

First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 01-0480.01 Jerry Barry

SENATE BILL 01-177

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SENATE SPONSORSHIP

Tate

HOUSE SPONSORSHIP

(None)

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Senate Committees

House Committees

Judiciary

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A BILL FOR AN ACT

101 CONCERNING CORRECTIONAL FACILITIES IN THE STATE, AND IN  
102 CONNECTION THEREWITH, ELIMINATING AND LIMITING CERTAIN  
103 MANDATORY MINIMUM SENTENCES TO CORRECTIONAL  
104 FACILITIES, PROHIBITING THE STATE FROM CONTRACTING FOR  
105 THE CONSTRUCTION OF ANY NEW CORRECTIONAL FACILITIES,  
106 ESTABLISHING A TASK FORCE TO REVIEW CRIMINAL DRUG  
107 SENTENCES, PROHIBITING THE IMPORTATION AND LIMITING THE  
108 EXPORTATION OF INMATES, AND ESTABLISHING A CITIZENS'  
109 REVIEW COUNCIL IN THE DEPARTMENT OF CORRECTIONS.

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Bill Summary

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

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.

*adopted.)*

**Sections 1-3.** Eliminates mandatory minimum sentences for the following crimes or circumstances:

- Unlawful distribution, manufacturing, dispensing, sale, or possession of more than 25 grams or one ounce of a schedule I or II controlled substance; and
- Special offender status under drug offenses.

**Sections 4-5.** Limits mandatory minimum sentences for multiple felony convictions to subsequent class 1, 2, and 3 felonies, except for drug-related felonies, and other felonies constituting crimes of violence or crimes against children.

**Section 6.** For 2 state fiscal years commencing July 1, 2001, prohibits the department of corrections ("department") from spending any money on the planning, design, or construction of a correctional facility or the expansion of an existing correctional facility unless the planning, design, construction, or expansion was approved by the capital development committee as of January 1, 2001.

**Section 7.** After the effective date of the act, prohibits any city, county, city and county, or state department from entering into any contract with a private correctional facility for incarceration of persons in the custody of the department.

**Section 8.** Establishes a task force to study criminal drug sentencing policies, the cost and effectiveness of sentencing alternatives for drug-related offenses in the state, and restorative justice. Specifies the number, method and timing of appointment, and compensation of task force members. Establishes duties of the task force, including analyzing specific areas and submitting interim and final reports to joint meetings of the judiciary committee of the senate and the criminal justice committee of the house of representatives.

Repeals the task force, effective July 1, 2003.

**Sections 9-10.** Prohibits the housing of any inmates from outside of Colorado in any correctional facility within Colorado, and prohibits the state from housing its inmates outside of Colorado, unless the inmate agrees to such a transfer.

**Section 11.** Establishes a citizens' council on corrections in the department of corrections. Specifies membership and terms. Establishes duties of the council, including quarterly reports. Provides for sunset review prior to July 1, 2011.

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

2 **SECTION 1.** 18-18-405 (3) and (5), Colorado Revised Statutes,

1 are amended to read:

2 **18-18-405. Unlawful distribution, manufacturing, dispensing,**  
3 **sale, or possession.** (3) (a) Except as otherwise provided in section  
4 18-18-407 relating to special offenders, any person convicted pursuant to  
5 paragraph (a) of subsection (2) of this section for knowingly  
6 manufacturing, dispensing, selling, distributing, possessing, or possessing  
7 with intent to manufacture, dispense, sell, or distribute, or inducing,  
8 attempting to induce, or conspiring with one or more other persons, to  
9 manufacture, dispense, sell, distribute, possess, or possess with intent to  
10 manufacture, dispense, sell, or distribute an amount that is or has been  
11 represented to be AT LEAST TWENTY-FIVE GRAMS OR ONE OUNCE OF ANY  
12 MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS A  
13 SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE AS LISTED IN  
14 SECTION 18-18-203 OR 18-18-204 IN ADDITION TO ANY SENTENCE TO  
15 INCARCERATION SHALL BE FINED NOT LESS THAN ONE THOUSAND DOLLARS  
16 BUT NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS. FOR OFFENSES  
17 COMMITTED ON OR AFTER JULY 1, 1985, THE FINE SHALL BE IN AN AMOUNT  
18 WITHIN THE PRESUMPTIVE RANGE SET OUT IN SECTION 18-1-105 (1) (a) (III).

19 (I) ~~At least twenty-five grams or one ounce but less than four~~  
20 ~~hundred fifty grams of any material, compound, mixture, or preparation~~  
21 ~~that contains a schedule I or schedule II controlled substance as listed in~~  
22 ~~section 18-18-203 or 18-18-204 shall be sentenced to the department of~~  
23 ~~corrections for at least the minimum term of incarceration in the~~  
24 ~~presumptive range provided for such offense in section 18-1-105 (1) (a);~~

25 (II) ~~At least four hundred fifty grams or one pound but less than~~  
26 ~~one thousand grams of any material, compound, mixture, or preparation~~  
27 ~~that contains a schedule I or schedule II controlled substance as listed in~~

1 ~~section 18-18-203 or 18-18-204 shall be sentenced to the department of~~  
2 ~~corrections for a term of at least the midpoint of the presumptive range but~~  
3 ~~not more than twice the maximum presumptive range provided for such~~  
4 ~~offense in section 18-1-105 (1) (a);~~

5 (III) ~~One thousand grams or one kilogram or more of any material,~~  
6 ~~compound, mixture, or preparation that contains a schedule I or schedule~~  
7 ~~II controlled substance as listed in section 18-18-203 or 18-18-204 shall~~  
8 ~~be sentenced to the department of corrections for a term greater than the~~  
9 ~~maximum presumptive range but not more than twice the maximum~~  
10 ~~presumptive range provided for such offense in section 18-1-105 (1) (a).~~

11 (b) ~~In addition to any other penalty imposed under this subsection~~  
12 ~~(3), upon conviction, a person who violates this subsection (3) shall be~~  
13 ~~fined not less than one thousand dollars but not more than five hundred~~  
14 ~~thousand dollars. For offenses committed on or after July 1, 1985, the~~  
15 ~~fine shall be in an amount within the presumptive range set out in section~~  
16 ~~18-1-105 (1) (a) (III).~~

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

27 **SECTION 2. Repeal.** 18-18-407 (1), (3), (4), and (5), Colorado

1 Revised Statutes, are repealed.

2 **SECTION 3.** 18-18-407 (2) (a), Colorado Revised Statutes, is  
3 amended to read:

4 **18-18-407. Special offender.** (2) (a) A defendant shall be a  
5 special offender if the defendant is convicted of selling, distributing, or  
6 possessing with intent to distribute any controlled substance in violation  
7 of section 18-18-405 to any person either within or upon the grounds of  
8 any public or private elementary, middle, junior high, or high school,  
9 vocational school, or public housing development, or within one thousand  
10 feet of the perimeter of any such school or public housing development  
11 grounds on any street, alley, parkway, sidewalk, public park, playground,  
12 or other area or premises that is accessible to the public, or within any  
13 private dwelling that is accessible to the public for the purpose of the sale,  
14 distribution, use, or exchange of controlled substances in violation of this  
15 article, or in any school bus as defined in section 42-1-102 (88), C.R.S.,  
16 while such school bus is engaged in the transportation of persons who are  
17 students at any public or private elementary, middle, junior high, or high  
18 school. The court IN ADDITION TO ANY SENTENCE TO INCARCERATION is  
19 required ~~in addition to imposing the sentence to imprisonment required by~~  
20 ~~subsection (1) of this section,~~ to fine the defendant without suspension at  
21 least twice the minimum fine provided for in section 18-1-105 (1) (a) (III)  
22 if the defendant's offense is a felony or in section 18-1-106 (1) if the  
23 defendant's offense is a misdemeanor.

24 **SECTION 4.** 16-13-101 (1.5) and (2), Colorado Revised Statutes,  
25 are amended, and the said 16-13-101 is further amended BY THE  
26 ADDITION OF A NEW SUBSECTION, to read:

27 **16-13-101. Punishment for habitual criminals.** (1.5) Every

1 person convicted in this state of any class 1, 2, OR 3, ~~4, or 5~~ felony,  
2 EXCEPT FOR AN OFFENSE UNDER ARTICLE 18 OF THIS TITLE, AND EVERY  
3 PERSON CONVICTED IN THIS STATE OF ANY OTHER FELONY THAT IS A CRIME  
4 OF VIOLENCE OR ANY FELONY THAT IS A CRIME AGAINST A CHILD who,  
5 within ten years of the date of the commission of the said offense, has  
6 been twice previously convicted upon charges separately brought and  
7 tried, and arising out of separate and distinct criminal episodes, either in  
8 this state or elsewhere, of a felony or, under the laws of any other state,  
9 the United States, or any territory subject to the jurisdiction of the United  
10 States, of a crime ~~which~~ THAT, if committed within this state, would be a  
11 felony shall be adjudged an habitual criminal and shall be punished for the  
12 felony offense of which such person is convicted by confinement in a  
13 correctional facility for a term of three times the maximum of the  
14 presumptive range pursuant to section 18-1-105, C.R.S., for the class of  
15 felony of which such person is convicted.

16 (2) Every person convicted in this state of ~~any felony~~ A CLASS 2 OR  
17 3 FELONY, EXCEPT FOR AN OFFENSE UNDER ARTICLE 18 OF THIS TITLE, AND  
18 EVERY PERSON CONVICTED IN THIS STATE OF ANY OTHER FELONY THAT IS  
19 A CRIME OF VIOLENCE OR ANY FELONY THAT IS A CRIME AGAINST A CHILD  
20 who has been three times previously convicted, upon charges separately  
21 brought and tried, and arising out of separate and distinct criminal  
22 episodes, either in this state or elsewhere, of a felony or, under the laws  
23 of any other state, the United States, or any territory subject to the  
24 jurisdiction of the United States, of a crime ~~which~~ THAT, if committed  
25 within this state, would be a felony shall be adjudged an habitual criminal  
26 and shall be punished for the felony offense of which such person is  
27 convicted by imprisonment in a correctional facility for a term of four

1 times the maximum of the presumptive range pursuant to section  
2 18-1-105, C.R.S., for the class of felony of which such person is  
3 convicted. Such former conviction or convictions and judgment or  
4 judgments shall be set forth in apt words in the indictment or information.  
5 Nothing in this part 1 shall abrogate or affect the punishment by death in  
6 any and all crimes punishable by death on or after July 1, 1972.

7 (2.3) AS USED IN SUBSECTIONS (1.5) AND (2) OF THIS SECTION:

8 (a) "CRIME AGAINST A CHILD" MEANS:

9 (I) ENTICEMENT OF A CHILD, AS DESCRIBED IN SECTION 18-3-305,  
10 C.R.S.;

11 (II) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.,  
12 WHEN THE VICTIM AT THE TIME OF THE COMMISSION OF THE ACT IS A CHILD  
13 YOUNGER THAN FIFTEEN YEARS OF AGE;

14 (III) SEXUAL ASSAULT IN THE SECOND DEGREE, AS DESCRIBED IN  
15 SECTION 18-3-403 (1) (a), (1) (b), (1) (c), (1) (d), (1) (g), OR (1) (h),  
16 C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, WHEN THE VICTIM AT THE  
17 TIME OF THE COMMISSION OF THE ACT IS A CHILD YOUNGER THAN FIFTEEN  
18 YEARS OF AGE, OR AS DESCRIBED IN SECTION 18-3-403 (1) (e), C.R.S., AS  
19 IT EXISTED PRIOR TO JULY 1, 2000, WHEN THE VICTIM IS YOUNGER THAN  
20 FIFTEEN YEARS OF AGE AND THE ACTOR IS AT LEAST FOUR YEARS OLDER  
21 THAN THE VICTIM;

22 (IV) UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION  
23 18-3-404 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), OR (1) (g), C.R.S., WHEN  
24 THE VICTIM AT THE TIME OF THE COMMISSION OF THE ACT IS A CHILD  
25 YOUNGER THAN FIFTEEN YEARS OF AGE;

26 (V) SEXUAL ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN  
27 SECTION 18-3-404 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), OR (1) (g),

1 C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, WHEN THE VICTIM AT THE  
2 TIME OF THE COMMISSION OF THE ACT IS A CHILD YOUNGER THAN FIFTEEN  
3 YEARS OF AGE;

4 (VI) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION  
5 18-3-405, C.R.S.;

6 (VII) SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST,  
7 AS DESCRIBED IN SECTION 18-3-405.3, C.R.S.;

8 (VIII) INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302,  
9 C.R.S.;

10 (IX) CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO  
11 COMMIT ANY OF THE ACTS SPECIFIED IN THIS PARAGRAPH (a).

12 (b) "CRIME OF VIOLENCE" SHALL HAVE THE SAME MEANING AS IN  
13 SECTION 16-11-309.

14 **SECTION 5.** 18-1-105 (1) (b) (II), Colorado Revised Statutes, is  
15 amended, and the said 18-1-105 (1) (b) is further amended BY THE  
16 ADDITION THE FOLLOWING NEW SUBPARAGRAPHS, to read:

17 **18-1-105. Felonies classified - presumptive penalties.**

18 (1) (b) (II) As to any person sentenced for a felony committed on or after  
19 July 1, 1985, a person may be sentenced to imprisonment as described in  
20 subparagraph (I) of this paragraph (b) or to pay a fine that is within the  
21 presumptive ranges set forth in subparagraph (III) of paragraph (a) of this  
22 subsection (1) or to both such fine and imprisonment; except that any  
23 person who has been twice convicted of a CLASS 1, 2, OR 3 felony, EXCEPT  
24 FOR AN OFFENSE UNDER ARTICLE 18 OF THIS TITLE, AND EVERY PERSON  
25 CONVICTED IN THIS STATE OF ANY OTHER FELONY THAT IS A CRIME OF  
26 VIOLENCE, OR ANY FELONY THAT IS A CRIME AGAINST A CHILD under the  
27 laws of this state, any other state, or the United States prior to the

1 conviction for which he or she is being sentenced shall not be eligible to  
2 receive a fine in lieu of any sentence to imprisonment as described in  
3 subparagraph (I) of this paragraph (b) but shall be sentenced to at least the  
4 minimum sentence specified in subparagraph (V) of paragraph (a) of this  
5 subsection (1) and may receive a fine in addition to said sentence.

6 (II.1) AS USED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b),  
7 "CRIME AGAINST A CHILD" MEANS:

8 (A) ENTICEMENT OF A CHILD, AS DESCRIBED IN SECTION 18-3-305;

9 (B) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, WHEN  
10 THE VICTIM AT THE TIME OF THE COMMISSION OF THE ACT IS A CHILD  
11 YOUNGER THAN FIFTEEN YEARS OF AGE;

12 (C) SEXUAL ASSAULT IN THE SECOND DEGREE, AS DESCRIBED IN  
13 SECTION 18-3-403 (1) (a), (1) (b), (1) (c), (1) (d), (1) (g), OR (1) (h), AS IT  
14 EXISTED PRIOR TO JULY 1, 2000, WHEN THE VICTIM AT THE TIME OF THE  
15 COMMISSION OF THE ACT IS A CHILD YOUNGER THAN FIFTEEN YEARS OF  
16 AGE, OR AS DESCRIBED IN SECTION 18-3-403 (1) (e), AS IT EXISTED PRIOR  
17 TO JULY 1, 2000, WHEN THE VICTIM IS YOUNGER THAN FIFTEEN YEARS OF  
18 AGE AND THE ACTOR IS AT LEAST FOUR YEARS OLDER THAN THE VICTIM;

19 (D) UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION  
20 18-3-404 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), OR (1) (g), WHEN THE  
21 VICTIM AT THE TIME OF THE COMMISSION OF THE ACT IS A CHILD YOUNGER  
22 THAN FIFTEEN YEARS OF AGE;

23 (E) SEXUAL ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN  
24 SECTION 18-3-404 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), OR (1) (g), AS IT  
25 EXISTED PRIOR TO JULY 1, 2000, WHEN THE VICTIM AT THE TIME OF THE  
26 COMMISSION OF THE ACT IS A CHILD YOUNGER THAN FIFTEEN YEARS OF  
27 AGE;

1 (F) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION  
2 18-3-405;

3 (G) SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST,  
4 AS DESCRIBED IN SECTION 18-3-405.3;

5 (H) INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302;

6 (I) CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT  
7 ANY OF THE ACTS SPECIFIED IN THIS SUBPARAGRAPH (II.1).

8 (II.2) AS USED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b),  
9 "CRIME OF VIOLENCE" SHALL HAVE THE SAME MEANING AS IN SECTION  
10 16-11-309, C.R.S.

11 **SECTION 6.** 17-1-104.8, Colorado Revised Statutes, is amended  
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **17-1-104.8. Legislative review of facilities program plans for**  
14 **correctional facilities - repeal.** (3) (a) FROM JULY 1, 2001, THROUGH  
15 JUNE 30, 2003, THE DEPARTMENT SHALL NOT SPEND ANY FUNDS FOR THE  
16 PLANNING, DESIGN, OR CONSTRUCTION OF ANY NEW CORRECTIONAL  
17 FACILITY OR THE EXPANSION OF ANY EXISTING FACILITY THAT HAS NOT  
18 BEEN APPROVED AS OF JANUARY 1, 2001, FOR FUNDING BY THE CAPITAL  
19 DEVELOPMENT COMMITTEE, ESTABLISHED IN SECTION 2-3-1302, C.R.S.

20 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JUNE 30, 2004.

21 **SECTION 7.** Part 2 of article 1 of title 17, Colorado Revised  
22 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23 **17-1-201.5 Private contractors.** (1) THE GENERAL ASSEMBLY  
24 HEREBY FINDS AND DECLARES AS FOLLOWS:

25 (a) THE MANAGEMENT AND OPERATION OF A CORRECTIONAL  
26 FACILITY OR INSTITUTION INVOLVES FUNCTIONS THAT ARE INHERENTLY  
27 GOVERNMENTAL;

1           (b) THE IMPOSITION OF PUNISHMENT THROUGH INCARCERATION  
2 REQUIRES THE STATE TO EXERCISE ITS COERCIVE STATE POWERS OVER  
3 INDIVIDUALS AND IS THUS DISTINGUISHABLE FROM PRIVATIZATION IN  
4 OTHER AREAS OF GOVERNMENT; AND

5           (c) ISSUES OF LIABILITY, ACCOUNTABILITY, AND COST WARRANT A  
6 PROHIBITION AGAINST THE OWNERSHIP, OPERATION, OR MANAGEMENT OF  
7 CORRECTIONAL FACILITIES BY FOR-PROFIT PRIVATE CONTRACTORS.

8           (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, NO  
9 CITY, COUNTY, CITY AND COUNTY, OR STATE DEPARTMENT SHALL  
10 CONTRACT WITH A PRIVATE CONTRACTOR OR PRIVATE VENDOR FOR THE  
11 PROVISION OF SERVICES RELATING TO THE OPERATION OF A CORRECTIONAL  
12 FACILITY OR THE INCARCERATION OF PERSONS IN THE CUSTODY OF THE  
13 DEPARTMENT.

14           (3) (a) THE PROHIBITION CONTAINED IN SUBSECTION (2) OF THIS  
15 SECTION SHALL NOT APPLY TO:

16           (I) A STATE WORK RELEASE CENTER, COMMUNITY CORRECTIONS  
17 FACILITY, INTENSIVE OR COMMUNITY SUPERVISION PROGRAM, SPECIALIZED  
18 RESTITUTION AND COMMUNITY SERVICE PROGRAM, HOME DETECTION  
19 PROGRAM, HALF-WAY HOUSE, OR JUVENILE RESIDENTIAL FACILITY THAT  
20 PROVIDES SEPARATE CARE OR SPECIAL TREATMENT;

21           (II) A CONTRACT FOR ANCILLARY SERVICES INCLUDING BUT NOT  
22 LIMITED TO MEDICAL, MENTAL HEALTH, EDUCATIONAL, REPAIR AND  
23 MAINTENANCE, TRANSPORTATION, OR OTHER SERVICES NOT DIRECTLY  
24 RELATED TO THE OWNERSHIP, MANAGEMENT, OR OPERATION OF SECURITY  
25 SERVICES IN A CORRECTIONAL FACILITY; OR

26           (III) A CONTRACT IN EFFECT ON JULY 1, 2001; EXCEPT THAT THE  
27 PROHIBITION SHALL APPLY TO ANY RENEWALS OR EXTENSIONS ENTERED

1 INTO AFTER SAID DATE.

2 **SECTION 8.** Article 11 of title 16, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 9**

5 **TASK FORCE ON CRIMINAL DRUG SENTENCING**  
6 **AND ALTERNATIVE SENTENCING OPTIONS**

7 **16-11-901. Task force on criminal drug sentencing and**  
8 **alternative sentencing options - creation - membership.** (1) THERE IS  
9 HEREBY CREATED A TASK FORCE ON CRIMINAL SENTENCING POLICIES AND  
10 ALTERNATIVE SENTENCING OPTIONS FOR DRUG-RELATED OFFENSES,  
11 REFERRED TO IN THIS PART 9 AS THE "TASK FORCE". THE TASK FORCE  
12 SHALL STUDY CRIMINAL SENTENCING POLICIES FOR DRUG-RELATED  
13 OFFENSES, THE COST AND EFFECTIVENESS OF ALTERNATIVE SENTENCING  
14 OPTIONS FOR DRUG-RELATED OFFENSES IN THE STATE, AND THE USE OF A  
15 RESTORATIVE JUSTICE APPROACH TO DRUG-RELATED OFFENSES. THE TASK  
16 FORCE SHALL CONSIST OF ELEVEN MEMBERS AS FOLLOWS:

17 (a) TWO MEMBERS OF THE SENATE, ONE OF WHOM SHALL BE  
18 APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE OF WHOM SHALL  
19 BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

20 (b) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE OF  
21 WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF  
22 REPRESENTATIVES AND ONE OF WHOM SHALL BE APPOINTED BY THE  
23 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

24 (c) TWO MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE  
25 DEPARTMENT OF HUMAN SERVICES, ONE OF WHOM IS EMPLOYED WITHIN  
26 THE DIVISION OF ALCOHOL AND DRUG ABUSE WITHIN THE DEPARTMENT OF  
27 HUMAN SERVICES AND ONE OF WHOM IS A LICENSED, PRIVATE DRUG AND

1 ALCOHOL TREATMENT PROVIDER;

2 (d) ONE MEMBER APPOINTED BY THE EXECUTIVE DIRECTOR OF THE  
3 DEPARTMENT OF PUBLIC SAFETY; AND

4 (e) FOUR MEMBERS APPOINTED BY THE CHIEF JUSTICE OF THE  
5 SUPREME COURT, ONE OF WHOM SHALL BE A DISTRICT COURT JUDGE, ONE  
6 OF WHOM SHALL BE A DISTRICT ATTORNEY OR ASSISTANT DISTRICT  
7 ATTORNEY, ONE OF WHOM SHALL BE A CRIMINAL DEFENSE ATTORNEY OR  
8 A PUBLIC DEFENDER, AND ONE OF WHOM SHALL BE A MEMBER OF THE  
9 COMMUNITY AT-LARGE.

10 (2) (a) THE APPOINTMENT SHALL BE MADE SO THAT NO FEWER THAN  
11 SEVEN MEMBERS OF THE TASK FORCE ARE MEMBERS OF AN ETHNIC OR  
12 RACIAL MINORITY.

13 (b) APPOINTMENTS SHALL BE MADE NO LATER THAN JULY 1, 2001.

14 (3) (a) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE  
15 HOUSE OF REPRESENTATIVES SHALL JOINTLY APPOINT ONE MEMBER OF THE  
16 TASK FORCE TO SERVE AS CHAIR OF THE TASK FORCE AND ONE MEMBER OF  
17 THE TASK FORCE TO SERVE AS THE VICE-CHAIR OF THE TASK FORCE.

18 (b) THE CHAIR OF THE TASK FORCE SHALL CONVENE THE FIRST  
19 MEETING OF THE TASK FORCE ON OR BEFORE AUGUST 1, 2001.

20 (4) LEGISLATIVE MEMBERS OF THE TASK FORCE SHALL BE  
21 COMPENSATED AS PROVIDED IN SECTION 2-2-307, C.R.S. NONLEGISLATIVE  
22 MEMBERS OF THE TASK FORCE SHALL NOT RECEIVE COMPENSATION OR  
23 REIMBURSEMENT OF COSTS FROM STATE MONEYS FOR SERVICE ON THE  
24 TASK FORCE. THIS SUBSECTION (4) SHALL NOT PROHIBIT MEMBERS OF THE  
25 TASK FORCE REPRESENTING THE COMMUNITY AT LARGE FROM SEEKING OR  
26 ACCEPTING COMPENSATION OR REIMBURSEMENT FROM ANY OTHER  
27 SOURCE.

1           (5) (a) THE STAFF OF THE DIRECTOR OF RESEARCH OF THE  
2 LEGISLATIVE COUNCIL AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES  
3 SHALL PROVIDE ASSISTANCE TO THE TASK FORCE.

4           (b) THE DEPARTMENTS OF CORRECTIONS, HUMAN SERVICES, AND  
5 PUBLIC SAFETY, THE OFFICE OF THE STATE COURT ADMINISTRATOR, AND  
6 EVERY OTHER STATE AGENCY AND POLITICAL SUBDIVISION SHALL  
7 COOPERATE WITH THE TASK FORCE BY PROVIDING SUCH INFORMATION AS  
8 MAY BE REQUESTED BY THE TASK FORCE.

9           **16-11-902. Task force on criminal drug sentencing policy and**  
10 **alternative sentencing options - duties - report.** (1) THE TASK FORCE  
11 SHALL CARRY OUT THE FOLLOWING DUTIES:

12           (a) THE TASK FORCE SHALL MEET MONTHLY TO ANALYZE THE  
13 CRIMINAL SENTENCING POLICIES FOR DRUG-RELATED OFFENSES AND  
14 ALTERNATIVE SENTENCING OPTIONS IN THE STATE FOR DRUG-RELATED  
15 OFFENSES, INCLUDING BUT NOT LIMITED TO THE FOLLOWING AREAS:

16           (I) FELONY CLASSIFICATIONS AND SENTENCES FOR OFFENSES  
17 RELATED TO CONTROLLED SUBSTANCES, DRUG SCHEDULING, AND THE  
18 AVAILABILITY OF DRUG TREATMENT PROGRAMS WITHIN CORRECTIONAL  
19 FACILITIES AND THE COMMUNITY;

20           (II) THE COST AND EFFECTIVENESS OF ALTERNATIVES TO  
21 INCARCERATION, INCLUDING BUT NOT LIMITED TO DRUG AND ALCOHOL  
22 ABUSE PREVENTION AND TREATMENT STRATEGIES AND THE USE OF A  
23 RESTORATIVE JUSTICE APPROACH THAT EMPHASIZES THE EFFECTS OF CRIME  
24 ON ALL PARTIES.

25           (b) AT EACH MEETING OF THE TASK FORCE, TIME SHALL BE SET  
26 ASIDE FOR PUBLIC COMMENT AND TESTIMONY.

27           (c) ON OR BEFORE DECEMBER 1, 2001, THE TASK FORCE SHALL

1 SUBMIT TO A JOINT MEETING OF THE MEMBERS OF THE JUDICIARY  
2 COMMITTEE OF THE SENATE AND THE CRIMINAL JUSTICE COMMITTEE OF THE  
3 HOUSE OF REPRESENTATIVES AN INTERIM REPORT ON THE ANALYSES  
4 CONDUCTED BY THE TASK FORCE AND ANY LEGISLATIVE  
5 RECOMMENDATIONS OF THE TASK FORCE ARISING FROM THE INTERIM  
6 REPORT.

7 (d) ON OR BEFORE JULY 1, 2002, THE TASK FORCE SHALL SUBMIT  
8 TO THE MEMBERS OF THE JUDICIARY COMMITTEE OF THE SENATE AND THE  
9 CRIMINAL JUSTICE COMMITTEE OF THE HOUSE OF REPRESENTATIVES A FINAL  
10 REPORT AND ANY LEGISLATIVE RECOMMENDATIONS OF THE TASK FORCE  
11 ARISING FROM THE FINAL REPORT.

12 (2) THE TASK FORCE MAY FORM SUBCOMMITTEES OR REQUEST THE  
13 ASSISTANCE OF ADVISORY COMMITTEES AS THE TASK FORCE DEEMS  
14 NECESSARY.

15 **16-11-903. Repeal of part.** THIS PART 9 IS REPEALED, EFFECTIVE  
16 JULY 1, 2003.

17 **SECTION 9.** 17-1-104.5, Colorado Revised Statutes, is amended  
18 to read:

19 **17-1-104.5. Incarceration of inmates from other states -**  
20 **prohibition.** (1) The general assembly finds and declares that:

21 (a) The importation of prisoners from other states into ANY  
22 ~~correctional facilities not operated by the department of corrections~~  
23 FACILITY is a matter of statewide concern;

24 (b) PUBLIC JURISDICTION OVER CORRECTIONAL FACILITIES IS  
25 NECESSARY FOR THE PROTECTION OF THE SAFETY OF THE PEOPLE OF  
26 COLORADO AND APPLIES BOTH TO FACILITIES HOUSING COLORADO  
27 INMATES AND TO THOSE HOUSING OUT-OF-STATE INMATES; AND

1 (c) COLORADO HAS A LEGITIMATE INTEREST IN RESERVING, AS  
2 EXCLUSIVE UNTO ITSELF, THE EXERCISE OF ITS SOVEREIGN POWER TO  
3 REGULATE THE HOUSING, CONFINEMENT, OR DETENTION IN COLORADO OF  
4 ANY PERSON CHARGED OR CONVICTED OF ANY CRIMINAL OFFENSE.

5 (2) ~~No inmate from a state other than Colorado may be received~~  
6 ~~into the state of Colorado and be housed in a private contract prison~~  
7 ~~facility or a prison facility operated by a political subdivision of the state:~~  
8 EXCEPT AS PERMITTED BY SUBSECTION (3) OF THIS SECTION, NO CITY,  
9 COUNTY, CITY AND COUNTY, OR PRIVATE ENTITY SHALL BRING INTO THIS  
10 STATE OR HOUSE, CONFINE, OR DETAIN IN THIS STATE, ANY ADULT PERSON  
11 SENTENCED TO SERVE A PERIOD OF COMMITMENT BY A JURISDICTION  
12 OUTSIDE OF THIS STATE.

13 (a) ~~Without the express approval of the executive director, which~~  
14 ~~approval shall not be unreasonably withheld; and~~

15 (b) ~~Unless the private contract prison facility or a prison facility~~  
16 ~~operated by a political subdivision is designed to meet or exceed the~~  
17 ~~appropriate security level for the inmate.~~

18 (3) THE PROHIBITION CONTAINED IN SUBSECTION (2) OF THIS  
19 SECTION SHALL NOT APPLY TO:

20 (a) AN INMATE FROM ANOTHER STATE BEING TRANSPORTED  
21 THROUGH THE STATE TO BE HOUSED IN A FACILITY IN ANOTHER STATE; OR

22 (b) A FEDERAL PRISONER CONFINED IN A FACILITY OWNED OR  
23 OPERATED BY THE UNITED STATES.

24 **SECTION 10.** 17-1-105 (1) (f), Colorado Revised Statutes, is  
25 amended to read:

26 **17-1-105. Powers of executive director.** (1) The executive  
27 director shall have and exercise:

1 (f) The authority to enter into contracts and agreements with ~~other~~  
2 ~~jurisdictions, including other states, the federal government, and political~~  
3 subdivisions of this state AND, IF THE INMATE AGREES TO THE TRANSFER,  
4 WITH OTHER JURISDICTIONS, INCLUDING OTHER STATES AND THE FEDERAL  
5 GOVERNMENT, for the confinement and maintenance of offenders  
6 sentenced to imprisonment by the courts of this state and the authority to  
7 reimburse such jurisdictions for the expenses incurred by such  
8 jurisdictions in the confinement and maintenance of said offenders;

9 **SECTION 11.** Part 1 of article 1 of title 17, Colorado Revised  
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

11 **17-1-110.5. Corrections citizens' review council - creation -**  
12 **membership - repeal.** (1) THERE IS HEREBY CREATED IN THE  
13 DEPARTMENT OF CORRECTIONS THE CITIZENS' REVIEW COUNCIL, REFERRED  
14 TO IN THIS SECTION AS THE "COUNCIL". THE COUNCIL SHALL CONSIDER  
15 MATTERS RELATING TO CORRECTIONAL FACILITIES, INCLUDING BUT NOT  
16 LIMITED TO SERVICES PROVIDED TO INMATES, TREATMENT OF INMATES AT  
17 STATE AND PRIVATE FACILITIES, AND VISITATION PROCEDURES. THE  
18 COUNCIL SHALL CONSIST OF NINE MEMBERS APPOINTED AS FOLLOWS:

19 (a) TWO MEMBERS OF THE SENATE, ONE OF WHOM SHALL BE  
20 APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE OF WHOM SHALL  
21 BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

22 (b) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE OF  
23 WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF  
24 REPRESENTATIVES AND ONE OF WHOM SHALL BE APPOINTED BY THE  
25 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

26 (c) ONE MEMBER APPOINTED BY THE EXECUTIVE DIRECTOR WHO IS  
27 EMPLOYED WITHIN THE DEPARTMENT; AND

1 (d) TWO MEMBERS APPOINTED BY THE CHAIR AND TWO MEMBERS  
2 APPOINTED BY THE VICE-CHAIR OF THE COUNCIL, TWO OF WHOM SHALL BE  
3 RELATED TO AN INMATE SERVING AT THE TIME OF THE APPOINTMENT, A  
4 FORMER INMATE, OR A MEMBER OF AN INMATE ADVOCACY ORGANIZATION,  
5 ONE OF WHOM SHALL BE A CRIMINAL DEFENSE ATTORNEY, AND ONE OF  
6 WHOM SHALL BE A CHAPLAIN AT A CORRECTIONAL FACILITY.

7 (2) (a) THE PRESIDENT OF THE SENATE SHALL SELECT A MEMBER  
8 WHO SHALL SERVE AS THE CHAIR IN ODD-NUMBERED YEARS AND SHALL  
9 SERVE AS THE VICE-CHAIR IN EVEN NUMBERED YEARS. THE SPEAKER OF  
10 THE HOUSE OF REPRESENTATIVES SHALL SELECT A MEMBER WHO SHALL  
11 SERVE AS THE CHAIR IN EVEN-NUMBERED YEARS AND AS THE VICE-CHAIR  
12 IN ODD-NUMBERED YEARS.

13 (b) COUNCIL MEMBERS SHALL SERVE TWO-YEAR TERMS; EXCEPT  
14 THAT, OF THE MEMBERS FIRST APPOINTED, FOUR MEMBERS SHALL SERVE  
15 THREE-YEAR TERMS. THE CHAIR SHALL SELECT TWO MEMBERS WHO WILL  
16 SERVE EXTENDED INITIAL TERMS AND THE VICE CHAIR SHALL SELECT TWO  
17 MEMBERS WHO WILL SERVE EXTENDED INITIAL TERMS. THE LEGISLATIVE  
18 MEMBERS SHALL BE APPOINTED NO LATER THAN JULY 1, 2001. THE CHAIR  
19 AND VICE CHAIR SHALL MAKE THEIR APPOINTMENTS NO LATER THAN  
20 SEPTEMBER 1, 2001. NO PERSON SHALL SERVE MORE THAN TWO  
21 CONSECUTIVE TERMS. COUNCIL MEMBERS SHALL HOLD THEIR OFFICES FOR  
22 THE TERMS FOR WHICH THEY HAVE BEEN APPOINTED AND UNTIL THEIR  
23 SUCCESSORS ARE APPOINTED AND QUALIFIED.

24 (c) THE FAILURE OF ANY MEMBER TO ATTEND THREE CONSECUTIVE  
25 REGULAR MEETINGS OF THE COUNCIL SHALL CONSTITUTE A RESIGNATION  
26 OF THE MEMBER AND THE PERSON OR PERSONS APPOINTING THE MEMBER  
27 SHALL APPOINT A NEW MEMBER TO SERVE THE REMAINDER OF SUCH

1 MEMBER'S TERM.

2 (d) COUNCIL MEMBERS SHALL SERVE WITHOUT COMPENSATION,  
3 BUT MAY BE REIMBURSED FOR ANY ACTUAL AND NECESSARY EXPENSES  
4 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

5 (e) A MAJORITY OF THE COUNCIL MEMBERS SHALL CONSTITUTE A  
6 QUORUM FOR TRANSACTION OF BUSINESS.

7 (3) THE DEPARTMENT AND EVERY OTHER STATE AGENCY AND  
8 POLITICAL SUBDIVISION IN THE STATE SHALL, UPON REQUEST, FURNISH AND  
9 MAKE AVAILABLE TO THE COUNCIL DOCUMENTS, MATERIALS, AND ANY  
10 OTHER INFORMATION REQUESTED BY MEMBERS.

11 (4) THE COUNCIL SHALL MEET MONTHLY, OR MORE OFTEN AS  
12 NEEDED, AND UPON THE REQUEST OF THREE OR MORE MEMBERS OF THE  
13 COUNCIL.

14 (5) THE COUNCIL'S DUTIES SHALL BE:

15 (a) TO INVESTIGATE AND REPORT ON THE GENERAL STATE OF  
16 CORRECTIONAL FACILITIES, THEIR ADMINISTRATION, POLICIES AND  
17 PRACTICES, AND THE TREATMENT OF INMATES THEREIN;

18 (b) TO INVESTIGATE AND REPORT ON THE HEALTH AND SAFETY OF  
19 INMATES; THE AVAILABILITY OF EDUCATIONAL, VOCATIONAL,  
20 EMPLOYMENT, AND REHABILITATION PROGRAMS; THE AVAILABILITY OF  
21 MEDICAL, MENTAL HEALTH, AND COUNSELING SERVICES; AND THE  
22 AVAILABILITY OF HEALTHY AND NUTRITIOUS MEALS;

23 (c) TO INVESTIGATE AND REPORT ON THE SUFFICIENCY AND  
24 AVAILABILITY OF REGULAR VISITING HOURS, TELEPHONES, CHAPLAINS, AND  
25 ATTORNEYS; THE TREATMENT OF VISITING FAMILIES, FRIENDS, ATTORNEYS,  
26 AND PROGRAM VOLUNTEERS; AND THE AVAILABILITY OF TRANSPORTATION  
27 FOR VISITING FAMILY MEMBERS;

1           (d) TO MAKE SUGGESTIONS AND RECOMMENDATIONS TO THE  
2 DEPARTMENT ON IMPROVEMENTS AND MODIFICATIONS TO POLICIES AND  
3 PRACTICES RELATING TO INMATE EDUCATIONAL, VOCATIONAL,  
4 EMPLOYMENT, AND REHABILITATION PROGRAMS; VISITATION; MEDICAL,  
5 MENTAL HEALTH AND COUNSELING SERVICES; AND RELIGIOUS AND OTHER  
6 VOLUNTEER PROGRAMS; AND

7           (e) COMMENCING JANUARY 1, 2002, TO ISSUE QUARTERLY REPORTS  
8 FIRST TO THE DEPARTMENT FOR COMMENTS AND THEN, TOGETHER WITH  
9 THE DEPARTMENT'S COMMENTS, TO THE GOVERNOR, THE CHAIR OF THE  
10 JUDICIARY COMMITTEE OF THE SENATE, AND THE CHAIR OF THE CRIMINAL  
11 JUSTICE COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND TO ANY  
12 INTERESTED MEMBER OF THE PUBLIC.

13           (6) (a) THE COUNCIL SHALL HAVE ACCESS TO ALL CORRECTIONAL  
14 FACILITIES WITHIN THE STATE IN WHICH STATE INMATES ARE HOUSED AT  
15 ANY TIME AND WITHOUT NOTICE UNLESS THE SAFETY OF COUNCIL MEMBERS  
16 WOULD BE ENDANGERED DUE TO AN INSTITUTIONAL EMERGENCY.

17           (b) ANY COUNCIL MEMBER MAY MEET WITH A STATE INMATE AT  
18 THE INMATE'S REQUEST WITHIN ANY CORRECTIONAL FACILITY TO ASSIST  
19 WITH ANY PROBLEM THE INMATE HAS RELATED TO THE CORRECTIONAL  
20 FACILITY. THE MEMBER SHALL BE ALLOWED TO MEET OUT OF THE SIGHT  
21 AND HEARING OF ANY EMPLOYEE OF THE FACILITY IF THE INMATE  
22 REQUESTS.

23           (7) THE COUNCIL SHALL, WITH THE PERMISSION OF AN INMATE,  
24 HAVE ACCESS TO ALL DOCUMENTS OF THE INMATE MAINTAINED BY THE  
25 CORRECTIONAL FACILITY INCLUDING BUT NOT LIMITED TO DOCUMENTS OF  
26 CONVICTION, PAROLE, DISCIPLINE, GRIEVANCE, AND CLASSIFICATION, BUT  
27 THE COUNCIL SHALL NOT FURTHER DISSEMINATE ANY SUCH DOCUMENTS OR

1 INFORMATION WITHOUT THE INMATE'S WRITTEN PERMISSION.

2 (8) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

3 (b) PRIOR TO SUCH REPEAL, THE COUNCIL SHALL BE REVIEWED AS  
4 PROVIDED IN SECTION 2-3-1203, C.R.S.

5 **SECTION 12.** 2-3-1203 (3), Colorado Revised Statutes, is  
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 **2-3-1203. Sunset review of advisory committees.** (3) The  
8 following dates are the dates for which the statutory authorization for the  
9 designated advisory committees is scheduled for repeal:

10 (x) JULY 1, 2011: THE CORRECTIONS CITIZENS' REVIEW COUNCIL  
11 CREATED PURSUANT TO SECTION 17-1-110.5, C.R.S.

12 **SECTION 13. Effective date - applicability.** This act shall take  
13 effect July 1, 2001, and shall apply to sentences entered on or after said  
14 date.

15 **SECTION 14. Safety clause.** The general assembly hereby finds,  
16 determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, and safety.