

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0780.01 Michael Dohr

HOUSE BILL 09-1262

HOUSE SPONSORSHIP

Casso,

SENATE SPONSORSHIP

Morse,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ISSUANCE OF A SUMMONS INSTEAD OF AN ARREST**
102 **WARRANT IN CERTAIN CIRCUMSTANCES.**

Bill Summary

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

Permits the issuance of a summons instead of an arrest warrant for certain crimes without the consent of the district attorney. Prohibits the court from issuing a summons instead of an arrest warrant for certain crimes if a law enforcement officer presents a written basis for believing that the defendant is a flight or public safety risk.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

2 **SECTION 1.** 16-5-206 (1), Colorado Revised Statutes, is
3 amended to read:

4 **16-5-206. Summons in lieu of warrant.** (1) Except in class 1,
5 class 2, and class 3 felonies and in unclassified felonies punishable by a
6 maximum penalty of more than ten years, if an indictment is returned or
7 an information, felony complaint, or complaint has been filed prior to the
8 arrest of the person named as defendant therein, the court ~~with the~~
9 ~~consent of the prosecuting attorney,~~ has power to issue a summons
10 commanding the appearance of the defendant in lieu of a warrant for his
11 OR HER arrest UNLESS A LAW ENFORCEMENT OFFICER PRESENTS IN WRITING
12 A BASIS TO BELIEVE THERE IS A SIGNIFICANT RISK OF FLIGHT OR THAT THE
13 VICTIM OR PUBLIC SAFETY MAY BE COMPROMISED.

14 **SECTION 2. Act subject to petition - effective date.** This act
15 shall take effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly that is
17 allowed for submitting a referendum petition pursuant to article V,
18 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
19 sine die is on May 6, 2009); except that, if a referendum petition is filed
20 against this act or an item, section, or part of this act within such period,
21 then the act, item, section, or part, if approved by the people, shall take
22 effect on the date of the official declaration of the vote thereon by
23 proclamation of the governor.

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0781.01 Richard Sweetman

HOUSE BILL 09-1263

HOUSE SPONSORSHIP

Casso,

SENATE SPONSORSHIP

Carroll M.,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TIME COMPUTATION WHILE AN INMATE IS**
102 **INCARCERATED IN A COUNTY JAIL.**

Bill Summary

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

Clarifies that every person who is sentenced to and imprisoned in any county jail and who performs faithfully the duties assigned to him or her during his or her imprisonment therein is entitled to a deduction from the time of his or her sentence of 2 days in any 30-day period, rather than in each calendar month.

Allows a person who is sentenced to and imprisoned in any county jail of this state to be awarded earned time of up to 3 days in any 30-day

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period at the discretion of the county sheriff for the successful completion of certain designated programs or educational activities, for outstanding progress in any assigned program or activity, or for unusual or extraordinary actions as determined by the county sheriff. Requires each county sheriff to develop and implement an earned time program and schedule for use in his or her county jail in accordance with the expectations and standards of the community in which he or she serves.

Clarifies that persons confined in the county jail, undergoing any sentence in accordance with law, who are engaged in work within or outside the walls of the jail, and who are designated by the sheriff as trusty prisoners, and who conduct themselves in accordance with the rules of the sheriff of the county and perform their work in a creditable manner, upon approval of the sheriff, to be granted such good time as the sheriff may order, not to exceed 10 days in any 30-day period, rather than each calendar month.

Entitles a person who is confined pending a parole revocation hearing to credit for the entire period of such confinement against any period of reincarceration imposed in the parole revocation proceeding. Requires the department of corrections to deduct the period of confinement from the period of reincarceration.

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

2 **SECTION 1.** 17-26-109, Colorado Revised Statutes, is amended
3 to read:

4 **17-26-109. Deductions of time - good time - earned time.**

5 (1) Every person who is sentenced to and imprisoned in any county jail
6 of this state or SENTENCED to pay a fine and costs or either or all thereof
7 and who performs faithfully the duties assigned to him OR HER during his
8 OR HER imprisonment therein is entitled to a deduction from the time of
9 his OR HER sentence of two days in ~~each month~~ ANY THIRTY-DAY PERIOD.
10 If any such person escapes or attempts to escape from the county jail, he
11 OR SHE shall forfeit all deduction from the time of his OR HER sentence
12 which he OR SHE may have been entitled to up to the time of the escape
13 or attempt at escape, as provided for in this section.

14 (2) A PERSON WHO IS SENTENCED TO AND IMPRISONED IN ANY

1 COUNTY JAIL OF THIS STATE OR SENTENCED TO PAY A FINE AND COSTS OR
2 EITHER OR ALL THEREOF MAY BE AWARDED EARNED TIME OF UP TO THREE
3 DAYS IN ANY THIRTY-DAY PERIOD AT THE DISCRETION OF THE COUNTY
4 SHERIFF FOR THE SUCCESSFUL COMPLETION OF CERTAIN DESIGNATED
5 PROGRAMS OR EDUCATIONAL ACTIVITIES, FOR OUTSTANDING PROGRESS IN
6 ANY ASSIGNED PROGRAM OR ACTIVITY, OR FOR UNUSUAL OR
7 EXTRAORDINARY ACTIONS AS DETERMINED BY THE COUNTY SHERIFF.
8 EACH COUNTY SHERIFF SHALL DEVELOP AND IMPLEMENT AN EARNED TIME
9 PROGRAM AND SCHEDULE FOR USE IN HIS OR HER COUNTY JAIL IN
10 ACCORDANCE WITH THE EXPECTATIONS AND STANDARDS OF THE
11 COMMUNITY IN WHICH HE OR SHE SERVES. EARNED TIME SHALL BE IN
12 ADDITION TO GOOD TIME AS ALLOWED IN SUBSECTION (1) OF THIS SECTION
13 AND SECTION 17-26-115.

14 **SECTION 2.** 17-26-115, Colorado Revised Statutes, is amended
15 to read:

16 **17-26-115. Trusty prisoners - good time.** Persons confined in
17 the county jail, undergoing any sentence in accordance with law, who are
18 engaged in work within or outside the walls of the jail, and who are
19 designated by the sheriff as trusty prisoners, and who conduct themselves
20 in accordance with the rules of the sheriff of the county and perform their
21 work in a creditable manner, upon approval of the sheriff, may be granted
22 such good time, in addition to that allowed in section 17-26-109, as the
23 sheriff may order, not to exceed ten days in any ~~one calendar month~~
24 THIRTY-DAY PERIOD.

25 **SECTION 3.** 18-1.3-405, Colorado Revised Statutes, is amended
26 to read:

27 **18-1.3-405. Credit for presentence confinement.** A person who

1 is confined for an offense prior to the imposition of sentence for said
2 offense is entitled to credit against the term of his or her sentence for the
3 entire period of such confinement. At the time of sentencing, the court
4 shall make a finding of the amount of presentence confinement to which
5 the offender is entitled and shall include such finding in the mittimus.
6 ~~Such~~ THE period of confinement shall be deducted from the sentence by
7 the department of corrections. A PERSON WHO IS CONFINED PENDING A
8 PAROLE REVOCATION HEARING IS ENTITLED TO CREDIT FOR THE ENTIRE
9 PERIOD OF SUCH CONFINEMENT AGAINST ANY PERIOD OF
10 REINCARCERATION IMPOSED IN THE PAROLE REVOCATION PROCEEDING.
11 THE PERIOD OF CONFINEMENT SHALL BE DEDUCTED FROM THE PERIOD OF
12 REINCARCERATION BY THE DEPARTMENT OF CORRECTIONS. If a defendant
13 is serving a sentence or is on parole for a previous offense when he or she
14 commits a new offense and he or she continues to serve the sentence for
15 the previous offense while charges on the new offense are pending, the
16 credit given for presentence confinement under this section shall be
17 granted against the sentence the defendant is currently serving for the
18 previous offense and shall not be granted against the sentence for the new
19 offense.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 shall take effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly that is
23 allowed for submitting a referendum petition pursuant to article V,
24 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
25 sine die is on May 6, 2009); except that, if a referendum petition is filed
26 against this act or an item, section, or part of this act within such period,
27 then the act, item, section, or part, if approved by the people, shall take

- 1 effect on the date of the official declaration of the vote thereon by
- 2 proclamation of the governor.

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0779.01 Michael Dohr

HOUSE BILL 09-1264

HOUSE SPONSORSHIP

Benfield, Apuan, Court, Gardner B., Kerr A., Levy, McCann, Miklosi, Pace, Roberts, Ryden, Solano

SENATE SPONSORSHIP

Hudak,

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE COSTS ASSOCIATED WITH COLLEGE-LEVEL**
102 **ACADEMIC PROGRAMS FOR STATE INMATES.**

Bill Summary

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

Requires that costs associated with a college-level academic program for an inmate shall be borne by the inmate unless he or she receives financial aid or scholarships for the program.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 **SECTION 1.** 17-32-105 (1) (g), Colorado Revised Statutes, is
2 amended to read:

3 **17-32-105. Development of correctional education program -**
4 **goals and objectives.** (1) On and after July 1, 1990, the program shall
5 have responsibility for the provision of educational services to persons in
6 correctional facilities under the control of the department and for the
7 development and implementation of a comprehensive competency-based
8 education program, which program shall conform to the goals and
9 objectives outlined in this subsection (1). The correctional education
10 program may be implemented in phases with the goals and objectives
11 implemented in all facilities in the order specified in this subsection (1);
12 except that the goal and objective stated in paragraph (a) of this
13 subsection (1) shall be implemented in all correctional facilities no later
14 than July 1, 1991, and the entire program shall be completely
15 implemented in all correctional facilities no later than July 1, 1992. The
16 program shall continue to operate instructional services currently offered
17 in correctional facilities until such services are incorporated in or replaced
18 by instructional services offered under the correctional education
19 program. The correctional education program shall encompass the
20 following goals and objectives:

21 (g) Seventh, to provide every person in a correctional facility who
22 demonstrates college-level aptitudes with the opportunity to participate
23 in college-level academic programs ~~which~~ THAT may be offered within
24 the correctional facility. UNLESS FINANCIAL ASSISTANCE FOR COSTS OF
25 THE PROGRAMS IS PROVIDED THROUGH PROGRAMS DESCRIBED IN
26 SUBSECTION (4) OF THIS SECTION OR THROUGH PRIVATE OR FEDERALLY
27 FUNDED GRANTS OR SCHOLARSHIPS, costs associated with the

1 college-level academic programs shall be borne entirely by the person
2 participating in the program.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 shall take effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly that is
6 allowed for submitting a referendum petition pursuant to article V,
7 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
8 sine die is on May 6, 2009); except that, if a referendum petition is filed
9 against this act or an item, section, or part of this act within such period,
10 then the act, item, section, or part, if approved by the people, shall take
11 effect on the date of the official declaration of the vote thereon by
12 proclamation of the governor.

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0699.01 Jerry Barry

HOUSE BILL 09-1266

HOUSE SPONSORSHIP

McCann,

SENATE SPONSORSHIP

Carroll M.,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE LOSS OF DRIVING PRIVILEGES AS A**
102 **PENALTY FOR CERTAIN CRIMES.**

Bill Summary

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

Eliminates the loss of driving privileges as a penalty upon a conviction of certain criminal offenses.

Makes conforming amendments.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 **SECTION 1. Repeal.** 18-4-501 (2) and (3), Colorado Revised
2 Statutes, are repealed as follows:

3 **18-4-501. Criminal mischief.** ~~(2) If the court determines on the~~
4 ~~record that the underlying factual basis for any conviction of criminal~~
5 ~~mischief pursuant to subsection (1) of this section, or adjudication as a~~
6 ~~juvenile delinquent for an act that would constitute criminal mischief~~
7 ~~pursuant to subsection (1) of this section if committed by an adult,~~
8 ~~involves defacing property as described in section 18-4-509, the~~
9 ~~offender's driver's license shall be revoked as provided in section~~
10 ~~42-2-125, C.R.S.~~

11 ~~(3) If the court determines on the record that the underlying~~
12 ~~factual basis for a conviction of criminal mischief pursuant to subsection~~
13 ~~(1) of this section, or adjudication as a juvenile delinquent for an act that~~
14 ~~would constitute criminal mischief pursuant to subsection (1) of this~~
15 ~~section if committed by an adult, involves damage to a motor vehicle, as~~
16 ~~defined in section 18-4-409 (1) (a), the offender's driver's license shall be~~
17 ~~revoked as provided in section 42-2-125, C.R.S.~~

18 **SECTION 2. Repeal.** 18-4-509 (2) (c), Colorado Revised
19 Statutes, is repealed as follows:

20 **18-4-509. Defacing property - definitions.** ~~(2) (c) In addition,~~
21 ~~upon each conviction for defacing property pursuant to paragraph (b) or~~
22 ~~(c) of subsection (1) of this section, or adjudication as a juvenile~~
23 ~~delinquent for an act that would constitute defacing property pursuant to~~
24 ~~paragraph (b) of subsection (1) of this section if committed by an adult,~~
25 ~~the offender's driver's license shall be revoked as provided in section~~
26 ~~42-2-125, C.R.S.~~

27 **SECTION 3. Repeal.** 18-5-118, Colorado Revised Statutes, is

1 repealed as follows:

2 **18-5-118. Offenses involving forgery of a penalty assessment**
3 **notice issued to a minor under the age of eighteen years - suspension**
4 **of driving privilege.** ~~In addition to any other penalty imposed by this~~
5 ~~part 1, upon each conviction, entry of a plea of guilty or nolo contendere,~~
6 ~~or receipt of a deferred sentence for an offense involving the forgery of~~
7 ~~a penalty assessment notice issued to a minor under the age of eighteen~~
8 ~~years pursuant to section 42-4-1707 or 42-4-1709, C.R.S., or adjudication~~
9 ~~as a delinquent for an act that would constitute such an offense if~~
10 ~~committed by an adult, any driver's permit, minor driver's license, or~~
11 ~~driver's license held by the offender shall be suspended as provided in~~
12 ~~section 42-2-127.4, C.R.S.~~

13 **SECTION 4. Repeal.** 18-18-404 (4), Colorado Revised Statutes,
14 is repealed as follows:

15 **18-18-404. Unlawful use of a controlled substance.** (4) ~~In~~
16 ~~addition to any other penalty imposed by this section, upon each~~
17 ~~conviction, entry of plea of guilty or nolo contendere, or receipt of a~~
18 ~~deferred sentence for a nonfelony violation of this section or adjudication~~
19 ~~as a delinquent for an act that would constitute a nonfelony violation of~~
20 ~~this section if committed by an adult, any driver's permit or minor driver's~~
21 ~~license held by the offender shall be suspended as provided in section~~
22 ~~42-2-127.3, C.R.S.~~

23 **SECTION 5. Repeal.** 18-18-405 (6), Colorado Revised Statutes,
24 is repealed as follows:

25 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
26 **sale, or possession.** (6) ~~In addition to any other penalty imposed by this~~
27 ~~section, upon each conviction, entry of plea of guilty or nolo contendere,~~

1 ~~or receipt of a deferred sentence for a nonfelony violation of this section~~
2 ~~or adjudication as a delinquent for an act that would constitute a~~
3 ~~nonfelony violation of this section if committed by an adult, any driver's~~
4 ~~permit or minor driver's license held by the offender shall be suspended~~
5 ~~as provided in section 42-2-127.3, C.R.S.~~

6 **SECTION 6. Repeal.** 18-18-406 (12), Colorado Revised
7 Statutes, is repealed as follows:

8 **18-18-406. Offenses relating to marihuana and marihuana**
9 **concentrate.** (12) ~~In addition to any other penalty imposed by this~~
10 ~~section, upon each conviction, entry of plea of guilty or nolo contendere,~~
11 ~~or receipt of a deferred sentence for a nonfelony violation of this section~~
12 ~~or adjudication as a delinquent for an act that would constitute a~~
13 ~~nonfelony violation of this section if committed by an adult, any driver's~~
14 ~~permit or minor driver's license held by the offender shall be suspended~~
15 ~~as provided in section 42-2-127.3, C.R.S.~~

16 **SECTION 7.** 10-4-628 (1) (b), Colorado Revised Statutes, is
17 amended to read:

18 **10-4-628. Refusal to write - changes in - cancellation -**
19 **nonrenewal of policies prohibited.** (1) No insurer shall cancel; fail to
20 renew; refuse to write; reclassify an insured under; reduce coverage
21 under, unless the reduction is part of a general reduction in coverage filed
22 with the commissioner; or increase the premium for, unless the increase
23 is part of a general increase in premiums filed with the commissioner, any
24 complying policy because the applicant, insured, permissive user, or any
25 resident of the household of the applicant or insured has:

26 (b) ~~Had a license revoked pursuant to section 42-2-125 (1) (n),~~
27 ~~C.R.S.,~~ Had a license suspended pursuant to section 42-2-127.5, C.R.S.,

1 or been denied a license pursuant to section 42-2-104 (3) (f), C.R.S.
2 ~~based upon a conviction or adjudication under section 18-4-501 (2) or~~
3 ~~18-4-509 (2), C.R.S.~~

4 **SECTION 8.** 42-2-125 (1) (n), (1) (o) (I), (3), and (7), Colorado
5 Revised Statutes, are amended to read:

6 **42-2-125. Mandatory revocation of license and permit.**

7 (1) The department shall immediately revoke the license or permit of any
8 driver or minor driver upon receiving a record showing that such driver
9 has:

10 (n) ~~Been convicted of defacing property in violation of section~~
11 ~~18-4-509, C.R.S., or convicted of criminal mischief in violation of section~~
12 ~~18-4-501, C.R.S., where the court finds that the underlying factual basis~~
13 ~~of the offense involves defacing property as described in section~~
14 ~~18-4-509, C.R.S., or any counterpart municipal charter or ordinance~~
15 ~~offense to either of said sections;~~

16 (o) Been:

17 (I) ~~Convicted of an offense described in section 18-4-501, C.R.S.,~~
18 ~~or a comparable municipal charter or ordinance offense, if the court~~
19 ~~determines that the criminal mischief involves damage to a motor vehicle;~~
20 ~~or~~

21 (3) Upon revoking the license of any person as required by this
22 section, the department shall immediately notify the licensee as provided
23 in section 42-2-119 (2). Where a minor driver's license is revoked under
24 paragraph (m) ~~or (n)~~ of subsection (1) of this section, such revocation
25 shall not run concurrently with any previous or subsequent suspension,
26 revocation, cancellation, or denial that is provided for by law.

27 (7) ~~Any person who has a driver's license, minor driver's license,~~

1 or instruction permit revoked pursuant to paragraph (n) of subsection (1)
2 of this section shall be subject to a revocation period which shall continue
3 for the period of six months for each conviction.

4 **SECTION 9. Repeal.** 42-2-127.3, Colorado Revised Statutes, is
5 repealed as follows:

6 **42-2-127.3. Authority to suspend license - controlled substance**
7 **violations.** ~~(1) (a) Whenever the department receives notice that a~~
8 ~~person has been convicted of any felony offense provided for in section~~
9 ~~18-18-404, 18-18-405, or 18-18-406, C.R.S., or any attempt, conspiracy,~~
10 ~~or solicitation to commit any of said offenses, the department shall~~
11 ~~immediately suspend the license of the person for a period of not less than~~
12 ~~one year, unless the provisions of section 42-2-132 (2) (b) allow for a~~
13 ~~shorter period of suspension.~~

14 ~~(b) Whenever the department receives notice that a minor driver~~
15 ~~has been convicted of or adjudicated a delinquent under title 19, C.R.S.,~~
16 ~~for any offense provided for in section 18-18-404 (1) (a) (II), 18-18-405~~
17 ~~(2) (a) (IV) (A), or 18-18-406 (1), (3) (a) (I), or (4) (a) (I), C.R.S., or any~~
18 ~~comparable municipal charter or ordinance offense, the department shall~~
19 ~~immediately suspend the license of the person for a period of not less than~~
20 ~~one year, unless the provisions of section 42-2-132 (2) (b) allow for a~~
21 ~~shorter period of suspension.~~

22 ~~(c) For purposes of this subsection (1), a person has been~~
23 ~~convicted when such person has been found guilty by a court or a jury,~~
24 ~~entered a plea of guilty or nolo contendere, or received a deferred~~
25 ~~sentence for an offense.~~

26 ~~(2) (a) Upon suspending the license of any person as required by~~
27 ~~this section, the department shall immediately notify the licensee as~~

1 provided in section 42-2-119 (2).

2 (b) Upon receipt of the notice of suspension, the licensee or the
3 licensee's attorney may request a hearing in writing. The department,
4 upon notice to the licensee as provided in section 42-2-119 (2), shall hold
5 a hearing not less than thirty days after receiving such request through a
6 hearing commissioner appointed by the executive director of the
7 department, which hearing shall be conducted in accordance with the
8 provisions of section 24-4-105, C.R.S. The hearing shall be held at the
9 district office of the department closest to the residence of the licensee;
10 except that all or part of the hearing may, at the discretion of the
11 department, be conducted in real time, by telephone or other electronic
12 means in accordance with section 42-1-218.5. After such hearing, the
13 licensee may appeal the decision of the department to the district court as
14 provided in section 42-2-135. Should a driver who has had a license
15 suspended under this section be subsequently acquitted of the conviction
16 which required the suspension by a court of record, the department shall
17 immediately, in any event not later than ten days after the receipt of such
18 notice of acquittal, reinstate said license to the driver affected, unless the
19 license is under other restraint.

20 (3) (a) If there is no other statutory reason for denial of a
21 probationary license, any individual who has had a license suspended by
22 the department because of, at least in part, a conviction of an offense
23 specified in subsection (1) of this section may be entitled to a
24 probationary license for the purpose of driving for reasons of
25 employment, education, health, compliance with the requirements of
26 probation or suspended sentence, or alcohol and drug education or
27 treatment. Such a probationary license shall:

1 ~~(I) Contain any other restrictions as the department deems~~
2 ~~reasonable and necessary;~~

3 ~~(H) Be subject to cancellation for violation of any such~~
4 ~~restrictions, including absences from alcohol and drug education or~~
5 ~~treatment sessions or failure to complete alcohol and drug education or~~
6 ~~treatment programs; and~~

7 ~~(HH) Be issued for the entire period of suspension.~~

8 ~~(b) The department may refuse to issue a probationary license if~~
9 ~~the department finds that the driving record of the individual is such that~~
10 ~~the individual has sufficient points to require the suspension or revocation~~
11 ~~of a license to drive on the highways of this state pursuant to section~~
12 ~~42-2-127, or if the department finds from the record after a hearing~~
13 ~~conducted in accordance with paragraph (b) of subsection (2) of this~~
14 ~~section that aggravating circumstances exist to indicate the individual is~~
15 ~~unsafe for driving for any purpose. In refusing to issue a probationary~~
16 ~~license, the department shall make specific findings of fact to support~~
17 ~~such refusal.~~

18 **SECTION 10. Repeal.** 42-2-127.4, Colorado Revised Statutes,
19 is repealed as follows:

20 **42-2-127.4. Authority to suspend license - forgery of a penalty**
21 **assessment notice issued to minor under the age of eighteen years.**

22 ~~(1)(a) Whenever the department receives notice that a person has been~~
23 ~~convicted of an offense involving the forgery of a penalty assessment~~
24 ~~notice issued to a minor under the age of eighteen years or any attempt,~~
25 ~~conspiracy, or solicitation to commit said offense, the department,~~
26 ~~pursuant to section 18-5-118, C.R.S., shall immediately suspend the~~
27 ~~license of the person for a period of not less than six months.~~

1 ~~(b) For purposes of this subsection (1), a person has been~~
2 ~~convicted when such person has been found guilty by a court or a jury,~~
3 ~~entered a plea of guilty or nolo contendere, or received a deferred~~
4 ~~sentence for an offense.~~

5 ~~(2) (a) Upon suspension of a person's license as required by this~~
6 ~~section, the department shall immediately notify the person as provided~~
7 ~~in section 42-2-119 (2).~~

8 ~~(b) Upon receipt of the notice of suspension, the person or the~~
9 ~~person's attorney may request a hearing in writing. The department, upon~~
10 ~~notice to the person as provided in section 42-2-119 (2), shall hold a~~
11 ~~hearing not less than thirty days after receiving such request through a~~
12 ~~hearing commissioner appointed by the executive director of the~~
13 ~~department, which hearing shall be conducted in accordance with the~~
14 ~~provisions of section 24-4-105, C.R.S. The hearing shall be held at the~~
15 ~~district office of the department closest to the residence of the person;~~
16 ~~except that all or part of the hearing may, at the discretion of the~~
17 ~~department, be conducted in real time, by telephone or other electronic~~
18 ~~means in accordance with section 42-1-218.5. After such hearing, the~~
19 ~~person may appeal the decision of the department to the district court as~~
20 ~~provided in section 42-2-135. Should a person who has had a license~~
21 ~~suspended under this section be subsequently acquitted of the conviction~~
22 ~~which required the suspension by a court of record, the department shall~~
23 ~~immediately, in any event not later than ten days after the receipt of such~~
24 ~~notice of acquittal, reinstate said license to the person affected, unless the~~
25 ~~license is under other restraint.~~

26 ~~(3) (a) If there is no other statutory reason for denial of a~~
27 ~~probationary license, any person who has had a license suspended by the~~

1 ~~department because of, at least in part, a conviction of an offense~~
2 ~~specified in subsection (1) of this section may be entitled to a~~
3 ~~probationary license for the purpose of driving for reasons of~~
4 ~~employment, education, health, or compliance with the requirements of~~
5 ~~probation. Such a probationary license shall:~~

6 ~~(I) Contain any other restrictions as the department deems~~
7 ~~reasonable and necessary;~~

8 ~~(II) Be subject to cancellation for violation of any such~~
9 ~~restrictions; and~~

10 ~~(III) Be issued for the entire period of suspension.~~

11 ~~(b) The department may refuse to issue a probationary license if~~
12 ~~the department finds that the driving record of the person is such that the~~
13 ~~person has sufficient points to require the suspension or revocation of a~~
14 ~~license to drive on the highways of this state pursuant to section~~
15 ~~42-2-127, or if the department finds from the record after a hearing~~
16 ~~conducted in accordance with this section that aggravating circumstances~~
17 ~~exist to indicate the person is unsafe for driving for any purpose. In~~
18 ~~refusing to issue a probationary license, the department shall make~~
19 ~~specific findings of fact to support such refusal.~~

20 **SECTION 11. Repeal.** 42-2-130, Colorado Revised Statutes, is
21 repealed as follows:

22 **42-2-130. Mandatory surrender of license or permit for drug**
23 **convictions.** ~~Immediately upon a plea of guilty or nolo contendere or a~~
24 ~~verdict of guilty by the court or a jury to or adjudication for an offense for~~
25 ~~which suspension of a license or permit is mandatory pursuant to section~~
26 ~~42-2-127.3, the court shall require the offender to immediately surrender~~
27 ~~the offender's driver's, minor driver's, or temporary driver's license or~~

1 instruction permit to the court. The court shall forward to the department
2 a notice of plea or verdict on the form prescribed by the department,
3 together with the offender's license or permit, not later than ten days after
4 the surrender of the license or permit. Any person who does not
5 immediately surrender such person's license or permit to the court
6 commits a class 2 misdemeanor traffic offense, unless such person swears
7 or affirms under oath administered by the court and subject to the
8 penalties of perjury that the license or permit has been lost, destroyed, or
9 is not in said person's immediate possession. Any person who swears or
10 affirms that the license or permit is not in the immediate possession of
11 said person shall surrender said license or permit to the court within five
12 days of the sworn or affirmed statement, and, if not surrendered within
13 such time, said person commits a class 2 misdemeanor traffic offense.

14 **SECTION 12. Repeal.** 42-2-131.5, Colorado Revised Statutes,
15 is repealed as follows:

16 **42-2-131.5. Revocation of license or permit for convictions**
17 **involving defacing property.** Upon a plea of guilty or nolo contendere
18 or a verdict of guilty by the court or a jury to an offense for which
19 revocation of a driver's license, minor driver's license, temporary driver's
20 license, or permit is mandatory pursuant to section 42-2-125 (1) (n), the
21 court shall forward to the department a notice of plea or verdict on the
22 form prescribed by the department. Any revocation pursuant to section
23 42-2-125 (1) (n) shall begin when the department gives notice of such
24 revocation to the person in accordance with section 42-2-119 (2).

25 **SECTION 13. Repeal.** 42-2-132 (2) (b), Colorado Revised
26 Statutes, is repealed as follows:

27 **42-2-132. Period of suspension or revocation.** (2) (b) Any

1 ~~person whose license or privilege to drive a motor vehicle on the public~~
2 ~~highways is suspended pursuant to section 42-2-127.3 for conviction of~~
3 ~~a drug offense shall have such person's driver's license suspended for a~~
4 ~~period of one year for each such conviction; except that the period of~~
5 ~~suspension shall be three months if such person has not previously been~~
6 ~~convicted of a drug offense which is grounds for driver's license or~~
7 ~~privilege suspension pursuant to section 42-2-127.3. Any suspension of~~
8 ~~a person's driver's license for conviction of a drug offense pursuant to~~
9 ~~section 42-2-127.3 shall begin upon conviction. Each subsequent~~
10 ~~conviction for such a drug offense occurring while a person's driver's~~
11 ~~license is already revoked or suspended for such a drug offense shall~~
12 ~~extend the period of revocation or suspension for an additional year.~~

13 **SECTION 14.** 42-7-406 (1), Colorado Revised Statutes, is
14 amended to read:

15 **42-7-406. Proof required under certain conditions.**

16 (1) Whenever the director revokes the license of any person under
17 section 42-2-125 or 42-2-126, or cancels any license under section
18 42-2-122 because of the licensee's inability to operate a motor vehicle
19 because of physical or mental incompetence, or cancels any probationary
20 license under section 42-2-127, the director shall not issue to or continue
21 in effect for any such person any new or renewal of license until
22 permitted under the motor vehicle laws of this state, and not then until
23 and unless such person files or has filed and maintains proof of financial
24 responsibility as provided in this article; except that persons whose
25 licenses are canceled pursuant to section 42-2-122 (2.5), revoked pursuant
26 to section 42-2-125 (1) (m), or ~~(1) (n)~~ revoked for a first offense under
27 section 42-2-125 (1) (g.5) or a first offense under section 42-2-126 (3) (b)

1 or (3) (e) suspended pursuant to section ~~42-2-127.3~~ or denied pursuant to
2 section ~~42-2-104 (3) (f)~~ based upon a conviction under section 18-4-509,
3 C.R.S., or a conviction under section ~~18-4-501, C.R.S.~~, where the
4 underlying factual basis involved defacing property, or any counterpart
5 municipal charter or ordinance offense to either of said sections, shall not
6 be required to file proof of financial responsibility in order to be
7 relicensed.

8 **SECTION 15. Act subject to petition - effective date -**
9 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
10 following the expiration of the ninety-day period after final adjournment
11 of the general assembly that is allowed for submitting a referendum
12 petition pursuant to article V, section 1 (3) of the state constitution,
13 (August 4, 2009, if adjournment sine die is on May 6, 2009); except that,
14 if a referendum petition is filed against this act or an item, section, or part
15 of this act within such period, then the act, item, section, or part, if
16 approved by the people, shall take effect on the date of the official
17 declaration of the vote thereon by proclamation of the governor.

18 (2) The provisions of this act shall apply to sentences entered on
19 or after the applicable effective date of this act.