 OF THIS TITLE COMMITTED ON OR AFTER OCTOBER 1, 2013. FOR PURPOSES
 19 OF THIS SECTION, "FELONY" MEANS ANY FELONY OR DRUG FELONY
 20 DEFINED IN THE STATE STATUTES.

21 (2) (a) FOR OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2013,
 22 DRUG FELONIES ARE DIVIDED INTO FOUR LEVELS THAT ARE DISTINGUISHED
 23 FROM ONE ANOTHER BY THE RANGES OF PENALTIES, WHICH ARE
 24 AUTHORIZED UPON CONVICTION OF A DRUG FELONY:

25	LEVEL	PRESUMPTIVE RANGE	PERIOD
26			OF PAROLE
27	DF1	EIGHT YEARS THIRTY-TWO	THREE YEARS

1			YEARS	
2	DF2	FOUR YEARS	EIGHT YEARS	TWO YEARS
3	DF3	TWO YEARS	FOUR YEARS	ONE YEAR
4	DF4	SIX MONTHS	ONE YEAR	ONE YEAR
5	LEVEL	AGGRAVATED RANGE		
6	DF2	EIGHT YEARS	SIXTEEN YEARS	TWO YEARS
7	DF3	FOUR YEARS	SIX YEARS	ONE YEAR
8	DF4	ONE YEAR	TWO YEARS	ONE YEAR

9 (b) (I) AS TO ANY PERSON SENTENCED FOR A DRUG FELONY
10 COMMITTED ON OR AFTER OCTOBER 1, 2013, AS OTHERWISE PROVIDED IN
11 SECTION 18-1.3-401 (1) (a) (III), IN ADDITION TO, OR IN LIEU OF, ANY
12 SENTENCE TO IMPRISONMENT, PROBATION, COMMUNITY CORRECTIONS, OR
13 WORK RELEASE, A FINE WITHIN THE FOLLOWING RANGES MAY BE IMPOSED
14 FOR THE SPECIFIED LEVEL OF DRUG FELONIES:

15	LEVEL	MINIMUM	MAXIMUM
16		SENTENCE	SENTENCE
17	DF1	FIVE THOUSAND	ONE MILLION DOLLARS
18		DOLLARS	
19	DF2	THREE THOUSAND	SEVEN HUNDRED FIFTY
20		DOLLARS	THOUSAND DOLLARS
21	DF3	TWO THOUSAND	FIVE HUNDRED THOUSAND
22		DOLLARS	DOLLARS
23	DF4	ONE THOUSAND	ONE HUNDRED THOUSAND
24		DOLLARS	DOLLARS

25 (II) FAILURE TO PAY A FINE IMPOSED PURSUANT TO THIS
26 PARAGRAPH (b) IS GROUNDS FOR REVOCATION OF PROBATION,
27 COMMUNITY CORRECTIONS, OR A SUSPENDED SENTENCE, IF THE

1 DEFENDANT HAS THE ABILITY TO PAY THE FINE.

2 (III) IF A REVOCATION OCCURS PURSUANT TO SUBPARAGRAPH (II)
3 OF THIS PARAGRAPH (b), THE COURT MAY IMPOSE ANY SENTENCE LEGALLY
4 AVAILABLE, SUBJECT TO THE PROVISIONS OF SECTION 18-1.3-104.5 (2).

5 (IV) ALL FINES COLLECTED PURSUANT TO THIS PARAGRAPH (b)
6 MUST BE DEPOSITED IN THE FINES COLLECTION FUND CREATED IN SECTION
7 18-1.3-401 (1) (a) (III) (D) AND ARE SUBJECT TO THE PROVISIONS OF THAT
8 SECTION.

9 (3) A PERSON WHO IS PAROLED PURSUANT TO SECTION
10 17-22.5-403, C.R.S., OR ANY PERSON WHO IS NOT PAROLED AND IS
11 DISCHARGED PURSUANT TO LAW, SHALL BE SUBJECT TO THE MANDATORY
12 PERIOD OF PAROLE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF
13 SUBSECTION (2) OF THIS SECTION. THE MANDATORY PERIOD OF PAROLE
14 MAY NOT BE WAIVED BY THE OFFENDER OR WAIVED OR SUSPENDED BY THE
15 COURT AND IS SUBJECT TO THE PROVISIONS OF SECTION 17-22.5-403 (8),
16 C.R.S., WHICH PERMITS THE STATE BOARD OF PAROLE TO DISCHARGE THE
17 OFFENDER AT ANY TIME DURING THE TERM OF PAROLE UPON A
18 DETERMINATION THAT THE OFFENDER HAS BEEN SUFFICIENTLY
19 REHABILITATED AND REINTEGRATED INTO SOCIETY AND CAN NO LONGER
20 BENEFIT FROM PAROLE SUPERVISION.

21 (4) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO
22 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION COMMENCES
23 IMMEDIATELY UPON THE DISCHARGE OF AN OFFENDER FROM
24 IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS.
25 IF THE OFFENDER HAS BEEN GRANTED RELEASE TO PAROLE SUPERVISION
26 BY THE STATE BOARD OF PAROLE, THE OFFENDER IS DEEMED TO HAVE
27 DISCHARGED THE OFFENDER'S SENTENCE TO IMPRISONMENT PROVIDED FOR

1 IN SUBSECTION (2) OF THIS SECTION IN THE SAME MANNER AS IF SUCH
2 SENTENCE WERE DISCHARGED PURSUANT TO LAW. WHEN AN OFFENDER IS
3 RELEASED BY THE STATE BOARD OF PAROLE OR RELEASED BECAUSE THE
4 OFFENDER'S SENTENCE WAS DISCHARGED PURSUANT TO LAW, THE
5 MANDATORY PERIOD OF PAROLE MUST BE SERVED BY THE OFFENDER. AN
6 OFFENDER SENTENCED FOR A DRUG FELONY MAY RECEIVE EARNED TIME
7 PURSUANT TO SECTION 17-22.5-405, C.R.S., AND WHILE SERVING A
8 MANDATORY PAROLE PERIOD IN ACCORDANCE WITH THIS SECTION.

9 (5) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE
10 COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO
11 SENTENCING PROVISIONS IN THIS SECTION OR SECTION 18-1.3-401, THE
12 MANDATORY PERIOD OF PAROLE FOR THE OFFENDER MUST BE THE
13 LONGEST MANDATORY PERIOD OF PAROLE ESTABLISHED FOR A FELONY
14 FOR WHICH THE OFFENDER WAS CONVICTED.

15 (6) ANY PERSON SENTENCED FOR A LEVEL 1, 2, 3, OR 4 DRUG
16 FELONY THAT IS THE OFFENDER'S SECOND OR SUBSEQUENT FELONY OR
17 DRUG FELONY OFFENSE, REGARDLESS OF THE LENGTH OF THE PERSON'S
18 SENTENCE TO INCARCERATION AND THE MANDATORY PERIOD OF PAROLE,
19 IS NOT DEEMED TO HAVE FULLY DISCHARGED HIS OR HER SENTENCE UNTIL
20 THE PERSON EITHER COMPLETES, OR IS DISCHARGED BY THE STATE BOARD
21 OF PAROLE FROM, THE MANDATORY PERIOD OF PAROLE IMPOSED
22 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

23 (7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
24 CONTRARY, IF THE DEFENDANT IS CONVICTED A LEVEL 1 DRUG FELONY,
25 THE COURT SHALL SENTENCE THE DEFENDANT TO A PERIOD OF AT LEAST
26 EIGHT YEARS IN THE DEPARTMENT OF CORRECTIONS.

27 (8) IN IMPOSING A SENTENCE TO INCARCERATION, THE COURT

1 SHALL IMPOSE A DEFINITE SENTENCE THAT IS WITHIN THE PRESUMPTIVE
2 RANGES SET FORTH IN SUBSECTION (2) OF THIS SECTION; EXCEPT THAT,
3 FOR LEVEL 2, LEVEL 3, AND LEVEL 4 DRUG FELONIES, THE COURT MAY
4 SENTENCE THE DEFENDANT IN THE AGGRAVATED RANGE IF IT CONCLUDES
5 AGGRAVATING CIRCUMSTANCES EXIST. THE AGGRAVATING
6 CIRCUMSTANCES MUST BE BASED ON EVIDENCE IN THE RECORD OF THE
7 SENTENCING HEARING, THE PRESENTENCE REPORT, AND ANY FACTORS
8 AGREED TO BY THE PARTIES AND MUST SUPPORT A DIFFERENT SENTENCE
9 THAT BETTER SERVES THE PURPOSES OF THIS CODE WITH RESPECT TO
10 SENTENCING, AS SET FORTH IN SECTION 18-1-102.5.

11 (9) IN ALL CASES, EXCEPT AS PROVIDED IN SUBSECTION (10) OF
12 THIS SECTION, IN WHICH A SENTENCE THAT IS NOT WITHIN THE
13 PRESUMPTIVE RANGE IS IMPOSED, THE COURT SHALL MAKE SPECIFIC
14 FINDINGS ON THE RECORD, DETAILING THE AGGRAVATING
15 CIRCUMSTANCES THAT CONSTITUTE THE REASONS FOR VARYING FROM THE
16 PRESUMPTIVE SENTENCE.

17 (10) (a) EXCEPT FOR A LEVEL 1 DRUG FELONY, THE PRESENCE OF
18 ONE OR MORE OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES AT THE
19 TIME OF THE COMMISSION OF A DRUG FELONY OFFENSE REQUIRES THE
20 COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, TO
21 SENTENCE THE DEFENDANT TO A TERM OF AT LEAST THE MIDPOINT IN THE
22 PRESUMPTIVE RANGE BUT NOT MORE THAN THE MAXIMUM TERM OF THE
23 AGGRAVATED RANGE:

24 (I) THE DEFENDANT WAS ON PAROLE FOR ANOTHER FELONY;

25 (II) THE DEFENDANT WAS ON PROBATION OR WAS ON BOND WHILE
26 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR
27 ANOTHER FELONY;

1 (III) THE DEFENDANT WAS UNDER CONFINEMENT, IN PRISON, OR
2 IN ANY CORRECTIONAL INSTITUTION AS A CONVICTED FELON, OR AN
3 ESCAPEE FROM ANY CORRECTIONAL INSTITUTION FOR ANOTHER FELONY;
4 OR

5 (IV) THE DEFENDANT WAS ON PROBATION FOR OR ON BOND WHILE
6 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR A
7 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF
8 COMMITTED BY AN ADULT.

9 (b) IN ANY CASE IN WHICH ONE OR MORE OF THE AGGRAVATING
10 CIRCUMSTANCES PROVIDED FOR IN PARAGRAPH (a) OF THIS SUBSECTION
11 (10) EXIST, THE PROVISIONS OF SUBSECTION (9) OF THIS SECTION DO NOT
12 APPLY.

13 (c) NOTHING IN THIS SUBSECTION (10) PRECLUDES THE COURT
14 FROM CONSIDERING AGGRAVATING CIRCUMSTANCES OTHER THAN THOSE
15 STATED IN PARAGRAPH (a) OF THIS SUBSECTION (10) AS THE BASIS FOR
16 SENTENCING THE DEFENDANT TO A TERM GREATER THAN THE
17 PRESUMPTIVE RANGE FOR THE DRUG FELONY.

18 (11) EXCEPT FOR A LEVEL 1 DRUG FELONY, THE PRESENCE OF ANY
19 ONE OR MORE OF THE FOLLOWING SENTENCE-ENHANCING CIRCUMSTANCES
20 AT THE TIME OF THE COMMISSION OF THE DRUG FELONY ALLOWS THE
21 COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, TO
22 SENTENCE THE DEFENDANT TO A TERM IN THE PRESUMPTIVE OR
23 AGGRAVATED RANGE:

24 (a) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A
25 FELONY IN A PREVIOUS CASE AND THE DEFENDANT WAS CONVICTED OF
26 ANY FELONY IN THE PREVIOUS CASE;

27 (b) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A

1 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF
2 COMMITTED BY AN ADULT;

3 (c) THE DEFENDANT WAS ON BOND FOR HAVING PLED GUILTY TO
4 A LESSER OFFENSE WHEN THE ORIGINAL OFFENSE CHARGED WAS A
5 FELONY;

6 (d) THE DEFENDANT WAS ON BOND IN A JUVENILE PROSECUTION
7 UNDER TITLE 19, C.R.S., FOR HAVING PLED GUILTY TO A LESSER
8 DELINQUENT ACT WHEN THE ORIGINAL DELINQUENT ACT CHARGED WOULD
9 HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

10 (e) THE DEFENDANT WAS UNDER A DEFERRED JUDGMENT AND
11 SENTENCE FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A
12 FELONY IF COMMITTED BY AN ADULT; OR

13 (f) THE DEFENDANT WAS ON PAROLE FOR HAVING BEEN
14 ADJUDICATED A DELINQUENT CHILD FOR AN OFFENSE THAT WOULD
15 CONSTITUTE A FELONY IF COMMITTED BY AN ADULT.

16 (12) WHEN IT APPEARS TO THE SATISFACTION OF THE COURT THAT
17 THE ENDS OF JUSTICE AND THE BEST INTEREST OF THE PUBLIC, AS WELL AS
18 THE DEFENDANT, WILL BE BEST SERVED THEREBY, THE COURT HAS THE
19 POWER TO SUSPEND THE IMPOSITION OR EXECUTION OF SENTENCE FOR
20 SUCH PERIOD AND UPON SUCH TERMS AND CONDITIONS AS IT MAY DEEM
21 BEST; EXCEPT THAT THE COURT MAY NOT SUSPEND A SENTENCE TO THE
22 MINIMUM TERM OF INCARCERATION WHEN THE DEFENDANT IS CONVICTED
23 OF A LEVEL 1 DRUG FELONY. IN NO INSTANCE MAY A SENTENCE BE
24 SUSPENDED IF THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT
25 TO SECTION 18-1.3-201, EXCEPT UPON AN EXPRESS WAIVER BEING MADE
26 BY THE SENTENCING COURT REGARDING A PARTICULAR DEFENDANT UPON
27 RECOMMENDATION OF THE DISTRICT ATTORNEY AND APPROVAL OF SUCH

1 RECOMMENDATION BY AN ORDER OF THE SENTENCING COURT PURSUANT
2 TO SECTION 18-1.3-201 (4).

3 (13) EVERY SENTENCE ENTERED UNDER THIS SECTION MUST
4 INCLUDE CONSIDERATION OF RESTITUTION AS REQUIRED BY PART 6 OF
5 THIS ARTICLE AND BY ARTICLE 18.5 OF TITLE 16, C.R.S.

6 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-501, **amend**
7 (1) (a) introductory portion; and **add** (1) (d) and (1) (e) as follows:

8 **18-1.3-501. Misdemeanors classified - drug misdemeanors and**
9 **drug petty offenses classified - penalties.** (1) (a) EXCEPT AS OTHERWISE
10 PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1), misdemeanors are
11 divided into three classes ~~which~~ THAT are distinguished from one another
12 by the following penalties ~~which~~ THAT are authorized upon conviction
13 except as provided in subsection (1.5) of this section:

14 (d) FOR PURPOSES OF SENTENCING A PERSON CONVICTED OF A
15 MISDEMEANOR DRUG OFFENSE DESCRIBED IN ARTICLE 18 OF THIS TITLE,
16 COMMITTED ON OR AFTER OCTOBER 1, 2013, DRUG MISDEMEANORS ARE
17 DIVIDED INTO TWO LEVELS THAT ARE DISTINGUISHED FROM ONE ANOTHER
18 BY THE FOLLOWING PENALTIES AND THAT ARE AUTHORIZED UPON
19 CONVICTION:

20	LEVEL	MINIMUM SENTENCE	MAXIMUM SENTENCE
21	DM1	SIX MONTHS	EIGHTEEN MONTHS
22		IMPRISONMENT,	IMPRISONMENT,
23		FIVE HUNDRED DOLLARS	FIVE THOUSAND
24		FINE, OR BOTH	DOLLARS FINE, OR BOTH
25	DM2	NO IMPRISONMENT,	TWELVE MONTHS
26		FIFTY DOLLARS FINE	IMPRISONMENT,
27			SEVEN HUNDRED FIFTY

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(e) FOR EACH DRUG PETTY OFFENSE, THE SENTENCING RANGE IS STATED IN THE OFFENSE STATUTE.

SECTION 6. In Colorado Revised Statutes, **amend** 18-18-101 as follows:

18-18-101. Short title. This article shall be known and may be cited as the "Uniform Controlled Substances Act of ~~1992~~ 2013".

SECTION 7. In Colorado Revised Statutes, 18-18-401, **amend** (1) as follows:

18-18-401. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The regulation of controlled substances in this state is important and necessary for the preservation of public safety and public health;

(b) MEETING THE PUBLIC SAFETY AND PUBLIC HEALTH NEEDS OF OUR COMMUNITIES DEMANDS A COLLABORATIVE EFFORT INVOLVING PRIMARY HEALTH CARE, BEHAVIORAL HEALTH, CRIMINAL JUSTICE, AND SOCIAL SERVICE SYSTEMS;

~~(b)~~ (c) Successful, community-based substance abuse treatment and education programs, in conjunction with mental health treatment as necessary, provide effective tools in the effort to reduce drug usage ~~and criminal behavior in communities~~ AND ENHANCE PUBLIC SAFETY BY REDUCING THE LIKELIHOOD THAT DRUG USERS WILL HAVE FURTHER CONTACT WITH THE CRIMINAL JUSTICE SYSTEM. Therapeutic intervention and ongoing individualized treatment plans prepared through the use of meaningful and proven assessment tools and evaluations offer a ~~potential~~ AN EFFECTIVE alternative to incarceration in appropriate circumstances

1 and should be utilized accordingly.

2 (e) (d) Savings recognized from reductions in incarceration rates
3 should be dedicated toward funding community-based treatment options
4 and other mechanisms that are accessible to all of the state's counties for
5 the implementation and continuation of such programs.

6 (e) THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE
7 JUSTICE SUBMITTED A REPORT TO THE GENERAL ASSEMBLY ON DECEMBER
8 15, 2012, AFTER SIGNIFICANT STUDY OF EFFECTIVE APPROACHES TO
9 REDUCED DRUG ABUSE AND USE OF CRIMINAL JUSTICE SANCTIONS THAT
10 RECOMMENDS MULTIPLE CHANGES TO THE CRIMINAL LAW RELATING TO
11 CONTROLLED SUBSTANCES. THE COMMISSION CONTINUES WORK TO
12 DEVELOP A MORE EFFECTIVE TREATMENT SYSTEM IN COLORADO AND
13 CONTINUES TO COLLECT DATA TO MEASURE THE IMPACT OF THE CHANGES
14 TO THIS PART 4 ENACTED IN 2013.

15 **SECTION 8.** In Colorado Revised Statutes, 18-18-403.5, **amend**
16 (2) as follows:

17 **18-18-403.5. Unlawful possession of a controlled substance.**

18 (2) A person who violates subsection (1) of this section by possessing:

19 (a) ~~(f)~~ Any material, compound, mixture, or preparation ~~weighing~~
20 ~~four grams or less~~ that contains any quantity of flunitrazepam, ketamine,
21 or a controlled substance listed in schedule I or II of part 2 of this article
22 ~~except methamphetamine~~ commits a ~~class 6 felony~~ LEVEL 4 DRUG
23 FELONY.

24 ~~(II) Any material, compound, mixture, or preparation weighing~~
25 ~~more than four grams that contains any quantity of flunitrazepam,~~
26 ~~ketamine, or a controlled substance listed in schedule I or II of part 2 of~~
27 ~~this article except methamphetamine~~ commits a class 4 felony.

1 (b) ~~(f) Any material, compound, mixture, or preparation weighing~~
2 ~~two grams or less that contains any quantity of methamphetamine~~
3 ~~commits a class 6 felony.~~

4 ~~(H) Any material, compound, mixture, or preparation weighing~~
5 ~~more than two grams that contains any quantity of methamphetamine~~
6 ~~commits a class 4 felony.~~

7 (c) Any material, compound, mixture, or preparation that contains
8 any quantity of a controlled substance listed in schedule III, IV, or V of
9 part 2 of this article except flunitrazepam or ketamine commits a ~~class 1~~
10 ~~misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

11 **SECTION 9.** In Colorado Revised Statutes, 18-18-404, **amend**
12 (1) (a) as follows:

13 **18-18-404. Unlawful use of a controlled substance.**

14 (1) (a) Except as is otherwise provided for offenses concerning
15 marijuana and marijuana concentrate in sections 18-18-406 and
16 18-18-406.5, any person who uses any controlled substance, except when
17 it is dispensed by or under the direction of a person licensed or authorized
18 by law to prescribe, administer, or dispense the controlled substance for
19 bona fide medical needs, commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG
20 MISDEMEANOR.

21 **SECTION 10.** In Colorado Revised Statutes, 18-18-405, **amend**
22 (2) and (5); and **repeal** (2.5), (3), (3.5), and (7) as follows:

23 **18-18-405. Unlawful distribution, manufacturing, dispensing,**

24 **or sale.** ~~(2) (a) Except as is otherwise provided for offenses concerning~~
25 ~~marijuana and marijuana concentrate in section 18-18-406 and for~~
26 ~~offenses involving minors in section 18-18-407 (1) (g), any person who~~
27 ~~violates any of the provisions of subsection (1) of this section:~~

1 ~~(I) In the case of a controlled substance listed in schedule I or H~~
2 ~~of part 2 of this article, commits:~~

3 ~~(A) A class 3 felony; or~~

4 ~~(B) A class 2 felony, if the violation is committed subsequent to~~
5 ~~a prior conviction in this or any other state, the United States, or any~~
6 ~~territory subject to the jurisdiction of the United States of a violation to~~
7 ~~which this subparagraph (I) applies or would apply if convicted in this~~
8 ~~state;~~

9 ~~(II) In the case of a controlled substance listed in schedule III of~~
10 ~~part 2 of this article, commits:~~

11 ~~(A) A class 4 felony; or~~

12 ~~(B) A class 3 felony, if the violation is committed subsequent to~~
13 ~~any prior conviction in this or any other state, the United States, or any~~
14 ~~territory subject to the jurisdiction of the United States of a violation to~~
15 ~~which subparagraph (I) of this paragraph (a) or this subparagraph (II)~~
16 ~~applies or would apply if convicted in this state;~~

17 ~~(III) In the case of a controlled substance listed in schedule IV of~~
18 ~~part 2 of this article, commits:~~

19 ~~(A) A class 5 felony; or~~

20 ~~(B) A class 4 felony, if the violation is committed subsequent to~~
21 ~~a prior conviction in this or any other state, the United States, or any~~
22 ~~territory subject to the jurisdiction of the United States of a violation to~~
23 ~~which subparagraph (I) or (II) of this paragraph (a) or this subparagraph~~
24 ~~(III) applies or would apply if convicted in this state;~~

25 ~~(IV) In the case of a controlled substance listed in schedule V of~~
26 ~~part 2 of this article, commits:~~

27 ~~(A) A class 1 misdemeanor; or~~

1 ~~(B) A class 5 felony, if the violation is committed subsequent to~~
2 ~~any prior conviction in this or any other state, the United States, or any~~
3 ~~territory subject to the jurisdiction of the United States of a violation to~~
4 ~~which subparagraph (I), (II), or (III) of this paragraph (a) or this~~
5 ~~subparagraph (IV) applies or would apply if convicted in this state.~~

6 (2) EXCEPT AS OTHERWISE PROVIDED, FOR AN OFFENSE
7 CONCERNING MARIJUANA AND MARIJUANA CONCENTRATE IN SECTION
8 18-18-406 AND FOR SPECIAL OFFENDERS AS PROVIDED IN SECTION
9 18-18-407, ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
10 SUBSECTION (1) OF THIS SECTION:

11 (a) COMMITS A LEVEL 1 DRUG FELONY AND IS SUBJECT TO THE
12 MANDATORY SENTENCING PROVISIONS IN SECTION 18-1.3-401.5 (7) IF:

13 (I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND,
14 MIXTURE, OR PREPARATION THAT WEIGHS:

15 (A) MORE THAN TWO HUNDRED TWENTY-FIVE GRAMS AND
16 CONTAINS A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE; OR

17 (B) MORE THAN ONE HUNDRED TWELVE GRAMS AND CONTAINS
18 METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE; OR

19 (C) MORE THAN FIFTY MILLIGRAMS AND CONTAINS
20 FLUNITRAZEPAM; OR

21 (II) AN ADULT SELLS, DISPENSES, DISTRIBUTES, OR OTHERWISE
22 TRANSFERS ANY QUANTITY OF A SCHEDULE I OR SCHEDULE II
23 CONTROLLED SUBSTANCE OR ANY MATERIAL, COMPOUND, MIXTURE, OR
24 PREPARATION THAT CONTAINS ANY AMOUNT OF A SCHEDULE I OR
25 SCHEDULE II CONTROLLED SUBSTANCE, OTHER THAN MARIJUANA OR
26 MARIJUANA CONCENTRATE, TO A MINOR AND THE ADULT IS AT LEAST TWO
27 YEARS OLDER THAN THE MINOR;

1 **(b)** COMMITS A LEVEL 2 DRUG FELONY IF:

2 (I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND,
3 MIXTURE, OR PREPARATION THAT WEIGHS:

4 (A) MORE THAN FOURTEEN GRAMS, BUT NOT MORE THAN TWO
5 HUNDRED TWENTY-FIVE GRAMS, AND CONTAINS A SCHEDULE I OR
6 SCHEDULE II CONTROLLED SUBSTANCE;

7 (B) MORE THAN SEVEN GRAMS, BUT NOT MORE ONE HUNDRED
8 TWELVE GRAMS, AND CONTAINS METHAMPHETAMINE, HEROIN, KETAMINE,
9 OR CATHINONE; OR

10 (C) MORE THAN TEN MILLIGRAMS, BUT NOT MORE THAN FIFTY
11 MILLIGRAMS, AND CONTAINS FLUNITRAZEPAM;

12 (II) AN ADULT SELLS, DISPENSES, DISTRIBUTES, OR OTHERWISE
13 TRANSFERS ANY QUANTITY OF A SCHEDULE III OR SCHEDULE IV
14 CONTROLLED SUBSTANCE OR ANY MATERIAL, COMPOUND, MIXTURE, OR
15 PREPARATION THAT CONTAINS ANY QUANTITY OF A SCHEDULE III OR
16 SCHEDULE IV CONTROLLED SUBSTANCE TO A MINOR AND THE ADULT IS AT
17 LEAST TWO YEARS OLDER THAN THE MINOR;

18 **(c)** COMMITS A LEVEL 3 DRUG FELONY IF:

19 (I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND,
20 MIXTURE, OR PREPARATION THAT WEIGHS:

21 (A) NOT MORE THAN FOURTEEN GRAMS AND CONTAINS A
22 SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE;

23 (B) NOT MORE THAN SEVEN GRAMS AND CONTAINS
24 METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE;

25 (C) NOT MORE THAN TEN MILLIGRAMS AND CONTAINS
26 FLUNITRAZEPAM; OR

27 (D) MORE THAN FOUR GRAMS AND CONTAINS A SCHEDULE III OR

1 SCHEDULE IV CONTROLLED SUBSTANCE.

2 (d) COMMITS A LEVEL 4 DRUG FELONY IF:

3 (I) THE VIOLATION INVOLVES ANY MATERIAL, COMPOUND,
4 MIXTURE, OR PREPARATION THAT WEIGHS NOT MORE THAN FOUR GRAMS
5 AND CONTAINS A SCHEDULE III OR SCHEDULE IV CONTROLLED
6 SUBSTANCE; OR

7 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF
8 THIS SUBSECTION (2), THE VIOLATION INVOLVES DISTRIBUTION OR
9 TRANSFER OF THE CONTROLLED SUBSTANCE FOR THE PURPOSE OF
10 CONSUMING ALL OF THE CONTROLLED SUBSTANCE WITH ANOTHER PERSON
11 OR PERSONS AT A TIME SUBSTANTIALLY CONTEMPORANEOUS WITH THE
12 TRANSFER; EXCEPT THAT THIS SUBPARAGRAPH (II) APPLIES ONLY IF THE
13 DISTRIBUTION OR TRANSFER INVOLVES NOT MORE THAN FOUR GRAMS OF
14 A SCHEDULE I OR II CONTROLLED SUBSTANCE OR NOT MORE THAN TWO
15 GRAMS OF METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE.

16 (e) COMMITS A LEVEL 1 DRUG MISDEMEANOR IF THE VIOLATION
17 INVOLVES:

18 (I) A SCHEDULE V CONTROLLED SUBSTANCE; OR

19 (II) A TRANSFER WITH NO REMUNERATION OF NOT MORE THAN
20 FOUR GRAMS OF A SCHEDULE III OR SCHEDULE IV CONTROLLED
21 SUBSTANCE.

22 (2.5) (a) ~~Notwithstanding the provisions of subparagraph (H) of~~
23 ~~paragraph (a) of subsection (2) of this section, a person who violates the~~
24 ~~provisions of subsection (1) of this section with regard to flunitrazepam~~
25 ~~or ketamine commits a class 3 felony; except that the person commits a~~
26 ~~class 2 felony if the violation is committed subsequent to a prior~~
27 ~~conviction in this or any other state, the United States, or any territory~~

1 subject to the jurisdiction of the United States of a violation involving
2 flunitrazepam or ketamine or to which subparagraph (I) of paragraph (a)
3 of subsection (2) of this section applies or would apply if convicted in
4 this state.

5 (b) Any person convicted of violating the provisions of subsection
6 (1) of this section with regard to flunitrazepam or ketamine shall be
7 subject to the mandatory sentencing provisions of subsection (3) of this
8 section.

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

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

1 as modified pursuant to section 18-1.3-401 (10) with regard to
2 manufacturing, dispensing, selling, distributing, or possessing with intent
3 to manufacture, dispense, sell, or distribute;

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

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

1 range provided for such offense in section 18-1.3-401 (1) (a) as modified
2 pursuant to section 18-1.3-401 (10) with regard to manufacturing,
3 dispensing, selling, distributing, or possessing with intent to manufacture,
4 dispense, sell, or distribute.

5 (b) In addition to any other penalty imposed under this subsection
6 (3), upon conviction, a person who violates this subsection (3) shall be
7 fined not less than one thousand dollars but not more than five hundred
8 thousand dollars. For offenses committed on or after July 1, 1985, the
9 fine shall be in an amount within the presumptive range set out in section
10 18-1.3-401 (1) (a) (III).

11 (3.5) The felony offense of unlawfully manufacturing, dispensing,
12 selling, distributing, or possessing with intent to unlawfully manufacture,
13 dispense, sell, or distribute a controlled substance is an extraordinary risk
14 crime that is subject to the modified presumptive sentencing range
15 specified in section 18-1.3-401 (10).

16 (5) When a person commits unlawful distribution, manufacture,
17 dispensing, sale, or possession with intent to manufacture, dispense, sell,
18 or distribute any schedule I or schedule II controlled substance, as listed
19 in section 18-18-203 or 18-18-204, flunitrazepam, or ketamine, OR
20 CONSPIRES WITH ONE OR MORE PERSONS TO COMMIT THE OFFENSE,
21 pursuant to subsection (1) of this section, twice or more within a period
22 of six months, without having been placed in jeopardy for the prior
23 offense or offenses, and the aggregate amount of the schedule I or
24 schedule II controlled substance, flunitrazepam, or ketamine involved
25 equals or exceeds twenty-five grams, the defendant shall be sentenced
26 pursuant to the mandatory sentencing requirements specified in
27 subsection (3) of this section MAY BE USED TO DETERMINE THE LEVEL OF

1 DRUG OFFENSE.

2 (7) ~~Notwithstanding the provisions of subsection (2) of this~~
3 ~~section, and except as otherwise provided in sub-subparagraph (B) of~~
4 ~~subparagraph (F) of paragraph (a) of subsection (2) or paragraph (a) of~~
5 ~~subsection (2.5) of this section, a person who violates subsection (1) of~~
6 ~~this section by selling, dispensing, or distributing a controlled substance~~
7 ~~other than marijuana or marijuana concentrate to a minor under eighteen~~
8 ~~years of age and who is at least eighteen years of age and at least two~~
9 ~~years older than the minor commits a class 3 felony and, unless a greater~~
10 ~~sentence is provided under any other statute, shall be sentenced to the~~
11 ~~department of corrections for a term of at least the minimum, but not~~
12 ~~more than twice the maximum, of the presumptive range provided for~~
13 ~~such offense in section 18-1.3-401 (1) (a) as modified pursuant to section~~
14 ~~18-1.3-401 (10).~~

15 **SECTION 11.** In Colorado Revised Statutes, **repeal and**
16 **reenact, with amendments,** 18-18-406 as follows:

17 **18-18-406. Offenses relating to marijuana and marijuana**
18 **concentrate.** (1) (a) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN
19 TWO AND ONE HALF POUNDS OF MARIJUANA OR MORE THAN ONE POUND
20 OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT
21 AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 1 DRUG FELONY
22 SUBJECT TO THE MANDATORY SENTENCING PROVISION IN SECTION
23 18-1.3-401.5 (7).

24 (b) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN SIX
25 OUNCES, BUT NOT MORE THAN TWO AND ONE-HALF POUNDS OF
26 MARIJUANA OR MORE THAN THREE OUNCES, BUT NOT MORE THAN ONE
27 POUND OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN

1 ADULT AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 2 DRUG
2 FELONY.

3 (c) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN ONE
4 OUNCE, BUT NOT MORE THAN SIX OUNCES OF MARIJUANA OR MORE THAN
5 ONE-HALF OUNCE, BUT NOT MORE THAN THREE OUNCES, OF MARIJUANA
6 CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND TWO YEARS
7 OLDER THAN THE MINOR IS A LEVEL 3 DRUG FELONY.

8 (d) THE SALE, TRANSFER, OR DISPENSING OF NOT MORE THAN ONE
9 OUNCE OF MARIJUANA OR NOT MORE THAN ONE-HALF OUNCE OF
10 MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND
11 TWO YEARS OLDER THAN THE MINOR IS A LEVEL 4 DRUG FELONY.

12 (2) (a) (I) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY PROCESS
13 OR MANUFACTURE ANY MARIJUANA OR MARIJUANA CONCENTRATE OR
14 KNOWINGLY ALLOW TO BE PROCESSED OR MANUFACTURED ON LAND
15 OWNED, OCCUPIED, OR CONTROLLED BY HIM OR HER ANY MARIJUANA OR
16 MARIJUANA CONCENTRATE EXCEPT AS AUTHORIZED PURSUANT TO PART
17 1 OF ARTICLE 42.5 OF TITLE 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE
18 27, C.R.S.

19 (II) A PERSON WHO VIOLATES THE PROVISIONS OF SUBPARAGRAPH
20 (I) OF THIS PARAGRAPH (a) COMMITS A LEVEL 3 DRUG FELONY.

21 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7) OF
22 THIS SECTION AND EXCEPT AS AUTHORIZED BY PART 1 OF ARTICLE 42.5 OF
23 TITLE 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., OR PART 2 OR
24 3 OF THIS ARTICLE, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY
25 DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO MANUFACTURE,
26 DISPENSE, SELL, OR DISTRIBUTE MARIJUANA OR MARIJUANA
27 CONCENTRATE; OR ATTEMPT, INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE

1 WITH ONE OR MORE OTHER PERSONS, TO DISPENSE, SELL, DISTRIBUTE, OR
2 POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE
3 MARIJUANA OR MARIJUANA CONCENTRATE.

4 (II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b),
5 "DISPENSE" DOES NOT INCLUDE LABELING, AS DEFINED IN SECTION
6 12-42.5-102 (18), C.R.S.

7 (III) A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) COMMITS:

9 (A) A LEVEL 1 DRUG FELONY AND IS SUBJECT TO THE MANDATORY
10 SENTENCING PROVISION IN SECTION 18-1.3-401.5 (7) IF THE AMOUNT OF
11 MARIJUANA IS MORE THAN FIFTY POUNDS OR THE AMOUNT OF MARIJUANA
12 CONCENTRATE IS MORE THAN TWENTY-FIVE POUNDS;

13 (B) A LEVEL 2 DRUG FELONY IF THE AMOUNT OF MARIJUANA IS
14 MORE THAN FIVE POUNDS BUT NOT MORE THAN FIFTY POUNDS OR THE
15 AMOUNT OF MARIJUANA CONCENTRATE IS MORE THAN TWO AND
16 ONE-HALF POUNDS BUT NOT MORE THAN TWENTY-FIVE POUNDS;

17 (C) A LEVEL 3 DRUG FELONY IF THE AMOUNT IS MORE THAN
18 TWELVE OUNCES BUT NOT MORE THAN FIVE POUNDS OF MARIJUANA OR
19 MORE THAN SIX OUNCES BUT NOT MORE THAN TWO AND ONE-HALF
20 POUNDS OF MARIJUANA CONCENTRATE;

21 (D) A LEVEL 4 DRUG FELONY IF THE AMOUNT IS MORE THAN FOUR
22 OUNCES, BUT NOT MORE THAN TWELVE OUNCES OF MARIJUANA OR MORE
23 THAN TWO OUNCES BUT NOT MORE THAN SIX OUNCES OF MARIJUANA
24 CONCENTRATE; OR

25 (E) A LEVEL 1 DRUG MISDEMEANOR IF THE AMOUNT IS NOT MORE
26 THAN FOUR OUNCES OF MARIJUANA OR NOT MORE THAN TWO OUNCES OF
27 MARIJUANA CONCENTRATE.

1 (3) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY CULTIVATE,
2 GROW, OR PRODUCE A MARIJUANA PLANT OR KNOWINGLY ALLOW A
3 MARIJUANA PLANT TO BE CULTIVATED, GROWN, OR PRODUCED ON LAND
4 THAT THE PERSON OWNS, OCCUPIES, OR CONTROLS. A PERSON WHO
5 VIOLATES THE PROVISIONS OF THIS SUBSECTION (3) COMMITS:

6 (a) A LEVEL 3 DRUG FELONY IF THE OFFENSE INVOLVES MORE
7 THAN THIRTY PLANTS;

8 (b) A LEVEL 4 DRUG FELONY IF THE OFFENSE INVOLVES MORE
9 THAN SIX BUT NOT MORE THAN THIRTY PLANTS; OR

10 (c) A LEVEL 1 DRUG MISDEMEANOR IF THE OFFENSE INVOLVES NOT
11 MORE THAN SIX PLANTS.

12 (4) (a) A PERSON WHO POSSESSES MORE THAN TWELVE OUNCES OF
13 MARIJUANA OR MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE
14 COMMITS A LEVEL 4 DRUG FELONY.

15 (b) A PERSON WHO POSSESSES MORE THAN SIX OUNCES OF
16 MARIJUANA BUT NOT MORE THAN TWELVE OUNCES OF MARIJUANA OR NOT
17 MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE COMMITS A
18 LEVEL 1 DRUG MISDEMEANOR.

19 (c) A PERSON WHO POSSESSES MORE THAN TWO OUNCES OF
20 MARIJUANA BUT NOT MORE THAN SIX OUNCES OF MARIJUANA COMMITS A
21 LEVEL 2 DRUG MISDEMEANOR.

22 (5) (a) (I) EXCEPT AS DESCRIBED IN SECTION 18-1-711, A PERSON
23 WHO POSSESSES NOT MORE THAN TWO OUNCES OF MARIJUANA COMMITS
24 A DRUG PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE
25 PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

26 (II) WHENEVER A PERSON IS ARRESTED OR DETAINED FOR A
27 VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE

1 ARRESTING OR DETAINING OFFICER SHALL PREPARE A WRITTEN NOTICE OR
2 SUMMONS FOR THE PERSON TO APPEAR IN COURT. THE WRITTEN NOTICE OR
3 SUMMONS MUST CONTAIN THE NAME AND ADDRESS OF THE ARRESTED OR
4 DETAINED PERSON, THE DATE, TIME, AND PLACE WHERE SUCH PERSON
5 SHALL APPEAR, AND A PLACE FOR THE SIGNATURE OF THE PERSON
6 INDICATING THE PERSON'S WRITTEN PROMISE TO APPEAR ON THE DATE
7 AND AT THE TIME AND PLACE INDICATED ON THE NOTICE OR SUMMONS.
8 ONE COPY OF THE NOTICE OR SUMMONS MUST BE GIVEN TO THE PERSON
9 ARRESTED OR DETAINED, ONE COPY MUST BE SENT TO THE COURT WHERE
10 THE ARRESTED OR DETAINED PERSON IS TO APPEAR, AND SUCH OTHER
11 COPIES AS MAY BE REQUIRED BY THE LAW ENFORCEMENT AGENCY
12 EMPLOYING THE ARRESTING OR DETAINING OFFICER MUST BE SENT TO THE
13 PLACES DESIGNATED BY SUCH LAW ENFORCEMENT AGENCY. THE DATE
14 SPECIFIED IN THE NOTICE OR SUMMONS TO APPEAR MUST BE AT LEAST
15 SEVEN DAYS AFTER THE ARREST OR DETENTION UNLESS THE PERSON
16 ARRESTED OR DETAINED DEMANDS AN EARLIER HEARING. THE PLACE
17 SPECIFIED IN THE NOTICE OR SUMMONS TO APPEAR MUST BE BEFORE A
18 JUDGE HAVING JURISDICTION OF THE DRUG PETTY OFFENSE WITHIN THE
19 COUNTY IN WHICH THE DRUG PETTY OFFENSE CHARGED IS ALLEGED TO
20 HAVE BEEN COMMITTED. THE ARRESTED OR DETAINED PERSON, IN ORDER
21 TO SECURE RELEASE FROM ARREST OR DETENTION, MUST PROMISE IN
22 WRITING TO APPEAR IN COURT BY SIGNING THE NOTICE OR SUMMONS
23 PREPARED BY THE ARRESTING OR DETAINING OFFICER. ANY PERSON WHO
24 DOES NOT HONOR THE WRITTEN PROMISE TO APPEAR COMMITS A CLASS 3
25 MISDEMEANOR.

26 (b) (I) EXCEPT AS DESCRIBED IN SECTION 18-1-711, A PERSON WHO
27 OPENLY AND PUBLICLY DISPLAYS, CONSUMES, OR USES TWO OUNCES OR

1 LESS OF MARIJUANA COMMITS A DRUG PETTY OFFENSE AND, UPON
2 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF UP TO ONE
3 HUNDRED DOLLARS AND UP TO TWENTY-FOUR HOURS OF COMMUNITY
4 SERVICE.

5 (II) OPEN AND PUBLIC DISPLAY, CONSUMPTION, OR USE OF MORE
6 THAN TWO OUNCES OF MARIJUANA OR ANY AMOUNT OF MARIJUANA
7 CONCENTRATE IS DEEMED POSSESSION THEREOF, AND VIOLATIONS SHALL
8 BE PUNISHED AS PROVIDED FOR IN SUBSECTION (4) OF THIS SECTION.

9 (III) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBPARAGRAPH (I)
10 OF THIS PARAGRAPH (b), CONSUMPTION OR USE OF MARIJUANA OR
11 MARIJUANA CONCENTRATE IS DEEMED POSSESSION THEREOF, AND
12 VIOLATIONS MUST BE PUNISHED AS PROVIDED FOR IN PARAGRAPH (a) OF
13 THIS SUBSECTION (5) AND SUBSECTION (4) OF THIS SECTION.

14 (c) TRANSFERRING OR DISPENSING NOT MORE THAN TWO OUNCES
15 OF MARIJUANA FROM ONE PERSON TO ANOTHER FOR NO CONSIDERATION
16 IS A DRUG PETTY OFFENSE AND IS NOT DEEMED DISPENSING OR SALE
17 THEREOF.

18 (6) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY
19 PERSON WHO POSSESSES, USES, PRESCRIBES, DISPENSES, OR ADMINISTERS
20 ANY DRUG CLASSIFIED UNDER GROUP C GUIDELINES OF THE NATIONAL
21 CANCER INSTITUTE, AS AMENDED, APPROVED BY THE FEDERAL FOOD AND
22 DRUG ADMINISTRATION.

23 (7) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY
24 PERSON WHO POSSESSES, USES, PRESCRIBES, DISPENSES, OR ADMINISTERS
25 DRONABINOL (SYNTHETIC) IN SESAME OIL AND ENCAPSULATED IN A SOFT
26 GELATIN CAPSULE IN A FEDERAL FOOD AND DRUG ADMINISTRATION
27 APPROVED DRUG PRODUCT, PURSUANT TO PART 1 OF ARTICLE 42.5 OF

1 TITLE 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

2 **SECTION 12.** In Colorado Revised Statutes, 18-18-406.1,
3 **amend** (2) as follows:

4 **18-18-406.1. Unlawful use or possession of synthetic**
5 **cannabinoids or salvia divinorum.** (2) A person who violates any
6 provision of subsection (1) of this section commits a ~~class 2 misdemeanor~~
7 LEVEL 2 DRUG MISDEMEANOR.

8 **SECTION 13.** In Colorado Revised Statutes, 18-18-406.2,
9 **amend** (2) and (3) as follows:

10 **18-18-406.2. Unlawful distribution, manufacturing,**
11 **dispensing, sale, or cultivation of synthetic cannabinoids or salvia**
12 **divinorum.** (2) A person who violates any provision of subsection (1)
13 of this section commits a ~~class 5 felony~~ LEVEL 3 DRUG FELONY.

14 (3) Notwithstanding the provisions of subsection (2) of this
15 section, a person who violates any provision of subsection (1) of this
16 section by dispensing, selling, or distributing any amount of any synthetic
17 cannabinoid or salvia divinorum commits a ~~class 4 felony~~ LEVEL 2 DRUG
18 FELONY if the person:

19 (a) Dispenses, sells, or distributes the synthetic cannabinoid or
20 salvia divinorum to a minor who is less than eighteen years of age; and

21 (b) Is at least eighteen years of age and at least two years older
22 than said minor.

23 **SECTION 14.** In Colorado Revised Statutes, 18-18-406.5,
24 **amend** (1) as follows:

25 **18-18-406.5. Unlawful use of marijuana in a detention facility.**
26 (1) ~~Any~~ A person confined in ~~any~~ A detention facility in this state who
27 possesses or uses up to eight ounces of marijuana commits a ~~class 6~~

1 ~~felony; except that, if the person commits a second or subsequent~~
2 ~~violation where both the initial and subsequent violations involved more~~
3 ~~than one ounce of marijuana, the person commits a class 5 felony LEVEL~~
4 ~~1 DRUG MISDEMEANOR.~~

5 **SECTION 15.** In Colorado Revised Statutes, **repeal** 18-18-406.7
6 and 18-18-406.8.

7 **SECTION 16.** In Colorado Revised Statutes, **amend** 18-18-407
8 as follows:

9 **18-18-407. Special offenses - definitions.** ~~(1) Upon a felony~~
10 ~~conviction under this part 4, the presence of any one or more of the~~
11 ~~following extraordinary aggravating circumstances designating the~~
12 ~~defendant a special offender shall require the court to sentence the~~
13 ~~defendant to the department of corrections for a term of at least the~~
14 ~~minimum term of years within the presumptive range for a class 2 felony~~
15 ~~but not more than twice the maximum term of years within the~~
16 ~~presumptive range for a class 2 felony:~~

17 ~~(a) The defendant was previously convicted in courts of the United~~
18 ~~States or a state or any political subdivision thereof for two or more~~
19 ~~offenses involving the manufacture, sale, dispensing, or distribution of~~
20 ~~controlled substances, which offenses did not arise from the same~~
21 ~~criminal episode or course of events and differ from the pending felony~~
22 ~~and which were punishable by imprisonment in excess of one year;~~

23 ~~(b) The defendant committed an offense as part of a pattern of~~
24 ~~manufacturing, sale, dispensing, or distributing controlled substances,~~
25 ~~which offense is a felony under applicable laws of Colorado, which~~
26 ~~constituted a substantial source of that person's income, and in which that~~
27 ~~person manifested special skill or expertise;~~

1 ~~(c) The defendant committed a felony which was, or was in~~
2 ~~furtherance of, a conspiracy with one or more persons to engage in a~~
3 ~~pattern of manufacturing, sale, dispensing, or distributing a controlled~~
4 ~~substance, which offense is a felony under applicable laws of Colorado,~~
5 ~~and the defendant did, or agreed that he would, initiate, organize, plan,~~
6 ~~finance, direct, manage, or supervise all or part of such conspiracy or~~
7 ~~manufacture, sale, dispensing, or distributing, or give or receive a bribe,~~
8 ~~or use force in connection with such manufacture, sale, dispensing, or~~
9 ~~distribution;~~

10 ~~(d) The defendant unlawfully introduced, distributed, or imported~~
11 ~~into the state of Colorado more than four grams of any schedule I or II~~
12 ~~controlled substance listed in part 2 of this article or more than two grams~~
13 ~~of methamphetamine;~~

14 ~~(e) The defendant unlawfully sold, dispensed, distributed,~~
15 ~~possessed, or imported into the state of Colorado a quantity in excess of~~
16 ~~one hundred pounds of marijuana or marijuana concentrate;~~

17 ~~(f) (I) The defendant used, displayed, or possessed on his or her~~
18 ~~person or within his or her immediate reach, a deadly weapon as defined~~
19 ~~in section 18-1-901 (3) (e) at the time of the commission of a violation~~
20 ~~of this part 4; or~~

21 ~~(H) The defendant or a confederate of the defendant possessed a~~
22 ~~firearm, as defined in section 18-1-901 (3) (h), to which the defendant or~~
23 ~~confederate had access in a manner that posed a risk to others or in a~~
24 ~~vehicle the defendant was occupying during the commission of a~~
25 ~~violation of this part 4;~~

26 ~~(g) The defendant solicited, induced, encouraged, intimidated,~~
27 ~~employed, hired, or procured a child, as defined in section 19-1-103 (18);~~

1 ~~C.R.S., to act as his agent to assist in the unlawful distribution,~~
2 ~~manufacturing, dispensing, sale, or possession for the purposes of sale of~~
3 ~~any controlled substance in violation of section 18-18-405. It shall not be~~
4 ~~a defense under this paragraph (g) that the defendant did not know the~~
5 ~~age of any such individual.~~

6 ~~(h) (I) The defendant engaged in a continuing criminal enterprise~~
7 ~~by violating any provision of this part 4 which is a felony; and~~

8 ~~(H) The violation is a part of a continuing series of two or more~~
9 ~~violations of this part 4 on separate occasions:~~

10 ~~(A) Which are undertaken by that person in concert with five or~~
11 ~~more other persons with respect to whom that person occupies a position~~
12 ~~of organizer, supervisor, or any other position of management; and~~

13 ~~(B) From which that person obtained substantial income or~~
14 ~~resources.~~

15 ~~(2) (a) A defendant shall be a special offender if the defendant is~~
16 ~~convicted of selling, distributing, possessing with intent to distribute,~~
17 ~~manufacturing, or attempting to manufacture any controlled substance in~~
18 ~~violation of section 18-18-405 either within or upon the grounds of any~~
19 ~~public or private elementary, middle, junior high, or high school,~~
20 ~~vocational school, or public housing development, or within one~~
21 ~~thousand feet of the perimeter of any such school or public housing~~
22 ~~development grounds on any street, alley, parkway, sidewalk, public~~
23 ~~park, playground, or other area or premises that is accessible to the~~
24 ~~public, or within any private dwelling that is accessible to the public for~~
25 ~~the purpose of the sale, distribution, use, exchange, manufacture, or~~
26 ~~attempted manufacture of controlled substances in violation of this~~
27 ~~article, or in any school vehicle, as defined in section 42-1-102 (88.5);~~

1 ~~C.R.S., while such school vehicle is engaged in the transportation of~~
2 ~~persons who are students. The court is required in addition to imposing~~
3 ~~the sentence to imprisonment in the department of corrections required~~
4 ~~by subsection (1) of this section, to fine the defendant without suspension~~
5 ~~at least twice the minimum fine provided for in section 18-1.3-401 (1)(a)~~
6 ~~(HH) if the defendant's offense is a felony or in section 18-1.3-501 (1) if~~
7 ~~the defendant's offense is a misdemeanor.~~

8 (b) ~~The department of education may cooperate with local boards~~
9 ~~of education and the officials of public housing developments, and make~~
10 ~~recommendations regarding the uniform implementation and furnishing~~
11 ~~of notice of the provisions of this subsection (2). Such recommendations~~
12 ~~may include, but shall not be limited to, the uniform use of signs and~~
13 ~~other methods of notification which may be used to implement this~~
14 ~~subsection (2).~~

15 (c) ~~For the purposes of this section, the term "public housing~~
16 ~~development" means any low-income housing project of any state,~~
17 ~~county, municipal, or other governmental entity or public body owned~~
18 ~~and operated by a public housing authority that has an on-site manager.~~
19 ~~"Public housing development" shall not include single-family dispersed~~
20 ~~housing or small or large clusters of dispersed housing having no on-site~~
21 ~~manager.~~

22 ==
23 (1) UPON A FELONY CONVICTION UNDER THIS PART 4, THE
24 PRESENCE OF ANY ONE OR MORE OF THE FOLLOWING AGGRAVATING
25 CIRCUMSTANCES DESIGNATED THE DEFENDANT A SPECIAL OFFENDER
26 SHALL REQUIRE THE COURT TO SENTENCE THE DEFENDANT TO THE
27 DEPARTMENT OF CORRECTIONS FOR AT LEAST THE MINIMUM TERM OF

1 YEARS WITHIN THE PRESUMPTIVE RANGE FOR A LEVEL 1 DRUG FELONY:

2 (a) THE DEFENDANT COMMITTED THE VIOLATION OF SUBSECTION
3 (1) OF THIS SECTION AS PART OF A PATTERN OF MANUFACTURING, SALE,
4 DISPENSING, OR DISTRIBUTING CONTROLLED SUBSTANCES, WHICH
5 VIOLATION IS A FELONY UNDER APPLICABLE LAWS OF COLORADO, WHICH
6 CONSTITUTED A SUBSTANTIAL SOURCE OF THAT PERSON'S INCOME, AND IN
7 WHICH THAT PERSON MANIFESTED SPECIAL SKILL OR EXPERTISE;

8 (b) THE DEFENDANT COMMITTED THE VIOLATION OF SUBSECTION
9 (1) OF THIS SECTION IN THE COURSE OF, OR IN FURTHERANCE OF, A
10 CONSPIRACY WITH ONE OR MORE PERSONS TO ENGAGE IN A PATTERN OF
11 MANUFACTURING, SALE, DISPENSING, OR DISTRIBUTING A CONTROLLED
12 SUBSTANCE, WHICH OFFENSE IS A FELONY UNDER APPLICABLE LAWS OF
13 COLORADO, AND THE DEFENDANT DID, OR AGREED THAT HE OR SHE
14 WOULD, INITIATE, ORGANIZE, PLAN, FINANCE, DIRECT, MANAGE, OR
15 SUPERVISE ALL OR PART OF SUCH CONSPIRACY OR MANUFACTURE, SALE,
16 DISPENSING, OR DISTRIBUTING, OR GIVE OR RECEIVE A BRIBE, OR USE
17 FORCE IN CONNECTION WITH SUCH MANUFACTURE, SALE, DISPENSING, OR
18 DISTRIBUTION;

19 (c) THE DEFENDANT COMMITTED THE VIOLATION OF SUBSECTION
20 (1) OF THIS SECTION AND IN THE COURSE OF THAT VIOLATION IMPORTED
21 INTO THE STATE OF COLORADO MORE THAN FOURTEEN GRAMS OF ANY
22 SCHEDULE I OR II CONTROLLED SUBSTANCE LISTED IN PART 2 OF THIS
23 ARTICLE OR MORE THAN SEVEN GRAMS OF METHAMPHETAMINE, HEROIN,
24 KETAMINE, OR CATHINONE, OR TEN MILLIGRAMS OF FLUNITRAZEPAM;

25 (d) (I) THE DEFENDANT USED, DISPLAYED, OR POSSESSED ON HIS
26 OR HER PERSON OR WITHIN HIS OR HER IMMEDIATE REACH, A DEADLY
27 WEAPON AS DEFINED IN SECTION 18-1-901 (3) (e) AT THE TIME OF THE

1 COMMISSION OF A VIOLATION OF SUBSECTION (1) OF THIS SECTION; OR

2 (II) THE DEFENDANT OR A CONFEDERATE OF THE DEFENDANT
3 POSSESSED A FIREARM, AS DEFINED IN SECTION 18-1-901 (3) (h), TO
4 WHICH THE DEFENDANT OR CONFEDERATE HAD ACCESS IN A MANNER
5 THAT POSED A RISK TO OTHERS OR IN A VEHICLE THE DEFENDANT WAS
6 OCCUPYING AT THE TIME OF THE COMMISSION OF THE VIOLATION OF
7 SUBSECTION (1) OF THIS SECTION;

8 (e) THE DEFENDANT SOLICITED, INDUCED, ENCOURAGED,
9 INTIMIDATED, EMPLOYED, HIRED, OR PROCURED A CHILD, AS DEFINED IN
10 SECTION 19-1-103 (18), C.R.S., TO ACT AS HIS OR HER AGENT TO ASSIST
11 IN THE UNLAWFUL DISTRIBUTION, MANUFACTURING, DISPENSING, SALE, OR
12 POSSESSION FOR THE PURPOSES OF SALE OF ANY CONTROLLED SUBSTANCE
13 AT THE TIME OF THE COMMISSION OF THE VIOLATION OF SUBSECTION (1)
14 OF THIS SECTION. IT SHALL NOT BE A DEFENSE UNDER THIS PARAGRAPH (g)
15 THAT THE DEFENDANT DID NOT KNOW THE AGE OF ANY SUCH CHILD.

16 (f) (I) THE DEFENDANT ENGAGED IN A CONTINUING CRIMINAL
17 ENTERPRISE BY VIOLATING ANY FELONY PROVISION OF SUBSECTION (1) OF
18 THIS SECTION; AND

19 (II) THE VIOLATION IS A PART OF A CONTINUING SERIES OF TWO OR
20 MORE VIOLATIONS OF THIS PART 4 ON SEPARATE OCCASIONS:

21 (A) WHICH ARE UNDERTAKEN BY THAT PERSON IN CONCERT WITH
22 FIVE OR MORE OTHER PERSONS WITH RESPECT TO WHOM THAT PERSON
23 OCCUPIES A POSITION OF ORGANIZER, SUPERVISOR, OR ANY OTHER
24 POSITION OF MANAGEMENT; AND

25 (B) FROM WHICH THAT PERSON OBTAINED SUBSTANTIAL INCOME
26 OR RESOURCES.

27 (g) (I) THE DEFENDANT IS CONVICTED OF SELLING, DISTRIBUTING,

1 POSSESSING WITH INTENT TO DISTRIBUTE, MANUFACTURING, OR
2 ATTEMPTING TO MANUFACTURE ANY CONTROLLED SUBSTANCE IN
3 VIOLATION OF SUBSECTION (1) OF THIS SECTION EITHER WITHIN OR UPON
4 THE GROUNDS OF ANY PUBLIC OR PRIVATE ELEMENTARY SCHOOL, MIDDLE
5 SCHOOL, JUNIOR HIGH SCHOOL, OR HIGH SCHOOL, VOCATIONAL SCHOOL,
6 OR PUBLIC HOUSING DEVELOPMENT; WITHIN ONE THOUSAND FEET OF THE
7 PERIMETER OF ANY SUCH SCHOOL OR PUBLIC HOUSING DEVELOPMENT
8 GROUNDS ON ANY STREET, ALLEY, PARKWAY, SIDEWALK, PUBLIC PARK,
9 PLAYGROUND, OR OTHER AREA OR PREMISES THAT IS ACCESSIBLE TO THE
10 PUBLIC; WITHIN ANY PRIVATE DWELLING THAT IS ACCESSIBLE TO THE
11 PUBLIC FOR THE PURPOSE OF THE SALE, DISTRIBUTION, USE, EXCHANGE,
12 MANUFACTURE, OR ATTEMPTED MANUFACTURE OF CONTROLLED
13 SUBSTANCES IN VIOLATION OF THIS ARTICLE; OR IN ANY SCHOOL VEHICLE,
14 AS DEFINED IN SECTION 42-1-102 (88.5), C.R.S., WHILE SUCH SCHOOL
15 VEHICLE IS ENGAGED IN THE TRANSPORTATION OF PERSONS WHO ARE
16 STUDENTS.

17 (II) THE DEPARTMENT OF EDUCATION MAY COOPERATE WITH
18 LOCAL BOARDS OF EDUCATION AND THE OFFICIALS OF PUBLIC HOUSING
19 DEVELOPMENTS AND MAKE RECOMMENDATIONS REGARDING THE UNIFORM
20 IMPLEMENTATION AND FURNISHING OF NOTICE OF THE PROVISIONS OF THIS
21 PARAGRAPH (i). SUCH RECOMMENDATIONS MAY INCLUDE, BUT NEED NOT
22 BE LIMITED TO, THE UNIFORM USE OF SIGNS AND OTHER METHODS OF
23 NOTIFICATION THAT MAY BE USED TO IMPLEMENT THIS PARAGRAPH (i).

24 (III) FOR THE PURPOSES OF THIS SECTION, THE TERM "PUBLIC
25 HOUSING DEVELOPMENT" MEANS ANY LOW-INCOME HOUSING PROJECT OF
26 ANY STATE, COUNTY, MUNICIPAL, OR OTHER GOVERNMENTAL ENTITY OR
27 PUBLIC BODY OWNED AND OPERATED BY A PUBLIC HOUSING AUTHORITY

1 THAT HAS AN ON-SITE MANAGER. "PUBLIC HOUSING DEVELOPMENT" DOES
2 NOT INCLUDE SINGLE-FAMILY DISPERSED HOUSING OR SMALL OR LARGE
3 CLUSTERS OF DISPERSED HOUSING HAVING NO ON-SITE MANAGER.

4

==

5 ~~(3)~~ (2) (a) In support of the findings under paragraph ~~(b)~~ (a) of
6 subsection (1) of this section, it may be shown that the defendant has had
7 in his OR HER own name or under his OR HER control income or property
8 not explained as derived from a source other than such manufacture, sale,
9 dispensing, or distribution of controlled substances.

10 (b) For the purposes of paragraph ~~(b)~~ (a) of subsection (1) of this
11 section only, a "substantial source of that person's income" means a
12 source of income which, for any period of one year or more, exceeds the
13 minimum wage, determined on the basis of a forty-hour week and
14 fifty-week year, or which, for the same period, exceeds fifty percent of
15 the defendant's declared adjusted gross income under Colorado or any
16 other state law or under federal law, whichever adjusted gross income is
17 less.

18 (c) For the purposes of paragraph ~~(b)~~ (a) of subsection (1) of this
19 section, "special skill or expertise" in such manufacture, sale, dispensing,
20 or distribution includes any unusual knowledge, judgment, or ability,
21 including manual dexterity, facilitating the initiation, organizing,
22 planning, financing, directing, managing, supervising, executing, or
23 concealing of such manufacture, sale, dispensing, or distributing, the
24 enlistment of accomplices in such manufacture, sale, dispensing, or
25 distribution, the escape from detection or apprehension for such
26 manufacture, sale, dispensing, or distribution, or the disposition of the
27 fruits or proceeds of such manufacture, sale, dispensing, or distribution.

1 (d) For the purposes of paragraphs (a) AND (b) and (c) of
2 subsection (1) of this section, such manufacture, sale, dispensing, or
3 distribution forms a pattern if it embraces criminal acts which have the
4 same or similar purposes, results, participants, victims, or methods of
5 commission or otherwise are interrelated by distinguishing characteristics
6 and are not isolated events.

7 ~~(4) Nothing in this section shall preclude the court from~~
8 ~~considering aggravating circumstances other than those stated in~~
9 ~~subsection (1) of this section as a basis for sentencing the defendant to a~~
10 ~~term greater than the presumptive range for the felony.~~

11 ~~(5) If a defendant who is subject to the provisions of this section~~
12 ~~is subject to a greater sentence pursuant to the provisions of another~~
13 ~~statute, the court shall impose sentence pursuant to that statute. The~~
14 ~~prosecution shall not be forced to elect under which statute to proceed.~~

15 **SECTION 17.** In Colorado Revised Statutes, 18-18-411, **amend**
16 (4) as follows:

17 **18-18-411. Keeping, maintaining, controlling, renting, or**
18 **making available property for unlawful distribution or manufacture**
19 **of controlled substances.** (4) A person who violates this section
20 commits a ~~class 1 misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

21 **SECTION 18.** In Colorado Revised Statutes, 18-18-412, **amend**
22 (2) as follows:

23 **18-18-412. Abusing toxic vapors - prohibited.** (2) ~~Any~~ A
24 person who knowingly violates the provisions of subsection (1) of this
25 section commits the offense of abusing toxic vapors. Abusing toxic
26 vapors is a ~~class 1 petty offense~~ LEVEL 2 DRUG MISDEMEANOR; except that
27 ~~no~~ A person shall NOT receive a sentence to confinement in jail for being

1 convicted of a first offense pursuant to this subsection (2). ~~Any~~ A person
2 convicted of a second or ~~any~~ subsequent offense pursuant to this
3 subsection (2) may receive a sentence to confinement in jail.

4 **SECTION 19.** In Colorado Revised Statutes, 18-18-412.5,
5 **amend** (3) as follows:

6 **18-18-412.5. Unlawful possession of materials to make**
7 **methamphetamine and amphetamine - penalty.** (3) A person who
8 violates the provisions of this section commits a ~~class 3 felony~~ LEVEL 2
9 DRUG FELONY.

10 **SECTION 20.** In Colorado Revised Statutes, 18-18-412.7,
11 **amend** (2) as follows:

12 **18-18-412.7. Sale or distribution of materials to manufacture**
13 **controlled substances.** (2) A violation of this section is a ~~class 3 felony.~~
14 ~~A violation of this section is an extraordinary risk crime that is subject to~~
15 ~~the modified presumptive sentencing range specified in section~~
16 ~~18-1.3-401 (10)~~ LEVEL 2 DRUG FELONY.

17 **SECTION 21.** In Colorado Revised Statutes, 18-18-412.8,
18 **amend** (3) (a) as follows:

19 **18-18-412.8. Retail sale of methamphetamine precursor drugs**
20 **- unlawful acts - penalty.** (3) (a) A person who knowingly violates a
21 provision of this section commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG
22 MISDEMEANOR and, upon conviction, shall be punished as provided in
23 section 18-1.3-501.

24 **SECTION 22.** In Colorado Revised Statutes, **amend** 18-18-413
25 as follows:

26 **18-18-413. Authorized possession of controlled substances.** A
27 person to whom or for whose use any controlled substance has been

1 prescribed or dispensed by a practitioner may lawfully possess it, but only
2 in the container in which it was delivered to him unless he is able to show
3 that he is the legal owner or a person acting at the direction of the legal
4 owner of the controlled substance. Any person convicted of violating this
5 section commits a ~~class 1~~ DRUG petty offense, AND THE COURT SHALL
6 IMPOSE A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

7 **SECTION 23.** In Colorado Revised Statutes, 18-18-414, **amend**
8 (3), (4), and (5) as follows:

9 **18-18-414. Unlawful acts - licenses - penalties.** (3) ~~Any A~~
10 person who violates paragraph (a), (b), (c), or (d) of subsection (1) of this
11 section ~~shall be punished as provided for in section 18-18-405 or~~
12 ~~18-18-406~~ COMMITS A LEVEL 4 DRUG FELONY.

13 (4) ~~Any A~~ person who violates paragraph (e), (f), (g), (h), (i), (j),
14 (k), (l), (m), or (n) of subsection (1) of this section or subsection (2) of
15 this section or any other provision of this part 4 for which a penalty is not
16 specified is guilty of a ~~misdemeanor and, upon conviction thereof, shall~~
17 ~~be punished by a fine of not more than five hundred dollars, or by~~
18 ~~imprisonment in the county jail for not more than one year, or by both~~
19 ~~such fine and imprisonment~~ LEVEL 2 DRUG MISDEMEANOR.

20 (5) ~~Any A~~ person who violates paragraph (o), (q), (r), or (t) of
21 subsection (1) of this section commits a ~~class 4 felony~~ LEVEL 3 DRUG
22 FELONY.

23 **SECTION 24.** In Colorado Revised Statutes, 18-18-415, **amend**
24 (2) (a) as follows:

25 **18-18-415. Fraud and deceit.** (2) Any person who violates any
26 provision of this section commits:

27 (a) A ~~class 6 felony~~ LEVEL 4 DRUG FELONY and shall be punished

1 as provided in section ~~18-1.3-401~~ 18-1.3-401.5.

2 **SECTION 25.** In Colorado Revised Statutes, 18-18-416, **amend**
3 (2) as follows:

4 **18-18-416. Controlled substances - inducing consumption by**
5 **fraudulent means.** (2) ~~Any~~ A person who violates the provisions of this
6 section commits a ~~class 4 felony~~ LEVEL 3 DRUG FELONY.

7 **SECTION 26.** In Colorado Revised Statutes, 18-18-422, **amend**
8 (1), (2), and (3) as follows:

9 **18-18-422. Imitation controlled substances - violations -**
10 **penalties.** (1) (a) Except as provided in section 18-18-424, it is unlawful
11 for ~~any~~ A person to manufacture, distribute, or possess with intent to
12 distribute an imitation controlled substance.

13 (b) ~~Any~~ A person who violates the provisions of paragraph (a) of
14 this subsection (1) commits:

15 (I) A ~~class 5 felony~~; or LEVEL 4 DRUG FELONY.

16 (II) ~~A class 4 felony, if the violation is committed subsequent to~~
17 ~~a prior conviction for a violation of this subsection (1).~~

18 (2) (a) ~~It is unlawful for a person eighteen years of age or over to~~
19 ~~distribute~~ IF AN ADULT DISTRIBUTES an imitation controlled substance to
20 a ~~person under eighteen years of age~~ MINOR AND THE ADULT IS AT LEAST
21 TWO YEARS OLDER THAN THE MINOR, THE ADULT COMMITS A LEVEL 3
22 DRUG FELONY.

23 (b) ~~Any person who violates the provisions of paragraph (a) of~~
24 ~~this subsection (2) commits:~~

25 (I) ~~A class 3 DRUG felony~~; or

26 (II) ~~A class 3 felony, if the violation is committed subsequent to~~
27 ~~a prior conviction for a violation of this subsection (2).~~

1 (3) (a) It is unlawful for ~~any~~ A person to place in a newspaper,
2 magazine, handbill, or other publication or to post or distribute in ~~any~~ A
3 public place ~~any~~ AN advertisement or solicitation ~~which he~~ THAT THE
4 PERSON knows will promote the distribution of imitation controlled
5 substances.

6 (b) ~~Any~~ A person who violates the provisions of paragraph (a) of
7 this subsection (3) commits a ~~class 1 misdemeanor~~ LEVEL 1 DRUG
8 MISDEMEANOR.

9 **SECTION 27.** In Colorado Revised Statutes, 18-18-423, **amend**
10 (3) as follows:

11 **18-18-423. Counterfeit substances prohibited - penalty.**

12 (3) ~~Any~~ A person who violates this section commits a ~~class 5 felony~~
13 LEVEL 3 DRUG FELONY.

14 **SECTION 28.** In Colorado Revised Statutes, 18-18-428, **amend**
15 (2) as follows:

16 **18-18-428. Possession of drug paraphernalia - penalty.**

17 (2) Any person who commits possession of drug paraphernalia commits
18 a ~~class 2~~ DRUG petty offense and, upon conviction thereof, shall be
19 punished by a fine of not more than one hundred dollars.

20 **SECTION 29.** In Colorado Revised Statutes, **amend** 18-18-429
21 as follows:

22 **18-18-429. Manufacture, sale, or delivery of drug**

23 **paraphernalia - penalty.** Any person who sells or delivers, possesses
24 with intent to sell or deliver, or manufactures with intent to sell or deliver
25 equipment, products, or materials knowing, or under circumstances
26 where one reasonably should know, that such equipment, products, or
27 materials could be used as drug paraphernalia commits a ~~class 2~~

1 ~~misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR.

2 **SECTION 30.** In Colorado Revised Statutes, **amend** 18-18-430
3 as follows:

4 **18-18-430. Advertisement of drug paraphernalia -**
5 **penalty.** Any person who places an advertisement in ~~any~~ A newspaper,
6 magazine, handbill, or other publication and who intends thereby to
7 promote the sale in this state of equipment, products, or materials
8 designed and intended for use as drug paraphernalia commits a ~~class 2~~
9 ~~misdemeanor~~ LEVEL 2 DRUG MISDEMEANOR.

10 **SECTION 31.** In Colorado Revised Statutes, **add** 18-18-433 as
11 follows:

12 **18-18-433. Constitutional provisions.** THE PROVISIONS OF THIS
13 PART 4 DO NOT APPLY TO A PERSON TWENTY-ONE YEARS OF AGE OR OLDER
14 ACTING IN CONFORMANCE WITH SECTION 16 OF ARTICLE XVIII OF THE
15 STATE CONSTITUTION AND DO NOT APPLY TO A PERSON ACTING IN
16 CONFORMANCE WITH SECTION 14 OF ARTICLE XVIII OF THE STATE
17 CONSTITUTION.

18 **SECTION 32.** In Colorado Revised Statutes, 16-7-301, **add** (5)
19 as follows:

20 **16-7-301. Propriety of plea discussions and plea agreements.**
21 (5) ANY PLEA AGREEMENT IN A CASE INVOLVING A PLEA TO A VIOLATION
22 OF ARTICLE 18 OF TITLE 18, C.R.S., MAY NOT REQUIRE A WAIVER BY THE
23 DEFENDANT OF THE RIGHT TO PETITION TO HAVE THE DEFENDANT'S
24 CRIMINAL CONVICTION RECORDS SEALED PURSUANT TO PART 3 OF ARTICLE
25 72 OF TITLE 24, C.R.S.

26 **SECTION 33.** In Colorado Revised Statutes, 18-1.3-204, **add**
27 (2.2) as follows:

1 **18-1.3-204. Conditions of probation - interstate compact**
2 **probation transfer cash fund - creation.** (2.2) IF A DEFENDANT IS
3 SENTENCED TO PROBATION FOR A DRUG OFFENSE, THE COURT MAY
4 INCLUDE AS A CONDITION OF PROBATION A REQUIREMENT THAT THE
5 DEFENDANT PARTICIPATE IN DRUG TREATMENT. IF THE DEFENDANT'S
6 ASSESSED TREATMENT NEED IS FOR RESIDENTIAL TREATMENT, THE COURT
7 MAY MAKE RESIDENTIAL DRUG TREATMENT A CONDITION OF PROBATION
8 AND MAY PLACE THE OFFENDER IN A COMMUNITY CORRECTIONS PROGRAM
9 THAT CAN PROVIDE THE APPROPRIATE LEVEL OF TREATMENT SUBJECT TO
10 THE PROVISION OF SECTION 18-1.3-301 (4).

11 **SECTION 34.** In Colorado Revised Statutes, 18-8-208, add (11)
12 as follows:

13 **18-8-208. Escapes.** (11) A PERSON WHO IS PLACED IN A
14 COMMUNITY CORRECTIONS PROGRAM FOR PURPOSES OF OBTAINING
15 RESIDENTIAL TREATMENT AS A CONDITION OF PROBATION PURSUANT TO
16 SECTION 18-1.3-204 (2.2) OR 18-1.3-301 (4) (b), IS NOT IN CUSTODY OR
17 CONFINEMENT FOR PURPOSES OF THIS SECTION.

18 **SECTION 35.** In Colorado Revised Statutes, **amend** 18-1.3-208,
19 as follows:

20 **18-1.3-208. Intensive supervision probation programs -**
21 **legislative declaration.** (1) The general assembly finds and declares that
22 intensive supervision probation programs are an effective and desirable
23 alternative to sentences to imprisonment, ~~or~~ community corrections, OR
24 JAIL. It is the purpose of this section to encourage the judicial department
25 to establish programs for the intensive supervision of selected
26 probationers. It is the intent of the general assembly that such programs
27 be formulated so that they protect the safety and welfare of the public in

1 the community where the programs are operating and throughout the state
2 of Colorado.

3 (2) The judicial department may establish an intensive
4 supervision probation program in any judicial district or combination of
5 judicial districts in order to provide ~~an alternative to the sentencing of~~
6 ~~selected offenders to the department of corrections;~~ SUPERVISION
7 TAILORED TO THE SPECIFIC CHARACTERISTICS THAT PRODUCE A RISK
8 CLASSIFICATION REQUIRING INTENSIVE SERVICES FOR THE OFFENDER AND
9 TO FACILITATE THE OFFENDER'S PARTICIPATION IN REHABILITATIVE
10 PROGRAMS INTENDED TO ADDRESS THOSE CHARACTERISTICS. When
11 establishing such programs, the judicial department shall seek the counsel
12 of the chief judge of the district court, the office of the district attorney,
13 the state public defender or his or her designee, the county sheriff, the
14 chief probation officer in the judicial district, the department of
15 corrections, the local community corrections board, and members of the
16 public at-large.

17 (3) The judicial department shall require that offenders in the
18 program receive at least the highest level of supervision that is provided
19 to probationers. ~~Such programs are to include highly restricted activities,~~
20 ~~daily contact between the offender and the probation officer, monitored~~
21 ~~curfew, home visitation, employment visitation and monitoring, drug and~~
22 ~~alcohol screening, treatment referrals and monitoring, and restitution and~~
23 ~~community service and shall minimize any risk to the public.~~

24 (4) ~~The court may sentence~~ WHEN THE COURT SENTENCES any
25 offender ~~who is otherwise eligible for~~ TO probation, ~~and who would~~
26 ~~otherwise be sentenced to the department of corrections,~~ to THE
27 PROBATION DEPARTMENT SHALL COMPLETE AN INITIAL ASSESSMENT OF

1 THE OFFENDER'S RISK AND NEEDS, USING VALID ASSESSMENT TOOLS
2 APPROVED BY THE STATE COURT ADMINISTRATOR'S OFFICE. OFFENDERS
3 WHO ARE DETERMINED THROUGH ASSESSMENT TO BE HIGH RISK AND WHO
4 MEET THE ACCEPTANCE CRITERIA MAY BE PLACED IN an intensive
5 supervision probation program BY PROBATION, ~~if the court determines~~
6 ~~that such offender is not a threat to society~~. FURTHERMORE, INTENSIVE
7 SUPERVISION PROBATION MAY BE USED FOR AN OFFENDER WHO HAS BEEN
8 UNDER THE SUPERVISION OF PROBATION FOR A PERIOD OF TIME AND A
9 REASSESSMENT INDICATES THE OFFENDER'S RISK OF REOFFENSE HAS
10 INCREASED TO HIGH AND THE OFFENDER MEETS THE ACCEPTANCE
11 CRITERIA OF THE INTENSIVE PROGRAM. For purposes of this section,
12 "offender" shall have the same meaning as that set forth in section
13 17-27-102 (6), C.R.S.

14 (5) The judicial department shall have the power to establish and
15 enforce standards and criteria for the administration of intensive
16 supervision probation programs.

17 (6) (a) It is the intent of the general assembly in enacting this
18 subsection (6) to ~~address a portion of the projected state inmate bedspace~~
19 ~~requirements through expansion of intensive supervision probation~~
20 ~~programs authorized by this section~~ RECOGNIZE THAT HIGH-RISK
21 OFFENDERS CAN BE MANAGED IN THE COMMUNITY WITH THE APPROPRIATE
22 SUPERVISION AND THE USE OF EVIDENCE-BASED TREATMENT PROGRAMS
23 AND PRACTICES.

24 (b) The judicial department is directed to CREATE AND implement
25 a ~~three-phase expansion of intensive supervision probation programs in~~
26 ~~fiscal years 1995-96 and 1996-97 to include an additional seven hundred~~
27 ~~fifty participants over the number of participants in such programs on~~

1 ~~July 1, 1995~~ INTENSIVE SUPERVISION PROBATION PROGRAMS BASED ON
2 THE CURRENT EVIDENCE FOR REDUCING RECIDIVISM BY OCTOBER 1, 2013.
3 INTENSIVE SUPERVISION PROBATION PROGRAMS MUST REQUIRE THE USE
4 OF VALIDATED ASSESSMENTS TO DETERMINE THE OFFENDER'S RISK OF
5 REOFFENDING. THE JUDICIAL DEPARTMENT SHALL DEVELOP ACCEPTANCE
6 CRITERIA FOR PLACEMENT IN ALL INTENSIVE SUPERVISION PROBATION
7 PROGRAMS. THE JUDICIAL DEPARTMENT SHALL DEVELOP CRITERIA FOR
8 OFFENDERS TO TRANSITION FROM INTENSIVE SUPERVISION PROBATION
9 PROGRAMS TO REGULAR PROBATION, BASED ON ASSESSMENT OF RISK AND
10 NEED AND PROGRAM COMPLIANCE. AN OFFENDER MAY NOT BE PLACED IN
11 OR TRANSFERRED OUT OF AN INTENSIVE SUPERVISION PROBATION
12 PROGRAM WITHOUT MEETING ESTABLISHED CRITERIA.

13 **SECTION 36.** In Colorado Revised Statutes, 18-1.3-801, **amend**
14 (1) (a) (I) (A), (1.5), (2), and (4) as follows:

15 **18-1.3-801. Punishment for habitual criminals.** (1) (a) A
16 person shall be adjudged an habitual criminal and shall be punished by
17 a term in the department of corrections of life imprisonment if the person:

18 (I) Is convicted of:

19 (A) Any class 1 or 2 felony OR LEVEL 1 DRUG FELONY; or

20 (1.5) Except as otherwise provided in subsection (5) of this
21 section, every person convicted in this state of any class 1, 2, 3, 4, or 5
22 felony OR LEVEL 1, 2, OR 3 DRUG FELONY who, within ten years of the
23 date of the commission of the said offense, has been twice previously
24 convicted upon charges separately brought and tried, and arising out of
25 separate and distinct criminal episodes, either in this state or elsewhere,
26 of a felony or, under the laws of any other state, the United States, or any
27 territory subject to the jurisdiction of the United States, of a crime which,

1 if committed within this state, would be a felony shall be adjudged an
2 habitual criminal and shall be punished:

3 (a) For the felony offense of which such person is convicted by
4 imprisonment in the department of corrections for a term of three times
5 the maximum of the presumptive range pursuant to section 18-1.3-401
6 for the class OR LEVEL of felony of which such person is convicted; OR

7 (b) FOR THE LEVEL 1 DRUG FELONY OFFENSE OF WHICH SUCH
8 PERSON IS CONVICTED BY IMPRISONMENT IN THE DEPARTMENT OF
9 CORRECTIONS FOR A TERM OF FORTY-EIGHT YEARS.

10 (2) (a) (I) Except as otherwise provided in paragraph (b) of this
11 subsection (2) and in subsection (5) of this section, every person
12 convicted in this state of any felony, who has been three times previously
13 convicted, upon charges separately brought and tried, and arising out of
14 separate and distinct criminal episodes, either in this state or elsewhere,
15 of a felony or, under the laws of any other state, the United States, or any
16 territory subject to the jurisdiction of the United States, of a crime which,
17 if committed within this state, would be a felony, shall be adjudged an
18 habitual criminal and shall be punished:

19 (A) For the felony offense of which such person is convicted by
20 imprisonment in the department of corrections for a term of four times
21 the maximum of the presumptive range pursuant to section 18-1.3-401
22 for the class OR LEVEL of felony of which such person is convicted; OR

23 (B) FOR THE LEVEL 1 DRUG FELONY OFFENSE OF WHICH SUCH
24 PERSON IS CONVICTED BY IMPRISONMENT IN THE DEPARTMENT OF
25 CORRECTIONS FOR A TERM OF SIXTY-FOUR YEARS.

26 (II) Such former conviction or convictions and judgment or
27 judgments shall be set forth in apt words in the indictment or information.

1 Nothing in this part 8 shall abrogate or affect the punishment by death in
2 any and all crimes punishable by death on or after July 1, 1972.

3 (b) The provisions of paragraph (a) of this subsection (2) shall not
4 apply to a conviction for a ~~class 6~~ LEVEL 4 DRUG felony pursuant to
5 section 18-18-403.5 (2) ~~(a) (I) or (2) (b) (I)~~, or a conviction for a ~~class 6~~
6 LEVEL 4 DRUG felony for attempt or conspiracy to commit unlawful
7 possession of a controlled substance, as described in section 18-18-403.5
8 (2) ~~(a) (I) or (2) (b) (I)~~, IF THE AMOUNT OF THE SCHEDULE I OR SCHEDULE
9 II CONTROLLED SUBSTANCE POSSESSED IS NOT MORE THAN FOUR GRAMS
10 OR NOT MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN,
11 CATHINONE, KETAMINE OR NOT MORE FOUR MILLIGRAMS OF
12 FLUNITRAZEPAM, even if the person has been previously convicted of
13 three or more qualifying felony convictions.

14 **SECTION 37.** In Colorado Revised Statutes, 16-4-203, **amend**
15 (5) as follows:

16 **16-4-203. Appeal bond hearing - order.** (5) If the defendant has
17 been charged with committing another felony, LEVEL 1 DRUG
18 MISDEMEANOR, or class 1 misdemeanor while he OR SHE is at liberty on
19 an appeal bond, and probable cause has been found with respect to such
20 other felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor or the
21 defendant has waived his OR HER right to a probable cause determination
22 as to the felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor,
23 the court shall revoke his OR HER appeal bond on motion of the attorney
24 general or district attorney.

25 **SECTION 38.** In Colorado Revised Statutes, 16-5-206, **amend**
26 (1) as follows:

27 **16-5-206. Summons in lieu of warrant.** (1) Except in class 1,

1 class 2, and class 3 felonies, LEVEL 1 AND LEVEL 2 DRUG FELONIES, and
2 in unclassified felonies punishable by a maximum penalty of more than
3 ten years, if an indictment is returned or an information, felony
4 complaint, or complaint has been filed prior to the arrest of the person
5 named as defendant therein, the court has power to issue a summons
6 commanding the appearance of the defendant in lieu of a warrant for his
7 or her arrest unless a law enforcement officer presents in writing a basis
8 to believe there is a significant risk of flight or that the victim or public
9 safety may be compromised.

10 **SECTION 39.** In Colorado Revised Statutes, 16-5-207, **amend**
11 (2) introductory portion as follows:

12 **16-5-207. Standards and criteria relating to issuance of**
13 **summons in lieu of warrant.** (2) Except in class 1, class 2, and class 3
14 felonies OR LEVEL 1 OR LEVEL 2 DRUG FELONIES, the general policy shall
15 favor issuance of a summons instead of a warrant for the arrest of the
16 defendant except where there is reasonable ground to believe that, unless
17 taken into custody, the defendant will flee to avoid prosecution or will
18 fail to respond to a summons. The court shall issue a summons instead of
19 an arrest warrant when the prosecuting attorney so requests. When an
20 application is made to a court for issuance of an arrest warrant or
21 summons, the court may require the applicant to provide such
22 information as reasonably is available concerning the following:

23 **SECTION 40.** In Colorado Revised Statutes, 16-5-301, **amend**
24 (1) (a) and (1) (b) (II) as follows:

25 **16-5-301. Preliminary hearing or waiver - dispositional**
26 **hearing.** (1) (a) Every person accused of a class 1, 2, or 3 felony OR
27 LEVEL 1 OR LEVEL 2 DRUG FELONY by direct information or felony

1 complaint has the right to demand and receive a preliminary hearing
2 within a reasonable time to determine whether probable cause exists to
3 believe that the offense charged in the information or felony complaint
4 was committed by the defendant. In addition, only those persons accused
5 of a class 4, 5, or 6 felony by direct information or felony complaint
6 which felony requires mandatory sentencing or is a crime of violence as
7 defined in section 18-1.3-406, C.R.S., or is a sexual offense under part 4
8 of article 3 of title 18, C.R.S., shall have the right to demand and receive
9 a preliminary hearing within a reasonable time to determine whether
10 probable cause exists to believe that the offense charged in the
11 information or felony complaint was committed by the defendant. The
12 procedure to be followed in asserting the right to a preliminary hearing
13 and the time within which demand therefor must be made, as well as the
14 time within which the hearing, if demanded, shall be had, shall be as
15 provided by applicable rule of the supreme court of Colorado. A failure
16 to observe and substantially comply with such rule shall be deemed a
17 waiver of this right to a preliminary hearing.

18 (b) (II) Any defendant accused of a class 4, 5, or 6 felony OR
19 LEVEL 3 OR LEVEL 4 DRUG FELONY who is not otherwise entitled to a
20 preliminary hearing pursuant to subparagraph (I) of this paragraph (b),
21 may demand and shall receive a preliminary hearing within a reasonable
22 time pursuant to paragraph (a) of this subsection (1), if the defendant is
23 in custody for the offense for which the preliminary hearing is requested;
24 except that, upon motion of either party, the court shall vacate the
25 preliminary hearing if there is a reasonable showing that the defendant
26 has been released from custody prior to the preliminary hearing.

27 **SECTION 41.** In Colorado Revised Statutes, **amend** 16-5-501

1 as follows:

2 **16-5-501. Prosecuting attorney - incarceration - legal**
3 **representation and supporting services at state expense.** Except as
4 otherwise provided, in any criminal prosecution for class 2 and class 3
5 misdemeanors, LEVEL 1 AND LEVEL 2 DRUG MISDEMEANORS, petty
6 offenses, class 1 and class 2 misdemeanor traffic offenses, or municipal
7 or county ordinance violations, the prosecuting attorney may, at any time
8 during the prosecution, state in writing whether or not he or she will seek
9 incarceration as part of the penalty upon conviction of an offense for
10 which the defendant has been charged. If the prosecuting attorney does
11 not seek incarceration as part of such penalty, legal representation and
12 supporting services need not thereafter be provided for the defendant at
13 state expense, and no such defendant shall be incarcerated if found guilty
14 of the charges against him or her, but the defendant shall be subject to all
15 alternatives available to the court under section 18-1.3-702, C.R.S., and
16 to alternatives available to each municipality under its municipal
17 ordinances for failure to pay fines and costs.

18 **SECTION 42.** In Colorado Revised Statutes, 16-7-202, **amend**
19 (1) as follows:

20 **16-7-202. Presence of defendant.** (1) If the offense charged is
21 a felony, A LEVEL 1 DRUG MISDEMEANOR, or a class 1 misdemeanor or if
22 the maximum penalty for the offense charged is more than one year's
23 imprisonment, the defendant must be personally present for arraignment;
24 except that the court, for good cause shown, may accept a plea of not
25 guilty made by an attorney representing the defendant without requiring
26 the defendant to be personally present. In all prosecutions for lesser
27 offenses, the defendant may appear by his or her attorney who may enter

1 a plea on his or her behalf. If the defendant appears personally for a
2 charge that is not in title 42, C.R.S., the court may advise the defendant
3 of the possibility that restorative justice practices may be part of a
4 sentence, if available in the jurisdiction and requested by the victim who
5 has been informed about the restorative justice practices pursuant to
6 section 24-4.1-303 (11) (g), C.R.S.

7 **SECTION 43.** In Colorado Revised Statutes, 16-7-206, **amend**
8 (1) (c) as follows:

9 **16-7-206. Guilty pleas - procedure and effect.** (1) Every person
10 charged with an offense shall be permitted to tender a plea of guilty to
11 that offense if the following conditions have been satisfied:

12 (c) In all felony, LEVEL 1 DRUG MISDEMEANOR, and class 1
13 misdemeanor cases, the defendant shall be represented by counsel or
14 waive his right thereto in open court, and the guilty plea shall be tendered
15 in open court by the defendant in the presence of counsel, if any.

16 **SECTION 44.** In Colorado Revised Statutes, **amend** 16-10-105
17 as follows:

18 **16-10-105. Alternate jurors.** The court may direct that a
19 sufficient number of jurors in addition to the regular jury be called and
20 impaneled to sit as Alternate jurors. Alternate jurors in the order in which
21 they are called shall replace jurors who, prior to the time the jury retires
22 to consider its verdict, become unable or disqualified to perform their
23 duties. Alternate jurors shall be drawn in the same manner, shall have the
24 same qualifications, shall be subject to the same examination and
25 challenges, shall take the same oath, and shall have the same functions,
26 powers, facilities, and privileges as the regular jurors. An alternate juror
27 shall be discharged when the jury retires to consider its verdict or at such

1 time as determined by the court. When alternate jurors are impaneled,
2 each side is entitled to one peremptory challenge in addition to those
3 otherwise allowed by law. In a case in which a class 1, 2, or 3 felony, as
4 described in section 18-1.3-401 (1) (a) (IV) and (1) (a) (V), C.R.S., is
5 charged, AND IN A CASE IN WHICH A LEVEL 1 OR LEVEL 2 DRUG FELONY AS
6 DESCRIBED IN SECTION 18-1.3-401.5, C.R.S., and in any case in which a
7 felony listed in section 24-4.1-302 (1), C.R.S., is charged, the court shall
8 impanel at least one juror to sit as an alternate if requested by any party.

9 **SECTION 45.** In Colorado Revised Statutes, 16-11-209, **amend**
10 (1), (2) introductory portion, (2) (b), and (3) (c) as follows:

11 **16-11-209. Duties of probation officers.** (1) It is the duty of a
12 probation officer to investigate and report upon any case referred to him
13 OR HER by the court for investigation. The probation officer shall furnish
14 to each person released on probation under his OR HER supervision a
15 written statement of the conditions of probation and shall instruct him
16 THE PERSON regarding the same. The officer shall keep informed
17 concerning the conduct and condition of each person on probation under
18 his OR HER supervision and shall report thereon to the court at such times
19 as it directs. Such officers shall use all suitable methods, not inconsistent
20 with the conditions imposed by the court, to aid persons on probation and
21 to bring about improvement in their conduct and condition. Each officer
22 shall keep records of his OR HER work; ~~shall keep accurate and complete~~
23 ~~accounts of all moneys collected from persons under his supervision;~~
24 ~~shall give receipts therefor and shall make at least monthly returns~~
25 ~~thereof into the registry of the court or as he may be ordered;~~ shall make
26 such reports to the court as are required; and shall perform such other
27 duties as the court may direct.

1 (2) Any probationer, on probation as a result of a conviction, of
2 ~~any felony except a class 1 felony~~, who is under the supervision of a
3 probation officer pursuant to this part 2 and who is initially tested for the
4 illegal or unauthorized use of a controlled substance and the result of
5 such test is positive shall be subject to any or all of the following actions:

6 (b) An immediate increase in the level of supervision; ~~including~~
7 ~~but not limited to intensive supervision;~~

8 (3) If any probationer described in subsection (2) of this section
9 is subjected to a second or subsequent test for the illegal or unauthorized
10 use of a controlled substance and the result of such test is positive, the
11 probation officer shall take one or more of the following actions:

12 (c) Immediately increase the level of supervision; ~~including but~~
13 ~~not limited to intensive supervision;~~

14 **SECTION 46.** In Colorado Revised Statutes, 17-2-103, **amend**
15 (11) (b) (III) and (11) (b) (III.5) as follows:

16 **17-2-103. Arrest of parolee - revocation proceedings.**

17 (11) (b) (III) If the board determines that the parolee has violated any
18 condition of parole that does not involve the commission of a crime, the
19 parolee has no active felony warrant, felony detainer, or pending felony
20 criminal charge, and the parolee was on parole for an offense that was A
21 LEVEL 4 DRUG FELONY OR class 5 or class 6 nonviolent felony as defined
22 in section 17-22.5-405 (5) (b), except for menacing as defined in section
23 18-3-206, C.R.S., or any unlawful sexual behavior contained in section
24 16-22-102 (9), C.R.S., or unless the parolee was subject to article 6.5 of
25 title 18, C.R.S., or section 18-6-801, C.R.S., the board may revoke parole
26 for a period not to exceed one hundred eighty days and request the sheriff
27 of the county in which the hearing is held to transport the parolee to the

1 facility described in section 17-1-206.5 (3).

2 (III.5) If the board determines that the parolee has violated any
3 condition of parole that does not involve the commission of a crime, the
4 parolee has no active felony warrant, felony detainer, or pending felony
5 criminal charge, and the parolee was on parole for an offense that was A
6 LEVEL 3 DRUG FELONY OR a class 4 nonviolent felony as defined in
7 section 17-22.5-405 (5) (b), except for stalking as described in section
8 18-9-111 (4), C.R.S., as it existed prior to August 11, 2010, or section
9 18-3-602, C.R.S., or any unlawful sexual behavior described in section
10 16-22-102 (9), C.R.S., or unless the parolee was subject to article 6.5 of
11 title 18, C.R.S., or section 18-6-801, C.R.S., and the board revokes
12 parole, the board may request the sheriff of the county in which the
13 hearing is held to transport the parolee to the facility described in section
14 17-1-206.5 (3) for a period not to exceed one hundred eighty days.

15 **SECTION 47.** In Colorado Revised Statutes, 17-2-201, **amend**
16 (3) (h.1) (I) as follows:

17 **17-2-201. State board of parole.** (3) The chairperson, in
18 addition to other provisions of law, has the following powers and duties:

19 (h.1) To contract with qualified individuals to serve as release
20 hearing officers:

21 (I) To conduct parole application hearings for inmates convicted
22 of class 4, class 5, or class 6 felonies OR LEVEL 3 OR LEVEL 4 DRUG
23 FELONIES who have been assessed to be less than high risk by the
24 Colorado risk assessment scale developed pursuant to section
25 17-22.5-404 (2) (a), C.R.S., pursuant to rules adopted by the parole
26 board; and

27 **SECTION 48.** In Colorado Revised Statutes, **amend** 17-2-213

1 as follows:

2 **17-2-213. Application of part.** Effective July 1, 1979, the
3 provisions of this part 2 relating to the power of the state board of parole
4 to grant parole and to establish the duration of the term of parole shall
5 apply only to persons sentenced for conviction of a felony committed
6 prior to July 1, 1979, persons sentenced for conviction of a misdemeanor,
7 persons sentenced for conviction of a sex offense, as defined in section
8 18-1.3-903 (5), C.R.S., or a class 1 felony, and persons sentenced as
9 habitual criminals pursuant to section 18-1.3-801, C.R.S. Parole for
10 persons sentenced for conviction of a class 2, class 3, class 4, or class 5
11 felony committed on or after July 1, 1979, OR A LEVEL 1, LEVEL 2, LEVEL
12 3, OR LEVEL 4 DRUG FELONY COMMITTED ON OR AFTER OCTOBER 1, 2013,
13 shall be as provided in ~~section~~ SECTIONS 18-1.3-401 AND 18-1.3-401.5,
14 C.R.S., and article 22.5 of this title.

15 **SECTION 49.** In Colorado Revised Statutes, 17-22.5-403,
16 **amend** (1), (7) (a), and (8) (a) as follows:

17 **17-22.5-403. Parole eligibility.** (1) Any person sentenced for a
18 class 2, class 3, class 4, class 5, or class 6 felony, OR A LEVEL 1, LEVEL 2,
19 LEVEL 3, OR LEVEL 4 DRUG FELONY, or any unclassified felony, shall be
20 eligible for parole after such person has served fifty percent of the
21 sentence imposed upon such person, less any time authorized for earned
22 time granted pursuant to section 17-22.5-405. However, the date
23 established by this subsection (1) upon which any person shall be eligible
24 for parole may be extended by the executive director for misconduct
25 during incarceration. The executive director shall promulgate rules and
26 regulations concerning when and under what conditions any inmate's
27 parole eligibility date may be extended. Such rules and regulations shall

1 be promulgated in such a manner as to promote fairness and consistency
2 in the treatment of all inmates.

3 (7) (a) For any offender who is incarcerated for an offense
4 committed on or after July 1, 1993, upon application for parole, the state
5 board of parole, working in conjunction with the department and using
6 the guidelines established pursuant to section 17-22.5-404, shall
7 determine whether or not to grant parole. The state board of parole, if it
8 determines that placing an offender on parole is appropriate, shall set the
9 length of the period of parole at the mandatory period of parole
10 established in section 18-1.3-401 (1) (a) (V) OR 18-1.3-401.5 (2) (a),
11 C.R.S., except as otherwise provided for specified offenses in section
12 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). If an application for parole is
13 refused by the state board of parole, the state board of parole shall
14 reconsider within one year thereafter whether such inmate should be
15 granted parole. The state board of parole shall continue such
16 reconsideration each year thereafter until such inmate is granted parole
17 or until such inmate is discharged pursuant to law; except that, if the
18 inmate applying for parole was convicted of any sex offense, as defined
19 in section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined
20 in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the
21 requirements of section 18-1.3-904, C.R.S., the board need only
22 reconsider granting parole to such inmate once every three years, until the
23 board grants such inmate parole or until such inmate is discharged
24 pursuant to law, or if the person applying for parole was convicted of a
25 class 2 felony that constitutes a crime of violence, as defined in section
26 18-1.3-406, C.R.S., the board need only reconsider granting parole to
27 such person once every five years, until the board grants such person

1 parole or until such person is discharged pursuant to law.

2 (8) (a) For persons who are granted parole pursuant to paragraph
3 (a) of subsection (7) of this section, the division of adult parole shall
4 provide parole supervision and assistance in securing employment,
5 housing, and such other services as may affect the successful
6 reintegration of such offender into the community while recognizing the
7 need for public safety. The conditions for parole for any such offender
8 under this paragraph (a) shall be established pursuant to section
9 17-22.5-404 by the state board of parole prior to such offender's release
10 from incarceration. Upon a determination that the conditions of parole
11 have been violated in a parole revocation proceeding, the state board of
12 parole shall continue the parole in effect, modify the conditions of parole
13 if circumstances then shown to exist require such modifications, which
14 circumstances shall be set forth in writing, or revoke the parole and order
15 the return of the offender to a place of confinement designated by the
16 executive director for any period of time up to the period remaining on
17 such person's mandatory period of parole established in section
18 18-1.3-401 (1) (a) (V) OR 18-1.3-401.5 (2) (a), C.R.S. Any offender who
19 has been reincarcerated due to a parole revocation pursuant to this
20 paragraph (a) shall be eligible for parole at any time during such
21 reincarceration. The state board of parole may discharge an offender
22 granted parole under this section at any time during the term of parole
23 upon a determination that the offender has been sufficiently rehabilitated
24 and reintegrated into society and can no longer benefit from parole
25 supervision. In making any such determination, the state board of parole
26 shall make written findings as to why such offender is no longer in need
27 of parole supervision.

1 **SECTION 50.** In Colorado Revised Statutes, 17-22.5-404,
2 **amend** (3) as follows:

3 **17-22.5-404. Parole guidelines.** (3) For a person sentenced for
4 a class 2, class 3, class 4, class 5, or class 6 felony OR LEVEL 1, LEVEL 2,
5 LEVEL 3, OR LEVEL 4 DRUG FELONY who is eligible for parole pursuant to
6 section 17-22.5-403, or a person who is eligible for parole pursuant to
7 section 17-22.5-403.7, the state board of parole may consider all
8 applications for parole, as well as all persons to be supervised under any
9 interstate compact. The state board of parole may parole any person who
10 is sentenced or committed to a correctional facility when the board
11 determines, by using, where available, evidence-based practices and the
12 guidelines established by this section, that there is a reasonable
13 probability that the person will not violate the law while on parole and
14 that the person's release from institutional custody is compatible with
15 public safety and the welfare of society. The state board of parole shall
16 first consider the risk of reoffense in every release decision it makes.

17 **SECTION 51.** In Colorado Revised Statutes, 17-22.5-405,
18 **amend** (1.5) (a) (I) and (6) introductory portion as follows:

19 **17-22.5-405. Earned time - earned release time - achievement**
20 **earned time.** (1.5) (a) Earned time, not to exceed twelve days for each
21 month of incarceration or parole, may be deducted from an inmate's
22 sentence if the inmate:

23 (I) Is serving a sentence for a class 4, class 5, or class 6 felony OR
24 LEVEL 3 OR LEVEL 4 DRUG FELONY;

25 (6) Earned release time shall be scheduled by the state board of
26 parole and the time computation unit in the department of corrections for
27 inmates convicted of class 4 and class 5 felonies OR A LEVEL 3 DRUG

1 FELONY up to sixty days prior to the mandatory release date and for
2 inmates convicted of class 6 felonies OR LEVEL 4 DRUG FELONY up to
3 thirty days prior to the mandatory release date for inmates who meet the
4 following criteria:

5 **SECTION 52.** In Colorado Revised Statutes, 18-1-711, **amend**
6 (3) (c), (3) (d), and (3) (e) as follows:

7 **18-1-711. Immunity for persons who suffer or report an**
8 **emergency drug or alcohol overdose event - definitions.** (3) The
9 immunity described in subsection (1) of this section shall apply to the
10 following criminal offenses:

11 (c) Unlawful possession of two ounces or less of marijuana, as
12 described in ~~section 18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I); or more
13 than two ounces of marijuana but no more than six ounces of marijuana,
14 as described in ~~section 18-18-406 (4) (a)~~ SECTION 18-18-406 (4) (c); or
15 more than six ounces of marijuana but no more than twelve ounces of
16 marijuana or three ounces or less of marijuana concentrate as described
17 in section 18-18-406 (4) (b);

18 (d) Open and public display, consumption, or use of less than two
19 ounces of marijuana as described in ~~section 18-18-406 (3) (a) (I)~~ SECTION
20 18-18-406 (5) (b) (I);

21 (e) Transferring or dispensing two ounces or less of marijuana
22 from one person to another for no consideration, as described in ~~section~~
23 ~~18-18-406 (5)~~ SECTION 18-18-406 (5) (c);

24 **SECTION 53.** In Colorado Revised Statutes, 18-1.3-104, **amend**
25 (1) (b); and **repeal** (2) (b) as follows:

26 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within
27 the limitations of the applicable statute pertaining to sentencing and

1 subject to the provisions of this title, the trial court has the following
2 alternatives in entering judgment imposing a sentence:

3 (b) Subject to the provisions of section 18-1.3-401, in class 2,
4 class 3, class 4, class 5, and class 6 felonies AND SECTION 18-1.3-401.5
5 FOR LEVEL 1, LEVEL 2, LEVEL 3, AND LEVEL 4 DRUG FELONIES, the
6 defendant may be sentenced to imprisonment for a definite period of
7 time.

8 (2) (b) ~~A nonviolent offender may be granted probation pursuant
9 to paragraph (a) of subsection (1) of this section and, as a condition of
10 probation, be required to participate in an intensive supervision program
11 pursuant to section 18-1.3-208.~~

12 **SECTION 54.** In Colorado Revised Statutes, 18-1.3-201, **amend**
13 (3) as follows:

14 **18-1.3-201. Application for probation.** (3) An application for
15 probation shall be in writing upon forms furnished by the court, but,
16 when the defendant has been convicted of a misdemeanor or a class 1
17 ANY petty offense, the court, in its discretion, may waive the written
18 application for probation.

19 **SECTION 55.** In Colorado Revised Statutes, 18-19-103, **amend**
20 (1) and (2); and **add (3.5) (c)** as follows:

21 **18-19-103. Source of revenues - allocation of moneys.** (1) For
22 offenses committed on and after July 1, 1996, each drug offender who is
23 convicted, or receives a deferred sentence pursuant to section 18-1.3-102,
24 shall be required to pay a surcharge to the clerk of the court in the county
25 in which the conviction occurs or in which the deferred sentence is
26 entered. Such surcharge shall be in the following amounts:

27 (a) For each class 2 felony OR LEVEL 1 DRUG FELONY of which a

1 person is convicted, four thousand five hundred dollars;

2 (b) For each class 3 felony OR LEVEL 2 DRUG FELONY of which a
3 person is convicted, three thousand dollars;

4 (c) For each class 4 felony OR LEVEL 3 DRUG FELONY of which a
5 person is convicted, two thousand dollars;

6 (d) For each class 5 felony OR LEVEL 4 DRUG FELONY of which a
7 person is convicted, one thousand five hundred dollars;

8 (e) For each class 6 felony of which a person is convicted, one
9 thousand two hundred fifty dollars;

10 (f) For each class 1 misdemeanor or LEVEL 1 DRUG MISDEMEANOR
11 of which a person is convicted, one thousand dollars;

12 (g) For each class 2 misdemeanor of which a person is convicted,
13 six hundred dollars;

14 (h) For each class 3 misdemeanor OR LEVEL 2 DRUG
15 MISDEMEANOR of which a person is convicted, three hundred dollars.

16 (2) Each drug offender convicted of a violation of ~~section~~
17 ~~18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I), or who receives a deferred
18 sentence pursuant to section 18-1.3-102 for a violation of ~~section~~
19 ~~18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I), shall be assessed a
20 surcharge of two hundred dollars.

21 (3.5) (c) THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE
22 CORRECTIONAL TREATMENT CASH FUND CREATED PURSUANT TO
23 SUBSECTION (4) OF THIS SECTION AT LEAST THREE MILLION FIVE HUNDRED
24 THOUSAND DOLLARS IN FISCAL YEAR 2014-15 FROM THE GENERAL FUND
25 GENERATED FROM ESTIMATED SAVINGS FROM SENATE BILL 13-250,
26 ENACTED IN 2013.

27 **SECTION 56.** In Colorado Revised Statutes, 19-2-104, **amend**

1 (1) (a) (I) and (5) as follows:

2 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
3 the juvenile court shall have exclusive original jurisdiction in
4 proceedings:

5 (a) Concerning any juvenile ten years of age or older who has
6 violated:

7 (I) Any federal or state law, except nonfelony state traffic, game
8 and fish, and parks and recreation laws or rules, the offenses specified in
9 section 18-13-121, C.R.S., concerning tobacco products, the offense
10 specified in section 18-13-122, C.R.S., concerning the illegal possession
11 or consumption of ethyl alcohol by an underage person, and the offenses
12 specified in section 18-18-406 ~~(+)~~ (5) (a) (I), (5) (b) (I), and (5) (b) (II)
13 ~~and (3)~~; C.R.S., concerning marijuana and marijuana concentrate;

14 (5) Notwithstanding any other provision of this section to the
15 contrary, the juvenile court and the county court shall have concurrent
16 jurisdiction over a juvenile who is under eighteen years of age and who
17 is charged with a violation of section 18-13-122, 18-18-406 ~~(+)~~ (5) (a) (I),
18 (5) (b) (I), and (5) (b) (II) ~~and (3)~~; 18-18-428, 18-18-429, 18-18-430, or
19 42-4-1301, C.R.S.; except that, if the juvenile court accepts jurisdiction
20 over such a juvenile, the county court jurisdiction shall terminate.

21

22 **SECTION 57.** In Colorado Revised Statutes, 24-72-308.6, **add**

23 (2) (a) (II.5) and (2) (a) (III.5) as follows:

24 **24-72-308.6. Sealing of criminal conviction records**
25 **information for offenses involving controlled substances for**
26 **convictions entered on or after July 1, 2011. (2) Sealing of conviction**
27 **records. (a) (II.5) (A) IF THE OFFENSE IS A PETTY DRUG OFFENSE IN**

1 ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED ONE YEAR
2 AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL
3 CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF
4 THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL
5 CONVICTION.

6 (B) IF THE OFFENSE IS A LEVEL 2 OR LEVEL 3 DRUG MISDEMEANOR
7 IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED THREE
8 YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL
9 CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF
10 THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL
11 CONVICTION.

12 (C) IF THE OFFENSE IS A LEVEL 1 DRUG MISDEMEANOR IN ARTICLE
13 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED FIVE YEARS AFTER
14 THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
15 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
16 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

17 (D) IF THE OFFENSE IS A LEVEL 4 DRUG FELONY, THE PETITION MAY
18 BE FILED SEVEN YEARS AFTER THE LATER OF THE DATE OF THE FINAL
19 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
20 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A
21 CRIMINAL CONVICTION.

22 (E) FOR ALL OTHER FELONY DRUG OFFENSES IN ARTICLE 18 OF
23 TITLE 18, C.R.S., THE PETITION MAY BE FILED TEN YEARS AFTER THE
24 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
25 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
26 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

27 (III.5) (A) IF A PETITION IS FILED FOR THE SEALING OF A PETTY

1 DRUG OFFENSE IN ARTICLE 18 OF TITLE 18, C.R.S., THE COURT SHALL
2 ORDER THE RECORD SEALED AFTER THE PETITION IS FILED, THE FILING FEE
3 IS PAID, AND THE CRIMINAL HISTORY FILED WITH THE PETITION AS
4 REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) DOCUMENTS TO
5 THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR
6 CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
7 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR
8 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
9 WHICHEVER IS LATER.

10 (B) IF A PETITION IS FILED FOR THE SEALING OF A LEVEL 1, LEVEL
11 2, OR LEVEL 3 DRUG MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S.,
12 THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
13 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY
14 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
15 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE
16 COURT SHALL ORDER THAT THE RECORD BE SEALED AFTER THE
17 DEFENDANT DOCUMENTS TO THE COURT THAT HE OR SHE HAS NOT BEEN
18 CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF
19 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
20 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
21 WHICHEVER IS LATER. IF THE DISTRICT ATTORNEY OBJECTS TO THE
22 PETITION, THE COURT SHALL SET THE MATTER FOR HEARING. TO ORDER
23 THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS
24 REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT
25 TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED WITH OR
26 CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
27 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR

1 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
2 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER
3 CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

4 (C) IF A PETITION IS FILED FOR THE SEALING OF A LEVEL 4 DRUG
5 FELONY POSSESSION OFFENSE DESCRIBED IN SECTION 18-18-403.5, C.R.S.,
6 THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
7 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY
8 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
9 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE
10 COURT MAY DECIDE THE PETITION WITH OR WITHOUT THE BENEFIT OF A
11 HEARING. IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE
12 COURT SHALL SET THE MATTER FOR HEARING. TO ORDER THE RECORD
13 SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED
14 BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT TO THE
15 COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
16 A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL
17 CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE
18 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE
19 COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN
20 SECTION 24-72-308.5 (2) (c).

21 (D) IF A PETITION IS FILED FOR ANY OTHER FELONY DRUG OFFENSE
22 IN ARTICLE 18 OF TITLE 18, C.R.S., THAT IS NOT COVERED BY
23 SUB-SUBPARAGRAPHS (A) TO (C) OF THIS SUBPARAGRAPH (III.5), THE
24 DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
25 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY
26 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
27 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY OBJECTS TO THE

1 PETITION, THE COURT SHALL DISMISS THE PETITION. IF THE DISTRICT
2 ATTORNEY DOES NOT OBJECT, THE COURT SHALL SET THE PETITION FOR A
3 HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL HISTORY FILED
4 WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION
5 (2) MUST DOCUMENT TO THE COURT THAT THE DEFENDANT HAS NOT BEEN
6 CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF
7 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
8 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
9 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER
10 CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

11 **SECTION 58.** In Colorado Revised Statutes, **add** 18-18-606 as
12 follows:

13 **18-18-606. Drug case data collection.** (1) THE DIVISION OF
14 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL COLLECT
15 THE DATA SPECIFIED IN SUBSECTION (2) OF THIS SECTION FOR THE PERIOD
16 BETWEEN OCTOBER 1, 2013, AND SEPTEMBER 30, 2016, AND ISSUE A
17 REPORT BY DECEMBER 31, 2016, ON THE IMPACT OF SENATE BILL 13-250,
18 ENACTED IN 2013.

19 (2) THE DATA MUST INCLUDE, BUT IS NOT LIMITED TO:

20 (a) THE TOTAL NUMBER OF DRUG CASES DIVERTED FROM
21 PROSECUTION PRIOR TO FILING THROUGH REFERRAL TO LAW
22 ENFORCEMENT OR DISTRICT ATTORNEY DIVERSION PROGRAMS;

23 (b) THE TOTAL NUMBER OF DRUG CASES FILED STATEWIDE BY
24 JURISDICTION;

25 (c) ALL DEMOGRAPHIC INFORMATION AND RELEVANT
26 BACKGROUND INFORMATION ON THE DEFENDANTS FOR WHICH A DRUG
27 CASE HAS BEEN FILED OR DIVERTED INCLUDING PRIOR CRIMINAL HISTORY;

1 AND

2 (d) FOR ALL CASES FILED, THE NATURE OF THE CHARGES BY
3 STATUTORY CITATION AND THE OUTCOME OR DISPOSITION INFORMATION
4 ON ALL THE CASES FILED WHICH SHALL INCLUDE BUT NOT BE LIMITED TO:

5 (I) DISMISSAL WITHOUT PROSECUTION;

6 (II) DISMISSAL AS A RESULT OF A PLEA BARGAIN;

7 (III) DEFERRED JUDGMENT TO THE ORIGINAL CHARGE OR A LESSER
8 CHARGE;

9 (IV) ANY PLEA BARGAIN THAT REDUCES THE ORIGINAL CHARGE
10 OR CHARGES FILED;

11 (V) ANY SENTENCE BARGAIN INCLUDING, BUT NOT LIMITED TO, A
12 STIPULATION TO A CERTAIN SENTENCE OR A LIMIT ON THE AMOUNT OF JAIL
13 OR DEPARTMENT OF CORRECTIONS IMPOSED;

14 (VI) ANY PLEA BARGAIN THAT INVOLVES MULTIPLE CASES;

15 (VII) ANY SENTENCE BARGAIN THAT INVOLVES CONCURRENT OR
16 CONSECUTIVE TIME IN THE CUSTODY OF THE DEPARTMENT OF
17 CORRECTIONS;

18 (VIII) ANY PROBATION OR DEFERRED JUDGMENT REVOCATION
19 FILED AND THE RESULT OF ANY REVOCATION;

20 (IX) ANY SUCCESSFUL COMPLETION OF PROBATION OR A
21 DEFERRED JUDGMENT; AND

22 (X) ANY SUCCESSFUL COMPLETION OF SUPERVISION RESULTING IN
23 CONVERSION OF THE FELONY TO A MISDEMEANOR PURSUANT TO THE
24 PROVISIONS OF 18-1.3-103.5 (2).

25

26 **SECTION 59.** In Colorado Revised Statutes, 12-64-111, **amend**

27 (1) (p) as follows:

1 **12-64-111. Discipline of licensees.** (1) Upon receipt of a signed
2 complaint by a complainant or upon its own motion, the board may
3 proceed to a hearing in conformity with section 12-64-112. After a
4 hearing, and by a concurrence of a majority of members, the board may
5 deny a license to an applicant or revoke or suspend the license of, place
6 on probation, or otherwise discipline or fine, a licensed veterinarian for
7 any of the following reasons:

8 (p) Conviction of a violation of the "Uniform Controlled
9 Substances Act of ~~1992~~ 2013", article 18 of title 18, C.R.S., the federal
10 "Controlled Substances Act", or the federal "Controlled Substances
11 Import and Export Act", or any of them;

12 **SECTION 60.** In Colorado Revised Statutes, **amend** 18-18-602
13 as follows:

14 **18-18-602. Continuation of rules - application to existing**
15 **relationships.** Any orders and rules adopted under any law affected by
16 this article and in effect on July 1, 1992, and not in conflict with this
17 article continue in effect until modified, superseded, or repealed. Rights
18 and duties that matured, penalties that were incurred, and proceedings
19 that were begun prior to July 1, 1992, are not affected by the enactment
20 of the "Uniform Controlled Substances Act of ~~1992~~ 2013" or the
21 corresponding repeal of provisions in article 42.5 of title 12, C.R.S., and
22 part 6 of article 5 of this title.

23 **SECTION 61.** In Colorado Revised Statutes, **amend** 18-18-604
24 as follows:

25 **18-18-604. Uniformity of interpretation.** To the extent that this
26 article is uniform, the judiciary may look to decisions regarding the
27 "Uniform Controlled Substances Act of ~~1990~~ 2013" among states

1 enacting it, subject to rights and obligations provided under other
2 Colorado statutes and the state constitution.

3 **SECTION 62.** In Colorado Revised Statutes, 25-1.5-302, **amend**
4 (1) (b) as follows:

5 **25-1.5-302. Administration of medications - powers and duties**
6 **of department - criminal history record checks.** (1) The department
7 has, in addition to all other powers and duties imposed upon it by law, the
8 power and duty to establish and maintain by rule and regulation a
9 program for the administration of medications in facilities, which
10 program shall be developed and conducted by the department of human
11 services and the department of corrections, as provided in this part 3,
12 within the following guidelines:

13 (b) Any individual who is not otherwise authorized by law to
14 administer medication in a facility shall be allowed to perform such
15 duties only after passing a competency evaluation. An individual who
16 administers medications in facilities in compliance with the provisions of
17 this part 3 shall be exempt from the licensing requirements of the
18 "Colorado Medical Practice Act", the "Nurse Practice Act", and the laws
19 of this state pertaining to possession of controlled substances as
20 contained in article 42.5 of title 12, C.R.S., part 2 of article 80 of title 27,
21 C.R.S., or the "Uniform Controlled Substances Act of ~~1992~~ 2013", article
22 18 of title 18, C.R.S.

23 **SECTION 63.** In Colorado Revised Statutes, 24-72-308.6, **amend**
24 (2) (a) (II) (C) and (2) (a) (III) (C) as follows:

25 **24-72-308.6. Sealing of criminal conviction records**
26 **information for offenses involving controlled substances for**
27 **convictions entered on or after July 1, 2011.** (2) **Sealing of conviction**

1 **records.** (a) (II) (C) If the offense is a class 5 felony or class 6 felony
2 drug possession offense described in section 18-18-403.5, C.R.S., AS IT
3 EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (C),
4 AS AMENDED, ___ or 18-18-404, C.R.S., or section 18-18-405, C.R.S., as
5 it existed prior to August 11, 2010, the petition may be filed seven years
6 after the later of the date of the final disposition of all criminal
7 proceedings against the defendant or the release of the defendant from
8 supervision concerning a criminal conviction.

9 (III) (C) If a petition is filed for the sealing of a class 5 or class 6
10 felony possession offense described in section 18-18-403.5, C.R.S., AS IT
11 EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (C),
12 AS AMENDED, ___ or 18-18-404, C.R.S., or section 18-18-405, C.R.S., as
13 it existed prior to August 11, 2010, the defendant shall pay the filing fee
14 and provide notice of the petition to the district attorney. The district
15 attorney shall determine whether to object to the petition after
16 considering the factors in section 24-72-308.5 (2) (c). If the district
17 attorney does not object, the court may decide the petition with or without
18 the benefit of a hearing. If the district attorney objects to the petition, the
19 court shall set the matter for hearing. To order the record sealed, the
20 criminal history filed with the petition as required by paragraph (b) of this
21 subsection (2) shall document to the court that the defendant has not been
22 charged or convicted for a criminal offense since the date of the final
23 disposition of all criminal proceedings against him or her or since the
24 date of the defendant's release from supervision, whichever is later. The
25 court shall decide the petition after considering the factors in section
26 24-72-308.5 (2) (c).

27 **SECTION 64. In Colorado Revised Statutes, 18-1.3-102, amend**

1 (2) as follows:

2 **18-1.3-102. Deferred sentencing of defendant.** (2) Prior to
3 entry of a plea of guilty to be followed by deferred judgment and
4 sentence, the district attorney, in the course of plea discussion as
5 provided in sections 16-7-301 and 16-7-302, C.R.S., is authorized to
6 enter into a written stipulation, to be signed by the defendant, the
7 defendant's attorney of record, and the district attorney, under which the
8 defendant is obligated to adhere to such stipulation. The conditions
9 imposed in the stipulation shall be similar in all respects to conditions
10 permitted as part of probation. Any A person convicted of a crime, the
11 underlying factual basis of which included an act of domestic violence,
12 as defined in section 18-6-800.3 (1), shall stipulate to the conditions
13 specified in section 18-1.3-204 (2) (b). In addition, the stipulation may
14 require the defendant to perform community or charitable work service
15 projects or make donations thereto. Upon full compliance with such
16 conditions by the defendant, the plea of guilty previously entered shall be
17 withdrawn and the charge upon which the judgment and sentence of the
18 court was deferred shall be dismissed with prejudice. Such THE
19 stipulation shall specifically provide that, upon a breach by the defendant
20 of any condition regulating the conduct of the defendant, the court shall
21 enter judgment and impose sentence upon such THE guilty plea; EXCEPT
22 THAT, IF THE OFFENSE IS A VIOLATION OF ARTICLE 18 OF THIS TITLE, THE
23 COURT MAY ACCEPT AN ADMISSION OR FIND A VIOLATION OF THE
24 STIPULATION WITHOUT ENTERING JUDGMENT AND IMPOSING SENTENCE IF
25 THE COURT FIRST MAKES FINDINGS OF FACT ON THE RECORD STATING THE
26 ENTRY OF JUDGMENT AND SENTENCING WOULD NOT BE CONSISTENT WITH
27 THE PURPOSES OF SENTENCING, THAT THE DEFENDANT WOULD BE BETTER

1 SERVED BY CONTINUING THE DEFERRED JUDGMENT PERIOD, AND THAT
2 PUBLIC SAFETY WOULD NOT BE JEOPARDIZED BY THE CONTINUATION OF
3 THE DEFERRED JUDGMENT. IF THE COURT MAKES THOSE FINDINGS AND
4 CONTINUES THE DEFERRED JUDGMENT OVER THE OBJECTION OF THE
5 PROSECUTION, THE COURT SHALL ALSO IMPOSE ADDITIONAL AND
6 IMMEDIATE SANCTIONS UPON THE DEFENDANT TO ADDRESS THE
7 VIOLATION, TO INCLUDE, BUT NOT BE LIMITED TO, THE IMPOSING
8 FURTHER TERMS AND CONDITIONS THAT WILL ENHANCE THE LIKELIHOOD
9 OF THE DEFENDANT'S SUCCESS, RESPONDING TO THE DEFENDANT'S
10 NON-COMPLIANCE, AND PROMOTING FURTHER INDIVIDUAL
11 ACCOUNTABILITY, INCLUDING EXTENDING THE TIME PERIOD OF THE
12 DEFERRED JUDGMENT FOR UP TO TWO ADDITIONAL YEARS OR
13 INCARCERATION IN THE COUNTY JAIL FOR A PERIOD NOT TO EXCEED
14 NINETY DAYS, OR BOTH, CONSISTENT WITH THE PROVISIONS OF SECTION
15 18-1.3-202 (1). When, as a condition of the deferred sentence, the court
16 orders the defendant to make restitution, evidence of failure to pay the
17 said restitution shall constitute prima facie evidence of a violation.
18 Whether a breach of condition has occurred shall be determined by the
19 court without a jury upon application of the district attorney or a
20 probation officer and upon notice of hearing thereon of not less than
21 seven days to the defendant or the defendant's attorney of record.
22 Application for entry of judgment and imposition of sentence may be
23 made by the district attorney or a probation officer at any time within the
24 term of the deferred judgment or within thirty-five days thereafter. The
25 burden of proof at such THE hearing shall be by a preponderance of the
26 evidence, and the procedural safeguards required in a revocation of
27 probation hearing shall apply.

1 **SECTION 65.** In Colorado Revised Statutes, 2-4-401, add (3.5)
2 as follows:

3 **2-4-401. Definitions.** The following definitions apply to every
4 statute, unless the context otherwise requires:

5 (3.5) "FELONY" INCLUDES A DRUG FELONY DESCRIBED IN ARTICLE
6 18 OF TITLE 18, C.R.S.

7 **SECTION 66.** In Colorado Revised Statutes, 18-2-101, add (10)
8 as follows:

9 **18-2-101. Criminal attempt.** (10) (a) EXCEPT AS OTHERWISE
10 PROVIDED BY LAW, CRIMINAL ATTEMPT TO COMMIT A LEVEL 1 DRUG
11 FELONY IS A LEVEL 2 DRUG FELONY; CRIMINAL ATTEMPT TO COMMIT A
12 LEVEL 2 DRUG FELONY IS A LEVEL 3 DRUG FELONY; CRIMINAL ATTEMPT TO
13 COMMIT A LEVEL 3 DRUG FELONY IS A LEVEL 4 DRUG FELONY; AND
14 CRIMINAL ATTEMPT TO COMMIT A LEVEL 4 DRUG FELONY IS A LEVEL 1
15 DRUG MISDEMEANOR.

16 (b) EXCEPT AS OTHERWISE PROVIDED BY LAW, CRIMINAL ATTEMPT
17 TO COMMIT A LEVEL 1 DRUG MISDEMEANOR IS A LEVEL 2 DRUG
18 MISDEMEANOR; AND CRIMINAL ATTEMPT TO COMMIT A LEVEL 2
19 MISDEMEANOR IS A LEVEL 2 MISDEMEANOR.

20 **SECTION 67.** In Colorado Revised Statutes, 18-2-206, add (7)
21 as follows:

22 **18-2-206. Penalties for criminal conspiracy - when convictions**
23 **barred.** (7) (a) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONSPIRACY
24 TO COMMIT A LEVEL 1 DRUG FELONY IS A LEVEL 2 DRUG FELONY;
25 CONSPIRACY TO COMMIT A LEVEL 2 DRUG FELONY IS A LEVEL 3 DRUG
26 FELONY; CONSPIRACY TO COMMIT A LEVEL 3 DRUG FELONY IS A LEVEL 4
27 DRUG FELONY; AND CONSPIRACY TO COMMIT A LEVEL 4 DRUG FELONY IS

1 A LEVEL 1 DRUG MISDEMEANOR.

2 (b) EXCEPT AS OTHERWISE PROVIDED BY LAW, CONSPIRACY TO
3 COMMIT A LEVEL 1 DRUG MISDEMEANOR IS A LEVEL 2 DRUG
4 MISDEMEANOR; AND CONSPIRACY TO COMMIT A LEVEL 2 DRUG
5 MISDEMEANOR IS A LEVEL 2 DRUG MISDEMEANOR.

6 **SECTION 68.** In Colorado Revised Statutes, 18-1.3-202, amend
7 (2) as follows:

8 **18-1.3-202. Probationary power of court.** (2) The probation
9 department in each judicial district may enter into agreements with any
10 state agency or other public agency, any corporation, and any private
11 agency or person to provide supervision or other services for defendants
12 placed on probation by the court. THE AGREEMENTS SHALL NOT INCLUDE
13 MANAGEMENT OF ANY INTENSIVE SUPERVISION PROBATION PROGRAMS
14 CREATED PURSUANT TO SECTION 18-1.3-208.

15 **SECTION 69. Appropriation.** (1) In addition to any other
16 appropriation, there is hereby appropriated, out of any moneys in the
17 general fund not otherwise appropriated, to the judicial department, for
18 the fiscal year beginning July 1, 2013, the sum of \$339,764 and 4.8 FTE,
19 or so much thereof as may be necessary, to be allocated for the
20 implementation of this act as follows:

21 (a) \$111,407 and 1.5 FTE for general courts administration,
22 personal services;

23 (b) \$1,425 for general courts administration, operating expenses;

24 (c) \$24,195 for courthouse capital/infrastructure maintenance;

25 (d) \$194,202 and 3.3 FTE for probation programs, personal
26 services; and

27 (e) \$8,535 for probation programs, operating expenses.

1 (2) In addition to any other appropriation, there is hereby
2 appropriated, out of any moneys in the general fund not otherwise
3 appropriated, to the department of corrections, for the fiscal year
4 beginning July 1, 2013, the sum of \$521,850, or so much thereof as may
5 be necessary, for allocation to the information systems subprogram for
6 the purchase of computer center services.

7 (3) In addition to any other appropriation, there is hereby
8 appropriated to the governor - lieutenant governor - state planning and
9 budgeting, for the fiscal year beginning July 1, 2013, the sum of
10 \$521,850 and 1.5 FTE, or so much thereof as may be necessary, for
11 allocation to the office of information technology, for the provision of
12 computer center services for the department of corrections related to the
13 implementation of this act. Said sum is from reappropriated funds
14 received from the department of corrections out of the appropriation
15 made in subsection (2) of this section.

16 **SECTION 70. Effective date - applicability.** This act takes
17 effect October 1, 2013, and applies to offenses committed on or after said
18 date.

19 **SECTION 71. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.